

ICANN

**Moderator: Brenda Brewer
April 13, 2015
6:00 am CT**

Coordinator: The recordings have started.

Grace Abuhamad: Thank you. We're going to do a - this is the 35th meeting of the CWG. Today's the 13th of April, and it's 11:05 UTC. We're going to do roll call based on the Adobe Connect room. But if anyone is on the phone line only -- I noted Cheryl and (Shawn) -- if anyone else is only on the phone, please let me know.

Okay. We will proceed then. The agenda is up in the notes, and I'll turn it over to your chairs for today, Jonathan and Lise.

Jonathan Robinson: Thank you, Grace. It's Jonathan speaking, for the record. Welcome to our call and the first of a series of intensive meetings that we're going to take over the next two days. Lise and I have collocated so we are together and in fact are in the ICANN office in Brussels so that we can work effectively together in coordinating and running the series of intensive meetings over the next couple of days.

As you know, we have six meetings, the first two focused on the design teams, the sort of functional operational issues underpinning the proposal, and in the third, which is later today, on structural issues for which we have had significant assistance to date and we'll continue to rely on assistance from the legal counsel at Sidley Austin.

Staff will assist us throughout, and we expect Sidley to have a significant role on the calls, dealing with structure, structural issues that come up in the third call today and of course tomorrow. Clearly our overarching objective is to pull together a proposal and have that out for public comment a week from today. We've been working fast to date. I've been amazed by how much effort people have been able to and prepared to put in.

Of course the chairs' challenge with all that speed and effort is to ensure coherence and integrity of the overall proposal, and we will work with you to achieve that. And I guess there's a judgment there on the - what is the satisfactory of convergence and detail to ensure that the proposal stands up on its own and is sufficiently detailed yet we won't be able to iron out every last wrinkle before it goes out for public comment.

Of course having a convergence of views is critical. And a key component that we will need to converge around I think is, over these next couple of days, is the variant of the structure that we intend to go out for public comment with.

We had an amazing spirit of cooperation and working together in - when we worked at the face-to-face meeting in Istanbul. Of course it would have been great if we could have got the group together again in face to face, but the reality of the time scales and the organization of logistical issues meant we couldn't. But I'd really just encourage you to try and retain that spirit, if you

like, of working with what we managed to achieve in Istanbul and continue with that.

Clearly one of the critical things that we have relied on since we wrote our charter and have continued to develop on is our relationship with the Cross-Community Working Group on ICANN accountability. It was recognized very early on that this would be essential and our interdependence with that work and dependence on that work would be vital.

It's been a challenge keeping up with everyone, and so - but it is necessary that CWG members, members of this group, are familiar with the work and the development coming out of the CCWG so we know what we can rely on there.

One of the very positive recent, more recent developments at least, has been the use by both groups of Sidley Austin from the point of view of legal counsel. And I felt, and I feel personally and I felt on behalf of the group, that there was a good confidence in our group on the work of Sidley and in addition on their ability to help us work together with the CCWG in their capacity as advisors to both groups.

So really what we will need to do is further refine and work on the specificity of our list requirements from the CCWG which Lise and I very much envisage will emerge from the work of these two days, including the review of the design teams, and then it's incumbent on us to communicate these effectively.

I think the CCWG is aware of the time pressure we are working under and therefore the time pressure that we pass on to them for their part in effect supporting our work through the requirements on which we are completely - on which we want to rely on and depend on.

So I guess that's probably a timely point to hand over to Lise, who I know wants to say a few remarks ahead of the CCWG chairs doing their first piece in this meeting. You all have seen that the agenda contains both the, you know, opening remarks followed by an update from the CCWG co-chairs before we move into more detailed work on the design teams.

I suppose while touching on that, it's worth noticing that we had a request to move one of the design teams, that's Design Team A on the service levels, through to meeting two today, and so we've brought forward an item five the work of Design Team N. So we'll want to try and cover all of that later in the call.

But before doing that let me close the remarks that I wanted to make and of course we wanted to make, having discussed that with Lise, I'm going to hand over to Lise for some other points. Go ahead, Lise.

Lise Fuhr: Thank you, Jonathan. It's Lise Fuhr, for the record. As you might remember, we dealt with four points in Istanbul in relation to the CCWG. One was the ICANN budget, another one was community empowerment mechanisms, the third was the review and redress mechanisms, and the last one was appeal mechanisms.

Some of these issues are dealt with by the different design teams. We'll discuss this later, but I'd also like to say that last Friday we had a call between the CCWG chairs and the CWG chairs, and we all recognized that there is a need for further coordination and specification on the existing issues. And that's one of the reasons why we have invited the CCWG chairs here today to give us an update on where they are in their process and have that dialogue with a group as a whole.

So I'd like to invite Mathieu and Thomas to give an update on the CCWG. I don't know which one of you wants to start.

Thomas Rickert: Hello, Lise. Hello, Jonathan. Hello to the whole CWG. This is Thomas Rickert speaking. Mathieu and I had agreed that I would do the first introductory bit and then he would take over. You will recall that Leon Sanchez and myself did an update while you were in Istanbul, so I would like to briefly recap on where we are with that, so as a little refreshment for your memory on that.

So you might remember that we agreed we would try to build an accountability architecture and individual accountability mechanism out of four building blocks that would resemble the division of powers in the state, so we would have legislative or the people which would be the ICANN community, we would have the executive, which is the ICANN board, we would have a legislative - excuse me a judiciary, which would be an independent review panel, and we would have a constitution, which would resemble what we put into our bylaws.

So our group has agreed that we work along these lines and that we would further refine the details of the areas where the community needs to be empowered. And that would be the possibility to approve bylaw changes when it comes to what we call fundamental bylaws. So we previously used the term golden bylaws, but since that it no unambiguous, we deliberately chose to change the term for that.

So that would be an approval mechanism for fundamental bylaws -- and I'll speak to those in second -- that would be a veto possibility for bylaw changes that do not relate to fundamental bylaws, it would be a possibility for the

community to veto a budget and a strategic plan. But in order to provide for continuous operations as much as possible, we would add to that that there needs to be a liaison mechanism between the community and the board before a budget or strategic plan is proposed, and this is what happens today, but also - but let's say as a matter of last resort, the community then has the power to reject a budget or to veto a budget or strategic plan if need be, and we would also ensure that neither the budget nor the strategic plans operationalized prior to this veto period having expired.

Lastly, there needs to be the opportunity to recall the board in case of fundamental issues that the board has - fundamental wrongdoings by the directors. So removing the whole board is something we definitely have on the agenda for the first step. We are currently deliberating whether we should also include a recall function for individual directors in this phase of our work. So that's yet to be defined.

So on top of that, we would have an independent review process, and the important thing to mention about that is that other than an independent review process that we're having now, the envisage mechanism does not only look at procedural aspects of the decisions that have been made, but it would also look at the merits of the case so that a decision not only on process but also on substance can be made and that the outcome of this decision or the, you know, the outcome of the panel decision needs to be binding upon the board.

We would also perpetuate parts of the AOC, in particular the periodic reviews into the bylaws. And coming back to the notion of fundamental bylaws that I alluded to earlier on, we would make sure that the possibility to or the veto right for the community, as well as the approval right, would themselves be a fundamental bylaw.

So these ideas that to our knowledge would be capable of both empowering the community sufficiently as well as providing for robust review and redress mechanisms, as well as robust independent review panel, are being fleshed out by sub-teams at the moment, together with stress test to see whether the proposed accountability enhancements help safeguard ICANN against scenarios of contingency that we have identified.

And we are now trying to prioritize those items which are of particular relevance to the CWG. So we think that we have a vision of what is needed and ingredients for this - for an enhanced accountability infrastructure, if you wish. We are now getting legal advice from two firms, as Jonathan mentioned, but, you know, there has been criticism why we talked to two firms.

Rest assured that these firms amongst each other do coordinate, so we get cohesive responses from them, so using a single window strategy. So they are currently working on recommendations, how the requirements that our groups have established can be implemented under California law. And we await their recommendation for a legal vehicle to empower the community, in particular during tomorrow's call by the CCWG.

