ICANN

Moderator: Gisella Gruber-White
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8:00 am

((Crosstalk))

Woman: Please go ahead - thank you.

Thomas Rickert: Thank you very much. Welcome everybody to the Fifth Call of the
                  (Accountability) Working Group and ICANN Accountability. My name is
                  Thomas Rickert and Mathieu Weill and Leon Sanchez - the other coaches as
                  well as myself would like to wish you a Happy New Year and hopefully this
                  is going to be a fruitful year and that we're going to have a very productive
                  time together. I think we achieved quite a bit in the short time that we've been
                  working together so we're really looking forward to working with you more.

                  I would like to keep this welcome very short in terms of roll call I think we
                  should apply usual practice that we collect membership from the Adobe
                  Connect Room so I would like those that are just on the audio line to please
                  speak up so that we can record them as participating in this call.

((Crosstalk))

Woman: Oh, sorry.

(Paul Schinander): (Paul Schinander).

Becky Burr: Becky Burr.

Sebastien Bachollet: Sebastien Bachollet.

Thomas Rickert: Thank you - anybody else?

((Crosstalk))

Thomas Rickert: Who was that? Who was on (the) call?

Olivier Crepin-LeBlond: Olivier Crepin-LeBlond.

((Crosstalk))

Thomas Rickert: Olivier welcome. Any more S&D's on the audio line only? No, that's not the case then we can record that as the colleagues on the call and then I'd like to ask you whether you had - whether there are any updates - statements of interest. And I'm hearing none nor do I read any in the Chat and with that we can move to the second agenda item which is the discussion on the Work Stream One - Work Stream Two demarcation and with that - and for that I'd like to hand over to my colleague Leon.

Leon Sanchez: Thank you very much Thomas this is Leon Sanchez. We've been discussing the subject of Work Stream One...

Man: Thank you.

Leon Sanchez: ...Work Stream Two (there's) many calls and - well there's been a recap - the different calls of and (messages) that have been collected - the (least) and through our different calls and Mathieu sent out an email yesterday making a recap about the differences within Work Stream One and Work Stream Two. And well we would like to review these definitions and the work that's been done in order to have a more clear (instance) before we get to our face to face meeting in (Frankfort). And I will know the problem statements from our (unintelligible) to the (MTIA) (unintelligible) consensus with our position and we'll need to have some accountability and can you all hear me well?

Man: Could be a bit louder.

Woman: Yes, you sound fine.

Leon Sanchez: Okay, I'll try to speak up. Is this way better?

Man: Yes.

Leon Sanchez: Okay, thank you. Well so we have to put, of course, different accountability mechanisms to make our proposals acceptable to the (MTIA) in order for - to have a successful work of our - of the working group. Within the discussions we have allocated Work Stream One and Work Stream Two being Work Stream One focused in mechanisms and (answering) ICANN accountability that must be in place or committed to within the time frame of the IANA (source) of transition and Work Stream Two focused on addressing accountability topics for which the time line for developing solutions and (full) implementation may extend beyond that IANA (source) of transition.

So far there's been -- as I said -- a little work done within this area and some of the recap that - definitions that Mathieu sent yesterday which was Work Stream One - Work Stream Two are for example; in Work Stream One is designated for accountability mechanisms, but not being placed or firmly committed to before IANA transition occurs. All of the consensus items could be Work Stream Two provided there are mechanisms in Work Stream One adequate for (forced) implementation of Work Stream Two ICANN (unintelligible) from ICANN management (unintelligible).

So one of the things we would like to do on this call is, of course, try to fine tune this definition and listen to the comments that you may have. We have also had comments from (Paul Rosenslide) regarding the Work Stream Zero which would be, of course, a prerequisite for all Work Stream One (metrics) and we have a recap here that - comments from (Paul Rosenslide) says, as there's all things apart of what we should be doing in the long run is focusing on the (four) critical - three to five items - there absolutely essential to ensuring accountability. (Unintelligible) there's actually a (unintelligible) Work Stream One which I call Work Stream Zero for one of a better term - will be fundamental (red) lines for the community.

So now I would like to concentrate on having comments regarding Work Stream Zero because this is one subject we haven't been able to widely discuss on our previous calls. So I would like to, of course, open the floor for comments with regard to Work Stream One and Work Stream Two and Work Stream Zero right now so while I open the floors for comments. Malcolm Hutty I see you have your hand up so please go ahead - you have the floor.

Malcolm Hutty: Thank you. Well very briefly I'd like to suggest that the two most call accountability questions are ensuring that the board is faithful to its own bylaws and that's most fundamental because everything else is built upon that.

If you can't ensure that then anything else you build is really built on sand. And the second one is remaining faithful to the purpose and mission of ICANN and -- in other words -- not acting what lawyers call ultra virus or outside its mission because if you're able to redefine the mission - to expand into new areas in mission create generally then anything else that we put into place to try to hold to the board to account would amount to - could be dealt with by simply saying what is now part of our purpose to achieve this new goal. So I'd say they're more fundamental (burn) than really anything else.

If you have both in place strongly then the other things that we build we can have confidence in. If you don't have both in place nothing else we do - we can have confidence - will have any affect. Thank you.

Leon Sanchez: Thanks. Thank you very much Malcolm this is Leon Sanchez again. One thing I would like to highlight is that word (friendly) is - well not that we we'll define our charters so that's something we will have to work on as well. And now I'd like to give the floor to Steve DelBianco which I see has his hand up so Steve please go ahead.

Steve DelBianco: Thank you Leon. In the Chat I take this - some of what Mathieu put in his email yesterday - this is the email regarding Work Stream One and Two. Then Leon you're leading us through that, but it would be great if staff could display the contents of (Matthew's) email in the Adobe Chat for those who may not have it at their (elbow) - that would be convenient. This is great - this is for you - this is the one that Mathieu just sent yesterday.

Now he lays out Work Stream One and Two - Work Stream Zero and he concludes with what I just put into the Chat where at the very end Mathieu proposed that Work Stream One mechanisms so those that went in place or committed to would provide the community with confidence - that any

accountability mechanisms that would further enhance ICANN's accountability would be implemented - that a consensus support from the community even if it were to encounter ICANN management resistance or for or against the interest of ICANN as a corporate entity. And I for one as a rapporteur for Work Area Two would embrace (Matthew's) proposal as a variance or an improvement on the distinctions between Work Stream One and Two, but our Work Area Two had put forth over the last five weeks and I think that's a fair recap that you came up with.

I do think it begs the question though of what is that needs to be in Number One? What is it that has to be in Work Stream One? And this is some of what (Paul Rosenslide) was getting at when he said, think of it as Work Stream Zero because what are the essential elements that we have to get before the transition occurs and unless they have to get could be committed to if it was firmly committed to in a way that it could not be back tracked. But we still have to confront how to use the leverage that is presented to us as a result of (MTIA's) transition of the IANA contract in order to get accountability mechanisms to Work Stream One.

The distinction that (Matthew's) proposed between One and Two I think is very good and I'm agreeing with the Chat where Bruce Tonkin and also I think that it looks as well so that's fine. And yet figuring out what has to be in One is the same conversation that we have to have in addressing what should be in Work Stream Zero. I don't really think it helps us to make a distinction between Zero and One. Think of Work Stream One - I think that we would need to get firmly committed or completed prior to the transition of IANA. And everything else could fall into Work Stream Two under the definition that Mathieu proposed here - thank you.

Leon Sanchez: Thank you very much Steve. I see Thomas Rickert with his hand up - could you please go ahead and take the floor Thomas.

Thomas Rickert: Yes, thank you very much Leon. I was wondering whether we could further (refine) this by getting back to the notion of some sort of over (side) mechanism for (unintelligible) because what I think and I think we'll get back to this discussion again when we - during our call later. I think there are three main topics that at least I saw as (heard) participants of this group say and also others and that is Number One that the ICANN Board needs to work by the bylaws - that there needs to be a possibility to overrule the ICANN Board if the community so wishes or if there's an urgent need by the community to do so.

And the third topic would be the potential dismissal of one or multiple board members. And I think that definition that Mathieu put up - puts that in general terms, but I'd very much like to get some feedback whether these three themes that I've mentioned would actually be those that the - some views of this call would also prioritize. Because I think if you put that into Work Stream One then everything else could subsequently be dealt with because the community would then have a mechanism to overrule if need be the board - in case the board doesn't do as it should.

Leon Sanchez: Thank you very much Thomas. I see Alan Greenberg - the line - he's with his hand up so please Alan would you go ahead and take the floor?

Alan Greenberg: Thank you very much. I actually like Thomas's words so much better than those in the document and I'll explain why. The last statement in the document - for instance - in the excerpt that was put on line was that the community feels something should be done instead of something which the board felt is in the interest of the ICANN - the organization. Well ultimately it

is in the interest of the community that ICANN exists. I think we have that as a premise or we wouldn't likely be here, therefore, something which is in the interest of ICANN to the extent that, you know, if ICANN would go bankrupt or cease to exist because of (unintelligible) is of interest to the community. And these things are not black and white - certainly not simple relationships and I think we need to put something in our words to make sure that we're not presuming a black and white situation where in fact there are likely to be subtle shades of grey in between them. So just a caution as we go forward to make sure that we're looking at a real world solution - not one that works in our mind where things are cut and dried - thank you.

