LEÓN SANCHEZ:	Operator, can we confirm that the recording has started?
	Okay, so the recording has started. So welcome everyone to this third webinar on the CCWG on enhancing accountability. This is a webinar to review the third draft proposal on our work stream one recommendations. And a little bit of housekeeping before we begin.
	If you have any question, please do raise them in the chat box with the quote question and then unquote question. If you have a comment, you can do that as well with the quotes comment and then the unquote comment. You can also, of course, raise your hand if you want to make a question on audio. And if there is anyone on the…
THOMAS RICKERT:	Hi everyone, this is Thomas Rickert speaking. Obviously León Sanchez call has dropped. My name is Tomas Rickert, I'm the GNSO appointed co-chair and representing ECO. The Internet industry association. And we would like to welcome you to this webinar, the third webinar, international webinar with translation into all of the UN languages, plus Portuguese.
	As León mentioned, we would like to remind you that in order to facilitate responding to your questions, we would like you to put them into the chat, and indicate that you have a question rather than a comment, with a queue, or with a question with the word question in square brackets.

We suggest that we run through the slide deck that we've prepared with you in one go, and that we will respond to your questions afterwards. This has proven to make sense, particularly because some of the questions that you might wish to ask might be answered during the presentation at a later stage.

So with that, we would like to briefly give you an overview of where we are in the overall process. I'm sure that most, if not all of you, are familiar with this, but actually after the NTIA announcement last year, we have started, or different communities have started working on their proposals for the IANA stewardship transition, and the other three proposals by the CWG stewardship, CRISP, and IANA plan have been consolidated by ICG into one proposal.

And our proposal, the CCWG accountability proposal, is sort of the last bit that is required to be completed before the Board can then pass on the recommendations to NTIA. So time is obviously of essence for us to finalize the accountability part of the IANA stewardship transition proposal. Can we please move to the next slide?

And I suggest that León lets me know once he is back on the call so that he can take back over. Just as a reminder, there is a lot of accountability work to be done. Since we can't work on everything at a time, there are two work streams which are sort of splitting the work, not in terms of importance, but in terms of timing.

So we have work stream one, which is focused on mechanisms to enhance ICANN's accountability, that must be in place or committed to within the timeframe of the IANA stewardship transition. And our

report, the report that we're going to discuss with you today, is thoroughly focusing on that, and it only includes a commitment for what we call work stream two, and those are the accountability topics that can be dealt with at a later stage, and that, and the full implementation of which can extend beyond the IANA stewardship transition.

So we have prepared in our report, and we're going to get back to that later during this presentation, a list of items that our group and the community felt important addressing as work stream two after the transition. Next slide please.

So, on this slide you see the, covering the cover of our book, so to speak, including the work stream one recommendations. And we've tried to structure it in a way that makes it easy for the community to understand what we're doing. So we have a core proposal, which has 57 pages in length, and that is more or less a full on version of the update that we issued a couple of weeks back.

That was some 30 page long summary of our work. So this is a little bit longer, but we tried to maintain the spirit of the update document, and that is that we tried to avoid acronyms as much as we could, and that the recommendations are explained in plain language in order to make it easier to understand what accountability enhancement we're proposing.

In addition to this core text, you find 15 detailed annexes on the recommendations, all of which include a summary, and there are further appendixes including legal background information, minority

statements, and more than this. You can please look at the index of the report and you will find out more about that.

So during this webinar we can certainly only give quite a concise summary of where we are, you find all the details in the report plus its appendices. Also, we would like to remind you that we have a public comment period running. Currently it closes on the 21st of December.

And in order to facilitate the submission of comments, we have prepared an interactive dialogue based submission possibility for you, where you are asked questions on the individual recommendations, and you can either just tick boxes to indicate your level of support, or your displeased with your recommendation, and you have the possibility to also include free form text to express your view.

In addition to the interactive public comment box, we also have the possibility of using the, let's say traditional way, and send in free form documents to the public comment forum. However, we would like you to use the interactive format as much as you can, because that will hugely facilitate the analysis of public comment for our group.

And let me say in closing on the public comment period that all of the comments that are being submitted will be analyzed. We've done that for the previous reports as well. So it makes a difference if you chime in, if you make yourself heard. You don't have to be long with your comments. You don't have to comment on each and every aspect of our proposal, but it's important for us to get an indication of whether you support what we've been working on for a year, roughly now, or

whether you have severe concerns and maybe even can suggest an alternative.

Although we do hope that our recommendations have matured to a stage now after two previous reports that we have taken pretty much all community comments onboard, so we think that we're in very good shape with this report to come up with a cohesive architecture of enhanced accountability system for ICANN. Next slide please.

So in essence, we're basing our recommendations on what we call the four building blocks. When we started our work, we looked at accountability systems that are in place and are working, and an idea that you might think is very simple but it took our group a while to actually come up with that, is that we would more or less copy the accountability system's checks and balance system that you find in states.

So what you see here can faintly resemble a constitution, which are the principles, i.e. the bylaws. It can resemble an independent judiciary, which you find here as the independent peers and review mechanism. It can resemble the executive, represented by the ICANN Board, and you would have the legislature which would be the empowered IT community.

And that has seven community powers through which we're going to guide you in the moment. So basically we're using a concept that's been used for centuries, basically, and apply that to a multistakeholder based model in ICANN, and we think that allows for appropriate

enhancements or accountability to the global community. Next slide please.

So, with respect to the community powers. You find them graphically supported on this slide. So we have seven community powers. Some of you might remember from earlier presentations that we spoke about five community powers, so we added two just for the sake of completeness. So we've added the community driven independent review process explicitly, which was previously mentioned in the context of the independent review process, and also the possibility for the community to reject ICANN Board decisions related to IANA functions reviews.

A part from these two additions, we have the five community powers that most of you will already know, and that is the possibility to reject the budget, or strategic plan, or operating plan. So after the ICANN Board has adopted one of these items and the community thinks that its views are not adequately represented in these documents which are important for ICANN's act, it has the possibility to reject that.

