ICANN

Moderator: Gisella Gruber-White

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8:00 am CT

Thomas Schneider: So we'll now continue some introductory remarks by my fellow co-chair Leon Sanchez.

Leon Sanchez: Thank you very much Thomas. Good morning everyone. Welcome to the Cross Community Working Group on Accountability Session - Frankfurt. I'd like to remind all here and the ones that are joining us remotely that all speakers are assumed to be speaking on behalf of their appointed ICANN station unless otherwise noticed.

I would like to make a call to focus all of our participations on substance. The goals we have for this work meeting which should be quite intense are to finalize the agreement on scope of the group and definition such as the purpose of accountability for example. We have to agree or we would have to agree on what you want versus Work Stream 2 classification criteria plus priorities and this should enable to provide clarity of better predictive outcome of Work Stream 1.

And hopefully we should be establishing the beginning of the work for the working group of Work Stream 1 once we have finished this document. And we would also like to have it conclude inventory or the working areas. And well of course we are all adults and we're expected to behave so I would make a call to respect the ICANN expected conducts of behavior which I believe that Grace has already put on our screen.

And well there's an audio bridge for those who are not able to join either the Buddy Connect or are not able to be here with us. So we would also like to remind all participants to state their name before they speak so there's a record on the recording of course and on the transcript. Sometimes we forget to do that - so it's very useful.

We would like to remind that we would like to be an inclusive as possible. So we encourage participation of all participants and members and we would like also to make a call on trying to give space for everyone to speak. And by this I would call for having as I said in the beginning substantive and non-repetitive participations. That would be also very helpful.

There will be some ICANN staff doing some video footage in order to document what we're doing. Of course anyone is able to opt out of being filmed or otherwise recorded. Just let staff know. And of course there will also be some call for volunteers to document this further and have actual footage of them speaking to the camera.

With regards to social media we would like to call you to, of course we encourage the use of social media, but we would like to call for responsible use of social media. One thing that has happened before is that when someone tweets or posts something in Facebook it assumes that it's a conclusion from

the Group. I wouldn't like to make it look that way. So please use social media but just responsibly.

I would like to now introduce Theresa Swinehart; which is with us and she is going to - if color the words for us in order to energize this group and have a very fruitful discussion.

Welcome Theresa, good morning.

Theresa Swinehart: Thank you everybody. I think for many who know energizing at this hour in the morning may not quite be what we (want) to do. But anyway from that standpoint I just wanted to say a couple things.

First of all just an observation - this has really been an incredible amount of work coming into this day here. And thank you. I know it's an important part of the transition looking at the changing historical relationship and the impact on accountability. And what can be strengthened and what can be changed.

And we have a lot of mechanisms in place, what can be changed, you know, built upon all of that. But in this context I also just wanted to observe the dedication and work - it's really remarkable. I mean over the holidays emails continued and phone calls continued and I know many didn't really get much of a break. And so this is really a remarkable initiative and effort overall.

In the entire - on the list there's 170 people who are sitting on the list. Obviously the 25 members but I think it's a demonstration that this is really a very visible process to the global community; and an opportunity to show how we're engaging with the respective communities and coming to build consensus on an important area during this time.

So I think this historical opportunity - these two days here - will allow us to engage in multiple different ways. I think as you may be aware we even have several members of our Board in addition to Bruce Tonkin, the Board Liaison here - and it's a great opportunity to have additional conversations and slide dialogues about all sorts of things.

I just wanted to conclude that obviously we are supporting the process; more than happy to continue to support that and we remain committed to doing that in any way that the community feels is best to help it move forward on this.

So with that I wish the co-chairs all the best; and obviously this group here and everybody who is online. And welcome to Frankfurt and thank you again.

Leon Sanchez: Thank you very much Theresa. Is one less mark here - in order to be able to include as many participants as possible we don't want to use a timer, but we have one ready. So be aware. So Thomas?

Thomas Schneider: Thank you very much Leon. And thanks Theresa. Again I think this is an excellent opportunity for us to really make progress with the work that we're acted on for the last couple of months and will be for the coming months.

A final remark regarding speaking. You do know that we have an audio - Adobe Connect Room for these meetings. So even though it's inside this room I invite you to use the raising and lowering hands function so that will make it easier for us to manage the queue and also treat those people on the audio bridge as well as those in the room equally.

Actually although we started a little bit later we are a little bit ahead of our agenda which is good. I think we will meet that time as we move on.

The next agenda item that we're going to deal with is the update on the CWG. As you know the work of our two groups is highly interdependent and interlinked. And you do know that we are having regular coordination calls with the co-chairs of the CWG. And with our high level statement as you will recall we've invited the CWG to potentially build on the results of our work.

And the CWG had an intense work weekend and they promised to get back to us with further communication; which has been worked on very hard over the last couple of days. And last night we've received a version that is still work-in-progress I understand but I think it's good for us to understand where the CWG currently stands and where that would fit in with what we're doing.

So we're going to hear an update from Avri on the status of the work of the CWG. And I think we can briefly discuss that. I think we should maybe also talk about the timelines and the process and visage by the board. So Bruce, who is here, has kindly offered to provide some information on that as well.

And then we should bear that in mind as we move on with our work. I think we can't really resolve the requests of the CWG in this 50 minute slot, but I think we should try to understand their (ask). And maybe discuss that a little bit. But I think that going into deep substance of that will likely not be possible.

And with that I'd like to hand over to Avri for a quick update. Avri would you like to come to - it might make things easier for everybody to follow.

Avri Doria: Good morning everybody. Lovely to say good morning since usually you have to keep it time sensitive.

Okay in terms of the CWG. It continues to work. It continues to work in a model where it's trying to figure out the model that it's taking. So having processed the comments, having gone through a full weekend of discussing the comments and of course acknowledging that there are many people in this room that went through that last weekend; even more than I did because they were there face-to-face and they were meeting twice as much as those of us on the phone.

We've gotten to the point where I believe that that group is understanding the comments and is starting to walk through them. In terms of some of the components like the customer standing committee, I think it is starting to gel. There's starting to be a feeling that finding the consensus point is not impossible. In terms of the multi-stakeholder - the MRT - I'm losing the letters this morning but the Multi-Stakeholder Review Team - thank you.

I think there's still more question - there's more question as to its scope, as to indeed how it works and that. So when you get to the Contract Co. versus the alternate models it's a very open field at the moment and that discussion is going on. There's a new group that just started, Group 3B, looking at the various alternates.

I wouldn't say that there's a candidate for alternate yet because there were several alternates in the comments. And that group is just starting the process of working through those and trying to find if there is indeed an alternate solution that meets.

In terms of the Independent Appeals Panel, the IAP, I think there's uncertainty. And it's one of the things that shows up in that set of dependencies that I sent last night in that I don't think we've even gotten to

the point yet of knowing whether that's something that's part of the transition process or whether that's part of the ICANN process.

And that actually opened an interesting question in the last discussion. And I think that's one of the few things that hasn't been reported on yet; of looking at whether the things like the IAP and MRT and whatever are actually attached to the contract. And that the IANA Functions Operator which the new acronym has sprung up in case you missed it - the IFO - in terms of whether those are attached to the IFO or are attached to whoever is the, you know, to ICANN.

So where those things are attached is still an issue. And how that independence - how that arms reach appeals mechanism would happen. It's still a question that I don't think we've explored very much.

I sent last night a snapshot of a document we've been building on the dependencies. I'm function with (Chuck) as one of the editors on that. Alan did the first version of it and then we started to build on what he and (Jonathan) had built.

And that's a document - so I took a snapshot of that last night; what I sent you is a snapshot. After I took the snapshot there were further edits so I also then sent you all the URL of that document to be able to go. And I don't know whether this is the time to get into those dependency issues or not. Because this was just the brief intro, so perhaps that's at a later time.

But that document is there and that document is a living document that changes. And as we work on it, as we start having a better understanding of what the dependencies are it will evolve.

I guess that would be about it for now.

Thomas Schneider: Can we maybe go and portray the individual items in the document very briefly?

Avri Doria: That was - yes - as I said that's why I was asking whether you wanted to do that now.

Thomas Schneider: I think that would be helpful.

Avri Doria: Okay. So that document has five or in the latest edition there's been six - the way we're working on that document is people put in suggested changes and then with the chairs, with others, we decide which ones get accepted and which ones don't. Anything that's grammatical I tend to accept immediately. Anything that fixes one of my many typos I tend to accept immediately.

Okay so the first one we have the - and these are not in order of importance, these are in order of them being written. The first one was budget accountability and transparency. The end transparency was added since my last edit. And one of the problems that we encountered is that we don't even know what IANA costs.

We don't even know how much of those costs are for serving the other operational communities. We can break out sort of the full time equivalents of the staff and certainly figure that out. But there's no - as far as we've been able to tell yet - understanding of what the full package including overheads and other are.

So certainly even for making the decision there's a certain amount of accountability there. But we also think that that's probably something that would need to continue long term.

A lot of the issues that come out on this dependency you'll see have a stronger and weaker aspect depending upon whether it's an internal solution or an external solution and how external the solution is. Obviously in an extremely external solution understanding the ICANN budget becomes less important. In an internal solution it becomes critical.

