
HELSINKI – Cross-Community Session: Draft Framework of Principles for Future CCWGs
Wednesday, June 29, 2016 – 17:00 to 18:30 EEST
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MARY WONG:

Hello, everyone. We're about to begin this session. And so if we could have the recording started and invite everyone to take your seats.

So we're now in session. Welcome, everybody, to this community dialogue on developing a final framework of uniform principles for the formation and the operations for cross-community working groups, which are increasingly being relied upon by the ICANN community. And there, of course, may be at least one being formed in the very near future.

My name is Mary Wong, and I'm a member of ICANN staff together with my colleague Steve Chan and another colleague, Bart Boswinkel, who if he stands up will be unmistakable. We support the efforts of this working group.

Without any further ado, I'm just going to introduce you to and hand things over to the two co-chairs of this working group, one from the ccNSO, Becky Burr, and the other from the GNSO, John Berard.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Becky?

BECKY BURR:

Thanks. And thanks, everybody, for attending.

I have one contribution to this. It occurs to me that we have no number to associate with this. So in CCWG accountability calls, we say call number 754. We have no numbers associated with this.

And I'm going to propose that the hallmark of a CCWG and something entirely other is the fact that you do not feel compelled to associate numbers with the number of calls you have.

And now I'm going to turn it over for the serious and hard work to John Berard.

JOHN BERARD:

Thank you, Becky. My name is John Berard, and I was appointed co-chair of this working group by the GNSO.

In light of how much attention cross-community working groups and that label has gotten inside and around the community, I thought it would be useful to talk a bit about how we got here because we have been at this for a bit. In fact, our work predates the explosion of cross-community working groups.

It goes back to 2009 when the joint IDN working group was empowered and then 2011 when the joint applicant support working group was impaneled. And then in 2012, when the GNSO realized that the JIG had been successfully impaneled but the JAS had not been, there was a suggestion that we take a look at why and how cross-community working groups could be made more effective.

So in 2012, the GNSO on its own impaneled a working group to begin to examine principles of cross-community working group operation. That led nowhere because we had done it alone.

And so in 2013, we invited and were able to bring aboard the ccNSO as partner and co-chair for a working group that was impaneled in 2014.

And 2014, of course, was the year in which the expansion of cross-community working groups began in earnest. One, in fact, begun by the then-CEO making a suggestion from the stage that anybody interested should meet in the back of the room.

And so it was -- it's on that platform that we began our deliberations. And that led us to a set of principles, a draft set of principles, that were issued in February which many people have responded to. In fact, it was well- -- well-read and responded to.

In short, we proposed to look at cross-community working groups not as a static entity but as a dynamic organism and looked at it through the lens of its life cycle. And if you were to review the documents, you would see that we talk about the ability or how to initiate a cross-community working group, how to form one, the rules that could surround its operation, its ability and method for setting and making recommendation, the adoption of its conclusions, and then even creating an opportunity for there to be post-implementation activity by the cross-community working group so as to provide aid and comfort to the SOs and ACs that have participated as they begin to implement.

We are here today to talk a bit about the feedback we got from the public comment period. There were, as you can see on the screen, four key elements and a fifth, if we have time we can get to. But the four that we heard the most interest in and got questions about were diversity in a cross-community working group, budgeting and resource allocation for that cross-community working group, the definition of "consensus" in a cross-community working group, and then, of course, the role of that team in implementation.

And so we are scheduled for another hour and 15 minutes. And if we divide that by four, we get sort of 20 minutes per subject. And so I would like to dive right into it and begin to take

comment, criticism, input, or guidance from the folks here assembled on each of those subjects so that we can deliver on the promise that we have made to ourselves that we will have completed our work by the time we next meet in India.

I was reminded of a very poetic way that a federal judge once described the time line of a case. He said that he hoped that we would have a decision by the time the song of the turtle is heard in the Bronx. And I thought, well, that's poetic. We missed that deadline. I hope we don't miss this deadline.

So, Becky, you want to jump in?

BECKY BURR: Yeah, just as you are all beginning to think about the comments that you have on the topics that we raised, diversity, budgeting, implementation --

JOHN BERARD: Implementation.

BECKY BURR: Oh, put that -- and consensus -- okay, now go back to the other slide -- just to make sure you understand where we are, we have received comments on this. What we want to do is discuss those comments so that we can wrap up, provide a final report, and

send it back to the chartering organizations which in this case are the GNSO and the ccNSO.

So -- and just let me start by saying we did talk about diversity and about the importance of diversity with respect to many of the issues that we were talking about, including the accountability provision. And the draft framework here doesn't contain a specific recommendation. It says, "Diversity is important." And we heard a lot from commenters saying essentially that's nice but you need more. It's more than just important. You should have more than just a kind of passing reference to it. And so we propose to add a recommendation that the -- as the charter is being drafted and members are being appointed, the chartering organizations should consult with one another to ensure that there is diversity of representation to the extent feasible including but not limited to geographical stakeholder and relevant skill sets.

