

ICANN

**Moderator: Brenda Brewer
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9:00 am CT**

Coordinator: Excuse me, the recordings have been started.

León Sanchez: Thank you very much. Welcome everyone to this Working Party 3 meeting number six on the 22nd of July 2015. I hope everyone had a good flight and safe travel back from Paris, for those who attended the meeting.

And today I think we'll have a rather short call. There is no agenda. I apologize for not sending out an agenda. I was on a flight all these days and I had a hard time with the airlines.

But I think that we made good progress in Paris, and the objective of today's call will be to only ratify our conclusions from Paris with regards to what we are trying to put in Work Stream 1 and Work Stream 2.

We all know the different documents that we've been working on. And the second point would be to agree, or at least discuss, what is going to happen with this working party now that we have analyzed the emergent issues. We can do two things.

One of them would be to close this working party and delegate the corresponding issues that need to be addressed to Working Party 1 or Working Party 2, since they will be dealing with, of course, trying to incorporate the fundamental developmental aspects of our work to their own work.

And the second one would be to keep this working party going, expecting we receive more feedback on our second public comment period. So that would be the second point of our agenda.

And at this point I would like to call for anyone that wants to include something in the agenda to please state it, or if all agree with these two points in the agenda then we can carry on and try to make this, as I said, a short call so everyone can go back and continue what they're doing in other areas of their lives.

So I see no objection to the agenda and no one tried to raise any other issues or any other subjects to the agenda. So - the first point in the agenda I would like to just read those points that were agreed in our Paris meeting as to be taken care of by either Work Stream 2 or Work Stream 1.

And with regards to SO and AC accountability, the only point or the only subject that we would be taking care of as part of Working Stream 1 would be to include wording in our report so that structural reviews of each SO and AC include accountability to their respective constituencies and stakeholders, as the case may be.

This is something relatively easy to do in our report. It's only to add a few words to what is already written, so I don't see that this would be a big problem, nor it would open, you know, issues to what we've done so far. And this would be the only point that we would be assigning against a Work

Stream 1 issue, and then the rest which are four more subjects would be Work Stream 2, being the first to assess whether the IRP, the new IRP, should also apply to SOs' and ACs' activities, then to include SO and AC accountability as part of the ATRT process as well.

Then to evaluate the mutual accountability round table as Work Stream 2. If you remember, this is an idea that came from our advisories. It was circulated by (William) and enhanced by Jan of course, and this would be also something that we would be accessing and evaluating as part of our work in Work Stream 2.

Then the last subject with regards to SO and AC accountability would be to establish a commitment to carry (unintelligible) working plan on accounting the SO and AC accountability as part of Work Stream 2. And I see Sebastien Bachollet has his hand up. Sebastien, could you please take the floor?

Sebastien Bachollet: Yes thank you, León. So this is Sebastien Bachollet. Yes, my question is about ATRT. We don't know what will be the agenda, the schedule, of the Work Stream 2, and it's why I was - I am concerned with the fact that we say that integration of AC and SO accountability and other diversity points will be in Work Stream 2 regarding the ATRT.

I would like to suggest that at least we add that it can be done in Work Stream 2 but needs to be done prior to the scheduled date for starting the ATRT3. That means that it must be done in the very beginning of what we will have to do, because if I remember well, the ATRT3 will start beginning of next year. And I would like very much that all of those issues are included in the ATRT3. Thank you.

León Sanchez: Thank you very much, Sebastien. That is a very good point. I have added it to my notes and will of course add it to the final version of our working document, which I will be finalizing today and circulating to the rest of the team so we can have a final review of each document, and then we can send it to staff for - and our co-chairs of course, to integrate into our next version of our report.

Next in the queue I have Jan Scholte.

Jan Scholte: Hello, León. Hello, everybody. Jan Scholte here. León, one thing that's just if we can see the text on the screen -- I don't know if you have the version -- it would just be helpful for me anyway to relate to text as well, but if you don't have it, it's not a problem.

The concrete I wanted to ask to ask about is this issue about SO/AC accountability being incorporated, integrated within the ATRT process. It's certainly something that I, and I think others, in Paris spoke in favor of. From the chair, from Mathieu, came the suggestion that it wouldn't be part of the ATRT process. So there was a little bit of an inconsistency between what Working Party 3 was saying and what was coming from the - at least Mathieu as part of the chair.

Has that been resolved? Have we now decided firmly that the SO/AC accountability will indeed be incorporated with the ATRT process? If so, I'm very happy, but it wasn't entirely clear at Paris. Thanks.

