

**ICANN
Transcription
CWG Framework of Operating Principles
Thursday, 16 June 2016 at 17:00 UTC**

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Attendees:

Cheryl Langdon-Orr
John Berard - (Co-Chair)
Becky Burr - (Co-Chair)
Jim Galvin
Alan Greenberg
Avri Doria

Apologies:

Annebeth Lange
David Tait (staff)

ICANN staff:

Mary Wong
Steve Chan
Bart Boswinkel
Terri Agnew

Operator: Recording has started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the Framework of Operating Principles Cross-Community Working Group meeting taking place on Thursday the 16th of June, 2016.

On the call today we have John Berard, Cheryl Langdon-Orr, Becky Burr, Alan Greenberg, Avri Doria, and Jim Galvin. We have listed apologies from Annebeth Lange.

From staff we have Mary Wong, Steve Chan, Bart Boswinkel and myself Terri Agnew. I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you John.

John Berard: Good morning. This is John Berard. My hope is that this will be a very quick and smooth session. Our mission here - we have two items on our agenda. One is to discuss any pressing comment we might have based upon a read of the last version that was distributed to the committee. And the second is to agree on the agenda items as highlighted in that document for Helsinki.

I had already spoken to Mary about the fact that the current draft does not reflect the decisions we made on our last call to include standard language about how to solicit financial support from ICANN, which was a key element of interest on the part of the board, and I think rightly so.

It is a likely question in light of the high cost of the IANA and accountability cross-community working groups. We also in the document make the point that those are extraordinary and not really the basis on which this effort was instigated.

And so with those two agenda items responding to or commenting on the document, particularly where changes might be necessary and then agreeing to the elements that we want to use as our agenda in Helsinki I will ask anybody who wants to chime in to do so now.

Becky Burr: This is Becky. Welcome everybody and you got - you covered everything John.

John Berard: Now Alan I know from our last meeting you were most interested in making sure that we had financial support covered. I'm sorry that we didn't get it in this draft.

Mary I'm wondering if you can take pains to flash to Alan even in advance of the rest of us the language that you would intend to include so that we can use his judgment as to whether or not we've answered the question to the satisfaction of the board and to the members of this working group as raised in our last call. Would that work for us?

Mary Wong: Hi everyone. This is Mary. Thanks John for that, and like I noted, apologies that that particular bit slipped through the cracks as we were getting this document out to everybody. Yes we can certainly come up with some language around those processes based on those processes and send them around to the group as soon as we can.

The other point that I wanted to make in this regard was that in our discussion on Helsinki this question of budget and other related resource questions is one of the topics that we had planned to cover. So we can probably highlight the language for the community to comment on as well. And we can probably do that by sticking it on a slide.

The intent is to have maybe one or two slides for each topic rather than do a presentation. Would that work?

John Berard: That's – this is John Berard – that's fine with me. I just don't want the discussion of financial support to be unstructured and open ended. I want there to be specific recommended language that people can respond to. But I'd really like to keep that particular conversation on the rails.

All right, I see Mary has typed in that she understands and agrees. Becky you're typing. Would you rather say it?

Becky Burr: I was just going to agree with you.

John Berard: Okay, all right, cool. Now is there anything that anybody saw in the document that made the hair on the back of your neck stand up? Because if not, we really don't need to belabor this particular call if we feel we've got things moving in the right direction.

I do have two points that I'd like to make but I'll defer to others first. Okay, thank you Jim. That's great.

So the two points that struck me was in the document we talk about cross-community working groups as not necessarily being a vehicle for policy development. Now I realize that working groups in general provide input to their SO or AC and that that's where the policy-making occurs. But is it really - should we say that differently?

I mean, because in fact working groups are the baseline for policy development, are they not? (Unintelligible)? Yes.

Mary Wong: John, Becky has her hand up.

John Berard: I'm sorry, Becky.

Becky Burr: Yes so actually I was going to comment on that same point. I think that if anything we need to be extremely clear that CCWG should not be used to develop policies that are within the remit of one or another supporting organization under the ICANN by-laws.

However in many cases where the policy delegation is clear, there are still areas where the policy development can and would be enhanced by being informed by sort of preparatory work, for example, in a CCWG.

I happen to think that's one of the most effective uses of the CCWG so, you know, we were, you know - in the ccNSO a lot of the work that we have done on RFC 1591 and delegation/redelegation, etcetera was preparatory to a policy development process that is going to be kicked off in Helsinki regarding retirement of ccGLD cc names and the like.

