

## **BRIEFING PAPER FOR INITIAL WORK ON A FINAL FRAMEWORK OF CWG OPERATING PRINCIPLES**

This Briefing Paper has been prepared by ICANN policy staff to assist with the initial discussions of the Cross Community Working Group that has been tasked by the ccNSO and GNSO Councils to take forward the initial work done by the GNSO, supplemented by feedback from the ccNSO, to develop a Framework of Operating Principles for future CWGs. For more information on the work of this CWG, please refer to its web pages at <http://ccnso.icann.org/workinggroups/ccwg-framework.htm> and <http://gns0.icann.org/en/group-activities/active/cross-community>, or its collaborative wiki space at <https://community.icann.org/x/rQbPAQ>.

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## I. Background to this Working Group

On 6 October 2011 the GNSO Council [approved](#) the formation of a Drafting Team that would develop a “proposed framework under which working groups jointly chartered by other SO/ACs along with the GNSO can effectively function and produce meaningful and timely reports and recommendations on topics that are of interest of such SO/ACs”. Although the DT was created by the GNSO Council, two members of the At Large Advisory Committee also participated in the work. The DT completed its work in December 2011 and submitted its [Initial Report](#) to the GNSO Council in January 2012. The GNSO Council [approved](#) the proposals made by the DT, and directed that ICANN Staff circulate the Draft Principles to the Chairs of all other SO/ACs for their feedback both on the Draft Principles as well as on “the route forward for community-wide adoption or development of a related set of principles for the operation of Cross-Community Working Groups”.

In June 2013, the ccNSO provided the [ccNSO Feedback](#) to the GNSO Council. In the ccNSO Feedback, the ccNSO pointed out that some aspects relating to the creation, operation, and decision-making processes for Cross Community Working Groups would either require further clarification or the development of additional principles. The ccNSO also noted the existence of a number of past and current CWGs, and stated that the need for CWGs will increase given the increasing complexity and scope of issues facing ICANN’s SO/ACs. It emphasized that a common framework for CWGs will be effective only if it takes into account divergences in expectations and perceptions among WGs from different SO/ACs as well as the differences in internal practices for WGs in the SO/ACs.

Following receipt of the ccNSO Feedback, the original GNSO DT recommended to the GNSO Council that a new cross community drafting team be formed, consisting of representatives from all interested SO/ACs and co-chaired by the GNSO and the ccNSO, to draft a Charter for a full working group that would develop an updated set of principles for CWGs taking into account the Draft Principles and ccNSO Feedback. The DT’s recommendation was [adopted](#) by the GNSO

Council in October 2013, and GNSO Councilor John Berard (the current GNSO Council liaison to the ccNSO Council) was appointed as the GNSO co-chair for the new DT.

Following the ICANN meeting in Buenos Aires in November 2013, the ccNSO appointed ccNSO Councilor Becky Burr as its co-chair to the DT. The DT completed its work in early March 2014, and the draft [CWG Charter](#) was approved by both the [ccNSO](#) and [GNSO](#) Councils at their respective meetings during in Singapore on 26 March 2014. The Councils also appointed John Berard and Becky Burr as interim co-chairs for the new CWG, pending the selection of co-chairs by the CWG participants.

## II. Next Steps for the Working Group

The CWG's interim co-chairs are actively soliciting participants from across ICANN's SOs and ACs, to try to ensure broad representation from across the community. By the first meeting, CWG participants should expect to be familiar with:

- The group's Charter (see [Annex A](#));
- The original GNSO Draft Principles (see [Annex B](#));
- The ccNSO Feedback (see [Annex C](#)); and
- The work of prior CWGs, especially reasons for their success or lack thereof (see [Section III](#) below).

The CWG will need to select its co-chairs at its first meeting, and develop a Work Plan. The purpose of the (initial) Work Plan is to document the steps, deliverables and (initial) schedule to achieve the goal of the WG: propose a framework of operating principles under which working groups jointly chartered by two or more ICANN Supporting Organizations and Advisory Committees can effectively function and produce meaningful and timely reports and recommendations on topics that are of common interest to such SO/ACs.

The CWG's charter suggests that, to achieve its objective and in developing its Work Plan, the CWG shall at a minimum consider the following matters:

- Prior experiences relating to previous and current CWGs (including without limitation the DSSA Working Group, the Joint Applicant Support Working Group, the Joint GAC-ccNSO IDN Working Group and the Joint ccNSO-GNSO IDN Working Group);
- The need to align the scope of CWGs to the remit of each SO/AC and the appropriate delineation of the scope of a CWG charter as a result;
- The type of issues or topics that might be suitable for CWG work;
- How to deal with outputs from a CWG and decision-making concerning such outputs, particularly in relation to matters where either an SO/AC disagrees with a CWG or with one another on a CWG's recommendations, and taking into account the differing rules and operating procedures within each SO/AC; and
- The closure of a CWG and, where applicable, periodic future reviews of CWG recommendations.

