ICANN

Moderator: Gisella Gruber-White
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5:00 am CT

Woman: ...has been started. Thank you.

Man: Thank you very much.

(Grace):   Okay. Thank you. Welcome to the accountability call. The CCWG on

                    accountability, the 16th of December at 11:00 UTC. And (Matuel), I'll pass it

                    back to you. Thank you.

(Matuel):   Thank you very much, (Grace). So we have a full agenda, so I will not spend

                    too much time on the initial items. Just to welcome you and we are

                    introducing our time schedule rollout today. For us in Europe, it's about

                    lunchtime so we made some lunch for you.

                    And I know some of you are in the - quite late in the evening, others are at

                    breakfast or very early in the night hours, so we're sharing the pain. Next time

                    we'll shift that, of course. And thank you very much to everyone to making

                    themselves available in these conditions.

So the roll call will be - we will proceed as discussed last time so we will take the participants in the other (econic) room. Are there any other colleagues participating for the call that are not on the Adobe Connect and want to make their participation known?

Cheryl Langdon-Orr: Thomas, Cheryl Langdon-Orr here. I will be getting into the Adobe Connect room eventually. But at this time, I haven't managed to negotiate the hotel system to let me - allow myself to do that, but I'll come in eventually.

(Matuel): Okay, we hope you make it, but your presence is well taken into account. Any others?

(Alice Munoe): Yes, (Alice Munoe) GAAC.

(Matuel): Thank you, (Alice). Welcome.

(Alice Munoe): Thank you.

(Matuel): A - yes...

David Maher: David Maher on the line.

(Matuel): Okay, welcome, David. Just a quick reminder that participants, as well as members, are kindly asked to put in their statements of interest so that we get a full view of our participation.

We have - I think we are 150 members and colleagues in this group and, therefore, our - of course, not everyone met everyone, so this is absolutely critical that we have quick presentations and SOIs in as quickly as possible so

that everyone understands the point of view that every colleague is speaking from when we interact on the mailing list.

Maybe I will - could come to the second point of our agenda, which is the membership updates. First of all, I think we have a couple of informations. We do not have yet a - we have had three applications for the ATRT past participants qualification in the charter.

We are trying to get feedback from Brian Cute who was chair of the ATRT 2 to actually try and - or we have only two now, I'm being - that there's (Sharon) and Avri and we want to make sure we define the ATRT participants in the group with connection with past ATRT leadership.

So this is a request we are sending with Brian Cute. Speaking of Brian Cute, we do not have yet the names of advisors to be provided by the public experts group. It is expected - the announcement is expected any time now for the - very soon, but there was - the delay is due to they're looking for confirmation from the advisors that they will have the required availability and commitment to participate in our work.

It is quite clear that, at the point we're in, to - we are starting to actually miss those advisors in our work and so we are hopeful that this can be kicked off as quickly as possible.

You may have noticed as well, we have circulated, thanks to staff, some statistics regarding participation to the (TTWG). As I was saying, we are about 150 now. Quite a diverse group in terms of regional participation, as well as qualification in (the rich) part of the community we come from.

And this is intended to be updated on a regular basis so that we have - I think it is quite an important aspect of our work to be able to provide clarity about who was behind this work.

And finally, we - I want to inform that we have - are awaiting - I understand we are awaiting a third co-chair from ALAC and we - (Thomas) and I have been interacting with Alan Greenberg, our interim co-chair, (at the end) of last week.

And I understand there is a process in place within ALAC to appoint a co-chair which - who obviously will join us and chair the mission of driving this group to the appropriate conclusion to its goal. So we're looking forward to providing more information about this at the next meeting.

So thanks, Alan, for noting that a co-chair will be named prior to the next meeting, so the next meeting will be - we'll have three co-chairs. Regarding membership, I think - how do you all call it? Have I forgotten anything?

No? Apparently not, so I will turn to (Thomas) to address our first - the third item on our agenda which is the coordination with feasibility in ICG. (Thomas).

(Thomas): Thanks very much, (Matuel). And welcome everybody. Before we go into the substance of item number three on the agenda, let me just ask Alan - Alan, would you like to make any introductory remarks as - from co-chair of this group?

Alan Greenberg: Thank you, (Thomas). No, I was acting as co-chair on the coordination meetings. My intent was not to act as a co-chair within the meeting proper. But thank you for the offer.

(Thomas):   Thank, Alan. And as Alan has stated, and I think this gives us a nice (edge way) into the substance of the discussion on item number three, there has been another, either second coordination call with the co-chairs of the CWG.

You will also have noted that Olof Nordling as one of the participants of the ICG has actively joined the discussion on the mailing list from the very beginning, so there is coordination or there is interaction between the two groups, which I think you will agree is essential to the success of this whole exercise.

Now, the chairs did have a second call to coordinate their efforts. It has been discussed how we would best be able to interact with each other. And as you will remember from the previous call, we've also asked the CWG to provide their input and to give us information on where they think would be overlap with the accountability work that we're undertaking because certainly the CWGs working in an area where accountability is also key.

But there are certain accountability items or questions that are merely related to the work that they're conducting, while we are looking at accountability for ICANN and not necessarily for accountability mechanisms that have to do with transition of the technical function.

Nonetheless, there is overlap and we should make sure that the proposals that we are working on are seamlessly interlinked and intertwined. Let me pause here for a second.

We do seem to have some background noise on one of the lines. Can I ask the operator to identify which line that is and mute it? So that's excellent. Let me just double check whether ICANN can still be heard.

Man: Yes.

Man: Yes.

(Thomas):   Okay. That's excellent. You will also remember that CWG has provided us
                     with a paper identifying potential areas of overlap between the CWG and the
                     CCWG.

                     And one of the concerns with the CWG, is that they have obviously published
                     their first draft proposal while we've only started our work very recently. So
                     there's a timing issue and I think it would be good for us to respond to the
                     CWG and to also manage their expectations in terms of when they can expect
                     some substantive feedback from us.

                     And when preparing this call, we thought it would be good for this group to
                     send a note to the co-chairs, (Lisa Full) and Jonathan Robinson, confirming
                     receipt of the paper and assuring them that we will make the work on their
                     questions a priority matter for this work and that we are working on
                     particularly the categorization of items for work stream number one versus
                     work stream number two.

                     And that we will get back to them as soon as we can, but that it's possibly
                     unlikely that we will have a definitive answer for them prior to the deadline
                     for the submission of proposals to the ICG.

                     So we are seeking to have a draft version of our assessment ready before the
                     deadline, i.e., mid to end - or the second half of January but that these
                     preliminary results will certainly be subject to any changes this group might
                     make and those can be influenced by, number one, our own deliberations,

number two, by the refinement of the proposal of the CWG itself, and also by other external factors such as other groups that might chime in and make themselves heard.

So I think in terms of - due to collaboration, it would be good for us to get back to the CWG at our earliest convenience and then provide the CWG leadership with a response.

So, again, the dates that I mentioned are highly tentative but that's what we - we'll try to have a first draft by, which again, would be subject to amendments or changes according to what this group is going to work on.

Can I ask for feedback on that? Is there agreement with this proposal, that we send out a note to them or are you - do you have any suggestions as to what additional co - information should go into such response?

(Cahoos):   (Matuel), this is (Cahoos). I have a question.

Man: Please go ahead.

(Cahoos):   Thank you very much for the report. I have two comments. One, as I told to (Alice Cooper), the chair of the ICG when I speak on (unintelligible) the ICG. I indicated that I am speaking in the capacity of (unintelligible) ICG now, in that capacity, I do not recall that ICG has made any modifications to the deadline of the 15th of January to receive the whole proposal related to the ICG activities.

So your timeline, which is the end of January, might have - not meet that deadline, as I said, as far as I am understanding now. I don't think there has

been any formal changes on that deadline of the 15th of January. This is one point.

The second point is that (Matuel), there is an area of confusion from the very beginning on the activities of CWG and CCWG. It was mentioned that CWG didn't read the accountability relating to the (AL) transitioning functions from your government to multi-stakeholder or global multi-stakeholders which, at the end, I think would be ICANN.