Now, obviously, we could give a sort of -- a much longer non-exhaustive list of what kinds of diversity needs to be there. But I think my take-away from the conversation the other day is that the most important thing is you need to have a diversity of perspectives to get a full community input. Many of these things are proxies for really the diversity of perspective, which is the objective here and that what different kinds of perspectives you

need is going to depend on the context of the -- of the specific question being addressed.

So comments on that? Additional input? Yes, Marilyn.

MARILYN CADE:

My name is Marilyn Cade. I was thrilled when the red light came on.

[Laughter]

I want to comment about the issue of diversity and recognize the direction you're going in and one that I think is exactly the right direction. In fact, because we are a quasi-technically based policy organization different issues that may be addressed in a cross-constituency working group may require different kinds of expertise and knowledge.

So one might require a very deep range of technical expertise while another might require a more -- a broader spectrum of legal policy, perspectives of affected stakeholders, et cetera.

And I think the direction you're going in sets the kind of general headings that then each chartered group can fill in what fits the issue that they are chartered to address.

I also want to make a comment about quotas. I am very opposed to quotas, and I say that because I'm hearing in some

other parts of the discussions about diversity that perhaps there should be -- if there can only be two people from one group, then there should only be two people from another group. And I think we need to be careful about excluding input as opposed to being inclusive.

And I think right now the way we're addressing that in the present cross-community working groups is to have an addition to members the category of participants and observers, which allows us to bring in a much broader set of expertise and views. Thank you.

BECKY BURR:

Thank you, Marilyn. I just might add that our framework assumes that sort of in the normal course, you will have the kind of members and participants/observers arrangement so that you get as many people who want to participate participating as fully as possible, except in those rare instances when you need to do some sort of a consensus call.

Other comments on diversity? Kavouss.

KAVOUSS ARASTEH:

I'm sorry. Thank you very much. I think diversity is something that we should just treat at the very, very high level but not go into detail. There are diversities of diversities: Gender diversity,

language diversity, cultural diversity, age diversity, geographical diversity, and so on and so forth. So let us take them in a very high-level manner and put some qualifier that should be respected to the extent practicable and so on and so forth but not go in detail because we never get out of that at all. Thank you.

ANDERS HEKTOR:

Thank you my name is Anders Hektor, Swedish member of the GAC. I have a question. I didn't participate actively in the CCWG lately, so I don't know this. But when we speak of "diversity," does that include diversity of stakeholder groups being able to be active in the practical work on mailing lists and phone calls and so forth?

I know in the GAC, many colleagues have many other things in their portfolio and have limited resources to participate in the CC -- in the work of the CCWG. A few of them have done tremendous work of participating. But, unfortunately, too few, myself included, haven't been able to do that.

Whereas, I understood that there have been other groups that have better resources to participate and be active on mailing lists and so forth, which in sort of a way limits the diversity of representation of groups. Is this included in your conception of diversity? Thank you.

BECKY BURR:

So the structure that we identified as common and successful -- and I want to stress that this is a framework. These are not hard and fast rules -- would be that all of the SOs and ACs that are affected in interest have the opportunity to become chartering organizations. And then there would be equal reputation of membership across that. And that's what has happened, for example, with the accountability CCWG.

The issue that you point out, I think, is that, you know, when you then open it up to participants and you give the participants, you know, equal speaking and participation time, if one particular perspective can throw a lot of bodies at it, that can be -- you know, that can -- I don't think it necessarily limits diversity, but it might create some imbalance.

I don't -- I think our proposal is that, you know, if you have a situation where you really need to address that, the CCWG, as part of the chartering process, can address it. But of course the other place to address it is with good chairing skills, to make sure that you hear from a diversity of people who are participating.

And I must say that there were many members of the GAC who have been participating in the CCWG, notwithstanding the fact that they are not members. So a good chair can try to balance

out differences in numbers or, you know, sort of bodies that can -- you can throw at it, but I suppose there could be a situation where you would want to limit participants, but that has not been the inclination of the CCWGs to date, and there is nothing about that arrangement that we could point to that was a determination of the success or lack of success of a CCWG.

So we didn't see evidence to sort of change that arrangement.

JORGE CANCIO:

Hello. Good afternoon. This is Jorge Cancio, GAC rep for Switzerland.

I'm just seeing this slide and I guess this is a step forward on diversity. Probably we would need to look into this more in detail, but it comes to me first that perhaps also mention to arrangements needed to support diversity could be needed.

For instance, transcripts, translation whenever needed, or staff support in assisting those who are nonnative English speakers or writers, and so that could be one point.

And I'm not sure whether the second white bullet after the second black bullet covers also the idea of trying to ensure that those who have rapporteur roles or more leadership roles in the CCWG at stake should also try to -- should also reflect the diversity of the community which is participating in the CCWG.

So I'm not sure whether that's included and what you also think about the first part of my comment. Thank you.

BECKY BURR:

So that's an interesting -- I mean, the focus of this, of course, was not -- of the work was not on diversity, but it seems to me that there is work in the community going on in the accountability framework on diversity, and for the final report we can add a note that the CCWG should take advantage of the learning that comes out of that process, because I think that's where we will talk about what is needed to support diversity in terms of, you know, transcripts and the like.

But I take your point. I think that's a good point.

