

### Are there inconsistencies?

Richard Hill<sup>1</sup>, January 2018

In the context of the ITU Expert Group on the International Telecommunication Regulations (EG-ITRs)<sup>2</sup>, some countries<sup>3</sup> have taken the position that there should not be any discussions on resolving differences between the 1988 and 2012 versions of the ITRs, which establish binding international norms, because there are differences of opinions regarding key issues, such as combating spam.

In the context of discussions regarding e-commerce in the World Trade Organization, some of those very same countries<sup>4</sup> have taken the position that – given that there are differences of opinions regarding key issues – like-minded countries should negotiate, amongst themselves, binding international norms on issues such as combating spam.

Recall that paragraph 69 of the Tunis Agenda states: “**We further recognize** the need for enhanced cooperation in the future, to enable 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.”

Given that e-commerce includes international public policy issues pertaining to the Internet, and that states should cooperate on an equal footing to carry out their roles and responsibilities regarding such issues, is it consistent with the concept of “enhanced cooperation” to envisage developing binding norms in a group that does not include all states?

Or would consistency require that all states participate, in good faith, in discussions of such issues – even if there are divergent views – with the goal of finding a compromise solution acceptable to all?

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<sup>1</sup> <http://www.apig.ch>

<sup>2</sup> <https://www.itu.int/en/council/eg-itrs/Pages/default.aspx>

<sup>3</sup> <https://www.itu.int/md/S18-CLEGITR3-C-0006/en>

<sup>4</sup> [https://www.wto.org/english/news\\_e/news17\\_e/minis\\_13dec17\\_e.htm](https://www.wto.org/english/news_e/news17_e/minis_13dec17_e.htm)