ICANN

Moderator: Brenda Brewer

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8:00 am CT

Leon Sanchez: Welcome to the CCWG on Enhancing ICANN's Accountability Meeting Number 42 on this 18th of July in Paris.

Forty-two is the magical number and it solves all the problems so and...

Woman: (Unintelligible) Number 42.

Leon Sanchez: ...42, 42 is the answer for everything and don't forget to bring your towel to towel day.

Okay so good morning everyone. We had a very fruitful meeting yesterday. I think we can keep it that way. I hope we can keep it that way today.

We are I feel that we are doing a lot of progress from where we were when we come to Paris when we came to Paris. So let's keep it that way.

So we have some agenda adjustments today. We have had a schedule a CWG document crosscheck at some point. We are going to keep it but we're going to have it a little bit later in the agenda.

And we will be extending our sessions our first session on government issues. We are very aware that there are still some questions and some concerns that have been raised by governments.

And we are of course wanting to address them and be very clear as to helping our GAC friends make their decision and support of the model of course.

And then we will have two IRP sessions. And IRP's also one of the central subjects that we will be discussing today. And we will also be covering the mission core balance along with other items not addressed.

And we will be discussing the budget and bulleting mechanism of course. And hopefully we will get some clarity in emerging items and second readings.

By the way I don't see Eberhard here. I just wanted to see if he wanted to renew his permanent objection but we'll ask the question later. So...

Woman: Eberhard (unintelligible).

Leon Sanchez: Okay.

Thomas Rickert: Are we going to do a Eberhard look-alike contest now or...

Leon Sanchez: Okay so let's keep this period this way. Let's keep joyful all the day.

Man: (Unintelligible).

Leon Sanchez: Okay so let's say we need to decide not being serious - not joking we need to actually decide the orientation that this working group is going to have as to when we get to our public comment period, to our second public comment period.

We need to finalize some documents, we need to make some decisions and we need to get to our public comment in a way that we can not only address the comments that we received in our first public comment period from the wider community but also we need to show the progress we've been making in our calls after the public comment and of course our meetings from yesterday and hopefully today.

So these are at-large the ideas for today. And with no further delay I would like to hand it to Thomas for our first action item.

Thomas Rickert: Thank you very much Leon and good morning, welcome everyone. I'm not sure whether I'm the only one but it seems to be darker in the room today right?

So are we moving to the dark side? And so if the tech folks could get us some more light in the room that would be awesome.

Woman: (Unintelligible).

Thomas Rickert: So as you will recall we had the discussion yesterday following-up on the discussion we had during the last couple of calls on the community mechanisms that we would consider.

And Holly and Rosemary gave us additional information particularly with respect to the single member model which got an awful lot of traction in the room.

There were however some additional questions that we collected from you from the room. And I'd like to invite Holly and Rosemary to the front.

So as you will recall we've collected your questions. We've asked Holly and Rosemary to analyze the questions and to provide responses.

So before we open it up for additional questions that you might have we would like to give them the opportunity to take a few minutes and go on record with responses to the questions that you asked.

So without any further ado I'd like to hand it over I think Holly you're going to take the first crack at it?

Holly Gregory: So good morning everybody. We went through your questions last night and are going to spend just a few minutes going over them.

We received a question from Anne Aikman-Scalese. I hope I pronounced it correctly. She said can you confirm that the articles of incorporation will define the community mechanism as sole member as the unincorporated association consisting of all current SOs and ACs.

So the Articles of Incorporation and the bylaws together which form the key documents of the corporation will define the community mechanism as the sole member if that's the model you pick in a way that establishes legal personhood.

And it will provide how all the SOs and AC that the determined to participate will be able to participate. Precisely what part of it goes into the articles versus the bylaws is a legal drafting issue for us to figure out.

Bylaws will provide however for flexibility so that new participants can join upon criteria agreed to by the community.

We had a series of questions from Tijani. And I'm going to start - he asked some questions about the sole member and about the designator models. I'm going to start with the designator model questions.

And some of his questions, the first question was I understand that the escalation to an enforcement phase would be triggered by a community council but can one single SO or AC elect to become a legal entity and trigger the escalation and is there any way to prevent that to happen?

This is actually a question that's not specific to the designator model. And it really depends on the rules that the community comes up with and how the IRP is going to function. And we'll be having a discussion around the IRP today so at this point there's really not a way for me to answer that question.

His next question was if we've reached the escalation phase shall all SOs and ACs need to have legal status to exercise their powers? And the answer is no.

What will happen when some of the SOs and ACs can't or don't want to have legal status will they be prevented from exercising their power? Again the answer is no. They'll be able to participate in the community's decisions.

And then the final question was after solving the problem through enforcement will the situation go back to the original status?

And then he puts in parens shall legal entities designators finish and all SOs, ACs return to the original status.

I think is question is if you if a designator decided to take on legal status that they could actually push through an enforcement through the binding arbitration eventually into court would they then revert to non-legal status after?

And I think the question is no, once you become have legal status you have that legal status. So with that Rosemary?

Rosemary Fei: So I'm going to pick up with Tijani's additional questions about the sole member model. The first one was is there a legal provision for a single member incorporation in the California jurisdiction?

If there is can someone SO or AC get a legal status and become a second member? Does the jurisdiction prevent him if the corporation is a single member one?

California allows the single-member governance structure for a nonprofit like ICANN. We're not changing ICANN's form or reincorporating it or anything like that. It's a matter of putting provisions in the bylaws.

The bylaws provisions would provide that ICANN has the sole member. And any change of the statement would require the consent of a sole member.

The second question was about composition. I understand that the community council will be composed of participants mainly appointed by the ICANN SO ACs.

It is it restricted if the SO AC representatives only can any other party come one day and say I'm from the Internet community and want to be part of the community mechanism sole member, will it be legally impossible?

First of all I want to be clear that community mechanism as the sole member participants are the SOs and ACs themselves not some delegates or representatives?

This will be drafted into the bylaws with the existing SOs and ACs in mind and would require that sole member to approve any changes.

Man: (Unintelligible).

Rosemary Fei: The - I will slow down. Sorry about that. I'm used to being told you have five minutes get through it all.

Just say last.

The idea of the Community Council I think would be more of a forum, a community forum for engagement and discussion. But the actual voting would be by each SO or AC.

The next question asks will the participants be changeable by their SOs, ACs at any time the appointing party feels it necessary?

Again because there are no voting participants separate from the SO or AC if the SO AC themselves that vote in the community forum may have representatives who represent a SO or AC but that community form is merely for discussion and no voting occurs there.

The next question do the voting members decide to vote according to their own beliefs or are they obliged to reflect the opinion of their appointing parties? I think I've already answered that. There is no disjunction.

Legal status, will the community mechanism be an unincorporated association to be able to become ICANN sole member if not what will be its legal status?

Yes. We think it will be an unincorporated association that is established in ICANN's bylaws. No other document would be required. No other resolution would have to be passed. No other filing would have to be made.

I saw in the presentation that the SOs and ACs will appoint the board directors through the community mechanism. That means that the SOs and ACs will not appoint their directors directly but through that community mechanism what will be the procedure and who we does that?

The bylaws will actually provide that the sole member will essentially automatically appoint as directors and also be able to remove as directors whomever the SO or AC that in the past has controlled that director position tells them to put in or take out.

So there won't be, you won't have a one SO having to go to the community mechanism and get community approval. It would be a pass-through transaction.

We then - that ends Tijani's questions. We did get a question from (Sean).

If the limitation community dependency on the community mechanism SO member is in the bylaws but isn't being followed what legal standing will the SOs and ACs have in court for enforcement?

Well first of all the single member itself will be a legal person. It will have standing first to go to the IRP. And once the IRP has come to a decision if necessary, go to court to have the IRP's decision enforced.

And secondly the SOs and ACs also will have access to the IRP. And if they are legal persons once the IRP renders its decision they could seek enforcement of the IRP decision in court as well.

I think there was one last sort of question came from Chris Disspain yesterday of about what kind of additional logistics will have to be taken into account because you're going to have a member, one member?

And the answer is pretty much none. Because it is a sole member we can dispense with meetings and quorums and call for meetings and all those kinds of things.

Basically the sole member will act - I see two thumbs up from Chris. Basically the sole member will act on paper with recognition, pieces of paper that recognizes that a sole member has acted. And that's the way you will communicate the sole member's decisions.

But the only thing the sole member will have to do will be to exercise the rights given to the sole member in the bylaws. There's no additional administrative stuff that has to happen.

And that's it.

Thomas Rickert: Thanks so much for this and for those who would like to revisit the questions and their answers to discuss with their respective communities I trust we will get a little memo in writing at some future point so that you don't have to go to the transcript although you certainly can go to the transcript if you wish.

Are there more questions for Holly and Rosemary? Let me just check the Adobe Room. So Chris was the one with...

Chris Disspain: Yes.

Thomas Rickert: ...quickest finger.

Chris Disspain: Thanks Thomas. I do thank you very, very much. Just to go back to the point above IRP you said Rosemary I think if to legally enforce it then the SO or AC would need to become a legal person.

Could you not do that by way of representative? Presumably what would happen is that if the ccNSO used the IRP and the ccNSO didn't itself want to formally then then presumably could say a point some of its of the ccTLDs that belong to the ccNSO to act as legal persons?

Holly Gregory: I'm not sure about that. And the reason is that the entity or the thing that's given rights under the bylaws is the SO or AC.

And I don't know that a court will recognize a person representing an non-entity. I think you'd have to find someone who actually has rights under the bylaws that's a person that can enforce...

Chris Disspain: So thank you leaving aside the fact that you've just called the ccNSO a nonentity.

