

**ICANN Transcription  
CWG Framework of Operating Principles  
Thursday 21 January 2016 at 1500 UTC**

Note: The following is the output of transcribing from an audio recording of CWG Framework of Operating Principles call on the Thursday 21 January 2016 at 15:00 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-cwg-principles-21jan16-en.mp3>

**Attendees:**

Ali Hadji  
Avri Doria  
Becky Burr (.us)  
Berry Cobb  
Cheryl Langdon-Orr  
Jim Galvin

**Apologies:** Annebeth Lange

**Staff:**

Bart Boswinkel  
Mary Wong  
Marika Konings  
Steve Chan  
Glen de Saint Gery  
Michelle DeSmyter

Coordinator: The recording has started. You may now begin.

Michelle DeSmyter: Thank you. Good morning, good afternoon and good evening. Welcome to the Framework of Operating Principles Cross Community Working Group on the 21st of January at 1500 UTC. On the call today we have...

((Crosstalk))

Becky Burr: Yes, should we - could we ask if there is anybody who is on the bridge but not in the Adobe room?

Michelle DeSmyter: Actually I can let you know. No, we have no additional participants.

Becky Burr: Great.

Michelle DeSmyter: Okay, all right. One moment, Okay on the call we do have Cheryl Langdon-Orr, Ali Hadji, Avri Doria, Berry Cobb, Becky Burr. We do have apologies from Annebeth Lange. From ICANN staff we have Bart Boswinkel, Steve Chan, Mary Wong, Marika Konings, Glen de Saint G ery, and myself, Michelle DeSmyter. I'd like to remind you all to please state your name before speaking for transcription purposes.

Thank you and over to you, Becky.

Becky Burr: Thank you. This is Becky Burr for the record. Thanks, everybody, for participating. I know that this group has been moving a little more slowly but for those of us, and I think that includes everybody on the call, there has been so much else going on that it's been a blessing and in many ways what's been going on with the CCWG and the CWG has been very instructive for our work here so I do not think that we have been -- I think we've been really assisted by a relatively reasoned pace here.

I believe that the draft document was circulated to everybody. I personally want to thank the staff for an excellent job on this work. I thought it was extremely well advanced and very thoughtful and very useful. So I see Cheryl is clapping and I trust everyone shares my thanks to the staff for this.

That if we can now start a substantive discussion of the document. And I'd like to call for any comments from folks on the document. Don't see -- I see Avri agreeing that the CWG and the CCWG are effective petri dishes, that's true. And can we give - okay it looks like I have scroll control; does everybody in the room have scroll control? Okay great.

Just to get started, the one substantive comment that I have is there is a discussion in here about full consensus and consensus. And I know that the text is meant to be illustrative. I would suggest only that we add a note that says that every CCWG gets to decide whether it's going to work on the basis of full consensus only were on some kind of gradation of consensus. And then thrust the need to contemplate in advance, you know, how one proceeds at the end of the process giving differing levels of support whether it's affirmative support or just a lack of objection.

So that was my only substantive discussion other than a few nits that I brought up with staff. Anybody else have other comments on it? I see no comments whatsoever. I guess one question is do we want to have -- give people a little bit more time to get comments into the staff, and assuming that comments are procedural and technical as opposed to substantive than direct staff to post for public comments.

I see that the staff has suggested helpful -- that we have another call to discuss any concerns or comments about the framework so giving people a bit more time to review the document itself. And then gives staff a week after that to prepare and circulate a final proposed framework document, give the members of the CCWG an opportunity for final comments and then publish the draft for public comment with the prescribed 40 day period on February 15.

So that would put us in the middle of the comment period during Marrakesh, so we would have an opportunity to have a, in Marrakesh, a discussion, community session to discuss it. Closing the public comment period on 23

March and then circulating an updated document for chartering organization review in April on the 22nd.

So I understand that many people may not have had an opportunity to read the document so I think that it totally makes sense to give people a few more days to provide comments. I guess my important question to begin with is given the fact that it, you know, that here we are on the call we probably need to give the group more time between now and the 29th to get comments in and then based on the kinds of comments that we get from members of the CCWG to determine whether it makes sense for staff to prepare a final draft or whether we need another call.

Avri, I see you have a hand raised and then Mary. Mary, do you have a point of order that you want to make or am I clarifying the confusion?

Mary Wong: No, no not at all. That was really clear. And...

((Crosstalk))

Avri Doria: Yeah, I have no issue with the process as I said -- oh this is Avri speaking. At the beginning of the meeting I had not read it, I have since skimmed it and did have a question on one piece unless we've already gone beyond making substantive questions in this meeting.

Becky Burr: We have not gone beyond making substantive questions.

Avri Doria: Okay. So then it's a question - and it's this section I zeroed in on given where we are in the CCWG Accountability. I jumped to it. And that's section 3 4 in decision-making. Now this presumes what I think has been considered often the process before on cross community working groups. But have we seen in Accountability there's now when there's multiple, more than two, more than three chartering members it is possible for a working - for a cross community working group to decide that it wants to do something other than this.

