

ICANN

Moderator: Brenda Brewer
April 15, 2015
6:00 am CT

Cheryl Langdon-Orr: ...the fourth which is only the fourth teleconference. We've had a couple of face-to-faces in addition to that but the name catcher is recording. This is Stress Test Working Party Teleconference Number 4 on the - April 15 and I'd like to welcome everybody who's joined us on the call and who is in the Adobe Connect room.

My name's Cheryl Langdon-Orr and Steve DelBianco and I are keen to continue our work, albeit a little bit like treading water at times. We are of course actually moving slightly forward at the same time as bobbing around in the water.

We do recognize of course that the final run through of all of our stress tests can't be managed until such times as the various accountability mechanisms are finalized by Work Party 1 and 2.

And we're getting closer to that but we're still looking to ensure that we have enough scenarios. We've added another one last week and we'll be making - I don't think that's been edited into this Version 9 but Steve will speak to that in a minute.

In terms of our attendance the usual practice at the moment is to note everybody who is in the Adobe Connect room as present, but I'd like to ask is there anyone who is only on the audio/only on the telephone link to let us know now and we'll mark you as present as well.

Not hearing anybody Brenda I was just wondering if anybody had - thanks Brenda. She's just confirming we have everyone in the Adobe Connect room. That's terrific.

Also for the call management that's terrific. Do we have anybody who sent any apologies that we're aware of Brenda? No apologies listed. Right-o. You have in front of you your - and a familiar document now which is our stress test listing.

This is currently Draft Version 9 and as of last week when we looked amongst other things to the particular stress tests that the CWG had identified, we will in fact note on the page that you're on at the moment -- that's Page 1 of the 17 page document -- that the last paragraph there will need editing.

And of course Steve holds the pen on all of this because I'm naughty enough to use open source software and that apparently doesn't play nicely with everybody else's systems, so he penned things so that everyone can read it.

And we will need to add of course on that last paragraph to the Caw's attention Stress Tests 11 and 17, which they've also identified as - of being particular interest to them.

Relating to our work last week I'm going to now ask Steve if he'd like to take us through what we did last week briefly, but in particular make a point of

concerning with everybody on this call that we now in fact have 26 stress tests.

We did agree in last week's call to add our free unnumbered one and you'll find that I think on - must be Page 15 or so. Yes I think it is Page 15 from memory and that's one from Edward Morris which we've agreed so that will now be our Stress Test Number 26.

So Steve over to you and we'll do a review on last week to see if anybody's got any questions, and then we'll look to what we're needing to proceed to noting what we will be covering off in our CWG call when we get to it later on. Thank you.

Steve DelBianco: Thanks, Cheryl. Steve DelBianco here. Before I do a quick recap of where we are, Cheryl's right about treading water, but there is a tidal wave coming. I mean, if we have an intensive weekend and end up with six mechanisms and powers, we are going to have to have our own intense period where we run through all 26 stress tests and determine whether our preliminary conclusions can still hold against the new accountability measures.

I haven't seen anything that indicates we would suddenly fail a lot of tests other than the concern that we raised on last week's call. Jonathan Zuck brought to our attention that the ability to spur the Board to make a decision in order to trigger a reconsideration or IRP isn't firmly established in any of the design powers and mechanisms yet, and that's what caused this group on last week's call - I think we really did some great work.

But we came up with the notion that five stress tests - six test stress - all of them require the ability to force the Board to take a decision so we can trigger the challenge mechanisms.

There was an outreach to Legal, which I don't believe produced any answers on that. And then we - correct me - I'm wrong. Anybody think that Legal actually answered the inquiries that we put out on Board inaction?

Cheryl Langdon-Orr: Cheryl...

Steve DelBianco: Go ahead.

Cheryl Langdon-Orr: Yes, Cheryl here. In fact Legal formally hasn't. It's an interesting mechanism. The memorandum - there was an undertaking at the Legal Subteam's meeting last week, which was a couple of hours after our call and to send the memorandum to make this the piece of work for the legal advisors to do.

At the call just prior to that which was - unfortunately Steve I think you were traveling and you were unable - or had another appointment. You were unable to make that.

The Co-Chairs minus (Leon) who was away last time - last week also agreed that this was - this is an important issue and they instructed Staff to send an action item request to Legal - so to Legal Subcommittee to have our questions actioned as well.

Now as of 24 hours ago there was still questions coming to and fro you and I Steve about the exact framing of these questions, at which point I just about threw up my hands in horror and said, "Well, you know, just talk to us at this meeting. You've wasted a week already."

However Jonathan asked the question last meeting with Legal and I think got a quite reasonable response, albeit off the cuff. And I know Jonathan's in the queue now, which at least gives me and I suspect the rest of us a little confidence that - one offered that the mechanisms as they are written at the moment do not give us what we need, that there are ways of this being able to be the hand be forced and I'm going to let Jonathan speak specifically to that in one moment.

