

ICANN

**Moderator: Brenda Brewer
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Coordinator: The recording is started. You may proceed.

Leon Sanchez: Thank you very much. So welcome everyone. This is the CCWG and Enhancing ICANN's Accountability Day Two Session 3 on 24 April 2015. And this is our final session and this is what's left of Leon Sanchez speaking to you.

And just to make a small recap on Session 2 we discussed - we have a - we had a very critical discussion on the issue of preserving ICANN commitments from the Affirmation of Commitments.

Then we went really quickly through the Affirmation of Commitment reviews. And we really did get into the bylaw changes suggested by stress tests. We just went through it really, really quick. So I think we have many outstanding issues still at this point to take care of.

And with no further delays since I am aware that - oh, I'm sorry I've got through the roll call. The roll call will be as usual, those attending the Adobe Connect room.

And if there is anyone at this point that is not in the Adobe Connect room but it is in fact through the phone bridge can you please state your name so we can add you to the roll call?

Okay since I don't see anyone or I don't hear anyone saying their name so we can continue. And please I remind you to state your name when speaking for the transcript record. And I know like to turn to my co-chair Mathieu to address the second point of our agenda for today. So Mathieu could you please take the floor?

Mathieu Weill: Thank you very much Leon. This is Mathieu speaking. And welcome to this session which we all are very pleased to join because it's the last of a long streak.

So the second item on our agenda is an update on the stress test and basically focusing on one stress test that's been quite thoroughly discussed in the working party.

It's the stress test 21 where government official demands resigned or revocation of a ccTLD. And we are putting the lights on this stress test because that's when we're - we basically currently are not providing any mitigation on this. So I will move to, I don't know if Cheryl wants to do a short introduction to that or straight to...

Cheryl Langdon-Orr: I think in the effort of giving ourselves as much time as possible for discussion let's just get straight into it Steve, over to you.

Mathieu Weill: Okay Steve.

Steve DelBianco: All right thank you. Stress Test 21 is on Page 64. And this is - this stress test has long enjoyed a tremendous amount of interest from GNSO members and especially ccTLD operators.

It was first suggested over a year ago as constituency. And I'm here to tell you we don't have an answer on this stress test.

We endeavored early on to see whether it was possible that either the CWG or the CCWG could provide a mechanism to help ccTLD managers in the case of a revocation or reassignment that didn't follow the procedures.

We've debated what the procedures really are. It was an RFC that was brought in and there was a set of framework of interpretations, a set of GAC principles.

In other words we have a swirling mix of rules and an inability to truly rely upon the CWG to articulate a particular process and rules. Because I believe that their report is basically suggesting that the ccNSO will be working on policy for this in the near future so stress test 21 against Page 64 of the document in front of you.

We tried to do a decent job of articulating what the problem is and existing accountability measures. But at this point we don't have a proposal to solve. And I believe that the co-chairs wanted to put this on the agenda so that people have a chance to air their views.

But there isn't a bylaws proposal that is emerging. There's not a mechanism that's emerging from the stress test at this point.

So I'll stop there Mathieu and I guess you can manage the queue.

Mathieu Weill: Thank you and indeed you are right to mention that the CWG report and it's actually even articulated in the correspondence we've received from the co-chair of the CWG who say that the ccTLD delegation or revocation should not be covered by CCWG appeals mechanisms until the ccNSO has defined the policy.

And so there's - there is consistency here unless our appeals mechanisms would apply which is probably one aspect where Becky can help us whether she thinks that inadvertently we would have provided an appeal mechanism for ccTLD managers by doing the IRP for instance and which would exceed the expectation from the CWG. And Becky's hand is up so that's perfectly appropriate. Becky.

Becky Burr: Thank you. So a couple of things, just to be very clear the ccNSO has been working on with the GAC on policy related to delegation transfer and revocation of ccTLD delegations and has a framework, has issued a framework of interpretation with respect to RFC 1591 and the other policy document which would be the GAC 2005 principles.

That - the framework of interpretation references the notion of an appeals mechanism in RFC 1591. But the ccNSO is still working on the - that sort of that appeals mechanism issue. And because, you know, this is ongoing work the ccNSO is not prepared to sign up for any particular appeals mechanism.

In addition we have to be aware that not all ccTLD managers are subject to RFC 1591 because their delegations were issued prior to RFC 1591s publication and obviously prior to the GAC 2005 policies.

Having said that we have provided an appeals mechanism that should the ccNSO elect to develop a standard against which delegations revocations and transfers would be measured the appeals mechanism could be used.

But nothing that we have done would, you know, would force any ccNSO to pursue the independent review process for example.

So I - what I want to say - and I'm sorry I'm being so long-winded about it is that this should not be taken as sort of an absence or a whole. I know it relates to a stress test and doesn't fully answer the stress test but this is the subject of very intensive ongoing work that is of critical importance to the members of the ccNSO and to ccTLDs in general.

Mathieu Weill: Thank you Becky, maybe a point of clarification for me. Do you think that we should if I was a ccTLD manager I mean just for the sake of argument I would ask whether the IRP as we are defining it with its binding mechanism, et cetera, would apply and if to a ccTLD delegation or revocation and whether for instance local significant interested party could go to the IRP and challenge the delegation of the revocation?

Do you think that would be acceptable to ccTLDs or do you think in line with the CWG input we should explicitly say we would not allow this to happen in the IRP?

Becky Burr: That's a very interesting question. I think that the - I mean the significantly interested parties issue only comes up in the context of a delegation itself.

So it would be an initial delegation or a delegation after a revocation. I think we should - I think that the view of the ccNSO is very strongly that until ccNSO policy is developed on this it is - it's not - it is not applicable to the

delegation process simply because we don't want to cut off the policy development process as it is well underway right now.

Mathieu Weill: So we would be saying - adding something in the saying it does not apply to delegations so far pending ccNSO policy.

Becky Burr: Correct. That's what - that is my inclination. I would want to go back and...

Mathieu Weill: All right.

Becky Burr: ...confirm with.

Mathieu Weill: That's what I'm turning back to the group ask would anyone object to that? And Steve you're next in line.

Steve DelBianco: Thank you Mathieu. If those of you who haven't gone there yet if you go to Page 64 on this particular stress test you'll note that we said that if and when the CWG proposes mechanisms we'd evaluate them against the stress test here.

But we did note that there were at least two measures from the CCD that Becky just described, reconsideration and IRP. And for each of them is that we use language like it could get or might give the community the opportunity to challenge at decision. But you have to find decisions that you can trigger it on.

So as Becky indicated we have management certified that all the interested parties were appropriately heard from.

Would that be something, that certification would that be something that could be reviewed in a reconsideration or IRP? And if so it would require a standard of review?

Because it doesn't strike me that the standard of review that is contained in the core values is specific enough.

So Becky my question for you is can we leave this alone, this stress test alone? Can we leave the IRP alone or do you really feel it's necessary to specifically exclude these kinds of management decisions from being able to trigger the IRP and reconsideration? Thank you.

Becky Burr: Like you I am not sure what standard would be. We're providing a standard. I'm not sure that the standard is, you know, is fit for a purpose in the context of a delegation or revocation or transfer.

And so I think that I would stick with the current language that says, you know, this mechanism could be available in the event that, you know, that a standard was developed in accordance with the policy development process for the ccNSO.

Mathieu Weill: Thank you Becky. Kavouss is next.

Kavouss Arasteh: Yes. I think in - on Page 64 right-hand column at the beginning we have this sentence. It said I quote, we will evaluate CWG proposal so on so forth.

First of all should we have something before that saying that CWG has not yet so far established any proposal for that therefore we wait for that?

And could somebody check whether it's a Version 2 of the cc - of the CWG is the - and is reference to this issue?

If yes you have to cross-reference that. I have not been able to find that. I saw that somewhere and I'm not at this moment find it quite easily.

But we have to see what was the outcome of the CWG on the second draft? If there is no outcome saying that yes we have nothing at this stage we should paraphrase this at the beginning and say that CWG does not have yet any outcomes at this stage therefore so on so forth.

Could we amend this first sentence of the right-hand side column of on Page 64? Thank you.

Mathieu Weill: Thank you Kavouss. I think we need to remember that this is the frozen document. It was frozen before they CWG recommendations were published. And it was and it is part of our plan now in the next few days to update based on their input the relevant sections of the relevant stress test where we were waiting for their proposals.

But it is - but what's - and I have double checked there is no appeal mechanism for delegation or revocations of ccTLDs in the CWG proposal. And it is explicit that their intent was to not address it pending a ccNSO policy. So what I would suggest Becky your hand is up so please...

((Crosstalk))

Becky Burr: Sorry just last...

((Crosstalk))

Becky Burr: ...my mistake.

Mathieu Weill: Okay. So my suggestion is unless I have objections now we keep in mind that we've - we're in agreement that to fit with CWG expectation the IRP or field mechanisms do not apply to delegations and revocation of ccTLDs until ccNSO policy steps in.

And we'll make sure we get the relevant sections of the text in line with that. And for the stress test we're not very far from that. We need to make sure in the IRP section it's also aligned.

And Steve is right to mention that there is going to be an update of the stress test document based on the CWG input plus based on our latest discussions obviously.

Kavouss is that a new hand?

Kavouss Arasteh: Quickly add something what you said to some reference to GAC address. ccNSO policy either in consultation or taking account of the GAC suggestion. So we have to reference because this issue is under discussion.

Mathieu Weill: Sure. Fine. So that's it for this item. And in the next steps I mean Work Party Stress Test still has strong review to do.

But I just want to say that the fact that we had the stress test tried out experimented before we even finish our proposals was immensely useful. And I want to commend Steve and Cheryl in their Work Party Stress Test Group for all the work they've done on that aspect.

And with that I am now handing over to Thomas who will take us for some second readings. Thomas?

Thomas Rickert: Thank you very much Mathieu. I hope the church bells in the background are not too loud. I'm just closing a window. So the first item that we're going to call for a second reading is the NonCom situation. Remember we had a discussion on how the NonCom can recall board members.

So we did have the discussion on whether the existing NonComs should be exercising this right or whether we would have a NonCom and ad hoc NonCom where the past chair of the NonCom would chair a committee. And I would very much like to give group members the opportunity to speak to that topic again.

I think this was within the scope of what Jordan has been working on and his team. So Jordan would you like to make any further opening remarks on the topic? So maybe Jordan needs to work on his - okay he doesn't. So then we can move to the queue and Alan is the first to speak.

Alan Greenberg: Thank you very much. I guess I'd like to make a strong statement that I don't believe NonComs are likely to be interested in or in a position to remove people that were identified by that were appointed by a previous NonCom.

And as we know the NonComs have no corporate history. Records are destroyed each time it's a new NonCom. It's a different body. I similarly do not believe that we want to put a NonCom in a position where it has to take instructions contractually from the ACs and the SOs to remove a body.

I believe that will take the NonCom independence even though it's not related to selecting people. I believe that would not be a good thing.

It has been proposed by the lawyers that we have an ability to have a NonCom appointee sign a letter, irrevocable letter prior to taking office that they will resign under certain conditions.

And those certain conditions can be a super majority of ACs and SOs, you know, are dissatisfied with their performance and wish that they step down or something like that. That will give us the ability to remove the whole NonCom if necessary or the whole set of NonCom appointees or selected ones.

And I think that answers - that addresses the need we're looking for without going into any of the complexities of having NonCom's remove people.

Thank you.

Mathieu Weill: Thanks Alan. Avri's next.

Avri Doria: Thank you, Avri speaking. I want to speak both against the idea of the pre-signed letter and in favor of the proposal that I've been putting in for recall NonCom.

First of all I agree very much with what Alan says is as a sitting NonCom which is dealing with finding people and coming up with balances and everything else should not be involved in doing recall of either an individual NonCom appointee or all of the NonCom appointees.

I do believe however that the NonCom mechanism which is what it is there are many individual instantiations of NonCom but there's one NonCom mechanism.

That the NonCom mechanism which is allowed to appoint people to the board can only be the - can be the only mechanism that can truly remove them.

So that's why I'm proposing the special recall NonCom which would be defined in the bylaws where the NonCom is defined would have a specific, you know, set of procedures for picking it, et cetera.