León Sanchez: Thank you very much, Jan. This hasn't been cleared. I would need to speak of course to Mathieu and Thomas as well, but I believe that our work as Working Party 3 would be to make our suggestions and our recommendations to the co-chairs. And I think that's the way we need to handle this. I mean if we, as the

working party, aren't clear that this would be something that would actually enhance the accountability of the SOs and ACs, I think we need to raise it to the co-chairs. And in this sense, I of course need to go back to Mathieu and discuss this with him and Thomas.

Next in the queue I have Greg.

Greg Shatan: Hi. Greg Shatan for the record. Responding to those before me, first while I of course desire a faster resolution rather than a slower one to any of the things that we're dealing with, I think that putting a hard cap on any or all Work Stream 2 matters as needing to come before the ATRT3, in other words, you know, potentially needing to be resolved in the next five months, including of course, you know, August, the Christmas season, any other times when work is a little bit harder to get done, it seems to me like it may be an unreasonably short period of time to get these things done.

So I would not just pencil in what Sebastien said as kind of being the will of this group. It's certainly something to be considered but I would not consider it to be necessarily the right idea to adopt it.

Secondly with regard to the inclusion of things in the ATRT reviews, the ATRT reviews are of course, you know, up to this point have been driven by the affirmation of commitments and the - and will in the future be driven by those elements of the affirmation of commitments that will be making their way into the bylaws. So. And, you know, the timing for them making their way into the bylaws is not yet completely certain of course.

But if anything is going to be put into the ATRT that is not already there, we would have to examine these sections of the AOC, and thus the bylaws, to see whether they comfortably fit within the overall mandate and can thus be added

as essentially an implementation detail or whether they require a change in the actual wording of the reviews as they're mandated in the documentation. We can't just say something's going to be added to the AOC -- or rather to the ATRT -- if it's not in the underlying mandate for the ATRT. Thank you.

León Sanchez: Thank you very much, Greg. Okay so that is also a valid point to reflect that this might not be the conclusion of the working group but just a sentiment from some participants, and then we would be wording this in the sense to be considered rather than to lock it to a certain date before the ATRT3 comes into place. And that sounds - I mean that makes sense to me since, as you said, since the ATRT has so far been driven.

With regards to the AOC, then we would need to maybe wait to the finalization of the bylaws changes for them to be able to impact the ATRT work.

Next in the queue I have Alan Greenberg.

Alan Greenberg: Thank you. I got on the call late and I didn't hear the original comment from Sebastien or whoever, so I got on when Jan was talking.

Several points with regard to ATRT3, we don't know when it's going to start. It could well start as early as January of next year, it could be deferred by a year. So that is number one. That's not clear. I agree completely with what Greg said that right now the ATRT is working under the AOC. Under the new rules it would work under the new bylaws, which we don't know exactly when they're going to come in.

Putting a whole bunch of new things under ATRT and saying it's their job to do that will probably kill that process as an effective process in trying to look

at accountability and transparency issues. So I would exercise extreme caution in doing that.

Lastly what I thought I heard Mathieu saying was not that AC/SO accountability would go into ATRT but it would go into the structural reviews for each AC and SO as they were done. I'm pretty sure that's what I heard, but I may be wrong on that. There's a problem with that also since the GNSO is - review is being completed right now. That probably means that GNSO accountability, not a small thing, would not be addressed for another five years or so. So, all sorts of stuff going on here that don't look like they fit together. Thank you.

León Sanchez: Thank you, Alan. And that's also a point that Jan raised. And as I said, I need to go back to my co-chairs and discuss this, because you raised a very important point. While we do agree that these reviews would need to be part of the structural reviews that are regularly performed to each of the structures within ICANN, then I would suggest that the GNSO review process has already ended and this would leave a very important chunk of the structure in ICANN to not go through these review, including its accountability.

So that is why I think that having to consider at least some kind of accountability review within the ATRT would try to at least address this problem. So this is something I definitely need to go back to my co-chairs and discuss.

So next in the queue I have Jan Scholte again. I mean Sebastien Bachollet.

Sebastien Bachollet: You have Sebastien Bachollet before.

León Sanchez: Rather, Sebastien. Sebastien, could you please take the floor?

Sebastien Bachollet: That's okay. Yes thank you. Sebastien Bachollet. It's interesting because I thought that I was suggesting a solution for - to find a compromise. My point of view is that it must be done in Work Stream 1. Then if you don't want to have that done at the beginning of Work Stream 2, then I will go back to my previous point and say we need to have a fully accountable SO and AC before moving the accountability from the board to the community. It's very clear for me.