We have one remote --

UNKNOWN SPEAKER:

(Off microphone.)

BECKY BURR:

Oh, it's not a remote person. It's Sebastien.

SEBASTIEN BACHOLLET: Sebastien Bachollet speaking. Thank you. If you allow me, I'm going to speak in French. This is a bad habit that I have. I'm sorry. I apologize for that.

First, I would like to congratulate the participants in this work because I believe it is extremely important to take into account diversity as a topic in itself and to see this from the very beginning, and I think that this represents a big step forward. Thanks to all the participants.

The topic of diversity has been addressed in different areas of ICANN. It is very important. Data have been published. Data -- some data has to be grouped. But if we want to be efficient, one positive aspect of what you mentioned is that there should be a collective decision made for the choice of the working group members.

If the GAC chair and chair of the board were to participate in the final election, looking at the different candidates, they could also work on the aspect of diversity in that group.

In my professional life, let me say that whenever I had to organize meetings of users, I always tried to look for somebody who was not a top authority in that subject matter, somebody who could bring into the discussion an external viewpoint, the outsider point of view, somebody who could be a little bit

outside of the discussion of the subject matter addressed at that time.

So in the medium and long term, everybody can acquire experience.

Diversity cannot be there overnight. It is true that diversity has to be included and skills can be acquired over time. Thank you.

BECKY BURR:

Thank you. I think that your point about having an outsider or different -- goes to the -- what I said at the beginning, that we're taking from -- we're learning from this discussion about a diversity of perspectives, and that's very consistent with that, and that is definitely here.

As -- as -- we propose that we do have some deliberate focus on diversity, sort of going in, by having the chartering organizations consult with each other. We did not propose anything like an external -- the chairman of the board and the chair of the GAC appoint people. That seems to be inconsistent with where the community was going on other parts of this sort of external thing.

But we take your point.

JOHN BERARD:

I think it's also important to note that the suggestions, the recommendations we're making, seek to wind through the entire community so as to take advantage of the discussion specifically about diversity that's happening at every level and in every corner of the community.

So for a sponsoring SO or AC to have the re- -- the responsibility of selecting the members for a cross-community working group, that their experience, their intent to establish diversity would flow upward into a cross-community working group rather than seek to have the cross-community working group impose it on each of the SOs and ACs that are choosing to participate.

So we're trying to take advantage of the movement that is occurring and not trying to create something separate or from our position outward.

Okay. So in keeping with our march through these four items in the time allotted, we should move to budgeting and resources.

I will admit that the most pointed comment we got regarding budgeting and resources came from the board, so -- not the only source of the comment, but certainly the most sharply defined.

Our framework did not contain a recommendation about budgeting or the need for -- or what to do, should there -- should resources be required. As the -- as you can read, from

experience most cross-community working groups don't really require more than the normal run of support and participation; that the need for additional resources has been the purview of the rather large and visible cross-community working groups that we are most familiar with today, but should there need to be budget requests, is there any reason why any method other than seeking them through the normal channels that already exist in the -- in ICANN's budgeting cycle.

And so the question, as we have posed it, is: Does the cross-community working group approach, which is to take advantage of existing mechanisms, satisfy the development of cross-community working groups in the future?

BECKY BURR:

And if I could just add one point, since we put together these slides, of course we have seen a lot of movement forward on the budgeting process and there is a process that's been put in place for the CCWG accountability Work Stream 2 work, and it probably makes sense to add a note in the report that it will make sense to review how well those mechanisms worked and whether they were tweaked -- whether they need to be tweaked in any future large-scale CCWG outside of the ordinary course where, really, the work is done remotely on calls and the chartering organizations are taking care of resource allocation

because they are deciding whether they have the resources within their current allocation.

You know, so whether the CCW- -- the ccNSO can spare Bart to work on this and the GNSO can spare Mary to work on this or whether you need to go outside of that.

So I think that might make sense to add something on that.

But if we could hear from folks on the budgeting issue.

JOHN BERARD:

Sure. I will say that it was our -- this is a leap forward for the working group on this matter because we did not think that there needed to be discussion, comment, recommendations on seeking additional resources but it was the feedback from the community that suggested that our recommendations -- or the recommendations needed to be more sharply set, particularly because of the -- the ongoing activities of the rather large cross-community working groups on transition and accountability.

Chuck?

CHUCK GOMES:

Chuck Gomes. Thanks, John, and thanks, Becky.

I'm glad in your last bullet there, the sub-bullet, that you put "as far as possible" for using the annual budget cycle, because the

timing of the start of a cross-community working group is really critical. The budget process takes a year, just about, each year, and so if you hit that incorrectly it makes it kind of difficult.

I wish I had an easy solution to deal with that. I can't, right off the top of my head here. But I do wonder if some exception procedure should be provided for, either through contingencies or whatever, and maybe it's already provided for because the budget typically requires some contingency funds and so forth. But if you hit it at the wrong time, it's a long time before you get in the cycle again.

So again, I clearly see the language "as far as possible," but if there's not some flexibility built into the budget, that could be a problem if a cross-community working group starts at the wrong time.

JOHN BERARD:

Thank you, Chuck. That assumes that the cross-community working group that's impaneled needs additional resources, right?