So I take your point but I think to the extent that the bylaws designate a process for formal policy development process, that is where, you know, that's where policy should be made and not in the CCWG.

John Berard: All right. Mary can you do a search in the document for that phrase vehicle for policy development and let's take a look at it? It's possible I might have misread it. The other point...

Mary Wong: John it's on Page 3.

John Berard: Page 3? Can you be more specific on where on Page 3? It is Page 3, 2.0...

Mary Wong: Sorry, it is towards the bottom, 2.0, Paragraph 1, the yellow highlighted.

John Berard: Yes the yellow highlighted: "It is important to note that a cross-community working group is not generally considered a vehicle for policy development. That under the ICANN bylaws is the role of the particular SO."

So I don't know why I am concerned about that sentence because it's accurate in what it says and it comports with how Becky described it but it strikes me as somehow undercutting its utility. Am I being too paternalistic with regard to these things or what?

Cheryl Langdon-Orr: John, Cheryl here. I don't think you are. I think it needs a little wordsmithing just to strengthen it somehow. And some of the language that Becky articulated could probably be just (grand) if we're doing audio from the (list pool) and worked into that sentence.

John Berard: Okay. Mary can - this is John Berard again. Mary is it possible for staff to review the transcript of what Becky said and incorporate the pertinent parts in lieu of what we've got there now?

Mary Wong: John I noticed that Becky has suggested some language in the chat and Bart has also suggested that we look at Section 1 on Page 7.

John Berard: All right, let's see. Becky says – this is John Berard – it is not the proper vehicle for formal policy development where such authority has been granted to a specific supporting organization.

I guess that's a more satisfying way to say it and not undercut the valuable role that I think cross-community working groups have. Bart, you say Page 7, Section 1. Let's see where that is. Everybody else there already? Are you talking about 3.2 - Formation of Cross-Community Working Group, Bart?

Cheryl Langdon-Orr: I would have thought 3.1. However (F1) yellow highlight.

John Berard: All right, let's see.

Cheryl Langdon-Orr: Sorry, that was Cheryl.

John Berard: Oh I see. I guess I'm not seeing what everybody else is seeing. Okay, got it. "A cross-community working group should not be a substitute for existing mechanisms that can be used to address problems identified including processes that are used for policy development work."

So we make the point that it's not a substitute but a supplement. Is that what we're saying? Becky is typing.

Becky Burr: So I'll just say the notion that I think I would want to get across is that CCWGs can inform those existing processes – inform and enhance -- but they're not a substitute for.

John Berard: Okay. So can we insert that inform and enhance phrase in there? And so should - "can inform and supplement but should not be a substitute for existing mechanisms." Would that be okay with everybody?

Alan Greenberg: John can I get in? It's Alan.

John Berard: Of course. I'm sorry Alan.

Alan Greenberg: Thank you. Yes on Page 7 I would augment it to not be a substitute but I would prefix it with can inform or precede or something – whatever the language was he used -- because I think it is important as Becky said that a CCWG may well be a prelude to the formal process.

John Berard: Right.

Alan Greenberg: In terms of the original language we were talking about -- I don't remember what page it was on now -- the language that Becky suggested is much better than what was there. The previous language although technically – let me try to find it – what page was it on, 2 or 3?

John Berard: It was on...

Alan Greenberg: Okay it's the bottom of 3. It says it is important to note that a CCWG is not generally considered a vehicle for policy development. That under the ICANN bylaws is the role of a particular SO. So it implies but doesn't say clearly enough that the only policies that are off limits are those that are explicitly assigned to SOs. And Becky's language makes that much clearer than the...

John Berard: Right.

Alan Greenberg: ...existing language. There's lots of policy within ICANN – lower and upper case P – that is not assigned to SOs. The CCWG accountability is an example. So we want to make sure that we don't preclude doing good work in CCWGs. Thank you.

John Berard: Okay. Well I think we're in agreement that we'll make those clarifying changes in advance of Helsinki. I think that'd be great.

The other point that I wanted to make was that we also reference the fact that the CCWGs will produce outputs except in extraordinary circumstances. And we don't define what those extraordinary circumstances are and I'm not really - I can't even imagine what they are.

Can - Mary what were we thinking -- as my mother used to say to me -- about when we said extraordinary circumstances? What are those extraordinary circumstances?

