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1. Which stakeholder category do you belong to?
Non-Government

If non-government, please indicate:
Civil society

If non-government, please indicate if you are:
Network of civil society organisations, some of which fall into one or more of the above categories

2. What do you think is the significance, purpose and scope of enhanced cooperation as per the Tunis Agenda? a) Significance b) Purpose c) Scope

a) Significance

The inclusion of the enhanced cooperation mandate in the Tunis Agenda was a political necessity to account for the view of many governments and others of the inadequacy of existing Internet governance arrangements when measured against the criteria identified in the first phase of the World Summit on the Information Society (WSIS): namely transparency, accountability, multilateralism, and the need to address public policy issues related to Internet governance in a coordinated manner (WGIG Report, para 35). In particular it was suggested "that there are many cross-cutting international public policy issues that require attention and are not adequately addressed by the current mechanisms" (Tunis Agenda, para 60).

Foremost amongst the areas in which a deficit in existing arrangements was perceived was the issue of internationalizing Internet oversight beyond the United States, a struggle that had dominated the entire summit process from the beginning of WSIS I. But existing arrangements were also seen as failing to adequately address a broad range of other issues, some discussed below under question 4. At the conclusion of WSIS, civil society, backed by what ultimately became a coalition among the US and some other mainly developed countries, got the Internet Governance Forum (IGF), as a multi-stakeholder forum to address mainly those other broader issues. The promise of addressing the narrower issue of Internet oversight, as sought by a key group of other governments, was reserved for a process parallel to the IGF, and perhaps as a counterbalance to it. Those governments got as a result the 'enhanced cooperation' process. It is also significant that even though the discussion was quite conflictual, member states chose to use 'positive' words: enhance, and cooperation. The ongoing discussion about how to improve IG arrangements should continue in this same positive spirit.

b) Purpose

Therefore the purpose of enhanced cooperation process mandate, in conjunction with the closely related mandate for the formation of an Internet Governance Forum, is to address the perceived deficits described above. In particular the Tunis Agenda identifies that enhanced cooperation would enable governments, on an equal footing, to carry out their roles and responsibilities, in international public policy issues pertaining to the Internet" (para 69). Subtextually, the main purpose of Enhanced Cooperation as sought by governments was to provide a space where they could further deal with the dominant issue across both the summits – internatiionalization of Internet oversight. With IGF a mainly civil society initiative, albeit multi-stakeholder in conception, enhanced cooperation was a process in which goverments would be the main actors.

c) Scope

The enhanced cooperation mandate "should include the development of globally-applicable principles on public policy issues" (para 70) and "also could envisage creation of a suitable framework or mechanisms, where justified" (para 61). But it does not envision the involvement of governments "in the day-to-day technical and operational matters, that do not impact on international public policy issues" (para 69).

Although there is an emphasis on what enhanced cooperation means for governments (who, after all, were the only stakeholder group required to agree to the enhanced cooperation mandate), the Tunis Agenda does not suggest that enhanced cooperation is solely for governments. In paragraph 69, enhanced cooperation is suggested as a mechanism to "enable" governments to carry out their roles and responsibilities. To "enable" does not mean that enhanced cooperation is for governments alone. Indeed the scope of enhanced cooperation also encompasses all relevant stakeholders as per para 70 ("organisations responsible for essential tasks") and the process towards enhanced cooperation will involve "all stakeholders" per para 71.

3. To what extent has or has not enhanced cooperation been implemented? Please use the space below to explain and to provide examples to support your answer.

It follows that for any public policy issue related to Internet governance that lacks at least one transparent, accountable, multilateral process, involving all stakeholders, for the development of globally-applicable principles to enable that issue to be addressed in a coordinated manner, or any framework or mechanisms to support such a process, the enhanced cooperation mandate is yet to be implemented. As the Tunis Agenda does not necessarily specify that a single or central process or mechanism is required, and indeed there is none yet, some point to a variety of independent efforts to coordinate policy development across a number of issue areas and fora as evidence of the implementation of the mandate. But the degree of such implementation currently varies.

