ICANN

Moderator: Grace Abuhamad
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12:00 am CT

Grace Abuhamad: Okay. Good afternoon, good evening, good morning everyone. This is the third Accountability CCWG meeting on the 23rd of December at 6:05 UTC. I'll proceed with a short roll call.

We're going to do the same as we usually do with the Adobe Connect room as the main list for the attendance. If there's anyone who's on audio but not in the Adobe Connect room could you speak now please?

Samantha Eisner: This Sam Eisner. I'm having trouble getting into the Adobe Connect room but I'm on the line.

Grace Abuhamad: Thank you, Sam. We'll note that. Anyone else on the audio line but not in the Adobe Connect room yet?

Carrie Devorah: Carrie.

Grace Abuhamad: Carrie Devorah. Thank you. Okay I think that's everyone. Mathieu and Thomas, off to you.

Olivier Muron: Olivier in the room, I'm not in the Adobe I think.

Grace Abuhamad: Olivier Muron? Thank you.

Mathieu Weill: Okay, anyone else? Good. So welcome everyone to this third Accountability
Cross Community Working Group call. Just a couple of reminders that - for
those of us who are in the Adobe Connect room please raise your hands and
we'll hand over to you placed on the line holder that will be created in the
room. For those of you who are not in the room please make yourself heard
when you want to speak up.

We have quite a full agenda today but to start with a couple of announcements
related to the roll call. First of all I'd like to remind everyone that if you have a
Statement of Interest update please make sure to inform us at the beginning of
the call. Has anyone got a Statement of Interest update to provide now? No,
no updates.

Olivier Muron: This is Olivier Muron. I'm waiting for a passcode to the wiki to get a
statement in.

Mathieu Weill: Okay.

((Crosstalk))

Olivier Muron: ...password to the wiki.

Mathieu Weill: Can I suggest you send it to Grace?

Olivier Muron: I did that already, yeah.

Mathieu Weill: Okay so it's probably just standing by. We'll take that offline. Thanks, Olivier. A quick information as well regarding staff support on our calls. You will see in the host section on the Adobe Connect room, for those of you are connected, that we are joined by Brenda Brewer who will be supporting our group essentially starting from January as we know Grace, Marika and Bart are spread quite thin with the number of groups right now. And so very pleased to welcome Brenda on board to help us with our important task.

Finally I would like to ask Alan Greenberg as chair of ALAC whether he has any piece of news for us regarding the process that was in place to appoint a co-chair on ALAC. Alan?

Alan Greenberg: Thank you, Mathieu. Yes, I'm very pleased to announce that the ALAC has confirmed Leon Sanchez as our co-chair so you can welcome him to your group and we look forward to his doing good things for us. Thank you. And for all of us.

Mathieu Weill: Thank you very much, Alan. That's very good news. And a warm to welcome to Leon for joining the group as co-chair, he was already a member. Leon, would you like to say a couple of words to introduce yourself to the group more broadly?

Leon Sanchez: Yes, thank you Mathieu. This is Leon Sanchez. I am an ALAC member appointed by NomComm. I come from the Latin American and Caribbean region. And I look forward to continue working with this group, we have a very important task on our hands and I'm pretty sure we will accomplish it in the best way we can. So thank you for the welcome and let's (unintelligible) work.

Mathieu Weill: Thank you, Leon. As we said, we're - it's an important task. By the size of what's being undertaken as well as the impact on the overall community, so the more better, you know, that you drive the switch.

Regarding the roll call I think we're through. Our membership updates, I'd like to inform the group that in coordination with ATRT leadership we now have an official ATRT past participant in the group who is confirmed as - Avri has been confirmed is this role within our group - Avri Doria - has been following a (unintelligible) and confirmation process who is Brian Cute. And has been, by consensus - a decision by consensus I'd say.

So welcome Avri in this new capacity and we'll definitely look to you for context and feedback regarding the past work undertaken by ATRT 1 as well as ATRT 2. And we'll probably get back to this when - a little further during our meeting. And it's good to...

((Crosstalk))

Mathieu Weill: ...clarification.

Kavouss Arasteh: Yeah, could you please what was - the question?

Mathieu Weill: My comment was that Avri Doria is now officially the ATRT past participant which was mentioned in our charter and this has been following - this is following exchanges with both...

Kavouss Arasteh: I have no problem. No problem.

Mathieu Weill: Yeah.

Kavouss Arasteh: No problem for me, yeah.

Mathieu Weill: Thank you, Kavouss.

Kavouss Arasteh: Okay yeah, thank you.

Mathieu Weill: Another important piece of news regarding our group was the announcements on December 17 by the Public Experts Group of six advisors who join our work.

Kavouss Arasteh: Yes.

Mathieu Weill: I am - yes six advisors have been announced on the list. I am putting - reminding the link in the chat room for everyone to review. What it was mentioning is that the Public Experts Group will be still undertaking confirmation to have international law expert appointed as well, which is not the case so far.

And the current experts, advisors as they're called in our charter, are quite renowned and very distinguished and knowledgeable group. So I look forward to contributing with them. You will see we have an item on our agenda to discuss how we will interact with these advisors.

Kavouss Arasteh: Yes.

((Crosstalk))

Mathieu Weill: ...the item. And I would like to confirm that they are currently not on board. We are working to get them on board by January. It is still not confirmed whether they can join our face to face meeting in Frank Frankfort but we have

assurances that it would be extremely useful. And that - but we need to make - be aware that those advisors are getting ready. And I think this is good news for our work.

Before I leave for questions can I remind everyone to mute their phones or microphones when not speaking so that we avoid any noise on the conversation?

Regarding this advisors membership update, any other update that I will have forgotten?

Kavouss Arasteh: No, the other thing that I would request is I could be sent the link that I be connected to Adobe Connect room. I don't have the link when I open the Internet and go I should have a link to be connected, I don't have that link. If that link could be sent to me it would be very much appreciated.

Mathieu Weill: Okay. Grace?

Grace Abuhamad: Yes, hi Mathieu. This is Grace. I'll send Mr. Arasteh a link to the Adobe Connect room right now.

Kavouss Arasteh: Thank you very much.

Mathieu Weill: Thanks. Oh for practical reasons it's - the Adobe Connect room we use at every meeting is basically the same so you can refer to it and stick it into your bookmarks for everyone. So this is all for the membership update.

The next item on the agenda is essentially a first discussion that we'd like to have with the group regarding how we will interact with those advisors. We have created a few slides that we will put on the screen now. And I'll keep

hitting this discussion and I promise Thomas is coming up next, you won't hear only me on this call.

Advisors are - so first of all a reminder of our charter regarding advisors. Can we go to the next slide? I have put on the - on screen, for those of you not on the Adobe room I will read some of the elements that I think are valuable from our charter regarding advisors.

So the principle that's stated there is that, "In addition to input from the community the group is expected to solicit and consider the input from the - up to seven advisors selected by the Public Experts Group to provide," - and this is emphasis that I have added - "independent advice, research and identify best practices at an early stage..." I have some echo on the line now.

Okay, "...in addition to input specifically solicited by the Accountability Cross Community Working Group. The Accountability Cross Community Working Group is also expected to give due consideration to any additional advice or input that the advisors provide. And the advisors are expected to contribute to the dialogue similar to other accountability participants. However, should there be a need for any consensus call the advisors will not participate in such a call."

So we see they have a significant role. Their type of contribution can be advice, research or best practice. And we have to - we can specifically solicit their input but they can also provide us with additional advice or input and then we have to give them due consideration. So we certainly need to make sure we are clear regarding the way we engage with them, interact with them so we - there's a clear delineation between what is informal and what is formal in their interactions.

I am reading Jordan's comments on the chat room and, yes, I think good point that we all have to raise is how to make sure we distinguish between when they are advocating for a personal idea versus providing advice based on expertise.

So this is the point of my next slide. So of course advisors will be - hopefully join the discussions on the list. I think we will need to clarify with them that any advice or additional advise or input has to be identified or labeled as such because it has consequences for the group that has to give due consideration to them and therefore that will be something that we will need to clarify with the advisors.

And as far as we solicit their advice I have proposed on this slide that basically we need to find a balance with efficiency and transparency so my proposal is that any request or solicitation is circulated on the list including with the advisors for feedback whether the question is clear and everything.

And probably that we approve those requests during our weekly calls so any request to an advisors would have to go through a collective process to assess that we all agree on the relevance as well as the clarity of the request.

