AT-LARGE ADVISORY COMMITTEE
ALAC Statement on the Draft Framework of Principles for Cross Community Working Groups

Introduction

Olivier Crépin-Leblond, Chair of the European Regional At-Large Organization (EURALO) and the ALAC Liaison to the Generic Names Supporting Organization, developed an initial draft of the ALAC Statement with assistance from Alan Greenberg, ALAC member of the North American Regional At-Large Organization (NARALO) and the ALAC Chair.

On 24 March 2016, the first draft of the Statement was posted on the At-Large Draft Framework of Principles for Cross Community Working Groups Workspace.

On 25 March 2016, Alan Greenberg, Chair of the ALAC, requested ICANN Policy Staff in support of the ALAC to send a Call for Comments on the Statement to all At-Large members via the ALAC-Announce Mailing List.

On 11 April 2016, a version incorporating the comments received was posted on the aforementioned workspace and the Chair requested that Staff open an ALAC ratification vote on the proposed Statement.

On 16 April 2016, Staff confirmed that the online vote resulted in the ALAC endorsing the Statement with 11 votes in favor, 0 vote against, and 0 abstention. You may view the result independently under: https://www.bigpulse.com/pollresults?code=5491cMGyunatwzyraNhim8MU.

ALAC Statement on the Draft Framework of Principles for Cross Community Working Groups

For many years, the ALAC has been a supporter of the need to remove barriers that result in silos within ICANN's communities. The ALAC has supported the creation of Cross Community Working Groups (interchangeably referenced as CCWGs or CWGs) for this very reason. Historically, the ALAC has taken part in many such initiatives:

- Cross Community Working Group on Morality and Public Order (Rec 6)
- Cross Community Working Group on Use of Country/Territory Names as TLDs
- Joint SO-AC New gTLD Applicant Support Working Group (JAS-WG)
- Joint DNS Security and Stability Working Group (DSSA-WG)
- Cross Community Working Group on Internet Governance
- Cross Community Working Group on IANA Stewardship Transition
- Cross Community Working Group on ICANN Accountability

Having been a co-Chartering Organization of several of these Cross Community Working Groups, the ALAC is well aware of the diverse requirements and the current lack of unity regarding the chartering process and framework by which those groups operate. The Draft Framework of Principles for Cross Community Working Groups, as proposed by the "CCWG-Principles" is therefore welcomed to increase efficiency in the process of chartering these working groups and to reduce the potential for ambiguity and time lost in finding a consensus on internal processes.

The ALAC must however call attention to a number of important points that warrant further discussions:

1. The finite nature of a CCWG's life cycle

The framework proposes that every CCWG needs a "starting point" and an "end point" defined as the provision of deliverables and subsequent closure of the CCWG with agreement from Chartering Organizations. There are no provisions for processes that are ongoing and therefore do not have an end point.

At present, a CCWG is the only formal vehicle for a process officially linking SOs and ACs together to work towards formally actionable goals, with regards to both the Board and the Chartering Organizations themselves. Removing the potential for an ongoing nature of a CCWG, the focus on an end point, final report and implementation phase removes the flexibility towards any CCWG that has ongoing work, such as the current CCWG on Internet Governance. Similarly, defining an "end point" would have also caused the closing of the CWG Stewardship and CCWG Accountability when it is now clear that work is ongoing in both of these CCWGs.

Should the final recommendations of the CCWG-Principles remain that every CCWG needs to have an end point and be closed after a Final Report is produced, the ALAC makes the following recommendation: CCWG-Principles should recommend an appropriate vehicle to be created and defined to cater to a working group that requires ongoing efforts as well as SO/AC official

chartering; as such, this type of Cross Community effort would be enabled to regularly make formal recommendations to its Chartering SOs & ACs instead of a final set of deliverables, which would only apply to CCWGs with finite life cycles.