Leon Sanchez: Thank you very much Alan. I see Steve DelBianco with his hand up so please go ahead and take the floor.

Steve DelBianco: Thank you. Thomas you summarized what you thought were three elements that emerged from the discussion and I wanted to clarify that all three of those elements were reflected in the very first inventory we published for Work Area Two. Those are all three elements that were proposed to be in Work Stream One. There are some other things that made their way into one because people are now working asked for them to be in One, but it's totally appropriate to have the debate about what really has to be there in Work Stream One.

And all I wanted to do was to clarify for everyone on the call because a lot people are just getting up to speed, but all three of the elements that you mentioned Thomas have been there for five weeks. And they're in the table and the table for Work Area Two which has recently turned into a viewable HTML document - I put the link to it in the Chat just now so those of you who wanted to click over to it. But the three I'm speaking of are this notion of holding ICANN to its bylaws and it's had a review mechanism composed to

community members and I believe you had another one in there with respect to (filling) the board - some portion of the board if the community had a desire to do so.

So what Work Area Two did was to put together a specific list of mechanisms that have emerged from public comments over the last several months and the three you mentioned are already in there, but there are some others that deserve some consideration in Work Stream One. It would take a big part of this call and perhaps a big part of the face to face to go through those two pages of Work Area Two inventory and try to gain consensus on which of them must be committed to in Work Stream One. But I welcome that exercise - something we're about ready to start - thank you.

Leon Sanchez: Thank you very much Steve. So we have no more people in the queue so well I see Thomas - I see Thomas has raised his hand so please Thomas could you go ahead and take the floor

Thomas Rickert: Thank you Leon and thanks for the opportunity to speak again. I guess what my (unintelligible) is actually using the definitions that Mathieu put into his email because I think it's good to have a clarifying - general statement because what I gave was sort of examples of what is needed first. And to respond to Steve the idea was exactly what you alluded to in your last statement - i.e. - looking at the inventory for Work Stream One and because I think that within Work Stream One there's clearly room for those items that are of highest priority and (unintelligible) that can be put into Work Stream Two if certain measures are being taken in Work Stream One.

But as the tasks for Work Stream - for - excuse me - for Work Area Two was to establish an inventory of all the (asks) that have been put forward over the last couple of months, you know, those that were making those requests to

have certain items in Work Stream One - i.e. - prior to the transition did not know what the whole inventory would look like. So I think we should for the sake of keeping things to stay forward and simple and (back and forth) being able to orderly sequence the action items we should be looking at exactly what we're doing now - i.e. - having a general definition along the lines of what Mathieu put out and then maybe (slash) out the privacy issues that (unintelligible) prefer and put the rest into Work Stream Two so that's just for clarification purpose.

Leon Sanchez: Thank you very much for this Thomas. So well following what you just said would there be any suggestions as to changing the wording that Steve put out? I would like to also hear about points of view and concerns on how could we improve this wording that has been put forward in order to address the differences of what been seen through the call right now. So could you please let us know which wording would be adequate to address these concerns? Alan I see you have your hand up - could you please take the floor?

Alan Greenberg: Thank you very much. (Sam Eisner) put some words in the Chat in an attempt to address what I said and I agree with the intent, but again I'm flagging the - my concern that we get our words right and I don't think that one is quite right. For instance and it's been often mention that ICANN is law suited verse - that we will do anything to make sure we don't get law suits because law suits ultimately could put the overall corporation at risk. And somewhere there's the dividing line that yes you can't be afraid of every law suit, but you don't want to do anything really stupid. And I don't know how to put that into polite words, but somehow I think going forward we're going to have to look at that.

Leon Sanchez: Excellent so could you be - (assist) at some point the...

Becky Burr: I'm sorry this is Becky - I'm not in the - in the Adobe so I can't raise my hand, but I'm...

Leon Sanchez: Go ahead Becky.

Becky Burr: ...I just want to follow up on that last comment which I think is really critical. Part of the problem that we have is that the stakes for law suits are really high both - it's very hard for the community to find mechanisms other than law suits to really resolve disputes and the manner in which they come up in the - through the US judicial system can be very high stakes as well. And so, you know, one of the critical issues to me is finding a practical dispute resolution mechanism that provides better proportional to the stakes and I mean proportional in terms of, you know, that the difficultly for people to use it as privy as reasonably set in a way that I don't think it is right now and the consequences for I can't also (reasonably) access.

Leon Sanchez: Thank you very much for this comment Becky. So just so what Alan said it would be very useful - Alan if you could just provide us with some example - complete wording that you would like to see put in the document. So maybe an action item for us would be to make a recap on the mailing list by us co-chairs and send it back to review for approval before our next meeting. And we would very much like to (ask) his wording to - you would suggest Alan to just recap so well I'll contact you - office to get this wording straight. So I see Alan Greenberg waving his hand - please go ahead Alan.

Alan Greenberg: Yes, I'm afraid I don't have magic words right now, but I know it's something we have to think about as we come up with the words. So I will reluctantly turn down the offer to let me draft something good - perfect and simply leave my warning there that's something we need to think about.

Leon Sanchez: Excellent - well then we'll have to work on that together. I would like to just see - call for any further comments on Work Stream One - Work Stream Two. I see nobody raising their hands so maybe we can go ahead to the next agenda item which would be definition of (scoping) and we'll turn back to Mathieu.

Mathieu Weill: Yes, thank you Leon. The first item shows that we had a good first discussion on substantial proposal really - in a really command to Work Area Two group for really provided (deceptions) for this discussion and probably will come back to this on one of our next coming meetings to make sure we share this view. But I think it was a valuable discussion and we have provided as well as coaches a document that is intended to address some of the scoping issues that we have for a group to make sure we all speak with the same words and speak of the same things when you using those words.

And the document that I shared on the list yesterday is intended to share those definitions - clarify what the issues we're talking about and be sort of a base line reference that we can use as our work moves forward. There were several sections - I will scroll through the document for those of you in the Adobe Room. The first section is related to the problem statement. It is basically copy and paste from the chart - formal charter and reminds that we have to and I'll go (unintelligible) to enhance ICANN's accountability.

Then we have - scrolling along - then we have the section where we try to go a little deeper into the definition of what stakeholders should ICANN be accountable to. Our (work) charter provides a general definition of stakeholders and we have tried to provide examples about what's directly affected stakeholders are and indirectly affected stakeholders or parties that affect ICANN are also stakeholders and we tried to provide examples of parties affecting ICANN directly.

Scrolling down - parties affecting ICANN indirectly so this is really for example purposes of making sure we speak of the same aspects. Then we have a section regarding the definition of accountability itself. Our charter is based on the (unintelligible) definition of accountability so the existence of mechanisms for independent - checks and balances as well as for review and redress.

This means we have to define what check and balances are and provide examples. What review mechanisms are about - what redress means and also -- and this is a section we've not discussed that much yet -- what independence is about. So this - I was - there was two suggestions. One is the independence of the individuals participating in the process and another one is the independence of the mechanisms themselves - these are one other.

And finally we have the question that was raised by a (shelter) in London - what is the purpose of ICANN's accountability and we have detailed two different purposes. One is the compliance purpose so ICANN should be accountable to complying with its own rules and processes. We discussed this earlier - we got into both being compliant to the bylaws for instance. And another one is to be accountable to achieving such medals of performance, of course, in the IANA context this is of particular importance.

Finally the document is providing a very, very short recap of our discussions regarding public interest and calling for a pure definition of the ICANN context of what this would mean, but also acknowledging that there might be different views on the matter. So I want to highlight before opening the floor to comments that this is really a document to make sure we have - we are sharing the same perspective on the words we're using. There is a - the call will be for comments - proposed edits - clarifications that are needed

especially regarding the definitions which we really encourage you to read with (attention).

I want to stress that the examples that we provide - there is no ambition to become apprehensive in the list - they are provided for clarity and, of course, there is - the fact that they're mentioned is in no way an indication of the importance of the topic or of the accountability mechanism and therefore I think we - I mean I insist that we should not over interpret the fact that something is thrown up as an example; meaning that we will address this in the course of our work is just to make sure we speak the same things.

That's all for my introduction of this document and I would like to turn now to the short queue that is forming and to Tijani first for comments.

Tijani Ben Jemaa: Thank you very much Mathieu - Tijani speaking. First of all I would like to thank you for this document, the definitions are very important for our work and I think that putting them on the paper is and summarizing them is very helpful for our work. I have very small remarks, but one important remark that I want to stress here. You said that there is only two purposes of ICANN accountability and you said that the public interest acting in the public interest is not - didn't have enough support in the group. That's why you didn't mention it in the list. I think this is something that we have to discuss and plan for. I didn't see that there is not support for it - we didn't discuss it (unintelligible) and I do think that one of the purposes of the ICANN accountability must be...

