
TERRI AGNEW: Good morning, good afternoon and good evening. This is the At-Large Ad-Hoc Working Group on the Transition of US Government Stewardship of the IANA Function on Wednesday, 26th November at 13:00 UTC. On the English channel we have Olivier Crépin-Leblond, Eduardo Diaz, Gordon Chilcott, Cheryl Langdon-Orr, Seun Ojedeji, Yasuichi Kitamura, Leon Sanchez, Jean Jacques Subrenat and Christopher Wilkinson. On the Spanish channel we have Fatima Cambroner, Aida Noblia and Alberto Soto. We have apologies from Tijani Ben Jemaa and Mohamed El Bashir. From staff we have myself, Terri Agnew. Our Spanish interpreter today will be Veronica.

I would like to remind all participants to please state their name, not only for transcription purposes but also for our Spanish interpretation. Thank you very much and back over to you Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you Terri. Have we missed anybody in the roll call?

HEIDI ULLRICH: I'm here as well.

TOMOHIRO FUJISAKI: Hi, I'm Tomohiro Fujisaki, online.

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.

OLIVIER CRÉPIN-LEBLOND: Welcome Tomohiro. Thank you. I think that's it. Okay, thank you very much. Welcome everybody to this call. As I mentioned just a minute ago it's going to be a busy call with a lot of topics to discuss. We'll start with a review of the ICG activities – a short review of the call that took place a few hours ago, and then after that a quick review of whether there's been any progress in the other operational communities, and then the meat of the work today, the main part, is the follow up to the face-to-face meeting that took place in Frankfurt.

We already had a call to follow up this call here. We'll review the flowchart, specifically looking at the IANA periodic review team function and the IANA contracting entity part of the flowchart. I was hoping we'd be able to look at the first draft of the overall document from the CWG, which was supposed to come out last night, European time, but it's still not in our mailbox as yet, and might appear whilst we have this call. Then afterwards, based on a number of discussions that have been taking place on the CWG, a number of important questions are in front of us that we're going to have to discuss – what our point of view is.

Finally, the RFP 4 and RFP 5 parts of the Working Group have started their work as well. We need to have a progress update and see how that's going. Any additional business? Alan?

ALAN GREENBERG: I guess a question – are we planning to accept the proposal as it is presented, as we believe it would be presented, and answer what are essentially minor questions, or also present something essentially saying why we have problems with the proposal overall? I understand I was

supposed to send something out yesterday and it hasn't gone out yet, but I'm a little concerned if we're essentially rolling over and saying, "Okay, this was the proposal," presuming everyone else will accept it also, or if we're going to do something presenting our case why we believe, or at least [unclear 00:04:14] believes that this is not a proposal we should be submitting.

OLIVIER CRÉPIN-LEBLOND: Thanks for this Alan. I'd like to ask you a question on the question you've asked here. Are you meaning with regards to the publishing of RFP 3, or of the current proposal, or are you meaning with regards to the public comment thing that you will be doing?

ALAN GREENBERG: I guess both. Assuming it's not going to change, if ALAC as a whole is accepting this, that's fine, I'm not objecting. I can have a different position from the one ALAC presents to the IANA Issues Group, but the consensus of the group in Frankfurt was that we had significant problems with the external oversight body and whether it was viable, for a whole bunch of reasons. I'd guess I'd like to see us commenting on that as a whole. I will get my comment out somehow. I hope today.

I was planning on doing it after the release of the document to see what it actually said, which as you point out hasn't come yet. [unclear 00:05:43] today, but I think it should be on the Agenda to discuss, which is why I raised my hand.

OLIVIER CRÉPIN-LEBLOND: Thank you. I think there is a part of the Agenda that touches on this, and it's exactly the discussions we're having here – the important questions - NTIA backdrop function, contracting function, link with accounting process, how do we want this, do we support one or the other, and maybe we can add in this the questions of course that we have, which are specifically about the Review Team, the contracting entity – the whole thing. My sense – and I'll just give you my response here – is I certainly think the ALAC should be responding to the PCP.

One of the reasons why in fact we've moved the webinars that were in place for this, where a more general IANA stewardship webinar has been moved forward to the 3rd of December, and then on December 10th there is a more advanced webinar, where I would suggest this group here presents its case to the ALAC as to what we think should be in that public comment, and what sort of feedback you get.

ALAN GREENBERG: I'm fine with that.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Next is Fatima.

FATIMA CAMBRONERO: Thank you. I have a topic I'd like to include, and this is regarding the need of having a text. I don't know if you want me to explain this, or perhaps we can leave it for the end of the call.

OLIVIER CRÉPIN-LEBLOND: Just let us know the need for having a text about what?

FATIMA CAMBRONERO: The text would be for the flowchart, with an explanation regarding this flowchart, because my concern is that while we're moving forward, it becomes difficult for us to understand the flowchart, and I imagine how difficult this would be to explain in the webinar and for our community. It would be very difficult to understand. Perhaps it would be possible to have a text. We've asked already for the text but it wasn't included, so perhaps we can attach a text to the flowchart for better understanding.

OLIVIER CRÉPIN-LEBLOND: Thank you. What I would suggest then is to have this topic on the next call that we will have – the call next week – since the webinar that we're looking at will be on the 10th, so we have another week to be able to draft that text. Would that be a possible solution for you?

FATIMA CAMBRONERO: Yes, I agree. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Let's go now to the AIs, having adopted the Agenda as it is. The AIs are all complete, so there's no need to read through all of them. Most of them are down to the linking of document sources, draft, etcetera. Maybe I should ask Terri to let us know again or point us to where the page for document sources is. I know that there's also an equivalent page of the latest drafts of document that is shown on the

part of the Wiki that deals specifically with the naming issues. This I think is also linked to our own page.

In any case, we have a link in our Agenda to all of these pages, and you will have noticed that the Agenda takes some of the elements from the previous weeks with a lot of links. It might be a little bit confusing at first when reading through it, but in fact what we have is references – meeting, structure and Working Groups – that has all sorts of all links to all information beneath there, that would be of importance of help to us. Are there any comments or questions on the AIs that we have at the moment, displayed in the AC?

