A Journey Can be More Important than the Destination: Reflecting on the CSTD Working Group on Enhanced Cooperation

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The inclusion of the concept of "enhanced cooperation" in internet governance was a late night compromise on the eve of the World Summit on the Information Society (WSIS) Phase II in Tunisia. It was added to the *Tunis Agenda for the Information Society[1]* after a series of preparatory meetings. The Working Group on Internet Governance had failed to reach agreement on the way forward for internet governance, particularly with regard to the contentious issue of the US government's unique role in overseeing the Internet Assigned Numbers Authority (IANA) function. As with so many late night diplomatic compromises made when participants lack sleep and sustenance, the use of vague language was used to plaster over significant political differences. Thus, these issues and arguments have remained unresolved years later with each side of the argument able to interpret the language in ways that suit particular views of the situation. Today, people cannot even agree which paragraphs outline and define the parameters of enhanced cooperation. For some, it is paragraphs 69 to 71 (the "governments only" reading); for others, enhanced cooperation must be understood by reading the entirety of the Tunis Agenda (the "multistakeholder" reading).[2]

From WSIS to WGEC: A Short but Lively History

The *Tunis Agenda* mandated the United Nations (UN) Secretary-General to begin the "process towards enhanced cooperation" in the first quarter of 2006. The Secretary General in turn tasked his Special Advisor on internet governance, Nitin Desai, with the responsibility of liaising with stakeholders in order to "find common

ground for further action." However, common ground was not possible, and in his 2006 report, Desai suggested that one way forward would be for the key organizations involved with internet resources to submit annual performance reports.[3] Two rounds of reports occurred in 2008, but these did not indicate a clear way forward as far as constructing a process for enhanced cooperation. That same year, separate from the UN Secretary-General's process, but also based on the Tunis Agenda enhanced cooperation text, Member States of the International Telecommunication Union (ITU) resolved to create a Member States-only Dedicated Group on Internet-Related Public Policy Issues[4] (later renamed as the Council Working Group on International Internet-Related Public Policy Issues or the CWG-Internet).[5] There was a clear division emerging between governments supporting a government-only ITU procedure and other stakeholders who argued for a more multistakeholder process led by the UN Secretary-General involving a broad range of non-governmental and governmental organizations managing internet resources. Those governments that argued for the governments-only ITU process—sought to develop a mechanism to "identify, study and develop matters related to international Internet-related public policy issues"[6] within a specifically ITU-related context. In 2010, the Economic and Social Council's (ECOSOC) annual WSIS resolution asked the UN Secretary-

1 WSIS, *Tunis Agenda for the Information Society*, 2005, http://www.itu.int/wsis/docs2/tunis/off/6rev1.html.

2 Samantha Dickinson, William H. Dutton, Marilia Maciel, Desiree Miloshevic, and Vladimir Radunovic, *Enhanced Cooperation in Governance*, 2014, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2376807, pp. 2-5.

3 Nitin Desai, *Report on Consultations on Enhanced Co-operation*, 2006https://wiki.tools.isoc.org/@api/deki/files/1481/=ReportEnhancedCoop.Edit.04.07.2008.pdf.

4 *Resolution 75 (WTSA 2008): ITU-T's contribution in implementing the outcomes of the World Summit on the Information Society, and the establishment of a Dedicated Group on Internet- related Public Policy Issues as an integral part of the Council Working Group on the World Summit on the Information Society*, 2008, http://www.itu.int/council/groups/wsis/pd/Feb-2009/T-RES-T.75-2008-PDF-E.pdf.

5 ITU Council 2011, *Resolution 1336: Council Working Group on international Internet-related Public Policy Issues,* 2011, http://www.itu.int/md/S11-CL-C-0099/en.

6 *Resolution 75 (WTSA 2008)*, p. 3.

General to convene open and inclusive consultations before the end of 2010 to:

> "[Assist] the process towards enhanced cooperation in order to enable Governments on an equal footing to carry out their roles and responsibilities in respect of international public policy issues pertaining to the Internet but not in respect of the day-to-day technical and operational matters that do not impact upon those issues."[7]

More consultations followed in 2012, when, directed by UN General Assembly resolution,[8] the Commission on Science and Technology for Development (CSTD) held a half-day open consultation on enhanced cooperation on public policy issues pertaining to the internet[9] at the end of the annual WSIS Forum. In between the 2010 and 2012 consultations, some governments, unhappy with what they perceived as years of inaction on enhanced cooperation, tried to add enhanced cooperation issues to the CSTD Working Group on IGF Improvements, threatening to derail that working group in its infancy.

