DAVID MCAULEY: I want to welcome everybody, we have good participation, I know that some folks cannot make it. My name is David McCauley, I have been the Chair of the IOT for the last several years and have acted as a Chair for this meeting and the previous one of the reconstituted IRP IOT. It's a good group, I'm happy to be back.

So, I would like to begin by asking if anyone has any information relating to statements of interest that they would like to bring to the group's attention, if you could kindly raise your hand and make that point or add it in the chat, or if you're on phone only, simply speak up. If there is anyone, please do so now. Okay, thanks, I don't see hands and I don't hear anybody, and so if I could ask Brenda to please go to the agenda screen. Thanks Brenda, I see it.

So let's begin by talking about the meeting schedule And for that I believe I will turn to Karen or to Bernie, whoever is most appropriate. Would that be you Karen?

KAREN MULBERRY: I think Bernie can take it from here I'm just observer right now.

DAVID MCAULEY: Okay, thank you Bernie.

BERNARD TURCOTTE: Okay, well hopefully this will be a short item. Everyone saw the email, the results from the doodle poll, it was fairly straightforward

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mathematical items, so is there any objections to Tuesday's rotating between 1700 and 1900 UTC? We may revise that once Daylight Savings goes away, but when it does it will probably just make things better. So, if you have any questions or comments I'll be glad to answer them now.

Okay, I'm not seeing any questions and I'm seeing some support in the chat, so David I'll hand it back to you and I think we have a meeting scheduled to Cancun.

DAVID MCAULEY: Thanks Bernie. I actually did have a question but had a hard time getting off my internal mute and the question is, could you remind us how many people responded to the doodle poll and the only concern I have, by the way I support this, I'm happy with the schedule, but I want to make sure that I think Bruce Tonkin is generally in Australia all the time, did he reply? Is there a chance for him to participate with a schedule like that? I'm just curious what kind of coverage we'll get.

BERNARD TURCOTTE: Of the 19 members, 15 responded, including Bruce. So, this takes into account Bruce.

DAVID MCAULEY: Okay so let's move on to the next item, the meeting in Cancun, and is that you, Bernie?

BERNARD TURCOTTE: Karen's been handling that one so I think we should go to her to cover that.

KAREN MULBERRY: For the meeting in Cancun of the group I have requested times on March 9th. The meetings team hasn't assigned anything yet. I have requested either 10:03 in the morning or 5:00 in the evening on that day as the two options to all the meetings, so it's not on the last day of the ICANN meeting that people wanted to avoid, and it seemed like the best opportunity to avoid some of the other conflicts that were noted on the last call. So, as soon as I hear what the meetings team has assigned the group I will definitely let you all know.

DAVID MCAULEY: Thanks, Karen, it's David again. What day of the week is the 9th? I don't have my calendar up.

KAREN MULBERRY: It's right after the opening ceremony.

DAVID MCAULEY: So that's a Saturday?

KAREN MULBERRY: It's a Monday. I was trying to avoid the weekend just in case, because of other events and things that happened over the weekend and

Monday seemed like the most likely opportunity to avoid the majority of the conflicts that were noted.

DAVID MCAULEY: Thank you, thanks very much. I'm sure you will let us know as you said as soon as you hear so that this group here can plan accordingly. So, if there's no comments, no questions about that, I'd like to move on to the review of work items to be carried out by the IOT. So let's the slide, thanks Brenda, that's the slide and it's a little bit more in depth than we went through last time.

It's my attempt to sort of lead this discussion and it'll be a little more in depth than it was last time, as I was saying, and it's consistent with what Kurt was saying, it's a good idea to get a grasp of what we have in front of us, and so that's my intent on doing this. And so if we could go through this bullet item, it's my intent to try and tag for us what part of bylaws each bullet item will invoke so that people here can start to get a further grasp of exactly what it is we have on our plate.

So, the first item on the bullet list is that one of our things to do, and it's probably our topmost priority, is to finish the Supplementary Rules of Procedure, and we mentioned this before, that there are interim rules in place and there's work to be done especially on Rule 4, which is the time for filing, but there's work to be done on finishing the supplementary rules. The place to go to find out about this is Bylaw 4.3n, and I would point specifically to Bylaw 4.3n Subsection IV.

And it's in that particular place, and I'll be reading and paraphrasing just briefly here, it says "the Rules of Procedure are intended to ensure

fundamental fairness and due process and shall at a minimum address the following elements," and there you have a number of elements under capital letters. And so it really is the remit to us as to what to do with respect to the Rules of Procedure for IRPs.