At present, several apparently less formal structures exist:

- Cross Community Working Party: The Cross Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights (CCWP-HR) uses this type of structure. It does not require chartering by any SO/AC and serves as a good platform for discussion, but the nature of its relationship with SOs/ACs is undefined. For example, the CCWP-HR is supported by the GNSO.
- Cross Community Committee: The Cross Community Committee on Accessibility uses this type of structure, but the nature of its relationship with SOs/ACs is also undefined.
- Other Review Groups, like the Geographic Regions Working Group and IDN Variant TLD Issues Project, etc. The nature of relationship with SOs & ACs is undefined as they are related directly to an ICANN-wide process that is often Board or Staff driven (in the case of an implementation project).

In the above cases where the structure is not chartered by SOs and ACs, how each structure makes formal recommendations to SOs, ACs and/or the ICANN Board is not specifically defined. The ALAC therefore recommends either that the requirement for an end point for CCWGs be dropped or that the CCWG-Principles make recommendations for an alternative vehicle that will operate along the same formality and rules as a CCWG but without an end point.

2. Chartering Organizations' decisions on a CCWG's output

The proposed framework mentions several variations of the same concept regarding the use of the recommendations made by a CCWG:

"*Only after these decisions by the Chartering Organizations have been made can further steps (e.g. implementation, submission of recommendations, providing input into other processes, etc.) be taken if proposed.*" (P.3)

"*Unless the CCWG's Charter provides otherwise, further steps (e.g. implementation, submission of recommendations, providing input into other processes, etc.), if proposed, can be taken only after adoption of the outputs by the Chartering Organizations or the ICANN Board, as appropriate.*" (P.11)

The ALAC is concerned that both of these paragraphs point to the need for all Chartering Organizations to decide on recommendations of a CCWG before being able to make use of the CCWG's recommendations. This requirement for a decision from all Chartering Organizations allows a single Chartering SO/AC to potentially block/delay the implementation of the CCWG recommendations.

The ALAC recommends that the text be modified to allow each Chartering Organization to decide on the use of the outputs of the CCWG as it so desires. A CCWG should be a tool to

promote better communication amongst ICANN's SOs and AC and to stimulate a faster track to achieve results than by working in silos. The framework for CCWGs should therefore not

introduce barriers to SOs and ACs using the outputs of the CCWG as they see fit, depending on circumstances. As an example, the Joint SO-AC New gTLD Applicant Support Working Group (JAS-WG) needed a very fast turnaround for recommendations to reach the ICANN Board in time for the implementation of an applicant support program in the first application round of new gTLDs. On this occasion, not all Chartering Organizations were able to adopt the outputs in time. So the outputs were presented to the Board prior to adoption by all SO/ACs, with a clear note listing the adoption status from each Chartering SO/AC. Specifically prohibiting such flexibility would have stopped the JAS-WG deliverables from reaching the Board in time and would have delayed the whole new gTLD roll-out process.

In order to allow this flexibility, depending on circumstances, the ALAC proposes to scrap this requirement and specify that any submission of recommendations as a follow-up by any of the Chartering SO/ACs needs to be clear about the level of support (or not) from each Chartering Organizations.

Alternatively, one could re-word the requirement by allowing exceptions in case of "exceptional circumstances".

Several paragraphs in the document therefore need to be amended.

3. Additional points

Page 2:

Additionally, before initiating a CCWG, the following critical points need to be considered:

(...)

"3. Consider if the participating organizations are able to collectively adopt the consensus output of the CCWG."

The ALAC requests clarification on this sentence. How can SOs and ACs collectively adopt a consensus output of the CCWG when the work of the CCWG has not yet started? Is this really saying that prior to chartering, the AC/SO must decide if they will approve the outcomes?

The ALAC also suggests that prior to chartering a CCWG, AC/SOs should be able to request that staff create a background paper (roughly equivalent to a GNSO PDP Issue Report).

Page 8, Section #6 provides an explicit set of volunteer roles, with guidelines as to what commitment, skills or qualities these roles might demand. It should be made clear that the description of volunteer roles is given solely as an example.

