ICANN Transcription

Council Committee for Overseeing and Implementing Continuous Improvement

Wednesday, 13 July 2022 at 12:00 UTC

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DEVAN REED: Good morning, good afternoon, good evening. Welcome to the Council committee for Overseeing and Implementing Continuous Improvement call taking place on Wednesday 13th July 2022 At 12:00 UTC. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room.

We do have apologies from Thomas Rickert.

Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. If you need assistance updating your statements of interest, please e-mail the GNSO secretariat.

All documentation and information can be found on the wiki space. Recordings will be posted on the public Wiki space shortly after the end of the call.

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Please remember to state your name before speaking.

As a reminder, those who take part in the ICANN multistakeholder process are to comply with the expected standards of behavior.

Thank you, and back over to our chair, Olga Cavalli. Please begin.

OLGA CAVALLI:
Thank you very much, Devan. Good morning, good afternoon, good evening wherever you are. Thank you for joining in with us. And our nice ladies from ICANN staff have already shared the agenda that you can see it in the screen.

We have the plan status that we will review in a minute. And before that, let's remember the different status designations. I won't read them all but just to have them in mind. Complete, partially complete, action/decision required, not applicable for action, and implementation planned and implementation ongoing, and won't be implemented. This is seven different status designations.

So let's review first the plan status. Nice document with a lot of green. We have been working very smoothly and quickly, which is good. And now we have to review number nine, SO/AC accountability and the rest of the assignments, 9, 10, 11 and 12. So any comments, questions about this plan? Let me check the chat.

No comments to this document that we are reviewing. So we have number two, we have to continue with the revision of recommendations 6, SO/AC accountability. And there's a

document that we can show now. And we will consider some recommendations. I will give the floor to Ariel and she will guide us to through this new assignment.

ARIEL LIANG: Thanks so much, Olga. We only have a handful of recommendations under recommendation 6 to go through today. And we expect that we'll go through very quickly as usual. So hopefully that's going to be the reality today too. So the next one we're looking at is 6.4.4, outreach objectives and potential activities should be mentioned in SO/AC group bylaws, charter or procedures.

So if you recall two weeks ago, we went through several outreach-related recommendations. And the agreement by the group is that outreach is not part of the, I guess, mandate or appropriate for the GNSO Council because the Council is a representative body. So it doesn't really have a role for doing outreach. And in terms of getting more candidates to participate in a Council, that's really up to the SGs an Cs and NomCom to do their part to get more candidates for filling the Council seats.

So in the same logic, 6.4.4 is not applicable for action, because the outreach role is not envisioned for the GNSO Council. So it's not really applicable for action. I will stop here and see whether there's any questions or reactions to the staff assessment of this recommendation.

OLGA CAVALLI: Comments, questions, agreements? Thumbs up? Check the chat. Sebastien. Your hand is up. Welcome.

SEBASTIEN DUCOS: Thank you, Olga and Ariel. So the second part of this statement, I understand the outreach was like—I can't think of any example where the GNSO indeed would have any outreach. But is this a charter or bylaw thing that we should have? Or is it just out of practice and experience? Again, I don't know—thinking SubPro, if there is a launch of a new subsequent procedure or something like that, is there no case where the GNSO will have any outreach activity?

OLGA CAVALLI: I'm not sure if I understand your question. Would this mean that the GNSO would not be able to do outreach, this is what you're asking?

SEBASTIEN DUCOS: Yeah. Is there no case where we have any outreach activity? Or is this just in the context of outreach to recruit more members or outreach to in that sense?

OLGA CAVALLI: Ariel.