### **III. Review Of Past & Current Cross Community Working Groups**

The following table lists a number of past (i.e. closed) and current (i.e. ongoing) cross-community working groups, and sets out a number of features of each such group for discussion and review by this CWG. The working groups listed in the table are:

- The ccNSO-GAC Liaison Working Group;
- The Study Group on the Use of Country & Territory Names as TLDs;
- The DNS Stability and Security Advisory Working Group (DSSA);
- The Joint Applicant Support Working Group (JAS);
- The ccNSO-GNSO Joint IDN Working Group (JIG);
- The ccNSO-GAC IDN Working Group;
- The ccNSO Framework of Interpretation Working Group (FoI);

- The Cross Community Working Group to develop a Framework for the Use of Country & Territory Names as TLDs (CWG-UCTN);
- The Cross Community Working Group to develop a Final Framework of Operating Principles for Future Cross Community Working Groups (CWG-Principles) – namely, this CWG;
- The Geographic Regions Review Working Group; and
- The Cross Community Working Group on Internet Governance (CWG-IG).

**TABLE 1: COMPARISON TABLE FOR PAST & CURRENT CROSS COMMUNITY WORKING GROUPS**

WG	Chartered by all participating SO/ACs?	Which SO/ACs participated?	Did charter deal with differing SO/AC procedures?	Did WG make final recs?	Other Comments
<b>CLOSED WGs:</b>					
ccNSO-GAC Liaison	Yes	ccNSO-GAC	No, it established a specific procedure for this working group	N.A.	This WG is now in hibernation. It is a standing committee to propose agendas for the joint meetings.
Country/Territory Names Study Grp	Only ccNSO (it was a ccNSO WG)	ALAC, GNSO as Observers	No, WG developed internal procedures over time, based on ccNSO WG methods	Yes	Study Group has now been succeeded by a CWG chartered by the ccNSO and GNSO Councils
DSSA	Yes	ALAC, ccNSO, GAC, GNSO, NRO	Yes (though parts were modeled on some GNSO procedures and on ccNSO Guidelines for WGs)	Yes	Note the internal mechanisms were never used nor referenced. In practice they were felt to be too limiting.

JAS	Partly	ALAC, GNSO	No	Yes	Each SO/AC approved a different version of Charter; some work items only supported by one group
JIG	Yes	ccNSO, GNSO	No, WG developed internal mechanisms over time, balancing the ccNSO and GNSO procedures.	Yes (though some were superseded by Board action)	The group has now been closed by its chartering organizations
Joint ccNSO-GAC IDN WG	At the request of the Board	ccNSO, GAC, GNSO Liaison, external observers		Yes	The group identified Issues pertaining to the introduction of IDN ccTLDs
IDNC Working Group	ICANN Board	ccNSO, GAC, with observers from GNSO, ALAC, SSAC	No, developed internal mechanism	Yes, Final Report submitted to the ICANN Board of Directors resulting in IDN Fast Track Methodology	<a href="http://ccnso.icann.org/workinggroups/idncwg.htm">http://ccnso.icann.org/workinggroups/idncwg.htm</a>

WG	Chartered by all participating SO/ACs?	Which SO/ACs participated?	Did charter deal with differing SO/AC procedures?	Has WG made preliminary or final recs?
<b>CURRENT WGs:</b>				
ccNSO FoI WG				
CWG-UCTN	Yes	ccNSO, GNSO		No (WG just started)
CWG-Principles	Yes	ccNSO, GNSO & [TBD]	Yes	No (WG just started)
Geo Regions WG	No (by ICANN Board)	ALAC, ccNSO, GAC, GNSO, NRO	Yes (by not specifying one set of	Yes

			rules or process)	
CWG-IG	No	ALAC, GNSO	No	Presented proposal to Net Mundial

The following is a list of the co-chairs of the above-listed CWGs, indicating each of their affiliated SO or AC:

**Closed WGs:**

*ccNSO/GAC Liaison WG:*

Keith Davidson (ccNSO)

*Study Group on Use of Country/Territory Names as TLDs:*

Paul Szyndler (ccNSO)

*Joint Applicant Support WG (JAS):*

Rafik Dammak (GNSO)

Carlton Samuels (ALAC)

*Joint ccNSO/GAC IDN WG:*

Chris Disspain (ccNSO)

Janis Karklins (GAC)

