ICANN Dakar Meeting

Cross Community WG Team- TRANSCRIPTION

Thursday 27 October 2011 at 08:30 local

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Coordinator: Please go ahead. The call is now being recorded.

Jonathan Robinson: Good morning, everyone. Welcome to our open session this morning on cross-community working groups. This is a meeting of the GNSO, CCWG, Cross-Community Working Groups Drafting Team which myself, Jonathan Robinson, is chairing.

We're going to work through a few slides this morning. And we're very pleased to have Edmon Chung here, who's had some recent experience with working on cross-community working groups. So he's very kindly agreed to get himself up this morning and come and talk to us a little at least informally about his experiences. And then as you'll see from my slides what I'm hoping we'll do is work through our draft principles at which point I'll be looking really for feedback and discussion on any of those and using those draft principles as a framework for how we might move this on.

My intention is that after this meeting we'll meet regularly between now and the end of the year in order to really complete the work of this drafting team

which is really to establish the GNSO view on cross-community working groups but in conjunction with input from as many other parties as possible.

Alan Greenberg: Just for the record I do have some significant experience in joint working groups and the problems associated with organizing them and running them.

Jonathan Robinson: Thank you, Alan, appreciate that. And so actually Liz helpfully reminds me that it might be useful to just take a roll call of who's on the call before we kick off with the presentation so if you could just identify yourselves by name and perhaps affiliation and then we can move on to the presentation starting with those in the room.

Edmon Chung: Okay. Edmon Chung, DotAsia.

Alan Greenberg: Alan Greenberg, seemingly ALAC liaison to the GNSO for life.

Liz Gasster: Liz Gasster, ICANN policy staff.

Carlos Aguirre: Carlos Aguirre, Nomcom (unintelligible), GNSO council.

Jonathan Robinson: Thank you. And Liz, on the line, can we - is there anyone on the line that would like to identify themselves for the record please?

Coordinator: Sir, you have no audio participants at this present time.

Jonathan Robinson: Great. So thank you very much. Let's move on then to the presentation and I'll work through the slides.

So for those of you who were in the GNSO meeting yesterday you would have seen a variant of this. I'll take you very briefly through the slides.

The background to all of this is that there has been increased use of cross-community working groups. And so hopefully in a moment we'll hear from

both Edmon and I'm sure Alan on some of their experienced comments on these but essentially groups that have been chartered by more than one supporting organization or advisory committee.

And both due to recent activity and anticipated future activity there is a high degree of - a higher degree of or increasing degree of perceived importance of these so-called CWGs and that within the GNSO at least if not the community at large raised questions about how one might work, how we might work most effectively with them, with such structures and certainly a - some sense that there may be a reluctance to form new CWGs until there was, at least from a GNSO perspective, until the GNSO was clear as to how we might most effectively work with them and to how they might function in future.

So as a result this drafting team was established to develop a proposed framework that could form the basis of A, how the GNSO might work and equally importantly how the GNSO might participate with other SOs and ACs in the future with informing processes and procedures for effective future functioning of these CWGs.

I think we're going to have to update our drafting team membership list. And we'll do that in the near future and - because we've had some rotation. But this is the original list.

So, Liz, if we could move on beyond that then. So this - what - the next slide just simply lists as - by way of example some of the current community working groups. And I - the DNS Security and Stability Working Group, Geographic Regions Working Group, International Registration Data Working Group, the Circle JAS New gTLD Applicant Support Working Group and the joint ccNSO/GNSO/IDN Working Group.

So as per the recently agreed charter from our 6 of October meeting of the GNSO we developed a - we set out a charter by which the drafting team

might work and the proposed framework under which CWGs can cover the proposed framework under which CWGs can both function effectively and produce meaningful and timely reports and recommendations.

Overall the objective and goals of the drafting team were - are to agree a perspective - as a departure point for developing a common community understanding of CWGs. And we're sensitive to the fact that there may be some within the community who wonder why the GNSO is doing this in isolation. And it is not the intention to do that, rather simply for the GNSO to get some internal clarity on its perspective but at the same time by being open to any external or community-based input into this work and covering the role function and method of conducting joint activities in future projects.

So really the objective and goals are to define a way forward for effective chartering at a minimum as well as functioning and utilization of CWGs in future so that they operate effectively and appropriately within the existing ICANN structures and processes, the sort of subtext being - to that being that there was some feeling that if these weren't - it wasn't understood and well-organized how - as to how CWGs would work is there's a prospective working in some way outside of or at least not entirely consistent with existing ICANN structures, processes and bylaws.

So importantly though they - we will try and have input along the way with the drafting team between now and the end of the year from really anyone who's interested in participating. And while that's a - that's both a healthy position to take in any event and a natural way to work within the way things are done at ICANN it's also explicitly there in order to deal with a potential concern that people might have that the GNSO is developing a set of views on this subject in isolation from the community and then expect to come back and impose them on the community. And that is in no way either explicitly or implicitly the intent of this group.

So I think before we go on to the draft principles I might pause here for a moment and see if we can't get a little - A, if there's any comment or input on the - what I've said so far. But probably more importantly I'd like to - I'd love to hear from Edmon, who we've invited here today and who's kindly agreed to give some input and possibly Alan as well, some remarks you may have on the back of or independent of what Edmon said in terms of, you know, some of the ways in which these groups have functioned.

So Edmon, if you could just make some remarks on your own experience and that would be great.

Edmon Chung: Sure. Thank you, Jonathan.

And so I think one of the things that - before I talk about it I think Alan probably has a lot more experience in this because he has been with the GNSO as a ALAC rep for so long. Almost all the working groups are joint in that sense.

But I think one of the things that I want to bring up is that this is an issue that is, you know, has been I guess brewing for quite some time. The first I really shouldn't say clash but at least would say, you know, some of a coming together of like for example the GNSO and the ccNSO probably can be traced back to the - well since the split from the DNSO could be traced back to the IDN ccTLD fast-track where it was the - a ccNSO group but the GNSO was invited in. So it was a - I would say maybe a first try of something that is joint between the ccNSO and the GNSO.