That this NonCom would be activated again in this case yes by a set of ACs, SOs that have an issue either with a particular NonCom member or with, you know, the entire - not NonCom member but NonCom appointee board member or with the entire section of the board appointed by the NonCom in the event of recall of the entire board, that it should use the mechanism.

Now what it does is it takes the issue that the SOAC appeal is able to frame and get agreement on. And it only looks at that vis-à-vis the performance of the board member or members.

And so it's not getting itself all complicated by why was this person picked, we don't have the information for why they were picked. So the fact that they don't have the history is not the issue. What's the issue is the complaint and the reality of the situation as reviewed by this body. It can be a very well-defined mechanism. It can be actually fairly simple. I do not believe it's complicated.

My issue with the letter from the AC SO being enough to remove a member as opposed to just initiate a process is that that then allows for something that is, you know, fairly reactive to a particular decision, to a particular set of discussions going on and does not involve a check and balance of somebody saying ah, ha, there is a real complaint, there is a real issue, yes we agree, no we don't.

And to think, you know, when you consider your checks and balances considering the, you know, the group that appoints is the group that recalls kind of motivation we're following throughout I really hope that people do take a look at the recall mechanism in that kind of light. Thanks.

Mathieu Weill: Thank you very much Avri. Olivier is next.

Olivier Crepin-LeBlond: Yes. Can you hear me?

Mathieu Weill: We can hear you all right.

Olivier Crepin-LeBlond: Thank you, two points. And first I'm not sure that this ad hoc committee Avri is mentioning is (unintelligible) the examination by the legal people because it's not the NonCom. It's something else, so the first point.

And then my second point is I don't see why the NonCom could not recall people. I mean you're asking also SO and AC to recall people that we - that have been nominated from in some way to something. You're asking the same body to recall some people they have nominated.

So I don't see why it's much difference with the NonCom that the - with the other body like SO and AC. Okay, that's my point. Okay then just then NonCom (additives) for the recall mechanism.

Mathieu Weill: Thank you very much Olivier. There is a queue building and I would like to close the queue after Tijani. Next is Alan please.

Alan Greenberg: Thank you very much. Avri's comments was - seem to be talking about this as a removal for cause that she was talking about the complaint.

My understanding is we were talking about the removal, you know, maybe there's a root cause but we were not citing a cause in the removal that it was purely discretionary. Otherwise we end up with appeals and all sorts of other types of processes. That's number one.

Number two I suspect and I'll let the lawyers speak that that a group that is form spontaneously when it's needed it's going to not be hard to put into either the designator or the membership model to give it those powers to do it.

And lastly if this group is an independent group that debates the issue and makes a decision that essentially can take away from us the ability to dispense with the board. So regardless of the other mechanisms we have we may no longer have the ability we wanted to do that. Thank you.

Mathieu Weill: Thank you Alan. Tijani?

Man: Holly?

Holly Gregory: Hi. Was that Holly?

Mathieu Weill: Sorry I was - yes please Holly go ahead. I had - was taking the - Tijani but, Tijani's after you.

Holly Gregory: Okay thank you. I just wanted to speak to the point that Avri raised. And I just want to make sure that we have some clarity around the designation letter the - and what it's designed to do.

It really isn't meant to usurp any kind of opportunity for checks and balances in decision-making. It's just a mechanism at the end of the decision making

process that requires the directors to effectively step down from the board all at once in a recall of the entire board situation.

As you know there needs to be a mechanism by which everyone acts together. And this provides a sort of a simple way to make sure that the directors have a contractual obligation to step down from the board once the member body or community body - well member body has made a decision to instigate a recall.

So it would - it doesn't replace any of the checks and balances that you would need to have in place to make sure that this is a decision that the community has come to.

Mathieu Weill: Thank you Holly. Next is Tijani.

Tijani Ben Jemaa: Thank you Thomas, Tijani speaking. I think that (unintelligible) NonCom can make their call. And my reason is that for the AC and SOs when they recall the numbers there is not always the same people who appointed them. So it is exactly the same for the NonCom.

And it is better to use something existing rather than form something just to recall. And I don't know how it can be done. It is even I think that the best thing if we agree that the SO and ACs recall their appointees even if they are not the same people who appointed them we can accept also that the NonComs are (unintelligible). Thank you.

Thomas Rickert: Thank you Tijani. Jordan?

Jordan Carter: Thanks Thomas. I find myself in this still in favor of Avri's suggestion as written in the draft public comment report in the gray box that's split over

Page 40, 41. I think just asking the general NonCom the same group of people to do this isn't a great idea.

I think the structure that she outlines as an addition to the NonCom bylaws to do it and the trigger the petition from the ACs and SOs and is an elegant way to deal with this problem so I support that.

Thomas Rickert: Thank you very much Jordan. And I think it's very good of you to remind the group of the work done by your group and by Avri in making the suggestion. I have the impression that we might be mixing up two different subjects in this discussion that that might cause individuals to have different views on this.

I guess it's one thing for the NomCom to record their appointees. And for that I think we have attention, i.e., that individuals that are applying with the NomCom for a position might be afraid that they can be recalled by the same people that have put trust in them after a while for convenience. We're not necessarily talking about removal or recourse for cause.

So in order not to have this independent trust scheme and NomCom destroyed or negatively affected I think what I'm hearing is that many people are supportive of the idea not to put the current NomCom on the spot and force them to make those decisions. So that would speak in favor of a special recall NomCom.

And just because this argument has been made the situation for directors that have been appointed by SOs and ACs is slightly different because they basically ran for the nomination and might just had competitors in that.

And so they - it's a little bit different than the individuals that applied for - applied through NomCom. So that's one.

I think the idea of having the conditional advanced resignation might be brought up because of situations where the community council whatever shape or form it might have it initiates a recall mechanism for the whole board. The NomCom would not be presented there and would not have a voting right.

So I think that it might be beneficial to clarify that we would need the recall NomCom for the recall of individual directors by the respective groups and maybe to have these conditional advance resignations for situations where the whole board shall be recalled in order to make sure that the NomCom appointees also have to clear their seats should the community wish so.

So can I hear some feedback maybe from Jordan or Avri whether that could be something to bridge the gap between the different views that we have?

Kavouss?

Kavouss Arasteh: Thomas I think that your explanation that things not become more clear. It's become a little bit more complex. What I understood that a pointer could remove - should the removal, that means the NomCom people could remove the director is that valid or not?

Two, the question is that whether AC and SOs could take initiative to appropriate mechanism to remove NomCom board members? Is that right, the second question? Thank you.

Thomas Rickert: I think I would like to defer to Avri or Jordan to speak to this.

Avri Doria: I apologize. This is Avri. I have been answering questions in the chat and I'm not clear on what I should respond to. And please forgive me.

Thomas Rickert: Not to worry. The - I was trying to summarize that a lot in the group see the need for recall NomCom not to bring the current NomCom into an impossible situation and that that could work for the recall of individual directors.

But since the NomCom does not have any votes on the Community Council as we call it or, you know, the Membership Council or Designated Council that could vote in favor of a complete board recall we're still - we still need a link whereby the NomCom appointees on the board also have to leave their seats should the majority or, you know, when the threshold is reached by the community counselor to remove the whole board which is why the combination of both the recall NomCom to remove individual directors as well as conditional advance resignations for situations where the Community Council votes in favor of removal of the whole board might do the trick to bridge the gap between the different views on this - in this group.

Avri Doria: Okay. This time I did put my hand up but I'll just start talking anyway. Okay yes know that makes sense. And I'll admit that I wrote the suggestion and presented it to the Working Party 1 as a response to the individual director recall issue and sort of repurposed it for the overall.

But I think what you're saying makes sense that they be two separate mechanisms and that the re-nom, recall NomCom only be used for the individual recall and not for removal of the entire board and that the NomCom appointees to the board could stand or fall with the rest (word) by whatever mechanism that's done. Thanks.

Thomas Rickert: Thank you. Olivier?

Olivier Crepin-LeBlond: That was an old hand. But very few people in fact supposing the ad hoc committee. I don't know if we're I mean the submitting (menu).

Thomas Rickert: Yes Olivier I guess that this will be found out but when WP1 offers its recommendations I did not make myself heard because I was supportive of the recommendation so I'm for - I for one am a supporter of the recall NomCom without having...

Olivier Crepin-LeBlond: Yes I heard that.

Thomas Rickert: Yes.

Olivier Crepin-LeBlond: Yes sure. I understand that.

Thomas Rickert: So we will test the temperature in the room in the moment I guess. Olivier would you like to add anything?

Olivier Crepin-LeBlond: No that's fine.

Thomas Rickert: Thank you. Next is Alan. And I like to close the queue after Tijani.

Alan Greenberg: Thank you very much. I'm a little bit unclear. First of all I think I saw the lawyers say that if this NomCom is constituted in a different way from the regular one that it's - it may not have the right to withdraw the directors the regular one did so I think we need some clarity on that.

But I would like to understand better what is - is this recall NomCom going to work independently and simply make a decision? So it's not the community

that's deciding this. It's the NomCom that's going to make a decision presumably in confidential private discussions.

And it seems to break the model of what we're trying to do.

Thomas Rickert: Alan I would defer to Jordan or Avri to respond to that because that goes pretty much into the rationale of what has been proposed in their document.

Alan Greenberg: I'll...

Thomas Rickert: I would...

Alan Greenberg: You know, just one more thing.

Thomas Rickert: Yes?

Alan Greenberg: I'll also point out that Avri is talking about for a good reason that is we have to present a case. And my understanding was these recalls were in terms of official documentation not for cause. It was just at the will of the community the will of the appointer in the case of AC, SOs.

I see a real problem if we're going to identify specific cause which implies, you know, they can say no I didn't do that and we start an appeal process. So thank you.

Thomas Rickert: Thanks. Before I turn to Jordan let's hear the other - Jordan has put himself in the queue which is good. So Greg please?

Greg Shatan: Thanks. Greg Shatan. Just briefly I think it would be helpful to actually have one of the lawyers speak to some of the mechanism issues that we're having here.

And also I'm having some trouble understanding both the idea that the NomCom, that a recall NomCom would make that decision entirely of its own volition without it being a community mechanism. I understand that the NomCom kind of goes away and does its thing when it appoints board members I guess.

But it seems that recall, you know, should not be something that is, you know, takes place outside the community especially given the number of board members that the NomCom essentially would control in a sense.

And the point of control is interesting since we have spoken often about the threat of removal as being a way to exercise a certain amount of control, not quite control but influence over what a board member might do.

That's a very interesting power to put into place of the NomCom unless the NomCom cannot generate by itself a removal process but it can only be generated from the community as a whole with the NomCom being merely the instrument by which the removal is accomplished. Thank you.

Thomas Rickert: Thanks Greg. Sebastien?

Sebastien Bachollet Thank you, Sebastien. I want to express my discomfort with all the discussion or after this discussions about removal of board member.

I just want to explain once again that we are (unintelligible) and I don't see why and how we can spend time on removing a board member.

We don't know how they act. The way the community sees them it's a very small part of their work. And I really don't think that it's a good idea both for the board members selected by the NomComs and the one from this (unintelligible).

And I know that you are not asking for consensus now but I just want to express my big concern if not my disagreement. Thank you very much.

Thomas Rickert: Thank you Sebastien. Jordan?

Jordan Carter: This is very confusing conversation to me. I keep coming back to the text of what this actual proposal is. So we've got to proposals that are actually on the floor for removing an individual directors appointed by the NomCom.

One is just come do it and, you know, with some kind of community push. The other is the Avri suggestion which is that the NomCom comprised in a certain way so it's still the NomCom. It's deals with the legal issue of the appointing body being the removing body.

This can only proceed towards removing one of its appointees with a trigger of a petition from an SO and AC. It's that trigger. It's that recognition of direct community concerns that is for cause of this.

It isn't saying that unlike the other removals there is some objective standard written down. It's just saying that because the NomCom in whatever personnel set it chooses is already in the protection of the community.

You need the direct community triggering if you like to start the removal process. And we need to keep I think at this point in our deliberations our

focus on the concretized options that are actually in front of us other than kind of slightly wandering around.

So it would be really important again to stress that this would be under the NomCom bylaws. It would be part of the NomCom. If we were a membership body then the NomCom to be in an appointer of board members and (removal) will need to be an unincorporated association just like the other SOs and ACs will.

