ICANN

Moderator: Gisella Gruber-White
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2:00 pm CT

Coordinator: The recordings have started. Speakers you may begin.

Leon Sanchez: Thank you very much. And welcome everyone to this ICANN Cross Country Working Group on Enhancing ICANN Accountability Call. This is our regular call for Tuesday. And this is our Call Number 30 for 28 of April 2015.

As usual may I remind you to fill in your statements of interest if you haven't done so? And if you have any difficulties doing so, please be so kind to approach a member of the staff and they will happily assist you in filing your SOI.

This call is going to be an interesting one as usual and we will be going through all changes that have been made to our draft report document. And of course this is the draft report that we will be submitting for public comment soon.

And with no - with regards to roll call, we will be basing attendance as usual on the Adobe Connect room attendance. If there is anyone that is not connected to the Adobe Connect room but is attending through the phone bridge, I would kindly ask you to state your names at this point so we can add you to the roll call. Is there anyone that is attending through the phone bridge and not connected to the Adobe Connect room?

Jim Baskin: Yes. This is Jim Baskin.

Alice Munyua: Yes. Alice Munyua here.

Leon Sanchez: Okay. I'm sorry. I listened to Alice Munyua and I listened to a gentleman but I didn't get his name.

Jim Baskin: Jim Baskin.

Leon Sanchez: Jim.

Jim Baskin: Yes.

Leon Sanchez: Thank you.

Woman: (Unintelligible).

Leon Sanchez: I am sorry. I couldn't hear the name of the lady. Well I believe we do have another lady on the phone bridge but I can't get her name. So staff I kindly ask you to try and find out on the recording who this lady is.

And well with no further delay, I will begin this call. As you know, we had a very intensive session at work - a very intensive session last week. And we

went through the draft proposal for public comment. And we went from each of the different points in this draft report in those calls.

And with regards to this document of course we received a lot of feedback from the community and a lot of feedback from Rapporteurs, co-Chairs and everyone who's been very hard working on putting this document together as well as of course staff that has been wonderful with support.

And we made different additions. We've tried to go back on reviewing the document, reviewing the different comments gathered on the different sessions. And the purpose of the call today is of course to review the different feedback that was received and has been incorporated to the document.

And since this has been a lot of information there might be of course points missing to the document. Everybody working on the document has made their best effort and provided their best to assure that all comments provided during our intensive working sessions were duly incorporated to the document.

But, as I said, since there's a lot of information, there might be some points that anyone could have missed. So if that is the case, of course we would welcome anyone detecting any missing points or issues, (raise) them so we can contemplate them in the next version or the review version for public comment.

With regards to Sections 1 through 5, we went through introduction of background of course. The methodology has been adopted by the group. We have our definition and scoping document, which has been reviewed several times.

And we also have the (unintelligible) fixed to (unintelligible). And that (each) has gathered from the community in the first stage of this exercise and the required community powers.

We have integrated the different comments, different reviews. Robin and Jordan made wonderful contributions to this document. We have some documents that are still or some edits that are still pending on being reflected in the document.

And, as I said, our intent is to review the document and I see my co-Chair Mathieu Weill his hand is up. So Mathieu, could you please take the floor.

Mathieu Weill: Thanks Leon. This is Mathieu Weill speaking and hello everyone for this call. Before we dive into the substance, I think that we owe you a couple of precisions on the document you are seeing here.

It was circulated to you - to the mailing list only a couple of hours ago. And that's apology Number 1. It's definitely later than we expected. And because it's a large document, it is possible that some of you have not received it if your email servers have size limitations.

And so the URL to check to get the report is in the notes on your right (NDAC) room and has been pasted and I will paste it again on the chat so that everyone has the document and can have a local copy.

And obviously it is also the one that is displayed in the AC room. But - and you will notice that to be completely transparent we have fought and staff especially has fought a long and hard battle on the last 24 hours trying to produce the document that would incorporate the various items we discussed last week.

It was an in-equal fight between machine and men and women and I think the machine won. So we've lost the red line version in the battle, which is why you will not find the edits highlighted, as you would certainly expect. So we'll take you through those edits as much as we can.

But be assured that was not our intent initially. So that's apology Number 2. And I think that's worth mentioning before we get into - before we get into the substance. And having this in the notes I think is also important. Thank you Leon. Sorry for interrupting you.

Leon Sanchez: No interruption and no harm done. Happy to always listen to my co-Chairs. So well with regards to Points 1 through 5, of course we made some additions and enhancements to the document with regards to the introduction and background.

I don't know, maybe staff could give us a quick walk through the main updates that were made to the document on this point. I see Thomas hand is up so Thomas, can you please take the floor.

Thomas Rickert: Yes. I guess with respect to the changes that have been made to the first section we reflected and Robin and Jordan's suggestion for revised wording on the notion of ICANN - the remaining accountability. We remember that Robin has suggested to use a different phrase because some of the group felt that ICANN wasn't as accountable as it should be. So that's been done.

There has been a suggestion by Izumi, which is either reflected or will be reflected by Adam. And maybe Adam can speak to that. We'll move on. And then what I think is a major point and we would like to hear some feedback from the group is not that much content wise but structure wise because there

have been requests that we make it easier for the community to follow the report and (save them) the effort of going through length introductory chapters before coming to the substance.

So we are currently planning to move the initial five sections to appendices and just have a management abstract at the very beginning to then get to the - to what now Chapter 6 soon to be Chapter 2 where we introduce the new accountability architecture.

So what you see on the screen in the Adobe and what you received in your inboxes or can find on the Wiki is (still) based on the current structure of the report. We thought it might be easier for the group to navigate the document if don't change numbers of chapters, which will allow us to have an (interim) on the page numbers.

But we will move one to five to the appendices later on. And should there be any concern that we do so, please let us know. Otherwise we're going to come up with an updated version that reflects exactly that change. So once we have a little bit more robust version of this copy.

And we've also taken good not of the suggestion that was made by Kavouss and that was the introduction of a glossary to make it easier for those who are not too familiar with all the terms and acronyms to follow.

But these are the changes that have been administered to Sections 1 to 5. And with that, I'd like to give you an opportunity to co-Chairs or Rapporteurs to add more specificity to the overview that I gave or otherwise we can move forward. You should maybe Leon open it up for questions from the group.

Leon Sanchez: Thank you very much for this Thomas. I don't know, maybe Adam, would you like to comment a little bit on the different updates that you went through on Sections 1 to 5?

Adam Peake: Excuse me a second. I've got a bad echo on this. Is that better?

Leon Sanchez: It is. Thanks.

Adam Peake: Yes. I think the primary change that needs to be introduced -- and apologies for not having it ready; it's the machine battle with the report is taking up a little bit more time than expected -- is to reflect the comments from Izumi about ensuring that we are clear about what the CWG requested in the terms of the accountability mechanism that they anticipate from us.

And that section will be written up to emphasize that not only are we taking account of this but this is something that the CCWG has been working towards anyway under its own account. So there is a very solid overlap in intention both planned because the Chairs have been working together closely and because it's logical outcome that's appeared independently through both working groups activities.

The other updates are broader in scope and Thomas has spoken about a lot of those. I think it's also worth mentioning that we also are reflecting Kavouss' comment in this particular document that this is not yet a consensus of the CCWG. And I think that was an important merge point that he has made on other issues. I think I can stop there if that's all right. Thank you very much.

Leon Sanchez: Thank you. I see some comments on the chat with regards to moving of course these big chunks of information from the report to appendices. I feel that we're having a sense of support for this issue. So if we create that we will

of course be moving those pieces of information to appendices. And next in the queue I have Robin Gross. Robin, would you please take the floor?

Robin Gross: Hi. This is Robin. Can you hear me?

Leon Sanchez: We do hear you.

Robin Gross: Okay. Thank you. I wanted to bring some attention to some of the new material that's been introduced into Section 4 under the inventory of existing ICANN accountability mechanisms.

So we've got about four new pages of new material of new accountability mechanisms that have been added into this draft. And I'm really concerned because we haven't discussed any of them. These were not findings of the group let alone agreed to.

You know, talking about the headquarters as being in California so anybody can sue and that's an accountability mechanism and the Board of Directors documentation policy. I mean there's a lot of problems with that policy.

So we haven't discussed it as a group so I'm not comfortable putting these things in here as - anything that we've had an inventory of - this is - these are new material. This is all new material from on Pages 17 through 20.

So I'm just not comfortable putting these in as findings of the groups since we've never discussed them. I mean frankly they read like ICANN PR pieces and not a serious review of these processes. Thank you.

Leon Sanchez: Thank you very much Robin. Next in the queue I have Malcolm Hutty.

