

ICANN

**Moderator: Brenda Brewer
July 13, 2015
3:00 pm CT**

Coordinator: The recordings have started. You may begin.

Jordan Carter: Thank you very much. Hello everyone. Good morning, afternoon, evening, wherever you are. My name is Jordan Carter for the record, (unintelligible) and the (rapatore) for Work Party 1 of the CCWG on Enhancing ICANN Accountability. This is our meeting on the 13th of July at 20:00 UTC, and welcome everyone to the call. And I look forward to us working through the items that are on our agenda today.

The agenda draft was circulated. As I said at our last call, I think we all acknowledged the time pressures that we're working under and things aren't always perfect. And I know that we've got from Izumi on the standard bylaws. We have pieces from Alan on the individual ICANN directors and community mechanisms, and Keith just advised that he hasn't got to the update on 5.6. So we'll talk about that at the end of the call in item seven instead. And I did get the bylaws stuff out to use.

So we've got four chunks to work through and then in kind of actions for the freeze, the document freeze, which happens at 23:59 on the 14th of July. So it's in about 28 hours from now. That's when we'd have any papers that we're sending through to the CCWG meeting in Paris ready to be compiled and (unintelligible) by the staff. Yes, Keith, that will give us more time but just means we'll have to review your document by you now. So I hope that it isn't all that far away.

So that's my review of the agenda. Are there any items to take into account at this point that we need to be adding to this agenda? And remember as always, if you think of any such item during the call, we can add them in the any other business item right at the end.

I'll take that as no. And I think then our first doc to look at is the standard bylaws paper that Izumi has prepared. There was both the paper she - the paper which shows a couple of very small track changes, and then there was the covering e-mail that she prepared, which set out a few points for us to discuss. So, Izumi, let me hand the call over to you to take us through this discussion as you see fit.

Izumi Okutani: Good morning everyone from (Coco). So this document sent on the screen that with the edited changed, okay. So there actually aren't that many changes made to the document itself, as you can see. So a change that I made is changing the period of adopting these changes. So I deleted the period of two weeks and we have to decide on what period that we put as the alternative, whether that will be 30 days, 60 days, and other options from those listed.

And another change that I made is that instead of requiring three-fourths of the level of support, several community members expressed lower ratio of support, which was two-thirds, so I changed this part. And this makes it

consistent with the proportion of support that is required for the board to change the bylaws. So it makes it the same ratio.

And then the last point that I changed is the very last paragraph that instead of - well this is not something, deleting something, but I've added that for when a particular set of standard bylaws changes are proposed, the community is able to reject the changes up to twice. So that is putting a limit in the number of times that the community can reject changes to the bylaws.

So that's this - all the three points that I changed in terms of the text. Maybe I'll stop here now and then after I hear any comments or questions, I'll go on to explain about the additional considerations that we have to make as a group.

Jordan Carter: Thanks, Izumi. Do you want to manage the speaking queue or would you like me to do that for you?

Izumi Okutani: It would be nice, Jordan, if you could manage the queue. Or maybe you can walk me through as I do it. So I see Steve on the top. So, Steve, would you like to go?

Steve DelBianco: Thank you, Izumi. The last paragraph change, the text that's in red, can you give us some indication of what kind of public comment support there was to add that? And I'm just shocked at it since well frankly this would allow the board to push a bylaw change through, because what would happen after two rejections? Does the bylaws change go away or does the board get their way?

Izumi Okutani: Yes that's a good question. I think there was just one suggestion on the public comment. And I didn't need to observe any contradicting comments. So I've reflected this. But if you have concerns, as you've expressed, I think this is something that we can still discuss as a group.

Steve DelBianco: Izumi, you probably had in the neighborhood of 40 dissenting comments. So all of the comments that support it, the question that said, "Do you support the proposed changes, the proposed powers to block a bylaws change?" All of us who answered yes to that are in opposition to the one commenter that thinks that that power should be limited to only two times saying no.

Are you with me on that? I think you missed all the comments in support against that. And without articulating what happens after the second rejection, this completely leaves us in question as to whether after the second rejection the bylaw goes through or after the second rejection the bylaw dies.

Izumi Okutani: Okay sure. I understand your point, Steve. I think this is open for discussion. Steve, so if you don't have any further comments, I'll go to Alan.

Alan Greenberg: Thank you very much. Just a very small point, and I haven't gone through the rest of the document, but very often documents like this we'll see a threshold of three-quarters or two-thirds and some of them will say greater than and some will simply cite you must reach that number. I don't really care which it is but we should be consistent.

So someone needs to go review the whole document and make sure that wherever we're citing a fraction that it's either you must reach that fraction or you must be greater than that fraction. I know in a number of sets of rules I've seen it, including the bylaws, some were one way, some were the other way, and that makes for confusion.

Izumi Okutani: Understood, Alan. I don't recall over, the word over, but I think it would be good to double check, sure. Thank you for this point.

Alan Greenberg: Yes, it's not really your job, but someone along the way should do a consistency check before we submit the document again.

Izumi Okutani: All right sure. Understood. Thanks. So let's go to Mr. Arasteh.

Kavouss Arasteh: Thank you, Kavouss is speaking. I suggest that we take the document perhaps in order but I have no problem to start from the bottom. I am also surprised by the number of the rejection or time is limited too. Where did these two come from? I don't think that we should have arbitrary selection and I think that we discussed that if the ICANN board changes the bylaw and we need to have a clear course of action, and I don't think that we - at least I have difficulty to agree with the replacement.

I prefer to have the initial paragraph without any limit. So it weakens totally the situation, and that is important. We are dealing with the bylaw, whether standard or not. That bylaw is the fundamental provisions of the entire process, so I have difficulty to agree with the proposed changes and I am in favor to retain the initial paragraph.

Once again I would wish, if distinguished colleagues agree, to start discussion paragraph by paragraph but not jumping, because for me it would be difficult to follow. But for the last paragraph, I do not support the changes. Thank you.

Izumi Okutani: Okay thank you very much, Kavouss. So your point's taken, as well as Steve's. And I see a suggestion from (Matthew) that we turn to the original text if there's overwhelming support for this. So let's go to Jordan.

Jordan Carter: Thanks, Izumi. I just wanted to go from the top down. So looking at the point about the change to the two-week timeframe. I think we should leave the text as it is for this version so that we call attention to this discussion in Paris. But

I think we will end up keeping at around two weeks. I know that a lot of people have said that they wanted in comments more time, 30 days, 60 days, until the next ICANN meeting, but I don't know if those people were considering the fact that a standard bylaws change at the moment goes through a 40-day public comment period before the board decides to approve it or not.

And so the proposed bylaw change will generally have already have been in circulation for quite a long time and people will be quite aware of it. So I think that given the contradictory concerns about not wanting us to disrupt ICANN operation too much will end settling in a reasonably short period. So I just wanted to put that on the record.

I don't mind the lower threshold personally. I don't have a view on that in the last paragraph on the first page. And on the second page, I have to agree with the previous speakers. I don't think there's any mandate for many of our discussions or from the public comment period input to make this kind of limiting change here. I've gone back and read the summary just while others were talking that we did at the public comment, and this does not come through as a theme. And so I agree with the other suggestions that we should actually not make this track change in the frozen document. Thanks.

Izumi Okutani: I understood the proposed point about the period and about the last paragraph, adding the sentence, just as a point of clarification. I'm fine about not adding this. I think there was specific comments when I went through each of the public comments related to this topic (unintelligible). But I agree with the observation that this wasn't necessarily a majority view and so I think we can consider, totally consider, at deleting and bringing it back to the original text. So I'm supported by most in this group so far.

So let's go to Greg.

Greg Shatan: Thank you. I will also agree that the text in the last paragraph should be reverted, and I also think that this - I take Jordan's points on the two weeks. It feels kind of short given kind of the inevitable flop after, say, an ICANN meeting, but given that we do want to keep things moving, and this is an extraordinary power, is kind of I think is incumbent on the community to keep its eyes open.

So I'm a little uneasy with the change from three-quarters to two-thirds, but not so uneasy that I want to see it changed back. Thanks.

Izumi Okutani: Thanks, Greg. So I think you are in agreement with everybody else regarding the paragraph, and so it looks like this two weeks part needs more discussion.

So I Alan next in the queue. I don't know if that's an old or you want to speak.

Alan Greenberg: Thank you, just a small thing. We probably want to say two weeks or whatever the time is following announcement of board approval. Sometimes there's, you know, these days they're not bad but sometimes there's significant delay before the actual motions are announced. We don't want the time period to slip because we didn't know.

Izumi Okutani: Understood to you point, so to be more specific about, so how do we account for two weeks, and the suggestion is to two weeks after the announcement.

Alan Greenberg: That's what I would suggest.

Izumi Okutani: So let's - understood. And I see Jordan agrees with you. So let's go to Mr. Arasteh.

Kavouss Arasteh: Thank you very much. There is one editorial probably mistake. The portion in the round bracket, (counters) in French, should be limited to the timeframe but not following the announcement of the board approval. The announcement of the board approval is a part of the sentence, irrespective whether two weeks or any other time. So please kindly move the round bracket right-hand side after to be developed or to be identified.

Now coming to the period, I am suggesting a compromise and put two weeks, which I am not in favor of talking of weeks, are we talking of calendar days, 15 calendar days/30 calendar days, and leave it to Paris meeting to decide between the two. However, the 15 days calendar date is short, is really short. We know the engagement occupations, problems of the people. Nevertheless, as Jordan mentioned, we don't decide that.