Meanwhile, the 2012 ITU Council resolved to open the modalities of the CWG-Internet a little by enabling public consultations.[10] However, given that only Member States had access to the documents of the CWG-Internet, non-Member States would be responding blind to any such consultations. Attempts by some ITU Council members in 2013 to resolve this problem resulted in a decision that the issue could only be resolved by the ITU Plenipotentiary in 2014. Since 2012, there have been two public consultations, both of which have received dozens of submissions, but in total have been discussed for less than 20 minutes at CWG-Internet meetings.

In late 2012, the UN General Assembly resolution, *A/Res/67/195,* requested the CSTD to establish a Working Group on Enhanced Cooperation (WGEC) to "to examine the mandate of WSIS regarding

enhanced cooperation, "through seeking, compiling and reviewing inputs from all Member States and all other stakeholders, and to make recommendations on how to fully implement this mandate."

Embracing Multistakeholder Participation in the WGEC

CSTD's previous Working Group, which made recommendations on how to improve the Internet Governance Forum, had set a precedent for using the multistakeholder format for CSTD working groups, making it easier for the new working group to also be multistakeholder in composition. This was despite the fact that many governments would have preferred a governments-only composition which would have made it easier to avoid discussing the possibility of non-governmental stakeholders being involved in enhanced cooperation, as occurred with the ITU's CWG-Internet. Having different stakeholder groups in the room meant that half the battle had already been fought: nongovernmental stakeholders would be on an equal footing with governments in the discussion and development of recommendations for further implementing enhanced cooperation – a situation that would favor a reading of enhanced cooperation as a multistakeholder process rather than as a government-only one.

The precedents established by the earlier CSTD WG on IGF Improvements enabled WGEC to push the boundaries in other ways as well. Perhaps encouraged by the fact that the non-government members of the WG on IGF Improvements had been able to work constructively with the government members, even governments that had not always associated with supporting openness and transparency did not object to expanding stakeholder engagement in the WGEC process. During the first WGEC meeting in May 2013, for example, the members of the group agreed to open meetings to observers, pending size limitations of the meeting room. Observers were also able to make use of the virtual meeting room and live transcripts originally provided to enable remote WGEC members to participate in the meetings. In addition, observers had a short daily speaking slot in which they could make interventions on the group's work.

WGEC was able to push the boundaries of its multistakeholder modalities, but ultimately increased openness and transparency did not help the WGEC members reach consensus on a set of recommendations about enhanced cooperation. However, despite not being able to achieve its original objectives, the other advances that the group achieved could be used

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7   *ECOSOC Resolution 2010/2: Assessment of the progress made in the implementation of and follow-up to the outcomes of the World Summit on the Information Society*, 2010 http://www. un.org/en/ecosoc/docs/2010/res%202010-2.pdf.

8   United Nations General Assembly, *A/RES/66/184: Information and communications technologies for development*, 2011, http://www.un.org/ga/search/view_doc.asp?symbol=%20A/RES/66/184.

9   *CSTD meeting on enhanced cooperation on public policy issues pertaining to the Internet*, 2012, http://unctad.org/en/pages/MeetingDetails.aspx?meetingid=61

10 ITU Council 2012, *Resolution 1344: The modality of open consultation for the Council Working Group on International Internet-related Public Policy Issues (CWG-Internet)*, 2012, http://www.itu.int/md/S12-CL-C-0086/en.

to a) encourage further use of more sophisticated multistakeholder mechanisms within the UN system, and b) encourage more evidence-based discussions on enhanced cooperation in the future.