ARIEL LIANG:	It's a very good question, Sebastien. And I think it's probably good to look at the related recommendation in that subgroup. So 6.4.3 says each SO/AC group should create a committee to manage outreach programs to attract additional eligible members, particularly from parts of their targeted community that may not be adequately participating.
	So it talks about outreach to attract members. And I believe this is basically outreach in that context. And it seems to be consistent throughout the recommendations under 6.4. So it's really membership-related outreach activities and objectives. And I don't think it's really related to other potential activities, like what you mentioned about SubPro and those things, I don't think it's envisioned as part of the remit of this particular recommendation. But I'm happy to bring this back to the staff coordination group for Work Stream 2 just to get clarification on that. But based on my reading of the recommendation, I think it's very limited scope.
OLGA CAVALLI:	I think you're absolutely right. I think the reading and the context that it makes absolute sense. So I fully agree with you. Thank you.
OLGA CAVALLI:	Thank you. Thank you, Sebastien, Ariel. And Marika says, "Focus on Council, not PDP working groups, although the operating procedures already foresee in that context that may happen if there is a lack of membership or diversity." Thank you very much, Marika. Any other comments? Questions? I see no other hands. So I will take silence as an agreement. Let's move on.

ARIEL LIANG: Thanks, everybody, for the input. The next one is 6.4.5, each SO/AC group should have a strategy for outreach to parts of their targeted community that may not be significantly participating at the time while also seeking diversity within membership. So along the same logic, it's not the role for the Council to do such outreach strategy. So it's not applicable for action. If such outreach strategy does exist, it probably should be carried out by the SGs and Cs and NomCom when they're trying to get candidates for the Council position. So that's the staff assessment, and I will pause here.

OLGA CAVALLI: Thank you. Comments, questions, agreements, disagreements? Group is quiet. I think this is quite clear. So let's move on.

ARIEL LIANG: Thank you, everybody. So staff will record this as not applicable for action. And moving on to 6.5.1. This group of recommendations is regarding reviews. So the first one, each SO/AC group should review its policies and procedures at regular intervals and make changes to operational procedures and charter as indicated by the review. Staff assessment of this is the Council has already completed this recommendation, because there is an existing process for the Council to review and update operating procedures.

And then just to show you, this is the operating procedure of the Council, and you see that the version control already reflects the

history, how the operating procedure was reviewed since 2009 and up to 2015. So there's already a record to reflect that.

And then also, there's an additional mechanism to review the GNSO procedure. And in fact, the CCOICI is actually created in part, I guess, its mission or scope is to conduct such potential review of the operating procedure for the Council when the occasion arises.

And then there's also a holistic review of the ICANN community group and that will provide another opportunity for the Council to review its policies and procedures. So based on this information, staff assessment is 6.5.1 is already completed. We'll stop here and see whether there's any reactions.

OLGA CAVALLI: Thank you, Ariel. Comments, reactions? "I think this seems fine. It makes sense." [inaudible] respond to the previous one. So please, any comments about this one? I think it's quite clear. Desiree— thank you—agrees. And Philippe, thank you. Now also this one. Thank you very much. I see no hands up. Thank you, wisdom. Okay, I think it's okay. Let's move on.

ARIEL LIANG: Thanks, everybody, for the input. Moving on to 6.5.2, members of SO/AC groups should be involved in reviews of policies and procedures and should approve any revisions. As you may be aware, any updates to the GNSO operating procedure require specific review and approval by the entire GNSO Council. So there will be a vote definitely for each update of the operating

procedures. So along this line, we believe that this recommendation has already been completed.

OLGA CAVALLI: Thank you, Ariel. Agreements, comments, questions? Again, I think this is quite obvious. Seeing none, let's move on.

ARIEL LIANG: Thanks, everyone. We're at the last recommendation on the recommendation 6. We're almost down here. It's 6.5.3, internal reviews of SO/AC group policies and procedures should not be prolonged for more than one year. And temporary measures should be considered if the review extends longer.

So this one is not as straightforward as the others because there's this one-year kind of limitation. But after some discussion among staff, our assessment is it's still completed for the GNSO Council. Due to the establishment of CCOICI and the framework of continuous improvement, oversight implementation, this is already some existing mechanism. Or you can say it's a permanent structure in the Council to allow the continuous scoping and execution of projects that are focused on the GNSO structure, procedure and process review and improvements.

So because of the existence of CCOICI, the Council already has a mechanism to conduct internal review of the GNSO procedures based on specific issues and focuses. So it's not something like we must review the whole procedure every year. It really depends on the need and the occasion that arises that requires a review. And then because we already have the current CCOICI and the

framework for continuous improvement, such review can be done based on the existing mechanism.