*Joint ccNSO/GNSO IDN WG (JIG):*

Edmon Chung (GNSO)

Jian Zhang, Young Eum Lee (ccNSO)

*Joint DNS Security & Stability Advisory WG (DSSA):*

Olivier Crepin-Leblond (ALAC)

Mikey O'Connor (GNSO)

Jorg Schweiger (ccNSO)

Mark Kosters (NRO)

Jim Galvin (SSAC)

*IDNC WG*

Janis Karklins (GAC)

Chris Disspain (ccNSO)

**Current WGs:**

*Geographic Regions Review WG:*

David Archbold (ccNSO)

*ccNSO FoI WG*

Keith Davidson (ccNSO)  
Frank March (GAC liaison)  
Observers from ALAC

*CWG-UCTN*

Paul Szyndler (ccNSO; interim)  
Heather Forrest, Ching Chiao (GNSO)

*CWG-IG*

Conveners:  
Olivier Crepin-Leblond (ALAC)  
Rafik Dammak (NCSG)

*CWG-Principles*

Becky Burr (ccNSO; interim)  
John Berard (GNSO; interim)

In combination, reviewing the initial GNSO Draft Principles with the ccNSO Feedback, and evaluating the factors contributing to the more successful CWGs listed above may assist this CWG in developing the final Framework, as chartered.

## Annex A: The CWG-Principles Charter

<b>WG Name:</b>		<b>Working Group for the Development of a Framework of Principles for Cross Community Working Groups (CWG-WG)</b>
<b>Section I: Working Group Identification</b>		
<b>Chartering Organization(s):</b>	Country Code Names Supporting Organization (ccNSO) Council & Generic Names Supporting Organization (GNSO) Council	
<b>Charter Approval Date:</b>	TBD	
<b>Name of WG Chair:</b>	TBD	
<b>Name(s) of Appointed Liaison(s):</b>	TBD	
<b>WG Workspace URL:</b>	TBD	
<b>WG Mailing List:</b>	TBD	
<b>GNSO Council Resolution:</b>	<b>Title:</b>	Next Steps in Developing a Framework for Cross-Community Working Groups
	<b>Ref # &amp; Link:</b>	<a href="http://gns0.icann.org/en/council/resolutions#201310">http://gns0.icann.org/en/council/resolutions#201310</a>
<b>Important Document Links:</b>	•	

## Section II: Mission, Purpose, and Deliverables

### Mission & Scope:

#### Background

In October 2011 the GNSO Council [approved](#) the formation of a Drafting Team to “develop a proposed framework under which working groups jointly chartered by other SO/ACs along with the GNSO can effectively function and produce meaningful and timely reports and recommendations on topics that are of interest of such SO/ACs”. In March 2012 the GNSO Council [approved](#) the DT’s [recommendations](#) and directed that ICANN Staff circulate the proposed Draft Principles to the other SO/AC Chairs for their feedback. In June 2013, the ccNSO provided the [ccNSO Feedback](#) to the GNSO Council, highlighting certain aspects of the Draft Principles that warranted further clarification or development of additional principles.

In October 2013 the GNSO Council [adopted](#) a motion resolving to collaborate with other interested SOs and ACs to create an updated set of Cross-Community Working Group principles that can be used across all SOs and ACs to facilitate the effective functioning of future CWGs, taking into account the ccNSO Feedback. A Drafting Team was formed, co-chaired by ccNSO Councilor Becky Burr and GNSO Councilor John Berard, to develop a Charter for this collaborative WG.

This Charter is intended for initial adoption by the ccNSO and GNSO Councils. As the objective of the proposed Working Group is considered to be of common interest to the broader community, other Supporting Organisations (SOs), Advisory Committees (ACs) are invited to participate in the WG on an equal footing and as a fully collaborative effort.

Each of the participating SOs and ACs shall adopt this charter according to its own rules and procedures.

#### Mission and Scope

The Working Group for the Development of a Framework of Principles for Cross Community Working Group (CWG-WG) will be responsible for finalizing a framework of operating principles under which working groups jointly chartered by two or more ICANN Supporting Organizations and Advisory Committees can effectively function and produce meaningful and timely reports and recommendations on topics that are of common interest to such SO/ACs. The CWG-WG will base its work on the initial Draft Principles developed by the original GNSO CWG Drafting Team, as further expanded and supplemented by the ccNSO Feedback. In developing the final framework, the CWG-WG shall at a minimum consider the following matters:

- Prior experiences relating to previous and current CWGs (including without limitation the DSSA Working Group, the Joint Applicant Support Working Group, the Joint GAC-ccNSO IDN Working Group and the Joint ccNSO-GNSO IDN Working Group);
- The need to align the scope of CWGs to the remit of each SO/AC and the appropriate delineation of the scope of a CWG charter as a result;
- The type of issues or topics that might be suitable for CWG work;
- How to deal with outputs from a CWG and decision-making concerning such outputs, particularly in relation to matters where either an SO/AC disagrees with a CWG or with

one another on a CWG's recommendations, and taking into account the differing rules and operating procedures within each SO/AC; and

- The closure of a CWG and, where applicable, periodic future reviews of CWG recommendations.