That created a number of - well that brought up a lot of questions, you know, what the - even the questions of what ccTTLDs and - versus gTLDs are especially with the new gTLDs coming along. And it also, you know, created some sparks at that time.

And then I guess, you know, during that time actually I - even in ICANN Sydney actually I remember during the public forum I raised this issue about cross-community working groups because it's becoming apparent that in the future we will be seeing more of these.

So then came I guess a number of them which included the JAS and the JIG, the joint IDN working group between the GNSO and the ccNSO. So I think there are two quite different animals if you will, one of which is from two policy organizations so it's two SOs, the GNSO and the ccNSO whereas the JAS is created from the GNSO and an advisory committee, the ALAC.

So that I think is one of the things that we might want to think about as well because there are some differences between, you know, how a policy development body would work versus an advisory body would work. And therein probably lies some of the issues that we see or some of the things that came up between the two.

But having said that I'd also like to bring attention to another one that I'm also involved in which is the IRD. That is the internationalized registration data. And that is also between an SO and an AC.

But perhaps more interestingly is that that came - that was more sort of driven by the SSAC. And GNSO sort of worked together with SSAC on that. And so that's another kind of model or another set of experience that I think are - is interesting to look at.

So sort of summarizing some - what I - having been on some of these working groups I think first of all a clear scope is probably the most important thing I feel, without which it's very easy to try to steer away from, you know, as conversations happen, you know, things get - go along and start to have some scope-creeping situation. And that is one of the things. The other one is to understand the requirements from the other SO or AC.

One thing that we learned is that from the GNSO/ccNSO - the JIG, is that whereas the GNSO wishes to have working groups pretty open -- anybody can join -- the ccNSO has a requirement to maintain some sort of balance between the five regions.

So at the end of the day what happened was that the JIG is - has a official membership of five from the GNSO and five from the CCNSO. That meets the requirement. But as we continue, observers, we're obviously very much welcome. You know, anybody can join. But there is a voting mechanism in a way where it meets the requirements of the ccNSO.

We - I don't think we have ever had a joint group with the ASO. I have no idea what the ASO might look like. But I - they are also arranged in (RARs). So this might be an experience that would be useful there too.

For GAC, every experience from the ccTLD fast-track and subsequently actually it's interesting that every time - they're not totally unresponsive to - they're actually willing to participate. But they also have a requirement, another requirement which is to make - to have an unlimited amount of GAC representatives there.

So what happened for example in the JIG was originally we were saying that we would officially want the GAC involved as well. However, because of that the - and the ccNSO requirement didn't quite come together it became a ccNSO/GNSO group. And it's structured as such right now.

So the ALAC is relatively flexible. I don't think we have any particular, you know, number of participation requirement. SSAC is - also seems to be relatively flexible.

And I guess I'll end with a few more observations, one of which is communication back to the councils. I think that, in terms of creating these working groups, it's probably important to identify how the working group

would communicate back to the council and - well - and to the board and to other parts of the community because for the JIG we actually - when we talked about the charter this was specifically talked about, you know, whether the group could - would report - would send reports to the board or would, you know, how the group would interact with the councils. So I think that needs to be very much in order in the charter so that every, you know, the group understands what needs to be done.

When we - however I want to bring that whether the JIG or I believe the IRD, we do have board members listening in and observing at different meetings and in a way participating. I did heard - hear from - I, you know, may be rumors but that the board members have had advice from the legal counsel not to participate in these type of working groups, you know, worrying that the policy eventually go to the board and, you know, they would have to work on it there.

But other than that I think board members have been relatively, you know, open to participating in these type of groups. And we need to take that into consideration as well. It's not - it's something I think is useful as a feature. And - but how we, you know, balance between the communication to the councils and in these types of open meetings what happens. You know? It's an opening meeting. That's the whole point. You know? I mean that's the whole basis of the GNSO. And so we can't forget about that.

So - and the final point I want to make is that in terms of these across-SO working groups we really need to think about what the policies, you know, what policies really span the SOs because in the JIG one of the things that repeatedly come up is that okay this is the policy of the GNSO but not the same in ccNSO so is this still a - an issue of common interest. If it's not then is it out of scope of this working group?

You know? This is a recurring discussion. So this is very important.

But I guess this is quite different if you talk about ACs because, you know, ACs would span various different policy development anyway.

So I guess I'll sort of stop there. But it is quite important if we talk about cross - I mean working groups between SOs that we make sure that there are actually policies that could span the, you know, the different policy development bodies, the different SOs. Thank you.

Jonathan Robinson: Thanks, Edmon. That was - I certainly found that structured and insightful and genuinely very interesting. I mean that's very, very helpful to hear your experience. And I think there are some good pointers in there.

So let me ask if anyone's got any either questions for Edmon or direct responses to anything he's said before we move on. Any thoughts, remarks directly in response?

I have one, Edmon. I - and it's - I mean it's really on your last point which I think I perhaps understood least or need to think a little bit more about it. Perhaps we can pick it up a little later.

But if there was a cross-SO group -- and you talked about thinking about how, you know, what policies might span both groups -- I would - I mean there is an opportunity presumably for a cross-SO working group to discuss and deal with and explore areas that might not be common policy for both but may result in policy in one providing that to the extent that that becomes or goes down the policy development process it follows that group's policy development process and doesn't - isn't presumed to be policy simply because it's being discussed and worked through in the cross-SO. I mean that's what I would think.

Edmon Chung: Yeah. That's very correct. I - it's just I guess I wanted to highlight is that the cross - in the case of ccNSO and GNSO what could be done in the cross working group is very useful input to the separate policy development

processes between the groups. And that has to be clear so that the group doesn't really dictate what policies, you know, the group can't really sort of supersede the policies from the two SOs. And that is really what I'm talking about.

And one of the example - and another type is - an example - for example Whois. There are certain requirements for GNSO - gTLDs on Whois but there is none for a ccTLD. So when, you know, when you talk about certain thing and the topic of Whois comes up, you know, ccNSO basically would put up their hand and say wait a minute, anything about Whois we don't want to talk about; it doesn't even exist in our world in terms of policy.

