WP2 Meeting #9 (21 July)

Attendees:

Sub-Group Members: Amr Elsadr, Avri Doria, Becky Burr, Carlos Raul, David McAuley, Desiree Miloshevic, Edward Morris, Farzaneh Badii, Finn Petersen, Greg Shatan, James Gannon, Jonathan Zuck, Konstantinos Komaitis, Malcolm Hutty, Par Brumark, Steve DelBianco, Thomas Rickert

Staff: Alain Durand, Bart Boswinkel, Bernie Turcotte, Berry Cobb, Brenda Brewer, Laena Rahim

Apologies:

Please let Brenda know if your name has been left off the list (attendees or apologies).

Transcript

- Transcript WP2 Meeting #9_21 July.doc
- Transcript WP2 Meeting #9_21 July.pdf

Recording

- Adobe Connect recording is available here: https://icann.adobeconnect.com/p7kzw6dt60x/
- MP3 recording is available here: http://audio.icann.org/gnso/gnso-wp2-21jul15-en.mp3

Documents

7-21 Mission Commitments and Core Values_update.pdf

Chat Transcript

Brenda Brewer: (7/21/2015 07:33) Good Day and Welcome to the Accountability WP2 Meeting #9 on 21st July at 13:00 UTC.

Brenda Brewer: (07:33) Chat sessions are being archived and follow the ICANN Expected Standards of Behavior: http://www.icann.org/en/news/in-focus/accountability/expected-standards

Becky Burr: (07:48) Hi Brenda, do you have the document I circulated to the group yesterday?

Brenda Brewer: (07:49) I do.

Becky Burr: (07:53) great, thanks.

Brenda Brewer: (07:57) You're welcome!

Carlos Raul: (07:57) good morning

Carlos Raul: (07:57) Am I in the right chat room?

Carlos Raul: (07:58) Hi Becky

Becky Burr: (08:00) yes, you are Carlos

Bernard Turcotte Staff Support: (08:00) hi all

Pär Brumark (GAC Niue): (08:01) Hi all!

David McAuley: (08:04) Agree Becky that we saud we would leave it at "coordinate"

David McAuley: (08:04) no objection

David McAuley: (08:06) seems a fair point Malcolm is making

Steve DelBianco [GNSO - CSG]: (08:06) Is the IRP standard of review based on all of the Bylaws, or only this section?

Malcolm Hutty: (08:09) Call dropped

Malcolm Hutty: (08:09) be right back

Malcolm Hutty: (08:11) If the Mission statement is too narrow, broaden it. But don't authorise ICANN acting outside it

Malcolm Hutty: (08:11) Add timekeeping to the Mission then

Malcolm Hutty: (08:12) But we don't want ICANN to add new areas without community authorisation

Steve DelBianco [GNSO - CSG]: (08:13) the timezone database assists ICANN in its mission of engaging with global stakeholders.

Avri Doria: (08:13) aren't they unique identifiers?

Steve DelBianco [GNSO - CSG]: (08:13) Its a support task to help with ICANN's explicit mission

Jonathan Zuck (IPC): (08:14) same with NetMundial

David McAuley: (08:14) But Steve and Greg that is a very broad standard for deciding what is within mission

Becky Burr: (08:15) "in furtherance of its mission" ??

Becky Burr: (08:15) pretty broad

David McAuley: (08:16) maybe we shouyld say "expressly" instead of "specifically," and "necessary" instead of "reasonably necessary."

Avri Doria: (08:17) is this all about (mostly about) netmundial?

Becky Burr: (08:17) David, that would make it even more limited

Steve DelBianco [GNSO - CSG]: (08:17) The secret board resolution could have been challenged as against the transparency requirement in the bylaws.

Greg Shatan: (08:17) David, I think that's going in the wrong direction.

Steve DelBianco [GNSO - CSG]: (08:17) the money spent on NetMundial would be challenged by blocking the budget

Becky Burr: (08:17) +1 Steve

Carlos Raul: (08:17) I like Jonathans idea

Carlos Raul: (08:18) if not approved byt the community or so

Jonathan Zuck (IPC): (08:18) yes, Steve, that's true of anyting now. What exactly are we trying to accomplish with this bylaw change other than a basis for an IRP?

Avri Doria: (08:18) if it is too stringent then erhaps we should not support it.

David McAuley: (08:19) if we are going for red language that seems good despite my comment about "reasonably necessary"

Malcolm Hutty: (08:20) @Jonathan, before we even think about an IRP, this language is the basic purpose to guide the Corporation

Edward Morris: (08:20) I like appropriate

Jonathan Zuck (IPC): (08:21) sure @Malcolm, I salute your rhetoric. I was asking a practical question.