Then if we are not trying to find a compromise and the compromise where I suggest to put it at the beginning of the Work Stream 2 and to be included within the ATRT, because one of the reasons it must be included in this type of review is that it's the only review that can take of the overall ICANN organization. Each SO and AC review will be done in their own area, in their own silos, and what we need to have its full accountability of the community and that's the point.

And I appreciate that you think that it's not necessary. I appreciate that you think that it's not needed to put a date, but I feel exactly the contrary: we must have been able to do that prior to the change to the IANA transition. If we are not, I once again suggest that we put that suggestion into Work Stream 2, but really do be done prior to ATRT3. Thank you very much.

León Sanchez: Thank you very much, Sebastien. Next in the queue I have Jan.

Jan Scholte: Yes, yes Jan Scholte. Just on the discussion about the SO/AC accountability being part of the structural reviews of the SOs and ACs individually but then also part of the old ATRT process, our document if you look at the document in front of us, recommendation number two, we said that it should be both, that SO/AC accountability should be included both within the individual

structural reviews so that each SO and AC could look at their - have their accountability of its own, but then also have it incorporated within the overall ATRT process, which signals two things.

One, that the SO/AC accountability, an equal issue alongside the other types of accountabilities in ICANN; and secondly, also to look at the SO/AC accountability within the context of the organization as a whole, how does it compare with other parts, can things be transferred and learned from one part to the other.

If you keep the SO and AC accountability separate and in a separate pile, then you don't make those comparisons and don't look at the picture as a whole. Thank you.

León Sanchez: Thank you, Jan. So what would you suggest to that end? I mean I understand that in my mind there are two separate processes and I think that it would be important to have accountability issues incorporated by both processes, not only structural reviews but ATRT.

So if I heard well, you would be suggesting to have some kind of comparative scorecard as to how accountability issues are evaluated periodically within both the structural reviews and ATRT, is that right?

Jan Scholte: Yes. It's just, León, that our recommendation here is quite clear on that point too, but when the Working Party 3 or the emerging issues that were discussed in Paris, the second part, that SO/AC accountability would be part of the ATRT process, somehow had that disappeared. I don't know why; I'm not sure it was deliberate. But it just disappeared.

So the account that we had of Working Party - of the emerging issues that was presented by Mathieu, I think it was, in Paris omitted that SO/AC accountability within the ATRT process and only talked about SO/AC accountability being part of the structural reviews of the SOs and ACs. And if there isn't a good counter argument, then I would say well let's put this back in and keep it.

León Sanchez: Okay thanks, Jan. Next in the queue I have Alan, Alan Greenberg.

Alan Greenberg: Thank you. For clarity, I would support AC/SO accountability being an eligible thing for the ATRT to look at. I would strongly not support giving it a mandate that it must review them all as part of its job. And I give you fair warning ATRT2 did start looking at GAC accountability. We got a lot of pushback.

So this may not be quite as well received as you might perceive it. So, you know, but I support it being something that it could look at should an ATRT choose to do that. That's a different issue then saying it must look at it each time. Thank you.

Leon Sanchez: Thanks Alan. Well great. So with this would this further will discuss I will be trying to finalize the version of SO and AC accountability today as I said.

And will be circulated to the list so we can have a final look at the document. And if we do agree we would be sending this back to the co-chairs and staff for including it in our next version of the report.

So with this then we will turn to ICANN staff accountability as the second set of agreements to review.

And to this end we agreed in Paris to have the IRP addressed in our proposal so that it is also applicable to ICANN staff as an (unintelligible). And this would be the only point with regards to Work Stream 1.

Then with regards to Work Stream 2 we agreed to establish a clear definition of ICANN staff role including a description of the vested hours in ICANN staff by ICANN Board that need approval and those that don't to have a commitment to have as part of Work Stream 2 a plan to build documents that foster a culture of accountability.

And this commitment and will of course be part of our proposal for Work Stream 1 but would be actually implemented as part of Work Stream 2.

And then finally to commit to carry a detailed working plan to enhance staff accountability that includes realistic and meaningful access to redress by a group parties as a consequence of ICANN staff's action or inaction.

So this would be the points that we agree in Paris. And if we have no objections I would be incorporating these points to our final version of the document and send it back for inclusion in the next version of our general report.

Okay so having no objections and seeing no hands raised then the ICANN staff accountability agreements stand as in Paris. And I would now turn to diversity.

And with regards to diversity we had several issues discussed also in Paris and the only issue to be included as part of Work Stream 1 is to include diversity as an important element for the creation of any new structure.

And since we will be creating a community council a community forum we haven't agreed of course on the name but you know what I mean by that.

And we will be also creating an independent review panel and the documents that we draft and documents that we send to the community for our second public comments should definitely include the diversity factor and the diversity (unintelligible) so that we at least try to address this issue and respond to those comments received in our first public comment period with regards to this concern.