So two types of things. One is things that we might want to talk about across the SOs that they might not. And the other is understanding that if we go back into the PDP for (unintelligible).

Jonathan Robinson: So Alan, I'd love to hear from you. But we've got a question on the chat first. So let's hear that. And then perhaps we'll...

Liz Gasster: Thank you, Jonathan. This is Liz Gasster. I'm just going to read the question from the chat from Sivasumbramanian M. His question is: why is this peculiar limitation on cost community working groups that they are not to be used to develop new consensus policy? Cross-community groups are an excellent way of discussing issues all across ICANN so why not make these groups more purposeful? Thank you.

Alan Greenberg: I was actually going to address that in - when I was talking so I can try to answer that specifically or just give my whole speech.

Jonathan Robinson: Alan, by all means go ahead and A, address that either as part of your whole speech or in...

Alan Greenberg: Okay. Thank you. Just administratively can we make sure that I'm on the mailing list coming out of this meeting?

I will point out that At-Large considers this sufficiently important that I'm here instead of at the ALAC wrap-up meeting at which I'm supposed to be giving a liaison report so.

Jonathan Robinson: Thank you, Alan.

Alan Greenberg: I think the issue of formal policy, capital P and capital C, consensus policy, is an area that is problematic right now. There are very specific rules that need to be followed to allow the board to approve something and it to have the power of a contractual change. And I don't think we have any choice on the short term but to say if we are trying to achieve policy, capital P, it must go through the appropriate group's PDP rules.

And certainly when we spent the last three years revising the GNSO PDP rules we did not consider what happens if suddenly we have joint ccNSO/GNSO policy. Maybe one day it'll become common enough that we need to but we certainly didn't.

Now - but if you think of it sort of from a loose point of view there is nothing to say that one couldn't have a PDP structure ongoing. But you, you know, you adjourn to the other room and have the discussion with everybody, then go back and execute the formalities.

It doesn't allow the GNSO to go make changes later to what is agreed upon. And that I think is the crux of joint working groups. And it comes back to all of the problems we've had.

If it's...

Man: Sure.

Jonathan Robinson: Sorry, Alan. Can you just spell that out for me again...

Alan Greenberg: I...

Jonathan Robinson: Just to make it...

Alan Greenberg: I will as we go on now. Some of the groups that we've called joint working groups have effectively been a working group of one group - of one of the groups that has sort of - where others have been brought in and called it a joint working group. The more recent ones, DSSA and JAS, were formally chartered by the various groups.

If you were going to do something formally on behalf of multiple groups then there must be an agreement on how the rules are set. And as Edmon pointed out the GNSO working group rules are just fine but they may be at conflict with other rules. And so one cannot presume that the GNSO rules will be the ones that win.

If we're going to go into joint working groups there is going to have to be some discussion. And the rules may vary depending on who is - who's doing the jointing.

The same applies for charters. The DSSA was approved smoothly by several groups with absolutely no dispute over the charter. But you have to go back and say how was that charter created.

It was created by the chairs of the groups or chairs and vice chairs ahead of time. And none of the councils or ACs that participated chose to try to wordsmith it on the fly at the last moment. They entrusted the responsibility of chartering to a specific group of people and then didn't try to tinker with it.

The same happened with the JAS working group on its first go-round I believe actually. I don't remember if one of the groups chartered it and the other adopted it or we charged the JAS group itself with coming up with a charter. But it was accepted.

The problem came up in the JAS group on the second iteration where there were different views of what the board said. And the JAS group chartered - the JAS group created what it believed was the re-charter required. The ALAC accepted it. The GNSO chose to do major surgery on it, taking out a bunch of items, changing the wording some, adding one.

The one it added it turns out was a good one. The ALAC liked it but if you're going to go through that kind of process, you know, then you need something akin to what the U.S. Congress does of have two different laws passed and then somehow they meet in the middle of the night and bring them together.

But to do that, you have to trust whoever you meet in the middle of the night to do it. Okay.

The GNSO typically has no mechanism by which it can entrust a single person or a small group of people to act on its behalf and that is the source of a lot of the problems that we end up having.

Now so as we go forward, it – the real critical thing and I don't think we'll be the same in any two joint working groups, is how one comes to the decision on which set of rules do we use for this working group which may be a half and half set of rules. How do we create the charter so that all of the chartering bodies are happy with it and we can get a group of people who actually think they can do it? There's no single answer to that. We've already seen a number of examples that can work but we have to go into it remembering that you cannot pretend it's just your group and expect everyone else to play along.

It's going to have to be flexible and the flexibility cannot be specified ahead of time in all cases. We can't have one set of rules because it's going to vary depending on who the players are.

Now in terms of the PDP, which you explicitly asked about, in order for something to have the rule of law in a PDP, it needs to have gone through a specific process.

But there is nothing in the PDP to say what were the rules for actually having the discussions within the working group. Okay.

So if we have to – as an example, we decide on a joint Whois policy development process between the GNSO and the CCNSO. We have a lot of tick marks or checkmarks we have to put off on tasks within the GNSO but in the middle is this huge black hole of the working will go off and draft a report. Now if that report is then drafted by the cross-constituency working group effectively because it is made up of the same bodies of people, the same – you know, the same people who are on the task force or on the working group for the PDP and I don't know on the CCNSO if their PDP requires only CCNSO people or if they're open, so it you know we're going to have to be flexible.

But if it's going to result in formal consensus policy, it has to come back through the GNSO in the case of the GNSO but that doesn't mean it can't – the words cannot have been arrived at jointly. It just means the GNSO can't at the last moment say oh, but we want to make one little change. It comes back to giving – the GNSO can reject it of course but it comes back to a certain amount of trust in who you delegate to act on your behalf on the chartering, on the writing and all of those things.

And that presumes therefore since no one trusts everyone implicitly 100%, it implies iterations and the GNSO cannot just wait for the final report or the CCNSO cannot just wait for the final report and then say no, no, that isn't

what we really wanted. There's got to be involvement all along so that some assurance when you've gone through what will likely be a lengthy process, you come up with something that's acceptable.