So we will then hopefully be able to add to the requirements to complete the implementation. We do know that everything's most time sensitive, and we want to make sure that we address the concerns of your group as much as we can, which is why we are currently contemplating to divide sort of what's in Work Stream Number 1, i.e. the accountability mechanisms that need to be in place or committed to two subsections. And the first subsection we would prioritize finalizing those items that are of relevance to you.

I think I should pause here because Mathieu is standing by to speak to the areas where our work is interlinked. And over to you, Mathieu. Thank you.

Mathieu Weill: Thank you, Thomas. This is Mathieu speaking. Two basic items to add to what Thomas reviewed, which is a pretty excellent overview of the progress we're making so far. As we are saying, we are under intense time pressure as well to finalize, just as you are. And we also need to keep our process equal have members in a position to make an informed decision whilst we are (unintelligible) as well.

So as Thomas was saying, one of the options being contemplated is to focus scope on basically your priorities. And so the next steps, and we would suggest that we take into the coordination, and that's what was discussed with Lise last Friday, was if there could be (unintelligible) two days a list of items that could be put in writing maybe elaborating on the four areas of input that are currently noted in the notes, that could be a sent over to our group only to clarify what is expected to support your proposals, I would be immensely useful to us, especially if we could have some use cases or stuff we could use to test whether we're actually supporting your expectations.

And that would probably initiate an exchange where we could try and answer as quickly as possible so that we get - both of our groups get clarity about expectations from one and what the other one is going to deliver. So the idea we wanted to suggest was that while you are finalizing your proposals across those two days, when you hit a point where someone mentions the dependency from the CCWG, it's (unintelligible) as such as that we can extract out of your two days the needs from our group and we can start into it on that basis.

And I think that's really to me the key idea we wanted to test with you, and Lise and Jonathan, over to - back to you for if there are question and answers or any ideas, other ideas, how to move forward.

Lise Fuhr: Okay. Thank you, Mathieu and Thomas. That was a very helpful update. And well we are very receptive to any coordination and to make a list that you proposed, Mathieu. I think it's from our side just as important in this stage of our work to closely coordinate and ensure that you cover all the issues that we need and vice versa. So that is certainly something we will try to have coming out of these two days.

I also think it's interesting to hear about your work with Sidley, and I'm very glad that you are - we're having the same legal company in order to coordinate, so we kind of get the same answers on issues that we might overlap in asking and try not overlap too much.

We have an actual design team working with review, so that's also an issue that we will be coordinating with you. And it sounds like a very good idea that you're dividing the Work Stream 1 into issues that need to be prioritized in relation to our work. That's very helpful for us.

I don't know if Jonathan you have anything to add on this.

Jonathan Robinson: No I'm good. I'd to hear -- thanks, Lise -- I'd love to hear from anyone in the group. I mean it strikes me that it's a very good idea that we build up and in fact in some of the preparation work, as you know, we started to look at that coming out of the design teams, in particular if there was - we looked at two areas really. One was the interlinking between the design teams, and the other is the dependency of any work on the design teams on the work of the CCWG on the accountability work.

But if - I really like Mathieu's idea of saying look compile over the next couple of days anything you want. I realize as specific as we can be will be

helpful. So it's not that we don't have the overarching points, as you can see up on the screen in front of you, but that it's more that we need to be as specific as possible. So good.

Lise Fuhr: Any questions or comments from the group? Thomas?

Thomas Rickert: Actually one final remark from my side. You know from our previous updates that we've been working on stress tests and Cheryl, who is on this call as well, she's been extremely helpful with her team to come up with scenarios for stress testing. And so far we have identified 26, which is actually one more than we originally had.

And I think it's worthwhile noting that, you know, if we proceed with the plan to apply the set of stress tests to the overall proposal at the end of the day, including the scenarios that you are coming up with, then it would be it good to double check with your group whether you would agree with our sub-team's notion of when a stress test is passing, i.e. one recommendation, an enhancement of accountability mechanisms is adequate versus inadequate.

So, you know, that's just a quite practical point. You know, I think that we've set the scene very nicely to ensure that we cover scenarios that both groups are concerned about, but I think that we also need to make sure that we get both groups and the wider community's buy in on the question of when responses are adequate or not.

And I'm sure that Cheryl, who's next in line, will be able to speak to that much more elaborately than I can. Thank you.

Lise Fuhr: Thank you, Thomas. And before we get to your proposal, I think we'll take Cheryl. Cheryl?

Cheryl Langdon-Orr: Thank you very much. Cheryl Langdon-Orr, for the record. And Thomas, thanks for pushing that one forward. Of course we have a couple of people who are sitting in both the CCWG and the CWG work areas where stress testing is critical. And Avri is playing a key role of course in this as liaison or a facilitation point between the work of CWG and CCWG in this matter as well.

Of the 26 as you say current stress test that we have identified and gone through, all of them have gone through at least an initial read through, and that's a hypothetical exercise of looking at whether in our opinion, and that's just a group of community people's opinion, we have existing or currently planned mechanisms that would meet the challenges that the stress test scenarios put together.

We are currently going through a second, and indeed we'll go through a third run through exercise, but it does depend on the accountability mechanisms that are put forward by the CCWG and indeed the CWG on this matter before any such stress test can be finally run through. There's a half a dozen of the 26 that are already specifically identified for CWG attention.

And because the stress test scenarios are running through a wiki, it would probably behoove all of the CWG members who are interested to keep an eye on that. And I believe we have picked up on that at regular meetings and reports. That said, it's certainly in our opinion that once mechanisms are finalized, it's likely to only take up well anywhere between six to eight hours to probably up to 24 up to 36 hours for us to run through as (unintelligible) final hypothetical exercises or stress test scenarios.

And I guess it's important that that is done in a way that is inclusive of both the CCWG community and of course the CWG community, specifically those interested in what was work area RFP 4. I've taken more time than planned to on that in this part of your agenda, but I think I'm fairly comfortable that both groups are looking carefully at the nexus and opportunities to ensure that we do run through any stress testing that's suitable for CWG at the same time that CCWG goes on.

That said, we've identified - I'm sorry, we have rechecked and established that there is no currently identified stress test need from the RFP 4 work that has not been covered in the hypotheticals that have been put forward in the 26 stress tests which are in five classification groups from the CCWG. Thank you.

Lise Fuhr: Thank you, Cheryl. Jonathan, you had a...

Jonathan Robinson: No I think that's okay. That seems like a pretty comprehensive answer. There's work going on, and if additional tests are identified or required, I don't see why that work couldn't and shouldn't carry on post publication of the document for public comment. But it sounds like we've got it reasonably in hand for the moment.

Lise Fuhr: Okay. Thank you. Any other questions or remarks from the group? No, it doesn't seem like it.

Okay I'd like to thank Thomas and Mathieu for giving this update. You're very welcome to stay on the call. We're going to have a discussion on design teams that relate to your work too. So if you are able to, it would be good if you stayed on the call. If not, have a nice day and thank you so much for contributing to the group.

Now we'll go on with our design teams. And as you saw in the agenda, we're going to have a small reorganization of Design Team A is not going to be treated in this session but in the next one. We have instead brought in Design Team N review, but we will start with Design Team O then go to Design Team B and then Design Team N, just to have the design teams' leads ready for this part.

We would like to have each design team lead to present the core issue of their proposal and then raise any points that you think you'd like to put emphasis on or if there's anything you - that's not solved or any questions that you have. So let's start with Design Team O. That's the budget. And I don't know - that's Chuck. Chuck, are you on the call?

Chuck Gomes: I am on the call, so.

Lise Fuhr: That's good. Very early in the morning for you.

Chuck Gomes: Yes.

Lise Fuhr: Or in the middle of the night.

Chuck Gomes: Yes, it's even earlier tomorrow. So okay hello, everyone. Chuck Gomes speaking. And let me start by thanking the group that formed Design Team O, because we did our work in very short order and that was because of great cooperation by the whole team.

So much appreciation to them and also to Xavier Calvez, ICANN CFO, who worked very closely with us.

So what I'd like to do, Lise, if there is no objections is certainly go over the core part of the report. But because there is only very short annex with it, I think it's helpful for everybody to see the whole picture of what we're recommending. If I do that -- and that's only a total of five items plus may a couple of follow up actions.

