

GISELLA GRUBER: Welcome everyone on today's Meetings and Administration Drafting Team on Friday, the 8th of February at 17:00 UTC. On today's call we have Alan Greenberg, Cheryl Langdon-Orr, Olivier Crépin-Leblond, Tijani Ben Jemaa, Yaovi Atohoun, Maureen Hilyard, Carlton Samuels. We have apologies noted from Dev Anand Teelucksingh and from Cintra Sooknanan. From staff today we have Heidi Ullrich and myself, Gisella Gruber.

If I could please remind everyone to state their names when speaking for transcript purposes and also to point out any actions items for staff that we will take note of. And the transcript will be available within the next 48 to 72 hours. Thank you. Over to you, Alan.

ALAN GREENBERG: Thank you, Gisella and welcome everyone. I don't think we have an hour and a half's work to do but you never know in these calls. What you are looking at – Version 16 – as I explained in the note I sent around when I distributed it – is essentially accepting everything that we had agreed on in the last call and showing highlighted as changes things that I think we needed to either review again or they're issues that were not discussed previously and were added either because of a comment made or something I discovered along the way.

What I'd like to do is go through the items identified in the document and then the Code of Conduct issue that was in the email I sent and then open the floor up to other changes that people would like to talk about.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

If that's okay – and I see no hands and no one has yelled out – I think the first item that we're looking at is 1.5.3 – and by the way, I'm working from paper so I can make notes on it. If I don't see a hand up, please someone point it out to me and just yell out.

1.5.3 is the wording is there which we talked about but we didn't have the exact wording. And the substantive difference on the previous version is that the previous version said "all five regions" and it became clear in part of another discussion that if for some reason all three ALAC people are no longer sitting at any given time – all three ALAC people from one region – we could never satisfy that requirement. So instead it says "from all regions currently represented on the ALAC" which normally is five but could conceivably be less in some things.

There's a minor advantage. If you go to six regions and the ALAC structure stays the same, that wouldn't have to be changed. But if we go to that kind of change, I'm sure there are going to be other changes that will be necessary anyway.

Okay next item is 1.7.3 and we had added the requirement that motions be circulated ahead of time and put in agendas and I realized that that only applies to motions that are going to be made at meetings. We on a regular basis do ones online and do not have agendas for it and such like that. So I think that is a reasonable change. If anyone has a problem with it and the wording of it, then let me know. Again, seeing nothing.

1.10.1 – that was a request at the last meeting that we make it explicit that the quorum rules still apply and I have done that – 1.10.1. And 1.10.4.1 previously said the rule of thumb is no more than three disagreements or proportionally less if there are fewer sitting members.

I realized that that was problematic because you don't know whether someone who isn't in the room is saying no or not and clearly a consensus agreement is a consensus of the entire ALAC, not just those who happen to be present.

And therefore, by flipping it around and three people saying no is equivalent to 20% of the whole ALAC saying no. So I just flipped it around and said no less than 80% and that applies of course if there are fewer than 15 people on any given ALAC.

We also I think at this meeting had a discussion of the expression "sitting ALAC members" and in going over it, I realized that the time it is used is when we want to make it excruciatingly clear that it's referring to all the current members, not just those who are present in a room or present on a teleconference.

And so the expression is used when you really want to make sure that the denominator in some calculation is the full ALAC. And I think it is now being consistently used in a few places around the document. Yes, Tijani?

TIJANI BEN JEMAA:

Thank you, Alan. I think that which is the more clear is all the ALAC members, better than the sitting ALAC members because sitting for me is confusing. It might be sitting in the room and it is confusing for other people also. So I prefer to express things very clear and say "all the ALAC members" and when we want to say the ALAC members present in the meeting, we say "all the ALAC members present in the meeting" clearly. Thank you.

ALAN GREENBERG: I sympathize with the “sitting” and I think in the email I noted that we need to be careful in the translation but that is a term that is used in terms of legislatures and things like that on a regular basis. So I don’t mind if we perhaps define it in the definition but again, saying the whole ALAC does not quite capture the force of it. Cheryl, you were trying to say something?

CHERYL LANGDON-ORR: Normally I agree with removal of terms which are not in common use across all of our main languages, but I think this one best be a defined term if it is one of those because it’s used elsewhere in ICANN as well. We may as well just get used to bringing it into our own common language.

ALAN GREENBERG: Okay. I think we can roll that in, not necessarily define it as a word itself, but in the definition of the ALAC we can make it explicitly clear that a reference to “sitting ALAC members” is all members who are currently on the ALAC or some wording to that effect. Can you live with that, Tijani?

CHERYL LANGDON-ORR: Sorry, Alan, do you mean in the DSDT section?

ALAN GREENBERG: Yeah, that’s correct. Tijani, can you live with that?

TIJANI BEN JEMAA: Yes, okay, Alan.

ALAN GREENBERG: Okay thank you. 1.10.8 – trying to remember what I changed. Oh, we've talked an awful lot about proxies and we've also said decisions of the ALAC should preferably be made by consensus and I realized there were a number of places in the section on proxies that we were talking only about votes.

And the implication was that a proxy doesn't count in a decision by consensus which would imply either we could exclude people by deciding to use consensus or worse I think in tone is that if there's any proxies given we must to everything by a vote.

And I think the intent was always that if someone gives someone a proxy, that is a proxy to exercise on a decision regardless of how that decision is made.

CHERYL LANGDON-ORR: Correct.

