

ICANN

**Moderator: Brenda Brewer
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6:00 am CT**

Cheryl Langdon-Orr: Good morning, good afternoon, good evening to all of you who've joined at the top of the hour. My name is Cheryl Langdon-Orr. We are a little light on our participation at the moment. So I would propose that we may wait for perhaps another minute or so but we've got Steve, Paul, Jonathan, Edward, myself, Cheryl Langdon-Orr, and Avri. So if you wish we could get started but I'll leave that up to you.

Brenda, is there any dial-outs that need to be done? And do we know of others who were planning on joining? Because there's no point waiting if we've got a full house. Dial-outs are complete? Thank you.

Beran is on the phone line, thank you. That will act as part of the roll call to note that Beran is only on audio and, Beran, please as you can't put your hand up, not being in the Adobe Connect room as yet - I note Athina has joined us, thank you Athina for joining us in the Adobe Connect - just make yourself known if you want to put in an intervention and we will make way for you or put you in the queue, whichever is most relevant.

Okay, well at that point I billed in another 60 or so seconds so that's enough fillibusting from me. Let's get the call started. I believe, Alice, I've probably done as close to a roll call as we need to do at this stage so it's a matter of just asking is there any apologies that we need to note?

Alice Jansen: Hi, Cheryl. Brenda, can you tell us is there any apologies here?

Cheryl Langdon-Orr: Izumi apologizes, thanks for noting that Brenda, appreciate that. And we may have a couple of other people join us in the next few minutes but let's get underway.

I put a very brief agenda out at far too late an hour for Steve and staff to review. And you will see it, for those of you who are in the Adobe Connect room, in the discussion notes pod on your screen. For those of you who are only on the phone line, Beran:, that includes you, I will read the agenda items out as we go through them.

With that preamble from me I would suggest that we're pretty well finished with Agenda Item 1, which welcome, attendance and any apologies, and pretty much through Agenda Item 2, which is introductory remarks from me.

The only other introductory remark I would like to make is to note with my thanks to all of you who got up heroically early in the very first morning of your Istanbul face to face meeting and joined with us for a breakfast discussion over Stress Test 21 and obviously we will come back to that later on once the mechanisms are all tied up and put together when we do our final read-through.

But I do want to note for the record in these work party meetings that that was a formal work party meeting. We had a number of additional guests. I thought

it was a good conversation and I think we forwarded that particular stress test in our own thinking significantly because of that.

Those of you who were in or watching the face to face meeting in Istanbul will note that we did not manage time on the agenda for any other stress test working party discussions but of course, as Steve will pick up and reiterate, as we both always do, our work in particular requires that the Work Party 1 and Work Party 2 is more fully fledged and filled out in terms of mechanisms.

But we have managed to do a little bit of extra editing and indeed furthering one particular stress test, which is Stress Test 18, since Istanbul. And at that point in time I'm now going to move to Agenda Item 3 which I'm going to ask Steve to manage for us and that's to spend a few minutes on a more detailed and far more intelligible, I'm sure, review of Stress Test Working Party activities since Istanbul. Over to you, Steve.

Steve DelBianco: Thanks, Cheryl. Steve DelBianco here. This is in regards to the document draft v9, version 9, 27th of March. I circulated it just a few days of when we returned from Istanbul. And it had four major areas of change in it. The first was there are many anticipated mechanisms, which we counted on or I should say we supposed would be part of the public comment period. So we had anticipated them and had them in the Proposed Mechanisms column.

The most prominent example is the mechanism of a community veto, this idea where super majority of the community, however we structure it, could veto a board or management decision.

That was present in eight of our stress tests. But as of Istanbul that is not being developed as a mechanism for Work Stream 1, not even necessarily a Work Stream 2 mechanism.

So I did a strike-through on the eight stress tests that relied partly upon community veto. There may be other mechanisms that we presumed would be developed, which have to be struck through or potentially, you know, excised from the stress test analysis. And this group needs to figure out that if we are going to stress test the first public comment document then we will have to figure out whether the remaining mechanisms, of community veto, and some others are missing, are the remaining mechanisms still sufficient.

The second update was to, as Cheryl described, Eberhard had given us some technically correct language for Stress Test 21, not necessarily the mechanism to solve it but how to correctly describe the stress test so that's Number 21. That was an update we did in Istanbul.

Two more, Ed Morris provided us a new stress test common it's on Page 15. We've got to figure out whether it merits being fully fleshed out, and we haven't yet discussed it on the stress test work party. And then finally Stress Test 18, that's the stress test regarding GAC advice. That, as a Cheryl said, has taken on a life of its own. It's a thread that the full CCWG has been discussing.

And I do want to report that last week the Work Party 1 full endorsed this idea of proceeding with the one sentence change to ICANN bylaws so that the only time that ICANN has to enter into a consultation with the GAC to work out a mutually acceptable solution is instances where the GAC advice was achieved by consensus. And of course we leave it to the GAC to determine what consensus is.

So, Cheryl, of those four items I would suggest to you that we have - we have Ed on the line, Ed Morris, who will want to talk about his item. That we ought

to devote some time to those a stress test that had community veto, as well as other mechanisms we counted on which may not be part of what we put out for public comment.

Cheryl Langdon-Orr: Cheryl here for the record. Steve, yeah, I think that's essential. However, before we go to that I do see Jonathan's hand raised. Over to you, Jonathan.

Jonathan Zuck: Yes, I guess I think it's good Steve brought up some of the things that have fallen to the wayside since we've decided that this is actually the GAC consensus working party at this point. But I think there is - another concept that has gotten less play than I expected actually originated with Alan is this notion of how do we get the board to initiate an action? Everything has become about review. But there are certain instances in which we want the board to be proactive in a number of stress tests that kind of require that as well.

