

**Policy & Implementation Working Group Meeting  
TRANSCRIPTION**

**Wednesday 8 January 2014 at 2000 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 8 January 2014 at 2000 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <http://audio.icann.org/gnso/gnso-policy-implementation-20140108-en.mp3>  
On page:<http://gnso.icann.org/calendar#jan>

Attendees:

Chuck Gomes – RySG  
Philip Marano – IPC  
Michael Graham – IPC  
Cheryl Langdon-Orr – ALAC  
Alan Greenberg – ALAC  
J.Scott Evans – BC  
Kristine Rosette – IPC  
Brian Winterfeldt – IPC  
Greg Shatan – IPC  
Avri Doria – NCSG  
Olevie Kouami – NPOC  
Wolf Knoblen - ISPCP  
Olga Cavalli – GAC  
Amr Elsadr – NCUC  
James Bladel – RrSG  
Klaus Stoll - NPOC  
Tom Barrett – RrSG  
Jonathan Frost – RySG  
Nic Steinbach – RrSG  
Marie-Laure Lemineur - NPOC

Apology:

Gideon Rop – Individual

ICANN staff:

Mary Wong  
Marika Konings  
Nathalie Peregrine

Operator: This call is now being recorded. If you have any

Operator: The call is now being recorded. If you have any objections, you may disconnect now.

Nathalie Peregrine: Thank you ever so much, Ron. Good morning, good afternoon, good evening everybody. This is the Policy and Implementation Working Group call on the 8th of January, 2014.

On the call today we have Alan Greenberg, Olga Cavalli, Cheryl Langdon-Orr, Amr Elsadr, J. Scott Evans, Chuck Gomes, Avri Doria, Phil Murano, James Bladel, Brian Winterfelt, Wolf Knobon, Greg Shatan, Klaus Stoll, Tom Barrett, and Jonathan Frost. We have an apology from Gideon Rop. From staff we have Marika Konings, Mary Wong, and myself, Nathalie Peregrine.

I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you very much and over to you, J. Scott.

J. Scott Evans: Alright. This is J. Scott Evans for the record. Happy new year to everyone and thank you for attending today's call.

You can see that the agenda is posted in the right rail of the Adobe Connect room. So we've just had our roll call. The next question, as always, is if anyone has an update to their statement of interest. Hearing none and seeing none in the chat box, I will move on to the next point of business, which is to remind everyone that we had sent out, earlier, a request to stakeholder groups and constituencies requesting input on these issues and we asked them to supply that by the 31st of January. We just wanted to remind everyone that that is still out there. And if you could check back with your particular group and ensure that they have received this and hopefully let us know whether they're going to supply us with some comment on or before that 31st of January deadline that would be greatly appreciated.

Okay. So, our next item, point of business, to look at the Definitions Sub-Team work product, which I believe Marika circulated about an hour ago to the larger group and I see that that is going to be updated here on our screen. So it's coming up now and I'm going to turn it over to Michael Graham, who is going to let us know -- I believe there was a call on this yesterday -- and let us know what the progress is and let us know what we have before us. Michael?

Michael Graham: Thank you, J. Scott. The document -- and I'm sorry it came out so late but this is something that we were working on through the Definitions Sub-Team meeting on Monday and is almost complete. What this document consists of are the proposed draft working definitions of terms for the work group to use going forward so that when we use any of the defined terms it is with an understanding of their meaning.

We have given, in the chart, the terms being defined and sometimes under a numbered part such as 1, we'll have multiple terms; in this case policy and GNSO policy. Then in the middle column of the draft definition that we have arrived at as a sub-team you'll note that some of them including GNSO policy includes supplemental information and discussions that we felt important to understand both the limitations of the definitions as we had derived them and additional information that would be required, we felt, by the work group as a whole going forward.

Then, where possible, we have included in the third column the source of the definition. In some cases it was defined by a member of the team. In

some cases it is based on or entirely derived from an ICANN or other document and we've tried to not only list those but to link those.