The second bullet item, Develop Rules For Cooperative Engagement Process. Well, the cooperative engagement process you'll find it Bylaw 4.3e, but there was also work in CCWG Accountability, in fact in CCWG Accountability Workstream II there was a subgroup empaneled to address rules for the cooperative engagement process but that was a very small group they never really jelled and so in the middle of that process it was decided that the rules for the cooperative engagement process would sort of be transposed over to the IRP IOT.

And so if you go to Bylaw 4.3e you will see what the CEP is. Whenever that subject comes up I expect that we will hear from practitioners NCEP on both sides of the dispute and get a better understanding for CEP, how it works and what kind of rules might be needed.

The third bullet point is to recommend training for the standing panel and there I would direct your attention to Bylaw 4.3j Subsection i. That is a section that says members of the standing panel shall receive at a minimum training provided by ICANN on the workings and management of the internet's unique identifiers and other appropriate training as recommended by the IOT.

This this is where it becomes clear that this IOT standing panel is to become aware of the idiosyncrasies and the esoterica of the ICANN world, which is a good thing to have panelists who understand the

context in which we operate. So that's where that comes from and we have a job to consider that recommended training for them.

Next bullet item is to develop a recall process for members of the standing panel and recall we discussed this last time, recall that the process of putting together a standing panel doesn't include us except for our informal help to our respective SOs and ACs but it is something that the SOs and ACs together with ICANN put together.

So, we are to develop recall process for members of the standing panel, there you will see that being addressed in Bylaw 4.3j Subsection iii. It simply says at the end of that section "Appointments to the standing panel will be made for fixed term etc, with no removal except for specified caused in the nature of corruption misuse of position fraud or criminal activity." Then it goes on to say "the recall process shall be developed by the IOT.

The next bullet item is to consider designing specialized rules for PTI service complaints and there we go back to Bylaw 4.3n Subsection ii. And next section It says, "specialized rules of procedure may be designed for reviews of PTI service complaints that are asserted by direct customers of the IANA Naming Functions and such claims that are not resolved by mediation." Well, that language is directed to us as you see when you read Bylaw 4.3n.

The next bullet item talks about developing procedures if ICANN elects not to respond to an IRP, and there you can see that addressed in Bylaw 4.3n Subsection ivF, which says, "These are procedures we are to develop if ICANN elects not to respond to an IRP."

Now having said that, we should also look at Bylaw 4.3g to help inform us because 4.3g says at the end, after a bunch of other language. it says, "If no response is timely followed by ICANN, the IRP Panel may accept the claim as unopposed and proceed to evaluate and decide the claim pursuant to the procedures set forth in these bylaws." So, G says that the panel can move forward, N tells us we have to design some rules for that, or procedures for that.

The next bullet item says we should develop standards rules governing appeals and for that I would commend your reading Bylaw 4.3n Subsection ivG. And all that says is, "The standards and rules governing appeals from IRP panel decisions including panel decision," wait, I'm sorry, I gobbled that, but it's telling us we have to design rules for the standards and rules governing appeals from IRP panel decisions including which IRP panel decisions can be appealed. I'm looking for hands, I don't see any.

The next bullet item is to consider developing additional independence requirements for members of the standing panel and there, standing panel itself is addressed Bylaw 4.3j, but there I would address your attention to Bylaw 4.3q and I will shift over to that page, and Bylaw 4.3q Subsection i, paragraph B, which says, "Additional independence requirements are to be developed by the IRP IOT including term limits and restrictions on post-term appointment to other ICANN positions."

And then the final, I hope I haven't missed any, the final bullet item is a question to ICANN that Malcolm as I recall suggested on our last call, and that would be simply a question to ICANN about developments with respect to Bylaw 4.3y; 4.3y simply provides that ICANN shall seek to

establish means by which Community nonprofit claimants and other claimants that would otherwise be excluded from utilizing the IRP process may meaningfully participate in and have access to the IRP process. So, that is our remaining work as I see it.

Now as I mentioned in the last call, the bylaws do have sprinkled throughout various provisions that could get our attention, could seek from us a recommendation, etc. One example I used last time was at the end of the process when we finish this work, we might want to consider recommending to the Board that the IOT remain in place, even if it doesn't have work, in case it's called upon for additional help. S

o that is the completion of my discussion on the remaining work. I have not had a chance to go through the chat while we're doing this, and so if anybody has a question or if there was a question in chat I might ask Bernie to bring it to my attention, so I would invite comment. Remember this is a group that we're going to try to work together and I certainly encourage folks to come in and make comments, observations, as they wish.

BERNARD TURCOTTE: You have the question from Mike.

DAVID MCAULEY: Could you read it to me, Bernie?

MIKE RODENBAUGH: Yeah, I raised my hand, there's a discussion in the chat about the standing panel selection process and apparently Sam Eisner says yes, there's going to be some public announcements within a few weeks. So that's what we know from Infraredx about that. My other question was is this list of bullet points is this intended to be exhaustive? How was this completed? Bottom line, can we add to it?

