CCWG ACCT Meeting #68 (17 November @ 19:00 UTC)

Attendees:

Members: Alan Greenberg, Athina Fragkouli, Becky Burr, Bruce Tonkin, Cheryl Langdon-Orr, Fiona Asonga, Jordan Carter, Jorge Villa, Julia Wolman, Julie Hammer, Leon Sanchez, Mathieu Weill, Olga Cavalli, Pär Brumark, Robin Gross, Samantha Eisner, Sebastien Bachollet, Steve DelBianco, Thomas Rickert   (19)

Participants: Aarti Bhavana, Allan McGillivray, Andrew Sullivan, Anne Aikman-Scalese, Arun Sukumar, Avri Doria, Bradley Silver, Brett Schaefer, Chris Wilson, Christopher Wilkinson, David Maher, Finn Petersen, Gary Hunt, Greg Shatan, Jeff Neuman, Jon Nevett, Jorge Cancio, Kavouss Arasteh, Keith Drazek, Lousewies van der Laan, Martin Boyle, Mary Uduma, Matthew Shears, Milton Mueller, Padmini Baruah, Paul Szyndler, Pedro Ivo Silva, Phil Buckingham, Philip Corwin, Sabine Meyer, Seun Ojedeji, Suzanne Radell, Tatiana Tropina, Thomas Schneider, Tom Dale, Tracy Hackshaw   (36)

Legal Counsel: Holly Gregory, Michael Clark, Rosemary Fei, Stephanie Petit

Staff: Bernard Turcotte, Berry Cobb, Brenda Brewer, Grace Abuhamad, Hillary Jett, Karen Mulberry, Marika Konings, Theresa Swinehart, Trang Nguyen

Apologies: Jonathan Zuck

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

Transcript

- [Transcript CCWG ACCT #68_17 November.doc](#)
- [Transcript CCWG ACCT #68_17 November.pdf](#)

Recording

- The Adobe Connect recording is available here: https://icann.adobeconnect.com/p3g4ckwym08/
- The audio recording is available here: http://audio.icann.org/accountability/ccwg-accountability-17nov15-en.mp3

Agenda

1. Welcome, Roll Call, SoI

2. Opening remarks

    - publication of Summary Document

    - engagement with Chartering organizations

3. Mission Discussion

4. PDP interaction with Standard Bylaws Veto

5. Decision-making - thresholds of support

6. ST-18 subgroup update

7. Timeline Discussion

8. AOB

Notes

These high-level notes are designed to help you navigate through content of the call and do not substitute in any way the transcript.

1. Welcome, Roll Call, SOI

- Agenda slightly modifed in order, but the items remain the same as circulated earlier this week.
- Samantha and Mathieu on audio only.

2. Opening Remarks

- Dublin Update published on Sunday (was originally labeled as a Summary, but considering the feedback on the list, the document was modified slightly in purpose)
- There are some outstanding items. These will be discussed on today's call.
- This document is a communication tool for those outside the CCWG who have had a difficult time following the progress.
- Support and endorsement of Chartering Orgs is critical to the success of the CCWG.

Action (CCWG Members): Chartering Org appointed members to socialize the 'Dublin Update' with respective communities and prepare for release of full proposal on 30 November.

3. Mission Discussion

- On the left is the language circulated immediately after Dublin (based on 2nd Draft Proposal).
- Since then, the discussion has evolved to present different alternatives (one from Andrew Sullivan, one from Shatan/Mueller /Bladel and one from Mueller).
- Support for Alternative 1 language.
- Add "ICANN shall have the ability to negotiate, enter into and enforce agreements with contracted parties *[in service of / in so far as these agreements are consistent with /in furtherance of / consistent with/ in performing]* its Mission.". This group's preference was "**in service of**"

Action (Becky/Chairs): Provide an explicit certified description of the task and all of the considerations for legal counsel to incorporate in this drafting exercise.

Action (Adler/Sidley): Request that legal counsel review the language for the Mission, noting the group's preference and Sebastien's concern for non-native English speakers.

4. PDP interaction with Standard Bylaws Veto

- Proposal that PDP changes come through as a package.
- Read the full proposal here: http://mm.icann.org/pipermail/accountability-cross-community/2015-November/008104.html
- No objection to the proposal.

5. Decision-making - thresholds of support

- There is no document for this issue, but there has been discussion on list.
- If the GAC does not participate in the community mechanism, the thresholds currently in place would require unanimous participation.
- GAC position currently: GAC will take a position when we have the position on the paper. Until then, the GAC has consensus input on the second draft report.

Action (Jordan/WP1): Send a written proposal to the CCWG mailing list describing the issue and the proposed solution(s). Include clarification on whether or not abstention is considered support or not.

6. ST-18 subgroup update

- The first ST-18 subgroup call was yesterday.
- Another call scheduled for tomorrow (Wednesday) at 13:00 UTC.
- The goal is to come back to the CCWG by next Monday at the latest (so that results are ready for the CCWG call on Tuesday).

7. Timeline Discussion

- 21 – 23 Nov-15 Feedback from CCWG
- 23-Nov-15 Final comments on Full Proposal content due from CCWG by midnight UTC
- 24 – 25 Nov Finalizing content (send to translation/formatting at midnight UTC on 25th)
- 30-Nov-15 Beginning of Public Comment Phase 2 (and begin professional proofreading/final editing)
- 12 -Dec-15 Anticipated date for delivery of translations
- 21-Dec-15 Public comment ends
- 24-Dec-15 Staff summary of public comment for review

8. AOB

Action Items

- **Action (CCWG Members): Chartering Org appointed members to socialise the 'Dublin Update' with respective communities and prepare for release of full proposal on 30 November.**

- **Action (Becky/Chairs): Provide an explicit certified description of the task and all of the considerations for legal counsel to incorporate in this**
  drafting exercise.

- **Action (Adler/Sidley): Request that legal counsel review the language for the Mission, noting the group's preference and Sebastien's concern**
  for non-native English speakers.

- **Action (Jordan/WP1): Send a written proposal to the CCWG mailing list describing the issue and the proposed solution(s). Include clarification on whether or not abstention is considered support or not.**

Documents

- Mission 16 November 2015.pdf

Adobe Chat

Olga Cavalli - GAC Argentina: (12:51) hi Brenda, please remember to dial out to me +54 11 4819 7979 thanks!