So that accountability would - turns to the ICANN accountability and we are dealing also with (ICANN) accountability. So I don't see any major differences at the end of the total between these two activities, so I don't see that there are two different branches.

The accountability is studied by CWG - will end up with the accountability that we will discuss by CCWG. The only difference is that the work that we are doing will go much beyond the transition deadline possibly today, the 15th of September of 30th of September 2015 beginning with a much longer term of accountability of ICANN.

So this question needs to be really clarified that there are not two different functions. There is one function, one dealing with some timeframe just into - sorry, the 30th of September 2015 and the other is long term.

Could we have some clarification that we should really be clear on that my view, again, personal view of the representative of the government of (unintelligible) that we did not have to have two different branches. We should have one single CCWG dealing with the whole thing but not having these two because of this overlap that was (discussed). Thank you.

(Thomas):   Thank you very much. And can I please ask all the participants to raise their hand and get in the queue? Before I move to Tijani, let me briefly respond to the comments that have just been made.

In terms of timeline, I think you're right, that the deadline has not changed. Nonetheless, I think we have to be realistic about the timeframe within which we can produce first draft to get - to give feedback to the CWG.

I think it's highly unlikely that this group will come up with a preliminary draft earlier than in the second half of January, so if the group thinks that we can be quicker with this, I would certainly be interested in how you would recommend we go about to get this achieved.

Certainly time is of the essence but I think it would not be good to overpromise in our interaction with the CWG and I think that already the second half of January for the first high level draft would be highly ambitious and difficult to live up to.

In terms of the other question that you raised with the demarcation between the CWG and the CCWG, some comments have already been posted in the Adobe chat, making reference to the clear mandate of the CWG with respect to the three IANA functions.

But I think that this type of discussion is very healthy because I think we all need to be very clear, not only about the demarcation, but also about the mandate that we have when continuing our work. And with that, I'd like to hand over to Tijani, please.

Tijani Ben Jemaa: Thank you very much. Tijani speaking. First of all, I was on the drafting team of the charter of the CWG as well as the CCWG. And I remember very well

that this issue of accountability came because we are - we were, I have to say, worried about the fact that any transition cannot be done any - (unintelligible) cannot be done without accountability concern - accountability aspects.

That's why it was put on the charter and that's why the CWG normally are chartered to work on the accountability related to the transition. But I think - I agree with our colleague from the ICG that is the application, more or less.

But I think that we have to - that's why we have to interact with the CWG and to try to make something harmonious and to give, if you want, the right -- how to say -- to try to give something that will be harmonious and not contradictory.

As for the deadline, I agree with you also that the deadline is not changed but it is normal that they are realistic and we don't promise to give something before the 15th of January. And I think it is the duty of the ICG to compile all the input and our input will be the end of January.

Why is the input of the other - of the proposals of the transition will be on the 15th of January? So they have to - I think the ICG has to compile all this and give a proposal that is - that takes account of the accountability aspect. Thank you. Hello? Do you hear me?

(Thomas):   Sorry, I was on mute. Thank you, Tijani. Let me ask again whether there are objections from the group to send a note to the CWG with the contents that I outlined earlier.

Man: I don't object.

(Thomas): Thank you. Let me confirm with the whole group whether there's objection to proceeding as suggested. I can't see anything in the chat, nor do I see raised hands.

And with that, I think I - we should move to the fourth item on the agenda and that is the update on the various work areas where many, many of you have thankfully subscribed to and already worked hard to produce some preliminary or first results. With respect to workgroup one or work area one, can I ask either David or Samantha to give us a quick update on what you've achieved so far?

David Maher: Yes, this is David, David Maher. I think I can say that we've made substantial progress in creating the inventory or accountability mechanisms. Samantha, do you have anything to add to that?

Samantha Eisner: Sorry, coming off mute. No, no, I agree. We made a lot of progress.

(Thomas): So with the creation of the inventory, would you deem your task to be completed?

David Maher: Yes, I would say it is.

(Thomas): Thanks. I would suggest that the whole group take a look at the results that you have produced. You can see the document in the Adobe, but certainly it's not possible for everybody to review it in the Adobe during this call.

So my suggestion would be that all colleagues on this cross community working group go to the Wiki and review this document and provide any additional input before the next call. And we will then get back to this

document during the next call and try to adopt this piece of work as completed. I see a hand raised. (Ashley) - Mr. (Ashley), please, (Cahoos).

(Cahoos): Yes, (Cahoos). Yes, I think we appreciate the work has been done. The only thing that we could still raise for the next meeting, which will be in a week from now, to review whether there is anything missing and that will be a good piece of (work) and to - how to go to the next group to see what is - if there are some other comments that are made which does not relate the group one or two, related to the other group. Thank you.

(Thomas): Thank you. We will take note of that suggestion and work on that in the interim. So for the participants or for the colleagues on this call, please do go through this document and provide your feedback, if any, before the next meeting.

You will remember that one of the working methods that we agreed on during the first call is that we would not make any decisions during one single call, so even though this is - this will just be one tiny piece of the overall work result that we're about to produce, I think it would be good for us to conduct this as an iterative process.

So you are going to look at this document and provide your feedback and then we can maybe adopt this as an interim result or part of the puzzle during our next call.

Also, you will remember that we have discussed during the press call that the work that the various subgroups have been tasked with are part of a scoping exercise so that we can better understand, as a group, what the status quo of ICANN accountability mechanisms is, what the demands of the ICANN

community and the wider community are and how we best respond to that, i.e., to also find out what the contingencies are and how we can stress test those.

So I think for this subgroup, it's time to maybe repurpose the task of the group slightly to get them some new work tasks. But I see (Matuel)'s hand is raised, so please.

(Matuel): Thank you, (Thomas). That was exactly the point I was (trying) to make. I think there was a very, very useful exchange developing within this working group between several members, several colleagues regarding what - I mean, we have a good inventory.

And it raises the question about the purpose of ICANNs accountability and I think this is also something we should research a little bit before moving forward, about what are the options because it's going to scope our work in a very fundamental way at some point.

So the questions I would suggest that the group keeps going on investigating this - those questions which are basically what's - when we say ICANN is accountable, what it's accountable to and it can be accountable to achieving a goal.

You can be accountable to following process. And what would that be in the case of ICANN? And there have been already a few - a certain number of exchanges regarding options on that.

And I think that would be an interesting aspect to investigate further in the coming days within this group. And that's just - obviously just a suggestion that I'm putting forward. So group members are also very welcome to give feedback on that.

(Thomas):   Thanks (Matuel). I see some support for that in the Adobe. Can we please get some more feedback from other colleagues whether you think this is a useful exercise?

You will not - you may not have followed the discussions of all subgroups but there has been substantive discussion as to what the definition of accountability and its framework should be and we think this should definitely be part of the overall proposal.

So there's more support and I see even more support coming in, so let's take that as an action item for let's say you what's being set up in this workgroup one and certainly the question would be whether David and Samantha would be willing to be the (reporters) to take the lead on that exercise as well.

David Maher: This is David. I'm willing.

(Matuel):   That's excellent. So we take note of that. Samantha, can we add you to the team? Thanks. For those who are not in the Adobe, Samantha has just confirmed in the Adobe chat that she's willing to take on that task.

I guess there's one additional question that came up, when the discussions on the mailing list evolve surrounding the question of accountability and that is the question of the definition of the public interest because I think those two terms are closely interrelated particularly when it comes to the questions that we've been chartered with.

So I would like to suggest that we also make an attempt to get our head around the definition of the term public interest. Before I move to (Cahoos)

who has raised his hand in the Adobe, let me give you a little bit of background on the discussion that took place.

The discussion started evolving around the question of the role of the board. And Bruce Tonkin, the board liaison has thankfully been very generous with providing a lot of detailed explanations on the role that the board chose to take with respect to the recommendations that both the CWG as well as the accountability group are going to come up with. And that led to the question on what would public interest be on the basis of which the board could veto recommendations that have been made.