Then there is the possibility to reject changes to ICANN's standard bylaws, and please do remember and take away that we are henceforth making a distinction between what we call standard bylaws and fundamental bylaws, which is the third community part. And the difference is such that fundamental bylaws are those bylaws that we think, or that the community thinks must be particularly protected against change, and must be particularly protected against change that does not have enormous community support.

That would be items such as ICANN's mission or the existence of the independent judiciary, i.e. the independent review process as such. And you will note here that we have a green checkmark in that upper right box on the screen, while we have red crosses for all of the others.

So the difference is that when it comes to budget or strategic plan, the community has the power to reject those. But for fundamental bylaws, we've structured the process to be such that the community needs to approve such bylaw change. So that it will not chime in after the fact, but it is asked to approve changes to these important components of ICANN's bylaws before they become effective.

Then we have two more community powers relating to the ICANN Board, one of which is the power to remove individual directors and the second is to remove the entire ICANN Board. And all of these community powers have dedicated chapters in our report, describing all of the niceties of the process and the approach to this. Next slide please.

What you see on this slide might look quite complicated, but it's actually pretty straightforward if you think about it. What's important here is that you see a path going up, right? So we're starting at the lower left corner of this slide, and that says engagement. And that's something that's sometimes forgotten when we discuss the outcome of the accountability group because everyone thinks that we give the power to the community, the power that was previously with the US government, and that the community would be asked on each and every operational aspect of ICANN as an organization.

And that is far from the truth. So we only have community powers for a limited number, a finite list of community powers, which I have described to you a moment ago, and only those would be invoked if and when consultation between the community and the Board fails. And in fact, the part taking place before this escalation path starts is even more important.

And that's what you're going to see in practice, and hopefully we're never going to see the escalation ever being invoked. So what's going to happen is that we are making a consultation process between the Board and the community mandatory. When it comes to budget, for example, the Board has done that on a voluntary basis already at the moment, but we're making it mandatory.

In order to avoid or limit the risk as much as possible, that there ever would be friction between the Board and the community. So if the community engages with the Board, ideally the Board would take onboard the community's wishes and concerns, take a decision, adopting the budget, let's say, and everything would be fine.

And only in case, that is not true, then the escalation would start, and that is the second E in what we call the triple E approach, and that is engagement, escalation, enforcement. So we're now at a stage where the engagement phase has failed, and where we need to escalate. And escalation is kicked off by an individual or a group being dissatisfied with the Board's decision, and actually petitioning that the escalation is triggered.

So this individual would need one group inside the IT community supporting this objection. And if this petition is approved by a SO or AC, then there would be a conference call. In order to save costs, in order to be able invite to such cost expediently, and the matter would be discussed, and only in case there is a certain threshold reached to further escalate, you know, it's perfectly possible that during the conference call the concerns would be removed, but if that's not the case, then we can further escalate.

And then a so-called community forum would be held, where the community meets physically in order to discuss the issue at hand, and to discuss the community power. And only if, only after everyone had an opportunity to express their views, the individual SOs and ACs would then take back all of the information exchanged during the community forum, discuss internally within the SO or AC, then come up with a decision whether or not they support exercising the community power or not.

And only if the required threshold of support for exercising the community power is reached, and only if the allowed for number of objections to or rejections of this community power is not exceeded, then there will be a decision by the community that a community power would be invoked. And at that point, the Board has the opportunity to rectify, to change the Board decision, and if they do so based, or in the light of the community decision, then obviously the concerns would be removed, and only if that is not the case, then the community can actually move to an enforcement phase where they either deploy the IRP to get an IRP decision against the Board, or if they think that there is

no point in further escalating, they have the opportunity to dismiss the Board.

So, this is the escalation path in a nutshell. Let's move to the next slide please.

And just to let you know that I'm not trying to steal León Sanchez's thunder, but there seems to be technical difficulties to get him back on the call.

Can we move to the next slide please?

And on this slide, you see the required thresholds for the escalation processes. So you see all of the seven community powers that we went through earlier during this call, and you then see the number of SOs or ACs required to hold a conference call, this early call. So if there is for example, let's take approval to changes to fundamental bylaws, which is number two.

Then if there is only one organization supporting this during the conference call, it will not be further escalated. Right? And then if the, I misspoke. If only two are supported of that, the conference call will be held. And if three support, then the community forum will be convened. And then for the ultimate decision, we would need four organizations supporting organizations supporting approval and no more than one objection.

And I'm not going to read to you all of the figures in the slide that's for your personal reading pleasure, but you get the idea that we have

different thresholds depending on the community power, the concerned. Can we move to the next slide please?

Now, you might be very, very interested about how these community powers can be enforced. At the right upper side of the slide that we discussed just a few minutes ago, you saw the third E which stands for enforcement. And that will only be required in case there is a community decision that the Board is not willing to honor, or an IRP decision that the Board is not willing to honor.

That you know, the usual case would be that if there is a binding IRP decision for the Board to implement, that the Board would do so, but only in case the Board is reluctant to do that, then the question is how can the community enforce its rights. And what we've done is that we further discussed the question of what legal vehicle can be used for enforcement purposes, and we've undergone quite a history to that question, but what's in our third report is the idea of the sole designator.

Previously we spoke about the sole member. So let's not confuse those two. Under the sole member model, which we have given up in the meantime, ICANN would be a membership organization, only having one eligible member. And this one member would be the entire community. So the SOs and ACs would form a single member.

And that was to ensure that not one single SO or AC can invoke the community powers that we discussed. But when we presented this, there were concerns raised by some and these concerns we haven't been able to remove. That number one, we can't 100% ensure that was

the fear, and I'm not saying whether I share this fear or not, but individual components of this member should go rouge let's say, and exercise powers they shouldn't.

