NSTIC Pre-Plenary Event 3/15

Charter and IPR Discussion

Synopsis
Summary:
Discussion in this group focused primarily on the topics of IPR, by-laws, and the charter. There was general consensus that some kind of IPR policy would be necessary in order for entities to sign the membership agreement. There was also general consensus that there had to be an up-front statement clarifying entry conditions for the members and that the development of the IPR policy should be developed by the community prior to the initial meeting of the Steering Group. It was also generally discussed that the Steering Group should become a legal entity. However, it was not decided when in the process and operation this should happen. During discussion of the Charter it was determined that by-laws must accompany them if stakeholders are going to understand what effect the document will have on the operation of the Steering Group. There was consensus that by-laws were essential and that work within the community should begin on producing this document. However, it was not decided who should produce the document or what the scope of the document should be. There was considerable discussion over exactly what constituted a necessary by-law or an item which would be better handled through another document. There was limited discussion on the future of the Steering Group and the determination was made that any 3 year plan developed by or for the Steering Group would require a plan for the transition from government to self-support.

Discussion Points / Decisions		
No.	**Topic**	**Discussion / Decisions**
1.	IPR	It was felt that the experience of private sector stakeholder better positioned them to produce IPR policy. As a result the Recommendations Report and Charter did not address this topic.
		A participant stated that current IPR requirements make interactions between existing standards groups complicated and inefficient. There must be a statement that will provide clarification of the entry requirements to any stakeholders who are considering joining the Steering Group.
		A participant suggested that an IPR policy will be needed for prospective members to sign a membership agreement.
		A participant suggested that due to language in the charter and in the report suggesting the "creation" of standards, solutions, and policy, an IPR policy would be required in order for most organizations to consider signing the membership agreement.
		Participants discussed the scope of IPR policy. It could be specific to the working groups, standing committees, Management Council, and Plenaryor could be a blanket IPR policy for the whole of the Steering Group. For example,in OASIS the working groups develop individual IPR policies.
		Participants stated that SGIP still has not fully resolved this issue, that IPR policy could be a serious issue in attracting and retaining members, and lack of an effective IPR policy could hinder the working groups' ability to actually conduct the necessary work.
		Participants suggested there needs to be a clearer definition of "Policy Development". Many technology oriented people will see this term as possible protocols or technology related policy. If this is the case it may affect patents and would require IPR policy coverage.
		A participant suggested the Steering Group should not be involved in any work that would require them to apply for or receive patents.
		A participant suggested that if the Steering Group is going to be successful it will need to tie all the existing Standards Groups and members of the community together through a baseline framework. However with the Guiding Principles and the Strategy the scope of the Steering Group is extremely broad and this presents complicated legal issues.
		A participant suggested interoperability as an example of the complications that arise from the Steering Groups broad scope. There cannot be interoperability without the sharing of details and most likely patented approaches/technology.
		A participant asked if the trust mark would require a patent or a trade-mark. Or, could a trust mark be avoided by using a trust list or something similar? Participants suggested a trust list would avoid the legal complications of a contract but could still be used to enforce compliance. FICAM used this method. If you are in violation, you are removed from the list.
		A participant stated there are also legal and IPR concerns regarding existing trust marks and that any IPR policy would need to address this.

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		Participants suggested the Steering Group could use existing standards bodies and accreditation groups that meet a baseline framework, to certify members of the group. This could avoid some issues.
		Participants agreed that IPR policy should be an item proposed for collaboration and development prior to the initial meeting of the Steering Group
3.	Charter	The goal of the charter was to build a draft document that incorporated the concepts of the recommendations and to advance the development of the steering group. This does not mean the Charter cannot be changed or updated when the group convenes.
		A participant suggested that in order to actually discuss the impact of the Charter it must be viewed with the by-laws and until both are created we cannot evaluate the effectiveness or correctly comment on the content of the Charter. There was general agreement on this point.
		Participants agreed that all charters and by-laws must have a clause that allows for the modification of these documents.
2.	By-laws	Participants agreed that creating the by-laws is an essential step that can be started through collaboration in the community.
		A participant suggested that disagreement between the Management Council and the Plenary over a technical or standards issue would be an example of an item that must be addressed in the by-laws. It was further stated that the by-laws should clearly define how the Management Council evaluates the recommendations from the plenary and set criteria for what can be rejected or sent back for revisions.
		A participant suggested that if trust frameworks are going to become part of the Steering Group or receive the trust mark perhaps the measurable testing and certification process should be defined in the by-laws as well .(
		A participant stated that the Guiding Principles need to be made measurable and that the by-laws should set out a minimum and measurable way for members to operate in accordance with those Guiding Principles.
		A participant suggested that if the Steering Group is to provide a baseline or framework that the members will operate within, and that baseline is being accredited, there needs to be a way for stakeholders to bring grievances to the attention of the Steering Group. If someone or some process in the accreditation system is not working, the bylaws should define how this is resolved. This could be a role for the Accreditation Working group to fill.
4.	Future of the Steering Group	One of the participants suggested that, while long term planning is essential, the Steering Group may not need to be a permanent entity. They may feel as if they have accomplished their goals in two years' time.
		The participants agreed that the Steering Group will mostly likely need to become an incorporated legal entity at some point. But the timing for this was not specified.
		The participants discussed the possibility of producing documents through collaboration on the NSTIC.us site. One of the potential outputs discussed in a different breakout was a three year plan. Most participants considered the inclusion of a transition plan essential to long term planning.

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5. Miscellaneous		There will be an MIT sponsored webinar discussing NSTIC in two weeks.