Should any CWGs be formed during the CWG-WG's deliberations, the CWG-WG may recommend to its Chartering Organizations that such CWGs be requested to consider adopting any principles likely to be recommended by the CWG-WG, as a means of evaluating their effectiveness and practicality.

#### **Objectives & Goals:**

To develop, at a minimum, a Final Report, including the WG's recommendations, if any, for a framework of operating principles that will guide the formation, chartering, operation, reporting and termination of CWGs. This will be delivered to the participating SOs and ACs, in accordance with the processes applicable to each of the participating organizations or committees.

#### **Deliverables & Timeframes:**

The WG will follow the timelines and deliverables as outlined in Annex A of this Charter, which will be updated in accordance with the work plan developed by the WG and that will outline the necessary steps and expected timing.

The Co-Chairs of the WG shall regularly update the participating SOs and ACs on the progress made. At appropriate times, as identified in the work plan, the WG shall produce a Progress Paper on progress made to date to inform the broader community on the progress of the WG.

### **Section III: Formation, Staffing, and Organization**

#### **Participants:**

The WG shall comprise Participants who may be either Members or Observers. Participation in the WG is open to community members from participating ICANN SOs and ACs. There shall be a minimum of two Members from each participating SO and AC and a maximum of five (5) Members from each participating SO and AC, with the maximum number of Members subject to review by the WG Co-Chairs should they determine that the workload and progress of the WG would be facilitated by having additional Members.

In addition, all SOs and ACs may nominate Observers if permitted by and in accordance with their own rules and procedures. Such Observers are entitled to participate in WG deliberations on an equal footing with the Members except for formal voting, when called for by the Co-Chairs of the WG. Voting is limited only to Members. The number of Observers appointed by each SO and AC shall not exceed the number of Members appointed by that SO or AC.

The Members of the WG shall appoint Co-Chairs for the WG, preferably from a different SO or AC. The Co-Chairs shall have primary leadership responsibilities for the WG. The Co-Chairs are encouraged to collaborate with one another and with ICANN support staff in leading the WG.

The Co-Chairs of the Working Group, in consultation with the Members of the WG, may also appoint experts to the Working Group. Experts are not considered Members or Observers, but otherwise are entitled to participate on equal footing.

All WG Participants are expected to be able to:

- Demonstrate knowledge or expertise about aspects of the objectives of the WG; and
- Commit to actively participate in the activities of the WG on an ongoing basis.

All participants (i.e. Co-Chairs, Members, Observers and support staff) will be listed on the WG's workspace.

#### **Group Formation, Dependencies, & Dissolution:**

Each of the participating SOs and ACs shall appoint Participants to the WG in accordance with their own rules and procedures.

#### **Working Group Roles, Functions, & Duties:**

The ICANN Staff assigned to the WG will fully support the work of the WG as requested by the Co-Chairs, including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.

Staff assignments to the Working Group:

- GNSO Secretariat
- 2 ICANN policy staff members (Bart Boswinkel & Mary Wong)

#### **Statements of Interest (SOI) Guidelines:**

All Participants are required to submit a Statement of Interest in order to participate in the WG. Participants from SOs or ACs for which a Statement of Interest is required for participation in a WG shall submit an SOI in accordance with the rules applicable to that SO/AC (if any); other Participants shall submit an SOI that provides information comparable to that required by the rules applicable to one SO/AC for which SOIs are required.

### **Section IV: Rules of Engagement**

#### **Decision-Making Methodologies:**

- In considering its work plan, papers, Final Report and Supplemental Final Report (if any) the WG shall seek to act by consensus. If a minority of the Participants opposes a consensus position, that minority position shall be incorporated in the related paper. The Co-Chairs shall be responsible for designating each position as having either attained "consensus" or "no consensus" in the WG.

Based upon the WG's needs and/or the Co-Chairs' direction, WG Participants may request that their names are not associated explicitly with any view/position.

Consensus calls should always utilize best efforts to involve the entire WG, and include at least two WG readings of the recommendations to allow all Participants to state their views. It is the role of the Co-Chairs to designate which level of consensus is reached and announce this designation to the WG. The Co-Chairs may call for a vote of the Members on proposed recommendations if they reasonably believe that this will facilitate the WG's deliberations.

