



wtpf

World Telecommunication/ICT
Policy Forum 2013



Geneva, 14-16 May 2013

Document WTPF-13/INF/6-E
29 April 2013
English only

Information Document

Source: Deborah Brown, Avri Doria, Nnenna Nwakanma, Matthew Shears,
Members of Informal Expert Group

Input to the World Telecommunication/ICT Policy Forum (WTPF-13)

29 April 2013

This document is submitted on behalf of four members of the Informal Expert Group (IEG), with a civil society background. It specifically addresses the Secretary-General's report and some of the draft opinions discussed by the IEG as they relate to our areas of expertise and interest.

The IEG members from civil society contributing to this document are:

- Nnenna Nwakanma
- Avri Doria
- Deborah Brown
- Matthew Shears

The Secretary-General's report

The Multistakeholder Model in Internet Governance

- We welcome the approach that the Secretary-General's report takes in presenting various viewpoints regarding the multistakeholder model in Internet governance. The report specifically notes one view, that the current governance of the Internet is appropriately multistakeholder, and an opposing view that the role of one stakeholder, governments, has not been allowed to evolve. We find this a limiting and problematical approach to a very complex matter. The report infers that only the second view recognizes that "further evolution is needed to keep pace with the spread of the Internet around the world, how the Internet is used today and that various players need to work together to ensure its ongoing evolution." This is disingenuous, to say the least. The second view seeks not an evolution but rather a return to a governance structure in which the multistakeholder model is supplanted by the primacy of one stakeholder group, governments.
- We would like to offer another view: that the current governance of the Internet, while multistakeholder in nature, would be improved by greater diversity including more participation from developing economies and by insuring that all stakeholders, in particular civil society and emerging stakeholders, have an equal voice in all governance bodies.
- It is our view that to continue to use the definition of "roles and responsibilities" as outlined in Tunis Agenda paragraph 35, is counterproductive and will not lead to enhanced cooperation as it diminishes the participation of partners in a dialogue that must be a dialogue among equals. The definitions of roles and responsibilities in Tunis Agenda paragraph 35 will instead, lead to a continuing impasse and prevent progress in multistakeholder Internet governance
- It is also essential for multistakeholder Internet governance to be: 1) Open to all interested parties; 2) Transparent in the decision-making processes; 3) Respectful of the equal participation of all stakeholder groups; 4) Bottom-up in engaging those directly affected; 5) Diverse and multilingual; 6) Building capacity for actors and stakeholders. Accordingly, we welcome the report's suggestion to encourage initiatives that would enable participants from developing countries and

LDCs to participate in various global fora where Internet-related technical and public policy issues are discussed, such as the wider use of remote participation, accommodative participatory policies, travel fellowships, and electronic working methods.

- We also note that the report does not adequately reflect the findings of the Tunis Agenda with regard to the multistakeholder model and the importance that it has played in the success of the Internet to date. The report should also give appropriate mention in section 2.3.2.1 to paragraphs 36 and 55 of the Tunis Agenda that implicitly recognize the importance of the roles of the technical, academic and business communities to making the “evolution, functioning and development” of the Internet, and to making it “highly robust, dynamic and geographically diverse.”

Stakeholder Participation in the ITU

- The Secretary-General’s report recognizes the view that participation from different stakeholder groups especially civil society, could be improved at ITU forums discussing Internet-related public policy issues, but it goes on to cite ITU Resolutions 101, 102, and 133 which resolve “to explore ways and means for greater collaboration and coordination between ITU and relevant organizations* involved in the development of IP-based networks and the future Internet, through cooperation agreements, as appropriate, in order to increase the role of ITU in Internet governance so as to ensure maximum benefits to the global community”.
 - We feel strongly that members of civil society who are not “involved in the development of IP-based networks and the future Internet” should also be entitled to collaborate and coordinate with the ITU and that that right should be independent of the goal of increasing the role of ITU in Internet governance.
 - Accordingly, we support the assertion in the Secretary-General’s report that it could be beneficial for ITU to foster continuing collaborative efforts similar to the WTPF IEG, which is open to all stakeholders (including non-ITU members) and which allows these stakeholders to have an equal level of participation in all discussions.