Okay, let's move onto the review of the IANA Coordination Group activities. We have an apology from Mohamed El Bashir but Jean Jacques is with us, and there was a call just a few hours ago from the IANA Coordination Group, and so to explain to us and provide an update, I ask Jean Jacques to take the floor please.

JEAN JACQUES SUBRENAT: Thank you Olivier. The Agenda you have seen so I won't go through it again, but the interesting item I think was about process; how the plan devised by the ICG would be forwarded to NTIA via the IANA, and whether ICANN would then think it necessary to modify that text or not. We have had occasions from the ICANN Board, that they've had a discussion about this point and that now it is being indicated to us that the ICANN Board would receive the plan and transmit it to the NTIA without any modification.

If and when there were some objections or difficulties on the part of the ICANN Board, then the latter would make it known to the NTIA in a form of a separate letter, and this would not affect the content of the ICG proposal or plan. A couple of remarks about this. The first is that the first proposal about such a system was made by yours truly in the very early stages – I think it was at the London Meeting, shortly after the formation of the ICG – and this had been discussed privately with a couple of Members of the ICANN Board.

I argued it would be bad policy and not well received if the ICANN Board were to tamper or modify at all the plan put forward by the ICG on behalf of all the contributing communities, and that if the Board had an objection, it should make it known in the form of a separate letter. It seems the Board is now comfortable with that scheme of things. A very interesting thing is that there is also an understanding on the part of the ICANN Board, it seems, that of course we would not wait for things to come to that regrettable state; where there would be a misunderstanding or a strong objection on the part of ICANN, to something proposed by the ICG.

So I think there's an understanding now that there would be of course all necessary consultations between the ICG and ICANN, before the transmission of the final plan. That being said, I'd like to underline there's a strong feeling from the part of most of the people who expressed their opinion on the ICG call a few hours ago, that we should not make a special case of ICANN, Board or staff, in accommodating them in a special way, in a special consultation process, etcetera.

It's been said in our earlier papers that the ICG considers that ICANN is part of the community and has ample possibility to input comments, objections, proposals, etcetera, in the same way as any other part of the worldwide Internet community, and that in a timely fashion. So this is not a contradiction to anything else, it's simply a clarification, because on the part of some participants there is a feeling that we should create, in a way, a special consultation mechanism specifically with the ICANN Board. But now I think I can state that the majority on the ICG feels that this would not be appropriate.

So to sum up what I've just presented, I would say that yes, it's essential that there be consultations between the ICG and ICANN at an appropriate time, and early enough to flag down any possible importance, discrepancies or difficulties, but then that is not to be done in a special, privileged mechanism. It has to be part of the general mechanism for all the Internet global community. I won't go into details about this, but I've tried to summarize really the sense, the flow, of that discussion. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this update. I have one question for you. You mentioned the ICG would not make a special case of ICANN. In the past, the ICG has used the system of public comment – maybe not the ICANN public comment but certainly the method of public comment that ICANN makes use of to receive comments from the community. Is this likely to continue?

JEAN JACQUES SUBRENAT: Yes, to the best of my knowledge that will be the case.

OLIVIER CRÉPIN-LEBLOND: Thank you very much. Are there any questions on this? Okay, I note a sentence from Suen mentioning it's definitely not necessary to create a separate consultation with the ICANN Board – agreement with you Jean Jacques. Are there any other news from this call, or with regards to the ICU, that you'd like to share with this Working Group?

JEAN JACQUES SUBRENAT: Yes. There was also a heads-up by the three directly affected operational communities, to see whereabouts they will be in the process of coming up with plans to be sent to the ICG, but that was a very general discussion, not being specific, and the general sense I got was that everyone is really doing what is possible in order to give this input in a timely fashion so that there would be no discrepancy between communities, as far as the overall calendar is concerned. That is one point.

The other point I would like to add is that it was not an Agenda Item, but I think you may be interested to know that as far as I'm aware, there have been a few days' delay in the official appointments of the unit, which is to be selected for the purpose of ensuring secretariat service for the ICG. This is due to some administrative necessity, and I think the announcement will be made shortly about the choice, and therefore the selected candidate should become operational very shortly after that.

OLIVIER CRÉPIN-LEBLOND: Thank you. Are there any questions from the Working Group regarding the ICG? Seeing no one, I thank you Jean Jacques and we'll move onto the review of the other operational community progress. Has there been specific progress that Members of the Working Group would like to report? The only thing I can report is that there has been one more version of the IETF submission. I think I've shared this with the Working Group. No other movement since then. Seun?

SEUN OJEDEJI: Thank you Olivier. Just to reiterate what I sent into the consultation for AFRINIC tomorrow, in the morning. I'm not sure I've sent it yet, but I'll look for it again later. I also noted that the CRISP is now complete, so the LACNIC have also selected their Members, so it means that only CRISP have selected their Members, so I guess very soon we'll start hearing some [unclear]. [unclear] the [IAB] ARIN aren't [unclear 00:22:42] Members [unclear] trying to develop the draft... I think, for that, in their community. That's just for you information that I think is interesting.

OLIVIER CRÉPIN-LEBLOND: Thank you for this update and good luck with the meetings tomorrow with AFRINIC. I gather there are sessions that will deal specifically with topic, are there?

SEUN OJEDEJI: Yes, that's correct.

OLIVIER CRÉPIN-LEBLOND: That's great. Thank you for that. Any other update? You've touched on what I was going to touch on. That's the completion of the CRISP – the Committee that will put together the input from the different regional Internet registries into one proposal, and as you rightly said, ARIN seems to have moved forward in drafting the proposal, and we'll probably see some movement in the next few weeks. I was going to quickly ask you one thing. I'm in correspondence with Patrick Fältström who'll be the main person behind our first webinar with the At-Large community on December 3rd.

I've suggested to him that he also mention the progress of the different operational communities, if there is progress by then. I was going to ask whether you thought that was helpful maybe, or whether we should keep the first webinar very basic? I have a concern that there would be very little connection between a first webinar that describes the IANA functions, and a second webinar where we're going to be digging specifically into the ALAC position for the naming part of the IANA. Are there any comments on this?