Holly Gregory: Well...

Chris Disspain: But I forgive you. Okay now I get it completely.

So we would have to - but that would only be for the very fine endpoint if you felt you that you actually had to go to court right?

Holly Gregory: That is correct otherwise before the IRP personhood would not be a requirement to have standing.

Thomas Rickert: Thanks very much. Sebastien?

Do we have the roving microphone somewhere?

Sebastien Bachollet: Sebastien Bachollet. Yes it's a follow-up question of Chris and after the question of (unintelligible) I have trouble to understand because we are talking about a sole member organization. And you say if a SO and AC want to act need to be a member or need to be incorporated.

And it's what I understood that you need to have legal status whatever to act in court if you want to have something applies.

And we are coming to square one if we if to have something done to be sure that it's done it must be incorporated somewhere or our legal status. And we are again coming back to the membership organization. Then and I don't understand how we are going there and why we are going there.

Holly Gregory: Okay we're not back at square one. So the sole member would clearly have the ability to go in and enforce the bylaws through an IRP process backed by the ability to go into court to enforce whatever decision the IRP panel had made.

So you get a very, very strong enforcement right there that the community can exercise.

Individual SOs and ACs also may exercise specific rights. And they have the access to the IRP to do so.

If they needed to enforce those rights the community could go to court on their behalf with their legal standing or if the individual SO or AC is a legal person it too could go into court to exercise its rights.

So we're certainly not back at square one. This is a considerable advancement in terms of the ability to enforce in court in that rare instance that you need to do that.

Thomas Rickert: Sebastien do you have a follow-up question?

Sebastien Bachollet: Yes. Thank you. I get your point but I think sorry, we are back to one step back because that means that every SO NAC can have legal status and then they can act again each other and it's what we want to avoid.

And we need to be sure that we will not be able to do that from my point of view. It's need to be very (unintelligible) on behalf of any of the participants of ICANN must be the unique and sole member.

If not we are and I think we are in big trouble if we are going back to that. Thank you.

Holly Gregory: Sebastien I just I didn't understand. That can be handled through how you define the ability to use the IRP. So if the idea is that you don't want SOs and ACs to have the ability to do that we can make that provision.

And I - we will be having a discussion around how the IRP will function later today but that's separate and apart from start of the legal model.

So we can talk about how the IRP process would work. And if you don't have a binding IRP process that an individual SO or AC could use then you don't have a thing to go to court to enforce. So we'll talked about that one. Becky has her presentation.

Rosemary Fei: And this is Rosemary. In addition to the point that Holly just made about the fact that we can control who can use the IRP process a key difference is that the SOs and ACs, whatever rights we give or don't give them will not have the statutory rights of a member. Only the community mechanism as sole member would have all those statutory rights that are so powerful.

Thomas Rickert: And let me just add I guess Sebastien these are very relevant questions. I think we all need to understand the different levels of where interaction is taking place.

The sole membership, single membership model was primarily picked by most of us including myself because it lowers the risk of any single organization exercising statutory rights.

That risk is a limited - is eliminated. The question you are asking was more standing, the question of standing for the IRP. So let's maybe trying keep that a little bit separate. We will get to the IRP this afternoon and I would progress with the queue now.

Can I suggest you put yourself in the queue Eberhard or is that directly - okay please fire way.

Eberhard Lisse: Besides that I don't like the words statutory rights and risk in the same sentence. How is this going to improve the situation for individual ccTLDs?

Thomas Rickert: Let's add it to the list of questions please. Bruce?

Bruce Tonkin: Thanks Thomas. One of the things we have in our models at the moment is the ability to create new advisory committees. And I've heard different ideas of what they might look like in the future.

But for example we could have an advisory committee for human rights or you could have an advisory committee on broader Internet governance.

One thing I think we should try and think about is let's assume that in the future some sort of new advisory committees get created and we just structure that so that how they are created flows through because I gather what you - what I'm expecting to see happen is by creating an advisory committee it automatically becomes part of this sole member model.

But what I could do presumably is then change the voting arrangements. So if you have a certain number of votes per SO and advisory committee add a new advisory committee could change the balance.

I think it's worth thinking about that. So that's not in advance because otherwise you're going to have disputes about our we add a new member and we're going to upset the apple cart here.

Thomas Rickert: Just briefly before we go to Rosemary to answer this you will remember that one of the requirements for our work was that we keep the system open.

And whatever a new group is added to the ecosystem that would require a bylaw change and because currently all of the groups that we have are embedded in the bylaws.

So we will need to rethink voting thresholds, voting powers each time we have a new entry or removal from the scene in the ICANN community.

So I think all we can do now is keep the system sufficiently open to allow for a change but we cannot predict exactly what tweaks will need to be made whenever such change is taking place.

Rosemary would you like to add to that or Holly?

Holly Gregory: Oh, I think you answered it very well. I mean we contemplate that if you go with this model those are the kinds of issues that will solve in drafting but we do need to make sure that there is that flexibility.

And of course once you have that flexibility you also need to be aware of how it affects voting threshold than voting counts and all of the like so there's some mathematics here.

But we really can't do that so we focus in on the model.

Thomas Rickert: Okay great. Next is Alan please.

Alan Greenberg: Thank you very much. Just with regard to that last one I'll remind people we were prepared to give SSAC and RSAC two votes as opposed to five.

I don't think we want to predict what we will give the next AC or SO. There may be whatever circumstances that cause it to be a different number.

So I'm putting on my hat now as the person drafting this session I presented yesterday and trying to understand that if we adopt this model what is that going to look like?

So what I'm hearing you say is the voting's essentially done by the AC or SO. If you map that into what we were talking about yesterday on the community council the AC or SO may have multiple representatives on the council.

But the vote is presented on behalf of the AC, SO. And I assume presume there is no restriction to whether it has to be all cast the same, divided and even divided fractionally.

So we could say the GNSO casts 2.3 votes yes and whatever 2.7O or something like that. So none of that is prescribed is forbidden. So it's really up to us to set the rules within the understanding that the number has to come from the AC, the numbers have to come from that AC and SO derive whatever methods they want.

Holly Gregory: Yes. If we understand the council it's designed as a forum to ensure that the community has opportunities to discuss and learn from one another and really deliberate. And then the SOs and ACs would the basis of that then direct how the vote goes.

And at this point we understand that the concept is that ACs and SOs would be able to split up their votes how they want to. So that's a basic understanding and it's certainly draftable.

Alan Greenberg: That has a nice advantage in my mind that the GNSO can choose to divide. The ccNSO or the ALAC may choose to say yes we have five regions but we will make a decision on behalf of the competency group and present five votes one way or another. It's our choice whether we do that are not. Okay good.

Thomas Rickert: That's correct Alan. And I think it gives all the flexibility we need to implement whatever is done to the community powers.

Next is Malcolm wherever he is in the room Malcolm.

Malcolm Hutty: Thank you. Yes there was discussion there about how this affects the IRT and everything and I think it's only in a very small and limited way.

So let me just set out as clearly as I can my understanding and you tell me if I've understood this correctly, yes?

The IRP we are intending to hold out to all materially affected parties.

And we haven't yet decided whether or not SOs and ACs should be capable of doing that. That's a discussion for another day and this is not part of that discussion.

We might decide that SOs and ACs should always have the rights to come before the IRT. We might decide that they should never have the right to do that. That's just something for another day and this isn't that discussion right?

The only thing that this new proposal, this sole member proposal adds to the IRP is to fill in one small but important gap.

We say in our bylaws in our proposal that the IRP should be available to materially affected parties. And in the event, hopefully a very unlikely event the ICANN will ever to refuse to do that the sole member would be available to require ICANN to do that.

And it could be as simple and straightforward mechanism whereby the community could just simply say to the court the bylaws say that ICANN should enter into the IRP, it's refusing to do so, please tell it to do so. And that's it.

Is not really a political question, it's not really a balance of the interests of the communities. It's a straightforward please obey the bylaws in this very specific and limited extent.

Nothing about this sole member proposal have any other effect on the IRP thing in any way is that correct?

Holly Gregory: Yes.

Malcolm Hutty: Thank you.

Thomas Rickert: That's nice. I like these binary things coming from lawyers in particular. You know, it happens very rarely so let's mark our calendars. Kavouss?

Kavouss Arasteh: Well we are discussing many things. I think we were answering the question raised yesterday. We've gone back to the government issue and we've raised the issue of IRP.

I don't know we're discussing so many things at the same time I can't follow the discussion. Where we are, what we discussing now, which agenda item we're discussing?

Thomas Rickert: Just to be very clear we're now answering remaining questions on the community empowerment model. Hopefully...

Kavouss Arasteh: IRP, That's an IRP. IRP we have not yet discussed.

Thomas Rickert: Yes. But if I may Kavouss we're now trying to answer questions on the model. There were some in the room who do and did think that the model we choose has an impact on the right for certain groups to exercise the IRP, to use IRP.

So that was sort of an associated question to answering their concerns with respect to the models.

We will discuss the IRP later today so this is not the right time to discuss the IRP other than where it has a linkage or a perceived linkage to the model that we choose as a reference model.

So also the government related issue will be discussed in the next slot but we're trying to get closure on a new reference model.

So with that I think we can move to Tijani's who's next in the queue.

Tijani Ben Jemaa: Thank you Thomas. (TJ) speaking. I didn't understand the concern of Sebastien was about the - a single SO or AC to have the right to go to the IRP.

I understood it that this SO or AC can sue the organization to the court. And this is more important and more critical.

We said that we don't want that the ICANN affairs be dealt with in the courts. So the question was about this and not the IRP.

Holly Gregory: Okay. That's very clear and thank you for the clarification. Let me answer.