WGEC as a Potential Trendsetter for Multistakeholderism in Future UN-Related Internet Governance Processes

One of the concerns some governments and critics have of the multistakeholder model is that there is a risk that such processes could be dominated only by those with the resources to participate. Critics of multistakeholder processes in internet governance look at the open, bottom-up model and fear that the openness will perpetuate today's inequalities: those with resources participate while those without rely on fellowships or cannot participate at all. The ITU's 2013 World Telecommunication/Information and Communication Technology Forum (WTPF-13) is an example of a recent event that, while trumpeted as a major success by those in favor of multistakeholder internet governance, was seen by many developing countries as yet another example of US business interests dominating a process and excluding those lacking the resources to attend and participate in the Geneva-based preparatory process for WTPF-13.[11]

WGEC and its predecessor, the CSTD WG on IGF Improvements, offer an alternative to the open, bottom-up model of multistakeholderism: a model of representative multistakeholderism. In this alternative model, each stakeholder group has a set number of seats in the process. There are two ways that the seats can be filled. The first method involves each stakeholder group directly choosing the people who fill those seats. This first method was recently used to select the members of the IANA Stewardship Coordination Group (IGC). However, one unintended consequence of this isolated selection process (without coordination among stakeholder groups) was that the IGC had a statistically large proportion of men from developed countries being selected for the group. The second method involves stakeholder groups submitting a list of names larger than the number of seats available, from which an overall coordinator of the process chooses a subset, usually taking into account

issues such as gender balance, regional diversity and developed/developing country representation across all stakeholder groups. This second method is the process used to select stakeholder representatives of the IGF Multistakeholder Advisory Group (MAG).

An advantage of representative multistakeholderism is that it can prevent any single stakeholder group from dominating the process. WGEC and its predecessor, the CSTD WG on IGF Improvements, were not entirely representative, with governments holding the majority of seats in the groups, and with intergovernmental organizations, civil society, business and the technical and academic communities each allocated five seats. However, given early levels of government distrust of the process, providing governments with a few more than half of the total number of seats in each working group probably set the right balance between respecting the sensibilities of an intergovernmental agency (the CSTD) and embracing the multistakeholder values of today's internet governance world.

Rather than attempting to suggest that all internet governance discussions within the UN system should immediately become fully open and bottom-up, it may be useful for nongovernmental internet governance stakeholders to encourage and adopt wider use of this representative form of multistakeholderism as a way to enable governments to become more comfortable and confident over time in interacting with other stakeholder groups on equal footing. The use of representative multistakeholderism is in itself a form of enhanced cooperation between stakeholder groups and may provide a doorway to enhanced cooperation between governments and other stakeholders in looser, more open multistakeholder processes in the future.

Other tools for multistakeholder participation long-used in the internet technical community, such as live transcripts, virtual meeting rooms, and active use of mailing lists between and during meetings to distribute information were other innovations that were embraced by WGEC members, both governmental and non-governmental. The technology was not perfect and it was supported by a very lean secretariat, but the process served to convince governments that tools widely used by the multistakeholder internet governance communities can also enable governments to have an enriched, or dare I say it, "enhanced" form of participation on internet governance issues. In particular, the ability to read the live transcript enabled non-native English speakers to follow the discussions to a greater depth and therefore respond more effectively to issues.

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11 Samantha Dickinson, *Reflecting on what the Council decision means for the multistakeholder model*, 2013, http://linguasynaptica.com/council-2013-multistakeholderism.

Using WGEC's "Mapping Exercise" to Encourage Evidence-Based Discussion of Enhanced Cooperation in Future

One of the difficulties in discussing enhanced cooperation over the years has been the fundamental difference of beliefs held by participants. Many developed country governments—particularly those in Europe and the USA—and members of the internet technical community, business and civil society believe that enhanced cooperation is about enabling governments to participate in existing internet governance processes. However, a number of other governments—particularly those from developing countries that have felt excluded from internet governance decision-making—along with some members of civil society believe that enhanced cooperation is very much about governments needing their own forum or organization in which to participate in internet governance on an equal footing with each other, and most importantly, on an equal footing with the USA. Unfortunately, both sides can use the text of the Tunis Agenda to support their views and information on efforts by different internet governance-related organizations to encourage greater participation by all governments has been stored in a distributed manner, very much like the internet itself. This has made it very hard to use evidence-based approaches to overcome the enhanced cooperation standoff. That is, until now. One of the achievements of WGEC was the development of a list of examples of enhanced cooperation compiled by the Correspondence Group.