As you can see on the screen, in the short form of the report there are just two recommendations. Number 1, The IANA functions comprehensive cost should be transparent for any future state of the IANA function. Number 2: Future fiscal year ICANN operating plans and budgets and if possible even the fiscal year '16 ICANN operating plan and budget, include at a minimum itemization of all IANA operations costs in the fiscal year ICANN operating plan and budget to the project level and below as needed. For those, there are two primary recommendations.

I'd like to talk about the second one. I think the first one is - I would like to think it's non-controversial among the CWG. But No. 2 probably deserves a little bit of explanation. First of all, the way that ICANN captures its cost is not done a functional basis.

So, for example -- and you'll see more detail about this by end of the day today before our meetings start tomorrow -- the IANA cost can't just be looked at in the budget and operating plan because no costs are captured on a functional basis. So it requires a special analysis of the cost and the budget to pull the functional costs out for the IANA services.

In fact, the ICANN finance team has done that for us for fiscal year '15 that is what you'll see by the end of the day today before the meeting tomorrow. So that exercise has already been done. Note, though, that for fiscal year '16 operating plan and budget it's a challenge for the finance team to do that in the

projected budget that will be approved in June by the board because you can't really break it out in an itemized detail until we know actually what our plan is and what new costs may be incurred and also what costs may go away because of a change in the IANA operations based on CWG recommendations that are approved ultimately.

We're hoping to be able to get as much as that as possible for fiscal year '16, but some of that will have to happen on an ongoing basis as our recommendations are refined and approved from the CWG with regard to the IANA services.

Now in addition to the two primary recommendations, the design team also identified a number of items for future work, and that's what is in Annex X. Let me quickly go through those. These are areas of future work that are dependent on the ultimate CWG stewardship proposal once that's finalized and approved.

So we suggest that these three items be looked at a couple of points in time. Number 1: Once the SOs and ACs have approved the CWG recommendations and again after ICG has approved the proposal -- and the reason we suggest that at those two points is because just in case any modifications are made, the budget work that needs to be done should adjust for any changes that might occur at those points.

Number 1: We recommend that identification of any existing IANA naming services related cost elements that may not be needed after the IANA stewardship transition, if any. If there might be some things -- some costs -- that are no longer needed. We don't know at this point whether that will be the case or not. But if there are, those should be identified at those points in time.

Number 2: There should be a projection of any new cost elements that may be incurred as a result of the transition in order to provide the ongoing services after transition.

Number 3: There should be a review of the projected IANA stewardship transition costs in the fiscal year '16 budget to ensure that there are adequate funds to address significant cost increases if needed to implement the transition plan without unduly impacting other areas of the budget.

In this particular one, I'll comment just briefly on. And that is right now in the fiscal year '16 draft operating plan and budget, there is just a very high level figure for not only the costs for the IANA transition but also for CCWG accountability and a couple of other issues like NAOC implementation block of funds as well. No itemization at all on that. It's all they could do because they don't have any direction from us yet in terms of what the transition and even the accountability things will look like.

So we're going to have to review that once we have clarify in terms of what the CWG is going to recommend as a solution and then look at how those funds - whether it looks like the budgeted funds will be adequate. If not, if there are sources of funds that can support the transition, especially if it comes out to cost more than what has been budgeted at a very high level right now.

So those are the recommendations. Again, these last three cannot be done right now and will need to be done as we move closer to having final recommendations.

Let me stop there and open it up for questions and discussion and then just point out that there are a couple of action items that I'll briefly discuss after we discuss the actual recommendations themselves. Thank you.

Lise Fuhr: Thank you, Chuck. Before - we have some predefined questions but before we start on those, are there any questions or remarks for Chuck from the group?

Alan Greenberg?

Alan Greenberg: Thank you. Not a question, just a note that the list of items to be covered post-transition will likely be augmented by DTF when we finally come out with some recommendations. Hopefully, that will be outlined well before the end of this week. But just to note that we do have a good category of things that are clearly not going to be done post-transition but should be looked at. Chuck is on DTF, so it's not an issue.

Thank you.

Lise Fuhr: Okay. Thank you, Alan. Any other issues? Questions? Doesn't look like it. Okay.

Now you can't see them on the screen, but we actually have some predefined questions where one of - the first one is: Does anyone disagree with the conclusions and to the recommendations of design team O? Anyone disagree? Okay.

Then we go onto question No 2 and that is - just a second. It's the linkage with the CCWG and any remaining issues that need to be addressed by the CCWG?

Okay. Great. Go ahead.

Greg Shatan: Thanks. It's Greg Shatan for the record. One of the powers that CCWG has been discussing I believe -- and I hope I'm not mischaracterizing the work of the CCWG -- is what's been losing referred to as a budget veto or a review of the proposed budget by the community as a necessary predicate to approval of that budget or even after the approval of that budget chance and that's to overrule the board on the budget.

I'm wondering if that has any connection with the work of this group and what specifically we would be looking for in terms of budget review by the overall community with regard to IANA budget which would be a sub-budget of the overall budget, of course.

Second - no, actually I'll stop there. Thank you.

Lise Fuhr: Thank you, Greg. I think it's a very valid point. And I think this is a very good example of what Mathieu asked us to do is actually have this list collected on issues where the relation to CCWG and if we have a question onto their group. And I think this could be one of those.

Avri, you're next in line.

Avri Doria: Thanks. Avri speaking, hoping I can be heard. On the issue that Greg just brought up, I'm not sure that I would see this as a CCWG, dependency on the CCWG, because at the moment I didn't necessarily note that vetoing the budget was an issue that DTO had brought up or that. So there may be two directions in that, that this is certainly something that is interesting and might be used. But I'm not sure that it's a dependency, and perhaps that is something that needs to be talked about.

The other thing that still concerns me on the budget is the inability to get specificity on, you know, the overall budget and how internally all of those

allocations go. Now there is something where there may be a dependency on CCWG in terms of not vetoing the budget so much but accountability for being able to be specific on line items and on things such as IANA and what it costs and its various allocations are.

Thanks.

Lise Fuhr: Thank you, Avri. I think we need to make a distinction between dependencies and questions that might or that could be explored further. And I think this is a question that could be explored but it might be a matter of words. But I think dependency is we can't get on with our work without having this cleared by the CCWG whereas the question is more that we need clarification on the issue.

Alan Greenburg, you're next.

Allen Greenberg: Thank you very much. Three quick points. I guess from my perspective, IANA is one of the few things that might well cause a veto or rejection or referral back to the board of the budget. It's one of the things that does unite most of ICANN. From that perspective, I think it is relevant to us. It's not a dependency, but I think it is relevant and useful.

I have suggested the concept of a line item veto, and that's for discussion in WorkStream 2. It strikes me that perhaps a line item veto for IANA is specifically something that could be moved into WorkStream 1 if this group so indicated.

Lastly, the whole concept of budget vetoes is going to be an incentive to ICANN to continue as they are right now, significant consulting before the budget is actually created. It's unclear to me who it is that they should be

consulting with regarding the IANA budget. And that is something else that this group may want to emphasize. And as we come up for the structure for how IANA is going to be managed by the community, so to speak, we may want to make sure that that part of the organization, or that subset, is very much consulted by ICANN finance as the budget evolves.

Thank you.

Jonathan Robinson: This is Jonathan. Just a remark from the chair, it strikes me that this budget veto capability is a tool that will be available to the whole community. So on this point of dependency or not, it may be that we don't need to as part of design team O's work be specifying that this is a dependency. In effect, the CCWG is producing for us a tool or a capability that we could use in the event that the community was dissatisfied that the budget was adequate to fund either satisfactory operations or requiring improvements to the IANA function.

Thanks.

Lise Fuhr: Okay. Cheryl, you're next. Greg, remember to lower your hand, please.

Cheryl Langdon-Orr: Thanks. This is Cheryl Langdon-Orr for the record. I noted you got almost all of the names of the DTO popping their hands up in response to this issue. I'm not going to repeat but certainly want to echo what most of the speakers before me have raised. One of the points I indeed want to highlight now is, of course, one of the things we need to be aware of from a CWG point of view. I would not characterize it as a DTO dependency.