For example, the progress made at ICANN with respect to issues of critical Internet resources, involving the role of the Affirmation of Commitments (AoC) and the Government Advisory Committee (GAC) may be seen as a movement towards fulfilling the enhanced cooperation mandate in that context. Less evidence of such can be seen in the work of WIPO on intellectual property enforcement, that of UNCTAD on cross-border consumer protection, that of the UN Human Rights Council on the human rights impacts of government surveillance, or that of the World Wide Web Consortium on online behavioural advertising. There are other issues still for which there is no institution with a clear responsibility to implement the enhanced cooperation mandate: for example, there is no global body that deals comprehensively with data protection and privacy rights, and similar gaps exist in many other areas of a social, economic, political and cultural nature (see question 4).

Indeed while the IGF has developed, across now seven annual sessions, enhanced cooperation has not really got off the ground. There was a session in New York the end of 2010, seeking wider input. And CSTD has held various meetings on the subject. But enhanced cooperation – as conceived in the grand bargain of WSIS – has so far not been taken to serious steps. Meanwhile the tensions that led to the enhanced cooperation bargain are still very much in play, as illustrated by the impasse at the ITU's World Conference on International Telecommunications (WCIT) in 2012 between governments seeking to assert greater control over the Internet, and those opposing international treaties as a method of such control. We can agree with both camps: that the enhanced cooperation mandate has not been adequately implemented, but also that going for an intergovernmental treaty is not the right way to begin implementing the EC imperative.

4. What are the relevant international public policy issues pertaining to the Internet?

The list of International public policy issues that pertain to the Internet is not closed, since these change over time as social conditions change. However, much work has already been done to elaborate some of the most relevant such issues. This work includes the WGIG report, the background report that accompanied it, and ITU Resolution 1305 with regard to "scope of

work of ITU on international Internet-related public policy matters". Drawing together and grouping some of the issues identified in these reports and elsewhere, we present a partial list, roughly categorised into groups (though many issues do cut across categories):

Human rights

*   Freedom of Expression

*   Data protection and privacy rights

*   Consumer rights

*   Multilingualism

*   Access to knowledge and free information flows, deepening the public domain on the Internet

*   Internet intermediary companies as private agents for extra-territorial law enforcement (problems with)

*   Protection of vulnerable sections, like children, women, traditional communities etc

*   Net neutrality (that all data is given equal priority on networks)

*   Search neutrality (that global search engines give neutral results)

Access and accessibility

*   Multilingualization of the Internet including Internationalized (multilingual) Domain Names

*   International Internet Connectivity

*   Cultural diversity

*   Accessibility policies for the disabled

*   Affordable and universal access

*   Reliability, and quality of service, especially in the developing world

*   Contributing to capacity building for Internet governance in developing countries

*   Developmental aspects of the Internet

Critical Internet resources management and oversight

*   Administration of the root zone files and system

*   Interconnection costs (especially global interconnection)

*   Allocation of domain names

*   IP addressing

*   Convergence and next generation networks

*   Technical standards, and technology choices

*   Continuity, sustainability, and robustness of the Internet

*   Genuine internationalization of Internet oversight

Security and law enforcement

*   Internet stability and security

*   Combatting cybercrime

*   Other issues pertaining to the use and misuse of the Internet

*   Dealing effectively with spam

*   Protecting children and young people from abuse and exploitation

*   Cryptography

*   Cross border coordination

*   Jurisdiction over an Internet exchange

Trade and commerce

*   e-commerce

*   copyright

*   patents

*   trademarks

*   Cross border Internet flows

*   Internet service providers (ISPs) and third party liabilities

*   National policies and regulations (harmonization of)

*   Competition policy, liberalization, privatization and regulations

*   Applicable jurisdiction

*   Tax allocation among different jurisdictions with regard to global e-commerce

*   Development of, and protection to, local content, local application, local e-services, and local/ domestic Internet businesses

*   Internet and health systems, education systems, governance systems and so on.

