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 feed-back from the ccNSO. The ccNSO Council acknowledges the usefulness of principles or guidelines. The Council also acknowledge 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 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.

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 then 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).

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.

Typology of Working groups
From a ccNSO perspective Woking 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).

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.