Mary Wong: John, everyone, this is Mary. And Alan may actually have a better, more informative response. I think all we were trying to do here is put in something like a caveat or a place holder simply because for CCWG we don't have the kind of mandatory rules that we have, say, in a GNSO PDP where the initial report must go out for public comment.

The alternative of course is to simply take that out such that the default is that every report that the CCWG intends to be its final or close to final deliverable must go for public comment.

John Berard: Alan your hand is still up or again?

Alan Greenberg: No that's a new hand.

John Berard: Okay then you have the floor.

Alan Greenberg: If you look for instance at the current CCWG on Internet governance and without looking at the specifics of that one and either casting aspersions on it or lauding it, its purpose is not to address a particular question and then wrap up and stop.

It is an ongoing process looking at the interactions of ICANN in relation to Internet governance. It may occasionally produce some output. It may organize meetings. It may be a discussion forum for the issue.

If we set rules here that preclude that from being the CCWG because it doesn't fit the model we're looking at, we're just asking them to invent a new name and exist without any constraints and rules that we're putting a lot of effort into.

So I just don't see the benefit of forcing specific models on the CCWGs that we're defining when we know there are - will be working groups within ICANN which don't always meet those. And just to have a different name so we feel more comfortable with our definition I think is a waste of time. Thank you.

John Berard: I think I got lost somewhere because we were talking about extraordinary circumstances and now you're talking about organizational structure. How did we get from one...?

Alan Greenberg: I think the exceptional circumstances are the subject and purchase of the CCWG that are - I don't like those particular words but I think that was the implication of them. That's how I read it, but...

John Berard: Becky if I could drag you back in here at this point. What do you think about that?

Becky Burr: Well I think I'm a little confused here because I do read that there is at least one CCWG that doesn't really - that, you know, was sort of created to kind of

monitor and discuss ongoing activities and where there's no necessary output, although to me that's sort of the exception to the rule.

And, you know, the decision about that needs to be spelled out in the charger so that people make a determination early on about what the purpose of the work is and whether - and can consider whether the CCWG is the appropriate vehicle in that case.

John Berard: Yes. This is John again. I think what I would be more comfortable with is that the cross-community working group in any incarnation produces outputs that are either designed to inform the community or solicit comment from the community.

I mean, there's really no cross-community working group that's going to operate behind a curtain. It's not the nature of the organization. But it could be just to inform as opposed to seek comment. Is that a reasonable middle ground?

Becky Burr: Works for me.

John Berard: Mary your hand is up.

Mary Wong: Right thanks John. So with respect to that, I guess what we were trying to do here was to avoid being both too descriptive or trying to foresee all, anticipate possible situations where we might create a CCWG. That said, it would seem to us that for accountability purposes if nothing else that the default should be public comment on any output.

So in the case where it is a CCWG that is created to monitor a certain track of work for example and - like I noted in the chat - this kind of CCWG may be more difficult to form or something that will be, you know, not necessarily desired following this final framework.

They could still be created but because those groups would not have a final output then the public comment question there becomes probably unnecessary.

I don't know that the current language captures these I guess flexibilities but we were trying – like I said – to give some room for a caveat while basically saying that the default is if you've got an output then you have to have public comment.

John Berard: Yes that satisfies my interest. I just want to stay away from the phrase “extraordinary circumstances.” I just think it's not precise enough. It allows for too much interpretation and allows things to move really far afield.

I see Alan you're up again. Oh Jim you haven't had a chance to talk and I see your hand is up. Let's go to you first.

Jim Galvin: Well thank you. I was actually going to agree with something I believe I heard Alan say earlier. In the interest of avoiding extraordinary circumstances and trying to accommodate flexibility I like the suggestion – I think it was Alan who said this and I apologize if it wasn't – what if we just go down the path of saying as we do that the outputs are expected to go to public comment.

A charter drafting team can consider the question of whether or not a public comment is necessary and then as part of its proposal -- because the charter of course also goes for public comment – it can specify why it thinks that's not necessary and that would then be subject to review by the community also.

So I think we just allow the charter to - and say that we allow the charter to push on that opportunity. I think we cover all bases, don't we? Thank you.

John Berard: Alan?

Alan Greenberg: Yes just on a technicality in general charters don't go for public comment. They go back to the potentially chartering organizations for comments and approval.