So I suggest that instead of putting probably, just put round bracket as it is, 15 calendar days, slash, (unintelligible) 30 calendar days, close (unintelligible), following the announcement of the board approval. This is my suggestion between the two to decide at Paris meeting. Thank you.

Izumi Okutani: Thank you, Kavouss. So adding the word calendar days sounds like a new option. So I think after we're done with discussing this actual text part, we'll be discussing about the possible options. And I'll leave it to Jordan to see if we're still open to consider a sense that is not expressed on the public comments, but welcome this new input counting these based on calendar days. So I understand your suggestion that between 15 to 30 calendar days.

Kavouss Arasteh: Will you allow me to defend my proposal? Weeks will differ from group of countries to group of countries. In some countries a week starts on Saturday. In some countries a week can start on Sunday. In some countries a week can

start on Monday. But calendar days is calendar days, so that is a problem. So we have to be quite careful with the future actions by the community. It depends in which country, in which group of country, the community exists or lives. So we have to be quite careful.

((Crosstalk))

Kavouss Arasteh: ...months or calendar days, but not weeks. But this is not typical. I don't want to spend the whole time of the Working Party 1 on this, but that is a suggestion. I made it in Paris. I made the suggestion in Paris that it is better to talk about calendar day, but I don't want to spend 15 or 20 minutes on this issue. Thank you. We should be very efficient.

Izumi Okutani: I understood the reason for supporting this, so this - your point is that specifying this makes the period more clear. So thank you very much. So let's go to Greg.

Greg Shatan: First I think - well three points. One, whatever we do here is indicative I think in the drafting of the formal bylaws themselves and things might get ironed out, but the more that we can iron them out beforehand the better.

Second, I think we should look at the bylaws to see how the bylaws tend to count periods of time so we can be consistent with the current usage in the bylaws, which hopefully is internally consistent.

Third, I would just say that at least my interpretation of weeks is seven days from the day on which the weeks starts, so it doesn't matter whether the week starts on Saturday, Sunday or Monday in terms of when fresh weeks start, it's really just 14 days, which I think actually militates in favor of Kavouss' suggestion that we might as well just count in days because then it's absolutely

clear we're talking about 14 calendar days or 15 calendar days, or whatever it may be. But let's follow the lead of the bylaws as they exist and choose an appropriate period of time and express it appropriately. Thanks.

Izumi Okutani: Thank you, Greg. So your point is that let's make the expression consistent with what the bylaw says. Okay I - okay. Kavouss, can you make your point very short, because we'll be discussing about the different options, so I would appreciate your cooperation. So let's go to Kavouss.

Kavouss Arasteh: Yes, I'm dealing now with the paragraph that you changed from two - three-fourths to two-thirds. I agree with that. Thank you. For me, it's consistent.

Izumi Okutani: Thank you very much. So I think there are no further comments I see in terms of hands on the actual text. So, Jordan, how do you want to carry this out? So I think there are a couple of options and points for discussions.

Jordan Carter: Yes in your covering e-mail, Izumi, you had written a couple of points for us to discuss, and I'm just asking staff on the call whether they are able to display that text on the screen. Adam, or Brenda, or Kim, or Berry, are you able to put in the screen instead of a draft text document a copy of Izumi's covering email for this? If you are, that would be very helpful. Otherwise she'll just have to talk us through it.

In the meantime, Izumi, I think you should start talking us through what you had covered in that e-mail. So please go ahead.

Izumi Okutani: Sure, Jordan. Thanks. So there are five points I've raised as the need for further discussions and one of the points of course is the period of timeframe that is needed on community comment after the board's approval. So let me just read out the options here: 30 days, 60 days, the end of the next ICANN

meeting that begins no longer than one month after the board's proposed notice of adoption, and another option is prior to such changes - no sorry, so prior to such changes becoming effective.

So I think I wasn't clear enough. So let me just to clarify one again. So the basic idea is to after the board makes notice on making these changes then this third suggestion is to make it the end of the next ICANN meeting that begins after this timing. I hope that was clear. And then I see this option that is suggested from Kavouss to make it between 15 to 30 business days or I can't remember the exact wording for it, but the idea is to delete the holidays and the weekend. So these are the options.

Let me go to raise another issue, which is CCWG will continue to explore and explain membership structure. So the request made during the public comment is that they want to understand this in terms of how membership status can create - can be created and maintained without due to cost, complexity or liability.

So - but I feel that since we're still discussing about mechanisms, we - it's better for us to come up with the explanation when this is fixed. And also I think it would be good to have - create confirmation with lawyers on how we respond. I'd like to hear your input about that and if there's any ways that we can work efficiently before completely waiting for it. So that was the second point that I wanted to consult with you.

The third point I wanted to consult with you is this is the point that was made or CCWG will consider a mechanism for limiting procedural impacts and possible delays. So I think a couple of concerns were expressed that - by allowing this mechanism then it would allow the members, especially if there are no limits in the number of times that the community can reject changes to

the bylaws, it may make the whole process efficient. So how do we actually address this point?

And so there's a question on whether putting the number of time, putting limits in the number of times, what is considered to be utilized to be sufficient, that was the initial point that I put given that there will be support for adding this paragraph. But now that I don't see support for adding this, we should come up with some other ways to address this point.

The fourth issue I'd like to share is CCWG will consider a cap on the number of times this power can be utilized. And so this was something that I actually put as something I wanted to discuss with the group. And I very much see the point that Steve has made, and the others as well, that if you add this then you might actually raise concern for the people (unintelligible) express concerns under the current text. So - and I think at the moment I see more support for not adding this text and no concern so far on not adding this.

So the last point that I'd like to discuss is increase our composition of SOs and ACs other than ccNSO and GAC. Again this is the one comment that was expressed that I think there's a lot of ccNSO members who are very much related to the government and so given the ccNSO's power's the same number as the other SOs will increase the government influence. And in my opinion, I got the impression that this request is out of scope to consider as part of this work, but we do need to consider how to respond.

So this is a summary of the points that I would like to discuss with the group and I'd like to consult Jordan on how you want to proceed from here, whether you want to chair this part or if it would be better for me to chair. I'd be happy to bring back the chairing to you.

Jordan Carter: I'm happy to do that if you like and then you can respond. So why don't I do that for you? We'll take a couple of comments and then get you a chance to respond. So Alan and Kavouss, and then Izumi you can respond to those two. Alan, please go ahead.

Alan Greenberg: Thank you. The wording in comment 341, and I quote, at least quote what is the comment tool, "There is an imbalance in the manner which (unintelligible) community votes to distribute ccNSO predominantly comprises of government participants, or at least comprises participants more prone to influenced by the governments."

I would question whether the ccNSO members would agree with that. If that is indeed a fact that the government predominantly control what ccTLD members would - how they would vote, then indeed it's a problem. It's not a problem for this particular power but for all of them. So I think it's - that's a question that really falls under the item I'm going to doing later on community mechanisms. But it questions one of the main premises we've had in this whole process. And I think if we're going to discuss this at all, that's got to be discussed by the group as a whole.

Jordan Carter: Thanks, Alan. Can I ask a procedural clarifying question? When I look at comment 341 in the public comment analysis we did in WP1, it's a comment from IPC, which is talking about the removal of an individual director. What am I doing wrong?

Alan Greenberg: Jordan, those numbers got - those things got renumbered multiple times.

Jordan Carter: You're kidding me?

Alan Greenberg: No, no, no almost every version got renumbered as new comments were inserted. I suggested at one point they be frozen; they weren't.

Jordan Carter: Oh my God.

Alan Greenberg: Izumi seems to be looking at the same one I'm looking at. It is a comment immediately before question 30 -- question 10, rather, from (Seva). It's only pure luck I'm looking at the same version that Izumi was.

Jordan Carter: I had no idea that that had happened, Alan. That's completely unhelpful. That's very helpful that I now know, so thank you for that. I can't believe that that happened.

Alan Greenberg: (Bernie) says it did not happen. If your comment 341 is from IPC and mine is from (Seva), it did happen.

Jordan Carter: Great. Okay. Anyway, that's a distraction. Why don't we go to Kavouss?

Kavouss Arasteh: I think it is very difficult and it is non-convincing to agree that ccNSO is influenced and controlled by government. I have not heard any point from any ccNSO member, associate, participant, saying that they are influenced by government. And I have not seen any expression from any government participating on that trying to influence that. I don't think that we could go, align, what is dividing (unintelligible) by two isn't possible.

So I don't think that we should take that approach, and I don't think that we should go that far, taking into account we have very serious, important issue to deal with within the next 48 or 36, or I don't know, 72 hours. So I don't take that point. There is no imbalance at all. Thank you.

Jordan Carter: Thanks, Kavouss. Alan?

Alan Greenberg: Thank you. For the record, there are some ccTLDs run by government departments. That's a fact. But the statement that it is the majority of them I think is not likely to be verified or found true, or even that many - the majority of them are strongly controlled by government departments. So I think we need to, you know, along the way we need to answer this comment.

One comment out of whatever number it was, 60 comments that were received, I don't think is a reason to change our whole model. We may, however, want to bring it to the attention of the whole group in Paris just to make sure that there is general agreement that we're not doing something unilaterally. But in any case, I don't think it belongs to this section.

