

YEŞİM NAZLAR:

Good morning, good afternoon, and good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group call taking place on Wednesday 24th of February, 2021 at 1300 UTC. We will not be doing the roll call due to the increased number of attendees as well as for the sake of time. However, all the attendees' calls on the Zoom room and on the phone bridge will be recorded after the call. We have received apologies from Bill Jouris, Alfredo Calderon, Vanda Scartezini, Sylvia Herlein Leite, Satish Babu, Roberto Gaetano and from Eduardo Diaz.

From staff side, we have Evin Erdoğan and myself Yeşim Nazlar present on today's call and we're expecting Heidi Ullrich to join us shortly as well. As you know, we have Spanish and French interpretation provided on today's call and our Spanish interpreters are Claudia and Marina and our French interpreters are Aurélie and Isabelle. Just a kind reminder to please state your name before speaking, not only for the transcription but also for the interpretation purposes as well, please. And one last reminder, we'll go for the real-time transcription service. Please do check the link that I'm going to share it here with you on the Zoom chat. And with this, I would like to leave the floor back over to you Olivier. Thanks so much.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much, Yeşim. Welcome to this week's Consolidated Policy Working Group call with an agenda that's a little bit, well, more of the same looking week on week. First, we'll have a look at the At-Large priorities and Jonathan Zuck will take us through these. After that, we'll

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have the work group updates, shorter work group updates than usual with, first, a quick update on the IGO Work Track from Yrjö Lansipuro and Carlos Gutierrez.

Nothing from the EPDP this week it seems but we'll have an extended amount of time with Justine Chew on the subsequent procedures. Touching on the SAC114 SSAC advice and also the provisional ALAC advice to the ICANN Board on these subsequent procedures. Then we'll have a look at the policy comment update, the three of them currently in the pipeline and finally any other business. So, at this point in time, are there any other additions or amendments to be made to the agenda? I see Jonathan Zuck has put his hands up. Jonathan?

JONATHAN ZUCK:

Thanks, Olivier. I haven't made progress going through the surveys from last week so I don't think I need to be at the top of the agenda. I want to make sure we leave enough room for the substantive conversations that we need to have with Justine and potentially Alan and also Greg. So, I think we should probably jump into the other updates.

OLIVIER CRÉPIN-LEBLOND:

Okay. Thanks for this, Jonathan. We'll therefore shelve the At-Large priorities for the time being. We could come back to them if we have time but, in the meantime, we'll jump across them to agenda item four. Hadia Elminiawi? And Hadia had just put her hand up. Yeah. Go ahead, Hadia.

HADIA ELMINIAMI: Hi. So, both Alan and I have indicated that we don't have anything to share. However, maybe we can take like 30 seconds, just a quick, minor update. Thank you.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks so much for this, Hadia. I'll have to ask staff to have a timer ready for the 30 second mark because we're a bit short of time today. That was a joke. Okay. Thank you. All right. I think we've got the changes that were proposed, agreed on. I'm not seeing any further hands up so let's go to our action items from last week's call, the 17th of February. There are three action items yet to be ticked. One is for the EU NIS Directive and I gather we'll be speaking about this today. One is for then to confirm whether the ALAC statement advised to be submitted to the EU and the ICANN Board, so that's to find out. I don't know whether—well, we can probably deal with it all at the same time.

And then the third one is for the PIR's new institute to combat DNS abuse and there is a suggestion here to invite Graeme Bunton, the new director of the institute for the future to collaborate with what At-Large has said on the topic of DNS abuse. Anyway, that's for the near future. Any comments or questions on any of the points that are on the screen at the moment?

I shouldn't think so since we're going to be speaking about those, so, thank you. Let's move on then. Let's jump, as we said, we're going to avoid agenda item three and jump straight to agenda item four, the work group updates. And first we'll have an update from Yrjö Lansipuro and Carlos Gutierrez on the IGO Work Track. Okay. Yrjö. Go ahead.

YRJÖ LANSIPURO:

I hope you can hear me well. This Work Track is the latest chapter in a very long saga of how to protect names and acronyms of intergovernmental organizations or IGOs. It's a long story. It goes back to the early days of ICANN and many of you, I'm sure, know the background much better than I do. But let's leave the pre-history and start from 2014. So, a PDP was set up 2014 to review and update the curative mechanisms that an IGO can access to prevent the use of its name or abbreviation if somebody has registered them on a second level.

In 2018, the PDP produced five recommendations. GNSO accepted four of them. They didn't accept the key one which was Recommendation 5. It covers a possible case where an IGO wins the UDRP or URS process and the losing registrant wants to take the case to court at which point the IGO says, "Stop. I have immunity." So, the PDP recommended that when the IGO claims immunity—IGO is intergovernmental organization. It covers a whole gamut of intergovernmental, international organizations starting from United Nations and its specialized agencies to many, many hundreds of other intergovernmental cooperation organizations.

So, this PDP recommended in Recommendation Five that if an IGO claims immunity, the case goes back to the beginning and the [DRP] outcome will be set aside, that is to say invalidated. Now, this was not accepted by GNSO. Instead, a new Work Track was set up now within the framework of all rights protection mechanisms PDP, to find a

solution to this dilemma. So, that's what this Work Track is supposed to do. And we had our first meeting on Monday.

Most of the time was taken up by an introductory round [inaudible]. There are a few IGOs participating so this promises to become an interesting exercise. Chris Disspain is a chair. Now, we have been given a very narrow frame within we can move that is to say the terms of reference. We can't recommend the creation of any specific new [DRP.] We can't take away the right of the registrant to go to court if unhappy with the outcome of the procedures. We're sort of boxed in. Kavouss Arasteh from the GAC said that we have been put in a room which is two meters long and one meters wide and requested to run.