((Crosstalk))

Man: So are you - so I can now continue to remain on the line or not?

Tijani Ben Jemaa: I am speaking...

Mathieu Weill: (Unintelligible) we can hear you. And you're online.

(Kavouss Arasteh):   Yes, I can hear you, but unfortunately good afternoon and good morning to the others. Unfortunately I could not be connect to Adobe Connect because at this Web site - it has been removed or is not available. I can't do anything, but that might be a bug within here and the connection line and I don't want to waste your time talking about that. So I just listening. If I want to talk, I will request you, saying that I need to talk. That's all. I can't raise the hand.

Mathieu Weill: Thank you, Kavouss . And welcome to the call and hopefully you can participate later on. If you want to...

(Kavouss Arasteh):   Thank you. Thank you very much.

Mathieu Weill: Is your hand - (unintelligible).

((Crosstalk))

Tijani Ben Jemaa: Yes, but (unintelligible), I was speaking. It was - but anyway, so I think that we can identify four purposes for ICANN accountability. Complying with its own rules and process, achieving...

(Kavouss Arasteh):   Oh, yes, that would be the (unintelligible) factor.

Tijani Ben Jemaa: Achieving certain levels of (unintelligible) as well as security, complying with the applicable legislation and jurisdictions where it is operating. And the last one is acting in the public interest. Thank you.

Mathieu Weill: Thank you, Tijani I think this is really an area of discussion that we will need to have and it's perfectly legitimate. Just to clarify the intent that was behind the conclusion on public interest, it was more the impression that -- and it's open for discussion -- that public interest being difficult to define, it would be difficult to hold ICANN or any organization accountable to something that has various interpretations. And that is why I was suggesting that it was not a concept that was yet mature enough to hold ICANN strictly accountable to. But it's open for discussion and your question is perfectly legitimate. (Steve), you're next on the line.

Steve DelBianco: Thank you to the chairs for preparing the problem statement. I wanted to address item four in your problem statement, which is the purpose of ICANN's accountability. First to Tijani, there was an extensive list discussion after our first call, Tijani, about the definition of public interest. I started it off with a very simple proposal. I put it into the chat. It is this: public interest for ICANN is really just the availability and integrity of registrations and resolutions. That's all that the DNS can possibly affect. And expectedly, lots of folks had other ideas about ways to expand the definition. And we had a lively discussion on it, but really no conclusion. And you're seeing some of that in the chat right now. So I don't think it's something we'll resolve on this call, but Tijani, I just wanted to be sure you understood, it is something we have attempted to discuss a couple of times and we'll have to revisit it.

Now, with respect to what the chairs came up with on the purpose of accountability, I believe that we would be remiss if we tried to assume that there was a static purpose. In that you can statically define -- as you did in 4A -- that ICANN's accountable to comply with its own rules and processes. That goes without saying that they have to follow their rules, but we have to acknowledge that over time, the owners of ICANN may define what its rules

and processes are. They might even redefine five years from today what the public interest really means for the purposes of ICANN.

And what's been missing for the last 10 years is that the owners of ICANN -- that is to say, us - the internet community ICANN was created for -- we have no way of imposing changes that the board resists. In other words, we could come up with a bylaws change -- we could come up with a definition of public interest, Tijani -- and show complete support for that definition from the community and still have the board and management reject it or have the board and management choose to interpret or implement it against the will of the community.

So what is needed is a dynamic mechanism so that if there was bottom up consensus support for some purpose of accountability that we haven't thought of in this work group, that there ought to be a way to force that through in the adoption of ICANN over the objections of ICANN's management and board. So there's a unifying theme here that our goal isn't to define for all time -- forever -- what it is ICANN has to do. But to define mechanisms that will hold ICANN accountable to the community it was designed to serve.

So that's why it's better for us to focus on mechanisms we can design as opposed to the actual black and white words of what we think accountability is today. Thanks.

Becky Burr: This is Becky. I'd like to get in the queue.

Mathieu Weill: Okay, Becky. You'll be right after Avri. Thank you Steve for your comment. I think we'll try - we will have to find a way to introduce this dynamic nature of the rules and bylaws -- for instance -- into the definition. It's very valuable feedback. Alan, you are next.

Alan Greenberg: Thank you very much. I'm looking at the -- I won't say definition -- but the list of indirectly affected parties. That pretty well comes down to everyone in the world and every entity in the world. Which I in general support and I think that's a good thing. But I'm asking perhaps a devil's advocate question of do different parties have - are deemed to be affected only by some of the policies or is that - is the intent that if you're an affected policy you can comment and therefore complain or whatever the process will be on any of the policies? In other words, are there subsets or is this - are they all lumped together in one group? I'm asking what the intent is in setting up this list.

Mathieu Weill: I think the intent is really to first of all identify them and then use this kind of list to ensure when we define a specific mechanisms who we think would for instance stand ground to trigger a review or redress process. Or whether our mechanisms actually cover the expectations both of directly affected parties and indirectly affected parties. So it's not meant yet to define that but just give us a common grade of analysis of whether our scenarios mechanisms are addressing the needs of the whole community and so on.

                    I think this - so it's really a first step. And any input we can bring into this document or -- at a later stage -- regarding substantive differences between the stakeholders I think might be useful later on.

Alan Greenberg: Thank you.

Mathieu Weill: I have now Avri and then it's going to be Becky. Avri.

Avri Doria: Thank you, this is Avri speaking; hoping I can be heard. Without in any way, you know, speaking contrary to Steve's reference to mechanisms, I just want to make sure that in doing this, we kept in our minds the requirements that

ICANN and the AOC have already agreed to and just want to agree to two lines of 9.1, which is ensuring accountability transparency and the (unintelligible) internet users. ICANN commits to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the (unintelligible) reflect the public interest and be accountable to all stakeholders. And then goes on to speak of how.

And I just wanted to bring that up and sort of caution or basically just indicate concern about presenting an accountability picture that doesn't include those elements from the AOC. Thanks.

Mathieu Weill: Thanks Avri. This is very good point and I want to stress it. What we try to do in this document was to recap the - our understanding of where there was obvious arguments that were exchanged on the list at this stage. And yours is absolutely essential. We will certainly have to work on this section to make sure we incorporate all the existing requirements, including the AOC public interest in an appropriate manner and in a manner that is - that everyone in the group that we can get consensus on at the end of the (unintelligible). And so we'll certainly have to work with you and others on the list to improve the document on that aspect.

Next is Becky. Please, Becky.

Becky Burr: Yes. I just wanted to follow up on Steve's comments about sort of evolution and not, you know, picking mechanisms that are fixed for all time. That's a concept that at - you know, in general I agree with, but I have a great deal of concern about the notion that something like the mission statement would be, you know, flexibly evolving. And I certainly was a little bit alarmed and that brought be back to the notion that we have discussed in some ways of needing to have a kind of compact that's, you know, more fixed than bylaws, because

if the mission statement could change -- even through a bottom up - a sort of ordinary bottom up process -- it seems to me that would be a fundamental accountability problem.

Mathieu Weill: Okay. Thanks Becky.

(Kavouss Arasteh):   Yes, can you put me in the queue, please. Kavouss .

Mathieu Weill: Sure. Kavouss, you're next, so please go ahead.

(Kavouss Arasteh):   Me? Kavouss ?

Mathieu Weill: Yes, we can hear you.

(Kavouss Arasteh):   Can I go ahead?

Mathieu Weill: Yes, you can Kavouss. Go ahead.

Kavouss Arsteh: Yes, I'm very sorry; I think we do not touch the point which is essential to touch. We are talking so different things around the accountability and so many different things around the public interest, but we have not address what is the accountability. Is not difficult and complex. Accountability in my view is the starting and implementing decisions, responsibilities, condition which has been drawn up for ICANN to implement. Then we have to go to determine what are those responsibility and so on and so forth. But I don't think that what -- I listen to this discussion -- we are just talking on the margin, but we don't go to the heart of the question.

And I don't understand how we could discuss the public interest on phone with conference call. This is an issue which requires careful face to face

discussions. Because we cannot follow the situations. And I think the way that we continuing discussions is entirely different the way that we did in ICG. In ICG we had a subject -- let us say accountability -- there was a e-mail opened on that, XY led commenting to each other and finally someone tried to put all of these comments together and tried to reconcile and have a consolidated document agreed by everybody in (unintelligible) with accountability. But is about three meetings we are talking on these. So - and there are so many things I don't think that will takes us to any of it. I'm very sorry; I'm not pessimistic, but I don't see that we going right directions. Thank you.

Mathieu Weill: Thank you, Kavouss. I don't know whether you have had the opportunity to review the document that was sent yesterday which comprises a section entitled what is accountability and which is based on our charter but also our charter references the definition of accountability, which comes from (unintelligible). And I think this is a good introduction to actually trying to wrap up this topic at this stage. Of course, this is just an initial discussion and I hope we can have further edits and comments during the coming week on the document so that we can have another discussion next week recapping those.