#### *WG Final Paper*

In considering its Final Paper the WG shall seek to act by consensus. The consensus view of the WG shall be conveyed in a Final Paper to the participating SOs and ACs as the recommendation of the WG. If one or more Participants oppose(s) a consensus position, the minority position/s shall be included in the Final Paper. The Paper shall be published on the WG web site within seven working days after adoption of the Paper by the WG and conveyed to the Chairs of the participating SOs and ACs.

In the event that no consensus is reached by the WG, the Final Paper shall be considered the Final Report of the WG, and will be submitted as such to the participating SOs and ACs.

#### *SO and AC support for the Final Paper*

Following submission of the Final Paper each of the participating SOs and ACs shall in accordance with their own rules and procedures discuss the Final Paper and decide whether to adopt the recommendations contained in it. The Chairs of the participating SOs and ACs shall notify the Co-Chairs of the WG of the result of the deliberations as soon as feasible.

#### *Supplemental Paper*

In the event that one or more of the participating SOs or ACs do(es) not adopt one or more of the recommendation(s) contained in the Final Paper, the Co-Chairs of the WG shall be notified accordingly. This notification shall include at a minimum the reasons for the lack of support. The Members of the WG may, at their discretion, reconsider, post for public comments and/or submit a Supplemental Paper to the participating SOs and ACs.

Following submission of the Supplemental Paper (if any), the participating SOs and ACs shall discuss and decide in accordance with its own rules and procedures whether to adopt the recommendations contained in the Supplemental Paper. The Chairs of the participating SOs and ACs shall notify the Co-Chairs of the WG of the result of the deliberations as soon as feasible.

#### *Final Report*

After receiving the notifications from all participating SOs and ACs as described above, the Co-Chairs of the WG shall, within ten working days after receiving the last notification, submit to the Chairs of all the participating SOs and ACs the WG's Final Report, which shall include at a minimum:

- a) The (Supplemental) Final Paper as adopted by the WG; and
- b) The notifications of the decisions from the participating SOs and ACs

In the event one or more of the participating SOs or ACs do(es) not support (parts of) the (Supplemental) Final Paper, the Final Report should also clearly indicate the part(s) of the (Supplemental) Final Paper which are fully supported and which parts that are not, and which SO or AC dissents from the WG view, if feasible.

In the event that no consensus is reached by the WG, the Final Report will document the process that was followed and will be submitted to the participating SOs and ACs to request closure of the WG.

In the event the Co-Chairs determine, after consulting the Members of the WG, that this Charter does not provide sufficient explicit guidance and/or the application of the Charter unreasonably hinders the conduct of the business of the WG, the Co-Chairs of the WG shall have the authority to determine the proper actions. Such action may, for example, consist of a modification to the Charter in order to address the omission or its unreasonable impact, in which case the Co-Chairs shall propose such modification to the participating SOs and ACs. A modification shall only be effective after adoption of the amended Charter by the participating SOs and ACs, in accordance with their own rules and procedures.

**Status Reporting:**

As requested by the ccNSO Council or the GNSO Council, taking into account the recommendation of the Council liaison(s) to the WG.

**Problem/Issue Escalation & Resolution Processes:**

The WG will adhere to [ICANN's Expected Standards of Behavior](#) as documented in Section F of the ICANN Accountability and Transparency Frameworks and Principles, January 2008.

**Closure & Working Group Self-Assessment:**

The WG will close upon the delivery of its Final Report.

**Section V: Charter Document History**

Version	Date	Description

<b>Staff Contact:</b>	Mary Wong	<b>Email:</b>	<a href="mailto:Policy-staff@icann.org">Policy-staff@icann.org</a>
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## Annex B: the GNSO's Draft Principles

The Draft Principles developed by the GNSO's original DT and approved by the GNSO Council were the following, encompassing the scope, formation, execution and expected outcomes of CWGs:

### (1) Scope of CWGs

#### (a) Possible Purposes:

(i) To provide information and recommendations to the chartering organizations (and perhaps ultimately the broader ICANN community) in accordance with the charter or directions from the chartering organizations;

(ii) To provide a discussion forum to achieve greater community understanding;

(iii) In any event, consensus policy development must occur using current SO/AC rules.

#### (b) Relationship to Policy Development Processes (PDPs):

The formation of a CWG may occur either prior to, following, or independent of a PDP to help define issues and concerns, or to provide implementation recommendations or related guidance.

### (2) Operation of CWGs:

#### (a) Formation:

(i) Apply appropriate SO/AC Working Group Guidelines to all CWGs whenever possible;

(ii) All participating SO/ACs should approve a single, joint Charter that defines the rules and procedures for the CWG;

(iii) CWG Charters should include outcomes expected of the CWG and steps to be followed to review outcomes by the chartering organizations.