But yes I agree with what Mary - the wording Mary used that if there are outputs they should be subject to public comment. But whether there are outputs or not on a regular basis or at the end of the process if indeed there is an end is an issue that the charter should be specifying in some level of detail.

John Berard: All right I think that that integrates what Jim said, what Mary proposed, and satisfies what anxiety I had at the start of this. So I'm good with that. Cheryl, Becky, are you okay with it?

Becky Burr: Yes.

Cheryl Langdon-Orr: Yes.

John Berard: Okay, cool, great. All right those are the only two points I had. If there are none others then Mary if you could just take us through the elements that you would intend us to use as our agenda for Helsinki?

Mary Wong: Sure John. Hi everybody. It's Mary again. I think Jim had a comment.

John Berard: Before you do that...

Mary Wong: Yes I was going to point that out, that Jim had a topic to raise.

John Berard: Okay I'm sorry Jim.

Jim Galvin: It's okay. Thank you John. I actually had a question. I don't remember that we've had this discussion and I was poking around in the documents here as we get into this call, checking into this question.

With respect to liaisons, we do specify that, you know, liaisons are allowed and a charter should talk about why they should be supported and what the role would be and that kind of thing.

I'm curious though should we have any kind of review process back with the organization from which we're requesting liaisons? Should that be part of this process at all? I mean there's the focus here on the charter being reviewed obviously by the chartering organizations.

But I'm wondering if we should allow for that or as far as I could tell we don't actually say anywhere that a request for a liaison can simply be ignored. In fact we say nothing about whether it actually has to be followed or ignored -- unless I'm missing something. And I see Mary's hand went up again so maybe she'll clarify all this for me and I'll be good, thanks.

John Berard: All right, Mary?

Mary Wong: Thanks Jim. Thanks John. I'm not sure I will succeed because you're right Jim that the concept of the liaison or at least the sort of specific processes around the liaisons is not very clear or developed in the document. And that's partly because that concept came quite late in our discussions and was the subject of a couple of public comments.

So I think what I would like to throw out for the group to consider as a supplement to Jim's question is whether we want to delve further and add further detail to this, bearing in mind that the liaisons that we would be talking about would be liaisons from the board and/or from staff.

So those would not be chartering organizations. And I will say that in adding the language here as staff we really weren't sure what else to do with it other than to introduce the concept and then maybe rely on this general concept of flexibility for each charter drafting team and each CCWG effort.

John Berard: This is John again. The very nature of a cross-community working group with guidelines surrounding membership, participation, the role of each SO and AC and participation seems to me to obviate the need for a liaison.

And I personally have not paid much attention to it because I convinced myself that the nature of designing and building a cross-community working group was - satisfied the value or the role that a liaison might play in a normal working group.

So I'm happy not dealing with it or not being more specific about it because I think the role is - or the effect of having a liaison - is baked into the guidelines we're creating about the creation of a cross-community working group. Jim you have your hand up.

Jim Galvin: Yes so let me try to come at this from a decidedly different way here. Maybe it's a question of, you know, who really is making the decision here. And this is just - this issue of liaisons has just come up for me in a different context which is why it's only occurring to me here to think about whether or not we want to be more specific.

I agree with everything you just said John. So to that extent this notion of liaisons from the community really is not important. There's plenty of process here to cover the fact that if somebody wanted to be involved they're going to be involved.

So really I'm focused on the board and the staff. I mean if the community and us stated in the charter thinks that they want a liaison and they're going to lay out that role, the thing which is not specified in this document as far as I can tell is whether or not, you know, the staff or the board can ignore that request and not assign a liaison.

So – and that’s kind of where I was going. I mean, we can leave it unspecified and then that just naturally says both options are always possible and it’ll sort itself out at the time that it needs to be sorted.

Or we can take the approach that the community thinks it needs to be there. We should say that that requires, you know, the staff and/or the board to provide that liaison when the working group launches.

I’m really kind of opening the question for the discussion. I don’t - I honestly don’t think I feel strongly about it. I’m probably inclined to not do anything. But since we have the opportunity here I felt like it was a good question to ask and see if anyone else had any opinions about it and any thoughts about whether we should go forward. So thank you.

John Berard: All right, thank you Jim. Alan your hand is up.

Alan Greenberg: Yes thank you. I can take a rather pragmatic view of things. I don’t think there’s any functional difference between the board for example appointing a liaison who never shows up and them not appointing a liaison.