ALAN GREENBERG: So I've tried to cover the places where there was a restriction that proxies only were talking about voting by including the consensus comment, the consensus concept at the same time and I hope I've done it consistently.

1.10.15 – I removed the reference to two-thirds because I thought if we're going to use super majority, we should use it consistently. And there is, in fact, one place in this document where it is not used and I didn't correct it at the time I sent this out but it will be corrected. And that's in the removal of an ALAC member. I'm sorry, that's in the DM DT section.

HEIDI ULLRICH: Alan, this is Heidi. Tijani has his hand raised.

ALAN GREENBERG: Yes, Tijani?

TIJANI BEN JEMAA: Thank you, Alan. Again, the remark I did not find this article, this point, if you read it alone, you will understand that five people, five delegates might decide in a meeting. I know that we put the column issue in one article at the beginning.

But when we write an article like that, I prefer to make it more clear that the meeting must be quorate when we do this decision, when we vote. Because as it is written here, if we have five delegates that cast a non-abstaining vote, the decision is valid.

ALAN GREENBERG: It is referenced. In response to your request it's the very leading point – 1.10.1.

TIJANI BEN JEMAA: Yes, I know but, Alan, what I am saying, I know that it is very well defined before but here, when you write a point like this and you put it like this, it gives the impression the meaning of only five delegates might take the decision.

ALAN GREENBERG: Well that is in fact correct.

TIJANI BEN JEMAA: Repeating the same thing.

ALAN GREENBERG: No, no, but Tijani, that is what the rule says. “If the meeting is quorate, there may be as few as eight people in the room,” and normally if everyone casts a yes or no vote we need five yeses, but since we by definition do not count abstentions it says...

CHERYL LANGDON-ORR: Theoretically it’s possible.

ALAN GREENBERG: And we did have a vote like that on the Red Cross IOC support.

TIJANI BEN JEMAA: I understand but...

ALAN GREENBERG: It says five non-abstaining votes, not five people in the room.

TIJANI BEN JEMAA: When we put it like this, I don't know what is the importance of this point if we write it like this. What do we want to say here? I don't... I still don't understand. We say here that if we have only eight people present at the meeting and the meeting is quorate in this case, five non-abstaining votes can make the decision. Isn't that what we want to say?

ALAN GREENBERG: Well I don't know whether it's what we want to say. When we discussed this in call many months ago, the decision was that that was the current rule in our Operating Rules of Procedures today and the decision, after a significant discussion, was to keep it. I guess I can ask you...

TIJANI BEN JEMAA: I don't remember that I was always at the...

ALAN GREENBERG: Let me ask a question. What rule would you want in its place?

TIJANI BEN JEMAA: I can live without it, with removing it.

ALAN GREENBERG: But that's the only rule that talks about how do we decide on who a winner is if there are abstentions. So we can't remove it altogether; otherwise, we no longer have the rule about abstentions not counting

as no's which is the case in many organizations but ALAC has always believed that shouldn't be the case.

TIJANI BEN JEMAA: Very well. I understand.

ALAN GREENBERG: I don't like those numbers and I proposed changing them, but the will of the group at that point was that we should leave them. I personally think that three people should not be able to make a decision for the ALAC. But the will of the group was that we continue with that rule, so I'm certainly open to other people having other suggestions but I haven't heard any.

CHERYL LANGDON-ORR: Alan, Cheryl here. It is also one of the reasons that, being that why that is, is one of the reasons that we brought in the new rule which indicated that all of the regions have to be represented in that type of thing. So we couldn't have such a low number from one, scarily enough, or two regions.

TIJANI BEN JEMAA: Yes, Cheryl, we said that we had an optimal point that said that at least one delegate...

CHERYL LANGDON-ORR: That is one of the reasons why we added it because those numbers are what they are, yeah. That's specifically what they are, yeah.

ALAN GREENBERG: Thank you, Cheryl. We could end up invoking this rule with all 15 members in the room and voting if 10 people abstain. Alright, Olivier. Heidi or Olivier. Olivier's hand up and Heidi, if you want to speak go ahead.

HEIDI ULLRICH: No, I wanted to just let you know that Olivier had his hand up.

ALAN GREENBERG: Okay, Olivier, please.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan; it's Olivier for the transcript. I understand Tijani's unease about this and I guess we all do feel some unease about this because it seems like an abnormally low number to have just five delegates casting a non-abstaining vote.

The question though I think might be somehow softened if one added subject to quorum rules. A vote is deemed to be successful if at least five delegates cast a non-abstaining vote. Just to remind one that the quorum rules of course are the most important things. This vote being successful is indeed as you said the fact that we don't take an abstention as a no vote.

ALAN GREENBERG: Okay, so you want me to remove 1.10.1 and add it in as a clause in 15?

TIJANI BEN JEMAA: I agree. I agree, Alan.

OLIVIER CRÉPIN-LEBLOND: That's fine. And I'll tell you why, Alan. It's Olivier for the transcript again. Because in some places, in some cases apparently – this is something I've been told but I haven't actually been able to verify – later clauses supersede earlier clauses in some cases.

ALAN GREENBERG: I've never heard that.

CHERYL LANGDON-ORR: Cheryl here. If that's something some people are saying, then we need to explicitly say that does not apply right in the front of our rules and definitions, Alan.

OLIVIER CRÉPIN-LEBLOND: I think that's one thing I was going to touch on later on but...

CHERYL LANGDON-ORR: Oh yeah.