Brenda Brewer: (12:52) thank you Olga. Operator will be calling you soon.

Olga Cavalli - GAC Argentina: (12:52) thanks

Cheryl Langdon-Orr - ALAC APRegional Member: (12:53) hi all

Bernard Turcotte Staff Support: (12:54) hello all

Sabine Meyer: (12:55) hello everyone!

Cheryl Langdon-Orr - ALAC APRegional Member: (12:55) hi

Aarti Bhavana: (12:56) Hi All!

Pär Brumark (GAC Niue): (12:56) Hi all!

Holly J. Gregory (Sidley): (12:56) Greetings all!

jorge cancio (GAC Switzerland): (12:57) hi all

Cheryl Langdon-Orr - ALAC APRegional Member: (12:57) hello holly

Julia Wolman, GAC Denmark: (12:57) Hi all

Gary Hunt - UK Government: (12:58) Good evening from London...

Holly J. Gregory (Sidley): (12:58) Hi Cheryl!

Alan Greenberg: (12:58) Hello all.

Leon Sanchez (Co-Chair, ALAC): (12:58) Hello everyone

Brenda Brewer: (12:59) Kavouss is on Audio only

Thomas Rickert, CCWG Co-Chair: (12:59) Hi all!

Suzanne Radell (GAC): (13:00) Hello everyone

Alan Greenberg: (13:00) That was interesting!

Bernard Turcotte Staff Support: (13:00) Reminder to everyone to please mute your lines if you are not speaking

Athina Fragkouli (ASO): (13:01) hello everyone!

Becky Burr: (13:01) hello all

Tatiana Tropina: (13:01) Hi all!

Greg Shatan: (13:01) Hello, all!

Robin Gross [GNSO-NCSG]: (13:01) Greetings from San Francisco!

Leon Sanchez (Co-Chair, ALAC): (13:02) Hi Robin! I miss chowder and sourdough!

Anne Aikman-Scalese: (13:02) HI everyone - greetings from Panama

Robin Gross [GNSO-NCSG]: (13:02) maybe next CCWG mtg should be in San Francisco, Leon.

Pedro Ivo Silva [GAC Brasil]: (13:02) Hi all!

Lousewies van der Laan: (13:02) hi all

Rosemary Fei (Adler & Colvin): (13:02) Hi, folks!

Michael Clark (Sidley): (13:03) Hello all

Jordan Carter (.nz, WP1 rapporteur): (13:03) hi everyone

Leon Sanchez (Co-Chair, ALAC): (13:05) @Robin would love to!

Keith Drazek: (13:06) mute phones/laptops please

Jordan Carter (.nz, WP1 rapporteur): (13:06) +1 Keith

Robin Gross [GNSO-NCSG]: (13:07) What are the dates of the public comment period now? Thanks.

Julia Wolman, GAC Denmark: (13:08) I think a webinar for the GAC would be useful

Pedro Ivo Silva [GAC Brasil]: (13:08) Agree with Julia

Olga Cavalli - GAC Argentina: (13:08) +1 to julia

Tom Dale (ACIG GAC Secretariat): (13:09) Julia/Pedro/Olga, Do you mean now or after the main report is released?

Thomas Rickert, CCWG Co-Chair: (13:09) Julia, it would be our pleasure. Can I ask staff to make this an action item to find a time slot for that?

jorge cancio (GAC Switzerland): (13:10) +1 Julia

Olga Cavalli - GAC Argentina: (13:10) @Tom the sooner the better

andrew sullivan: (13:10) No need to say this on the phone, but in case it's not clear to anyone I do not have any particular stake in the exact language here -- I just want to help make it simple and still accurate.

Milton Mueller: (13:12) @Becky: looked like there was agreement on your final version ("parties under")

Becky Burr: (13:15) @milton, why do we need to call out registries and registrars at all

Milton Mueller: (13:16) maybe we don't

andrew sullivan: (13:19) I suspect that Milton is right that alt 1 could arguably restrict ICANN from imposing regulations on whois.

Greg Shatan: (13:19) Gee, thought ICANN had a limited technical mission.

andrew sullivan: (13:19) and EPP servers, and so on.

Matthew Shears: (13:20) do we really need to define services? if we believe that ICANN has a limited technical remit then why are we tryuing to limit services through defining it in such a way

Tatiana Tropina: (13:21) @Matt, +1 I am also not convinced re this defition and the need for definition at all

Milton Mueller: (13:21) In that case, Becky, I am OK with Alt. 1

Milton Mueller: (13:21) Tatiana: we do need a clear prohibition on content regulation

Cheryl Langdon-Orr - ALAC APRegional Member: (13:22) I also am happy with All 1

Tatiana Tropina: (13:22) @Milton, I understand this, I am even ok with Alt. 1 after explanation

andrew sullivan: (13:23) Given discussion, I think I can stand mute. If someone thinks I need to say more, poke me

Milton Mueller: (13:23) @Alan, would the second provision ("ability to negotiate and enforce agreements") cover your concerns?

Leon Sanchez (Co-Chair, ALAC): (13:23) That is perfect Alan, we'll ask the lawyers to keep an eye on that issue

Kavouss Arasteh: (13:23) Dear All,

Milton Mueller: (13:23) Alan fled the queue

Matthew Shears: (13:24) the content element is the same in the original and alt 1 - what alt 1 does is further limit the areas in which ICANN should not regulate - is that what we want?

Kavouss Arasteh: (13:24) I am now connected

Milton Mueller: (13:24) @Matt: yes

Kavouss Arasteh: (13:24) Hi to every body

Becky Burr: (13:24) it is "for the avoidance of doubt" Matthew

Kavouss Arasteh: (13:24) Matheieu

Kavouss Arasteh: (13:24) Are you connected

Grace Abuhamad: (13:24) Thank you @Kavouss. I'll clear the notes

Alan Greenberg: (13:24) @Milton, perhaps, but regardless, I don't think that those of us are amateur lawyers should be doing this wordsmithing.