We would identify a point of contact during the investigation or the work of the advisors to provide any clarification. And systematically have a preliminary report circulated within either our whole group or a sub group to check that the advisors is actually responding to our request before a final report is circulated on the CCWG mailing list and published on our wiki so that it's transparent.

It's a pretty straightforward, I mean, standard way of producing reports. And it is proposed so that we can have clarity regarding the use of these advisors. I'll go to my next slide and then probably open the line for discussion.

The next slide is regarding what we would be requesting the advisors to work on at least in terms of initial topics. Certainly there would be value in case studies right now regarding accountability mechanisms in other organizations.

One of our advisors is a specialist in corporate governance and there are certainly a number of accountability mechanisms in listed corporations. Other Internet governance organizations will be interesting to look at as well. Best practices are something we would certainly benefit from. And I have reminded one of the topics we had identified during the last call which is the legal constraints related to California laws applicable to ICANN.

This is what I have to share at this point to open the discussions regarding the way to engage with advisors. And this is really only the beginning of a discussion that - and we look forward to your reactions. I see that Steve has raised his hand so please, you have the floor.

Steve DelBianco: Thank you, Mathieu. On the slide in front of you, for the three bullets, I have a reaction. The first and second, which are the gathering of case studies and identifying of best practices, they're similar in respect that these experts might be able to suggest accountability mechanisms that we don't yet have in our inventory.

I would suggest though that asking them to do case studies, as you do in the first bullet, could extend the amount of time it will take for them to do that if they feel that they need to flesh it out and explain the case study where a particular accounting mechanism was used in another place.

If in fact they take weeks to prepare case studies that will seriously impair our ability to meet the timeline the chairs have in front of us. So I would recommend that that first bullet not have to be a fully fleshed out case study but identification of accountability mechanisms in other organizations. The case study can follow.

And then the third bullet, Mathieu, the analysis of legal constraints, I would strongly encourage us to ask our experts to do more than just the constraints but do an analysis of legal possibilities and constraints related to California laws applicable to ICANN.

The notion of constraints concedes the point that ICANN's General Counsel has made many times before which is that ICANN is restricted from taking on some of these accountability mechanisms to the community and our preference would be that our legal experts would look not only at the constraints but at the possibilities. Thank you.

Mathieu Weill: Thank you, Steve. Your first point I fully agree with and fully taking on board. Regarding the second I think this is probably just a way of wording. My initial view was that constraints are really absolute redlines and I think legal experts can flesh out exactly what the absolute redlines are and that's in order to clarify what the possibilities are.

And so probably it would be a matter of wording but I think we're in line that we want to define what is absolutely possible in order to give more flesh to what is opportunities and possibilities. So I take your points with pleasure.

Eric, you're next on line.

Eric Brunner-Williams: Thank you very much. For the record this is Eric Brunner-Williams. I would suggest adding a fourth point which deals with the IRS constraints or opportunities applicable to ICANN. We shouldn't just treat California, we should, I mean, California laws regarding the California nonprofit but also the federal tax limitations or opportunities for the California nonprofit that is a 501c(3). Thank you very much.

Mathieu Weill: Thank you, Eric. Roelof. Roelof, you may be muted.

Roelof Meijer: Okay. Thanks, Mathieu, I was. This is Roelof Meijer. Taking us back just a little bit, each of the advisors is supposed to have a particular area of expertise. Should we not make sure that their advice will be limited to that particular area?

Mathieu Weill: Roelof, is that your line? We have a lot of echo back. Okay. So that's a very good question. I think nothing prevents them from participating to the discussions even beyond their area of expertise. But probably as long as we solicit them we should focus our solicitations to it - the appropriate expert or advisor.

And it would be very surprising to have one of the advisors provide formal input on something he is not an expert on. We will certainly try and capture that in our rules of engagement. I think that's a good point.

Roelof Meijer: Yeah, because I think it's my experience that we all provide feedback and advice on areas that we are not experts on at least sometimes we don't agree that we're not experts on that particular area.

Mathieu Weill: Excellent. Good point. Kavouss, you are next. And you are probably muted as well. Mr. Arasteh, we can't hear you right now.

Kavouss Arasteh: Can you hear me?

Mathieu Weill: Yes, no it's okay.

Kavouss Arasteh: Okay, thank you. This - I know this is a legal constraint related to California laws applicable to ICANN. Is there also something that other members and participants could comment (unintelligible) advisor but one point which was raised before and some people have view on that, that is the applicability of international law (unintelligible) California law in case that it could be also seen as an alternative.

Because when you are California law no matter whether there is concern or not you are subject to particular legislation and impacts you (unintelligible) legislations whether could agree to see what is the applicability of international law to that. It is something which is internationally agreed rather than explicitly country. That is something also should be discussed. And this is first point.

Second point we receive advice from the advisor and that is advice. And in your wording you talk about due considerations, due considerations legally is different than taking into account. So we consider and it is appropriate to take into account if it does not fit well we just appreciate the advice. Thank you.

Mathieu Weill: Thank you, Kavouss. This is very (unintelligible). Roelof, is that a new hand? No it's probably an old hand. Okay so our plan is to engage with the advisors at least the co-chairs as early as possible, hopefully early January, to exchange around these ideas.

I will circulate a slightly amended version of the slides to the list as well to the advisors so that we make sure we agree. And I will keep insisting that they join our group as early as possible because as was earlier mentioned, I think it was by Steve, we are on tight timelines. And delays at getting these advisors on board may derail the whole project plan. So I will certainly keep insisting that they join the deliberations as early as possible.

I think we have covered this completely seeing no other comments. I will turn to Thomas for the coordination with the CWG and ICG.

Thomas Rickert: Thank you very much, Mathieu. And welcome, everybody. This is Thomas Rickert speaking. And I will lead you through this part of the agenda. This is just a hopefully quick update to the discussion that we already had during our previous call and that is the coordination between our group and the CWG and the ICG.

And today I'm going to focus particularly on the coordination with the CWG. As you will remember, the work that our group is doing is closely linked and intertwined with the work that the CWG is doing. And there are concerns or there's a great interest that we make sure that what we're doing is not conflicting with what the other group is doing, or I should better say that what we're doing works seamlessly with what they are doing.

So you will also remember that the CWG has provided us with the document identifying some areas of overlap between our work. And we have agreed to send a response to the CWG leadership highlighting that we make those items priority matters for our group and that we plan to respond in the second half of January.

We had another coordination call with the CWG co-chairs last Friday. And we discussed this very topic. And they were eager for us to confirm that our group has built sufficient flexibility in the process - into the process so that we can react to changes to the proposal that has been published on the 1st of December which is quite likely. And also react to more proposals that might be published as we move on. And we've seen more proposals being discussed at this very moment.

We have hence assured the CWG that our work approach is flexible enough to react not only to evolving deliberations inside our group but also react to updates to proposals that are made by the naming community. And we've sent a little bit more detailed note to the CWG co-chairs afterwards so they can inform their groups accordingly.

I should also note that on the CWG list there has been some communication afterwards and it seems like there are concerns that if our group only produces a preliminary response in the second half of January that this would be too late for their submission of their proposal to the ICG which is why I think our group should at least briefly discuss how we react to that.

It is my impression that the CWG would really like to see us getting back with a response earlier. My question to this group is, however, whether it's feasible for us to produce results in a more expedient manner because as you know, this is only our third call. We're just about to finalize some of our scoping work. And I think we are far from - far from producing the results that we could share with the wider audience and that will actually hold water.

But let me please open this up to the whole group for comments. So the question, in order to rephrase that, is whether our groups see any realistic

chances to expedite our work further to be able to provide input to the CWG prior to the submission deadline.

I see Avri's hand is up so please, Avri.

Grace Abuhamad: Avri, this is Grace, you're on mute.

Avri Doria: On mute.

Grace Abuhamad: We can hear you now, yeah.

Avri Doria: Oh you can hear me now. Funny, the symbols are backwards. It indicates I'm still on mute here but you can hear me, that's good. The only thing I wanted to do is add a bit of specificity. One of the specific concerns or regrets was that they - the CWG is going into - I say they but I'm also on that group - the CWG is going into an intense weekend of work on January 9 and 10.

And being in this group it's understandable that there isn't an initial recommendation. But if there's any possibility of being able to give them an indication of where things are going I think that that could be useful. I could see how difficult it would be, I just wanted to give the specificity of that date when they're trying to finalize revisions based upon the comments - of the comment period that just ended today so just wanted to do that. Thanks.

Thomas Rickert: Thanks, Avri. Next is Steve.