So to differentiate those and say they must appoint someone but you can’t enforce they actually do anything or even if they’re at the meetings you can’t enforce that they’re not playing Solitaire, you know, on their computer while the meeting’s going on. I just don’t see the difference so I don’t see any sense in putting in a rule saying they must do something.

((Crosstalk))

I’ll be very quick. Liaisons in most cases are not from the community that could be a chartering organization but as you pointed out, are staff, are the board, or are from parallel organizations that are going on at the same time.

If you look at within the GNSO right now there's a - sorry, a working group on the PDP for future rounds of gTLDs. But there's also a review team going on. And liaisons straddle those two and make sure they're informed. The CCWG accountability had a liaison from the ICG, a parallel effort that was working on the same sort of things.

So liaisons cover a whole range of things. So I think we should allow for them but I don't think we can be more prescriptive than that. Thank you.

John Berard: Thank you Alan. This is John. I think that you have hit upon a good path for us to take because I do think that it may be – depending upon the subject matter of the cross-community working group -- it may be important for the chartering - for the charter to suggest or to request that there be a liaison from the board for example, especially because the board has shown an increased interest in the work being done by multiple members or organizations of the community.

So I think that that should be open. We should specifically say in our guidelines that that is clearly one of the things that could be done at the time of the charter. And I think that if we leave it at that we'll have covered ourselves because of the other process involved and the construction of cross-community working groups, as Jim has cited.

So can we make that modest change as well, Mary, that it may be the role of the chartering, of the drafting team to create a charter that includes a request for a liaison from the board and/or staff? Forcing me to get my...

Mary Wong: Sorry John, I was just typing that...

John Berard: No, I'm reading what you (unintelligible).

Mary Wong: I've made a note of it and will add that - sorry.

John Berard: No, thanks very much. Okay so the next thing I'd like to do is to go through the document and with an eye towards the bits that have been identified as the potential discussion or the agenda items for Helsinki.

So Mary am I correct that the bits that we're talking about are the ones highlighted in purple or not yellow? Or you want to use all of (unintelligible).

Mary Wong: Hi John, it's Mary. No that's right. The yellow highlighted stuff really is just substantive and substantial changes to the text that we published. Some of that pertains to the main topics for Helsinki but not all.

For those they are actually are the ones that if you look at the comments column as you go through a document you see that I've put them in bold capital letters in either red or purple for discussion in Helsinki.

John Berard: Okay. So if you all - if we can follow through the first one appears on Page 2, in appointing members to a cross-community working group, chartering organizations are expected to consult with one another to ensure that there is diversity of representation – geographic region, stakeholder group, relevant skill sets – in the overall cross-community working group membership.

Now it strikes me that when I get involved in a discussion of diversity in ICANN it is both - it focuses on two data points. One is gender and the other is geography. Does that comport with what you folks hear and see?

Cheryl Langdon-Orr: John, Cheryl here. Yes it is what I hear and see and it is so not good enough, but that is all there is to diversity.

John Berard: I agree but keep in mind we don't mention gender in this paragraph. Or should we mention gender? Alan your hand is up.

Cheryl Langdon-Orr: I think (Unintelligible). John, Cheryl again. If we recognize that there will be a complete focus for one of the threads within Work Stream 2 on diversity,

perhaps let's be fairly general at this stage with this document and just use the word because there will be a community discourse on (unintelligible) never think about diversity in the not too distant future.

John Berard: Okay. Alan?

Alan Greenberg: Yes thank you. I just want to point out that statements like this that say the group should consult with each other to ensure diversity really makes very, very little sense when in most of our organizations the people are often selected not by the AC or SO but by subsets of it. And there's really no way within our current mechanisms in general to ensure that level of balance.

We don't necessarily even have consulting within the subgroups in the AC or SO or can't necessarily enforce it. And to do it one level up is really difficult. Now as Cheryl said, this will be discussed in Work Stream 2 and I'm eagerly awaiting to see how we address these kind of issues.

But they're really core to our bottom up model that says people can be selected bottom up. Thank you.

John Berard: So this is John. Before I turn it over to Mary, two points on that. I would be happy with "are expected to the extent possible" to consult with one another because I do think the consultation point is an important one that should be made, so expected to the extent possible to consult with one another.

And Cheryl I hear your point and in fact most days I'd probably agree with it. But on this particular day I'd like to include these EGs so as to let people know that we're not just talking about the standard gender and geography diversity.

Cheryl Langdon-Orr: John, Cheryl...

