UNITED NATIONS COMMISSION ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

Working Group on Enhanced Cooperation

Contribution to the guiding questions agreed during first meeting of the WGEC

Submitted by

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Submission to the Open Consultation of the Working Group on Enhanced Cooperation[1]

The Centre for Communication Governance would like to thank the Working Group on Enhanced Cooperation (WGEC) for the opportunity to submit this comment. We have actively engaged with the WSIS process and the WGEC since 2012 when we submitted comments to the consultation on internet related public policy issues.[2] We have since participated in the WSIS+10 Review through our submissions and interventions.[3]

Our response to the two questions put forward in this Open Consultation is based on past UN precedent and on a literature review of multistakeholder governance models. However, we realise that the questions were broadly framed since the WGEC is yet to define the scope of its work. Hence, our submission is not very detailed. But, we look forward to supporting the work of the WGEC over the next year and to making more detailed interventions in the future.

1. What are the high level characteristics of enhanced cooperation?

There is no clear definition of the term 'enhanced cooperation' as it is used in the Tunis Agenda. However, references to the term can be found in many UN documents and processes. Resolution 53/95 of the UN General Assembly (UNGA) on cooperation between

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[1] This Comment has been authored by Puneeth Nagaraj and Aarti Bhavana.
[2] Centre for Communication Governance, 'Inputs to Consultation on Public Policy issues pertaining to the Working Group on Enhanced Cooperation (WGEC)', available at <http://ccgdelhi.org/doc/Inputs%20to%20Consultation%20on%20Public%20Policy%20issues%20pertaining%20to%20WGEC.pdf> (last accessed 2nd December, 2016).
[3] Centre for Communication Governance at National Law University, Delhi Comment on the Non-paper, available at <http://workspace.unpan.org/sites/Internet/Documents/UNPAN95332.pdf> (last accessed 7th December, 2016); Centre for Communication Governance at National Law University, Delhi Comment on the Zero Draft, p. 4, available at <http://workspace.unpan.org/sites/Internet/Documents/UNPAN95431.pdf/> (last accessed 7th December, 2016).

the UN and the Organisation for Security and Cooperation in Europe (OSCE) highlighted the importance of enhanced cooperation between the two organisations.[4] The same resolution also acknowledged a Memorandum of Understanding on enhanced cooperation between the OSCE and the United Nations High Commissioner for Refugees (UNHCR).[5] The Memorandum of Understanding between the UNHCR and OSCE outlined activities on which the UNHCR and the OSCE would cooperate.[6]

In 2007, the United Nations Environment Programme (UNEP), the UN Department of Economic and Social Affairs (UN DESA) and the Food and Agricultural Organisation (FAO) set up a working group to enhance cooperation between the three organisations. The Ad Hoc Joint Working Group to Enhance Cooperation and Coordination (AHJWG)[7] sought to enhance cooperation in the implementation of three international conventions that deal with environment pollution.[8] The AHJWG found that enhanced cooperation required policy coordination and the effective and efficient use of resources.[9] The AHJWG also developed ten guiding principles for their future work which might be of interest to the WGEC.[10]

The two examples cited above throw some light on the meaning of enhanced cooperation between UN bodies and other international organisations. The WGEC however, faces a different question. As stated in paragraph 71 of the Tunis Agenda, the enhanced cooperation process must 'involve all stakeholders in their respective roles'.[11]

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[4] United Nations General Assembly Resolution A/RES/53/85 (1999) available at
<http://www.worldlii.org/int/other/UNGA/1998/164.pdf> (last accessed 2nd December, 2016).
[5] *Id* at para 4.
[6] Available at
<http://www.unhcr.org/partners/partners/4e0839166/memorandum-understanding-osce-office-democratic-institutions-human-rights.html> (last accessed 7th December, 2016).
[7] Report of the joint meeting of the 3rd Ad Hoc Joint Working Group (2008) available at
<http://ahjwg.chem.unep.ch/> (last accessed 2nd December, 2016).
[8] *Id.*
[9] International Institute for Sustainable Development, "Chemical Conventions Discuss Enhanced Cooperation" (2007), available at
<http://sdg.iisd.org/news/chemicals-conventions-discuss-enhanced-cooperation/?rdr=chemicals-l.iisd.org> (last accessed 2nd December, 2016).
[10] *Id.*; Also see Final Report of the Ad Hoc Joint Working Group, available at
<https://sustainabledevelopment.un.org/content/documents/40synergies_success_stories_4web.pdf> (last accessed 2nd December, 2016).
[11] See para 71 of the Tunis Agenda (2005), available at <http://www.itu.int/net/wsis/docs2/tunis/off/6rev1.html> (last accessed 2nd December, 2016).