*   Cloud computing (global issues involved)

*   Economics of personal data (who owns, who makes money from, and so on)

*   Media convergence – Internet and traditional media (Internet companies versus newspapers, radio, cable and TV, book publishing industry etc)

*   Regulation of global Internet businesses (in terms of adherence to competition policies, consumer rights, law enforcement etc)

5. What are the roles and responsibilities of the different stakeholders, including governments, in implementation of the various aspects of enhanced cooperation?

We do not think that the allocation of roles between the stakeholders that the Tunis Agenda established should be taken as definitive. We take it that, like the definition of Internet governance adopted in the Tunis Agenda which was specified as a "working definition", so too the definitions of the roles of stakeholders adopted in the Tunis Agenda were also working definitions that would be subject to review.

The definition of civil society's "important role … especially at community level" is particularly unhelpful. We contend that civil society's role in contributing to the development of global public policy principles is much more integral than that definition suggests. In particular, there are cases in which governments are not inclined to uphold the human rights of Internet users, such as the rights of foreigners whose Internet usage is the subject of official surveillance. Civil society has a key role in representing the interests of such users, and others whose interests are otherwise poorly represented due to democratic deficits at national and international levels.

But further, the roles and responsibilities of stakeholders cannot be fixed in Internet governance (or probably in many other areas of governance either). For example civil society can in some instances represent specific marginalised communities or user or interest groups (e.g. the visually impaired). At other times civil society can be experts providing input and guidance on how to approach policy issues. At other times civil society can play a 'watch' role to monitor the behaviour of business or government in order to protect the public interest. And so on. Roles and responsibilities of stakeholder groups will depend on the type of process, and the specific interests involved and with a stake in the outcome of each process.

Please see also the response to Question 11, below, for some particulars.

6. How should enhanced cooperation be implemented to enable governments, on an equal footing, to carry out their roles and responsibilities in international public policy issues pertaining to the Internet?

We acknowledge that governments remain the main representative structure for international public policy development. This typically takes place through the UN and other multi-lateral institutions such as the WTO, etc. But on Internet-related public policy issues, there are transnational interests and impacts that governments cannot adequately take into account without the full participation of other stakeholders. There is room for discussion about the best way of involving those stakeholders, and it does not necessarily mean placing them on an equal level with governments. There would be value in establishing a framework or mechanism to address Internet related public policy issues that do not already have a home in any existing global forum, or where that forum does not fulfil the WSIS process criteria, including the participation of all stakeholders. Such a framework or mechanism should be non-duplicative and should take advantage of the expertise of existing arrangements, mechanisms, institutions or organisations where relevant.

There is also a link between the global and national level. Governments need to put in place transparent, accountable, processes at the national level to support those at the global level. If one takes, for example, ICANN and the GAC, many governments are now participating in the GAC, but their participation is not always transparent to national stakeholders, and it is not clear who they are accountable to at national level. Member states need to fulfil WSIS process criteria at the national level otherwise it does not make much sense (other than just to large powerful business and CS actors) to implement them at the global level.

7. How can enhanced cooperation enable other stakeholders to carry out their roles and responsibilities?

By bringing governments closer to the other stakeholders, the other stakeholders are also brought closer to governments. If enhanced cooperation is a process whereby governments (and existing Internet governance spaces/processes) are compelled to adhere to WSIS principles of transparency, accountability, etc., this can serve to create an approach to IG, and to existing and evolving IG processes and spaces that is rooted in the public interest and

inclusive of all stakeholders. Even if the public interest is not always clear, such processes should, and could involve all stakeholders in negotiating a common understanding of what the broadest possible public interest is on any particular issue.

8. What are the most appropriate mechanisms to fully implement enhanced cooperation as recognized in the Tunis Agenda, including on international public policy issues pertaining to the Internet and public policy issues associated with coordination and management of critical Internet resources?

The CSTD Working Group is itself an important mechanism for the stakeholders to set in train a process to fully implement enhanced cooperation, which may in turn eventually result in changes to frameworks, structures or institutions. This will not take place immediately, but in phases. We are now in a kind of distributed reform/exploration phase with the IGF and IGF-like processes trying to create more cooprative engagement, and institutions like ICANN and the ITU putting in place certain reforms, and institutions that previously ignore the Internet beginning to take it seriously (e.g. the Human Rights Council).