I think it is under the classification of budget issue. And that is assuming that the community power of veto engaging with budget approval is a mechanism that survives the process and becomes a fait accompli, we do need -- I would

have thought -- and certainly my biased opinion is ensure that any such veto in some future point in time because of dissatisfaction perhaps for the budget as a whole, even under a proposal such as on a line item veto model, does not in any way interfere with the ability of IANA operations to continue as normal.

We certainly don't want to throw babies out with bath waters in this exercise as well. And I think that is something that wasn't specifically looked at at this stage from under DTO. We could -- should CWG so desire -- look at that in a later piece of work. And I think that is something we certainly want to put a pin in if not deal with now.

And the other thing was just to (Avri's) point. I'm certainly very comforted by the degree of detail that we are now being able to see -- and I think the rest of us and even the wider community will feel much better having looked at the analysis that Xavier and his team have been able to extract from the modeling that they currently use. But I guess what's important is that, that degree of detail continues to be available for community review.

Thank you.

Lise Fuhr: Thank you, Cheryl.

Chuck, you're next in line.

Chuck Gomes: Thanks, Lise. And thanks for all the good comments. Now first of all, let me say that I am not speaking of design team O because we didn't discuss the vetoing of the budget. These are my personal thoughts.

But I really want to follow up with what Alan suggested with regard to the line item veto. And I'm very pleased that the CCWG is looking at that issue.

Because of the significance of the IANA services themselves, I think that it really warrants attention to look at a line item veto for the IANA services. I think that is consistent with the whole need to separate policy from the IANA services. We know that much of the rest of ICANN's budget and operating plan relate to policy. So I think that would be consistent with the need to separate the two.

So I personally think that the ability to just veto the IANA budget separate from the rest of the budget is very worthy of serious consideration.

Thanks.

((Crosstalk))

Lise Fuhr: You're not unmuted, guys.
Alan Greenberg, you're next.

Alan Greenberg: Thank you. Just to follow onto what Chuck said. I really have to point out that line item vetoes are far more effective at stopping expenditures than a mechanism when you believe the expenditure is too low. Perhaps a veto of the whole budget is a far more effective mechanism at getting attention in that case. I'm not saying we should not have it, but line items vetoes are typically effective saying don't spend that money, but not necessarily as an incentive to increase spending. So just a thought.

Lise Fuhr: Okay. Chris Disspain, you're next.

Chris Disspain: Thank you. Just a question. Following along from what Chuck said, if you're going to start - I have no problem with the IANA aspect of the budget being looked at separately and being considered for a veto. But if we're going to

start parsing the budget into sections, then we need to get very clear about who has the rights to veto. The CCWG has been talking about a sort of community wide veto of the budget. Also, it is for possible reasons why you'd need a very high threshold.

In the case of the IANA function, we've talked about a customer serves his committee that is fundamentally made up of customers with representation from other parts of the community. And we probably need to consider that if the budget -- the IANA aspects of the budget -- are going to be subject to a veto, whether that veto should be subjected to community wide buy-in, whether it is sufficient or indeed satisfactory for that veto to be exercised by the customers.

Thanks.

Lise Fuhr: Thank you, Chris. This seems to be an issue that we haven't discussed thoroughly enough at the moment. I don't know.

Chris Disspain: Lise, another two points. I mean the first thing is: Are we satisfied with the recommendations of design team? That's point one. There doesn't seem to be any opposition.

The second is: To the extent that we need a form of veto of the budget, we need to be able to rely on the tools that are being provided to us from the CCWG. In this case -- maybe Thomas will comment -- but I understand - my understanding is that we are going to have such an empowerment mechanism available to us. I would think we would not want to go down to specifying under what. We just want the tool available to us.

The CCWG is providing the community with the relevant tools. And so should the budget be unsatisfactory in the view of the relevant community or component of the community to satisfactorily satisfy the IANA function or its future development, we would need that tool.

So I think what it feels to me is like an action coming out of this is we should say we support the design team plus the CWG as a whole is relying on the CCWG to deliver in terms that we may require it for the community to veto the budget. That feels like what we need to me.

Lise Fuhr: Okay. Thomas, go ahead.

Thomas Rickert: Thanks, Lise. I guess with respect to budget, it's two things, one of which I think already on our radar. I think a lot of issues with the budget can be avoided if we have the requirements clearly; meaning that we are expecting from your group what level of specificity for the budget you would like. And then we will include in our recommendation that the community will likely veto a budget proposal that does not contain that level of veto that you're asking for.

If you take that requirement for giving the detail that your group needs combined with a liaison mechanism that can be made mandatory -- I'm also cautious here because we don't have a group consensus in this yet -- then I think we have quite some good preventative measures to work on because budget refusal should be a matter of last resort.

Whether we're going to have the possibility of vetoing the budget entirely or having done that line-by-line, there is no ultimate decision in our group yet. But I think that if we have the more invasive mechanism; i.e., the vetoing of the budget as a whole, then we're pretty safe. I would assume that we could

easily flesh out the niceties of having a measure of letter invasive power; i.e., a line-by-line mechanism at a later stage.

At the moment, I'm very cautious of resources. So we should really prioritize those mechanisms that we inevitably need to get the mechanism work. We can always add more things to it as we move on, but I would really urge everyone working on this to get focused on what we really need in this very minute.

Thank you.

Lise Fuhr: Thank you, Thomas. Before I conclude on this, I'll let Chuck go.

Chuck Gomes: Thanks, Lise. Thanks, Thomas. I want to respond to Thomas' mention of the level of detail. In our recommendations, you'll notice that we said itemize down to the project level and below. That's very significant in that at least at a high level answers the question with regard to what detail is needed. For the first time ever in an ICANN budget, the finance team has provided financial detail down to the project level, which is very helpful this time around and helpful for us.

But in some cases, you have to go further below the project level to get all of the IANA costs. The finance team has done that for us for fiscal year 15, and you'll be seeing that tomorrow. But unless they change the number of projects that are done and make sure that all of IANA costs are broken down at the project level, the level of detail we need will need to go below that to capture all of IANA costs based on the way they're captured right now.

It's pretty clear what level of detail we need. That could be changed in the future, depending on how costs are captured and how projects are defined.

Thanks.

Lise Fuhr: Thank you, Chuck.

And before concluding on this, is there are any other questions or remarks? I have a quick question for you, Thomas regarding the details of our requirements for you because we have the statement where we support the idea of budget veto tool and we need the CCWG to deliver on this. How much more details do you need?

Thomas Rickert: I think if we if it's good enough for you to include the definitions then I think we can include the definition that Chuck outlined.

And I think that would be - we're good enough, you know, if that's your group's consensus and if you don't want to really itemize it further then I think we're good to go.

We - you could also take a combined approach where you ask for a specific mandatory minimum fields and then add some catchall phrases to it if you'd like to.

Lise Fuhr: Okay thank you Thomas. That was very helpful. Any other questions or remarks before we end this DTO?

No well then I would like to thank you Chuck for a good presentation and the group for the very good work with the DTO. I know you still have a meeting with (Xavier) but thank you anyway.

Then I'd like to move on to DTB. And that is a ccTLD appeals panel regarding delegation re-delegation. That's Alan. Alan are you ready to do a presentation?

Alan Greenberg: I'm ready to speak to the point. I'm not sure I'm ready to do a presentation. I trust everyone can hear me clearly.

DTB had a relatively narrow remit. We were dealing with the question of whether there should be appeal mechanism of ccTLD delegations and re-delegations.

You will recall that the proposal that we released in December included the independent appeal panel which - and in our proposal it specifically said that this would apply to ccTLD delegations.

And that had flown - that proposal had come from some discussion that the ccNSO had had in Los Angeles prior to our meeting in Frankfurt.

But when we the CWG did our survey of our participants in January there appeared to be considerable I guess diffusion or lack of consensus on many of the details of what such an appeal mechanism would look like.

So DTB took upon itself to see if there was enough consensus within the ccTLD community to proceed with an appeal mechanism as part of the IANA stewardship transition proposal.

And I'd like to note on the - our DTP we had (Alyssa Linda Burke) from the GAC as an observer, we had (Martin Simon) from .nl and we also had (Paul Schindler) from .au.

So what we decided to do was to undertake a survey of the ccTLD community on a number of questions relative to this issue.

And that survey was out for approximately one or two weeks. We put it out in the field on March 23 and it closed on April 3.