So that's why we believe this recommendation is already satisfied. And then another thing I want to note is all the recommendations under recommendation 6 is best practice-related recommendations. It's not mandatory. So if you look at the language, it didn't say the review must not be prolonged for more than one year. It's a should not. It's not mandatory per se.

And then also, this recommendation depends on other process, like the holistic review for the ICANN community, and those things are still pending in a way. So that's why we feel like there may be no need for additional actions by the Council at this point. And we think this recommendation is completed based on our existing mechanism. So I will stop here and see whether there are any questions, reactions.

OLGA CAVALLI: Thank you. Comments, questions? Check your hands up. Philippe, floor is yours. Welcome.

PHILIPPE FOUQUART: Thanks, Olga. Hi, everyone. I'm just being picky on this one, I guess. I'm just wondering whether, in principle, that would mean that any task that's given to the CCOICI would not exceed one year in terms of timeline if you take the spirit of what the recommendation is as written. It's just a thought. Now, I agree that that is complete on that matter. But thinking aloud, really.

OLGA CAVALLI: Thank you for the comment. My question comes from, what does this one-year term come from? It depends on [inaudible] or it's established before? Marika. Welcome.

MARIKA KONINGS: Thanks, Olga. I'm not exactly sure where the one year comes from, but emphasizing what Ariel said, that this is really a should not. I think in most instances, of course, I think everyone tries to work as quickly as possible. But I could envision certain projects that could take long. For example, I think when we developed the first version of the current PDP, I think quite some time went into that because that was a major undertaking, thinking through that, consulting with the community, going for public comment, having approval of the operating procedures.

So I think this is one where indeed, of course, we always aim to do work as quickly as possible. But there definitely may be instances where it can take more than one year. But I think in line with the project management tools that the Council has in place, it's also able to see where work is lingering. And there are issues why certain milestones are not being met versus reviews that may be more complex or may require more time and as such could extend, especially if you factor in the approvals that are included because of course, if something also needs to be approved by the ICANN Board, that adds a whole step and timeframe and do it.

OLGA CAVALLI: Thank you, Marika. Any other comments? Agreements? Philippe, "Agree, Marika. This seems to be written for cases where proper project management isn't in place." Okay. But in general, apart from this comment, we are in agreement with this assessment. Okay, thank you, Philippe. Any other agreements with complete? Okay, I'll take silence as agreement. Okay, Ariel, thank you very much. So what's next?

ARIEL LIANG: Thanks, everybody. I think we have completed recommendations 6 review. So now we're going to the last one, which is probably the most difficult, I guess. But I think I'm going to turn over the floor to Marika, because she did all the work on that one. So. Yes, Marika. Over to you.

MARIKA KONINGS: Yeah, thanks, Ariel. So this is basically the same document that Ariel just shared, just in a different section of that document. I think it's near the end. As Ariel said, you've worked very efficiently and worked your way through all the recommendations that are required and status assessment. This one is one that we, I think, on purpose left for last, because this is one where we think some further work may be required as well as some product or consultation, possibly, especially with your respective groups and members that may have been involved in the development of this recommendation.

And that concerns recommendation number 3, recommendation for our framework of interpretation for human rights. So what we

wanted to do for this call is just merely introduced this topic so you can start thinking about it and start doing your homework on it. We do hope leading up to the next meeting, we're able to assist you with some guiding questions that we hope will structure the discussion on this topic. So again, the group can decide what it would like to recommend in this regard to the Council.

So the recommendation itself, on the one hand, consists of a framework of interpretation in relation to the ICANN bylaws that deals with human rights as a core value in there and it's outlined in the annex that is included. And the details of this are in Annex three of the Work Stream 2 final report. Of course, you're all encouraged to read that.