Steve DelBianco: Thank you. It's Steve DelBianco of the CSG. I'd like to pick up on what Avri mentioned. If they need an answer from the CWG very soon our answer would have to be very general. Let me give you an example.

We could generally say that our CCWG is committed to give the community leverage and accountability mechanisms so that if the naming functions contract were not being adequately fulfilled by ICANN, for instance, if their evaluation team said that this contract has to be moved or some other form of external discipline on ICANN's ability to perform IANA then we could assure the CWG that our group can design a mechanism that would enable the community, with appropriate thresholds, to remove that contract from ICANN's custody and find another place to put it.

So it's possible that we could make very general statements but it's far too early for us to precisely say the mechanism by which we would do that. So it wasn't part of our charter to take that on but if you follow a lot of the comments that have come into the CWG, including one that was submitted by the Business Constituency and the ALAC, there was some pushback on this notion of them creating brand new entities, legal entities, to be the other side of the contract.

And we want to be as helpful as we can to the IANA group and it might be that we would aspire to be able to give the community the power to move that contract if that would avoid the need to create an entire separately entity. That's about as far as I think we could go even over the next two to three weeks. Thank you.

Thomas Rickert: Thanks, Steve. That's very helpful. Let's go to Greg then.

Greg Shatan: Hi, this is Greg Shatan for the record. I am a participant in this group and also a member of the CWG. And just wanted to clarify a couple of things about our timeline, follow up on what Avri had to say. We are heading into an intensive work weekend that is scheduled start on Friday evening the 9th and go through the 10th and 11th of January.

Furthermore, we're scheduled to bring our final report to the community on the 19th of January. It would be, in my opinion, unfortunate if we did that without the benefit of any useful feedback and coordination with this group. If this group feels that it can't be more specific there are of course the times are short; we're all dealing with very short timeframes and doing the best we can.

Would just encourage thoughts of trying to input as much effort as possible toward providing some feedback on the issues that have been sent over by the stewardship group to the accountability group to see that we can get the benefit of as much feedback as possible.

Clearly can't promise what you can't deliver; wouldn't encourage or expect that. But in the grand scheme of things three weeks is a short time but it's not a very short time. It's four weeks really if you take it up, you know, into the following week. There's a lot that could be accomplished in this time. I know it's a terrible time to look at since we've got holidays coming up. But I think any effort to provide useful feedback would be most appreciated.

I'm speaking only for myself in spite of, you know, my statement about my affiliation. But thank you.

Thomas Rickert: Thanks, Greg. Does anybody else wish to contribute? I see Izumi, please.

Carrie Devorah: Yeah, it's Carrie Devorah. I have a question as to these legal entities that have been addressed to open up. I'm curious as to those legal entities addressing IANA.

Thomas Rickert: So that was Deborah?

Carrie Devorah: Carrie. Last name is Devorah but the first name is Carrie.

Thomas Rickert: Hi, Carrie. Carrie, sorry because I had Izumi to speak because I didn't note that you wanted to speak. Can I suggest we...

Carrie Devorah: The question...

Thomas Rickert: Can I suggest we take that question, which is pretty much on substance, to the point in the agenda when we talk about status of our work? Because I think, and this is something I noted with other contributions as well that we are starting to talk substance.

So I guess from a procedural point of view I would suggest that we note your question, we also listen to Izumi and then to Samantha and then we would dive into the discussion of the work results of the four different work groups and then see whether we can narrow this down to some general statements as Steve said. But I think it's a little bit difficult to determine whether the group has sufficient consensus to come up with some broad statements without having discussed the progress and the substance including the question that you raised.

So did you want to follow up on that?

Carrie Devorah: No, no that's fine. I'm on board with that.

Thomas Rickert: Okay, thanks Carrie. And let's move to Izumi now.

Izumi Okutani: Thank you, Thomas, Mathieu, for giving me time to speak. So I basically like Steve's suggestion on sharing the general direction or something broad at least as a guidance if we happen to be able to agree on something that we can share.

And I do actually support the basic attitude that we try to share what we can as much as possible.

So in addition to what I think I believe Thomas and Mathieu have been doing with sharing the updated information if there's a particular issue that the CWG feels that they want us to clarify which really helps a lot, we can't cover and address everything before the timeline.

But if there's something - an issue that they think is really helpful if we prioritize then maybe it's something that we can try to look and see if we are able to give and come up with substantive maybe not a definitive answer but at least kind of from guidance, just my thoughts.

Thomas Rickert: Thanks, Izumi. Samantha.

Samantha Eisner: Yes, so this is Samantha Eisner for the record. I have a concern that it sounds as if we're almost attempting to serve the naming proposal as opposed to considering there are - one of the main things that we really need to do is to develop, particularly for the Work Stream 1, a proposal that supports the whole of the ICG proposal that will come out.

And I know that there are some open questions from the naming community that they're looking for some guidance on how our group is progressing. And I think to the extent we have information to share we should be sharing that.

And - but I also think that we shouldn't come to a point where we're rushing to reach potential conclusions of where we're going to go if we haven't had the time internally to prioritize the work or work with the experts to determine where we think things should go.

And we should really always keep in mind that particularly on Work Stream 1 our view is supporting the whole of the ICG proposal and not just a particular component.

Thomas Rickert: Thank you, Samantha. And now let's go to Kavouss and after that I'd like to close the line and move to the next agenda item. Kavouss please.

Kavouss Arasteh: Hello?

Thomas Rickert: (Unintelligible) we can hear you, please proceed.

Kavouss Arasteh: Can you hear me? Some tones or - yeah, just a point I wanted to raise, you have already raised, you have to have some time management for this issue so we should limit the discussion on the relations with the CWG as soon as possible and go to the next item.

One thing that a little bit bothers me that people are talking that we give directions or guidance to CWG. We do not neither give direction nor guidance, we just provide our views, that's all. And that is limited to the activities of CWG for the accountability relevant to the transition of IANA but not the accountability outside that which is overall accountability that we are discussing so that will be limited to that area only. Thank you.

Thomas Rickert: Thank you, Kavouss. I had closed the line but Eberhard still he hasn't spoken, if you could kindly keep it brief I will let you speak.

Eberhard Lisse: Yes, just shortly. I will not be able to support and would object to a consensus that gives unreflected or not - or not totally decided issues because of time constraints. I don't have problems with giving progress reports of our current state of work.

Thomas Rickert: Thanks, Eberhard. That was in fact brief, thank you so much for that. Before we move to the next agenda item let me try to recap briefly the main points that I think were made during this conversation.

One, there is a desire by the naming community that we provide them with input which they can take into account for their deliberations on their working weekend starting on the 9th of January which we appreciate.

Second, there is the proposal that our group comes up with some broad points to feed into their conversation. Third, there is the caveat from our group that we should not come up with half-baked proposals that cannot be consensus-based so there are reservations that we make statements that might not be following due discussion and deliberation by our group.

And I would add fourthly that there is the willingness to provide progress reports to the CWG so that they can see how our deliberations evolve. And let me think, I guess, there was a fifth point - the fifth point which got attraction was that our group provide general advice or develop its own recommendations and should not just support or feed into one proposal made by the naming community but into the overarching proposal from the technical community, let's say.

So I think with that we should move to the next agenda item. And as I mentioned to Carrie earlier, in response to Carrie's point, I think we will need to discuss substance as we move on. And I suggest that we as chairs would test the waters to see whether we have some general statements to make that get sufficient support which we could then pass on to the other group.

If that is the case, fine, we will work on that as expediently as possible. If we can't reach consensus positions on some general points I'm afraid that we will not be in the position to accommodate the CWG wish.

Now with that let's move to the fifth item on the agenda which is the work area updates. So let's please move to Work Area Number 1. And I would like to ask either Samantha or David to provide the whole group with a quick update.

David Maher: This is David. I'd like to call the attention of the group to the outline that was posted by Samantha today - earlier today - which is a very useful chart expanding the inventory and showing to whom the groups are accountable and the effect of accountability. Samantha, do you want to add to that?

Samantha Eisner: So all of these - this is really kind of an initial take. There's truncated language in it and trying to describe what the accountability was within the Affirmation of Commitments. For example, I didn't go through and list out each separate item. But either the Department of Commerce or ICANN takes on accountability within it. But just to give a general idea of the items that were in there.

And then adding on with Mathieu's request to frame things and whether it serves a redress, or review or checks and balance we have that added in there. But this is really kind of a starting point, a way to help frame our discussion. So open for comment and revision.

Thomas Rickert: Thanks, Samantha. Have you finished or is there another issue?

Samantha Eisner: Yes, I'm done.