Now there's about 248 ccTLDs. The survey went to every one of those ccTLD managers. The most significant result from that was the relatively low level of response to the survey. We only had responses on behalf of 28 of the 248 managers.

So in our judgment such a low response rate given the previous noted lack of consensus that such a low response rate would not provide significant enough of a mandate to allow us to proceed with an appeal mechanism at this time as part of the IANA stewardship transition process. And that's why the recommendation of the DT is that there be no appeal mechanism at this time.

Now we noted that even though we felt that the response rate was low and therefore it would be very difficult to draw any conclusions on such a low response rate nevertheless the responses we did get tended to reinforce our sense of where we were in any event.

That is to say 93% of respondents believed that there should be an appeal mechanism but when you get down to some of the aspects of that for example how a panel would be composed then they were split almost 50-50.

And that's our sense of where we were. But significantly when we asked them whether a mechanism should be introduced now as part of the oversight transition only 58% said yes and 42% said no.

And 73% felt that such a mechanism could be developed later and rather than at this time. So in short that is we are recommending.

I don't know if Lise or Martin have any comments that they want to make or obviously anyone else? Thank you.

Lise Fuhr: Thank you Alan. Any questions, remarks or Martin and Lise do you have any further to add? No it doesn't look like it.

Then I'd like to ask does anyone agree with the conclusions and recommendations of DT? Does anyone disagree with the conclusion and recommendation of DTB?

No. I'd like to ask the linkage with the CCWG is there any remaining issues that need to be addressed?

I see in the comments that Lise has no comments and no disagreement with DTB. And yes Alan go ahead on the linkage with the CCWG?

Alan Greenberg: Well let me point out the obvious linkage. They are looking at appeal mechanisms there. We heard from them. And so I think that they have to be mindful of this recommendation.

In particular that I guess the way I would summarize it is the ccTLD community I believe would like if they're going to have an appeal mechanism they would like to develop it themselves with their own policy development process.

So I think the CCWG should be mindful of that in there development of a broader appeal mechanisms. Thank you.

Lise Fuhr: Thank you Alan. So the statement for the CCWG would be that be mindful of that the ccTLDs would like to develop their own mechanism - appeal mechanism regarding delegation and re-delegation?

I see a question in the chat. Is it critical that there be an appeal mechanism for the gTLDs? That's a question for the group now., any opinion on that?

I recall it I'm not sure Alan if Alan Greenberg but I recall that this was supposed to be dealt with in the registry agreement or not?

Alan Greenberg: Lise I'm sorry. We only looked at ccTLDs and I certainly will look to the Gs to look after themselves. So - and they may wish to follow what's going on in the CCWG in respect to this as well.

I heard Thomas Rickert say this morning that they're looking at an appeal mechanism that would apply both to process as well as substance. So thank you.

Lise Fuhr: Okay. Chuck your hand is up. I don't know if I misunderstood your statement or question but go ahead.

Chuck Gomes: Thanks Lise. Well you stated I didn't word it as a question first of all. I was making a point. I just don't want the issue of an appeal mechanism for gTLDs to be lost because the ccTLDs at this time are recommending there not be one.

So I was just emphasized that the gTLDs want appeal to even though the Cs don't at this time. So I just wanted to make clear. Thank you.

Lise Fuhr: Well thank you for the clarification Chuck. And it's been put in this statement.
I see Alan your hand is up. Alan.

Alan Greenberg: Yes two things. Regarding the gTLD appeal I thought that the last thing I heard was that there are provisions for appeal or reconsideration in the contracts and that doesn't need to be a separate mechanism.

I'm certainly not an expert of that but I, you know, I think that's part of that - we need to look at if we're going to look at a gTLD - a specific gTLD appeals mechanism.

The reason I raised my hand though was I'm a little bit confused about what's in the chat. It - it's not what's in the chats sorry what's in the meeting notes.

It says because of the low response rate there's nothing that we're - the a mechanism appeal mechanism for ccTLDs is not going to be done now.

Then it says the ccTLDs would like to develop their own appeal mechanism regarding delegation re-delegation. I think in light of the previous statement it's a may decide to but not now.

And I think that's implying an instruction to the CWG, CCWG that there is no appeal mechanism to be included in the transition package.

If that's the case I think that needs to be really explicit because that item has gone on and off the agenda a number of times. Thank you.

Lise Fuhr: Yes. Chuck wants to respond to that. Go ahead Chuck.

Chuck Gomes: Thanks. Alan the appeal mechanisms the arbitration procedure in the registry gTLD registry agreements there is one where contractual terms but keep in mind that if a TLD a gTLD is not delegated there is no agreement.

So there would be no way to implement a procedure there because they would not have executed an agreement that provides for arbitration.

Alan Greenberg: Good point. Thank you.

Lise Fuhr: Thank you Chuck. And I see Thomas from the CCWG your hand is up. Go ahead.

Thomas Rickert: Thank you very much Lise. Just maybe to shed some light on what we are doing versus what we're not doing.

We have made very clear in our earlier communication that we're taking care of appeals mechanisms or redress review for those decisions that are in ICANNs purview.

And we've been very explicit on stating that. What we're doing on is only affecting ccTLD operators to the extent ICANN has a say in that.

So if there is something procedural that ICANN has to do then it would be covered by what we're doing if it is relating to delegations or re-delegations that would not be in scope of what we're doing.

With respect to delegations of gTLDs as these are actions that have to be taken by ICANN and if such action taken by ICANN or decision made by the board is in violation of ICANNs mission and core values i.e. providing for security, stability, resiliency of the DNS and including I would say

delegations and re-delegations then it - then this is something that could be actionable with what we're doing.

As far as a lack of delegation of the new gTLD is concerned we are also looking at legal vehicles to ensure that the community can call the board to action where the board fails to implement actions that it has to implement according to its mission or according to a strategic plan let's say that has been set up to avoid a situation where a strategic plan for example has been agreed upon with the community and then the board fails to implement items that are in there.

And I think I should pause here. I hope that clarifies things a little bit. But I'm more than happy to respond to that further.

Lise Fuhr: Thank you Thomas. I can see there is a line building up. Chris go ahead.

Chris Disspain: Yes. I just wanted really on the clarity here. And I just want to check in with Chuck and just to make sure that we're all on the same page.

It seems to me that we need to be very specific. We're talking about in the context of this conversation we're talking about an appeals mechanism in respect to disputes in the management of the IANA function.

And so my question would be is - well I don't know the answer to this off the top of my head -- but in respect to the gTLD world is there stuff that Chuck and other gTLD registries consider is not covered by the provisions of their contract that would need to be covered by an appeals mechanism?

And if the answer to that is yes there needs to be a binding arbitration which currently doesn't exist in the contract. And that makes sense to me and I'm fine with it.

But if it's something else then I kind of I think I need to know about it because I don't actually understand what in what context we're talking about that gTLD appeals mechanism. Thanks.

Chuck Gomes: Lise this is Chuck. Can I respond to that?

Lise Fuhr: Yes, go ahead.

Chuck Gomes: So Chris one of the key - as you know one of the key issues with gTLD delegation is the - it's really a policy issue that is taking care of before it ever gets to the IANA process.

So that's why it's not a really in the workflow there. The policy decision has already the policy has already been developed by the time it gets to the IANA process.

But a decision has to be made whether to proceed to delegation. And if that decision was made and the operator thinks that the policy was not followed then that would be the case where an appeal mechanism would be needed. And it's well before the IANA process ever begins. And...

Chris Disspain: So that's a policy appeals mechanism, Chuck?

Chuck Gomes: Exactly.

Chris Disspain: Not a...

Chuck Gomes: It is. It really is Chris. It's not an IANA function but it's an important one that the CCWG deal with in my opinion. Does that make sense?

Chris Disspain: It - I completely understand. I just - so just so we're clear it's not a CWG issue it's something that you want to propose and push forward into the CCWG?

Chuck Gomes: Correct.

Chris Disspain: I'm fine with that. That's something we can deal with in the CCWG and see where we get with it. I just don't want to muddy the waters in the CWG with it. And that's my confusion. So I apologize and thank you for clarifying.

Chuck Gomes: No problem. Thanks for asking the question. And again it's because -- this is Chuck speaking -- there would be - the decision would be made not to delegate so there wouldn't be a contract yet because they wouldn't have executed a contract if the decision was made not to delegate. So okay thanks.