The - we can provide a provision in the bylaws that says that any dispute must go through the binding IRP provisions.

And we believe that will be effective and prevent other kinds of suits against the organization by a SO or AC.

The important thing that the sole member adds to that is the one thing we were concerns that we couldn't limit was a member right.

So in the model where SOs and ACs as - are individually members they would've had a right to go to court that we couldn't limit.

With the sole member model only the sole member has those rights. So you would only have that type of suit that we can't limit by arbitration in a case where the sole member community comes together and decides to assert those rights. Is that clear?

Good.

Thomas Rickert: Thank you. Next is Jordan.

Jordan Carter: I'll pass at this point actually.

Thomas Rickert: So we have some...

Holly Gregory: I think the community is tired of the lawyers.

Thomas Rickert: No, we had some nice things happening today. Lawyers giving me yes and no answer, lawyers speaking fast. Usually when lawyers are paid by the hour they speak as slowly as they can.

Okay joking aside let's move to who is left? Bruce again or is that an old hand?

Bruce Tonkin: Old hand.

Thomas Rickert: Old hand? Chris?

Chris Disspain: Yes thanks. I'm trying to remember what it was I wanted to say.

Thomas Rickert: Okay.

Chris Disspain: Now it's gone. It was incredibly important.

Thomas Rickert: it must've been. Alan?

Alan Greenberg: Thank you very much. Again I'm putting on my drafting hat. It sounds like we have a lot of work to do writing the rules for this Community Council.

It's clear that the actions it takes are directed by something someone for the various powers we're already talking about what the thresholds would be.

But it sounds like there's all sorts of other things that it might do and we need to be - we're going to be very specific as to can it be triggered by a single AC SO, can it be triggered by a majority of them? So it sounds like we have a fair amount of drafting to do some of which may be routine, some of which may be a bit controversial for we can actually put this in place.

I just wanted to make sure I'm capturing it properly.

Holly Gregory: No. I think that that's true but I think the level of detail that we need to get to that we can't really get to until we have a model.

And the big issues are what we should be focused on to get to that. I agree that there are little rules that are going to have to be provided for a council that are important but probably not of the level that we need to decide which model.

And let's not forget that these are the questions we need to answer for either of the models. You know, so I think they we will - this will not help us in making a determination as to which model we choose.

So obviously Chris and...

Chris Disspain: I remembered...

((Crosstalk))

Thomas Rickert: ...(unintelligible) got their questions...

Chris Disspain: I remembered...

Thomas Rickert: ...back so the relief was just a temporary relief.

Chris Disspain: Well Alan reminded me because it was about the Community Council. All I wanted to say was pretty much along what Alan said but perhaps in a slightly different way.

This - if we follow the sole member model we should - we think we need to approach the council with a clean sheet of paper. Because actually a lot of the assumptions we're making about the Community Council were based on different on different models.

And it may be that with the sole member model the actual council doesn't need to be anything like the same shape that we thought it needed to be with five votes here and six votes there and all of that stuff.

It may actually be irrelevant in that sense and more relevant in another sense. So I just want to make sure that we don't approach the design of the council with any assumptions about previous discussions because it's changing based on the model.

Holly Gregory: I think in the sole member model the way we've been thinking about at the council is really a forum for a discussion and not the place that voting happens.

Voting happens by the SOs and ACs and that's probably the distinction but we can explore it more.

Rosemary Fei: The other comment I make is that the legal form the community mechanism is one that allows us much greater flexibility.

And so you're right you could approach it. We've been constrained when we were talking about a corporate law for example by what we had to put in or had to work around whereas we don't have those constraints in the unincorporated association form.

Thomas Rickert: Thanks. Just an advance warning we'll close the queue after Samantha Eisner number two. And after that Mathieu will offer an answer to Eberhard's question and then we will try to wrap up.

So next in the queue is Sebastien.

Sebastien Bachollet: Yes very quickly thank you Tijani for elaborating around my question and thank you for Paul and Jonathan to say that I am wrong. Sometimes wrong people can ask good question. Thank you.

Thomas Rickert: Thanks Sebastien. Becky?

Becky Burr: I just want to clarify one thing Holly. You'd just mentioned that there was these member rights that we weren't sure that we could constrain.

It really wasn't that we were sure we couldn't constrain them and force them through the IRP but that we couldn't guarantee that they would have to stay in the IRP.

Because as I understand it there are some case laws that suggest that you actually can impose these kinds of requirements and restrictions on members.

Holly Gregory: There is uncertainty in the law. There is some that says you can and some of them says - and then there's some question so just a big gray area.

Thomas Rickert: Thanks. Jordan?

Jordan Carter: Thanks Thomas, Jordan Carter here. I think this is following-up on what Alan and Chris said really the council which people are maybe assessing we should call a community forum in this single member model would be a place to discuss the exercise of any of the community powers before they were exercised.

So it would force the cross community discussion and so if you work that point into all of the powers it would be the first point of call for example for the petitions to exercise any of these powers went and were discussed before the SOs and ACs made a decision how to exercise the powers.

And that makes it much simpler and less threatening in two ways. It makes sure that the decision-making, the hard edges of these powers sits totally entirely and not ambiguously in the existing SOs and ACs.

So the new thing we are creating is merely a thing where conversations happen. That should be less scary, less threatening, less concerning, less revolutionary, less shaking things up.

And so that has appealing to all of us who keep using the points that we need to make the minimum possible changes consistent with governing these powers.

Now on the actual exercise of the votes if you like I think we do still need to keep a notional number of votes per SO AC.

And we do need to maintain in the rules that they cannot simply be cast on block. And so they can't - you can't just say we're only taking a single decision about one way, either way.

In other words you can't have a every SO AC saying we'll only be five votes yes and five votes no. If you do have that you need to reconsider all of the thresholds because if we're heading towards a model where there are only five groups with the same voting ways a 66% threshold for example becomes actually meaningless.

So I think we need - still need to require or provide for that sharing of the votes within the SOs and ACs but that is a detail that we just need to work out for the member.

It doesn't - I'm just saying that we I think in the drafting we've got to do we reemphasize the fact this is now a forum where discussion has to happen before the power's exercised to the member.

Thomas Rickert: Thanks very much Jordan. Lyman?

Lyman Chapin: Thank you. I've got a question for Holly I think to clarify. I'm sorry Holly, I'm over here. It's awkward I know.

I am not sure but I think I heard two different interpretations in the course of the comments you've been making. And I suspect it's just that I don't understand it adequately.

It seemed at one point that you said that an individual SO or AC if it were duly constituted as a legal person and not just the community mechanism as

the sole member would have standing in the CMS model to bring a legal action against ICANN to enforce its bylaws whether or not it had obtained a favorable IRP ruling.

Is that - is it possible in the single member model for an individual SO or AC acting unilaterally and without combining its thinking or its actions with other participants in the community to bring a legal action against ICANN, I assume using the, you know, bylaws as contract mechanism to enforce bylaws provisions outside of the IRP process?

Holly Gregory: Yes. I clarified in my second attempt to answer the question that we believe that we can prevent that from happening by drafting bylaws that require the IRP process to be used.

And that also we no longer if we use the sole member model have the problem of certain potential statutory rights that we would not be able to limit by that mechanism.

So members under California law and laws of most states have some specific statutory rights that we are unclear whether can be absolutely limited in an arbitration process.

Here with a sole member we've removed that concern around could an SO or AC go around the IRP process because they wouldn't have member rights. They wouldn't have those statutory rights which we can't limit.

So we believe that we can create a mechanism that would require SOs and ACs to bring their concern up internally and not go to court.

Thomas Rickert: I guess this is one of the central points for this group and for the choice of the model. So let me try to clarify that there are statutory rights for members.

The sole member is the member. The SOs and ACs are not members so they don't have statutory rights. Those statutory rights can only be jointly exercised by joint action of the groups inside the single member.

Additionally we were uncertain whether it would be legally waterproof to truncate statutory rights for members.

But we discussed yesterday that we would still truncate those statutory rights so that we have an additional safety net, number one being the joint action to prevent a single let's say participant in the community from exercising rights and number two having removed these rights have truncated these rights in the first place.

So we will have two layers that prevent single organizations from bypassing community processes such as the IRP from taking ICANN to court.

So I think that this sufficiently clarifies where we are but certainly we would, you know, once we finish this we will make sure that we will provide additional documentation clarifying this for the rest of the community. We have to do so anyway for the reports that we're updating.

Next in line is Sam wherever you are the room.

Sebastien Bachollet: Over here.

Samantha Eisner: Hi thanks. After listening to the conversation I am having trouble forming any specific question. I had some before but they've been answered along the way.

But I'm having trouble visualizing in my head the interaction between the Community Council and the member and exactly where these conversations start and stop and how the parts of it come together.

Because I've heard that the council maybe the member or it might be the place where the discussions happen.

I think it would be really helpful to have some sort of visualization of it because it's a bit in the ether for me right now to understand.

Thomas Rickert: So we have explained in the room so that might help with it. But in the absence of having an explain graphic on it we have our imagination facilitator Jordan who I think you can elaborate on that a little.

Jordan Carter: A new title. I don't really know what it means but I'll run with it.

So Sam so we just take an example of one of the powers and step on how I think it would work in this model.

So let's say it was the blocking a standard bylaw change. And so the board had flowed through all of the normal processes to change the bylaws.

There have been some feedback that people didn't like the change but the board decided to go ahead. And so someone decides to initiate the power to block a standard bylaws change.

And what - the way it would flow would be that there would be a petition to do that from one or two SOs -- whatever the threshold is.

That would then cause the community forum council to convene and have a discussion about that. So there would be some fixed time period within which that would happen.