The Correspondence Group had emerged organically as a result of attempts to make sense of the hundreds of pages of responses received to the first WGEC meeting's questionnaire. It should be noted that at this point, the story of WGEC becomes personal. I was one of two observers to the meeting—Lea Kaspar, co-author of the *Institutionalizing the Clearing House Function* chapter in this book, was the other—who were asked by some of the group's members to sort the responses about existing enhanced cooperation mechanisms into a more manageable form for WGEC members. We stayed late into the night at the second WGEC meeting, after the WGEC members had left, to complete what was originally thought to be a simple task. In the end, there were around 200 examples of enhanced cooperation that had been identified in the responses to the questionnaire. The examples included processes taking place in intergovernmental venues as well as in non-governmental venues. The

Correspondence Group was established to develop this work further. The plan was that the final output of the Correspondence Group—what had informally been called the "mapping document"—would not only list existing examples but also detail gaps in the processes, with the aim of helping WGEC members use an evidence-based approach to developing the recommendations on how to fully implement enhanced cooperation.[12] The Correspondence Group was open to any interested participant: both WGEC members and general interested parties. There were some additional contributions from WGEC members and external internet governance stakeholders after the second meeting, but Kaspar and I, in our voluntary capacity, performed the bulk of the work collating and organizing the material in a readily understandable format. Very much aware that we were participating as observers rather than WGEC members, Kaspar and I had been very careful to remain impartial in doing the work, and were constantly in contact with the Correspondence Group Chair and Co-chair to ensure neutrality was being maintained. Updated versions of the mapping document were submitted by the Correspondence Group Chair to the WGEC members' mailing list for their information and approval in between physical meetings.

Lack of time and the need to seek WGEC approval at each step in the development of the mapping document resulted in the document not being completed by the fourth and final WGEC meeting at the beginning of May 2014. An extract of the mapping document is shown in Figure 1. Even in its incomplete state, however, it was clear to many of the WGEC members that the mapping document could have a life beyond the working group. Not only would a fully completed version of the mapping document assist governments in identifying where different internet-related public policy issues were being discussed and how they could participate, but it could also provide other stakeholders with the same resources. In addition, the document has the potential to move us beyond the decade-long political stalemate on enhanced cooperation and support an evidence-based approach to identifying where real change needs to happen. For this reason, it is possible that some governments may fear the mapping document, as it shows that there are, indeed, enhanced cooperation processes that have developed since the Tunis Agenda was written. However, the mapping document does not provide unconditional support for proponents of the other side of the debate either: it is

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12   CSTD, *Chairman's Summary of the Second Meeting of the WGEC, Final Terms of Reference for the Correspondence Group of WGEC, and List of Participants*, 2014, http://unctad.org/meetings/en/SessionalDocuments/WGEC_2013_Chairmans_summary_en.pdf.

Fostering a sustainable and innovative Internet for future generations

Mechanism	Description/Comments	URL	Scope
Asia-Pacific Economic Cooperation (APEC)	APEC Digital Prosperity Checklist · At the 2008 APEC Trade Ministerial, APEC economies formally endorsed the Digital Prosperity Checklist, which outlines specific actions or steps economies could take in six key areas – or "r's" – that would enable them to promote the use and development of ICTs as catalysts for economic growth and development, as well as the benefits associated with each action. The six "r's" include: infrastructure, investment, innovation, intellectual capital, information flows, and integration (referring to the ability to connect domestic industries with the global economy. · The Checklist, through the presentation of these combined resources, will not only enable economies to better tailor their policy, legal, and regulatory environments to be successful in competing in the digital economy, it will also provide a framework for APEC to consider future work in this area. · The Checklist reflects the general APEC principle of voluntarism. Its elements are neither mandatory nor exhaustive, and it will not prejudice the current or future policy of APEC members.	http://apec.org/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Working-Groups/Telecommunications-and-Information.aspx	Regional
Internet Corporation for Assigned Names and Numbers (ICANN)	ICANN facilitates the security, stability and resiliency of the Internet's unique identifier systems through coordination and collaboration. DNS security, stability and resiliency is central to ICANN's mission. ICANN facilitates the security, stability and resiliency of the Internet's unique identifier systems through coordination and collaboration. In addition to its coordination role with other root server operators, ICANN has also played a key role in deploying DNS Security Extensions (DNSSEC). DNSSEC is the result of more than two decades of cooperative development in the IETF by networking, security and cryptographic experts from the Internet community. ICANN's efforts involving and drawing on the experience of the global Internet community removed the final obstacle to DNSSEC deployment on July 15, 2010 with a signed root. This was a cooperative effort that incorporated direct involvement of the global Internet community in the management of the root key through regular key ceremonies resulting in a system trusted by this same community.	http://www.icann.org	International
ICANN/Pacific Islands Telecommunications Association (PITA)	ICANN and the Pacific Islands Telecommunications Association (PITA) concluded a Memorandum of Understanding in May 2007, which demonstrates how the concept of enhanced cooperation has been implemented. This MOU, in particular, has had a direct and positive impact on coordination and management of critical Internet resources. The objective of the MoU was to build a non-exclusive partnership that would enable information on Internet issues flow in both directions, promote regional telecommunications and information technology standards, and aid in transferring skills, knowledge, and capacity to the Pacific Islands region.	http://www.icann.org/en/news/announcements/announcement-2-10may07-en.htm	International
Internet Governance Forum (IGF)		http://www.intgovforum.org	International
Internet Society (ISOC)		http://www.internetsociety.org	International
Organisation for Economic Co-operation and Development (OECD) Internet Policy Making Principles	Stakeholder groups from business, government, the technical community, and civil society participated in the development of the Principles and have access to them. · At the OECD's High Level Meeting on The Internet Economy: Generating Innovation and Growth, held in June 2011, stakeholders agreed on 14 basic principles for Internet policy making as an important step in ensuring that the Internet remains open and dynamic. The principles address such issues as privacy, security, multistakeholder cooperation in policy development, respect for fundamental rights, promoting cross-border delivery of services, promoting an open, distributed, and connected nature of the Internet, respect for intellectual property protections, among other issues. · The OECD recognized that developing countries needed more direct guidance in understanding how to implement the Internet Policy Principles. It convened a voluntary Group in April 2013 to enable multistakeholder dialogue on challenges at the regional, national, and local levels with IPP implementation. In December 2013, the OECD directed the group to develop a strategy for developing country engagement that concretely addresses the benefits of embracing the Principles for Internet development and governance.	http://www.oecd.org/internet/innovation/48289796.pdf	