Christopher Wilkinson (CW): (13:24) Agree with Alan. There will be terms and conditions in the Registry agreements that go beyond strictly techical aspects. CW

Kavouss Arasteh: (13:25) Tks

Kavouss Arasteh: (13:25) I am looking to MATHEIU CO-COHAIR

Milton Mueller: (13:25) @Alan - I prefer "multistakeholder community" to "amateuir lawyers" ;-)

Becky Burr: (13:25) correct

Becky Burr: (13:25) the contract language comes either way

Alan Greenberg: (13:25) @Milton - not alternatives....

Steve DelBianco [GNSO - CSG]: (13:26) Alan's example is instructive. Does anyone on this call think our text would prevent enforcement of Alan's RAA example?

Greg Shatan: (13:26) I think the language in Alt. 1 does not create the concern that Alan raises.

Matthew Shears: (13:26) then we have to hope that the definition in Alt 1 does not allow for areas of content regulation outside the definition, right? are we sure?

jorge cancio (GAC Switzerland): (13:27) we would need a legal assessment clarifying that PICs remain "legal" any under any new agreed text

Milton Mueller: (13:27) in service of....in furtherance of....consistent with...

Chris Wilson: (13:27) +1 Jorge

Sabine Meyer: (13:27) Indeed, Jorge.

Milton Mueller: (13:28) Jorge: as much as I dislike the whole PICs thing, I wouldn't object to grandfathering existing ones

Kavouss Arasteh: (13:28) jORGE, WHAT LEGAL ASSESSMENT YOU AIMED TO ACHEIVE.

Robin Gross [GNSO-NCSG]: (13:28) Jorge, wouldn't that create an exception (PICs) that swallows the rule? Doesn't that mean PICs are exempt from mission creep concerns?

Matthew Shears: (13:28) by further refining the definition you may be leaving areas of potential content regulation out.

Robin Gross [GNSO-NCSG]: (13:29) And PICs are not created by a bottom-up process. I don't see why they should be blanketly exempted from mission creep concerns.

Milton Mueller: (13:29) no, they were a listing of the alternative

Milton Mueller: (13:29) s

Steve DelBianco [GNSO - CSG]: (13:29) If Milton is saying PICs might be "grandfathered", that implies that future PICs would not be permitted. Do I have that right, Milton?

Robin Gross [GNSO-NCSG]: (13:29) So I would object to any blancket exemption of PICs to mission creep prohibitions

Kavouss Arasteh: (13:30) Chair, what we mean by" in service of its mission"

Philip Corwin: (13:30) Hello all. Finally made it in - had to load new version of Adobe Connect

Kavouss Arasteh: (13:31) Mission I understand but serce of its mission ?vi

jorge cancio (GAC Switzerland): (13:31) @Robin: let' s see how to grandfather what we have, but there should be agreed ways for future PICs also, while not entering into mission creep

Milton Mueller: (13:31) "that implies that future PICs would not be permitted" - no, it implies that PICs must be consistent with the mission

Grace Abuhamad: (13:31) Thank you @Phil. I will update the notes

Kavouss Arasteh: (13:31) What does it mean=

jorge cancio (GAC Switzerland): (13:31) it seems I said the same or a similar thing to Milton :-)

Chris Wilson: (13:31) Is there agreement that today's PICs are consistent with ICANN's mission?

Robin Gross [GNSO-NCSG]: (13:31) PICs must also be consistent ICANN's mission

Martin Boyle, Nominet: (13:32) I'm concerned about PICs in a grey area. I agree with Becky's concern

Milton Mueller: (13:32) I like "service" better than "furtherance"

Robin Gross [GNSO-NCSG]: (13:32) I don't like furtherance - too broad

Sabine Meyer: (13:32) is that on the page we're seeing now?

Grace Abuhamad: (13:33) @Sabine in the notes in red

Sabine Meyer: (13:33) Thanks, Tanya!

Grace Abuhamad: (13:33) There are 4 options

Kavouss Arasteh: (13:33) I would say, in performing its mission:

Sabine Meyer: (13:33) Sorry

Sabine Meyer: (13:33) Thanks, Grace!

Tatiana Tropina: (13:33) haha Sabine, I was really wondering what did I do

Grace Abuhamad: (13:33) ha! i can be Tanya for you :)

Sabine Meyer: (13:34) *hangs head in shame*

Becky Burr: (13:34) i'm good with "in service of"

Milton Mueller: (13:34) accept thanks from wherever they come ;-)

Kavouss Arasteh: (13:34) I HAVE SERIOUS DIFFICULTY TO AGREE [in service of /

Kavouss Arasteh: (13:34) It is not clear

Keith Drazek: (13:34) agree with Becky

Greg Shatan: (13:34) I am good with "in service of"

Milton Mueller: (13:35) I could accept "in service of"

Robin Gross [GNSO-NCSG]: (13:35) I can accept In service of, as a compromise, middle ground among the 3 choices

Milton Mueller: (13:35) Sebastien has a point....

Milton Mueller: (13:35) so let's go back to "consistent with" ;-)

Steve DelBianco [GNSO - CSG]: (13:35) how about in fulfilling its missin

Tatiana Tropina: (13:35) + 1 Robin, I can accept "in service of" as a compromise

Robin Gross [GNSO-NCSG]: (13:35) I would be in "consistent with" also.

Matthew Shears: (13:35) prefer "consistent with"

Holly J. Gregory (Sidley): (13:36) As a lawyer I see no difference between in service of and infurtherance of

Alan Greenberg: (13:36) "in support of"

Julie Hammer (SSAC): (13:36) Good point Sebastien.

Phil Buckingham: (13:36) Steve +1 in fulfilling its mission

Matthew Shears: (13:36) "in fulfilling its" mission is better than in service of

jorge cancio (GAC Switzerland): (13:36) who has a baby around?

Robin Gross [GNSO-NCSG]: (13:36) yes, Matthew

jorge cancio (GAC Switzerland): (13:36) :P

Kavouss Arasteh: (13:36) I COULD AGREE TO

Greg Shatan: (13:37) I don't think the noun "service" and the verb "service" should be viewed as the same thing.

Robin Gross [GNSO-NCSG]: (13:37) I would be opposed to blanket expemtion of PICs from mission creep concerns.