But at least the mood at this first meeting was constructive. All indicated they think it's possible to solve the dilemma that might require some tweaking of words in the terms of reference. Arbitration was mentioned by many as a possible substitute for court proceedings. Now, when PDP decided on Recommendation 5, in fact, it had six options to choose from. And we are now going to look at the five that were rejected and try to find elements of a compromise. We'll have weekly meetings scheduled until mid-March so let's see what happens. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much, Yrjö. Are there any comments or questions to Yrjö Lansipuro? I am not seeing any hands up, so thank you for this update and we look forward to further updates in future calls. Great to see that the ball has now finally started—I'm not quite sure if it's rolling

or if it's just edging forward but it certainly seems to be moving so that's something good. Now, we can now go to Hadia and Alan for their 30 seconds of fame. Well, we can give them a little bit more than 30 seconds. Expedited Policy Development Process, the EPDP. Hadia Elminiawi and Alan Greenberg.

HADIA ELMINIAWI:

Thank you so much, Olivier. So, I just wanted to mention that Steve Crocker made actually a proposal on behalf of the SSAC in relation to the distinction between natural versus legal persons. And in that document or proposal, he actually starts—in my opinion, by answering one of the comments that were put by the registrars or registries stakeholder groups whether it is desirable or not to make that differentiation. And then he mentioned, you know, with the forthcoming NIS2 and pressure from different constituencies, it is regarded as desirable to make that distinction. And then he goes ahead in his proposal and—there is again, an echo.

OLIVIER CRÉPIN-LEBLOND:

We can all hear you. I think that there might be an echo on your line. I'm not hearing an echo where I am so I don't know if others are hearing an echo but go ahead, Hadia.

HADIA ELMINIAWI:

Okay. Great. Thank you. So, he, then, starts [thinking] in the paper and also what do we do with—we have two things here. We have existing registrations and we have new registrations, so what do we do with

existing registrations? And the suggestion would be to actually consider existing registrations as [undetermined registrations. The three status] or stages that he actually sees—and those are the obvious ones—is to have the determination either as a natural person, a legal person or unknown. Undetermined, right?

So, we will start with three things. Current registrations as unknown, undetermined and then start dealing with the new registrations. So, the process would be as follows: the registrar would have an interaction, definitely, with the registrant and according to that interaction happens the classification and then you have the completion of the registration by acquisition of any additional required data and then depending on that, you can determine the status, natural, legal, or unknown. And depending on that, the rest of the process goes on.

So, what we actually, in my opinion, trying to do is not to get caught into the details and focus on the real issues. I think that this proposal is good, and let's see how we'll go ahead with it. That's like in very simple words, but of course, it has a lot of more details in there. Thank you. And the other thing, we are still working [inaudible] legal committee, sub legal committee with the questions that are going to be posed to Bird & Bird. Thank you.

OLIVIER CRÉPIN-LEBLOND: Okay. Thank you very much for this, Hadia. I see Alan Greenberg.

ALAN GREENBERG: Yeah. Thank you. Yes, Steve's proposal is basically the same as the one the GAC put together that we supported. The wording is slightly different but essentially what they were saying is let's start with new registrations and proceed from there. The catch of course is the registrar saying, "We don't want to have interactions with our users and the interaction to determine legal versus natural for new registrations is such that they want to avoid that as well." So, I'm not really sure it changes the picture any. In my mind, what they're doing is just delaying the inevitable, but we'll see. Maybe his words are sufficiently different to let them gracefully accept it. I'm not optimistic, but we'll see where it goes.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. Now we have Christopher Wilkinson.

CHRISTOPHER WILKINSON: Thank you. Olivier, I'm really getting tired of this. The community is being given a merry-go-round by GNSO on for example the previous point and on this one. I don't know why we should continue to be obliged to spend time on refuting the obvious of this is going too fast, and frankly I'm getting quite angry about it because I've been around for 20 years and it goes on and on and on. Somebody's got to pull the plug on this kind of nonsense. Thank you.

OLIVIER CRÉPIN-LEBLOND: Yeah. Thank you very much for this, Christopher. I see in the chat that Alan mentioned we don't have to spend time on this but we choose to,

so I guess we have some people that are determined to try and find some kind of a solution. But agreed, it does take a lot of time. But I guess that's the nature of policymaking. Any other comments or—?

CHRISTOPHER WILKINSON: Yeah, but it's been going on forever. Somebody's got to draw the line somewhere. Thank you. And thank you, Alan. Excuse me for interrupting.

OLIVIER CRÉPIN-LEBLOND: Yeah. Thanks Christopher. Any other comments or questions to Hadia or Alan on the expedited PDP? Not seeing any hands up so now we can move on. So, thank you, Hadia. Thank you, Alan. Good luck for the rest of the sessions and we'll continue now with Justine Chew now, welcoming her. And she's going to speak to us about the subsequent procedures with a review of SAC114 that she has prepared for the Consolidated Policy Working Group. You have the floor, Justine.

JUSTINE CHEW: Thank you, Olivier. I hope I can be heard clearly. Just before I get on to the presentation, I just want to provide an update on the subsequent procedures final report recommendations. The report and the recommendations were tabled for decision at the GNSO Council last week on—I believe it was Friday or Thursday. It was on the 18th anyway. And I can report that the recommendations have been adopted as a package unanimously so basically, GNSO Council has okayed the report and recommendations and they should be transmitted to the

ICANN Board at some stage. I'm not sure when that would happen. Possibly, Cheryl might have a better idea but we're going to monitor that event so that we can, again, determine when would be the best time to finalize our ALAC advice to the Board.

In the meantime, I'm going to suggest some amendments to the provisional advice based on this review of SAC114 that I'm going to talk to you about now. Okay. So, if we can move onto the next slide, please. Okay. So, just bearing in mind—yes.

OLIVIER CRÉPIN-LEBLOND: Justine? Yeah. Just jumping in before you start with this. You've just mentioned you did announce that all of the—well, it seems that there was unanimous decision for the GNSO Council to proceed forward. What is happening with those resolutions that did not meet consensus in the working group? Have these been forwarded as well?

JUSTINE CHEW: There was no recommendations that did not have consensus. They all had either full consensus or some level of consensus. There was no divergence. If you're talking about the controversial ones like closed generics, the position that we reported, there is no recommendation because there is no agreement made within the PDP to make a recommendation. So, there is no recommendation for closed generics.