Malcolm Hutty: Thank you. I actually agree with what Robin just said but I don't think it's peculiar to that last point. I think there's been a lot of things that we haven't really bottomed out the discussion.

And we're really having the problem of lack of time here. I haven't chimed in on some of the more acrimonious discussion on the list about the lack of time because I didn't feel that that was being - that was useful and we seem to be on the track. But there is a problem there and I think Robin has put a finger on a very specific example, a clear example, but I think there are more.

But the reason I put my hand up was actually for a more - for a less substantive point about how we make this report readable for the public that were going to comment on this and raise these issues.

I read through this report today for the first time within my head how I will actually go about assessing and responding to it on behalf of my community and how I will be consulting my own community on that.

And once clear thing came up then. We really need to number the individual questions that are put to the community for ease of reference so that this will support certainly people in the (prime).

It will absolutely support people who have to ask others for a group view before they reply on their behalf. And there are many of us in that position. And it will certainly assist the CCWG when it comes to assess the replies from the public comment in identifying which ones are being talked about. So I would - it became clear to me for the first time when reading through this that clearly identifying individual questions is essential.

Leon Sanchez: Thank you very much for this Malcolm. We agreed with you. We have discussed this. And we're working towards making this document of course the easier to read and comprehend by the larger community. And we will be working on a summary of the whole document. And of course we will be concentrating the different questions for a quick reference.

And we are also working with the people from XPlane to have a graphical explanation of what's the proposal being made. So it can of course provide us tools for clearer understanding and have an easier way to manage the document. Next in the queue I have Kavouss. Kavouss, can you please take the floor?

Kavouss Arasteh: Yes. Good time to everybody. I have three comments. One with respect to Robin's comment, I think the information is useful but could be, you know, qualified as follows. The following information is taken from the available documentation of the ICANN for ease of reference and it has not been discussed in CCWG.

Therefore it is only a included here for information. I think it is useful to mention that. But we should give the qualification that we have not discussed that. This is Number 1 suggestion.

Number 2 suggestion I think perhaps it might be good either to include the charter or cross reference the charter by hyperlinking the charter because the people should know what is our charter. I'm sorry. I have not read the Version 4. I read Version 3. It might be there but I'm sorry if it is there I apologize for that.

The third issue is when we refer to CWG perhaps it should be also refer that CWG has recently put their proposal second version for public comment and

cross reference that by either hyperlink or any other way is also be good. These are very small - three suggestions that I made. Thank you.

Leon Sanchez: Thank you very much for the suggestions Kavouss. The documents that you mentioned are already in the appendices of the document. But it is of course very welcome and useful the suggestion on hyperlinking on the text itself to the document. So we will be reviewing that and of course I mean it's not difficult to do. So it's well taken and we'll look into that. Next in the queue I have Alan Greenberg. Alan, could you please take the floor?

Alan Greenberg: Thank you. A very mundane suggestion. Since much of the document is not paragraph numbered, it may be useful - I presume we're not going to fix that or change that in this version. It may be useful just to have line numbers for the whole document. Otherwise it makes it exceedingly difficult to point to some particular area where, you know, it's part of an unnumbered section and, you know, with multiple bullet points. Thank you.

Leon Sanchez: Thanks Alan. We will go through this as well and have a proposal to enhance the reading of the document. So...

Alan Greenberg: Speaker, not the reading of the document. Make it easier to be clearer what you're commenting on.

Leon Sanchez: Good. Excellent. So I think that Robin will be sending an email with the points that she finds problematic on the text. And I don't know if Malcolm is that an old hand or a new hand?

Malcolm Hutty: Apologies - well, my apologies.

Leon Sanchez:	No problem. Thank you. And well, as Thomas was saying, the glossary was prepared by Adam. And of course we would encourage you to review it. And I see a comment from Holly Gregory that lawyers should have the chance to review the document and this will of course be essential Holly. So we will be letting you go through the document and review it.

Well, (we can) move to the next section of the report. And for that, I would hand the floor to my co-Chair Mathieu.

Mathieu Weill:	Thank you very much Leon. This is Mathieu Weill speaking. I am moving now to the sections regarding accountability mechanisms. So it's starting on Section 6, which is Page 21.

We have added on Page 22 a little bit of wording to explain the graphics on the overall accountability architecture. And this part - this is the first time you've seen this part so obviously you still have time to comment on this. It's a summary of a kind - of a kind. But so there's no new material in this.

Then Section 6.2 on Page 24 was reviewed by Becky as Rapporteur of Work Party 2. And the main change is that as discussed during the intense workdays, we introduced a notion of instead of commitments that we use the word guarantees. So we have mission guarantees and core values.

And we've made sure we - we've ensured consistency across all document when we refer to that, which was a change. And Kavouss, do you want to comment on this one?

Kavouss Arasteh:	I'm sorry. I apologize. We could not say guarantee. Nothing could be guaranteed. No one could guarantee but they can commit. But they could not

guarantee. There is no mechanism to guarantee something but it could commit but not guarantee.

Never legally if we talk about guarantee. No one could guarantee anything. It is a commitment to do as they are committed to do. But I have some difficulty if you are agree not to replace commitment or committed its guarantee or guaranteed. Thank you.

Leon Sanchez: Thank you Kavouss. I thought this was an outcome of the discussion in intense workdays but it's - it was not a decision that was carved in stone. Becky, would you like to comment on this? You may reminders us of the conversation we had around the word commitment. You in the (issue room) but I'm not sure if you can answer right now. Okay. Becky is probably (partly) unavailable.

So we have this wording to finalize on guarantees and commitments. And I think Kavouss is raising a good point. And so we'll keep that as an open discussion.

The Section 6.3 if we move - okay. We have removed scroll control to be sure we are all on the same page. Use your local copies to scroll through the document yourself.

Section 6.3 is about the fundamental bylaws. If we had a red line version we would see a number of changes here because during the intense workday we realized there was a mismatch and this section was not the right one in the right place.

So we introduced this memo that was written by Jordan as well as Becky about fundamental bylaws. And we took that onboard for the document at this point. So that was the main change.

And Section 6.4 is the section on the independent review panel. And this one following the very significant discussion we've had has been enhanced significantly.

We have included the outcome of the discussions that you placed during the intense workdays including the fact that we are - for the possible outcomes of the IRP. So the fact that an IRP decision would only be confirming or amending or canceling a decision by the Board.

But on the other hand, it would be final and there would be no other appeal. We have also mentioned that we had some confirmation from legal that such an outcome was legally feasible although of course devil is in the details, as you know.

And the big - one of the key open questions here is whether we want to keep - there's a lot of questions and open issues through the section and we have - either we can leave them here or we regroup them at the end of the section so that there's a whole description and then the questions and open issues gathered. And I think that's the key aspects of change here. We've tried to reflect the discussions we've had during the intense workdays.

And in terms of introduction of - and then of course we have the Section 6.5. I would not forget 6.5 for consideration process. Not many changes because we had some reasonable amount of agreement on the text during the intense workdays. And so it is very much still in the same - on the same text that is provided here.

With that quick overview, I would like to turn to Kavouss for another comment.

Kavouss Arasteh: Yes. Very small comment. I think on the title of Section 6.4 we don't need S after enhancement. It should not be enhancements because enhancement is a (unintelligible). Does - it's not quantified and should not quantify. When you say enhancement that's easier than Enhancement 1, 2, 3, 4, 5. There are - we are talking with just (one). So perhaps we don't need S at the end of enhancement. Thank you.

Leon Sanchez: Thank you very much Kavouss. I don't know if Becky has joined the phone line yet. If so, probably she can provide a quick update on this section that she's been working on with - in the last few days. She's spent a number of hours on that. Becky, are you through in the audio? No, probably not. Okay.

So Kavouss, I assume it's an old hand. Based on your...

Kavouss Arasteh: Yes, I still looking at - maybe an old version. In Section 6.4 I see two times question and open issues. (Unintelligible) or this is now corrected?

Mathieu Weill: Think you, Kavouss, that was the point I was referring to. There's currently in Section 6.4 several points where we point to questions and open issues.

And I was asking the group whether you think it's more appropriate for the reader to have these questions and open issues item by item, for instance, on standing - just to give you an example, is question and open issues on Page 40.

And then on Page 41 there are several questions raised on this - on the IRP section. And would you think it's more reasonable and easy for the community to respond if the questions are grouped at the end of the session, the section? Or provided and numbered as we read?

I think that would be - that's a question we've had with Becky at this point so, Kavouss, I don't know if you have a feeling about this.