I mean, the -- our expectation, as we went through these discussions, was that in the normal course of business that there really wouldn't be anything that -- out of the ordinary. Working groups are impaneled by SOs fairly regularly on an irregular

schedule. They proceed through their work and report back to their chartering organizations. So we began with that routine model, but appreciate that there may, in fact, be a need for additional resources and that sometimes those resources might be needed outside of the normal cycle, but that we should seek to use the existing circumstance- -- the existing processes as best as -- as often as possible.

Any other questions? Ah. Let's see. Alan or --

ALAN GREENBERG: Okay.

JOHN BERARD: Oh, Chris. Alan, why don't you hold on one second. We'll start with Chris.

ALAN GREENBERG: Of course.

CHRIS DISSPAIN: Thanks, Alan. Appreciate that.

A couple of things. The reason why -- the reasons why you might run into problems, the number of people involved, and if there's a deadline, it's the deadlines that tend to cause the issue

because if you look at it, it's like we've got to do it by then, so, therefore, we need to have extra meetings and we need to have face-to-face meetings and they need to be paid.

So I agree with you. I think we should -- Becky and I have talked about this. We should actually rename the CWG and the CCWG stewardship and accountability as something else. Let's call them Mack and Mabel. And remember that apart from them, CCWG sort of generally have been stuff that's just happened within the confines of normal ICANN meetings, and so on.

That said, a question arises as to whether anything that flows from the new bylaws and the new mechanisms that we're putting in place might make it more likely -- I don't know, but might make it more likely that we end up with a need for those.

So whether or not we could build in some sort of process to enable -- What's abundantly clear is that the current situation in respects to the CCWGs, working groups that are running, the big ones, is there is no process, and there has to be something. So I do think we need to work on that. And I think that there's some work being done on the Work Stream 2 side which may be helpful.

But I think in the main, you're right, you mostly won't have to, but I don't think that negates a reason for having some sort of mechanism in place to fix it if you do need to. And I think we

may be able to build on what we're doing in Work Stream 2.
Perhaps.

Thanks.

JOHN BERARD: Thank you, Chris. We'll go back to Alan.

CHRIS DISSPAIN: I'd like to pass the mic, then, to Alan. Thank you.

JOHN BERARD: So are you proposing now there be something called an Empowered Cross-Community Working Group?

UNKNOWN SPEAKER: (Off microphone)

JOHN BERARD: Alan.

ALAN GREENBERG: Yes, thank you. Two aspects. As Chris just implied, the CWG, CCWG and its huge legal bills are an edge case, and let's recognize that as such.

There is a model for things that are not exclusive generic cases. There is a budget allocation for the GNSO to cover the occasional PDP face-to-face meetings, usually attached to an ICANN meeting. It's an envelope funding that is done annually, and should the GNSO Council decide that a face to face is warranted, and, of course, should our new meeting schedule allow it, then there is a budget allocation that covers that. At least that's how it was done up until a year or two ago.

It's now changed? Mary tells me it's now changed. I don't know what I'm speaking about so we'll skip that part, and Mary can tell us how it is now -- how they are now funded, if they were to ever happen again.

My real concern is not the allocation of the money because it can be done through special allocations, exceptional cases, annual budgets, whatever the formula is in use.

The real problem is the control of use of the money and how one -- I mean, right now we're talking about that the co-chairs of a CCWG should be held responsible for the budget allocation, or maybe we're talking about the chairs of the ACs and SOs that chartered it be held responsible. But they don't have any real mechanism to control what the CCWG does.

In general, our co-chairs make rulings on who can speak. They may judge -- make rulings on consensus calls. They don't say

you can't do something. They don't say we have to, you know, doing something radically different.

So neither of those really have control over how the money is spent once it's allocated and how one controls it, and that part I -- you know, I think has to be resolved. That's adding a new responsibility to our chairs or co-chairs that we have not had to do before.

Thank you.

BECKY BURR:

Thank you, Alan. And I think that's correct, but I think the mechanism that is now being tested allocates responsibility both to the chartering organizations and to the chairs. And so we're going to need to see if that works.

ALAN GREENBERG:

It's not working anymore -- oh, now it is.

Yes, and I'll tell you confidentially, to this whole group, there's a lot of pushback with the chairs of the chartering organizations that if you're going to give them responsibilities, you need to give them tools and things like that, and it's not 100% clear that we have the tools.

So even though we haven't tried it yet, there are some significant concerns.

Thank you.

JOHN BERARD: Thank you, Alan.

Mary wants to offer a clarification.

MARY WONG: Thank you, John.

Thank you, Alan, for the comments. This is really more for those who are not familiar with the example that Alan gave and for the transcript; that the funding he was talking about for the GNSO working groups began as a pilot project. And therefore, it was a special budget request that was put in by the GNSO Council as part of ICANN's regular budget planning cycle. That was obviously to test the efficacy of this kind of mechanism.

I want to highlight, though, that it is not a significant amount of money at all. It is not given to all PDP working groups. Certainly that is based on a selection process as well as the group itself deciding whether it has reached a phase in its life cycle that a face-to-face meeting might be appropriate and the Council signs off on that.