Thomas Rickert: Okay, thank you. I see Kavouss's hand is up so please, Kavouss.

Kavouss Arasteh: Yes, just I have a procedural question. In this charter and other charter we have ICANN staff and ICANN Board. From the hierarchical point of view ICANN staff, if they are accountable, they are accountable to the Board, to their bosses. And ICANN staff could not be accountable to community individually. So we'll bridge the line of the hierarchy.

So in my view the accountability goes to the Board of ICANN but not individual staff. Otherwise that internal link will be broken; they are staff (unintelligible) as equal as the ICANN Board, the same right and the same line of hierarchy so could we have some clarification on this point please?

Thomas Rickert: Samantha, would you like to respond directly or David?

Samantha Eisner: I can take a first stab at that. So ICANN staff actually is not hired and fired by the ICANN Board. The only - there are two people within ICANN that are hired directly by the Board, that is the CEO and the ombudsman. And then, you know, the Board does appoint and approve the compensation for the officers of the Board - officers of the corporation.

But my boss is not the Board so if I'm interacting with the Board, you know, I try to meet their requests but my boss - in my instance it's John Jeffery who reports up to the CEO.

So there is actually separation between ICANN staff and ICANN Board and there is a line of accountability between the two. But I don't think that you can fully equate ICANN staff to the ICANN Board and subsume it all into one. I don't agree that that's a way to look at the accountability of ICANN as a whole.

Thomas Rickert: Thanks, Samantha. Next is Steve.

Steve DelBianco: This is Steve DelBianco. Thank you for the inventory and the classifications. I believe that the first, second and fourth row of the table are declaring that these existing mechanisms, the reconsideration, the independent review and the ombudsman, are accountable to more than just the injured party. You've suggested here that they are directly accountable to the ICANN community.

I wanted to challenge that notion because all three of those are a single party bringing a request for redress and none of them require community approval in that respect they're not accountable to the full community.

Any community member may be the injured party and of course they may acquire allies who would agree with them. But I don't think it's right to characterize those - three of those first four - as community accountability mechanisms. They're very different than something like the structural reviews where community members have specific slots on their review teams. Thank you.

Thomas Rickert: Thanks, Steve. Would either David or Samantha like to respond to that?

David Maher: This is David. I think - oh go ahead, Samantha.

Samantha Eisner: Oh go ahead, David, I'll come in after you.

David Maher: Well I think that there are many issues that are review under reconsiderations; independent review and ombudsman, that have an impact on the community at large. And I don't really see any objection to putting the community in the list of those to whom ICANN is accountable. Thank you.

Steve DelBianco: If I may, David? I was suggesting that impacting the community is of course true but you have them listed under a column of to whom accountable and that's just not so.

David Maher: Well I think you and I disagree on that.

Thomas Rickert: And I think it doesn't do any harm not being in agreement on that at this point. You will remember that the purpose of this exercise was to establish a list of accountability mechanisms that are in place for what they can be used or how they potentially need to be reshaped as that is something that our group will work on as we move on.

So I guess my question to the whole group is whether we can consider this inventory as finite. And I'm more than happy to include the caveat that the interpretation in the chart might be subject to further deliberations by the group. I see James's hand is up. James, please.

James Bladel: Thank you, Thomas. James speaking for the transcript. And just wanted to comment that I think this is an excellent exercise putting together this inventory of existing accountability mechanisms.

My only question then - and I'm probably wading into some dangerous waters with this question - but would be whether or not we would be well served from an additional column that would indicate whether or not this existing mechanism was determined to be effective in its current role and whether or not it would be potentially effective in the new structure post-transition.

And I think that would perhaps give us another field to pivot on whether or not an existing accountability mechanism is worth keeping or modifying or abandoning as we move into this new environment. Thank you.

Thomas Rickert: Thanks, James. Kavouss.

Kavouss Arasteh: Yes, I see today ICANN as 300 staff and all 300 staff, according to this chart, would be responsible or accountable to any party, as is mentioned here. And I think from legal point of view that doesn't work because tomorrow the staff may be 500. So you put 500 people accountable to an individual or one individual to one individual I think there is no such mechanism in any other system than what I see in this table.

Everywhere you have a management and the management is accountable to the community or to the Council or (unintelligible) Council but not individual staff. So we should find a link between the individual staff and the management of ICANN. Thank you.

Carrie Devorah: It's Carrie. May I contribute something?

Thomas Rickert: Carrie, you're actually next. Please.

Carrie Devorah: Thank you so much. In reading the Website thoroughly whatever we decide the Board still has that - they hold the ability to override all decisions we make which gives the Board almost an imperialistic position that people in the community can work hard to come to consensus and then the Board goes, "Well we don't like it, we're doing differently." Is there some way to combat that?

Thomas Rickert: I pass this question onto David and Samantha.

Samantha Eisner: So, Carrie, this is Samantha Eisner. We have our - we have the existing mechanisms that are in here. I know that one of the main questions that we'll be working through and one of the main things that is really part of the Work Stream 1 in particular but it also is an overarching question, is how do we work with - work through ICANN and with the Board to not have a position where the Board has an ultimate override or the perception of an ultimate override over everything.

And so I think that that's exactly what we're working to in this process. We have, you know, multiple mechanisms in place that can help work towards that, the effectiveness of them or perceptions around them or partially the reality of a binding versus a nonbinding outcome. You know, those are all things that we're working through and I think that that's the question that we're trying to answer here.

Carrie Devorah: Thank you so much.

Thomas Rickert: Thank you, Samantha and thanks, Carrie, for the question. With that let me try to recap where we are. I guess we will now proceed to testing the waters whether there is consensus amongst the - those on this call that this inventory, that this list of accountability mechanisms that ICANN already has can be deemed finite.

That is not to be confused with the interpretation of these mechanisms that can be found in the remainder of the table that will need further discussion. And the discussion that we need to have is discussing to whom the accountability actually is, that would be Column Number 2 that is the point that Kavouss made.

We also need to discuss Steve's point. So when asking whether there are objections in adopting this - the list of accountability mechanisms as finite, that would be actually limited to the enumeration of the existing accountability mechanisms.

The reason for that is that I think we need to - or we as co-chairs - think we need to base our work on the status quo that there was ICANN and therefore we need to know what accountability mechanisms there are.

And in response to James's point, our charter clearly indicates that we need to review the existing accountability mechanisms and (unintelligible) the question whether the contingencies that we identify are already covered by existing accountability mechanisms, whether the existing accountability mechanisms need to be amended or improved to respond to existing threats and areas better or to react to new accountability mechanisms to new threats that we identify or contingencies that are identified. And if that fails then we need to think about new accountability mechanisms.

So I think that the - this is an excellent starting point for basing our work on. But the interpretation part of the chart will certainly evolve as our work progresses. And with that I'd like to ask whether there is any objections to closing this very first item, i.e. the aggregation or the list of accountability mechanisms. I see Avri's hand is up. Please. Avri, you might be talking to a muted microphone. Avri, we can't hear you.

Grace Abuhamad: Thomas, I'm sorry, this is Grace. Avri has typed her notes in the chat. And I don't know if this is because she can't speak. But she wrote in the chat...

Avri Doria: Yeah, unfortunately...

Grace Abuhamad: Oh, you got it.

Avri Doria: Unfortunately my typing in the chat got messed up. It's basically should they DID be included in the list of mechanisms? And is transparency being part of accountability and that being one of the mechanisms for transparency should that be included in the list or did I miss it being included? And sorry the typing got messed up.

Thomas Rickert: I think - Samantha just confirmed in the chat that it's not (there). It can be added. So let me ask the question again with this edit point. But before you give your indication of support or objection I think there is another comment by Kavouss, please, Kavouss.

Kavouss Arasteh: Yes, Thomas. I don't think that this stage apart from noting this table plus comments we need not to go further. Because we are just looking at inventory what is today. And we just comment on that. We do not approve or otherwise this table at this stage. Thank you.

Thomas Rickert: That is correct. What we're trying to do with this is to establish a list of existing accountability mechanisms. And we're more or less testing whether this list can be deemed finite or whether there are accountability mechanisms which are already in existence we have forgotten - which we have forgotten.

Because if we didn't cover every accountability mechanism that ICANN has we might suggest adding in accountability mechanisms that might be contradicting or conflicting with existing ones. So I think we need to have a view of what's already there. So that's the purpose.

And certainly this inventory might be subject to change, as I mentioned earlier, as our discussions progress. I see no further comments so my question

will actually be not only with respect to the items in the chart that you see - that you see in the Adobe but with Avri's additional points.