Kavouss Arasteh: Yes, I suggest it's - colleagues can agree, when we raise title like question and answer - open issues, we should mention in relation with so we show that these questions and open issues are in regards with what? So we have to give the subject otherwise they are so many questions and open issues we do not know what are the relevance of that.

So perhaps it may - tabulated that or give that under the title, question and open issues in regard with - question and open issue in relation with, something like that. So if it is agreeable by colleagues - it is by way of suggestion only.

Mathieu Weill: Thank you, Kavouss, that's very constructive. Any other comments on that part? We've really spent a lot of time on this during the intense workdays so hopefully we have covered this. I see Jordan's comment on the risk of overloading with dozens and dozens of questions.

I think this - that's a good point, we need to make sure these are very readable and engage the reader into providing comments and the risk of overloaded is significant.

Okay, so seeing no further hand I'd like to move maybe - Kavouss, you have another comment?

Kavouss Arasteh: Yes, sorry, one small question. On 6.5 we started a standards - sorry, standings, yes.

Mathieu Weill: Standing.

Kavouss Arasteh: Yes, standing. And then we go to standard of review. So sorry, standing is good. But what is the standard of review? We are talking - review does not have any standard, review has logic, has reason, what does it mean by standards of review? What is standard we are talking about? You are talking of logic? You are talking of what? Sorry.

Mathieu Weill: From my understanding - and I'm not a native English speaker and let alone a lawyer was that this was a standard way of framing the question of what would refuse the - what standard the cases would be looked against. Steve, would you like to respond to that or is that another comment?

Steve DelBianco: Different comment. It's a different comment, Mathieu so I don't want to interrupt Kavouss's train.

Mathieu Weill: Thank you. So I see Malcolm's - precision that standard of review means principles against which in some cases measured to determined whether (unintelligible) should be upheld. And thank you, Malcolm, because that was what I meant but obviously my English is not as good.

So Steve, for your comment?

Steve DelBianco: Yes, thank you. This is with respect to standing and standing is discussed with community questions on Page 40 - Page 4-0. And we do say that any group or entity that's materially affected can have standing.

And one of the very early things we did in work area 2, which was an inventory of all of the community suggestions was that we said, the community could have standing for a reconsideration or an independent review panel.

And it's my belief that we've honored this throughout and that the community itself constituted, say, a majority of members would have standing to file for a reconsideration or an IRP. I simply wanted to confirm that to make sure the document makes that clear and especially whether Becky's team continued to believe that that was something we wanted to deliver, thank you.

Mathieu Weill: Thank you, Steve. It's indeed important that we have confirmation of that since we view it as a basis of principle and to stress this point. Once again, Becky, if you're on the line now please take the floor to intervene. But I think this is a good point. Greg?

Greg Shatan: Thank you, Greg Shatan and I was actually going back to the prior question, which is the meaning of standard overview, which is a legal term of art without usurping our council's job I would explain it as being the level of deference that's given when an appeal is taken, the level of deference that the original decision is given.

For instance, clearly erroneous or arbitrary capricious - in other words, how - what standard does the - original decision have to, in essence, fail to meet before it can be overturned?

At one end do you essentially have de novo review where you give the original decision no difference whatsoever and at the other end you may have arbitrary and capricious which is unless you - the decision can be shown to be

arbitrary and capricious it will be upheld and the review in court or reviewing body doesn't have a lot of leeway to kind of revisit the decisions for itself. Thanks.

Mathieu Weill: Thank you, Greg, that's useful. I see next - Steve is back.

Steve DelBianco: Thank you, Mathieu. Yes, I wanted to follow up by suggesting that stress test 13 that lives on Page 87, pointed out the fact that there's a risk that one or several stakeholders who excessively rely on our accountability mechanisms could parallelize ICANN's ability to make decisions and move ahead.

And we lay out the idea that our proposals for community empowerment rely upon super majority and we note the fact that our enhancements to IRP and reconsideration, make them more accessible to (unintelligible) parties.

This is one of the stress tests that we don't score very well on because said, some of our proposals will make the redress mechanisms more accessible and affordable to individual stakeholders increasing their ability to block the implementation of policies and decisions. I guess defer is really what they're doing, blocking it temporarily.

So we wrote on this stress test that the proposed measures may need to distinguish community standing from those available to individuals. Community powers and make those distinct from those available to individuals.

And I point that out now because earlier the point I brought up on 6.5 with respect to does the community have standing? It's not entirely sure that we could if we have to prove that we as a community are aggrieved on the questions that are listed for that section.

So Becky I realize is on another call and may not be able to come - come in on this but let's not lose this key thought is that the community may need the ability to say we as a community want to challenge the decision as opposed to try to find - go find an aggrieved party and let's be sure that the rules we're writing will allow the community to be the aggrieved party.

And then secondly, do you think we have done enough to restrain and restrict the use of our accountability mechanisms for those who use them - what, to simply defer and potentially block policymaking? Thank you.

Mathieu Weill: Thank you, Steve. I think we'll have to confirm that community could have standing and confirm that with Becky and her group. But I would operate under this assumption until proved otherwise so far. But it's good that you've reminded us of this stress test 13 as well.

Sebastien, you're next.

Sebastien Bachollet: Thank you very much, Sebastien Bachollet. I hear the discussion about standard of review and I am not sure I understand something. But I would like very much that we try to find a way to keep the legality of the wording maybe outside of this because if we want this to be discussed by the community we need to have something - not just for lawyers.

And that's something for the - all the community. We need to really be careful to write in understandable English and for everybody. It's not just for this point.

And maybe we need to have some addendum to be more precise and more legal oriented if we need so but just keep in mind that we want to have as

much as possible inputs from the community and to do so we need a simple document, thank you very much. Not simplistic but simple in English wise document. Thank you.

Mathieu Weill: Thank you, Sebastien. I think one contribution you can bring to that if you can is flag some of these items in the draft. If you see an expression you think is too legalistic or section and if you can flag it then truly that would be very useful.

Okay. Now we've gone back to our regular AC room display after the screen went wild. Before turning to Thomas I'd like to just recap what I heard on this section, a few editorial comments.

Obviously we need to make sure we be very clear on the questions and open issues so that it's easy to read but also easy to understand what the questions are about. We also need to confirm whether the community would have standing with Becky and her group, and that's a key question that we're working on the assumption that this is the case.

And we have highlight and I think that was for the whole document that if Sebastien or others in point to areas of the document that are difficult to understand among specialists certainly we need to make an effort to make this more accessible.

And with that I would like to now turn for the other sections - the next sections to my fellow co-chair, Thomas.

Thomas Rickert: Thank you very much, Mathieu, and hello again everybody. I would like to speak to Section 6.6 now, which is on Page 50 of the PDF that was circulated prior to the call. Heading is community empowerment. And I will guide you

through the changes that we've made by shortly introducing the chapters and then giving Jordan the opportunity as (unintelligible) to be a little bit more specific if need be on the changes that have been made.

So if you look at Section 6.6.1, mechanisms to empower the community on the very same page, Page 50, there are some introductory notes. Then 6.6.1.1 speaks to the reference model. You will remember that during the intense workdays we have discussed at length the pros and cons of the different models that we've put in front of the lawyers to review for us. And we have agreed that we would structure the report in a way that we have a reference mechanism, which is the membership model and at the same time that provides information on the designator model and discussing the pros and cons.

So the section that you find on Pages 50, 51, actually speak to this, speak to the rationale. And then end with the question of whether the community thinks that the introduction of the community mechanism to empower the community over certain board decisions would enhance ICANN's accountability.

So with that and before talking about the composition of the community mechanism and the voting power, I'd like to give Jordan the opportunity to add more detail to this introduction.

Jordan Carter: Thanks, Thomas. I - this was written up after our discussions in the intensive workday last week. And we tried to sort of - you know, it's really hard on all of this work to be very brief but we tried to portray this reference mechanism as the current approach that we think will probably work consistent with the legal advice that we've heard and representing the other variations that were discussed.

And so while the language is intended to convey the support of this as a reference model it isn't designed to close off any other sort of possibilities. And I did my best in drafting the text to kind of capture the key points that are in Paragraph D because we don't want people to think this involves sort of a competition between countries (unintelligible) individual members and so on.

But I don't know if the lawyers have reviewed the precise text here so it's a couple of pages of new material for you to have looked at and to think about. Rather than going through any more detail than that and, Thomas, I think it might be best if we have a discussion unless people want me to step it through paragraph by paragraph.

Thomas Rickert: No, let's just check whether the members of the group do have questions. And I see the first hand going up and that is by Kavouss so please, you have the floor.