Just as importantly, though, like I said, it's not a significant amount of money. It doesn't cover the full travel, and it certainly doesn't cover every participant in that working group. And that is now folded into the regular budget for the GNSO.

And if I may just add another comment, back to I think what Chuck and Chris were saying, that because this is a fairly difficult thing to anticipate in advance, and as Becky was saying, the charter itself and the chartering organizations would have that ability and the discretion to discuss and to decide what kind of mechanism or accountability reporting, as far as possible, to put that in the charter.

On top of that, in the pre-chartering process, what we have in the document does say that the potential chartering organizations need to ask themselves a series of questions before embarking on a Cross-Community Working Group. And one of these questions includes whether or not adequate or sufficient community and ICANN resources are available to start another group. Another question is whether the anticipated work and outcome is likely to have a substantial budgetary impact as well.

JOHN BERARD:

Thank you, Mary.

We have Kavouss.

KAVOUSS ARASTEH:

Yes.

If the Cross-Community Working Group had a deadline and if it required a face-to-face meeting, in certain circumstances, would we also think of some fellowship for those people from developing country? At least if you are dealing with the diversity issues, in order to enable them, in case they are a member.

So if you have a member and this member coming from this, if you do not have that possibility, they would not be in a position to attend.

So that is the question, on the case-by-case basis and under certain circumstances.

Thank you.

JOHN BERARD:

Thank you for that.

I'd like to assert, without having asked my colleagues who have gone through this with me, that we're not suggesting that there be any limit to what could be done, but that the -- the essential work of a Cross-Community Working Group begins with a charter that can be approved by all. And in that charter

discussion it may, in fact, arise that there be a need for a desire to include people who would not normally be able to fund themselves.

The question is could it be done or could it be handled in some other way?

So we sought not to impose rules but to offer a set of rails on which a Cross-Community Working Group could ride.

And so the originating SOs and ACs have the ability to deliberate and suggest, recommend, and persuade the other partners to a host of characteristics.

So we're not seeking to limit as much as we are to offer a direction.

So if diversity is an essential element for the work of the Cross-Community Working Group, if the diversity that it seeks requires that people who would not otherwise be able to participate participate, then I think that they would seek to make arrangements for that.

But based upon, as I said at the beginning, the origin story of our work, that was -- that would be outside -- certainly outside the initial -- our initial field of vision.

Okay. One more question. Then we'll move on to the next subject.

ASHWIN:

Thank you. Ashwin from Indonesia.

From the first one and the second one. And perhaps it's also okay for third one. Perhaps the working group can also consider the possibilities of strengthening the community working group at a national and even regional level.

Now we have the international Cross-Community Working Group but if we can also strengthen the national one, and I'm sure the GAC can always do the facilitation for that. Facilitation, not necessarily leading that. Not necessarily lead it or chair it; just facilitating it. And perhaps we can have a more global -- more global cross-community group.

As a matter of fact, Indonesia, we are discussing this. And perhaps, most likely, in the next IGF meeting in Mexico -- I forget the months; the end of this year if I'm not mistaken -- Indonesia would like to throw out this idea.

We have the international multistakeholder organizations. Then we should also have to strengthen the national multistakeholder organization and perhaps later regional multistakeholder organization. That might be a new organization system globally.

We already have a U.N. organizations, like U.N. ITU, U.N. UPU, whatever. We have IGO organizations, like WTO, whatever, ICRC, Red Cross. And perhaps the next one, we can strengthen the international multistakeholder organization consisting of all the people, but it has to be restructured also.

We have the international level, global level, we have the regional level, but also we have to strengthen the national level.

So that is things we are discussing now, and perhaps we'd like to throw it in the next IGF and -- well, I am throwing it here, but perhaps it can also be discussed then, discussed also in the working group for this Cross-Community Working Group, because more or less it is similar.

Thank you very much.

BECKY BURR:

Thank you. That's a very interesting idea. I mean, obviously we do have our RALO systems here, and that is a mechanism where we can engage people locally or more regionally, at least.

My understanding is that ICANN, along with other ISTAR organizations, are really looking hard at this question of decision-making remotely and really working on sort of facilitating that which would have the -- it would necessarily be strengthening the local, national, or regional processes.

And so, again, I think the suggestion is a very good one. It is a bit outside of our remit here, but we can note -- I think we can note that in the final report and note the work that -- I know that ICANN has an initiative to really just look at those kinds of issues and how you -- you know, how you avoid the need to fly everybody halfway across the globe to get this kind of work done.

Okay. We're going to move to the next issue, the consensus issue, and the question about whether there is a need to change the suggested definition and methodology for determining consensus.

One of the interesting things about consensus here is that different groups within ICANN have more or less sort of elaborate descriptions for what they mean by consensus. So I can tell you that in the ccNSO we follow a very simple consensus rule. We want basically people to agree to the extent that there is no one saying I'm willing to die in a ditch over this issue. So this is the Eberhard Lisse memorial discussion -- definition of consensus. Nobody is willing to die in a ditch to prevent acceptance of this -- of that proposal.