Jordan Carter: Thanks, Alan. I put my hand up to offer a few thoughts on the substance here. I think in terms of the timeframe we should put - we can put the 15/30 calendar days that Kavouss suggested and then spare the discussion. Because I think some of the discussion will flow out of the decisions that we'll make about whether will actually have the community council or not and other sort of related aspects of the model. So once we know that, we'll have a better grip on the timeframe.

In respect of member structure comments, I think that's again being dealt with by the model discussion we'll have in Paris, so we don't need to worry about it now. The procedural impact and possible delays, I think we've already talked about that one in terms of not agreeing to limit the number of uses of the power and having it clear that it applies to a period after the decision of the board on the bylaws changes announced.

And I think we again with the balance of power in the community mechanism will be discussed in the context of the overwhelming strength and mechanisms, so we don't need to worry about it now. That's my view. So I'll put the (rapatore) hat back on and say, Alan, you've got your hand up.

Alan Greenberg: Yes just - it dawned on me as you were talking that as we're thinking about the period of time, keep in mind that when the comment period was set to 20 or 21 days, as it was after ATRT1, many constituencies and stakeholder groups said they cannot take - make a decision in that kind of timeframe. So since the decisions are going to have to come from organizations, that is a consideration that we're going to have to think about. I'm not trying to influence the outcome, just keep it in mind.

Jordan Carter: Okay thanks, Alan. I think - okay so we've got another hand, Izumi's hand. Your hand is up. Go ahead.

Izumi Okutani: Thanks, Jordan. Just as a point of clarification, regarding the third bullet point on this concern relating to how you make sure that this procedure will not make the whole efficient, I think you mentioned that this will be discussed later in line with some other considerations. So it's not that this will be sort of resourced but this will be considered later. Is this a fair understanding? I just want to understand what to expect.

Jordan Carter: I missed - I think I missed the key part of your question, Izumi, sorry. Does anyone else have an answer for Izumi? Or do you want to restate?

Izumi Okutani: Yes so I'm happy to restate. So on the third bullet point which is the area that covers about, yes. So from what I understand from your comment, Jordan, is mentioned that instead of considering this point as being already solved, would it be a fair understanding that this will be considered later when - I

didn't actually quite catch your point on how this will be discussed together with what issue. But anyway, is this point still being discussed?

Jordan Carter: By the third point, do you mean the CCWG will consider mechanisms from the (unintelligible) and possible delay?

Izumi Okutani: Yes.

Jordan Carter: Okay. The way I think that's going to be discussed is by having the timeframe highlighted in the track changes, which is for discussion about in Paris, and then we will know to discuss procedural and delays issues in that text. So that's how I think it will get checked.

Izumi Okutani: Okay thanks.

Jordan Carter: Can I take a last call from Kavouss?

Kavouss Arasteh: Sorry. If you're meaning that the participations and the mechanisms or participation partitioning will be discussed further, I cannot agree with that. There is no strong logic nor any strong support to review that. However, in order that we be quite demographic, we say that time and circumstances permit, we will review that. That's all. We will review that. But there is no strong justification to change that, because once again I am of the strong view that ccNSO is not influenced by government. Thank you.

Jordan Carter: Kavouss, we've got a different topic in this agenda, which looks at the community mechanism, possibly including dividing ways, so we don't need to discuss it now, you're quite right. We will have some conversation about it later on.

So thanks everyone. I think that's been a helpful discussion. My take out is that we're going to change the way the dates to expect in that and there's a range of options that might help to put 15/21/30 calendar days, and then we're going to back to the original text at the end of Izumi's paper and not refer to limiting the number of times we've (unintelligible) to two points. And then that will be sent as the frozen document for discussion in Paris.

So I'm conscious that it's 8:40 and we've got one hour, twenty minutes to do all the rest of our work. So I'm going to move us right along to the next agenda item, if that's okay. And thank you, Izumi, for taking us through that.

The next agenda item is Alan Greenberg's paper on the removal of individual ICANN directors. So if staff could be able to put that paper up in the screen, that would be cool, and then we'll start discussing it. There we go. Alan, the floor is yours.

Alan Greenberg: Thank you very much. As I started to revise the text I realized that we really had very little basis on which to revise the text. The comments were very mixed and, you know, essentially two different flavors. In terms of removing individual board members -- and I'm talking about the AC/SO ones right now -- there were a number of strong comments saying they should be able to be removed by the organization that appointed them. There were similarly a number of very strong comments saying it should be a community mechanism.

And I didn't feel that we had really discussed which of those it should be in depth in the original discussion of the CCWG. It originally started off that it should be a community mechanism. The lawyer, when we were talking about membership in particular, said that it had to be the group that appointed them. And we just sort of stopped there.

They said, you know, you could arrange a community mechanism with a complex set of contracts. But since we are now perhaps looking a model where there is no a legal requirement for the originator to do it, and there were a fair number of comments saying the community should remove directors, I didn't really know where to go.

And I don't know whether we want to bring up to Paris, if we want to make a recommendation and, you know, let Paris override, or how to go forward. So I guess I'm looking for input. It'd be easy to address the test once we know what we're trying to do.

Jordan Carter: Okay. Alan, that's a place to start the conversation. I thought the legal advice was that whatever model chosen, whether there was a kind of explicit designator or whether there was a membership model or even in the implicit designator model that we've got today, only the appointing body could remove them. But maybe that's a different recollection to your recollection.

Alan Greenberg: I, you know, certainly if we're looking at the single community council, that's a body which is going to make a decision. You know, presumably that body will be the body that appoints all directors and therefore a decision coming out of that body, regardless of how it's made, is a decision. So it's not implicit in that option, which at this point I'm told is on the table. It wasn't 100% clear to me if it was even implicit in the designator model, although it might be.

So I'm happy to go forward and say it is, for the AC/SO ones, it's the community, it's the sole decision of the community that supported it. That's my personal belief of what it should be. But there were a fair number of comments that said the community - that it should be community removal.

Now if you take Steve's, you know, statement that anyone who didn't say anything on this accepted the words that were there, then I suppose they were accepted the removal by the AC/SO that elected them. But it wasn't really clear. I think the only reference to that was in the NomCom section.

Jordan Carter: I haven't - I've never heard of the proposal, Alan, that the appointing body for directors would change from what it is today. Your comments now are the first time I've heard someone suggest that appointments of directors would move from the SOs and ACs and NomCom to the community council. If the community council...

Alan Greenberg: In the single member model I suspect it has to. I'm playing lawyer now and I shouldn't do that. But my understanding is that is the - certainly if that's a member, only members, or if it's the designator, only designators have the right to do it. So I'm not sure they can subcontract with the ACs and SOs, but again I'm playing lawyer at this point.

Jordan Carter: Okay well let's take a speaking list on this to flesh out people's thinking. Greg, your hand is up.

Greg Shatan: Thanks. Greg Shatan for the record. I think, first, the idea that one group could pull another group's appointed or nominated director I think just sounds wrong and, you know, I haven't done serious research on it but, you know, based on everything we've been doing and my own experience, it just sounds wrong.

And it may be, you know, this is one of the problems was getting comments from, you know, everyone, which is a good thing, but it also sometimes people suggest things that are impossible or illegal or have vast unintended consequence. I, you know, wouldn't be surprised to see somebody suggest that they try turning lead into gold or creating a perpetual motion machine.

Those would be interesting suggestions, but they would not work and we shouldn't start down that road with those, nor should we start down the road with the idea that you can sink other people's directive like some game of Battleship.

And in terms of the single member model, we can certainly work things out that the board seats will be, you know, allocated in a certain fashion, whatever it may be. I have no doubt about that. So there won't be some sort of, you know, grand council where everyone has to nominate every board member.

The - certainly with - even in the single member model, I'm sure that is possible. And in any model that's kind of the more or less the essence of those models. So I think those are a couple of rat holes that despite the fact that I spent some time going down them, I would not suggest anyone follow. Thank you.

Jordan Carter: Alan, I realize that I cut across you managing the queue. I'd like to hand that back to you to do if that's okay.

Alan Greenberg: No I don't mind if you do it. We just have to decide which one of us does it.

Jordan Carter: Well if you - I'm happy to. I'll do it then.

Alan Greenberg: Okay.

Jordan Carter: Kavouss, your turn.

Kavouss Arasteh: Yes, removal of the individual board member strongly depends on the type of the organization. If you are talking of single member issue, we should treat them separately. If you're talking of multiple member and designator, removal

of the board member by one community seems to be, to a greater extent, unconstitutional for the following reasons.

As long as or as soon as a director is designated by an SO or AC, except GAC who does not have the director, that director would act not only for representation of that community but in the collegial manner, the overall representations, of the entire community. If an SO director designated would not satisfy the requirement of the SO designated but will act properly in the general interest of the entire community, removal of that means that the organization works to protect the interests of a specific community but not the interests of everyone, or overall interests.

So I don't think that, except in the one single board member, one single membership which everybody participates in the removal of that director in the two other case, it not appropriate to remove a director because one community is not happy, whereas the other community might be quite happy or more than happy. Thank you.

Jordan Carter: Thanks, Kavouss. The next person who's hand up is Alan.

Alan Greenberg: Okay thank you. The argument's on both sides, and, you know, I've both lived it in my own group, because the ALAC is divided and - but I went through all the comments carefully on it, the argument against an individual AC or SO removing their own director is you don't want them capriciously removing the director because they voted against something that that AC or SO really wanted.