So I think we would need to understand that better although I would caution that I think that the role of the board itself and the way that the board has chosen to deal with these matters is out of scope for this working group. So if I may ask you to not engage in the discussion on how the board is going to deal with this because I think we should all go back and read the rationale of the - for the board's decision.

And if need be I think we can ask Bruce to set up maybe a different - separate discussion between community members and the board to provide more background. But I think that this cross-community working group is not the appropriate place to discuss or comment on or seek alterations of potentially what the board has decided to do because that's obviously not something that we've been chartered with.

And with that I'd like to hand over to (Cahoos), please.

(Cahoos): Thank you very much. I think I have replied to Bruce. I hope people have read my reply. I have given the reasons for that.

But if you don't want to discuss the CCWG at least we should take it as a point that was raised and the management of the CCWG decided not to discuss that. That is very important.

Here we are not dealing anymore with recommendation. Accountability is conditions, terms and something which is a binding aspects, is not whole in the recommendation.

Secondly the board, we should not reject anything without having the criteria of rejections. Thirdly, the board, they are designated by a - operators and means that which does not only have not have the full aspect of the multi-stakeholder support.

So we have no problem to take this in practice. But in future the situation will change.

We should not give that option to the board to reject recommendations is not suitable for the accountability. Accountability is convention, should be implemented without any change. And the mechanism should be in place to check whether those have been implemented or not. And if has not there should be some answering or there should be some accounts for that. And if that is not done, it should be some sort of sanctions.

If you don't want to discuss that, no problem. But that is important point. You should not take accountability so simple.

For me now I am speaking not as the ICG liaison but speaking as participant. The most important element of this whole exercise is accountability, much more important activity of ICG because that is something - there are some

technical elements here that are totally legal element and which have not been discussed.

We should define accountability. We should establish the mechanism to implement accountability. We should establish mechanism to ensure that accountability has not been done.

This is not the area of Working Group 1. There is a need to establish a new group to deal with the definition, scope, terms, a sphere and implementation and policies of the accountability. And that is something I'll raise with the CCWG.

We have to establish that arrangement. Otherwise whatever we're doing, we're just collection of something, multiple approaches and we'd not get no end (unintelligible). So we need to really address the accountability. That is very, very important. Thank you.

(Thomas): Thank you, (Cahoos). And just to be clear I'm not disputing that this is an interesting or important question to be dealt with. I'm just of the opinion that the way the board decided to go about with this is not something for this group to deal with.

Certainly we need to look at accountability as well as the definition of the public interest in-depth which is why we suggest to repurpose Subgroup 1 to take a first step at exactly that piece of work. But I think that the board's decisions are out of scope for this working group and need to be discussed in a separate forum. Alan?

Alan Greenberg: Thank you very much. I put my hand up when we were talking about the definition of the public interest and I'll stick to that. I agree with some of the

things in the chat that we - when we talk about public interest we need to consider it in the scope of ICANN, not the more - not the wider version.

There was a time a number of years ago when I was one of the people campaigning to have a definition. And I think I've been persuaded -- I know I've been persuaded since then -- that I believe a formal definition would be a really bad move.

Among other things when you define something, someone can now point to something you didn't list and say gotcha. You know?

And the world changes. The - although the scope of ICANN is pretty narrow the implications of it can be changed.

I've always advocated a - coming up with some examples of the public interest that are relevant from ICANNs perspective and scope. And I would really not want to see anything more definitive than that.

And I think even using the term definition implies that we're going to do something that not only is perhaps hard to do, perhaps dangerous, but I think I think it is going to limit us sometime in the future in unknown ways. And I really would like to avoid the word definition if at all possible on that. Thank you.

(Thomas): Alan, let me ask you a follow-up question. I appreciate that you don't want to use the term definition. But is your position such that you would even avoid the discussion within Subgroup 1 because I think that the atmosphere in the group is such that the group does want to get clarity on that?

And certainly as we've seen in the chat a lot of work has been done on this very question in the past. So maybe it's just about collecting all this and better understanding what the concept of public interest is.

So if - I guess my follow-up questions are twofold. Number 1, would you recommend we engage in that task? And if you think so do you have a suggestion as to how we better frame the question to Subgroup 1?

Alan Greenberg: I do not object. I strongly support it. And I think you used the right words and if I remembered them at 6:00 in the morning. You used the concept - investigate the concept of public interest from the ICANN - within the ICANN perspective. And I think those are dandy words.

(Thomas): Okay. Thank you for that. (Thomas), you're next in the queue.

(Thomas): Yes. Hello. Can you hear me?

(Thomas): We can hear you all right. Thanks.

(Thomas): Thank you. A comment with regard to public interest. Of course people are right, those who say there is no such thing like the global public interest. And working for a government it is always an aggregation of particular interest of particular people in particular situations with particular needs.

But since the AOC is referring to ICANNs acting in the global public interest I wouldn't say we need to define what the global public interest is. But we need to develop a better concept of how we make sure that ICANN is acting in the global public interest with regard to its mandate and activities.

And just to your - what we - I think we should - we cannot talk about accountability not having a clearer concept about to whom we are accountable and how this is made sure that this accountability works. And for that we need to have a better-defined concept of public interest.

And I just wanted to flag out to you that there is a cross-constituency discussion going on about ICANNs relation to human rights and international law where of course the notion of public interest is also debated. And we might link this to this work. But this work is just about to be formed so that might take some time.

But we should have an idea of how to link accountability to the global public. It - the accountability for us is not just to ICANNs constituencies. It's to the whole world, to all users, all (unintelligible), even the ones that are not yet on the internet because we should try to get them on the internet.

So we may need a place to discuss this in a longer-term discussion at least. I don't have an exact answer to how and what subgroup. But this is a fundamental concept that we need to be more care about. Thank you.

(Thomas):   Thanks, (Thomas). (Cahoos), I'm not sure whether that's an old hand or whether you raised it again.

(Cahoos):   Just (unintelligible) that I don't - I have not proposed to define accountability. But we need to put something, description, concept on the objective of accountability as far as the ICANN or internet is concerned. We have to explain that in one way or other.

We don't want to write the books. But at least we have to explain what we are talking about.

The whole themes of the title of our group is accountability. And we have to at least mention that, describe that, if not define that. And we have to mention accountability of whom with respect to whom, who is accountable to who. Thank you.

(Thomas): Thank you, (Cahoos). Matthew? Matthew, maybe you aren't - maybe you are muted.

Matthew Harris: Sorry. I was on mute. It happens.

I was going to follow up on (Cahoos)'s point actually, that we probably need to distinguish two different things. One is clarifying the purpose of accountability, to whom is ICANN supposed to be accountable, for what purpose, for what achievements. And this is within our group.

And there's also the topic regarding public interest was raised because the - I understand that a bold resolutions highlights that it could veto the proposals from the ICG and - or at least - no, the proposal from the CCWG based on public interest. That's mentioned in this resolution.

And therefore the concern our group should have is to actually understand what that would mean. But the discussion regarding this is much broader than our group. It's - it has many implications as we're seeing.

So my recommendation would be that we take part and follow this discussion but it's more a general discussion for the board and the community to actually clarify what is meant by this and what would be the basis for actually rejecting some of the proposals from our groups. But I would suggest that we do not make it one of our work items directly and rather that we engage in

discussions with the board and other parts of the community on that topic. Thank you.

(Thomas): Thanks, Matthew. Next is Steve, please.

Steve DelBianco: Thank you, (Thomas), Steve DelBianco. I put this into the chat earlier regarding the definition of global public interest for the purpose of ICANN several years ago the business constituency and some work that I did at NetChoice tried to suggest the simplest possible definition for ICANN. I'll simply repeat it here as a marker that people can think about.

Within the context of ICANNs limited remit the global public interest is simply the availability and the integrity of resolutions and registrations because resolutions and registrations are the only way we truly measure whether ICANN is managing the DNS properly for the purposes of global users.