So through our discussions, we have arrived at these definitions or these proposed definitions of policy, GNSO policy, policy development, and GNSO policy development, policy advice, and GNSO policy guidance. And you'll note the footnotes on GNSO policy guidance are referring largely to the charter question from which that term derives. That is also, as one of the longer explanations, really, of the definition, in that an awful lot of what that might refer to is going to be based on the work of the work group as a whole. At the same time, we wanted to address the fact that that is a term that we've been asked to define and some of the basic areas of definition that we were able to arrive at.

Then following that is implementation, implementation of a GNSO policy, implement, principles; then GNSO consensus, GNSO consensus policy and, finally, GNSO implementation review team.

You'll note at the bottom then of that page, I think you can see on the screen, that we did address some additional terms that we were asked to consider. Some of them; public policy, public interest, staff, picket fence and GNSO implementation review team were five terms that we were asked to consider whether definitions were necessary or appropriate for us to consider, which were raised during the work group discussion in Buenos Aires.

And you will see in that discussion that after we reviewed those terms, the sub-team determined that public policy, public interest, staff, and picket fence were, for one reason or another, beyond the scope of what the Definitions Sub-Team were working on or of the immediate task given to the this work group, we felt. So those we did not pursue definitions of. GNSO implementation review team, we did pursue that definition and that's up in the chart.

In addition, in the last two 0B Principles sub team meetings there was a great amount of discussion which surrounded policy-neutral implementation and policy neutral and then also what the multi-stakeholder model referred to. Those two terms, again, we considered whether or not it we felt it was appropriate for the sub-team to arrive at definitions.

We determined that policy-neutral implementation really wasn't something that we were prepared to deal with and, in fact, felt that implementation, the definition of that, at this point should be sufficient to cover in this discussion that was going on in that sub-team, in the Principles Sub-Team. And if that sub-team pursued discussion of policy-neutral or not policy neutral, whatever that might be, implementation that that might something more appropriate to their discussion than to Definition.

Multi-stakeholder model, however, we did determine that that would be a term that it would be useful for us to posit a definition of. The definition is being prepared but it's not included as part of this document. Amr was working on that and it's a little bit slipperier, I think, than we initially

thought. But we should be able to have a proposed definition of that before the end of the week, perhaps even before the meeting of the Principles Sub-Team tomorrow.

I'm going to go ahead and stop for a moment. Amr, I see your hand is up so if you have a comment on that.

Amr Elsadr: Thanks, Michael. Yes. I do apologize for being late on submitting this. I did submit it just a couple of minutes ago to the Definitions Sub-Team list and I am trying to paste what I came up with. And I used the ICANN Wiki as a source. Actually, I thought it had a pretty interesting page for describing the multi-stakeholder model, its definition and its context with ICANN. I'm having trouble pasting it but I will try to in the chat in a few minutes. I do apologize, once again, for being late delivering this. Thanks.

Michael Graham: Amr, it's Michael for the record. Thank you and we'll take a look at that and I think I don't know if it's something that you could post, Marika, even at this point because perhaps it would be worthwhile taking a look at that here to determine if that's a definition we can go forward with.

The intent of presenting this document to the work group and not asking that we discuss it at this point was for all of the members who are both present, who have participated in the definition process, and those who aren't able to be present today but are members of the work group to be able to review these proposed definitions and to be able to discuss them at our next work group session online. And I think also leading up to that, to the extent that anyone might have comments, to submit those to the work group going forward. Alan?

Alan Greenberg: Thank you. I'll start off with an apology. I couldn't be on the meeting on Monday and I would have made this comment at that point if I had had that opportunity.

I think what we have as the definition for implementation here is either incomplete or a cop-out. I'm not sure which it is. The fuzziness of implementation and the fact that there have been decisions made in past implementations, particularly the new gTLD process, which some groups deem to be policy or claim to be very close to policy, is something I don't think we can ignore in the definition. We may or may not be able to, at this point, come up with a cleaner definition and we have had suggestions of things like execution and implementation design and those probably are outcomes of this overall working group. But I don't think we can ignore the issue that what is currently viewed as implementation of GNSO policy right now has been a controversial issue and we're cognizant of the fact that this definition is not going to be wholly satisfactory and definitive in the sense that everyone will read it and have the same understanding. Thank you.