John Berard: That there are other aspects of diversity that should also be counted.

Cheryl Langdon-Orr: Cheryl back on the recording. Happy to do that as long as it's one of those not limited to statements because otherwise we'll box ourselves in.

John Berard: This is John. Totally agree. And I'll turn it over to Mary in the hope that you've captured that and can make those modest changes.

Mary Wong: Hi John, Cheryl, everybody, it's Mary. I did note that and I'll type the notes out in a second. I just wanted to make a couple of I guess comments that hopefully are helpful. One is with respect to this point it was kind of a - I hate to say toss-up but whether to put in gender and then whether to put in other things.

So yes we default it to something that was somewhat more generalized and possibly neutral – you know, geographical region, you know, diversity of stakeholders and skill sets.

These were referenced in some of the comments as well. So Cheryl what we will do is probably substitute that EG for perhaps the more obvious including but not limited to. And John we'll also add your point about to the extent feasible in terms of consultation.

Then the other point I wanted to make was that this is the sort of high level sort of principle. There is a little more detail elsewhere in the document including near the bottom of Page 10 in Paragraph 6 where we talk about recruiting volunteers.

And that's highlighted in yellow in the paragraph beginning further. And here we actually put in individually and in consultation. But we put in a little more I guess meat or we tried to put a little more meat into what that means. And we have reasonable efforts to ensure sufficient diversity and again with the same illustrative list of diverse requirements.

But what we also added is something that I think was said in our last call that in this consultation appointment and meeting the diversity expectations that there should be a balance as well.

So while I think these are fairly general statements I thought I should draw them to the group's attention because they do speak to what you're talking about right now.

John Berard: Mm-hm. Yes and because you say individually and in consultation with the others, expect it to take reasonable efforts to ensure. I mean we're not setting rules. We're not mandating things here. We're offering guidelines and I think that's what we do.

But if we can - the first reference if we can include the "to the extent possible" and I think it's smart to change to swap out e.g. for including but not limited to. I think that puts us on a more direct path to where we thought we were going when we got started in this whole thing.

So let me - let's move on to the next highlighted section which is this should be clarified as far as possible during the charter drafting phase. We're talking now about the shared charter, sufficient resources.

So this is a reference to anticipated additional budget needed by the cross-community working group. And we're going to supplement this with the additional information Mary?

Mary Wong: Hi John, yes. This is Mary. That's the idea and actually as the call was going on, just a few thoughts and discussions.

What we could do – both here and in the more specific part of the document where this is referenced again – we could include a reference to the budgeting process and say something like, you know, as the (GT) goes through the charter drafting that they should refer to those principles and

processes as far as possible rather than create, you know, new obligations or processes or something like that.

John Berard: Mm-hm. Any comment on that? I think that makes a lot of sense. That then leads us to the next agenda item – proposed agenda item – which is discuss and agree on the circumstances and appropriate context in which the final recommendations need to be submitted to and possibly acted on by the ICANN board.

So we're suggesting that when a cross-community working group organizes itself that it be clear in its view of how it relates to the ICANN board. And that could be by asking for a liaison, requesting a liaison, submitting a request to ICANN for funds to help it operate.

But the question is in my mind can a cross-community working group make a request to the board to review its work or is that not really the domain of the SOs and ACs? Mary you got your hand up, and Becky if you can jump in on that point I'd appreciate it.

Mary Wong: Thanks John. And so in reference to what you've just said, this reference should be read with the additional language which is currently on Page 16 under the conclusion and open questions section, essentially the first bullet point under conclusions on Page 16.

And what we say here is that this is something that should be determined during the charter drafting phase. And we give some examples here as to, you know, the types of anticipated outputs that could require action by the ICANN board.

And then we note that there's some additional considerations that would then have to be taken into account if that's the case.

In terms of just putting this in, we just wanted to have something in the framework that was somewhat more concrete and detailed but we weren't sure if A, this was appropriate what we have on Page 16 right now, and B whether it's necessary.

I think our answer was that it probably is desirable and so we're suggesting something like this to see what the group thinks about that particular topic.

John Berard: This is John. Does anybody think that that language suggests that we're seeking to usurp a power held by an SO or an AC? Could it be read that way? Becky you got your hand. Go ahead.

Becky Burr: I just think that we have to take extreme care and that's why I think it is a useful part of the charter development process because it requires - I mean, although sometimes it's not clear, you know what the output will be.