Kavouss Arasteh: Excuse me, Thomas, if you allow me, on 6.1.1 Paragraph B, I have one simple suggestion. I'm not in favor of the retention of the word weaker variations. The (opt) for evaluation, that is what we (opt) and we don't need to qualify whether it is a stronger or whether it's weaker.

We would not leave this impression that we leave - we take the weaker and (unintelligible) took the weaker. So why we have to mention between the weaker since they - the variation of the proposed power and so on and so forth. So do we need the weaker - the word weaker? Thank you.

Thomas Rickert: Well, let me defer to Jordan whether you want to stick to this language. Jordan?

Jordan Carter: I just think it's honest. If you read the whole sentence with the best - with the (unintelligible) the best you can do is to incorporate weaker variations to the proposed powers. But they would be unlikely to be enforceable to the degree. So it's that lack of enforceability, which I think reasonably defines them as weaker.

And if you left the word weaker out of that first line of that paragraph it would still say they'd be unlikely to be enforceable. So the message would still be there. It would just be a little bit less explicit, you know. I tried to go for language that would be very explicit and clear.

Thomas Rickert: So let's wait for other contributors to support Kavouss's point and if that is the case then we can continue discussions about that language.

You will remember that we have gone about with all this requirement (unintelligible) and I think that it's appropriate for us to have a value judgment on how good the proposed mechanisms do respond to the requirement that we have established.

Next in the line is Sam Eisner, please.

Samantha Eisner: Thank you, this is Sam Eisner. So I don't have any comments on the text as presented nor on Kavouss's point.

But I do wonder if there's a place for an additional section of balancing some of - or to lay out risks or benefits to the different models because we're - we ask a question at the end that says, you know, do you agree that a structural change might be a way to help enhance accountability? And I don't have any issues with that question either.

But my sense is we're not really giving tools to evaluate the effects of a change or understanding if there are any detriments that follow with a change or if there are any sort of rights that inure to individual members that might go to capture issues that we haven't really discussed, that sort of thing.

I don't know where we're going to be presenting some of the more particulars of that model and how we're expecting people to have inputs into that part.

Thomas Rickert: Thanks, Sam. I think that's a very good question. I - let me make an attempt to give you an answer and I will give Jordan the opportunity to add to that. The - I think the - at times tough choice we have to make as to what contents we're taking to the body of the body of the report and which content we lead to the appendices.

And the pro-legal discussion you'll find in the legal (unintelligible) that we're going to refer to or lead to from the main body of the report. So I think the information is there. And I would appreciate if more members of the group would experts their wish to highlight more of that discussion in the main body of the report.

The second aspect of this is that we have the set of stress tests to ensure that we are not applying any changes that would themselves create additional contingencies or in other words we are double-checking whether the contingencies that we have identified are covered with the new accountability architecture.

And so I would assume that if we are opening the flood gates for other scenarios of capture we would find out once we do the second run through with the stress test. So this is - my view on things, I would like to give Jordan the opportunity to answer that.

And if Steve and Cheryl as our masters of stress test would like to add to that, please raise your hand and I will then open it up for you. Jordan, would you like to add anything?

Jordan Carter: Just really briefly. I mean this goes right to the heart of the question of how much we've set out and how much justification and (unintelligible). I'm not at all uncomfortable with the idea of trying to set out a little bit of the pros and cons of this model compared to the status quo and just to help give people an understand of where it differs, that could easily go in this section.

But if we go much further than that I think we - we're kind of tipping into a point of having to go much further than that with the whole report so I don't - you know, that's kind of my instinctive feeling having just (unintelligible).

Thomas Rickert: Thanks, Jordan. Robin, is your hand raised to speak to this point or you have - are you going to open up another point?

Robin Gross: This is Robin. Can you hear me?

Thomas Rickert: Yes, I can hear you.

Robin Gross: Okay, it's on this Section 6.6.1.1 that we're talking about now, but it's on the paragraph that is labeled I and it just says that said, the CCWG is clearly of the view that the reference mechanism is the currently preferred approach and relies on this in much of what follows.

I feel like that sentence needs to be fleshed out a little bit more because, you know, we need to - I think we should say based on what criteria - I'm not objecting to the conclusion. I just feel like it's not fully articulated. It's not

fully explained to the community why we reached the decision that we reached.

And I think we want to say something along the lines of it's - the legal analysis has come back that the enforceability is stronger and something along those lines. But I mean I think that's what we want to say is, you know, based on that reason or if there are other reasons this is the reason why this is the reference model. Thank you.

Thomas Rickert: Robin, this makes a lot of sense. Would you be okay with us maybe adding to sentences to this Paragraph I saying that - number one, the reference model is - that all the groups requirements can be implemented with the reference model.

And that it has advantages in terms of the (unintelligible) possibilities. Would these be the two points that you would agree with? Be happy with the verbiage?

Robin Gross: Yes.

Thomas Rickert: Okay.

Robin Gross: Yes.

Thomas Rickert: Okay. So let's make this an action item on the note to make sure it's not forgotten. And next in line is Kavouss, please.

Kavouss Arasteh: I request Jordan (unintelligible) weaker variation using some other words, whether it's practical, whether it's pragmatic, but there is less complex or

something else. Because weaker variations, we are talking of the known variations.

Here, talk of variance or variation. We are sort of weaker options or weaker variations has a very ambiguous meaning. But I leave it to him if possible to find something else, thank you.

Thomas Rickert: Thanks, Kavouss. And we will take note of that point and ensure that native English speakers will use the right language in order to bring across that nuance. Steve?

Steve DelBianco: Thomas, I wanted to respond to a suggestion you put out with respect to stress test. And I believe you were asking whether we could make a reference here in the document, the notion that we rely heavily on stress testing to assess whether the existing accountability mechanisms were adequate and then separately whether the proposed methods were adequate.

And the word adequate bears some explanation and you can do that in one sentence that you could borrow from the bottom of Page 74. And it says, the purpose of stress tests is to determine the stability of ICANN in the event of consequences or vulnerabilities and to assess the adequacy of existing or proposed accountability mechanisms available to the community.

And on Page 75 we go one step further to say that we try to determine if the community has adequate means to challenge ICANN's reaction to a particular stress test. So in many cases the stress tests and the proposed mechanisms do not actually stop ICANN from having a financial crisis or stop ICANN from being the victim of a cyber security attack.

Instead we say does the community have the ability to help prevent that issue from having, to mitigate it, or does the community have the ability to challenge the way the board reacts that crisis? The favorite example was a financial crisis. If the board proposed to slash compliance spending the community could veto the budget or challenge the decision to do so if it occurred in the middle of the year.

So I could try to compose two sentences from the stress test section and tell me again, where do you think you would want to insert them in the section we're discussing now? Thank you.

Thomas Rickert: Steve, I guess that - it's maybe appropriate to ask Sam to chime in on this question as well because the question raised by her was whether under the new model we would create new vulnerabilities and open the door to scenarios of capture.

And I thought that particularly when it comes to capture we do have a stress test on that. And I think that if our new accountability mechanisms would actually give a reason to believe that we are facilitating capture, that we would find out when we run the stress test.

Let's hear Mathieu first and then someone else in the queue.

Steve DelBianco: I'd like to do a follow up on that.

Thomas Rickert: Okay, Mathieu.

Mathieu Weill: Yes, thank you, Thomas. I was also wondering when hearing Sam's comment whether the group felt there was a need to further flesh out the pros and cons of the various options.

And if that was the case one option we have is this one-pager table of the various models and their summarized - I mean the legal summary of what they empower the community to do and what are the pros and cons.

So I was wondering whether this document which is currently referenced to somewhere in the document and will be put in a appendix could usefully be brought back into the main report to give more flesh to the various options and why we picked the one we picked as a reference at this point. But that's an idea that the - sharing to make the report also more readable.

Thomas Rickert: Thanks, Mathieu. I guess that's an excellent suggestion. So we will take a note of that. Mathieu was making reference to a comparison chart that was offered with one of the legal memos. And we will include that here.

And let's please note that as an action item and as Sam as you're preparing to talk maybe you can also let us know whether you would be okay with us adding that table and whether that would sufficiently address your concern?

Samantha Eisner: Thanks Thomas. Yes I have - I fully support adding the table within here or a clear reference to the table.

I think that your comment earlier where you were recapturing the concern that you thought I stated was spot on.

And that is I - have we made sure that we have updated the stress test to evaluate the model that we're proposing and so, you know, particularly around capture?

You know, I have never claimed to be an expert in membership California membership law and I've been trying to fight through and just figure out what this means.

And, you know, for - from my perspective one of the concerns that I'm starting to see is, you know, we've identified the membership model as a way to get community - the community to convene and empower the community.