So that's what I've taken from all of our legal advice. And so, you know, I think there are advantages to it being comprised as Avri proposes which is why I support that as opposed to just using the whatever NomCom members are currently doing, the appointment process that's going on at the time.

Because I think it is a recognition of the fact that it's a serious issue to remove the director and the composition proposed, the chair of the committee selected by the ICANN board and otherwise the same composition as NomCom is a useful way to go.

So I think that we should propose that to the community as our kind of central approach here.

And whilst so referring to the other options one another option is using the existing NomCom as it is at whatever time this issue comes up but I hope keeping this petitioning mechanism. That's all.

Thomas Rickert: Thanks Jordan. Josh?

Josh Hofheimer: So a couple of things. One, I saw in the chat that there was some concern expressed about the nominating committee, you know, entity being able to

remove its directors that it appointed and it could become disruptive. But that is a fundamental tenet of whether we have a designator model or a member model.

All of the members and the designators, each member or group or each designator can remove and appoint its director and can remove its director or directors on a - you know, with no reason - with a reason or with no reason. And that is a fundamental precept. So to say that the nominating committee would not be able to remove its directors is problematic.

However, you know, you all can and there's been discussion - and what Avri has proposed if we understand it correctly could be a way of removing an individual director. You all would have to think practically whether you like this.

But if you had a nominating committee itself organized as an unincorporated association then within that association you could have two committees. You could have a committee that determines who to nominate and put on that on the board and you could have a committee that reviews their performance and determines whether to remove them from the board.

Woman: And re-nominate them.

Josh Hofheimer: And re-nominate them or not or remove them. Yes it could just be a performance review type committee. And those are different individuals within the same legal entity and that's fine.

And then at the end of that for the individual director you might still have that director have provided to the nominating committee or to any other committee in the company a pre-resignation letter that can be - and to the board of

ICANN a pre-resignation letter that can be used by the nominating committee to give effect to that resignation or in the situation where there's been a vote of no-confidence or something of that sort to give effect to the removal of the entire board.

And you absolutely need it for that purpose so that you can bring along any recalcitrant members or designator groups that may be voted against removal and replacement of the whole board but would still be then bound to go along with that collective decision, you know, that super majority decision.

Thomas Rickert: Thanks Josh. I think it's time for us to take stock of where we are. We've heard arguments for different options.

Jordan as the rapporteur for this exercise has emphasized his preference for the model that Avri suggested. That's the one that you find in the gray box on Pages 40, 41. And the legal viability of that has just been confirmed by Josh.

So I would suggest that we have a little show of hands to see whether there is sufficient traction for the Avri proposal to make that the preferred option in the report.

So we've done this exercise a couple of times when Leon was chairing. So can you please use can you please use the green or the red checkmarks and if you agree or disagree to using this as the preferred option?

Cheryl Langdon-Orr: Thomas sorry, Cheryl here.

Thomas Rickert: Cheryl?

Cheryl Langdon-Orr: Can somebody be really, really clear to me is the Avri proposal exactly what Josh just outlined or what I obviously read and clearly misinterpreted if it isn't what Josh outlined?

Thomas Rickert: Well I saw a comment in the chat. Let me just scroll up and down a little.

Cheryl Langdon-Orr: And my answer is entirely different if it's exactly what Josh outlined. What Josh and Holly just said gets an entirely different response from me so I need that clear. Thank you.

Thomas Rickert: I was calling for support or the lack of support for the Avri proposal.

And I'm asking is the Avri proposal different to what Josh just outlined or not so I can vote on it or poll on it?

Thomas Rickert: Josh was speaking to a broader range of questions but maybe we go to Avri and let her speak to it.

Avri Doria: Yes thank you. What I understood Josh's proposal to be was a way that that kind of mechanism that was described there could be implemented if we went with a member or designator model and if NomCom became an unincorporated association.

So that was I saw as one implementation mechanism. It's not specifically the same. What I was suggesting was something that I thought would work in the current system as well as possibly finding an implementation in other possible systems. Thanks.

Thomas Rickert: So Cheryl does that answer your question?

Cheryl Langdon-Orr: Yes. And you've got my vote.

Thomas Rickert: Okay. So can you please use the check marks?

Cheryl Langdon-Orr: I have. It's a big red X.

Thomas Rickert: Can my co-chairs - can the co-chairs please help me determining what the outcome of that straw poll would be if it could be determined?

Cheryl Langdon-Orr: Thomas if you go to the top of the part where it says Attendees and you looked at Part Options and you go to Change View to go to Attendee Status View it'll do the math for you.

Thomas Rickert: That's great. Thank you. So it looks like we have...

Cheryl Langdon-Orr: 65.

Thomas Rickert: Yes. So there is no clear - okay shall we wait for another moment for people be able to use the check boxes?

Josh Hofheimer: This is Josh. Can I have an opportunity to sort of perhaps provide a little clarity of what I was stating?

Thomas Rickert: Yes. Please do.

Josh Hofheimer: So I think Avri did describe or reiterated what I was articulating which is but it sounded like Avri you were suggesting there is a - an alternative, may be a third way of doing it.

I think we said from the beginning that going forward your nominating committee if it is going to have the power not just to in a more traditional way to, you know, reference a person for election to the board by somebody else but actually going to have the ability to put somebody on the board then that nominating committee does need to be some sort of unincorporated association.

Whether we're - and we would assume that it probably would be limited to being a designator. Even in the member model it would exist as a designator because it would not have the same sort of broad voting powers that would be given to members.

But nonetheless it would still be an entity that would be formed for the purpose of electing to the board a set number of directors. And within that entity there could be two committees, the approval committee or the nominating committee and then removal or review committee.

But it would all be in action by the same entity. And the substantive review of when that nominating committee body might take action to remove is something that I think you all still need some consideration on what are the triggers?

But the process it - I don't see an alternative process in Avri's description. What I see in Avri's description on Page 40 and 41 is, you know, what the threshold is for removing.

But the process in any instance would be as we - as we've - as I've have described it, you know, from the view of counsel.

Thomas Rickert: Thanks Josh. So it seems that we are gaining more support for the Avri option. And let - I think we really need to move on in a moment but I'd like to get those who've raised their hands the opportunity to speak. Can you please be very brief with the interventions? So first is Kavouss and the line is closed after Tijani. Kavouss please?

Kavouss Arasteh: Thomas could somebody Jordan, Avri or Josh kindly clarify the following? Could NomCom remove the individual boards without any interventions of any SOs and ACs? I'm talking about removal of individual board, could they do that or not? If yes there we have mentioned that. This is the first point.

Second point removal of the entire eight board members in NomCom could NomCom remove the entire eight by themselves or they need SO and AC? These are the second.

And third whether Josh is in favor of the Avri proposal and Avri proposal related to which one, the removal of the individual or the removal of the entire? Thank you.

Thomas Rickert: Kavouss I suggest that we collect questions. There might be more questions for the lawyers. And I would like the lawyers to respond to the questions in one go.

And Alan I wasn't quite sure whether the hand that you raised was an old hand or a new hand? If this was a new hand I apologize for having skipped you.

Alan Greenberg: It was a new hand. One of the - I would really like - Cheryl has vast nominating committee experience. And I would like her to give - have an

opportunity to say why she thought this is a bad, this is something she could support? I think that might lend a little bit of light to this.

From my perspective one of the really show - one of the showstoppers in Avri's proposal is her statement that this new committee is constituted in the same proportion and processes as the regular nominating committee which is really problematic because the numbers are skewed. There's a whole bunch of people from outside of ICANN on this group.

It's a very different group than a composite of the A season SOs that are making the decisions otherwise.

If it was a group composed similarly to the weighted, you know, the weighted power of the ACs and SOs and it was - and these people were named specifically for this purpose by the ACs and SOs I could go along with it. Thank you.

Thomas Rickert: Thank you Alan. So I suggest we hear Sebastien, then Tijani, and then we turn to Josh and ask Cheryl for some insight. Sebastien?

Sebastien Bachollet: It seems to be yes, thank you Thomas, Sebastian Bachollet. It's seems to me that it's very complex issue here and we don't have the right information in front of us.

We want to rush to find a way to recall the board or the nominating committee member of the board I once again I don't think it's a good idea.

But I would like to be able when the votes came to say that I am not participating not because I am sleeping but I - because I don't think all that is a good idea, whatever the solution proposed. Thank you.

Thomas Rickert: Sebastien just a point of clarification, we are not rushing to a conclusion here but we're rushing but we're trying to make progress on which options we present in what way to the community. James?

James Gannon: James Gannon for the record. I just want to say I don't like - I'm not alone in saying that I don't believe that we have the information here in front of us that we need to particularly take polls in this issue.

There's a number of us who in I won't say in protest but who use the step away option to say that we don't understand what we're being asked to actually be polled on.

So I want to object to the use of the polling because the question that is being asked and the detail what is needed in order to answer that question I don't believe is in front of us at the moment.

So we either need to, you know, take a step back and, you know, go through what we're being asked here or we need to say look we don't have agreement either way on this.

I don't agree with using the polling option at the moment because there are many of us who particularly in the chat who do not understand what the ramifications of the decision that we're being asked here.

Thomas Rickert: Thanks James. Tijani?

Tijani Ben Jemaa: Thank you Thomas, Tijani speaking. Josh said that it gives a implementable the solution of Avri is implementable assuming that the NomCom becomes UA.

How can it be a UA? Is it a stakeholder? It is composed of the host stakeholders. What does it represent?

So I think that we have created things to reach solutions that so I think there is a lot of additional things we are doing to reach a solution. I prefer to find simpler solution to solve the problem, not to make it more complex. Thank you.

Thomas Rickert: Thanks Tijani. Before I turn to Cheryl we heard from the lawyers one fact that individuals in the community can be part of different groups.

So even if they are - if the natural persons are also part of other SOs and ACs they can - they'll be part of NomCom and there would be an issue with NomCom be a unincorporated adaptation.

Let's hear Cheryl's view on that please.

Cheryl Langdon-Orr: Thank Thomas, Cheryl for the record. And it'll be very brief. Alan in fact encapsulated a great deal of what I would've said.

But basically my issue comes down to as I read what is in the gray box on Page 40 to 41 it indicates to me that the Avri model is a new entity where it states that it will be made up of appointees from the various ACs and SOs according to the same formula used to populate the Nominating Committee.

Now that is what I balk at. And that is why I said as Josh and Holly described I can support but this I cannot.

Thomas Rickert: Thanks. Let's turn to Josh. There was some questions for you.

Josh Hofheimer: So I have to - I'm going to echo what Cheryl just said and to be clear. You can't have a different entity. You can't - that appoints and then a new entity is created to decide whether to remove the directors appointed by the first entity.

So what I had described was one entity that was responsible both for an appointment and removal of its own directors. And within that entity you might organize different subcommittees. They could have overlapping persons on it or not that would be responsible. And I think to Alan's point agree that it would be advisable though it would be for others to decide not for the lawyers.

But it would be advisable to have the same organization - organizational principles guide the sub - the formation of the subcommittee responsible for nominating as guide the formation of the subcommittee or subgroup just not to confuse things, the subgroup responsible for removal, review and removal.

But Alan you also raised the question you asked the question of can the Nominating Committee, you know, initiate its own review and removal of its appointed directors or can it give that right away to somebody else, you know, and related points.

And I think the issue there that's something that actually we probably have to look at a little bit more to see, you know, in a member situation, you know, the member can't give it's foldaway to remove somebody to somebody else which is one of the reasons why we have the resignation letters in place.

But we have to look at that to see what happens or what would be different or not in the designator construct which is what we imagine to be the case here.

But, you know, the notion of another group asking for reconsideration or for the Nominating Committee to initiate the process to remove or not doesn't usurp their vote but it gives away for the community to be involved in those members and then their continued retention and service on the board.

Thomas Rickert: Thanks Josh. Tijani is that a new hand? So then we can move to Jordan.

Jordan Carter: Thanks. I have been trying to understand why this seems confusing while we've been having this conversation. And I'm pretty sure it isn't just because it's 4:00 AM or 5:00 AM here.

And it comes back I think to people, we've had the lawyers comments several times that whether we were to go down a membership model or a designator model we would have to organize the groups that are appointing moving people from the ICANN board as unincorporated associations to give them the legal personality required.