DAVID MCAULEY: Thank you for the question The answer is this is not exhaustive, this represents my personal attempt to glean out from the bylaws especially Bylaw 4.3 what it is we have to do and it can be added to, I may have missed something, I've given it my best, but In my view it's not exhaustive.

As one example, I mentioned at the end, when our work on this particular list of bullet items is done if we haven't identified anything else, we might want to recommend to the Board that we be left as a standing panel or not, it's up to the Board really, but there could be things where an IOT would be helpful.

One thing is a standing panel itself can recommend new rules. Do we want them to do that on their own? Would we want an IOT to help them? That kind of thing. But this is not exhaustive, at least not in my opinion. Thanks for the question

MIKE RODENBAUGH: Can we propose that topics be added now, or when, or at any time?

DAVID MCAULEY: I don't know odontoid any limit on that. So if you have something you want to suggest I would go ahead and suggest it now. Having said that, however, I think anything that's sort of suggested on the fly, and you may have prepared for this, but it would be good to then mention on the list, do we want to add this to the list, and here are thoughts pro, here's why I think this should be added to the list, et cetera, but if anybody wants to go ahead and suggest something, please go ahead.

MIKE RODENBAUGH: I just would put a marker down that I think an issue that we should be discussing is ICANN's respect for IRP precedents. There's bylaw provision that says that IRP decisions are supposed to be precedential, respected by ICANN, but in my experience that's farcical and so ICANN Org needs to be given some more specific direction on what that bylaw means.

DAVID MCAULEY: Okay, well that, I would suggest follow that up on the list with exact, how it would appear, and Bernie let me ask if you or Brenda could keep notes, well I know we get call notes at the end but make sure we don't lose track of these things.

BERNARD TURCOTTE: We'll note that.

DAVID MCAULEY: I'm just reading Kurt's chat entry before suggesting topics, "I'd like to see some sort of complete project plan that includes what is done as well as what remains to provide a full landscape. Is that possible?" I think that is possible, Kurt. This came with the new bylaws, prior IRPs were not bound by precedent, post bylaws changes are. I think that's a good point.

This Bylaw 4.3, and I don't have at hand exactly what subsection, but it does talk about precedents and the precedential value of IRP decisions. There is a provision in 4.3 where a claimant can ask ICANN, I think, if they would enter into a nonbinding IRP and I think it's subject to ICANN's approval, I'm not sure those are precedential, but the precedence is addressed in the bylaws. Good observation by Sam, apparently there's not been a complete IRP through declaration under the new bylaws.

The new bylaws took effect in October of 2016 and as we all know, while we hope that this is an expedited process, that is in comparison with litigation, not necessarily on a standalone basis. Anyway, are there other comments on this particular item of remaining work for the IOT?

If not, I'm going to ask Brenda to go back to the, well, we don't need to go back to the agenda, I'll simply mention that the next item on the agenda was to review the interim supplementary rules as modified by the IOT and the remaining items.

So, Brenda, if you could bring up the Interim Supplementary Rules that were adopted on 25 October, I will see and if I can enter into chat, a URL for this. I'm going to put a URL in chat that is to the currently existing

interim supplementary procedures. These were adopted by the Board in October of 2018. I'm sorry there is a clean version.

Brenda, if you can pick up that URL I put into the chat and I sent you a linked yesterday that Is my bad, I guess. I think a clean version would be good I'm going to go through this briefly I'm not obviously not going to read this But this is partially an answer to what has been done, that Kurt just raised, what's been done, and what is left to do. What's left to do we just went through, although it's not exhaustive as that most recent discussion illustrated.

But, what we have done is have these interim supplementary procedures issued and again I'll restate that the Rules of Procedure for an IRP are the rules of arbitration as I understand it of the International Center for Dispute Resolution the ICDR. The reason these rules are called interim supplementary procedures is they supplement the ICDR rules and they supplement it in a way to address the esoteric nature of ICANN and in the event of a conflict the supplementary rules will take precedence over the ICDR rules.

So in any event you'll see that we've done definitions in there and you can go through them yourself you know everything that is largely defined and Bylaw 4.3, such as claimant covered action disputes, things like that, and on through the supplementary procedures. And the supplementary procedures, when you go through them, you'll see that they're largely tracking the bylaws. The second thing is the scope you'll see that the scope...

BERNARD TURCOTTE: David, we have a hand.

DAVID MCAULEY: Yes, sorry, oh that's not showing on my screen, I'm sorry about that. And the hand...

MIKE RODENBAUGH: David, it's my hand, it's Mike Rodenbaugh.