Because of that information given in response to Jonathan's questions last night and because the Co-Chairs have also indicated that the answer to these matters now needs to be wrapped up very particularly in the Work Party 2 legal advice as well, I've said that we won't need this as the highest priority because there's a lot of other work Legal needs to do but that we will need it as soon as possible.

So whilst we haven't got the inverter colors' formal advice yet, it has for some reason taken a ridiculous amount of time to get the memorandum underway.

It is going to be forthcoming but I'm relatively comfortable that something will happen and the advice will be in the affirmative. And at that, Jonathan over to you and then back to Steve.

Jonathan Zuck: Yes, this is Jonathan Zuck, for the record. I - I'm not sure that I was that impressed with the consultant's answer on this. The one thing that came up in the chat that was interesting - that maybe a better way to phrase this is induce the Board to consider because inducing them to act, I don't know, reads to some people that there's a specific outcome that we can induce them to - a specific decision we can induce them to make as opposed to inducing them to make any decision at all so that it's subject to review.

And so I think it was Stephanie in the chat that suggested that that might be called induced to consider. But beyond that, I mean, what was raised on the call was just the notion that I can go in and, you know, through bylaws change or removal of Board members, you know, have the ability to induce a decision.

And in fact it sounded like what they were throwing out there was almost an informal mechanism, which is, you know, form a rabble and threaten to remove a Board member is the way to induce the Board to act, and I'm not sure that we want going forward that to be the method with which the community negotiates with the Board.

I mean, you know, "Hey you could - we could recall you. You watch what you say," right. I mean, I feel like - and so they sort of then responded that, "Oh well the - you could formalize it."

And I - and I'm - again I don't think that that rhetoric is the way to address the problem. I think we're just looking for a better mechanism and one came up on the last stress test call, right, which was, you know, Avri mentioning that there was a kind of induced to consider components the RTR - ATRT 2, the - what is it, .91, right...

Cheryl Langdon-Orr: Yes that second one. Yes.

Jonathan Zuck: ...and that, you know, just expanding on that language in the bylaws might be sufficient to trigger the IRP and other review mechanisms that are being worked on in Work Party 2.

So, I mean, I - this may be a problem we can solve ourselves and don't need the lawyers for but, I mean, the - I didn't even like the tenor of the response from the lawyers that we got on the call.

Cheryl Langdon-Orr: Thanks. I was a little - perhaps I was in a darker place to begin with that I was a little less negative when I heard at least as far as I could understand it and I believe the Co-Chairs also understood it this way and certainly Mathieu did that regarding the model that was the delegate's model that one could ensure - and I think this is where you're talking about the bylaws Jonathan.

One could ensure that an interaction between Board and community was enforceable. In other words that one had to as - what was that line - in that Affirmation of Commitments reference you just used that a inaction of the Board could be brought to the table by a concerned community, and that the Board would need to interact with the community around that and that some form of resolve would be expected out of that mediation, negotiation, whatever you'd like to call it and that that aspect of it could be mandated.

I saw no evidence at all of it being linked to the other model, the membership model. And I think one of the particular questions that we will be asking, and I've reframed some of the questioning with Mathieu too this afternoon to see if we can pick that out, is to see how this matter of Board inaction can be dealt with and if it can be dealt with how I should say, not just to one model but across all the models that are being proposed?

So again that does fit very much into Work Party 2's work but I suppose I was just relieved to see that we might be able to at least - and invert a - force a conversation. Jonathan, back to you.

Jonathan Zuck: Yes. I mean, I - I'm not sure that I read it completely that way but, I mean, that was a reading of the conversation. But I also think that the stark reality that I feel we got from the lawyers was that the only way for any of us to have any teeth with the membership model really, you know, for the things we are trying to do in terms - in the, you know, in Jordan's group, you know, the powers that we wanted, that the only real way to get them is through that membership model.

So, I mean, I don't - I didn't perceive anything that was uniquely available from an empowerment standpoint from the delegation model. So I, I mean, I - that's an interesting conversation to have on it. I'm interested in your interpretation there because I...

Cheryl Langdon-Orr: No I just - yes if - and we need to go back to Steve but my memory was that Holly specifically mentioned that delegates as a model when he - when the response was being given to you.

However those questions have gone to Legal. We will get a response eventually and...

Jonathan Zuck: Right.

Cheryl Langdon-Orr: ...they - we will either have stress tests that pass or fail based on those. The temptation of course is to have our conversation here go into choice of models, which I do want to try and avoid.

Jonathan Zuck: Right.