So if we take - if we could just take for granted at the moment because it is - it has kind of started to emerge as our recommended mechanism or our reference mechanism or membership model.

And the alternative is a designator model. If we can just take for granted for the moment that there would need to be an unincorporated structure and association of some sorts that the NomCom was. If we're going to keep the NomCom which no one has proposed removing to appoint directors that were going to need a structure here.

Then the only real difference that is being talked about is whether the group of particular people who are brought together for the appointment of directors should be the same human beings to remove them or whether a different

group of human beings would acting as the NomCom for this removal purpose would be the people who decide on a removal.

That's the only thing we need to worry about here. That's what Josh and Holly and co have made clear. So it is a NomCom that is doing the removal because it's the NomCom that's doing the appointing.

Josh has referred to two different committees so you could think about it that way. There's a group who appointed as they are today to remove to appoint directors. And we all know how that's done. The representation is clear.

The way I think we should interpret what Avri has written on in the doc -- and remember the doc is five or six days old -- is that there be another committee within this group that's comprised the way she proposes.

And remember it's just chair and people elected by the same set of SOs and AC reps or whatever it is that comprises NomCom today would do that removal task on a petition.

So, you know, that it's clearly legally available to us. It's clearly not sort of overloading the people who got together for the appointment process by asking them to sit for the whole year to be a removal point if required and if legal is available and viable.

So, you know, I - that's what is kind of on the table here. If you allude to the wording that the Avri thing in essence is how do you choose the human beings within the NomCom who will make decisions about removal?

And it is workable and that's why, you know, I don't think there's any problems here. I think if we use the green text to agree to the Avri proposal

we're essentially saying it's a group within the NomCom pulled together in a way that she suggests to do the removal task on the petition of the SOs and ACs.

Cheryl Langdon-Orr: That is just not what it says on Page 40.

Thomas Rickert: I guess Jordan was offering some explanation as to how the process could be operationalized Cheryl. So with the, you know, let's hear only the (unintelligible) first.

Olivier Crepin-LeBlond: Yes Olivier just concerning the human being concerning the SO AC we're not putting any constraint on the human beings. I don't see why we should put more constraint on the NomCom and the first point.

Second point where we're talking about sub group I don't know if you (judge the) as the understanding that if really ad hoc committee from (unintelligible) is only when there's a petition for removal of a NomCom appointee that this new adopt committee will be formed.

And that's what I find very complex because the NomCom composition is quite complex yet concerning the GNSO I am it's going down to the constituencies.

I think we have to go to each constituency and get the selection of people which I think is a very heavy process and I don't see - I still don't understand why you cannot just choose the NomCom as it is.

Thomas Rickert: Thanks Olivier. Kavouss?

Kavouss Arasteh: A number of questions before us is much more than the number of convincing answers. The situation is very complex.

And it would not be appropriate we rush to have concerns by exhaustion. We are exhausted of this discussion.

Perhaps like a member model, designated models maybe the legal counsel could kindly provide a document describing the situations removal of the board member nominated by NomCom individual removal of the entire board of those member also nominated by NomCom who could initiate that and how could it be done in both models number model and designated.

Issue is not clear. I'm very sorry this is really - I don't think you spend more time. Everything is exhausted. Discussion is exhausted and we need time to think it over with some legal expert and actually in a written paper like the other two documents was helpless to decide on the designator and membership in a preferred option. Thank you.

Thomas Rickert: Thanks Kavouss. I'm sure you will be pleased with intervention that I'm going to make after Alan spoke. Alan?

Alan Greenberg: Thank you. I just wanted to say what I put in the chat. If there was a standing sub removal subcommittee of the NomCom which was composed of for instance the chairs of the ACs or SOs or their delegates I would buy this proposal in a moment. Thank you.

Thomas Rickert: Thank you Alan. I think we are not trying to get consensus by exhaustion. I think we made good progress in understanding the concerns better.

I think what caused the confusion is partially that we have a set of words that the Avri proposal on the table that have ambiguity in its implementation.

And we were -we will go through the transcript of this call after the call and prepare some language that we're going to suggest to the group.

I think that, you know, judging from what I've heard and what I have read in the chat it seems like the proposal that Alan made could have bridged the gap. But I think we shouldn't dwell on this longer in this call but rather send something to you in writing. And we're going to suggest language that is going to be double checked by the lawyers.

So with that I think we should move to the next item and that is the discussion that we had for a board recall. We were discussing different voting thresholds 75%, 80% or 85%.

And we think it is advisable that we discuss this a little bit further, not for too long. But there might be some value in not confronting the community with too many options but maybe to narrow down the options a little bit.

So with that, you know, we've asked members of this group to think about what an appropriate value for them might be. And I would like to open it up for discussion.

Mathieu?

Mathieu Weill: Thank you Thomas. This is Mathieu speaking. I just want to illustrate and give clarity about the number we're talking about.

And I would like to use as a baseline the reference proposal that we have currently on the table which is a list of member representatives which includes five for each SO plus the GAC and ALAC. So it's 5 times 5 and two for SSAC and RSAC. So that's a 29 people group, 29.

So if you look at 75% of 29 it's a little less than 21 - than 22 sorry. So you would be 75% means you need 22 out of 29.

If you look at 4/5, 80% you would need 24 votes out of 29. If you look at 85% you would need 25 votes.

I think this is important because we said we want to ensure that, you know, if we want to ensure that no single group can by itself block the board, the global board recall that 85% might not fit this description because if a group of five all vote together against you're not meeting the threshold.

So I would suggest we push 85% away on that basis as a starter. Thank you.

Thomas Rickert: Thank you very much Jordan. That's very helpful. Oh, Jordan is next.

Jordan Carter: That was Mathieu.

Thomas Rickert: Sorry. Sorry...

Jordan Carter: It was Mathieu. My accent hasn't changed that much.

I support what Mathieu said. We can't do a 85% trigger without this notional assemblage of votes because it means that any particular SO or AC.

The thing if you - I'm in my view it should be 75% or 80%. This is my view not (unintelligible) hat on or anything.

And given I'm assuming in that that within these voting weights that we've have talked about and SOs and ACs will be able to split their votes that they won't be able to - they won't have to just provide a block votes all in favor or all against.

And if they do have to provide a block quote then I think it has to be the 75% threshold. And if it is sort of individualized down in the numbers that we've talked about I think we could live with 80%. But we definitely have to let 85% otherwise we're just creating a situation where a single SO can prevent the board being removed even if the rest of the ICANN community is in an uproar. So we need to just take the 85% off.

The reason that I think it should be 75% is because in a context where it is individualized then, you know, the basic political processes across the ICANN community are going to make getting to that 75% extremely hard.

We're not going to be in a situation where anyone needs to worry about frivolous board rolling. And so given the nature of the petitioning has to be from three SOs or ACs. And I think the 75% threshold is high enough so that is what I would support.

Thomas Rickert: Thank you very much Jordan. Before we move to Kavouss I guess that during our discussion yesterday the group was leaning towards not making mandatory block votes but leaving it up to the SOs and ACs to even split their votes.

And that was - Robin was kind enough to remind us of that and then Steve was supporting that.

So with that just as a pull out question to you Jordan I heard you saying that if we do individual votes you would rather go to the - for the 80%? Is that correct?

Jordan Carter: No. I said 75%. And I think we have to go for individual votes for reasons that have been said in the chat.

Thomas Rickert: Okay. Next is Kavouss.

Kavouss Arasteh: Thank you. I think it is reasonable to move of 85%. So it would remain 75% and 80%. In the example given by Mathieu if you take the option of 29 and we take 80% it means that 24, so that means five could be the one who is almost but could block.

So we if we retain this 80% we should say a combination of AC and SOs but not really to one group plus one little group to block everything. So it is one point.

The second point maybe some people they don't like that. But we are dealing with the removal of the whole board.

We should have a degree of stability. And I don't think that 75% that means 20 would give that sort of stability. So we will have a sort of inner stable situation.

And it is not advisable as in many parliamentary and many other occasions in all around the world this 4/5 are used for critical decisions.

I don't like country. I don't like institutions. But it is already used so I am not in favor of the total to be below 80%. But the 80% we should say that at minimum AC and SO is required not one single block, one single group blocking everything. Thank you.

Thomas Rickert: Thank you Kavouss. Alan?

Alan Greenberg: Yes thank you. Again this is a proposal. And I think we're going to have to do a fair amount of simulation to understand what the implications of it are. But I can certainly as somebody proposed in the draft right now 75% I could accept.

Eighty percent means a single group if a single group blocks. That would require unanimity of everyone else and I think that's too high a threshold. So 75% I think is a good start. And that presumes of course that abstentions are not counting his nose. We cannot forget that issue. Thank you.

Thomas Rickert: Thank you. So there are no more speakers that have raised their hands. We can clearly rule out the 85%. I have the impression that we have slightly more traction on the 75% given the individual votes and given that no votes or that abstentions would not count.

So Alan you were rightfully pointing out that we're not making a decision today which is why I suggest that we move on on the basis of using the 75% putting the two caveats to it. This plays out as the preferred option in the report and add a little bit of language that explained the reasons and the concerns that have been raised by the group including Kavouss's concern.

Kavouss is that seems to be a new hand?

Kavouss Arasteh: Yes a new hand. I would wish to suggest what we did today for two other cases. We give 75% of deference and alternatively 80% and put it to the public comments. Thank you.

Thomas Rickert: Thanks Kavouss. Greg? And after Greg I'm going to close this item.

Greg Shatan: Thanks, just a point of clarification. In this proposal for the removal committee we're suggesting voting among the 29 that we've proposed as potential members or designators or weighted voting.

We're not - so we're suggesting a different voting balance than the NomCom itself as I understand it. The NomCom votes don't even don't come close to that.

I'm not exactly sure how the NomCom votes or if they act by consensus but just the removal NomCom or removal committee is going by a completely or a substantially different political balance. Is that correct?

Thomas Rickert: Greg could you be kind enough to repeat that question for me?

Greg Shatan: Yes.

Thomas Rickert: I have the impression Jordan echoes that we're that that is a different discussion.

Greg Shatan: Okay sorry. Maybe I've that we're on recalling the entire board now?

Thomas Rickert: That's correct.

Greg Shatan: Oh, okay. I withdraw my question. Sorry about that.

Jordan Carter: No Greg your question is an important one that we need to address Thomas. And it is that and I don't think we've quite addressed it which is that in the numbers of votes that we're bandying around here there are no votes proposed for the nominating committee.

And so that I think is where the previous discussion about the contractual, you know, the pre-resignation letters has to apply because unless we suddenly add in the NomCom to this voting structure for the purposes of removing the whole board and then we need a way to secure the resignation of their appointed directors when this vote takes effect.

And that has been the way this was contemplated I think the whole way along. I think the idea has been that, you know, we've talked about the number of votes to the in our kind of reference option for the votes being five for each of the five SOs and ACs that were singled out and two of the others. That's where the 29 comes from.

And I think the assumption has been certainly on my part that if this voting threshold was met say 75% then all of the directors would resign, not just the ones appointed by the SOs and ACs. It would also include the ones by the NomCom but we do need to be explicit and clear about that.

Thomas Rickert: Thank you Jordan. Actually you're make a point that I was about to make that just...

Jordan Carter: Oh, sorry.

Thomas Rickert: No, no know it's all good. I mean it's an important point. And this was basically why I made the connection between the recall and the revoke earlier in the discussion.

Just to be perfectly clear only SOs and ACs would get a vote. Depending on the model that we're discussing that might add up to 29 votes. So the NomCom is not part of that community decision. So also the NomCom not voting is not relevant for this discussion. So we have the mechanisms that we agree to reduce whereby if a certain threshold is achieved the total board would be recalled.

The question then is how does that work technically? So how can we make sure that the NomCom appointees actually remove themselves or are they removed from the board?

And the concept of these written conditional advance resignations becomes quite handy because that would ensure that the that the board members resign. Because what they basically would promise in writing is that they resign once this vote of non-confidence has taken place.

So maybe we should add that as a procedural aspect to the proposal. But still I sense that we have a preferred option based on the pillars of 75% combined with individual votes, the possibility for split votes from particular groups plus abstentions not being counted as no votes.

And we would have that implemented by for the NomCom appointees by virtue of condition of the (unintelligible) resignation letters.