Jonathan Robinson: That goes to Edmon's earlier point about the mechanisms of communication during the course of the work.

Alan Greenberg: Exactly. Yeah.

Jonathan Robinson: So Alan there's a question for you on the chat as well which would be great to get that across and…

Woman: This is also from (Stephen Supervenium). He asked Alan on the rules why not create cross-community rules for cross-community working groups rather than wonder whether to go by the rules of one house or another.

Alan Greenberg: We could but it's hard to imagine that we're going to come – that each of them are going to come up with – that we're going to come up with a set of rules which will work for any subset of the organizations who may want to work together at some point. So I'm not sure we can – if you're going to create this superset of all possible unions, I think you're going to end up with the dog's breakfast. I just don't think it's practical.

So I think you're going to have to do at least until we get more experience with them, we're going to have to be a little bit more ad hoc.

Jonathan Robinson: And I have a remark in that context. I mean in part Edmon touched on that as well by saying it depends which particular types of organizations you're combining in any particular working group.

But I'm starting to – I hope and I hope it's not just a temporary hallucination, I think I'm starting to see some light at the end of the tunnel which is keeping our guidelines for this kind of thing – we'll probably require to keep it quite

light, quite high level and one of the arguable weaknesses about the way we do things in ICANN as a whole is we tend to get very involved in micro detail of how things might work and that has value in that it's then not subject to – potentially not subject to multiple interpretations.

But this is one area where I'm starting to think we might benefit from in some ways less detail or at least only appropriate detail for this type of effort.

Yes Alan.

Alan Greenberg: Yeah. I certainly agree. At the level that we're talking, I think we need to keep the rules light because the rules that are going to be governing any particular cross-constituency working group are going to change based on the details of that group.

I mean the GNSO has started carrying an awful lot of baggage in the last couple of years. I mean this is now – this coming year assuming I'm reappointed will be my sixth year on the GNSO and I think I'm now officially the GNSO historian having served longer than any other human being including staff.

So we have continually been adding to the pile of rules that we follow and the specificity of those rules and the rigidity by which we follow those rules and not every other group has taken that path.

Jonathan Robinson: Thanks Alan. Let me bring Edmon in with a question or a comment.

Edmon Chung: I just want to actually like to say I agree with what you said just now as far as being light. With that, I think we – it would still be useful to have some sort of framework.

I, you know, some things to check off when we look at charters about cross-community working groups. Whether – especially in the GSNO, when we

look at these charters we would say okay, it's got this feature, this feature, this feature. You know, I don't know. A set of five features that must be in there like how to communicate that through channels, how do they make decisions, how do they create consensus. You know, what does it mean by consensus within the group?

Those kinds of things would be – probably be useful and with that I guess my question is perhaps how you see this group working forward and is this group going to talk about a potential, you know, framework on what might be in that or is this a drafting team for a working group that would do that. I just want to get a sense of the process.

Jonathan Robinson: Thanks Edmon. And that's a very good point and actually we would – it's a good segue into where I think we should go next anyway. But let me answer that in two-fold.

One where I think and well of course, I'm sorry Carlos – I'll just finish and I'll just wrap this up and then by all means.

But where I thought we were going to go today was to next – to step through the draft principles and just get some feedback and dialogue on each of the draft principles.

But at a high level, I see the output of this group as being a set of principles or a set of – a practical guideline that the GNSO can form some consensus around about how these groups might operate. And to that extent I've found the discussion today so far very, very helpful. I think it's been, you know, the real practical input that's come from both yourself and Alan so far is very useful in that regard.

With that said, I think we are not going to be able to just put this issue to bed and think at the end of this – the work of this drafting team and say that's it. I think this is very much a precursor to then a second phase of the work which

will be to bring in others to either buy into or adapt the work that we've done to get full community buy into how this might – how these groups might function.

So Carlos I know you have a point you'd like to make.

Carlos Aguirre: Thank you Jonathan. First of all, I want to ask – pardon my ignorance. With all my respect I want to ask you if this working group is not used to develop new consensus and policies because the back hold that Alan said, the idea is to receive every comment of everyone who wants to give.

I think this working group more than a cross-community working group would be – could be like an open forum to discuss this issues about – I don't understand where is the useful or why it's useful this working group.

You consider that GNSO needs another working group to – for only discussion like an open forum without decide or make some rule to fix the situation – the black hole.

Jonathan Robinson: So I hope I'm understanding your point correctly but I thought Edmon's question was directed to what do we see the output of this particular group and my understanding is that our outfit will be by the end of the year, we will be able to have a GNSO view that is not formed only by the GNSO but with its ears – eyes and ears open to the rest of the community on how on a set of principles about how these community working groups might function in the future.

But I think we won't be able to stop there and simply say well great. We've solved it for the whole community. I think we will absolutely be required to then form a second phase to this effort that says can we either get buy in into that. That we've done such a good job of listening as a GNSO which I find given the way in which this community functions, I find unlikely that we'll just

get a hand wave through and everyone will say great. You've done a good job. We'll all buy into that.

I expect we'll have to go through another iteration which – but I hope we won't have operated in such a vacuum between now and the end of the year that we'll be suddenly surprised or blindsided by other community input that says you've got it completely wrong.

So I hope that these will be sequential and iterative ways to ultimately getting the broad community based view – consensus view of how CWGs might work.

Yes Alan.

Alan Greenberg: I think if we do our job right and not just with the people around the table but take the interim products and go talk to the CCNSO, talk to the chair of the GAC, talk to the SSAC, the ASO, we may well have come up with something which everyone else can rubberstamp.

We're going to have a larger challenge getting the GNSO to rubberstamp it I think than some of the other organizations.

So I wouldn't rule out – yes, we may have to charter an ad hoc cost constituency working group to figure out the rules for cross-constituency working groups. And I don't know what the rules are for chartering that one but it may not be all that onerous if we actually listen and are not adamant that only GNSO – that GNSO is more equal than others and our rules are better than theirs.