And then the SOs and ACs would determine their votes after that discussion and communicate those through email or whatever the process was.

The number would be tallied up and either the decision would be yes this bylaws change is blocked or no it is not. If it was the board would react, if it wasn't the bylaw would be enforced.

So is that the kind of step through that you mean?

Samantha Eisner: I guess a step through. I but I don't, you know, so is the Community Council is it something that has - is that - does that have pre-identified members? Is it just a online grouping? You know, how is that done?

Is - does that have numbers that are commensurate with the vote? How do the two tie together? Is...

Jordan Carter: Well there's no logical necessity to connect the two if the council is simply a discussion place that has to have a discussion before the voting bit happens.

But we do have to specify the answer to the question that you done. It is not currently specified because this is thinking that's been evolving over the past 28 hours or so.

So by Tuesday's call there will be a concrete set of answers to the questions that you've just raised because we have to answer those questions in the public comment document.

So I think I'm looking at Alan, I think you can expect that there will be some draft text to look at answering precisely that by Tuesday.

Samantha Eisner: And just to follow-on I think that it would be really important to clarify in whatever (unintelligible). As a member it's going to be really important to actually have a visualization of what the member is, a visualization of what the council is and how the two interact.

Thomas Rickert: But let me just step in briefly. The beauty of the single membership model is that we do not need an additional body in whatever shape or form.

The community talks anyway when it comes to these important decisions. So I think the - there has been a lot of support in the chat for the term community forum.

Let's not call it council. That sounds too formal.

So there needs to be an exchange of thoughts by the groups on such important matters and then votes are cast in some shape or form that's going to be written up.

But let's please not tattoo the idea of the requirement of additional formalities on our foreheads. It's not going to be the case.

You will hardly notice that there's anything changing. There will be consultation so that the groups exchange thoughts before a decision is taken so that every group can make an informed decision and then decisions are taken in a very light wide fashion.

So the - Alan has sneaked into the queue after I closed it. He has promised to keep it very brief. After that we are going to move to Mathieu to answer Eberhard's question and then try to wrap it up.

Alan?

Alan Greenberg: Thank you. It actually is related to what we were just talking about. We're saying all the directors will be appointed by this by the member. That implies to me that we need at least a spokesman on behalf of the group, you know, whether it's the chair of the forum or someone else.

Because some decisions that this group this theme will take comes from the NonCom who is not one of its members. So there needs to be a path to convey that.

I'm assuming therefore that there will be - we need to have some level of I won't say structure but a communication path if nothing else to allow those things to happen which are generated by the ACs and SOs.

Holly Gregory: There does need to be a communication path. But one of the concepts is that those entities that have the ability to now semi-designate directors would direct the community mechanism on the people that they want. And those would be the people that got put on the board. And the NonCom could have that same. We would write that into the bylaw.

So it's just simply a pass-through. And the community mechanism will appoint the people that it's told to appoint by the SOs that have rights and ACs that have rights to appoint persons in the NonCom.

Alan Greenberg: That...

Holly Gregory: That is the current concept.

Alan Greenberg: Is it possible for the member to delegate to the NonCom the right to appoint directors?

Holly Gregory: No. We will put it in the bylaw. It's not a delegation. We will put it in the bylaw and that's how it works. And so it will be sort of a directive. It'll be a direct pass-through.

Thomas Rickert: Okay. Mathieu will now answer or try to answer Eberhard's question. But before we do Eberhard there has been a tongue-in-cheek speculation whether you would extend your subscription of the objection to day two.

You have confirmed to Leon in the meantime that that is the case. So let's please put that into the meeting notes that there is the objection from Eberhard. And now let's turn it over to Mathieu.

Mathieu Weill: Yes thank you. So the question raised by Eberhard it was whether our discussion here was having a significant impact for individual ccTLD managers.

And I think it's a very valid question because that's the kind of question that a ccNSO as a chartering organization is expecting us to answer.

Meanwhile with regards to this particular discussion about the community model I would note that some ccTLD managers in the public comments have expressed strong views on this discussion.

And that there's a say a - something that is always valid in the short community which is there is no one-size-fits-all. There is no such a thing as a homogeneous expectation from ccTLD managers.

And in this regard I'd say probably different ccTLD managers will have different views about their interests in this particular discussion.

And I would also say that although I've been giving other ccTLD manager a lot of thought about this I've yet to see either in this room or in the public comments any adverse effect of this discussion about the models and in the single member, sole member community that would adversely affect individuals ccTLD managers.

And so that would be my answer at this point on this important question.

Thomas Rickert: Thank you very much Mathieu. We would like to remove- use the remaining minutes to capture where we are on the model.

And you will remember that during yesterday's discussion we received a lot of positive feedback to the single membership model. Some have questions we have answered or made best efforts to answer all the questions there were.

We did note that apart from the support that we got both in the room as well as in the virtual room there have been many statements of support in the chat for example by Keith Drazek and others would need to go through the script to find out all the details.

There has been a concern raised by Alan who is leaning towards the designator model. And Sam Eisner went on record preferring the designator model.

Apart from that we haven't seen a position to using the single membership model as the new reference model.

And today we would like to confirm whether there's a difference whether there's a change in attitude towards this model.

We also take note of the objection that was raised by Eberhard. But still from a co-chair perspective we see that there's most traction for this model and that this is the model that we should pursue to present to the community in our next report.

Let me just check whether there are - there's a queue forming. I'm not sure whether that's an - these are old hands or new hands. Seem to be old hands right?

So on the basis of that unless there are more interventions from the group I think we can note that we have a new reference model which I think is a breakthrough of our meeting.

I think this is a very relevant part of the package and I think we owe all of us a round of applause for having made that achievement right?

So certainly there is more work to be done but this is really crucial inflection point for our deliberations. So I think we can now flesh out the details, make sure that what we have discussed is sufficiently clear to everyone.

We need to work on communications, on visualizations on what the model entails so that everybody can feel comfortable with.

But again this was great work, great joint effort. Tijani you want to speak please?

Tijani Ben Jemaa: Yes. Just to say that I'd like to see the answers of the lawyers written and sent to the list.

Holly Gregory: We will do that absolutely.

Thomas Rickert: Tijani this was promised earlier. We would certainly make sure that this is the case so that all of you can inform your respective communities.

Izumi you had your hand up.

Izumi Okutani: Thank you. I agree with the suggestion to add this single membership model. I observed that many, you know, groups support this.

And maybe this is like going forward into details for how we present this to the community whether we only present this single-member model or we still share other options designators model and we actually provide analysis of both.

That's what I want to confirm. And so there has been some questions and clarifications about comparison of the two models.

So I would personally find it helpful that while the community may express preference over which model it would give more fair chance for the community to provide input to present the two models rather than just eliminate other options. So I want to confirm...

Thomas Rickert: Thanks.

Izumi Okutani: ...the way forward on...

Thomas Rickert: Yes.

Izumi Okutani: ...on how this will be represented.

Thomas Rickert: Thanks Izumi. That's a very good question. I think it's now time for our group
to present to the community one option that we'll pursue.

Nonetheless we will provide a rationale for our decision including the
comparison chart, the pros and cons of the various models so that the
community can see exactly how this group conducted its deliberations.

You will remember that not only because of our charter and our duty to be
transparent about what we did to the community but also looking at Larry's
log post - blog post.

He asked us to document whether we had explored all options? And I think
we're safe to say we did to a great degree of detail.

So we will document all of that. Nonetheless I think it's now time for us to
say this is the preferred option. We will not present option A, B C to the
community to pick from.

Nonetheless the community will have an opportunity to say that we're on the
wrong way right, so that we will hear but we will have to specify our preferred
choice.

So thanks for that. And there are two more comments. In the essence of time I would like to close the queue after Malcolm but let's first hear Kavouss.

Kavouss Arasteh: Yes you have summarized what I wanted to say. I am not in favor of options. I am thinking of one single not to have two options at all.

The experience of CWG shows us that one single option they propose finally receive confirmation of everybody even those who are very conservatives.

I'm sorry to put (unintelligible) all of them. Finally we said yes, provided that all of those conditions are met we have no difficulty.

So I am not in favor of two options which is the public comments, one single option. However we agreed on one single option provisionally until we come back to the IRP.

If there would be any impact vice a versa we will come back and review and correct that. But once again we go ahead the public comment with one want single option thank you.

Thomas Rickert: Thanks very much Kavouss. Malcolm?

Malcolm Hutty: Thank you. And following up on Izumi's point about how we present this to be as clear as what - about we mean I'd like to suggest that we don't say that we propose to create a community forum because that provokes the kind of questions that Sam had a moment ago about structure and membership in all the sort of stuff which is not our intention.

Let us say instead that we propose that we should have a community form before this. And it will be an open mic session so that people can come, have

the opportunity from all across the community to speak to the issues that are raised before the SOs and ACs go away and determine how they cast their votes for their own sessions.

So the forum isn't the thing. It is just the opportunity to come and discuss yes? It's not something they're creating. It's just - it will just be an opportunity to have a discussion.

And some giving away from that sense that we are ratifying it into some sort of new structure.

Thomas Rickert: That point is well noted. I think we have to do what we can to avoid confusion and we have communication experts that can help us with that task.

And with that I think we can close this agenda item two minutes early.

Man: Yeah.

Thomas Rickert: That is a success in itself. And let me echo what's been said in the chat thanks to Rosemary and Holly for excellent work.

And they went into overtime yesterday evening to get the answers to your questions prepared. This helps our group a huge deal in finding its conclusions. Thank you so much.

So for the next agenda item I'd like to hand over to Mathieu.