But specifically for this group's consideration is this section of importance. It basically says that supporting organizations could consider defining incorporating human rights impact assessments in their respective policy development process. Human rights impact assessments should not consider particular human rights in isolation since they are universal, indivisible, interdependent and interrelated. Given the interrelated nature of core values, the supporting organizations could also consider other core values as part of the balancing required by bylaws.

It's very important to note here this is a "could." This is not a requirement but it's a "could" where a supporting organization is expected to consider whether or not they should be defined and incorporated in the PDP.

So what we've done here—and this is an update we made earlier today, we've provided you with a bit more background information

on this topic that we hope will provide you with some further details on, first of all, what is in Annex three of the Work Stream 2 final report, and again, we tried to cut out the parts that seem most relevant to this group's conversation. But of course, if there are any other aspects that you think are important, please feel free to add them or call them out in the form of comments.

And we've included as well the latest update on this from the Work Stream 2 implementation status report, which I think also clearly indicates that it's the expectation that this is something that the community works on and decides if and how this is incorporated in their respective processes. And I know this is also a topic that has been identified as one that consultation group will look at.

As far as I understand, I think this is one that the group is not expected to deal with in the near term. So I think first focusing on some of the other topics that they have on their list. I think that diversity is first off, so it is something that they may not get to yet. So that is also a question the group may need to think about. Is this something where consultation with others is helpful or necessary? Is the work that the Council does depend on how the ccNSO may do this or how the ASO may do this?

We are aware that some groups have started some work on this. I believe that the GAC has a working group dedicated to this topic. Again, that might also be a group that this committee may want to reach out to to see what they have done and whether or not that work may be of interest or help inform this group's consideration. What we added here as well is language from the operating procedures, because I think it's very important to remember that

the operating procedures already foresee that impact of proposed recommendations should be considered.

And although it doesn't call out here human rights as such, it does refer to rights, other rights, and that is intended to also encapsulate a human rights. So again, the onus is really put here on working group as well as the community to flag impact that is expected. And currently, operating procedures don't prevent that from happening, even without having a specific human rights impact assessment available.

But at the same time, I'll just note as well, at least from my experience with PDPs, I don't recall at any point anyone having raised specific human rights concerns, either as part of our working group conversation or through public comments. So again, the question is, is that because not enough attention is paid or no impact was found and as such not called out?

So again, currently the operating procedures don't prevent that consideration from happening. But of course, depending on the direction the group would like to go on this topic, there may be a need to either review or revise whether the operating procedures are sufficient in that regard.

And then we also added the relevant language from the Council's prioritization effort on this topic. It basically recognizes that this is something that, of course, the Council must adhere to the bylaw and the framework. And it's also identified as a high priority, because basically states we need to figure out how to assess the human rights impact of GNSO policies, the question of how to

implement existing bylaw obligations related to human rights core value may be considered in PDP 4.0 or other future endeavors.

And I think that future endeavor is this group here. So again, I think from a staff perspective, the first major question to consider here is whether or not you believe that the Council should define and incorporate a human rights impact assessments because of course, the answer to that question will then determine, if the answer is yes, how should that be done? At what stage of the policy development process should that take place? Who has responsibility for doing so? What kind of guiding materials might be necessary to do that? If the answer is no, there may not be a need for human rights impact assessment. Are there other tools or vehicles that need to be considered? Or if not, what is the rationale for why the committee believes it is not necessary to define and incorporate the human rights impact assessment?

So, again, I think that's at a very high level the main question that will help and guide the direction and the further conversation that this group needs to have. Of course, if anyone already has any initial thoughts on this—I'm actually regretting that Thomas is not here, because of course, as the chair of Work Stream 2, he might have been able to share some further insights into this. I don't know, maybe others in this group were part of that conversation as well. If so, it would be really great if anyone is able to provide more context.

We can maybe reach out to Thomas and see if for the next call, if he's available, if he's willing to share a little bit more on what the thinking behind this was, and what, from his perspective, the role of the GNSO Council is here and whether maybe he has any

specific views on what this could or should look like, or what direction the committee may want to take or consider in disregard.