I gather it's okay with everyone here then. Let's move onto the main part of our call. That's going to be the discussion on the face-to-face meeting that we had. We have a link in the Agenda to this flowchart that we were looking at during our last call, with the characteristics of the entities. I'm on page one. We'd gone through the IANA Customer Standing Committee, the IANA Periodic Review Team, the Independent Appeals Panel Policy Implementation, and we've not touched on the IANA contracting entity.

I would suggest at the moment we just describe the IANA contracting entity and then start our discussion focusing specifically, based on the wishes of this group during our last call, specifically reviewing the IANA periodic review team and reviewing the IANA contracting entity. It looks as if these two will be of considerable part. Before we do that I wanted to open the floor to comments on the first part of this flowchart. Seun?

SEUN OJEDEJI:

Thank you. I wanted to mention that I think one of the things we did was we followed through with this contracting entity as an option, so I don't think we're actually following our own principles. Are we saying we're agreeing with this model in the first place, before we even start [unclear 00:27:10]. I think we should have an agreement on what model this Working Group wants. This model presented I personally sense was not the preferred one, and it would just be one that could be compromised.

I'm thinking shouldn't we also have our own position, which does not effectively have anything to do with the current model that's in front of us? Because in the first place this was just an option, so I was thinking we should also discuss possible options, then prioritize, and then we go into this particular option we're looking at right now.

OLIVIER CRÉPIN-LEBLOND:

Thank you Seun. One has to bear in mind that not everyone on this call was at the face-to-face meeting in Frankfurt. I think the first step was to explain what was being proposed by some of the Members of the group, and what we had worked on in Frankfurt. I realize we have already

looked at that in the last week, but specifically the entities themselves – the contracting entity – is something we’ve not looked at yet. It’s good to mention that there was certainly no support from the At-Large Members of this Committee for a contracting entity for various reasons, and that there was an alternative proposal that was prepared.

I’ll let Alan speak to that in a moment, but I think the first thing was to say the contracting entity, as it’s currently on this flowchart, is one that’s a very lean organization, adequately financed, currently doesn’t have employees – it just has lawyers that will be verifying contracts and then signing them – so something as minimal as possible and a counterpart in the contract, as they call it –, and it acts on the recommendations and direction of the IANA Periodic Review Team. I believe from what’s on the page here, also the IANA Customer Review Committee and the Independent Appeals Panel.

That’s how it works and that’s how it receives instructions. It needs to take input from other IANA communities, numbers and protocols, and I wasn’t quite sure how that fitted together either, since there has been no real discussion about how this proposal will interface with any of the other proposals that are received – bearing in mind that I think at least one of the other proposals doesn’t mention the creation of anybody or any new organization. So it’s going to be an interesting set of negotiations there. That’s the contracted entity.

Before we launch into whether we want that or don’t want that, I wondered whether there were any questions from people on this call regarding the proposed IANA contracting entity on this draft? Eduardo?

EDUARDO DIAZ: The main issue here I see is this contracting entity, I do not understand how you can have a contracting entity with no staff. I don't know how you do that. But let's say that's the way it's going to happen, if it's on paper. If we look at the flowchart, the [float 00:31:48] that really is going to direct this contracting entity is supposed to be a multistakeholder group, which has not been identified yet, and people are talking about this within ICANN or outside of ICANN. So depending on how that ends up in the final proposal, we haven't seen what the proposal is going to be. It's going to be hard to decide one way or another, but I think the main thing here is this contracting entity.

What is it? Where is it located? Is it a piece of paper only that says it's contracted? I asked [Craig 00:32:30] about this when I was in Frankfurt and I did not quite understand what he was saying. I'm not a legal person but I'd be very interested in how you do something like this. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Fatima?

FATIMA CAMBRONERO: Thank you. Sorry but I got lost. Are we going to review this, or are we going to deal with the contracting entity? Now, when it comes to the contracting entity I was reading [unclear 00:33:25]'s email explaining some gaps, and as far as I understand, this contracting entity will be an independent entity outside ICANN, and the composition is not clearly

defined, but as far as I know it will be composed by multistakeholders and multistakeholders coming from ICANN, and it's been said it will be in charge of entering into contracts and it will have no staff.

Of course, there are many questions here at least from my point of view, because it will only deal with contracts and the duration and review of contracts, but then we don't know what happens if there is a conflict. This will be sent to the Review Team, but it's not very clear. I think it should be clearly specified – the review functions of a contract – because in some of the emails that have been circulated, it's mentioned a COI and we don't know if this is going to be formed by Members of the ACs and SOs, because we know we have a contract with ICANN – a contract will be entered into between ICANN as well.

So if we are going to discuss about the duration then I'll explain that. If not, I will stop here. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Alan?

ALAN GREENBERG: I guess I'm also not sure what we're doing at this point. I can raise half a dozen or more questions regarding exactly what they mean, and I guess I have a little bit more clarity on some of the parts, than some other people, but that clarity just raises other questions. Olivier, give me some guidance. Do you want me to identify the concerns I have, and things that would need clarification in the extreme? I'm not quite sure what you're asking to do here.

OLIVIER CRÉPIN-LEBLOND: Thank you. I was trying to follow the Agenda as such. So first review the different four entities listed on this page, and we've just done that. I've just enumerated what the IANA contracting entity was supposed to be doing, according to the proposal that is on the desk at the moment. Then of course we need to start digging into saying what we find wrong with those statements, and what questions do we have? I asked questions at the end of the meeting during Frankfurt. You asked questions. I haven't seen any answer to those.

I haven't even seen any work going towards actually defining those things, and I'd personally find it particularly poor judgment to think that the IANA contracting entity for example, if one just puts this under the carpet, then one would be able to just say at the end, "We don't have enough time to think of anything else than a separate organization that will have to be created." I already note that there is some confusion within our group. Fatima mentioned earlier that the contracting entity would be multistakeholder, and we'd have Members of SOs and ACs on it, and it's my understanding that is not the case.