Jonathan Zuck (IPC): (08:21) ;)

Jonathan Zuck (IPC): (08:21) exactly

David McAuley: (08:22) "or further" is broadening

Jonathan Zuck (IPC): (08:22) reasonably appropriate to its mission

Malcolm Hutty: (08:22) @JZ, it wasn't meant as a debating point. On the contrary, this is how it will be used most of the time

Avri Doria: (08:22) i am comfortable with appropriate and further.

Malcolm Hutty: (08:23) +1 to Greg

Avri Doria: (08:23) i do not feel a need to create a traighjacket.

Greg Shatan: (08:24) Maybe for specific people...

Thomas Rickert: (08:24) fine with me, too

Malcolm Hutty: (08:25) I'm ok with those

Jonathan Zuck (IPC): (08:25) agree

Greg Shatan: (08:26) Any test that introduces a "necessity test" tends to create a straitjacket.

Greg Shatan: (08:26) Works for me.

Carlos Raul: (08:26) take note that English is my second language...

Avri Doria: (08:27) greg that is what i meant.

Malcolm Hutty: (08:28) I think it must have been somone else that pointed that out

Greg Shatan: (08:28) Avri, I was building on your statement, in agreement with it.

Avri Doria: (08:31) i did not accept that then and dont now.

Avri Doria: (08:31) that is why we have to be aware of the impact. of what we do.

Avri Doria: (08:32) this is a very simple statement.

Malcolm Hutty: (08:33) @Avri, if you've got a recognition of the principle of human rights included through "relevant principles of international law and international conventions", doesn't that suggest that as a consequence the question of how best to understand what that means to us in this context can be left to WS2? We're no longer establishing a principle - that is done - but implementing it

Avri Doria: (08:33) this is NOT all about Intellectual property. the whoel word does not revolve around IP

Pär Brumark (GAC Niue): (08:33) +1 Greg!

Avri Doria: (08:34) we are all in favor of HR except ....

Becky Burr: (08:34) shall we move this to WS2?

Avri Doria: (08:35) the task is not large.

Jonathan Zuck (IPC): (08:35) the problem is that absent a balancing test between rights, we creat opportunities for IRP mischief when rights are in conflict. Can we build the impact assessment into the PDP?

David McAuley: (08:35) +1 @Becky, I think this is important and takes time and WS2 would be the better course

David McAuley: (08:35) +1 Thomas

Greg Shatan: (08:36) Stress tests, too....

Avri Doria: (08:36) the point is we do npot take them into account.

Edward Morris: (08:36) +1 Jonathan

Avri Doria: (08:36) the only reason it is a rush is becaue people kept pushing it off.

Avri Doria: (08:37) as i say i will need to file a mnority statement if it is isn't included. which is fine.

Avri Doria: (08:39) i do not accept.

David McAuley: (08:39) Becky, there is a group known as: CrossCommunity Working Party on ICANNs Corporate and Social Responsibility toRespect Human Rights (CCWP HR)

Becky Burr: (08:40) thanks David

Avri Doria: (08:40) the HRPC is an excsue to push it off.

Avri Doria: (08:40) otherwise it would have been a HR CWG

David McAuley: (08:40) I defer to Avri on where the group fits in

Edward Morris: (08:41) @ Davis. Their remit is different than what we'd be looking at in an Accountability WS2 subgroup. Although there would be some overlap I'd suggest we should proceed with our own effort.

Avri Doria: (08:41) the commitement is to understandign the impactr.

David McAuley: (08:41) Thanks Ed - I am aware of the group only generally and acknowledge your point

Greg Shatan: (08:41) I would support creating a formal HR CWG. That's the right place to deal with this.

Amr Elsadr: (08:42) As far as I know the human rights group is still a Working Party (WP), which is an informal group. This may evolve into a more formal group at a later date. The existence of that group does not preclude this one addressing HRs .

Malcolm Hutty: (08:43) I think this language, especially when coupled with an extra description of our intent, will be sufficient to ensure a CCWG HR will be created

David McAuley: (08:44) Thanks Amr

Steve DelBianco [GNSO - CSG]: (08:45) @Avri -- are yuo seeking commitment to mitigate ICANN impact on human rights, too?

Malcolm Hutty: (08:46) A minority statement that said that would be inaccurate

Edward Morris: (08:46) I like Becky's earlier proposal to set up a group to look at this in WS2 with the ame committment given that group as other WS2 groups.