This should lead into an intermediate phase of more formalised transparency and reporting and collaboration among all institutions or processes dealing with Internet governance. The IGF (with its mandate to "promote and assess, on an ongoing basis, the embodiment of WSIS principles in Internet governance processes") could be the home for this role.

Ultimately however, this alone will not fill the gaps that created the enhanced cooperation mandate. There is also a pressing need to address very important global Internet related public policy issues, and to do so at the global level, and this work has to be done by democratic / representative structures. Through a process fully involving all stakeholders, this may require the eventual establishment of a new framework or mechanism, particularly in the case of emerging and orphaned issues that have no other global home. Although a logical home for such a framework or mechanism would be the United Nations, we acknowledge the many weaknesses in UN processes at present, including in relation to transparency and very uneven support for the inclusion of civil society influence in the UN system. Certainly, a traditional intergovernmental organisation is not an appropriate structure.

In the technical realm of Internet naming and numbering, the response to the weaknesses and shortcomings of the UN system has been to establish in ICANN a body which is independent of the UN system. But even ICANN is overseen by governments, or to be more precise by one government – the United States. And whilst the UN is characterised by some as being a haven for tyrannical regimes, the United States itself is widely criticised as having infringed global human rights norms through its global surveillance practices, and for its pursuit of whistleblowers such as Edward Snowden for exposing such practices. Therefore in comparing the respective merits of a UN-based institution (particularly if it is an innovative, multi-stakeholder, and semi-autonomous one such as the IGF), and a non-UN based institution that is nonetheless beholden to governments at some level, the choice is not as stark as it is often presented to be.

Therefore in both areas – general public policy issues in which governments have a leading role through the international system, and naming and numbering in which ICANN has a leading role – reforms are eventually required. Taking first the case of ICANN, the reforms for which we advocate would not be to bring it within the United Nations, but to broaden its oversight beyond the United States alone. This may take the form of a new international oversight board with techno-political membership derived from different geopolitical regions. The mandate of this oversight mechanism would be very narrow, more or less the same as exercised by the Department of Commerce of the United States Government at present. ICANN would become an international organisation and enter into a host country agreement with the United States, giving it complete immunity from US law or any other form of control or interference.

It is not necessary that the same new framework or mechanism that broadens the oversight of ICANN, should also deal with other general public policy issues. In fact there is considerable merit in looking at these aspects of enhanced cooperation separately. Because of the more

mature state of the multi-stakeholder model that already exists around the regime for management of critical Internet resources, there is good reason to separate out the need to internationalise existing mechanisms for governmental oversight of that regime, from the need for new frameworks or mechanisms for dealing with more general public policy issues of various political, economic, social and cultural kinds, for which there might be a more central role for another new framework or mechanism.

In such fields of public policy outside the narrowly technical, there would be the choice to build upon the existing global order that we have in the United Nations, or to rebuild this from scratch (as in the case of ICANN). Whilst there is merit in the idea of a post-UN transnational democratic order that derives its legitimacy from the individual rather than from the nation state, and which could provide legitimacy and oversight for both technical and broader public policy bodies, nothing of this kind exists or is a realistic prospect for the short or medium term. Therefore, if the mechanism that we begin through the CSTD Working Group does lead towards a new framework or process, we accept the practical likelihood that for now such framework or process would likely have to be at least loosely linked with the UN.

It is sometimes claimed that there is no need for a new framework or mechanism, because all public policy issues are already covered by a network of existing mechanisms. But the WGIG and Tunis Agenda (paragraph 60) concluded that this was not true, and this remains the case. In fact, the kind of global Internet policy issues that are not adequately addressed by any existing mechanism has only grown in number and complexity since the WSIS. Does this mean that we are asking for a single new mechanism to cover all issues? No. But there must be at least one such mechanism (that is global, multi-stakeholder, etc) and if there is none, nor any scope for an existing narrower body (such as the ITU) to change in order to meet these criteria, then it follows that at least one new mechanism is needed. Conversely, whilst we agree that existing mechanisms should be used where available, we disagree that having a plethora of overlapping bodies or mechanisms is always a positive thing. This limits the ability for developing country governments and civil society representatives to participate, because of their limited resources.