Lise Fuhr: Okay. Thank you. Donna you're next.

Donna Austin: Thanks Lise. Donna Austin. So I think my question was similar to what Chris has just raised. But I think we have a distinction here between whether it's a decision not to delegate or whether it's a decision not to enter into a registry agreement.

And in my mind they're two separate things I could be splitting hairs but I think they're two separate things.

And just in terms of appeals mechanism for a gTLD registry I am aware that while it's very unlikely that once you've signed the registry agreement that you will not go through to delegation. I think that path is reasonably well set.

We are aware that .Africa in regards to .Africa the registry agreement has been signed. But action has been taken by the IRP which has halted delegation of .Africa.

So I guess there is a mechanism in play. So I don't necessarily disagree with Chuck but I think Chris is right it's the policy that's important not so much the IANA part of the conversation. Thanks.

Lise Fuhr: (Jonathan) do you have a comment for this?

Jonathan Robinson: Yes. Let me defer to Alan and I'll defer to Alan. I was going to respond to Chuck originally which is why I jumped. But let me defer to Alan and I'll come in at the end Lise.

Lise Fuhr: Okay. Alan go ahead.

Alan Greenberg: Well actually I'm back on ccTLDs and on the question of the linkages for the CCWG. And maybe the notes could reflect that the CCWG should be mindful of the recommendation of DTB and the outcome of its survey.

I use the word mindful in a very considered fashion which is as I said previously it's very difficult to draw any conclusions from this survey because of the low because of the low response rate.

But that being said there nevertheless is information which I think is valuable. And in particular is this capacity of the CC community to develop their own

appeal mechanism and the fact that the application of an appeal mechanism to ccTLD delis and redels is a very sensitive issue which could prove very complex to develop and administer. So I guess it's that information that I would wish CCWG would be mindful of. Thank you very much.

Lise Fuhr: Thank you Alan for the clarification. Jonathan.

Jonathan Robinson: Yes. I think my thinking is in line with what's gone on before and it's probably consistent with what Alan Greenberg just put in the chat and others.

There's an issue of a breakdown in some sort of failure or breakdown in the policy process in which case there's a requirement to have an appeal and potentially a binding appeal mechanism.

This is a requirement for the CCWG in my personal opinion. I'm not sure that we can make that a CWG requirement of the CCWG.

But that said I would very much like us through the course of these two days and as we fine tune the proposal to build out that list of requirements.

And this is not so much in guiding the CCWG and its work which is what Thomas and (Matthew) and others have asked for this is in addition to that we need to make sure we've always said there would be certain conditions that the CCWG would have to meet.

And I'm conscious that we haven't had list of those and those conditions that are required for a successful proposal need to be captured.

So as I say I'm not sure we can make this particular one a binding appeal in and around gTLD delegations a condition but certainly that is one list of conditions we need to make.

Separate to that if IANA fails to follow an instruction or follows inaccurately an instruction and doesn't remedy it that issue it feels to me is dealt with by via the escalation routes and ultimately assuming IANA remains under the ICANN the broad ICANN umbrella ultimately can be dealt with via empowered community and other issues.

So - but at a much lower level that's initially an escalation and performance of IANA function issues. So to me they are very separate.

One is a policy breakdown which we talked about and Chris, and Alan, and Chuck and others picked up on.

And the second is an IANA failure to perform issue which to my mind is dealt with via other design teams, CSC, escalation and so on.

So it feels to me like we've got these in separate places and we can deal with different issue. But none of that has yet captured where the list of critical requirements, or dependencies, or necessary conditions to fulfill of a CCWG. So that is something I'd like to see us come out with over the next day or two. Yes.

Lise Fuhr: Thank you (Jonathan). Any other questions or remarks to DTB? No it doesn't look like it. Well thank you very much to Alan and his team for doing this DT.

We will move on to the next one and that is Avri who is Avri who is the lead on DTN periodic review. Also very much (unintelligible). Avri at sounds like you're getting ready to talk about DTN.

Alan Greenberg: I don't think that was me at all.

Lise Fuhr: Okay anyway Avri go ahead.

Avri Doria: Okay thanks. So yes we had a pretty good team working on this and did come out with a recommendation.

So basically in terms of the overview here remembering at the beginning there was this whole issue of is the SOW what is being reviewed? Is it different than the periodic review?

And the discussion basically was decided that the review of the periodic review of the IANA functions need include the SOW as part of that review function.

Now the notion was at a large sense that these reviews would be similar to the AOC periodic reviews. And that's kind of a model that we used in terms of doing that.

And just incidentally in terms of dependencies I'm all on the AOC working party. They don't have designed teams but working party in the CCWG are the stub working parties working on putting AOC reviews in bylaws.

And what is being proposed though hasn't been discussed by the larger group yet is that a placeholder for an AOC type review is being included in that proposal.

So there's a marker there but no language or bylaw has been developed yet since this review hasn't been discussed here. And that would have been moving too quickly.

So anyhow there is that. The notion here is that the one first one would be after two years but then after that it would be on a regular schedule.

This would take basically many different inputs. And in the full description there's a description of all the inputs and the community comments that would go into such a review.

It would include the CSC evaluations that were done on a more regular basis and such. Reports submitted by IANA. And there we basically based it on there were a number of various reviews and reports that the NTIA contract required.

And by and large -- that one's not me either - by and large, you know, model those and kept most of those reviews in an longer part of the description there's a table that basically shows all the possible reviews, you know, including things like audit, et cetera.

Yes. Oh okay so then moving on, you know, basically building on the notion of fundamental bylaws and assuming that the AOC type reviews would be fundamental assuming that this one would be also.

You know, okay so I think I pretty much covered the overall without going too deeply into detail. And indeed okay one of the most of those and the table for that if we're looking at the report shows up on Page 8 of the full review.

And most of those reviews things like the audits and such are reviewed by the CSC. But some of them such as an annual review from the CSC, and IANA performance, SOW report would be reviewed by the larger community in some sense the SOs, ACs, et cetera.

Okay so then we get down to questions. And I don't - yes the questions we came is and this is language that comes out again of a lot of the work that's being done in the CCWG is when you're looking at a review a couple of the things that you have to consider other than the fact of, you know, who is reading it, who is using it, what is done with it is what can trigger a review?

Now we've put this on a regular basis as I say in that AOC style. There's no standing committee. A group is picked at the time.

Now there had been discussions at various points of their possibly needing to be one of these driven by emergency.

We did not cover that kind of trigger. So we defined the review and we defined a periodic basis for it and a lot of smaller reports and review of the reports but did not define sort of emergency trigger for this kind of review. So if one is needed, that's work that would need to be done.

We did not come to a conclusion that it would be even needed. We talked about it a little, I don't think came to any conclusions and decided to pass the question on.

The other question that came up to us in terms of triggers was the Periodic Review. There's been a lot of discussions at various times that at the end of the day there's the possibility for an RFP. Now we've never had a discussion of what could trigger that.

One possible trigger of such an event if one were to be defined and it has been defined, would be coming out of the Periodic Review. Not that the Periodic Review would do an RFP, but that could conceivably be one of the recommendations.

Among ourselves we couldn't come to a conclusion on whether it out to be or not, kind of decided that it was beyond our scope of defining what comes after the review, but always kept in mind that notion that if you're not doing something with review, then, you know, why are you doing it. So that struck as something that might need to be discussed further.

Let's see. I'm just looking at my notes to make sure I covered - and so - right. And then discussed the fundamental bylaw, the linkage, with the CWG which I discussed.

So that's pretty much it in a nut shell. You know, the people on the group worked pretty hard to get (unintelligible). As you know, this one sort of came in late as the priority one, and it took us a long time to find what it was we were supposed to be working for. But in the end, I think we (unintelligible).
Thanks.

Lise Fuhr: Thank you Avri. Before we go to the list, I'd like to ask you, you have the table with a lot of CSC reviews. Have you coordinated this with the CSC team?

Avri Doria: Yes but perhaps not completely as we were all working in parallel. But we did have Stephanie who was a member of both teams, and some of those were changed from community function or community input to CSC after having gotten feedback of what was going on there.