And also there was a fear that powers and rights that are granted under Californian corporate law can be exercised and that can lead to destabilization of ICANN. So we've then changed the model to the sole designator, or as we call it, the empowered community, and this sole designator can do primarily two things. And that is place people on the Board, and remove people from the Board.

So for removal of directors, we would have the possibility of directing enforce those powers because they're granted by statute, and for let's say, the Board not honoring a rejection of standard bylaws, we would be able to enforce this directly, but we would have indirect enforcement by threatening the Board members to be dismissed if they do not follow the community's wishes.

So that's basically what we have under this new model, and that's visualized on the graphic in this slide, so you have the empowered community, consisting currently of ALAC, ASO, GNSO, GAC, and the CCNSO, and that has the legal power to appoint and remove Board members, and to remove the entire Board. Next slide please.

I should add that this sole designator is a very light [weight?] easy to implement structure that wouldn't require additional directors or additional administrative burden. It would basically be put into the bylaws, and it would exist henceforth. And you know, we use that

structure because it does not add additional legal, financial, or administrative burdens.

So let's look at one of those community powers as an example of how this community power exercising would function. So for individual directors, we've tweaked the process to address concerns that have been raised by some in the community, because they felt that individual director removal is something that's a little bit out of the ordinary. They thought that if individual directors are in constant fear that they might be removed because they're not doing what their respective community asked, and that independence would suffer, that directors would either not be willing to be directors on the organization, or that they would just parrot the wishes of the community and lose their independence.

And therefore what we've done is we've added transparency components to the process. And also we have added additional components in order to make sure that the director concern is adequately heard. So at the beginning of this whole process, the chair of the appointing organization will have a private chat with the director, and then there will be a community forum where the, where comments are being called for.

The director concerned will have the opportunity to public speak to the allegations. There will be recommendations published, and while the community can chime in on this whole debate, and enlighten the whole community on the various views there might be, it is only the appointing SO or AC that ultimately dismisses the Board member, or removes the Board member, and that is responsible for naming a replacement.

EN

So as you can see here, this escalation path pretty much is what we discussed earlier, so I'm not going to go through glorious detail here. Next slide please.

This is the example of the ICANN budget, strategic and operating plan. So what we've come up with in the third report, and actually I'm speaking primarily to the changes that have been made between the second and the third report, we do not have a one size fits all, or catch all rejection process for the community. But there is a separate petition required for the budget, might be the ICANN budget or the IANA budget, or the plan concerned.

So there needs to be a focused concern with respect to one of these documents. There needs to be a rationale, so you can't just claim that you don't like what you see, but you have to explain what you don't like about it, and then it's important to note that where the annual budget is rejected, a caretaker budget will be enacted.

And this is actually something that's currently being worked on in collaboration between our group and ICANN finance, as well as some directors of the ICANN Board that are very actively engaging in this process. And this is actually something that we should highlight and applaud. This is working very nicely.

So we would only have the possibility to challenge any of those documents, if the concern was not brought up during the engagement phase. So we don't want this to become a moving target for the ICANN Board, because the ICANN Board should know what the community's wishes are during the engagement phase, and only if that is not

adequately taken into account, then there will be the possibility to reject the budget.

And finally, the, and I think I mentioned that earlier, that we are looking at the IANA functions budget separately. So there are distinct processing for the various documents involved. So with that, I think we can move to the next slide. Let me just check my [inaudible] of whether León is back online, but it seems to be problematic to get him on the line, which is why I'm now continuing to present.

Let me just check whether Becky Burr is on the call. I think she's not. But in case you're with us Becky, let's just, let us know. And then we can let you present the enhanced IRP. Okay.

So then I will continue. So the independent review process has been called the crown jewel in ICANN's accountability process, and therefore I would much appreciate it if Becky was actually the rapporteur of the sub team, that has done excellent work on that would have been in a position to present to you, but I think she sent in an apology for this call tonight, or tomorrow, depending on the time zone that you're in.

But actually what we've worked on are enhancements to the IRP. And we wanted to make sure that some of the malfunctioning of the IRP are being addressed, one of which was that the IRP previously was only focused on procedural aspects and not on the merits of the case, so we wanted to amend that, and also we wanted to make it more accessible and have some other improvements that I'm going to show you through momentarily.

So if there is an aggrieved party, and if there is no possibility for ICANN and the aggrieved party to resolve the issue through dialogue and then settle, then the aggrieved party can actually kick off an IRP. And this IRP will be decided on by panelists that we select from a pool of seven panelists in total.

So we're going to select panelists based on criteria of expertise and diversity, so these would be people that would take the actual decision teams from, three decision makers, three panelists, for each of those cases. The beauty of that is that we have individuals that are knowledgeable, so we wouldn't ideally not exchange them too often, but they should be able to build up expertise.

So then the review panel is formed, consisting of three members, and they would make a binding decision that should be honored by ICANN. And as I mentioned, we're going to look for candidates that are found through a selection process where the community identifies those, they should have the required expertise, and they should meet diversity requirements.

So we're looking for regional diversity model to make sure that the [decisions] made are not only made by individuals that are coming from a specific region. We would also like to make sure that the outcome of the decisions has precedent, in order to allow for cohesive decision making for all IRP cases. So let's move to the next slide please.

Let me check whether we have Cheryl Langdon-Orr with us, she would [inaudible] at least listed in the list of attendees. So Cheryl would you like to do the CWG stewardship dependencies?

So I guess this might be the call of audio issues. So Cheryl if you can speak, by all means do speak up, but in order not to let the attendees wait, I'm going to proceed going through that slide as well.

So as you know, the CWG stewardship has been working on the technical proposal for the naming community. And you will not be surprised that the CWG, in its work, also has accountability requirements, and instead of risking duplicate work, the CWG has worked with us. We have regular meetings at the co-chair level, so that the accountability works on the accountability aspects also meeting the CWG requirements.