And that's the claim that people make that if you allow them to do that, then that person is now - is going to be representing that group, which they shouldn't be under the California bylaws. They should be there on behalf of

the corporations, you know. And we're going to be removing directors right, left and center if we give ACs and SOs that right.

The counter argument is you appoint someone because you believe they are of a like mind, and if you start seeing evidence that that is not the case, then you should be able to reverse it. I will add one caveat to the removal by the community. It would have to be done with the agreement of the appointing SOs and ACs. You certainly do not want a situation where all the rest of the ACs and SOs gang up and remove my director even though I'm happy with that person.

That would be really problematic, because then you have a director who, you know, who may be a lone wolf removed by the community who doesn't like, you know, someone just rocking the ship. And I think that would be really problematic. So if it is a community action, it would have to be done with the support of and not objection of the appointing AC and SO. So there are strong arguments that have been made on both sides. My personal opinion is it should be an AC/SO prerogative, but there were significant comments that said community removal. So I'm...

((Crosstalk))

Jordan Carter: Thanks, Alan. I put myself in the speaking queue. I went back and looked at the summary that we did with the public comment on this and that public comment summary just moved itself out of my vision that was helpful. But there were 25 public comments made; 23 suggested agreement with our proposal, two didn't agree, six noted concerns, and there was no confusion. There were two divergent comments.

And the main issue that our summary identified were the NomCom issues and there have been concerns since discussed in the community about the nature of what happens to a director if they're subject to removal, do they suddenly stop doing their job as a director and become a kind of mindless avatar for the particular section in interest of their appointing body.

These are challenges that every organization that appoints board members has, and so I don't think that - my view is that the removal stuff isn't likely to fundamentally change that dynamic. So I don't feel like we've got a mandate to vary particularly far from our original proposal. And our original proposal was that SOs and ACs should have the power to recall their directors. But I do think we've got a problem with the NomCom directors and so...

Alan Greenberg: At this point I'm talking only about the AC/SO ones. We haven't gotten to the NomCom ones yet.

Jordan Carter: Okay. So my view is that we should keep it as part of our original proposal.

Alan Greenberg: Okay I'm happy to do that. I will point out that the summary doesn't demonstrate it but a fair number of people in their wording said community removal. So they may not have seen that as being different from what we said, but, you know, I read it a different way. They may have been speaking about the community that appointed as opposed to the community in general. The words were a little bit less clear.

Okay. The NomCom I think we have a real problem though. And I think that's what you said, Jordan. A number of reasons. If you remember again the discussion, the discussion was it was going to be community removal of the NomCom directors. The lawyers pointed out that if the NomCom is the group body that appointed, the NomCom must be the body that removes.

And we therefore started looking at whether the NomCom itself should do it, the NomCom, a subcommittee of the NomCom should do it. I believe that the NomCom doing it, the regular NomCom, is problematic in a number of ways. First of all timing. For those of you who don't know, I'm a NomCom appointee right now and I've resigned my seat as of October because I'm being appointed by the North American (Raylo) instead.

The NomCom has not found time in the last two months to ask for expressions of interest to replace me because they're just too busy working on the normal selection. And so I think timing is going to be a real problem if we ask the NomCom to do it. That's number one.

Number two, a good number of people said the process to remove a director must be open, transparent, traceable. You know, it's got to be completely open. Giving it to the NomCom, which worked in private, I think is a real problem. And I'm in the awkward position of the doing the summary. And I presented an alternative in the public comment period, so I'm not really trying to use this, you know, this podium to push my own idea, but it makes some sense, in my mind, to say that the community council is the NomCom subcommittee.

It's then the community. It's going to work openly. It doesn't have a conflict of interest with the other work that they're doing. I think it addresses all of the concerns of removing NomCom directors, NomCom-appointed directors. I'll shut up now.

Jordan Carter: Alan, could I just clarify that the proposal then is that the community council do it? Is that what I just heard you say?

Alan Greenberg: The community council is designated as the NomCom subcommittee.

Jordan Carter: I see.

Alan Greenberg: Which then follows the...

Jordan Carter: For the purposes of board removal.

Alan Greenberg: ...rule that is being done under the name of the NomCom but it's in fact being done by the community council, the people, you know. They occupy both community council and simultaneously the NomCom subcommittee.

Jordan Carter: Okay thanks. Thanks for just clarifying that for me. I'll carry on with the speaking list. Kavouss, it's your turn.

Kavouss Arasteh: Yes. First allow me to express my apology to the lawyer. I cannot agree with the way that they have mentioned that if the NomCom appoints directors or selects directors, it is up to NomCom to remove that. Eight of sixteen directors is appointed or selected by NomCom. I don't want to put all these eight at the mercy of NomCom.

But I agree with the last expression or statement of Alan that if community appoints the subcommittee of NomCom, that would be constitutional. That would be an acceptable solution that the community decide on the issue but not the NomCom nominating somebody and NomCom de-nominating the same person, it's not constitutional. I cannot agree with that. But the proposal of Alan or the understanding of Alan is agreed that community appoint subcommittee, which deals with the removal of the NomCom board. Thank you. NomCom-designated board, sorry.

Jordan Carter: Thank you, Kavouss. Next speaker here is Greg.

Greg Shatan: Thanks. Greg Shatan for the record. I think as a matter of California law, it has to be the NomCom that does it. But that doesn't mean that it has to be, you know, it doesn't mean that we can't be creative. And I think Alan's solution to having the NomCom essentially, you know, be embodied, or a subcommittee of the NomCom be embodied by the community council makes perfect sense to me.

You know, they can - whatever, you know, little technical requirements there are to make it kind of come from the NomCom in the end, I'm sure can be satisfied. But I think, you know, giving it to the broader community and not to the overworked and, you know, fit for a different purpose NomCom. Thanks.

Jordan Carter: Thanks, Greg. I've been looking at the chat and listening to the discussion and see the concerns that people have where the idea of first of all treating different directors differently, so I think it is ideal if we can come up with a way to secure the removals in - for all directors other than the president and CEO in the Work Stream 1 work, so I kind of withdraw my chat suggestion that we could make the NomCom directors Work Stream 2.

I think that Alan's proposal if it can be worked through, if it was able to be done, so it's kind of lawful. And the thing that I find attractive about it is that it looked at in the NomCom process.

So is it worth posing that as the proposal for discussion in Paris and setting the two options are amending the way the NomCom works so that it can remove those directors itself, and the alternative is to have the community council empowered to do the removal of NomCom directors? Is that a two-option approach that it would be reasonable to propose to the Paris meeting?

Greg, your hand is either up or still up. It's still up. Alan, go ahead.

Alan Greenberg: Yes. I think at this point there are three suggestions on the table. One is the NomCom proper do it. Now this isn't the NomCom that appointed them. Some previous NomCom appointed them, based on information only that NomCom had. So that's one alternative. The other is a brand new subcommittee of the NomCom somehow be created. And the third is what I'm proposing.

There's another interesting issue of the - of using the NomCom proper, and that is they may - the NomCom might be being asked to remove a director that they were in the midst of considering for reappointment, which puts them in a serious conflict position. So I...

Jordan Carter: Thanks, Alan.

Alan Greenberg: I think it's the three options. If someone sees it otherwise I will do whatever you say but I think three options on the table right now.

Jordan Carter: I don't see how we can - I don't think I don't know if we've got time on this call to resolve Chuck's third option there.

And I would be okay with us sending those three options out for discussion and Paris in respect to the NonCom directors I think.

But there are a couple of hands up so Greg and then Kavouss. Greg please go ahead.

Greg Shatan: Just a quick variation on the brand-new committee alternative -- I may have mentioned this in the past -- would be to have some sort of rump group of the prior NonCom be on that committee since they are the ones that appointed the director in question so that if the call came to remove that director the subcommittee would be composed of the same or some of the same people who put the - that director up in the first place.

That avoids the new NonCom having to deal with knowing not the director and the particulars of how they came to be a director and also having other work to do.

It's just an alternative. It seems to make some sense to me. Thanks.

Jordan Carter: Thanks Greg. And Kavouss please go ahead.

Kavouss Arasteh: Yes Jordan I think we have Tuesday meeting in Paris a considerable amount of items to discuss putting more options, create more discussions, generate more discussion.

Is it possible either to have one option which is closed to the reality and does not conflict with California law or reduce the number of the options and in so doing we express that in the order of priority make it easy for Paris meeting to decide.

They are many, many items in Paris and we have only two days. Is it possible? Thank you.

Jordan Carter: well I mean I just don't think your question is rhetorical so I will try to answer it. Is it possible yes but I don't see a proposal in front of us that's attracting and kind of a consensus view here.

Our original proposal was that we would use the NonCom to - some means to remove NonCom directors put only on the petition of two or more of the SOs and ACs I think was the rule.

And the reason that we introduced that petitioning step was because we didn't want to just give this very powerful and secret group of people and the right to make unilateral decisions on there because of the fact the NonCom is a blend of all their constituencies.

And the idea of having a rump group there is one that is imperative, that does leave me a little bit concerned that we will be creating a kind of a capture point the removal of director does - is a bit powerful like that.

So I don't quite see - I mean I think intuitively speaking the way that you get around that is possibly the third option that Alan suggested I think it was the third option that Alan suggested of having a - the Community Council being effective and removal agents. Because that then does incorporate that input. But well (currently) on the list Greg and Alan's hands are up so Greg please go ahead.

Alan Greenberg: I think Greg is an old one.