Cheryl Langdon-Orr: So as tempting as it would be to go down that particular rat hole, I'm going to avoid that temptation and get back to our stress tests. Is there

anything else you wanted to say about that Jonathan, remembering that we're using 17 as a prime example here because it is that - relevant to the Affirmation of Commitments and the ignoring or failure to act on advice from an Advisory Committee. It's the SSAC example.

But as you pointed out Jonathan -- correct me if I'm wrong -- the other stress tests where this is relevant are 3, 9 - sorry, 3, 4, 29, 11 and 27 so there aren't any shortage of these where Board inaction can be an issue. Steve back to you.

Jonathan Zuck: That's exactly right. Thank you.

Steve DelBianco: Yes. Some of this is a belt and suspenders approach. It's possible that the ATRT Paragraph 9.1 can solve this and so this team took it on over the weekend.

Avri and I worked with Matthew Shears on sections for the document that's going to go out for public comment. This is the document of Work Party 1 and we took bylaw changes that are suggested by stress tests.

And the very first one we did was to capture the discussions that the Stress Test Team had last week and to add Paragraph 9.1 from ATRT 2. So it's in there as something that the document is going to include.

We were able to get that done over the weekend. We didn't discuss it on the full call yet but Avri we may actually cover it today on Jordan's call. I hope so.

So that is in there in case Work Party 2 is unable to work inaction into the powers for IRP, Independent Review Panel, and reconsideration. The

templates that I have observed that come over from Work Party 2 include the word inaction as a possible basis to trigger an IRP or reconsideration.

But the details aren't clear yet and we don't have a legal validation that that will be sufficient to satisfy this stress test. So we're going to watch everything and if in fact reconsideration and IRP handle an action, then it may not be as necessary to take care of that particular change to the bylaws on ATRT 9.1.

But I don't know why we would pull it back but let's put it in there. We ought to have it in there as well just in case there's any question someday about how Board inaction is interpreted so that we can invoke an IRP.

After all it is a third party, an Independent Review Panel, that makes the decision. In the case of reconsideration it's the Board. I think what's best for us is if we have a bylaws provision that forces the Board an accountability to the community to respond to Advisory Committee formal advice.

And I do think we ought to be - get a - getting a little more support from GAC and the broader ALAC on this since the Advisory Committees are the ones that benefit most from this.

SSAC has been somewhat absent from a lot of what we do and the Root Server Security Advisory Committee I haven't seen at all. So it may take some outreach on our part to talk to the other ACs so that they appreciate what we're trying to do with this stress test.

One more item on that stress test. Steve Crocker unfortunately was watching the list and completely misinterpreted what Jonathan was getting at in the emails and suggesting that we were trying to force the Board to implement Advisory Committee formal advice.

And Jonathan you replied to Steve Crocker. I think you set him straight on that. It was only about prompting the Board to make a decision so that we could get action and that was great. Thank you.

Before I turn - I'm going to turn next to the community power/community veto, which is a big subject of last week's call. Are there any further discussions on this question of forcing the Board in the face of inaction?

Well Cheryl if it's okay with you I'd like to turn to the community vetoes. This is an area we - I think we did some very good work on last week's call. We identified all the stress tests which among the mechanisms we were looking at were the mechanisms for the community to veto a Board decision.

And we had done a strikethrough in the text of Version 9, the draft you have in front of you, to indicate that that particular power, a broad, unrestricted community veto wasn't being developed by either of the Work Parties.

So we said, "It's a little ridiculous for the Stress Test Team to count on that in order to meet stress tests, so let's put a strikethrough and give everyone a heads up that as far as we know it's not going to happen."

Well unfortunately the chief advocate of community veto, Robin Gross - I think she misunderstood what we were saying and thought we were trying to strike out any of the community detailed bylaws and budgets.

And as you all know we weren't even touching that. We were talking about a general community veto and that brought the conversation to the point where Robin explained that as far as she was concerned that was never on the table, a generalized community veto.

So perhaps the misunderstanding was on our part or my part. I said, "My bad. Let's not worry about it anymore." I think that we can safely remove the strikethrough elements in Version 9 when we get around to the next version.

There's no reason to put out an intermediate version with just that in it, but I think we're past that misunderstanding with Robin at this point. On yesterday's call the legal experts - I believe they emphatically said, "You should not have a mechanism to question any and all Board decisions without, you know, with the power of veto."

So I think that's off the table and we're safe there. Cheryl, any further discussion on community veto?

Cheryl Langdon-Orr: I don't believe so but I wouldn't mind hearing from anybody if they were concerned, knowing that of course people would've watched the interchange on the list but not necessarily been up to date with the final outcomes as you described it.

So just to refresh everybody's memory the stress tests where the strikethrough was added to this version was Stress Test Number 3, 4, 19, 10 and 20.

And I have no idea why I had them out of order but I made an attempt to put them in the right order, but anyway I'm sure you'll sort those out. And - oh also 15. Sorry I missed 15 as well. So let's move on then Steve.