And in order to enable us to do so, the CWG has established the dependencies, which we call them, which you see on this slide, and approval of the CWG proposal was conditional to our group meeting the CWG stewardship dependencies. And the CWG required us to put in something to enable the community to reject or approve the budget, so they didn't specify that. They just said that the community needs rights, because when they establish the dependency, our works were not sufficiently mature to allow for exactly saying whether it's going to be an approval or a rejection process.

Then there needs to be the possibility to appoint or remove directors. There needs to be something in the bylaws on IANA functions review in order to ensure that this can't easily be removed on the CSC, the Customer Standing Committee and the separation process. The CWG asks us to make, the foregoing mechanisms fundamental. And you will remember that fundamental in terms of, for bylaws means that they can't so easily be changed.

And they wanted us to foresee the possibility to make the IRP accessible to IANA functions and accessible to managers of top level domain names. Although in this context I should say that we've been very cautious not to step over the line, so particularly when it comes to delegations and revocations of delegations for ccTLD operators, we are awaiting a respective policy to be developed by the ccNSO.

According to our views, we are meeting those requirements. We, know that there is work underway in the CWG to test whether our third report meets our requirements. There are some discussions inside the CWG at the moment. It would not be appropriate for me to anticipate the outcome of that, but I guess we can expect formal CWG feedback within the next couple of days. Next slide please.

So this is with respect to changing ICANN's mission commitments and core values. Those are the areas that are at the very beginning of ICANN's bylaws and we wanted to make sure that we cover the community's needs in this portion of the bylaws, because that is actually what is going to be used by IRP panelists, to see whether the ICANN Board has acted in violation of the bylaws.

So this would be the test to determine whether ICANN has acted appropriately or not. So what you find in the revised mission commitment and core values are the following points. We are clarifying that ICANN should strictly act in accordance with, and only when it's reasonably appropriate to achieve its mission. The keyword here is mission creep.

People were, the community was afraid that ICANN could expand its mission and mission creep into other areas that are not its core business, so we wanted to make sure that the mission has narrow as required. Then update, we updated the mission statement to clearly set forth ICANN's role with respect to names, numbers, root servers, and protocol port and parameters.

And thirdly, we wanted to clarify that ICANN's mission does not include the regulation of services that use the domain name system, or the regulation of content these services carry or provide. The key word here is content regulation. So we want ICANN, or the community wishes that ICANN does not do any form of content regulation.

And then certainly there are complexities going along with this, and therefore I really recommend you read our report if you're interested in this part of our work. We wanted to make sure that we encapsulate ICANN's mission appropriately, also having an appropriate demarcation of what the other technical communities are doing.

And we wanted to allow for ICANN to enter into contracts, particularly with registries and registrars, and to be able to enforce those contracts. And we wanted to ensure that we do not endanger particularly documents such as the public interest commitments that ICANN has already entered into it.

So from this you can see that it it's quite challenging, and the discussions on this topic are still going on despite out publication of the third report. So this is actually worthwhile following, because it's critical. Next slide please.

We wanted to also cover human rights. And when it comes to human rights, it is important to note that there are two aspects pertaining to this. One is human rights going into the dialogue in work stream one. And then secondly, to flesh out the framework of implementation for the implication of human rights in the ICANN world as work stream two.

There has been a sub-team working on the question of human rights, and this is the consensus that the sub-team came up with and that was supported by the whole CCWG. So the language that we propose to go into ICANN's bylaws can be found on this slide, and I'm going to read it out very briefly.

Within its mission and its operation, ICANN will respect internationally recognized human rights. This commitment does not in any way create an obligation for ICANN, or any entity having a relationship with ICANN, to protect or enforce human rights beyond what might be required by law. In particular, this does not create any additional obligation to respond or to consider any complaints, requests, or demands seeking the enforcement of human rights by ICANN.

So what the sub-team proposed, and what the CCWG confirmed, was the attempt to highlight the importance of human rights, to highlight the implication of human rights in certain areas of ICANN's activities, but yet make clear that this should not open the floodgates for third parties to come and approach ICANN and try to enforce rights or raise claims against ICANN.

So again, we're going to have to, or we recommend to have general language in the bylaws at this stage, and work on the full

implementation, i.e. the framework of implementation during work stream number two. Net slide please.

And for that slide, I would like to hand over to one of the rapporteurs of our team, that is Steve DelBianco. Steve over to you.

STEVE DELBIANCO: Thank you Thomas. As you probably understand, from everything that Thomas has described so far, the ACs and SOs that's defined in our bylaws, they are critical to make this proposal work since they need to represent the global Internet community. It's therefore essential that the ACs and SOs themselves be representative of the Internet community at large, that they be inclusive, especially with new entrants, and that they avoid capture, which is to say avoid having their internal decision making or processes or leadership overwhelm by certain elements of their constituency, which push aside the broader interest of the AC or SO itself.

So given that, there were two stress tests that the US Commerce Department or NTIA suggested, since they were concerned about the ACs and SOs themselves being accountable to the community. Those are stress tests 33 and 34, which we received in late June from NTIA, and we address those in our second and third draft by making a strong recommendation that you have on the screen in front of you.

And the recommendation is that the reviews of the SOs and ACs themselves, as part of work stream one, would be included in the bylaws under the existing structural reviews, because all of you know if you're part of an AC and SO, that every several years, your AC and SO

has a structural review, we're just concluding one for the GNSO right now. But those structural reviews are appropriate for reviewing the performance and operation of an internal SO or AC within ICANN, but we are going to expand them so that they explicitly address, is the AC and SO representative of the community it was designed to serve?

Is it inclusive enough and open to new entrants? And finally, has it avoided capture of its elected officers, capture of its voted upon positions? And how it interacts with the rest within the ICANN community. That would conclude a discussion on that particular proposal, and I think we're going to move to the next recommendation.

It's stress test 18. And the staff can advance the slide, I'd appreciate it. Thank you.