As to the two recommendations that did not receive or I should say, that receive consensus but also some indication of—not divergence. I forget what the term is but did not receive a full consensus but had

some disagreement, I suppose you could call it that way, where the two that pertained to private auction. But as I said, they also receive a designation of a consensus sufficient to put forward as part of the set of recommendations. So, hope that answers your question.

OLIVIER CRÉPIN-LEBLOND: Yep. Thank you very much.

JUSTINE CHEW: Okay, cool. So, coming back to SAC114, just bearing in mind the role of SAC, okay, they typically limit themselves to technical matters and security and stability sort of technical matters. So, they would only comment on areas that they think or they believe impinges on security stability and those kind of issues, right? So, the SAC114 is in fact their comments to the subsequent procedures final report or they say it's draft final report. Not quite sure where they come from, it is a draft final report. But anyway, there is no real discrepancy in terms of whether it's dealing with draft final report or the actual final report.

Okay. So, the question that was posed is, what action should or can the ALAC or At-Large take on the recommendations and comments that are contained in SAC114? so that's what I'm speaking to you about today. Okay. Going to the next slide, please. I have taken the approach of studying SAC114 but I'm only going to address the areas where, number one, there's either divergence—they've indicated a divergence from what's in the final report—or they have provided some clearer information on areas that we are less well versed on, meaning technicalities.

So, we did not necessarily come to a similar conclusion to what SSAC has come to, right? And the rest of SAC114, I mean, you can read it on your own but, I, in my considered opinion, the rest of what I'm not going to touch on isn't significant enough for us to react to. Of course, if anyone disagrees with me, then they're welcome to say so when I complete the presentation. Okay. So, in essence, there are seven recommendations contained in SAC114. One of the recommendations which is Recommendation 4 breaks into several sections.

Okay. And as I said, I'm just going to touch on things that we might want to pay attention to, right? So, the first recommendation in SAC114 has to do with imploring the Board to pay close attention for a strategic reflection on the overall objectives of the expansion of the gTLD root zone here on the DNS system basically. And their second recommendation is asking for a review of the prior rounds in order to set goals for future rounds.

Now, I've put them together in one slide because they are interconnected and also they reflect to a certain extent what we have already covered in the ALAC provisional advice, right? So, I'm not going to go through specifically all the texts. I invite you to read this in your own time but in terms of Recommendation 1, it reflects what the ALAC has said in the past that, there isn't a rush for the next round to take place and there hasn't really been a good evaluation that's taken place for assessing how well the program has done in meeting whatever goals that it's supposed to have met. And even the goals also are somewhat not necessarily accurate or in some cases, a little questionable.

So, in terms of what I propose to do with Recommendation 1 and Recommendation 2 is for Recommendation 1 to just reiterate what was said in the past and to make it clearer to say that expansion of the gTLD namespace must be beneficial to all stakeholders, right? Not just moving in favor of the contracted parties which is the registries and the registrars but they should take into consideration the interests of other parties, people like the end-users or even parties that don't normally participate in the ICANN PDP process, right?

The expansion certainly must not compromise the DNS stability, security and visibility. Barring any hiccups, if the next round is going to proceed anyway, then it is important for us to make sure that there's improvement in the application as well as the evaluation processes, okay, beyond just looking to increase the efficiency but to consider questions around objectives and benefits and fairness for, as I said before, non-contracted party stakeholders especially those who do not normally participate in the PDP process because of what the ICANN bylaws section 1.2(a) says, which I just paraphrased here. "Whatever ICANN does, it's meant to be for the benefit of the Internet community as a whole."

So, it's not meant to give advantage to certain parties within the ICANN community. And because Recommendation 1 says similar things, I'm suggesting that we refer the Board's attention also to SAC114 Recommendation in upholding the ICANN's mission. And to include reference to suggestions on metrics which is touched on in the SAC114 Recommendation 2. Now in terms of—because Recommendation 2 of SAC114 also talks about CCT recommendations, we have in our ALAC provisional advice a section on CCT recommendations already. Okay?

The contents of it is paraphrased in the blue box on the right. Again, I'm not going to go through that per se but all I'm suggesting is then we also refer to what's essential to include a reference to SAC114 Recommendation 2 for the Board's attention. Okay. Moving on to the next slide, please. So, there's nothing controversial in what SSAC recommended in their Recommendations 1 and 2. It's pretty much similar or not inconsistent with what we have said.

Now, Recommendation 3 talks about DNS abuse. Again, this is something that we have spoken of. We have stated in numerous of our documents in statements and so forth, public comments and so forth. And there is a section of it in the ALAC provisional advice already. So, I'm just merely proposing that we include support for what SSAC has set in their Recommendation 3 here into our provisional ALAC advice.

And interestingly, one of the rationales for Recommendation 3 which mirrors what we have said in terms of with respect to DNS abuse mitigation which is that as you know DNS, the PDP, the Working Group Subsequent Procedures PDP Working Group has recommended that DNS abuse be tackled at a community level and not just in terms of what would apply to the new gTLDs that comes through with a new round. All right, so, I mean, logically speaking, yes, that is a reasonable conclusion but what we see also is that it is a missed opportunity because we have taken a position that gradual and incremental efforts in amending the base registry agreement has benefits because it acts as—it has acted as an impetus for changing or getting the other registries or the legacy registries to adopt new DNS abuse mitigation mechanisms or policies which the new gTLD registries have adopted, right?

So, in that sense that we are losing that opportunity if we're not going to seize the opportunity to do so for the next round. And interestingly, SSAC has said that this is something that they agree with because—and they use the example of managing use of DNSSEC and IPv6 as requirements for new gTLD as a way of compelling adoption of best practices. So, they're also seeing that we shouldn't just wait until the next PDP or whatever GNSO Council decides to do with PDP or EPDP or whatever process they want to deal with DNS abuse. We should take every opportunity to do incremental changes to the DNS abuse policy that we want the contracted partners to adopt.

So, moving on to the next slide, again, not inconsistent with what was said. So, we should just refer to Recommendation 3. Recommendation 4 deals with universal acceptance. Well, Recommendation 4 section 3.2.2 deals with universal acceptance. Even though I said earlier that Recommendation 4 has many sections, this is one of the sections 3.2.2 which deals with universal acceptance.