#### (b) Execution of CWGs:

(i) CWGs should follow the approved charter and bring concerns back to all chartering organizations for resolution according to their respective processes;

(ii) SOs/ACs should solicit and consider the views of other SOs/ACs;

(iii) CWGs should seek to accommodate diverging views where possible before finalizing positions.

(c) Outcomes of CWGs:

(i) CWGs do not develop policy. CWG recommendations should be considered for possible approval through the appropriate PDP;

(ii) CWGs must communicate final reports and outcomes to chartering organizations for review and action;

(iii) CWGs' output must not be taken as an expression of community consensus, except as it may be endorsed as such by its chartering organizations;

(iv) SOs/ACs should commit to timely review and finalizing of actions to avoid delays.

## Annex C: the ccNSO's Feedback

### (A) SUMMARY OF ccNSO FEEDBACK

The ccNSO Feedback was divided into several parts. First, it highlighted several considerations that the ccNSO believed required either further clarification or work. These included the following, which are further elaborated on below:

- Clarifying the definition of the scope of the Working Group (“WG”) in relation to the remit of participating SO/ACs;
- What should, and, more importantly what should not be included in a WG charter;
- Dealing with decision making by the participating SO/AC’s, in particular in the case of a disagreement across participating SO/ACs and/or between the WG and one or more of the participating SO/ACs;
- Closure of the WG; and
- A regular review of the CWG principles.

Secondly, the ccNSO offered the following as reasons for divergent expectations and perceptions when CWG participants are drawn from different SO/ACs:

- They may have different views as to the purposes, scope and expected outcomes of WGs: for example, ccNSO WGs are the general mechanism to organize its activities and they are used for a variety of purposes, ranging from administrative matters to policy related work.
- There is a different activity focus and function for SO/ACs in the general ICANN framework: for example, ccNSO policy development in the strict sense is very limited.
- There may be different intended audiences for each SO/AC WG’s output.
- There are differences in the role and function of the ccNSO Council and the GNSO Council vis-à-vis their members and stakeholders or constituents (respectively) as well

as for the members and leadership of the other SO/ACs.

- There may be different anticipations as regards the role of support staff.
- There exist different SO/AC internal organizational rules and procedures for charter adoption, WG participation, and voting thresholds: for example, the ccNSO Council appoints its WG members.

Thirdly, the ccNSO noted that it runs various different types of WGs, ranging from those it creates itself and to which it appoints liaisons and observers or invites participation from other SO/ACs, to those which it establishes jointly with other SO/ACs, and those that are initiated by the Board (and which can also be joint WGs.) It also outlined the typical life cycle of a ccNSO WG, as follows:

- The definition of the purpose and scope of a WG is first done by the Council or Advisory Committee and is reflected in the WG charter; this includes the definition of the deliverables and a tentative timeline and schedule.
- This is followed by the formation of the WG, resulting in the adoption of the charter, appointment of chairs, members and other participants.
- The internal working practices or operation of a ccNSO WG cover the following areas:
  - ✓ Rules and procedures for the WG
  - ✓ Decision making in the WG by the membership
  - ✓ Defining the role of the WG chair
  - ✓ Rules and procedures for amending the charter
  - ✓ Public consultations
- When it comes to decision-making, the WG reports to the constituting body, which will take a decision/action based on the output of the WG.
- Closure of WG is the next step in the life cycle of the WG.

- Follow-up action and next steps include sharing information, informing the ICANN Board or possibly the formation of a new WG. This is out of scope of the WG itself, but its output could for instance lead to the creation of a follow-up WG.

Finally, combining its observations on the differences, types and life cycles, the ccNSO provided specific comments and suggestions on the following issues that it believed the Draft Principles do not currently address:

***I. What is a CWG? What is/are the determining factor(s)?***

On this question, the ccNSO's experience to date with several successful cross community working groups (e.g. IDNC WG, FoI WG, DSSA WG and JIG WG) has shown that it is critical that:

- The charter is adopted/supported by the participating SO/ACs, and
- More importantly, the output of the WG has to be adopted/supported by the participating SO/ACs in accordance with their own rules and procedures.
- The topic also needs to have clear cross-community aspects. This implies that a CWG reports to all participating SO/ACs as well as the need for a reconciliation mechanism if not all participating SO/ACs adopt/endorse/support the output of the WG.