DAVID MCAULEY: Mike, hi, I didn't see it, sorry about that, go ahead.

MIKE RODENBAUGH: Not a problem. So, my question on the supplemental rules is they tie into the ICDR rules, but what if the ICDR has no role to play Once we have a standing panel in place?

DAVID MCAULEY: Mike, I will give you what I think is the answer to that but I would invite Sam to speak If I'm wrong about this, but it's my understanding that the two are separate. for instance, there is a services provider for the administrative services necessary to run an IRP and those are provided by ICDR.

                           And then secondly there'll be a standing panel which will be the substantive panelists to come in and hear the disputes basically. I think

ICDR will stand and continue their administrative work throughout. But Sam your hand is up, why don't you go ahead?

SAMANTHA EISNER: Thanks, David, and thanks Mike for the question. So there's actually kind of an initial step that we haven't talked about that also in the bylaws which has to do with whether or not there's a need to select a different provider and we did an analysis, we talked to the IOT, as I recall, about this earlier, and so after the bylaws there has not been a switch from the ICDR as the administrator.

The existence of the standing panel will not change the fact that all of the parties to an arbitration need an administrative force behind it. And so we would still need to contract with some entity to provide that administrative force, as well, and to coordinate the standing panel work. So, the standing panel is only the adjudicator, it's not the people who are helping them get the papers right and collect the fees and schedule the hearings, and all the administrative work that goes behind it.

So if there's ever a need or determination that it would be appropriate to change service providers and we did an appropriate RFP around that, we do that, we would identify the proper rules that we would then apply, because there is supposed to be some sort of general standard arbitration rules that would apply, that's one of the purposes of the IRP, is to operate as close to well understood international arbitration rules as possible.

So we'd have to identify what body of rules we were using and then augmenting with the supplemental procedures. So if we ever change providers we would then just have to go through an alignment process to whatever other rules we would identify in the event we changed from ICDR rules to a different group.

DAVID MCAULEY: Thank you Sam, it's David speaking again. Moving on, in the interim supplementary rules you'll see there's a rule for scope that says this is the IRP under 4.3, talks about the inconsistency and what applies when these are inconsistent with the main ICDR rules. The next section is the composition of an independent panel that talks about taking three members from the standing panel.

The standing panel when it's created will have at least seven members, could have more, I suppose. But a panel that hears a case will take three panelists and it also provides for what happens in case a standing panel is not yet created and an IRP comes along, how do you get the panelist.

The next section is time for filing and this is an area that there's more work required and there is a bridge mechanism basically for not prejudicing someone until this rule is finally adopted in the final rules. But it's a time for filing a claim.

The next section is #5 on the conduct of an independent review. Again, following the bylaws, it talks about resolution expeditiously at reasonably low cost, et cetera. There's then Section 5a that talks about the nature of the proceedings and how the proceedings will be handled

largely by electronic means but the section does go on to include provisions regarding hearings, evidence and the like.

Section 5b talks about translations which is important in the ICANN context obviously. And so I commend this to your reading and to get your arms around where we ended up on translations. Section 6 deals with written statements basically the complaint and how that is made and handled or how that's drawn up.

Section 7 deals with consolidation intervention and participation as an amicus and then you'll see it has bold language subsections dealing with those very concepts Consolidation, Intervention, and Participation as an amicus. That's all there in Section 7 of the interim rules.

Section 8 deals with the exchange of information, basically what we oftentimes call discovery, and I might just encourage folks to mute if you're not currently speaking. Section 9 deals with summary dismissal. Section 10 on interim measures of protection is the one I wanted to highlight. interim measures of protection are rather important and I would commend for your reading article 4.30 of the bylaws in particular in that respect.

Section 11 gets to the standard of review, so as you can see this is basically outlining again in accordance with the bylaws how these panels are going to operate. Section 12 gets the panel decision itself the majority opinion. Section 13 deals with form and effect of an IRP panel decision. It's there for your reading. And then 14 and 15 [AUDIO BREAK]

Bernie, can you hear me?

BERNARD TURCOTTE: You're back, excellent.

DAVID MCAULEY: How long was I gone? I'm sorry, I've been talking here.

BERNARD TURCOTTE: I guess we lost you around Section 13 Form and Effective IRP Panel Decision.

DAVID MCAULEY: My apologies; 13, 14, and 15 are self explanatory and I would commend them for reading. I don't know what happened to my audio, sorry about that. So I was then inviting anyone to make a comment or ask a question about this about the interim standing roles Otherwise we can move on And we don't have much So we're going to wrap this meeting up fairly in fairly short order I would think But I'm looking for hands now. I see Mike Silber, you are the only hand up, please go ahead.