So - but certainly for getting to the transition point any solution - it's a critical. So it's an accountability issue we've got right now and maybe ongoing.

One of the issues that's been brought up is accountability for re-delegations and while the decisions are made at ICANN and the discussion for gTLD is certainly a major ICANN for ccTLDs it's more, you know, are they made externally; are they approved by ICANN; who vets them and how do you sort of appeal something like that.

Where do you go if there's an issue; have been sort of one of the questions and one of the accountabilities is - so it's not necessarily directly related to making the decision to make the policy. But in terms of those how are they implemented, have they been implemented as they were supposed to be. And if somebody does want to complain about one of those, especially a cc, but the others - how would they do that?

What are the mechanisms for that? Is it appeals mechanism, is it the same appeals mechanism, is it something else? Are there different solutions that are assumption? Are there different solutions for cc than for g's? How is that all structured?

So that's been one of the questions. But we do think that there's an accountability component to that. Though putting our fingers exactly on what is the accountability part versus one of the mechanism part is still open.

There's the Independent Review of Board Actions and I've already mentioned that one somewhat. And, you know, the whole question of a binding appeals motion and such is one of the things that I think is largely accepted but no real details.

And one of the things that comes out sometimes in the CWG is where a Solutions Group and - but sometimes we start thinking of accountability solutions but that's not really our job.

And so keeping those things sort of separated that we have to find solutions - some of the (MaryAnn) accountability and then those we are responsible for in CWG - some of them are wider accountability this group is responsible for. And the degree of internality and externality of the solution is sort of a - moves the line perhaps of who is responsible for those measures and how they're done.

So that's the Independent - the Independent Appeals Panel is slightly different because it's a wider range of appeals and how that - and all these things are interrelated so that there's - now this - there's then control over Board decisions. This is not the appeal and the change, but this is actually mandating and sending Board decision and so that's something that - is that possible - again more necessary in an internal solution than in an external solution.

So that's been one of the, you know, and it says its most restrictive form. This might be restricted to decisions related to IANA. But in reality it may not be practical to find this scope limitation.

So again the scope of all of these things is variable. And that's kind of where we get to the accountability and again the degree of internal/external. And one of the (loops) we have on all this is, you know, the solution needs to be picked on whether it's very internal or very external or somewhere in between and how we find that point. And we're just getting to what I call the end game in all of this - is we know the pieces. We know many of the issues. How do we find our consensus points?

And finding those tells this group what some of the accountability issues are. But also knowing what the accountability situation is determines the degree of comfort in terms of solutions that are internal/external. And is sort of a sliding scale there.

So there really is still a very strong interdependency between that and I'm one of those that still fears that we are still in the deadly embrace period where one group is kind of waiting on the other group and vice versa. And we're moving ahead in that slowly, but it's a hard move to make.

And then this last one was added last night. It's not on the one I sent. Is one that has been put but hasn't really been discussed much on control over ICANN operational performance as an accountability issue. And I haven't gotten to the point of understanding it well enough to explain it to you all.

Thomas Schneider: Thank you very much Avri. I will now move to Jonathan Robinson, co-chair of the CWG to give him the opportunity to say a few words. After that I

would like to open the discussion for immediate reactions from this group on the paper that we just discussed.

And I would also like to give a heads up to Steve DelBianco, who's been the (repertoire of WHOIS alias), the repertoire for what we call Work Area Number 2.
And I would like to get some feedback from you as to whether you think that these areas are something that we already have on the radar or whether there are any aspects in there which are new to our deliberations.

But before we do that as promised I'd like to give the microphone - hand the microphone to Jonathan Robinson who has joined us remotely. Jonathan?

Jonathan Robinson: Thanks Thomas. Can you confirm you can hear me okay?

Thomas Schneider: We can hear you alright.

Jonathan Robinson: Good. I hope there's not too much echo or anything. Look, you and Avri have done a good job of introducing the topic and covering things. So I won't go into a lot of detail and also recognizing that I am remote. You highlighted that we've been talking together and working together - that's we're co-chairs of the two groups; which is clearly critical.

And Avri has just highlighted how that work is continuing in terms of synchronizing the work in other areas as well.

As clearly there is charges that exist in both the substance of the work or both groups and the logistics of working between them and probably most notably around the time scales and therefore synchronizing and making sure that our work is appropriately synchronized as we do it.

And as you know and members of the group will know, we've exchanged a series of communications which most recently was your high-level statement and then this document that came out last night that Avri's just worked through.

And I think what we've begun to recognize is that the work of the CWG - that's the group that I'm a co-chair of with Lisa Fuhr - necessarily has to get out ahead of you - your group, this group in terms of that the speed with which we're working. We started our work earlier and we have arguably a more pressing time scale.

But we'll still rely very heavily on the work of this group. And critically of course then the logistical (pose) how we deal with that. I'll refer you to the flow chart which is still work in progress; which we've exchanged and would be good to come back to at some point and make sure that we end up with a common view of that; a refined version of that which looks at and attempts to illustrate that interrelationship graphically.

And it's clear through all of this that there will be a series of conditions on which our proposal - that is the work of the CWG on the transition will rely on the work of this group and ultimately depend on that. And we've begun to refer to those as conditions.

I just - I suppose I wanted to touch on that very briefly because it could be an area of sensitivity where it's seen that the CWG is somehow dictating the work of this group; and it's not intended to be that in any sense. But I think it's recognized that through the proposal that develops and as Avri highlighted effectively the current variance of that proposal - the CWG work will necessarily work, rely on the work of this group.

And in so doing it's likely that the eventual proposal coming out of the CWG will put within that proposal certain conditions that need to be met for the proposal to retain its validity. And that's what we've begun to think of and refer to as - in very short hand - conditional accountability or conditions which need to be met in terms of accountability, development and changes in order to retain the validity of our proposal.

And again to highlight that that scope and those conditions will vary depending on the final proposal that the CWG develops. But nevertheless the scope that's been prepared for this group I hope will provide very useful guide and input into your work.

So I think that's probably enough to say Thomas. I really want to just highlight that in particular how we got to the need for a proposal that is conditional on certain key accountability areas being met and how we will rely on this group therefore.

Thanks very much.

Thomas Schneider: Thank you very much Jonathan. And I think even without having conducted a consensus call in this group it's safe to say that we don't perceive your input as dictating what we should be doing. In fact I think the opposite is the case.

We have provided you with high-level statements sort of spelling out an invitation that you might build on what we are about to work on or what we're working on. And I think that your response shows that this collaboration works efficiently. So I think that's much appreciated and you shouldn't be afraid that there are any sensitivities with this.

As promised I would like to give both the colleagues in the room as well as those participating remotely the opportunity to share some initial thoughts or some immediate feedback to this paper with us.

So while you are warming up to that I think we can move to Steve first. Or Steve would you like to have a few more minutes to go through it? Steve please.

Steve DelBianco: Thanks Thomas. This is Steve DelBianco. With Work Area 2, just as (Robert Tuarthen) I think what you've asked me to do is to take a look at these five items that Avri's reviewed from the CWG and see how they map to things that are currently in the inventory on Work Area 2 - if I have that right?

So the first thing I would say is that our charter for this CCWG is explicit on Page 3 that we are not to look at the IANA functions. It's not within the scope of the CCWG because it's being dealt with by CWG Stewardship. So we were careful to stick to our charter but very happy to answer requests or offers from CWG for interaction and glad to be accommodating this.

On several of our previous calls we noted the idea that if we created independent review mechanisms that were stronger than what we have today they may well suit the purposes that the CWG had in mind for several of its initiatives. And it's totally appropriate to look at in this way.

So going through the five that Avri just talked about, the first was this notion of budget. And then in the inventory for Work Area 2 right on Page 1 and for those of you don't have the Work Area 2 inventory I would just refer to Grace's earlier emails or Grace you can potentially even put that link in the Chat for people.

So with respect to budget as Avri and Jonathan indicated that there is an enumerated power of this permanent Cross Community Working Group in the inventory. A permanent Cross Community Working Group which for shorthand we call the members because I guess in this statutory sense ICANN's bylaws would allow the creation of members which is anticipated in the Articles of Incorporation.

If the members had one of the five enumerative powers that's on Page 1 of our inventory, it is to approve annual proposed ICANN budget. And we haven't talked about a voting threshold. And we did clarify that members - these permanent Cross Community Working Group - wouldn't make line-item changes to an ICANN budget but could potentially disapprove a budget that was proposed.

So that's at a very high level and it's not likely to scratch the itch of what Avri put up there with respect to budget-level accountability. That sounds as if it's a little more granular in effecting the way that the IANA functions themselves are funded. So I don't think the mechanism the CCWG has for budget up or down approval at the high level - I don't think that's really going to solve their issue on accountability.

Move to the second one? Great. The second one on Avri's list was accountability for re-delegation decisions. I will note that Jonathan and Lisa had sent us about three weeks ago three items that they asked us to put into the inventory. The first was to indicate that CWG was in support of independent review.

And the second are two items on CCWG Page 2. One of them with independent certification for delegation and re-delegation requests; and right

after was an independent appeals panel for contested root cell and changes and who is. So those are indicated - we've probably have seen in the top of Page 2 on our inventory.