***II. What should be the purpose and scope of CWGs?***

Each of the ICANN SOs and ACs has its own remit, not just in terms of whether it can develop policies and the scope of these policies but also for other activities. The Draft Principles address only part of this issue (where they state that the output of a CWG should not supersede the output of policies, nor should a CWG replace a PDP); as such it should therefore be made explicit that the purpose and scope of a CWG should be within the remit of each of the participating SO/ACs.

***III. What should be covered in the charter?***

This discussion should take into account that, as the ccNSO's experience with CWGs has shown, rules and procedures for WGs and hence expectations how WG activities are organized differ from one SO/AC to the next, and do not cover the same aspects (such as internal decision

making, reporting or the appointment of WG members).

**IV. *What should govern decision making by the relevant Councils and Advisory Committees?***

Where the Draft Principles seem to assume that all Councils and Advisory Committees will automatically approve/support the output of CWGs, the ccNSO's experience has been that this is not the case; as such supplementary rules to deal with this situation should be included. These rules should include the recognition that a participating SO/AC will not change the output from a WG unilaterally, and provide for a reconciliation mechanism.

**V. *What principles will govern the closure of a CWG?***

For example, what if a participating SO/AC decides to end its participation in the CWG?

**VI. *Under what circumstances and when should a review of the principles be done?***

This is an administrative step that may still be necessary on a regular basis in order to maintain the relevance and acceptability of the CWG principles and their associated processes.

The ccNSO concluded its comments by noting that several of the Draft Principles already cover rules and procedures followed by ccNSO WGs, for example, by stating that: (i) the purpose and scope of a CWG may not supersede policy development processes as defined in the ICANN Bylaws; (ii) cross community output must not be taken as an expression of consensus of the participating SO/ACs; and (iii) SO/ACs should commit to timely review and finalizing of actions to avoid delays.

## **(B) FULL TEXT OF ccNSO FEEDBACK**

### **ccNSO Comments and suggestions on GNSO draft Principles Cross Community WG's**

#### **Introduction and Summary**

The GNSO has tentatively adopted cross community WG principles at its meeting in Costa Rica. It is now seeking input and feedback from the ccNSO. The ccNSO Council acknowledges the usefulness of principles or guidelines. The Council also acknowledges that these principles or guidelines should be at a high-level. However, based on the ccNSO experiences and practices with regard to cross-community working groups to date, some aspects relating to

the creation, operation and decision-making of cross-community working groups need further clarification or need to be captured in additional principles, in particular:

- The definition of the scope of the working group in relation to the remit of participating SO's and AC's should be clarified.
- What should, and, more importantly what should not be included in a charter
- Decision making by the participating SO's and AC's, in particular in case of disagreement across participating SO's and AC's and/or between WG and (one of the) participating SO's or AC's.
- Closure of the WG
- Regular review of the principles

### **Framework for Analysis.**

As a result of the increased complexity and cross community nature of the issues facing the SO's and AC's, it can be expected that the need for cross-community working groups will increase. General agreed upon principles will facilitate the creation and functioning of these working groups. However, taking into account the divergences in expectations and perceptions of working groups and the different internal practices relating to working groups, a common framework for cross community working groups will only add value if it takes these experiences and differences into account.

#### *(A) ccNSO cross community working groups*

The ccNSO has initiated and participated in several cross community working groups. Some of these working groups have been more successful than others. Currently the ccNSO and ccTLD community are engaged in following cross community WG:

- Framework of Interpretation WG
- DSSA WG
- Joint ccNSO-GNSO IDN WG (JIG WG)

Former, successful cross-community working groups include:

- IDNC WG (responsible for proposing the IDN ccTLD Fast Track methodology) and
- Joint GAC-ccNSO IDN WG.

The ccNSO has also initiated some working or study groups with participants from other SO's and AC's, which are still active:

- Study Group on Use of country names as TLD's,
- IDN ccPDP Working group (1).

#### *(B) Different expectations and perceptions*

Experience has shown that the success of cross community working group is determined by matching differences in expectations and perceptions across the participating SO's and AC's regarding purpose, function and working methods of cross-community working groups. Major driving factors for these differences are:

- Purpose, scope and expected outcome: For the ccNSO working groups are the general mechanism to organize its activities and they are used for a variety of purposes, ranging from administrative matters to policy related work.
- Main focus of activities and function of SO or AC in the general ICANN framework: For the ccNSO policy development in the strict sense is very limited.
- Related to the previous point is who is the intended audience of the output. The output of ccNSO WG is aimed at different audiences, ranging from the ccNSO meetings attendants to the ICANN Board of Directors
- Role and function of the ccNSO Council vis-à-vis membership of the ccNSO and that of the GNSO Council and constituencies in the GNSO, and member and leadership of the other SO's and AC's.
- The anticipated role of support staff.
  