Mathieu Weill: Thank you very much Thomas. And our next agenda item is a continuation of the discussion we started yesterday on the government inputs we've received.

And you will have all received an additional input from the government of China which I believe is not changing the overall conclusions that we were reaching yesterday.

And you will remember that we had basically identified the list of topics, identified that the discussions, the decisions to be made on at least some of these topics would certainly extend beyond Dublin.

And especially about how the government's will participate that the kind of participation the governments can have in the sole member community mechanism which we are now working under.

And there were also a number of other topics related to government participation and public policy where some concern - some strong concerns were expressed by some governments about the wording of particular changes as proposed by our initial report.

And our goal in this part of the session is to ensure we have clarity about how our proposal will be drafted for public comment two on those kind of topics.

It's not only the lawyers that were working last night. We did as well a little bit of homework. And I see some nodding in the room.

Woman: (Unintelligible).

Mathieu Weill: Yes so what we are - what we would like to suggest as a way forward very pragmatic would be obviously to acknowledge that the decisions about how the governments can - what role they will play in the sole member community mechanism forum that we've been discussing is something that will take time.

But in - as a first step an advisory role in this group or mechanism is something that seemed to be a common ground at the minimum for some governments but also I think for the rest of the room. So that's - that definitely can be part of our public comment number two.

And then we've had discussions about basically I sort of bit summarizing but some of the stress tests including Stress Test 18 which was related to the kind of advice the aboard was - had to give due difference to and some of the core values that were mentioned referring to public policy.

And we had a strong message that governments reaffirmed that public policy was their expertise and there if I daresay core business.

So we would like to introduce now a couple of suggestions that would enable us to hopefully, hopefully move forward on those two items which are very much about drafting we think, at least we think. And that's what we are going to introduce here.

So if we can look at the PDF in the - if we can have it uploaded I don't - maybe we can start with Page 1. So that was Page 1. You've got me lost Cheryl and you're off the record. Don't mix things up.

So we have Stress Test 18 was a stress test that was designed against a contingency that was perceived by part of the community that the GAC's operating principles could be amended in a way that could enable that could significantly change the influence of government of GAC decision-making into the balance of the multi-stakeholder model within ICANN.

And so some were saying including some of the governments actually that this was important with regards to the NTIA criteria Number 5 about government

led or intergovernmental organizations and the promotion of the multi-stakeholder model.

And I'm not going to get into whether that was well written or well defined but I will focus on the proposal that was on the table which was what you have here on this screen without direct part basically.

It was the proposal that was put forward by the Stress Test working Party in Work Party 1 after actually a significant amount of discussion with involving government representatives was that with respect to government - governmental advisory committee advised that is supported by consensus then the ICANN board would have to give due difference.

And with think there was some form of maybe interpretation room that was left all about what consensus meant.

And we - I've have heard from some government concerns about the fact that this was interfering with their ability as the GAC to define what consensus means.

And that is why the suggestion that is made introduced here and we think it's not changing anything practically but it's clarifying is clarifying that it's the GAC that defines how what consensus means within the GAC.

And I know there are established definitions of what consensus means for governments. And so it's a manner to try and clarify that it's not the other parts of the community trying to impose definitions of consensus upon governance.

It's a governments defining the way they define, they make decisions by consensus and at the same time clarifying just like the GNSO policy decisions must be supported by specific rules of consensus I think it's 2/3 but it's just for the GNSO that for certain decisions that have to be followed-up by the board there's a certain amount of consensus is needed to avoid the risk of capture or - and that's I think I haven't heard anyone challenging this at this point.

So that's proposal number one. And I'm going to introduce Number 2 and then w3'll look at it in detail.

Number two was the core value what 11? So on the first paragraph you have the wording that currently in the initial report.

And so it says that recognizing the governments and public consortia are responsible for public policy and so that ICANN must duly take into account the public policy advice of governments and public authorities in accordance with the bylaws and to the extent consistent with this fundamental commitment to the core values.

And we've looked very carefully at the input we've received. And we have the feeling that what is at issue in some of the concerns raised are about the fact that it could be interpreted as the board or the community deciding what is public policy or not and not the GAC.

And I think it's definitely it was not the intent. And so our suggestion is to try another way to frame it so that we remove this misunderstanding ambiguity by this new draft.

So remaining rooted in the private sector recognizing that governments and public authorities are responsible for public policy that doesn't change.

There's a bracket within that jurisdiction we'll see where whether we keep it or not. But I think it's second part that matters most and duly taking into account the public policy advice of governments and public authorities that are consistent with the bylaws which what is meant here is that obviously the board cannot act without outside of the bylaws. And I think no one's challenging this. And it's about finding the right wording.

And to conclude and open for discussions if we could remove these wording issues and agree and find a common ground on this I think we would make a significant step that would actually enable a more constructive discussions when we go forward into the government participation into this - into the new model.

That's it for my introduction or Becky if you want to add something to this because obviously you've been...

Becky Burr: I think there's one more slide which...

Mathieu Weill: Oh there's one more slide, yes.

Becky Burr: ...incorporates the SO...

Mathieu Weill: And that's Core Value 5 which was related to the new gTLDs and the AOC reviews incorporation of the new gTLDs so ensuring that the expansion of the top level domain space will adequately address the issues of competition, consumer protection, security, stability and so on which was part of the AOC and is sort of an incorporation from the AOC principles.

Do you want to add a word on this?

Becky Burr: Yes. I just wanted to add this was partially implemented in the mission core values and commitments and in the last round. But we had left off some of the list from the affirmation of commitments so this brings the entire affirmation of commitments provision in.

Mathieu Weill: Thanks. That was also a concern that we've received. So I'd like to now open for discussion. We have a queue forming.

Keeping in mind that our goal is to have a clear direction on these issues so that we can draft our public comment and the first in line is Malcolm.

Malcolm Hutty: Thank you. I've given quite a lot of thought to this really quite sensitive issue having read the input from the governments and public comment period.

And having been part of that discussion earlier I'm not sure that it's necessarily well appreciated why we were looking to make the change here at all.

And as I see it -- and this is just speaking for myself as part of that discussion -- we needed to make the change because we need to identify what GAC advice is.

We need to be able to distinguish between GAC advice that truly is GAC advice and the positions of just an individual government.

A communiqué from the GAC to the board that says some governments think this and some governments think the opposite of this is not something that the

board is capable of deferring to in any possible circumstance because that's - there is no advice there.

So the - so what we need to find is a form of words that identifies something that is...

Mathieu Weill: I'm just interjecting because that's a discussion that took place after I think ATRT 1. And there's been a lot of clarification on that now.

So I think this is now settled and it's very clear now in the GAC advice what is advice Capital A, what is recollection of debate. And the board is I think -- and I'm turning to some of the board members here -- clear with what is constituting advice. And we've made tremendous progress on that since ATRT 1.

So I will not want to spend too much time on something if it's no longer a big problem that we see.

Are you comfortable with that or maybe you can explain with the GAC members or board members about how it works?

Malcolm Hutty: I'll listen to this discussion and...

Mathieu Weill: Okay thanks. Next is James.

James Gannon: So I just want to ask a clarifying question particularly in relation to stress test taking but I suppose it goes to core value as well.

Mathieu Weill: Can we have the stress test agent?

James Gannon: Sorry I want just to ask a clarifying question. So the proposed changes that we've come up with last night so are these what we believe is acceptable to the GAC based on the governments that are here at the moment or is this just our own construction because they are two different things...

Mathieu Weill: That's an attempt by the co-chairs to find some ground that would be acceptable to everyone so no pre-agreement by anyone on this.

Next is Kavouss.

Kavouss Arasteh: Thank you. I think I prefer to discuss issues one by one. First I would like you come back to the text that you proposed for Stress Test 18 in two paragraphs. Could you bring that back?

Mathieu Weill: Can you bring the slide on?

Kavouss Arasteh: You showed that several texts...

Mathieu Weill: That's...

Kavouss Arasteh: ...which on you discussing now? This one?

Mathieu Weill: Yes.

Man: Yes.

Kavouss Arasteh: I am fully against this because what you did implicitly you divide the advice in two categories category one consensus advice, category two not consensus advice. And you treat them differently.

If you want to do so we should be very clear from the very beginning saying that advice from the Government Advisory Committee are two categories, category one advice with consensus of the GAC and advise with different than the consensus, maybe a (unintelligible) and then treat them as appropriate together with necessary working. With respect to the advice with consensus, no change is required. Whatever currently exists in the bylaw is sufficient.

With respect to the advice which does not have consensus range of advice that was properly mentioned in the letter of the chairman of GAC to you I believe there is no need to address that.

But if you want to do something on that I have no problem but here it's mixed up. We should clearly distinguish it if you want it's in the advice with consensus and advice with different range of views of the government and so on and so forth.

Here it's mixed up with the ways that we are - you have (unintelligible) And I stand with this and I do not agree that you proceed with that because that would lead to total complications in future of all activities of GAC. Thank you.

Mathieu Weill: Thank you Kavouss. I think it's not our intention to introduce two categories of advice or create, influence structure the GAC like this so probably this it's opposite way around.

Like advice is currently - as currently meaning in a process and its unintended consequence if we're creating two categories of advice. So we need to probably refine the formulation that it's Government Advisory Committee advice as supported by the GAC's definition of consensus but not that they

would be two types of advice, that there would be too complex and I fully agree with that.

Erika is next on the line.

Erika Mann: Can you show the second page?

Mathieu Weill: The Core Value 11?

Erika Mann: I don't know what it is any more.

Mathieu Weill: Yes this one.

Erika Mann: I just have one additional I was wondering I'm - is this still valid or is this already dropped? It's still valid.