Now, we didn't include a section on universal acceptance in our statement to the SubPro PDP Working Group to be included in the final report. And the reason for that is, in so far as the SubPro PDP Working Group is concerned, they don't have overall jurisdiction over universal acceptance, if I could put it simply. I mean, universal acceptance is the domain of Universal Acceptance Steering Group and it's part of the universe acceptance initiative that is run by the UASG.

So, that is really beyond the scope of SubPro PDP Working Group but now we are dealing with ALAC advice to the Board so we're not sending this piece of advice to several PDP working group anymore. It's going to

ICANN Board for consideration and hopefully to take into consideration when they direct ICANN Org to do certain things. So, it's rightfully said that universal acceptance is a better area to direct to ICANN Board's attention rather than to SubPro PDP Working Group.

So, I'm proposing that we include a section on UA and to support what SSAC has said in their SAC114 Recommendation 4, section 3.2.2. Okay. Which is kind of similar to what we have said when we were commenting on the draft final report. Things like making sure that the [UAI] is in the forefront of any efforts to include the next billion Internet users especially in terms of their usage of IDNs and IDN emails. Also things like having metrics to evaluate the adoption of UA and to encourage contracted parties, the registries and the registrars to have within their operating procedures, some level of UA readiness so to promote the angle of UA readiness to the stakeholder—sorry, to the contracted parties. Okay.

So, that's what we essentially said in our comments to the draft final report anyway so I'm suggesting we repeat them in the ALAC provisional advice to the Board. All right. Moving on to the next slide. Okay. So, the last two slides are areas where I am going to pose a question back to this group. So, the earlier ones have got nothing controversial in my opinion. It's a question of just reinforcing—either SSAC reinforcing what we said or what we have, or we can reinforce what SSAC has said so it's a parallel kind of thing. Right.

But in terms of Recommendation 4, section 3.2.6 which deals with security and stability. So, here, SSAC has expressed concern that three areas to do with the stability of the DNS root zone has not yet been

addressed or addressed properly. So, they're bringing that to the attention of the Board for further direction, I suppose you could say that. The first one is that in terms of the subsequent procedures, implementation guidance, 26.5 and the second one is 26.6, the third one being 26.8.

In terms of IG, implementation guidance, 26.5 the text in italics as you see on the screen is what implementation guidance, 26.5 says. And what SSAC has said to this is that while this implementation guidance correctly calls for objective criteria to be developed, there is no guidance on who is expected to make the call and to implement corrective actions and they're suggesting that this gap needs to be addressed. And the implementation guidance itself says that ICANN should structure obligations to new gTLD registries so that it can delay their additions to the root zone in case DNS service instabilities were to arise. An objective criteria should be developed to determine what could be classified as a service instability.

So, what SSAC has said is correct. This is the right approach, objective criteria needs to be developed. But the gap is that there isn't any direction on who is expected to make that call, to say whether it's a service instability or not and who is to implement corrective action.

The second one which pertains to implementation guidance 26.6 which directs ICANN to investigate and [inaudible] long-term obligations of zone operations of maintaining a large root zone, what SSAC has said here is the term "obligation" is very vague and also that the term "root zone operation" doesn't completely encompass everybody in the universe that serves the root zone or are affected by its size. Okay.

But SSAC also hasn't really made an offer or suggested a recommendation on how to fix this. The third one being implementation guidance 26.8 which says that ICANN should continue developing and monitoring an early warning capability with respect to root zone scaling. And what SSAC has said about this is that OCTO, the Office of the Chief Technology Officer has in its paper OCTO 015 concluded that such a system—the early warning system is not likely to be feasible and had suggested that to help establish an early warning framework instead, SSAC would be offering a separate comment. And they're also deferring possibly to what RSSAC may have to say in this respect. So, again, there isn't a conclusion as to what fixes should be made to implementation guidance 26.8.

So, what we have done in our statement and also our provisional ALAC advice is that we haven't mentioned anything on this because we didn't have the benefit of this SSAC written perspective in the SAC114 when we did our statement. And so the question now I have for CPWG is, do we want to raise what SSAC has raised to the Board's attention or do we think that we don't need to get involved and therefore no further action is needed? Okay.

So, I'm going to let you guys dwell on this in a few seconds and suggest that maybe if you prefer option 1 or option 2 maybe have a—we can do just a poll to get the temperature in the room by using the check marks or the cross. So we could have check marks for option 1 that we also address what SSAC has said here to the attention of the Board. And if you don't think that we need to take further action on this then perhaps mark or put a red cross in the Zoom interface. Okay. So far, I'm seeing one—Three green ticks and one red cross that disappeared.

CHERYL LANGDON-ORR: The problem, Justine is [inaudible]. So, unlike the old days where we could have left a tick mark or cross up for counting, it no longer functions that way.

JUSTINE CHEW: I see. Okay. I didn't realize that. So, is there a better way of doing this?

JONATHAN ZUCK: You can do a quick poll. Staff, could you put together a quick generic poll with just an either/or question to either support SSAC Recommendation 4 or not?

YESIM NAZLAR: Jonathan?

JONATHAN ZUCK: Yeah.

YESIM NAZLAR: I'm going to try to do it, but need to get on the backstage so I don't think it's going to be super-fast.

JONATHAN ZUCK: Right. I know you have to do it through the website, unfortunately. We haven't really put it to the interface yet.

ALAN GREENBERG: The two options are number one or two from Justine's slides.

JONATHAN ZUCK: That's correct.

YESIM NAZLAR: Sorry. Sorry for interrupting. We're having an issue with our Adigo connection to Zoom. It's currently disconnected. We're trying to reconnect it as I know Olivier is using that line.

JUSTINE CHEW: Sorry, guys. I didn't realize that the check marks and the reactions function didn't work—doesn't work as it used to be. I don't know, maybe the other option is if people can do so to just put in the chat whether they're opting for option one or two?

JONATHAN ZUCK: Staff, are you going to be able to track that? I guess it's coming up pretty slowly to be able to do.

YESIM NAZLAR: Sorry, Jonathan. At the moment, I'm sorry. At the moment I'm trying to solve the issue with Adigo.