The UN Conference on Environment and Development (UNCED), 1992 was the first conference that called for the engagement of different social groups in the follow up of Agenda 21 and identified their roles and responsibilities.[12] Agenda 21 identified nine different social groups that should be involved in developing policy and implementing.[13] Section 3 of Agenda 21 also identified the roles each of these stakeholders could play.[14]

More recently, the Human Rights Council has looked at engaging with stakeholders through its work on business and human rights. First, the Human Rights Council resolution on business and human rights[15] emphasised the importance of multistakeholder dialogue to better understand the challenges faced by different stakeholders. Second, the Working Group on Human Rights and Transnational Corporations is looking closely at the way in which the UN Guiding Principles on Business and Human Rights can be implemented with the involvement of stakeholders.[16] This working group addresses many questions on stakeholder participation and engagement that might be relevant to the WGEC.[17]

The fora discussed above have dealt with different facets of enhanced cooperation at a high level and may be useful in defining the scope of the WGEC. As the work of the WGEC progresses, we would be happy to address more specific questions related to enhanced cooperation in the context of internet governance.

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[12] Felix Dodds, "Multi-stakeholder partnerships: Making them work for the Post-2015 Development Agenda" at p. 6, available at <http://www.un.org/en/ecosoc/newfunct/pdf15/2015partnerships_background_note.pdf> (last accessed 2nd December, 2016).
[13] See Section 3 of Agenda 21, available at <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> (last accessed 2nd December, 2016).
[14] Id
[15] United Nations General Assembly Resolution A/HRC/RES/17/4 (2011) available at <https://business-humanrights.org/sites/default/files/media/documents/un-human-rights-council-resolution-re-human-rights-transnational-corps-eng-6-jul-2011.pdf> (last accessed 2nd December, 2016).
[16] Working Group on the issue of human rights and transnational corporations and other business enterprises, available at <http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx> (last accessed 2nd December, 2016).
[17] Working Methods of the Working Group on the issue of human rights and transnational corporations and other business enterprises, <http://www.ohchr.org/EN/Issues/Business/Pages/WorkingMethods.aspx> (last accessed 2nd December, 2016).

2. Taking into consideration the work of the previous WGEC and the Tunis Agenda, particularly paragraphs 69-71, what kind of recommendations should we consider?

The work of the previous WGEC was useful in outlining the substantive policy questions related to enhanced cooperation and clarifying some aspects of enhanced cooperation as mentioned in paragraphs 69-71 of the Tunis Agenda. In the submissions received by the previous WGEC, there was a general agreement that internet governance required multi-layered, multidimensional cooperation.[18] The Report of the Secretary General on the WGEC recognised that different kinds of stakeholder engagement were suited to different types of policy innovation.[19] There was also agreement on the need to identify issues in more detail, as a general notion of enhanced cooperation would serve a limited purpose.[20] To this extent, the CSTD report mapping international internet public policy issues is a useful starting point.[21]

However, opinions diverged on the procedural aspects of enhanced cooperation. For some, it meant intergovernmental deliberations as seen at the UN, while others understood it to involve other stakeholders, as seen at the IGF.[22] These discussions, take us back to paragraph 71 of the Tunis Agenda, which requires that the process of enhanced cooperation must 'involve all stakeholders in their respective roles'. To put it another way, paragraph 71 raises the question of multistakeholder governance of the internet.

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[18] Report of the Secretary General on Enhanced Cooperation on Public Policy Issues related to the Internet, A/66/77–E/2011/103 (2011) at para 22, available at <http://unctad.org/meetings/en/SessionalDocuments/a66d77_en.pdf> (last accessed 2nd December 2016).
[19] *Id.*
[20] *Id.*, at para 14.
[21] Commission on Science and Technology for Development Report on the 18th Session, "Mapping of International Internet Public Policy Issues" (2015) available at <http://unctad.org/meetings/en/SessionalDocuments/ecn162015crp2_en.pdf> (last accessed 2nd December, 2016).
[22] *Supra*, note 18, at para 21.

Multistakeholder governance has existed long before internet governance.[23] It has been used in a number of issue domains such as human rights, climate change and the development of labour standards to name a few. As DeNardis and Raymond note, there are multiple forms of multistakeholder governance, that depend on the types of actors involved and the nature of authority between them.[24] However, this is only possible where dialogue and the reconciliation of interests is an option.[25] It is important to realise that multistakeholder governance may not be appropriate in every area of internet governance.[26]

As was also identified by the contributions to the previous WGEC's report, internet governance deals with many complex, multi-layered issues. Some tasks may be better suited to the private sector, some to intergovernmental negotiations and some to multistakeholderism. The task of this WGEC is in linking the policy processes identified by the previous WGEC to different governance configurations. Hence, it must consider recommendations that address this gap.

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[23] John E. Savage and Bruce W. McConnell, "Exploring Multi-stakeholder Internet Governance", East West Institute (2015) at pp. 4-5, available at <https://www.eastwest.ngo/sites/default/files/Exploring%20Multi-Stakeholder%20Internet%20Governance_0.pdf> (last accessed 2nd December, 2016).

[24] Laura DeNardis and Mark Raymond, "Thinking Clearly about Multistakeholder Internet Governance", Paper presented at 8th Annual GigaNet Symposium in Bali, Indonesia (2013) at pp. 9-11, available at <http://www.phibetaiota.net/wp-content/uploads/2013/11/Multistakeholder-Internet-Governance.pdf> (last accessed 2nd December, 2016).

[25] *Supra*, note 18.

[26] *Supra,* note 19.