Role of the ITU

- We recognize the contribution of the ITU in supporting the interoperability and interconnection of telecommunications networks, however we are concerned that the Secretary-General’s report blurs the line between the ITU’s role in elements of the telecommunications infrastructure supporting parts of the Internet, which lies within the organization’s traditional mandate, and a role involving online content, which falls outside of the ITU’s mandate.
- Additionally, while we acknowledge that the ITU is an actor in the multistakeholder model that should have equal participation, we do not consider it to be a functionally multistakeholder body itself. Ultimately, even though the Member States may consult other stakeholders, the role of other stakeholders is severely limited and at best secondary to governments because the ITU is an intergovernmental body where most discussions are limited to its members and in which all decision-making power lies with its Member States alone. Furthermore, the only way for civil society and the private sector to formally participate is as Sector Members, which are limited in

their ability to participate through written contributions and oral interventions. When only one stakeholder group has full rights of participation, the body is not adequately multistakeholder.

- We would like to see the ITU continue its role in supporting infrastructure development, where it has demonstrated expertise. At the same time we would like to see the ITU make a greater efforts to work with rather than compete with or duplicate the work of existing multistakeholder Internet governance bodies.

Global Principles for Internet Governance

- We would like to note that the list of principles for Internet governance in the Secretary-General's report is selective and a broader list of efforts to define such principles can be found in the appendix to this submission.

Enhanced Cooperation

- We welcome the Secretary-General's report's effort to present a balanced account of this very complicated issue. We feel strongly that any mention of enhanced cooperation must take into account the following:
 - Paragraph 67 on the Tunis Agenda, which defines enhanced cooperation as occurring in the context of "a new forum for multi-stakeholder policy dialogue" which is later defined in paragraph 72 as "the new forum for multi-stakeholder policy dialogue — called the Internet Governance Forum (IGF)."
 - Paragraph 71 of the Tunis Agenda, which notes that the "process towards enhanced co-operation involves all stakeholders in their respective roles".
- We would like to present a counter-viewpoint to the report's characterization of "the establishment of enhanced cooperation on Internet governance and the establishment of the Internet Governance Forum (IGF), as two distinct processes". We view the IGF as an example of the ongoing process of collaboration between government and other stakeholders known as enhanced cooperation, as defined in the Tunis Agenda. We also believe that there are other such examples of enhanced cooperation that must be reviewed in any discussion of enhanced cooperation. Finally we do not believe that enhanced cooperation is a process that should be initiated *de novo* under the auspices of the ITU, though we do accept that the ITU has a role to play in that process as one of the stakeholders.
- We also commend the General Assembly for recognizing that the separate track model, which some cite A/RES/60/252 as mandating, has not worked, and for inviting in A/RES/67/195 "the Chair of the Commission on Science and Technology for Development to establish a working group on enhanced cooperation to examine the mandate of the World Summit on the Information Society regarding enhanced cooperation as contained in the Tunis Agenda."

Freedom of Expression

- We support the report's recognition that the Internet should enable the world's citizens to connect freely and express themselves consistent with fundamental principles of freedom of expression and exercise their rights, as detailed in Article 19 of the Universal Declaration of Human Rights

and would also welcome recognition of the full range of civil, political, economic, social, and cultural rights that the Internet enables.

- Moreover we would like to see the Secretary-General's report cite the growing body of norms informing human rights in the online environment, such as the UN Human Rights Council resolution (A/HRC/RES/20/8) on "the promotion, protection and enjoyment of human rights on the Internet" and UN Human Rights Committee General Comment 34, both of which are strong affirmations of the application of human rights--in particular freedom of expression--online.

Quality of Service (QoS)

- We are concerned that applying the QoS concept from traditional telephony networks to the public Internet, as the Secretary-General's report suggests, could have grave negative consequences for users, particularly in the developing world. For example, the application of QoS to the Internet could prohibit certain types of national net neutrality regulations and establish a tiered Internet with more expensive or reduced access to the full range of information or services online for businesses and users, particularly in developing countries. Furthermore, we do not see evidence that networks will fail to evolve to meet increased demand, as they historically have under current Internet governance arrangements.

The Draft Opinions

Promoting Internet Exchange Points (IXP's)

- We welcome this opinion, as it supports civil society priorities of advancing affordable access to the Internet and promoting effective competition as reflected in the Best Bits statements. In particular, we support the recognition of the "virtuous cycle" the creation of IXPs enable.

Enabling Environment for Broadband Development

- This is another draft opinion, which we strongly support as an excellent example of an opinion in which the ITU will play a central role through the appropriate ITU-D programs.
- We recommend adding an operative paragraph in the broadband opinion "encouraging Member States to establish a universal service program to support telecommunications", recalling that the UN Special Rapporteur on Freedom of Expression in his 2011 report (A/HRC/17/27) asserted that "ensuring universal access to the Internet should be a priority for all States."