And when it comes to managing resolutions and registrations it's key that they be available 24/7, 365 at every corner of the world and in every script and language. And that's whether you're doing a registration of a domain name or a resolution of an email address.

The other is integrity. And integrity means that when I do resolve a domain name or an email address that I don't get a falsified or redirected result. That's integrity.

Other forms of integrity would be trying to track down a commercial enterprise who defrauded you online and having a reliable way to get through to that.

So I just propose that as a simple, working definition that has very tightly limited scope because it stays within ICANNs remit of handling registrations and resolutions in the DNS. Thank you.

(Thomas):   Thanks, Steve. I think these are all very valuable contributions. I think we need to slightly rephrase the question that we're going to task Subgroup 1 with to get that - get the scope clear.

I think we will certainly write something about that in the - on the list. But I guess it's more about understanding the concept or find - gathering information on a - on attempts to better understand. And that can encompass all the points that have been made.

I'm not sure whether (Thomas)'s hand is a new hand or an old hand. (Thomas)?

(Thomas):   Sorry. It was an old hand. Sorry.

(Thomas):   And (Cahoos), is that a new hand?

(Cahoos):   Oh sorry. I'm sorry. I will just put it down again. Sorry.

(Thomas):   Not to worry.

So I think we've absorbed the atmosphere of this discussion. I think we've understood that we should not make this an overwhelming exercise but to build on what's already been worked on previously.

So with that I'd like to close this agenda item. So we will follow up on the mailing list. And I do hope that David and Samantha are also happy with

adding that task to the action items. And we will continue our discussion on that during the next week and then in the interim on the mailing list.

Let's then move to Work Area 3 where we don't have a coordinator at the moment. You will remember that Work Area 3 or Subgroup Number 3 was tasked with looking at those accountability items that have been worked on by the CWG.

Oh I'm so sorry. I'm just being notified that I skipped Subgroup Number 2 which was certainly not intentional. Steve, would you kindly update the whole group on what you've done in the meantime.

Steve DelBianco: Certainly, (Thomas). I would ask (Grace) and staff to put up the draft in the chat. Thank you. And I will paste the link to that document in the chat so that anyone online could pull the PDF down. I've just done that.

So Work Area 2 was tasked with trying to achieve an inventory as well, of proposed suggestions for enhancing ICANNs broader accountability, things that have been collected over the last several months since the IANA transition was first announced. And to begin on that process Work Area - Work Team 2 started with a very helpful document from ICANN staff which was late October. Staff prepared a summary of suggestions that surfaced in the two public comment periods regarding the IANA transition and ICANN accountability.

There were 250 items in there. And we took it on ourselves to omit or drop the ones that were referencing very tightly the IANA functions like protocols, the root server and numbers and drop those out. Those are not within the scope of the CCWG on ICANN accountability.

The second thing I did was drop some things that were general observations or criticisms of current ICANN accountability. Those weren't appropriate for the inventory that we thought was in front of us.

Then we added prior proposals that came in outside of the two ICANN public comment periods, that scenario where Work Area 2 team member (Malcolm Huddy) provided three excellent items that are in the table as well.

That gave a rise to - from 250 we got it down to about 100 different accountability proposals. And then I consolidated those so that if multiple individuals or groups made a very similar proposal we list them in the document before you as one item and then in the column, Supported By, we did an indication of who supported that concept over the summer.

Now I don't mean to imply that the groups that are listed in Supported By still support it or that they exactly support exactly the same vision of how to implement. I'm simply indicating where it came from for purposes of Work Area 2.

So that gives rise once you've consolidated to just 45 items. And that's why the document before you is just two pages long. So it feels like a very manageable place to start.

The second task we had before us was to organize and categorize these 45 items. And we proposed three different categories. And I'm happy to have that discussion today if the chairs would like or over the next week over chat as to whether this is an appropriate way to categorize.

We suggested, for instance, that Category 1 at the top of the page there is that a handful of mechanisms that give the community authority over the ICANN

corporation. And a key distinction here is that ICANN the community, which is us, is distinct from ICANN corporation or organization which has employees, bylaws and a board of directors that look after the interests of that corporation which may or may not coincide with the interests of the community that ICANN is designed to serve.

So for example I'll just give you a quick example of the inventory. The first item on there was to bring the affirmation of commitments into the ICANN bylaws. Today the affirmation which includes all those reviews that we do, is a bilateral agreement between ICANN and the U.S. government. And either party can cancel with a couple of months' notice.

And rather than have that be yet another bilateral agreement that will cause problems for (unintelligible) ICANN be independent, let's move it into the bylaws. That's an example. That was broadly supported.

And the second group there was something that the entire GNSO leadership structure in London went to the microphone and talked about the need for an independent mechanism for the community to represent its interests and hold ICANN the corporation accountable. So the idea there was to create a permanent cross-community working group. Think of it as having the heads of each ACSO and constituency be permanently assembled so that they could come together at any time.

And there were four or five different powers that folks have suggested. One is to appoint members of the affirmation review teams. Another was to do a review on a board or management decision or resolve a dispute. And that could be done by an independent panel. Approving changes to ICANN bylaws, approving the annual budget for ICANN and finally to recall one or all

members of the ICANN board, just for example could be assigned to this group.

I won't go through all of them. I'll simply skip to second category. The second category was mechanisms that prescribe or restrict the actions of ICANN the corporation.

Someone should probably mute, whoever it is that's having that morning cough, if you don't mind. And I hope you feel better.

So mechanisms to prescribe or restrict -- Page 2 if you scroll down a little bit -- give you two quick examples. There were many folks who suggested that we change the bylaws to require consensus for any GAC advice that would need to be given deference by the ICANN board. Another would be prohibiting ICANN from entering agreements that impose obligations that are unrelated to the DNS management that is within ICANNs remit.

So these sort of bylaws restrictions would constrain or guide what ICANN does in the future. Now keep in mind that Number 1, the one we just mentioned up above, creating this permanent membership or cross-community working group, might well be a way to achieve what I just described in two. But we should certainly acknowledge whether the community would like certain restrictions and prohibition.

And then finally Number 3 at the bottom of Page 2 were mechanisms that would ensure transparency of the ICANN corporation and transparency of the broader community of the ICANN group. And there were many suggestions on ways to improve transparency like an in - a Transparency International conducting an annual audit or severely limit ICANNs ability to deny transparency and disclosure requests.

And (Thomas), I'll close by saying that you also asked us to try to designate for each of these 45 current proposals, designate whether they would fit into Work Stream 1 or Work Stream 2. And I'm not speaking of Work Area 1 and 2 but Work Stream 1 and 2 cause as all of you know the charter for our working group asks us to try to figure out accountability mechanisms that we need before the IANA transition occurs and then accountability mechanisms that can occur after the transition.

We proposed a definition here for what goes into Work Stream 1 and 2. I'll simply read that in. It's at the very top of the document in front of you.

Work Stream 1 is designated here in this draft for any accountability enhancement that would have to be in place or certainly firmly committed before IANA transition occurred. And then Work Stream 2 would handle all other items provided that we've arranged in Work Stream 1 to give us, the community, mechanisms that are adequate to force the implementation of things we want in Work Stream 2 in the face of resistance from ICANN management and the board.

So to summarize that, it suggests that in Work Stream 1 we don't necessarily have to get everything done. But we certainly must at the very minimum give the community new powers to overcome board and management resistance to what we consider our essential accountability. That way you can proceed with the IANA transition and the powers that we've granted the community will enable the community to force through the Work Stream 2 accountability measures even after the transition had occurred.

So (Thomas), I'll stop by saying thank you to the Work Area 2 members who've contributed so far. And I look forward to feedback so we can call this a completed deliverable. Thank you.

(Thomas): Thank you, Steve, for chairing this initiative so ably and for presenting to the group. I think this is an impressive piece of work. And let me open it up for comments or additions or other contributions.

So I see (Cahoos)'s hand is up. Please. (Cahoos), maybe you are on mute. It's your turn.

(Cahoos): Hello?

(Thomas): Yes. Is that you, (Cahoos)?

(Cahoos): Did you hear me, please?