It works pretty well in the ccNSO. But in the GNSO there is a much more elaborate articulation about full consensus where no group -- there's no minority position. There's, in other words,

an absence of objection consensus where a small minority disagrees with most agree. You know, that would permit -- obviously, in the absence of full consensus minority perspectives would be submitted. And if the chairs are unable to determine whether consensus exists on an issue or not, the chartering organizations would be -- become involved in order to see if there's a way to close the gap or to decide whether there's no way of moving this forward.

Some of the comments we received suggested that we needed to have more detail on deriving consensus, including clearer standards about who's involved in consensus, so members versus participants. This gets a little bit at ensuring that when you are -- when you are making consensus calls the balance that you set up in the original construct is sort of preserved and not thrown out of kilter by, you know, groups that have more participants than not. So, you know, you go in and you set up a balance. And if you're looking to -- to determine whether or not consensus exists, you maybe go back to that kind of allocated opinions there.

So some other -- some of the other comments were concerned about groups' ability to block consensus by objecting to them. Again, I think this goes a little bit to the, you know, can you get really committed folks to stay in there and just object over and

over again? How do you -- at what point do you say we've discussed this a lot of times. We're going to call for consensus.

Our conclusion was that we think the concerns really are addressed through a bunch of the other recommendations and so typically, you know, the consensus -- the way the consensus calls worked, to the extent they actually existed, and it really didn't -- haven't existed because we have tried in the -- both the CWG and the CCWG and in the other cross-community working groups, we've really tried to get -- you know, come pretty close to consensus where nobody was, you know, screaming or they felt like, you know, they were getting -- you know, on things that they cared about, they were able to make their points and they were -- you know, that there was sufficient give-and-take to identify consensus in a more informal manner. I -- the discussion in the recommendations in the framework does talk about this and does talk about the need to think about what the standard that you're going to have going in and how you will have consensus calls. And so it was our conclusion, based on a review, that we really don't need to change the recommendation, which is you should make a decision going in about how you're going to determine consensus and what you're going to do if you are not able to identify consensus, either on a particular issue or on the issue collectively.

So the floor's open for comments on whether we need to have -- whether people believe we need to have something much more rigid and specified with respect to that or whether it is -- we're still in a -- in a learning phase and the right way to proceed is to continue to develop -- to say, first of all, think about it and identify the processes going in and continue to get more information about how this works. Jorge first, and then Kavouss.

JORGE CANCIO:

Thank you very much for giving me the floor again. And sorry for -- for coming back to something I suggested in the public comment period. But I -- I think it's a -- it's a very important point and also something which at least for me is part of the learning process in the CCWGs. But it's also something you learn in other -- in other venues, in other fora. And this is the -- the idea that the consensus needs, in my view, also a level of positive support. To define consensus, just in negative terms, as an absence of a small minority or no minority brings with it or has in it some dangers. There is the possibility that a small minority runs the process. Those with more resources, those with more direct interests, those which are better prepared and they are the ones putting the -- in the questions. There -- there may be a majority of the members of the group which don't want to die in a ditch against that proposal from the leading

minority so they accept. And there might be a small minority opposing, but according to the definition, well, if it's one or two, it's still consensus. But we would have given the direction of the process to -- potentially to a small minority, if they are the ones making the questions and the majority is -- is silent.

So I think in -- we don't have to forcefully to -- to overengineer the rules but include an idea that by some sort of polling or some different means we know and we have used also in the -- in the CCWG just to make sure at some point of time that this is not only something which is forcefully put forward by a minority and is passively accepted by -- by a large majority that doesn't want to die in a ditch but that's actually this consensus finds a good level of expressed support. That's the idea I wanted to convey. Thank you.

JOHN BERARD:

Thank you for that. I would suggest that we may be undermining the ultimate validity of our recommendations by going through them one at a time when, in fact, the recommendations are a systemic set of checks and balances to prevent just the kind of capture that you're talking about. The fact that the chartering organizations have to come to agreement on a single charter, the fact that there are -- there is the ability to create a set of a specific number of members, a -- a

chartering organization that worries about capture might suggest that the number of members be small, that there be three or instead of five or five instead of ten, so as to create a balance within the discussion that leads to the -- the consensus. And also, not being able to reach consensus is a reasonable outcome of a cross-community working group. So we should not think of -- of not being able to reach consensus as failure if we have managed to probe the edges of the discussion to everybody's satisfaction.

So we're -- we believe that we've created a set -- a systemic set of checks and balances that prevent any one bit from becoming a problem for the entire process. Next?

KAVOUSSARASTEH:

Thank you. I think we should not make the life difficult for ourself. If you go into too much detail of this we will tie our hands in the end. This is something very important. I have worked on this issue in ICG. Hundreds of email were exchanged. Finally we come to something which is called consensus building process. That's all. But we did not go to too much detail. If you say minority, it is not clear really what minority means. You put an adjective to minority, small, you put another difficulty. So the things that we could say that generally expected that decision made by the agreement of the people

and so on and so forth. But if there are some objections, chairman or leader of the group try to minimize those in discussing with them to see whether they point to it. At the end, they will be allowed to give some statement, and that's all. And we should not go to the cases that one or two or a particular group stop the whole process because of that saying there is no consensus and it stops. So that would be very risky. Thank you.