Multistakeholder Models in Internet governance

- The compromise language on multistakeholder modes in Internet governance is also generally acceptable.
- Point "c" in the "invites" paragraph of this opinion is especially strong, as we support improving the participation of developing country stakeholders in the initiatives, entities, and institutions involved in various aspects of Internet governance and stand ready to work with other stakeholders to implement this initiative.
- A more detailed account of our position on multistakeholder model in Internet governance is

included above.

Enhanced Cooperation

- The compromise language reached on the enhanced cooperation opinion is generally acceptable, given the deeply concerning language that was initially proposed and under discussion at the IEG. A more detailed account of our position on enhanced cooperation is included above.

Finally, our preference is that debate at the WTPF not be reopened on the agreed opinions or on the drafts that could not achieve consensus in the IEG. The agenda at the WTPF is already full and any such discussions would likely be unproductive.

Appendix I- Statements of Internet Rights and Principles

- APC Internet Rights Charter (2006) <http://www.apc.org/en/node/5677/>
- CGI.br Principles for the Governance and Use of the Internet (2009):
<http://www.cgi.br/english/regulations/resolution2009-003.htm>
- Council of Europe Code of Good Practice on Information, Participation and Transparency in Internet Governance (2010)
http://www.apc.org/en/system/files/COGP_IG_Version_1.1_June2010_EN.pdf
- Declaration of Internet Freedom #1 (2012) <http://www.internetdeclaration.org/freedom>
- Declaration of Internet Freedom #2 (2012) <http://declarationofinternetfreedom.org/>
- Digital Citizens' Bill of Rights (2012) <http://keepthewebopen.com/>
- EU Commission Compact for the Internet (2011)
<http://blogs.ec.europa.eu/neelie-kroes/i-propose-a-compact-for-the-internet/>
- Geneva Declaration on Internet Freedom (2010) <http://www.saladeprensa.org/art988.htm>
- Guiding Principles of Internet Freedom (2012)
http://www.praxis.ee/fileadmin/tarmo/Projektid/Valitsemine_ja_kodanike%C3%BChiskond/Praxis_Theses_Internet.pdf
- Human Rights Council, Resolution 20/8, The promotion, protection and enjoyment of human rights on the Internet (2012) http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8
- Internet Rights and Principles Coalition Charter (2011) <http://internetrightsandprinciples.org/site/>
- OECD Communiqué on Principles for Internet Policy Making (2011)
<http://www.oecd.org/internet/innovation/48289796.pdf>
- People's Communications Charter <http://www.pccharter.net/>
- United States International Strategy for Cyberspace (2011)
http://www.whitehouse.gov/sites/default/files/rss_viewer/international_strategy_for_cyberspace.pdf
- World Economic Forum Code of Conduct for Government Leaders (2011)
<http://www.weforum.org/content/global-agenda-council-informed-societies-2012-2013>

Appendix II- Proposed edit for Opinion 5 *if* discussion on the text of the opinion is reopened

DRAFT OPINION 5: SUPPORTING MULTI-STAKEHOLDERISM **THE** **MULTI-STAKEHOLDER APPROACH** IN INTERNET GOVERNANCE

The fifth World Telecommunication/ICT Policy Forum (Geneva, 2013),

recalling

Paragraph 34 of the Tunis Agenda for the Information Society (Tunis Agenda) which provides a working definition of Internet Governance as the development and application by Governments, the Private Sector and Civil Society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet,

recognizing

- a) that, as per paragraph 37 of the Tunis Agenda, a multi-stakeholder approach should be adopted as far as possible, at all levels, to improve the coordination of the activities of international and intergovernmental organizations and other institutions concerned with Internet Governance and the exchange of information among themselves;
- b) that, as per paragraph article 35 of the Tunis Agenda, that the management of the Internet encompasses both technical and public policy issues and should involve all stakeholders and relevant intergovernmental and international organizations. ~~In this respect, it is recognized that:~~
 - i) ~~Policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues;~~
 - ii) ~~The Private Sector has had, and should continue to have, an important role in the development of the Internet, both in the technical and economic fields;~~
 - iii) ~~Civil Society has also played an important role on Internet matters, especially at community level, and should continue to play such a role;~~
 - iv) ~~Intergovernmental organizations have had, and should continue to have, a facilitating role in the coordination of Internet-related public policy issues; and~~
 - v) ~~International organizations have also had, and should continue to have, an important role in the development of Internet-related technical standards and relevant policies.~~
- c) that, as per paragraph 55 of the Tunis Agenda, existing arrangements for Internet Governance have worked effectively to make the Internet the highly robust, dynamic and geographically diverse medium that it is today, with the Private Sector taking the lead in day-to-day operations, and with innovation and value creation at the edges;
- d) that, as per paragraph 69 of the Tunis Agenda, there is a need for enhanced cooperation, to enable Governments, on an equal footing, to carry out their roles and responsibilities in international public policy issues related to the Internet, but not in the day-to-day technical and operational matters that do not impact