And their inventory - they're supported by the CWG. We've never dived into those items before. We put them on there only because the CWG asked us to. So it's hard to know if there's a certification prior to a delegation, a re-delegation, that that probably is happening beforehand and it's not a post-delegation review. It sounds to me like what - there's accountability for a re-delegation decision is a post-delegation appeals process.

So it's possible that the independent review process that we've structured might be helpful to that. But I need to learn more about the differences between an independent review of board actions which is number three and number two and accountability for re-delegations. Because if it's the board that's acting then we go right to number three on the CWG list which is independent review of board actions.

That is something that our cross community working group has in the inventory, as one of the abilities of the new permanent cross community working group or member group could refer to an independent review panel or potentially make the decisions themselves depending on what the consensus is.

Inherent in that is this notion that the independent review panel would not be three randomly chosen individuals on the moment but rather selected individuals from a more permanently seated group of experienced experts who know a little bit about ICANN's processes and perhaps even care about precedent of their decisions.

So I do think we have a strong crossover on Number 3 the independent review of board actions.

Turning to Number 4 of the CWG which is an independent appeals panel or IAP, I would like to learn more about the scope of the IAP decisions if they're very micro in scope with respect to Whois changes, re-delegation requests or are they broad enough that they would in fact touch upon decisions that the board makes because we in the CCWG have been focusing hard on board level decisions and not as much on operational decisions.

So this is the second item where I'm coming back with a question. I'd like to learn more about what the CWG has in mind as examples of decisions that go to the independent appeals panel.

It really begs the issue of why does CWG have both Number 4 and Number 3 if they both involve the board?

And finally control over board decisions. When I read that fifth one, it's the fifth one on the CWG list, thank you Grace, that to me dovetails straight back up into Number 3 which is an independent review of a board action. And it would be my interpretation that those are redundant items on the list.

They may have had unique origins but I would even invite CWG to consolidate Number 3 and 5. Fellows I hope that's helpful.

Thomas Schneider: That's most helpful. And I'd like to ask whether anybody who is also following the CWG discussions has answers to Steve's questions? Avri please.

Avri Doria: Hi. This is Avri speaking again. I think on the fifth one it includes elements of prior to a board decision not just responding to. And I think that's possibly the difference.

But as you noted on all of these we talk about the relations and their slight nuance differences between is it a board decision, is it a wider staff operational decision and such.

So but I think that this one includes an element of driving a decision, not just reacting to one. Thank you.

Thomas Schneider: Thanks Avri. Eberhard you've raise your hand.

Eberhard Lisse: I've got two things. One to Leon mentioned that apparently he's on the - of the opinion that speakers here can only speak for their constituencies or for whatever standing organization. This is definitely not the case.

As far as the ccNSO is concerned there are different opinions or difference streams but we were not selected or elected or chosen to come here to represent the ccNSO. We have no mandate. And I for one will do whatever I want.

Secondly, I have a problem with the accountability for re-delegations and wonder where this is coming from.

I personally - it is quite obvious that G space and others don't really know what - how the ccNSO or the ccTLDs work.

I think before we talk about national what was it here, national mechanisms, national governments we should actually know what we're talking about.

The (unintelligible) issues that some governments assert or the idea that governments may have any authority over ccTLDs that correspond to letters is totally controversial.

I totally disagree. Some governments disagree with me, some governments agrees.

How this finds itself in such a document is beyond my understanding and it's not (consense) possible.

Thomas Schneider: Thank you Eberhard and thank you particularly for raising that point because we had planned to proactively bring it up unless somebody in the room or remotely would have done so.

As you will recall the charters for the CWG and our charter are meant to be complementary. So we are not tasked to deal with IANA related decisions.

Yet there might be an opportunity to use comparable or identical accountability mechanisms that could be used for both areas.

But I think we have to be crystal clear on where the red line is that we shouldn't step over.

And I think that we need that both for our group to be clear on what we're actually mandated to work on.

But I also think we have to send a very clear message back to the CWG that we well understood the concerns of ccTLD operators in not trying to conquer CC space by applying mechanisms that are developed for the G world.

I would - I've asked Mathieu who is a member of the ccNSO whether he could recap the major concerns for us so that actually we can go on record with having understood what the concerns are and also making it very clear that it's not our intention to mission creep which is a threat as we are now intertwining the work of the two groups more. Mathieu?

Mathieu Weill: Thank you Thomas. This is indeed as Eberhard mentioned a topic that is highly controversial including within ccTLD about what is direct but would be the relevant authority to challenge a decision regarding a delegation or re-delegation.

But I think there is consistency across ccTLD managers and a number of governments would also be concerned I would expect that decisions be made outside of the local Internet community the local jurisdiction.

I can go fast. Okay. So the concern would be some of the ccTLD managers would be concerned that a redress mechanism or review mechanism would give a government the ability to mandate the delegations.

And others would be concerned that a decision could be made outside of local jurisdictions. I think that's the control - basic controversy.

But I think there would be more common ground in saying that not many ccTLDs, most ccTLDs I know of and I - we haven't gone through a consensus score and there's no policy on that. I want to be very clear that it would not be the generic, the same system as per the gTLDs where policy authorities are better recognized at a global level.

So that's the concern we need to address with the CWG whether there needs to be an IANA specific accountability mechanism for delegations re-delegations.

And I hear a number of voices within the ccTLD world calling for an IANA specific, maybe ccTLD specific type of mechanism rather than a generic one.

Thomas Schneider: Thank you very much Mathieu. I see Eberhard's is raised. Eberhard?

Eberhard Lisse: I don't want to make this into a (dialogue). I think it's probably better if we sort of make a presentation on how the CC space differs from a G space.

For example the terminology used is often unclear. And we have spent five years of work to sort of interpret the basic terminology.

What does delegation means? Delegation does not mean that an incumbent, that a government is unhappy with an incumbent for example and can demand that he be removed.

It means if a delegation, if a new ccTLD is to be established or the manager changes during the process of selection of the manager the government has input as a special stakeholder.

I think it might be good if we sort of present - prepare a ten minute a systematic overview that everybody knows what they're talking about.

Steve yesterday mentioned that sometimes the G space feels that the CCs don't behave according to the ICANN rules. That's an understandable point. The point is we do but we only behave under the rules that apply to us.

And it's all - it's quite clear that in these silos that we have in ICANN we are the CCs. We don't talk to anybody. Technical thinks we do among ourselves and so on Whois we do among ourselves whether we want it or not.

We should may be present a little paper or make a little presentation on where we differ and why this is so.

Leon Sanchez: Thank you Eberhard. Just going back it's a very kind offer. And I think it's something to offer as well to the CWG for - and maybe that it would be a shared group at some point working on the document presented by Avri and that's where it should be appropriate but probably not for the whole CCWG as I think we are overstepping into IANA specific decisions.

But we take your offer. And I think the framework of interpretation has some very useful terminology in there.

Thomas Schneider: So we have a queue forming and I would like to apologize to Kavouss and Steve because your hands were raised but then for technical reasons they were lowered. So I thought that you had withdrawn your intention to speak.

Kavouss you're first.

Kavouss Arasteh: ((Foreign Language Spoken 11:24).

Being in Germany I was talking like this. Thank you very much distinguish co-chairs.

There is the questions that we have raised and I think for some of us if not for all is not clear.

And that is interaction between CWG and Workstream 1 of CCWG.

The CWG is one of the operating communities for which input were asked by ICG.

And recently ICG wrote a note to CWG indicating that it seems that they may not be in a position to complete the work by deadline of the end of January and more time may be needed and asked the CWG to indicate by latest 31st of January the deadline that they could be in a position to transmit or submit the result of their works to ICG.

And they added a passages a paragraph indicating that taking into account that the outcome of CWG before coming to ICG needed to provide sufficient time period for the community to convert.

Because what ICG expect having information out to the CWG with the comment of the community because it is very important that some of the review indicated that there was not sufficient time for the community to comment. So that has been indicated.

Now my question is that what is the relation between CWG and Workstream 1 of the CCWG?

Do they send us something before sending for community of public and after ICG or there will be no such interaction directly and they expect if there is anything from us we will indicate them without being asked that this is our output, have a (look) to that and (make) a community.

It would be extremely important if the chairs kindly clarified this matter.

Thomas Schneider: Thank you.

Kavouss Arasteh: Good luck, thank you.

Thomas Schneider: Thank you very much Kavouss . And I think it fits quite nicely that Lisa Fuhr who is one of the co-chairs of the CWG is next in the queue. And I think she is best placed to respond to that question.

But also I guess that's the - your talk about the concept of conditional accountability. And that's something that will need to discuss as we move on. So your point is well noted. Lisa you're next.

Lisa Fuhr: Thank you Thomas. You gave me quite a task to describe the relation between the CWG and the CCWG.

I think it's not completely clear where the boundaries are but one of our tasks is actually to find a solution for the IANA stewardship transition.

And while doing this there might be issues that will be covered by the CWG. And that's in my opinion why we try and identify these areas and send those to you where there might be overlapping issues with your work.

What I was going to talk about was actually the delegation and re-delegation issue with the ccTLDs because I think it's very important to distinguish between the actual decision of the delegation re-delegation and the procedure regarding this.