Avri Doria: (08:47) i do not think i am micharacterizing.

David McAuley: (08:47) +1 Edward

Avri Doria: (08:47) mischaraterizing.

Amr Elsadr: (08:47) @Ed: +1

Avri Doria: (08:48) Greg we see it very differently.

Greg Shatan: (08:48) It happens sometimes.

Amr Elsadr: (08:50) @Greg: Global public interest is included in the ICANN bylaws without the scrutiny to define it in the manner you suggest for HRs. :)

Greg Shatan: (08:52) As a public benefit corporation, ICANN is by definition operated in the public interest.

Becky Burr: (08:52) j. The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the ICANNBoard determines to take an action that is not consistent with the Governmental Advisory Committee advice, it shall so inform the Committee and state the reasons why it decided not to follow that advice. Unless ICANN determines that the advice addresses a matter that exceeds its Mission or violates its Bylaws, the The Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

David McAuley: (08:53) pls mute lines

Greg Shatan: (08:57) Steve, you have lots of static on your line....

Steve DelBianco [GNSO - CSG]: (08:58) ST 18 led to the change that only GAC Consensus advice triggeres the obligation to try to find a mutually acceptable solution

Malcolm Hutty: (09:00) @Greg, we're not saying we won't have that discussion, but that it's undesirable to hold up a Board decision based on a request that is impossible to fulfil

Becky Burr: (09:01) so, as an alternative, how about a direct statement to the effect that ICANN cannot accept GAC advice on matters outside its bylaws or in violation of its mission

Greg Shatan: (09:01) What is the consequence of "non-acceptance"?

Amr Elsadr: (09:01) I don't know if this is relevant, but the GNSO council has started a new practice where it addresses GAC commuiques as far as they impact work within the GNSO's remit. The idea is to inform the ICANN board with how these issues are being addressed within GNSO processes, to assist the board in how it reacts to GAC Advice.

Malcolm Hutty: (09:02) @Becky: yes, but language needs to be precise. It cannot accept GAC advice *to do something* outside its Mission or in violation

David McAuley: (09:02) the direct statement seems fine

Greg Shatan: (09:02) Sound of thinking.

Malcolm Hutty: (09:02) "on matters outside" isn't quite right. e.g. whether Amazon is a reservable word is a matter outside Mission, but decision as to whether to reserve it is within

Avri Doria: (09:05) exactly what langauge?

Finn petersen, GAC - DK: (09:05) Do we need this kind of language. I expect thatthe Board allways will take decision within the bylaws

Avri Doria: (09:06) i am not clear on what langauge

Malcolm Hutty: (09:06) @Finn, I think it is helpful to be explicit that Bylaws take first precedence

Becky Burr: (09:08) good idea

Finn petersen, GAC - DK: (09:09) Thomas - that suggestion is in my view much better

Malcolm Hutty: (09:09) @Thomas's idea. Works for me.

James Gannon: (09:09) +1 great idea

Avri Doria: (09:09) can we see the current langauge in the chat?

David McAuley: (09:09) Agree that is a good idea

Greg Shatan: (09:11) Losing you...

David McAuley: (09:11) so like tghe suggested language Becky along with notion that ICANN will so notify the group that the advice was rejected as outside etc

Steve DelBianco [GNSO - CSG]: (09:12) +1 Becky. Belongs in the Advice section

Jonathan Zuck (IPC): (09:12) agreed Becky

Thomas Rickert: (09:13) advice

Malcolm Hutty: (09:13) ICANN shall have no power to act other than in accordance with, and [as reasonable appropriate] to [further] its Mission. This shall take precedence over any duty to defer to advice received from any advisory group

Greg Shatan: (09:14) should be reasonably not reasonable....

James Gannon: (09:14) I have to run to the PPSAI call sorry guys!

David McAuley: (09:14) none here

Malcolm Hutty: (09:14) @Greg: bits in [brackets] indicated text we had changed in this call, which i didn't have a note on

David McAuley: (09:15) Well thanks Becky

Thomas Rickert: (09:15) Thanks Becky. Well done!

Jonathan Zuck (IPC): (09:15) Thanks Becky

Edward Morris: (09:15) Thanks Becky.

David McAuley: (09:15) Becky - what agenda for call tomorrow

David McAuley: (09:15) roughly

Greg Shatan: (09:15) Thanks, Becky

David McAuley: (09:15) Thanks

David McAuley: (09:15) Good bye all

Malcolm Hutty: (09:15) thanks becky