If we're flexible and light as you implied, I think we may well slip this through.

Jonathan Robinson: Pleased to hear it Alan. Thanks. Edmon.

Edmon Chung: Yeah. I'm – I think in a way agree with Alan in that, you know, we keep it somewhat light, I think the general set of principles – I think most groups probably could you know take on.

However, I do also think that, you know, this is something the GNSO is doing right now and this set of principles would be from the GNSO point of view. I do think that it would be useful to other group to go through this similar process and, you know, I'm pretty sure that the CCNSO would have some different views.

You know, whatever we create, you know, they would probably you know have a few more lines in it. At least you know some of the issues that are non-CCNSO related then we won't talk about it for example. And the ASO is probably the same and GAC is probably the same. They would have additional stuff; so their principles when entering into these cross-community working groups.

I think we are doing right now is sort of hopefully leading the way in the other groups to do a similar process within themselves to then develop their principles of working together and a sort of aggregation of those would then form what is sort of a general rule for – a general set of rules for creating these cross-community working groups. That's sort of what I…

Jonathan Robinson: Wendy. Wendy. Okay.

Wendy Seltzer: Thank you. Far be it for me to speak against flexibility and lightness but I do want to suggest on the other side that a clear framework of rules can help to produce flexibility within working groups because they chart out the bounds of the group and sort of can give the chartering groups greater confidence about what's allow – what is happening within.

So clear rules, like clear module boundaries are a layer of abstraction that allows us to delegate to a group rather than continually be involved pulling pieces in, pushing pieces out while the group goes forward.

So there's a tradeoff to be made. You know, whether you establish a heavier framework and lighter working methods inside or lighter framework but then be prepared for greater interference I think from all of the groups as the working group proceeds.

Jonathan Robinson: Thanks Wendy. Has that comment come in via chat as well? Liz.

Liz Gasster: Thank you Jonathan. Liz Gasster again for Jaime Wagner who's on the chat. I'm just going to read two of his comments at once. He says there are some issues to be discussed in this group pertaining mainly to chartering by multiple SOs and ACs and he asks what happens in the event of different charters; how to overcome potential conflicts.

Jonathan Robinson: I'm not going to attempt to answer that right away but it does seem to be to be given that the time we've got available and we've covered some very good territory so far, I would quite like us to now start to step through the draft principles and see whether they – and get some feedback and thoughts on those so that we – I guess…

Man: Sorry to jump in. Actually I want to respond what Wendy just mentioned – is I think that's – I agree very much and as an experience from the (JIG), it's very useful to know that, you know, the (JIG) functions with this ten sort of voting members.

And so whenever we have to make sure that a report comes out and has a consensus of the group, I just need to go to those ten people and say, you know, do you agree with this and we're – and I'm done in a way.

So it – what Wendy said, you know, in terms of a some sort of clearer framework is actually useful. It makes it more flexible for the group to understand what we can do as well.

Jonathan Robinson: Yeah. And I guess Chuck did you have a point. I guess to me there isn't a contradiction I don't think between keeping the rules or guidelines relatively light and yet still clear enough to make efficient work.

I think what I think we've been talking about so far is just not making ourselves high bound by an overly complex set of procedures and rules but trying to keep it a higher level set of guidelines.

Wendy, you look like you want to respond specific to that and then we'll go to Chuck.

Wendy Seltzer: Yes. And I'm responding in part because of things that I've been hearing on council lately and that sort of council is wanting to push back on various processes to say our job is only to ratify what comes out of the process, not to get involved with questioning what's inside that black box.

And I think if we want that to be able to happen, we as counselors need to be confident that we know what went into the black box and how the black box is constrained. So it's not that it has to be a thick and endless set of rules but it has to be a set of rules that are known in advance and a charter that we can be assured the work stays within in order so that we can then say the results meet what it takes for counselors to endorse.

Jonathan Robinson: Let's go to Chuck. You've had your hand up for while and then we'll come to you Alan.

Chuck Gomes: Okay. My apologies for being so late. I slept a little too long today. So what about the idea of very soon having this group send something to the council because we know the council will take a while to deal with this and if the

group is in agreement with this, communicating that you anticipate like you – like several I think have said, you anticipate once the GNSO, you know, understands its own position on this, the need to form a community working group to work on guidelines jointly and requesting permission from the council to reach out to the other SOs and ACs clarifying once again that we've been working on this to make sure that we as a GNSO are coming from a common base.

Alert them that they're welcome anytime they want to join this but alerting them that we would like to form this community group to jointly work on the guidelines. What I fear and I guess where I'm coming from and I felt this way a year ago, this is something that would be better not to let drag onto too long and if you don't get ahead of the game in terms of getting the GNSO council to look towards where we need to go, and get their approval so that you can kind of lay the groundwork for that happening starting soon rather than waiting until you finish. Then it goes to the council and then they grapple with it for a while and then if you follow, it will be a year from now and may still be working on this and I think that would be unfortunate.

Jonathan Robinson: Thanks Chuck. Is there any response or comment to Chuck's suggestion? Yes Alan.

Alan Greenberg: I think actually that is what we're doing and that's what we plan to do. Next week is November. Somewhere around the second week of December, which is only five weeks later, the holiday and things start and people simply disappear.

So we said we're going to try to have something by the end of the year. That gives us a few weeks to hammer out what we're talking about. Presumably in that period we'll informally talk to other counselors and other ACs and SOs so I think we're talking exactly the same thing.

Chuck Gomes: That's great. I guess the one thing that I'm suggesting more specifically is communicate where you're going to the council sooner, and I mean like as soon as possible, so that you lay the ground. That's all. That's good to hear.

Alan Greenberg: We don't want to be in a position where the council feels we're (spanding) them with things that are changing minute by minute but yes, as soon as we have something that whoever's in this group and whoever we've consulted and feel (semi-comfortable) with, even if not frozen and with a formal title page on it. Yes, I would agree.