MIKE SILBER: Thanks David, I really think that those of us who are new to the process needs to be given a deadline by which time to familiarize ourselves with the current draft and actually start engaging properly on this because just simply debating process and procedure is not going to move this forward.

So I'd like to propose by the next meeting we actually start engaging substantively on the document and preferably with people submitting comments ahead of time so that we don't occupy huge swathes of a meeting with people talking about setting up their initial comments but actually just referring to written comments that have been sent by email to the list prior to meeting taking place.

DAVID MCAULEY: Fair enough, Mike, thank you. I see that Malcolm Hutty has his hand up, Malcolm why don't you go ahead and take the floor and also, I'm sorry, let me just also encourage others to react to what Mike is saying and I will too, I'll take my leader hat off and comment to Mike in just a few minutes. But Malcolm, why don't you go ahead for now.

MALCOLM HUTTY: Yes, thank you. I just wanted to raise the issue of the document, the baseline document that we are working from. When this group, the last work that was done, we had a document that was incomplete and as a result of that and the pressing urgency of having something in place in the meanwhile, we suspended work on that incomplete document and adopted the interim Supplementary Rules of Procedure which were provided by the ICANN legal office in a sense and that was adopted on an interim basis.

But the work that the group had done was on a different document, it was not this interim supplementary and that does not reflect the work of the group. So can you confirm that we will be continuing to work on the document that we had worked on and from where we had left off?

DAVID MCAULEY: So, Malcolm I think that question was addressed to me, I'm going to defer answering it now and ask Sam to go ahead and speak, her hand is up, and my hand is up as a participant, not as a leader, but it's really in response to Mike. So Sam. why don't you go ahead for now.

MALCOLM HUTTY: Before she does, I would just like to also point out that the document that I'm referring to was the document on which we had gone to public consultation two times and then evolved again past the second public consultation route.

DAVID MCAULEY: Thank you, Malcolm. Sam, do you want to go ahead?

SAMANTHA EISNER: Thanks. To Malcolm's point and I think we can have a little bit broader discussion that I'd be happy to give some background on in terms of the status of the interim rules versus the additional topics that Malcolm is correct that we had deferred to further discussion.

There were points in the document that had initially gone out for public comment that there had not been a consensus reached within the group and so items were taken off as Malcolm suggested in order to get to the areas where there was consensus and that we had agreed to have further conversation within the IOT and that is one of those pressing issues that we come back to.

I don't think that it's a fully separate document I think that there are sections within there that we agreed needed further work and possibly the reintroduction of language that had gone out for public comment that we need to look at and further refine.

But it might be helpful, and David, I'll take your lead on this, to discuss the methodology that was used to develop the interim rule set that was developed so that the group here can understand where we started from, where we got to, and what we think still remains left over, and that might help a bit in helping, as Mike suggested, to do some of that work to understand the work that's occurred so far.

DAVID MCAULEY: Thank you, it's David McCauley speaking again. So, Sam, let me first say to Mike, I had a question but I think the discussion between Malcolm and Sam have answered the question that I had. So Mike, I won't be asking you a question.

To Sam, I am not prepared frankly to lay out right now the to and fro on the previous documents, and so it seems to me that unless you are or Malcolm is, in some depth, that would give this group of real appreciation of it, it seems that maybe what would happen, and this brings back Mike's question, is not that we start In on the document at the next meeting although that could happen, but rather the we've addressed this point, what was the to and fro that you and Malcolm are talking about.

But I have to admit Sam at this point I'm not prepared to lay out the specifics of what happened, I would want to do some research before I

did that, some time has passed and I would feel more comfortable doing that. So, that's my question to you, Sam. I'm afraid I can't do that right now, do you have something else you want to suggest?

SAMANTHA EISNER: So, David, I think that we don't need to get into an in depth debate about the areas of the key disagreements right now, but I do think and I am prepared to start giving some broader background about the genesis of the interim rules, what was taken in, in order to get to the interim rules and to help start identifying those key areas where we said that there were still things to be discussed.

I don't think anyone on the call is prepared to have the debate about those key areas, though. So, if you wanted me to launch into that a bit to help kind of set the stage for the newer members of the IOT, I'd be happy to do that.

DAVID MCAULEY: Thank you, Sam. I would encourage you to go ahead. I definitely want to set the stage that the last call that we started at and I'm hoping that we can continue that here and get it well and truly done to get to Mike's point that we need to start working on substance soon. So let me ask you to go ahead and do that, and then we'll go to Malcolm and then Flip.

SAMANTHA EISNER: Do you want to go to Malcolm first and then to Flip, and then I'll go into my discussion after them?

EN

DAVID MCAULEY: Okay. I'll do that. Malcolm, go ahead please, I think you were next.