And of course, the goal would be to finalize this document, ensure we all have agreement on this -- including the definition of accountability -- when we meet in Frankfurt. And I think this addresses your concern regarding the working methods, (Kavouss), that we are having. This is really on the preparation path to Frankfurt that we are sharing this. There is - (Thomas) has raised his hand. So (Thomas), please go ahead.

Thomas: Thank you. Can you hear me? I'm on the phone.

Man: Yes, I can hear you.

Mathieu Weill: Yes, (unintelligible).

Thomas: Okay, hello to everybody. Just a quick comment. I think -- at least to some extent -- what Kavouss has said is very relevant. I think - I'm also not 100% satisfied with what is there and what is accountability. And this is not so complex in my view either. Accountability is basically that it is made sure that ICANN does what the stakeholders -- or you can also say all the internet users and the other stakeholders -- want. Accountability is that you do what somebody wants. In democracies you have several processes that have grown over the last decades and centuries. In ICANN we have a different model. We probably need to develop these models. But basically accountability is to do what the stakeholders want and to make sure that there are procedures that minimize the risk that ICANN doesn't do what the stakeholders want.

And then we need to talk about the mechanisms that need to be put in place and the checks and balances and so on and so forth. But the fundamental thing is accountability is to do and not do what the people want. I think this is a very simple and fundamental observation that we might make at the beginning. Thank you.

Mathieu Weill: Yeah, thank you (Thomas). I can - what we're referring to here is really purpose of accountability that - in your view that the - and I concur with that on a - very largely that it's - the purpose is that the organization is kept in line with the expectations from the stakeholders. And so I think this is perfectly valid. I have a small queue forming again and after Alan what I suggest would be to close the line. This is an initial discussion so we'll have time later on to come back to those topics and elaborate. So Eberhard?

Eberhard Lisse: Hi there. Can you hear me?

Mathieu Weill: Yes.

Eberhard Lisse: Okay. I agree with (Thomas) totally. The - but the devil is in the detail, as they say. How can anybody be accountable for the action of the IANA function without manager towards a single CCTLD manager? There is no concept that I am aware of that - so we basically need to probably split this up into several issues. The CCTLD's are different from the rest. And I really haven't figured out how an organization that was incorporated in '97 can act on companies that run businesses since '91 or even '90, '85, or '87. I really haven't figured that one out yet. Actually, I have, but it's not the right forum to discuss this.

Mathieu Weill: Thanks Eberhard. As you know, I am I think well aware of the CCTLDs and what I suggest -- because I share your concern that we should not overextend ICANN's accountability to something that's not within its mission -- and - but please review the document and highlight any aspect where we would imply that this would be the case and we'll certainly try to mend it, because that was not the intent. Alan, you're next.

Alan Greenberg: Thank you. I just wanted to talk a little bit about the public interest and Steve DelBianco pointed us to an e-mail from December. And I think it's an area we're going to have to work at. I'm one of those who don't believe we can define public interest, but we need examples and we need ways of understanding what it means. Because in many cases, the implications of decisions that ICANN makes are - the - it - there's many, many facets to them and we're not looking at first order affects, we're looking at second, third, fourth, tenth order affects. And the public interest I think becomes very salient to understanding what the impact is going to be of some of the things on the - a lot of the various affected parties.

So I just want to make sure that it is something on our list of things to tackle and from -- at least from the point of view of accountability -- we need to understand it well enough so that we can put moderate, reasonable controls within ICANN that will address the public interest. Thank you.

Mathieu Weill: Okay. I have Thomas Rickert now.

Thomas: Yes, thank you very much (unintelligible). Regarding the public interest definition, I'm - I would be very curious to hear whether we as a group think we can accomplish the task of defining public interest. Reading what's been written on the e-mail lists and listening to what's been said during the last calls makes me sort of pessimistic when it comes to satisfactory definition for everyone.

It appears like we have technical parameters -- those that Steve mentioned -- also we had human rights being mentioned in the chat. Bill Drake said that we should not dodge the issue. And certainly we as co-chairs are far from willing to dodge the issue. The question is, what do we need an exact definition for? To what extent will it help us with our work so that we can maybe better understand what we - how we have to approach this? And also whether we think it's actually feasible.

If you look at how law making has been done for centuries, lawmakers would not use individual examples -- concrete examples -- but they would lose general statements that would apply - would be applicable to a multitude of circumstances, which is why I think it might be beneficial to lean on a general term such as public interest. But we might wish to add some examples to it.

I think that -- to summarize the point that I want to make -- is that we should not put resources into resolving something that has not been resolved for more

than a decade. But I think that we should limit ourselves to what's essentially needed for our work and then find volunteers to take on that task.

(Kavouss Arasteh):   Mathieu, put me on the queue.

Mathieu Weill: Thank you Thomas.

(Kavouss Arasteh):   I have to talk. Thank you.

Mathieu Weill: I suggest we wrap up this item of discussions at this stage. This is obviously, you know, only an initial discussion. I would encourage everyone -- every colleague -- to provide comments during the coming days on the list. There - the sending of the document provides the appropriate thread. And please preferably form these comments through edits in the documents -- proposed edits will be much welcome -- that could be considered by the group. And alternates are perfectly okay at this stage as we progress towards a permanent view on this coping.

After we will certainly discuss this again next week. Then in Frankfurt during our meeting. You will remember this is one of the expected outcomes of the meeting. And I have - we have taken good note of the public interest issue, the dynamic versus static issue, the CCTLD view of things, and of course I hope we can elaborate a bit on those issues and maybe even spot others before next week. So we move on with this quickly and efficiently.

I will now turn to the next item on the agenda and turn to Thomas...

(Kavouss Arasteh):   Mathieu, I had a comment...

Mathieu Weill: Who will lead this...

(Kavouss Arasteh):   If you allow me before to go to the next item.

Mathieu Weill: Yes, please, who is on the line?

(Kavouss Arasteh):   Yeah, can I make a comment on the public interest - a general comment before you are leaving this item?

Mathieu Weill: Yes, and if you can keep it brief, (Kavouss), that will be perfect.

(Kavouss Arasteh):   Excuse me?

Mathieu Weill: Yes, provided that you can keep it brief.

(Kavouss Arasteh):   Yeah, keep it brief. I suggest that it is extremely difficult to define public interest. Extremely difficult. We should avoid to do that. Instead of that we go to some examples, saying that anything that conflicts, contradicts, endanger, and put what conflict and endanger what. Instead of defining the public interest, because public interest for person A is different from public interest - - no, sorry, group A -- from public interest of group B, and country A or area. I suggest that we do not get to that because it will get nowhere. Not defining the public interest; extremely difficult. End of my comments, thank you.

Mathieu Weill: Thank you very much, Kavouss. So I now turn to Thomas for the next item of our agenda on the high level statement of principles. Please, Thomas.

Thomas: Thank you very much Mathieu and before we get to the high level statement, let's first go through - go to the engagement with the CWG and the ICANN board briefly. And I should add the ICG to that. Since our last call we've reached out to all three to seek clarification on deadlines and process. As you

will recall, we had a lot of discussion around the question whether -- for example -- the 15th of January deadline would be applicable for us as well. So we've reached out to (Alyssa) to have confirmed the co-chair's understanding that that would not be the case. And she confirmed that in the meantime. So that question I think we can be resolved.

Secondly, we had - we wrote an e-mail to (Bruce Tomkins) who is -- as you know -- the board liaison to this group asking for clarification on deadlines and process as envisaged by the ICANN board. We have not at this stage -- and we would not do that before consulting with you as a group -- we have not included any of the questions that have been discussed on the mailing list. And I'll get back to those in a moment. But let me briefly conclude my report on our interaction with the board. So we've asked (Bruce Tomkins) to convey our question to the ICANN board to provide some clarity on deadlines and the process the board wishes to choose in dealing with proposal coming from the naming community as well as the input from our side.

And should there be an answer from the ICANN board that is satisfactory to the whole group, I think we can deem this procedural point closed. Should that not be the case, then we plan to put that item on the agenda for the face to face meeting that we're going to have hopefully during the Singapore meeting. We're currently planning this, so there is no definitive date or time slot yet, but there is the wish to have a face to face meeting between the ICANN board and our cross-community working group. And gain, should the matter on process not be clarified by then, we will discuss that face to face.

Thirdly, we have reached out to the CWG again -- as you know -- the co-chairs of the CWG and our group are holding regular conference calls to update each other on progress and need for information or requests from each other. And we have discussed with them the idea that we discussed during our

last call; i.e. whether the CWG would find it beneficial if our group could issue and publish some preliminary high level statements. And the response by the co-chairs -- by (Lisa Fleur) and Jonathan Robinson -- was that they would very much appreciate if we did so because that might assist them in finalizing the proposal that they're going to submit to the ICANN board shortly.