(Thomas): Yes. We can hear you now.

(Cahoos): Yeah. Yeah. Okay. Thank you very much.

First of all let me congratulate Steve and (Malcolm) and all the group of Working Group 2 for the very comprehensive attention they have given. And the way it was explained and it was documented is very, very promising.

This does not mean that I don't appreciate Working Group 1 but a special appreciation to Working Group 2. And I encourage them to continue. That is a very, very important issue that they face.

One of the mechanisms mentioned by Steve is similar to the mechanism mentioned in CWG under the term multi-stakeholder review team. Doesn't matter the title or labeling but the objective is the same, that a representative of the multi-stakeholder to review the situation, to look at the matter here. Steve mentioned in a permanent nature which is not in the CWG. And I put it for them that they have to identify. But that is good. And I think the work area in this should be continued.

One thing that I mentioned in my previous commentation (sic) is there is another area that there was a lot of contribution. And that was net (unintelligible). We had 180 contributions to that.

And among those contributions there are a lot of ideas with respect to the accountability. If that does not bother Steve and colleagues, perhaps they may need to kindly look at those output or input, whatever, because there was input plus comment to see whether there are useful elements from that. That could be compiled in the Working Group 2. That is just my - the odd suggestion. Thank you.

(Thomas):   Thank you, (Cahoos). That point is well-noted. You had suggested to look into other for a - earlier on the mailing list. And our suggestion as chairs was that we await the interim result of the four subgroups first to then add to that. And that is also a response to (Stephanie) in the chat.

Certainly this is a non-exhaustive list. We embarked on this effort by analyzing what's there. And I think it was a - an appropriate step to review what the community had already suggested during the public comment period. But that's certainly up for both comment, discussion as well as for additions.

Steve, you had your hand up so I didn't want to steal your thunder. So please do respond as well.

Steve DelBianco: Yeah. Thank you. I appreciate the answer you gave to (Stephanie).

But it's not only adding other ideas. But as you indicated in the four slides that you sent out for today, we need to elaborate some of these mechanisms with more than just high-level descriptions and alternatives but in fact some bylaws language that would be appropriate to implement them and with the aid of legal experts, understanding whether and how those bylaw language items would be consistent with the corporate laws under which ICANN is organized since the easiest way to dismiss a great accountability idea is to say oh that won't work for a California nonprofit corporation.

And I hate being stopped from a great idea with a dismissive statement. And that's where we need to add some substance and meat on those bones.

And as well I liked you suggestion of assessing all our options against the stress tests that we can collect. And I believe that's what Work Area 3 has been working on so I'm looking forward to hearing what they have to say. Thank you.

(Thomas): Thank you so much, Steve. Just before we move on to the next workgroup let me ask whether there are any further comments or contributions from the colleagues on this call. Matthew?

Matthew Harris: Yeah. Thank you, (Thomas). I would like to echo one of the comments on one - from one of the members of this work area which was, I think, Alan (unintelligible), who mentioned that, I think, the definition that is proposed for Work Stream 1 and Work Stream 2 is a very promising one I think. We need

to pay attention that it is clear enough so that we can actually apply it to the various items.

So the suggestion (Anna) was making and I would like to support would be do probably add in the document at least for a sample of items some form of rationale about why a particular line - an item is considered by the group as Work Stream 1 and therefore must be in place before the IANA transition occurs.

Or Work Stream 2 can wait provided that there are mechanisms in Work Stream 1. Because I think it would help us elaborate a little bit on this definition and make sure we are consistent in our application of this definition. And consider the great work that's been done so far. I would be hopeful that Steve and the group would agree pushing this one step further in this direction. Thank you.

Thomas Rickert: Thanks. Steve's hand is up. Please Steve.

Steve DelBianco: Yes. Thank you. I would suggest to you that the rationale is according to the definition the top of the page. The team has assigned, and these are just draft assignments. We put Work Stream 1 versus Work Stream 2 in the third column based on the simple rule at the top of the page.

And that is that of these items Work Stream 1 are only the items which were necessary in order to have the power to implement the rest of them. The Work Stream 1 is where we have to maximize leverage of forcing ICANN to change the bylaws in a way that gives the community a permanent voice of accountability, the ability to recall the Board and review decisions.

So anything that is essential to have that power is Work Stream 1 and therefore the rest of them fell to Work Stream 2. The implication there is you see Work Stream 2 next to an item, it indicates that the powers we would acquire, the accountability we would acquire under Work Stream 1 are sufficient to drive the Work Stream 2 items through by exercising those powers of time.

I hope that satisfies. But if you are looking for a more detailed rationale and everybody needs that, that's something we could work on before our next call.

Thomas Rickert: Thanks, Steve. That's been very helpful. And I guess in terms of next steps the first call that I'd like to make is to encourage all colleagues on the Cross Community Working Group to review the list and to add items that they think should be added to the list.

Also, those who think that certain items should not be on the list should speak up so that hopefully by next week we will have a list of areas that we need to look into that can be agreed up.

The second step would be the categorization into Work Stream 1 versus Work Stream 2. And Steve, I do think that, and this is pretty much in line with what Matthew has said earlier. I think that we, you know, (fought) to make a - to make a next step. We need to work more on the rationale and be a little bit more elaborate on that because I think we need to understand why exactly this point is required.

And I guess the test question would always be what is the impact of the then not existing role of the U.S. Government with respect to the individual items. I think that the community will ask us for providing that rationale.

And then I think once we've done that and once the group has reached agreement on that, the next step would be to work on the individual items, dig deeper and also come up with concrete proposals. But I guess that will be a little bit further down the line and we will possibly need more volunteers to look at the individual items. Maybe group or regroup them and to think of remedies.

But that will be closely related to the outcome of particularly Workgroup Number 4. I see (Kabus)' hand is up. Please (Kabus).

(Kabus):   Yes Thomas. I have a question for Steve. He mentioned that the possibility or necessity of integration or inclusion of bylaw of the Affirmation of Commitments into the bylaw - ICANN bylaw. I think before doing that this AOC currently is written in a way to establish relation between the current ICANN and NTIA.

If the situation is changed and which is only if, that needs to be reviewed, amended and modified, we would not have the same global AOC as it is today (taken) and implemented either individually or inclusion in the bylaw.

This is the first point I need the consideration from colleagues, Steve and others that we need to look at that to see what are the modifications required to adjust that to the future requirement of the multi stakeholder dealing with issue instead of NTIA. This is one point.

Second point. There are pros and cons of inclusion of Affirmation of Commitments in the bylaws. Bylaws is more or less sort of the convention. If you put something in, it may be difficult to change is. And that is the second point.

The third point is that currently ICANN Board make modification to the bylaws. I think it is not appropriate that the one who implementing and executing that decision be authorized to modify the convention or modify the bylaws. The modification of bylaws should be by a controlling body or a mechanism take care of accountability.

The full issue is that currently government, GAC, has no role in anything in the bylaws because their position is just advisory and I don't think that government, which is one of the four main stakeholders defined at least informally apart from civil society, private sector, (unintelligible) community and then the government is one of the important sectors and all the multi stakeholders.

Now they don't have any role at all. So we need to look at that one. Then we modify or improve the Affirmation of Commitments or what it's called accountability. These are the things to be done. I think the right of the government similar or equal to the other multi stakeholders need to be recognized. And thank you.

Thomas Rickert: Thank you, (Kabus). Steve.

Steve DelBianco: (Kabus), this is Steve. I agree completely with your point about the Affirmation of Commitments. We summarized it in our table as one line saying bring it into the bylaws.

But the commenters who suggested that, and there were several of them, are inferring that it would no longer be a bilateral agreement between the U.S. Government and ICANN; not at all.

But instead the obligations to serve the global public interest, the obligations to perform reviews would be brought into the bylaws. So they become obligations of ICANN to the community and not between ICANN and the other entity.

Now there are several other suggestions in this table (Kabus), which talk about giving other powers with respect to say the affirmation reviews. We don't know for instance if we'll continue to do a Whois review every two years forever. It might well be that we want the power to suggest new reviews or to sunset old reviews.