J. Scott Evans: Thank you, Alan. Does anyone else have a comment or question? Alright. So, we are waiting for one additional -- I just want to make sure I summarize where we are. We are waiting for one additional definition that Amr has been working on and then this document will be ready for review by the entire working group. And it is our hope that when we have our

next call, which is two weeks from today -- so that is going to be the 22nd, I believe, of January -- we would discuss and bring to bear comments from everyone regarding these definitions. And those comments would be similar in nature to what we just heard from Alan, which is he had particular issue and thinks it needs to be addressed. So, that's what we're looking for.

I see that Chuck has raised his hand and then, Amr, we'll go to you. So, Chuck?

Chuck Gomes: Thanks, J. Scott, and thanks for the sub-team for the great work. It's clear that you guys spent a lot of time on this and put in a lot of thought. So, thanks very much for that.

Two things. It seems to me that it would be helpful if people could communicate their questions and concerns on the working group list once the final list is presented or even based on the one we have now and then add the other definition later before our meeting on the 22nd. I think that would facilitate our discussions then. At least I throw out as an idea.

Secondly, and I don't know if you want this now or not, in my quick read of these I just identified one thing that I wanted to communicate to the Definitions Sub-Team in definition 8, the GNSO consensus policy. And I think it's a fairly minor point but let me, if it's okay, I'll throw that out now.

Okay, in what looks like the last sentence of that definition, it says, "consensus policies adopted following the outline procedures are immediately applicable and enforceable on contracted parties on the implementation effective date." Now, maybe this is covered by the fact that it says 'implementation effective date' and I can accept that. But I was a little concerned by the word 'immediately applicable' mainly because registries in their agreements with ICANN are given some time to implement policies even though they may go into effect a certain time. And, again, if you think that the 'implementation effective date' language at the end of this sentence covers that, I'm okay with that. But I at least wanted to make sure everybody was aware that different policies require different amounts of implementation time for registries.

A classic example that's coming up in the next year or so is the implementation of thick Whois by all registries. Because there are over 110,000 dot-com domain names, for example, the switch to thick Whois isn't going to be done overnight. But let me just ask Michael or someone else on the team; is the intent that 'implementation effective date' covers my concern or should we remove the word 'immediately'?

Michael Graham: This is Michael and I guess I would kick it back, if I could, to Marika. My understanding is this language may have been drawn directly from either the agreements or the consensus policies. Is that correct, Marika or is that a revision of that that we ended up with?

Marika Konings: This is Marika. I think this may be a part or an explanation that I had written and where, indeed, the 'implementation effective date' is really intended to mean the date upon which the policy becomes effective and,

indeed, is then applicable and enforceable. But personally I don't think there's much harm in taking out 'immediately' if that gives the impression that second one we'll immediately go and enforce or if there would be confusion over the implementation phase and the implementation effective date. As Chuck mentioned, I don't think that's a major change if that makes him feel more reassured and causes less confusion. I think it's something you may want to consider, just removing the 'immediately' for now as these are working definitions in any case.

Michael Graham: Chuck, this is Michael. I guess what I would propose is that we do revise that because I agree it's a little bit confusing. By removing 'immediately' and then changing 'on the implementation effective date' to 'as of the implementation effective date' so that it is clear that they are applicable and enforceable on the contracted parties as of the implementation effective date.

Chuck Gomes: Thanks. I appreciate that. This is Chuck.

J. Scott Evans: Okay, good. Amr?

Amr Elsadr: Hi this is Amr. I just wanted to note that Marika posted the proposed definition of multi-stakeholder model on the column of the right side of the screen. However, the sub-team did not have a chance to go over this proposal yet and hasn't discussed it. But it's there to take a look at if anyone's interested.

I also want to note a discussion that we had on the sub-team regarding the definition of word 'GNSO policy guidance'. We did provide a proposed definition for this as well, however this is one of the questions we need to answer as part of the working group charter. So this is, I guess, an interim definition to be used until the full working group discusses this issue and comes up with an answer for it. Thanks.

J. Scott Evans: Thank you, Amr. I am not sure who had their hands up first so I'm going to go with Alan.

Alan Greenberg: Actually, Michael did because the order of the hands is the order of the call.