Steve DelBianco: Great. Earlier I noted that Avri and I worked over the weekend on the Work Party 1 document and have included the stress tests and forcing the Board to take Advisory Committee advice.

It also fleshed out Stress Test 14, which is the stress test where ICANN might cancel the Affirmation of Commitments and thereby no longer have to live by the commitments in there as well as the reviews - the periodic reviews.

So Avri did a little bit of excellent rework on the way that looked and added in other elements of transparency and reporting that have been in prior ATRTs and prior community discussion.

So we have fully fleshed out that section, which I think is excellent. We haven't had a broad conversation about it with the rest of the members of Work Party 1 yet, but that's a stress test motivated set of changes so they don't look like stress tests but 14 - Stress Test 14 on the AoC is what motivated it.

And then one final in that same category - Stress Test 18, the notion of the GAC switching from its current full consensus to some other model but still obligating ICANN to take that advice and work out a mutually agreeable solution with the GAC.

If you recall Stress Test 18 then motivates us to make a one-line change to the ICANN bylaws, a one-line change just to see, A, that - where the GAC reached its advice through consensus.

Then and only then would the ICANN Board be obligated to do a mutually agreeable solution or to try to find a mutually agreeable solution. This is seen as controversial and yet our stress test - our recommendation on this is less strict than it was several weeks ago where we were suggesting that the GAC should adhere to the current standard in their operating procedures.

And their current standard is the one that had given Thomas Schneider and other GAC members complete heartburn. That was a procedure where any single government could object and thereby kill consensus.

That - and that's their rules. It's not our rules. It's their rules. Earlier on we had suggested that be the new bylaws base tool, and that was causing so much problem with the GAC that we have come to the conclusion that we can just say consensus, and we give the GAC some flexibility defining how it comes up with consensus rather than locking them in.

That does sort of step on their prerogative to define their rules. As we all know the GNSO - we define what we mean by consensus. It's not necessarily totally unanimity and each of the SO and ACs has some flexibility there.

I did hear from - I don't even remember who it was - they was nervous about having the GAC simply define consensus as simple majority. I guess statistically that's a risk but practically speaking I don't see how.

And if the GAC took such an extreme position to say that, "Simple majority is what we mean by consensus," then the community would react to that. We would react and I guess we would put into the bylaws something more explicit about what consensus is.

So that's Stress Test 18. It was on the agenda for yesterday's CCWG call, right Cheryl, and we never got to it.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: But I know there were a handful - there were a healthy contingent of GAC members on the call who were anxious to discuss that. Having said that

Denmark, the African Union, U.S. government and U.K. have all come out in support of our recommendation on Stress Test 18.

So we're not alone in this and the Co-Chairs seem to agree this is something that the CCWG feels pretty strongly about, so I think they'll back us up on it but it's going to be an interesting discussion.

Cheryl I only had one other item and it has to do with GAO but I'll turn it back over to you.

Cheryl Langdon-Orr: Just with the Stress Test 18 just before we move on from there, we will still have a good 30 minutes allocated to that in the next call. It was our allocation for the last call but I'm sure you will all understand and I trust support Steve and I's advice along with the other rapporteurs to the Co-Chairs during the last call to say, "Please leave the Q&A and conversation that is going on with the legal advisors run its natural course as long as is practical."

It was far too important and far too flowing a conversation to interrupt just for the sake of sticking to an agenda. So we have graciously moved our allocation of agenda time for our discussion on 18 to next week.

But we're also going to cover off - I believe it's 14 and 17, is that correct Steve? Just double-check me on that.

Steve DelBianco: I believe we are.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: I believe we are.

Cheryl Langdon-Orr: Yes I think it's 14 and 17 so we will be given a larger piece of the agenda.

Now that is in the perfect world of agenda planning. We do need to recognize that should more urgency - urgent issues come forward from Work Party 1 or Work Party 2, recognizing that our work is contingent on their work getting done we may in fact have those agenda items squeezed back yet again.

But I would suggest the one we won't let go of will be the Number 18, so we do need to deal with it. It's been promised for a full - a committee of the whole discussion.

We will have it. If we need to cut back on anything it will be on 14 and 17 and we'll come to those later. Just before I give it back to you Steve to take us through a new piece of business, I just wanted to make sure that the Staff noted by a point in the chat the discussion pod, "Will you know the action items?"

At the moment it reads, community vetoes and you've listed the numbers, strike it through and inform the group. That's the exact opposite. We'd already striked it through and Steve is going to be removing the strikethrough in the next version.

We all know that we - it'll be invisibly struck through in our own minds but that action item is the exact opposite so thank you very much. Okay back to you Steve.