OLIVIER CRÉPIN-LEBLOND: It's all part of dealing with jurisdictions across the world and the discussion has actually come across the WCIT discussions where they were [predicting] clauses in the treaty.

CHERYL LANGDON-ORR: We need to sort that one out up front. Thanks, Olivier.

ALAN GREENBERG: Okay where's the section on precedence of rules?

CHERYL LANGDON-ORR: There isn't one. There should be now.

ALAN GREENBERG: No, there is one. There is one. There's a precedence of the rules for the [courses]. We can add into that a precedence of rules within.

CHERYL LANGDON-ORR: Oh alright then. Well right at the front at the very beginning in the New DSDT in the scratch box it says that if ICANN Bylaw Rules are different to the Rules of Procedure, the ICANN Bylaw Rules supersede.

ALAN GREENBERG: Yeah, I'm not sure we need that.

CHERYL LANGDON-ORR: We can add an additional sentence in there that says, "and there is no hierarchical rule within these."

ALAN GREENBERG: It's all in 1.3.1 in this section so I'll add no hierarchy to that one. Whether we need it in the Section A also we can deal with any unification.

CHERYL LANGDON-ORR: Okay.

ALAN GREENBERG: I mean we have a problem of what happens if there's a conflict but that's what the Chair is there for.

CHERYL LANGDON-ORR: Yep.

OLIVIER CRÉPIN-LEBLOND: Alan, it's Olivier.

ALAN GREENBERG: Yes, Olivier?

OLIVIER CRÉPIN-LEBLOND: Yes, I think that this might then ease the fears that Tijani has because it doesn't look like 1.10.15 is superseding 1.10.1.

ALAN GREENBERG: Well I have no problem moving 1.10.1 down to a leading phrase in 15. When it was suggested that we wanted to make sure that the ALAC were subject to quorum rules, I put it in as the leading one cause I thought sort of it was the showstopper, but I have no problem with moving it down and making it clear. Instead of at the beginning, we're adding it when the votes are counted and that's fine. Olivier, your hand still up or not?

OLIVIER CRÉPIN-LEBLOND: It's not anymore. Thank you.

ALAN GREENBERG: Okay. 1.10.16 and it was not clear – this is another precedence issue but I didn't think of it like that at the time. It wasn't clear if the alternatives that the Chair could use in case of a tie vote had to be followed in order or not. So I said, "may take any of the following actions," and I added, "by sole decision," which implies it is the Chair's call if any was to follow.

I moved the tie vote one to the end because I thought it's the one least likely to be exercised in any reasonable scenario and I also added that that's an option that may be exercised only by the ALAC Chair. It's a pretty onerous option and we gave the ALAC Chair that option on the theory that the ALAC Chair was elected by the ALAC and is someone whose decisions we trust but I didn't think it's something that we wanted to have the Chair delegate to whoever is running the meeting of the moment. Tijani?

TIJANI BEN JEMAA: Thank you, Alan. Tijani speaking. I think that we can replace 1.10.16.4 by saying that the Chair vote is.... I don't know the English. Oliver, [speaking French].

ALAN GREENBERG: You're saying if there's a tie, whichever way the Chair voted says how the vote goes.

TIJANI BEN JEMAA: Yeah, if we have a tie, if we have for example a tie, if the Chair is in the Group A, the decision will be the Group A decision. If the Chair is in Group B, the decision of Group B will be the decision taken – in any case, it is always like this. Olivier?

ALAN GREENBERG: I'm not sure it's the same thing in that it's not clear that the Chair would have to vote the same way in this tie-breaking vote as they might have voted themselves, No. 1. And No. 2, I'm not sure it covers the case of a secret ballot. Olivier?

OLIVIER CRÉPIN-LEBLOND: Sorry, I was unmuted and then I muted myself while speaking – that's really clever. Thank you. It's Olivier. I was just going to mention the secret ballot thing so you just beat me to it by a few seconds.

ALAN GREENBERG: I mean, clearly if the Chair exercises this option, the Chair is declaring something that's not going to be secret. But nevertheless... Actually

that's not true. If this was a secret ballot, would this Chair be cast before the result was announced? We're silent on that. Go ahead.

OLIVIER CRÉPIN-LEBLOND: Alan, this is Olivier for the transcript. Thank you. I think that the option that Tijani was making was saying that the vote of the Chair will be taken as the vote of the result and that would of course, break the secret part of the secret ballot because the Chair would have to announce what their vote is.

ALAN GREENBERG: It is also conceivable that votes might...

CARLTON SAMUELS: The Chair must have a right to reconsider.

ALAN GREENBERG: Sorry, I can't hear whoever's speaking.

CARLTON SAMUELS: This is Carlton. I'm saying the Chair must have the right to reconsider votes as well.

ALAN GREENBERG: Yes, I think so.

CARLTON SAMUELS: I wouldn't want to...

ALAN GREENBERG: I agree, Carlton, and the other issue is we do not have a rule that forbids directed votes. We've added one in the Board selection but we do not have one in the regular rules, therefore it is quite possible that the Chair casting a tie-breaking vote might vote differently from how the Chair voted in the normal vote.

So my inclination is to keep it how it is since it doesn't really change the overall intent, but I think this gives more discretion. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. Thank you, Carlton. I think you both touched exactly on what I was going to say. The very fact that the Chair could cast a second vote that might be different to the Chair's first vote would keep the secret ballot part of the Chair's first vote. So I would also be toward keeping that clause as it is and not actually taking the Chair's first vote as being the deciding vote.