Stress test 18 also arose out of a stress test that was invented early on. It was a stress test that looked at the scenario where the affirmation of commitment is cancelable by either party with just a couple of months of notice. So after transition, that is to say after the IANA contract has been transitioned into ICANN's hands, there would be no leverage to hold ICANN to live within the affirmation of commitments.

And the affirmation itself imposes some significant accountability and review commitments on ICANN. So a future ICANN Board might want to walk away from those commitments and it could do so. So to ensure that we address stress test 18, we have taken a look at ICANN Board's commitments when it receives advice from the governmental advisory committee or GAC.

In the bylaws today, in article 11, require that ICANN's Board address GAC advice, and if it chooses to reject GAC advice, it would actually be required to enter into a consultation to try and find a mutually acceptable solution with the GAC. And all of that remains. But what stress test 18 identified is that it did not require the GAC advice to be consensus advice.

Therefore the GAC itself, in the future, could simply change its operating procedures from what they are today into something less than the consensus that they now require, because today the GAC requires when it makes a decision, that it's in the absence of any formal objection, which I think is exactly derived from the way the United Nations makes its consensus decisions.

So we believe that the ICANN bylaws were missing a critical element, which was to suggest that ICANN's obligations to try and find a mutually acceptable solution, should be there when the GAC sticks to the current method of decision making, whether it's the absence of a formal objection.

We went round and round on how to address this, and try to satisfy a lot of the concerns of GAC members, as well as members of the CCWG. And GAC expressed right after Dublin, a strong desire to say that the Board should require a two-thirds obligation, two-thirds voting, before it would project GAC advice and trigger this obligation to try and find a mutually acceptable solution.

And that is where we landed about three weeks ago, very close to the deadline of our third draft proposal. And the text you see on the

screen, really only changes the current bylaws starting with the sentence that said any governmental advisory committee advice, it's in the fifth line, the fifth line, there is only one new sentence. It says that any governmental advisory committee advice approved by a full GAC consensus understood to mean the practice of adopting decisions by general agreement, in the absence of a formal rejection, may only be rejected by a vote of two-thirds of the Board.

So today it's a majority of the Board can reject. This now requires ICANN's Board to get two-thirds. Two-thirds of the 16 Board members today would mean needing 11 Board members to vote to reject GAC advice. And that triggers the same obligation that exists today, that they try to work out a mutually acceptable solution.

There is an additional two parts that are in the proposal, they couldn't fit on the screen. But one is an acknowledgement that the GAC itself controls its own operating procedures, as it always has, and the GAC might well adopt procedures that make it a formal process for a country to register a quote/unquote formal objection. It might require formal rejections being noticed in advance, that they be sustained with discussions or consensus, support views within the GAC.

That's entirely up to the GAC. We are simply instructing ICANN's Board, hey, when you get GAC advice, ICANN Board, when you get GAC advice, if there is no formal objections, then we're going to say that's consensus advice, and you need to have two-thirds to reject it, and there is one other small addition, which is any advice from any advisory committee needs to be clear when it's presented to the ICANN Board.

And it needs to be supported by a rationale, since that rationale is how the Board and the community of ICANN will react to that particular advisory committee advice. And I believe there is a question in the chat room, make sure that I understand where it is.

Thomas, I'll looked for your guidance. It may have already scrolled by.

LEÓN SANCHEZ: Thanks Steve. We can move to the next slide I think, which is… This is León Sanchez, I apologize for the technical difficulties that I was taking to join the call, but now I'm back.

So what we have on the screen is the current CCWG accountability timeline. It has been a very tight timeline as you may be aware, and we are now reaching almost the end of the public comment period, which will come to an end December 21st. And just to recap for those that haven't been following the discussion in our previous webinars.

On November 15 we issued a formal update, and then on November 30th we published our third draft proposal for public comment. And this public comment period would last for 21 days, which as I said, will be ending on December 21st. And in the meantime if we issued, or this proposal was comprised of a detail report plus annexes and appendices.

So after we close the public comment period we will be, of course, analyzing all comments received. We would be looking into them and analyzing whether they arrive or carry any substantial changes to our proposal, to our third draft proposal. And we will have a deadline for comment analysis on December 31st.

And then we will assess, as I said, if these carry any substantial changes to our proposal, and then we would be sending on January 7 an amended report, if the case may be. And with this supplemental report, if issued, then we would be asking for the chartering organizations final approval. And if that happens, this is of course something that is highly conditional, then we would be delivering the final report to the ICANN Board by January 22nd.

So this is a timeline as it has been carried. This is the timeline as it stands today. But of course we are aware and we acknowledge that things might change depending on the input that we receive in the public comment period. So if we could move to the next slide please.

So what we have now in your screen is work stream two committing to further accountability work in work stream two. And as you know, and as Thomas explained at the beginning of this session, our work as a working group was divided into two working streams. And work stream two is that part of our work that should be, or should be carried out, after the transition takes place.

And as part of work stream two, the CCWG on accountability is proposing further enhancements to a number of designated mechanisms that this would actually be the facing would be refine the operational details associated with some of the recommendations in work stream one.

So for example, as part of work stream two, we would be working in diversity. There have been some comments or many comments received on how diversity is a very important part of ICANN's

accountability.   And we would also be looking at SO and AC accountability.

We must remember that we do have some work already done in this end, but we are also worried that there is more to be done as part of work stream. So we would also be working on transparency. This is of course tied to inspection rights as we have depicted them on work stream one.   We would also be developing a framework of interpretation for the bylaw that takes care of human rights, on ICANN's commitment to respect human rights.

We would also be following the discussion on jurisdiction, which has been agreed to take place as part of work stream two. And we would also be including, as part of work stream two, the work that the community has asked in regard to ICANN ombudsman. There has been a number of concerns and a number of comments in regards to the role that the ICANN ombudsman should play after the transition takes place.