Steve DelBianco: Yes Cheryl and team, the Government Accountability Office or GAO is a branch of the Executive Branch of the U.S. government that responds to requests from Congress or the administration to study and audit certain things.

And about a year ago after the transition was announced the Commerce Committee in the House of Representatives wrote a letter to GAO, Government Accountability Office, asking them several questions about the transition, asking them to study the transition, whether we really truly could protect the multi-stakeholder model, the private sector role, guard against government or intergovernmental capture, so there were a lot of questions about the NTIA's conditions of the transition.

GAO has been working on it for about six months and in fact they showed up - several of their people showed up at the Singapore meeting and they even invited me in about a year ago in my capacity as NetChoice Executive Director, and so I testified at the House Commerce hearing.

Last week GAO asked me back in again as my NetChoice hat not because of ICANN or even the Commercial Stakeholders Group and they asked me a handful of questions, most of which had to do with stress tests. So the GAO team lead looking at stress tests. And stress tests have been mentioned many times by Secretary Strickland. And they were part of the letter that Commerce Department - Commerce Committee sent over.

So in the meeting it became clear to me that the three staffers from GAO had their own sort of preconceived notion of what a stress test was.

They had looked back on perhaps the literature maybe they went to Wikipedia. They thought the stress test is about setting up of likelihoods, probabilities impact scenarios.

And this is not unlike what Eric Brunner-Williams initially began with when he was the rapporteur on the very first Work Party on stress tests.

And that is an entirely valid way to do contingency and risk based analysis. But it is nothing like the stress test that our charter has in front of us. And the charter is on Page 1 of every accountability document we put out to remind people.

And there's nothing in there about probability, it's more like the stress test that are done in scenario planning.

It's more like the stress tests are used to evaluate the banking systems in the US and Europe right now. Probabilities are not the point.

It's about plausible risks and scenarios and evaluating whether the mechanisms we've designed how will they answer those potential risks and scenarios?

So when I explained that it took a while but I believe the GAO representatives came around to it and they appreciated that.

And then it led to the next question which was well what about things - what about stress tests like financial crisis in the domain name industry? I think that's what one or two in our list.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: And I said yes. I said well that came about rather late. That wasn't one of the original ten stress tests I said.

But it's interesting because it allows us to evaluate whether the community accountability mechanisms would answer in a way that lets the community

hold ICANN accountable for its decisions and its reactions to that externally imposed crisis.

I said but don't assume that our stress test will conclude that ICANN has somehow solved the crisis in its entirety.

There's no requirement that our stress tests all score 100 in the sense that we've designed mechanisms that'll prevent financial crisis. We can't do that.

We can't even design mechanisms that'll prevent ICANN from failing in the face of a financial crisis particularly in the domain name sector.

But what we can do is evaluate whether our mechanisms give the community the opportunity to challenge the board on the decisions that it makes in the face of a crisis.

So if the board decided to slash compliance staff in the face of running out of money well our mechanisms give the community a chance to challenge that budget to challenge that decision.

And if the community believes that compliance is really important then we'll have a chance to put that back on top.

So I think it was a productive discussion with GAO. They sort of get that. It remains to be seen when we see the report that comes out of that and I don't expect it till late this summer or early this autumn.

And it's a report that they would give to the U.S. Congress, the administration, it would not be a report they submit to ICANN.

But I'm happy to take a queue on that. I wanted to give everyone a heads up on how that conversation went because it involves the hard work that all of you are doing.

Cheryl Langdon-Orr: Okay. The floor is open. As (Azumi) has noted in the chat that that's consistent with her understanding about things not what we're doing not being about probability. Thanks for that confirmation (Azumi).

Okay we've got a couple of things we need to round back on Steve. I'm not seeing anyone raise hands now on that matter.

But let's pick up what (Cyn) is presenting to us in chat regarding stress test 21. And (Cyn) do you have audio connected?

Would you like to speak to that amendment requirement? You might be muted if you've got audio? I'm not seeing your microphone operational. Airport and cannot speak. Yes well that will do it.

Okay. Let's see if we can channel you (Cyn). We'll do our best. (Cyn) points out in the chat that regarding stress test 21 and let me refresh your memories on what stress test 21 is.

It's where the hypothetical is a government official demands ICANN rescind responsibility for management of a ccTLD from an incumbent ccTLD manager.

However the IANA function manager is unable to document voluntary and specific consent for revocation from the incumbent ccTLD manager which is a requirement under RFC 1591. And also I believe the concurrent with the GAC principles as well.

However the - also the government official demands the ICANN assign management responsibility for a ccTLD to a designated manager undoubtedly one of their own choice but IANA function manager does not document that.

Significantly interested parties agree - sorry does not document that significantly interested parties agree.

And significantly interested parties is a defined term from the work of the framework and interpretation working group.