Figure 1: An extract from the unfinished mapping document, showing Issue Area (blue), Existing Mechanism, Comments/Description, URL, and National/Regional/International.

very likely that a complete map of existing enhanced cooperation initiatives will show a number of gaps existing in processes and organizations that currently promote themselves as fully inclusive of government participation. A completed mapping document should reveal the complexity of operationalizing enhanced cooperation across a wide variety of structures and processes and remove the binary oppositional nature of the last decade of enhanced cooperation debates.

Conclusion

After WGEC members agreed that they could not reach agreement on recommendations for fully implementing enhanced cooperation, the future of the group became a matter for the Member States to decide at the 17th Session of the CSTD in late May 2014. The future of WGEC proved to be an equally difficult issue for governments to decide on and the final draft ECOSOC resolution on WSIS outcomes[13] contained no text on the future of WGEC. Instead, there was the possibility that ECOSOC could add its own explicit statement on the closure or continuation of WGEC. In the meantime, CSTD Member States did agree to recommend that the CSTD secretariat complete the current work on the mapping document, with the results to be discussed at the CSTD's intersessional meeting at the end of 2014. Reviewing the year of WGEC's deliberations, May 2013 to May 2014, it was unrealistic to expect that the working group could develop recommendations in such a short period of time when most of the previous decade had been spent debating exactly the same issues without result. WGEC did make progress in other ways, however, that should enable future discussions to be

less divisive and more embracing of multistakeholder engagement. WGEC built on the precedent set by the earlier WG on IGF Improvements by utilizing more open and transparent and more multistakeholder processes to inform its work. Without the decision to have a public questionnaire, without the responses from stakeholders to that questionnaire, and without the ability for observers to become active participants in the process, the mapping document would never have been possible. The next step is to ensure that the mapping document, which was a serendipitous outcome of the WGEC process, can continue to evolve and be kept up to date well beyond WGEC and help to inform the next decade of work to enhance cooperation that will aim to:

> "[E]nable governments, on an equal footing, to carry out their roles and responsibilities, in international public policy issues pertaining to the Internet, but not in the day-to-day technical and operational matters, that do not impact on international public policy issues."[14]

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14   *Tunis Agenda on the Information Society*, 2005, para 69.

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13   *CSTD, Draft resolution on Assessment of the progress made in the implementation of and follow-up to the outcomes of the World Summit on the Information,* 2014, http://unctad.org/meetings/en/SessionalDocuments/CSTD_2014_DraftRes_WSIS.pdf.

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