JOHN BERARD: Thank you. Chuck.

CHUCK GOMES: Is that on? Is it on now? There we go. Thanks, again. This is Chuck Gomes speaking. I support what you -- what you have proposed. Becky, first of all, I think you made a really strong point that there -- and John, you reinforced it in some of what you said -- in that there are lots of other mechanisms in the proposed process that feed into this and provide balance. Ultimately in a cross-community working group, even whatever the cross-community working group does, it's going to have to go to the sponsoring organizations to approve. So you have checks and balances there on it.

One thing I think is important, and John, you hit on this, we shouldn't assume that failure to reach consensus is bad. That

just means that there's not enough agreement -- I mean, consensus shouldn't be equal with simple majority. You don't want too easy a consensus because you want the working group to keep striving to get more agreement, to make modifications until they can get more agreement. And if you make it too easy for consensus, there won't be a motivation to get a better set of recommendations. So I support what you -- what you have there.

JOHN BERARD:

Thank you, Chuck. One of the other aspects of the recommendations that we haven't talked about is that we believe there needs to be more persistent communication between the chartering organization and its members on the cross-community working group so that there can be more consultation as opposed to just a final hey, we did or we didn't. And in that consultation you can bring even more influence or cooperation into the process. And so I -- I really feel confident that one of the best aspects of these recommendations, even absent the endorsement of the community, is the set of checks and balances that help guide and -- the process to a successful, whether consensus or not, end.

Yeah, we should go on to the next session, B. Go on to the next slide, 4. Slide 4.

MARY WONG: Section 4.

JOHN BERARD: Yeah, Section 4.

So the -- we are respectful of the -- of how new this process can seem and the possibility that the recommendations of a cross-community working group might -- that a draft framework acknowledges that this would be an area where a community has the least experience to draw from, which is implementing its recommendations.

The proposed framework has additional detail. In formulating its recommendations, we sought to refer to incorporate the policy and implementation guidelines developed by the GNSO because we didn't want to make things up that we didn't have to. If it existed and it was useful, we wanted to bolt it in.

If the cross-community working group believes it is necessary to be involved in implementation, this has to be a part of the up front work. And if the -- if there is agreement that there should be a time line and a task list for the cross-community working group during implementation, then that also should be considered and agreed to up front.

So the question is: Does the fact that this is a relatively new activity, certainly with a heightened sense of attention, does the cross-community working group's additional recommendations suffice as a guideline for future cross-community working groups? I mean, are we doing enough here now to help those in the future be successful? I think that's the source -- the root of that, yes? Yeah.

BECKY BURR:

Yeah. And if I could just add, what we contemplate here is that -- you know, is sort of what you expect when you set this up, when you charter it, is you expect a beginning and an end of the process with a middle. And it's not, you know, an evergreen working group that goes on and on forever. If you need something like that, we need to think about carefully whether a CCWG, which is intended to sort of drive consensus building or help build consensus on certain issues as opposed to implementation.

So in the ordinary course, what you're talking about is reaching the consensus, bolting in the policy and implementation guidelines into that and sort of ending the CCWG when it reaches its natural end.

We understand that in some cases, there may be some need for implementation oversight. But what we are suggesting is that

it's important to think about that going in to make that part of your plan and part of the deliverables that you are identifying. So it's not just a, "Oh, you know, we really didn't finish our work but let's -- let's launch it and continue on in our policy work while we're doing it." That's the kind of thing that tends to get us in trouble and turn into an endless working group. So that was really the goal of those recommendations.

Chris, you had your hand up.

CHRIS DISSPAIN:

Sorry. Can't get it into my head that the microphones don't work. I guess I'm just a little -- so it comes up with a series of recommendations. The recommendations go to the chartering organizations and then that's approved by the chartering organizations and staff implement, right?

So I'm just -- I'm just a little concerned that it's a CCWG that's kind of got -- following this sort of pattern of a reasonably small membership but then wide-open participation. Every time an implementation step gets taken, it's going to have to be a meeting of the -- not talking about cost so much, it's more about logistics -- it's going to have to be a meeting of the CCWG, et cetera.

I wonder whether there isn't a better way forward, which is to say that if the CCWG recommends to the chartering organization, the chartering organization should impanel an implementation oversight group which would be smaller than the CCWG itself and specifically tasked with overseeing implementation rather than prolonging the existence of the CCWG which may have grown significantly over time because of an interest in a particular aspect of the topic but may not necessarily have the agility to deal with implementation. Thanks.

BECKY BURR:

So that seems like a really good to me to incorporate. And that's really how we have done it.

So what you want to do is to the extent that you need to keep an eye on implementation, you need to think about doing it in an efficient way. And what we -- I think we were trying to get at that by saying, you know, just don't let this drag out forever. Decide up front. But I think we could maybe add a comment about that.

Kavouss?