And with - and I know a lot of CCs are very afraid of having any decisions made by ICANN and IANA on this issue. But I think it's important to have

actually a redress mechanism for the situation where you have ICANN doing nothing.

So if you have if you have a registry or government asking for something and ICANN don't comply with this request what do you do? Where'd you go?

So this is more actual procedure and not the decision of the delegation re-delegation itself. Thank you.

Thomas Schneider: Thank you Lisa. And back to Kavouss' point we will take good note of that issue. We will have to discuss that further how the two work areas are intertwined.

And we will also hear from Bruce as to the - what the board thinks and we will get back to that point. So it's not being ignored but I hope that we'll have a sufficient answer for everybody because we all need clarity on the process and next steps by the end of this session. Steve?

Steve DelBianco: Thank you, Steve DelBianco. I had the benefit last night of five minutes of Eberhard going through this discussion on the differences on ccTLDs. And it was very enlightening for me because I am truly one of those who was confused.

I had to depart for dinner before Eberhard got a chance to explain the key question relevant to the CWGs Number 2, this notion of accountability for re-delegations.

I honestly don't know whether the board of ICANN is involved at all on a ccTLD re-delegation.

Once our nation and its ccTLD operator in the courts and legislatures of that nation, once they have worked it out and a re-delegation request comes up for a ccTLD does in fact ICANN have any decisions to take with respect to that re-delegation?

Because if they don't then I want to be clear none of the mechanisms we've got in place would necessarily create an independent review of a board decision because in those cases the board doesn't make a decision.

Now having said that there is some possibility that there could be an ombudsman complaint or some other complaint or objection process that would generate a challenge to which the board may have to react. And then that board reaction could be challenged.

But the way I see it right now I don't understand how an independent review of a board decision would be called into play if the board didn't make any decisions. Thank you.

Thomas Schneider: Thanks Steve. I saw both Bruce and Sebastien raise their hands when you spoke Steve. So if you would like to respond to that directly I think we should allow for that response to Steve now.

Okay. Sebastien you were a little bit earlier. Did you want to...

Sebastien Bachollet: Chris (unintelligible) maybe you can...

Thomas Schneider: So do you agree that...

Sebastien Bachollet   If you want a (unintelligible) answer from the board ask a board member and not me. Thank you.

Thomas Schneider: I know that you're experienced in that sector.

Sebastien Bachollet   Yes but I didn't want to answer. I wanted to add something...

Thomas Schneider: Okay great.

Sebastien Bachollet   ...in this issue.

Thomas Schneider: That's...

Sebastien Bachollet   It's - and I know that it's a discussion we had within the board when I was in the board. And...

Thomas Schneider: Okay.

Sebastien Bachollet   ...if you want me to speak now or you want...

Thomas Schneider: No we'll get back to you. I just wanted to check...

Sebastien Bachollet   Okay.

Thomas Schneider: ...wanted to provide an immediate response to Steve so Chris please.

Chris Disspain: Thank you Thomas. Good morning everybody Chris Disspain. Steve, a couple of points, there's - I wish I had a straight answer to your question. I'll try and give you the best one I can.

There is nothing as far as I can - as far as I know and I think as far as the ccTLD community knows there is nothing written down anywhere that says

the board has to pass a resolution or make a decision in respect to a delegation or re-delegation.

In practice what has happened over the relevantly recent years is that the board has in fact been received from IANA a report that says like a traffic law report or green amber whatever that says go ahead or don't go ahead.

What the board has done -- and the board does this now pursuant to the last iteration of the NTAA contract I think I'm writing - I think I'll get this right but (Suzanne) may be able to help me if I get it wrong -- is to effectively take that the IANA staff have followed the relevant policy in reaching the decision which is what I think from memory the NTIA contract says.

What the board does not do and as far as I'm aware never has done is say yes we will move .AU from outer to Steve DelBianco's (cover) or vice a versa.

So it's interesting when you talk about accountability mechanisms in the context of delegation re-delegation of ccTLDs how to deal with that.

And it's one of the reasons why the ccTLDs I think in general feel that if there needs to be an appeals for want of a better term, an appeals process on a decision, that is something that should be created specifically for that because you would need to have panelists to look at it who were very experienced in the particular areas that you're talking about.

And to give you one very specific example just to give you an understanding of how complicated it can get, RFC5091 says that there -- and I'm going to be giving you shorthand here before Eberhard leaves and tells me that I'd use the wrong words -- that there needs to be the support of a local Internet

community of the manager, of a new manager and that should be demonstrated.

Well the problem is how do you demonstrate that in regimes where what the leader says goes?

So to take an example of reviewing a delegation, a re-delegation like that you might want to bring in a particular cultural expert who understands the culture of a particular territory that you're talking about to demonstrate to you that actually the policy has been followed.

So it is - it doesn't fit under in my personal view under a general appeals mechanism. It would need to be very specific. I hope that's helpful.

Thomas Schneider: Thanks Chris. Bruce you'd like to add to that?

Bruce Tonkin: Yes I'll just try and simplify that a little bit.

Man: Good luck with that Bruce.

Bruce Tonkin: So yes basically the board does essentially during a process review pretty similar to what NTI is doing actually is really it's just reviewing as the IANA function - I've lost my voice all of a sudden. Has been IANA function actually performed its task properly and, you know, got a report from the local community, got a report from current ccTLD manager, et cetera? And as Chris said it's a checklist.

There are accountability mechanisms that then could come into play though Steve.

So looking at reconsideration for example, the reconsideration request could come to the board following that decision and say there was staffing actions or inactions that contradicted the policy with evidence and we'd look at that.

It could say that the decisions were made without consideration of the material information that was provided.

So if someone was saying I provided this material information to the IANA function about the three delegation it wasn't taken into account then the board would look at that, et cetera.

So I think yes the accountability mechanisms do come into play following any decision the board would make. And all the board is really doing is saying certifying, you know, the process has been followed.

If there's evidence that the process is not being followed then that kicks off an accountability mechanism and it would be reviewed.

Steve DelBianco: Thank you Bruce and Chris, very helpful. So I think the answer to the question is clear now that if the board ticked the box with respect to the material information being considered and the local affected community filed a reconsideration request and then the board made a decision, it makes a decision maybe not to reconsider or to reconsider.

Under the Work Area 2 inventory Page 1 the Cross Community Working Group or members could challenge the board's decision to say no to the reconsideration.

So I think that that order, that second order challenges the community saying we don't believe the board acted properly. And that would allow an

independent review panel to examine whether your reconsideration request was appropriate. And that would be binding.

So that would mean that reeling this all the way back that Item 2 that Avri discussed, this notion of independent review, sorry Item 2, accountability for re-delegation it sounds as if such a decision were challenged in a reconsideration and the board took action on that reconsideration then we have a mechanism that could be helpful to the CWG.

Thomas Schneider: Thanks Steve. I think this is a very critical point for us to be clear on. And I think we have to close the queue after having heard the speakers that have shown their interest to speak so far because we need a few minutes to talk about process and timelines.

Since Jonathan has indicated that he would also like to respond to this very question or respond to Bruce I'd like to call Jonathan to speak and then we go back to the queue.

Jonathan Robinson: Okay thanks Thomas. I hope it's appropriate that I speak now and I'll be very brief.

Just to highlight that for the avoidance of any doubt this work that's come from the CWG explicitly and recognizes the distinction between ccTLDs and gTLDs and recognizes that different approaches may need to be taken in the two instances.

So should anyone have any doubts about that that's not the case that it's quite clear that there are different frameworks for how this might work and it may be much more subtle and complicated.

So recognized while it's not resolved it's certainly recognized upfront. And I'd just like that to be understood by the group and on record. Thanks.

Thomas Schneider: Thanks Jonathan. Let's move back to the queue. We have Avri then Grace for Izumi, Tijani, Sebastien.

Avri Doria: Thank you, Avri speaking. I have very little to say at this point.

What Lisa said implicitly and Jonathan just said I wanted to point out that the CWG does have as strong a ccTLD component in its membership as does this group. I'm talking about the people talking about numbers. And that, you know, I know on this wording you see a lot of hedges in this wording that were specifically put in there because of recognizing that.

So while extra papers are always good to explain just because I'm a G type that's working as editor on this that has certainly been a lot of ccTLD input into each of these words. Thanks.

Thomas Schneider: Thanks Avri. Next in the queue is Tijani.

Tijani Ben Jemaa: Thank you, Tijani speaking. Overlap and direction between CWG and CCWG, I have been on the drafting team of the charters of both CWG and CCWG.

And I can tell you that in both charters things are very clearly defined. For the CWG only the accountability mechanisms related to the operation of the IANA naming function is included in (develop) scope.

For this group we was (sic) clear that anything related to the accountability of the operation of this function is not in the scope of our group.

So things are very clearly defined. But this is not to say that there is no relation. Because suppose that they CWG decides that they will go for the contract CO for example. If they do so we will have to come with accountability mechanisms that will be different from if they decide to go with an internal ICANN solution.

So there is interaction but it is not - it doesn't mean that they cannot finish their work or they cannot work if we don't provide them with the output of our work. Thank you.

Thomas Schneider: Thank you Tijani. I think I tend to agree that the charters are clearly delineated but I think the implementation of what's there in theory in the charter that's the issue.