JONATHAN ZUCK: With Adigo, okay. I'll try to keep track—we'll keep track of the poll here.

JUSTINE CHEW: Yeah. I'm seeing a lot of ones in the chat anyway. So, how about this—it's just to take the temperature of the room to see if anybody thinks that we should really favor one or the other.

JONATHAN ZUCK: Here's an approach. If you believe that it's option 2 and that we shouldn't get involved with Recommendation 4, raise your hand because your hand does stay up. So in other words, let's assume that because I'm seeing a lot of ones, for example, Marita believes that we should leave it alone. So, just hands will stay up. So, Marita, just raise your hand and anyone else who believes that we shouldn't say anything in support of SSAC Rec 4 section 3.2.6., raise your hand. And then if we don't see your hand up, we're going to assume that you support option 1. We don't have a particularly good way to abstain. The other nice thing about hands going up is that they all move to the top of the list when that happens too, so you can see that easily.

JUSTINE CHEW: Thanks for that quick fix, Jonathan.

JONATHAN ZUCK: Marita, do you want to give us—I'd be interested in hearing from those that have raised their hands why they're opting for option 2 because we haven't necessarily heard arguments on both sides and so we're all just

intuiting it. Marita or Gordon, are either of you willing to speak up or John on why you think that we should not be saying anything about this?

MARITA MOLL: Yeah.

JONATHAN ZUCK: Go ahead. Thank you.

MARITA MOLL: Thanks. I just feel there's little outside of what we've been talking about or getting our heads around or dealing with here. Not that I disagree with any of the things that are being recommended by SSAC, but it feels a little like parroting, that we haven't really actually gotten down into the weeds here and worked all this out. So, I'm kind of feeling that this is not [inaudible] but the others are fabulous. That's it.

ALAN GREENBERG: Jonathan, my hand is a real hand.

JONATHAN ZUCK: Okay. Alan, please go ahead.

ALAN GREENBERG: Yeah, thank you very much. The reason why I support doing this is it is indeed out of our area of expertise and this is not something we would

likely have come up with ourselves. But I can't think of a recommendation that is more user-centric than making sure the DNS continues to work and it's scalable and that we have a way to put on the brakes if that proves not to be the case. So, this is as much support of the user experience as anything I can imagine and yes, it isn't our area of expertise but we can choose to support those who do have the expertise. Thank you.

JONATHAN ZUCK:

Thanks Alan. John. Okay, the Board needs to be—I guess the question is what's the downside of supporting this recommendation from the SSAC as opposed to originating it? Which as Alan suggested we wouldn't have done.

JUSTINE CHEW:

The other thing is we can frame our intervention in a way that it's just drawing attention to it. Not necessarily supporting it, to see if that helps alleviate this concern. So, we would just say that we would like to support—

JONATHAN ZUCK:

Recommend looking into or focusing on it.

JUSTINE CHEW:

Correct. Yeah. You just ask the Board to look into what SSAC has said in this respect. We're not necessarily supporting it one way or the other.

JONATHAN ZUCK: Yeah. That sounds good. Let's do it that way then.

JUSTINE CHEW: Excellent. Thank you. Can we move on to the next—I see one [inaudible], please.

OLIVIER CRÉPIN-LEBLOND: Jonathan, [inaudible].

JONATHAN ZUCK: Olivier, you're back. Yeah.

OLIVIER CRÉPIN-LEBLOND: I am back. Yeah. I know that John McCormac still has his hand up.

JONATHAN ZUCK: Yeah. We were using hands to vote while you were gone.

OLIVIER CRÉPIN-LEBLOND: Oh, okay.

JONATHAN ZUCK: Because the tick marks don't stay on the screen anymore. It's really unfortunate. So, we were just using hands as a way to vote but go ahead, Justine.

JUSTINE CHEW: Okay, thanks. Sorry. I'm looking at the time. Can I have another five minutes or 10 minutes, please?

JONATHAN ZUCK: Yes.

JUSTINE CHEW: Okay. Thanks. Yeah. In terms of Recommendation 6, now this has got to do with string similarity, the topic of string similarity, in particular, the allowance for singular versus plurals of the TLDs, right? Now, this one significantly differs from what the report says or the recommendation in the final report says. It also differs from what we have put in our statement or how we have reacted to the final report. So, this one needs some thinking, I guess.

But essentially what SSAC is saying is that they don't think it's a good idea. Okay. If I can just provide some background. Insofar as the singular versus plural of the same word in the same language, the Recommendation 24.3 in the SubPro final report talks about allowing that in the event the users of the two strings are different. Okay. So the example that has been consistently used is if you talk about .spring or .springs, all right.

So, the .spring could mean the season spring. It could also mean the elastic thing, whatever. The elastic thing. There's a term that they use and I forget what it is. But basically there can be two meanings to the word spring but what the SubPro has suggested is that in the event

something like .spring and .springs with an S are applied for and both the applicants have clearly stated that—for example the applicant for .spring they're saying, "Okay we're going to use .spring for this purpose" which is the season just for argument sake.

Whereas the applicant for .springs has said that we're going to use this string for the purposes of dealing with different kinds of springs like car springs or [bit] springs or whatever. So, it's a different meaning altogether. And SubPro PDP working group says, "Okay, fine. We could allow this so long as it is different intended uses and that there must be a commitment in the form of a public interest commitment" so it's mandatory, put into the registry agreement for each of these two applicants to say that basically they are committing to using the TLD for the purposes of what they said that they would use it for meaning the intended use that they applied for. And we thought, fine, we could accept this as a way to move forward.

But what SSAC is saying is they don't think intended use is a good characteristic to determine whether we should allow for singular and plural being clearly distinct that way. They think that for purposes of looking at contention, you shouldn't use intended use to remove the possible contention—gee, I'm struggling today—to remove the possibility of putting these two applications in the same contention set because they deal with the same word possibly as a singular or plural of the same word. So, I hope that I'm making that clear.

SSAC is saying that even if the applicant comes with a particular context in mind, there's no guarantee that that will continue in practice. And it's also questionable whether majority of the registrants or Internet users

will apply the same context so it could cause confusion or usability issues. Also that an intended use could change over time either through the usage by the operator or how the TLD strings is used by the second level registrants.