So I hope that this is acceptable to everyone. We will have the alternatives for the other concerns that were brought up in the written text but I've just outlined the preferred options for our report.

So with that I would like to not only end this topic of our discussion but I would also like to have a - offer a five minute break for people to stretch their legs. So James you raised your hand. Would you like to speak now or is it a new topic?

James Gannon: Yes no just a quick point of order. Can we get the notes on the right the preferences being written down in 80 whereas the preference within the group has been 75 in the...

Woman: We're trying.

James Gannon: Oh yes, perfect okay. So it's in the third from last and the fifth paragraph. Both of those need to be changed to reflect...

Thomas Rickert: Yes.

James Gannon: ...the actual proposal?

Thomas Rickert: It's being worked on.

Woman: Yes.

Thomas Rickert: Thanks for pointing that out James. So with that I would suggest we do a five minute break. And after that we will reconvene our discussion. Thank you.

This is Thomas. Just a heads up, we're going to start in a minute. And I would like to ask the operator to get the call recording back started. So with that I would suggest we reconvene. Can the operator please confirm that the recording has been started again?

Coordinator: The recording as started sir. You may proceed.

Thomas Rickert: Thank you very much. We're going to reconvene for the second half of - or not quite half, a little less than the second half of the meeting. And we will now talk about the additional points for Workstream number two that have been introduced by Avri and by Sebastien.

So Sebastien was suggesting language with respect to diversity. And his proposal for Workstream Number 2 is improved diversity in all its aspects at all levels of the organization.

And I would like to open it up for comments of support, objections to augmenting the to do list for Workstream Number 2 with this item. So can we have some feedback to that?

Mathieu?

Mathieu Weill: Yes thank you Thomas, Mathieu speaking. Just to make sure we put on the notes that I think this proposal is consistent with in our charters input which we - which as advisor we received slightly ahead of this meeting.

So I think there's consistency here.

Thomas Rickert: Thank you very much Mathieu. There is a question in the chat Mathieu shared. We are relating to the WP Workstream 2 items. And those can be found on Page 80 of the frozen document.

So Mathieu indicated that (John) is supported the notion of making the diversity an issue for to be worked on for Workstream Number 2. And Alan is next and after that Jordan.

Alan Greenberg: Thank you. I'm going to make a general request since you've just repeated what this proposal is. For those of us who are getting a little bit tired when a proposal is made that we're supposed to say yes or no to could we see it in writing in the note pod somewhere? The words that flyby verbally just aren't getting absurd by me anyway right know. Thank you.

Thomas Rickert: Yes. I had asked for that. I guess it's due to the hiccup that we have with the notes. Let me copy and paste that into the chat window. So it's going to be there in the...

Alan Greenberg: In this case it is a simple one. I have now gotten it but when we...

Thomas Rickert: Yes so...

Alan Greenberg: ...the next time we do this please. Thank you.

Thomas Rickert: Yes. So this is now in the chat for your inspection. Jordan is next.

Jordan Carter: Thanks Thomas. And I don't have any trouble with including either these two things as Workstream 2. And my only question actually is one for Becky.

And when the sort of culture of thought transparency suggestion came up they were at some point in this odyssey of calls I asked her whether it was already included in the core values work that she discussed a few calls ago. And she said it had been.

So and besides I don't - even if it is there in the core values I still don't think there's any troubling in considering it.

But Avri it's a question really for you. Do you think that it isn't an adequately covered in the core values or it just hadn't connected it with them or what? I'd be interested in your view on that?

Thomas Rickert: Avri?

Avri Doria: This is Avri. Okay yes, I think that the general spirit that there ought to be transparency is indeed in there. What isn't - what exists is the framework for guiding it.

And so what I'm looking for is work is producing guidelines on what it means to be transparent by default under what conditions can information be classified, how do you record the fact that information is classified?

And there's a notion that hasn't been picked up yet that when you make something secret or proprietary or anything else does anybody even know that that's been done even if you don't know the specifics? So some sort of notion of indicating when something has been declared classified.

And also in this is something that is, in ATRT is just because something needed to be classified as proprietary, secret, confidential part of a negotiation what have you today doesn't mean it still needs to be that in five years.

So do we have a process for going back? And all of this is basically the better part of making sure were dependent so that every discovery does not require a DIDP.

I'm very much in agreement that we need to fix that mechanism. But we shouldn't at the moment it is almost the fault capacity that everything falls into that case of needing a DIDP.

So this is basically taking the spirit and coming up with some concrete guidelines and mechanisms for how it's done. Thanks.

Thomas Rickert: Thanks Avri. That's very useful. Looking at what reactions that have been I have not seen any opposition to either of the two proposals. So maybe we can cut the discussion short and just ask for objections again including those on the list of the Workstream 2 items. But before we do that let's hear Kavouss.

Kavouss Arasteh: What is the legal view of our legal counsel with respect to the classified information, the duration of the classifying five years, ten years? Is there any process after some time should be declassified? Just I want to hear the views of that because we are looking everything under the corporate law state or California. So whether it has any relation to that or is there anything generally on these aspects? Thank you.

Thomas Rickert: Kavouss I would suggest we do not open up a discussion on the legal implications. We plan to have our recommendations reviewed from a legal perspective anyway. And I think we can take for granted that the disclosure policy could not be in contradiction to applicable laws.

So I think you are suggesting a review and all to ensure compliance. And I think we're not going to propose anything that would make ICANN noncompliant.

Let's moved to Jordan now.

Jordan Carter: I have done mine. Yes, no that's it.

Thomas Rickert: Thank you. Robin?

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

Thomas Rickert: We can hear you.

Robin Gross: Great, so two things. First I wanted to strongly support Avri's proposal regarding the transfer of the issues we need to look at in more detail in Workstream 2.

And I also wanted to suggest that we also looked at ICANN whistle blower program in Workstream 2 where employees can come reports some improper behavior and it gets handled in some appropriate fashion allegedly.

So I think that that's an important thing for the accountability working group to look at. So I'd like to add that to our list of items in Workstream 2. Thank you.

Thomas Rickert: Thank you Robin. Steve?

Steve DelBianco: This will be quick. I noted this in our previous call. We put it in the chat just now. But in Workstream 1 in the four affirmation of commitments reviews

that we're bringing over the chapeau that we discussed this morning said - gives us the phenomenal improvement of transparency that we're seeing to the review teams which we select will have access to ICANN's internal documents and the draft output will be published. The review team gets to consider them before it goes on.

What we suggested in the chapeau is that we have a duty to protect the confidentiality of information that we use. So we do expect to have better access than before to information that we would want to use during a review. Thank you.

Thomas Rickert: Thanks Steve. So let me try to come up with a package of additions to Workstream Number 2. And I will then ask you whether you opposed to this package. And in the unlikely case that we do see opposition then we need to move further down where this opposition is rooted.

So we have an addition proposed by Sebastien on diversity. We have the proposal by Avri regarding disclosure. We have the recommendation from Robin to review ICANN's whistleblower policy.

And I shall add that although it is an ATRT recommendation I think it doesn't hurt to have it included in this package. So I would now like to hear whether there's any objection to adding these three items to the list to be worked on in Workstream Number 2.

And just before somebody asked we will take good note of the suggestion made by Jordan to ask the community in the public comment period whether they have any additional points they would like to see be dealt with in Workstream Number 2.

So any objection?

There doesn't seem to be any which is why we can note that our group is in agreement with it. And we can then move to the next point that we wanted to speak to.

And that is the question of ICANN's principle offices or whatever the correct legal language for that might be should go into the fundamental bylaws or not.

And I would suggest that since it's been a couple of hours since we have discussed this I would like to ask Steve as the drafter of that section to give us a little recap of where we are with that discussion.

Steve DelBianco: Thanks. I'll ask staff to quickly load the one pager that I circulated to everyone about 20 minutes before this call began.

That was in response to Mathieu asking for a summary of what the proposal is for the affirmation of commitments in Section 8. There are three parts, 8A, 8B, and 8C.

I'll say right off that 8A and 8C go to the core values that was reflected in the purple document that Becky brought up yesterday. So if you wish we can focus directly in on 8B. There's only one pager in front of you. That ought to be very easy to navigate.

And 8B contains two elements of commitments. The first was that ICANN would remain a not for profit corporation. The second is that it would be headquartered in the USA with offices around the world.

So the not for profit part, let's take that first. The not for profit part which is discussed this morning in 8B is reflected in ICANN's current articles of incorporation.

Now it doesn't say shall be a nonprofit it just says is. So it's descriptive and not normative. And yet for that to change if ICANN were to no longer be a nonprofit public benefit corporation that first sentence, the articles would be in conflict with that. So there would have to be some change to the articles.

Now under the current rules articles require 2/3 vote of the board and 2/3 vote of the members. And if we're successful at giving ICANN members there'd would be a statutory ability for a positive approval with a 2/3 voting threshold. We picked that up this morning from Josh I believe.

I don't know to what extent the designators would get the same rights. And it's entirely possible that that could be arranged. So I didn't mean to reveal some bias of members with that sentence there. It's meant to convey what it is I learned just before the break in this morning's call.

The second part of this is the headquarter to commitment. It occurred to a number of us last week that 8B is already reflected in the current ICANN bylaws Article 18 Section 1. And I have the text displayed for you there. And that is normative because it says shall.

Now the board could propose a change to this bylaws provision. But if they did and we're successfully getting the new power to block the bylaws changes then members and designators could block that change with the threshold voting that we've been discussing.

The final sentence paragraph here is this notion that we, the CCWG discussed and are considering whether bylaws Article 18 Section 1 should be among the bylaws sections which are also designated as fundamental bylaws which would therefore require positive approval, not just the ability to block but positive approval by members and designators. and we have discussed thresholds of 75% or 85% of that.

The blocking we had proposed a threshold of 3/4. So at this point I'm going to summarize the proposal this morning. And I believe this is written in such a way that it sort of adopts a suggestion that Kavouss gave us where we declare right off that Article 18 is in the bylaws.

So it gets for free the protection of being able to block the board from changing it. That comes with it, the fact that it's in the bylaws that it's already there. The question is should we move it to fundamental? So I could stop there and see if you want to discuss. Thank you.

Thomas Rickert: Thanks very much Steve for that recap. And the queue is forming. Let's hear Pedro.

Pedro Ivo Silva: Okay yes thank you Steve and thank you Thomas. Right after Steve sent this email with the suggestion I wrote back suggesting minor changes to this last sentence of the 8B.

I will paste that here in the chat and where there is the capital letter that's basically what I am suggesting to change just to make sure that the facts reflect that there were - there are basically two considerations here or two opinions within the group, that either we should keep the bylaws as current status or it should be included in the section of fundamental bylaws so

because I wasn't too clear for me in the proposed text so I think it maybe in this suggestion makes it a bit more clear.

Thomas Rickert: Thank you Pedro. Kavouss?

Kavouss Arasteh: Yes Thomas. (Unintelligible) means something the simplest questions, a choice between headquarters and principles. I think I have heard many, many other areas referring to headquarters. Does it cause any problems for anybody if we replace principal by headquarters?

That means whatever we have already in one place we place the principle by headquarters. This is number one. Number two, I think we have been discussing for more than several days that everything is tailored to be under the California corporate law.

And that means that it will be in the United States by headquarters. Therefore put something in the fundamental bylaw I don't think that resolve any problem because already implicitly it's seen as such.

So what I suggested this morning puts the - in the traditional for normal bylaw as a reference but maintains to put it in the fundamental bylaw as an alternative. Thank you.

Thomas Rickert: Thank you. I guess that your suggestion is pretty much in line with what Pedro was suggesting to keep the two options in there. And regarding the terminology you will remember that during my opening remarks I deferred to the lawyers to come up with a suggestion for the concrete and then correct term to be used.

So I think we should not engage in wordsmithing here or finding the right word ourselves. I think we all know what we are speaking to at the moment and we should wait for the lawyers to give us the right term to be used. And Greg? And after Greg I'm going to close this discussion.

Greg Shatan: This is Greg Shatan. Sorry to make what may be a relatively minor point actually which is that Article 18 currently states that the principal office shall be in the County of Los Angeles, state of California whereas the affirmation of commitments only talks about the United States of America.