Jordan Carter: Okay Alan.

Alan Greenberg: Yes regarding the rump group I strongly object to it because that's a NonCom from of as much as three years ago the people may not even be involved and they may not be active. They may not be current on what's going on in ICANN.

But I'm happy to include that as one of the methods of staffing this new subcommittee. So if that's a variation of one of the three variations.

I sensed among most people on this group but not all that the using the Community Council was an acceptable method.

If my sense was correct then we can do that as the preferred one and the other two alternatives. If my sense is wrong then I'll just listen to the three alternatives for discussion.

Avri Doria: I'm not seeing my hand. Please put me in the queue.

Jordan Carter: Avri I've...

Alan Greenberg: I think were about to hear it's not a preferred solution but Jordan I'll leave it at your direction to sense the tone of the group.

Jordan Carter: Well Avri please go ahead.

Avri Doria: Thanks. I'm only a tone of one but I actually have a great deal of problems with the idea of having the Community Council or whatever its properly called become the body the deals with that.

First of all I really do accept the notion that the designator or member that picks somebody needs to be the one.

You know, we have talked about ways of dealing with the NonCom issue and having a recall NonCom which seems to have been put completely aside among the possibilities.

But the idea that you would take the community at large and they would be able to look at any NonCom at any time when it was just appointed for example and you know how most of us we receive the new NonCom appointees there's never resounding assurance.

And to what degree do we prevent the - having the NonCom and encountered NonCom that looks at what a NonCom comes up with an no, no, no, no that that's not the right mix and deciding that they should cancel those.

I think it's very antithetical to have a NonCom. And we'll probably argue until I'm blue in the face against it but I'm only a voice of one.

Jordan Carter: Thanks Avri. So I am a little bit bemused about where exactly we go here. And there are a number of proposals floating around.

And in terms of checking the sense of the room in terms of checks and crosses I'm not entirely sure where we go with that one Greg what we'll be looking for ticks and crosses on and which is a very helpful place for your rapporteurs to invite you. We're not ready to test maybe.

If we do just to the sense of the room check, not a vote and then check on these options would it be fair to say they are the original proposal where there is a kind of recall NonCom that acts on petition?

And so the original proposal they original proposal recall NonCom with community petition. And there's option B was the Community Council as a recall NonCom.

And then Option C, can someone remind me what option see was?

Alan Greenberg: C is the operational NonCom.

Jordan Carter: The current NonCom. So do people feel that's just to try and get a sense of where we are as a room? And can we just test those to access the voting button?

If you think that the original proposal the recall of NonCom and that connects after the community petition is a way to go can you do a green tick and at the moment and we'll see what you're saying?

I see two green ticks, Avri and I. Okay let's put our hands down. And then could I ask about the B option, the Community Council essentially functioning as the recall NonCom? Could you give a green tick to that if you'd like to have a green tick? And that's four, five...

Alan Greenberg: Kavouss did you put your hand up or tick or try to...

Kavouss Arasteh: Yes. I Alan...

Alan Greenberg: No I'm not calling. I'm just asking was that a mistake or...

Kavouss Arasteh: Sorry I'm - I don't I have difficulty with option three. Why existing situation we have discussed it? The first proposal was Avri's proposal. The second proposal is what you have suggested. And we agree with option A&B but not C. Thank you.

Jordan Carter: Okay thanks, thanks Kavouss. C has got six ticks plus Kavouss so that's seven. And A has got four ticks. So if you include (Matthew) saying he goes with A and Kavouss saying he goes with A.

And so let's take those screen hands down. Take your greens off, de-green yourself and tick. And are there any ticks for option C?

And this is not a vote. This is a test of the sense of the room. So please this is just an opinion testing ground.

Alan Greenberg: C is the original NonCom is the act...

Jordan Carter: Is the current NonCom.

Alan Greenberg: Yes.

Jordan Carter: C is the current NonCom. Okay so let's leave that option off. No one is throwing up a green hand for the current NonCom being there, the removal buddy. Whether that causes difficulties later or not is for the future to determine.

And if we look at those first two options the Community Council of the recall NonCom is the one that got the most preference.

So can we Alan, when you're drafting this up would it be possible to put that as the option that attracted most support when Working Party 1 discussed this issue?

And it's a very honest formulation of what just happened. And I think it's probably worth referencing the other two options as well just so the CWG, CCWG can see them.

And we're going - we are going to have to discuss this in some depth in Paris. We do have time in the agenda for it.

Yes?

Alan Greenberg: The one we're almost rejecting here was number one option. So I think we have to maintain it on the list but...

((Crosstalk))

Alan Greenberg: ...but say it's the least preferred.

All right I think I have my marching orders from all of us. I hope I'll do what...

Jordan Carter: Okay.

Alan Greenberg: I hope my memory will prove to be accurate when I actually do the drafting but I'll do my best.

Jordan Carter: You have 26 hours and 46 minutes.

Alan Greenberg: Oh, good.

Jordan Carter: And just so you know we have covered - that is noted that we shouldn't canvas Option C.

And look folks - this is call is (fitting) very well and but it is going a little bit slower than we need to. We do have a bit more material to get through. Thank you very much Alan for that discussion.

Now at the moment as it stands we've got three agenda items left to deal with.

We've got the community mechanism work that Alan has done. We've got the fundamental bylaws work that I've done and we've got now just since by email Keith Drazek hot off the press the recall of the whole ICANN board content.

Now I would really like us to discuss these all at a high level rather than delving into quite as much detail as we have.

So can - so we've got two options. One is that we make sure we just take probably 10 minutes for each of them, get a high level look at it, identify main points of comfort or discomfort or we carry on as we have been doing deep dives and we will definitely run out of time.

And so do and if we run out of time we've got no more calls scheduled so that would mean we would have to have an only email discussion.

My preference is the first option that we have some voice time on all three of these papers and then can discuss further by email.

And we have ticks for people who propose that we follow that proposal from me and crosses from people who want to just keep going with a deep dive? I want to make sure we get the chance to discuss everything even if only briefly.

Alan Greenberg: You've got a mandate.

Jordan Carter: Okay. We've got to carry right on then. And the first thing we'll do is take a quick question from Kavouss before we move onto the next agenda item.

((Crosstalk))

Kavouss Arasteh: I propose a proposal to discuss all three items on a high level ten to 12 minutes and then the remaining part will be an email discussion. Thank you.

Jordan Carter: Thanks Kavouss, perfect. Okay that's what we're going to do. And so the next item on the agenda in the order is the community mechanism. So Alan once again the floor is yours.

If you could ideally restrict your presentation of this to three or four minutes that would be ideal. And staff if you could lead - load Alan's new dock that would be marvelous.

Alan Greenberg: Thank you.

Jordan Carter: And thank you Alan.

Alan Greenberg: ...very much.

Jordan Carter: Go ahead.

Alan Greenberg: This one should be a lot easier because we have reviewed this to a great extent already.

The first part of it is the difficult part. It's the number of votes per section per AC and SO.

The comments there were generally very few comments. Some of them were cryptic because we sadly in Section 5 defined two things as the community as a reference mechanism.

One was the member versus designator and the other was the voting mix. And we only asked one question at the end saying do you support the reference mechanism?

So that was less than clear. Usually I can figure out from the content the rest of the sentence what they were answering.

There were a number of comments - there was largely silence. There were a number, a few people who said they support A. There was one person said they support A, one person said they absolutely refused to support A. Those had perhaps canceled each other out.

The - there were a number of support for B. The ALAC said that they would like to hear from the RSAC and SSAC. The RSAC was largely silent saying we want more details and the SSAC basically said we want zero.

Perhaps now with the SSAC present at the meeting we will get a little bit more clarity whether they want to exercise zero or don't want anything at all.

And remember that comment was in light of a membership model which may or may not be the one we're talking about at the time.

So I really did not know how to go. I think we can with some freedom to eliminate alternative A which is the four votes, two vote, four votes for SOs and two votes for ACs.

I'm not sure that we have as much as a mandate to go to eliminate Alternative D. So I am happy to leave it as the reference mechanism, the original one and the alternative is equal votes for AC per AC and SO.

So I'd like to settle that and then we'll go on to the next part which should not be nearly as controversial.

Jordan Carter: Are there speakers on this? I can offer a comment while people are deciding whether to speak which I think is reasonable to remove option alternative A and to leave alternative B which would then I'll just call it alternative one or something and if that's possible other one just for a discussion in Paris.

Alternatively just to strike through alternative A will generate the discussion so I'm relaxed either way.

And Greg your hand's up.

Greg Shatan: Thank you Greg Shatan for the record. I wouldn't necessarily be so quick to strike through A although I guess if it's left up there but struck through it can still be discussed because in essence as long as we have fractional voting it's kind of a compromise between the five and two and the five and five because it gives - it's a smaller gap between the two vote groups and the more vote groups.

So I would encourage people to think of it as a compromise and to think that if you have five let's say you want to have five people because you have five regions well then each of them just has 4/5 of the vote instead of, you know, a full vote -- whatever your internal math would be just as long as, you know, there may be some maximum amount.

But I think this has to be viewed in light of the fractional voting concept and not viewed as a question of numbers of seats.

So really this is about weighting of votes. It's not about the number of voices at the table.

Alan Greenberg: Jordan may I get - may I respond to Greg?

Greg Shatan: Yes.

Jordan Carter: Yes.