JOHN BERARD:

Before that, what you -- your point, Chris, is exactly where we had been -- had arrived ourselves. It's unlikely -- you know, there's -- is something likely to happen, or is it unlikely to happen? It's unlikely that there would be a need for any post-implementation work on the part of the cross-community working group? But if it were to, a smaller, lighter weight, smaller number of those people could be brought to bear to provide -- answer questions about what did you really mean when you said this or what was the discussion like or how can we -- how can we better understand what it is that you were driving at? But it's -- in terms of a likely/unlikely span of activities, I think it's going to be more on the unlikely side of things.

KAVOUSS ARASTEH:

Yes. I think this has also been discussed to some extent. I don't think it is cost effective that the ones who develop the recommendation be responsible or be involved in the implementation. However, there might be a need to have some sort of monitoring or keeping an eye, whatever term you use, for short period of time to see whether it is properly understood or not, just for short period of time.

Not exact example, one example of that was CCWG accountability had the recommendation. It wanted to be

converted into the legal provisions. They had some sort of short period to see whether during the implementation there are questions, there are things to be clarified and clarify that. A very short period of time, some sort of monitoring but not forever. Thank you.

JOHN BERARD: Thank you. We have another one. Alan?

ALAN GREENBERG: Thank you.

JOHN BERARD: Thank you.

ALAN GREENBERG: Again, taking the CWG IANA and the CCWG accountability as edge cases, experience with other working groups shows that people lose interest real quick. And it's hard sometimes finding enough people to act as the implementation review team. I don't think the concern normally is it's going to be too large and how do we handle it. That seems to manage itself just because.

Now, maybe we will have something which is so onerous and so serious that it will replicate what we're seeing here, but I have my doubts.

JOHN BERARD: Thank you for that dose of practical advice, Alan.

If there are no other questions on this -- oh, Chuck. I'm sorry. We'll close with Chuck. And then I want to leave a few minutes for anything -- any other suggestions from the floor.

Chuck.

CHUCK GOMES: I'll try and be brief. Chuck Gomes again and as you might guess, I support that first sub-bullet there on the policy and implementation guidelines, since I was co-chair of that group, but I'd like to point out that that -- doing that and doing the next bullet might be a little bit inconsistent, because the policy and implementation guidelines assumed a responsibility of continuity there. Not being the implementation group, but they recommended an IRT, an implementation review team, and they recommend some guide- -- some liaisons from that group who have the knowledge to ensure the intent is followed.

So, you might want to think about rewording that second bullet because the assumption in the policy and implementation guidelines is that there is some -- there needs to be a connection between policy development and implementation. Doesn't have to be the same people. Don't get me wrong. But there

needs to be that connection. So you might want to think about that a little bit.

I think the policy and implementation guidelines assume there's some -- there needs to be a necessary connection. Okay?

JOHN BERARD: Thank you, Chuck. So you're suggesting that they're redundant.

CHUCK GOMES: No. No. I'm saying that the second bullet doesn't -- the way it's worded would not be consistent with the policy and implementation guidelines.

Now, I think your intent in the second bullet is probably okay, but I don't believe it's -- that they're consistent.

JOHN BERARD: All right. So we will turn that over to our wordsmiths.

Now, before we break, are there any other comments from the folks here that we did not have on our agenda but are equally important to raise?

We have Sebastien and we have Steve.

Why don't you go ahead, Steve.

STEVE METALITZ:

Thank you. Steve Metalitz. I don't know if it's equally important to raise, but as I went through the document, I found it kind -- one part of it a bit confusing and I would encourage the group to take another look at it. That's 3.4 on decision-making and closure. And really, I'm referencing what the chartering organizations are supposed to do or have the option to do, once the CCWG has completed its -- or, you know, has completed its work.

It seems to imply that there are four options, approving, adopting, supporting, or at a minimum not objecting to. I wasn't sure what the difference was among those.

The next paragraph says there's something called "accepting," which is yet another verb that may mean some of the same things or something different.

And there's also a reference that the default expectation is that all the chartering organizations will, at a minimum, not object to the CCWG final deliverable.

By using the phrase "default expectation," are you intending to say that if a chartering organization does not respond, then it will be assumed that it did not object?

I just think that ought to be clarified because as we start thinking about what the chartering organizations have -- would have to do under this framework, it's just a little unclear what their options are at that point and what your intentions were.

Thank you.

BECKY BURR:

So just to -- just to -- we'll take a look at that and be clear, but I think the most important takeaway is that they need to decide what they're going to do, how much support is necessary and what kind of support is necessary.

SEBASTIEN BACHOLLET:

Yes. Thank you. Okay. In English.

I have a question about the naming because we are talking in this organization about CCWG for everything, and can you recommend something about the fact that we stop to have CCWG everywhere but we give a name with what is the content of the work we will have to fulfill? It will be much more easy to understand in the future by other people outside of this organization or coming first, and even us, because everything is a CWG in those days and I don't know what they are about.

Thank you.

BECKY BURR: I think -- I -- the name -- the name -- your concern is about a naming convention and I think that's a very interesting point because we have the CWG and the CCWG and it's not clear -- it's just the order that they got named in and those acronyms are not all that different and they don't really communicate to folks what they're about, and I think that's a -- actually quite a good point.

JOHN BERARD: I see no other hands, so we can call this session to a close. Thank you for attending.

[Applause]

[END OF TRANSCRIPTION]