And before I ask for objections to adopting or to accepting this list as finite let me reiterate that we had agreed that we would not make any firm decisions, as is called, during one individual call. And we haven't done so. We have discussed this during the last meeting. We have then announced that we would ask this question during the subsequent meeting which is today.

We have put this into the action items that went to the list. And we sent a reminder as co-chairs that we expect everybody to have the documents read and that they should make themselves heard if they - if they think that the list as it stands should be amended or if they have any other contributions to make.

So I think that we have done - or we've taken several measures to be as inclusive with our test of waters as we can. If you think that we as co-chairs can do this better or in a more inclusive manner please let us know. But we think that we are now good to go with asking this question.

And you will - I'm taking some time to elaborate on that because we will have many more of those instances where we as co-chairs need to draw a line under certain questions so that we can move on certainly needing the option to reopen an issue at a later point but we need to make progress in an iterative manner and these little tests help us to see whether the group is fine with interim results or not.

So with that let me ask whether there is any objection to accepting this inventory with the amendment asked for by Avri. I don't see any objection in the chat nor do I see any hands raised. For those that are not on the Adobe can

I please ask you to speak up if you want to make yourself heard. So that is fine.

So with that I'm happy to record that there is no objection so we take this document as an interim result. Thank you so much and thanks to Izumi who explicitly mentioned her support with the suggested approach.

As you can see this is a relatively new group and I think we have to make sure that the work methods that we have agreed on are finding everybody's support. And if we as co-chairs can improve how we approach things we will be more than happy to learn that from the group.

Now with that we can move to the next work area which is Work Area 2. And, Steve, can I ask you to give us an update?

Steve DelBianco: Thank you. It's Steve DelBianco. And watching the time I'll try to make this very brief since we have two other work areas to cover. After our last call the action item for all of us to review that inventory list where we had compiled 45 accountability mechanisms categorized them and even suggested work streams.

The mission we all had over the past several days was to suggest additions or deletions from the list. When I prepared this on Saturday, in order to get it in your hands yesterday, I quickly looked at the email list both for Work Area 2 and for the overall CCWG. Most of the correspondence was about what is public interest and should it include international law.

But I did find in there several comments from people, Kavouss, Alain Bidron, Google, (Cenetcom) and Paul Rosenzweig, Carlos, had sent comments in

suggesting modifications, reclassifications. And I have tried to reflect those in the draft you have before you.

The first thing I did in response to both the chairs and to Alain was to articulate the ICANN present bylaws and articles point that would have to be modified in order to accommodate this permanent membership group or cross community group. And you can see that if any of you wish to simply scroll to the footnote right there on Page 1. Don't want to get into the details now but that's there for us to consider.

Some of that was simulated by a public opt ed published by Daniel Castro of the Information Technology and Industry Foundation in Washington DC. He did that right after our last meeting.

I did not delete any items in the list but for any item where a member of this working group said it should be removed, I put the words "opposition noted" and that came up with nine of the 46 items or roughly 20% of the items.

And I'm anxious to understand what the chairs and the rest of the group want to do to understand how it is we decide that something should be deleted. Because would one person's objection be sufficient to remove an item from the inventory? I feel like that's a bit harsh but I defer to the chairs on what they want to do about that.

You know, I'll stop there. I have two other items to cover but - well, maybe I should dive into that. If you look at the mechanisms in gray what I did here was to categorize them into three kinds.

The first category sort of fits with what Paul Rosenzweig was calling Work Stream Zero which is to say things that are absolutely necessary to obtain,

before the IANA transition, since it's highly unlikely that ICANN's Board would agree to these measures were it not for the leverage of the IANA transition hanging over them. And those are relatively a short list of items.

The second list, mechanism 2, is restrictions on actions of the Board and management. And I have initially designated most of these as Work Stream 2 because if the members had obtained the powers in Category 1, Work Stream 1, then they would presumably be empowered to impose those restrictions on an action of the Board at any point. So they don't necessarily have to be obtained prior to the transition.

There was a little bit of debate about that and so therefore I did not reflect everything in this Area 2 as being under Work Stream 2. Some of them are Work Stream 1 pursuant to comments that were given to me over the list.

And finally the third section are mechanisms that would prescribe actions of the ICANN Corporation, in other words, things that ICANN must do. And these are also designated Work Stream 2 but there's an open question that how does the community make a suggestion to ICANN in the future, since we can't know today, everything that ICANN should do or should not do.

There has to be mechanisms for the community through our bottom-up consensus-based process to prescribe something that we want ICANN to do. If ICANN's Board were to reject it we have to look straight back to Page 1 to see whether the community has an ability to override or reverse the Board's rejection as a way of making sure that the will of the community holds forth.

So, Mathieu, and Thomas, I'll stop there and take your advice or answer questions.

Thomas Rickert: Thank you very much, Steve, for this update. Let me first open this up for the colleagues on the call to respond and make comments.

Carrie Devorah: Hi, it's Carrie. May I comment?

Thomas Rickert: Please do.

Carrie Devorah: My concern is consistent, for people that know me, about, again, the imperialism is the best word to describe what I've seen and hear with Steve Crocker where I don't get questions answered. And if we wanted to (unintelligible) have the right and the ability to successfully (throw) the Board.

Right now we have ICANN which is a nonprofit which is raking in some very, very, very big money with the marketing and the auction of the gTLDs. And money never makes a good mix when it comes to people having a consensus. Greed tends to step in there.

So what is our control over the Board if the Board chooses to ignore everything the community says? Because the Board has not exactly been listening to everything that the community has been saying. The exhaustion that I'm seeing with the volunteers at the rapid pace of comments asking for longer periods, not getting them, concerns me.

Thomas Rickert: Thanks, Carrie. And just in response to a comment that was made in the chat, Carrie is not on the Adobe, she's just on the audio bridge. And this is why those and Roelof will do the same, need to give me an acoustic statement that they want to get in the queue.

I guess, let me first check whether there are more hands raised. That is not the case at the moment. The - in terms of the - or in response to your question, Steve, the outset of this exercise was that we wanted to look at the public comments that were made previously during the public comment period.

So even if individual items are objected in my view, but I will defer to the other co-chairs to chime in on this, in my view none of these should be dismissed at this stage. I think we should have them in the list at least for the time being ways for our deliberations to evolve.

And then if there are certain mechanisms that we don't see necessary or appropriate to respond to the challenges then they can be dismissed at a later stage. But that should be an exercise for the whole group. And it should be part of our proposal or recommendations with the rationale. Because I think we shouldn't even need to dismiss proposals that come from the community.

Let me ask Leon and Mathieu whether they have a different view as well as certain other colleagues on the call? Mathieu, your hand is raised. Please.

Mathieu Weill: Yeah, thank you very much, Thomas. And many, many thanks to Steve and the team who really put a lot of effort into assembling this document and actually highlighting what are - some of the key questions that we have.

I really support the fact that at this stage in our work any input is valuable to keep track of this inventory at a first stage so that's for the, the first question from Steve. And then I think what is - what I find very valuable in this work is that it's really pushed up - pushed us to question what are our reasoning's behind what is supposed to be Work Stream 1 and Work Stream 2 and I think that's the - one of the main values I see from this.

And clearly at this stage you have in the group provided a very clear and useful proposal for that definition of Work Stream 1 versus Work Stream 2. Clearly when I listened earlier to the concerns voiced by the CWG and some of the inputs that the CWG has provided us, identifying some items I think we have some form of - we need to make sure that our work, Work Stream 1, is consistent with the expectations from the other groups involved in the IANA stewardship transition.

And that our Work Stream 1 covers the items we're expected to deliver on from the CWG but also maybe other parts of the community at some stage. And we still have, I think, to make sure we root our definition very much into the questions that are provided in our charter, essentially the question how is this proposal or item of Work Stream 1 related to the transition of the role of the NTIA.

And I think that's still one part that we can slightly elaborate on. And I feel like we need some more discussions on this. And Steve has provided a very clear candidate. I've heard a lot of comments - so some comments asking for a limited number of items in Work Stream 1 or even Work Stream Zero as they call it. And I think this is one of the key discussions we'll need to have in the next few weeks which will be certainly useful for the CWG as well to be informed of.

Sorry for being a little long.

Thomas Rickert: Mathieu, thank you very much. Steve, you had your hand raised briefly. Did you intentionally take it down or would you like to comment?

Steve DelBianco: No, I'm happy to hear your instructions for the next steps so our work area can be ready for next week.