ALAN GREENBERG: And by the way, in a true secret ballot we may not know how the Chair voted. If we're just collecting pieces of paper with a yes or no on it we might not have that information at all. So my inclination is to keep what we have there unless someone comes up with a new argument why that's compelling.

TIJANI BEN JEMAA: Okay, no problem for me.

ALAN GREENBERG: I see no hands. Okay. 1.11.1 – that’s one of the catches of proxies applying to decisions, not votes. And 1.11.2 is the same thing and 1.11.8 which I forgot to highlight is also the same.

CHERYL LANGDON-ORR: I wondered what was different about that one, Alan. The fact that it wasn’t highlighted...

ALAN GREENBERG: I’m trying to show my humanity. Or I do an awful lot of these things late at night. Okay, 1.11.9 – this is...

OLIVIER CRÉPIN-LEBLOND: Alan, this is Olivier.

ALAN GREENBERG: Yes, Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. I’m sorry to take you back to 1.10.16.4 but something just dawned upon me that you mentioned here cast a second vote whilst one could say cast another vote to eliminate the tie. The reason being that if the Chair already calls for an additional discussion and then a new vote of the ALAC, the second vote would have already taken place, so it would be another vote that would need to be cast by the Chair to eliminate the tie.

ALAN GREENBERG: Maybe we say “cast a new ballot” or something.

CARLTON SAMUELS: Yes, new ballot, new ballot.

ALAN GREENBERG: Because we’re trying to imply it’s not a replacement of the first one.

PARTICIPANTS: Yes.

CHERYL LANGDON-ORR: Yeah, either a new ballot or an additional.

ALAN GREENBERG: Additional. I like that. Okay, thank you for forcing us back. Sorry? Someone was trying to speak? No? 1.11.9 – I changed a word. I don’t remember what it was before but I changed it to “impact.” I’m not happy with it but I’m not quite sure what else to say.

Proxies count towards making sure enough people are voting or participating in the decision but it doesn’t impact the forayed rules. That is, just because there are proxies from all 15 people, but there’s only four people in the room, that meeting is not forayed. So “impact” was the best word I could come up with. If someone has a better one, I’m happy to change it. I didn’t like it but I liked it better than the word I had before that and by cunningly not showing you the word I had

before, someone could suggest that one instead. I do have old copies though. Yes, Cheryl?

CHERYL LANGDON-ORR: Alan, it's Cheryl. I think "impact" works. It is clear enough to me what that means and you need to remember I'm someone who does not support this particular rule. I'm of the proxies should count. So if it makes it clear to me, that might be a reasonable text.

ALAN GREENBERG: Okay well proxy people count but we're doing proxies on a vote-by-vote basis.

CHERYL LANGDON-ORR: No, no, I understand. I actually come from a world where you can have the proxies count to the quorum of the meeting.

ALAN GREENBERG: No, I understand.

CHERYL LANGDON-ORR: And this is not what this says and I understand that the majority wanted it this way at that time but that word makes it clear what it means to me. I thought that might be useful text.

ALAN GREENBERG: Okay, the other way to put it, which is clearer, but sounded redundant is not overrule the rules. If we want to refine it during the cleanup we

can. I don't want to spend time on this call taking about it. I think everyone understands what the intent is.

3.4 I added in "as discussed" and as has been pointed out by Heidi that, given that we in theory have an ICANN translation and interpretation policy, we should give a nod to it in this statement and say we're subject to it.

CHERYL LANGDON-ORR: Sorry, guys, I've just got to leave for a second.

ALAN GREENBERG: Heidi, is there indeed a new policy or is there not?

HEIDI ULLRICH: This is Heidi. Yes, there is. I did not get a copy but I know that it's... let me see if I can get one during this call.

ALAN GREENBERG: Heidi, let's not worry about it on this call. I will note in the interest of transparency, if ICANN has adopted a new policy it would be nice to tell the community. And at this point, the only document is a draft policy which was never published officially.

HEIDI ULLRICH: Yes, good point. Okay, let me follow up. Thank you.

ALAN GREENBERG: We're again on a speaker giving an echo into the conference bridge. And that is all we had in this section. If we could go to the Code of Conduct, Gisella.

This was an email that was sent around a couple of days ago. Tijani, you have your hand up.

TIJANI BEN JEMAA: Yes, thank you, Alan. Tijani speaking. Excuse me to come back to 1.3.2.3. I don't know what is the At-Large Board member connection implementation that we want to put in the adjunct document.

ALAN GREENBERG: That is a document that is referenced or should be referenced in Section D which essentially is the operating rules of the – I forget what it's called – the BECE or whatever the... I think we changed the name. It's essentially the details of running the selection process that are not specified in detail in the bylaws... in the Rules of Procedure.

TIJANI BEN JEMAA: Okay, another point – 1.4.2.2 – you still have twice “be removed.” So leave “removed,” the second “be removed.”

ALAN GREENBERG: [Laughs] Remove the removed. Alright, I thought I caught that. “Any ALAC member may request that a specific item be removed from the consent agenda...”