Then the rest of the issues would remain as part of our Work Stream 2 plan. And this would be to evaluate the evolution of the ATRT into ATDRT.

And that of the structural reviews inter structural accountability, transparency and diversity reviews of SOs and ACs which this in a way is tied to the discussion we have in the SO and AC accountability track.

Then the next subject will be to establish a full inventory of existing diversity related mechanisms for every IG group as part of Work Stream 2. Then identify the possible structures that could follow, promote, and support the strengthening of diversity in ICANN as part of Work Stream 2.

And commit to carry out a detailed working plan to enhance diversity in ICANN as part of Work Stream 2 also. And then devise a formula to advance as a first step at least regional diversity in each new creative structure.

I think that there are a couple of points that might seem duplicative to me here. Maybe there could be a room for making this point thinner and merge maybe two or three of them into a single proposal.

Then the last one would be to commit to strengthen outreach in order to expand the existing pool of ICANN participants so that diversity is better addressed as a consequence. This would be also part of Work Stream 2.

And I see Sebastian Bachollet with his hand up. Sebastian would you please take the floor?

Sebastien Bachollet: Thank you Leon, Sebastian Bachollet. Yes it's one of the reason we split in different subcategories because for example the Point 6 was very much needed to be included in Work Stream 1 because if we start to create the new a new group and the question was about the formula we can use for that.

And there was some formula suggested in the discussion prior to the creation of Vp3. And the suggestion was not to add those formula already proposed but to be more global but it's one of the reason it was here.

And of course it could be included in another point but it was to allow the possibility to spread between Work Stream 1 and Work Stream 2 for the same type of issue with the first one must - more urgent than the other. Thank you.

Leon Sanchez: Thank you very much Sebastian. I understand this and points taken. However for the finalization of our draft I would suggest that we try to have documents that are as lean as possible.

And with this in mind maybe we could think of for example merging Point 1 with Point 6 so that it could read to include diversity as an important element and the creation of that inner structure in a way that would at least address regional diversity. That would merge I think these two points and would of course result in a leaner document.

Then I have Jan on the queue. Jan could you please take the floor?

Jan Scholte: Thanks Leon. Jan Scholte. Yes well I'll just beat the drum one more time. If the ATRT is to become an ATDRT then again I think it would be all the more important to have the SOs and ACs covered so that you can compare diversity within the SOs and ACs with diversity in other parts of ICANN. Again if you keep it outside then you don't make those comparisons.

On Point 6 I'm not sure what happened to this but I did see a more recent formula -- maybe it wasn't circulated generally -- but I did see a more recent formula which suggested specific target of that within three years the IRP should have no more than two of its seven members or nominees from many ICANN region.

And that the community empowerment mechanism should have more than 10% to 15% release 10% to 15% of participation from each ICANN region again within three years.

That was something very concrete. I'm withholding judgment on whether those were the right targets. But the point was that it was actually something quite specific and something that you could actually measure after three years and say have we done it or not?

Are we again it's this distinction between aspiration and specification which way are we going on that? Thanks.

Leon Sanchez: Thanks Jan. Yes the formula was put together by Matthew I remember. And it was discussed in Paris. And I don't think we got to a clear conclusion on that.

But we - I remember that we also said that we would be forwarding this to Working Party 2 which is Becky's team.

And they would be incorporating this criteria into the formation of the IRP. So this is why the next point in our agenda is exactly to see what we are willing to do with Working Party 3 either to have it closed at this stage that we have finalized our work on emerging issues with regards to the first public comment period or maybe have it continue its work in a way that we would of course need to define together.

So are there any other comments with regards to diversity here at this point? Okay so having no more comments then I would go to our next point in the agenda which is the future of this working group.

So as I said at the beginning yes I see Jan Schulte's hand is up. Jan could you please take the floor?

Jan Scholte: Thanks Leon. It's just to ask a prior point. In Paris we talked and there was agreement I thought that the Work Stream 2 items would all be specified as part of the report.

The Work Stream items regarding diversity SO, AC accountability, staff accountability and so on that these items the Work Stream 2 items would be itemized in a list specified exactly what was going to go into Work Stream 2 as well as a timeline from which in which they would be dealt with which I think was specified to be the year after Dublin through a continuing CCWG.

I just want to make sure that that text is indeed going to be part of the final text and who is going to make sure that that is in the final text? Thanks.

Leon Sanchez: Thanks Jan. Jan that is right. And it's in the hand of the co-chairs I believe to have this Work Stream 2 list of issues to be built. And we are working on it.