Sabine Meyer: (13:37) +1 Greg

Kavouss Arasteh: (13:37) In services supporting its mission

Philip Corwin: (13:37) how about in achieving/achievement of?

Greg Shatan: (13:37) "

andrew sullivan: (13:37) Given this is going to the lawyers and we seem to agree on the goal, perhaps we could just send them all options (in a footnote or something) and say, "Pick the one most consistent with the goal and the law"? But I don't have a strong opinion on any of these.

Milton Mueller: (13:38) Thomas agree that we don't want to get mired in wordsmithing but the lawyers may not be fully aware of all the concerns that led to our acceptance and rejection of specific words

Leon Sanchez (Co-Chair, ALAC): (13:38) That seems reasonable Andrew

Matthew Shears: (13:38) a terms of a contract are either consistent with or inconsistent with the mandate

Holly J. Gregory (Sidley): (13:38) +1 Andrew

Greg Shatan: (13:38) "in service of" has nothing to do with the noun "service" -

Chris Wilson: (13:38) +1 Steve

Robin Gross [GNSO-NCSG]: (13:39) "in furtherance of its mission" would help clarify

Milton Mueller: (13:39) OK, Thomas

Chris Wilson: (13:40) +1 Alan

Milton Mueller: (13:41) @Delbianco: old hand?

Alan Greenberg: (13:41) Again, durection to lawyers, the unique identifiers themselves must be deemed to NOT be content; Discussed often but not captured.

Milton Mueller: (13:42) Alan, it is clear that names are unique identifiers rather than "the content that such services carry or provide"

Sabine Meyer: (13:42) However names can have an element of content to themselves.

Holly J. Gregory (Sidley): (13:42) The lawyers request that someone provide an explicit certified description of the task and all of the considerations that we are too incorporate in this drafting exercise

Holly J. Gregory (Sidley): (13:43) To clarify: We would appreciate one clear statement of what you would like us to accomplish in the drafting

Leon Sanchez (Co-Chair, ALAC): (13:43) @Holly we'll provide you with that information soon

Holly J. Gregory (Sidley): (13:43) Thanks Leon. Appreciated.

Leon Sanchez (Co-Chair, ALAC): (13:43) Thank you Holly!

Robin Gross [GNSO-NCSG]: (13:44) that sounds like a good way to address this concern, Jordan.

Leon Sanchez (Co-Chair, ALAC): (13:44) Inded Robin

Jon Nevett: (13:46) Support Jordan's proposal on PDP bylaw changes

Keith Drazek: (13:46) +1 Jon

Milton Mueller: (13:47) Are Jordan's proposals on a slide or on the list in a document?

Greg Shatan: (13:47) +1 Jon and Keith (and Jordan)

Grace Abuhamad: (13:47) I'll find the email link and post it

Milton Mueller: (13:47) I'll look for it

Milton Mueller: (13:48) I got the email now

Milton Mueller: (13:48) sorry for not having read it!!

Jordan Carter (.nz, WP1 rapporteur): (13:48) how dare you!

Jordan Carter (.nz, WP1 rapporteur): (13:48) ;-)

Grace Abuhamad: (13:49) Here is the link: http://mm.icann.org/pipermail/accountability-cross-community/2015-November/008104.html

Milton Mueller: (13:53) Solution to this problem: de-aggregate the SOs!

Robin Gross [GNSO-NCSG]: (13:55) I agree, Jordan. It does seem obvious as we don't want to require unanimity, but it make this clear.

Greg Shatan: (13:55) I might actually agree with you on that one, Milton....

Avri Doria (atrt, particpant): (13:55) Indeed we could totally change the nature of the organization as part of the WS1 exercise.

Keith Drazek: (13:55) Sounds good Jordan, thanks for this work so far.

Jon Nevett: (13:55) I thought that we were setting up a subgroup on this issue

FIONA ASONGA (ASO): (13:55) Avri I would support that one

Steve DelBianco [GNSO - CSG]: (13:56) This isn't just about the GAC.

jorge cancio (GAC Switzerland): (13:56) GAC will take a position when we have the position on the paper. Until then, we have the GAC consensus input on the second draft report.

Avri Doria (atrt, particpant): (13:56) Are we back to calling this voting?

Matthew Shears: (13:56) it is desirable to have a certainty on particicpation

Steve DelBianco [GNSO - CSG]: (13:56) ASO might decide to take no decision on a particular power that affects names, for example

jorge cancio (GAC Switzerland): (13:57) We have made the point dozens of times, really

Jon Nevett: (13:57) there are levels of support that we should consider on an community power basis. Also, there is a timing issue, especially with regard to the IRP process -- do all decisions need to wait to see if there is a community power process will be invoked? Do we have to wait for the GAC to decide whether it supports?

Milton Mueller: (13:57) ASO can decide not to block but it is IN the mechanism in either case

jorge cancio (GAC Switzerland): (13:57) have the other SO/AC all expressly expressed their opinions on the current (work.in-progress) draft?

Milton Mueller: (13:57) Jon's point is a good one

Sabine Meyer: (13:58) +1 Jorge

Sabine Meyer: (13:58) So far it's only SSAC, right?

Greg Shatan: (13:58) I'm concerned that this allows for "pocket vetos" by declining to participate, rather than being required to express an objection.

Robin Gross [GNSO-NCSG]: (13:58) I agree, Greg.

Matthew Shears: (13:58) agree Greg

Milton Mueller: (13:58) Exactly, Greg, another example of how screwy this approach is

Jordan Carter (.nz, WP1 rapporteur): (13:58) We didn't commit to a sub group on this, we could have a specific WP1 call on it tho, later this week

Robin Gross [GNSO-NCSG]: (13:59) We need to examine the implications / unintended consequences of these proposal (not only our aspirations).

Matthew Shears: (13:59) agree |Robin

Tatiana Tropina: (13:59) +1 Robin

Jon Nevett: (13:59) Robin +1

Jordan Carter (.nz, WP1 rapporteur): (13:59) let me write it down, have the discussion on the list, and we can have a WP1 call on it if you wanted

jorge cancio (GAC Switzerland): (13:59) what Kavouss says is applicable to all SO/ACs, which always might say yes, no or abstain on a given issue - and they would be perfectly free to do so

Avri Doria (atrt, particpant): (13:59) why is a no-comment a satisfacoty repsonse. counts as neither a possitve nor a negative repsonse.