MALCOLM HUTTY: Okay, thank you. I'm simply asking that the document that we were working on as we were last working on it before we dropped it, before we suspended work, should be presented to this group so that those that are new can see it and see where we got to.

Now I'm aware that some elements from that, that Sam and her team had decided were essentially uncontroversial or consensus, were incorporated into the draft that they presented to the group for approval as the interim rules, but there may be other things and they may not be things on which there is substantial disagreement, there may be points that weren't ready or it may be points that Sam's group just chose not to incorporate, or it may be points on which there are some disagreements but really resolvable, or so forth.

But whatever the state is, I think that the work as we had got to should be recalled and what we should be able to see, everybody should be able to see where we had got to rather than start essentially de novo from this interim rule set which essentially drops the work that we had done, albeit that it incorporates some points from it, from what we've done.

DAVID MCAULEY: Thank you, Malcolm, and I expect Sam may address that but first we will go to Flip. Please go ahead.

FLIP PETILLION: Thank you, David. I don't know to what extent and if it's really fair to Samantha to ask now to give us an overview. Maybe she would like to prepare and actually in line with this comment I wonder whether there is some position paper of the group that was on before this group here and that developed a list of the items that were discussed maybe different from the one we just went over, and where the group was when it actually stopped working on discussing these issues. Thank you.

DAVID MCAULEY: Thank you, Flip. So, Samantha, do you want to address what Malcolm and Flip just said and give the overview?

SAMANTHA EISNER: Sure. I have done some preparation in advance to the meeting because I assumed that I might be called upon to do some of the history here. But I'm going to try to be very careful to not suggest where the areas where there is agreement to suggest a position on those, so I'll try to be very mindful of that.

Just to lay out some of the procedural history of the group, when we started the work we actually started work before the CCWG Workstream I report was adopted and before the transition, the group came together and started having discussions. And then we continued after the bylaws were put into effect and really started to use the bylaws as that proper foundational document of what it was we were supposed to have in the rules and how to look at the IRP work.

We had a version that went out for public comment and I wholeheartedly agree with Malcolm, it is a very important historical document for this group to see the initial work that went into it, see the comments that were received, look at the public comment report and how the group analyzed the different comments and the changes needed that came out of that.

There was a lot of effort that the previous composition of the IOT of which many people on this call were part of, put a lot of time and effort into. As the time went on and there was a significant amount of time in looking at the public comment, we were hitting a point where we were all at risk as part of the ICANN ecosystem from both the ICANN side and from the complainant side, that we might not have a set of rules in place that aligned with the new bylaws.

And so at that point because there were still issues that were not yet completed, I worked with my team internally to develop a proposal for a set of interim roles and what we did with that was we went through the public comments, the discussions of the IOT as recorded because these calls are all other ICANN working groups transcribed, posted on the Web, the transcripts are available so people can follow what happened or our mailing list is publicly archived.

And so we were collecting the different positions that were there and we made a proposal to the IOT that maybe we have an interim set to work with of things that didn't seem as controversial and seemed easier to work through so that we could have a set put in place and then continue working on the harder issues or things that seem to still remain. And so that version was presented to the IOT in May of 2018.

And so some of the principles that we tried to use as discipline from the Org side when we presented it was that we should look at it in terms of what were the items that were most aligned with the public comment that wouldn't appear to necessitate further public comment if they were changed from that version that was posted for public comment and then to make sure that we documented where the changes came from.

And then that version was presented to the IOT and it's between May of 2018 and October of 2018 when it was presented to the Board that the IOT then continued to look at that internal document and continued to iterate on that.

And so the group came together and there were some areas that were minor clean up, there were other areas that we had more significant discussions upon such as Consolidation issues and issues of amicus participation and that was a version that was presented to the Board for consideration at its October 2018 meeting and that's the version that is before you today on the screen.

And so that's really how it came to be, and so that's why I say that I agree with Malcolm that the public comment document and the documentation prepared such as the Summary Report is a really important history basis for this group to look at because so much of what you'll see in this document here is reflective of what was received through those items. So that's really how this document came to be.

So the document that you're looking at has many different inputs but one of one of those inputs continues to be four more months of IOT

work from the time that we presented the interim rules as a draft to the time that they were presented to the Board.

And so there are some areas where there are significant changes or potentially significant changes to what was posted for public comment and there are areas that there aren't, but most of those came out of the IRP discussions that happened and not as a result of what was in the initial proposal that was provided to the IOT in May. So that's really kind of the groundwork of it. One of my hopes as we work through the IOT to get to what we would consider the final set of rules is that we also take a look at the experience of the IOT.