As you know, the CWG is going to have its intense work weekend during the next weekend, so time is of essence if we want to provide some feedback to them in a timely fashion, which is why we're going to further discuss this under agenda item number five. But before we go there, let us briefly go back to the various questions that have been discussed on the mailing list; questions that were proposed to be asked to the ICANN board. There was a set of questions I (unintelligible). There was a set of questions by (David Maha) and I think even by others. At least, there have been a lot of contributors that have suggested amendments to questions or additional questions to the ICANN board.

There was a bit of debate around these questions that were basically following the theme of reaching out to the ICANN board as to what or what they would not accept so that we would get some guidance on what recommendations we could potentially work on. And I think that the way that this discussion went is good enough reason for having a quick discussion on this topic during this call. Because I think that we at (Coach) think that there might be a certain risk with asking these questions to the ICANN Board. We remember that we had a lot of discussions around the question "how effective we can be with the recommendations that we're working on?" And that we should not work on proposals that we -- for sure -- know would get the board's permission.

In other words, that we should not ask the board's authority for permission on what we can actually work on. So my question -- to you -- would be whether you think that questions would or would not be limiting us and that we might be seen as having asked the board for permission as to what the solutions are.

I think Jonathan Zuck pointed out that we should not frame our recommendations along the lines of what the board agrees to. But along the needs of the community. So there's a certain risk with that. At the same time -- with our impression as co-chairs -- going through the communication that it might be premature for us to ask such specific questions to the ICANN Board. Because some of them have quite - some level of detail in them in terms of concrete solutions. And I think -- or we think -- that we might - if we want to ask questions.

If we think that asking questions -- at this stage -- is beneficial, we do think that we need to further elaborate and have our discussions on these questions maturely. But I'd like to open it up for questions and comments now. The first in the queue is Tijani.

Tijani Ben Jemaa: Thank you (unintelligible) speaking. As I said in m email, I don't think we should ask questions to the Board. For the same reason you mentioned Thomas. We have to work to do our job. And not looking for what it could be acceptable or not acceptable. We have to do our job. However, we have to work as we see - as we understand our mission is. So this is first of all.

Second point. Any interaction from me with the Board should be though the liaison. And any question we want to ask to the Board we have to ask it to Bruce, who is the liaison and who is normally -- and officially -- the one who can answer our questions on behalf of the Board.

So I think that we are -- perhaps -- losing our time first. And second we are limiting our field of work. Thank you.

Man: Thank you Tijani. Next is Steve.

Steve DelBianco   I would agree with (Kavouss) - with Tijani with respect to what he just said. And I don't believe we should be asking the Board for acceptance or permission in any form or way at this stage. The Board can see all of the work we are doing. Because all of it - all of our documentation and our discussions are in the public domain. And if the Board felt that we heading into a dangerous direction -- that they could not support -- then I would welcome the Board to weigh in on that.

And don't forget we have Sebastien, former Board member. We have Bruce Tonkin on all of our calls. And they are very attentive to this. We have a lot of staff -- on the call -- who can interact with management. So if -- in fact -- this Board had the audacity to say, "You're heading into a direction that we can't support." I'd say, "Bring it on." Tell us now. Bring it on.

But that is not the (the lead) we are obligated to do. Our obligation is to -- as Tijani said -- is to evaluate what the community consensus is for accountability mechanisms that are necessary for the transition of the IANA contract. We need to develop those. The Board can weigh in.

But if the entire community had consensus around new mechanisms. Things like Becky Burr described. And the Board alone said that they could not support it. Then I am quite confident that the Commerce Department will stand with the community and impose them on the Board. I hope it doesn't come to that. And I strongly believe the Board would never try to bring on a confrontation like that.

But -- Thomas and not you -- I would appreciate a poll. For instance, if you were to poll the folks -- on this call -- about which members actually believe we should seek permission or seek acceptance -- at this point -- from the Board. And I'm pretty confident that you're not going to get too many votes.

Thomas: Thank you very much for that that Steve. Can I ask if there - sorry.

((Crosstalk)):

Thomas: Will do (Kavouss) noted. Next in the queue is Alan.

Alan Greenberg: Thank you very much. I'm going to give the one reason I have for a counter to what Steve just said. We - the CWG Stewardship Group is on a very tight timeline. And there is a dispute -- at the moment -- not a dispute. A difference of opinion -- at the moment -- whether -- and I'll use terms I don't like but they're in vogue. The internal to ICANN solution can work because there are those who believe that there is no way that we can achieve accountability within ICANN.

And if there were a way to get some "nod of the head" from the Board -- as opposed to just no objection -- which was what Steve was saying. I think that would be very useful in trying to firm up the directions that the CWG accountability can go. So I think it would be useful to have some confirmation from the Board. And Bruce has already given -you know we've seen similar things in the chat.

But -- perhaps on a more formal level-- that the Board - this Board is amenable to changes of the type we are talking about. Now the fact that they're not - if they would trim back and say no, that doesn't mean that they

would hold sway with that. But if they were to say -- yes -- we're amenable. Well, that would be specific. I think that would help the CWG Stewardship Group go forward. In ways that -- without it -- I think there's a brick wall. Thank you.

Thomas: Thanks Alan. I have a follow-up question for you. And let me be very clear that there is no way the intention that we're going to do work behind closed doors. Everything we are doing is publicly available. And -- if I remember correctly -- the Board has even done public, stating that they want to avoid friction in the last minute by engaging early. So I'm quite confident that more Board Members -- than Bruce Tonkin as our liaison -- are closely following our discussion. And I trust that they would speak up in case we are doing something that they are completely objecting to.

So my follow-up question to you -- in concrete terms -- is do you think that questions that have been circulated on the mailing list are the questions that you would ask? Or are you looking for other mechanisms of the (unintelligible) more closely?

Alan Greenberg: I don't believe. It's Alan speaking. I don't believe I said we should ask questions. I said an indication from the Board. No I do not believe the questions that we circulate on the mailing list are the appropriate ones. I was speaking as much for the Board Members -- who are listening -- as for the rest of this group.

I'm saying an indication from the Board that they are amenable is - would be something that would be very useful to this process. I did not say to ask them specific target question.

Thomas: Okay. Thank you. And I'm sure that Bruce will convey that to the Board (unintelligible). I see Steve has raised his hand. But before that we go to (Kavouss) please.

(Kavouss): Thank you Thomas. I don't know how many times I have to give an analytical examples of what we are doing. We are dealing with accountability each group. We should have unbiased, free line of thinking, without asking which condition you accept. Which terms you accept? Which accountability do you accept? Which you do not accept? We should not subordinate ourselves to the ICANN.

It seems that (ICANN) reaches in the similarity and executive entity. We -- as the legislative entity -- ask the executive entity what type of law you would like we establish? We should not do that. We should establish what we should establish. We should (draft) and we should come up and agree on what is required for accountability. We leave it to the Board. If they don't agree with that, they should say "don't agree with that."

They give the reason. And they are face first with us that they have to convince us why. And they can greet the public why they are opposing to it. I don't think that we should limit ourselves. We should not have any bias from anything. We have a liaison from ICANN. Bruce is very intelligent person and very active. He will be in line with whatever we discussing. He could visit with the Board and bring the feedback.

But I do not agree to make any question whatsoever in any (unintelligible) to the ICANN. What do you wish that we have to do? And what do you wish that we do not to do? I am not being paid enough for that. I send many, many emails and I spend hours during the first night and the second night of the

New Year whenever everybody was on holiday. But I was working up to midnight.

Please can you consider I cannot agree with this sort of biasing arrangement? We should be free and we should think freely. Without any interference, without any biased, and we should do whatever we agreed. I see CCWG as the terms, conditions and scope of accountability. We should revise that, send it to the Board. If they don't agree with that, they give the reasons.

They might have the possibility to come back to us. We negotiate with each other. Correct that something. If we don't agree, our point remains as it is. Their point remains as the comment. And at the end it is public community that comment and the last thing is the (NTIA). You don't - please do not forget that. (NTIA) says that unless the accountability issue is (popular) there should be no transition at all.

Thomas: Thank you (Kavouss). And -- just in terms of procedure -- as co-chairs we certainly monitor the communication on the mailing list. And this was one the subjects that was quite controversially debated. Which is why we put it on the agenda for this call. But it looks like we aren't able to agree, which is why I would like to close the queue on the topic after the (unintelligible).

Man: Thank you Thomas. I do believe we've split this discussion into two threads. One thread is -- I believe -- a blank and white question of should we be asking permission or acceptance from the Board. I'm confident nobody on this call would suggest that we should at this point.

On the other hand Alan brings up the genuine dilemma that the CWG on IANA's transition is having right now. And if you read what the Board said --

a little over a week ago -- it took a look at the proposal for IANA naming related functions transitions. And they took issue.

With the ideal of establishing a new, independent entity. What do they call it? A Contract Code. And that caused a bit of overlap into the CCWG. Our group. Because if -- in fact -- there are elements of redress and review that our group will come up with through our mechanisms. Our group comes up with. Then those mechanisms may be able to "scratch the itch" or solve the problem the Contract Code was being designed for.