But I think that any time that what we're doing in a CCWG is developing output that we actually expect the board to act on, we need to sort of cross-reference it to the - what are the specific policy development authorities that are designated in the bylaws and assigned to specific SOs if it's one of them.

If so, then outputs that require the board to take action other than to recommend, you know, calling for a policy development process would be problematic.

So I don't mind that. I don't mind the language here on Page 16, although I think, you know, we may just want to cross-reference it back to the language that says it shouldn't replace the proper PDP processes.

John Berard: Okay. Avri you've got your hand up for the first time. Why don't you go ahead?

Avri Doria: Okay thanks. I thought Alan's was up before me but anyway I think in a couple places I'm not as worried. I think the language is fine. It may need to be tweaked in a couple respects.

First of all there's already the notation as was mentioned about not interfering or not usurping. There's an expectation that any of the supporting organizations whose task it is will make a point of that when it's being reviewed.

And also I guess there started to be an ongoing expectation that the board in taking any input - first of all of course it should always consider any input it gets. But in taking input and acting on it, it kind of has a responsibility to check with the rest of the organizations, the rest of the community to do comment review.

And if it is apparent that it interferes or usurps the authority of an SO, one would expect that they would consult on that and that that organization would push back.

So I think there's really enough checks and balances in the whole process and with comments and such that it really shouldn't be an issue. You know, so I think that the language by and large is good. Thanks.

John Berard: All right, thank you Avri. Alan?

Alan Greenberg: Yes I think the language is okay. The principle we have is pretty clear, that certain - the bylaws give SOs certain responsibilities and rights and those cannot be usurped without their approval.

Now I could conceive of a CCWG making a recommendation regarding gTLD policy that the GNSO fully supports and doesn't see the need for going through a separate PDP, I mean, assuming it's not a consensus policy which requires a specific formal specified process.

I can see the GNSO agreeing with it and it's a done deal at that point and not having to spend another year going through a process that isn't necessary. But that's - you know, I don't think we need to belabor the point. It's quite clear we cannot usurp the rights of an SO.

At the same time it's not clear that any given PDP – not PDP, any given CCWG – is encroaching on the rights. And, you know, if it requires the board to implement something then clearly it has to go to the board and the board has to go out for public comment to make sure that all the I's are dotted and T's are crossed.

I can also imagine a CCWG on what kind of entertainment should we have in the evenings that doesn't need board approval. So thank you.

John Berard: But would require a financial report.

Alan Greenberg: No not necessarily, you know. At Large has put on a music night for last meeting or two when the rest of ICANN didn't. And we got volunteers to do it and to find the space and a sponsor. We didn't see the need for a CCWG for it though so we were (unintelligible). It's out of our domain.

John Berard: It is. It is. It's out of all of our domains. Well thank you Alan. Again this is John. So I think we've rounded the corner to the point where we think the language is okay. I do think that there are enough checks and balances in this document which is designed to be all about checks and balances to satisfy things.

The next point is -- proposed agenda item – is a really important one and that's about consensus. And the - or deriving consensus from an environment where we have members and non-members. We don't want to make the non-members feel less important but they don't have a vote when a vote gets called for and this section lays that out.

It's a point that I believe we do need to meet head on. We all agree that this is a good agenda item for Helsinki. Thank you Jim. And Mary you have your hand up, so what point?

Mary Wong: I do and it was just to note that the reason we are putting this forward in Helsinki is because this was highlighted by numerous public comments. That said, when our group discussed the public comments some weeks ago there was a general feeling that we didn't want to change – or at least not by much – what we've already got in the document in terms of how consensus is defined.

So although this particular section -- Paragraph 4 on Page 4 I think is what you're referring to John – was added to try to clarify things, we didn't actually change any of the consensus language from the draft.

John Berard: Not but again – this is John – the language in the draft led to the comments. So what we're doing is offering the community air time to discuss it when we're together in Helsinki so that the community can own the definition of consensus coming out of a cross-community working group. So I think this is a politically appropriate conversation for us to have in Helsinki.

Okay so then we move to the closing of a cross-community working group. And we're now on Page 5. Do we want to highlight an alternative to in purple or red or pink? Is that something you want, you think should be an agenda item?

Or do you really just want to talk about being able - the performance or behavior of a cross-community working group after it has been closed? Do we want to talk about how it can be closed or do we want to talk about how do we reinvigorate it for review after it's been closed?