Stress Test 11, which is about forcing ICANN to implement the recommendation arising from an AOC review such as the SSR review. Seventeen, force ICANN to respond to recommendations from the advisory committees such as SSAC and then there's a few others, 3 and 4 that are about implementing consensus policy or recommendation of an AOC review.

So there are a number of stress tests that have to do with when recommendations have been made and the board has simply chosen to do nothing and so there's no trigger for an IRP or any other kind of a review based process. And it was Alan I think originally said we need a mechanism to store them at least to consider something because then once they are on the books then they are subject to all the other mechanisms that we've designed but that's far we don't have a way to even get them to draw a line in the sand.

Cheryl Langdon-Orr: Thanks for that, Jonathan. And, Steve, I'm assuming you'll be happy to add that particular matter to our guess about 15-20 minutes worth of deliberations on we want to take the meeting next. But I would note first of all, Jonathan, you mentioned both Stress Test 11 and 17 and a little later in the agenda when I wanted to go over, and I will do a brief analysis at least on what the CWG have identified their stress tests of interest, which interestingly enough is slightly different from the list we had already identified which you'll see at the bottom of the page on your screen at the moment.

We'd identified numbers 1, 2, 21, 19, 20 and 25, and in fact the CWG itself has added in both 11 and 17 onto their listing of our stress tests that they think are relevant and critical for their work. So that saves me sane that later so thanks for bringing that up now, Jonathan. What we do with 3 and 4 of course is still up for discussion at this group. But with that I'm going to punt it back to you, Steve.

Steve DelBianco: Thanks, Cheryl. In addition, number 20 was on the CWG list and 20 was one of the ones Jonathan just identified as having, you know, an assumption of that mechanism. So three of them - count on I should say, they anticipated a mechanism to force the board to take action on things like affirmation reviews and consensus policy.

And this could generate a gap in addition to the community veto mechanism, which is in eight of the stress test, that's fully half of our stress tests that have a little bit of a gap. And we've got to figure out whether our - is the expectation of the co-chairs in the CCWG, is the expectation that we will reapply our stress test to the mechanisms that are published for public comment as the final part of what is published later this month?

Cheryl Langdon-Orr: Cheryl here. I don't have my crystal ball with me but I suspect if we were to ask that question the answer, quite scarily enough, is probably yes. Perhaps, Alice, if you would be so kind as to make a note of that particular question as a result of today's call and action item is on us to ask that specifically for reply by the co-chairs to that question to our work party as soon as practical because they'll have to address...

((Crosstalk))

Steve DelBianco: Cheryl, I might say whether - but when would we be expected to...

Cheryl Langdon-Orr: Exactly.

Steve DelBianco: ...and how many, you know, would we have a day or two to get it done, something like that.

Cheryl Langdon-Orr: Yeah. Yeah.

((Crosstalk))

Steve DelBianco: Well then on the assumption that they're likely to say yes, and I think you're right about that, let's cover these two issues, the community vetoes and forcing the board to take action. Let's see if we can cabin that in a 15-minute discussion because it may indicate that we alert our colleagues in the Work Party 1 and Work Party 2 that the omission of these mechanisms could well say that these stress tests might fail, they might do much more poorly against the stress tests than they anticipated.

So there are eight of them that had community veto, and they start on Page 7 of the document that's in the chat right now. Bring up Page 7, and we're not

going to do all eight, I just wanted to cover a couple of them to give you an example of how it works.

So folks, could you scroll to Page 7 please?

Cheryl Langdon-Orr: Everyone has their own scroll control.

Steve DelBianco: That's right. And I was just sort of encouraging you to do that.

Cheryl Langdon-Orr: Yeah, just reminding people so if they're waiting for their screens to change they need to change it themselves and just, Steve, if you could - Cheryl for the record...

Jonathan Zuck: We have our own control as long as we do what we're told is what you're saying.

Cheryl Langdon-Orr: So you're used to working with me after all, Jonathan, I'm pleased to hear that.

Jonathan Zuck: Oh yes.

Cheryl Langdon-Orr: Steve, if I could just remind you we do have a couple of people who are only on audio so a brief (preci) of matters off screen would be greatly appreciated by them I'm sure.

Steve DelBianco: Great. Those of you on audio, I've circulated this on March 28, document is v9. And on Page 7 of the document we have the first two of eight stress tests which assume we would have a community veto. So you'll see in strikethrough on the middle of the screen on Stress Test 3, there's litigation.

One of the things we had in here is that the one proposed measure would empower a super majority of ICANN community representatives to veto a board decision. So that ability to veto a decision would apply to the board taking an action that the community felt was inappropriate and the community could simply say "do it over."

Now today I would suggest that after yesterday's CCWG call we are likely to see a reconsideration which asks the board to make its decision again. And there's the challenge to an independent review panel, or IRP. Those are both triggered by a board decision; both triggered by a board decision.

But in both cases the community doesn't make the determination of what the decision should be, it simply says do it over and hands it to someone else, in one case, the board in a reconsideration and independent review panel in the case of an IRP.

So the idea of community veto, which I believe was first surfaced by Robin Gross in Singapore, is this notion of the community could have a super majority to just say no. Let's take a little bit of a queue on that because it's my understanding that in Istanbul there's some reticence, even Robin who proposed it initially, backed off a bit from the community veto, as being a wide-open way to challenge any decision the board ever made without any criteria being predetermined.

So Robin started to put parameters around that. And there was a general unease with the idea that surfaced on the Sunday afternoon before the Istanbul meeting began. And if I'm reading the tea leaves right, we aren't going to have a community veto as part of - now I realize we have a community veto of a budget and a bylaws change. I'm talking about a veto of any decision.

And if that's not going to be part of the public comment we publish in April, what is the stress test team think about keeping this language in a stress test, the strike through language, or pulling it out completely so as not to imply that this was something that had been agreed to and then got lost because it was never fully agreed to and it was never actually fully developed.