Chuck Gomes: And Alan I'm not talking so much about giving them your – the work that you've done yet. I'm talking about setting the stage and giving the group permission to communicate with the other SOs and ACs even before you finish your work. Actually I think your work's pretty – assuming you have good consensus in the group, is in pretty good shape.

                 So I don't know if I'm clearly saying.

((Crosstalk))

Chuck Gomes: I'm not saying wait until you have your work finished for this communication.

Alan Greenberg: I think we got that instruction in spades the other day that we worked – I'm here. Remember, when this group was first formed, I understood I was welcome as the liaison and because all GNSO groups are generally open. I chose not to participate because I really thought it was an issue of getting – the GNSO stakeholder groups getting their game together. That was revised over this – the last couple of days to say no, no, no. Input from other places may well be useful. I'm here.

                 I suspect if we had been more forceful, we might have had someone from the CCNSO here also and I think we can probably fix that pretty easily. They're a

lot less formal than we are – than either of the we are from my point of view; my multiple hats.

So I think we have that instruction and I think coming out of this meeting we may well have something that's strong enough to go to them semi-formally.

Jonathan Robinson: Thanks Alan. Liz.

Liz Gasster: Well, I just wanted to make a finer point on Alan's comment which is I think initially Chuck there was concern that there was maybe so little – I'm not even sure what the common ground was among the GNSO constituencies and stakeholders, that it was kind of – although we've been doing community Working Groups for a while, the issues were multiple.

And the initial conversations on the list were really having people come from very different perspectives about this. And so I think initially it was the kind of thinking that, "Well we'll – we need to get on the same page initially just so that we can kind of talk to each other using terms that make sense."

What's general advice versus a policy development process? What's a joint Working Group versus just having an open Working Group where others can join?

And that until as a GNSO community we kind of had our taxonomy right and weren't talking past each other, that there was a need to sort of do that before we had a larger community adding their different processes and taxonomy to the discussion.

Jonathan Robinson: Go ahead Alan.

Alan Greenberg: Yes. I'll add one more insight, which I wasn't going to but since we're pursuing the subject further I will. Another of the reasons I didn't participate – I didn't choose to participate is at the time we started talking about this,

and if you go back to the time the JAS Group was being rechartered, there was a lot of steam coming out of people's collars.

And there was a very strong feeling among some Councilors that we should not do this at all. Joint Groups are not something we want to participate in. I didn't want to get into debates with – in this group if I was presented with things which I thought were totally unacceptable to ALAC and presumably to some of the other groups also.

Now I thought I wanted to make that a more formal process. Clearly that's not the direction we're looking at at this point. The GNSO has accepted JAS as being something good despite the rough times in the middle.

And the times have changed and so I'm not expecting really horrible problems. I may be surprised Chuck.

Chuck Gomes: What does this – does this group think that there's going to be difficulty on the Council proposing that a community Working Group be formed to develop the final process that all of us could hopefully agree to?

That's why – I'm not sure based on the way this whole thing's been approached if that's a foregone conclusion, and that was part of what I'm getting at to start testing the waters on the Council level.

And I – in my own opinion it's a no brainer. You have to involve the others in doing this, but I'm not sure that everybody on the Council is there yet and that if they're not, that's going to cause further delay.

I'm just curious. What's your assessment of the Council on that? Are they going to buy in to the idea that a community Working Group needs to be formed to develop a process?

Jonathan Robinson: Chuck I guess I have a remark on that and then I'll see if anyone else does. I mean, my thinking is that a little like Alan there's probably – we're probably in a slightly different place than we were a few months ago, that some of the heat and light's gone out of the JAS equation.

Frankly we've got some changes on the Council and it's not to suggest that any particular individuals - that they might be a slightly sort of fresh feeling, so it's very difficult to read the tea leaves on that one.

I don't know if anyone – what else is going to view in response to – because I think Chuck's given us a, I mean, I – practical suggestion. I've been grappling with this issue that if we work our way right through this process coming up, it could be pretty slow going to work our way through to the fully formed GNSO position, then to go on to try and form a CWG.

And if we can potentially cede with the Council and - that there may be a shorter route to ultimate community success on this one, it's certainly worth testing the water on it in my opinion.

So I wouldn't mind any thoughts on that. Anyone other than Alan got any thoughts? I just wanted to make…

Wendy Seltzer: Hi Stuart. This is Wendy. I'm happy to speak up just to add diversity to the voices around the table. But since Non-Commercial supported joint Working Groups, I can't really speak for how this will play to other Councilors around the table.

Alan Greenberg: I think your wording earlier on in this meeting of what should be coming out of this is pretty lightweight and not very prescriptive is the key. I think you or other people around the table depending on the politics of it may need some private discussions with a few people.

There's a lot of new Councilors coming on that I have no knowledge of whatsoever, so I'm not going to try to guess. But the people who tend to be more worried about the rules and enforcing them tend to be the older people, not the newer people so I don't think there's going to be a big problem.

You're going to have a bit of a work to do selling this privately before we go too public with it. But I think the lighter weight we keep it and the more – if we can agreement from Council that our – that the rules coming out of the cross-Working Group design team, you know, the next one, are lightweight and understanding that on a Working Group by a Working Group basis they're going to have to be fleshed out.

I don't think we're going to have a big problem. I may be wrong but I don't think so.

Wendy Seltzer: Maybe I'm not understanding something in the way we're framing lightweight versus more formal, but it seems to me that we don't want to be making this such a lightweight framework that for every time we try to engage a cross-Working Group we're having to reinvent the structure.

We – do we have enough – and this – so one question would be whether we have enough experience to develop the thicker framework, or whether we need sort of a skeleton to try more experiments with before we flesh it out.

But at some point I think the goal would be to have something that's better – that's a bit thicker that we can just drop new problems onto.

Chuck Gomes: Yes. You make some very good points Wendy and maybe we're talking about two different things. There are two different applications of lightweight and thicker, and one of them is is what the GNSO does to get its own position.

And it's probably appropriate that that be lightweight in the sense that we don't want to make it look like the GNSO – here's what we want to happen. We'd like you guys to bless it.