And I did note in here that there are some who suggested that we change the affirmation so that it's a Web of Affirmations of Commitments to where multiple entities and governments around the world would sign the affirmation in the same way as the U.S. Government did.

Now that's a complete contrast to what we've suggested in the first row of this table. So as Thomas indicated earlier, it would be great for our work area and the working group to reconcile the fact that when we have contrasting ideas on something like the affirmation we come to consensus about the superior path. And that would allow us to drop the contrasting or contradictory suggestion. So thank you.

Thomas Rickert: Thanks Steve. And also coming back to (Kabus) point, I think this is well noted and we will surely get back to those points as we move on. I think the next steps if - or let me ask whether there are objections to the next steps as I outlined them before (Kabus) and Steve spoke.

So I don't see any hands raised nor do I see any comments on that in the chat, which is why I would like to then move to the next item on the agenda, which

I already jumped to earlier and that is quick mentioning of Work Area Number 3 where we are not - well we don't have a coordinator listed at present.

That you will remember is the work area that deals with the work of the CWG that has been previously conducted and how that would interlink with our work. And I've mentioned this earlier during this call when making reference to the letter that we received from Lisa and Jonathan, the co-Chairs of the CWG.

So I guess we will take that input and for the time being respond to the CWG as outlined. So at the moment there is not really more to report on Work Area Number 3. We would still hope that we get a coordinator for that group. So please do make yourself heard if you want to volunteer for that (group). (Kabus), your hand is up. Please.

(Kabus): Yes, Thomas. Thank you very much. I have read the CWG output very carefully. I see a lot of probable or possible overlapping with the activities of CWG. If we are lucky and find somebody, which I hope someone who has been active in CWG will be the best candidate to do that. Unfortunately I'm not member of that group nor a participant because of other things.

But would be good someone who is really familiar to take care of that if you know a (prescription) to do that. But they need to have some of those overlapping (unintelligible) because we need not to continue to do something which the other group is doing because a waste of time and forth and so on.

So I hope soon we'll have someone to do that. That is very, very important. And I thank you very much.

Thomas Rickert: Thank you (Kabus). And in the meantime we've seen a kind note from Avri Doria in the chat that she would help with this if need be. And I think there is a need Avri. So hopefully there will be more people to join you so that the burden can be shared amongst more individuals. But for the time being Avri, thank you so much for volunteering to take over the role of the coordinator for that subgroup, which I think needs to continue its work.

And with that, I think we can go to Work Area Number 4. And at that point I'd like to hand back over to Matthew. Please.

Matthew Harris: Thank you very much, Thomas. So Work Area Number 4 was the area where our goal was to start identifying contingencies that we could rely on later on when we develop proposals to stress test against.

Eric Brunner-Williams has volunteered to be a coordinator. And I do not think he's on the call. Eric, no. I don't see you. So what I can say is that we - there has been a significant contribution once again by Steve from - who shared the Business Constituency stress test list.

And there have been some initial exchanges regarding how to take that into onboard as in terms of contingencies. I think we can say we're at the stages now that it's just the work is starting. And we probably need to roll in a little bit our scope and make sure we are very much in line about what a contingency can be.

I would very much encourage participants to this work area or others to join and so that we - the ultimate goal is to have a list of contingencies that is sufficiently wide and also (booked) in terms of coverage to address many of the potential issues we need to address.

And Steve, you're right on the chat room. You mentioned that you made this great contribution with the seven stress tests that you've identified. I would think that we might have to complement that with others.

And I - so the action plan in a sense, in the absence of Eric - I'm actually trying to did out some - generate contingency planning questions that we could ask ourselves to go one step deeper into this - that's obviously building on this initial contribution by the Business Constituency.

But I think we still need to go one step further, which - I mean having with us advisors with experience in that would obviously need - be extremely useful. But I'm volunteering to provide additional input on this (field) and hopefully by next call we will have gone one step further.

Are there any comments, suggestions, feedback on this area? (Kabus), please.

(Kabus):   Yes. One simple suggestion. The (deal to the five) that we have this weekly meeting and one of the - someone could coordinate for one or other reason may not be present in the conference call, may I suggest that they consider the possibility to add in the group an associate coordinator in the way that if the coordinator is not available, at least associate coordinator would present along with that group and take up questions or comments from the conference call and back to the group. That is just again (my) suggestion. Thank you.

Matthew Harris: Thank you very much, (Kabus). Very useful to - I think we would strongly - at least recommend the coordinators to - if - in case they cannot attend, at least arrange that some member of the group be able to present updates at the meeting.

If there are no other topics, I suggest we move to the next agenda item, which is actually trying to provide some visibility to the overall milestones we'll have to reach before we get - oh Thomas, you had your hand raised. Sorry.

Thomas Rickert: Just a little remark to encourage all colleagues on this call to add to the list of contingencies if there are other scenarios that they're missing. So that hopefully by next call we have a exhaustive list that we can start working on.

Matthew Harris: Thank you Thomas. So the point now is what I intended with the help of Thomas was to help us get a global view of where we're going and through which steps we will have to go. And that's obviously a draft proposal to be discussed right now and in the future, not something that we will approve right away of course.

But it's designed to help position our discussions in time as well as within the working areas. And it really refers to the discussion that was in the chat room regarding the Affirmation of Commitments and when actually we would have to discuss whether or not this is the topic that we want you to actually elaborate on. So can we go to the next slide please?

What we're suggesting is not really something that is totally coming out of our imagination. We have taken the classical steps of problem solving basically. So we have - and these steps are clarify what's at stake in the problem statement.

And for us that means defining accountability, defining to whom where ICANN should be accountable, what is the purpose of accountability and what are the threats and contingencies we want to avoid. And you see this is the point of Work Area 4.

Then we are already into assessing the current situation by listing the existing mechanisms. We've discussed that with Work Area 1. Identifying community feedback. That's Work Area 2. Identifying inputs from the CWG. Work Area 3.

So as you see, we're very much into assessing the current situation now. And some aspects that may have to be launched quickly might be to also go in a wider range identifying best practices or benchmarking with other organizations.

I know for instance that's ripe one of the original Internet registries did explain some of its accountability mechanisms to the ICG. That would be something that could be useful for us as well.

And of course in the assessment of the (grant) situation, we must be as wide as possible for the bit of brainstorming about all the (inputs) that we've already started.

Then we will have some key decisions to make in terms of (unintelligible). One of them we've already touched on, which is a different issue in Work Stream 1 versus Work Stream 2. And this is an aspect that is going to be absolutely critical for our work.

We will also have to probably define priorities based on what has the highest impact on enhancing ICANNs accountability because we will not be able to address every single idea. And of course allocate Work Stream 1, Work Stream 2.

So, so far I put these items in read because I think those will be the key challenges for our group because we will need to build consensus on those.

It's not just collecting input. It's going to be also define priorities and making a choice between alternatives. So that's going to be one of the key challenges we will have in the Cross Community Working Group.

And of course that's certainly as soon as we try and engage with those priorities, it is something we will have to consult the community about. And of course, depending on feedback, adjust our positions so that we take that onboard as well.

Those other (framing) stages. I go to the next slides and then we'll have a general conversation on this and welcome feedback. So once we have priorities, we will certainly organize ourselves to elaborate first at a quite high level with alternatives; then we will have to assess these against the (priorities) use the stress test, using the contingencies and of course select what's the best alternatives are.

And that's also one aspect we'll have to consult the community about before we probably go into another iteration of retaining those mechanisms, double checking them one again with priorities and stress tests and then consulting the community.

And finally, that's my last slide. It is part of our mandate to ensure we get support by the SO and ACs, submit to the Board and get support as well. And we will have to promote those proposals in order to have them - make them efficient. And there will be a phase of implementation of the site. That's phase also something we need to take into account in our work plan even though it's quite far away right now.

So this is really to give you a broad overview of what is on our plate. And I would really welcome your feedback regarding whether we have missed

something, whether you think those steps are appropriate or not. And that's useful for us because after that we will have to populate some form of project plan and to see how it fits within the deadlines that we have.