And of course, I'm assuming that you all in your respective groups have members that may have been directly involved in this. I'm also aware I think in NCSG or I think it may be a cross-community group, I think there are many NCSG members involved. I think it's a human rights working party, if I'm not mistaken, that's, of course, another group that may have been actively looking at this and that may have specific insights or views that they would be willing to share.

So again, I think that's also a part of the conversation, we would like to have the group, first of all, are there specific views on this question? Is this applicable to Council or not? And if yes, what does it need to look like? And is there a need to reach out to others, either within the GNSO community or other groups to better understand what they may have done on this topic, which again, in turn, may then help inform how the group may want to approach this?

So I'm going to pause there. As said, if anyone here has any initial thoughts they would like to share or if they were involved in the Work Stream 2 conversations on this topic and may have some further light to share on what they believe are the expectations from that conversation, I think that would be very helpful.

OLGA CAVALLI: Thank you very much, Marika. Comments, questions. It's my understanding, it's not up to us to decide this. So I think everyone

should go to your stakeholder groups and consult. Sebastien, go ahead.

SEBASTIEN DUCOS: So this is just a personal thought. I'd welcome absolutely any background, any work that's been done in the community and defining the remit of what we see as human rights and what we want to get into and etc. I think, obviously, philosophically, nobody's going to say "No, it's not interesting, we're going to discard."

But there's always, with these things, a danger of finding yourself caught whitewashing something that is not quite white, or policing things that are beyond our remit. I'm thinking in particular, for example, from the registry side, from the contracted party side, there's always a huge conflict between when you're working internationally, between what one regards as the norm and what legally is the norm in all the different markets that you might be operating.

And in particular, with this topic, it always makes it very difficult, when do you step in as a corporation in what you believe is philosophically right? And when do you just follow the laws in markets where you operate, or decide to pull out of the market because you can't follow the said law and that sort of stuff?

So I'd love to hear more from, again, where the benchmark is, where the remit is, as far as the community is concerned, before I can go back to my community. Thanks.

OLGA CAVALLI: Thank you, Sebastien. I have comments from Manju in the chat. Manju says she will make sure to consult with NCSG members and she recalled several people talking about this. Thank you pretty much, Manju. Any other comments or questions?

So there's quite a lot of text to review. So what would be the idea, Marika? That we give time to the stakeholder groups and constituencies to think about this? And I think it's not up to us to decide, should be the Council to decide how to move on.

MARIKA KONINGS: Yeah, thanks, Olga. I think the Council is expecting the committee to make a recommendation on this. So I think it's indeed for the group to, first of all, kind of digest the information around recommendation, what has been done to date and indeed determine if it's helpful to talk to others to see how they've approached this.

I think from a supporting organization perspective, I believe the GNSO is the first one to tackle this recommendation. So I think others have not made a determination on this yet. As said as well, current operating procedures do already foresee that a working group is expected to assess the impact on a number of aspects including the impact on other rights. But I also have to recognize that that is maybe not something that has been very diligently done or in great detail or in a very structured way. So that might be something for the group to consider as well.

So I think, yes, idea ahead of the next meeting is that we would like to try and prepare some questions that may help guide that

conversation, because it says, I think to a certain degree there's a leading question, this is, "could consider." So there's also an option to say, well, we don't think we need to consider this for x and y reasons, because we have the—I think there was a determined not to implement or something like that.

There may be other ways in which the group agrees that maybe human rights impact assessment is not the path to go. Maybe there are other ways as well in which this can be done in a PDP, or maybe [inaudible] sufficiently there or a full HRA does need to be implemented. And again, then the question is how that's done, at what stage of the PDP and by whom.

So hopefully, through those guiding questions, we'll be able to help facilitate that conversation. But of course, before diving into that, it's really important that everyone gets informed on this. And as said, we can at least ask Thomas, if he's willing and available, to kind of share a bit his perspective as the former chair of that group

I think Manju has already indicated that she will also reach out to NCSG members. So it'll also be good to hear from them. But their perspective is on this and how they believe this fits within the PDP or should fit within the PDP. And maybe from our side, we can talk to our GAC colleagues to see what the GAC working group has done in this regard and whether any of that could be helpful to consider as we look at this from the context of a policy development process.