Alan Greenberg: Yes. Greg I hope you're reading that correctly option A and B are not just slightly the difference in spread. Option A gives the GAC and the ALAC the same number of votes as an S and SO option. Alternative A does not.

I just want to make sure you're clear on that because I don't think that's what I heard you implying.

Greg Shatan: Yes, no you're right actually. I see this one kind of devolves the ACs and only gives the SOs four votes so never mind. It's not really a compromise. That's what I get for trying to be on 17 calls in one day.

Jordan Carter: Okay thanks Alan, Greg. Kavouss your hand is up.

Kavouss Arasteh: Yes I think I agree with the proposed course of action we delete alternative A and we gained alternative B as one option.

At this stage I don't think that we are convinced by your proposal, not proposal, question by ICANN board why the two SSAC and RSAC have lesser number of that.

We have some justification. We have some discussion on that and that is what has come up with this. So I don't think that we should change this at this moment. Thank you.

Jordan Carter: Okay thanks Kavouss. So basically I think Alan the writing instructions for this discussion are to just keep the strikethrough the way that it is there and we can move on. So...

Alan Greenberg: Okay. And I'll also adjust the rationales to eliminate the references to A.

All right the next part is all new text and it really tries to summarize the issues that we - that were proposed by the subgroup looking at this and I think were discussed on the WP1 call I believe.

So I didn't invent anything new at this point. I just tried to phrase it in a way that was logically consistent.

And I don't know if anyone has had a chance to read the individuals. I can go over it at this point.

But with the exception of the unresolved issue at the bottom which I think we still have to present and is Steve on this call?

Steve DelBianco: Sure. I'm here.

Alan Greenberg: Yes you were going to send me a summary of the powers the GAC was losing that I was going to insert here or put in a comment or something.

Steve DelBianco: Yes I put it in the stress test so let me just quickly paste those into the chat.
Thank you Alan.

Alan Greenberg: Oh okay. Or I can leave it for Steve to say what - when we discuss the issue. Perhaps that's even better. He does it more forcefully than I can.

So I'm at this point I moderately happy. I don't think I made any decisions. I just rephrased things. And why don't we stop the discussion right now?

I'm not going to do the work on this for another perhaps four hours or so. So if anyone has a specific comments typos or something why don't you send them to me and I'll do a revision later on tonight and give you back the rest of the time.

Jordan Carter: Thanks Alan. And Kavouss your hand is up.

Kavouss Arasteh: Yes a half a minute of comment. The issue of fractional voting insides each community or constituency was discussed.

And Alan - Richard sorry, Rickert, Thomas Rickert referred to a particular (unintelligible).

I think we need not to go to that and to have issued at after this saying that the subdivisions or ramifications of the number of votes or (unintelligible) in relation of the number of votes should be left to each community to decide according to its laws and procedures.

And we should not get to that level of the test. Thank you. This is just a comment for Alan. Thank you.

Jordan Carter: Thanks. Thanks Kavouss. I think that this (unintelligible) that new paragraph 194 that Alan had so and I agree with you.

The point I wanted to raise with myself and the speaking list was and just on - I like the way this (unintelligible). Thank you Alan. And I think the unresolved issues don't need to be discussed.

And the only one I've got a concern about there is actually sub quote G of the new paragraph for each parallel the equivocal number of yes votes that should be required.

So that says that we're setting thresholds based on an absolute number of votes. That means essentially that abstentions have the effect of raising the percentage threshold of votes that are available.

And so I think that that's fine as (ascension) proposal. But what it means is that if we include RSAC and SSAC in that and they abstain and we say there are 20 votes required in favor and we just need to be careful of what the detailed points will be for the number of yes votes that are created by the system.

Because it means there isn't a fixed percentage. It means that more people abstain the higher the percentage is required to make a (unintelligible) exercise. So we need to think that all through really clearly. And that's all I had to say.

Alan Greenberg: Okay.

Jordan Carter: Alan your hand is up.

Alan Greenberg: Okay yes. If that's what it said to you then it was worded wrongly. The intent is that there still be a threshold 2/3, 3/4 -- whatever the number is of those who are voting yes or no.

So abstention or simply opting out don't count. They disappear from the account.

Jordan Carter: Okay. And I think the way...

Alan Greenberg: But...

Jordan Carter: I think what you need to do to get that in G is just change the words there will be a critical number of SOs and change it to a defined proportion or a defined percentage of yes votes.

Alan Greenberg: No, no they...

Jordan Carter: And then...

Alan Greenberg: ...point I'm getting at there is not overriding the threshold which would be listed under powers. Because each of those powers has a defined percentage or ratio that has to have yes votes and to no to total votes.

This says...

Jordan Carter: I agree.

Alan Greenberg: ...that if everyone ops out except the ALAC than three out of five ALAC votes cannot kill the board.

Jordan Carter: I see.

Alan Greenberg: That is...

Jordan Carter: Right.

Alan Greenberg: ...the ratio or, you know, that would be 100, you know, five - for instance, five out of five ALAC votes to kill the board is 100%. But we may deem five to be not enough of 29 to exercise the community power.

Because you're allowing people to opt out or to abstain you're reducing the denominator such that the maximum numerator...

Jordan Carter: Yes.

Alan Greenberg: ...may be a very small number. And the question is...

Jordan Carter: Yes.

Alan Greenberg: ...what is the number that we want to have as the absolute number which says we're taking - we're exercising a power? It may not be worded well but that was the intent.

Jordan Carter: Okay. I think I need to mull on this a bit and write something in an email about it.

Alan Greenberg: Okay.

Jordan Carter: So and I think what it might be is that we need a number - for each power we need to set a quorum so a minimum number of participating votes to let...

Alan Greenberg: That yes, okay setting the bar, the denominator.

Jordan Carter: Yes.

Alan Greenberg: ...I was setting the numerator. Setting the denominator will work just as well and it's the same - you can get one from the other by doing the arithmetic.

Jordan Carter: Except it does mean that...

Alan Greenberg: Yours is probably worded better. And I'll change that to quorum.

Jordan Carter: Yes, well except that it...

Alan Greenberg: I like that.

Jordan Carter: ...means extension has - except that it means abstentions have the effect of preventing the use of the power so depending on the status.

So there are no easy routes here. And what I'm thinking of is sort of like a quadratic equation in a way where you could have a number of minimum conditions.

And as long as they're all met and the power can be used but that's what I wanted to just mull on and write you something. There is no easy way to do this.

Alan Greenberg: Yes that was the intent. I will try to reword it somewhat better if I don't hear any - if I don't hear specific (unintelligible) from you I'll try to reword it and...

Jordan Carter: Okay.

Alan Greenberg: ...there'll be an opportunity in Paris to tear it apart again.

Jordan Carter: Okay. Thanks Alan. Kavouss your hand is up and then we'll move on.

Kavouss Arasteh: Yes my question is are we on the unresolved issue or not yet? If not yet I wait?

Jordan Carter: Well we are. We can be. Your hand is up so let's have your thoughts on that.

Kavouss Arasteh: Yes. I think during the GAC meeting since I'm a member of the GAC they've agreed that by 14th of July they will send comments to CCWG relating to their views with respect to the activities of the CCWG.

Therefore I think we need to wait. I don't mind if you put the two proposals or alternative proposals on this. But I don't think that there is any contradiction in the existing paragraph and I don't know why we call them unresolved issue.

In the bylaw there is clear mention that public policy issue is exclusive and rights and authorities of the GAC.

And I think for that they deserve to have this advice to the board. And the board is to implement that word unless it has a good reason why it's not implemented and then come to some sort of discussion with the GAC with a way possibly to find a solution.

So I don't think that at this stage you should decide within the two. You should wait until we receive the formal reply from the GAC and then represent the issue at Paris meeting. Thank you.

Jordan Carter: Thanks Kavouss. Two points first of all I think that what I'm resolved is just the CCWG's view on whether those advisory powers should coexist with participation of mechanism or not.

And that is what this paragraph is designed to generate a conversation about. And so I think it does that barely.

The second point is that the questions and the GAC member's answers to those questions have now been transmitted to the CCWG.

So have a look in your emails. That came from (Tom) someone. And it came through maybe 12 or 18 hours ago so there's 24 pages of reading for you to do there.

And ICNN staff are working on a summary of that 24 pages to send around ASAP.

And Alan your hand is up.

Alan Greenberg: Yes, I just wanted to mention that this issue came up not in the public comments but live in Buenos Aires.

And there were - it was said with enough vehemence by a few people that I don't think we could pretend it wasn't said which is why I listed it here as unresolved issue.

Jordan Carter: Okay thanks Alan. Look folks we've said will limit our time so we got to limit our time so we got to move on.

I strongly and warmly and firmly encourage you to add thoughts by email on this in the next few hours to give Alan some more work to go on. And thank you Alan for presenting that.

Okay a little bit of a - some time pressure here folks. The next one I'd like us to work through just briefly I think is Keith Drazek's recent paper that's just has been circulated to staff. And it's only been circulated to staff I think at this point. But I'm sure that Keith will put it around on the email list and pretty shortly thereafter.

Keith the floor is yours and I think the document might be about to arrive.

Keith Drazek: All right. Thank you very much Jordan. Can you hear me okay?

Jordan Carter: Yes.

Keith Drazek: All right, very good. So I think (Brenda) is updating or uploading the document so it should be in front of us.

This shouldn't take long because we've spoken at quite some length on Friday about the substance. But I took the action item to try to incorporate the results of our discussion making sure that it was consistent with the public comments received so we have something for the produced document.