Thomas Rickert: Okay, thanks Steve. It is my impression that we - that we should do a test of waters with the list of items on this chart. I think that as with the other document, the interpretation part might need further deliberations particularly the rationale needs to be further worked on.

So for everybody this document cannot be adopted, quote unquote, with all the information in it. But let's focus on the individual items in it first and discuss the - let's discuss the rationale subsequently. You will remember that the allocation to Work Stream 1, 2 or maybe even Zero might be subject to change as well but I think we need to make progress with this as well.

I should also note that some of the - some of the points in the chart pretty much define concrete implementation mechanism as a response to an accountability challenge. And I think that we're not yet at a stage where we can do a test of waters or consensus call or whatever you might call it on that one. So I would also caution that we not take the concrete implementation measures as part of our testing of the waters but merely the items in the table.

I see two hands raised. Let's go to Olivier first.

Olivier Muron: Yes. I think I want to thank Steve for the work done because it's really improving our definition. But still the definitions are - the Stream 1 raises some questions for me. For example, what happen if we take one of the topic in that list and then it turns out with the, for example, with the legal people that just joined the group that the thing is just not feasible, not feasible in the timeframe we are in. So we just drop that thing from the Work Stream 1 and move it to Work Stream 2 if that's what we're going to do?

Steve DelBianco: If I may answer, Olivier? I would think that we would obtain a commitment if that could not be actually...

((Crosstalk))

Olivier Muron: ...commitment of something not feasible, I'm just - it's...

((Crosstalk))

Steve DelBianco: Yes you are correct. So it would be necessary to have the ability to override the Board to force a commitment to be met. And that is why that is listed first. So things - if you obtain Work Stream 1 every - the powers to force through commitments that were made for Work Stream 2 it becomes a little easier to push things into Work Stream 2.

Thomas Rickert: So Kavouss is next in the line.

Kavouss Arasteh: Yes, I have a general question. The content of these lists are on the accountability, some of which relates to your transition, some of which relates to overall accountability. Is it possible to distinguish between these two in that case with the issue relating to the accountability of transition would be of much interest of CWG, the issue of overall accountability would be general.

So is it possible to add a column and saying that which of these items are for transitions only and which are items are for overall accountability and have less or no actions or no impact on the IANA transitions. Is it possible to make that distinction? Thank you.

Thomas Rickert: Steve, would you like to respond to that one?

Steve DelBianco: Thank you, Kavouss. If we had such a column every single item in here is related to overall accountability of ICANN to the community. None of the items are related to the three functions of IANA because that was not within our scope.

But as you have said many times, the linkage is that in order for the IANA transition to occur we have to ensure that we can hold ICANN's Board and management accountable to the community once we no longer have the leverage of the IANA contract. So all of the items are linked to the transition because the transition provides the leverage to get the accountability mechanisms either in place or committed.

So they're all linked but they're all related to overall accountability and not to the specific IANA functions. I hope that answers your question.

Thomas Rickert: Okay. Now any further comments, questions? And with that I'd like to ask the tech question as to whether the group is okay with - in agreement with the list as provided? Are there any objections to that? Izumi.

Izumi Okutani: Thank you. I do - thank you very much, Steve and others who are working on this list. It basically makes sense especially the rationale behind it that as long as the basic core accountability mechanism would be in place which would be - which should be included as Work Stream 1, the others basically can probably go into Work Stream 2.

We do have a few small clarifications that we'd like to make related to the rationale of why certain things were included in Work Steam 1 which we really weren't totally clear about why it's there. So as a next step it would be helpful if Steve or somebody could explain to us why it's there and I think it

would be helpful to have some discussions with the whole group whether this direction makes sense.

Thomas Rickert: Izumi, can I ask a clarifying question? We are still in the process of writing the rationale for each of those points. So would it be okay for you to hold off until we are provided with the rationale? Maybe all of us will then better understand why certain items would fall into Work Stream 1 versus Work Stream 2.

Izumi Okutani: Yes, thank you, that would be very helpful. I just wasn't sure if this would be (unintelligible) current list and move ahead so I'm very comfortable with this suggested approach. Thank you.

Thomas Rickert: Okay so then let me rephrase the question slightly so the - my question whether there are objections to the list is limited to the items at the moment. And we will then try to make a determination as to what belongs into Work Stream 1 or/and 2 during the next call when we've all been provided with the rationale.

Let me here Samantha now.

Samantha Eisner: Thank you.

((Crosstalk))

Thomas Rickert: ...might be on mute. Okay there you are.

Samantha Eisner: Can you hear me now?

Thomas Rickert: Yes we can.

Samantha Eisner: Okay. Thank you. So I have one comment particularly as it relates to items under the first grouping. So one of the things I really appreciate about the way that this list was designed is that there was - there were categorical groupings put together and then the items were put underneath it.

However, when I look at the first thing under Grouping 1, so Community Members as Ultimate Authority, and then ICANN bylaws to recognize permanent cross community members with authority to - I would - I think it would be more comfortable with this list if the items that were listed under that weren't necessarily seen as all requirements that had to be met under that first one.

So I see each one of these items as one of the things that has been brought up as something that's been raised as very important and ideas for how to increase accountability. I have no concerns about why they're put into Work Stream 1 but I see that we're almost, as Thomas said earlier, almost (unintelligible) an implementation stage as opposed to the inventory stage of the ideas that have come up.

And I think we could almost structure this top part a little bit more clearly to say that if we don't meet one of these things it's not that we failed in the whole first community members as ultimate authority issue, right. Because we don't have, for example, we're at a point where we don't have the input of the advisors, etcetera, you know, there could be different ways to go against it.

But we have some very concrete ideas of where the community has said they wish to have further input and where they wish to have additional items. So I would support moving those into more of stand-alone items as opposed to bullet point items under another topic within that Category 1.

Thomas Rickert: Thanks, Samantha. So there is a queue building up. Next is Mathieu.

Mathieu Weill: Yes, thank you Thomas. Very conscious of time but I would like to echo one of the comments made earlier and probably was from Olivier and that's about the relationship with the rest of the NTIA transition. My suggestion would be to actually add a column and flag the items that are related to some of the requests we're receiving from other parts of the community or the naming community and probably flag in this list, for instance, the three items that were highlighted by the CWG leaders when they sent us a note.

And I think one of these items, for instance, was an independent appeals board or things like this. And I think it would be valuable to check which of these items are currently being asked for us to consider from other parts of the transition process. Thank you.

Thomas Rickert: Sorry, I was on mute. Thanks, Mathieu. Next is Steve.

Steve DelBianco: For Mathieu, once you show me those three or four items we will put CWG under the column Supported By and highlight it in bold to make that very apparent. Perhaps that would be helpful.

And then with respect to Samantha, Samantha, the reason they're organized this way, that there are five or six enumerated powers underneath this community member group because that is the way it was proposed by the BC in the public comments that those were enumerated powers.

To your point, if there is an independent suggestion for recalling of Board members, you will find it lower in the list. So there is redundancy here in the sense that the enumerated powers of the community group - they ought to stay

together because you don't want to allow this community working group to be able to do everything and anything. It ought to be constrained as well by the bylaws.

And secondarily, any time an item stands alone you'll find it below in the list. And I believe that's true of changes to bylaws, recalling of Board members, and to review Board decisions. In one case there's an alternative to say that this community does the review or the alternative is to refer to an independent review panel so that alternate is also shown below. So I think I could satisfy your requests without actually stripping those bullets out from that first section.

Thomas Rickert: Thanks, Steve. And just as a heads up to the whole group I will close the queue after Eric because I think we need to take this (unintelligible) offline for the sake of being able to finish this call at the top of the hour. Next is Alan.

Alan Greenberg: Thank you very much. I guess this is in response to Sam. And I'm not giving quite the response that Steve did. And because I'm looking at this list cold and I didn't write it. I presumed that the items under community members as ultimate authority was essentially a laundry list that we may choose to use some of those items or not as we see fit.

I don't think the existence on this inventory mandates us to implement them as a whole or we're not doing our job. I'm identifying these simply as something that we can look at as we go forward. This is our first real meeting and I don't think we're making any decisions on what we're doing with this inventory but it's one of the resources we have. Certainly that's the way I looked at it. That may or may not be the way Steve meant it when he wrote it. Thanks.

Thomas Rickert: Thanks, Alan. Eric.

Eric Brunner-Williams: I'll make this simple. Eric Brunner-Williams for the record. And I agree with Alan Greenberg. Thank you.