Avri Doria (atrt, particpant): (14:00) ... satisfactory ...

Avri Doria (atrt, particpant): (14:00) or rath why isn't ...

Jordan Carter (.nz, WP1 rapporteur): (14:00) Alan is right. This is not about an SO or AC participating, but the fact of it being very uncertain either way means that we have to make sure we don't create a pocket veto of the sort someon ementioned above

Jordan Carter (.nz, WP1 rapporteur): (14:00) Alan, good tip.

Kavouss Arasteh: (14:01) Alan"1

Steve DelBianco [GNSO - CSG]: (14:01) I think Jordan's adjustments to the SUPPORT threshold is appropriate

jorge cancio (GAC Switzerland): (14:01) once again: community powers must reflect a community-wide consensus support. If some SO/AC decide to abstain on a given issue it means that the petitioning SO/AC just has not gathered community support

Robin Gross [GNSO-NCSG]: (14:01) We've been playing word games for months, MM....

Cheryl Langdon-Orr - ALAC APRegional Member: (14:01) exactly Alan and I trust Jordan's approach / proposal should respond to this with an acceptable solution...

Jordan Carter (.nz, WP1 rapporteur): (14:02) we *will* know who is in the electorate.

Leon Sanchez (Co-Chair, ALAC): (14:02) +1 Cheryl

Jon Nevett: (14:02) typically there is a quorum requirement (minimum # of voters) and then a specific level of support of voters

Kavouss Arasteh: (14:02) Imagine a case that only three SOs participating .What would be the threshold?

Avri Doria (atrt, particpant): (14:02) so it would be ok to be part of the consensus group but have no opinion on an issue.

Jordan Carter (.nz, WP1 rapporteur): (14:02) Kavouss: it should not fall lower.

Alan Greenberg: (14:02) I take it seriously.

Martin Boyle, Nominet: (14:03) @Milton: isn't that the electors perogative?

Alan Greenberg: (14:03) I think in the absense of a groups saying they are out and will remain out (as the SSAC has), they are in.

Martin Boyle, Nominet: (14:03) I make my mind up on the vote

Martin Boyle, Nominet: (14:03) (as your dog-catcher example)

Milton Mueller: (14:03) @martin: if they are electors, yes. But are they electors are not? you have to know

Milton Mueller: (14:03) you have to know what the electorate is

Milton Mueller: (14:04) So GAC is "in" the electorate

Avri Doria (atrt, particpant): (14:04) exactly, community pwoers are only viable when the community is behind the idea.

Robin Gross [GNSO-NCSG]: (14:04) If the electorate is not defined, we leave it open to the pocket veto

Brett Schaefer: (14:05) Earlier in the email list, I suggesteed that the CCWG should formally seek confirmation of participation of the SOs and ACs in the "empowered Community" (acknowledging that this is not a commitment of support or endorsement of the final CCWG proposal) between now and Nov. 30.

Milton Mueller: (14:05) Right. Robin, the electorate must be defined.

Avri Doria (atrt, particpant): (14:05) other than not accepting the desire to call it an electorate, yes, they are part of the community consensus process.

Jon Nevett: (14:05) Again, this is only one part of the issue of concern

Sabine Meyer: (14:05) But...how are there pocket vetoes? If you are "in", not deciding on an issue counts towards the overall support.

Sabine Meyer: (14:05) If I am not mistaken.

Avri Doria (atrt, particpant): (14:05) if the threshold is 3 they meet it. if it isn't they don't

Milton Mueller: (14:06) Sabine, you are assuming we know who is in and who is out

Sabine Meyer: (14:06) Sorry, did not keep up with all of the chat.

Keith Drazek: (14:06) This is an important discussion because it impacts the thresholds for determining consensus.

Alan Greenberg: (14:06) If only 3 are participating (ie 4 saying they are out), these powers cannot be exercised.

Robin Gross [GNSO-NCSG]: (14:06) I think the way this is being set up is that all five are in unless one explicitly says they are out.

andrew sullivan: (14:06) @Milton: it seems to me that what Alan said is right: if GAC can decide case by case, then they're part of the electorate always

Milton Mueller: (14:06) @Keith exactly. I cannot understand why some people want to make this very unclear by toying with who is in and out of the mechanism

Brett Schaefer: (14:07) Alan, I disagree with the notion that unless the SO/AC specifically says they are out, they are in. It should be the opposite, unless teh SO/AC specifically says they are in, they are out.

Milton Mueller: (14:07) Agree with Brett about that.

Arun Sukumar: (14:07) so not participating in the decision making process is = no support?

Matthew Shears: (14:07) agree with Brett

Robin Gross [GNSO-NCSG]: (14:07) yes, Brett, that is better formulation

Matthew Shears: (14:07) agree Keith and Milton

Milton Mueller: (14:07) And SSAC and RSSAC should not be allowed to be in in any case, whether they want to be in or not small technical ACs are not appropriate members of the community mechanism

Jordan Carter (.nz, WP1 rapporteur): (14:08) they won't be in

Bruce Tonkin: (14:08) @Milton - I agree that the electorate should be clearly defined.   One option could be that the GAC providefs "advice" to the new Community entity, and participates in the Community Forum so that the SOs and ALAC can consider that advice in their deliberations.   That would maintian the GAC in s a similar role as it does today with respect to providing advice to the organization.

Robin Gross [GNSO-NCSG]: (14:08) They should be "out" unless they expressly say they are "in" - and this applies to all 5.

Milton Mueller: (14:08) @Jordan:: they won't be in because the CCWG defines the electorate without them, or because they don't want to be in now but might change their mind later?

Brett Schaefer: (14:08) +1 Keith and Milton

Jordan Carter (.nz, WP1 rapporteur): (14:09) Kavouss: noted, thanks

Brett Schaefer: (14:09) +1 Bruce

Jordan Carter (.nz, WP1 rapporteur): (14:09) Milton: my view is that the bylaws won't include them

Jordan Carter (.nz, WP1 rapporteur): (14:09) (SSAC and RSSAC)

Avri Doria (atrt, particpant): (14:09) if they can't execute th wpper becasue enogh of th community does not care to exercise the pwoer, then there is not community pwoer.