J. Scott Evans: I see. Okay, I see. Michael, then. Either way I'll go with --

Michael Graham: I'm easy either way although --

J. Scott Evans: Go ahead, Michael.

Michael Graham: Yes. I mean part of my comment, I think, was directed to Alan. I did miss his participation the other day because I was hoping that he would make comments such as he did in regard to implementation. I sort of think that the definitions have reached the point that that discussion is very appropriate to the work group as a whole because, even if we sought to address that within the sub-team, I think there would be further discussions that we would need to have. So I think it's a good one that we do need to have.

The reason why I raised my hand, though, was to point out that in facilitating the discussion and further to what Chuck had asked for, which was some sort of written comments, that it would be extremely useful not only to have comments on either the terms, the definitions, or the sources from the members of the work group but also where issues are raised, to the extent possible, proposed changes to the language if that could be offered as well because I think that really enables us to focus not only on the issues but then the answer to the question; okay, that's an issue, how would you propose that we address it? And I think that would be useful for our discussion in two weeks.

J. Scott Evans: Thank you. Alan?

Alan Greenberg: Thank you. I guess, two things. In response to Michael's comment, I just guess I wanted to make it clear that, in my mind, the final definitions of policy and implementation are probably going to be among the more important outcomes of this entire work group. That is, once we understand the process we will be able to define them so that the world will be clearer in the future. So anything we do now is the starting point and not the final point. But I do think that we need more clarity at the starting point to help guide the discussions that we're going to have in the future. So my aim is not to have something definitive that will live but it be a good starting point.

I put my hand up because I almost broke out laughing when Chuck was talking, as Chuck started his intervention. And, Chuck, it's not because anything you said is wrong. Chuck was talking about the implementation that registries do of a policy and gave as an example the thick Whois. It just dawned on me that that's yet another definition of the word 'implementation' we use. We talk about the policy be written and ICANN staff comes up with the implementation and then the registries, or registrars if applicable, implement. And, again, we use the same term in multiple ways and I think the only way we're going to have clarity in the end is if we stop using the same term in completely different and multiple ways. Thank you.

J. Scott Evans: Alright. Next, Greg Shatan.

Greg Shatan: Thanks, J. Scott. It's Greg Shatan. I guess I don't want to get too into the weeds but eventually we will or maybe we already are. Looking at the definition of multi-stakeholder model that Amr proposed, always get a little into danger when you list primary stakeholders and I'm not sure if the 'such as' is intended to make this a non-exhaustive list but I would note that the technical community seems to be kind of left out of this list.

Also, my understanding is that non-governmental organizations are a key part if not the largest part of civil society so that's kind of double counting. And to the extent it is or isn't double counting, I think the concerns of the intellectual property community are separable from those of businesses and the concerns of ISPs are separable from those of meet space and internet-as-a-facilitator type businesses. And so this list kind of concerns me. And then research institutions is a little bit different from academics,

which is how it's expressed in some other spaces. So I'm not sure that this list doesn't need more than a little help.

A second point is kind of the use of the word 'implementation' in the definitions, which kinds of feeds back to the whole issue of policy and implantation and who implements and whether the multi-stakeholder model is really part of implementation or implementation is part of the multi-stakeholder model or not. And I'll stop there. I probably have a couple more comments but that's probably enough and I don't want to go charging off in too many different directions. Thanks.

J. Scott Evans: Thank you, Greg. Chuck?

Chuck Gomes: Thanks, J. Scott, and thanks, Greg. I found myself smiling like Alan said he was doing in listening to Greg. For any of you who are at least monitoring the discuss list on the iNET site --

Speaker: Yes.

Chuck Gomes: You'll know why I'm smiling because Greg -- and Greg, you've done a good job on that list by the way. But I want to follow up along the same line he is. I think as soon as we start trying to list the different stakeholder groups, we get into trouble. We leave somebody out and of course, again, some of that's what's going on, on the discuss list right now.

And each policy situation has different stakeholders that are really impacted. My personal first reaction and having just seen this is that I think it's better to talk about impacted stakeholders rather than primary stakeholders. Because who's going to define who's primary in any given case? And as soon as we try to list those, unless we just do that as an example, I think we get into trouble and we'll leave somebody out or we'll include somebody in some case where they're really not impacted and they could care less. So, I just throw that out for thought as the Definitions Sub-Team continues to grapple with this.