And I think we have to be very clear on not mission creep into what the task for the CWG is.

Sebastien it's your turn.

Sebastien Bachollet: Thank you. I was a request to be short. I just want to say that it could be interesting to review the process that were done by the board regarding the ccTLD delegation or re-delegation.

Because the explanation given to you was never satisfaction to me because at the end of the day if you have the box of the local community not tick but the rest of the box are ticket are done by IANA then it's past.

And as an end-user I always feel that if the voice of end user are not recognized in any process it's not a good thing.

And it's generally speaking as we say here yes it's going well but I am not sure if you go to detail it's a reality. Thank you.

Thomas Schneider: Thank you very much Sebastien. As promised we are going to talk a little bit about process and deadlines. And I'd like to give the floor to Bruce to share the board's views on that with us please.

Bruce Tonkin: On the timeline, not on delegations is that right?

Just make sure I got the switch of topics. So yes I think the request that I have received from the co0chairs of this working group are saying what's the board's expectation with respect to timing and some of the dependencies?

I think we're expecting that for the ICG in the Cross Community Working Group on naming feels comfortable with finalizing their work and submitting their work through to NTIA that they'll want some confidence that there are appropriate accountability mechanisms in place within ICANN itself.

From that perspective, looking at the timing of the meetings that we have this year and the opportunity for public comment, we'd recommend that at least the high priority items from this working group can be made available for public comment and for final board decision by the Buenos Aries meeting because that would then give an opportunity for the CWG on naming and the IC (chief) that's looking at their overall reports for the IANA to be finalized.

So that's kind of our recommendation, just looking at the sort of timing and opportunities for meetings because after Buenos Aries, then there's a big gap. We're not really meeting again until Dublin in October.

And I think this is an important decision that the board will want to be making, you know, at a public meeting with community input rather than, you know, just doing it as a board call sometime during the year.

So that's kind of our thinking. And I realize that's a challenge. There's a lot of work that this group would need to get done. My advice, really, would be trying to focus on the (really) material, what I would call the top five.

You know, what are the top five mechanisms do you think need to be put in place in ICANN to allow the rest of the work in the other groups as well as the other work in the accountability (perceive)? So try and identify your top five and try and at least get those done in time for approval in June.

Thomas Schneider: Thank you very much, Bruce. I would hope that it's not five, but maybe three topics that we're working on. Any questions for Bruce? I think it's very helpful to get insight to the board's planning for this. I think that's something that we need to factor into our work.

Yes, I see no questions at the moment. I think in terms of next steps, what we have planned to do is further discuss with the co-chairs of the CWG. We're going to further flesh out as to how we can best operationalize the concept of conditional accountability and the interrelation of the work of the two groups.

And the plan is to demonstrate to the interested audience, to the community, that we're actually working together, that we're talking together. And we thought it would be a good idea to issue a joint statement by the co-chairs of both groups towards the end of this week so that everybody understands that we are closely collaborating and that we are working towards, you know, coming up with a cohesive proposal. Any immediate reactions to that plan? I

don't see any at the moment. So I think with - (unintelligible) raised your hand.

Man: Provided that you clear the point of what do we mean by conditional accountability (in our) discussions. What does it mean? Thank you.

Thomas Schneider: Mathieu would like to respond to that.

Mathieu Weill: Oh, I think this really goes to the heart of the question that you raised earlier, (Kevin), regarding how the two processes interact. And the word, "conditional accountability," to you were put on a diagram by the CWG last week after their intensive work weekend.

And I think what Thomas is referring to is we would like jointly with the leadership of the CWG to provide clarity about what this is about. It may not be the most appropriate choice of words, but we need to be extremely clear about how there is an interaction between those two groups and how the CWG is going to be able to provide input to the ICG even before our work stream one has not been fully completed.

And that is what we want to work on with the CWG co-chairs and provide a statement on so that the community can say, "Okay, we understand how it's going to work out. We are going out of the deadly embrace phase and we're comfortable to work like this."

That's our intent with Lisa and Jonathan in the next few days and hopefully by the end of this meeting, we'll be in a position of so to provide comfort to those who would - who were questioning what is going to be the outcome of our (TCWG) group.

So it's not a definitive answer to your question, (Kevin), obviously, but just to mention. It's just that we would like to provide the clarity about what this means into the process and I think we're not very far from finding this.

Thomas Schneider: Thanks Mathieu. Jonathan's hand is raised, so Jonathan, if I could ask you to keep it brief, please.

Jonathan Robinson: Very briefly, Thomas, I did make this point at the outset, so it is repetition but just to be clear, this choice, as (Matthew) referenced, of the phrase, "condition accountability," it's shorthand and it's not very helpful because it's not accurate.

The proposal of the CWG will be reliant on certain accountability measures being put in place, and to that extent, the proposal from the CWG to the ICG is likely to be conditional on those measures being put in place.

And that is what this shorthand refers to. This is the conditions on which the CWG proposal will rely on in relation to accountability. So it's really an effective mechanism to link the two but in truth, there's no such thing as conditional accountability. Thanks.

Thomas Schneider: Thanks, Jonathan. In summary, I would like to confirm a couple of action items. I think we should ask the questions that Steve has brought up and try to get responses from the CWG.

Also, I think, you know, our group now has more clarity on where the demarcation between the CWG and the CCWG is. Nonetheless, I think it's the task of the CWG to confirm where this demarcation is when it comes to delegation and re-delegation.

So I think it would be good for us to give this question back to the CWG to maybe come up with some language that we could use for our purposes as well.

There's one remaining point that we would've loved to touch upon and that is legal advice that the CWG is about to seek, but we're going to discuss that as we move to the - towards the end of the day when we talk about the engagement with the advisors and legal advisors as such. And with that...

Man: (Unintelligible).

Thomas Schneider: Yes, I think we should view our work area number three, which is CWG related to that exchange of communication with the CWG. And with that, I'd like to close this very interesting discussion and move to the next agenda item which is going to be (led) by Mathieu.

Mathieu Weill: Thank you very much, Thomas. I think it was important to start with this - a bit from the CWG as it really sets the scene for our work and it's an extremely important input into what our high priority list might look like, although it's not the only input.

Another of these very important inputs is the list of contingencies. We have been working on that list within the work area four who is - (the director) is Eric Brunner-Williams.

I haven't seen Eric on the call. I think it's a very inconvenient time of the day for him. So - but we believe, as co-chairs, we have to address this point early in our work because it's also setting a lot of the scene for drafting our priorities.

So just to reap, we - our work charter states that in order to facilitate evaluation and adoption of its proposals, the CWG accountability is expected to provide a detailed description on how it's proposals would provide an adequate level of (residence) to contingencies.

And the mention is, between quotes, "stress test," within the scope of its work stream. And that is where this work area is extremely important because this is, by testing our proposals against these contingencies, we will demonstrate that we are actually enhancing ICANN's accountability and putting it in a position to be resilient in case of adverse events coming up in the future because obviously this might be on the wrong turn and we probably won't have an opportunity every other year to review ICANN's account (unintelligible).

I wouldn't wish so considering the amount of effort. So we have been provided by work area four and under Eric's leadership, a document which contains, at this point, I think 21 scenarios with each of them being described by an event, triggering event, if you will, a threat, and the consequences.

And I think we're going to have them on the screen very soon. So coming into this meeting, I think I wouldn't have the ambition in 50 minutes to go through each of them.

I think it would be probably tedious work and also virtually impossible to stay within a timeline. However, I think the consideration we have to give to these scenarios is whether we want or can afford to keep 21 or if we want to narrow the list of focus, upon which criteria would we do that?

Why would we focus or maybe merge some scenarios and how can we ensure we get to a list that really fits the contingencies that we have to deal with

unless someone else outside of this group says we have not addressed the right threats?

And this is something where we have some inputs. We have a number of statements from (unintelligible) on the one side. Other stakeholders have expressed their concerns about certain contingencies happening where in Europe, there's any European Union council meeting that's actually provided a number of inputs on what they were expecting.

And we also have in the discussions around work area two, define what we would think would be the issues we wanted to address and, therefore, we need to make sure we (map) this as well in our definition of work stream one.

And so actually focusing on the main contingencies is going to be extremely useful for our discussion regarding work stream one because those other problems we want either to solve or make sure they do not reappear in the future.

So the - coming into this meeting we tried to propose to you for discussion now, and we're going to open the discussion, post on the list if there are ideas for scenarios to be added or removed.

But also, and more importantly, I think for our future work, we have been discussing about what we think should be the three questions we would ask to help us narrow this (related) to the main contingencies, at least to be considered for work stream one.

So the three questions we're putting up on screen are - so the three questions are actually four. Let's - I like to be accurate. So first question is the contingency already adequately (call it) by existing mechanisms.

And, of course, we have work area one inventory which is extremely helpful to help us define this. So for everyone's clarity, work area one was an inventory of existing accountability mechanisms.

Second is this contingency relevant to the transition. And I would add if so, how? Because I think the number of the contingencies are obviously quite generic at this stage.

And one of the questions is how are they related to the transition? Of course, if I take one of the most (busy ones), one of the scenarios is ICANN unilaterally canceling the affirmation of commitment.