Cheryl Langdon-Orr: Steve, I'm not seeing much in the queue lining up there so perhaps we can be mean and pick on some people who were there at that meeting on the Sunday before Istanbul started and see if we can draw out some...

Steve DelBianco: Athina, Ed, you were both there. What's your recollection?

Cheryl Langdon-Orr: Athina is typing. Ed, have you got audio? Do you want to speak with Athina is typing?

Steve DelBianco: Okay. Cheryl, here's what I'll propose then...

Cheryl Langdon-Orr: Okay.

Steve DelBianco: ...to see what - to put it out there. I would propose that with respect to this community veto and probably also the one Jonathan is going to discuss, that we alert the full CCWG that eight stress tests had presumed a community veto, that if it's not part of the public comment we will take it from the document. But we wanted to alert you that this - if this is missing, which of these eight stress tests would the stress test team start to worry about if it was missing community veto.

So the proposal is to leave the strikethrough in until the last minute and to alert our colleagues right away. And if the determination is they don't want to add community veto we get rid of the strikethrough language. But let's give a

warning now if we believe the mechanisms would fail any of these eight stress tests if community veto disappeared.

So here's where it's essential, probably will only take a moment but if you look at the stress tests on Page 7 there are as many as four or five mechanisms in the proposed column and thereby getting rid of the community veto. I don't believe it's not fatal to passing any of the eight stress tests that it's mentioned in.

And I'll just finally add that the reason it's not fatal to lose the community veto is that we have reconsideration and IRP which are triggered by board decisions. They're just not as flexible for us as a community veto would be.

So that proposal is to alert our colleagues that eight of them have community veto. Our understanding is it's not being developed. Our preliminary understanding is that none of those eight stress tests would suddenly flip to fail absent a community veto. And that we'll probably take it out of the text if it's not part of the public comment publication. So folks could indicate with a yes or a no or comment on that proposal.

Cheryl Langdon-Orr: We've got Athina with her hand up. Go ahead, Athina.

Athina Fragkouli: Yes, thank you very much. Can you hear me?

Cheryl Langdon-Orr: Perfectly.

Athina Fragkouli: Oh perfect. I think it makes sense to me what Steve just suggested. I would also - I also agree with the whole plan to remove this - the veto power from the stress test. Unless the veto power would give something extra, let's say, that is really considered to be needed.

From what I understood from the veto power mechanism after the veto, right, the board should also make a new decision which is the case, I understand, after the reconsideration process anyway. So unless, you know, the veto power has, you know, provides something extra to the community, I understand - I agree that we shouldn't duplicate mechanisms. Thank you.

Steve DelBianco: Athina, it's Steve. It is something extra since the community veto is the community saying no, that decision cannot stand. Both the reconsideration and IRP are counting on others to agree. So the community veto is definitely something extra, it's not redundant. But it's not...

((Crosstalk))

Steve DelBianco: ...if you know that I'm saying. And Robin Gross had originated it and it was Robin herself who sort of put parameters on it when we got to Istanbul.

Athina Fragkouli: I understand. I understand that - the logic of it. What would be the difference in terms of the outcome though? Maybe that's what I rather mean.

Steve DelBianco: Outcome of our thing? The outcome of our...

((Crosstalk))

Athina Fragkouli: Outcome of let's say what happens after that. So if there is a veto so then there won't be any decision on any matter at all from the board or there will be a different decision maybe? That's what I mean.

Steve DelBianco: But, Athina, community veto hasn't been fully developed but as it was first presented the presumption is it's a do-over and the board then has to

reconsider what to do because the decision they just took has been vacant, has been vetoed. So it would be up to the board what decision to take.

Athina Fragkouli: Okay. Yeah, exactly. That's my point. But of course unless we have the full mechanism, you know, developed and explained, yeah, it's difficult to see - to have like a (unintelligible) matter. But I agree with what you proposed for now.

Steve DelBianco: And then Ed Morris?

Ed Morris: Hi, Steve. Just quick question, are we sure that community veto is dead and buried? And maybe it's just the Easter season of resurrection but before we get rid of this do we want to get rid of this until we've seen the final proposal or we receive some more legal advice. Because I'd hate to not have the stress test and find it reborn at some point.

Cheryl Langdon-Orr: Ed, Cheryl here. I know you addressed that to Steve but we need to be sure that we're the Stress Test Working Party and all we can do is prepare our stress tests in line with the predicted or actual proposed mechanisms that are either already in place or will be suggested out of the other work party activities.

And so I guess that's why I'm very comfortable with Steve's suggestion which leaves the strikethrough language there and the warning that if such a community veto does not make the cut and is not put forward as a mechanism then it will be deleted and as far as we can tell that is not going to be a fatal flaw in terms of where it is applied to the stress tests we had currently listed to run. But, Steve, you may have either a different or a more vocal opinion on that one.

Steve DelBianco: Thank you, Cheryl. What you expressed is exactly what I was proposing.

Ed Morris: Sounds great, guys. Thanks .

Steve DelBianco: To Ed, we are not taking it out at this point; we're going to alert our colleagues and the rest of the CCWG that it's our understanding that it may not be in the first public comment and is not currently under development. Correct us if we're wrong but we also went ahead and analyzed the eight stress tests and felt that none of them would switch to a fail mode if community veto were taken out.

Cheryl, I'll take that as a...

((Crosstalk))

Cheryl Langdon-Orr: Yeah, I think that's a yes but Edward your hand is still up, is that an old hand or did you want to follow up?

Ed Morris: No, old hand, Cheryl.

Cheryl Langdon-Orr: Okay, great.

((Crosstalk))

Steve DelBianco: Cheryl, let's do this name analysis with the...

((Crosstalk))

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...the six stress tests...

((Crosstalk))

Cheryl Langdon-Orr: Just before you do, could you just speak up on Avri's point out of chat or, Avri, did you want to speak to that point?