So this would be part of work stream two. Then we would be also having a looking at the interim bylaws. There might be one or more interim bylaws that would be in place, so that work stream two work is actually guaranteed to happen. There have been some concerns on whether work stream two would actually happen, or whether work stream two would only be forgotten after the transition takes place.

So what we have in mind and what we want to do is to actually guarantee that this work that has been thought of as part of work stream two, is actually happening. So for this, we would be design an interim bylaw…

…something that folks seems to, some forgotten world after we have the transition. So can we move to the next slide please?

So the bylaw change approval, we need to remember that there is a process in place on today's bylaws, as for bylaw change approval. We have this bylaws that the proposed bylaws, they are published for public comment, and then after assessing those comments, then the Board incorporates those comments or simply approves what they have proposed as amendments to the bylaws.

So an example has been raised where policy making and the policy's veto power might clash.   And the scenario is the following.   The outcome of the PDP with a supporting organization, let's say the CCNSO, could mean that some consequential changes to the ICANN bylaws were needed to implement its recommendations.

The PDP is of course, the core policy making and should not be subject to community veto. And if this PDP did require bylaw changes, and those changes were subject to the veto, in effect the community veto would apply to policy making. So a proposal is being discussed in the CCWG accountability needs to address this issue. So we have been thinking about how to actually not fall into this scenario.

There has been a wide discussion in our mailing list and in our meetings. And we think that we have reached a solution for this scenario. And this scenario would require that if whatever bylaw change is to be made as a consequence of an outcome of a PDP, then that bylaw would only be able to be vetoed if the PDP supporting organization where it took place in the first place, would actually approve this veto.

So for this, if the community didn't have the originating supporting organization onboard, then the veto would of course not take place. And this would safeguard, a PDP would not be subject to community veto as the scenario has depicted.

So now it's time for questions. We have received a number of questions that are on the notepad. And since there are many from a couple of persons in the call, what I would like to do is, of course, go through the questions. And I would go for one question per person, and then if we still have time, we will go through the next questions from those same persons, and with the assurance that if we don't have time to address everyone's and each of the questions that have been raised, we would also be providing some follow up and answers in written form, so that no question remains unanswered.

So the first question that I have on the notepad is from Jeff Newman. And the question is that whether on this webinar, can you please cover the recent Board comments and the plans to address, if at all, those comments?

This question has been addressed on the chat, I replied to Jeff on this question. And I believe that has already been answered. Jeff if you feel that it wasn't answered, please do raise your question. The next question is from Kavouss, and the question is, what is the purpose of a negotiation with concerned parties?

And I think I have also addressed this question. I have requested clarification from Kavouss as to what negotiation he is referring to, because we are not aware of any negotiation taken place.

Then I think that we have a question from Annaliese Williams, which is the thresholds assume that five SOs and ACs will participate as [inaudible] participants, it appears that they choose to participate on a case by case basis. Is this correct?

Well, the answer would be yes. A given SO or AC could choose to actually participate in a case by case basis. So that would answer the first question. Then what if more than one SO and AC abstains? In the slide that Thomas showed with the thresholds, I believe that it was explained how the different thresholds would actually play when they were needed.

So I believe that we should take a look at that slide to see how the different thresholds could play. So I think that's slide seven, and for that I would like to turn to Steve to further explain what would be the effect of the different thresholds. Steve?

STEVE DELBIANCO: Thank you León. Annaliese, as you indicated, the assumption in these thresholds is that five of the ACs and SOs, five of our seven, would be available to participate. And the reason we said is that the RSSAC and SSAC had politely but insistently said that they would prefer not to participate. So we didn't count them in there.

So given that we had five ACs and SOs potentially to work with, the decision threshold just beyond slide seven, if you're not there, I would recommend going to slide seven, you all have scroll control of the slides. You'll see that for some of the community powers, the act of that power requires three of the five ACs and SOs to support, and no more than one

objecting to it. Some of the powers though, Annaliese, require four ACs and SOs to support and no more than one objecting. So for those higher powers, for instance, rejecting an ICANN Board decision in the review of an IANA function, it would take four of the five to support, and of course, if you had four, there would be no more than one objection.

So if there is a situation where since you're from the GAC, I'll frame it your way, if the GAC decided it wanted to participate in a decision but then decided, at some point, to abstain, no one can force an AC and SO to weigh in. You might just, from the GAC's perspective, you might just give advice to the community. You might not say we support or oppose the exercise of the power.

And if that's the case, we would have only four to work with, and for those powers, all of the remaining four ACs and SOs would have to support it, in order for it to proceed. But you can see the problem, if we ended up having one of the ACs and SOs routinely abstain these thresholds could be very challenging to reach, especially if some other AC and SO occasionally abstained.

So that is why the CCWG has openly invited the GAC to participate as an equal decision maker among the community members, but we're anxious to hear what the GAC's intention is with respect to exercising that. And we do understand that it's an opt-in case by case basis, and no one can be forced to decide, they may well abstain. And I hope that answers your question.

LEÓN SANCHEZ:	Thank you very much Steve. We have some questions from Greg, Jeff, Kavouss, and I would like to see if there any participants in other languages that would like to raise any questions? We have, of course, interpretation in different languages, so I would ask the interpreters if you could please ask those who are on different language channels if they do have questions, and if they do, please raise them.

In the meantime, I will continue with the questions in the notepad. There is another question by Kavouss on why the IANA budget, which is a major concern of many communities subject to the approval of the entire community. I think that is not a question for us to answer. This would be a question that needs to be answered by some other forum.

And as a matter of fact, the IANA is not, the IANA budget is not subject to approval. At best, it could be a community rejection, but not the IANA budget approval as it has been stated in the question. Then the policy issue are exclusive powers, and responsibilities of the governments, why other community entered this area, which may not be relevant to the responsibility.