That's it for my initial presentation. And as I said, feedback is - would be welcome at this stage. Thomas, is that - yes. That's an old hand. I think everyone is intimidated maybe or tired or both. (Kabus), thank you for opening the line.

(Kabus):   Yes. Thanks very much. I am not tired and I listened to your explanation with all interest. Could you please sort of elaborate what you mean by priorities? Priority on what? On the action we have to (unintelligible) with respect to the Work Stream 1 and Work Stream 2? What are the priorities that we are referring? This is Question 1.

And Question 2 it is mentioned that by end of Singapore meeting we have to finish this. And have you finalized the date of the face-to-face meeting of CCWG in Singapore? Because we had ICG before that, six and seven; we have during the ICANN, the GAC meeting, which is dealing with many, many questions.

So I do not know whether a definitive decision has been made with respect to that. And having it referring to the place of meeting, it just came to my mind before I forget. Is the meeting firm for CCWG 19 and 20, the place and everything has been announced for everybody because we have to make arrangements for (subway). That is outside this comment but just I wanted to raise before I forget. Thank you.

Matthew Harris: Thank you very much (Kabus). Regarding your - the (canned) second part of your question. We have an item on logistics that's really trying to address this. And I will defer answering to that point.

Regarding your first question regarding - about priorities. If you look at the work - the outstanding work that's been done by Work Area 2 with the leadership of Steve DelBianco, there are a number of items to be - that are identified.

And at some point we will need to focus our work on some items based on which ones have the highest leverage for instance. And probably put some others either on Work Stream 2 or say Okay. This is another item that if we proceed with, I don't know, some changes or some specific change in the bylaw would not need this anymore and therefore we can let it go and focus our efforts to the first one.

So there is some priority definition about what type of mechanism we want to elaborate on. That is what I meant by this. And you gave me also (unintelligible) to clarify one thing that I (offered), so, which was that so far our intention would be to have a clear definition of Work Stream 1 and Work Stream 2 by mid January. We agreed that between us.

And to have progressed by the end of the Singapore meeting on the mechanisms we want to elaborate on and the Work Stream 1, Work Stream 2 allocation. Any other comments?

So seeing none, my suggestion is that we will give that - please feel free to comment. Oh, Steve, you have your hand raised.

Steve DelBianco: Yes. Thank you, Matthew. It's just a reiteration of something we mentioned earlier on the call. That in addition to this Work Stream 1 and 2 distinction, we should endeavor to begin getting help from legal experts on elaboration or expanding out some of our key items; in particular this permanent Cross Community Working Group.

We will run into a wall if ICANNs General Counsel were to claim we can't do that. And so we need to call up on the folks on this group as well as others that support them to make a persuasive case for why ICANNs California corporation status will accommodate exactly this kind of mechanism.

And I'm not an expert in this. I hope we can lean upon others. But we need to elaborate that sooner than later to avoid that being something that's dismissed as not doable.

Matthew Harris: Thank you Steve. I think that's valuable - very valuable contribution. And what I would suggest is first we need - we will need to assess whether advisors can help us in that.

And then the second point that I'm taking onboard is I will try to identify in the tentative work plan exactly at what point we would have some form of at least, I don't know, from probably a preliminary legal feasibility study by a legal expert on what we are elaborating. But that is really a good point that we need to take onboard. Thank you.

So the line is now created. Go on (Malcolm). Welcome.

(Malcolm Huddy): Thank you. I would like to support that and maybe turn it round slightly differently as - in terms of an order process issue. I would suggest that at this

early stage questions around legal implementation should possibly be left to the side slightly.

Lawyers can be asked later. We've decided that this is the kind - this is the sort of outcome we're looking for. How do we get - how do we actually achieve this now legally? They shouldn't be brought in so early as to constrain the kind of things that we might want to deliver.

So let's focus first on what we want to do and why and what it's to achieve and then we'll start thinking about specific implementation; then the lawyers can call over that later. If they get in too early, it will close down our range of options prematurely.

Steve DelBianco: Thank you, (Malcolm) that's - I think that's the question I was raising about exactly when we insert that kind of action into our Web plan and that's - yeah. It shouldn't be too early and it shouldn't be too late either, otherwise we're going to waste our time. James, you're next?

(James):   Thank you. (James) speaking for the transcript and agree with Steve's point that we need to engage in a comprehensive legal review to ensure that the rug is not pulled out from under us at the 11th hour and also echoing (Malcolm)'s comments about not doing that too early.

As a compromise I would point out that extensive legal reviews of accountability mechanisms as they pertain to ICANNs corporate structure were part of both ATRT1 and ATRT2 so before we jump in with both feet and engage outside legal expertise on this we should perhaps make sure that we're not reinventing all of the work that's been previously done in this area and I'm sure has still, at least, partial relevance to what we're trying to do today. Thanks.

Man: Thank you (James). Alan?

Alan Greenberg: Thank you very much. I tend to disagree that we shouldn't do - that we should
                    wait to do this. I did ask (Brian) on the last call when we would have our
                    experts, including legal experts, in place and would they have this level of
                    expertise and he assured us, well, that yes there was going to be legal
                    expertise and whether that person had it or not they could draw upon other
                    resources.

                    So, it's not 100% clear to me whether we need to engage legal counsel to do
                    this or that would be sufficient. I know there are some concerns about lawyers
                    giving advice if they're not formerly engaged.

                    But I think it's really - the core point of to what extent do we have flexibility
                    we have repeatedly been told that, you know, under California law the board
                    has to be, have, the ultimately authority. On the other hand we know ICANN
                    accepts binding arbitration which essentially gives up that discretion to
                    somebody else. So I think we need clarity on that. That shouldn't change at all
                    what we want to achieve but it may give us some guidance as to what paths
                    we can use to achieve it.

                    Thank you.

Man: Thanks Alan, that's a good comment as well. It needs some thinking to see
                    how we can find the right balance on that topic. (Unintelligible), another
                    comment?

Man: Yes, (unintelligible) should not be too late. However, we should not - thinking
                    that leaving everything to the legal counsel or legal people, this should be

collaborations and joined work with legal people and professional people. If something is done without taking views of the professional people in the matters of (unintelligible) they be left at some (point), something that doesn't work.

This is my second point, I raise in several of my emails the list, the (unintelligible) list that - what are the legal framework for this process after the transition; long-term account ability. (This still was) California law or there would be another law, that is something that you have to really think very, very seriously. That is a very important issue.

Thank you.

Man: Thank you. Steve?

Steve DelBianco: Thank you. I don't believe that a waterfall method of development will work on this. By that I mean with all respect Matthew, (Malcolm) (Huddy), if we were to develop all of our preferred measures and then dump them over the waterfall to the lawyers, I don't know that we would ever recognize what came back and there would be legal wrangling that would be quickly out of our depth. Instead, I'm proposing something much more modest (Malcolm) and that is let us understand that critical question that Alan just raised, ICANN has insisted that under the bylaws that they have and the corporation laws in California that the board cannot be accountable to groups like shareholders or stakeholders.

I've got great evidence from others that that's simply not true. There are California corporations that are answerable to shareholders and there are California non-profits who are answerable to their members. I run a non-profit trade association and I'm answerable to my members. That is a very common

arrangement. The trick is that ICANN doesn't have any members defined in its bylaws.

We all think we're the members but we're really not designed and that would require a definitional addition to the bylaws to recognize that we have status. We are not just a community that gathers and makes noise at a meeting, it's (amidst) comments to public forum, when, in fact, are the shareholders or, if you will, the members of this California non-profit corporation and the bylaws can convey unto us the powers that members should have to hold that board and management accountable to us.

So I would encourage us all to - don't count entirely upon the public experts that the PEG has appointed, they may or may not have this capability and it might be simple for any of us, whether we're lawyers or not, and I'm not, to find examples.

I'm aware of at least a couple of trade associations and I'll send them around to the list, trade associations incorporated in California, that are non-profit and, in fact, are answerable to their members. Thank you.