Thomas Rickert: That was easy. Thank you so much, Eric. I think we need to take this conversation offline. And one of the good things of the co-chairs announcing that we will test the waters in terms of support for a certain document or for an interim work result is that usually all colleagues of the group then pay close attention to it and respond.

It is my impression that we have a very solid base or very good list as a starting point for further conversation. But I think that we need to further refine the document before actually asking the question of whether there is objection to it.

I think, you know, unless others object to this observation I think that this document needs further work before we ask the group the question to accept it as an interim work result.

I see no opposition to that notion. And with that I'd like to encourage everybody, and the same goes for the interim work result for - coming from Work Area 1 to look at the document and make exactly those points on the list.

I'm happy to take these extended comments to the main accountability list as to the subgroup has done excellent prep work on the Work Area 2 sub list, if you wish. And would try to refine it between this and the next call and then go back to that point.

Can I please get communication if there is somebody on this call who's not in agreement with this? Alan has problem describing this as an interim work result. I think - well the point that I intended to make is that at this stage it would not be an interim work result; it might be an interim work result if the whole group thinks that it's okay to be such. But at the moment it should actually inform our further discussion.

And, Alan. Alan, your hand is raised so please speak up.

Alan Greenberg: Yeah, if I could be clear I wasn't saying I have a problem defining it or describing this as an interim work result today versus next week. I think, yes someone did some work to create this but I don't think this was a work result; I think this is one of the inputs which we may be using in the future.

So this may be just a nomenclature issue but I don't think anything on that list casts anything in concrete as to our deliberations. It's one of the sources we may be using for ideas as we go forward. That's how I view it anyway.

Thomas Rickert: Thanks, Alan. And I'm more than happy to adopt any nomenclature that is more accurately reflecting what we're doing. I guess the aim is clearly stated. And with that I think we need to close this particular agenda item and I'd like to give Avri the opportunity to speak to Work Area 3 now.

Avri Doria: Okay, can I be heard?

Thomas Rickert: You can, please proceed.

Avri Doria: Okay, fantastic. I've been having - this is Avri speaking - I've been having real live problems with Adobe Connect tonight for some reason. So I typed this into the chat but I don't think it's appeared yet.

Work Area 3 has not really started yet. There is a good 20 plus people on the list. We've obviously talked a lot about, you know, many of the overlap issues in this meeting both in the earlier - in the earlier agenda item and then all the way through the last two.

What I think we need to do at this point is start putting together a very similar table to what's been created by the first two. So, you know, all work - we haven't even set a meeting for talking. I'm not going to try and get us to set a meeting in the next week.

But what I will try to do is get an effort going of creating a first table so that next time through in our next meeting we have something to look at. And it's started to basically gather all the issues that have been discussed today and are being discussed in CWG Stewardship. Thanks.

Thomas Rickert: Thanks, Avri. I see that there is a comment by Kavouss. Kavouss, please.

Kavouss Arasteh: No, I (unintelligible) no, I didn't ask for the floor. Sorry.

Thomas Rickert: Okay so that might be an old hand. Thank you, Kavouss. And I think with that quick update we can close Work Area Number 3. And I would like to hand back over to Mathieu to deal with Work Area 4.

Mathieu Weill: Thank you very much. And without further ado I would like to give the floor to Eric Brunner-Williams who is the lead - the coordinator on Work Area 4 to give us an update about the task at hand which is to build a list of contingencies that we would be using at a later stage to stress test our proposals. Eric, can you update us on your advancement?

Eric Brunner-Williams: Thank you, Mathieu. This is Eric Brunner-Williams for the record. Working Group 4 has fewer than 20 persons - participants at the point, to the best of my knowledge. We began with - or I began at least with a review of the 10 stress tests submitted by the Business Constituency, by Steve DelBianco in our first conference call, through the chat.

I don't know if anyone else has read the stress tests or my write-up on them but it's out there on the mailing list for Working Group 4. James Bladel has also submitted a suggestion that there really are only two kinds of contingencies.

I don't think we've actually gotten a grasp on what it is we're trying to do yet with Working Group 4. There is - so far I haven't seen any indication - and I've been reading like mad - as to what the appropriate methodology is to approach this or what the existing literature is for governance-related scenarios for accountability failure.

So it's still - after three weeks it's still very early for Working Group 4. That's really all I have to say. Thank you.

Mathieu Weill: Thank you, Eric. I see Kavouss's hand raised. Please, Kavouss.

Kavouss Arasteh: Yeah, this is more earlier questions than we discussed to make in this of all issue for study. I refer to the input from the NETmundial. I think you or maybe Thomas say that at some appropriate time you take up that issue that I identified. There are several documents they have issued relating to accountability.

And perhaps it might be useful to look at those input. I don't know whether Group 1 or 2 or any group has had a chance to look at some of those inputs

and comment to those inputs which has relation to accountability. That's was an interesting meeting and a lot of good material is available there. So I said at some time the co-chair will raise that issue and try to accommodate that. Thank you.

Mathieu Weill: Thank you, Kavouss. Eric, you wanted to respond?

Eric Brunner-Williams: Thank you, Mathieu. The reference to documents without titles and without URLs is problematic for me. I really don't know what the previous speaker is referring specifically. So I would appreciate more explicit descriptions of the documents and their locations.

And, again, the - I don't know if these - without actually reading them - how these actually referring to the narrow question that we have at present before us. Thank you.

Mathieu Weill: Okay. So what I understand - Kavouss, is that an old hand or...

Kavouss Arasteh: No, no...

((Crosstalk))

Kavouss Arasteh: I think it was a question perhaps to me that what are the documents. I don't refer that to Group 4 but I said that NETmundial had 180 contributions plus 1250 comments that and some of them relates to accountability and I thought it was useful that that should be looked at. That was the question. Not necessarily to Group 4. Thank you.

Mathieu Weill: Thank you, Kavouss. I think we had identified this last time as one of the inputs that would be considered by Work Area 2 essentially in terms of

proposals. And I suggest within this workgroup we come back to this to make sure we are - it has been provided the relevant information so that it can move forward.

Going back to Eric's questions, which were basically about trying to grasp what is at stake, with this Work Area 4 and form of methodology, we sort of missing one of the advisors right now because I think there's a lot to grasp from typical corporate governance practices.

But I think we'll certainly move that forward to the sub group list so that by next week or we can provide a more advanced view of the work of this group. I'm conscious of time because I'm aware that we have only 10 minutes left. But certainly I will get with you, Eric, to try and find a way forward for the group by next week. Is that okay? Okay fine.

So I suggest we move to the next agenda item which is the draft work plan. One - this - the input that was sent to you is almost the same as last week. I think the only - most of the changes are on the next slide and so I won't take you through the whole presentation once again.

We have - so this is our second reading of this document and just to update I have just highlighted that the discussions regarding Work Stream 1 and Work Stream 2 are already starting within Work Area 2. And we will - we are trying to - we have a discussion and I would (unintelligible) advisors around to what I called identify legal constraints. And I'm taking into account the comment that was made earlier by Steve regarding the fact that we're not only looking at constraints but also opportunities.

But basically my point is that this is one of the key topics we would need to have very early from advisors - or legal advisors to inform our work. So my

point in this agenda item is if there are no further comments or objections, and I'm testing the waters just like Thomas was doing earlier, this is the key reference document that we'll use with staff to populate a more detailed work plan that we could come back to next week or the week after to have an overall - a more detailed view of the - our work timeline.

So my call is whether there are any objections to actually building the group's plan according to those phases with those milestones and using it in the course of our work as the reference. And of course it's a plan so it is subject to change due to any external events. But this is the - in principle to give an overview of where we're going and where we are at a certain point.

Are there any comments, objections? That's good. I think some of you may be very tired because it's getting very, very late. And others are very tired because it's very early. Okay.

So I suggest we move to the next agenda item which must be any other business. So - sorry, to close this draft work plan item the action item is for co-chairs with staff to actually come up with a more detailed work plan populated against - in compliance with this overall milestones. Kavouss, you asked comments?

Kavouss Arasteh: Yes, I might have missed the point but still I would like to know what is the venue of the face to face meeting in Frankfort? Has it been announced? I missed that or because I have to make the arrangement for accommodations I should know the location of the meeting. Thank you.

Mathieu Weill: Grace, would you like to answer that question?

Grace Abuhamad: Yes, Mathieu. Thank you. This is Grace for the record. I've sent out meeting details to the mailing list and I also have a wiki page which I'm going to post right now into the chat so that you're - that you can have the wiki page with the location and details for the meeting.

But to answer your question directly, Kavouss, the location is the Meridian Hotel Inn Frankfort. And I will make sure to send you as well the copy of the wiki page so that you have that directly in your email.