There's been one IRP that started that had some significant things happen in it since the supplemental rules were approved, and then I understand there are some other IRPs and at least one that's been initiated but I think that we also need to look at the conduct of those to make sure that we're meeting with the purposes of the IRP and that the rules that have been put in place to date as they've been tested are still meeting the purposes of the IRP and that we're keeping this as a just and fair and efficient proceeding for everyone, not just for ICANN, not just for the complainant.

For example one of the things that we've seen and that I'd like to have a further conversation with the group about not for today is in the supplemental rules that were approved as interim there's the concept of a procedures officer, and it turns out that's been tested through the IRP contract to date under the new supplement rules that is not a well-defined concept under international arbitration practice and it's caused

far more confusion and far more briefing time and far more expense for everyone involved in the IRP than it was ever intended to do.

And so I'm hoping that with the new practitioner focus of this IRP IOT group that maybe we can look at that and pair it back to something that's more reasonable and more aligned with standard practice so that we have quicker and more just proceedings for everyone involved because the IRP still is supposed to have a six month time frame on it and when we add confusion into the process, all that does is extend out that timeframe and cost for everyone involved.

So, there are places where the group wants to take a look at differences between what we used to operate IRPs under and where we are now we can try to focus on that, we can talk about that a bit today, we can have more focused presentations on that in future meetings.

There are things like consolidation intervention and participation as amicus, that didn't exist in our prior version of the IRP. We hadn't really looked at it in that way before. We tried to get far more specific in terms of the conduct of the hearing because that had been a question that had been subject to significant briefings in IRP's pre-transition.

And so to the extent that we thought that It was number one identified in the bylaws as something necessary for the IOT to take on and number two, would actually help with the efficiency and conduct of IRPs, we had rules added for those. We know that we need to refine the rules further on the availability of translations and language services within IRPs because that's something that has been identified through the newer bylaws as an important component of IRPs.

We're still working to define that, we weren't able as the IOT to come to conclusion on that in the interim rules and so we know that that's something that we need to work on as a group together as we reach the final set of rules. So, that's kind of a little bit more of a historical perspective of how we got to where we are today with the supplemental rules.

DAVID MCAULEY:

Thanks Sam, it's David McCauley speaking again. So, as I listened to you, it struck me that there are two things that you are suggesting or talking to.

One is addressing what Malcolm brought up and that is the historical context that to put in historical context on the "document" as Mike Silber was asking about, so that we can get to work on it and so to me that is something that the newly added members to this reconstituted team are deserving of, some historical context as Malcolm was suggesting.

And so I have a question about that, and my question is to you and Malcolm, how do we do that so that let's say within a week we can deliver something to the new members, to all the members, but especially to the new members to say this is that historical context that we were talking about so you can get up to speed on it.

And then secondly, Sam, the idea of testing the rules whether the random or whatever by experience sounds like a good one, but that's something that at least as I heard it that everybody on the IOT team would hear or would get on with for the first time. In other words, we

weren't doing that before we stopped work looking for a reconstituted team. So I see them a little bit separate. I understand your point.

I would suggest it might be worthwhile, Sam, to go on list and reiterate that point and say as we talked about on the phone this is what I'm suggesting so that everybody in the group can have a say about it or can have a chance to let it distill and they can form their thoughts on it. That's my initial reaction. Malcolm has a hand up and I'm going to go to Malcolm. Go ahead please, Malcolm.

MALCOLM HUTTY: We went to public comment on some proposals. Following that, we had discussions on the comments received and we had discussions on other topics that were raised in the group and we made decisions, including reaching agreements on certain points.   And as we did that the documents that was described as being the draft new supplementary rules of procedure was updated and maintained by you, David.

What I am suggesting and requesting is that the latest version of that which as it stood immediately before the proposal came up to switch to interim rules should be circulated to this group. I have looked to see on the mailing list to see if I can find a consolidated version of that and it is not easy to find.

David, I think you may be the person as you are maintaining that document may be the person who is most easily able to produce that document and circulate it. Could you do so?

DAVID MCAULEY: I'll have to check with Bernie, it's possible it is being maintained in my name but I don't believe that I was maintaining the document the document itself. But we can sort that, and I saw Kurt's entry in chat. My hope is to get an agreed document to this group so that people can get their arms around it.

Sam, you heard, what is your thought about reiterating on list what you are suggesting about going forward and testing the rules, I just want to make sure I understood it correctly.

SAMANTHA EISNER: So first I think that there's a lot of benefit and I will work with Bernie and David to help get a proper background document together to give the context to the group with references to the different versions and not every iterated version, but to make sure that there's an understanding of where the group started where it's been where it is now and then for the future looking things for things that are testing against the rules I agree with you wholeheartedly, David, it wasn't my intention to have people react to that now I think for any change that any person in the group is going to recommend beyond the areas that we've already agreed from the previous IOT iteration that we needed to continue working on I think we need to provide some justification to the group and explanation as to why that change is being recommended because think from my standpoint on Org and I'm by virtue of having the Board in town recently I'm sitting here with Chris and Becky as well, I think that there was the understanding that many of the areas of the rules were hoped to be in steady state.