I'm not sure that it really makes a difference since we've - ICANN has existed under both commitments. But it's worth pointing out, you know, there's often cases where a headquarters office is not in the same state as the state of incorporation.

Delaware is a state of incorporation of many, many corporations that do not have headquarters offices but only a registered office or a registered agent for a service of process.

One of the things that we're kind of that neither language actually necessarily solves or even gets to -- maybe this is such a minor point -- it does not say that this must remain a California corporation. So whether that's good or bad currently it says that it - the article say that it's organize under the California nonprofit public benefit corporation law.

So I guess that's where we actually capture the fact that this is a California corporation, not really in office in Section 18 which is really all about offices and not about incorporation.

But so maybe together the package is adequate but it is somewhat of a more complicated package than it actually appears. Thanks.

Thomas Rickert: Thanks Greg. I said let's wait for legal advice to confirm the correct language. I think we're all or I don't have the impression that we have different understanding of what we're talking about.

So it looks like there is a lot of support for the language suggested by (Pedro). And I would therefore like to ask whether there is any objection against using this updated language for the report?

There doesn't seem to be any. And with that I am confused now. Greg have you indicated a position with red box? Greg can ask for clarification? Did I see you...

Greg Shatan: Yes. I mean actually more with the second part, this whole thing about positive approval versus some other kind of approval or rejection. I think that's maybe it's wordsmithing but I don't think that's kind of captures the whole issue of the difference between the fundamental bylaws and the other bylaws.

As far as the first - I'm fine with the first sentence. The second sentence I think at least need some cleanup. More of the point because I think it may be confusing rather than clarifying. Thank you.

Thomas Rickert: Greg I think at this stage I can only repeat what I said earlier that we are waiting for the lawyers to help us with this.

We're now speaking about the general notion of what we're proposing. And we're keeping the two options in the report as suggested by Kavouss who is conveniently waving his hand and others. Kavouss please?

Kavouss Arasteh: I suggest that we remove positive. I don't understand what is approval positive, approval. Is there any negative approval? Negative approval means disapproval. So what does it mean positive approval? So I suggest we suppress the list of the word positive. Thank you.

Thomas Rickert: I think that I personally would be okay with that. Let us - let me see whether (Pedro) who was the author of that language would consider this a friendly amendment.

Kavouss Arasteh: Actually the positive approval was suggested by Steve. I guess I didn't change that. So but I would be okay if just letting approval.

Thomas Rickert: Okay. So let's keep it - let me double check with the group whether there is remaining objection against the suggestion of using this language.

Sebastien?

Sebastien Bachollet Yes, thank you Thomas. Sebastien Bachollet. My concern is about this threshold here. We if to be clear if North America decides that they don't want the (unintelligible) to be moved with ICANN will never change place. Not to say that we need to do it but we need to have this flexibility. And I am raising that it's must be a lower threshold then the removing of the board or other thing like that.

It's very important we have some flexibility here and that it's not one single group for like in at the end of this. Thank you. Hope it's clear.

Thomas Rickert: They give Sebastian. Let me just remind everybody that we are not taking a decision on this now. We are including the both options, normal bylaws as well as fundamental bylaws in the report.

And since this remains to be a bylaw change we would still meet the threshold required for bylaw changes, normal bylaw changes at least. Kavouss, final word. Keep it please keep it brief. We...

Kavouss Arasteh: Yes.

Thomas Rickert: ...really need to move to the next topic.

Kavouss Arasteh: Yes. I agree with you. We are not dealing with threshold here. We are dealing with fundamental bylaw or traditional bylaw so we don't need to talk about threshold. Thank you.

Thomas Rickert: Thanks Kavouss. With that I think we can take that one off our list in terms of drafting the report so we keep both options in there.

So I would suggest we move to the next agenda item which would be the continued discussion that we couldn't continue before we broke after the I think it was the first session this morning and I will hand over to Steve to recap on where we were with the reviews that are going to be perpetuated in the bylaws.

Steve DelBianco: Thank you Thomas. Adam and staff would you please reload the big frozen drive document? Thank you. And what we'll be turning to Section 672 which begins on Page 48.

Prior to the previous, the end of the previous call to cover the chapeau of the items that are attached to all four of these reviews. And again the reason these reviews were brought into the bylaws is the affirmation of commitments is cancelable by ICANN pursuant to Stress Test 14.

There are four reviews in here and the first of which is the Accountability and Transparency Review. We always call it the ATRT and there have been two of those done already.

What I can quickly do is this is already a second reading on this one so we ought to be able to get through this fairly quickly. I'll highlight what the differences are between what the affirmation contains today and what we are proposing in addition to the chapeau items.

So again, Page 49. The ATRT, the first thing we did was made sure that the commitments that are contained in the first paragraph of the ATRT are reflected in bylaws and core values. And they are.

The second is under 1D. And again this is on Page 49. And the way that the affirmation was written under V used to say that assessing the role and effectiveness of the GCC in its interaction with the board, the role and effectiveness of the GAC and it's interaction with the board.

Kavouss and some other GAC members on Work Party 1 pointed that out as probably not the intention.

ATRT does actually evaluate the effectiveness of the GAC per se. It assesses the role and effectiveness of that GAC's interaction with the board.

And so Work Party 1 accepted that change and you'll see it right there at the bottom of the table at 49 that ATRT assesses the role and effectiveness of GAC interaction with the board instead of the role and effectiveness of the GAC per se. Okay so that's the first change.

Moving on to Page 50 what some of these notes in the right hand column are no longer as neatly aligned with the text they're supposed to be next to.

Item F in this list was in the AOC but it wasn't part of the alphabetical list. We put it in the list. And Item F to assess the extent to which they've implemented previous recommendation, not just ATRT but all reviews required.

The next item is a new item. It says the Review Team may a recommended termination of other reviews and may recommend additional periodic reviews.

That is new and it's there to try to give this review process some more inability to evolve that if in fact we don't want to do a Whois review five, to ten years down the road the ATRT is the team that can recommend the sun setting that review and creating new reviews.

And then the only other change here is the timing. The periodic review for ATRT is required every three years in the affirmation of commitments.

Work Party 1 is recommending that we give ourselves the flexibility that we do less frequently than every five years and yet we could do it more frequently if we wanted to. But the point is that we would only be required every five years instead of every three.

So Thomas I'm assuming you want to cover all four or would you rather do one review at a time?

Thomas Rickert: I suggest in order to make it easier for the group to follow we pause after each one and ask for comments. And I see Alan's hand is up so Alan you have the floor.

Alan Greenberg: Thank you very much. I have a fair number of points but I'll do them one by one and perhaps we want interaction on each one. The first one is just a note. The five years that you just talked about, the current implementation is from the start of the review, not from the when the report is received.

So you are in fact moving from three to five and adding a year plus to it. If you do that consciously that's fine. I'm just pointing it out. The next one is the introductory line where it says in this review particular attention will be paid to.

That line is more flexible than the original one in that it - the original AOC essentially said that the itemized points were all mandatory and moreover that they were exclusive.

The ATRT 2 had some significant problems in that there were things that we thought we should look at but they weren't listed and they were somewhat out of our scope or we believe that they were out of our scope.

And participants from the NTIA and the process confirmed forcefully they were out of our scope. So although I appreciate the flexibility that this we'll pay attention to which could imply ignore I think the words need to be a little clearer that this is not necessarily an exclusive list and the ATRT, the Review Group should have a fair amount of discretion on what they focus on.

And I'll get back to what they focus on in a moment because it's - implies something else. The last paragraph which you moved into a numbered one or a lettered one but was there is review other - the other review teams.

It became clear in ATRT 2 that number one we were being asked - we were the first one that was asked to review other review teams because of the timing.

Number one we didn't not necessarily have the expertise to do it properly. Number two it becomes an almost exponentially increasing amount of work for ATRT for the ATRT to do.

We made - I think we made a recommendation in our text. I know we discussed it that the ATRT that the review of the substance of previous reviews should be done by the successor review. That is the next Whois review should look at whether the previous Whois is implemented or not and to what extent it was that the ATRT aspect of that was purely on a procedural one that has the board acted on it, has things being done but not try to evaluate whether indeed the work has been done properly or whether it was effective or any other of those things.

So I really think you need to capture that version otherwise you're giving ATRT Review Teams an almost impossible task. And moreover they're going to have to be constituted differently to be able to substantively evaluate the previous reviews on radically different subjects.

That's all I have to say but I'll answer any questions if anything I said wasn't clear.

Thomas Rickert: Thanks Alan. Steve would you like to respond to that?

Steve DelBianco: The timing decision was made on purpose to make it as clear as we could to pick a point at which the board received it to begin accounting.

With respect to the listing inclusive or restrictive I don't think I understand that point but Alan could probably help me to understand it. And this was with respect to Item F and whether this list was limiting in some way.

And Alan your third point was that this is the degree to which they've implemented the recommendations you wouldn't take F out of their but I sense that you believe that F ought to be in every team's per view. And if it were you could go to the chapeau instead of being in each of the four reviews.

Alan Greenberg: Well...

Steve DelBianco: Was that your point?

Alan Greenberg: Yes. Whether it goes to the chapeau or not or is actually explicitly listed I is, you know, perhaps a style matter. It may well fit better within each review to look at the previous one even if it's repetitive.

I am not sure I know what the right words are. And I think the ATRT 2 report did have some words somewhere that says the responsibility of the ATRT in terms of the other reviews is purely on a accountability issue of is the board actually following-up on the other reviews not so much did they do Recommendation 1, 2 and 3 and how well did they do it.

So the wording that's there implies that the ATRT is doing a substantive review as we did in ATRT 2 but with great difficulty. And I don't...

Steve DelBianco: Alan this is Steve. As rapporteur for - yes as rapporteur for this section I would think that it makes sense to be repeated in each review. That's just my personal view.

Alan Greenberg: I...

((Crosstalk))

Steve DelBianco: ...everyone else.

Alan Greenberg: ...agree. I can probably try to find words for what F should be in ATRT 2 in ATRT. Certainly it - the ATRT must review the previous ATRTs. To what extent ATRA should review the Whois's and the SSRs and things like that I can try to provide a short sentence to cover that.

In terms of my first point I would like to see in the lead in sentence which currently reads in this review particular attention will be paid to something which includes but not limits but not necessarily limited to. You don't want to restrict the Accountability and Transparency Reviews because we didn't think to put something in a numbered list.

Steve DelBianco: So Alan it says in this review particularly - particular attention will be paid to. Is it your view that those words are limiting or merely suggestive?

Alan Greenberg: Yes I started out saying you added that sentence which it wasn't in the AOC and I thank you for it. I think it should be a little bit clearer that it is not limiting.

Steve DelBianco: I'll look forward to your suggested text but I agree with Jordan, there's nothing limiting about particular attention.

Alan Greenberg: No but having sat on the reviews of - never mind I won't go into the details. Clear words are better than vaguer words.

Thomas Rickert: This is Thomas. Just as a reminder we are not suggesting definitive language to go into the bylaws. We are talking about general statements, principles, idea. So I think wordsmithing can be done at a later stage.

So in the essence of time -- and this is not to rush you into consenting to the proposals -- I would suggest that we concentrate on the more principal matters on how things can be recommended to the community. Fiona's hand is up. Fiona please.

Fiona Asonga: Hello everyone. Can you hear me?

Thomas Rickert: We can hear you.

Fiona Asonga: Okay. Just to add on to the issue of the Review Team and how they need to work and probably why we need to have, we need to think about some (unintelligible) I just want to refer the team to Recommendation 11 on the ATRT reports where we did outlay the challenges that were in the Review Team being able to go through the work of all the other previous reviews.

And that entire recommendation, that whole section basically explains the issues that tie-in, why the year period is a challenge. And that is why when discussion of Work Party 1 insisted that we needed to look it terms of a broader timeframe.

It also looks at the ability of our Review Team to look at the other reviews and to what extent and what level because in the affirmation of commitment usually that was part of the responsibility.

But the general principles of what you're trying to achieve in that section of the reviews is actually captured in Recommendation 11 of the ATRT 2 reports. Thank you.

Thomas Rickert: Thanks Fiona. Steve?

Steve DelBianco: The second one it's right here at the bottom of Page 50. It's the review called Security, Stability and Resiliency or SSR. The first thing we did was make sure that the commitment first sentence was reflected in the core values. It is. The second thing we did is change the frequency to say that it was not required every two but no less frequently than every five years.