So there we go in front of us. I assume everybody has scroll control and can maximize that to your eyesight's needs.

You know, I think just to summarize there was strong support for this power coming out of the public comment period.

I made some edits starting in Paragraph 241 just to add beyond the power set out above I just added in Section 5.5 because I'm pretty sure that was the recalling the individual board member section.

And then to clarify in the second sentence to talk about 2/3 of the SOs and ACs one of the things that we identified in the previous discussion on Friday was it was a little bit unclear as to whether that was the sum of the SOs and ACs the 2/3 or it was individual.

And I think the we agreed that that was the sum of the OS and ACs in ICANN with at least one SO and one AC petitioning.

So I wanted to make that clarification as we move into the next phase.

And what I've done here is in the comments which you can't see over to the right as to identify where our action items are.

So this - the theories I left in there. The implementation of this community decision will be accompanied through a further step to be developed in conjunction with legal counsel.

So that's our action item number one as a work party one is to engage with the legal advisers to develop further implementation details around this.

Okay in Paragraph 242 I added the clarification around the set period of time that we discussed. And I put in brackets. I suggested 30 calendar days. And I tried to make that consistent with the discussion from earlier today on this call

where we wanted to be sure it was calendar days as opposed to some less precise definition of weeks.

And I picked the Number 30 as a discussion point. If we feel that that needs to be 15 or it can be up to 30 calendar days then I am comfortable with that but I simply put in the placeholder or the bracketed language of 30 days.

All right at the end of 242 I removed the sentence about the implementation to be developed in conjunction with legal counsel simply because it was repetitive. I think it was unnecessary to state it twice at the stage of our process.

Next item 243 is our action item number two which is for the Work Party 1 to ensure that our proposed process around this model syncs with whatever the reference model becomes.

And this was specific to the phrase available within the community mechanism.

I don't think we need to spend any more time on this particular topic but it was just a note that we need to make sure that when we talk about available within the community mechanisms that we're confident that this is synced up with whatever the reference model becomes.

Okay moving on to Section Paragraph 245. Again per our discussion on Friday I removed 245 as it was - that was relative to the 80% threshold versus a 75%. And the strong public common response was supportive of 75% with only one or two comments in support of 80%.

So I have removed that and the number of 75% above into 43 is what we're moving forward with.

Section 246 I made some minor edits one removing the term of members which was capitalized and simply made - stating community process.

The ongoing work in the CCWG accountability will flush out how to implement this community decision through the ICANN community process and how to deal with the transitional matters raised.

Okay that is action item Number 3. Action item Number 3 is for the Work Party to engage with legal advisors on the question of a caretaker board and/or an interim board replacement process.

And with that I added a couple of sentences that acknowledge that following the receipt of public comment further Work Party 1 discussion the CCWG and Work Party 1 will now work to develop a process for establishing a caretaker board to act in the interim capacity while the community pursues its normal ICANN board director appointment process.

The process for establishing a caretaker board must be clearly defined to minimize instability. And such definition will address concerns surrounding the potentially limited pool of caretaker board candidates and will ensure a transition phase that does not rely on a carryover of recall board members.

I took both of those points both from the public comment period as well as from our discussions on Friday.

Finally at the end I added the point where the CCWG acknowledges the dependency between our community power 5.6 and the CWG transition reference under their heading Community Empowerment Mechanisms.

And that's to note that there's a dependency there an expectation of the CCWG - I'm sorry the CWG expects to be incorporated as a dependency.

So let me pause there. I apologize for running through this quickly. Let me see if any questions. Steve go ahead.

Steve DelBianco: Well that was fast Keith.

Keith Drazek: No problem.

Steve DelBianco: In the paragraph where you mentioned community mechanism and in Paragraph 243 I just wanted to clarify is a community mechanism, the conversation we just finished with Alan Greenberg where the mechanism is the collection of votes whether it's the Community Council or not. It's the voting mechanism.

And it's not at all the enforcement model which could be member. It could be designator, it could be something else.

Keith Drazek: Yes, thank you Steve. Thanks for the question. And my expectation -- and I'm certainly open to others views on this -- is that it would be the model that Alan just described.

Steve DelBianco: Fantastic. And because there's confusion because the word reference model was used in two places in our proposal, once for this voting allocation that Alan just described in which you called the community mechanism and later

we use the word reference model for the notion of membership which is only to do with enforcement.

So that makes me jump to what you talked about implementation on Paragraph 246 please. Two forty-six you used the word implement the community decision.

And this is our opportunity to clarify that I guess we're really saying to enforce the community decision as opposed to implement. Is that - I mean is there is a difference I guess.

Implement takes on more of the question of an interim board because we may not have had to resort to any enforcement powers. The board may simply honor the community's will and resign and then we have to deal with an interim board. So that's implementation.

But completely apart from that would be this notion that if the board refused to follow the community mechanisms will per the bylaws then we have to look at enforcement. And enforcement isn't mentioned at all I think in here. Thanks Keith.

Keith Drazek: Thanks very much Steve and I think you're right in your assessment. I think the implementation discussed in 246 is really about coming up the need or the recognition that we need to come up with the process and that we need to have an implementation plan that minimizes risks and, you know, acknowledges the concerns that were raised in the public comment period.

I think that is a completely separate discussion from the enforcement that you've raised which is obviously still very important.

So I guess the question then is do you have some suggested language for 243 where we talk about the community mechanism or 246 for community process that where we could make it more explicit and to reduce any questions or confusion?

Steve DelBianco: For 243 I would say along with the mechanism for ACs and SOs to exercise the community power. Mechanism for ACs and SOs to exercise the community power which is...

Keith Drazek: Okay.

Steve DelBianco: ...literally the voting.

Keith Drazek: Yes.

Steve DelBianco: And then I'll stick with implement the community decision so just the way you have it in 246.

Keith Drazek: Yes got it.

Steve DelBianco: And if possible just because some people are confused we could possibly add a small paragraph that says that if the board should choose not to follow the bylaws dictated community mechanism that we would have - we'll have further discussion of ways of legal enforcement.

Keith Drazek: Yes. Okay thanks Steve. Alan you're next.

Jordan Carter: Kavouss is next.

Alan Greenberg: Yes just to add confusion to the confusion that term reference mechanism was used in the report both for the membership model as opposed to designators and for the voting split. The term reference model was not actually used at all so...

Keith Drazek: Okay thanks Alan. And Kavouss I...

Alan Greenberg: That's the confusion.

Keith Drazek: Right. All right thank you Alan. And I apologize Kavouss Adobe Connect was scrolled down too far so over to you.

Kavouss Arasteh: No problem. I think I have I agree with what Steve proposed with some addition. He proposed that dah, dah, dah, dah community powers. I would add as referred to in paragraph and cross-reference the paragraph or without any mention to community powers just say that to vote on the matter - sorry of all support as referred to in paragraph so and so.

So in summary cross-referencing the paragraph with or without community power both are acceptable to me. Thank you.

Keith Drazek: Okay yes thank you very much Kavouss. That's helpful.

Kavouss Arasteh: And (unintelligible) I have a another point on the 246.

Keith Drazek: Yes?

Kavouss Arasteh: Did you consider that the caretaker board has the same authority mandate responsibility of the traditional board member or because their mission are limited they might have some exceptions provided that tasks are limited to

certain things which are absolutely necessary for the smooth operations of the ICANN board?

But do we delegate all of the power of the traditional board to the caretaker board or not? That is the questions.

Keith Drazek: Yes. Thank you very much Kavouss. Good question. It is something that we discussed on the call on Friday.

And it is a topic open for discussion. So it is something that we need to spend some further time and discuss.

There the question is the whether there was a minimum set of responsibilities that could be sufficient for a caretaker or - and that's something that we need to discuss with our lawyers? So thank you for raising that. All right Jordan over to you.

Jordan Carter: Thanks everyone. Yes that's a useful discussion. You've got a few tweaks to make out of that I think Keith. Is that fair to say?

Keith Drazek: Yes. I'll do it in the next half hour probably. Thanks

Jordan Carter: That would be wonderful if you could fire it around that would be great. Thanks Keith. I think the next one is my one on the fundamental bylaws.

And so if staff could load that and we also while they're loading it Alan there was one thing that you wanted to raise one minute of content for something that's highlighted that we missed? Can you quickly deal with that now?

Alan Greenberg: Yes. It's on - in Section 5.5 on removing directors. And it was the last well it's the last one on Page 2 of my document. And it reads our initial view is that such a removal process should only be triggered on the petition of at least two SOs or ACs. And in brackets it says, or a stakeholder group from the GNSO.

And I'm not sure what the intent was. I don't know if a stakeholder group GNSO was an alternative to an AC.

Is it an alternative to an SO? And does it really mean a house of the GNSO? I don't know what it meant so I'm not sure what to do with it?

Jordan Carter: If it's highlighted just leave it highlighted.

Alan Greenberg: Okay.

Jordan Carter: I don't think we can fix it now.

Alan Greenberg: All right I was hoping someone here would remember what it meant. I don't have a clue. It as it is worded right now it makes either no sense or is objectionable I'm not sure which.

Jordan Carter: I think it's more likely to be the latter. The alternative is to delete it. And...

Alan Greenberg: I'll leave at highlighted and raise it in Paris.

Jordan Carter: Okay thanks. Yes sorry this is the time for...