Steve DelBianco: Well, Avri, earlier we covered reconsideration and IRP are both other ways of challenging a board decision. They just rely on other parties to arbitrate what to do about the decision, okay? So there are two other substitutes that are close but not quite the same thing.

Avri Doria: Yeah, thanks. I had written a question before you had explained that. Thanks.

Cheryl Langdon-Orr: Just wanted to dot the Is and cross the Ts, Avri, thanks. Okay, back to you, Steve. Let's do the other six.

Steve DelBianco: Great. So, Jonathan, I believe there are six of them you said that count on the ability to force the board...

Jonathan Zuck: Yeah, that's right, there are six that I found. I mean, I guess I make no claims if that's comprehensive. But it was 11, 17 and 3, 4, 20 and 22 are the ones that I found that count on an ability of the community to kind of induce action on the part of the board.

Steve DelBianco: Why don't we start with 17, it's on Page 5, as an example. Yeah, for those of you on dial-in 17 said that the stress test would be if ICANN attempted to add a new top level domain in spite of security and stability concerns expressed by the technical community or other stakeholder groups and the consequence is

the DNS security, stability would be undermined, ICANN could impose costs and risks on external parties.

And when we have discussed this in the three or four times of the stress test team we cited the collision and certificate - internal certificate problems of the new gTLD as examples where the SSAC had given very clear advice that didn't seem as it was being acted upon by management in the composition of the guidebook and it took quite a stir of public opinion to finally get some actions to not delegate things like dotHome, dotCorp, to force the certificate authorities to embark upon a multi-month program of sunseting some old certificates, if you recall that.

I mean, there may be other examples as well but...

((Crosstalk))

Jonathan Zuck: I mean, another example was dotless domains. I mean, I'm sure Cheryl remember the brouhaha around that.

Cheryl Langdon-Orr: Oh yeah.

Jonathan Zuck: And what sort of extreme measures it took to get the board to pay attention to SSAC recommendations and community preferences on the issue of dotless domains and the - not only security issues but also sort of the, you know, Internet at large issue of, you know, a particular registry owning a word on the Internet as a result of a dotless domain.

So, I mean, there was a - there's a lot of discussion, a lot of op-eds and ALAC put together a paper on it. That may even be a more powerful example that everybody remembers, I don't know.

Steve DelBianco: I think it is. And we should feature that example in the center column...

((Crosstalk))

Steve DelBianco: Yeah. Even if we put it in in addition to collisions it's something that is an example where the board didn't take a decision. I don't know the history well enough. But that Jonathan is bringing up are situations where the board didn't take a decision, they didn't take any action at all and thereby the proposed accountability mechanism in the far right hand column is - here's the way we wrote it several weeks ago.

"To empower the community to force ICANN to respond to recommendations from advisory committees such as SSAC." So if that community power were being developed this is an instance where it's essential to have that power because absent a board decision we can't use - there's no trigger. In other words the board - can't do a reconsideration or an IRP unless the board takes a decision. But what do we do when the board simply ignores SSAC advice?

The first line in this box over here, to you Avri, is did ATRT 2 have a specific recommendation on forcing implementation of advice or forcing implementation of recommendations arising out of an ATRT?

Avri Doria: This is Avri. Were you asking - at first I thought you were asking a different question, did the ATRT have something about forcing acceptance of advice from an AC versus forcing advice from an ATRT?

Steve DelBianco: Great - yeah...

((Crosstalk))

Avri Doria: In both cases the answer is no. But in terms of the advisory committee while we tried to get an equal standard for all advisory committees, as the GAC might have, that didn't fly because then the GAC would have needed more. And if you go back to the conversation you'll see that that was the issue that if you give all the ACs the same as GAC well then GAC needs something (unintelligible).

But we did get in - manage to get as far as the board had to acknowledge and respond. So they got kind of like half the treatment and that's about as far as we were able to get in the last ATRT. So at least they have to pay attention now and they have to respond but they don't have to do that extra negotiation bit if they don't follow.

Steve DelBianco: Avri, just to clarify, ATRT 2 final recommendation included one that compels the board to acknowledge and respond to advice from an AC, is that right?

Avri Doria: Yeah. I can get you the exact word and numbering in a second but it'll take me a second, I don't remember numbers that well.

Steve DelBianco: Well that could really be helpful.

Avri Doria: Sure.

Steve DelBianco: Because if that were in place, and again that was adopted - ATRT 2 recommendations were approved by the board, they may not have been implemented yet but they are standing policy for ICANN.

Avri Doria: I actually think that one was implemented already but I'll confirm.

Cheryl Langdon-Orr: Steve, I'm just going to pop myself in the queue here briefly. Sorry, Jonathan, I just jumped you. I'll stand back and let you go ahead, you may very well be saying what I'm about to. Jonathan, over to you and then I'm in the queue.

Jonathan Zuck: Oh I just wrote it. I guess my question is going to end up being a legal question which is whether a response - this is sufficiently official - is enough to trigger one of the review mechanisms that we have under discussion or do we need the board to go as far as making some sort of a resolution or making a - taking a vote on a recommendation from SSAC or others in order to have something to review?

Cheryl Langdon-Orr: Thanks, Jonathan. And I think what we might do is have a little - not quite an action item yet but a small scratch pad where we can note some particular questions to raise with legal. And I think a somewhat similar question or it could be a Part A Part B story, is whether or not we can ensure that there is a response which relates to inaction of the board, not just responses that are triggered by an action of the board. So we might need to have that looked at as well.

The reason I wanted to pop myself in the queue, however, was because I - thanks for that Avri, Avri has just put into the chat the particulars that she was just referring to. With this particular proposed measures enhanced community power to mitigate the risks of this scenario, that, I think, needs firming up.