So a certain amount of linkage, yes; a final statement saying, “Yes, it’s all coordinated,” I can't say.

Lise Fuhr: Okay, thank you Avri. Chris, you’re next in line.

Chris Disspain: Thank you Lisa and thank you Avri. I’ve got a question for you Avri and then a couple of comments and perhaps some suggested answers to the questions that you’ve raised. First of all just a clarification.

Are you intending that this review will include us of why the review of the IANA interpretation of policy? So it’s not just sort of a review of the Function itself but also a review of the way that the policy has been interpreted. Is that part of this?

Avri Doria: That wasn’t specifically stated.

Chris Disspain: Okay because in the paper that a number of registries put forwards and the guidance talking, the number of the registries put forward to the CWG (unintelligible), this review was envisioned sic to include that slightly wider aspect to actually look at that. So I just wanted to put that on the table as something that probably should be considered.

At least treat this next bit as very much a devil’s advocate question. But why do you think that the statement (unintelligible) reviewed by anyone wider than the customers (sic)?

Avri Doria: Basically - I mean the customers are -- in the customer service committee -- are a major part of that review. But it was the periodic bringing of the whole issue to the multi-stakeholder group.

We very much, if you look at this process and how it's going, it's very much been streamlined for the customer. But there was the notion that periodically, at least once every five years, just broader range. And certainly the CSC's view of the SOW and such would be a major component of that review.

But remember that the CSC also has liaison with the SOs with other organizations. Can't preclude that there being wider issues.

And in terms of your policy (unintelligible), I mean basically I think the way that's covered perhaps is considered input received during the Public Comment Period and other procedures for community input.

I think that's where that opening the door and saying, "Hey folks, what is there we need to look at?" perhaps does include those policy considerations. But you're right; perhaps it should be brought out explicitly.

Chris Disspain: Okay, at least if you don't mind because I just wanted to do a couple of other points just to - Avri, I get that. I have a couple of...

((Crosstalk))

Chris Disspain: Yes, sorry Lisa.

Lise Fuhr: (Unintelligible) another point because we don't want this to get into a dialogue between the two of you. So it's (unintelligible). Go ahead.

Chris Disspain: I understand, I just wanted to actually put on the table my suggested answers to the questions that Avri raised because I think it's important that we don't let those slip; we need to deal with them.

I think the answer to the question, “Can a Periodic Review be triggered by something other than calendar?” I think the answer to that is yes. I think that the Customer Services Committee should be able to trigger a Periodic Review after an emergency has been dealt with -- not during an emergency -- but after an emergency has been dealt with in the event we feel that that’s necessary.

And in respect to the question, “Can a Periodic Review trigger an RFP mechanism,” again I think the answer to that is yes if there is a mechanism for triggering the RFP. And I’m assuming that mechanism will be to go back to the whole community and say, “We think an RFP should be triggered. Do you agree?”

I can see no reason why in the same way that the CSC should be able to do that, there isn’t a reason why the Independent Review - sorry, the Periodic Review Committee shouldn’t be able to do that as well. Thanks.

Lise Fuhr: Okay thank you.

Avri Doria: By the way, I was told my mic level was too high. Did I fix it?

Lise Fuhr: Yes you did. That was fine; thank you.

Jonathan, you’re next.

Jonathan Robinson: Thanks Lisa. I think there’s three sort of comments/questions. One is - the first is a question I’ll deal with that one first.

This envisages a review of the two year which I think makes sense. I can see why you wouldn't want to make it after a year, and I can see why no more than two years after transition. And thereafter at five-year intervals.

One thing which is why it's a question, you may have dealt with this already. But it feels to me like you would want to capture that being no more than five years, so I wondered if you considered that because the danger is if there's any wiggle room it might go to 5-1/2 or 6.

And I think if you said no more than five, that might capture - and I just wanted - so I'll just pause briefly to see if you'll answer that and then I've got two other brief points.

Avri Doria: The first suggestion has been five to seven. We backed it down to five. I would certainly have no objection, I would have to check with the others but it seems reasonable to say no more than five. In the same respect that the AOC Reviews are on that kind of period, but yes.

Jonathan Robinson: Yes, I mean I'm mindful of recent experience with the GNSO reviews where it almost stretched beyond that, and it feels to me like that that's your intent and therefore you're intent should be captured with a no more than five years.

I must say I feel somewhere there should be an ability to trigger a review. And whether that's by the SCS that certainly would be something that from a personal point of view feels like the right thing to be able to do.

And Chris asked about multi-stakeholder on the Periodic Review Team. And I could answer it kind of simply in the sense that throughout - from a Chair's point of view, throughout this discussion, I have picked up a sense that

somewhere there needs to be a substantial role for the multi-stakeholder community. This feels like not a bad place for it to be, so that's just my perspective if you like from a Chair's point of view.

I've heard a lot of the time in many different discussions where's the role for the multi-stakeholder community, how does multi-stakeholder community? So you can imagine from a personal point of view as a customer, I kind of think the customer should be able to sort everything out with the IANA Function.

But from a Chair's point of view what I've heard substantially and regularly is a need for multi-stakeholder involvement in all of this and this seems like a good place. So to that extent it feels like a reasonable suggestion coming out of the design team. Thanks Lisa.

Lise Fuhr: Thank you Jonathan. Martin Boyle you're next.

Martin Boyle: Thank you Lisa; Martin Boyle here.

Yes firstly, I like the approach that this is followed in particular the idea of linking it to the cross-community's working group work and linking that also to the AOC type reviews into a fundamental bylaw.

Where I have a little bit of difficulty of disengaging was on what I would say is possible overlap with the CSC Design Team which I see as being quite an important position -- quite an important place -- for trying to get incremental changes during the period in between review teams. In other words, (unintelligible) when an issue comes up of trying to resolve the issues associated which might mean also looking at processes or at the service level expectations.

So I would welcome your thoughts Avri as to how you would see those two working because I think I would be a little bit nervous about recognizing that the service level expectation wasn't doing what it was expected to do working with the IANA Function's operator to try and identify what to do about it. And then having to wait four year, 364 days before the next review so that we could actually implement it.

I actually think we should be looking to implement and then do a next post-review on the changes that we've implemented. But anyway, I'd be interested in your views; thanks.

Avri Doria: Should I touch that now?

Lise Fuhr: Yes.

Avri Doria: Okay. So indeed, if you look at the table of reviews, I mean many of them are review monthly performance, and you know, and I can go on, you know, review performance metrics, review customer survey support, review security out (sic) process.

I mean all of those -- some of those are monthly, some of those are annual -- and all of those there is, and it's stated in here perhaps not clearly enough, that there's a give and take between the reviewer, which in most cases is the CSC, in some cases the CSC with community input, and in a few cases it's community. That there would be an IANA responsibility to respond.

Now the response could indeed be we will upgrade this, we will do that; I'm not trying to project that. But there was certainly that notion that anything that is audited, anything that is measured, anything that is reported, needs to be

reviewed. Those reviews need to be commented and IANA would need to take those into account.

The Periodic Review was basically taking a look at how well was that all working; how well were all these more periodic, more regular reports, reviews and mechanisms. And also looking that there is the whole escalation process for things that aren't going right, this also looks at things that are going right and can be improved. That's all part of that regular give-and-take process, or at least that's I think the notion that was being built; by having all these other reviews and having them, you know, responded to by IANA. Thanks.

Lise Fuhr: Thank you Avri. Alan Greenberg?

Alan Greenberg: Thank you very much. First in response to Chris's devil advocate's question of why multi-stakeholder, I actually think - we talk a lot about things being in ICANN's DNA. One of the things that is in the DNA is that public comments are commendable by anyone no matter how focused the subject area is. And I think that's an essential part of how we do business, and I certainly wouldn't want to see that changed.

And that's being reflected in the AOC Reviews where there tends to be participation by all parts of the community regardless of whether that's their mandate, formal mandate or not. So, you know, I think strongly it must be multi-stakeholder.

In terms of the questions, I think I agree with I think most people in that the review must be triggerable by real problems. You know, if there is something which means we have to rethink these, we must be able to do that.

Shouldn't be able to trigger an RFP mechanism. I would not want to see it forbidden that it could trigger an RFP mechanism or any other mechanism to rethink how the IANA Function is provided. I would not want to see it mentioned because I think a review committee can recommend anything that's within its broad scope.