So I appreciate their dilemma. That they have a conflict. And I appreciate that Alan. But that -- in no way -- forces us to suddenly seek the permission or acceptance of ICANN's Board at this stage. We haven't self-formulated our consensus positions yet. And what I had suggested Alan -- on a previous call -- is that let's make available to the CWG -- maybe at a chair-to-chair level -- make available all of these discussions.

You can summarize it for them to show that -- yes, indeed -- we are considering mechanisms that would enable the effected users of the IANA root and naming function to appeal to an independent review panel or decision-making body that could seek redress if ICANN -- the contractor -- was screwing up its conduct of the IANA naming function contract.

So we have mechanisms. We're working on them. They're in no way fully baked yet. But that's enough of a reply to the CWG. It's almost as if we're saying "stay tuned, we're not ready yet." We just started on our work. And with that Thomas I strongly advise the chairs to consider asking if anybody on this entire working group believes you should seek permission or acceptance at this point. And -- if the answer's no -- you can dismiss this with a clean conscience and move on.

Thomas: Thank you. And with that encouragement, I'd like to ask whether there are any objections to not asking any questions at this stage. I see (Alan's) hand is up. Please.

Alan Greenberg: Thank you Thomas. Just to be clear I -- was not, have not and -- would not suggest that we ask for permission from the Board. I would fight that "tooth and nail" as much as I think Steve would. All I was saying is if we were to get a message -- from the board -- saying the kinds of things we're talking about. They are amenable to it. I think it would help the other (Profs). The other part of what's going on right now that is very different from asking them, "Please sir, may I." Thank you.

Thomas: Thanks Alan. So I think that -- for the time being at least -- we will not ask any questions. I think Bruce has well noted that our group is encouraging not only himself. We do know that he is very attentive to what this group does. But note other Board Members who follow closely what we are doing have (objectability) at any time get back to the Board. And test the waters with what we are doing to get some feedback.

And I think Steve's message also provides a very smooth sedge way into agenda item Number Five which is (Tag) High Level Statement. That goes back to the discussion that we started last week on some High Level Statements that we could publish. And we were actually thinking of publishing these as co-chairs on behalf of this group.

If you agree to that, those who are working on proposals can take them into account when finalizing their proposals. Then we certainly ought to send them directly by mail to (Lisa unintelligible) and (Jonathan Robinson).

What you see is the Adobe now is a statement that we put together. And with the best intentions to reflect the current status of the discussion inside our group. I know that you haven't seen it. We're not going to adopt it in any sort of fashion during today's call. But I think we need to do so in the next 48 hours. So that it can be submitted to the CWG before they start their intense work weekend.

Usually -- I think - it's very bad practice to read out things that can read by everybody individually. But I that -- you know -- to provide a basis for our discussion, I will take the liberty to read it out for you.

The below High Level Statements might be valuable to all groups, or individuals working on proposals to be submitted to the (ICG) which is why they are not going to respond to the CWG research yet, but publish as a stated update by the CCWG Accountability.

1. The CCWG Accountability noted that a significant number of contributions in the public comments regarding accountability called for the implementation of independent mechanisms. Mainly to review and for profit and address decisions from the ICANN Board of Directors. It was often noted that these mechanisms should be (unintelligible) or committed to before the IANA Commission takes place.

The accountability CCWG is there for considering to address this in its (work screen one). Unless the CWG specifies otherwise, decisions that are directly related to IANA functions will then or shall be within the limit such mechanisms.

Other issues which were brought up by many and could qualify for being the limit of such mechanisms were decision broadening or altering ICANN

mandate as well as recalling one (unintelligible) Board Member. Please note that the nature, composition and specific mandate of this mechanism is yet to be determined.

2. The CCWG Accountability acknowledges the expectation from certain internal and or external review and/or (review) processes to be implemented or committed to prior to the transition. And will consider these as part of its work.

3. Further, we would like to assure you that the CCWG output will adhere to the following considerations: Any proposals will address the concerns onto whom should ICANN be held accountable. Any proposal will address the concern on what should ICANN be held accountable for. Any proposal will address the concern on how ICANN Board of Directors should be held accountable.

We hope this broad (but clear wrote) have helped the CWG compliment their work that we continue to work on a coordinated session. Please note that these statements reflect the current status of the deliberations of the CCWG Accountability and might be subject to change for the reasons mentioned above. Refer that input from the community.

Actually, the last sentence goes back to a covering note where we say that these High Level Statements might be subject to changes because of our ongoing deliberations -- as well as external factors -- such as changes to the proposal by the naming community.

So I know that this is new to you. But maybe some of you should have some comments to make. Ideally, we would use this as the basis for making

amendments or other contributions to get some High Level Statements put together. Steve.

Steve DelBianco Thank you Thomas. I totally support the text that you guys have come up with. It looks very familiar. Because I think it's what we discussed in the last three calls. I had only this question. For those on the phone -- who are part of the CWG -- I would ask you to read this Paragraph One that Thomas has in front of you. And see if it answers the question that's nagging at you. The dilemma about timing and contract code. It is nagging the CWG IANA and a naming function.

In other words, we intend for this answer to give some guidance to the CWG. But if there's members on the call of the CWG who don't see the clarity that they're looking for. This is your opportunity to sharpen our point.

We are letting you know that we're working on mechanisms that will allow the review and redress of decision. But I want you to tell us whether you think this gives you the information you need to understand whether you still have to have an independent contract code. Or can you lean on these new mechanisms to accomplish what it is that you wanted to accomplish when you said you needed to have an independent contract code.

And I look forward to answers from Greg, Alan, and others on (unintelligible). Others on the call from the CWG. Thank you.

Thomas: Thanks Steve. Greg. Greg you might be on mute.

(Kavouss): (Kavouss) also for the queue and if it's my turn, I want to comment on your question.

Thomas: Thank you (Kavouss). It's noted. Greg Shatan now it's your turn.

(Kavouss):   Can I talk?

Thomas: No (Kavouss). It's Greg Shatan's turn at the moment. Greg we can't hear you.
                 Can you indicate whether you are having audio issues? Are you trying to
                 speak?

Greg Shatan: Yes. Sorry about that. I'm (unintelligible) now.

Thomas: Greg.

Greg Shatan: Yes. Thanks very much. I have to say that I'm speaking --obviously -- for
                 myself and not for CWG as a whole or any other body. But this really does
                 nothing -- I think -- to kind of solve the present concerns that I have. These all
                 -- and I guess at this point -- it has to be very high level statements. It's
                 basically -- you know -- not much more than trust us with the problems that
                 we all have - most of us have. What will ultimately be accomplished and not
                 what might be desired?

                 And -- more particularly -- there's just no substance here other than saying that
                 we're going to have a magic mechanism that might be helpful. So it's - I mean
                 if they're - the sentiments are in the right place. But I just don't know what one
                 could do with this. I mean, we can say this to ourselves. We don't need - you
                 know -- we could have -- you know -- in an hour to come up with
                 accountability mechanisms for IANA operational failure or the strain of IANA
                 operations specifically.

                 And so it's not outside our - the (CWG's) capacity to create mechanisms like
                 this. And it's just the question is whether there is any (unintelligible)

consensus that's actually what Alan says. Is there any hope that this is the great creditable results coming out of this that would allow for these internal mechanisms to produce the results that the contract code was created to produce.

And I just - I wish that there was some sort of magic statement that could make us feel confident that we could just leave it all in the hands of the CCWG and that somehow ICANN would internally have the structures that would allow for the level of accountability and the results that we need - that we see the need for. I just don't know that this statement really does anything concrete in that way. Thank you.

Thomas: Thanks Greg. And before I move to (Kavouss), let me briefly respond to that. We are certainly in the predicament that we do not have anything specific to offer. Because our work is still at the very beginning. At the same time, if you look at the proposed language. What we are saying is that the group will most likely - will have an oversight mechanism over the ICANN Board.

So the first message is loud and clear that the CWG does not need to be afraid of us coming up with a proposal whereby we -- the Board -- just controlling itself. So there will be the possibility to turn over Board decisions. And what we're also saying is that this mechanism -- of whatever legal nature -- can have items in its remit that can be deployed by the naming community.

So they can use this mechanism to put the concerns they have onto their list. So we can - with this statement we're opening the door for enabling an accountability eco system -- if you wish -- that would not cause friction between the proposal by the CWG and the CCWG. And we could add other items to the remit of that mechanism as well. And the most urgent ones -- which we've identified -- have been listed here.

So this suggestion -- that will appease our hope -- would be able to assist the CWG in assuring them that we will come up with something that will address their concern as well, i.e. that would ensure that the ICANN Board will not be the ultimate decider on things that might be adversely effecting them.

It would still have the objectionability to work with the internal as well as the external solution, i.e., keeping it inside ICANN or elsewhere. But we would have a mechanism that would not cause friction. So that's just a very high level attempt to respond to your concern Greg. I'm not sure whether I succeeded but let's move to (Kavouss) and Greg should you have any further questions to that, please do get back into the queue. (Kavouss).