And though I realize that I believe it was James who had noted it ought to be done more frequently, well fine. The community can do it as frequently as it wishes James. It doesn't have to wait five years.

If there's a particularly pressing matter of security, stability and resiliency we can do the review more frequently because we are much more in control here than we were under the AOC. That's it for the second review, the SSR review. Thomas, do you want to take a queue?

Thomas Rickert: I would suggest yes I haven't seen any objection to proceeding with this. So I would suggest that we moved to the next one and maybe we can do two in a row and then open it up for questions.

Steve DelBianco: All right the next one is item review number - oh it looks like it's been taken out of order for some reason. So let's cover the number four. It's at the bottom of Page 51. It should be the other order.

So this is the one about reviewing effectiveness of Who is. And we've added the phrase directory services policy so that the word Whois is not limiting in case we come up with the Expert Working Group and we replace the whole Whois with some other form of directory services we want to cover both of them.

At the end of that first paragraph the sentence that begins with such existing policy also includes the requirements and the legal constraints regarding privacy as defined by OECD in 1980 and amended and next to there is the hyperlink. That is new.

That particular requirement is not part of the affirmation of commitments. But I believe it was Bruce Tonkin and Robin Gross who had suggested it in Work Party 1 accepted that idea so that is a new.

And as you read on it - AOC requires this every three years. And we said - we left it at every three years partly out of reflection that we're likely to see a change come as we move from Whois to some other form of directory services.

Let me move to the final one. It's the next page even though it's Review number 3. And this is a review that was specifically designed in the application affirmation of commitments which was 2009 at a point where it wasn't really a foregone conclusion that we would do a new round of an expansion of gTLDs.

So many of the words used in the affirmation text are things like if and when is an expansion of the gTLD program. There's also some very complex timing requirements with the number and quantity of reviews that are in there.

I think we've really simplified this one. The first thing we did was make sure that competition and consumer trust and consumer choice are reflected in the core values was one of the items that Becky had in the purple document yesterday.

And then the second paragraph right here on Page 52 is well how we finessed the timing. We said that the board should cause a review of the extrication of this commitment after any batch round of new gTLDs have been in operation for a year.

The AOC said after the expansion was done for one year. But we added the words batched round because it's possible ICANN could have been evergreen process were applications for new gTLDs are coming in constantly.

If that's the case then there's not a batched round under a single guidebook that would be evaluated a year later. Instead you relied on the periodic review which you'll see later in the very same box.

We also said that the subsequent rounds, this is underneath B, underneath B, subsequent rounds of new gTLDs should not be open until the recommendations of the previous review required by the section's been implemented.

And that is new. I believe that started with Kavouss and the Work Party supported.

And then the periodic reviews here would be no less frequently than every four years measured from the date they got the final report of the relevant review team.

The AOC also required a review two years after the one year review. And we believe that when you're looking at multiple batches of gTLDs that kind of frequency would be murderous on the community.

Thomas I believe that covers all of the reviews that we pulled in from the affirmation. I do realize we we'll have to add a review in the case the CWG does a review as part of its proposals.

We might well write their review in as the fifth periodic review. So I'll stop there. It looks like we have Mathieu in the queue.

Thomas Rickert: Mathieu fire away.

Mathieu Weill: Yes, thank you Steve. This is a follow-up on your latest point. I think we can definitely take on the action item to take some text from the CWG inputs and put at least a recommendation or a placeholder in our report saying the CCWG will recommend that a IANA performance review is performed at a regular pace according to CWG requirements, that some form of acknowledgment in our report that we are taking on board their proposal would be certainly useful. It doesn't have to be true detail at this point.

Steve DelBianco: Mathieu and that placeholder was right at the top of Page 53. And by putting it in this place in our document it inherits the characteristics of the chapeau four pages earlier with respect to how the Review Team is composed, their ability to have access to all internal documents right, the board's commitment to consider approval within six months of receipt and the use of outside experts.

So all of those chapeaus would carry over to it and in that regard the CWG may or may not appreciate all that. We might have to explain that to them more carefully.

Thomas Rickert: Thanks very much...

((Crosstalk))

Thomas Rickert: ...Steve for that - and Mathieu for the suggestion. If there are any opposition to proceed with the language as suggested? Sebastien?

Sebastien Bachollet Yes your question, it's Sebastien Bachollet. Thank you Thomas. It's not an opposition. It's a question. Why we have five years, three years, four years? I really think we need to simplify. And I think that five years could be good.

I understand that Steve give a reason for when we change from Whois to Directory Services or whatever would be the name of the next of the replacement of the Whois.

But we can put a caveat saying if and when and it will be like for the new gTLD program it will be done after one year of implementation or two years of implementation.

But I think that a simple for why we want to know that each five year we will have a review will be easier to understand. Thank you.

Thomas Rickert: That's Sebastien. And I'm sure that Steve can provide a little bit of rational for these proposals. Before we move to him let's hear Alan and then Kavouss.

Steve DelBianco: Yes. My hand was up when you said do we agree we're going ahead with the wording. I presume that's subject to the wording I committed to send to Steve and send to the group regarding the changes to the ATRT?

Thomas Rickert: That would be correct. And next speaker is Kavouss.

Kavouss Arasteh: Yes Thomas. I agree with Mathieu proposal that we take elements on the CWG, number one.

Number two in GAC we have discussed the new round of the new gTLD should not be linked to the particular period of time as in GAC preliminary we're discussing the issue with the NGPC that should be after necessary and sufficient adequate (unintelligible).

So I don't think that we should put one year or two years. So I agree with the many proposal made by Steve and what was proposed by Matthew but not necessarily one year or two years for new gTLD. Thank you.

Thomas Rickert: Thank you Kavouss. Do we have more comments or objections to the language we discussed?

Steve DelBianco: Thomas?

Thomas Rickert: Okay then yes who is that?

Steve DelBianco: That was Steve. I was going to note that in response to Sebastien's suggestion Work Party 1 has settled on three years for the Whois/directory services.

So do you want us to put 3/5 in the document noting that we had one suggestion? You know, I don't change it from three to five on the basis of one well-informed opinion. But I also don't want to slow you down.

Thomas Rickert: Well I would suggest that if it - if we have views from one individual and if, you know, we would not necessarily throw that out as the second option. We can make a note of that in the report. Does that answer your question Steve?

Man: Yes.

Steve DelBianco: Yes so I believe we have enough to go on.

Thomas Rickert: Thank you. Kavouss?

Kavouss Arasteh: Yes Thomas. I agree with you. We don't need to change 5 to (T25) because we'd be inconsistent with the proposal of CWG. And even perhaps we don't need to put out a note saying that one proposal was talking about (three years). Really be polite and say let's retain 5, be consistent with the CWG. Thank you.

Thomas Rickert: Thank you very much Kavouss. And with that I think we can close this part of the discussion.

To answer Robin's question we're going to talk about next steps in a moment. But before we do we have one remaining item for this part of the agenda. And that is to check whether we are fulfilling all CWG requirements. And in order to guide us through that I would like to hand over to Mathieu.

Mathieu Weill: Thank you very much Thomas. This is Mathieu speaking. I have prepared a small support which hopefully staff can show you too in the room.

But it's a recap of the expectations that the CWG has from our report. And that's basically a number one the ability for the community to rate hold a budget. As we've been discussing this is feasible.

And but this ability might be more enforceable under the membership model than it would be under all the models but at least we have an answer for that for the CWG so I would ticks that box.

We also - it's also expected that our group contributes to setting up an IANA function review. And I have a typo there. And we've just discussed that, that it be included as a fundamental bylaw that's a specific requirement from the CWG.

I see Avri's hand is - has shot up so maybe I - she needs to correct something or is that a question Avri?

Avri Doria: No. I think you've got it correct it may be my mistake in that I did not know until today that we were perhaps not thinking of the AOC like reviews going in as fundamentals.

So I had been in this group under the assumption that they were going in as fundamentals and carried over the notion into the CWG as it's now I think that that function review, the IANA function review from a CWG perspective needed to be something that was fundamental and not easily put aside by the board. And that's why it was being listed as fundamental.

But because we have said here -- and today was the first time I understood that -- that we weren't going for fundamental with the reviews I just wanted to

point that out. And I think it's a mistake that perhaps I perpetuated in my reverberation between the two groups.

Mathieu Weill: Thank you Avri. Becky or Steve for confirmation the reviews systems are currently not in the fundamental bylaw scope or Jordan maybe? Yes Jordan see that memo.

Jordan Carter: Goodness, you know what? I'm just trying to scroll to find the answer that question.

Mathieu Weill: Okay we'll come back to that later. I'll give you three minutes to scroll through it.

Steve DelBianco: Mathieu?

Mathieu Weill: Yes Steve?

Steve DelBianco: I wanted to note that it's not core values. We have suggested that these periodic reviews from the affirmation be placed into the bylaws in the same article, the same air duct where the other reviews, the other periodic and structural reviews live.

So Jordan if you look in there see if you've got something in there in bylaws Article 4 which is where the other reviews are.

And if we didn't reference Article 4 these reviews we could reference it and it would cover all of them. Thank you.

Mathieu Weill: So Jordan is confirming that currently the reviews are not in the fundamental bylaws. And Kavouss's hand is up.

Kavouss Arasteh: Yes. Mathieu I think the CWG puts this as to be fundamental law without being aware of what you are doing with all the reviews.

Perhaps what you could do, you could retain our proposal that all this review would not be fundamental law but they have to raise the flag that while the CWG for this particular issue proposed to be fundamental law but we do not break the chain that we have that does not modify. Yes, we retain our proposal be flagged for (unintelligible) and say CWG. Thank you.

Mathieu Weill: Thank you Kavouss. That was exactly what I was about to propose that we flag this as an orange kind of tick so that we engage the CWG to check whether they had also the good understanding of what it means and there's already a level of protection in the standard bylaws. So that's an interesting and useful check.

The ability - the third thing is the ability to review or challenge once again a typo the board decisions related to the IANA function review.

And I think Steve the current chapeau for reviews does provide reinforce the ability for the community to get better - I mean that the board takes to difference to the review teams. Is that correct?

Steve DelBianco: Each community group names its own Review Team members. They are not required to get approval of ICANN's chair or GAC's chair. Is that your question?

Mathieu Weill: No. My question was whether when the Review Team issues its recommendations my understanding is that the CWG wants to and the board considers the recommendations.

And the CWG would like to enhance the ability for the community to challenge the board if the consideration it gives to this IANA review recommendations is not sufficient or not - that's not appropriate.

So I think we - you enhanced, your proposals enhanced the way the board had to consider these recommendations. Am I correct?

Steve DelBianco: That's right. The affirmation of commitments requires only that the board "takes action within six months of receipt."

Our mission, what we did here was require the board to consider and begin implementation within six months. That's in the chapeau text.

So that is supposed to give, consider approval and begin limitation. That is supposed to be the trigger mechanism is if they consider approval and don't approve it that is the decision that's challengeable through either a reconsideration or an IRP. So I believe we've covered that.

Mathieu Weill: We will double check but that's certainly useful. And once that's in the bylaws obviously the IRP may be used if the board does not comply as well the other mechanisms we've been discussing.

And finally there was a request for the possibility to trigger ad hoc IANA reviews based on if something goes really wrong with the IANA function.

And I don't think we're covering that one are we?

Steve DelBianco: When we say no less frequently than every five years that leaves a possibility it could be done as frequently as the community wishes to convene one.

The power to convene the reviews is not driven by the board or staff. It's driven by the community.

Mathieu Weill: Kavouss?

Kavouss Arasteh: Yes. I have a proposal here and that is first of all with respect to the terminology. The ad hoc review I raised it before with Jonathan. They're in two parts of the CWG there are two different terminology, one referring to (explicit team) review, the other referring to (outside) review.

And they have agreed that later stage they align these two together and very probably they use a (explicit) review but not ad hoc review because ad hoc are very limited connotation. This is number one.

Number two, in order to cover this point which is very important I suggest that in our document when we're of five years we add something at the beginning of that paragraph saying that unless otherwise certified then go to the five years.

And this one with - fall under that otherwise it's certified, that means it might be ad hoc - sorry a specific whatever time is acquired as the - so the paragraph in our document they have to amend that and put that unless otherwise it's specified the review should be conducted and the frequency not less than five years. So leave the room for this exception. Thank you.