Keith Drazek: (14:09) @Bruce: That's been discussed, but the GAC has indicated it wants the option to be part of the community consensus call, i.e. become decisional.

Milton Mueller: (14:09) @Bruce: if GAC advice has the same privileged status in the community mechanism that it has in current SO policies, I would strongly oppose it

Robin Gross [GNSO-NCSG]: (14:09) Yes, Bruce, that would be a more appropriate way forward.

Robin Gross [GNSO-NCSG]: (14:10) Well, they are getting the double -bite at the apple

Milton Mueller: (14:10) GAC advice gets to hold up the entire process and thus becomes MORE powerful than a vote. If the advice is just "advice" like SSAC's, then it's fine

Matthew Shears: (14:10) + 1 Bruce

Kavouss Arasteh: (14:10) Milton

Phil Buckingham: (14:10) + 1 Bruce

Kavouss Arasteh: (14:10) why you oppose?

Alan Greenberg: (14:10) @Bruce, I think the concept that each constituent part of each AC/SO will modify its decision based on GAC (or ALAC) advice is not particularly realistic.

Kavouss Arasteh: (14:11) What do you expect from GAC in regard with public policy issues

Alan Greenberg: (14:11) None of those groups has a mandate to balance piositions based on AC advice.

Jon Nevett: (14:11) Jordan, please include the other issues reaise w/r/t to the thresholds of support above and beyond the GAC issues . Thanks!

Jon Nevett: (14:11) other issues raised

Robin Gross [GNSO-NCSG]: (14:11) GAC advice can be in the electorate, or it can remain in its privileged bylaws standard - but it can't have both.

Bruce Tonkin: (14:12) @Alan - part of the purpose of the community forum is to find a solution to an issue prior to a decision needed to enact a communiyt power.   In that mode advice from all SOs and ACs would be most valuable.

Milton Mueller: (14:12) @Kavouss: GAC can offer its opinions to the community mechanism but it cannot have the same privileged status that it has vis a vis the board.

Kavouss Arasteh: (14:12) do you mean that no actions to be taken if ICANN ulilaterally object to those advice .i.e. ICANN ,IN YOUR VIEWS WOULD NOT BE INVLOVED IN ANY FURTHER NEGOTIATION

Sabine Meyer: (14:12) But these are two different things. Advice to the board and being part of the community empowerment vehicle. Same for all other SO/ACs, I would say.

Arun Sukumar: (14:12) Matthieu, is th

Milton Mueller: (14:12) @Bruce, yes, "advice" with a small a, also called opinions, or discussion

Pedro Ivo Silva [GAC Brasil]: (14:12) +1 Sabine

Steve DelBianco [GNSO - CSG]: (14:13) @Robin -- all ACs and SOs advise the board on their areas of expertise.   And all ACs/SOs are invited to advise the "Community" on exercising community powers.   So we're all taking 2 bites -- of 2 completely different apples.

Kavouss Arasteh: (14:13) YOU HAVE NOT SUCH RIGHT TO DECLARE THAT GAC ADVICE TO BE PUT INTO BASKET

Bruce Tonkin: (14:13) ie if a solution can;t be found as part of the community forum - then in my view that is a major failure of the structure.   ie Any formal exercise of a power means the ostaff/board has got out of touch with the community

Arun Sukumar: (14:13) mathieu is this sub group working on a definition of consensus? I may have missed this in your briefing

Jordan Carter (.nz, WP1 rapporteur): (14:13) i regarded this question as settled

Kavouss Arasteh: (14:14) Some peoplre does not know what is the public policy

Milton Mueller: (14:14) @Steve, @Sabine. If all you mean by "advice" is discussion and expression of ideas and opinion, fine. But as you should know, GAC "advice" to the board under the bylaws is a completely different thing from that

Julia Wolman, GAC Denmark: (14:14) Good point Bruce

Robin Gross [GNSO-NCSG]: (14:14) I think it is about how the board is required to treat such "advice"

Keith Drazek: (14:17) I sent an email to the CCWG list on the ST-18 topic. I look forward to discussing further on tomorrow's ST18 subgroup call.

Keith Drazek: (14:17) I won't take any additional time on this call.

Mathieu Weill, ccNSO, co-chair: (14:17) It's been well noted Keith, thank you

jorge cancio (GAC Switzerland): (14:17) @Keith: looking forward to having you on the st18 calls

Arun Sukumar: (14:20) requirement of rational discussion in this sub group is discouraging :)

jorge cancio (GAC Switzerland): (14:20) come on Arun :P

Brett Schaefer: (14:20) I think everyone in the ST 18 group understands that there are considerable gaps remaining. I absolutely agree with Steve. Our discussion is about how the Board should treat the advice it receives, not about how the ACs should define or arrive at their decisions. The GAC can define consensus however it wants, but the Board should only have to try in good faith to reach a compromise if that advice is supported by a full consensus.

Brett Schaefer: (14:21) IMO

Greg Shatan: (14:21) I had the same conflict as Milton. Next CWG DT-IPR meeting is 24 Nov @ 21:00 UTC. Would be good to avoid another conflict.

jorge cancio (GAC Switzerland): (14:21) Hi Brett, we are in a demand-side monopoly. all GAC advice only has a meaning if it is considered by the Board. So we have to make sure that definitions of consensus match both sides

Grace Abuhamad: (14:21) All -- The conflict was only because the ST18 call was planned very rushed. We generally prevent these

Greg Shatan: (14:23) @Grace, thanks for the explanation. That blows my theory that we have had 18 months of lucky coincidences.

Grace Abuhamad: (14:24) ;)

Mathieu Weill, ccNSO, co-chair: (14:24) Grace and staff are not lucky coincidennces.

Sabine Meyer: (14:25) no, but we are very lucky to have them around!

Matthew Shears: (14:25) + 1

Pedro Ivo Silva [GAC Brasil]: (14:25) Brett, so far the original request from ST18 was that "the Board should only have to try in good faith to reach a compromise if that advice is supported by consensus". GAC already agreed to that as a compromise solution. It seems that some now wants to go even further and demand "FULL consensus". I fail to see the reasons for that.