Stress test 18 is an example of this intrusion in the area of authority of governments, with this 2003 and with this 2005 in which more than 19,500 people of [inaudible] participate, confirm that exclusive authority of the governments of policy issues. I think that's more of a comment and not a question. And I think nobody is actually taking that ability on the GAC to come public policy matters with our proposal.

And then a question by Jeff Neuman. How again would nominating committee appointed Board members be removed? And I am not sure

if we have one of the rapporteurs for this issue on the call, or maybe Thomas, would you like to comment on that?

THOMAS RICKERT: Thank you León. Let's just test whether John Carter is on the call as well, so John might wish to answer because he's the rapporteur in charge.

Okay, but that doesn't seem to be the case. So in a nutshell, the differences between non-nominating committee appointed Board members and nominating committee appointed Board members in the removal process would be that for the first category, i.e. for the nominating committee appointed Board members, it would be the community that takes the decision on removal, yet it would be the nominating committee's duty to find a replacement candidate, and for those directors that have been placed on the Board by SOs or ACs, we would have to process I outlined earlier during this call, but the ultimate removal would be exercised by the designating SO or AC.

And with that, we can move to the next question from Kavouss. Many of the co-chairs expressed their view on dividing the mission into two parts. One part very concise and high level dealing with mission, and the second part is moving the rest of the mission text into scope. I'm not sure I understand the question, but that might be me. So can I ask León or maybe Steve or Cheryl to chime in and help with this?

On Kavouss's question, Thomas?

LEÓN SANCHEZ:	Okay, so Kavouss is asking for us to provide our view on dividing the mission into two parts. One part very concise and high level dealing with the mission, and the second part is moving the rest of the mission text into scope. I am not really sure I do understand the question Kavouss.
	I would definitely ask you if we could take this offline, and we could elaborate on the question so we can provide a proper answer. I am seeing and I am aware that I have disappointed you with my previous answers, and the intention is not, of course, to dodge the questions. I am doing my best to answer your questions.
	At some point, we do need some clarification on different ends. So I will now go to the next question of Jeff Neuman. What is the CCWG rationale for including the two-thirds vote provision and stress test? In this stress test, I assume that you mean stress test 18. So I would turn to Steve for him to explain why the two-third vote provision was included in this stress test.
STEVE DELBIANCO:	Thank you León. Jeff and others, slide 16 is the stress test 18 slide. And what we had move to, I'll give you a quick evolution in this. January of 2015, in response to stress test 18, it was a rather simple change, which simply put the word consensus into the bylaws as the third sentence. That is to say that any GAC advice supported by consensus if rejected by the Board would require to try in good faith to find a mutually acceptable solution.

That began to evolve b some who wanted the word consensus to be more explicit and trying to memorialize the way the GAC has operated in its entirety with ICANN, and that was supporting the absence of any formal objection. At the same time, GAC members and CCWG brought back onto the table their earlier requests that the Board muster a two-thirds vote to decide against following GAC advice.

And they cited the notion that GNSO and GNSO policy, consensus policies, also requires two-thirds vote of the Board to act inconsistently, and this was seen as the compromise I spoke earlier that we tightened up the requirement, that our Board doesn't have to negotiate a mutually acceptable solution, unless the GAC advice is supported in the absence of any formal objection.

So that memorializes today's language. That is the harder line, and at the same time, we added the two-thirds requirement for that strong threshold. To date, simple majority of the Board means 9 of the 16 votes. Two-thirds means 11 votes of the Board. And the CCWG felt that this was an appropriate tradeoff to require two extra votes of the Board to reject GAC advice.

But the only advice of the GAC that carries this obligation of finding a mutually acceptable solution, is that advice that was supported in the absence of a formal objection. Jeff, I hope that explains it. And some of you in the chat have been saying that this forced the Board to vote on all GAC advice, and I think that you're really over reading it. The first two sentences here, that you have on slide 16, are verbatim from the current bylaws.

So the current bylaws just say that our Board has to duly take into account advice of the GAC, and inform the GAC and the reasons why it decided not to follow. So that is all verbatim from the current, so the decision not to follow is being formalized is the decision not to follow GAC advice is going to require two-thirds vote of the Board, if it decides not to follow it.

It doesn't mean that the Board needs to vote on everything and all of the time. I hope that answers your question.

LEÓN SANCHEZ: Thank you very much Steve. And don't go away too fast because I think the next question is also something that you can help us to answer, and this is a question from Greg Shatan. It says that this bylaw currently makes no reference to voting. The revision states that GAC advice can only be rejected by a vote of two-thirds of the Board. This appears to create an obligation to vote on every piece of GAC advice.

Could you comment on that Steve?

STEVE DELBIANCO: Yeah, I believe León I just answered that. It's that the only time the Board would have to record a vote is if it decided to reject GAC advice. And today, if the Board were to make a decision to reject GAC advice, it need only muster a simple majority, but in fact it does vote if in fact the Board is going to reject advice.

If the Board is implementing GAC advice, or duly taking into account in a way that's consistent with the advice. My sense is that the Board

doesn't take a formal vote. It's only when it decides to act inconsistent with GAC advice, that it votes today on a majority basis, and in this proposed recommendation, it would need to meet two-thirds or 11 votes to reject that advice.

LEÓN SANCHEZ: Thank you very much Steve. The next question, and the final question in the notepad, is from Jeff Neuman. And he asked if we can have a community call to discuss any changes that the CCWG is thinking of making as a result of the Board. And for that, I will turn to my co-chair Thomas Rickert. Thomas.

THOMAS RICKERT: Thanks very much León. Jeff, thanks for the question which I think is a follow up to your first question during this call. Let me remind everyone of the process that León has outlined earlier. So at the moment, we're in the public comment period.   And we're going to analyze this comment that we're receiving. That is comment from the chartering organizations or feedback from the chartering organizations, feedback from the wider community, and feedback from the Board.