And so while we understood there are parts that needed to change, I think there is the opportunity for anyone on the IRP IOT to identify areas that they would like to see change but I think that anyone who's doing that, including Org or including the Board, should be required to provide some justification against which the group can react and do that and no one really has the fiat to just go ahead and make a change to the document.

DAVID MCAULEY: Thank you, Sam. And so as the acting Chair of the group, I am a little bit between Kurt Pritz and Mike Silber. I appreciate Mike's desire, let's get on and get to substance, and I certainly appreciate Kurt's point, let's make sure we understand the context.

And so to Mike I'll say, I think that what we're talking about doing here may take more than us getting started on substance in the next meeting, I'm not sure, but I I will also say that Kurt, and as Sam and Malcolm and I have just discussed, it's up to those of us that were here before to try and get this context in place within a time within which people can take a look at it and move on. And so from all of this it's my expectation that we can create an agenda for the next call.

Malcolm, your hand is up, I'll get to you in just a second. We can create the agenda for the next call with a serious eye towards let's move on but also let's make sure we understand context. It's a reconstituted IOT, that's wonderful and we have to recognize for some of the newcomers this may be a little bit thick and it's our job those of us who

MALCOLM HUTTY: The document I'm asking for it is not merely historical context, it is the current state of the work of the group. It is the work product of the group, the latest state of the work product of the group. That is the baseline from which we should be working. It is not merely a historical matter that is where we stand as of now yeah. We only adopted the interim rules as an interim thing.

There was no suggestion there that there was any support or consensus, it was merely adopted as something that could be got out of the door for now on an interim basis but the current state of the group is the document that I've been asking for and that's why it's vital that that is made available because we can't be working from the supplement intern supplementary rules we must be working from where the group got it.

DAVID MCAULEY: Thanks Malcolm I wasn't using the term "context" I wasn't trying to use it as an exclusionary term, but I take your point. I actually think we're at a stopping point. I think that it's quite likely that before the next call people like Samantha and Malcolm and myself may be in touch to try and provide the things that we've been discussing, and with Staff to try and develop an agenda for the next call which I think Bernie you said is February 11th, is that correct?

BERNARD TURCOTTE: Give me a second, and I will check.

DAVID MCAULEY: Okay, sorry to put you on the spot but I have a feeling that's the next meeting, but in any event...

BERNARD TURCOTTE: That is correct, the 11th at 1700 UTC.

DAVID MCAULEY: Okay thank you, thanks very much. And so I think we have I think we have work to do and an agenda to construct I believe we're a stopping point But I'm open to further observations comments questions, etc. I don't see hands and I don't hear any. I do see a hand; Kavouss, hello, welcome, go ahead Kavouss, please.

KAVOUSS ARASTEH: I was listening to everyone and I think that there has been some interval between the last things we have done up to now and have also new members. So I agree with those people saying that you have to have available the document at the time that we stopped.

And then you have to list what else you have to do with that document what else we have to add to that and if there are any changes or amendment or revisions as it was said by people there is a need to have justification and to have agreed to those things.

For the time being, I think there is a lack of some I would say material for people maybe like me, but not others, that they don't know where we have stopped and what we have agreed previously. So we have to make it available and we have to work on somewhere but not to start from scratch. Thank you.

DAVID MCAULEY:

Thank you, Kavouss. I will in 30 seconds draw this meeting to a close unless there's someone on the phone that wants to speak up or any hands are raised. I want to thank everybody for their contribution You can see that we have some work ahead of us and I'm hoping that the review of the remaining work together with the bylaws provisions that pertain will help us get up to speed as to exactly what we need to get on with and I am ready to say we that we can close the meeting.

I haven't had a chance to stay up with the chat, Bernie. If you could just comment if there are any questions in chat that are being unanswered right now, otherwise we will close the meeting.

BERNARD TURCOTTE:

No, there are no outstanding questions; there's a discussion as to Malcolm's points surrounding which document to use, but I think at best, that will be solved offline. Over to you.

DAVID MCAULEY:

Okay, and discussions can always of course continue on list as well. So thank you everybody. We are moving forward and one of the things that's good news is there may be a meeting in Cancun, it would be good

for all of us to get together meet each other and let's hope that works out, we'll see what happens I would like to thank everyone and I will then say we can stop the recording. Thank you.

[END OF TRANSCRIPTION]