And they give the example of .pro which was meant to be originally for professional community but over time it has become an unrestricted gTLD. So, they're arguing that if you do that that there's no guarantee that the operator of .spring will keep to what they said they would keep to, or that the second level registrants would also do the same thing. And they're arguing that points 1 and 2 will open the door for gaming so that an applicant applies with the intended use in mind which differs from the stated purpose, but just to get a leg up or preferential treatment, they state one intent as a purpose but they have another intent in mind and then they revert to their own intent when they have been delegated to the TLD. So, my opinion here is that I think the inclusion of the mandatory public interest commitment—PIC—has some merit or has some effectiveness and power to make sure that the registry keeps to what they said that they would do. Otherwise, it's a mandatory PIC and if they breach this mandatory PIC then action could be taken.

And this is what the recommendation 24.5 says anyway. The two applicants, .spring and .springs in this example will only be allowed to proceed—the applicants will only be allowed to proceed if they agree to include a mandatory PIC in the RAs. And the mandatory PIC must include a commitment to use the TLD in line with the intended use as stated in the application and must also include a commitment by the registry that it will require registrants to use the domain names,

meaning the second-level registrants to use the domain names under the TLD in line with the intended use that the registry or the applicant has said. Okay. So, that's the mechanism, the mandatory PIC is the mechanism that SubPro PDP Working Group has put forward as a way to keep these kinds of registries in line.

And in earlier deliberations, we accepted that this was reasonable. So, again this thing about we didn't have the [inaudible] thoughts on this earlier, a written opinion anyway. So, now the question to this group is, do we continue to see to the use of PICs as a satisfactory way of regulating this kind of a particular singular, plural usage of a term, of a string, of a word? Sorry. Singular versus plural in the same language or option two, do we want to reconsider that position and in line with SSAC? I see some hands up. I assume those are questions so maybe we could address those first. Sébastien, you are at the top.

SÉBASTIEN BACHOLLET:

No, just as the first one. Thank you very much, Justine. I don't know if I will answer your question but I always feel difficult the discussion about plural, singulars and plurals in a language where you hear the S. If you take another language, I am just going to take one example. If you speak about oranges in English, you hear this. If you say the same thing in French you don't hear. We say the same thing the same way, just written differently.

And the plan for end-user is when you receive a mail address, for example in French, you don't know if there is an S at the end. Then it's starting to be difficult, or a domain name. And it's why I consider since

long time that plural must be—or singular must be just one single name if it's just written with the plural [inaudible]. And I don't know for other language with other script, I just know for some in the Latin script area. Thank you.

JUSTINE CHEW: Thank you. Sébastien. We are talking about visual representation not oral representation, okay.

SÉBASTIEN BACHOLLET: Yes. But that's the problem, when we discuss in English, we talk about visual, but visual it's not just the end of the world. It's also how you pronounce it. And as it's not a problem in English, we very often forget about that it's a problem in other language. It's why I'm—

JUSTINE CHEW: I'm not disagreeing with you but I'm just saying that you talked about pronunciation, that's not an issue because we're talking about visual and not oral per se. Alan?

ALAN GREENBERG: Thank you very much. To Sebastian's point, that could have been a relevant issue in our original point. It doesn't speak to the SSAC concern though. So, I think going back and considering that now is a bit too late. Regardless, the problem with our position is it presumed that mandatory PICs are enforceable. It became much clear towards the end of the PDP that mandatory PICs that involve content—and this is as

much content as one could imagine—are not likely to be enforceable and certainly not enforceable purely by Compliance. In other words, someone complains and Compliance takes action.

So, I think our position on this is unless the board can determine that these mandatory PICs are going to be fully enforceable by ICANN Compliance, that we have to support the SSAC position. Conceptually, we accept the fact that singulars and plurals can have different purposes but unless it is enforceable and mandatory PICs that are unchangeable cannot be changed by usage, the .pro change was accepted by the ICANN Board. So, I think it's quite clear to me that unless we can determine, then the board can determine that these PICs [inaudible] will be fully enforceable by Compliance, then we have to support the SSAC position. Thank you. That was not obvious during many of the discussions within the PDP but at the very end, it became pretty obvious. Thank you.

JUSTINE CHEW:

Thanks, Alan. Cheryl has a note about enforceability in the chat but I think it may be also a question of whether it's practical to enforce, leaving aside the question of enforceability [inaudible] enforceable. Michael, you are next.

MICHAEL PALAGE:

Thank you. So, what I'd like to do is I'd like to give a little real-life experience from the 2012 round. So, I was involved in two singular plural debates, and I think it adds some context here. So, in the first situation on behalf of the community applicant for .sport, Sport Accord

successfully brought a challenge and blocked Donuts one application for sports as plural. And to Sébastien's point, in our complaint alleging confusion, we talked about the linguistics of there not being a singular or a plural and the French. So, that was something that was important and I believe was noted by the panelists.

So, again, although we're talking about visual, we need to realize that in advertising—domain names are used in print and media advertisements. And sometimes those advertisements are conveyed verbally, not just visually. So that was one situation where I think the coexistence of a sport and a sports would have been a bad thing and I think the panelists or yeah, the panelist got it right. Conversely, I was also involved in a matter involving in which the ccTLD .tv, there was an—I think it was brought a challenge against the application for TVS.

Now, TVS is an Indian—over a 100-year-old Indian conglomerate. So, in that situation, adding an S to an existing string was not a plural. There, the three letters were an acronym for that company. And in that case TVS prevailed, there was not found a likelihood of confusion. So, the point that I'm trying to raise here is this is an incredibly nuanced legal decision. And this is where when people try to distill it down to technical or algorithms or formulas, I think that's where things go wrong.