Steve DelBianco [GNSO - CSG]: (14:26) @Pedro -- the discussion for "full consensus" is associated with the 2/3 rejection threshold

Holly J. Gregory (Sidley): (14:26) Will you want the lawyers to review? If so when?

jorge cancio (GAC Switzerland): (14:27) do we have this proposed timeline on a sheet of paper?

Olga Cavalli - GAC Argentina: (14:27) a document with this timeline would be useful

Arun Sukumar: (14:27) "'twas the night before Christmas, when the ccwg closed its report"

Mathieu Weill, ccNSO, co-chair: (14:28) Manny songs will be sung about this effort... not all Christmas songs I'm afraid ;-)

Brett Schaefer: (14:28) Pedro, your proposal sought more than that as we have discussed. If the GAC wants to increase the threshold for Board rejection of GAC advice, it needs to assuage concerns about how that could be misused in the future. That means, from my perspective, on embedding the full consensus requirement for the increase in the Board threshold for rejection. GAC advice short of this threshold can obviously be sent to the Board, but existing rules should apply and the Board should be under no obligation to try to reach a compromise with the GAC (although it could and likely would).

Athina Fragkouli (ASO): (14:29) good point Steve

Thomas Schneider (GAC): (14:30) @Brett: with "under existing rules": do you mean that then no bylaw change would be necessary at all?

Robin Gross [GNSO-NCSG]: (14:30) It'll be a Blue Christmas... ;-)

Jordan Carter (.nz, WP1 rapporteur): (14:30) ccNSO webinars are at 20h utc today and 05 utc tomorrow i think

Philip Corwin: (14:30) IMHO, given that the 3rd proposal is a significant change from the 2nd, and that full details will not be available until 11/30, the comment deadline should be at least 12/30. Chartering organizations should look toward public comments in reaching their own final decisions. A 9-day extension will not doom the transition prospects.

Chris Wilson: (14:31) +1 Phil

Mathieu Weill, ccNSO, co-chair: (14:31) ccNSO Webinars 8UTC and 16 UTC

Robin Gross [GNSO-NCSG]: (14:31) Agree with Philip.

Matthew Shears: (14:31) depending on the discussions related to ST18, decision-making the proposal may well be different

Jordan Carter (.nz, WP1 rapporteur): (14:31) oh sorry Mthieu. total time zone meltdown

Phil Buckingham: (14:31) +1 Philip

Brett Schaefer: (14:31) FOr GAC advice that is less than full consensus (i.e. with objections), then the Board should be able to reject by majority.

Milton Mueller: (14:32) Brett: it should not even be considered "advice"

Philip Corwin: (14:32) The fact that tranbslations won't be available until 12/12 reinforces my view on the comment period.

Robin Gross [GNSO-NCSG]: (14:32) Since some parts of the recommendations go against the public comment periods, we shouldn't forbid those commentors from expressing their lack of support for that decision to ignore public comment.

Greg Shatan: (14:32) Please recirculate the timeline or point to where it is available. Thanks!

jorge cancio (GAC Switzerland): (14:33) +1 Greg

Avri Doria (atrt, particpant): (14:33) are we calling this thrid draft or final draft?

Brett Schaefer: (14:34) Thx, Milton. See? I'm not even the most hard line opinion.

Arun Sukumar: (14:34) +1 thomas, participants involved in the process should respond constructively

Sabine Meyer: (14:34) Final, Avri. at least that's how it feels...

Thomas Rickert, CCWG Co-Chair: (14:34) final report, I would say

Thomas Rickert, CCWG Co-Chair: (14:34) in response to Avri that was :_)

Avri Doria (atrt, particpant): (14:34) that is even stronger thant final draft, but i am comfortable with it.

Sabine Meyer: (14:34) Not answer me you must, Thomas.

Brett Schaefer: (14:34) Holding our breath report?

Greg Shatan: (14:35) Of course, if it were really final, what would the value of public comments be?

Robin Gross [GNSO-NCSG]: (14:35) final, provided that public comment isn't overwhelmingly in opposition.

Matthew Shears: (14:35) I suspect that we wil have a number anbd diversity of views, including some new ones#

Avri Doria (atrt, particpant): (14:35) Greg, that is why i used final draft instead of report.

Greg Shatan: (14:36) Our co-chairs will be folding space-time....

Tatiana Tropina: (14:36) yes, it should be draft, otherwise the value of comments is not clear

Robin Gross [GNSO-NCSG]: (14:36) yes, final draft pending public comment approval

Greg Shatan: (14:36) @Avri, agree..

Tatiana Tropina: (14:36) Robin. +1 again :)

Mathieu Weill, ccNSO, co-chair: (14:36) @Greg: this is a staff skill indeed.

Avri Doria (atrt, particpant): (14:36) our co-chairs have already done well a folding time-space.

Matthew Shears: (14:36) yep

Mathieu Weill, ccNSO, co-chair: (14:36) "Beam me up, Grace" is our motto ;-)

Greg Shatan: (14:36) When does the CCWG review the public comments (I guess that's after the end of time).

Sabine Meyer: (14:37) Mathieu, shouldnt it be "wibbley wobbly timey wimey"?

Matthew Shears: (14:37) agree Milton

Greg Shatan: (14:37) Our timeline is bigger on the inside....

Robin Gross [GNSO-NCSG]: (14:37) yes, we need to be more realistic in our timeline

Sabine Meyer: (14:37) Yay! Greg got it.

Philip Corwin: (14:37) +1 to Milton

Matthew Shears: (14:37) @ Greg - Tardis

Avri Doria (atrt, particpant): (14:38) Greg LOL

Milton Mueller: (14:38) @Sabine Greg got Who?

Brett Schaefer: (14:38) I agree with Phil that there should be a standard 40 day public comment period. Then there needs to be assessment, summary and adjustments as needed.

Holly J. Gregory (Sidley): (14:38) Given that this is the first draft of the proposal containing the sole designator approach Sidley and Adler believe an opportunity to have a lawyer review of the full proposal would be prudent

Brett Schaefer: (14:39) +1 Holly

Greg Shatan: (14:39) Indeed.