Alan Greenberg: That's okay.

Jordan Carter: Kavouss can I go through my paper?

Kavouss Arasteh: If you want to delete that I have no problem. But if you want to retain that I have difficulty why is subsection of the GNSO have the same power or the same mandate of a SO and AC why? There is no justification for that. Thank you.

Jordan Carter: Yes. Let's...

Alan Greenberg: Kavouss just for clarity I think it meant house because the house in the GNSO appoints directors. I think that's what the intent was but we'll leave it for Paris.

Jordan Carter: Why don't you delete it in fact change it? And then everyone is happy.

Alan Greenberg: Okay.

Jordan Carter: And we can move on. Right thanks Alan thanks Kavouss. So what I did with this and I had a bit of a meltdown yesterday with the tasks that I couldn't find in the frozen public comment tool any analysis of the questions the public comments on Section 3.2 of the report where we set out what fundamental bylaws are.

And then I found out that Working Party 2 had done an analysis of them. And that it hadn't have been included in the public comment tool.

So I'm a bit worried about this public comment tool now especially when you add to that the changing of numbers that has happened.

But anyway that was provided to me in time before I did my own analysis to the comments. I read through the work that WP2 had done.

And I read through the work that we had done and analyzed in the comments on 5.4 which is where we talk about the community power of co-approving changes to the fundamental bylaws.

And the consensus of the summary was that people supported this notion there needed to be a stronger linkage to why is that and this would improve ICANN accountability?

And that the CWG's stewardship proposal would often need to be seen as fundamental bylaws. And that there were views both ways on the whether the location of HQ should be made fundamental or just left as it is in the Articles of Incorporation in the bylaws.

So that little gray note at the top to just sure people's eye. And then if you scroll down there's a reasonable amount of change but it isn't intended none of it relates to changing the power itself.

All of that stuff on the bottom of the first page is about trying to explain or contextualize better what we're doing.

And the way that we're making the privacy change to these fundamental bylaws is by sharing the authority to authorize between the board and the community and by imposing higher thresholds to authorize the changes there. And we just - I just tried to improve the explanation on that page.

And then I've also tried to explain in my mind how it would improve ICANN's accountability which is that it spreads the right to change these fundamental points and it links that to the IANA stewardship transition.

So I'm just going to go through this whole document and take a speaking list. There are not very many changes in the next section 3.2.2 or 3.2.3 they all seemed fine.

And 3.2.4 I added the reference to the stewardship transition because that has come through. I added I kind of reworded the IANA functions review.

So now we're on Page 3 looking at the list of bylaws that were proposed to be fundamental. And there's a kind of clarification where the IANA function review the separation review defined in the CWG stewardship proposal and the PTI and the Customer Standing Committee structure defining the CW stewardship's proposal.

And I have noted then the suggestion by some commenters that requirement from ICANN headquarters being located as fundamental and that has been suggested the opposite.

And I proposed for discussion in Paris that we should say that such (unintelligible) do not require fundamental status. There's no current intention to move ICANN's HQ and jurisdiction that is dealt with in Work Stream 2.

And I also note that the (unintelligible) power to block changes to standard bylaws increases the barrier to any change in ICANN's HQ location.

And then that flows down into the powers to change fundamental bylaws. There was some concerns raised that the operational impacts. And I've tried to explain why that's not likely to really arise.

I've clear - I've clarified that spreading of (unintelligible) by creating the co-decision process which is that in itself creates a higher threshold to a change and/or distributes the change more broadly in the community.

And I've argued basically that fundamental bylaws are unlikely to be changed frequently. And where changes are made they're unlikely to arrive with short notice. It's not ever going to be an emergency to change a fundamental bylaw and so concerns about the operational impact is important.

So that's the draft text there. And I don't know whether any of it is controversial. I hope that it's clearly expressed and would welcome a speaking list. Greg you're on the list.

Greg Shatan: Thanks. My hand was actually up on the previous document but you missed me. So I'll...

Jordan Carter: Oh I'm sorry.

Greg Shatan: ...just briefly respond on that. But I also have a point on this.

The point on having SGs having the same weight as say other SOs and ACs is that for instance you have the MC SG which represents after (unintelligible) all of civil society. And you have the Commercial Stakeholder Group which represents all of the business private sector.

And together they have only, you know, as much as maybe two (ralas). So you've taken all of the business and all of civil society and reduced them to a sliver. So that's where that comes from.

Whether that's tilting against windmills at this point maybe it is but I think it's just - it's a point that should not go unnoticed and may well get noticed by the business community.

And in any case on this I think the one, you know, thing that I think is, you know, potentially controversial obviously is controversial.

I think we had, you know, quite a bit of discussion as to whether the headquarters bylaw should be fundamental.

And I think that, you know, this would be a lot easier to sell as non-fundamental if we can point out the other affirmation of commitments aspects that are not becoming fundamental bylaws.

Otherwise it seems like we're picking on one to become non-fundamental as opposed to, you know, going through more of a screen on this point.

I think it's probably a point that's symbolic more than practical for both sides. But if it's - if it at least can be put into perspective that we haven't taken everything else from the AOC and made it fundamental but this it will be less symbolic at least. Thanks.

Jordan Carter: Thanks Greg. And Steve your hand is up.

Steve DelBianco: Yes. For some perspective Greg not all of the commitments in the affirmation went to fundamental for instance all four of the AOC reviews did not go to fundamental only the IANA functions review is fundamental at the request of the CWG.

But the other four reviews and affirmation of commitment were to regular bylaws because they're likely to change since they have a lot of details in them.

And then that's the perspective part. I concur with your point about the cruel irony of suppressing all of the noncommercial and commercial stakeholders to just one half of the single AC, SO called GNSO and I note that (Robin) agrees too.

And there are other ways we can scratch that itch halving the number of voting seats on affirmation review teams for example which we'll discuss when we get to Paris. I realize that. So that's my reaction to your perspective point. Okay great thanks.

Jordan Carter: Thanks Steve. And if you could track some changes and maybe that just reflect that to be - to clarify the point I would be super grateful for that. And Kavouss your hand is up.

Kavouss Arasteh: Yes. One minute of clarification thought by me to you to Steve. In Buenos Aires in the last meeting of CCWG I mentioned about the quote and your (eviction).

And as Steve told me that in some paragraph it is mentioned that it is not necessarily the Californian code. Where is indicated that it depends on the situation and maybe different code in different countries and so on. So that is still something that some people talking and asking me.

And I have told that it was a verbal explanation but I have not found the paragraph that clearly mentioning this. Thank you.

Jordan Carter: Do you want to respond basically to that Steve?

Steve DelBianco: Sure. I guess I could. But Kavouss this question of jurisdiction has very little to do with where ICANN's headquarters is.

In fact the nation of Iran can haul ICANN into court if it thinks the ICANN is influencing or affecting the citizens of Iran in a way that violates Iranian law.

It has nothing to do with where it's headquartered. And the lawyers in the call are bound to put their hands up right now and correct me because I'm not a lawyer but in general we completely separated the question of headquarters location from the question of jurisdiction. And I think we successfully made that case.

When it comes to jurisdiction affirmation Paragraph 8B was ICANN's commitment to remain in the US as its location -- not remain I'm sorry -- but ICANN's commitment that it would have a US location in addition to lock till around the world.

We analyzed that carefully against Article 18 in the bylaws and Articles of Incorporation for ICANN both of which declare that ICANN is a California corporation would have its headquarters in Los Angeles.

Given that we concluded that we didn't necessarily have to bring affirmation of commitment to Paragraph 8B into the bylaws. In other words it's already there.

And that left us with the question of whether what's already there Article 18 should or should not be a fundamental bylaw?

And my best analysis of the comments that came in in the public comment period was that it was a pretty even split between those who felt Article 18 of the current bylaws should become fundamental or not. Thank you.

Jordan Carter: Thanks Steve. I don't want us to get into a discussion about the substance of this. We don't need to. The only question is whether this is - should be in the fundamental status or not.

And the only issue is whether the text survives. And because we have happily or unhappily run completely out of time I am not going to take a speaking list if I can help it with your indulgence.

What I'd like to invite you to do Kavouss, Alan anyone and let's just set aside that mention of particular country and not keep going on this jurisdiction track.

I don't think there is a clear reference that you're looking for Kavouss. And...

Kavouss Arasteh: Yes. I put it in the chat. I just want to mention also on the call that I never ever referred to any specific country. And I refrain to refer to any specific country. I have to be impartial and totally neutral. Thank you.

Jordan Carter: Thanks Kavouss. I'm just making the point that this is not relevant to what we're talking about which is fundamental bylaws. It is irrelevant jurisdiction that should be mentioned somewhere else but not in this part.

So I'll just wrap up by thanking you all for the phenomenal amount of work that we've done here in the last week, only week, week and a half maybe.

And to all of the people who took some lead responsibility in getting these papers ready to all the drafters, (unintelligible) who have offered comments, and thoughts and wisdom. And I really appreciate it. It's great work on the part of the ICANN community.

If you are redrafting or phrasing documents please, please, please get them through not to me but to send them straight to the Working Party 1 list.

And the freeze point is in 26 hours. From my sense I'll do a little bit more tweaking of this one and send it around again later today in due time.

Please don't be late. Please don't miss the freeze deadline. Please get stuff out there sooner rather than later if you can.

And thank you all very much for all of this work. And I'll see you hopefully all in Paris. Thanks everyone.

END