And a lot of this is being clarified by (Wergi Bahata)'s has forwarded to Steve which we still need to integrate into this text.

The stress test examines the community ability to hold ICANN accountable to follow established policies. It does not deal with the adequacy of the policies in place. That's a vital piece of clarity in the stress test.

And the consequences faced here with this re-delegation request is that ICANN at this stage we believe lacks the measures to resist re-delegation while awaiting the bottom up consensus decision of effective stakeholders.

So the suggestion is here (Cyn) if I'm able to second guess what you're suggesting is that in the light of CCWG remarks concerning repeals mechanism and respective national legislation on re-delegation.

And we have I think fairly consistently said and I believe we also discussed over our breakfast call meeting in Istanbul that national law still holds supreme in all of this.

And that there should be the ability for ICANN to say nothing is getting re-delegated. Go away and sort it out in your own legislative space and get back to us.

What we need to do is ensure that the policies are followed. And here the stress test shows small risks where the ability to list and annotate that some of the policies specifically that the significantly interested parties are in support of this proposed re-delegation is not able to be forthcoming.

Steve back to you and hopefully that's given everybody a good idea on what (Cyn) was trying to present.

Steve DelBianco: Yes thank you. (Julia) has weighed in on the chat along with (Pagrua) to take a look at a memo that the CWG sent to the CCWG list.

I think they sent it to the co-chairs and then (Matthew) relayed it to the list regards to their expectations coming from the CCWG.

So (Julia) is asking what effect does this have on stress test 21? That's a great question. (Julia) we're going to have to read that in detail and then incorporate it in this right-hand column.

As you know on stress test 21 it's mostly about what CWG is doing. There's hardly anything that we are designing which would be of much help to that situation.

So this wouldn't be something we jumped on right away because we were waiting for the CWG to come up with this recommendation so that we could evaluate them in the stress test applications.

If you're suggesting we could learn a lot by diving into this preliminary memo then we'll do it. We'll take a look at that right away.

Cheryl Langdon-Orr: Yes. And I do think the other thing is we - where we've got in the existing accountability measures the comment there's more to come from Eberhardt let's say we do need to link to the appropriate section.

And I thought I had already given the appropriate section from the Frameworks Interpretation Working Group documents which specifies the significantly interested parties definitions.

But I also think we also had agreed that a reference to the GAC principles is also relevant here. And of course it's within those GAC principles that the uber role of the national laws and legislation is clearly delineated.

And that is also in keeping with the work framework of interpretation workgroups recommendation or not recommendation findings as well.

So we might need to also reference and put a hyperlink into the GAC principles as well. And...

Steve DelBianco: Cheryl, it's Steve. I didn't...

Cheryl Langdon-Orr: ...Bart would be the person who can give us the short links to the right bits on that if you think that's going to be useful Steve just to make sure that GAC is comfortable. Go ahead Steve.

Steve DelBianco: I have no idea how to assess whether GAC is comfortable. So we have been very careful on 21. And I believe that since Eberhardt has been the most

active member of CCWG on this issue we were entirely differential to the language precision of language that he gave us for columns one and two.

But I believe we have to be far more open about language that's going to make it into Column 3. Again we are looking at things that are come over from the CWG not mechanisms that we are designing.

So I realize that on Page 6 here on Item 21 it says waiting on edits from Eberhardt. That may not be the case.

Eberhardt may not be the one to define all that. Happily to accept input from Eberhardt as well as others. But...

Cheryl Langdon-Orr: Yes Steve what I'm saying...

Steve DelBianco: Go ahead.

Cheryl Langdon-Orr: ...Cheryl here. What I'm saying is we've heard of the importance of having the GAC principles recognized in this work.

We've heard it on any number of occasions. We're certainly as far as I'm concerned agree that that is vital to recognize.

I'm suggesting that appropriate text for columns two and three may in fact to be brought from Bart as staff here because of his very close knowledge on every word that Bart or (Bernie) on every word that's gone into the framework of interpretation working group documents.

And of course that looked at RFC 1591 and the GAC principles the two critical...

Steve DelBianco: Okay.

Cheryl Langdon-Orr: ...pieces of information which are relevant to stress test 21.

And I would have thought important for us to recognize in the language we use for Column 3 in particular but probably for Column 2 with the existing accountability measures because it was a GAC principle that have been around for a very, very, very long time.

Steve DelBianco: And then Cheryl on Monday I was reading some correspondence in the CWG. And it looks as if they are not going to recommend an appeals mechanism for ccTLD revocation and assignments.

That was the read that I saw. And it was part of...

Cheryl Langdon-Orr: Yes.

Steve DelBianco: You understand it the same way?

Cheryl Langdon-Orr: I - let me be a little bit pinning on that. The drafting team that is - has looked at that has recommended that at this stage there is no such mechanism in this initial work.