My advice for what it's worth is as follows; I do not believe that plurals are a good thing but I don't believe there should be an absolute bar. What I have always talked about is there should be a rebuttable presumption. So, if someone is coming forward with a string that is adding an S to the end, there should be a presumption that that is likely

to cause confusion harm but that it could be rebutted. A person can come forward and say, "Excuse me, we're a 100-year-old company we've co-existed. I don't think us adding an S—TVS is not going to cause confusion with an existing ISO two letter character domain name and make the point. So, I guess, I just wanted to give some actual cases from the 2012 round where there were actually administrative challenges and there were opinions instead of some of the hypothetical spring and springs, let's actually use real cases and have that discussion. So hopefully that helps.

JUSTINE CHEW:

Yes. Thank you very much, Michael. Just to react to that. Yes. Well, the spring, springs example is the one that's used by SubPro. It's not necessarily the best example but it's an example that they use. And you're quite right in the sense that there isn't a one size fits all solution. So, we're always looking at whether it's reasonable to block or when it's reasonable not to block certain things. If I can say in this situation SubPro PDP Working Group has opted to say, "Okay, let's see what the applicants say in terms of using the TLD." And your second example is an example of what they probably had in mind.

Now, we're talking about a word that's not necessarily a singular and plural of the same word as in your second example. So, there is a nuance involved. There isn't a one-size-fits-all thing that we can apply. And bear in mind that thing which is also something that you raised, Michael, is there is still the avenue of objections and challenges to stop certain things from happening before they get delegated. So, Jonathan, you're next.

JONATHAN ZUCK: Yeah. Thanks, Justine. Yeah, I guess having some sort of appeal mechanism might address Michael's comment but I think that 9 times out of 10, I think the SSAC is right about this in terms string similarity. And there are so many words out there and so many possible strings that it doesn't feel worth the trouble to allow plurals as a general rule. So, that's just my thought, taking my CPWG chair hat off and just giving my personal opinion. I think that that's—it just feels like it's not worth the trouble in terms of the possible confusion for end-users when there's so many other strings to choose from. Thanks.

JUSTINE CHEW: Okay. Thank you, Alan. You have the last word.

ALAN GREENBERG: Yeah, thank you. I just wanted to respond to Cheryl. Cheryl pointed out that some people think that if the decision on usage and content is made by a third-party is enforceable. I understand that some people believe that. Other people believe that even if the third party makes the decision ICANN could not enforce it because it involves content and that includes at least one Board member I've heard say that. So, that's why I said, if the Board believes that it is enforceable, then it's fine but if the Board doesn't believe they're enforceable, then the whole concept goes out the window and a mandatory PIC doesn't address the issue. So, that's why I'm putting the onus on the Board to accept the fact that they are enforceable or not. Thank you.

JUSTINE CHEW: Okay. So, what I'm going to propose now is I see our position as moving to option two and around what Alan has said about whether the Board believes that the PIC is impossible or not. Does anyone disagree violently with me? I'm not seeing any reaction, so can I assume that that is the position that we're going to take moving forward and then I'll have to craft something to claw back what we've agreed to in the final report? Okay. I'm not seeing any objections or any other reactions adverse to what I said. Okay, fine.

ALAN GREENBERG: Justine, if I may add, we're not changing what we said. We're just adding a condition.

JUSTINE CHEW: Well, yeah. In fact, we didn't say anything in opposition to this Recommendation 6 or to the Recommendation 24.3 in SubPro. So, there is a little bit of a discrepancy that way but I will position it in such a way that it's not a reversal of what our position was. Okay.

JONATHAN ZUCK: I don't think we should have any problem reversing our position if we have a reason to do so. We can just acknowledge that as this process has evolved—because the Board also came out with this guidance fairly recently about the enforceability of PICs or RVCs that fall outside their remit, etc. I mean, I think the environment in which we're making these recommendations has been evolving.

JUSTINE CHEW: Exactly. That is my point.

JONATHAN ZUCK: I'm not concerned about us changing our position or trying to hide the fact that we're changing our position. I think we're trying to sort it out along with everyone else.

JUSTINE CHEW: Yep. I agree with that. That's fine. And just moving on to the last slide, which is to do with name collisions, this one is quite straightforward. We have consistently said that please, Board, please, SubPro PDP working group, we need to take into consideration what the NCAP name collision analysis project is going to result in. Please take into consideration that. And that's exactly what the Recommendation 7 of SAC114 says in effect. So, I'm suggesting that we just stick to our guns on this one and join in SSAC's call for their Recommendation 7 to be taken onboard. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Justine. We've gone through a lot of work today. I note still two hands up. I gather these are old hands just to close off on this section. And, Jonathan, maybe. Okay. Right. So, we can now move to our next agenda item. Thank you for all this, Justine. Really great work as usual. And now we've got the policy comment updates with Jonathan Zuck and Evin Erdoğdu.

EVIN ERDOĞDU:

Thank you. So, this is fairly brief. This week there were recently no ratified ALAC statements, since last week that is. There's currently just a few upcoming public comment proceedings for review on the agenda there in case you'd like to click on the tabs and several coming up in March. There are two public comments for decision. One that was discussed briefly last week on the CPWG has now been moved to the OFB Working Group and Amy Creamer from staff will give a presentation on the IANA naming function review recommendation for an IANA naming function contract [inaudible] amendment to that working group later today. So, in case you'd like to join to participate in that presentation.

And the other public comment for decision is the EPDP Phase 2 that's closing at the end of March. And then as just discussed, the ALAC advice to the ICANN board on subsequent procedures is being developed. There's also a statement on the second Security, Stability and Resiliency review team final report, and Greg and Alejandro have touched base, they're working on this. They may or may not request an extension but they are hoping that they can present to the CPWG next week on this. And then finally, is the EU directive, the NIS2 directive. This was a presentation last week on the CPWG with Elena Plexida and it's not an ICANN public comment, it's something that ICANN is paying attention to as well as the ALAC. So, I'm not sure if Alan's still on the call or if he had any comments about this, but otherwise, those are the updates. Thanks.

ALAN GREENBERG: Alan's hand is up.

JONATHAN ZUCK: Yeah. Alan's hand is up. Go ahead, Alan.

ALAN GREENBERG: Thank you. There is a four-and-a-half-hour European Commission presentation for ICANN on Friday. I will probably be submitting a couple of questions to that if I can get it done in time. I'm not quite sure what their limit is for accepting them. But once we have that and go through that presentation, then we'll see what we need to comment on and I'll have something for next week's meeting. But there's no point in drafting a comment at this point until we hear what they have to say. Some of the potential issues may be resolved based on the presentation or answers to the questions. So that will be pending. Thank you.