This is one of those on review even at this stage in Stress Test 17 of the conclusion bars, that we can probably predict, subject of course to legal advice, that we are identifying a potential gap here in terms of a response to inaction.

I think if we get to the point where there's interacted-on advice discussed and then somehow that reaction may or may not be classified as somewhat of a trigger for something that's a nice discussion to have. But right now I agree with Jonathan, it just doesn't seem like there's enough of a trigger or if there is a response to this issue it is a far more high consequence one such as proposals that would involve mechanisms to spill the whole board which is a little bit like using a laser to cut butter.

Under these circumstances there needs to be a more interactive and a more, pardon the pun, lower level than spilling the whole board because I think that could be done in response to inaction if general community dissatisfaction was a result of this inaction. But that's a fairly serious outcome so we need something I think in that last box that indicates that that's a gap we've probably identified.

Okay back to you, Steve.

Steve DelBianco: Thanks, Cheryl. So on Stress Test 17, the first example Jonathan brought up, there were three mechanisms in the right hand box. The first mechanism was to force ICANN's board to implement and forcing it to implement is a different kettle of fish than forcing the board to acknowledge and respond to advice - so forcing it to implement.

The first one said, "Forced to implement a recommendation arising from either a PDP or an Affirmation of Commitments review." And this is wrapped up in the powers that are in the Affirmation for the ATRT team because it's supposed to review whether the board implemented previously approved recommendations of itself and other review teams. I don't think that's the same as having the power to force implementation.

And again, the forcing of implementation was something that Alan Greenberg brought up in Frankfurt. And I don't believe that either work party, Work Party 1 or 2, has done any planning or design on that first mechanisms of forcing implementation. Does anyone know otherwise whether that has happened?

And if not this falls into the bucket of about notifying the rest of our CCWG that we assume that that power will not be part of the first cut and then we turn to the second element in this box to empower the community to force ICANN to respond to recommendations from advisory committees such as SSAC.

And as Avri indicated our suspicions were right, ATRT has that in it and it was approved already, although I don't think that the bylaws change has been made yet. So we would want to cite ATRT 2 Paragraph 9 and explain our concern that that's not been implemented.

But now we get to the third element in here that if the board acknowledge and responded by not taking a decision we get to Jonathan's key question. And is that enough for us to trigger an IRP or reconsideration. Is the linkage there? And I'll stop, Jonathan, and turn it over to you.

Jonathan Zuck: Sorry, I was getting myself off mute. So, yes, I mean, all I was going to say is that we don't necessarily need this to be about compelling a particular outcome if we want to make this a softer touch accountability mechanisms then it doesn't need to be about compelling a particular outcome but just any outcome, you know, you know, whatever that level is that triggers so that the board opens themselves up to the world of other review mechanisms that are currently being discussed.

So just asking them to formally make a decision about something, any decision about something - any decision at all is all that the community would really need the power to do.

Steve DelBianco: This is Steve. Does that suggest, as Keith has indicated in the chat, that we would need to say to Work Party 2, who's designing the reconsideration and IRP, we'd need to say to Work Party 2 please look at ATRT Paragraph 9 and this notion of the board having to acknowledge and respond to formal advice from an AC and asking them to create - to ensure that that is a sufficient trigger for IRP and reconsideration that if the board failed to accept or take a decision on formal advice from an AC, does that begin to make the trigger a little more clear and usable?

Jonathan Zuck: Well, or even if they follow the, you know, Number 9 and respond, I guess the question is what the nature of that response would need to be to trigger a review mechanism.

Steve DelBianco: So the word "decision" might be written in the reconsideration and IRP but we'd like to say that decision or response.

Jonathan Zuck: Maybe, right.

Steve DelBianco: Because in this particular box if you get rid of the first one, Alan Greenberg's forced implementation, get rid of the first one we are only left with ATRT 2 Paragraph 9 and the - you know, the hopeful sense that this trigger will be sufficient for us to have a reconsideration or IRP. So here it would be fatal if the work parties do not proceed with a forced implementation then we must have clarity about triggers.

Triggers could be done on decisions or responses of the board or else we would end up failing a critical stress test.

Jonathan Zuck: Several of them.

Steve DelBianco: Yeah, are there others that we want to go over as well, Jonathan?

((Crosstalk))

Cheryl Langdon-Orr: So we'd look to 11 as well? My rationale there is of course both 17 and 11 are included in both Jonathan's list of six but also the CWG listing of critical to them and they've got publishing deadlines looming even ahead of our own so.

Steve DelBianco: Then scroll to the prior page, everyone, Number 11 was compromised of credentials. I believe this was added in December in response to ICANN's security breach. Take a look at the proposed mechanisms. They fell into two categories, Cheryl, there was internal...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...personal procedures versus external SSR decisions. And you could see in there we have - regarding DNS security - empowering community to force ICANN's board, that's the Alan Greenberg one that has not been developed. Second one is identical to what Jonathan brought up on Stress Test 17. And Matthew gave us two other proposals, neither of which has been developed by anyone. So we would fail this one as well. That's a great point.

All right so I can see what's going to happen here is that I need to prepare a draft note for the stress test team to examine and the note would then be sent

to the full CCWG. We'd identify the community veto and the forced implementation as mechanisms that we understand may not make the cut. In the case of community veto it isn't fatal but in the case of the forced implementation it'll probably be fatal on at least two and perhaps more of these six stress tests.

And so the ask would be that Work Party 1 or 2 make sure that the language on reconsideration and IRP can be triggered by the board's response to formal advice of an AC and that we not be lacking for a trigger just because they failed to take a formal decision.

So I'm happy to draft that. Maybe I'll get some help from Jonathan Zuck on that and maybe we can get it circulated to everyone by maybe end of the day today and let you all see it, comment on it on the stress test work party and then we would send it around to the CCWG right away. How does that sound?