Kavouss Arasteh: Thank you.

Mathieu Weill: Thank you very much, Grace and Kavouss. So regarding any other business, Thomas, do you have any other business or Leon?

Thomas Rickert: Yes, I would - Eric has one point so I'll let Eric go first.

Eric Brunner-Williams: Thank you. For those of us who won't be participating in the face to face I'd like to make sure that the Adobe Connect is used. And we're sure before we even have the meeting that we're not going to have any portioning of the - reduction of the remote participation. Sorry if that didn't sound very intelligent but I think you know what I meant. Thanks.

Mathieu Weill: Yeah, we are all excused for that. Grace, please.

Grace Abuhamad: Thank you, Mathieu. So, Eric, to answer your question, we will have the exact same remote participation that we have for all of our meetings so we'll have the Adobe Connect room and the audio phone line. And we've done - we're following the precedent here of the face to face meeting that the CWG had in November. And they seemed to do very well with the same sort of setup with the Adobe Connect and the audio just like they have for the regular meetings.

Mathieu Weill: Thank you, Grace.

Thomas Rickert: Okay then I guess it's my turn...

Mathieu Weill: Yes.

Thomas Rickert: ...again. Yeah, just a quick point about reports that - or particularly one blog post that has been written about the progress of our work which, in our view, gave the impression that our group was leaning towards transforming ICANN into a membership organization.

And we, as co-chairs, wanted to discuss this point with the group or at least bring it up. And just caution that at this stage, and this has been mentioned a couple of times already on the call, we're still in the phase of collecting ideas, amalgamating lists of - of comments that have been made.

We're not yet in the phase of analyzing those in detail or even suggesting concrete implementations. And we felt that it might be misleading for the wider audience if the impression was made that our group already has a firm direction that it takes which it clearly doesn't.

And we were - we wanted to bring this up with the group. I think comments from within this group as well as from bloggers or other individuals outside this group are extremely valuable and welcome and it's - we would like to encourage everybody to make themselves heard.

We were just note certain whether it would require some sort of reaction from us, maybe reaching out to the blogger to confirm that at this stage the group has not yet taken a specific direction. I'm not sure whether anybody in this

group wants to respond to that. Because we will have multiple more instances where ideas are being discussed and it might be misleading if all those discussions are presented as if the group actually took a certain view, which clearly at this stage it doesn't.

So that is...

Roelof Meijer: This is Roelof. I cannot raise my hand, can I say something?

Thomas Rickert: Yes please do, Roelof. It's your turn.

Roelof Meijer: Okay, thank you. Yeah, I think it's a good thing to react and give a summary of what you just said that we haven't come up with a position yet and we're not considering a particular direction or solution but we're still inventorizing, making inventory of ideas.

Thomas Rickert: Okay, Roelof. I understand you have made your statement. I'm not sure whether you've just been cut off. If you have then please speak up again so that's good advice, thank you. Any further comments? I can't hear and see none. Let me then ask whether there are any objections to us reaching out to the blogger and trying to engage in a conversation? Not to criticize but just to seek for the best possible ways to display - to display the progress of our work.

In response to Eric - yeah, I guess Steve it put rightly, and I was referring to - and I should have made this explicit, although I didn't want to narrow it down to an individual blog post. We're talking about the blog post that has been published on Internetgovernance.org by David Johnson.

But the question is a more broad question which is, you know, this is not to finger-point at David but we just want to check with the group whether you agree that we should engage in a conversation with bloggers.

Carrie Devorah: No, you always - Carrie - you will lose whenever you step into a conversation that someone is challenging. Do your own (unintelligible) keep on walking ahead.

((Crosstalk))

Thomas Rickert: Can you please repeat? I had a hard time understanding what you said. Please do repeat what you said.

Carrie Devorah: Whenever you step into a battle to answer back to someone you lose no matter what you're going to say they've already won by the fact they've taken the upper hand with this. It's better just to ignore the - ignore his post. I read it, I mean, I, you know, just another person writing another post in the - the Internet is filled with posts. Don't take it personally; just keep moving forward.

Thomas Rickert: I - Carrie, is that correct?

Carrie Devorah: It is Carrie. Years back I answered someone who blogged about something I had done, some photographs, and it was a lose/lose situation. Personal experience you just keep on moving ahead, you can't keep on addressing everyone who has an opinion.

Thomas Rickert: Carrie, that's much appreciated. There is always that risk. And I think we would need to frame this very carefully and inviting. And I trust you've taken

my comment as not as a starting point for criticism but for constructive dialogue. Let's move to Alan.

Alan Greenberg: Thank you very much. There's going to be a lot of suggestions made in these meetings, some of them are going to be completely rationale and some are going to be loony. And there are going to be people who - once something is said in the meeting is going to say we're discussing it and therefore we are planning to do it. It's inevitable. So this is just one of those examples.

I think there's going to be plenty more because some of us are going to have some pretty interesting ideas I suspect. And one of the downsides of holding a meeting - an open meeting is other people listen.

Thomas Rickert: Well I think that's one of the upsides...

((Crosstalk))

Alan Greenberg: Well, yes, but some of them misunderstand what we're saying or misquote deliberately. That's life.

Thomas Rickert: Yes and I don't - I'm not suggesting that there was any intention in inaccurately displaying the status of our conversation. But I think we as co-chairs need to take this back. It's very good feedback. I'm conscious of time so I think we need to close this now.

Another suggestion might be for us as co-chairs to give - to give regular updates via blog posts and maybe that could be another source of information for those who are interested in the discussion.

Let me close it here and give it back to Mathieu for closing remarks.

Mathieu Weill: Thank you very much, Thomas. I think in terms of closing remarks I essentially recap some of the actions that we have agreed on during this meeting. So the - as co-chairs we will start - we will engage with the advisors to bring them on board as quick as possible taking on board the comments we've had about the ways to interact with them.

We will keep on exchanging with the CWG leadership to make sure our timelines are in sync and we have had good discussion about what this could mean. There are feedback requested from the group regarding the work - the Work Area 1 and Work Area 2 documents. And I hope you can all have a thorough look at this and comment on the substance on the lists so that we can keep progressing on those extremely valuable inputs to our work.

And we will try and discuss with Work Area 4 the best way to move forward on contingencies as well as well as prepare a more detailed timeline with staff based on the draft work plan we've exchanged on. So I think we've covered quite a bit of ground. We have - we start seeing more clearly the issues and the current status quo and the current proposals on the table.

And I think this is extremely valuable and probably our work will shift in the next few weeks to some form of more substantial assessment and maybe even prioritization of our further work so I'm very hopeful that by our face to face meetings we will have really, really substantive discussions possible and we should definitely, despite the holiday season, keep working so we make progress as fast as possible.

Thomas or Leon, would you like another concluding remark?

Thomas Rickert: Not from my side. You did well. Thank you.

Leon Sanchez: Nothing from side as well. This is Leon.

((Crosstalk))

Kavouss Arasteh: I'm sorry, I have one last question or comment, say. Can I make it?

Mathieu Weill: That would be the last.

Kavouss Arasteh: Yes, with respect to the issue which is very important at least as far as I'm
                  concerned, the California law constraints versus international applicability law
                  and constraints, would it be possible that advisors dealing with this issue
                  provide written material before discussing at the meeting in order to make it
                  possible for us to review that to raise any question when they are available on
                  the chat - on the virtual wiki. Is it possible that we talk with them?

Mathieu Weill: Thank you, Kavouss. I fully agree with you with the - how urgent this is and
                  how valuable it would be to have this input very quickly. Unfortunately, we
                  don't have an advisor right now that is legal international law advisors. It's still
                  being researched. And so I'm not very optimistic on the fact that we will be
                  provided this expertise by the mid-January timeline. But I agree with you that
                  we should and we certainly should push for that.

Kavouss Arasteh: Thank you.

Mathieu Weill: I hope that answered your questions. My final remark would be to, once again,
                  welcome Leon as one of our co-chairs. Certainly he stood in the background
                  for this meeting but you will hear much more from him in the next meeting as
                  we'll take our new - our new ways of working with the - as - and sharing the
                  workload between the three of us. So welcome, Leon. And I thank everyone

for this participation despite odd hours for many of you. And once again I wish everyone happy holiday seasons despite the calls. And talk to you next week.

((Crosstalk))

Thomas Rickert: Thanks, everybody. Bye-bye.

Man: Happy holidays. Bye-bye.

Man: Bye. Thank you.

Avri Doria: Bye.

END