But I'm starting to wonder if there are individual membership empowerment issues that come in that haven't been considered yet and how that could impair or be an element of capture against the community or not towards an exercise of the community envision use of the powers.

And so I, you know, I think that those are - that could be something that I would like to see added within the stress test or issues like that particularly focusing on the differences between individual member rights and the collective rights that we're trying to obtain in order to get the community having more say within the ICANN system.

Thomas Rickert: Thanks Sam. That is very helpful. Can I suggest that we and the queue after Izumi? I would encourage Sam and team to maybe establish direct contact with each other to make sure that we capture exactly what your concerns were.

I think we have well understood that we should elaborate more on the pros and cons and maybe go beyond what's in the summary table that we made reference to earlier.

Now I see Mathieu's hand up. So Mathieu you just spoke. Are we playing whack-a-mole now or are you coming back?

Mathieu Weill: It's just a response to Sam's question, not a response actually a comment that I think Sam is outlining a question that many will ask us.

And because by empowering the community we're actually raising the question how the - what if the community gets captured?

And that's the - I want to just to stress the link between this question and the comment we had from (Yan Salzer) saying yes but this is the group will at some point need to work on the community accountability because it has - it is raising this risk.

And I just wanted to stress and we're not going to solve this before the public comment apart from what you suggested Thomas that I think this question we hear a lot when we go for public comment.

So we should definitely mark this as something we need to work on very carefully in the next few weeks. Thank you.

Thomas Rickert: Thanks Mathieu. Izumi?

Izumi Okutani: Izumi speaking. Excellent sharing of the possible issues so I agree with the suggestions that are being made by Sam so far.

I think it would be helpful for the community to consider whether the (unintelligible) being consider person calls and to convey (unintelligible).

I actually wanted to raise something else. I have a comment for the text related to F. And I just wonder if it would be helpful for me to just put this chat and have it discussed or I don't better for me to follow-up later with the

(Vice) redline. I just want to confirm about what would be the best for the group to consider. I do have the text for suggestion.

Thomas Rickert: So Izumi you are speaking to subsection F on Page 54?

Izumi Okutani: 52 is what I see. It's about designators.

Thomas Rickert: May - can you - I would strongly suggest that you send your comments to the list but please do introduce the issue that you see so that the whole group has the opportunity to chime in.

Izumi Okutani: Okay. Sure I just then I'll do that. And I just want to share what I want to suggest a text change. I think the description here is not fully explaining the designator model fully the situation of the designator model.

So I just want to like add the description that in my opinion is more accurate and I'll say objective. So that's why that would be the reason behind my suggestion so I'll send this to the mailing list if that helps.

Thomas Rickert: Thank you Izumi I guess there are no issues whatsoever with being a little bit more explicit on the description of the designator model so thank you for that.

And with that I will suggest we moved to the next subsection. And I'm currently looking at 6.6.1.2 which is on Page 53.

And that is the chapter influence in the community mechanism. And we have again the reference option with five votes each for ASO, CCNSO GNSO and at-large as well as GAC and two votes for SSAC and RSAC.

And as discussed we'll have asked for during the intense workdays we have reached out to both SSAC and RSAC to present them with the reference option.

We also made reference to the other options that have been discussed. So they have received an excerpt from the draft report. And we've offered to them that we would be more than willing to discuss this with them to hear their feedback.

Apart from that I think again it's important to note that we have laid out the options and that we've explained the rationale for the options. You know, it may be geographical diversity with the number five, et cetera.

So and also the reason why we've given different weights to SSAC and RSAC opposed to the other groups. So I think that the text is quite easy to read.

And as we did with the previous action I would like to give the opportunity to Jordan to add to it.

Jordan Carter: While Thomas just really to say that this was considerably improved I think by the discussion of that we had in the intensive workdays where we agreed to do the reference option as you said and to set up the alternatives.

And we did agree to do the kind of explanation of the rationale if not necessarily the pros and cons for these that are set out there.

And so I don't think that - I hope that it captures what we discussed accurately. But that would be the key point to discuss now I think were there any adjustments to language (or needs) to what's there?

Thomas Rickert: Thanks Jordan. Izumi I think that's an old hand so you might wish to lower it. And Robin's next.

Robin Gross: Thank you. This is Robin. Can you hear me?

Thomas Rickert: Yes we can hear you.

Robin Gross: Okay great. I just wanted to add something to Paragraph F here on Page 54 that explains rationale for (Alternate) A or the San Francisco proposal.

So the explanation gives there is it is therefore more closely aligned with the existing structure of ICANN.

So I would just add to that and in keeping ICANN rooted in the private sector because that was also one of the reasons that alternative was proposed based on the existing structure of ICANN and also based on keeping it rooted in the private sector.

Thomas Rickert: Thanks Robin. Unless we hear or read objection to that addition can I ask you to please put that exact language into the chat and we will make sure that it's incorporated into the draft?

Next is Kavouss.

Kavouss Arasteh: I feel the job is I do not support to adding it rooted to the private section and so on so forth. Let us not talk about that. We are talking about (unintelligible). We are talking of the openness.

We are talking of inclusiveness that's how we should not favor a particular category of this society privacy or technical or so on so forth. So I suggest not to ask that part. I'm sorry Robin. Please I apologize.

Thomas Rickert: Thanks Kavouss. I would still like to encourage Robin to send he suggested language to the group so that more people can chime in. So I've seen some support for the addition of Robin's language.

So I suggest that we keep that open for the moment and allow for more comments to come in before making a final determination on the language. But Kavouss your point is well heard. Thank you for that.

And I think Robin's hand is an old hand so that we can now move to Sebastien.

Sebastien Bachollet: Thank you Thomas. Sebastien here. Just a question, it's more a private organization when you have less voice of the end user question mark. Thank you very much.

Thomas Rickert: Sebastien what suggested alternative language would you like us to include?

Sebastien Bachollet: I am not suggesting an alternative. But I am not sure that the true proposal one to be more private than the other. Maybe it's because there are more GAC member in the second proposal but you have also more users and that's very important.

And I - we already express that we think that At-Large will be more favorable with the option with five representatives from the end user.

But I don't want to see that the other proposal will be more into the private sector. It will be more into the provider side of the private sector maybe but it's why I disagree with the proposal. Thank you. And sorry Robin for this.

Thomas Rickert: Sebastien thanks for your comment. As Robin is suggesting her language can I please ask you to come up with concrete alternative language that we can put in front of the group?

You know, I understand your comments but I would not be certain as to what changes to the report would be required to reflect your concern. So please come up with suggested language and then we can gladly discuss it.

So I see no more hands raised which is why I think we can now move to a point that we can likely go through faster. And that is 6.6.2 on Page 54 of the PDF which is the power to reconsider reject budget or strategy or/operating plans.

And Jordan correct me if I'm wrong but I think that there was only one minor edit that had been administered to that section.

Jordan Carter: I think that you are right Thomas. And I'm just trying to find exactly what it is. In fact the main edit has been edit is (to have) the question and to delete the question mark that we had raised for drafting that, the open set of grounds...

((Crosstalk))

Thomas Rickert: It has to do with the grounds yes.

Jordan Carter: ...(unintelligible) changes that I picked up from that yes. So there weren't any other changes that I picked up.

Thomas Rickert: Okay excellent. So I don't see any hands raised. But should you go through the text and find more items to comment on by all means we can go back to that.

But for the time being I suggest we move to Section 6.6.3 to be found on Page 56 and that's the community power to reconsider/reject changes to ICANN's standard bylaws.

And we have changed the language to reflect more accurately what standard bylaws are opposed to the to what we call fundamental bylaws. But Jordan will have more details to add to that.

Jordan Carter: Not really. But we have to change the examples in Subparagraph of 6.6.3 because the examples that we've given were ones that were going to be fundamental bylaws.

So we've change them to things that are currently planned to being that and then we just updated the language and added the question so once again nothing further.

Thomas Rickert: Okay. So that allows us to move to the next section of 6.6.4, the power to improve changes to fundamental bylaws. The heading is to be found on Page 56.

The substance of the article is on Page 57. And there was one minor edit to that section. Jordan?

Jordan Carter: I - to be honest with you can't really see any substantive additions either. Like there was a reference to an assumption about what Working Party 2 was

doing. But we do have the fundamental bylaws set out in another part of the report and after that drafting box went away reference has been updated and a question has been added about these powers. So that's all.

Thomas Rickert: That just shows how minor the edit was. Thank you for that Jordan. Kavouss hand is up. Kavouss?

Kavouss Arasteh: Well put it this inverted comma. Would it be possible that we at least for time being having an asterisk above the standards and below in terms of after (extension) non-fundamental to distinguish what you mean by standards? But this is one point.