Cheryl Langdon-Orr: Perfect plan, Steve. It's Cheryl. So if Alice can just note that as an action item on you and Jonathan.

Steve DelBianco: You okay with that, Jonathan?

Cheryl Langdon-Orr: Of course he is, he's waving his hand at me; just because it was an old hand doesn't mean he's not in agreement.

Jonathan Zuck: Well I'm trying to put my hand down. Yeah, I'll work with you.

Cheryl Langdon-Orr: Sorry, I'm having far too much fun with that. I shouldn't have been quite so (unintelligible). Back to you, Steve, sorry.

Steve DelBianco: Yeah, that's all I had on that. And I noted earlier that Ed Morris on Page 15 has started to flesh out a stress test. And, Ed, do you want to talk us through what you were thinking on that, Page 15, let's decide whether we want to formally discuss it as a stress test. It's in there as a placeholder right now. Go ahead, Ed.

Ed Morris: Yeah, hi Steve. Sorry I got a printer going at this same time here which inadvertently just gets it off. Yeah, the thought here is what happens when we develop a process for our - say through a PDP and in implementing staff changes what we intended to have happen.

Arguably it happened with the Trademark 50 policy, we'd argue that. And what recourse does the community have when the staff changes policy developed by the community? And that's what this one's about.

Steve DelBianco: And so, folks, if you're looking at Page 15 one of the questions I would ask is this a brand new stress test or does this factor in to stress tests we already have? I didn't spot one that it would automatically fit in. So it looks as if it could stand alone.

Ed Morris: Right. And in terms of what we have right now when this happens you do get to go to reconsideration and then to an IRP. And the new IRP would presumably we'd have a bit more teeth and be a bit more accessible to rectify these sorts of issues.

Steve DelBianco: So, Ed, underneath in the bottom of the column where it says Conclusions, do you think that this is related in any way to the IANA transition? It strikes me as...

Ed Morris: No.

Steve DelBianco: ...probably not.

Ed Morris: No. And as we have the reconsideration request procedure is the existing accountability measure. And as we put the IRP with the final accountability measure that we're proposing.

Steve DelBianco: And in the center column, Ed, wouldn't we also have to mention IRP as well?

Ed Morris: Yeah, I was just thinking that. Yeah, let's see, not necessarily. Right now because of the limited remit of an IRP - let's talk this out - do we go to an IRP? If the staff implements a - changes the implementation from what the community desired we can go to reconsideration but the IRP remit right now is so limited and most cases I don't think we can go to an IRP.

Steve DelBianco: Well the question is who could? An aggrieved party could file an IRP but the community doesn't have standing to do an IRP so it's something we could note...

((Crosstalk))

Ed Morris: In most cases would the aggrieved party be able to go to an IRP because it doesn't relate to the narrow issues the IRP is now allowed to consider. This is almost malfeasance by the board member. It's very limited now.

Steve DelBianco: So limited scope and no community standing. And what about reconsideration? I thought that the reconsideration today only addresses process and not the substance of a decision.

Cheryl Langdon-Orr: That's true.

Ed Morris: Yeah, correct.

Steve DelBianco: So if the IRP is limited in standing and scope and the reconsideration is limited to process then the existing measures are probably not adequate.

Ed Morris: Correct.

Steve DelBianco: Okay so the proposed measures - there's an IRP - and I understand we are still keeping reconsideration open. Robin Gross and her team are working on that so that'll probably be in the first cut. So reconsideration and IRP and there are new standards and expanded standing for the community.

Ed Morris: And then you IRP, correct, in reconsideration as well we would hope.

Steve DelBianco: The new standard for IRP and standing for the community. Standing includes the accessibility, right, the community can file the IRP and the community doesn't have to come up with \$1 million to pay the panel because the community...

Ed Morris: That would be nice.

Steve DelBianco: Right. Okay so with those two additions under the assumption that they're there, we could say that that...

((Crosstalk))

Ed Morris: Would be adequate.

Steve DelBianco: In combination. Okay. And it doesn't involve a veto and it doesn't involve forcing implementation like Jonathan brought up earlier.

Ed Morris: Right, no.

Steve DelBianco: Okay. So let's take a queue. This would be the first time that the stress test work party has discussed this one. It would be a great time to weigh in on how you feel about adding this stress test. I guess it'd be Number 26. Athina, that was an earlier comment. Looking in the chat or for hands. Hearing no objection, Cheryl, I...

((Crosstalk))

Cheryl Langdon-Orr: Looks like we're adding 26.

Steve DelBianco: ...that we would add it.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: Cheryl, I do want to try to suggest that it would be mayhem over the next 13 days if lots of brand new stress tests got added. We have our hands full with what we've got here so let's not try to be too welcoming of adding new stress tests in the next few weeks please.

Cheryl Langdon-Orr: Understood. The one exception to that would be that Avri and I still need to do an audit of the cacophony of material that was euphemistically classified under stress testing in the original RFP 4 section of the CWG work just to ensure ourselves that, as I think is probably the case, that there isn't, you know, a gaping hole somewhere or something that was brought up in their

earlier RPF work and that hasn't been picked up in our broader classification work that we've done.

So pending that that they would be exceptional and numerically very small if existed at all. I'll agree with you on that one, Steve, because we don't need extra to run through.

Steve DelBianco: Okay. Cheryl, back to you then. I think we've handled everything I had on the agenda.

Cheryl Langdon-Orr: Terrific. Thanks very much. We've got quite a few action items and as it turns out the following call has been bumped a little so we could press to the top of the hour a little bit more easily than I thought we were going to be able to.

So what I'd like to do now is, and we've done a couple of them, serendipitously if that's even a word, is just look at what the CWG has so far in their draft version 3.0 of their transition planning document, identified under their Section 4 - part of their Section 4, which you will see - excuse me, clearing my throat, apologize, is in the discussion notes under Agenda Item - under Agenda Item 5 I think - for those of you who are a quick off the mark you'll notice Agenda Item 4 I've jumped over.