If the CSTD does recommend a process that leads to some new framework or mechanism in the future, any such new framework or mechanism should be based on the principles of subsidiarity, and be innovative in terms of mandate, structure, and functions, to be adequate to the unique requirements of global Internet governance. It must be participative of all stakeholders, promoting the democratic and innovative potential of the Internet. Exactly what shape it takes will emerge through reasoned deliberation. Some of us believe that governments will accept nothing less than a new intergovernmental body, like a committee that could be attached to the UN General Assembly, and accordingly would accept such a body if and only if it includes an extensive structure of participation by all stakeholders (which could be modelled on the stakeholder participation mechanisms of the OECD's Internet policy development body, the CICCP), and would have a close and organic relationship with the IGF. This option proceeds from the position that global governance reforms should take place in-outwards, proceeding from current multilateral toward their further democratisation.

For some others of us, although understanding the sincerity of governments and the legitimacy of their claim to set policy norms, there are too many dangers in proposing such a formal new intergovernmental body, but may be fewer dangers in an adjunct to the IGF, as described below in question 9. Whilst we are still formulating what format a new framework or mechanism might take, and will be discussing this question further at our meeting ahead of the Bali IGF, we are in accord that the CSTD should be open to considering a process that leads to some new framework or mechanism in the future, that is dedicated to fulfilling the purpose and scope of enhanced cooperation as mentioned in the Tunis Agenda and as described above, in a way that the uncoordinated efforts of individual stakeholders and institutions towards fulfilling that mandate have been unable to do.

9. What is the possible relationship between enhanced cooperation and the IGF?

The IGF complements the enhanced cooperation mandate, but as it stands, it does not fulfill that mandate. Some of us believe there is the potential for a significantly strengthened IGF,

with appropriate long-term funding support, to host a new framework or mechanism to facilitate the development of globally-applicable principles on public policy issues through a multi-stakeholder process. If so, this would have be entirely new and supplementary to the IGF's existing structures and processes, significantly differing from those that exist now such as the MAG, workshops and dynamic coalitions. In any case, regardless of whether any such new framework or mechanism is part of the IGF, the IGF's existing structures and processes will be valuable in deepening the public sphere for multi-stakeholder discussion of Internet policy issues, which will be integral to the work conducted through the new framework or mechanism.

10. How can the role of developing countries be made more effective in global Internet governance?

Developing countries have taken recourse to the ITU because they feel that they are not otherwise represented in in the existing global Internet governance arrangements, which are dominated by developed countries and by companies and organisations based in those countries. This points to the need for reforms such as those advocated above.

However that alone will not be enough. Developing countries are excluded at so many different levels, and they self-exclude, so addressing this problem is not at all trivial. The way in which Internet governance for development (IG4D) has been conceived and addressed in the IGF and in other global spaces is not helpful. It is narrow, and top down, and often does not go beyond affordable access issues. Clarifying the role of governments in Interent governance (see questions 5, 6, 7 and 11) is the first step. Developing country governments must be involved in this discussion otherwise they will not buy into its outcomes. Another necessary step is to foster more engagement with Internet governance issues at the national level in developing countries. In the way that developing countries have made an impact on global issues such as trade justice for, example, so too they could in Internet governance. The issues are debated at national level by the labour movement, local business, social justice groups etc. and this both pressurises governments and informs governments (not always in the desired way) at the global level. Critical thinking needs to be applied at national and regional level, with involvement of non-governmental stakeholders for more effective developing country representation at global level. And vice versa. Global Internet governance processes need to report and feed into national processes. In short, making developing countries (government and other stakeholders) play a more effective role in global Internet governance requires mechanisms at national and regional level as well as a process of democratisation at the global level.

11. What barriers remain for all stakeholders to fully participate in their respective roles in global Internet governance? How can these barriers best be overcome?