That's at least, again, staff's thinking. I think speaking for all of us here, this is also a relatively new topic. And I definitely don't claim

to be an expert in the area of human rights. I'm expecting to learn a lot as we consider this recommendation as well. So I think it's really indeed about information gathering and making sure that everyone feels like they're sufficiently informed about the topic to then be able to consider what to recommend in this regard to the Council. And I expect as well that the Council would expect this group then as well to kind of put forward, if you agree that this or some form of human rights impact assessment needs to be part of the PDP, that that would also be accompanied by a specific proposal of how that then would be implemented and considered, unless the group of course believes that that's not within its remit. And there should be another group looking at that. But again, I think this is where we're starting, basically.

OLGA CAVALLI: Thank you, Marika. Any other comments, questions, reactions? A question for staff. Do we have in this document all the material needed for all the members of the group to do a [deep revision] of this issue? All the links are there? Should we add documents that could be shared in the list?

MARIKA KONINGS: Very good question. Indeed, all the documents that are here in the document are linked. So if people want to kind of have a deeper dive than what we've provided, definitely do so. I think at a minimum, people should review annex three which basically outlines the whole scale of this recommendation, which also relates to the bylaw core value and the framework of interpretation. So that also may help inform the discussion. And of

course, if anyone comes across other materials that are deemed helpful, do feel free to call that out, and I'll just point as well that as part of the implementation status report, there's also a wiki page that has been created.

And again, I think, from the org side, if our colleagues are already trying to support the community in its consideration of this recommendations and is trying to bring together relevant pieces of information—so I think on that website, I think you find as well links to the ones that we've already created here. I think it also has a link to the GAC Working Party on this topic.

And to be honest, I think I clicked it and I couldn't really find anything that's really recent. So I'm not sure if that is publicly available, or maybe I just didn't look at the right space. But as said, I think very few have started that work on this recommendation. So at the moment, there's not a whole lot available yet. But again, also when this group, of course, progresses its work, it will also eventually appear there so that others can also see how it has been approached by the GNSO Council and the work that's been undertaken.

OLGA CAVALLI: Thank you, Marika. So members of the group, do you think that you have all the materials you need to consult your respective stakeholder groups and constituencies? Or do we need more detailed information? Check the chat. I see some comments, but I'm not sure what about, related with. Any other comments, questions?

So we have homework to do. We have to review all this with our—I don't have a specific stakeholder group, and I'm not a specialist in human rights, by the way, I'm a technician. But we would appreciate if all of you have time to review in deep all these documents and consult with your stakeholder groups and constituencies and so we can have a discussion in the next call.

Any other comments, questions about this issue? Sebastien, "Reading through it quickly now, it looks pretty complete, but I will ask questions as comments in the doc." Thank you very much, Sebastien. That's the idea, that you review in detail. Any other comments, questions, reactions?

Okay, thank you very much. Do we have any agenda items?

MARIKA KONINGS: Actually, we don't have anything further, we just have our next meeting, which is on the 27th of July.

OLGA CAVALLI: Fantastic. Any final comments, question? So we have work to do. We have all the documents shared. And if any of you need more detail or questions, please reach out through the e-mail address of the working group. And maybe our nice friends from staff can provide that information. I'm sure that they would do that, as usually, they do. Any other final comments?

So we'll give you 15 minutes of this morning to you. That's good. No more questions. No more hands up. Check the chat. Thank you very much, all of you. And thank you, Desiree, "A follow up e-

mail with all docs to review would be nice." That's a good idea, Desiree. As a reminder, if staff could put all the documents and links about this human rights concept together in an e-mail to the list, that would be helpful, also for those who are not in the call and may listen to the recording. Okay, thank you very much, Marika, that you will include it in the notes and action items.

Okay, thank you all for your attention, for your participation. Have a nice rest of the week, and see you in two weeks. Ciao.

DEVAN REED: Thank you all so much for joining. Once again, this meeting is adjourned. Have a wonderful rest of your day.

[END OF TRANSCRIPTION]