So that I wonder if you would not want to add in the second paragraph where you talk about this in brackets within the jurisdiction? I wonder if you would not add a reference to international law, founded in international law based on Internets (unintelligible) or whatever.

So not connecting it to national law but have a separate reference to it because some of the difficulties I think we experience sometimes stem from the fact that we don't always reference well international existing laws.

Mathieu Weill: I think that outlines how this bracket text might lead to more serious discussions. It might be difficult to find agreement on right now but the point is taken and maybe others will comment.

We have Samantha, number two.

Samantha Eisner: Thank you. Can you turn to the final page of the Core Value 5, the proposed new Core value 5?

I was wondering what relationship this has to the conversation of the GAC? I'm not clear why this is a proposal that's related to that.

And I do have I, you know, when you go back and compare it to the language that is in the AOC this comes from the competition and consumer trust review that calls for a review of how ICANN's expansion in the top level domain space took these issues into consideration. But I'm concerned about dropping this in today for a proposal that's going out on in a few days.

I mean this is a substantial change to ICANN core values. And what exactly this means and how we would meet this item and I don't know that it's a necessary addition to address the GAC related issues.

Mathieu Weill: Thank you Sam. I think that was a concern was raised about the sovereignty aspect. And I'm going to Steve and Becky who were contributing to this.

Becky Burr: This issue was raised by a considerable number of commenters in response to the draft proposal. And the fact that we had sort of ported the affirmation of commitments concepts into the core values but not a perfectly carried over all of the specific aspects of that was noted. And as I said there was strong feeling about that.

The other issue was obviously in the relevance here to the GAC concerns relates to that's a list that it obviously not exhaustive. But it certainly addresses or identifies a number of public policy issues that the GAC has been concerned about and been involved with in the past.

Mathieu Weill: Thank you Becky. The next is Seth probably remote. We have a long queue so please keep your questions concise.

Seth Johnson: Hi. you said Seth? This is me.

Mathieu Weill: Okay.

Seth Johnson: Yes. Okay all right my main request that was made yesterday I wanted to ask that you expand the - revisit the stress test and address the question of their impact on the ability to limit governments based on fundamental rights which is something that you do have in the domestic context but you don't have an international context.

You have human rights issue created by treaty but they're not actually like a trump card. You don't scrutiny in the international arena.

And that's a question that hasn't been addressed as near as I can tell okay. With respect to the...

Mathieu Weill: Okay.

Seth Johnson: ...you were saying?

Mathieu Weill: Yes. Just finish your questions your question briefly and then I think we have an answer for that.

Seth Johnson: Okay well I wanted...

((Crosstalk))

Seth Johnson: Hello? I wanted to...

Rosemary Fei: Yes if I could just answer that question. We are discussing that issue when we get to the mission core values commitments and core values.

Mathieu Weill: Absolutely.

Seth Johnson: And regarding the CCWG jurisdiction document what I would say is that the way you define the scope of the CCWG in that document I don't believe is correct.

                  You say that the CCWG is not tasked to change jurisdiction but to enhance ICANN's accountability. In fact it's a question of what happens in the change in the nature of a jurisdiction which is a change from having a particular domestic government in place to which you can bring a fundamental rights claim to a situation where you don't have that?

                  All you have is international intergovernmental fora in which you might press some kind of a rights claim?

                  So my point is that that is not a correct characterization of the scope of that accountability issue that you really need to deal with acknowledging that this change occurs in the transition and you need to address it. I'm not saying do it now but actually put it there maybe in this document certainly and do it in the stress test there.

Mathieu Weill: So can I suggest that you provide in writing on the list or some comments on the document? I'm already collecting some comments and there's going to be

a revised version circulated soon but please provide your comments so that we can add them in?

Seth Johnson: Yes I hadn't intended...

Mathieu Weill: I'm sorry...

((Crosstalk))

Seth Johnson: ...to add a document to this process. And I'm not - I'm only an observer on the list. May I send it directly to you Mathieu or someone...

Mathieu Weill: All right.

Seth Johnson: ...designated?

Mathieu Weill: That's perfect. That's perfect.

Seth Johnson: Thank you.

Mathieu Weill: (Unintelligible)?

((Crosstalk))

Lee Bygrave: Thanks. Can we go to the second slide that was shown before? Thanks. No the one - that one yes the proposed Core Value 11.

As a relative outsider of having problems getting a sense of the meaning of both drafts really but certainly the second draft. I don't really think advances

clarity of a great deal and that's partly exacerbated by the use of that are consistent.

I mean to what is that referring? And if it's referring to public policy advice surely the R must be replaced by an is or is it the authorities that the GAC is referring to which again would make no sense?

So just some more that needs to be - yes...

Mathieu Weill: Thank you for volunteering and helping us refine the text. That's very kind of you. Jorge?

Jorge Cancio: Thank you, Jorge Cancio, Switzerland for the record. I'm not sure whether we are in a drafting exercise or we are not.

I suppose so it's more my preliminary feeling is that I really appreciate the intention behind this proposals by whoever has been working tirelessly on the text this night.

So I think that's a good reaction and I think it's a good way forward.

I would also be eager to see how the drafters whoever is taking that task are trying to include this adapted or extend the advisory role into on the proposal. That would be very, very useful.

And on the text itself aside from the good intention I think that it - and this will need more closer scrutiny by different GAC members. Speaking for my own country we will have a look at it more closely.

And perhaps also first very preliminary reaction is that on the Core Value 11 perhaps the word consistent is something which establishes some kind of a shadow of a third-party control of what is a consistent or not. And perhaps it's not really needed because anyway the ICANN board if we are talking about what ICANN board can do only can and decide on things which are consistent with the bylaws.

So you don't have the need to repeat this here and to put a shadow on the consistency between the a public policy advice which is only an advice and the bylaws.

So perhaps it would be better to say the advice given pursuant these bylaws because as the GAC we are only acting as the GAC pursuant to the bylaws.

But whatever decision by the board is a different issue. And that is the one which has to be consistent with the bylaws and which it's controllable under the IRP or whatever other redress mechanisms to be established. Thank you.

Mathieu Weill: Thank you very much for the kind offer to participate to the wordsmithing exercise.

I have Erika then number two. No? Okay, there's only one. And next is Mark Carvell.

Mark Carvell: Yes thank you and good morning everybody. I would also like to express appreciation for the work done overnight with regard to text and specific to Stress Test 18. That's very helpful indeed and very much appreciated and in terms of aiming to accommodate concerns expressed by GAC colleagues, not by the UK but it's important to be fully inclusive in these in this exercise.

And it's a very good effort. I think it's - it helps move this forward. Because as I read it - and this is also a first take this text for Stress Test 18 successfully communicates that it is for GAC to decide what is consensus first of all.

And secondly allows for conceivably the GAC to change how it arrives at decisions. And that determines advice formal advice for submission to the board and conceivably also for the community and the new empowerment mechanisms.

I remember back at the Frankfurt meeting that was made very clear that this was not going to set things in stone in terms of what is consensus-based GAC advice.

There was allowance in the discussion for the fact that the GAC could change the way it changes modalities, the way it defines formal advice.

So think it's a successful attempt this text and very much appreciated and look forward to hearing the comments of colleagues.

With regard to Core Value 11 I think it does need a bit further work. I'm still struggling to actually work through it and see precisely how we might improve it. But, again appreciate the effort in this regard and I'll probably come back to you on that separately. Thank you.

Mathieu Weill: Thank you very much Mark. That's very much appreciated -- very kind words. Just for the record I'm closing the queue after Jan and (Art) and taking into account that between Kavouss and Rafael is Thomas De Haan for Netherlands. Oh, you're now in the room? Oh, so I will take your - now know I'll take your question after Kavouss but I picked it.

Next in the queue is Steve DelBianco.

Steve DelBianco: Thank you Matthew. And if you'll put the Stress Test 18 text up please, page 2 of the PDF? Thank you staff.

I was over a year ago the author of the Stress Test 18 when we first began to weigh in on the transition.

And to be clear all Stress Test 18 did was explore the scenario the possibility that the GAC could change the way it makes decisions because currently the GAC operating procedure is called Operating Principle 47.

It says for the GAC it says consensus is understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection.

That's what you and the GAC have as your rules. We simply observe that. We also observed that you could at any time change that. And you could switch to some other rule for that.

And this was not sort of an out of the blue concern. We were aware that the GAC, certain GAC members were interested in lowering or changing that threshold, potentially even going to majority voting.

So please understand the degree of well concern that that would raise with the full community if the GAC were to move to say 50% constitutes GAC advice.

And then suddenly if you had 66 countries show up in Singapore so 34 countries alone would have been sufficient to generate advice that carries with it all the obligations that are in the bylaws.

So all that we did in Stress Test 18 was generate the probability that this could happen. We recognized that my goodness this would more than likely would violate NTIA's requirements. And then NTIA confirmed that that kind of a change would violate requirements.

And so in order to have our proposal work and get this transition done we proposed a bylaws change. And that's what's on the screen in front of you on the black underlying text.

It suggests that the GAC can generate advice under any rules it wants. But we simply said in the black text that the special obligation to try and find a mutually acceptable solution would be reserved for the kind of advice that was supported by consensus.

And when we wrote that we recognized that in the world of ICANN each AC and SO defines what it means by consensus.

I don't think a reasonable person is going to allow 50% to be consensus. But there is an understanding that it might be a supermajority, it might be something different for the ALAC than it is for the GSNO, than it is for the ccNSO and therefore might be something different from the GAC.

So Kavouss you said earlier Kavouss you're talking about two categories of advice. And I don't want to say is two categories of advice. It isn't, but it says that there is an extra level of deference that ICANN gives to the GAC that it gives to no one else.