Mathieu Weill: Thank you Kavouss. I think the room is here for this exceptions. Avri you're next.

Avri Doria: Yes and apologies to Jordan and those that want to close this discussion. I wanted to agree with what Kavouss about ad hoc being the wrong term. It is special review.

And the language of that review which has not been written would include the manner of triggering that special out of cycle review. So I don't think there's an issue here. I think that one, that possibility to trigger is dealt with.

Mathieu Weill: Thank you Avri. And a final point is the ccTLD delegation revocation. We have addressed this point earlier so will not come back to this.

So I think which what I want to conclude unless there are objections is that we can set an action item for the co-chairs to liaise with the CWG co-chairs as we do obviously on a regular basis and ensure through discussions that there is no misunderstanding on this scorecard and of course get back to the group if there is anything special to report.

Izumi you're next on the line.

Izumi Okutani: Thanks. This is probably obvious but I didn't get a reply from my question on the chat so I just want to like double check.

But this IANA function review just covers the names aspect of the IANA functions and no other - the remaining two functions? I just want to confirm that.

Mathieu Weill: Thank you Izumi. I think in the CWG input it's certainly naming only put can't predict with certainty how it will evolve in the ICG final proposal.

So certainly the CWG scope is naming only. I don't know for the next steps.
Avri you may have additional information?

Avri Doria: Yes. And this may be one of the complexities. Indeed you're right. The only thing the CWG is recommending is that the naming.

However if the IETF and the RIRs are ICANN's clients for the services being performed by the PTI post transition IANA then ICANN as the entity that has those contracts could certainly expect that review to look at the overall effectiveness of IANA.

Mathieu Weill: Thank you Avri. Izumi is that a new hand?

Izumi Okutani: No old, sorry.

Mathieu Weill: Okay thank you. So with that I will close this item. And we are now moving into our last item. And I'm turning to Leon for the next steps.

Leon Sanchez: Thank you very much Mathieu. Well as next steps we would of course update our documents in the different sections.

We would incorporate that many feedback and very little feedback that we have received in these intense days sessions.

And the different sections would be addressed by either rapporteurs, staff or the co-chairs. With regards to the accountability mechanism section that would be something that we would be looking into with rapporteurs or staff.

And the description overall accountability picture will be something that the co-chairs will need to provide. And the summary of the accountability mechanisms is also a co-chair's task to produce.

The executive summary will be also passed to the co-chairs. And we need of course to set some times for having a final document for approval or a review by a larger group.

So keeping in mind that this is April 24 and we received many feedback in these days I think it would be useful to set may be May the 1st as a date for having a final version of the document so we can circulate it to the group list.

And we have two days to provide feedback on this final draft. And if we are okay with that final draft then we could open - but we can publish and open for public comment on May the 4th.

I don't know if those things sound reasonable to the rest of the group. We - would we have any objections to this proposed timeline with regards to adjusting the document and circulating the larger group for feedback and then opening the public comment for 30 days?

I see Kavouss's hand is up. Kavouss unintelligible.

Kavouss Arasteh: Yes. Well you said that you put everything together then you put it for I don't know, I had two days for comments or feedback.

I don't think that within those two days that we should come back to the fundamental modification. There might be some errors or some slight inconsistency within paragraphs.

But we should not come back to the initial or substantial modifications otherwise you would never get the date that you want to do it in first off.

So could you clarify that would be purely on editorial or inconsistency if any? And I don't know, should you receive anything substantial I don't know how we do that.

Do we arrange another physical, sorry virtual meeting or not? So please clarify the matter that - because it would be very risky that the document be open for fundamental changes. Thank you.

Leon Sanchez: Thank you very much Kavouss. Yes we will of course review these in our Tuesday call. But initially you are right these two days would be meant to proofread the document and have editorial feedback but not substantial feedback.

We would be putting this document together hoping that of course all feedback from this Intense Day sessions is fairly well reflected and incorporated.

So I don't think that would - there would be room for providing substantial feedback. So that would address your concern and of course allow us to move forward with publishing the document for a public comment. Any other comments on this?

Matthew?

Mathieu Weill: Yes thank you Thomas, Leon sorry. This is Mathieu. Just wondering whether the group thinks we have a call planned on Tuesday and we'll obviously

attempt to do other more substantial discussions in these calls if there are any.
But there are some parts of the document we need to review together.

I wonder if their group feels there is a need for another meeting maybe on this
Thursday for instance to ensure we are able to meet these deadlines?

Leon Sanchez: Thank you Mathieu. So I would like to call for the temperature feeling in the
room. It might prove to be useful. Mathieu's suggestion would be of course to
be incorporating with the running feedback to document as soon as possible so
we can have a first check on the document on Tuesday's call.

And I believe that from there we could decide whether we can just set up
another call for Thursday as Mathieu suggests.

So if there are no objections we will of course begin to think on it and keep
that in mind. So we'll of course kindly ask you to keep this in mind for any
agenda planning that you need to do on the following week.

And I see Kavouss's hand is up. Kavouss?

Kavouss Arasteh: Yes Leon. Could we leave the need or otherwise of that Thursday meeting
subject to agreement of the - or not agreement of suggestion by co-chairs plus
rapporteurs than any other people have been involved?

And so we will leave it to you to decide and we could transfer this
responsibility to you.

But at this time we don't decide on the Thursday but depending on the
comments you receive you may suggest that and you will do it I think maybe
24 hours or 48 hours before that Thursday. Thank you.

Leon Sanchez: Thank you very much Kavouss for this. And yes let's take this position on Tuesday. But we as I said would like you to keep in mind that this might be something happening so just for you to be aware on any agenda plannings that you need to in place for next week.

So with this the target for the (unintelligible) for public comment's already set. This would of course affect the CCWG timeline as of the last version we have since of course the opening of public comment was different. It was set for April 28.

So this would of course move things forward with regards to dates. And I would like to just ask Berry if he could give us a slight idea of how this would affect our overall timeline.

Of course I don't expect him to have the updated timeline at this moment but just to give us a really quick vision of how this would affect our timeline moving forward.

So Berry could you please take the floor?

Berry Cobb: Thank you Leon, Berry Cobb for the record. So I believe most in the group are familiar with the timeline structure we have.

This version was posted a while back and hasn't changed much since the dates had adjusted coming out of the face to face from Istanbul.

The version you see in the room does currently reflect the public comment start on the 28th of April as Leon and mentioned.

It does sound like that that will be adjusted to either the 1st or 4th of May. It sounds like the 4th of May. The only risk or not really risk, the change to that is that shortens the review of those public comments by a few days in preparation for Buenos Aires.

But the general idea is that once the public comment period concludes staff will compile all of the comments into a review tool and then the working group will review those comments and prepare a summary of that report for a review with the community in Buenos Aires as well as other materials to socialize what their latest proposal looks like for the Workstream 1.

The other thing I'll note is that once the public comment period has launched there will be a Webinar scheduled to also explain at a higher level what the contents of the Workstream one proposal are.

And likely although it's still tentative once the public comments conclude we do have an indication that there might be at least another repeat of an intensive work session to review through those comments.

We are expecting quite a large volume of comments for this so that will require time as well.

Outside of that then of course post Buenos Aires the CCWG will reconvene and under - and determine next steps and if necessarily launch a second public comment period but that's yet to be determined exactly how that will play out.

And other than that I believe the latest target for submitting the work stream one proposal is still towards the end of August. So with that I will just turn it back over to Leon. Thank you.

Leon Sanchez: Thank you very much for this Berry. This was very useful. And of course we have to keep in mind that after we close the public comment period as Berry said we need to review the comments from community so we can have something ready for us to work on in our Buenos Aires meeting.

And I see Kavouss hand is up. So Kavouss could you please take the floor?

Kavouss Arasteh: Yes Leon since this is our last meeting before the publication of the document once you're finished the course of action of this I - the question is possibly you made it below for about a minute for the general statement. Thank you.

Leon Sanchez: Will do Kavouss. So any other comments on the timeline? I see some comments asking to shorten the term, the period for public comment to 28 days and some of the comments asking to keep it 30 days.

So I think in terms of viability I think it's easier for us to stick to the 30 days period. And I would like to call for agreement or objections with regards to keeping the public comment period open for 30 days.

So if we agree giving it up for 30 days could we please signal with a green tick in the Adobe Connect room? Okay any objections to keeping it to 30 days? May you signal with a red cross if you oppose.

Okay so if my math doesn't - is not wrong I see only one red cross while I see many green ticks. So I think we have an agreement that we would stick to 30 days.

And Berry's in agreement. We would open the public comment period and we'll keep it open for 30 days. So Berry could you please keep that data in mind so you can update the time accordingly?

And well with this the next point would be of course to incorporate language on the timeline and the next steps that we just discussed into our matrix relay the language into Section 9 which is the section which Robin was asking that is so far completely empty in our draft report and will be Page 81 of the document.

So with this of course we should put what we just discussed into this section of document. So I think that would be all for next steps.

Sorry, I'm missing the advisors. The advisors would also be given a chance to review the document while we're crafting it. And we would of course review the stress test in response to the CWG while we're doing all of this tasks.

And with this I think we've covered pretty much the next steps and the work plan for next week before we go to public comments.

And now I would like to turn back to Thomas for our closing remarks. And I remind that I think Kavouss wants to make a statement for a minute so...

Kavouss Arasteh: Yes Leon. In the capacity of age seniority I wish on behalf of all participants members express our sincere in-depth and profound appreciation to the co-chairs to Mathieu, to Thomas, to Leon and to the chairs of the sub working group Jordan and (Richie) and subgroups that many people they have worked tirelessly.

You have organized, run the meeting in the most skillful manner, in the most comfortable manner, patience, sometimes even hard with you (sic) and you have been very, very kind with us.

You have always maintained your sense of humor. You have always given us the floor. No floor was rejected.

And the activities of CWG would put a gold record on the efficient way that the meeting could be organized in which the most difficult and sometimes most disagreeable issues could be discussed in the most agreeable manner in with the mutual respect with civility and so we sincerely thank all of you.

We also thank the distinguished participants who have collaboratively and covertly made all possible effort to come to some sort of consensus agreement.

I personally have learned a lot from you. For me was a good school, a good school to learn many, many things and I continue to do that.

I have put my work of day every day between six to eight hours expanding on this issue and I'm very glad to that.

Last but not least I wish to sincerely thank the ICANN staff starting from (Alex Jensen) and from Brenda Brewer and Berry Cobb and others. They have worked tremendously, tirelessly in particularly sometimes beyond the call for duty.

In more than - in less than an hour they prepare the notes and they replay to all of our requests, sometimes were bothersome. But they were always very, very kind.

And we congratulate ICANN as they - sorry Steve Crocker and Fadi Chehade and others have in such an efficient and skillful staff being at our disposal and helping us to finish this job.

And I thank you very, very much. And I hope that we have work to the extent that we could. And I hope that the work that we have done for the first public comment would be appreciated.

And I thank you all and I request we express our global and overall thanks once again to the chairs and the chairs of the subcommittees and the groups and the ICANN staff. Thank you very much.

Thomas Rickert: Kavouss this is Thomas speaking. What can you say after that? It's very hard to follow-up on that. We're humbled by your kindness.

Thank you so much for saying - you said a lot of what I was about to say.

So let me add to that that this meeting or this series of meetings over two days have been remote and there are advantages of being remote. And that is for example that you couldn't see me blushing when you spoke.

The other thing is that when you meet remotely you don't have opening cocktails so that spared you the tiring opening speech that I did at the last two events where we met face-to-face but we're definitely going to celebrate our group after we meet next time in Buenos Aires.

I would like to echo the appreciation and the thanks to our excellent staff, to our excellent rapporteurs, to lawyers that stood by with very constructive advice but last but not least to the whole group.

You know, being remote is very difficult. You don't get facial expressions to support what people are saying. This is very challenging in a culturally and linguistically diverse environment.

You are - you all have been great. So we achieved a lot in these two days and we are very much looking forward to working with you more.

And with that I'd like to adjourn. Thanks everybody. Enjoy the rest of the day, the evening, the night -- whatever time that might be in your time zone. Thank you. Bye-bye.

Man: Thank you.

END