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- TIJANI BEN JEMAA: Be removed. [laughs] Be removed in the second one. Okay.
- ALAN GREENBERG: ...”from the consent agenda be removed...” Okay, the second one stays; the first one goes I think is better language. Okay, thank you very much.
- TIJANI BEN JEMAA: Okay, and we decided to define the sitting members and the Rules of Procedure.
- ALAN GREENBERG: Correct.
- TIJANI BEN JEMAA: Okay, very good. That’s all I have.
- ALAN GREENBERG: And Gisella, are you there?
- HEIDI ULLRICH: Yes, Alan, Heidi. Gisella is working on that. In the meantime, Olivier has his hand up.
- ALAN GREENBERG: Oh thank you. Olivier.
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OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. It's Olivier for the transcript. Someone has just played with me trying to give me microphone rights thus taking my hand down. Quick question with regards to referencing other documents.

ALAN GREENBERG: Out of curiosity, who is doing that?

OLIVIER CRÉPIN-LEBLOND: Well, Alan or Gisella...

ALAN GREENBERG: I haven't touched my screen so it's not me. I don't even know how to do it.

OLIVIER CRÉPIN-LEBLOND: Anyway, I fought back. I fought back. I still have my hand up and I hold it strongly up. Quick question or suggestion. When referring to "other documents," I'm a bit of a technocrat in these things and I like to put reference numbers and names to documents so that when a website or a Wiki site or something goes [pear-shaped] and usually it is the case after a few years, one is able to Google things and do an exact search on a reference document number. And hey, whiz, bang, boom, bum, we find that somewhere on the ether and it's easy to find it by just doing a Google search rather than doing a search on the title which might have changed or might not have been transcribed exactly as it is described in the document that we have in front of us.

ALAN GREENBERG: I will give you two parts to the answer. No. 1 – we carefully worded these titles so that they were going to be *the* titles as opposed to something like the titles. No. 2 – good idea – we’ll add one. That make you happy? [laughs]

OLIVIER CRÉPIN-LEBLOND: Delighted. I’m going to party all weekend. Thank you.

ALAN GREENBERG: And if you had suggested it months ago, we would have done it then.

CHERYL LANGDON-ORR: Cheryl here. I thought that the ALAC as in the archives of the ALAC and all documentation of the ALAC which would include these documents is managed and does include a unique identifier – Heidi can correct me if I’m wrong – it certainly used to include a unique identifier. I’m assuming it still does in which case that unique identifier which is part of document management system that is integral to ICANN I would assume should be used, yes.

ALAN GREENBERG: I disagree and I’ll tell you why but Olivier got his hand up first.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. As an organization that is supposed to coordinate the internet identifiers, I'm not quite sure what an identifier is. But anyway...

CHERYL LANGDON-ORR: Heidi can tell you because she puts them on all documents.

ALAN GREENBERG: The problem with doing that is this reference is to the most recent version of the document, not to a specific document and therefore, I don't think we want a unique identifier. We want something that easily identifies that class of document but not the version.

CHERYL LANGDON-ORR: No, the unique identifier... Again Cheryl here. Heidi can correct me if I'm wrong. As I remember, the unique identifier system that was used within the ALAC documents at least is specific to version because it is how they do version control.

ALAN GREENBERG: Well exactly. That's what I just said. It is specific to version and the Rules of Procedure should not be specific to version; it should be pointing to the most recent one.

CHERYL LANGDON-ORR: I see what you mean. It would make the most recent version in said identifier.

ALAN GREENBERG:

In theory, yeah. Okay, I mean we made the matching document so we don't have to go through the Rules of Procedure update process to change one.

I'll tell a little anecdote by the way. Someone asked me a question the other day about the GNSO Rules of Procedure – Operating Procedures I think they're called - so I tried to find them. I did a search and I found a GNSO page said, "This is the most recent version." It wasn't. I went to the GNSO Council Agenda which references the Operating Procedures.

There were two references on it. One at the top of the page was the most current one – V. 2.5; one at the bottom of the page said it's V. 4.4 – a number that doesn't exist and pointed to 2.3. The search found me 2.4 in between the two. So we have problems in keeping things up to date. Let's acknowledge it.

Okay, Code of Conduct. In the DM DT meeting yesterday, we had a discussion of this prompted by Olivier's concern that without a specific list of sins, it makes Chairs' life more difficult to justify why some specific action was taken because the generic description in the section here that is behave in a professional manner and don't be disruptive apparently are subject to very different definitions by different people.

Olivier, am I capturing that reasonably well?

OLIVIER CRÉPIN-LEBLOND:

Yes, Alan, thank you.

ALAN GREENBERG: So what we decided to do at that point, obviously subject to this group which sort of owns the section – and we’re talking right now about the top section, the section that we said would go into work methods – is No. 1 – to point to the ICANN Code of Conduct which is an Ombudsman document I think or originated out of the Ombudsman’s Office and that I think is quite reasonable.

And the second thing is at the end of .1 to give some examples of bad behavior that are essentially the ones out of the previous Rule 22, not itemizing them number-by-number but just stringing them together in a sentence with commas as examples but not limited to specific bad behaviors.

I don’t know if anyone has a problem with that. It certainly made Olivier feel more comfortable and Cheryl as past Chair agreed. And I have yet to actually do the wording of it but it will come out probably later on today.

Heidi, you asked is that the document I mean. I’m not sure and I don’t want to take the time now to look at it. If someone else wants to... We’re talking about the one that says be nice to everyone and don’t spit in public or things like that.

CHERYL LANGDON-ORR: It’s the Code of Conduct.

ALAN GREENBERG: Yes and we also added under the section of Chair Responsibilities – and this was part of yesterday’s meeting – that something would be inserted

saying that the decision on what action to take is done by the Chair at his or her sole discretion, which essentially says you can't second-guess what the Chair should have done. And of course, anything is appealable to the Ombudsperson. Do we need or what any further discussion on this?