And that level of deference is the last sentence in J, no AC or SO gets which you get in the last sentence of J and I'll just read it to you.

It just says that to try in good faith in a timely and efficient manner to find a mutually acceptable solution.

And that obligation has since the beginning of ICANN extended only to the advice that was supported by the GAC's current role of consensus which is the absence of an objection.

So all we wanted to do was to preserve that level of consensus to be necessary to trigger the board's obligation to try and find a mutually acceptable solution.

It's not a separate category of advice Kavouss. It's an extra special treatment for GAC advice. And we're simply locking that treatment into the consensus definition.

So the words that are in red merely clarify. They're just like for any other AC and SO what is consensus for an AC SO is defined by that AC and SO.

And we're simply recognizing that in an effort to calm some of what confused us. What really did confuse us was the - a handful of governments reacting strongly to Stress Test 18 and the bylaws change that was here since all it did was to confirm the way ICANN has operated since ICANN has been in place.

Thank you.

Mathieu Weill: Thank you Steve. And I really don't sense - I think it's very good that you set out this part of the requirements that we have on this matter. But I - and I also think that is understood on all sides of this room that this is an important requirement for everyone.

The next is Paul.

Paul Rosenzweig: Thank you. Good morning, Paul Rosenzweig. I was listening to what Steve said and I was agreeing and nodding up and down about everything he said until he said that the text in red actually didn't change at all.

And then I thought that was exactly the opposite of where I thought he was going.

Because if the bylaw defines an obligation on the board then it would be unusual I think and probably inappropriate to let one of the subsidiary advisory organizations of the board, i.e., the GAC in this instance define the trigger mechanism for the board's obligations.

I agree completely that the GAC can and should be responsible for its own procedures. Of course it has to.

But what we're defining here is not GAC's procedures but the board's procedures and its obligations to respond to the GAC which gets at as Steve said a special, you know, criticality to its advice when it comes in a particular form.

You know, if hypothetically the GAC were to redefine consensus as any proposal that is supported by 20% that would meet my definition of consensus.

But under these terms as a board member I would have no recourse to reject that redefinition. And that it strikes me is an inappropriate delegation to the GAC of the board's obligations to define its own responsibilities.

It also strikes me on first reading as an inconsistent with the US government's position that we must maintain a way of avoiding governmental capture.

I obviously don't speak for the government but we've all read the US government's response to the accountability and this would seem to fly rather in the face of that. I'm not sure.

And so while I very much appreciate the drafting exercise in an effort to accommodate the concerns of the GAC members it strikes me that it isn't maintaining the current status quo that you've achieve but rather authorizing a disruption of the status quo when I thought the contrary was the obligation.

And if you could bring up the other slide I just want to ask a question about that one which is I want to understand - and this is - so the first is in the nature of a gentle objection to your efforts. This is more in the nature of a true question.

What is the purpose of the deleting consistent with the fundamental commitments and core values? Would in fact the board duly take into account public policy advice from governments that was inconsistent with our core values and fundamental commitments? If so why and how or is there something that I'm missing in that? That's really just a question?

Mathieu Weill: So on the second one I think it's just because core values and commitments are part of the bylaws so it's just simplification.

Paul Rosenzweig: If that's it then that would be fine.

Mathieu Weill: On the first one noting that for instance all of the SOs and ACs have their own operating rules and procedures right now and have due influence the board

sometime I don't know about the delegation appropriateness but I think Steve wanted to respond.

Steve DelBianco: Thank you. And Paul as the author of that stress test if you go back please, staff would put it back on the Stress Test 18 Paul might be operating under a mistaken assumption here.

Because if we don't do anything, if we leave the bylaws alone and take out the black text and take out the red text if you leave the bylaws alone you have obligated ICANN to try and find a mutually acceptable solution for anything that constitutes GAC advice.

And again Paul you leave to the GAC complete discretion on what constitutes advice. So Paul it's essential to put the black underlined text in.

Paul Rosenzweig: I agree completely.

Steve DelBianco: And because GAC's current rule is a consensus rule it doesn't impinge upon the GAC because it already has that obligation. And clearly the red text is simply clarifying the just like any other AC and SO they define what consensus is.

But you need to have the black text Paul or we end up violating the stress test.

Paul Rosenzweig: Thank you very much Steve for that. I did indeed recognize that we were enshrine - that stress test that black text was intended to enshrine the current GAC status at the level of the bylaws.

What I'm respectfully suggesting is that by adding the green - the red rather you have failed to achieve the objective of the stress test.

Mathieu Weill: I think that's the point is taken. I would just remind ourselves that consensus has - is a word, has a meaning. I don't think we can raise the flag of consensus being separated by the GAC at any point in time as 20% or something like this.

That's just like saying to the GAC that they would be acting totally irresponsibly. And so it's if we are saying consensus that's a requirement that we're putting on the decisions that will still be that it's a form of consensus and it's plenty of precedent about the different forms of existing consensus rules.

And so I think we need not to lose track of this fact that the word consensus also has some form of meaning somehow.

And but I understand that it might need some further work anyway. And the requirements - I mean the position you're taking is one of the requirements we have to take into account to accommodate the stress test and the NTIA criteria anyway.

And next in line is Avri and Malcolm. And sorry but I had to close the queue after Jan. Avri and you...

Man: (Unintelligible).

Mathieu Weill: Avri and then...

Avri Doria: Okay.

Mathieu Weill: ...it's going to be you Kavouss but it's Avri first.

Avri Doria: Okay thank you, Avri speaking. I have a couple issues.

First of all I guess in some sense I really don't understand even though I was a member of the Stress Test Group the whole hullabaloo over Stress Test 18.

The GAC advice is just GAC advice. Its advice. It's perhaps slightly more valued than the advice of other advisory committees although personally I would expect the big ICANN board would try in good faith and timely and efficient manner to find a mutually acceptable solution with any advisory committee's advice.

So to say that this is a special due consideration seems to me problematic in that it should apply to all of them.

Now there is a defined process for doing that. But what is most important about GAC advice is that it can be rejected on its merits, that the board looks at it, it talks about it. And if there's a good reason for doing with it it does it. But is there a good reason for doing it? It doesn't.

So it really doesn't matter and as for the word consensus we have so many meanings for the words consensus that to say it could be defined as 20%, okay that's probably outside the bounds of practicality.

But anything above 51% could probably float in ICANN. You know, 60% could float easy.

So, you know, when I look at why we're bothering to change what we've got I do not see what we have as in any way providing capture because if something can be rejected it isn't captured.

Mathieu Weill: And when you say what we have I'm sorry to interject...

Avri Doria: What's in the current...

Mathieu Weill: It's you remove the black and the red.

Avri Doria: Yes basically stay with existing text, the existing text that has gotten us this far and we've managed to avoid capture so far.

So I just sort of question the whole issue and I question the need for change.

On Core Value 11 I think being inconsistent with the bylaws is essential to keep in because that is more a command to the board that when doing their work with the GAC they need to remain consistent with the bylaws.

And so it - that's not a limitation on the GAC. That's a limitation on the board which is important.

And I think it's also very important to keep in the words about jurisdiction because we really need to be clear that governments rights to public policy are in basis of their sovereignty which is within their local jurisdiction and when they come up with treaties. And beyond that it's something that's open for discussion.

So I think it's important to keep that bracketed text in and I think it's important to keep consistent in. Thanks.

Mathieu Weill: Thank you Avri. Kavouss.

Kavouss Arasteh: Thank you Mathieu. Forty years ago I joined international groups. Never ever any legal advisor or lawyer's together agreed to attempt to define what is consensus. Consensus is consensus. You cannot define that.

And those things that have been defined in some earlier IETF draft consensus is not acceptable for governments.

We have trained like this if there is an idea everybody agrees a few people disagree but they could live with that disagreement without formally objecting means consensus. We don't want to change that.

My question is that why we change these provisions? What was the difficulty that has been reported by government or by ICANN in application of that that now we want to define that (unintelligible) to change that, why?

What is the necessity to change that? What is the necessity to categorize that saying that consensus advice and advice without consensus is majority? What is the need to do that?

This is the discussion that they had from the very beginning and unfortunately people pushed to define that.

We are dealing with public policy issue. This is exclusive authority of the governments. And for consensus on that we don't need that anybody else to talk saying the consensus in the view of the government must be limited to us.

We don't need to find what is consensus. Consensus is that and public policy advises that. No problem has been raised. We don't want to change anything at all.

Moreover it is absolutely impossible that you subordinate in national law to any other law saying it's consistent with the bylaw.

A public policy issue is a public policy issue whether implicitly consistent with bylaws so far so far but you don't want to mention that the public policy issue of government and governments should be subordinated by the bylaw which has no status at all. Bylaw is not a treaty.

In a government we're dealing with the Vienna law of treaty 69 - 65. And in that we have to abide everything according to that.

So if you don't say anything no problem. As soon as you start to say something we will have difficulty. We propose no change at all to the existing situation and leave it as it is.

If one day GAC decides that for certain cases, albeit certain cases, they could go to the majority they do that. We don't need also to mention that GAC may wish in future to do that.

If we find that it is necessary to do that we will do that. We don't need any pre-advice to that. So once again please do not touch this and do not go do this.

And then going to the Core Value 11 we are totally against private lead. There is no one leading this process. It is a multi-stakeholder bottom up inclusive process.

It's not private led nor government led nor technical community led nor anyone led. There is no leader. There is collective. There is collegial. There is inclusiveness. There is multi-stakeholder if we achieve multi-stakeholder.