Steve did mention during his review of activities since Istanbul that Stress Test Number 18 is now going to be a discussion for the committee of the whole and in fact I'll just reiterate, and this will cover off now Agenda Item 4, that we'll be looking to have at least half hour on the CCWG agenda in next week's call specifically to discuss Stress Test 18 and some minor language changes that have been proposed for that as a result of going through at least Work Party 1 if not Work Party 2 by then.

And the reason I'm raising it in this call is some of you may not have been in last night's - or yesterday's CCWG call when this was first raised. So now onto 5 which was to look specifically at any of the stress tests that the CWG itself has identified and the measure of identification for the purpose of this exercise is if it's being listed in the draft text for their transition plan documentation.

And I've taken an excerpt out of that which is Part 4c, classified as workability of any new technical or operational methods. It says that this section should describe what community views, as the implications of changes it proposes in Section 3 and specifically to our - to our interest is testing and evaluation of new technical or operational methods proposed and a review of relevant CCWG stress tests.

So this goes right back to Singapore and has been confirmed intercessionally and again at Istanbul that wherever possible CWG will be looking towards our existing CCWG stress testing to meet their needs.

And they've identified the following stress tests: Number 1, a change authority for the root zone ceases to function in part or whole; Number 2, delegation authority for the root zone ceases to function in part or in whole; Number 11, compromise of credentials, that's one we've just discussed and we have made edits to that; Number 17, that's the one we've just discussed and we have made edits to that; Number 21, which is one we have not discussed yet and perhaps, Steve, we could go to now.

And then under Legal and Legislative Action they've identified Number 19 and Number 20. Number 19 is ICANN attempts to redelegate a gTLD because the registry operator is determined to be in breach of its contract, but the

registry operator challenges the action and obtains an injunction from national courts, noticing it says "gTLD" there.

Number 20, a court order it issued to block ICANN's delegation of a new TLD because the complainant - because of a complaint by existing TLD operators or other aggrieved parties. So we might have a brief look at 19 and 20. And the only other one that they've identified is failure of accountability to external stakeholders with Number 25, ICANN delegates or subcontracts its obligations under a future IANA agreement to a third party. This would also include ICANN merging with or allowing itself to be acquired by other organization.

So they're the only ones that are - we need to note are of high now priority for us to get as complete as humanly possible with the limitations we're working with in advance of the CWG's publication of documents and the CWG's intensive work days are, if memory serves, the 13th and 14th for this finalizing of that draft but I'll ask staff to double check on that. Thanks, Alice, if you could double check on that or Brenda?

So, Steve, did you want to have a high days and holidays look at some of those for us?

Steve DelBianco: Cheryl, it's Steve. I mean, we've given a pretty serious look at all of our stress tests.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: It's not as if some deserve a tighter look. Twenty one is the exception here; 21 was so controversial, you recall that breakfast meeting in Istanbul.

Cheryl Langdon-Orr: I do.

Steve DelBianco: Although I'm pretty sure that the wait staff at the hotel remembers it even more vividly than the rest of us.

Cheryl Langdon-Orr: Thanks for that, Steve. That actually was the manager of food and beverages, just so we got it right.

Steve DelBianco: Okay. All right, I'm sure he's recovered by now. But 21 is a mess. We've really only got it partially complete. If you scroll to it on the screen you'll see that we did indicate some potential mechanisms. But hard for us to ascertain whether we've really got what we need in place on 21.

But I wanted to ask you a more general question, by the 14th of April, you know, just a week from yesterday...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...are we to provide something in writing to the CWG so they can publish their stuff for public comment? Are they looking to us to provide them a document insert, do you know?

Cheryl Langdon-Orr: I believe that's - that would be greatly appreciated for their long form document, yes. The short form document will make do with this listing as is copied into the notes here. And of course a link to or general wiki space so they should have access to whatever is the most up to date and available version of our documentation.

But I'll ask Avri's opinion on this as well, I would think that if we could provide fairly short text or at least an extract of those forms that they've

highlighted that could be a very useful thing indeed. Avri, before we go back to Steve because he's probably taking deep breaths and trying to work out how many extra days he needs to create, your opinion on that please?

Avri Doria: Yeah, it would seem useful. Yeah, it would be useful.

Steve DelBianco: All right and then the question then is when we assess the accountability mechanisms, that's in the third column, of all of our stress tests, when we assess them we typically do so with respect to the CCWG's mechanisms, the ones we are working out. I haven't done a deep dive into things that the CWG is proposing independent of us.

But would that be necessary in order to run these stress tests? Would we have to run them not only on the CCWG mechanisms and powers but also upon other things that the CWG is proposing?

Cheryl Langdon-Orr: I'm going to again - Cheryl for the record - bring Avri in on this but my immediate reaction is that the powers that we have been discussing in CCWG, specifically community empowerment, are in the main what has been required, in other words, they may not be exactly as CWG has discussed but they are a reasonably good attempt to offer accountability mechanisms that cover the IANA specific issues.

But Avri has kindly put her hand up so over to you, Avri.

Avri Doria: Yeah, I wanted to avoid being called on when my hand went up. This is Avri. I think that the CWG would have to come and amend - not amend but basically would have to build some text around it to show how this was applicable, to show how things in the CWG might map to some of these if

indeed there is any mapping that needs to be done, and to show you indeed they do work for the CWG specifically.

So I'm not quite sure how that would be constructed. Perhaps it would just be, you know, a paragraph at the top and some notes inset. I'm not sure. But I think that the CWG would have to be something more than just cut and paste, you know, this group's work into its groups but it would have to show how it answers, you know, those questions in its proposal.

Cheryl Langdon-Orr: And of course, Avri, you realize that you and I will be writing that text so start thinking about it.