Of course that is, in my opinion, quite relevant to the transition because there are a number of accountability mechanisms embedded into the (information) of commitment if ICANN were to withdraw from that after transition. Of course the leverage of the United States government to say, "No, no, you have to stay within the (unintelligible) of commitment," would be significantly lower.

And, therefore, I would say it's relevant to the transition but it might not be the case for all of the contingencies we've identified so far. Third question, is it of particular concern to stakeholders? And it'd be great to have a couple of illustrations.

And I think most illustrations we have through work area two where we have listed stakeholder's feedback on accountability that requests certain accountability mechanisms and usually by referring to a thread.

And a fourth, if it's not very quickly addressed, what are the next steps? What we mean by this is will we have to amend an existing mechanism? It can be just fixed through tweet or is it a new mechanism that has to be dealt with or is it a significant (reform)?

So I'd like to open the floor at this point for comments on this way forward, on contingencies and I know I have a line forming starting with (Becky) right in front of me. Go ahead, (Becky).

Becky Burrr: Okay, I think this is implicit in number two - is it relevant to the transition? But I think that we should specifically note that any of the kind of conditions or requirements that NGIA laid out about the transition should be specifically addressed and just - I wanted to say I think that these stress tests condition scenarios are critically important for us to be able to demonstrate that we have, you know, thought about the issues that are out there and that have made careful evaluations.

But I just think - I know everybody knows that, you know, there's some consternation in the US Congress, for example, and so these contingencies and stress tests are really important for that purpose.

Thomas Schneider: I think that would qualify both for is it relevant for the transition and is it of particular (concern) to stakeholders, those stakeholders, the (NGIO), to US Congress or the European Union council or any others. Thank you, (Becky). I think those are really good points. Steve, you are next.

Steve DelBianco: Steve DelBianco with the CSG. Picking up on what (Becky Byrd) just said, in March this year, when congress held hearings, the Commerce Committee in the House took particular interest in this, and the chairman of that committee

opened the hearing by pointing out the testimony of my group NetChoice as indicating stress tests.

And he said, "This might be a very helpful way to look at the transition." And I have to convey the importance of that approach is that the positioning of stress test scenarios was the way in which concerned members of congress could allow the transition to proceed as opposed to delay or balk - to allow it to proceed in the confidence that certain guardrails and tests and questions would be asked about the accountability mechanisms in place to relieve the concerns that would've otherwise led to say, "Hold on. Don't make a transition."

So these had a very valuable effect upon a lot of the skeptics and critics in Washington, and I realize this is the last time Washington will have much to say about anything like this because the transition severs that cord.

But we - (Becky)'s right. There's an expectation that there'll be there and that they - the stress tests that were submitted at the time were very close to what the BC eventually submitted and they constitute Items 14 through 21 on the list that all of us are considering today.

So if we preserve some significant piece of those ten, we will have, I think, met our promise to the Commerce Committee. And I realize that - and (Becky)'s right, the congress is going to take a role on this.

Now, having said that, the four questions that the chairs have put up here, with respect to question one, is it already covered? Well, that's the work of the cross-community working group.

Once we discover the scenarios we're going to use, let's suppose there were 21, then we would have to go through each of the 21 and say, "Do the mechanisms that are work area one or work area two cover it?"

We wouldn't look at just one. We'd look at one or two to say, "Do we cover this stress test?" So I would encourage you to reframe that. Is it already covered by existing or proposed mechanisms?

With respect to relevance, the relevance doesn't have to be tying the particular stress test to something that would happen because of the IANA transition. Not at all. The notion is that once there is no more ability to pull the IANA contract from ICANN, then the transition has occurred.

And you have to look at accountability mechanisms that we need to put into place to answer the scenarios. This is the leveraged concept that we've discussed many times in the CCWG.

That's why the question of relevance, I don't believe is applicable. It's whatever the CCWG thinks are relevant tests of accountability. Those make their way into the stress tests. Those make their way into work area two.

The relevance is a function of the leverage, not of something that's in the transition. And number three, concern to stakeholders, as you said, the chairs are right. If there are groups supporting it and there's a consensus, whether it's full or partial consensus, then it's relevant.

And then, finally number four is the work of the full cross community working group. Four can't be the work of just work area four because it's all of us who take a look at it.

And I did want to suggest for a next step. Let's suppose one of - the BC stress tests, number 21, the last on the list, is particularly relevant. We've been talking about it all morning.

I'll read it to you. It says, "Number 21, a government telecom administer instructs ICANN to re-delegate a country code to ccTLD despite objections from any current registrants in user communities in the country concern."

Well, what do you know? That's what we were discussing this morning. You know, the answer to that might be that we don't have an ability to remedy this. And you check that box to say we examined the stress test. We don't have an ability to address that because that's up to the countries themselves and their courts and legislatures and their communities to work out.

And you know what? That's an adequate answer. The answer doesn't have to be, "Oh, my gosh. We need to go figure something out." Now, Bruce may (unintelligible) this by saying that a reconsideration request by the community would trigger a board decision and then what to you know, we do have an accountability mechanism to challenge a board decision on a reconsideration request.

So in many cases, it won't be very much work to do number four. But I don't think it's something that happens just in the work area number four. I think it happens across the community working group.

Thomas Schneider: I can see - it's a good point, Steve, and I think we'll need to be discussing later on our next steps and how we proceed and through which organization and process. Athina, I saw your hand raised.

Athina Fragkouli: Yes, thank you very much. Good morning. I think the questions - they make sense to me. I would like some clarification. Depending on the answer, and every - these questions, what would be the next step for this group?

Are we going to prioritize, for example, the scenarios that are relevant to the transition? Are we going to abandon maybe some scenarios that are not relevant to parti- that are of not concern to stakeholders? I would like some clarification on that. Thank you.

Thomas Schneider: Thank you, Athina. Indeed, I think that the proposed way for it would be to try and find a way to focus no some contingencies because we had the assumption that 21 would be quite a heavy load on our group to demonstrate and, therefore, we are trying through these questions to find some form of agreement around what are the most critical contingencies for - to demonstrate that we have been doing our own work on stress tests. I have a list - I have a queue forming. Was that a response to that comment?

Man: Just a very quick direct response to Athina. It may well be that the group chooses to add or remove contingencies so I can't predict the outcome of that. It's going to be up for discussion.

But even more importantly, we should narrow that down to the items to be dealt with in work stream one. So it may well be that there are factors that we reserve for work stream two, but that's for the group to decide.

But ideally we would actually get feedback from this group in the course of this meeting on which items we would - we should particularly be focused. But all of them will be properly dealt with.

Thomas Schneider: I have Eberhard for the next speaker. Please Eberhard.

Eberhard: I just wanted to explain to Steve, again, how difficult it is to even talk about things that one doesn't really understand the details of. The thing - government minister demands a delegation to be removed and ICANN must follow.

Why must ICANN follow? What implication this has on the property rights, intellectual property or otherwise existing rights on the incumbent? It's not as easy, even such a stress test. I'm just getting incredibly detailed.

It's not as easy as it sounds so I really, really, really think, before we even look at any of the things, we should familiarize in detail with what we're talking about.

Thomas Schneider: Thanks Everhard. The stress test exercise is not going to be an easy one and that's why we are anticipating that we would certainly have an interest in folks staying on the most critical contingencies because it's going to be about teachers as well. And the feedback we'll get is you haven't sorted out all the details. And we need to make sure we anticipate that. Next in the queue is Kavouss.

Kavouss Arasteh: Thank you. I have a number of...

Thomas Schneider: Excuse me, can you move closer to the microphone? Thank you.

Kavouss Arasteh: Yes. The number of contingencies mentioned, I don't know how we intend to (report on) right now. The question is that I think the question two, first, is applied to the (unintelligible). You have a list of contingencies. You ask, does these contingencies (require for) transition action a lot and then go further of whether they are covered.

If they are not covered, (your) starting should be different. It makes the job easy because if you categorize -- I'm sorry -- if you categorize the contingencies to the transition and those were not the (unintelligible) the second group, and you have a different (treatment), that maybe helps a little bit how to proceed. Thank you.

Thomas Schneider: Very constructive. Thank you. And absolutely good sense. We will - Steve, you wanted to come back on the questions?

Steve DelBianco: Yes, if you don't mind, Steve DelBianco - I would like to remind folks that our charter does more than simply say that we have to do scenarios. Our charter has four bullet points about how to do the stress tests and scenarios.

We analyze the potential weaknesses, analyze existing remedies, define additional remedies or modification of existing remedies and describe how the solutions would mitigate the risks.

That should be in this document that we've been discussing, the full excerpt of our charter, and it doesn't involve numerical probability (assigned). It doesn't involve numerical estimates of the cost of consequences.

So none of that which crept into some of the earlier conversation needs to be part of this exercise, not in our charter. And it does make the challenge you spoke of, Mathieu, a little bit easier, is that we don't do any math for these.

It's not necessary for the charter. It's not necessary to go through the exercise. And keep in mind, that for many of these stress tests, you ask yourself, does the board make a decision in this stress test?

Oh, if the board makes a decision in this stress test, we have mechanisms to challenge a board decision. So the community can assert its will if, in fact, a stress test like this occurs.

So in many cases, the answer to a stress test will be, "See Item 2, See Item 2," because we'll already have prepared a remedy for the community to challenge and overturn a board decision.