The IANA Periodic Review Team will have a multistakeholder team, but I don't think the contracting entity will have any kind of multistakeholder aspect to it. It's just going to be a shell company with a couple of lawyers that will just be signing contracts and will act specifically on the orders of the IANA Periodic Review Team. That's the way I see it.

ALAN GREENBERG:

That's exactly what I understood also. It's been described as a body without any board, and I'm told in some jurisdictions one could create such a body, and without staff. Somehow I'd think there needs to be some staff somewhere, but nevertheless. I can enumerate some of my questions and concerns, and they cover some of those things. The first one is jurisdiction. Now, I'm not particularly hung up on jurisdiction, because there are plenty of jurisdictions in the world where this might be able to be done, but I see a significant problem in that there will be strong pressure from many parts of the community that the jurisdiction not be the US.

At the same time, if you look at the questions that are raised in the US Congress Kelly Bill – and I'm not worried about the Kelly Bill, but it does identify and put in writing, as Milton has said, the questions that may well be asked by the NTIA and by Congress. It makes it quite clear that they would not accept anything that's not in the US. So that alone is a contradiction. I worry about capture at various levels. I worry about the fact that there's going to be costs associated with the corporation, with convening the multistakeholder group, and no one has addressed that, and the ccTLDs have made it clear they won't fund this, and the gTLDs have said they'll fund something but only for their part.

So we have another conflict there. I really question whether this kind of overall structure is going to be acceptable to both the ICANN Board – and the may not have the veto but nevertheless – and to the NTIA, who's very clearly talked about this as implied giving the contract to ICANN, with suitable accountability measures added. So this is quite different. I worry about integration with the other proposals. I worry about who's going to convene this multistakeholder panel, and the other

panels for that matter, in a world where potentially it's no longer ICANN that has the contract. Just how is that going to work.

There's just so many questions in my mind that don't have answers, and when there are answers they don't seem to be acceptable. I could go on for a while but I think that gives you an overview.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Alan. I think if I could virtually say, "Yes, yes, yes, yes," I probably would, without interfering with you, but I totally agree with all of the points that you've made here. Eduardo?

EDUARDO DIAZ: I just want to add to that list a concern that you had at Frankfurt Olivier, and it was what happens if that corporation, whoever is contracted, gets sued? Who's going to protect them? That's another issue. Just to add to the list that Alan had.

OLIVIER CRÉPIN-LEBLOND: Thank you. Indeed you're quite right, and one additional thing was what happens if such a contracting entity disappears, if it fails, if indeed it gets destroyed in any way – as you mentioned, being sued – holding all the contracts, does this mean that when the entity disappears there are no more contracts and the whole thing falls apart? It's an enormous number of questions, and I would suggest we need to put together a document that asks all of these questions, and not let this whole thing move forward without having clear answers on these. I certainly don't have these, and they are concerns. Alberto?

ALBERTO SOTO: Thank you. Yes, I do agree with you. We all have the same concerns. I don't know if the ICG's questions were raised. Perhaps they were raised but no answers came up. I think that when all these questions are presented, perhaps the NTIA, if there are no answers, what might happen is the NTIA will reject the transition proposal, and that's it. Somehow we need to focus on that. We need to raise awareness in order to avoid any rejection due to these concerns, because the concerns are within our community. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. I totally agree with you. In fact, I think this was raised as well, and again there were no answers to this. Alan?

ALAN GREENBERG: I think it's worthwhile for people who weren't at the meeting and didn't follow it, to explain how we got to where we are today. I don't believe there was any malicious attempt by the people running the meetings to essentially ignore the issues that we raised. I think we just had a dynamic where there was a long speaker list. So by the time I or Olivier said something, when we finished the next speaker, who was already queued up and ready to speak on a question that was asked 12 minutes ago, because of the length of the speaker's queue, in general they did not give a counter answer to anything that was said by the previous speaker.

Occasionally they did, but very often they went forward with what they were going to say to begin with. So major diversions of saying, “Hold on, we’re questioning the overall structure,” or, “How are we going to do things?” often tended to get ignored. I don’t think it was a malicious issue or necessarily bad chairing. It was just the dynamic in the meeting was focusing very much on the direction that had been set earlier in the meeting.

When Olivier and I spoke at the end of the meeting, very passionately I believe, it was a surprise to many people that we were disagreeing. They just hadn’t heard the interventions along the way. I guess we’re at fault for not saying it strongly enough, or forcing the direction to change, but nevertheless that was the situation.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Alan. I totally agree with what you’ve said. I wonder whether any other people who are on this call and were not in Frankfurt have any specific questions regarding the topic; both the characteristic of the entities and where we are, or any suggestions as to what should be done now? I realize we focused a lot on the problems we have - we as in the five Members that were face-to-face in Frankfurt – had with the contracting entity. I recall very vividly Fatima bringing forward the question on the jurisdiction of these entities or these proposed entities, and being brushed aside and told, “This is not the sort of thing we need to discuss now.”

Nearly saying that this was outside the realm of the Working Group to work on, when really these questions are absolutely core to the main

aim, which I think we should be constantly going back to, which is a smooth transition that does not endanger the stability of the DNS. Not only now, but even afterwards, I've felt particularly nervous about the fact that there are some Members that have an agenda of separation from ICANN, that seems to be overwhelming the agenda of sticking to something that will be as stable as possible with as few changes as possible.

We definitely appear to have this divide between those who want to change things and those who don't. I think the feeling from the At-Large has been that we want to change as little as possible, but by saying that we've been accused of saying, "Actually, that would be asking for the most changes, if we wanted to change as little as possible." It's just very confusing. Fatima and then Alan.

FATIMA CAMBRONERO:

Thank you Olivier. I fully agree with you and your comments. I just wanted to add, perhaps if I don't contribute too much, but I have the feeling that after days have passed and I have assessed all the information, today we have an entity that would function outside ICANN. The first impress would be this doesn't matter, because it will be outside ICANN and it would not affect us, even though when we say that it should be composed by multistakeholders and members of the ACs and SOs.