I had some trouble deciding where this goes. It could have gone sort of in the laundry list of things everyone should do – ALAC members, liaisons, whatever – but I thought it felt better under Work Methods because it applies not only in person and email, it applies to Wikis and it applies in other places.

And I think it hits against what is sometimes the internet culture that you have to behave civilly when you're looking at someone but you don't have to be civil in email. Or if you turn flame on, then you can say anything you want, no matter how outrageous it is. So that's why I thought Work Methods is a better place for it. Yaovi?

YAOVI ATOHOUN:

Yaovi speaking. I wasn't [there yesterday to] talk about it. But if we take this point 3, the Chair is [hard to exclude] any individual from any ALAC-related activity. It can mean that the Chair can exclude like a member? Just to better understand this statement.

ALAN GREENBERG:

Yes, that is what it means. If someone is being very disruptive in a face-to-face meeting, the Chair can request that they leave, yes. And it's only happened once, but it was a real bad time. Only once that I recall.

CHERYL LANGDON-ORR: I think it happened once when you weren't in the room in Los Angeles, Alan.

YAOVI ATOHOUN: It is very not clear. We talk about any ALAC-related activity. So the question is we are having in some part of our document this option for maybe removing somebody from ALAC or (inaudible). So this section 3, is it also talking about this or just during a meeting or special activity? It is very not clear for me.

ALAN GREENBERG: Okay, I see what you're saying. You're looking for a definition of ALAC-related activity.

YAOVI ATOHOUN: Yes.

ALAN GREENBERG: Does it make it any better if we say At-Large-related activity or is it the word "activity" that bothers you?

YAOVI ATOHOUN: Okay, I'll continue thinking.

ALAN GREENBERG: I understand your concern. On reading it I really think it is At-Large and not ALAC.

YAOVI ATOHOUN: No, that's not really my point. If you said exclude somebody from ALAC-related activities, so it can mean exclude this person from ALAC?

ALAN GREENBERG: No, it's not necessarily a permanent exclusion. It's not kicking someone out of the group.

YAOVI ATOHOUN: We want to exclude the person from activities so it can mean we exclude the person from the group.

ALAN GREENBERG: It could mean we take the person out of the room; it could mean we ban them from mailing lists – something that has happened...

YAOVI ATOHOUN: We have in the Rules of Procedure this option that somebody can be removed from ALAC, but here it can also mean the same thing in some cases.

ALAN GREENBERG: Does it help if we say "temporarily exclude" or "exclude for a period of time?"

YAOVI ATOHOUN: Yeah, something like that.

ALAN GREENBERG: That work with other people?

CHERYL LANGDON-ORR: Cheryl here. It doesn't respond to Carlton's issue that he writes which ALAC related can mean anything from the ALS up.

ALAN GREENBERG: Sorry, I didn't read Carlton. That's why I suggested perhaps At-Large-related cause I think it does mean that.

CHERYL LANGDON-ORR: I think it should be clear. You could say ALAC and At-Large-related activity if you wanted to.

ALAN GREENBERG: Okay, done.

CHERYL LANGDON-ORR: I think it probably does encourage to exclude "for a defined period of time an individual from any" and therefore the defined period of time goes along with the crime. There's a difference between "go and have a coffee and come back in a better frame of mind thank you" and "we're

flying you home.” I mean they’re the two extremes for examples in a single incident that could happen.

ALAN GREENBERG: Yep. I’m happy with that, so I have two changes – one to add the period of time and one to make it ALAC and At-Large. Anything else, people?

CHERYL LANGDON-ORR: I just want to know what this natural justice thing Carlton is talking about.

ALAN GREENBERG: Justice in Jamaica may have different rules than justice in Australia.

CHERYL LANGDON-ORR: We don’t have natural justice in Australia.

CARLTON SAMUELS: What Cheryl says is what I support. If you give them some time given for them to reflect and remediate, then I think it takes care of it. We don’t want to give them the impression that they’re forever banned from it.

CHERYL LANGDON-ORR: Carlton, Cheryl here. It has to be flexible. And quite often by the time your adrenalin surge calms down and you’ve gone and had a caffeinated beverage or something similar, you go, “Oh, I really shouldn’t have gone

that far, should I? Oh dear.” And then you can come back in the room and continue.

ALAN GREENBERG: On the other hand if the person does it repeatedly over a three-year basis, the period of time may be for life.

CHERYL LANGDON-ORR: Exactly. Absolutely. And we do...

CARLTON SAMUELS: Yeah but the Chair (inaudible) understand.

CHERYL LANGDON-ORR: We don't have a current example within ALAC but there are examples within the world ALAC and At-Large operate in with serial offenders occur. And they go between pillar and post and perhaps through different organizations wrecking havoc in their wake. So yeah.

ALAN GREENBERG: And remember, we do have the Ombudsman. There is always an appeal. We're not empowered to make a rule for which there is no appeal.

CHERYL LANGDON-ORR: Actually, Alan, did you want to just make that a point here, that all decisions are subject to appeal too?

ALAN GREENBERG: It's somewhere already and I'm not sure where. But if it needs to be added here also, I will put it.

CHERYL LANGDON-ORR: I think because this is often a part that might be read and they may not be reading it with the context of the full document. It's worthwhile repeating a bit of a belts and braces approach.