Jordan Carter (.nz, WP1 rapporteur): (14:39) +1 Holly

Robin Gross [GNSO-NCSG]: (14:39) I believe the timeline must be extended in order to be appropriately inclusive to the wider (non-ICANN-insiders) community.

Philip Corwin: (14:39) @Brett - I suggested 30, others want 40, and I'm fine with either but believe that 21 days are insufficient.

Matthew Shears: (14:39) + 1 Holly

Bruce Tonkin: (14:39) Nice that 25 Dec is a public holiday in quite a few countries - makes for lovely holiday reading

Chris Wilson: (14:39) +1 Holly

Jordan Carter (.nz, WP1 rapporteur): (14:39) Athina: let's bear in mind who is respoonsible for the reason we are late. It is not the CCWG.

Philip Corwin: (14:40) The final proposal would have been done by now if the Board had not killed the sole member proposal.

Steve DelBianco [GNSO - CSG]: (14:40) Right, Athina. Public can comment thru their AC/SO

andrew sullivan: (14:40) @Bruce: what, you had some other plan that day?

Brett Schaefer: (14:40) Phil, of course, no one has plans for New Yearr's Eve.

Matthew Shears: (14:40) We cannot shortcut this process....

Jeff Neuman (Valideus): (14:40) Why will the IANA transition be jeopardized with a few weeks of delay.

Avri Doria (atrt, particpant): (14:40) Jordan, how long can we use that excuse?

andrew sullivan: (14:40) (FWIW, other communities did work over the same period a year ago.)

Milton Mueller: (14:40) Public comment is public comment. it is not via an AC or SO

Robin Gross [GNSO-NCSG]: (14:40) We need to hear if Designator meets community approval. That's a big change.

Thomas Rickert, CCWG Co-Chair: (14:40) Holly, let us please have the discussion on the review later.

Avri Doria (atrt, particpant): (14:40) i thnk it is fne to slip if we are not ready, but lets take the hit for that ourselves.

Jordan Carter (.nz, WP1 rapporteur): (14:40) Avri: for what the Board did in September? Oh, let's try "forever". People don't stop being responsible for their actions just because time passes.

Tatiana Tropina: (14:41) Chanelling public comments lack legitimisation of the whole process, taking into account proposal changes

Jordan Carter (.nz, WP1 rapporteur): (14:41) I think we should aim not to change the schedule if we possibly can.

Milton Mueller: (14:41) well said Jordan

Jeff Neuman (Valideus): (14:41) The change to the mission statement is a big change. The IRP specifics are new

Greg Shatan: (14:41) We should get the lawyers' view on how they can be most useful and cost-effective.

Jeff Neuman (Valideus): (14:41) there are a number of new elements

Robin Gross [GNSO-NCSG]: (14:41) NTIA was express that we have to have approval of wider community, so it is not realistic to expect all comments will come through SOAC comments.

Anne Aikman-Scalese: (14:41)   Agree Sole Designator is a big change and requires public comment.

Matthew Shears: (14:41) agree

Phil Buckingham: (14:41) Milton - very good points . Co chairs - Is there a critical path timeline available

Milton Mueller: (14:42) My agreement with Jordan was confined to his comment about what the board did in September - NOT to his comments on the timeline ;-)

jorge cancio (GAC Switzerland): (14:42) minors should not be exposed to ccwg calls :P

Greg Shatan: (14:42) Appearing in Marrakech: Thomas and the Soul Designators, for your listening pleasure.

Avri Doria (atrt, particpant): (14:42) Well we were the ones who abaondend the Membership model. but of course it needs to be rereviewed and commented.

Brett Schaefer: (14:42) Wait, did Leon just say we all agreed on this timeline?

Milton Mueller: (14:42) @Jorge think of the children!!

Robin Gross [GNSO-NCSG]: (14:42) So despite concerns in chat, timeline proposed doesn't change? that doesn't bode well for process..

Greg Shatan: (14:42) I don't think that was a minor crying....

FIONA ASONGA (ASO): (14:42) It is important that we have the AC/SO input but if there are individuals out there not so involved in ICANN then tey are free to send in comments directly through the public comments mechanism

Robin Gross [GNSO-NCSG]: (14:42) why isn't timeline shifting?

Anne Aikman-Scalese: (14:43) However Charter does say as Steve said that Chartering organizations need to reivew and give specific responses if particular recommendations do not meet their agreement - calls for Supplemental report if suggestions received from Chartering Organizations. Can these two period run contemporaneously?

Avri Doria (atrt, particpant): (14:43) Robin, i am sure it will slip if it needs to.

Philip Corwin: (14:43) If the comments displayed above are representative then by 12/21 you can expect a lot of public comments saying thay have had insufficient time to review and therefore have not signed off on the proposal

Avri Doria (atrt, particpant): (14:43) that is in the nature of timelines.

Brett Schaefer: (14:43) That is willful disregard for the timeline!

Leon Sanchez (Co-Chair, ALAC): (14:43) thanks everyone

Leon Sanchez (Co-Chair, ALAC): (14:43) bye

FIONA ASONGA (ASO): (14:43) Thanks bye

Bernard Turcotte Staff Support: (14:43) bye all

Gary Hunt - UK Government: (14:43) Good night everyone!

Tatiana Tropina: (14:43) bye all

Matthew Shears: (14:43) thanks

Thomas Schneider (GAC): (14:43) tnx. bye all!

Greg Shatan: (14:43) Bye all!

jorge cancio (GAC Switzerland): (14:43) thanks and bye all

Athina Fragkouli (ASO): (14:43) thank you all, bye!

Robin Gross [GNSO-NCSG]: (14:43) again, comments and concerns are irrelevant to the press to rush this through.

Arun Sukumar: (14:43) bye all

andrew sullivan: (14:43) bye

Steve DelBianco [GNSO - CSG]: (14:43) @Anne -- yes, that's my point.   Public can comment alongside chartering orgs.   But it's way more effective for them to comment THRU their chartering org

Cheryl Langdon-Orr - ALAC APRegional Member: (14:43) good call ð thanks everyone... talk again soon

Phil Buckingham: (14:43) bye