(Kavouss):   Yes Thomas. My question is that perhaps you could kindly direct me. One. What is the urgency of this Higher Level Statement? Couldn't we wait until eighteen of January, that we could face-to-face finalize that? Because it's a very sensitive, very important and could have good effect. And could have the adverse effect. This the urgency.

The second one is this High Level Statement is a very brief summary of what we have done so far. What we are thinking to do now and what we plan to do in future. In the very, very summary brief arrangement. Is that my understanding correct? If not, what is the purpose of this High Level Statement? I'm sure it is not an (unintelligible) speech. We are not requesting any proposals on that.

Or you expect some reflection from the community based on if ICANN be approved. The lesser is better. Not to have too many items and the more general is better. But the first question is couldn't it wait until we get together in Frankfurt and we finalize that?

Thomas: Thank you (Kavouss). The answer is quite easy. The CWG is going to have an intense work weekend the next weekend. And there will likely almost finalize the proposal by then. So they have the opportunity to work very intensely on the proposal. And they would very much appreciate to get feedback from our group before they start this intense work weekend.

                   That's the reason why we are trying to be as quickly as possible. We can certainly retable that for the Frankfurt meeting. Because I think that such High Level Statements are also very valuable for this group to sharpen their minds for prioritizing the issues and shaping the next steps that we are conducting.

                   Let's move to (Martin).

(Kavouss):   Just on addition to your question. Could we add the word initial (thought) on that? Put the door open that we further complement that because it is (urgently required) for this (unintelligible) you put initial (thought) or something that gives the nature of that. This is not affirmative or definitive. It is initial (thought) on that. And I agree with you. But in that case should be very simple and should be very, very general.

Thomas Rickert: Yes. We have such clarification at the end of the statement. So thanks for that (Kavouss). And we now move to Martin.

Martin Boyle: Thanks very much Thomas. It's Martin Boyle here. Yes. Like Greg, I'm not speaking to the CWG. But I think a little bit like Greg I have some general concerns in spite of you explanation about this might work to - essentially to meet the concepts of separability that the CWG came up with.

And there was a proposal. It came from the Australian domain name registry that some form of golden bylaw process might be an option. And that seems to me to go one step beyond the idea of the - it's in this statement in that you go for something that is quite a clear mechanism; something that would actually have teeth and clarity on what thought should do and what it should not do.

And also that would then obviously have to have some form of redress built into the mechanism. Now that seems to me to be quite a - at least an order of magnitude stronger than the sort of words that you've put - that we've got in place at the moment.

So just a recap. I think we just need to have ready something that is very robust that cannot be ignored, that cannot be overturned by the Board. And that if the Board refuses to do what the bylaws require it to do would allow the community to put into place the development towards a contract company.

And if we can find that, then I think we can meet the Community Working Group's concern about separability and also ensure that the Board is accountable under very clear definitions to the community. Thanks.

Thomas Rickert: Martin, quick follow up question. But it was my impression that we could even customize the Australian approach as you call it under this general statement that we have because we're just talking about a mechanism. We're not saying that it's a legal entity nor do we say that's a new (party). It can also be language such as these bylaws. In other words...

Martin Boyle: Yes.

Thomas Rickert: ...my question to you is if there's a way we can - we could potentially tweak this proposal or work on an alternative proposal in short notice that would not be too prescriptive for our future work be of assistance to the CWG and to still be - to be - still hopefully get the consensus of this whole group? Because I think the more prescriptive we are, the less of the change that this group will support it.

Martin Boyle: Yes. Thanks Thomas. Martin Boyle again. Yes. I see the dilemma. But as I said earlier, I think we need to be able to put into place something that is really quite robust enough that the Board cannot just ignore it with impunity. But it's now (also) meeting the terms of bylaws.

And this is where I have problems with the wording as it is. It just seems to me to be too weak to allow the redress to be gone. You know, the idea that you should turn round and go through an assessment and then some sort of redress process seems to me to be not quite right.

I would like to see something very much more clearly stated in the bylaws that actually does require the Board to take this seriously and not just sort of say well if we ignore it it doesn't matter. It'll just go away.

Thomas Rickert: Thanks Martin. I think, you know, if we say that we're (seeking) mechanisms that can turn over Board decisions we mean it. Right. So I think that builds in that this process needs to be robust enough for the Board not to be able to turn it back the next day. Greg, please.

Greg Shatan: Hi. Thank you. I would stay that what Martin said essentially putting aside the golden bylaw point for the moment that (both) what's in this document and what Martin stated are essentially two versions of the problem - of the

problem statement that is in front of both working groups and that neither one is really any statement about a solution.

I think these are desirable parameters for the problem statement but they don't provide any solution. I did look into the golden bylaw (unintelligible) when it was made on our list. I don't know if I actually responded. But golden bylaws seem to be a - it could usually only granted to governments when - in the case of privatization and that not - I'm not seeing any other circumstance.

I've also only seen them in a few jurisdictions and they seem to have been challenged successfully in those jurisdictions as well, so. As a solution goes, it's about as cooked as a raw egg. And I think that's unfortunately the problem with this.

I have no doubt that either group could come up with a solution that could meet the (answers to the problems that) as of right now you're asking me to close my eyes and step through an elevator door and you're assuring me that by the time my foot hits the ground I will not fall to the bottom of the shaft. I just can't take that chance personally. Thanks.

Thomas Rickert: Thanks Greg. I'm conscious of time. So we need to move to the next agenda item shortly. Nonetheless, I think we should close this by agreeing on some next steps. I understand that Margin and Greg don't find that statement helpful. I think there's a difference between something potentially not being helpful and something not being prudent to do.

So it was our understanding that the co-Chairs of the CWG would welcome a message from our group. So my question to this group is whether there's any objection to send this as a response to the naming community. Because as (Steve) said, I'm afraid this is the best we can come up with at this stage.

And I think if you take a close look at it, there is some substance in it. It's certainly not satisfactory for us that we can't provide you with something that you're happier with. But I think in the absence of a more elaborate proposal, I think we can give a sign of life with what we have. Greg, I'm not sure whether that's an old or a new hand.

Greg Shatan: If I can just follow very briefly on what you've said. I don't think it's - I think it is useful to have this (statement) even if it's just to show that this is kind of where you're at in the process (unintelligible) and we'll take it from there.

So I, you know, don't think it's troublesome in it's - it's troublesome on one level but as I think Mathieu said in the chat, our timelines are poorly aligned. And there's nothing much we can do about that other than lock this entire group in a room and tell them they can't come out, you know, until they come up with a solution by working 24/7. That's just never going to happen.

So I support the - I support the effort given with everything that I said about what the result of it might be. Thank you.

Thomas Rickert: Thanks Greg. That's encouraging. So let me ask again whether there's any objection to us sending this. I don't read or...

(Kavouss):   (Unintelligible) might what - invite the CWG co-Chairs to come to our meeting. What is the question? Sorry. I missed that because of the quality of the telephone line.

Thomas Rickert: My question to the group was whether there's any objection to us sending these high level statements to the CWG leadership. And (Kavouss), I know that you're not in the Adobe. I'm just testing the waters with this group now on

the call. But we will not submit before another 48 hours so that everybody has the chance to look at it.

But it looks like there's no objection to send it even though there are some who say it's of limited value. But so be it. And with that, I'd like to close this agenda item. We will publish this statement on our mailing list for your further comment.

And I suggest that we now move to the next agenda item, which is the update on the face-to-face meeting Frankfurt preparations. And for that I'll hand back over to Leon.

Leon Sanchez: Thank you very much Thomas. I'm mindful of the time also. I'll try to keep it really, really short. As we all know, we have our face-to-face meeting coming in the 19th and 20th of January. And I would like just folks are reminded that anyone that would like to attend in person to the face-to-face meeting has a deadline to confirm his or her attendance on January the 7th; that is tomorrow.

So far there were (32 in) the Wiki plus five more that were sent this morning to make it up to a total of 37 in person attendants to the face-to-face meeting. While the expected outcomes of this face-to-face meeting in Frankfurt would be of course to finalize the document with regards to Work Stream 1 and Work Stream 2 and hopefully agree to begin work on Work Stream 1.

That would be an extraordinary outcome if we would agree on beginning to work on Work Stream 1. We would also expect to have a finalized version of the definition and scope document that Mathieu just sent out to the list (co-chair agreed) to the proposed timeline.

Those would be the key facts about the expected outcomes of our face-to-face meeting in Frankfurt. And I would like to now turn to Mathieu and Berry to review the timeline - the proposed timeline.

Thomas Rickert: Is Alan's hand an old hand? Just to make sure we're not forgetting a comment.

Leon Sanchez: Oh, yes, I'm sorry. I missed that hand. Alan, if you have your hand up, please speak up.

Alan Greenburg: Sorry. I was just going to ask the question of do we know when the travel process of allowing us to make travel reservations will be starting?

Leon Sanchez: I don't know if Grace could help us answer that call. I see her hand up. So Grace, could you please go ahead?