And of course I will make sure that these different subjects that we are categorizing as Work Stream 2 will be included in that list of issues Jan. Greg?

Greg Shatan: Thanks, Greg Shatan for the record. Before we move off of the diversity document entirely the looking at what we say towards the end that we're going to or maybe kind of in the middle that we're going to underline the following proposals regarding Work Stream 2 and one of those is an election office.

And I'm not sure at all what that it's intended to convey. Maybe I missed the point in time when it was actually conveyed. But I don't see it being conveyed in this document. So I'm just clueless as to what that is intended to mean.

And in terms of suggesting that things can be put into the ombudsman's office we can certainly suggest anything but I think we need to all go back and read about what an ombudsman does and what the ombudsman's charge is at ICANN before we decide to give the ombudsman new and different jobs.

It's not a catchall. It's a fairly well-defined job description. And I frankly don't think either of these things come anywhere close which is not to say that there important it's just to say that diluting the ombudsman's role or turning it into something that isn't an ombudsman's role doesn't strike me as a very good idea.

So if I could be enlightened on this idea of an election office whatever it might be that would be helpful. Thanks.

Leon Sanchez: Thank you very much Greg. Next I have Sebastian.

Sebastien Bachollet: Yes I get your question Greg but I don't think it's in the part of the next step. If I remember well it's in the - some comments with even to this point then it is nothing else that the first part of the document was to gather as much as I was able to find the proposal about the diversity made by one or the other.

And but it's not taken as part of the next step. It's - it could be one proposal taken during the next discussion but it's not the one coming from this group.

And for full transparency I was one of the proposer of this solution of this idea then if you want we can have a discussion.

I'm sure that we need to do it now but I am happy to have this open discussion with you when the time will be coming to them. Thank you.

Leon Sanchez: Thank you very much Sebastian. Are there any other comments with regards to diversity? Okay so moving on to our next one on the agenda the future of this Working Party.

We can either choose to close this Working Party at this stage or we can choose to have it continue its work.

So I'd like to listen to the comments from each of the participants in this call as to whether we consider actually closing the group or have it continue to work. And the first in the queue is Sebastien. Sebastian could you please take the floor?

Sebastien Bachollet: Yes. But sorry Leon it's Sebastian Bachollet. I wanted to be sure of about one thing as mentioned proposed in I guess the current document.

I am not sure that it's the last one. Just to be sure that it included what was - oh yes the GAC is included. Okay it's really the last one proper okay. Sorry about that. And thank you.

Leon Sanchez: Thank you Sebastian. Next in the queue I have Jan.

Jan Scholte: Thanks Leon, Jan Schulte. On the issue of continuing or discontinuing this group I - my first reaction is to say continue it at least through the public comment two period and the responses to public comment two.

The reason why I would say that is that the issues of diversity and accountability SO, AC in particular were not addressed through Working Party's one and two.

And this Working Party was created because Working Party's one and two were so focused on other issues that these matters didn't come up.

And then when the first public comment came these issues were raised. These issues were raised at Frankford, at Istanbul, at Singapore but in the various iterations of the proposals coming out of the CCWG they weren't addressed even though they were addressed in the various discussions. They didn't come out in the actual paperwork in the end.

So my concern would be that if we again remove this Working Party would these issues fall off the agenda as they did previously?

And you remember what happened before is that we had this Working Party created at the end. We were pressed for time. We couldn't address the issues as fully as we could do.

Are we going to put ourselves into a similar position of that these issues get squeezed out because there isn't enough time for them if there isn't a Working Party that's actually focused on them? Thanks.

Leon Sanchez: Thank you very much Jan. I agree fully with what you've just said but I wanted to listen to the rest of the participants' just to see if we were all on the same page.

And I don't know if - is there anyone else that has any views or comments with regards to either dismantling the group or continuing its work?

Okay so I see no other comments. So if we agree then we would be keeping the work of this working party open. And maybe our working method from now on would be to monitor the different comments that begin coming in our second public comment.

So as Jan suggested we don't get caught into a very time constrained timeline at the end of the public comment. And we can anticipate as comments come in whether we need to work on something or whether we continue to just monitor what's coming in to us.

So we have agreement. We will be keeping this Working Party 3 I believe. If - is there any objection to having this Working Party 3 continue its work until at least public comment period two ends? Okay no objection. So with this we've reached the end of our call today. I would like to thank everyone that attended the call.

And I will be as we said finalizing the versions of our documents today to circulate to the Working Party 3 list so that we can have a last view on each of the documents.

And if I of course forgot or miss put something into our final version all comments and corrections are welcome as usual. So thank you very much to everyone and I'll talk to you soon again. Bye-bye.

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