However, as I said in the chat, I have a feeling that if this is an entity and it has no legal structure, we should probably analyze in the group if instead of having an entity with all the things this implies, perhaps we

might have a function. When we say function, perhaps this might change the structure. I also think that when we have the final draft, after the Frankfurt meeting, that was a general structure.

That was okay, but now that we're going into details we realized that there are many questions that have no answer, and perhaps not even the group is able to answer those questions. For example, you mentioned when I asked about jurisdiction. That is my concern. I will stop here. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this input. Next is Alan. Alan, it would probably be of help if you shared a little bit about what counter proposal you had brought forward, and that was somehow lost in the details of the discussion in Frankfurt.

ALAN GREENBERG: To add a little bit of clarity, everyone says they don't want any change right now, things are working just fine, and they don't want to upset the processes that are working. Where the various positions change is how soon we would look at other options. There are some people, based on comments on the mailing list, that would like to see every three or four years go out to a full request for proposal, and with the possibility of moving this completely outside of ICANN. Whether that would move each time or not is not clear, but certainly there'd be a significant amount of work involved.

Again, we have this entity with no board and no employees creating an RFP. Who does the reviews of the RFP in this organization that doesn't exist in any substance? Many questions, but yes, I will quickly review. What I imagined, and I suspect what NTIA imagined, but I have no insight into that other than my own guesses, is that NTIA would essentially grant ICANN the responsibility for handling IANA, and would want to see ways to make sure that ICANN fulfills this mandate to the satisfaction of the world – the world's governments, the world's multistakeholders – in all aspects.

The situation that's typically raised as the one that people fear most is what is called a rogue board – that is the Board of ICANN, for one reason or another, decides to do things that are counter to what the community wants. Since ICANN in the current jurisdiction, and perhaps in the future jurisdiction, has the Board as the ultimate decision-maker, how do you stop that? The simple answer is, "Well, you can change the directors when they come up for renewals," and that of course is a many multi-year process.

The kind of thing I think might be able to be done is number one, put rules on ICANN's Board that it cannot make certain kinds of decisions without significant lead-time and notice. You can say there must be voting thresholds; that you need a certain number of directors approving something to do it, and you give the ACs and SOs the ability of recalling their directors. That removes the critical mass from the Board so that they can't take action. It's not a 100 per cent solution, because that doesn't address how do you fix problems that are caused by inaction.

If for instance IANA was doing a really rotten job, as it was a number of years ago, or at least not a great job, and the Board refuses to act on that, how do you fix it? That's a good question and I don't have an answer to that. I don't pretend I have a fully fleshed-out answer, but I believe there are mechanisms the accountability group could come up with that would address this kind of problem.

I think there are answers as to how it could be granted to ICANN in perpetuity, which would be a sin from the point of view of many involved in this discussion. I do believe it's possible to do it, and I think that's closer to what at least some of the parties envisioned when this whole thing came up. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this. You touched on a good point, regarding the supposed contracting entity having to issue RFPs and review bidders and things. It's again clearly not such a streamlined structure. Thank you for sharing the alternative proposal, which we might wish to support. Alberto is next.

ALBERTO SOTO: Thank you Olivier. We were talking about function jurisdiction – if it's going to be inside or outside of ICANN. Well, I believe that this flowchart should define that firstly, because we're talking about a function within ICANN and that's possible, because that would be within the ICANN's umbrella. But if this is going to be an outside entity, we'd need to have an independent legal entity, because it will not be inside ICANN. Therefore those topics should have been resolved in the very beginning

in the ICG, before drafting this flowchart, because decisions that will be made regarding the IANA functions, and whether they'll be inside or outside ICANN, everything will change.

So the two [unclear 00:56:02] RIRs that presented an opinion on this topic, they said we should continue the [unclear 00:56:09] works perfectly well – IANA works perfectly well. In that same meeting in Chile, they also said that transparency was required and therefore there should be a different entity. That is to say entities or groups that present opinions are changing their opinions every time. So if the ICG had defined whether this should be internal or external, I think that now this analysis would be much easier. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Alberto. I have an issue that you've mentioned here. You said if the ICG had defined. Do you mean if the CWG had defined, or did you actually mean the IANA Coordination Committee needing to define this?

ALBERTO SOTO: I'm referring to the ICG, because when they plan, all the primary things should be taken into account and then the analysis should come, and in this case it was just the other way around. Jurisdiction will be discussed later. Then we will decide if this will be internal or external, but those decisions will change the work that's being done right now. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Jean Jacques?

JEAN JACQUES SUBRENAT: Thank you. In response to Alberto's remarks, I'd like to say a few things. The first remark is that the ICG didn't consider, when it was set up, that it had the authority to pre-judge the form or the legal set-up or anything else in fact concerning the transition mechanism. Like Alberto I believe that this should be done at some point, but it was not, and isn't now, the task of the ICG as such, because the ICG has made it clear over the past few months that it's not in the business of defining by itself what should or should not be the general shape of the transition plan.

It said very clearly that it would assemble the contributions from the communities, and working on that basis would propose a plan reflecting faithfully the views of the communities – that it would not be a separate thing invented by the Members of the ICG. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you Jean Jacques. Fatima?

FATIMA CAMBRONERO: Thank you Olivier. I have a question regarding Alan's comment. The document that the contracted entity would be an entity outside ICANN, is it possible that the entity would be an outside entity but it would be created or formed by ICANN and the community? So perhaps it would be composed by ICANN and the community and not ICANN the organization. Does this change the point of view? Perhaps this will not solve our issue resolving jurisdiction, but I'm trying to think about this, and I don't remember exactly what the discussion was regarding this

point – whether it was ICANN the organization or ICANN the community. I’m just trying to understand the whole issue. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. My recollection was that this point was not even discussed. None of the jurisdiction, none of the composition of the contracting entity parts were discussed – just principles. Principles are on the screen, as we can see, and that’s all there is. I might be wrong. I might have dozed off during part of the discussion. Alan, does anyone have a different view as to what was discussed and what wasn’t? To me it looks like these are huge questions that are not even touched on yet.