Grace Abuhamad: Thank you Leon. This is Grace Abuhamad for the record. So just to let you all know would be staff returned to work yesterday on January 5. So I expect that you'll hear as soon as possible. But, you know, there's a lot of catching up to do and the - they have the names. Their ICANN constituency travel is working hard. But I would give, you know, a few days for the group to get together and start sending out the information.

Leon Sanchez: Thank you very much Grace. I see Tijani's hand up. Tijani, go ahead please.

(Tijani Ben Jemaa): Yes Leon. I'd like to say that I already received the mail from constituency travel. Thank you.

Leon Sanchez: Thank you very much Tijani. So if no one has any further comments on the expected outcomes for our face-to-face meeting in Frankford, I'd like to turn now to the next agenda item to Mathieu and Berry please.

Mathieu Weill: Thank you Leon. Conscious of time as well. So I will try to keep it brief. You will remember we have approved after a couple of meetings an overall timeline with last (kill) steps. And Berry Cobb for - who is supporting our group has been working and populating a project plan to - with these items and topics.

And I'd like to turn to Berry for a very quick overview of this document, which will be shared on the list for comment very shortly of course as a project plan is not always easy. Berry, can you give us a very quick recap of what this document comprehends?

Berry Cobb: Yes. Thank you Mathieu. This is Berry Cobb for the transcript. It's been out to the CCWG mailing list yesterday, a PDF version of the proposed project plan that we have put together. This is mostly largely based on the overall plan that was reviewed the past few meetings; the PowerPoint that described the high-level work tasks.

I'm just briefly going to run though this plan. If there are any questions or concerns about duration or some of our target dates, we can take that to the list. As to what Leon was saying, I'm hopeful that the expectations that are accomplished out of the Frankfurt meeting will allow us to nail down the exact target dates and all of the tasks that are required for us from Work Stream 1 and 2.

But in short, the project plan is kind of divided into five main areas, the first section being the chartering exercise that's already occurred and closed out. The secondary section that begins on Row 13 is mostly for just documentation purposes and somewhat scheduling that allows us to list out the CCWG calls and the face-to-face sessions.

You'll note that we've got the Frankfurt meeting - face-to-face meeting documented as well as our sessions that will occur in Singapore. Tentatively we have one scheduled approximately the beginning of April as well as taking us into the ICANN meeting in Buenos Aires in June.

I will point to you that this is only a tentative list of these calls and mostly focuses around the Work Stream 1 work effort. As we get closer to May, June timeframe and some better visibility when Work Stream 2 might start we'll begin to populate those calls from there.

The substance of our work is basically the definitions of Work Stream 1 and Work Stream 2 from the four work areas that were defined. And that begins on Row 45 all the way to Row 69, which is work in progress.

At this point I don't have percent completions attributed to each of the work areas yet. That will be updated in the next section as well as any other changes to the plan that will better reflect what we've accomplished to date.

Then from there basically Rows 69 through 94 will consist of our high level work plan that we'd like to accomplish for Work Stream 1 and essentially the same tasks are also replicated for Work Stream 2.

At this point in time Work Stream 2 has greater duration and a greater delivery date under the assumption that more of the accountability mechanisms will be accomplished through Work Stream 2. Again, we won't have this clear definition until we do have those two areas defined.

The last thing that I'll point out to you right now is within Work Stream 1 our original presentation of a high level timeline had us targeting for the end of June to submit the Work Stream 1 proposal to the ICANN Board.

This plan currently reflects that date to be the beginning of August. And this is due to the public comment periods that we have loaded in here now based on the new public comment rules, which is essentially a minimum of 40 days. There is some flexibility there that we can discuss at a later time.

So I just wanted to draw the group's attention to mostly that the delivery date from the plan is a little bit further than what we had originally targeted. There is some slack built into some of the duration. And as we start to define the Work Stream 1, Work Stream 2 activities, we can probably relax on some of the slack built in and still hopefully target for a June timeframe.

So if any of the members do have any suggestions for additional tasks that may be necessary in here, please send them to myself of into the list and I'll be glad to help incorporate them. Mathieu and I will be also working through this in much more detail. And it will be sent on a weekly basis with the agenda to keep members or to keep the CCWG informed of the activities and what we've accomplished to date. Thank you.

Mathieu Weill: Thank you Berry. So really we'll encourage everyone to comment and provide additional inputs. But also you will have collected that there are two - one of the aspects we have to work on still is how to collect community feedback at various stages of our proposals without shifting the deadlines too much.

And we'll certainly have to be a little bit creative here about how we manage to get various feedbacks without going through too lengthy public comments. Otherwise we will delay the overall timeline.

And I'd also like to emphasize that we will certainly have at least another face-to-face meeting to plan to finalize our Work Stream 1 proposals. Its' currently in the plan around April but it's very early to say exactly a precise date. But it's something to - that we have called attention on especially on the support staff because it's going to be a little bit of logistics.

I see (Bruce) has his hand raised. So please (Bruce). (Bruce), you may be on mute.

(Bruce):   Yes. I am on mute. Sorry. Can you hear me now?

Mathieu Weill: Yes.

(Bruce):   Yes. Just wondering just with respect to planning Singapore. I guess there's two objectives. One is to meet within the group in face-to-face meetings but presumably there's also some degree of outreach; for example, if you wanted to have a session between the group and the ICANN Board or wanted to have some sort of public session.

So just would be useful because, you know, the Singapore meeting is, you know, literally just a month away now. But, you know, we start fleshing out the timetable in a little bit more detail for Singapore.

Mathieu Weill: Thanks. That's - so Singapore meeting agenda is being worked out with the ICANN meetings team. There's a lot of different tracks to coordinate and be hopeful we can provide more clarity in the next few days or weeks at least quite early on.

We've placed a number of requests for work time between our group but also with the Board and with the community. And we hope to be able to provide you with an update very soon on that.

(Bruce):   Thank you.

Mathieu Weill: We're approaching the top of the hour. I will move to the next agenda item. It - I am reluctant to move too quickly on this update from Work Area 4, which was tasked to work on a list of contingencies. I will just recap things because Eric Brunner-Williams has sent his apologies for not being able to participate to this call. But he sent on the list a document with a list of contingencies. And it is now on you screen.

So please just let me remind you of the importance of that. This is - we are the group are expected to provided a detailed description of how our work proposals provide an adequate level of resistance to contingencies. This is part of our charter.

And so we need this to structure our work and to stress test the various scenarios we come up with. So it's absolutely essential that we have this discussion about what are the main scenarios that we will consider. We cannot afford to have 100. We need to focus on the main ones. And that's the goal of this deliverable from Work Area 4.

You will see that there's interesting effort to provide scenarios both with an event thread and its consequence and of course it's going to be up to us to address how it - how we would have mitigation measures after that once we come up with our scenario.

And I think there's a good recap on the list of ten contingencies of various aspects. It's certainly something we will - that will be up for comment in the coming week. And hopefully by next week we can have a more substantive discussion on the list.

Just making sure that everyone is clear about the goal of this particular exercise or needs clarifications. And if there are not, then I will suggest that comments are made on the list and provided to Eric as well as Work Area 4 (unintelligible) consideration before next week.

If that is agreeable to everyone and I think I will turn to Leon for any other business.

Leon Sanchez: Thank you very much. Well any other business - I would like to update the group on the correspondence we've had - the co-Chairs have had with Samantha Eisner regarding the legal advice for the CWG.

As you are aware, this is, you know, a concern placed by many of the members and participants of this working group. And we reached out to Samantha Eisner in order to explore ways of having this legal advice available.

And we proposed that, for instance, we had her establish as a liaison with the legal depart of ICANN and of course not ruling out the possible way to get an independent law firm update by ICANN that will advise on questions that could raise within the working group.

And well this - it was just sent out a couple days ago. And while Samantha agreed to perform as a liaison between ICANN legal and the working group and of course at least there would be a need to get independent legal advice.

That is something that she would help the group to accomplish this (task). So this is an update on any other business.

And I would like to call for anyone else that has any other business to bring up. We are just at the top of the hour. So if there is no one else bringing any other business up, I will go to the next agenda item, which is the closing remarks.

And of course I would like to remind you on the different action items. We need to make a recap. The co-Chairs will need to do a recap of Work Stream 1 and Work Stream 2 items on the mailing list and review for approval at our next meeting.

We need to comment - we encourage comments from all colleagues on the definition and scope document that Mathieu sent out. And will be keeping an eye on any comments and suggestions you have to further enrich this document.

With regards to the high level statement, this will be published to the list for further comment and we of course encourage everyone that has a comment on this high level statement to do so before the next 48 hours so we can send this in time to the CWG Chairs.

We remind you of confirming you attendance to the face-to-face meeting in Frankfurt if you haven't done so. And we're of course reviewing the timeline and making your comments to it so we can further enrich the document as well.

And (oh) if I'm missing anything or if anyone would like to bring up something else? Okay. Well then, I'd like to thank everyone for attending this call. And we'll see you next time.

((Crosstalk))

Thomas Rickert: Thanks everybody. Bye bye.

Man: Bye bye.

Man: Bye.

Woman: Bye.

END