What it is however saying is that a further piece of work conducted by the ccTLD community in conjunction with the GAC does need to happen.

So it's not that it's not going to happen. It's a matter of when it happens. And it might be a very good long time down the track before that does actually happened.

But that doesn't mean that the gTLD space is not going to have it in fact we've heard quite the contrary.

So yes you're right. But it's only just not being included now. It is however clearly a planned need for future now that would be on Work Stream 2 work for us later on. Avri over to you.

Avri Doria: Yes hi. Yes this is Avri. Just on that last point I guess I wouldn't make the statement quite as strongly as you did.

I mean I got certainly the impression about the - in terms of the gTLDs in terms of the ccTLDs I have no argument.

In terms of the gTLDs I think we only got so far as saying it's not the case that we've decided no. And but I wouldn't take that extra step to mean that therefore we can assume that they will define an IAP or IAP type mechanism. It's only the case that we haven't yet decided that we're not doing it thanks.

Steve DelBianco: Okay. We haven't yet decided that we're not doing it.

Cheryl Langdon-Orr: But then again that is still work likely to be Work Stream 2.

Avri Doria: Right.

Cheryl Langdon-Orr: Isn't it? Yes.

Avri Doria: Right. It would - I apologize for being a logician about the way I'm looking at the answers. But very - sometimes it is very easy take an absence of negation as positive. And it is...

Steve DelBianco: Okay.

Avri Doria: ...it's just that it hasn't happened yet it could or couldn't. So it's indeterminate not predicted.

Cheryl Langdon-Orr: And the win of course is as well and truly not determined. Sorry Avri I can't help myself. I'm in far too good a mood.

Okay. It looks to me from the chat that with the appropriate wording and references to GAC principles some of what was being raised with stress test 21 will be of less concern to at least some of the members of the GAC who have contributed to the stress test working party.

Of course all of this still has to go through the committee as a whole exercise but the more we can prepare and be prepared for that the better.

And so Steve can I ask do you want to - will I ask staff to ask Bart and (Bernie) to do that? Do you want to own that? Who wants to own that action item? Me okay good that's one...

Steve DelBianco: Please do it.

Cheryl Langdon-Orr: ...me. I like that.

Steve DelBianco: Please do ask staff since you know the precise language to ask. And when the answer comes back I'll be happy to put it into the document.

Cheryl Langdon-Orr: Oh yes. Don't worry Steve. I know better than to touch the documents because if I do I muck them up.

They - it all goes to hell in a hand basket if I allow any of my software anywhere near this. We've discovered that well and truly.

So Steve where would need to go next? And I would like to finish today's call shorter than was predicted.

I know you have flight commitments. And I'm sure everyone is practically in meeting for tea after the high intensity work day. So if we can give some of people's lives back that would be good.

But I do want to round back on to the board in action point because as (Azumi) wanted to have that clarified. And I also wanted to raise one small piece of information to the group as well.

So is there anything else you need to take us through today Steve? Nothing more from you, terrific.

Steve DelBianco: No.

Cheryl Langdon-Orr: Okay well - go on.

Steve DelBianco: Nothing more for me.

Cheryl Langdon-Orr: Excellent okay. I just wanted to raise with the working party here that Avri, and I and indeed you Steve have gone through the work that was done in the CWG RFP four section which was the part of their documentation drafting which refers to stress testing.

And I believe with some still editorial work being done in the main I'm fairly satisfied that in the 26 stress test in five categories we have we have indeed captured all of their originally identified issues, and scenarios and risks to stress test.

That is not to say that particularly post public comment of their documentation that more may not be identified.

But in this for this immediate need which is time critical for them to get their documents out I think we can say that the stress tests as we've got them enumerated and that can be linked across to their section, Section 4 3.2 if memory serves is correct.

And I wanted to thank both Avri and Steve for popping in even more of their volunteer time to go through that listing and just double check that as well.

If anyone else wanted to assist with that let me know and I will make you an editor and a viewer on the Google Docs that we've been using for that.

So now if I can ask Jonathan to go back and do a recap please on your - the issues you raised on boarding action because we have a couple of people including Izumi on today's call which weren't in last week's call and they would like to understand what the issues were so Jonathan back to you.

(Jonathan Zuck): Sure. The other thing I could do is recirculate the memo that I wrote and the snippet of the MP3 from the last meeting that was just specifically addressed...

Cheryl Langdon-Orr: Perfect.

Jonathan Zuck: ...this issue if folks are interested in that.

But briefly the issue is that there are a number of stress tests that deal specifically with a failure on the part of the board to act.

And most of our measures are designed to our measures of redress are designed to handle a decision by the board that with which the community does not agree.

And so it sort of leaves a hole. And so some example that came up for example was on name collisions where it took a fairly Sisyphean effort on the part of the community to get the board to pay attention to name collisions.