Mary Wong: John this is Mary. So first of all the language for alternative to was added because it actually is somewhere else in the draft. I think that just when we went out with the public comments for some reason we only had Alternative 1 and not both alternatives in this part of the document.

So essentially the two alternatives have been there since the beginning but what may be more important is I guess the - well it's not just the mechanism or how you - or rather the circumstances in which you close the cross-community working group but the post-closure part that's in Paragraph 6 that can be discussed in Helsinki.

And in that we've added language about consideration of the policy and implementation principles because I believe at least once, maybe more, commenters noted that that could be useful to a CCWG as well.

John Berard: Mm-hm. Okay. And as I look at the document that's the last suggested agenda - oh no, there's one more. The absence of full consensus. Now I'm on Page 12, and the point being that - well it's just a continuation of the discussion on consensus.

Can we wrap those two things together? Oh no. Yeah. No consensus from the earlier point. I'm losing track of my own thought process. I apologize.

In the absence of full consensus, the chairs should allow for the submission of minority viewpoints. And these along with the consensus view shall be included and relevant. Isn't that normal process? Aren't minority reports part of every working group? Feel as if...

Mary Wong: Apologies John. Sorry, I lost you for a second. Which page and...?

John Berard: (Unintelligible). I'm looking at Page 12. And we're talking about the absence of full consensus the chairs should allow for the submission of minority viewpoints. That's not news is it?

Mary Wong: I think these were taken pretty much almost wholesale with some tweaks from the GNSO procedures – obviously not the, you know, multiple levels of consensus that the GNSO has. But this other language that you've just highlighted and the rarity of using polls, those things I think came from the GNSO's procedures.

So I'm not sure that we don't say it. That will be obvious. So it seems that maybe it's better just to say it although maybe there's a better way of saying it.

John Berard: Right. So we're getting - we're a minute away from the hour and I don't want to cut things off just to cut them off. But I do think that we've hit a set of agenda items that would make sense in Helsinki, the first one having to do with the diversity inherent in the formation of a cross-community working group, the second one being the flexibility of the drafting team in creating the charter that can discuss everything from liaison to financial support to public comment.

We were talking about the definition of consensus, particularly in a structure where there might be members and non-members. And we're talking about a callback, essentially an implementation review aspect to the work of the cross-community working group.

Those things seem to me to be substantial and important matters that would deserve attention of the community in Helsinki. Am I missing anything? Anybody want to substitute, add, or object to those agenda items?

Well I will say that I think we are nearing the end of our work, which is always a good thing because there's always more to do. Thank you Mary. What I think we're up to now is just this one final community airing and then offering up a final set of recommendations.

Will everybody on the phone here be in Helsinki? Jim you'll be there. Becky you'll be there, right?

Becky Burr: I will.

John Berard: Avri will you be there? I think it would be good for as many of us to be in the room as possible. Probably be the only time we've all been in the room at the same time if we all happen to be there. Mary you have any final thoughts on the day's proceedings?

Mary Wong: Only that in order for you and Becky to guide the discussion so that it's lively but not, you know, going all over the place, we can prepare some very basic slides, no more than a handful, that lists the topics they're going to cover and maybe either some of the proposed language or at least a couple of subquestions that as facilitators you and Becky can ask the group to consider.

And then the other point I was going to make is that since we're going to have Jim, Avri and I think Cheryl and Alan there as well as other members and also non-members who have been quite active such as Chuck and others that at least for parts of the discussion if you like you and Becky could also call on, you know, people like Jim, Avri and the rest to either add comments or just to – I don't know – add a change in the voices in the proceedings.

John Berard: Okay, all right. We'll do that. I think that would be appropriate, yes. I don't want to cut off conversation but I would like to guide it so that it's as productive as possible.

All right well thank you all for doing this. Mary I can't tell you how much I appreciate the work that you and Bart and Steve have done. I don't think Becky and I and the rest would have gotten anywhere near this work product if you guys hadn't been there to help us, so I appreciate it.

And with that we'll ring off. So enjoy the rest of your day, however much is left.

Woman: Bye-bye.

Man: Bye-bye.

Woman: Good-bye.

Woman: Bye.

Terri Agnew: Thank you. Once again the meeting has been adjourned. Thank you very much for joining. (Dane) the operator if you could please disconnect all recording lines and for everyone else please remember to disconnect all remaining lines and have a wonderful rest of your day.

END