ALAN GREENBERG: I can try to answer that to the extent I understand. It certainly can’t be ICANN itself creating the corporation. That would effectively be a subsidiary of ICANN, and a subsidiary of ICANN cannot grant the contract to ICANN. So the entity has to be completely outside of ICANN. Now, who is going to oversee the creation of it? The ICANN multistakeholder model with a few other people added on – perhaps representing some governments or the non-affiliated ccNSOs are the only game in town. We are the multistakeholders that are involved in this.

So as individuals or as organization we would somehow have to be involved in this. No, who the owner of this new corporation is, I don’t understand. You can have membership organizations but every time we’ve described a membership organization, no one can come up with what I would consider an accessible set of members. Other than that you typically have shareholders or some things who are responsible for

an entity, and would incur a liability if that entity does something illegal or something. At this point, these have all been either ignored or treated as details to be resolved.

As was said earlier, I think if you have enough details that are unresolved, the overall thing has to be brought into question. These are all really good questions and I haven't seen any answers. There may well be answers, but I don't know what they are.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. I realize we've spent a lot of time on the IANA contracting entity. We haven't spent much time discussing the IANA Periodic Review Team. That seems to be a multistakeholder team. It doesn't say entity in its title, and yet some are saying this would be some new entity as well – a completely independent entity, and that's of course of equal importance as the other entities, as that's the part of the whole process that can make the decisions on whether to renew or not renew a contract, because that's the part that performs the review. Alan?

ALAN GREENBERG: Thank you. I did mention that very briefly in my overall rant. It was suggested by one of the Co Chairs of the group that this CWG or group like it could be the multistakeholder review body. I don't disagree with that. The question is in a world where possible ICANN is no longer the contractee for IANA, who convenes this group? Who ensures that it is multistakeholder? Who ensures that its not captured? None of those questions were addressed, as far as I heard.

OLIVIER CRÉPIN-LEBLOND: I think we've now spent over half an hour on this, and it's sounding more like either a cranky wheel or we're all just absolute whiners, whining away as in being unhappy and so on. I would suggest perhaps that we put these things on paper. There was a question as to whether it would be useful to have this on paper before the first draft was going to be out, and I just don't think it's going to make that much difference. We definitely need to see first what is going to be in that first draft coming out, but Alan, you did say that you had committed to putting your thoughts down in writing. Could we think of this in the next week or so – that we all put down our concerns in writing and then we'll put a document together?

ALAN GREENBERG: Certainly you'll see mine. At this point, given my schedule and the fact that the paper is late, I don't feel comfortable, having thought about it, putting out anything until I see a document in writing, because I don't want to critique something that in the end, the words they commit to paper are different from what I thought they were going to be. I'd want to see that paper first, which will hopefully be coming out today. I'll certainly commit by the end of the weekend to having done it – hopefully before that.

But yes, I'm certainly committing to putting something on paper, because I don't think I can personally... I will put my personal one to paper and other people can take it apart and tell me what I got wrong, or indeed support it.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Maybe one AI would be for all of us to put our thoughts, concerns, on paper, and share in our own Working Group – I’m not saying a consolidated one so far – but we can share our own concerns. There is a fair bit of repetition between our concerns, but that would then be a first step into the ALAC being able to formulate a response during the forthcoming PCP, and that is certainly a good first step forward. Jean Jacques?

JEAN JACQUES SUBRENAT: Thank you. I’d like to make a general remark. It’s been mentioned that all groups are discussed today, but one should keep in mind a due political fact that’s behind all that. Let’s imagine that the US Government was not so keen, for whatever reason, to embark on this part of stating that it was prepared to transfer the oversight of the IANA functions to something that does not exist and which has to be invented. I suppose it would be fair to say that one of the outcomes the US Government was envisaging – even if it didn’t say so, if it wasn’t spelt out – was that the communities and the final ICG proposal would be so contradictory in its parts and also so difficult to implement that in the end there would be a rough consensus [unclear 01:09:17] to come back to the current system, which is Washington has some oversight over the IANA functions. I just want to remind us that we shouldn’t forget this as a possible outcome, and perhaps it was also part of the calculation of the US Government when it made its proposal in April.

OLIVIER CRÉPIN-LEBLOND: Thank you. Alan?

ALAN GREENBERG: I must admit I disagree completely with Jean Jacques. Yes, [unclear 01:09:59] that was part of the calculation, and this is [unclear] the community could not come together. I'm pretty cynical but I do not believe that was the overall intent, I think for a whole host of reasons. The US Government or part of it currently in power, decided that this was something that its time had come, and I believe they're actually hoping it will work, but maybe I'm not sufficiently cynical.

OLIVIER CRÉPIN-LEBLOND: Thank you. Jean Jacques?

JEAN JACQUES SUBRENAT: Just in response – Alan, both you and I have some experience in all these areas. I really would advise against using the word “cynicism” because [unclear 01:10:57] due political analysis can surely not be [taxed]...

OLIVIER CRÉPIN-LEBLOND: I think we might have lost Jean Jacques. There was some breakup and then I didn't hear the rest of his sentence. We are not able to hear you unfortunately. I realize time is ticking and we've spent 45 minutes on this. We have some important questions to answer. There are just three of these and I want to try and find out if we can find answers to these quickly.

First, with regards to the NTIA backstop function, should this be retained? It's the function where it just has to rubberstamp any changes in the root by saying, "That's fine, it follows a procedure." It checks whether everything running fine, sort of whether the trains are running on time, and whether the procedure that was used follows all of the policies supposed to be followed. It has the potential of blocking a transfer and so on. Governments are asking for a replacement for this. What's the feeling here regarding a backstop function? I don't see much response, so let's let you all think about this for the next call.

The second one is to do with the contracting function. There's a big discussion currently going on on the CWG regarding a limitation to the length of the contract, having an open and transparent contest involving an RFP every single time, and also whether there should be a presumption that the contract should be renewed with the same entity by default – of course the current entity being ICANN. Some are saying, "No, we should have a brand new RFP every time, and put everything back into question." That would improve accountability and certainly put more pressure on the entity that's doing the work.