As noted in questions 2a and 2b above, enhanced cooperation was largely a role taken by governments who required it, through which they hoped to address the over-arching issue of WSIS, namely internationalization of Internet oversight. But as question 3 notes, that has not happened. The apparent problem is that two separate objectives – the principal aims of either of the power poles – have been conflated. If these two objectives (in question 4 above) are treated separately, then there may become the possibility to find some common ground.

Specifically, the US and its allies have feared, and have acted to stop, what they see as the threat of totalitarian control of the Internet. But it is possible to switch from this negative characterization, to a positive outlook: the US and its allies have been centrally concerned with freedom of expression, for our new global communications medium, the Internet. The other governmental power pole has been concerned, from the beginning of WSIS, and even well before, that oversight for the Internet move from the US, to a global arrangement. Both objectives are laudable, and reconcilable.

The way forward, as suggested in question 8, is to treat those two objectives separately. In fact, continuing to conflate them – so that there can be no action on one, without impact on the other – assures deadlock. Separating them creates a freedom of maneuver that may

permit to find ways forward, between the two, so-far implacable camps.

Related to this, the bi-polar opposition between groups of states has come to be mirrored among (what have become) the states' frontline troops: the stakeholders. Multi-stakeholderism has been used as a point of distinction between the Internet governance model favoured by the US and its allies from those of the countries who have been calling for internationalisation of policy oversight. Thus multi-stakeholderism, perhaps the most important innovation of WSIS, which formally acknowledges governance roles for multiple stakeholders, has been co-opted into this struggle between the two governmental power poles.

But this is a false dichotomy. Whilst it is fundamental that public policy issues be determined through democratic means, and in the Westphalian ideal conception of democracy, this would fall to elected governments, we have found that even supposed governmental defenders of democracy abuse their state power – as the Snowden episode, and before it the Manning episode, and even the Wikileaks story, have revealed (not least through the treatment of the individuals themselves). In truth no governement has fully lived up to its fundamental democratic responsibilities, and then within that to the new promise of multi-stakeholderism at the national or the global level.

On one conception, real multi-stakeholderism offers to formalize government consultation with its constituencies, as governments formulate policy. Among other purposes, this offers a safeguard against the abuses of state power, when 'the people' may otherwise be forgotten. This – real multi-stakeholderism – means consulting widely, certainly beyond the usual suspects who may frequent UN meetings. Thence, the people of a democracy may be empowered, with voices speaking from all corners, and providing a bulwark against the ever-present temptations, for those temporarily entrusted with governmental power, to abuse that power. On another conception (or in the longer term), multi-stakeholderism promises a more significant rebalancing of power between states and other networks of individuals.

On either conception civil society – instead of being used as pawns in a global power tussle – may instead use the new regime, to assume a rightful place in democracy.

12. What actions are needed to promote effective participation of all marginalised people in the global information society?

Information and communication policy and practice at national level that is based on (and committed to) information and communication processes supporting political, social and economic development. Access to ICTs can empower marginalised people and create more inclusion, but political and economic processes need to enable this for the full potential of this empowerment to make a difference.

13. How can enhanced cooperation address key issues toward global, social and economic development?

Not answered.

14. What is the role of various stakeholders in promoting the development of local language content?

Not answered.

15. What are the international internet-related public policy issues that are of special relevance to developing countries?

Not answered.

16. What are the key issues to be addressed to promote the affordability of the Internet, in particular in developing countries and least developed countries?

Not answered.

17. What are the national capacities to be developed and modalities to be considered for national governments to develop Internet-related public policy with participation of all stakeholders?

Not answered.

18. Are there other comments, or areas of concern, on enhanced cooperation you would like to submit?

In institutionalizing and operationalizing enhanced cooperation, it is critically important to create a deliberative process in which all stakeholder perspectives are appropriately taken into consideration. It is not enough to just allow the various stakeholders to voice their perspectives. All the various comments must also be taken in consideration in a logical analysis process, in which for every important policy question, a set of possible answers is worked out, and each of the possible answers is evaluated against the objective of sustainable global, social and economic development as well as in regard to the fundamental principles of democracy, rule of law, and the internationally recognized human rights.