Avri Doria: Yeah, I realized that as I was speaking but it just didn't seem right that the CCWG should be held accountable for producing that bit of text.

Cheryl Langdon-Orr: I agree with you.

Avri Doria: So, you know.

Cheryl Langdon-Orr: I do agree with you there but that we've got plenty of time to do haven't we, along with all the other drafting team stuff. Steve, back to you.

((Crosstalk))

Steve DelBianco: And, Avri, that does answer that first question about what text if any should we provide. And it's far more efficient for us to draft it for them than for them to start over. However, I asked the second quick which is several of our stress tests have a phrase in the lower right hand corner that says, "At this point CWG's recommendations are still in development." That's even the case of Number 21.

So that was anticipating that CWG, through their structural separation for the separability, their appeals panel, through the mechanisms that they are going to propose in seven days, that those mechanisms should be tested. And I get the sense that our stress test team, that's those of us on this call, would take at least a pass at reading what they have and saying, wow, yeah, that smells about right. It looks like that could provide an adequate accountability for the community.

And it's only seven stress tests that we need to do this on but it does require that we have in front of us, you know, the very latest thinking of the CWG and the mechanisms that they've provided. How close is the CWG, you know, to finalizing that or do we just simply have to wait until next week?

Avri Doria: We haven't finalized it yet.

Cheryl Langdon-Orr: I can't see it happening before next week, Steve.

Steve DelBianco: Are you converging on something that - if you shared with us we could fairly rely upon it to get our work done in advance?

Cheryl Langdon-Orr: I very much doubt that.

Avri Doria: Hopefully - yeah...

Cheryl Langdon-Orr: You're more hopeful than I am, Avri? Okay.

Avri Doria: No, I'm thinking possibly by the end of - by the 10th we would have a better idea but I'm not sure.

Steve DelBianco: Then may I finally just ask that you and Cheryl are being close to it, as soon as you have a high confidence of what the CWG mechanisms are if you send it to the stress test work team, in other words don't count on us to be paying attention to the posts and the email, there's just too much else work to do, so it's a big favor to ask that as soon as you two have high confidence that the CWG mechanisms are close to being final for publication, send them to the stress test work party and then we can take a quick pass at updating our stress test document before we turn it around and send the text back to them.

Cheryl Langdon-Orr: I guess, Steve, the only good thing I see in lining that up, and I mean, the answer to that is yes, but the reality of it is it's probably not going to come out until the end of the high intensity work days which are 13 and 14 next week. So I would assume that what we might want to do is carve out a reasonable amount of time out of our stress test working party meeting next week to deal with that as probably our most significant piece of work.

Steve DelBianco: Okay by me.

Cheryl Langdon-Orr: It's just the bad luck of the convergence of the times and deadlines here. And I think to promise anything sooner is just going to promise disappointment so okay well that sounds like we've actually got next week's agenda planned. We are six minutes past the top of the hour.

And I would suggest that for next week's call we probably want to make sure it is a 90-minute block so that gives us time to deal with probably for about 45 minutes the CWG specific stress tests and then for the remainder get back onto the residual of our work.

In a perfect world, and here I'm moving to our later action items of 6 and 7, I'll call for any other business in a minute though so I'm just reviewing action

items, we have a couple of action items for some material to come from the notes and probably the tape and chat at least from the MP3 and chat at least from today's call to go across to the legal client team with the suggestion that we believe the questions that we've identified for legal would be extremely useful for us to - if they were to pass those on to have a memorandum put together for the legal advisors to respond to that inaction of board and where triggering fits in the scheme of things when we have a lack of resolution to respond to.

And also one on Steve and Jonathan which is a little bit of text work. There's also, Jonathan, I think would you be so kind as to just do a short note to the list so those of us - those who are not at today's call are aware of the six stress tests you identified? I'd love to say everyone was going to read the notes and listen to the MP3 but let's be realistic, it might be a good idea if you just poke that out to the mailing list and get everyone's head in the right space there.

Now I wanted to make sure that, before we close off, I call for any other business. But as I'm doing that, and hopefully none of you have any, I just wanted to make sure that the comments from both our GAC representative son today's call - sorry, GAC members on today's call - we're now talking about the national issues in terms of delegation and redelegation that it we're not ignoring that at all.

The national appeals system and the matters of national law in terms of delegation and redelegation is in fact something that is in this somewhat messy but nevertheless getting more developed stress test Number 21 and we have in fact already agreed that the language inclusive of both the GAC principles and the framework of interpretation working group outcomes are very clearly included in this language so that what you've asked for in chat of course has been recognized, was discussed at breakfast and whilst it may not

be wrapped up in a pretty bow the intent is that 21 will make that very, very clear indeed.

And on that, Steve, did you want to have a few words to our GAC friends now on that whilst anyone puts their hand up for any other business?

Steve DelBianco: Yeah, Cheryl. I honestly don't know what to do on 21 until we observe what the CWG has proposed with respect to 21.

Cheryl Langdon-Orr: Okay.

Steve DelBianco: Cheryl, I cannot be on the debrief call which was just moved from this hour to the next hour so please report to our co-chairs, you know, the somewhat significant findings we made on today's call, this notion of several stress tests including mechanisms that look like they won't make the cut and that the community veto, as well as the inability to force implementation are going to generate some activity coming out of the stress test work team in the next 24 hours. And also let them know we're trying to be as helpful as we can to the CWG.

Cheryl Langdon-Orr: Yeah, shall do it. All right, anyone with any other business? If not, Jonathan, you're going to pop those numbers through to the list. The rest of us know what we're doing. And I'd like to thank you one and all for joining us, apologize for taking a little more of your other hour. But I think it was worthwhile to get through the full agenda, and look forward to talking to you all in this meeting same time next week. And that will be for a 90-minute time slot. Thank you one and all. This call is now ending.

END