J. Scott Evans: Thank you, Chuck. Michael?

Michael Graham: Yes, just a quick reiteration so that none of us have the wrong idea. Possibly the most important part of what the sub-team drafted are not the definitions or the selection of terms but the note that precedes the chart. I'll just read it. "These working definitions have been developed for the limited use by the GNSO Policy and Implementation Working Group to facilitate their, or our, discussions on the questions outlined in the working group's charter. These definitions are expected to evolve as a result of the work group deliberations. At the end of the process, the work group is expected to review these definitions and add, update as deemed appropriate."

And that's really, I think, important to keep in mind and why this discussion and being in the weeds is exactly where we expect and hope that we would end up once we present these. And I will also add to that that some of the definitions we are hoping will also encourage and facilitate discussion from the various SO's and AC's and other

constituencies within ICANN to whom we've reached out for their participation. Thanks.

J. Scott Evans: Okay. Alright. So we can see that there are a lot of issues that need to be considered with these definitions. And so, as Chuck suggested, I strongly encourage everyone to review these, review these both individually and with your constituencies and/or stakeholder groups if time permits and have a discussion on the list so that we can, at least if you're not having a discussion, identify the issues you'd like to discuss and the points you want to raise on the call on the 22nd so that we can make the most of designing an agenda and make the most of those discussions so we can move this forward.

With that, I'm going to move to item 4 on the agenda, which is what I think is going to be a quick update from Chuck on the 0B Sub-Team, which I think meets tomorrow.

Chuck Gomes: That is correct. This is Chuck. And it will be brief. I think we made a good start before the holidays thanks to Cheryl's input of coming up with kind of an overarching principle. And the plan tomorrow is to take a look at that and see if we're ready to move on from that and then hopefully start getting down to the detailed principles that have been put on the table for us to discuss.

We started there a few weeks ago and then the idea was suggested that maybe there's an overarching principle that covers on top of all of these and so that's where we're at. I look forward to seeing the progression we make tomorrow and of course I encourage anybody that's on that Principles Sub-Team to submit any thoughts you have in advance of that call.

J. Scott Evans: Alright. With regards to that, I would like to make a technical announcement. I'm sure everyone has seen but I want to remind you that the sub-team will have a different Adobe Connect room to use and that was circulated by Nathalie on Sunday, the 5th of January. She circulated a link to the new sub-team Adobe Connect page. This is all due to technical issues that require us to have a separate page in order to make sure that can make full use of the tool. So please, everyone, if you haven't, look at Nathalie's email, those that are on the 0B Sub-Team or want to attend the 0B Sub-Team call and get that link into your calendar so that you will end up at the right place for tomorrow's call.

So it looks like we are moving onto item 5, which is the next steps. Again, I believe -- Marika, correct me if I'm incorrect -- but I believe our next meeting is same time and that is 20:00 UTC on Wednesday, January 22nd. The primary topic for discussion is going to be the Definition Sub-Team's output and report and it is our hope that there will have been discussion during the interim on the list that will help frame how that discussion is formatted and put forth in an agenda and how it proceeds on the 22nd.

Okay. Does anyone have any other business? Any concerns? Okay. Marika, is there anything you or Mary need to add?

Marika Konings: This Marika. No, I think we're good.

J. Scott Evans: Okay. With that, I would ask that the Definitions Sub-Team do the best they can to get this draft multi-stakeholder model definition added to the list of definitions that we can circulate to the whole group and thank everyone for their time today. And, again, reiterate that we would request that you review these materials thoroughly, that you participate in online discussion, and you come to the 22nd meeting ready to have an in-depth discussion of this. I would assume, given that we are going to have an in-depth discussion that, unlike the last couple of calls, we will fill most of the 90 minutes that these calls are slotted for. So, I would ask that everyone ensure that they allot the appropriate time for that discussion.

And with that, I'm going to bring this meeting to a close and thank everyone again for their time, especially Michael and Chuck, Marika, and Amr for all of their help today and wish you all the very best and, again, reiterate happy new year to you all.

Nathalie Peregrine: Thank you. Ron, you may now stop the recording.

**END**