- SO and AC internal organizational rules and procedures: Each of the SO and AC have their own rules and procedures to adopt charters, appoint members to working groups and voting. The ccNSO council appoints members to WG.

### *(C) Typology of Working groups*

From a ccNSO perspective Working Groups in which non-ccTLD managers are participating can be categorised as:

1. ccNSO established working group, with invited observers or liaisons.  
Example: Delegation and Re-delegation Working Group, IDN ccPDP WG 1.
2. ccNSO created Working Group with participation of other SO and/or AC's on an invitation basis. Example: Framework of Interpretation Working Group,
3. Joint Working Groups: ccNSO and one or more SO's or AC's participate in the creation of the Working Group. Examples: DSSA WG, JIG WG.
4. Board appointed, joint WG: Examples: IDNC WG, Joint Board Geographic Regions WG (not included in comparison).

### *(D) Life cycle of working groups*

Each WG will follow the following typical life cycle:

- Definition of purpose and scope of Working Group by the Council or Advisory Committee (reflected in charter), in accordance with its own rules and procedures.

The definition of purpose and scope includes the definition of the deliverables and a tentative timeline and schedule.

- Formation of the WG, resulting in adoption of charter, appointment of chairs, members and other participants.
- Internal Working Practices or operation of the WG
  - Rules and procedures of SO or AC for WG
  - Decision making in WG by WG membership
  - Definition of role of chair
  - Rules and procedures for adjustment of charter
  - Public consultations
- Decision making processes by the participating SO's and AC's. WG report to the constituting body, which will take a decision/action based on the output of the WG.
- Closure of WG
- Follow-up action (Share information, Inform Board, new WG etc.), next steps. This is out of scope of the WG itself, but could for instance lead to creation of a follow-up WG (examples: DRDWG -> FoIWG, ccNSO Geographic Regions WG -> Geographic Regions WG constituted by the Board)

### **Aspects for Clarification or Additional Principles**

Combining the life-cycle model, typology and differences in expectations and perceptions, the draft principles for Cross Community Working Groups's (cWG's) can be reviewed on the basis of the experiences of ccNSO with former and existing joint WG's.

From a ccNSO perspective, the guiding principles for cross community working groups do not cover all aspects. In particular the following main aspects are not included i.e. should be made more explicit:

- What is considered to be a cross community WG? What is/are the determining factor(s)? The draft principles do not address, what is considered to be a cross-community working group. Experience to date has with successful cross community working groups (IDNC WG, FoI WG, DSSA and JIG) shown that it is critical that 1. the charter is adopted/supported by the participating SO's and/or AC's. and more importantly, 2. the output of the WG has to be adopted/supported by the participating SO's and AC's in accordance with their own rules and procedures. Further the topic needs to have clear cross-community aspects. This implies that a cross community WG reports only to all participating SO's and AC's. It also implies the need for a reconciliation mechanism if not all participating SO's and AC's adopt/endorse/support the output of the WG. This should be reflected in the principles.

- Purpose and scope of cross-community WG: Each of the ICANN SO's and AC's has its own remit, not just in terms of whether it can develop policies and scope of these policies but also for other activities. The draft principles for CWG's address only part of this issue (the output of a ccWG should not supersede the output of policies, nor should a CWG replace a PDP). It should therefore be made explicit that the purpose and scope of a ccWG should be within the remit of the ccNSO (and of other other SO's and AC's for that matter).
- What should be covered in the charter? Experience has shown that rules and procedures for working groups and hence the expectations how the activities are organized differ per SO and AC, and do not cover the same aspects (internal decision making, reporting, appointment of membership).
- Decision making by Councils and Advisory Committees. The proposed principles seem to assume that all Councils and Advisory Committees will automatically approve/support the output of ccWG's. Experience has shown this is not the case (see for example the proposed letter from the JIG to the ICANN Board of Directors) The Principle that supplementary rules to deal with this situation should be included. It should also be included that a participating SO or AC will not change the output from a working group unilaterally, and further a reconciliation mechanism.
- Closure of WG. This is not addressed in the principles. What will happen if one of the participating SO's or AC's ends its participation?
- Review of the principles. Although administrative by nature, review of the principles on a regular basis should therefore be included as a guiding principle in order to maintain the relevancy and acceptability of the Principles and the associated processes.

At the same time it should be noted that some of the proposed principles do cover aspects that are covered in charters of ccWG in which the ccNSO is participating:

- The purpose and scope of a cross community may not be used to supersede policy development processes as defined per ICANN Bylaws.
- Cross community output must not be taken as an expression of consensus of the participating SO's or AC's.
- SOs/ACs should commit to timely review and finalizing of actions to avoid delays.