Mathieu Weill: I think you've risen a good point that our charter already identifies some deliverables regarding the stress test and some of them are very similar to the questions we're raising so we should definitely harmonize the wording. I mean, we did not review thoroughly the charter before that. But I think that would be a valuable (evolution) of this.

Now, I'd like to - in the time we - the remaining time, I'd like to focus about how we're going to address this because it's significant work. And we need to - we will need to deliver on that, on addressing those questions.

And there are several ways to do that. So the first question is whether we task a work area or a specific workgroup on investigating and reporting to the CCWG.

And the second one is - the second option is, okay, do we split scenarios across various groups so that we share the load? Or do we task a group or the whole group to get the - into all of the 21? Or do we rely on other methods to do that?

And I've heard Steve mention that you thought it was a task to be shared amongst the whole CCWG rather than a specific work group. Can I start

getting a sense, within the room, whether this opinion is widely shared or found as appropriate?

Man: Can you restate the question again properly?

Mathieu Weill: So the question is, getting across the 21 or most of them, and answering those questions that are currently on your screen, is it a task for a specific work group? We would easier rely on Work Area 4 or not a work group. Or should we keep that within the whole CCWG mailing list? Should we delegate this to a group? Or keep it in the group? Yeah. Steve, you wanted to elaborate?

Steve DelBianco: I would, because now that we know, let's suppose we know what the 21 are. If the members of the CCWG were to read the 21, and we assigned a new work area to analyze the 21, that work area would conclude very different people than the ones who live in Work Area 4 today.

Because as you read the 21, there are items in there that Eberhardt, for instance, would be so valuable to have his input on. Number 17, it might be necessary to get some folks who manage root servers to become involved there. Each of these scenarios calls for particular knowledge to bring in.

So that if in fact we were going to give it to a subset of the CCWG, I would open that up to members of the CCWG who understand the items that are amongst the 21. And they could take first crack at it, both consolidating and answering your questions.

If you're reticent, as I sense you are reticent to simply dump that into the entire CCWG, given all the other things that are working on - but a new work area composed of people that know and understand the 21 would be a logical next step.

Mathieu Weill: Alan?

Alan Greenberg: I think I'm proposing something similar to what Steve said, but I'm not 100% sure. The decision has to be the decision of the work group, the full work group. The triage or drafting the position probably should be a subgroup, just because it's hard to work with a group this size. And that subgroup may be different for each of the questions.

So you would really need to put together working parties or something for each of the questions, or for each group of questions, and then bring them back for formal approval and for interrogation if necessary, you know, to make sure the whole work group understands why the decision was what it was.

Mathieu Weill: I have a comment from (Fiona).

Fiona Asonga: I would like just to support what Alan has just explained. However, I would suggest that probably the chair of Work Area 4 would still be the person who guides the team, because then we might end up finding that forming too many sub-sub-subgroups becomes very hard to constantly get the work.

But having different - we could group the different scenarios into those that are similar, so that ex-pats of the different areas within the team larger group are able to then give (Olga) input for that particular scenario, and the advise the larger group appropriately. Thank you.

Mathieu Weill: Thank you, Fiona. Cheryl?

Cheryl Langdon-Orr: Thank you. Cheryl Langdon-Orr for the record. I disagree with your last point, (Fiona). I think it's an entirely different set of skills that are required if we are going to not work with the full CCWG doing this analysis. And so if we're going to work in a new work party, I see no reason for the work of Work Area 4 to necessarily carry out.

It's done its work. Thank you very much. Now we need a different set of skills, and certainly a different set of guiding characteristics than translate immediately from Work Area 4. So if I can't have it, and I would prefer to have it as an activity of the whole - so I don't actually see it saving time by handing it off.

It's got to some back to the committee as a whole anyway. And truth be known, a small subset of people with expertise and interest will form full out of the committee as a whole and do most of the work anyway. But I'm not going to die in a ditch over that. If you do separate work party, I don't see that it has any need to carry over from leadership or membership of Work Area 4. And I will die in a ditch over that.

Mathieu Weill: Okay. I think anyway it's very important that the whole group has a good understanding of what we're talking about, because it's really radiating towards everything we do at all stages.

However, for organizational purposes as well as relevance of discussion and not overloading everyone, I think there's a good way forward into forming, on the one side, maybe some groups of contingencies which, in our instance, requires certain sets of skills, like the financial ones on the one side, and the very operational IANA-type ccTLD experience, and that we look for small groups, three or four people, maybe no more, just to draft it.

And I think the co-chairs could volunteer people, no problem. We can always point to specific categories of people, so that they can report to the group with pre-drafted answers to the questions, and we can go from there.

At some point, priority making is going to become a significant discussion. It was alluded to earlier that obviously scenarios that wouldn't be then found not relevant to the transition, we might have an easy time. But I'm not sure we're going to get a yes or no answer that easily.

And so in parallel, we need to find out how we could define what is absolutely relevant and we could then lay without it. And what would be nice to have, contingency analysis. I'm not sure we are ready now to get that feeling. Probably it's going to be easier once we have dug into some of the examples. But I think it's worth keeping this question in mind for later.

So what I would suggest actually - I think I'm a little bit early on schedule. But I don't know if there are any last comments regarding the contingencies. Good suggestion by Thomas. While we're at it, we would appreciate to feel the temperature in the room around the list of 21.

No. The question really is, do we all feel comfortable with this list as the basis for our further work? Or is there anything missing?

Man: (Unintelligible).

Mathieu Weill: Sorry?

((Crosstalk))

Mathieu Weill: No, so the first thing would be an open round of comments whether you think someone has a comment regarding the 21. And then we would probably go to the (AC) room and feel whether we have agreement on that or not, unless you want to add something.

Man: Just a very quick point which I think we have omitted to mention at the very beginning. We had agreed as a working method that we would not take decisions in a single meeting, right? So you don't have to be afraid to lose an opportunity to comment.

What we planned for this meeting, in order to be as constructive as can be, is that we would take the atmosphere, the temperature of the room, and allow for people to respond and object to the findings of this meeting, right? So we're not going to make any firm decisions during this meeting, but I think we need to make progress by just grasping the - tomorrow...

((Crosstalk))

Mathieu Weill: No. In general, I think it's good practice if we feel like we have some form of agreement to say, okay, we have this form of agreement; and probably the next call, to make sure nothing came up, like a second thought, before we confirm this as an agreement of our group. So that would be my goal here. (Unintelligible), you raised your hand.

Man: Yes, I just simply (unintelligible) not closing the door too suddenly. Thank you.

Mathieu Weill: So what you'd suggest is good starting ground, good starting point, and globally comfortable, but remaining flexible in case something comes up, right?

I think this is sensible. We need to address if certainly someone came up - some significant stakeholder group came up with a very relevant threat that we haven't identified, we would need to add it. So we would always need to be flexible about this list in this regard. Would that address your point, (unintelligible)? Okay. So who was first? James?

James Bladel: Thank you, Mathieu. Over here. Just quickly reviewing the list, and this is something I raised on the previous call was that, you know, I think that there are opportunities to merge or combine some of these scenarios. There's a significant amount of overlap.

But I did want to put one potential suggestion on here, which is that in the future, it may be possible for ICANN to delegate or subcontract some or all of its responsibilities under future IANA authority to a third party that's not identified today.

And I think that we would like to at least understand whether that fits under this list of existing scenarios and contingencies, or if that is sufficient enough to warrant its own category of scenarios. And let me know if you need me to write that up and send it to the list, or put it in the chat box.

Mathieu Weill: Yeah, I think it would be valuable to share it so we ensure we can have a quick check whether it's covered or not covered in the 21. Obviously that's very relevant. I have (Roloff), Jordan, and then Hubert.

Roelof Meijer: Thank you, Mathieu. Roelof Meijer. I'm quite comfortable with the list, although I think quite a few contingencies that we will decide are not relevant to the work we're doing. I think the problem with such lists is that real

contingencies come unexpected. We won't be able to think them up, so they're not on the list.

And somehow we have to make sure that we also prepare for the unexpected. So I don't think we should be completely comfortable when we have dealt with all the contingencies, and we've done the stress test, and think, okay, now everything is okay, because the biggest problems always come from areas where you never expected them to come from.

Mathieu Weill: Preparing for at least the expected contingencies is already a first step.

Roelof Meijer: Yeah, because then you know for sure they will never happen. That's the good thing about preparing for them. It's just like plans. They're useless, but we need them.

Mathieu Weill: Jordan, you're next.

Jordan Carter: Thank you. Jordan Carter here. Just a suggestion to think about. If we're going to use these contingencies as the basis for our stress testing, whether it would be useful to kind of publish them as an early work output of this group, and ask the broader ICANN community for feedback, whether they think there are gaps in these scenarios that we need to take into account, for a couple of reasons.

One is to start getting the ball rolling with some output from us for the wider community to look at, and because it focuses people's thinking on the problems that might emerge, and to help minimize the unknown unknowns. It helps get the widest number of perspectives available to us as soon as possible. So that's just an idea to think about.

Mathieu Weill: Thank you, Jordan. Very valuable suggestion. And if there are any comments regarding this potential publication of the list once it's agreed by the group, as a step, I think would be useful as we recap. Hubert?