JONATHAN ZUCK: Thanks, Alan. So, Evin, you have here under a public comment for decision the IANA naming functions review and I doubt very much that we have a question about whether or not there's going to be—we're going to say something on the EPDP Phase 2 recommendations for Board consideration. I don't know, Alan, if you want to speak to that but it feels very likely that we are going to speak every opportunity that we have on that topic.

ALAN GREENBERG: Yeah. I cannot see us not submitting a comment on that.

JONATHAN ZUCK: I can't either. Yeah, so the IANA, what we were—I think we're still working on getting somebody to take on going through that and I've got to follow up with [Kylie] who's been following that to some extent. So, I think therefore we don't have anything further we need to discuss on this call.

EVIN ERDOĞDU: Jonathan?

JONATHAN ZUCK: Yes. Go ahead.

EVIN ERDOĞDU: Thanks for that. Just to let you know that there was a discussion with [Kylie] and he recommended that Amy Creamer present on the topic. And Holly Raiche, chair of the working group determined it would be more appropriate for that working group to shepherd the process. So, apologies for the confusion because it's on the agenda here but I just wanted to note since it was discussed last week but it's now going to be discussed.

JONATHAN ZUCK: Okay. Right. I think I knew that. I apologize. I just was reading through it just to make sure that we weren't letting anything drop and then that

led me to forget it all. So, I think we're done with this section. Olivier, back to you.

OLIVIER CRÉPIN-LEBLOND: Yeah. Thanks very much, Jonathan. I was just going—I had my hand up just to actually chime in on this. There was a discussion of course, IANA naming function. One could think this could be a policy topic but when looking at it, it's down to the review of it. And these are just contract changes, contract amendments that fit very well within the OFB working groups. So that's why that group has picked it up.

Right. We can now move to a—unless we've got any—nope, nothing else on policy. So, we can now move to our next section and that section is going to be any other business. And there is a link here to the ICANN stakeholder assembly that Alan was speaking about a bit earlier. You need to file an RSVP on this before the time when this happens. You need to register for it. It is a four-hour thing. It's going to be long but it's likely to be very interesting. It is the first time that there are senior members or policymakers in the European Commission that come to speak to not just ICANN Org but the ICANN community. So it's going to be interesting. Hopefully, we'll have a good dialogue. Any other business here? And I was going to ask Jonathan, you know that we shelved agenda item number 3. I wasn't quite sure whether you wanted to take a few minutes to just update us on this, the At-Large priorities. We have two minutes until the official end of this call.

JONATHAN ZUCK: Thanks, Olivier. We had an interesting call last week that was cut short and we're trying to—I think my attempts to try and simplify the question led to a poll that was a little strange. And so we took a second poll that is more chaotic shall we say, and so I need to look back at that and gain some summary of it and I haven't retrieved the poll results from staff yet from last week. The urgency was driven by our meeting with the Contracted Party House which we've had and which I think went well and so I'll revisit this. I think there was consensus that we should have a DNS abuse framework, that we should produce a document. And then so now what we're just trying to figure out is what our consensus positions are to place into that document. Alan, you put your hand up. Is that a new hand?

ALAN GREENBERG: It was. Somewhere in the chat I saw time for the Friday teleconference that was wrong. It showed only two and a half hours instead of four and a half but that seems to have changed since I last looked at it. In any case, the start time is correct, 15:30 UTC. My records show it goes until 15:00 UTC. I'm sorry. Whatever it is, I've lost track now.

JONATHAN ZUCK: Four hours. Four and a half hours, something like that, right?

ALAN GREENBERG: Okay. Thank you.

JONATHAN ZUCK: Buckle up in other words. Thanks, Alan. Back to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Jonathan. I'm not seeing any other hands for further business. So, what we need to find out is when our next meeting will take place.

YEŞİM NAZLAR: Thanks so much, Olivier. So, normally, we should be replacing next week but unfortunately all the late UTC options are already booked. So, if it's okay for everyone, I think we can do 13:00 UTC once again, next week.

JONATHAN ZUCK: The 3rd of March, 13:00 UTC. Again, I know for some people it's rather taxing to be able to—

CHERYL LANGDON-ORR: Another midnight call. Of course, why not?

OLIVIER CRÉPIN-LEBLOND: I was going to ask, is this going to be a regular occurrence that these times will be taken up? Because I do think that we need to take sort of precedence over other meetings that might start picking these times up and stopping us from having a rotation.

YEŞİM NAZLAR: No, actually. No, we have a AFRALO monthly on a fixed date and time. It's 18:30 UTC. And for the later options, we have other calls on the pipe actually which I have doodles for and 17:00 UTC booked again. So, that's why I'm offering the 13:00 UTC.

OLIVIER CRÉPIN-LEBLOND: Okay. So, Yeşim, let's take the 13:00 UTC time but I don't want to be stuck at this 13:00 UTC time every week.

YEŞİM NAZLAR: No, definitely not. As I said, because we have the AFRALO monthly and other options are already booked with the doodles, that's why. It's not going to be an issue recurring every week. Hopefully not.

OLIVIER CRÉPIN-LEBLOND: It's just, I don't want the doodles to start—there's doodles every week and we'll end up every week in the same slot for some people. Okay. So, it will be 13:00 UTC on the 3rd, and apologies to those people that are going to have to do one of those midnight or 2:00 AM or 3:00 AM call type things. Terrible. Two weeks in a row. Okay, we'll try and do better in the week after. And until then, I wanted to thank everyone on the call who's made it to today's call. Thanks to our interpreters, to the captioner, real-time transcriber, and of course to all of you who have made this call what it is. So, let's continue on the mailing list and see you all next week. Have a very good morning, afternoon, evening, or night.

JONATHAN ZUCK: Thanks everyone.

YEŞİM NAZLAR: Thank you. This meeting is now adjourned. Have a great rest of the day.
Bye-bye.

[END OF TRANSCRIPT]