ALAN GREENBERG: No disagreement. I just don't know where it falls. It may already be beside it. So I'm agreeing with you. Alright, we are now completed everything we had on our agenda. We have another half-hour to go should we want it. Are there any other issues anyone wants to bring up at this point?

I do have one other issue that on top of the page it says, "Define SOL," and I'm not quite sure – I think we said we wanted to define it in this section.

CHERYL LANGDON-ORR: Sorry, where is this, Alan?

ALAN GREENBERG: It's written on the top of my piece of paper. We took out a wider definition about the use of SOL from the DM DT section and said it should be defined in the general sense in the MADT. It may actually fit in Section A instead.

So it has to be done but I haven't actually gone through the exercise and I don't think anyone else has at this point. Are there any other issues that people want to bring up from typos to substantive issues? I might just give you a half-hour back of your life.

CHERYL LANGDON-ORR: People want to know what an SOL is.

ALAN GREENBERG: SOI. Sorry, did I say SOL? I know what SOL means, but... [laughs] But I did mean...

CHERYL LANGDON-ORR: Alan, it is the Lunar New Year, not the Solar New Year. [laughs]

ALAN GREENBERG: The SOL I know about actually has two Os in it, although only one is written normally. If anyone doesn't know what that stands for, we can talk privately. I meant SOI in any case.

CHERYL LANGDON-ORR: That's important because later in the appointments and elections and selections one, they have specifically required expressions of interest to come in for Seat 15.

ALAN GREENBERG: And I don't know why I allowed that to be changed. It violates the rule, the ICANN rule of having at least seven different uses of the same expression.

CHERYL LANGDON-ORR: Because they're trying to be...

ALAN GREENBERG: That was very tongue-in-cheek.

CHERYL LANGDON-ORR: I gathered that as well. I think we certainly do need to... We actually have made the requirement that a Statement of Interest needs to be lodged but I don't think we've actually made a definition of it. I wonder, do we need a definition of it or do we need a statement that says, "to the current standard as outlined on...?"

ALAN GREENBERG: Yeah, something like that. And I think we also had a reference in the sentence that was deleted that certain positions might require additional entries or additional information to be provided and that's what we're trying to capture, that it's a basic variable and... I'm not sure our current SOI actually has that capability, but that's a different issue.

CHERYL LANGDON-ORR: Alan, the other thing was of course, where we have the reference to SOIs in other parts of these Rules, it's very specifically referring to the ALAC member. We do need to make sure when we talk about liaisons,

etc. and people who are appointed to various work groups that they need to have SOIs subject to those appointment and work group requirements.

ALAN GREENBERG: I believe that's already there but if not, it will be.

CHERYL LANGDON-ORR: We just need to double-check on that. If that's the case, that's another point where an example of "what is an SOI" should be attached or referenced.

ALAN GREENBERG: Noted. Not sure how to do that, but noted. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. It's Olivier for the transcript. Yes, we have ALAC members at the moment. We also have RALO leadership that have lodged their SOI. Do we want that to also be kept?

And furthermore, I do note that in all GNSO working groups there is a question that is asked at the beginning of each call which is regarding the SOI that everyone who takes part in the GNSO Working Group needs to lodge an SOI. And the question is does anyone have to update their SOI or have to tell anyone else that there is an update to their SOI? Do we want to also add this to the At-Large calls and ALAC calls?

CHERYL LANGDON-ORR: Cheryl here. It's a simple enough thing now that you've got a standard that says that your ALAC and regional leadership has lodged Statements of Interest which is what the ALAC desires and they may be different from what GNSO desires. For example, when Alan and I have cast [both] because they're the same, only different, but that doesn't matter.

There is a very simple way of doing that and that's having a standard agenda item called Continuous Disclosure. And if all meetings had that, that is exactly what happens when they say are there any updates to anyone's SOI at the beginning a GNSO meeting.

But many organizations I'm involved in, just underneath attendance and before the minutes of the last meeting use continuous disclosure, usually find that there isn't any but it's always on the agenda.

ALAN GREENBERG: Our Rule already does say you must file one and keep it up to date. Whether it needs to be mentioned in every meeting or every work group, I don't think the Rules of Procedure need to document that. We can certainly make that a practice. If people feel strongly we can put it in as a rule but my inclination is not to, but how do other people feel? Anyone care?

CHERYL LANGDON-ORR: It's a good practice. It doesn't necessarily need to be enshrined as a rule. If it's failed to be practiced, well then perhaps you could review that.

ALAN GREENBERG: Yeah. Olivier, back to you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. So this answer had somehow forgotten the first part of the suggestion which was that everyone who takes part in working groups or takes a significant part in a working group would need to lodge an SOI. And as we know, it's not only ALAC members that take part in working groups.

CHERYL LANGDON-ORR: Olivier, it did because we said that in the wording that it has to be the SOIs also have to be lodged for activities and leadership, etc. and per where they are appointed to and that includes working groups.

ALAN GREENBERG: Olivier, what you don't know is what's written on the paper in front of me where it says, "SOI including liaisons, appointees, work groups, RALO leadership, etc."

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. It's very difficult to read your old school paper and it's also difficult to say SOL again.

CHERYL LANGDON-ORR: Alan, if I may, the other thing – Cheryl here for the record – you can't actually be involved in an SO activity that requires an SOI until you lodge

your SOI, so it's their rule, not ours. But I think what we need to say is that your SOI needs to be lodged with us as much as it does with the receiving body.