So we will discuss with our group when we analyze all of the comments, as to how our group wishes to react to comment, regardless of whether that is Board comment or other comment. I think it would be unfair to disrespect to others that put energy into writing comments if we gave special treatment to the Board comments, or even if we interrupted the process that we've agreed with the CCWG.

So for the moment, please do expect us to analyze Board comments together with other comments. That is not to ignore the fact that the Board has a special role. Since the Board is the entity that is going to pass on our recommendations to NTIA, and you will remember that there was resolution passed by the ICANN Board that they would pass on the community proposal on an as is basis, unless 75 or more percent of the Board think [inaudible] that the recommendations are against the global public interest.

And as you know, it is yet to be seen what the exact wording of our final report is going to be. There might be some tweaks that we're going to do without really changing the substance. There might be the acknowledgement that we are going to deal with certain aspects during the implementation phase, and I think it will only be at that point in time when an assessment needs to be made to what extent the Board's special function requires to have further debate on that.

That is not to say that we're putting the Board's comments on the back burner. Nothing could be further from the truth. They are getting as much attention as the other comments receiving. We very much appreciate the thoughtful comments by the Board, and the diligence with which the Board has analyzed our report, so that is much appreciated.

But the exact way on how the recommendations and the comments by the Board are being taken into account are going to be subject to CCWG discussion.

LEÓN SANCHEZ:	Thank you very much Thomas. I see another question from James Bladel presuming that the Board determines whether or not its actions are complying with GAC advice, and not the GAC. I am not sure I understand the question. Steve, would you have a clue what James is trying to raise here?
STEVE DELBIANCO:	This is not a question about our proposal, but about the status quo. Today, if the Board of ICANN decides to act inconsistent with GAC advice, then it enters into the obligation of trying to find a mutually acceptable solution. And that process would be triggered today if the ICANN Board itself determined that it was not going to act consistent with GAC advice.
	If the Board made a determination that way, but the GAC disagreed, my guess is that they would have that disagreement in a very public way, and try to figure out whether they had acted inconsistently. That only provokes the obligation that they try and find a mutually acceptable solution, but not necessarily that they do find one.
	And I don't believe that's being changed as a result of our proposal.
LEÓN SANCHEZ:	Thank you very much Steve. I answered a question from Laurie [inaudible] on the chat box. Her question is, does the transparency work contemplated in work stream two, envision transparency with regard to decisions made regarding contract compliance.

And the answer to that is that we don't have a clear answer for that at this stage, as the scope of that work would be to defined within work stream two, but I do think that the different members from all of the chartering organizations should push for the different topics that are of their interest.

And I do believe that this would be one of the big issues that needs to be dealt as part of transparency in work stream two. So I hope that answers your question Laurie. And I see no other questions. And I do see Kavouss hand is raised. So Kavouss, would you like to take the floor?

Oh I see that Greg had a second question, but I must have skipped it. I see a question on articles of incorporation Greg, on whether changes to articles of incorporation have the same approval requirement of the fundamental bylaws. I don't know if that's the question you're referring to, or if there is another question.

Okay, so if that is the question, I tried to answer in the chat. And the answer for that was that, it's currently being considered by our external counselors, but I do believe at some point, articles of incorporation, or some articles of incorporation, would be subject to this process.

So there is not a definitive question for your answer, but what I can tell you is that we do have this question in mind, and it has been passed to external counsel, so they are taking into account, I mean to be considered and included as part of the final proposed text that we will be including in the bylaws.

Okay, so I hope that answers your questions. And we are reaching the top of the hour. We have, I mean half past the hour. And we have Kavouss hand up. Kavouss, would you like to take the floor?

Okay, Kavouss, we cannot hear you. But I am aware that you have, that you have pointed that none of your questions have been answered.

KAVOUSS ARASTEH: Do you hear me please?

LEÓN SANCHEZ: Yes, we do hear you now.

KAVOUSS ARASTEH: Yes, thank you very much. León, unfortunately, you tried to escape to answer any of my questions. You are very well aware of all of the, but you did not want to answer them because they were quite clear. You have not read the email exchange between Bruce and the CCWG regarding this vision of the ICANN mission in two parts.

One part in the mission, the other part according to the scope, and there is a lot back and forth, and you said you don't know about that. I'm very [inaudible] that the co-chair is not [inaudible] of that. It is very unusual that the co-chair does not read the messages.

So you do not…

CHERYL LANGDON-ORR: Cheryl here.

UNKNOWN SPEAKER: Kavouss!

KAVOUSS ARASTEH: …that is when… [CROSSTALK] …does not answered that question…

CHERYL LANGDON-ORR: Cheryl Langdon-Orr here.

KAVOUSS ARASTEH: …did not answer. Thank you.

CHERYL LANGDON-ORR: I would suggest that as we all said we will answer the questions you raised in writing when we can better understand them, and we said we would talk to you to help us understand it, I find your attitude towards the co-chairs somewhat disrespectful, indeed to all of us. We have read all of the exchanges, and not one of us, that is five of us, understood the exact thing you were asking us to respond to.

We will be responding to it. We will be responding to it in writing, and I think we have made every attempt to answer all your questions on every webinar you have raised them. And we will be answering these. If I think we need to go back to the co-chairs, who will probably be

wrapping up the meeting because we are two minutes past our time. Thank you.

LEÓN SANCHEZ: Thank you very much Cheryl. Thank you very much Kavouss. And as Cheryl has kindly pointed out, we will be providing answers to your questions in writing, and at this point, I believe that we need to wrap up, because the interpreters need to join another call.

I am aware that there have been two more questions raised by Greg and Lori Shulman, and I do ask their understanding for us to come back to them and provide an answer in writing.

So at this point, we would like to thank everyone on this call for attending, attending the webinar. And thank you to the interpreters for their kind support, and of course, the staff and all that have joined this webinar. Thanks to the rapporteurs as well and my co-chairs. Thank you very much. This call is now adjourned.

[END OF TRANSCRIPTION]