Others are saying, "No, that would introduce all sorts of questions and certainly introduce instability and would therefore have the chance of stopping investment into the function and therefore ending up with a function that would not be performed the way it should." Two different points of view. We need to make up our minds in this Working Group which we'd be favoring. Fatima?

FATIMA CAMBRONERO: Thank you. When it comes to your question and when it comes to the comments on the list, this is my personal opinion, and I might be wrong because perhaps I'm not right in my understanding. The contract should have a limited duration from my point of view. In my opinion the first contract, post-transition, should have a shorter period duration than the rest of the contracts. It should be shorter because from my understanding the first stage would be subject to further controls and we should assure the stability with this new contract.

Probably the duration of this first contract should be three years, and for me the following contract should have a duration of five years, according to the reviews and discussion. It's a necessary period to recover the return of investment. In my opinion, I should know the presumption for automatic renewal, but there should be a new RFP for each contract. This is my opinion so far. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Fatima. Three years initial, five years renewable in the feature. Alan?

ALAN GREENBERG: Thank you. I don't have a strong feeling on the number of years. Some people have said two years is too short, seven years is too long. You have to be able to take action when there's a problem. But I would definitely want to see the contracting entity, this nebula non-existing group, be able to take a decision that everything is okay, we will renew. It should be able to, as the NTIA has done, go out for public comment and say, "Are there things that you believe we need to change in the

contract?” If everyone is happy, if no one has any idea what should be changed, then I see no reason for issuing another RFP. It’s a costly endeavor and it’s time consuming.

If we’re not targeting to try to fix some problem or improve something, I cannot justify why we’re doing that. I would definitely want to see the contracting entity have the ability of going out for an RFP, have the ability of asking the community for input, but not be required to do that on a regular basis. Asking the community for input, I wouldn’t mind doing on a semi-regular basis, but not necessarily requiring an RFP – that it have the ability to either renegotiate a contract or to simply renew the contract. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Next is Eduardo Diaz.

EDUARDO DIAZ: Thank you Mr. Chair. My opinion on this is since we want to keep things as simple as possible, I don’t know the details of the actual way NTIA does it now, but whatever entity is created should follow what the NTIA is doing now. I’m sure they do it [unclear 01:18:20] and they do it [unclear], or they do an RFP every time. With everything there, we could do the same thing now and maybe change it in the future if it’s too burdensome and expensive to do otherwise. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Eduardo. I think the NTIA was issuing RFPs on each occasion, but with an understanding that... I’m not sure how that was structured,

whether ICANN had a preferred status or first move advantage into that. Alan, do you know?

ALAN GREENBERG:

No, I don't, and I need to check that. My recollection is that they're not obliged to do a full RFP but they chose to at the most recent juncture, but I don't know that for sure. Remember, this has not been going on for that long. The first contract may have been for a period of time with a certain number of renewals, but this was the first time they were obliged to or it may have been a contract of choice. I haven't listened to it yet.

OLIVIER CRÉPIN-LEBLOND:

I believe that there was a review, etcetera, of the performance and of the overall function, but indeed yes, the last one – and I'm just saying this from memory – there was an open request for proposals and then the NTIA put more pressure on ICANN by saying they didn't find any of the proposals good enough and so they asked for another round. We may have to look at this and look at the way that this was done. Alberto is next. Let's have an AI for me or staff, if we can find the process by which the recent renewals were made by NTIA. Check the process by which recent renewals of the IANA contract were made. Alberto?

ALBERTO SOTO:

Thank you. I think there were two important amendments. One was in 2013. However, when it comes to the duration of the contract we must take into account that this is not just a legal aspect. We also need to

take into account the functional aspect. So far, IANA functions have been carried out with no problems – very small issues in certain areas, for example, when it comes to domain names or ccTLDs. But these are functions that cannot be interrupted ever, so the contract should take into account if a contract should be terminated, and if that is the case, who will be in charge of that contract? If that happens, how will this termination be carried out? Because as I said before, these are functions that cannot be interrupted. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this Alberto. You are very right. I think this goes into more detail than what we have at the moment. The flowcharts themselves, such as the operational review and also the periodic IANA performance review, provides some insight into what would happen, but definitely no details. There doesn't appear to be any details of the contingency as in how the actual functions would be transferred one way or another – it just says, "Implement decisions of IANA periodic review team," and there we are – we're done. I don't think we have any time to go into this right now unfortunately.

We don't have anyone else in the queue. We've got a slightly better view now for these questions. Anyone who is on the call but didn't go to Frankfurt, have any feedback on this specifically as well? I see Alan once again in the queue. Alan?

ALAN GREENBERG: I just want to point out I don't think the AI is correct. We're not looking for what the process is. We know what the process was. The question

is, to what extent was that process required, mandated, driven by the contract – the earlier version of the contract or the internal US Government NTIA rules for issuing contract.

OLIVIER CRÉPIN-LEBLOND: Okay. Let's just rephrase this so as to make sure we've got the AI right. I've dictated that one. That must be wrong then. Staff to check the process by which the recent renewal of the IANA contract was made. We know the process. We want to find out if it was the request for full RFP. Is that correct?

ALAN GREENBERG: I put a comment in the chat, which I think captures what I believe we were asking.

OLIVIER CRÉPIN-LEBLOND: Okay, so here we go – to what extent that process was mandatory. Has to do with the terms of the earlier contract and with the extent internal NTIA US Government rules for issuing contract. That's a much more complex request you're asking here. I have concerns that these are all legal things, and of course we don't appear to have professional lawyers helping us specifically or who are particularly knowledgeable about those... Let's keep it with this: "Especially whether the process was mandatory." Does the current AI now echo what you think we should have?