Man: Thanks Steve. That's really a topic that we will need to take into account. What I'm hearing through the feedbacks either online in the chat as well as in the queue is we need to give serious consideration to that so that's certainly we'll come back to in our next meeting about how we proceed and hopefully by then we'll have a better assessment of what kills the public (extra's) group is sending us as advisors and I will certainly help (with anticipate) better our expertise need.

(Malcolm), you wanted another one?

(Malcolm Huddy):   Thank you and thank you for that comment Steve. I'd like to say I agree completely with what Steve has just said. I happen to work also for a non-profit organization and it - we are accountable to our members who are commercial entities.

It is absolutely my intent, my hope, that we will achieve an outcome that ensures that the ICANN board can be held accountable in a binding way to the community and I share Steve's concerns that if we were to develop something and then just throw it over the wall to ICANN lawyers to implement at the end we may get back arguments with which we simply don't agree as to why everything must ultimately be subordinate to the board in a way that we just simply hadn't intended.

So I agree with Steve on all of that. However, my intervention with a point of caution that we shouldn't make the equivalent mistake or the inverse mistake of allowing essentially ICANN lawyers or really any lawyers to look too narrowly at what we have at the moment and to say, now, what is possible within current structures to limit what we might want to do to achieve that shared aim.

So bringing that in too early would (close) it down in just the same way as leaving it too late. This does, I think, raise a broader question though that I think that the group as a whole will need to think about which is once we produced our proposal how do we ensure that that proposal, you know, in terms of implementation do we have a role with regard to implementation? Do we have a role to see where the way that it's being taken forward actually met what we (want). Should there be something established to think about.

Maybe we need a fifth working group or something for later, we'll need later, to look at, maybe to have that argument later about, well, we - if we present

our proposal and then the ICANN lawyers were to say, okay, well, the way that we do that within the way that we work is this to say no, we've intended to change the way that you work and so you don't do it that way.

That would seem - who has that conversation? Is that another working group that we need to have as our fifth stage in our process?

Man: Thank you (Malcolm), I think the point you're making is well taken, it's not our urgency right now but certainly (unintelligible) to take - consider how it will oversee the implementation and they are precedent in, I understand, from various constituencies, (GNSO) as well as (HSNO) in terms of how to oversee implementation in a (PDP) for instance and therefore we'll have to certainly relate to that.

           (Cahoos), you're the last one on the line and then we'll move on to the next item which we'll hopefully answer some of your questions regarding the meetings.

(Cahoos): Yes, I agree with (Malcolm) but he raised a question saying that do we have a role? What he meant by we, who are we? Are we talking about the (TCWXG) or someone else? About implementation I think we are far away from implementation, implementation would be at the stage when the proposal is finalized and sent for implementation for that issue I think the mechanism that we are dealing in (future) would be responsible to look at whether those have been implemented or not and if not what were the reasons and if the reason is not justified then there should be some consequence on actions on that.

           So that would be something that mechanism was applied to that and then he said, or perhaps I misunderstood that, ICANN lawyers, are we just putting everything to the vote of the ICANN lawyers? ICANN no doubt

(unintelligible) any change as well so we should put it to the lawyers but not necessarily limited to ICANN lawyers.

All people having legal authority or not in this legal - in the understanding of the issue could (comment) but if (this) comes back to us, that is the collected issue. I don't think that the put something to the ICANN lawyers to vote on that thing that, yes, I agree with (CCWTO), we don't (unintelligible) another decision making and that is ICANN lawyers.

(Unintelligible) all of those (either) but we don't want that (unintelligible) decision or discussions to (their) decision and voting, thank you.

Man: Okay. That's really, I think, one of the key points that we are - we take on to expand on this work and it's about to obtain legal expertise independent from ICANN and that's something that we will give additional consideration to and probably come back to at one of our next meetings.

Three items in conclusion; first of all, please provide any additional feedback on the list on this Web (unintelligible). Secondly, and that's more internal, we will work at (populating) a detail, a more detailed, work plan with staff especially (Barry) who was on the line and he'll be helping us with that. And so (third) plan we will definitely given additional consideration to the point of legal expertise.

With that we move on to our next agenda item which is the common meetings. I mean, (Thomas) and I have discussed this extensively with staff. First of all, we do apologize as we have been prioritizing having a meeting by mid-January over a wider and broader coordination within the group about dates and locations because simply the group was barely forming and we thought it was extremely important that we set this meeting up with some days before at

least not back-to-back with the Singapore meeting so the meeting dates are indicated in the notes so we are still with the meeting in Frankfurt on January 19 and 20.

Some of the logistics are still being drawn out and we are - there's a lot of work being done by the support staff as well as the ICANN meeting team as well as (unintelligible) Frankfurt to organize this. And we are also still working on the working sessions at ICANN 52 in Singapore where one of our options is now to have actually two half days which would be - which could be on the Monday afternoon and Thursday morning in order to avoid conflict with all of those sessions but also to facilitate exchanges with the rest of the community.

(Grace) or Marika do you have anything more to add on that? I should say that for the face-to-face meeting we are relying on the (president) for the face-to-face meetings of the CWG in terms of travel support arrangements which means, please correct me if I'm wrong with that, that members can be provided with travel support and if a member cannot make it the chair of the (SOSC) can appoint a participant to replace this member which then benefits from the support.

And I think that's what I can say now for meetings for (logistics). (Thomas), (Grace), Marika, Bart am I forgetting something?

Man: No, I think that pretty much covers it.

Man: (Unintelligible)?

Man: Yes, the agenda of the Frankfurt meeting should be very carefully prepared. We should avoid to put something on that agenda which could resolved to the

virtual meeting, i.e., the face-to-face meeting should be devoted to issues that could not be resolved in the virtual meeting or as a result of the virtual meeting we need to decide on something.

So the agenda should devote out very, very carefully to get full benefit of that two-day (meeting), thank you.

Man: This is a very good point, thank you and we'll try and highlight probably at the meeting very beginning of January, a first draft of agenda so we can exchange on this agenda as well with the group. I think it would be absolutely key to taking the most - making the most of this rare occasion to meet face-to-face.

Any other questions regarding meetings? I see none therefore I think we go to any other business. No other business being raised. (Thomas), oh (Cahoos) you want to raise something?

(Cahoos): I'm sorry, I just want to suggest a consideration that although the result of this meeting on the (recording or) transcript, I don't know, might be available. I have not checked the previous meeting, however, for (ICG) everything was made available within two days but would it be possible that we have the very, very brief summary of what we have discussed and what needs to be followed, just a suggestion, if it is not accepted don't take it. Thank you.

Man: You mean for this meeting?

(Cahoos): Yes, I mean for this meeting, yes.

Man: The notes which are on the right side of the Adobe Connect room will be - which are intended to server as action items as well we are (facilitated) right after the meeting.

(Cahoos):   Okay. Thank you.

Man: Thank you everyone. I will hand over to (Thomas) for conclusion, thank you.

(Thomas):   So you so much Matthew. I won't take too much of your time but just to
                  conclude that we as co-chairs have taken home some of the action items so
                  you will read on the list not only the meeting notes that you now find in the
                  right-hand side of the Adobe Connect and all of the action items for the group
                  but we will also follow-up informing you about the correspondence with
                  CWG as well as the more refined mandates for the sub-groups so that we will
                  hopefully get more contributions and more input before next week's call and
                  the plan is then to close the lists on the various sub-groups as described earlier,
                  I'm not going to go through all of that but you will get clear to-do lists and
                  clear mandates for the sub-groups work.

                  I think with that we can close the meeting four minutes before the top of the
                  hour and make up some time that we stole from you during the first call.

                  I'm sure I can also speak on behalf of Matthew that we thank you for a very
                  constructive discussion this time as promised we've talked more about the
                  substance and we will continue to do so, have an excellent week. Please do
                  contribute on the mailing list and thanks to everybody. Have a great day, bye-
                  bye.

Man: Bye-bye.

Man: Thank you.

                                      END