The other point in the CWG and discussions I have also encountered with some terms which call typical bylaw.

So just I want to draw your attention that to what is that but I would be very much appreciated if we could a standard explanation means nonfundamental. Thank you.

Thomas Rickert: Thanks Kavouss. We take note of that. And again I would defer to native English speakers to find the most appropriate language for us to use there. But your point is noted. Thank you for that.

We can then move to the next community power which is 6.6.5, the power to recall individual ICANN directors. And that is starting on Page 57.

So we had some changes to that section as well as to the next section particularly to reflect the discussion that we had on the nominating committee. Is that right Jordan?

Jordan Carter: Sorry I missed your question. The 6.6.5 has been updated to try to take into account the language that we discussed around the nominating committee.

And what I tried to do with that drafting which starts it's most visible in Paragraph E is just to reflect the discussion that we had in a way that would convey the sentence but without really closing it off.

So it kept the petition model that set out that the NomCom would be the structure that there was some options for the composition and then it asks for feedback. So that was what I was trying to do, not to close it down but to present the options and to suggest an advantage and a disadvantage and then to ask the - for the input there.

Thomas Rickert: Excellent. I would suggest that we open it up for comments in combination with 6.6.6. And we do not know whether it's merely coincidence that recalling the board as the nuclear option is tagged with the number 666 but that will change when we move the first five sections into appendices.

But that's going to be some accessory to the staff report.

So Jordan would you like to add anything to this section because I think the discussion has been quiet compared with respect to the nominating committee where we had the same discussion or an analogous discussion. Jordan?

Jordan Carter: No I don't - I'm not trying to - I don't think I have anything else to add here. There were as I recall fewer changes to this text around removing the ICANN board or recalling the ICANN board. That's language we're using. We're calling the board individual directors.

And I don't think there's anything more to say particularly here.

Thomas Rickert: Thanks Jordan. We have two hands raised.

Becky Burr: Thomas can I - this is Becky. I just wanted to let you know I am on the audio now but not in the room.

Thomas Rickert: Thank you so much Becky. We will surely get back to you to ask you about one open question with respect to the section that was worked on by your team.

But let's first go to the queue and Kavouss and then Alan will get the opportunity to speak.

Kavouss Arasteh: Thomas I'm very sorry since we have to work together in future I am not very comfortable with your comments that let's leave it to an English spoken people.

An English spoken person does not necessarily is in full command of English. And a non-English spoken person does not necessarily need to be corrected at every instance.

I'm very, very sorry. Please don't take it serious complaint to you but please kindly do not repeat that. Thank you.

Thomas Rickert: Thanks Kavouss. I should add that my comment was in no way suggesting that you're not in full command of the English language. Rather I wanted to clarify that I am not the ideal person to determine whether the suggested language should be adopted or not.

So I think, you know, your point is well made. I will resist the temptation of making reference to native speakers versus non-native speakers. And your point is well noted and we will work on those questions between today and the next updated draft. Alan please?

Alan Greenberg: Thank you very much. I'm speaking on section G on the NomCom. First of all just on a purely mechanical thing the last sentence of G2 either option's legally viable I think is referring to one and two. Therefore it should not be part of two. It should be a sentence below or something like that.

However it says such a recall committee would have as chair a previous NomCom chair and would otherwise be formulated on the same basis as the regular NomCom other than the composition.

The regular NomCom is appointed a year ahead of time. Are we talking about this being a standing group that will be appointed every year by the various groups in case there is a need for it or is it going to be done on an ad hoc basis when there is a need?

I think you need clarity because by saying it's done on the same basis as the regular NomCom you're putting in place a whole bunch of infrastructure and work to be done by all the ACs and SOs for something that may never be used. So I think we need a bit of clarity there. Thank you.

Thomas Rickert: Thanks Alan. And let me suggest that we take this point off-line. We have a lot of expertise on NomCom in this group and even with staff you will remember that Adam Peake was also on the NomCom.

And Avri who was the author of the suggestion that you will remember was in the gray box in the earlier draft was would surely be more than happy to work with you on adding details to it if need be.

I think your point is well made. I'm not sure whether we need that level of specificity at this stage. But I will leave it up to the NomCom experts so to speak to come up with a suggested language that we can put in front of the whole group.

Alan Greenberg: Yes. For clarity we may not need the level of specificity but you may want to we may want to remove the phrase that says everything else is the same.

Thomas Rickert: And I don't object to that. I would just encourage you to liaise directly with Cheryl for example who has conveniently raised her hand. Cheryl the floor is yours.

Cheryl Langdon-Orr: Sorry went to speak and I had needed to clear my throat. I apologize. Cheryl for the transcript record.

The point Alan raised is actually and as you know this part did give me great discomfort, less so in the way it's written now.

But just a point for example if it is a parallel group standing or otherwise we also need to recognize that that's another, you know, 20 plus people who will be affected by some very particular regulations and limitations about what you can and can't do in the rest of your ICANN world if you are a NomCom person.

And that may also need to be considered. Don't want to get into the minutia. But for example it would take out of any leadership role for anybody that

anyone is other than NomCom appoints to anyone who is involved in such a committee as they are now in the NomCom for certainly a minimum of 12 full calendar months after their service.

There is a lot of stuff to this. So perhaps remaining silent on that Form D exactly the same way basis as might be softened to, could be considered to be formulated because if that gets hardcoded in boy you guys are going to have a whole world of complications to do. Thank you.

Thomas Rickert: Thanks Cheryl. And I guess all of us have a lot of complications to deal with in the new ICANN world if you wish.

I still suggest that we take this off-line to come up with suggested language. Nonetheless I do want to give Avri the floor as the drafter of the original proposal.

Avri Doria: Thanks, Avri speaking. Yes I'm fine with working on, you know, anyone to try to get into that next level of detail.

I'm fine if we want to bracket this text and give it a footnote saying details to be worked out.

I would probably argue that, you know, for the most part things should remain the same and yes anybody willing to kick somebody off the board should be limited.

But Cheryl's absolutely right. You know, it would be reasonable to go through the details and make sure they did all apply. Thanks.

Thomas Rickert: Thanks Avri. That's very helpful. Jordan is pointing out that we might not need all these details for the first public comment. So I leave it up to the colleagues that have spoken or that have an interest spoken to or have an interest in this matter whether they want to work on the refined language between today and Thursday or whether we leave it to the next version or our final recommendation.

So with that I've done my bit on the mechanism and powers and I'd like to hand it over to Leon for chairing the next section of the call.

Leon Sanchez: Thank you very much Thomas. This is Leon again. And well with regards to, .6.7, Section 6.7 in our document this refers to incorporate in the affirmation of commitments into the ICANN bylaws.

There have been different edits to the document. I think the most relevant is the one that has been incorporated into the affirmation of commitments 8B.

And we have also made some edits to the questions that is of course open for the public comment at the end of the 6.7.1 section.

And there have also been some edits on section 6.7.2 which is a, the incorporation of the affirmation of commitment reviews.

And there have to be some edits to the proposed language through these on this new document. And I think it would be useful if we could have one of our Rapporteurs give us a little bit more details on this.

So I'd like to hand it to Steve DelBianco to take us through the details on these edits that I just mentioned. Steve could you please take the floor?

Steve DelBianco: Thank you Leon. With respect to the affirmation of commitments Paragraph 3, 4, 7 and 8 we changed words like commit or will to shall when you move them into the bylaws.

We ended up on Paragraph 4 saying it's financial or non-financial to get rid of non-commercial.

Leon brought up what we did on Paragraph 8 and that's important with respect to whether or not the principal office in Los Angeles is something that is part of a fundamental bylaws or the standard or regular bylaws.

And then moving into the affirmation of reviews the first thing we did was add a statement from Sebastien to say that the group must be as diverse as possible. And that's present on Page 65 describing the review teams that we use for the affirmation.

The group must be as diverse as possible. And then with respect to each of the reviews it took Alan Greenberg's suggestion which seemed very well supported is to say that each of the four reviews is given explicit power to review and assess the extent to which its primary recommendations were implemented as opposed to assigning all of that, the ATRT, each of the four teams looks at its prior recommendations and the degree of implementation and whether they're working.

There was also one more comment which a lot of folks were confused with the frequency of the reviews. So we standardized. So they're all no less frequently than five years.

The one that is exceptionally different than that is the third review on new GTLD rounds. On that one there's a review one year after a round the new

GTLD's is in the route and a periodic review of no less frequently than every five years.

Those are the changes taking you all the way through 6.7 - Leon back to you.