ALAN GREENBERG: I'm happy with that. I don't think it's that complex. I think it means going to look at the earlier versions of the contract, and I suspect when the NTIA went up for comment, or an RFP, their preamble will say why they're doing it, but I haven't looked for those documents myself.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. We still haven't really got answers to the important questions we've been asking here. One more here is the link with the accountability process. What would we prefer? How do we want this? Do we support the following statement here: "This transition must not take place until the requisite accountability mechanisms have been identified by the CWG on enhancing ICANN accountability" – which is the Working Group that is in formation at the moment – "The mechanisms that the community determine are necessary pre-transition have been put in place, and see agreements and other guarantors are in place to ensure timely implementation of mechanisms that the Accountability CCWG decide may be implemented post-transition."

Some Members of the group are asking for this, and that closely links the accountability process with a process here. What's the feeling in our Working Group here? Alan?

ALAN GREENBERG: I think the question is moot. NTIA has made it quite clear they're not going to transfer without sufficient accountability. That being said, other than the new appeal mechanism, using an external arbitrator, if we're simply going from one contracting entity, the NTIA, to this new contracting entity, I'm not sure ICANN needs a lot more accountability.

It's working now. Why would we think it isn't working later? I think the Accountability Team's work is going to be really simple on the short-term, if this proposal goes through as it is right now – unless the Accountability Team is given the responsibility of answering all these questions, in which case we have a real problem.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Next is Fatima.

FATIMA CAMBRONERO: Thank you. Well, I do agree with the text on the Wiki and the text established by the Working Group, but for those who haven't read the text I'd like to remind you that there was a comment by Milton Mueller saying that this should be related to track one for the Accountability Working Group, who will be in charge of this. I don't know if we have to take into account track one, only or if this should not be included. This is a question perhaps we have to debate, but I do agree with what's been proposed. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Fatima. Indeed, track one is the track of the Accountability CCWG that will be working specifically on the issues relating to IANA. One concern that I have is that in a side discussion I had with Theresa Swineheart, it appears that the understanding at Board level at the moment is that the accountability track will produce its work and only join up with the work we're developing here when the two component parts of the proposal will be sent, by the Board, to NTIA.

I'm baffled by this, because to me it looks like we're dividing this whole process into the two tracks, and it's the ICANN Board that's effectively putting them together. This doesn't make sense. Anyway, we'll have to work more on this. I note we have one minute until the end of this call. A quick mention of RFP 4 and RFP 5. There was a call of RFP4 that took place yesterday. RFP 4 looks at the transition implications, and of course the only way it can look at the transition implications is by having a copy of RFP 3, of the first draft of RFP 3. Without such a copy there wasn't very much progress that was made in RFP 4 yesterday.

Finally, we have received a request regarding RFP 5. That's the validation of NTIA requirements, and one of the questions is the consultations within communities that have taken place today, and I believe what we can do is share the fact that we've shared the survey with our community and we probably need to be engaging more with our community. We'll obviously be speaking about the webinar that we'll have in a couple of weeks' time, and we may even design a survey by then. I'm not even sure.

First of course we have to look at RFP 3. Any comments or questions regarding these last points? I wonder if there are any Members of RFP 4 on this call that could give us any further details if anything else has happened? Because I'm certainly not a Member of the mailing list so I'm not sure whether there has been much traffic on this. Fatima?

FATIMA CAMBRONERO: I am a Member of this group. Yesterday we had a call and I was not able to understand much. I apologize for that. I know that Alan – and I don't

remember his surname – not Greenberg – he sent an email to the list where he instructed the different parts of the contract to work on that document. I was not able to read that information. I have no details to share with you. But there was also a comment by Carolina Aguirre saying that we could structure the contract in terms of the priority, and we should focus on the most urgent parts of the contract. However, there was not much movement because we first need the RFP 3 to start working. That's all. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Speaking of RFP 3, I believe we have received something in the mailbox from the CWG, but it doesn't look like the RFP. No, it does, the initial draft. Eduardo?

EDUARDO DIAZ: I just wanted to add to Fatima – I'm not in the RFP 3 mailing list because I'm not part of that group, but I participated in the meeting yesterday, and it seemed to me that there was no substance. There was a lot of thought. At the end I suggested to Roberto to put something out like bullet points, so the RFP 4 group could start filling up some of the bullets with what information they have now, and obviously they could work very, very diligently during this weekend. Once they get the RFP 3 then they can have some substance to the RFP 4, because they have to have something in the final proposal from the first, that was going to go out to the community.

OLIVIER CRÉPIN-LEBLOND: Thank you Eduardo. The final copy of the first draft is now in our mailboxes. It arrived 5-10 minutes ago, and Fatima has forwarded it over to our Working Group. Thank you for this Fatima. There is a call tomorrow of the CWG and so Jonathon Robertson has mentioned in his cover email that this document will be discussed tomorrow. I encourage you all to read through it and make your comments on the list, and then tomorrow we can push those comments. I think now is a good time to finish. I thank the interpreter. Any AOB from anyone? Fatima?

FATIMA CAMBRONERO: This is just a brief and personal comment – that I'd like to publicly apologize because next week I'll be participating in the MAG Meeting in Geneva and I won't be able to attend the meeting of this Working Group. I won't be able to participate in the meeting and do the follow up. I know there is another meeting of the CCWG, but I would like to apologize and I will do my best in my free time to follow up with the debate and comply with the AIs if required.

OLIVIER CRÉPIN-LEBLOND: Thank you. Is the MAG taking place the whole week?

FATIMA CAMBRONERO: No. It's from December 1st to the 3rd, but I'm leaving on Saturday and then I will take another day to come back to my country, so for me it will take a week even though the meeting is only three days.

OLIVIER CRÉPIN-LEBLOND: Seeing as you'll not be able to make any of the calls next week, there is another CWG on 4th of December, so I'd suggest we have a Doodle for the 1st, 2nd and 3rd of December to find a suitable time for us to speak ahead of this call. We will be able to review the discussion that will have taken place tomorrow, November 27th, and we'll therefore be able to follow up on the call afterwards. With this, thank you everyone for this. Thanks to the interpreters. For those of you celebrating tomorrow's feast in the US, Happy Thanksgiving! This call is now adjourned. Bye.

[END OF TRANSCRIPTION]