

**THE UNITED NATIONS COMMISSION ON SCIENCE AND TECHNOLOGY
FOR DEVELOPMENT**

**MEETING ON ENHANCED COOPERATION ON PUBLIC POLICY ISSUES
PERTAINING TO THE INTERNET**

**18 May 2012
Geneva**

Contribution by

**Center for Technology and Society
Getulio Vargas Foundation - Brazil**

**Ms. Marília Maciel
Project Leader and Researcher**

The views presented here are the contributor's and do not necessarily reflect the views and the position of the United Nations or the United Nations Conference on Trade and Development

CSTD Meeting on Enhanced Cooperation
May 18th, 2012

Marília Maciel

Center for Technology and Society
Getulio Vargas Foundation - Brazil

I did not personally take part in both phases of WSIS, Geneva and Tunis, so I think it is more appropriate that I leave to the many of you who have the important comments that need to be made about the words expressed in the Tunis Agenda.

Instead, I would like to share some perceptions about the landscape that I see today, when I look at the Internet governance regime from the window of my center of research in the South of globe. I highlight my location on purpose because the place where our personal windows are naturally have an impact on the landscape that we see, on the way that we perceive reality, and we need to acknowledge that in order to be able to bridge positions and to engage in a dialogue in which we can understand one another:

When I look out of this window I realize that the Internet is not a no man's land. Layers of regulation have been accumulating: regulation by the architecture, by norms, by economic forces. And the regime developed successfully for many years. But now I see, with concern, three main changes that took place recently on the IG regime that need to be addressed, and probably a mechanism of enhanced cooperation would be useful to tackle some of them

First of all, there is an accelerated process privatization of regulation. The open public Internet as we knew it is getting narrower. The experience of "the Internet" that many people have today takes place inside closed platforms in a customized fashion. This certainly brings implications to freedom of information and to cultural diversity. But it also brings considerable implications to the governance of this regime. The terms of use of these platforms, developed and modified unilaterally, are juridical instruments of transnational nature that discipline several aspects of the lives of citizens worldwide with no opportunities for democratic discussion and no real chance to "opt out". Individuals are forced to accept this private regulation without a chance to scrutinize it.

The second development that has taken place recently is the emergence of regional and plurilateral arrangements, particularly on the North of the globe, for the discussion and decision-making of issues related to IG. These fora are producing common interpretations, principles of regulation, soft law, etc. This is in itself a valuable exercise, but this exercise is producing an asymmetric regime: while many developing countries are focused on achieving access to the Internet, other countries are shaping the way that privacy, e-commerce, intellectual property and online digital enforcement, to name just a few, are being dealt with. These policies are being formulated by only a fraction of the world population and they are narrowing down policy options for developing countries in the future. A platform for harmonization of these initiatives with others that will eventually emerge in the South is the only way to avoid fragmentation of regulation. And we should bear in mind that fragmentation

would go against many of the issues we have been trying to foster, such as openness, freedoms and the universality of rights

The third development that I see with concern is the recent politicization of the topic of Internet Governance. Internet governance is an increasingly important global issue and this is illustrated by large number high-level events that took place recently about these theme. The problem is that these events are taking place with the exclusion of non-governmental actors or with very narrow channels for their participation, leading to an erosion of multistakeholderism. Maybe this is still not happening on the base of the regime, on the level of the IGF. But there is an erosion as we move towards higher political levels. So we cannot be misled by the illusion that, by doing nothing, by making no changes, we are promoting multistakeholderism. This erosion can only be curbed by formalized decision-making procedures that take into account multistakeholder participation

Given the three recent developments that I mentioned – privatization of regulation, unilateral decision-making and politicization and current erosion of multistakeholderism - I think that a change on the current configuration of the regime is needed, but any such change needs to foster transparency, accountability and multistakeholder participation. And this is why I currently feel uncomfortable with the idea of placing enhanced cooperation under an existing UN organization.

Although meaningful steps have been taken in the UN to open its processes to non-governmental actors, some basic preconditions for meaningful non-governmental involvement are still missing. As an example, more than 30 civil society and academic organizations have recently presented a statement, asking to have access to relevant documents about the World Conference on International Telecommunications including, the preparatory materials, and called the attention to the lack of meaningful channels for participation, to the secrecy of documents and to the inexistence of channels for remote participation. In fact, I think that the same statement could be sent to member states that, after all, are the ones with power to change procedures in ITU. Several governments have argued that they support multistakeholderism in IGF. If this is really a fundamental principal, I think they would agree that discussions elsewhere related to the Internet should count on multistakeholder involvement.

My final message would be that yes, we need a mechanism of enhanced cooperation in which developed, developing countries and the other stakeholders can work together in a shared process. But this mechanism also needs to improve transparency, accountability, balance between North and South, and should be based on multistakeholder participation. This process could be related to the UN, but it should be a new kind of shared decision-making process.

Of course, there are pieces missing from the conceptual puzzle of a mechanism of EC: What should be the topics discussed? What should be the type of the outcome of a mechanism of enhanced cooperation? Documents that provide framework for action? Documents that tackle concrete situations? Would it produce soft law (non-binding recommendations)? Hard law? Do we need a new body? A new body in the UN structure?

There are many questions that need to be answered, but, most of all, maybe the time has come for us to face the question of what are the respective roles and responsibilities of each stakeholder group in this regime, something that the WGIG began to do some years ago. Each one has a different nature, and different justifications underlay the need for their participation. The clarification of this point may be key to developing a feasible shared decision making processes among stakeholders.

It is not a simple task. It is one that requires more time of discussion to mature ideas. That is why the suggestion of creating a Working group on enhanced cooperation seems the most appropriate way forward. A WG with freedom to think out of the box and to create a new shared process among actors and not simply to seek to ascribe itself to what already exists. As professor Wolfgang Kleinwachter has mentioned on several occasions, we need innovation and creativity in international politics. I would agree with that, and would add that we especially need it today and for the years to come in the Internet Governance regime.

Thank you.