Leon Sanchez: Thank you very much for this Steve. And now I'd like to open the proper comments. And I see Kavouss' hand is up. Kavouss could you please take the floor?

Kavouss Arasteh: Hello, can you hear me?

Leon Sanchez: Yes we do.

Kavouss Arasteh: Yes with respect to this GTLD and the one year after, I wish to insert the board normally one year after.

That means we provide some sort of exceptional cases that we may face some difficulty that we could not meet stack (unintelligible). So we introduce normally, shall normally be one year. Thank you.

Leon Sanchez: Thank you very much for (unintelligible). Next on the queue have Avri. Avri can you please take the queue? Avri, can you be on mute?

Avri Doria: Oh sorry. I was still mute. I wanted to make one point. This is Avri speaking. I wanted to make one point on 672. And I see Jordan's note about not having included the outcome from yesterday's on list discussion.

But I just wanted to point to that fourth bullet on A 672 which on my copy is around line 16 of 64. And which says, "Require the ICANN board to improve and implement."

That line needs to be one of the things that changes because we're not in any sense - even after yesterday's discussion requiring the board to approve and implement. Thanks

Leon Sanchez: Thank you very much for this Avri. I don't see anyone else. So I wanted to comment this. So after reviewing this and we'll still walk through that. Steve well, kindly gave us through the L's that will incorporate this document.

That we can move to our next point which would be 6. - I'm sorry, 7 which is the stress test. And, no I'm sorry, 6.8 which are the bylaws changes - suggest the bi and the stress test.

And there is little edits from this section. But there's one that's key. And it's the one that refers, of course to the GAC. And again I would like to call upon Steve if you could give us the details on the edit that was made to this section.

Steve DelBianco: Thank you. There were no changes to 681on force the board to respond to formal advice for any AC. Because 682 which are the infamous stress test 18 on GAC advise.

The stress test text was from several weeks ago. And it did refer to the fact that the proposal was to give due deference only to GAC consensus advice and to enshrine the definition of consensus that the GAC was presently using.

The conclusion we came to was that (Marco) had to require for evermore that today's definition of consensus had to be living forever. We wanted to let the GAC chose how it arrives at consensus.

So, on the right hand column of Page 73 at the top of the table we removed the words in there that had said before, "Articulating the GAC's current method of consensus."

The current method of consensus from the GAC is understood to mean the practice of adopting decision, a general agreement in the absence of any formal objection.

And we realize the GAC may, at some point in the future, change how it does that to reach consensus decisions. And when it does so, we at ICANN, will be obliged to try and find a mutually acceptable solution where the GAC is truly using some kind of consensus to formulate its advice.

That is the only other change to that section Leon.

Leon Sanchez: Thank you very much for this Steve. Are there other...

Cheryl Langdon-Orr: Just if you have (unintelligible) who may actually get into the rooms - extremely small.

Leon Sanchez: I'm sorry Cheryl. I didn't quite get that.

Cheryl Langdon-Orr: Sorry that's me doing two calls at once. And not having both things muted - my apologies, Leon.

Leon Sanchez: Okay thank you. So I see that Kavouss's hand is up. So Kavouss, could you please take the floor?

Kavouss Arasteh: Yes Leon. Are we discussing 682?

Leon Sanchez: Yes.

Kavouss Arasteh: Yes, in 682 in the right hand column, I see the word. I'm sorry I have not -
catch that before. The text it says that ICANN bylaws would require the view
different only to advise that consensus.

What do you mean by view difference if they're (unintelligible) between the
non-consensus and consensus advice? What is view different? What is view?

So I would like some clarification because the very important issue. So, and
perhaps Steve could comment what he meant by this view different. Because
bylaws - we are talking about standard bylaws, right, or we are talking of the
fundamental bylaw - which bylaw we are talking?

Number two, there are two questions. Which bylaw? And then what we mean
by view different, view different based on what and what. Thank you.

Leon Sanchez: Thank you very much for this Kavouss. And I see Steve is already on the
queue. And I believe he wants to comment, of course, on what you just traced.

Steve DelBianco: Thank you. The words due deference refers to identify in the second column
of that table Kavouss where we identified the current method.

And we explain what we want mean by due deference to GAC advice
including the requirement to try to find a mutually acceptable solution - so the
word due deference for that refers to the current process of trying to find a
mutually acceptable solution.

So what we are suggesting in the third column is that our proposal is that that kind of deference would only be there for consensus advice that came from the GAC as opposed to any advice that came from the GAC.

And that's why due deference is mentioned, right. And if it's confusing, I could spell out the entire phrase, the requirement to try to find a mutually acceptable solution.

The second question you had was, "Which bylaws?" If you look below the table Kavouss, in letter B, we are proposing an Article 11, Section 2 bylaws changes, Article 11, Section 2.

Adding just one phrase which is bold and underlined with respect to government advisory committee advice, it is supported by consensus. So that change would be to Article 11.

And Jordan, I don't believe Article 11 was among the bylaw sections that are being designated as fundamental. But I'll turn it over to you for that.

Jordan Carter: No I don't think it was intended to be fundamental.

Leon Sanchez: Thanks Jordan and thanks Steve. Next in the queue I have Alan Greenberg. Alan, could you please take the floor?

Alan Greenberg: Yes I'd like some clarity. First of all Steve, exactly what was changed in this version.

Steve DelBianco: In the table, I'll go ahead and answer that Leon. So in the stress test 18 which was written many, many weeks ago...

Alan Greenberg: No.

Steve DelBianco: ...at the time, we had - should I go or not.

Alan Greenberg: Yes please. I'm just trying to understand what you're changing.

Steve DelBianco: Yes so the third column on the stress tests on Page 73. Third column where we describe the stress test, that stress test in the very first sentence used to say, "If you give due deference to GAC consensus advice, and indicate the definition of consensus with the GAC uses presently."

So Alan, you understand that presently their definition which is in the column right beside you is the absence of any formal objection. So we were initially many weeks ago proposing locking in that definition as the only definition that would require mutually acceptable - a consultation for a mutually acceptable solution.

That doesn't jive with the text you see below under B because we are allowing the GAC to define how it arrives at consensus as opposed to saying that forever more the only way you can arrive at consensus is the way you do it today. I hope that helps.

Alan Greenberg: I think so. I'm not sure. You now have a "but" there. If the GAC changes principal 47 to say, "Consensus is now understood to be a majority view." That is consensus so the...

Steve DelBianco: Yes I highly doubt...

((Crosstalk))

Steve DelBianco: I highly doubt that we as a community got it. Does the community believe that there's a risk that the GAC would be so clever as to say, "That a simple majority voting is what we mean by consensus."

Conversations that we've had at several previous meetings indicated they're very low - if any risk that that could happen with a majority of governments. If you think that is a significant risk then we'll have to change the language.

Alan Greenberg: Okay, what I was pointing out is I think your sentence with a "But" in the middle is not a "But." It should not be a "But" because I think the two things are complimentary. But I'll leave it be.

Leon Sanchez: Thanks Alan. Next in the queue I have Kavouss. Kavouss, could you please lead the floor?

Kavouss Arasteh: Yes and replying to Alan, I don't think it is not exclusive. But I don't think that that change the meaning of consensus to meaning the majority because in the current principal 47 it's mentioned, consistent with the United Nation practices.

(Unintelligible) to mean that the practice of adopting decision by general agreement is the absence of any proper objection, so I don't think that majority is qualified for this meaning.

Therefore, I don't think that this meaning of consensus at least as far as GAC is concerned would be changed in saying that majority needs consensus.

Majority is majority and consensus is consensus. And I have doubt that GAC goes around the line with other constituents of ICANN. Then they have this very strange (pink) slide stock consensus.

And last consensus comes (unintelligible). The GAC was quite clear in lined with the United Nations' consensus. Thank you.

Leon Sanchez: Thank you very much for this Kavouss. I'm mindful of the time. So I think we should continue with our agenda. And next agenda item would be, of course, going to the stress test section.

And I think the most important change here is that there was some added to language. And I just would like to call on Steve to confirm whether these are the edits that were made to this section of the document.

Steve, could you please confirm whether these were the edits that were incorporated to the text?

Steve DelBianco: Yes we've - the stress test team has not yet reviewed all of this. We're scheduled to do that tomorrow morning. But over the past few days we ran through and tried to update the stress test.

Not only for the mechanisms we are proposing in the CWG but also for the mechanisms that the CWG put on for public comment last week. Thank you.

Leon Sanchez: Thank you very much Steve. Well I think - I mean, if there are no comments, of course, on stress test section, I would like to turn back to Mathieu for section creative document. Mathieu, could you please take the floor?