And it should be given - we shouldn't prime the pump so-to-speak by suggesting what the mechanisms are that the Review Committee could recommend as follow on activities, but it certainly shouldn't forbid it. Thank you.

Lise Fuhr: Thank you Alan. I just want to be mindful of time; we have nine minutes left.

Greg, you're hand went down. Is that because you abstain from staying anything or you still want to?

Greg Shatan: I'm succeeding my time.

Lise Fuhr: Okay. (Ed Waddell), go ahead.

Eduardo Diaz: Thank you Lisa. This is (unintelligible) specific question for Avri on the (unintelligible) section in this document where he says, you know, that when he talks about the process of changing, in this case, the charter of the IANA (unintelligible).

And he talks about the process and part of that process, and he says, "By reputation (sic) will be by the ccNSO on the GNSO (unintelligible) in the AOC including that reputation (sic), and to that affect the IEPFs and say are also clients of the IANA Function. Thank you; that's the question.

Avri Doria: Hi, thanks. Let me answer that one quickly.

We've already had our wrists slapped by saying that, you know, we were defining something for the numbers and for the protocols. So all we were talking about was the naming component of the EW (sic), and perhaps, you know, should put a note in there to be very explicit. But certainly didn't want to presume anything about what would be done for protocols or numbering. Thanks.

Lise Fuhr: Thank you, Avri.

We have some questions that we need to conclude on, and the first was regarding the Periodic Review Function, if that could be triggered by something other than the calendar. And I recall that this was a yes and that the CSC should be able to trigger a review after an emergency has been dealt with.

Is there any disagreement with that interpretation? Doesn't look like it.

Then we need to make the linkage to the ccWG. We know there's the fundamental bylaw. Is there any other issues that need to be dealt with?

Avri Doria: Hi, this is Avri. I mean at some point if we decide that this should be a fundamental bylaw, I'm not sure whether we contribute the wording or whether ccWG takes the proposal. Since I'm on both teams, I don't really care how it happens, but we do need to figure out how to do that.

Lise Fuhr: Well I think that a way to do it is to pass it onto the ccWG because they're looking at bylaws as a whole, and it would make sense to have them do the wording of this one.

Any disagreement with that? Greg?

Greg Shatan: I would actually disagree with that. I think that the ccWG is dealing with some bylaws of general import that in other words there bylaws are mechanisms by which to enact or enforce the powers that they are putting in place. And if we are seeking to enact and to put in place bylaws to make real things that we are proposing, we should be drafting those bylaws as well.
Thank you.

Lise Fuhr: Okay, I see Chris. Your hand is up Chris, go ahead.

Chris Disspain: Well I don't disagree with Greg but perhaps we could be a bit more specific about what bottles we would need to drop.

((Crosstalk))

Chris Disspain: Yes Avri, go ahead.

Avri Doria: If I can answer - I mean would be a bylaw similar to other AOC Review bylaws. And so it would basically be language that established this as a review indicating it's, you know, high level scope. Thanks.

Chris Disspain: I'd be fine with that.

Lise Fuhr: Yes, I'd like to support Avri in this. I think reviews are a big part of the CWG too so this would be a subset of any bylaw regarding a review.

But Greg, your hand is up?

Greg Shatan: Yes, I just wanted to - this is Greg Shatan again - I just want to make the more general point that a fundamental bylaw is just - talks about the characteristic of the container; in other words the fundamental bylaw is that which is very difficult to change once it has been put in place. It doesn't define the contents of that container.

So some of the bylaws - maybe all the bylaws - that we come up with might be tagged as fundamental, and that may be true of the ccWG. But the fact that we tag this as a fundamental bylaw doesn't mean that it becomes the ccWG's work. It just means that we have to consider essentially to what extent do we want to, you know, make it difficult to change. Thanks.

Lise Fuhr: Jonathan?

Jonathan Robinson: So yes, I'm not sure I understand completely the difference between fundamental or not and then the answer which we - but it does feel to me like we've got to set certain requirements for the ccWG - for certain expectations to meet our requirements.

Should they come back to us and tell us they can't meet those requirements, but we need to find another way to meet those requirements, that's a different point.

It feels to me until they've told us they can't accommodate this, for example in this case, the Periodic Review of the IANA Function at no more than five-year intervals, we should assume that they can and require them to do so. Thanks
Lisa.

Lise Fuhr: Thank you Jonathan. We have two minutes left. I'd like to conclude on this.

I know Chuck has a subject he forgot to discuss regarding the DTO, but I don't know - Chuck, are you going to be on the next call so we can postpone as one of the first issues as during that call?

Chuck Gomes: Yes I will Lisa.

Lise Fuhr: Okay, we'll take it then. I haven't forgotten you but it's just to be mindful we have two minutes left.

Greg, is that a new hand?

Greg Shatan: It is actually a new hand; sorry, I just wanted to respond to (unintelligible).

Lise Fuhr: Go ahead.

Greg Shatan: I have to disagree that the ccWG, as far as I know and I've been participating regularly, has never considered creating a bylaw relating to periodic reviews of the IANA Function. Again, that goes back to the point that the concept of a fundamental bylaw is generic; it does not refer to the content of the bylaw, merely how difficult it is to change. In other words, it should be more difficult for a bylaw that is tagged as fundamental can be changed than it is by the Board that is, than a bylaw that is not tagged as fundamental.

So the text by the bylaw is essentially irrelevant to whether a bylaw is fundamental or not; it's a more a question of governance as to whether you make it fundamental.

And so I don't think we can assign this one to the ccWG because it's not on their list. Thanks.

Jonathan Robinson: So Greg, maybe we need to take this offline and understand it. But certainly a key objective from at least my point of view coming out of this two days, is to -- and I thought that's where we got the request from Thomas and Mathieu as well -- tell us what you need to deal with and we will deal with it or tell you that we can't, which is why I'm saying that, to me, an outcome of this discussion is making sure - whether or not it's part of a fundamental bylaw or not, it's an accountability mechanism that we want to have in place.

And we can make it both a requirements of the CWG if the function was revealed, and request that the ccWG accommodate that review by whatever accountability mechanisms it's putting in place.

Greg Shatan: Jonathan, I guess I would phrase the request a little bit differently which, as I heard it which was tell us which of the things we are working with are dependent for you; which of the things we are already working on you're relying on us to finish concurrently with your review. Not, you know, give us some new assignments and we'll take care of them.

I see the ccWG kind of groaning under the weight of the current things that it's reviewing, so I just would not add new things. And I don't think respectfully that was the invitation we were getting. Thanks.

Lise Fuhr: Thank you Greg. And I see Thomas is putting in the Chat that if you'd like us to work on this, we need to know the details you would like us to consider. Also we would know whether this would be Work Stream 1 versus Work Stream 2 item.

I suggest we make this a Work Stream 2 issue. No, I'm - and Thomas is agreeing with Greg.

Okay, I think - well we can be more detailed on what we need this fundamental bylaw to include, but I have the impression that there would be a bylaw regarding reviews anyway. But that might be a mistake.

Greg, your hand is up.

Greg Shatan: Yes, I just wanted to say we can't give this one away. Thanks.

Lise Fuhr: Okay. So what we're in agreement with is the actual five-year review and we'll see how to have that accommodated. And yes.

So we'll have to end this meeting now. We'll get back in two hours where we'll reconvene at - what is it - 1500 UTC. Okay, thank you all for participating and - I see Alan's hand is up.

Alan?

Alan Greenberg: Thank you. Just a quick note, there's a DTF call immediately after this. I'd like to give people five minutes in between. Thank you.

Lise Fuhr: Okay, that's a good idea. Thank you for mentioning that Alan. And DTF, have a nice call.

Okay, everyone thank you. Greg - not Greg, Grace, your hand is up. Sorry.

Grace Abuhamad: Thank you. I just wanted to follow-up, for anyone who is on the DTF call, it's not in this Adobe Room. So you may want to - just in case you haven't seen that it's in another Adobe Room, so please check your invite to go to the other Adobe Room for the call. This one will be closed up and cleaned up for the next call.

Lise Fuhr: Thank you Grace. And well, use the two hours wisely. See you. Bye.

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