But I think this can next to the point you made, Becky, on the full consensus decision-making. And maybe you were making a point on this one but I thought you were making it about within the groups - within the working group itself so I may have misunderstood. But this whole presumption that all chartering organizations need to accept it. While I accept that it seems reasonable, it does seem to be that it is another one of those things that the group were the chartering organization can decide differently. Thanks.

Becky Burr: Thank you, Avri. And I was making two points. One, that sort of how the group works internally whether it's by full consensus, consensus, or some other combinations of something that the chartering organizations should determine in the charter. And second, absolutely it's clear that we need to think more carefully upfront about particularly when there are numerous chartering organizations the different positions that chartering organizations may take with respect to a final draft and needing to accommodate that by thinking about it to the extent possible in advance.

Mary, your hand is still up so I'm going to go to you and then to Cheryl.

Mary Wong: Thanks, Becky. I think my comment was really to the timeline and that was to reflect the additional times that this group will meet because we do recognize that everyone has had a lot (unintelligible). So if you look at the right-hand side pod I've added a possible meeting on 11 February which I think is a Thursday which I think is the same, you know, day as what we are doing now.

There is a little bit of wiggle room on this timeline. I think the important thing here is that we want to have it out for public comment in good time for Marrakesh so that we can have the community discussion and feedback there. So we can still play a little bit with this but I just wanted to draw the group's attention to both these points, a possible meeting if needed and that I

guess a deadline depends on when we can get it out for public comment, that should be before Marrakesh. Thank you.

Becky Burr: Thank you, Mary. Cheryl.

Cheryl Langdon-Orr: Thanks, Becky. Cheryl for the record. Just picking up on Avri's point, the language change would then need to come in under 3.4 Section 1 towards the end. And if that last sentence which is very definitive so it's probably based on our experience on our CCWG at least if not the CWG and their charters. Clearly, I'm flexible I guess is the best way to describe it.

As an alternative is offered in the next section, Section 2, I wonder if we couldn't use that same tool there, so to follow on from the expectation is that all chartering organizations will have (unintelligible), blah, blah, blah. Whether if this is not possible. And then we could give a couple of alternatives.

One is, you know, if the charter states that the output needs to be a full consensus then, blah, blah, blah, which would be that sentence there, if the charter indicates another form of consensus other than full consensus then several alternatives may be explored. This should be enshrined in the charter and for example, and basically, you know, copy and paste from the CCWG charter which, you know, goes along the, you know, there can be only one sort of principle.

So the non-objection rule sort of carries through but objection from one is not an issue but from more than one is. Because I think that's probably a workable principle at least looking at the cultures we've been growing in these petri dishes. I was a little concerned about what we're growing in the petri dishes from time to time, Avri, but yes the current culture, I think that's possible and workable. Thanks.

Becky Burr: Thanks, Cheryl. If I could just follow up on that, are you meaning to suggest that we should propose affirmatively that, you know, a CCWG might agree as

part of the charter that affirmative support from all chartering organizations may not be necessary so long as no more than one objects?

Cheryl Langdon-Orr: Exactly.

Becky Burr: Or so long as no organization objects?

Cheryl Langdon-Orr: Yeah, as long as no more than one objects. I think we've seen that's a reasonable principle from the exercise in the CCWG at least.

Becky Burr: Thoughts on that? I mean, that does - that certainly is something that in a very complex CCWG where there are so many supporting organizations that certainly makes a lot of sense.

Cheryl Langdon-Orr: Becky, Cheryl again.

((Crosstalk))

Becky Burr: ...be a choice that would be made by the chartering organizations in respect of any particular CCWG...

((Crosstalk))

Cheryl Langdon-Orr: Cheryl here. The essential is it's in the charter from the start; you don't then pulled this out as an option during the process, it has to be upfront, agreed, and enshrined in the charter if that's the way it's going to go.

Becky Burr: Thanks. Let's go to Bart and then Avri.

Bart Boswinkel: Yeah, thank you, Becky. Just for my sense do you read, say, if, at the end of say when a - or cross community working groups has delivered and submitted its final report and the chartering organizations, say, some of them disagree with the final output, that it's up to the CCWG to decide whether or

not to continue and that would, say, in order to have a clear role and responsibility and accountability with the CCWG itself, and the chartering organizations, if the CCWG decides to continue that it still needs to go back to the chartering organizations to seek their, yeah, adoption or no objection on the final output.

Because I think the reason why I'm asking this, say, if you look at things in a way what I've seen with CCWGs and why they can be very successful is that the ultimate decision whether or not a result of the CCWG moves forward is effectively because they are mandated and the final decision is with the chartering organizations and not with the cross community working group themselves.

But, yeah, I can't express it clearer right now but it's - it's more a question who should make the final call on whether or not to proceed. Should it be the CCWG or the chartering organizations? Thank you.

Becky Burr: Avri. Avri, you may be on mute.

Avri Doria: Yeah, no I was having trouble unmuting. This is Avri. Hopefully I've succeeded. Yeah, I think my issue was similar perhaps to the one Bart was bringing up because as it's written it basically says in 3.4.1 that we send it to committee and that the committee resolves all the issues and that's the end of it.