Mathieu Weill: Thank you very much Leon. This is Mathieu Weill speaking. So after Section 7 on the stress test, if you go to Page 94 you will see the items for consideration for Workstream 2.

And the edits on Page 95 we have provided are the inclusions of the discussions we've had on the intense work days. So just language proposed by Sebastien about diversity as well as the language on transparency proposed by Avri.

And they have been reflected in the list of items for consideration into Workstream 2. I am seeing Robin had raised, so please Robin?

Robin Gross: Hi this is Robin. Can you hear me?

Mathieu Weill: Yes I can.

Robin Gross: Okay great. I noticed you were just going over the items for consideration within Workstream 2 that had been added from our last call there on Page 95.

And we're omitting one. And that would be the whistle blower policy. We were going to add that issue to Workstream 2. And so that needs to be added to this document, as well.

And I'd also like to propose a new issue to add there. And that would be looking at ICANN's conflicts of interest policy. And seeing how that relates to accountability.

So that's on the items for consideration. Now right just up above that it's got - we've got a recommendation.

And it says, "That we recommend that the board adopt a transitional article in bylaws which would commit ICANN to confirm the relevancy CCWG recommendations. And test the group with investigating potential enhancements to ICANN's accountability."

So I've got sort of two points about this particular recommendation. One is, when we say the relevant CCWG recommendations, does that mean that some of them are non-relevant. Are any of recommendations non-relevant?

Is this - might this particular wording leave room for the board to pick and choose recommendations based upon what it considers relevant in order to implement?

And then the other bone that I want to pick with this recommendation is where it says, "Investigating potential enhancements." I think we're here to do more than just investigate potential enhancements.

I think we're here to exactly form them, to fix them. So I think we need to be more explicit than we have the power to do more than just investigate enhancements. Thank you.

Leon Sanchez: Thank you Robin. Regarding the recommendation, these are very good comments. And if you have suggested wording, I think that would be worthwhile considering to improve the way it's going to be framed.

But obviously, for instance, the relevant recommendation was pointing to the Workstream 2 recommendations by an addition of the Workstream 1.

But I think you're right to spot this. The whistle blower item, you are right to say that this was mentioned in the intense work base. So I think this is an omission.

And you're bringing a new topic which would - which I would be interested to hear about the group about. Because I think this the first time we are

addressing this - so therein, a lot of thanks for your input. And I see Kavouss is next.

Kavouss Arasteh: A relevant recommendation, you put it in the correct tab. You could say that a recommendation is relevant to Workstream 2. Thank you.

Leon Sanchez: Thank you Kavouss - Thomas.

Thomas Rickert: Yes we could surly take this off time. But with respect to the conflict of interest policy, I would be interesting in knowing what amendments or enhancements so that Robin would have in mind.

You know, my recollection is that ICANN works a lot on the conflict of interest thing - interest policy. I think after the (unintelligible) thing a few years back.

And I would perceive it as being quite robust. And I would, you know, before asking for amending that explicitly, I would like to better understand what direction there for a request would be.

Leon Sanchez: Thank you Thomas. May be what they can suggest Robin is that you state the case for addressing this particular item on the mailing list so that we can see if this direction for the - putting that in our initial list on Workstream 2.

And obviously this is just an initial list at this point. Sebastien, you're next.

Sebastien Bachollet: Yes thank you very much. It's so much really. To answer or to try to answer the question of Thomas, I just want to take one example.

When you have conflict of interest within the ball of ICANN, it's still winning the (unintelligible) of ICANN by the same people. And you don't have any outside appeal mechanism, for example.

And I really think that there's some enhancement possible about the conflict of interest. Thank you.

Leon Sanchez: Thank you Sebastien. I hope we can get a discussion going on that aspect on the mailing list to check whether the groups - maturities that should be considered.

And I'm not taking any position on that right now. So thanks for those considerations. I am mindful of time. The one last item I would like to take you thorough is our first draft.

And this is really your first draft on the implementation planning timeline. So we have inserted the updated timeline provided by (Barry). Obviously on the issue, this is not really anything you need to read.

But you'll see it in the document more easily. And one other aspect we have inserted. And that's new, is the next steps but especially the implementation section where we have received input from - let's see (unintelligible).

(Unintelligible) not in the section 9.3 - oh that's weird. So we are working currently on a section 9.3 enhancement, I'd say. Yes it was. I'm getting lost between different threads of conversation.

We're working on section 9.3 enhancements to take into account that our recent communications by the lawyers about how much time it would take to actually propose a draft language, to implement our recommendations.

And we've also taken into account some input by staff and especially Sam Eisner about how much time it would take for a bylaw change to pass through the various board decision, for us to public comment and so on.

And I think this would be a useful addition to our report because obviously this will - given information about the lead time, the time between approval and implementation.

And that absolutely - key to some of the stakeholders expecting a report. So we are working on this. And this is definitely still open. So we'll have to move service quite soon after this (unintelligible).

Next version of this document, but I think it's made simple for our group. Because it's going to be a question we'll have often. And you'll see that in the timeline you will note that there is the taking public comment as discussed in the (unintelligible) days.

On the implementation that would be all. I think we will have to - in terms of next steps - I'm going to. And have been a yes we will put the various steps in plain text so that it's readable for a human being.

In terms of next steps for our group, Kavouss, you got a question on the timeline, an implementation plan or next steps.

Kavouss Arasteh: The first (unintelligible) second line says, "Up aim at B." I think I suggest to the place that we know that to be in a position. Not up, aim at B in order to be in a position to have and so on and so forth.

This is the change of text. But I wonder if you publish our document the 5th of May, we have one month, 15 of - 5 of June, 5 and 6 of June.

We are in a position to make an analysis of the comment and how we prefer to be available for the people before the start of the ICANN meeting. Do we have sufficient time to do that?

Leon Sanchez: Thanks for this question Kavouss. This is obviously going to put a little pressure on staff to analyze initially the comments, put them into the tables and so on.

And on us to provide a thorough amount (unintelligible) in a very short amount of time. But this is feasible. It's not easy. But it's feasible based on experience, of course.

So next steps for our group, we have planned an extra meeting on Thursday. And I think we will meet this goal. So the invites have been sent. The idea of this call is to have, number one, a final review of the text for the outstanding discussions we've had and highlighted today, for instance but any other that might come up.

We will benefit from the outputs of the stress test working party meeting which takes place tomorrow. So we will have a close to final version of the stress test. And I think that's important in light of (Stan)'s comment earlier.

And a third item we'd like to get to is engagement material. It is very important that when we go for public comment we also provide the community with easy to read tools and materials so that the proposals do not get misunderstood.

And we've been working with ICANN Communications and explained the group who provided us with the graphical designs of the account (unintelligible) earlier.

And so we will. Also we hope by Thursday to be in a position to share some early material so that we can share that with you on Thursday. And then obviously when we launch the report for public comment we already have the material published - just in point.

And I think this is very important for our proposals to be well understood. So a new version would be circulated tomorrow. I hope quite early so that everyone has time to review. It, hopefully, going to be including a redline version based on this.

So surely edits we'll be making after this call. And there were a lot of fairly good edits to be good for forwarding the meeting. And that's the anticipated next steps. I see Kavouss' hand up. (Unintelligible) please Kavouss.

Kavouss Arasteh: (Unintelligible) pending and that was a comment from Robin in the - or Becky, sorry - in relation with replacement of guaranteed with initial words with both commitment or permitted. That was pending.

I think that will be resolved. And second, I may've missed the point. Did you address the issue of acronyms? Thank you.

Leon Sanchez: Thank you Kavouss. Early in this call I think it was Leon who mentioned that grocery was being worked on so that we avoid acronyms as much as possible. But also try and provide explanations for any words that we would use that would then be very explicit and including acronyms.

Kavouss Arasteh: And guarantee and commitment because they will be also addressed?

Man: That is one of the points we need to update to report on.

Kavouss Arasteh: Good, thank you.

Leon Sanchez: And seeing (Jose)'s question about the before/after chart diagram. I'm not sure we can do that in the early engagement material. But that's still something we'd like to pursue to be able to do that.

So I'm not sure it's going to be the early material. But it's, you know, an idea we have in our list for clarity.

Are there any other questions on the next steps? Or my fellow co-chair, did I forget something?

Man: I think we're good.

Leon Sanchez: Well if we're good, then I think I would like to thank you all for your contributions - the constructive spirit across this call. And we look forward to further exchanges on this - while finalizing these steps and talk to you on Thursday at 500 in the ATC. So goodbye everyone and talk to you very, very soon.

Woman: Thanks everybody, bye.

Woman: Bye.

Man: Bye-bye.

Woman:	Bye.

END