Dot list domains came up as an example as well. And it was something that, you know, there have been recommendations from the ATRT teams that have gone to kind of a long time without implementation although most of them have had consideration.

And so it occurred to us as we discussed this that most of the stress test could be addressed if there was even just a way to induce the board to look at a topic say a recommendation from SSAC and to make a decision about it one way or the other.

And if they did that and went on the record about it, it would the other review mechanisms that we are working on a Work Party 2 would kick into place.

And so the discussion was about how we might best with a minimum amount of modification to the community powers or whatever mechanism is in place induce a decision on the part of the board.

And one of the things that came up was a potential recommendation from ATRT 2. I believe it was recommendation 9.18 ATRT 2 that suggested the board would have to consider recommendations that were made.

And that if we build that into the bylaws that that might be sufficient again to trigger those review mechanisms.

And so that was basically the conversation that we had. There were six stress tests that dealt with the board's failure to act.

And they're listed at the, you know, at the bottom of the page that's up on the - they're listed in the chat right now.

Add I guess that's it. And so we've been having a conversation inside of Work Party 1 about making sure that the ability to induce action on the part of the board is one of the requested community powers.

And there's discussions going on in Work Party 2 about whether or not existing redress mechanisms could somehow be triggered by a failure to act. Although I think we all suspect that as they're currently drafted they do not.

And there's been some discussion with the legal sub team about properly phrasing the question to go through them to the legal consultants to get a question answered about whether our existing mechanisms address this.

And certainly the answer from the legal consultants yesterday didn't give me a lot of optimism that without some addition to the bylaws that this was - would be addressed in a satisfactory way.

Cheryl Langdon-Orr: Thank you Jonathan. Cheryl...

Jonathan Zuck: How does that help?

Cheryl Langdon-Orr: ...that's great. Thanks Jonathan Cheryl for the record.

And let me be clear yes it would - my impression even though it was more affirmative then or optimistic than yours from yesterday's conversation with the legal advisors was certainly it would require bylaw renewal to sorry not renewal rewriting to make any power into that.

And thank you Avri for putting into the chat the relevant section 9.1. And I think as Steve also indicated earlier in our conversation even though it's a belts and braces approach I think it's and unless someone can argue very strongly to the contrary we would be promoting that having that in the panacea of the toolkits would be a wise thing indeed.

One final thing for Steve before we wrap up as he holds the pen and that is the question of do you believe we need to put Version 10 of this document out before the next CCWG call as it will be the document that is put into the Adobe Connect room. I don't. But if you do just let us know so staff can expect a new version to come.

Steve DelBianco: I wouldn't think so either Cheryl, Steve.

Cheryl Langdon-Orr: Okay. So Alice rest assured we will be running with this current Version 9 noting as we will when we get to the call that there are a number of edits that are currently being made to this document in Version 10. We will be forthcoming just not right now.

Just before we wrap up then at the top of the hour even though we had put a whole 90 minutes into our schedule I'll be happier to have 90 minutes in your schedules and give you half an hour of your life back.

I just want to note that Samantha Eisner has put in an agreement Jonathan. Jonathan I agree that there has to be a requirement in the bylaws like ATIT 9 .1 implementation is underway in order to require the board to look at advice, have teeth to enforce and not - and not have teeth in not looking at this advice.

Oh boy that says to me I'm in desperate need of a cup of coffee. And I'm sure many of you are as well considering the time zones some of you are in.

Avri's final moment was to note the 9.1 recommendations does not allow consideration of AC advice to rise to the level of GAC advice.

And thank you Avri that is very important. You did make that clear in some of the calls over the intensive couple of days as well.

But it is in fact not rising the AC advice to the same level of that as that of GAC advice. And that is a very important thing for GAC to recognize because it's something that during the ATRT 2 process they were quite strong about.

Ladies and gentlemen I am delighted that we have got through what I think is a fair amount of our work tonight.

I think we're still in good settle. And we are tidying up for example the work just done on stress test 21 tonight.

Even though we haven't got the language in the columns we know the language needs to go into the columns. And this is making a strong and robust document for us to run our stress tests on.

When we get to our intensive work and that's something that I suspect we may because we're doing such a good job in preparation be able to put forward not in a matter of days hopefully but in a matter of hours in a number of perhaps, you know, three or four hours' worth of call over our own intensive work period it's my hope that once everyone else's work is in place we will be able to run our stress tests posthaste but effectively.

Thank you one and all thank you staff. And at the same time same day same day of the week not a date of the month same time for next week's call.

Book 90 minutes into your calendar and hopefully we will be able to give away another 30 or less than 30 minutes now back.

Thank you all. Bye for now. This recording is can now be stopped. Thanks.

Man: Thank you.

END