And while I think that's an interesting process and I think it's a viable process, for chartering groups to put into a charter if they so wish, I don't know that it's an appropriate default action. And I'm not even sure that we've actually ever done that where the - one of the chartering organizations had an issue or a concern, it was sent back to the CCWG. It made a final determination and then it went forward to the board from there.

And the way it's written it looks like that would kind of be possible in this sort of committee process. So while I think that that could be an appropriate way if the chartering organizations so decided when establishing the charter, but I have trouble accepting it as a default behavior. Thanks.

Becky Burr: Okay that's a very interesting point. I would certainly agree that the standard has always been that the chartering organizations themselves make the final determination as to whether they will support the output or not. And at least the groups that I'm - that I participate in and am familiar with I think would guard that quite carefully.

I agree with Avri that conceptually, you know, based on sort of a full and frank discussion, other approaches might be contemplated but those should be in the charter approved by all of the chartering organizations and that as a default the assumption would be a final action lies with each chartering organization to approve or object to or refrain I guess, you know, making a statement of non-objection to the recommendation itself.

Other or contrary thoughts on that or are we in violent agreement on that one, which I suspect is the case. Okay I think between checks and silence I think that the recommendation is that we have some alternatives, 1 and 2, which respect to 3.4 Paragraph 1. But that we clarify that, you know, the default and unless the charter approved by the chartering organizations affirmatively calls for some other treatment the default will be that the work product goes back in all cases to the chartering organizations for their final action.

And Avri is noting it's solely by the CCWG that's worrisome. So I think that's just some wordsmithing involved there. Mary, do you have any questions on that input? Bart.

Bart Boswinkel: Sorry, I'm off mute now. The way I've read it and going back to, say, what the intention was and that's something else, is that, say, assume one or two chartering organizations do not support or object to a final report. Then it

needs to go back to the CCWG to make changes and then it's resubmitted probably.

What we wanted to avoid, that's why the word "solely" is included, is that a chartering organization itself may change the final product and that is then assumed. They may advise the direction of travel but let's say the CCWG discusses the decision or the, say, the decision and the rationale from the decision and then either most likely would change the work product and then it's sent back for approval. That's so to avoid that a chartering organization starts to rewrite the final product.

Becky Burr: Okay is everybody in - okay with that? Jim.

Jim Galvin: Yeah, thank you. Jim Galvin for the transcript. I agree with Bart. And I guess I just wanted to say that, although I agree and appreciate the point that Avri is making, I think the only real thing we have to do here is wordsmithing, which is what you're proposing. Because I interpreted the phrase "solely by the CCWG" to mean that it's only that working group that can make changes. So chartering organizations get to review it, if they have anything to say it has to be submitted as input back to the cross community working group for evaluation and handling.

And then of course you iterate with the chartering organization to get approval of the document assuming changes were made. That is what we're saying, right? So maybe we'll just change the phrase "solely by the CCWG" expand on that a bit so that that's more clear. My question...

((Crosstalk))

Becky Burr: Yes, I think that's what is being discussed here. Avri, are you...

Avri Doria: Yeah, this is Avri. Yeah, that works for me. When I read it I was not making the assumption that it says "and then it cycled back to the chartering

organizations.” I read it and perhaps it was my misreading but I read it as after they have disagreed it is then sent to committee, which is the CCWG, who will negotiate and iron out a final proposal that goes forward, which I found interesting but worrisome.

If that was never meant then, yes, it is just a wordsmithing exercise. If somebody meant that it was an interesting idea that I don't think should be the default proposal. Thanks.

Becky Burr: Okay great. Thank you. All right, so these are very useful inputs. And I think once people have had an opportunity to review we may have a few more. But it makes sense looking at the timeline in the right hand corner to reserve the possibility of a call on February 11 to ensure that we've properly implemented any feedback that we get from the group. And Mary is noting that the staff will send around the proposed timeline on that.

But so the notion would be that we should all endeavor to get any comments we have to staff as quickly as possible. Staff will be working to implement those and we can continue to discuss them on the list. Based on that we'll have another draft and we will retain the possibility of a call on February 11 to resolve any questions that any of us may have about that.

So unless there are objections I would propose that we agree to proceed on that basis. And I see no comments so I'm going to take that - okay and a few okays. So that is - that is our agenda. We've got the draft now. We have a period of comments if everybody can get those in, take a look and get those in. Then staff can work those into the draft and we can move it forward so that we can have a discussion with the community in Marrakesh on it.

Any other business? Any other comments from anybody?

Cheryl Langdon-Orr: Good for me.

Becky Burr: Seeing none, I know that there are some people on this call who have been on calls for a long time this morning and have many more hours of calls - other ICANN calls to go. So I will suggest that we conclude this call and again, thank the staff for their hard work on this.

Cheryl Langdon-Orr: Thanks, everyone.

Becky Burr: Thanks.

Cheryl Langdon-Orr: Bye.

Becky Burr: Bye-bye.

Michelle DeSmyter: Thank you. Today's meeting has been adjourned. Operator, please stop the recordings. And remember to disconnect all remaining lines. Everyone enjoy the rest of your day.

END