Page 11 Section #3.1 sub-section #2: In the current CWG Stewardship & CCWG Accountability, both Cross Community Working Groups are continuing their work after their Final Reports have been approved by all Chartering SOs and ACs. The closure of a working group should therefore not be compulsory upon submission of its final report. The ALAC therefore recommends that this recommendation be scrapped as it currently stands.

Questions

• **Should there be a requirement that all CCWG recommendations must be considered by the ICANN Board, if minimum requirements are met (similar to the GNSO Policy Development Process?**

No, it should not be required unless Board action is required.

Some CCWG output does not need Board action at all so it would be wrong to say that all CCWG recommendations must be considered by the ICANN Board.

In cases where CCWG policy output requires Board action the ALAC believes that CCWG policy output carries at least the same weight as GNSO Policy Development Process output, subject to ratification by the CCWG's Chartering Organizations.

• **Should more formalized Operating Procedures be developed for CCWGs?**

No, not at this point.

The use of CCWGs is evolving and the processes by which CCWGs operate should be allowed to evolve organically. The ALAC believes that in the long term, some formalization and optimization of procedures may be needed, without restricting flexibility that is needed in the broad range of circumstances that would necessitate the creation of a CCWG.

• **Should additional mechanisms be developed to deal with situations in which Chartering Organizations may disagree or want to discontinue their engagement?**

The current process, as described in the proposal is that if there is a disagreement between Chartering Organizations, it is mandatory to come back to the CCWG and resolve it. The ALAC disagrees with this. The CCWG should be able to, as the CCWG-Accountability almost did, forward a report to the Board even without unanimous support or unanimous non-objection by all Chartering Organizations.

If a Chartering Organization decides to withdraw, they should be allowed to withdraw.
• **Should there be a mechanism to close a CCWG if it is clear that it will not be possible to produce a final report or that circumstances have overtaken the need for a CCWG? (See Section 3.3.4 and 3.4.2 above)**

For a CCWG that has a finite life-cycle and the ultimate objective to produce final deliverables, yes, there should be a mechanism in place if its final report cannot be produced, if circumstances have overtaken the need for an output from the CCWG and especially when Chartering Organizations withdraw. This is invalid for CCWGs that do not have an end point, as the production of a final report is not possible.

Any CCWG may also be closed if less than two Chartering Organisations remain involved in the CCWG.

• For implementation and post-implementation of the CCWG output, what should be the role of the CCWG? Should the Charter template be expanded to include these details? How would the process be initiated?

The Charter template should include options for the Implementation of CCWG output. These options should be provided as potential avenues that the CCWG might wish to pursue for implementation, depending on circumstances. The options could include that the members of the CCWG automatically become members of the Implementation Team, with the provision that ultimately, whether members of the CCWG are part of the Implementation Team or not will be defined by the specific needs of each CCWG.

Restricting post-implementation participation to pre-defined limits has the potential to cause barriers to participation in future cases where specific knowledge is required from CCWG participants in the implementation phase. These skills are often not known at Charter drafting stage.

• As the appointment mechanism for members varies across SO/ACs, how can CCWG leadership and support staff be kept informed of appointments and changes?

The current method of appointment by SOs and ACs is the formal notification of the appointment by the SO/AC Chair or support staff to the CCWG co-Chairs or support staff. This, as well as removal or replacement of members, should be documented.

• Are uniform Statements of Interest, or something similar, beneficial to the CCWG process? (See section 3.2.7 above)

The ALAC believes that uniform Statement of Interest, with a set of minimum information requirements would be very beneficial to the CCWG. The Statement of Interest should include who the participant's employer is and whether they are paid to take part in the CCWG by anyone else than their employer.

• Should specific requirements be listed for the appointment of members?

Appointed members should be required to explicitly agree to the ICANN expected standards of behavior. Beyond this, any further requirements should be set by the Charter or the appointing SOs and ACs.

- **Who launches a call for volunteers/participants?**

There should be flexibility in how the call should be sent out. If the Charter Drafting Team believes that a particular method is required, it could specify it.