ALAN GREENBERG: And by the way, Olivier, it's not work groups, but work teams, which is our generic for it.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan, but what Cheryl just said with regards to the requirements of the SOI being lodged before you even take part in a GNSO working group – do we wish to extend our rules to align themselves to the rules that the GNSO has?

ALAN GREENBERG: Well...

CHERYL LANGDON-ORR: Can I respond to that, Alan?

ALAN GREENBERG: Sure, go ahead.

CHERYL LANGDON-ORR: By what Alan read out which our rules say, "and SOIs need to be lodged for," if you're doing any of these things on the other half on that list, is probably far enough in my opinion because what we don't want to do is

have the possibly changing rules of SOs or other parts of the ICANN world continually requiring us to change our documents.

We expect SOIs to be lodged. There's a time where people like Alan and I have had SOIs lodged in the SOs and not within our own primary body which is kind of dumb. Now we've got them lodged in the primary body, they would be our map for SOI and that one will have within it everything that's in the others, but may indeed have more.

ALAN GREENBERG:

I'll give you two reason why we want to be careful with the wording. No. 1 – to say something is a prerequisite is going to be awful hard to enforce for ALAC positions because the body that appoints them does not have it as a rule that before you can be appointed you need to write the SOI. So the sequence of things happening is problematic and we need to be careful that we don't put someone in a Catch-22.

No. 2 – we have been strongly pushing for the last several years and we may actually see it one day, in having joint working groups and I don't want to pre-guess how those are going to work and whether everyone is going to need to file an SOI with each of the groups that is a part of that joint effort.

So I think we may need to keep it flexible but I think we understand the gist. Any ALAC activity we expect to be able to go through an SOI list and find out something about the person whose voice we heard on the phone. And I think that's the intent. I'll try to word it to make sense and if I blow it, you're going to tell me.

Anything else? And that was all we're going to say about SOLs or SOIs for the moment. And I've now put two little horizontal lines on my vertical line so it's clearly an I, not an L. I see no hands.

CARLTON SAMUELS: I've got to run because we have something else going on here.

ALAN GREENBERG: Okay, and we are seven, eight minutes after the hour; we are ending early. And Carlton is typing, probably good-bye.

CHERYL LANGDON-ORR: Can I just say [speaking Chinese] to you all?

ALAN GREENBERG: You can. [laughs]

CHERYL LANGDON-ORR: Happy Lunar New Year.

ALAN GREENBERG: Indeed. By the way, I haven't been reading the chat. Was there anything there that was important? No one says yes so I assume no one read anything there important there or at least nothing that we have to add to now.

CHERYL LANGDON-ORR: Well I think everything was addressed.

ALAN GREENBERG: Okay, folks we're done. To update you on a discussion we had at the end of yesterday's meeting of the way forward, my intent is to pull all of the four sections to the extent we have them together with a target of Monday and then we have several days in which to try to clean this document up as well as we can to put it in a single format so that the various sections which currently have different numbering schemes and such are pulled together as one and then go out for ALAC comment and community comment. Cheryl, did I capture that roughly right?

CHERYL LANGDON-ORR: Pretty well, making sure that there was a clear stop between ALAC comment and community comment.

ALAN GREENBERG: I think what we had previously said was community comment must be funneled through the ALAC because if it doesn't have ALAC...

DARLENE THOMPSON: Darlene Thompson here for the record. I just want you to know that I won't be available next week because I'm going to be out of town in a very small community doing some IT training so I will do as much as I can on the mailing list but I won't be able to attend the conference call probably.

ALAN GREENBERG: I don't believe there is a conference call planned.

CHERYL LANGDON-ORR: Darlene, apart from the fact that you can have a lot of fun sitting in the assignment of using your IT to try and track the changes that he's made to the final document, it's just a small something, the pen holders that are going to be trying to bludgeon it into a single form. That's all.

ALAN GREENBERG: I'm not saying we might not decide we need an emergency call but there's no plan at this point. It might be prudent to set one up but we haven't.

DARLENE THOMPSON: I understand. You don't want me. That's fine. [laughs]

CHERYL LANGDON-ORR: No, we want you, we want you. I think it would be fun for you to sit in a small community project to get their take on our Rules of Procedure. That could be a great deal of fun. Give it to your grandmother – that's a very important part of these things – if your grandmother understands it and I think your small community could be the grandmother in this story.

ALAN GREENBERG: Darlene, if the Chair could try to take this call back, Darlene I don't believe you had said you wanted to be on that review team. I may be wrong.

DARLENE THOMPSON: You are in fact, Alan.

ALAN GREENBERG: Darlene, do you want to be on that list?

DARLENE THOMPSON: Heck no, thank you.

ALAN GREENBERG: No, you're welcome to join but I don't believe you would self-select until this point, so I...

DARLENE THOMPSON: These three months I don't have the time but thank you very much for considering.

CHERYL LANGDON-ORR: I think it's important only if you haven't noted Heidi's put the exact AI from yesterday's meeting in the chat.

ALAN GREENBERG: Thank you. I read it yesterday; I'm not going to read it again.

CHERYL LANGDON-ORR: I hope you appreciate we're having the vote on this no later than the Ides of March. [laughs]

ALAN GREENBERG:

No, no the document finished the Ides of March, not the vote. And I for one already have enough scars. I don't need another knife stab. Thank you, folks. Enjoy the rest of your day, enjoy the weekend and work hard.

[End of Transcript]