So please kindly do not have this private led. Put what is in the other provisions that we have. This is a multi-stakeholder bottom up inclusive process. Thank you.

Mathieu Weill: Thank you Kavouss. Just on the private led it's the current wording. So if we don't change anything on the bylaws that's going to stay private led or private sector led, anyway.

Next is Thomas from Netherlands.

Thomas De Haan: Yes. Thank you very much Mathieu. Thomas De Haan from the Netherlands. First of all we tend to forget that we - that we - what see as main achievement is that we should have let's say that we would have the advisory role on this committee powers which I think is one of the most important things for which we think there's a lot of consensus probably.

Secondly I think about Stress Test 18 although we are completely in favor of consensus should be striving of consensus I - we fail to see the risk of capture of governments.

Right, I think Avri mentioned this very well, I mean this is nonbinding. It's a soft mechanism really. We try in good faith to come to a mutual solution. But if the board still thinks this is not acceptable okay reject it. That's fine.

So I don't see any need for changing the bylaws in this context. Although we are one of the most let's say fighters for consensus. But we have to discern that's the arguments of changing something should be proportional. Thank you.

Mathieu Weill: Thank you Thomas. The next is Rafael.

Rafael Pérez: Thank you Mathieu, Rafael Pérez, with Spanish Government, just want to echo what my colleague Thomas De Haan has just said and picking up on Avri's point that just states in I realize that it's practically impossible to capture the board or ICANN from the GAC as an advisory body just like that from an essential perspective.

And you have to read letter K in - on the screen. So if not a solution can be found the ICANN board is free to do whatever they want just like that. So how can we capture them?

So we would rather delete the whole stress test. And if you don't want to do that and this redline this GAC defined level of consensus I'm with my UK colleague here saying that it's a good step forward in trying to find like wording that we could except in the first take.

And regarding the Core Value 11 that's a different story. We feel that it still has some - this (unintelligible) work to. There is a reflection to be made because we really don't - we're not very happy with this consistent with the bylaws and stuff because it's up to the board to be - to take this role. Thank you.

Mathieu Weill: Thank you very much Rafael. And Jan?

Jan Scholte: Yes Jan Scholte. I wanted to go briefly to core value (unintelligible), Core Value 5 if that's okay. I know that's a little bit out of the - where the discussion has been but it was one of the points that was up as well.

Three observations, one is just a textual thing that maybe one can get rid of. The second issues and concern since the beginning of the list says issues of. That's slightly redundant to have issues and concerns again but that's minor.

The second observation is that some of these things are going to conflict with one another from time to time.

I guess that's just going to be - and particularly sovereignty can easily conflict sometimes with in certain situations with rights protection or competition or so on.

So I'm assuming one is just going to leave that and then deal with a complex when they come up.

The third observation is it's just an omission that there's not any mention of diversity here or access or some such language so that the expansion of the top level domain space also adequately addresses issues of diversity or access.

I believe that ICANN already does various things in expanding the new gTLDs and so on to facilitate applications from regions which are less represented and so on.

But so whether some inclusion of a word or two that addresses that dimension of the concern could be added. Thanks.

Mathieu Weill: Thank you Jan. And Malcolm?

Malcolm Hutty: Thank you. I'll be very brief and thank you allow - for allowing me to come back after I deferred at the beginning when you cut me off.

I still see this as a definitional question. We are not attempting to reach into the GAC and to tell the GAC what its processes should be, what advice it should give or how it should arrive at them.

And any sense in this language that means that means I think we need to think again about the language because that's not our intent.

What we're intending to do here is to when holding out a promise that the board will treat certain advice in a special way or in a particular way.

And we are attempting to be clear when that promise applies. That's the intent here and it applies to this stuff. It applies to stuff that essentially is the collective position of the GAC, the consensus position of the GAC, not individual advice.

And that's what the promise is made for. And that's what we need to make sure that the language reflects so that if the GAC wishes to produce something that's only supported by 20%, if the GAC wishes to give advice that's entirely outside the bylaws they can still do that. But this promise doesn't apply for that kind of thing.

Mathieu Weill: Thank you Malcolm. Oh I see Ashley had joined the queue. It's first time we hear from you so happy to give you the mic.

Ashley Heineman:Primarily since people have been asking for it just to make clear what NTIAs position on this is we do see Stress 18 as appropriate and necessary to meet the requirement that the IANA transition to not yield a government led or intergovernmental replacement for NTIA's current stewardship role.

We don't see this as a new requirement. As it states in our position we see it as necessary to meet the requirement.

So if you require further clarification from NTIA, from Larry Strickland we're happy to provide that but as of now that is our position. Thank you.

Mathieu Weill: Thank you very much Ashley. So how do we move forward? It's clear that while the effort was acknowledged and thanked and everything we are still...

Woman: (Unintelligible).

Mathieu Weill: have a distance towards a common agreement on the wordings. But I tend to see glasses half-full. And I think we've made progress in the requirements.

And maybe one of the aspects that we're struggling with right now is that we've gone from stress tests to bylaw drafting without this approach on the requirements.

And on the requirements I see more common ground than might seem apparent from some of the discussions.

And that should remind us that in our process what we said was our public comments and our proposals are requirement based and then there's is a process for by law drafting which takes place once the specifications, the requirements are sufficiently clear and agreed on.

And because our public comment two is only a week away basically to finalize the text my proposal would be on these issues that we clarify the requirements that stem out Stress Test 18 and the need to avoid capture as

defined by the NTIA requirements and then organize ourselves so that we can delve into this more deeply at the bylaw drafting stage to implement them.

And the requirements I'm hearing from the group in common ground are that of course the governments are the ones who define what is public policy. The board does not is not mandated to follow the advice from the GAC.

The board is not allowed to act beyond the bylaws and the mission in any circumstance.

Advice provided by the GAC is by consensus. And the definition of consensus has to follow the international standard or for some of us there are several. So that's something we need to investigate.

But it's obvious that the requirement is that when we say consensus we mean consensus. We're not trying to be free riders by allow - opening the door for interpretation of consensus that comes out of nowhere.

And Kavouss I see your hand and I'm definitely going to go to you in a minute but I think that is the common ground I'm perceiving. And that's the - I mean for us as a group our process is we come up with proposals, we put them to the chartering organization.

If they agree and we have consensus then we proceed to the NTIA which checks the requirements.

So we need to find something that's common ground for us first, ensure it both by the various chartering organizations and of course keeping in mind the NTIA requirement all along.

But to me either we go on public comment two with these requirements very clearly laid out and the clarity about what will happen if the community says and the fact we can even kick start now it more fine-tuning on this or we just say we're moving every all of this into Work Stream 2 and that we run the risk of being foul of the expectations set forth by some governments including the NTIA which is obviously has a specific role in the process.

And so I see this approach of setting out these requirements very clearly as a first step as probably our best shot at moving this further in the process without blocking the whole the rest of our work.

And I know Kavouss you wanted to answer and then I will ask whether there is any objection to us preceding as such.

Kavouss Arasteh: Distinguished Mathieu please do not refer to international law for consensus.

Mathieu Weill: I didn't say international law did I?

Kavouss Arasteh: Principal 47 of GAC is based on WSRS United nation consensus. There is no agreed definition for consensus internationally.

All lawyers could not agree with each other what the consensus means. But government at the level of WSRS and United Nations have agreed to the consensus and it is embedded in Principle 47 of GAC.

And we do not defer to international law definition consensus but do not want to go further that. That is what currently exists. And we follow that and we raise the public policy issue of government.

And it should follow what we have agreed with 19,247 people in WSRS, 19,247 people. Among them there very few governments all of them the private sectors technical community (unintelligible).

And that was agreed and that is included in the WSRS. And that is United Nations WSRS consensus. We don't want to refer to international law. Thank you.

Mathieu Weill: Thank you. If I said the word international law at that point it was a mistake.

Woman: (Unintelligible).

Mathieu Weill: If. Are there any...

Damien Coudeville: Damien?

Mathieu Weill: Yes Damien before I say objection yes?

Damien Coudeville: No. No objection, Damien Coudeville for the record for French GAC rep.

About the fourth requirement just to make clear, the kind of change that you are requiring from the GAC up to - until now due deference to GAC advice was given to GAC advice because it was public voice advice.

Now you want to give deference to GAC advice because it's consensus advice. It is a big change. So you wanted you might - I'm not going to object. I'm not giving a (unintelligible) I can object.

You might draft whatever you want on the fourth requirement but I'm still standing by what I said yesterday.

Just remember what's going to happen in Dublin if we have any - if we have no consensus on this issue first thing. And I see the floor I would want to have a rational for the Core Value 11.

I asked for that yesterday. There is no rationale to it at the moment. I still have difficulty understanding the kind of work that are in (unintelligible). Thank you.

Mathieu Weill: Thanks Damien. And I think on the rational for Core Value 11 I think initially it's about ensuring that the board does not act outside of the mission. That is why this was introduced and that's why I captured that into the requirements.

We're in agreement on our proceeding on with this although we know we're walking a very thin line.

And we will certainly work with the GAC but also others in this group that are interested in participating because it's obviously not only a GAC discussion. But also we're - we - we were - we have agreed with ICANN and (Tireck) here to benefit from his support in explaining what's happening and actually facilitating part of this work.

And I know both his experience and his capacity within ICANN in government engagement is going to prove extremely valuable for that.

So we will organize follow-up work on this including the way to actually introduce this discussions towards the various constituencies.

And I'm not speaking only of about government constituencies but also the others because as this discussion's showing this is something that is cross community and about very much about the whole ICANN model.

So with that we will now go for coffee almost on time. And we'll reconvene in oh, let's say we reconvene in at five past 11:00.

Woman: Thank you.

END