Hubert Schottner: Thank you. Hubert Schottner, German Ministry of Economic Affairs. As a general comment, I'd like to second other colleagues who saw that it's - opinion that it's difficult to present something (unintelligible) on potential threats, because I think this is an endeavor we will not achieve. We have unexpected events, and in this case we do not have solutions if we cannot find them.

What I just wanted to raise, having read all these scenarios, my understanding of contingency is rather to understand a bit more focus on issues that endanger ICANN as an institution. And I wonder whether it is possible to identify, among these scenarios mentioned, those that are endangering ICANN as an institution and insofar are of very high importance, and other scenarios that are also important, but may be caused or raise different questions on the table, but probably have to be considered in a different way. Thanks.

Mathieu Weill: In essence, you're pointing to sort of grading how severe the threat would be to ICANN globally. Yes, exactly. How critical it is. That may be a fifth question we add at some point, and that might help us. However, we're very cautious always that, you know, what we're for.

Man: Third question covers it. It says of particular concern to stakeholders, and modification would be is it of existential concern to ICANN.

Mathieu Weill: And we need to be careful with echoing the right rule of that - I mean unexpected threats come up quite often, or at least as often as expected ones. And small consequences sometimes turn into very big consequences, and it's

very difficult to predict the actual impact of some of them. So that's some form of question we need to be aware of. Next is Avri.

Avri Doria: Thank you. Just a quick question I was looking at when I was looking at the list. And something that I think is missing - although perhaps it's there in the capture by stakeholder groups. But I'm wondering what happens if the corporation just gets sick of all this multi-stakeholder nonsense?

Man: What makes you think that hasn't happened already?

Mathieu Weill: Okay, trying to keep it straight.

Avri Doria: I mean there's probably a nicer way to put it.

Mathieu Weill: It might be addressed by the scenarios regarding - it's Number 10 about changing the bylaws and the systems.

Man: Yeah, Number 10. The chairman, CEO or major officer acting in a manner inconsistent with the organization's mission -- and if that mission includes multi-stakeholder in the words, it would cover it.

Mathieu Weill: Yeah. And there's a couple of items regarding capture as well, which would actually be quite relevant to that. Bruce? Did you want to comment?

Bruce Tonkin: I just wanted to put the counterpoint...

Mathieu Weill: Any information you want to provide on that?

Bruce Tonkin: Well I think it's part of the organization's structure to be multi-stakeholder. But coming back to the other side of that risk is Avri made the comment, what

happens if ICANN the organization, you know, finds multi-stakeholderism too hard?

The counter-argument to that is, what happens if the multi-stakeholders find multi-stakeholders too hard? Because I think that's actually the bigger risk, because, yeah, the real active participants isn't very large. It's pretty much this room, out of a population of several billion on the planet. So it's still a relatively small part of the global public that's actually even ICANN.

And over time, that could decrease just as easily as increase. That's another part of the contingency thinking. That is, what happens if we get lower and lower real active participation? And therefore there isn't really much real multi-stakeholderism for us to consider as a Board.

Woman: Maybe the potential.

Bruce Tonkin: The potential. Yeah. That's the point I'm raising, yeah.

Mathieu Weill: I think we've had some good input, and provided...

((Crosstalk))

Mathieu Weill: Please, go ahead.

Chris Disspain: I have a question, and I apologize if this has already been covered and I'm just coming to this late. But I find myself slightly confused, and maybe someone can help me.

I understand that - Number 10, I think, has just been mentioned, right? Which is people acting in a manner inconsistent with the organization's mission. And

I can understand how something like that happening would come under the work of this working group, because if that happened, there would need to be some sort of accountability mechanism in place, you know, to ensure that it could be undone or remedied.

I'm slightly lost with some of these other contingencies as to what, if anything, accountability has to do with. And I'm wondering have we done a check on those yet, or are these just all sorts of contingencies. For example, I don't understand what litigation contingencies have got to do with accountability. Can someone explain to me why they're sitting in a list of contingencies for which we're trying to find accountability mechanisms?

Mathieu Weill: So Thomas is suggesting to answer that. Please, Thomas?

Thomas Schneider: Chris, the analysis of the contingencies is yet to come. This is just to set the scene, and make sure that we've covered everything that the community came up with, because I think we would be in a very bad position to make our recommendations and be told afterwards that a contingency was brought up and ignored by our group.

So this is just to make sure that everything is surfaced. We will also list the contingencies and keep the numbering even if we reduce the list, so that people can go back historically and find out what the contingencies were, that all of those were under consideration by this group. I hope this answers the question.

Mathieu Weill: Steve, you wanted to react as well.

Steve DelBianco: It's Steve DelBianco. Chris, if I could just comment by way of example, Number 19 and 20, for instance involve litigation. And you ask, what would it

have to do with accountability? 19, for instance, if I can attempt to re-delegate a gTLD, because the registry operator's determined to be in breach of their contract, but then the registry operator challenges the action and gets an injunction from a national court, wherever they are.

So I'm not a lawyer either, but to me what that triggers is a consequence that we have to figure out ahead of time as we rewrite the IANA agreement, and it disappears from the US government. Who's the root zone maintainer? Because it ultimately becomes their job to change the delegation of that gTLD.

And we need to be sure that the root zone maintainer and the root zone publishers are all immune from being sued or being stopped from following through on a policy-driven re-delegation of a gTLD.

Chris Disspain: Can I respond to that?

Steve DelBianco: Would you concede at least that one could be creative in deciding that does have a linkage to the IANA transition?

Chris Disspain: No, I completely - I completely agree with you, because that one says ICANN attempts to do something. So a contingency that says ICANN attempts to do something clearly means that you've then got to have some sort of accountability. It's the ones where somebody else does something where, you know, I'm unclear as to where the accountability comes in.

But you've just made a very important point. I'm not sure of the relevance of it to this particular working group, but let me be clear to you that I am unaware of any way you could insulate the root zone manager from litigation at all.

There is nothing you can do to prevent someone suing. You can win if they sue you. But I'm not aware of any mechanism you can put in place that will prevent someone from being sued, especially in certain jurisdictions including the US, which would be a main one. So separate points, and we can take that offline. But so certainly Number 19, I would agree fits into the bucket of accountability.

Mathieu Weill: Thanks, Chris. So what I would like to do now is - provided that we edit the list based on the inputs we have received from James; and there was a comment by Eberhardt to adjust wording for Number 21, which I think is absolutely relevant; and that we mention that this list is a snapshot at some point, and that we may have to be flexible about this, would there be any remaining objections to this list being taken as part of the - further on our work as (unintelligible) agreed list of contingencies at this point?

No? There would then be. That's good news. And therefore, the action items I will take before we break for coffee would be first of all we'll put that list once again on our agenda next week on our weekly call, to make sure no second thought happened on that list. Secondly - and of course between that we'll have integrated the inputs from James and Eberhardt, and any minor editorial input that will be needed.

Secondly, we, the co-chairs, will try and define some subgroups of threats and contingencies, and proactively engage with more subgroups or colleagues that we would think would have relevant skills to field the questions. And of course it will be open, and it will just be a first proposal, and anyone interested can join, and so on. But we would sort of initiate the triage of the contingencies to more subgroups.

We would also adjust the questions as discussed earlier, based on our charter and the feedback we have received today, so that there is clarity about the work to be done by the small subgroups.

And finally, we would probably - we would prepare for a form of announcement of this list wider than our group, and probably an announcement on the ICANN Web site or something to gather feedback to make it known to the community and gather feedback formally about this list following Jordan's advice earlier.

Does this set of action items fit with everyone's understanding of what we've been discussing?

Man: One question with respect to the last suggestion, the publication. I thought we were talking about having the chairs put out a statement, similar to what you did two weeks ago with respect to our high-level intentions to help the CWG. A statement like that, including the 22 contingencies after they've been reworded, that would be quite helpful.

However, I think it's premature to put it out for a formal ICANN public comment period. Thank you.

Mathieu Weill: Thanks for clarification. I was clearly referring to some form of high-level chairs' statement, whatever, but not a public comment. But certainly we'd call for if anything comes up, please engage with the group early so we are more efficient in the end.

And that would probably be a topic to discuss with the community in Singapore in one of the sessions we'll have, or at least part of the sessions

we'll have, to get feedback in another form as well. Kavouss ? You wanted to say a few words.

Kavouss Arasteh: Yes, just clarification of a question. Do we need to mention that the appearance of this list or the items in the list does not provide any order of priority or not? Because maybe saying that (unintelligible), there is no order of priority, just listing. Thank you.

Mathieu Weill: Good point. Thank you, Kavouss. And I think with that we can close this item. And Grace has an announcement.

Grace Abuhamad: Hi, everyone. This is just to let you know that if you're in the room, the participation room, the Adobe Connect room, you don't have to exit the room during the break. So we'll keep the room running. We'll just clear the notes in the chat to incorporate into the wiki, but you can stay in the room and on the phone bridge.

Mathieu Weill: And for colleagues here in the room, you can stay where you are, but you can also go in the back room where there's coffee and tea. You're allowed. And we reconvene in 15 minutes.

Woman: 20. At 11:00.

Mathieu Weill: At 11:00. 11:00 sharp.

END