on international public policy issues,

e) that, as per paragraph 71 of the Tunis Agenda, the process of enhanced cooperation should involve all stakeholders in their respective roles;

considering

Resolution 101 (Rev. Guadalajara, 2010), Resolution 102 (Rev. Guadalajara, 2010) and Resolution 133 (Rev. Guadalajara, 2010) each of which resolves to explore ways and means for greater collaboration and coordination between ITU and relevant organizations (including, but not limited, to ICANN, IETF, RIRs, ISOC, W3C) on the basis of reciprocity,

is of the view

that it is important to further implement multi-stakeholder practices as outlined in the relevant paragraphs of the Tunis agenda,

invites Member States and other stakeholders

- a) to explore ways and means for greater collaboration and coordination between governments; the private sector, international and intergovernmental organizations, and civil society, as well as greater participation in multistakeholder processes, with a view to ensure that the governance of the Internet is a multi-stakeholder process that enables all parties to continue to benefit from the Internet;
- b) to contribute based on their roles and responsibilities as stated in paragraph 35 of the Tunis Agenda based on their respective capacities and capabilities;
- c) to focus in particular on how to improve the participation of developing country stakeholders in the initiatives, entities, and institutions involved in various aspects of Internet Governance.

Appendix III- Proposed edit for Opinion 6 *if discussion on the text of the opinion is reopened*

DRAFT OPINION 6: ON SUPPORTING OPERATIONALIZING THE ENHANCED COOPERATION PROCESS

The fifth World Telecommunication/ICT Policy Forum (Geneva, 2013),

recalling

- a) Paragraphs 35, 37, 55, 60, 67, 68, 69, 70, 71, 72, 83 and other relevant paragraphs of the Tunis Agenda related to *enhanced cooperation* and the roles of all relevant stakeholders;
- b) the UNGA Resolutions - enhanced cooperation (2011 A/RES/65/141, 2012 A/RES/67/195);
- c) the relevant ITU Resolutions (i.e., Res. 101, 102, 133),

considering

- a) that the Internet has evolved into a powerful and very successful vehicle for innovation, economic growth, the spread of knowledge and culture, and the delivery of services;
- b) that the Internet, where it is available, has provided, inter alia, economic and social benefits to governments, business and wider society. However, it is recognized that there are ~~some problems related to network security and spam~~ **social policy issues** which should be addressed through cooperation among all stakeholders ~~in their respective roles~~;
- c) that the Internet is now essential for the continuing operation of business and government services around the world;
- d) that international cooperation and support is also essential for bringing the benefits of the Internet to all peoples of the world, in particular developing and least developed countries,

recognizing

UNGA Resolution A/RES/67/195 which states the “significance and urgency of the process towards enhanced cooperation in full consistency with the mandate provided in the Tunis Agenda and the need for enhanced cooperation 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 have no impact on those issues”,

noting

- a) that the United Nations family of organizations has attempted to address some International Internet-related public policy issues;
- b) that these attempts by the UN family, referred to in noting a) above, have not fully addressed those overriding issues of the Internet;

c) that, the UNGA has passed Resolution (A/RES/67/195), on 21 Dec. 2012,

“20. Invites the Chair of the Commission on Science and Technology for Development to establish a working group on enhanced cooperation to examine the mandate of the World Summit on the Information Society regarding enhanced cooperation as contained in the Tunis Agenda, 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; advises the Chair, when convening the working group, to take into consideration the meetings already scheduled on the calendar of the Commission; and also advises that the working group should report to the Commission at its seventeenth session, in 2014, as part of the overall review of the outcomes of the World Summit on the Information Society;

21. Requests the Chair of the Commission on Science and Technology for Development to ensure that the working group on enhanced cooperation has balanced representation between Governments from the five regional groups of the Commission, and invitees from all other stakeholders, namely, the private sector, civil society, technical and academic communities, and intergovernmental and international organizations, drawn equally from developing and developed countries.”,

is of the view

to reaffirm the need for enhanced cooperation to enable governments to develop international Internet-related public policy in consultation with all stakeholders as outlined in paragraph 69 of the Tunis Agenda,

invites

all stakeholders to work on these issues.