When you actually get down to a community group that comes – that develops the heavier weight procedures so that these kind of groups have the guidelines that they need, I personally think that needs to be the heavier one. So which one were you talking about in terms…?

Wendy Seltzer: Thanks Chuck. That's a good clarification on what I was saying.

Chuck Gomes: Okay.

Jonathan Robinson: And I think I would have responded in the same way as Chuck with one caveat, and that is I think one of the things I've been hearing here, and of course it saves to be determined how that'll be worked out in the future, is that one of the objectives we seem to have is to not make even the second set of rules too complex, plus that it – it's limiting or overly procedural.

So clearly we want something that – from – that the output from this Drafting Team is such that people don't feel they've been overly constrained by it. But the ultimate output - I think what I've been hearing so far is, and it's a bit presumptuous to talk frankly about the ultimate output at this stage, but that that shouldn't be too restrictive.

It should be more at a kind of strategic level how these groups function rather than absolute dotting the I's and crossing the T's for every last mechanism. But nevertheless I broadly agree with him and would've responded the same way as Chuck.

We've got a short time left and I wouldn't mind a quick walkthrough these draft principles and see if any of them either stick in the throat strongly, or whether there's some, you know, good agreement around them.

So I'd love to do – to step through the draft principles and just see - even if it's a no comment what I – given that we've only got 20 minutes what I'd like to do is if something bothers you or you feel a need to respond, let's pick them out and say, "I have a real problem with that."

But if not I, you know, because to the extent that we can start to nail these down a little, that would be very, very helpful. So with your permission I wouldn't mind spending the last 20 minutes on doing a quick walkthrough of those and as I say looking really for things that grate or cause concern.

Let me just see the point that's come up. Okay. Well now as we're seeing there's something coming up on the chat. I'm not monitoring the Adobe and I can't read it clearly from here.

Marika Konings: Jonathan?

Jonathan Robinson: Yes please Marika.

Marika Konings: There is one comment from Jaime Wagner saying – says, "I think the main resistance to the idea of CCWGs comes from the GNSO itself, and other parts of the community are more flexible in their approach to this issue."

And another comment from Sivasubramanian, "One solution out of all this is to leave House procedures and House rules to the Houses, and come up with a set of ICANN Working Group rules and procedures to apply to cross-community Working Groups.

A draft can be prepared and adopted for one or two Working Groups and amended as we go."

Jonathan Robinson: Thank you very much for that input. Right, so if we could take the opportunity now to step through – is that – wasn't there a previous slide Marika with some of the principle scope?

So let's just talk through these three scope points first. So the first is to limit the purpose of CWGs to a discussion forum to achieve greater community understanding.

In other words – and then on the basis of which is to provide advice to the ICANN Staff community and all the ICANN Board, and not use these to develop new consensus policy.

Given some of – given what we've discussed this morning, which has touched on some of these points already, there – are there any – would anyone see that those – any one of those three points need rephrasing, any significant reservations? Yes Chuck and then Alan.

Chuck Gomes: Sorry Alan, jumping ahead of you there. The second one – I agree with it and I'm wondering if the wording could be improved. The word advice seems to be a very hot word.

Also community probably covers it but I think it might be helpful to be more specific. Don't we want to provide this – these kind of groups – be helpful if they'd provide information and recommendations to SOs specifically, because the SOs are the policymaking bodies?

Now I totally agree with the third one that it's – they're not – you don't want them to be policymaking bodies. That gets terribly complex but they could provide some input to the policymaking bodies specifically, and that may be one of the most important things they do.

Now it could be we don't think that policy development's needed on a particular issue, but it could be a recommendation that policy be considered in these areas.

But I – to me the most important thing coming out of these community Working Groups might be the recommendation that policy work be done.

Wendy Seltzer: Chuck, I just want to make sure I've captured the language you're proposing. So for Bullet Number 2 your suggestion would be to say, "Providing information and recommendations to the ICANN Staff, to SOs and ACs and/or the ICANN Board." Is that right? Okay.

Chuck Gomes: Sorry. Thanks Marika. I'm not sure that you want the community Working Groups submitting advice to the ICANN Board without having gone through the respective – the SOs that charter these groups.

I think that probably gets problematic but I would put first even before ICANN Staff the SOs.

Jonathan Robinson: Wondering about whether we need – whether it's almost problematic to have – if we couldn't have something more broad like the SOs – the ICANN community and the SOs or something like that that sort of keeps it – because the minute you say advice to the Board it's implying – yes Alan.

Alan Greenberg: Just a point of order. When we say SOs let's include ACs also. And I – perhaps we can use words like community which we define somewhere as being all them guys.

Chuck Gomes: And I'm okay with the ACs in there. The reason I picked – I specifically picked SOs because they're the policymaking bodies. But no, that's a different point. They certainly…

Alan Greenberg: I'll wait for my time at the microphone then. I think the intent of what Chuck was saying in the second bullet is we should simply say we're providing input into the various processes.

And whether it goes directly to the Board or goes via ACs/SOs or whatever, may well depend on it and I have no problem omitting the Board. They're part of the community anyway so I don't know how much we need to refine that list, but it's essentially providing input of various sorts and I think it's a generic statement.

In the third bullet I don't think there's any dispute about the intent, but I believe the wording is not advisable as we have – as I mentioned it is conceivable that a formal policy Working Group could adjourn or put on its cross-constituency Working Group hat to have the discussions, and then put back on the PDP hat to make the recommendation.

So I wouldn't say that we can't get policy coming out of it, but I would say that – I would say it backwards and say a positive statement, not a negative that consensus policy capitalized for SOs must still be developed under their own respective PDP or consensus policy rules, which may vary from group to group.

They may have a formal PDP process. They may toss the dice or pull numbers out of a hat. That's their business. We're just saying this does not replace it, and that fixes one of the concerns on Council that suddenly we are encroaching on a Council – GNSO Council or another Council's territory by trying to take over the policy process.

We're not but that doesn't mean the ideas can't come from the cross-constituency group.

Jonathan Robinson: Thanks Alan and I think the – and I see there was support from Jaime to Chuck's point as well, and then I think Carlos you also noted that on the

chat. So that's very – I think that's helpful because it does a couple of things.

It just modifies slightly the wording and in particular then putting that – turning that last bullet into the positive. And following on from that is helpful sort of couple of small steps forward.

So Liz just a remark and I know you've got this, but this to me is – although we've had a very productive discussion this morning, this is really the sort of output as it were.

So to the extent that we can capture this it would be very, very helpful. I know you're in line Edmon so let's hear from you.

Edmon Chung: Yes, actually Alan just mentioned what I want to mention in terms of bullet three and I think – and, you know, capitalizing C and P is quite important with that.

And also I kind of think, you know, that the first two bullets have some problems as well. You know, the second bullet - similar to what Chuck mentioned I think we seem to be at ease with really, and we'll do best if they made recommendations back to the chartering organizations, whether it be an SO or AC and it is up – then up to the SO or AC to advise the Board or, you know, in a way even Staff.

So – and on the first bullet I think, you know, that might be a little bit too for lack of better word it sounds like IGS than what we're talking about here. I don't think that it should only just be a discussion forum.

I think if these groups are formed there may be two areas that would really be useful as outputs, one of which – in fact it's either before a policy development process or after a development – policy development process.

If before this – these type of groups can create, you know, sort of terms of reference for policy development processes down the road that would be useful.

If after a PDP this would create, you know, implementation recommendations and implementation guidelines, then CWGs would have, you know, and been really useful.

So I see CWGs really, you know, if they are successful they would be either inputting into PDPs or take PD, you know, results of PDPs and provide additional recommendations to Staff and Board on implementations.

Jonathan Robinson: Any more comments on the scope points? And I think I'm going to move us on then to some of the other principles so at least we've had a chance to look at those as well. So Marika if you could advance that or…

Alan Greenberg: Just a quick one. I just put it in the chat but the JAS Group recommended that there be a Board AC/SO cross-Working Group formed to look at foundations.

The Board could conceivably be one of the chartering organizations, so let's just keep it simple and say report to the chartering organizations. Everyone else can obviously read it if they feel like it.

Jonathan Robinson: Yes.

Wendy Seltzer: This is Wendy. Just for the participants I agree.

Jonathan Robinson: Going on now onto the practices and this is interesting, because we've touched on some of this. We now – now this – these practices as they were drafted previously the draft – under the draft principles had some suggestions like applying GNSO Working Group guidelines to all CWGs.

Now Edmon's made some points that I think this morning suggest that that's not appropriate actually, given that other SOs and ACs may have different Working Group guidelines. That – have I understood that correctly or – Chuck.

Chuck Gomes: Yes, I think Edmon's on a good point but is there a simple fix? What if it said, "Apply SO Working Group guidelines," and leave out the GNSO? The two groups can decide which ones they want to bring together.

Jonathan Robinson: I was perhaps just thinking of something even more like, "Apply appropriate Working Group guidelines," and really depending on the constitution of the CWG, because I think that was the point that Edmon made earlier that depending on who comes in, whether it's an SO and an AC or two SOs, the mechanisms by which they may be even able to work or feel able to work, but perhaps you'd like to respond Edmon.

Edmon Chung: Yes I guess, you know, we hit a point where in the JIG for example we were basically bounded by multiples of five in terms of the ccNSO participation, because they have a requirement that it is, you know, balanced between the five regions.

In our practice then we can't – it doesn't – it is not in line with what we do in our Working Group. So on that particular point also I think this is probably, you know, either this Drafting Team or whatever comes out of this, you know, further work from this Working Group should take a look at this particular, you know, item and create those guidelines for when a – when GNSO – what set of principles again GNSO would accept a charter with such, you know, working practices, right, because in the charter there would be some description of how the group would make decisions as such.

And that needs to be one of the checkmarks of GNSO approving that joint charter.

Jonathan Robinson: Thanks Edmon. Unfortunately we're coming towards the end of the session, which is not necessarily a problem because this is clearly ongoing work and this is where I expect we'll direct our attention over the next call or two.

I think it's probably appropriate to try and sum up a couple of things that have come up today. I mean, first of all we had some tremendously helpful input from both Edmon and Alan on some prior experience, which has really set the scene very well.

I mean, I found it very useful to be in the same room as some of you and notwithstanding the contributions that come through online, which has been great because this – it's been fairly active on the chat.

And so – and I think we've – and then we've had a pretty significant suggestion from Chuck that we consider trying to move this forward a little bit, rather than allowing us to continue at the kind of rather slow pace that we've been working at today.

So I can see – personally I've found this both instructive and illuminating, instructive in that it's filled out some of the detail, illuminating in that I can see a little bit of a way forward and I hope that doesn't turn out to be a delusion as I walk away from the meeting.

But, you know, I'll aim to set up a few calls immediately after this and I – and do my level best to maintain the momentum, so I'd encourage you. It's been great having the contributions here.

I'd encourage those to continue over the next couple – and perhaps we can really turn this out to be - so this is clearly important both to the GNSO and the community at large.

So to the extent that we can make a positive contribution that would be great. Any other closing remarks then we really will have to wrap things up? Yes Alan.

Alan Greenberg: Yes. I was just going to suggest that – I don't know when our next teleconference is scheduled if there is one, but it would be nice if prior to that any people in this group give comments that they would've given in this room if we had ever gotten through that whole list of slides and the principles.

So it makes it a lot easier to talk about things if you understand the other people's positions and you're not just speaking out loud for the sake of hearing your voice.

Jonathan Robinson: Thanks very much Alan. I mean, I think – I would suggest two things. One, that we will skip next week for our call but we will have a call the week after and we'll move straight into setting up a poll for that; and two, a weekly call after that at the same time so that you can have some reliability on the timing and – of that.

And yes please, any input on these and I'll call for input on these draft principles so we do have some online discussion over the next ten days or so before our next call.

All right, thanks very much for some really important and useful contributions. And I guess I sincerely hope we'll be able to maintain the momentum going out of here. Thanks everyone. Operator, if you can cease the recording now. Thank you.

END