ICANN

Moderator: Brenda Brewer
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6:00 am CT

Leon Sanchez: Hello everyone and welcome to the (VCWT) (unintelligible) Meeting Number
46 on the 30 of July 2015. As usual, we will do our roll call with those
attending via (unintelligible). At this point if there is anyone that is attending
the meeting that is on the phone but not in the Adobe Connect room, could
you please state your name so we can have it for the roll call?

Tijani Ben Jamaa: Tijani.

Leon Sanchez: Tijani, okay, so Tijani is on the phone bridge. Who else? Is there anyone on
the phone bridge that is not in the Adobe Connect room? Okay, so no one
else. We will continue with the usual reminder of filing statements of interest.
I believe we have made some progress on this, but we still have some
statements of interest missing, so (feel free) to approach that if you need any
help with filing your statements of interest. And with no further delay, I will
turn to Thomas for Item Number 2.

Thomas Rickert: Thank you very much Leon and welcome everybody. We would like to
provide a little bit more information on minority statements and also on
dissenting opinions. There has been a lot of communication on the list and

therefore we think it is advisable that everybody gets first-hand information from us on this call again.

We have offered to you that there is the possibility of providing minority statements as well as dissenting opinions. The difference between the two being that the minority statement will be attached to the report in an appendix and it will be made available on the Web site for the reader to download and in affect, while the dissenting opinions and the way we use this term would be your diverging view on an individual question. And we have offered to you that these could be incorporated into the body of the report.

As you know, we are about to publish our second report shortly that requires a lot of drafting, editing, formatting, and therefore we need those statements a little bit advance of the publication of the report to make sure that it is incorporated in the body of the report.

Nonetheless, you are certainly free to file your statements at whatever point in time you choose only if you miss the deadline for submitting those statements we cannot incorporate dissenting opinions in the body of the report. And if you provide us with minority statements after the point in time where when we publish, then your statements might not be available for downloading as of the very first (minute).

So this is an offer to you. It is not an obligation to you. In order to make it easier for the reader, we have offered the service to you if you wish to include your dissenting opinion in the report. But again, this is optional for you to choose from.

We have heard though from participants of this group. I wouldn't even be able to tell whether it was a member or a participant. That the opportunity to have

the dissenting view incorporated in the body is more welcome than being forced to publish a separate minority statement. Because also, the minority statement might suggest that the author or the group the author represents has a bigger issue with the overall package of recommendations that we are presenting to the community in the report.

So having said that, we do note that we are shortly before the publication of the report. Therefore, we are working against timelines, but since we have considerable editing and formatting work to be done, we would like to suggest to you that we will extend the period for receiving dissenting opinions by 24 hours. So that will then be 12 UTC on Saturday and we will then use the remainder to he weekend for polishing the report and publish early on Wednesday - on Monday, excuse me.

(Grace) will surely provide the exact details in the chat for you to follow, but that should serve as a guideline for you when it comes to dissenting opinions. And with respect to minority statements, let me again clarify it is up to you when or if you want to provide us with one. You don't have to be there on the very first minute. Usually commenters chime in in the very last part of the public comment period, but we advise you to just do it at whatever point in time or at your earliest convenience, and staff will make sure that your minority statement is made reference to and incorporated in the download package for the community.

I think that for this agenda item, I see Alan's hand is up. Alan please.

Alan Greenberg: Thank you. Very quickly, may I suggest you might want to consider that for people who serve notice they will be submitting something that does not make the deadline that you would include in the body of the report a pointer to a space on the Wiki that they have reserved, that is being reserved for them. So

at least there is a reference in the report to it even if the actual content doesn't make it. Thank you.

Thomas Rickert: To me that is a workable solution. So if you indicate to us that you will provide us with a dissenting opinion at a later stage, then by all means please do so and we will include a pointer in the report.

Unless there are further questions on this topic, I suggest we proceed to the first substantive discussion on the budget and that is to be chaired by Mathieu.

Mathieu Weill: Thank you very much Thomas. And this is Mathieu Weill speaking and hello everyone. As you know, our task today is to review the remaining sections of the draft report and we have an agenda where we will cover these items one by one starting with where we left last Tuesday and at the end, we will come back to the outstanding items.

And to dive straight into substance, we have - we start with the community powers. We have an introduction, which hasn't changed much and has been discussed the last time. I think the only outstanding discussion that was actually in the (work part one) meeting on Tuesday was about the period of 15 days between the three key phases of the powers - the petition phase, the discussion phase, and the decision phase and I think that is all we have for this introduction to (conduct and ensure) changes.

Jordan, is there anything else on this part?

Jordan Carter: There is nothing of substance. All of the other edits come from either legal review or just trying to make the language clearer.

Mathieu Weill: Thank you. I would suggest we proceed straight to the budget, which is the next item, and there if there are any objections to that or comment on this. Okay, so without further ado, let's dive into the - on page - on the same document starting on Page 3, the budget section. And once again, I will turn to Jordan to explain what were the latest changes incorporated into this document and whether there are any outstanding items for discussion.

Jordan Carter: Okay thanks, Mathieu. It is Jordan here. It is lovely to be with you all again. The - in the budget paper is almost a chat change if you look at that document. It comes from the lawyers, and there is a big chunk of stuff about the IANA budget that has been added to clarify it. And I want to be really, really clear that when you are petitioning to use this (power), you are petitioning either to go with the strategic plan or with a particular rating plan, or the ICANN budget, or the IANA budget.

If you do a petition for the budget, that won't work. You only get to have two votes for one petition, so that has been clarified in the latest draft and that is almost the total limit of the substantive edits that are there. The rest of the word changes are trying to be clearer about the way that it works and that is a lot. So I am happy to talk about any specific change if you like and I see (unintelligible) here and the rest have made some particular drafting suggestions about clarifying stuff that is in Paragraph 23 I think and some of the way that the wording is done.

And I know that today last paragraph there are some typos that (unintelligible) in there twice and but other than that, that's all I've got to say right now.

Mathieu Weill: Thank you Jordan. Any significant concern or discussion points on the budget part? Alan.

Alan Greenberg: Yeah it is a very quick question. I asked this on the last WT1 call, but I wasn't on it, and it wasn't clear to me, the concept of separating out the IANA budget. Normally the Board approved a budget, which references all of the revenues and all of the expenses. The concept of segregating out the ICANN - the IANA budget segregates the expenses, part of the expenses but not the revenues. And I just want to make sure that what we are proposing here is something that ICANN finance understands how they are going to do.

Thomas Rickert: And may I respond, Mathieu?

Mathieu Weill: Absolutely.

Thomas Rickert: Yeah, so it is a good question to be clear on that Alan and the thing that needs to be said is that the TWG demanded that the proposal - that the power be able to use the IANA budget. And what I would imagine the ICANN team will do is have a couple of lines in there where it is going to be an expense line most likely for the IANA budget. And then there will be a detailed budget as set out in the second paragraph of this power, so it will be all in one document and the details that were exercised that apply to the content of that document.

And it is definitely a workable thing and it is an example if you like of a thought out line item detail for just the IANA line and that is going to be something that ICANN finance will definitely be familiar with. It is definitely workable.

Alan Greenberg: Okay and especially since the IANA is small enough, that will be fixed even if the rest of the budget has to move. Understood thank you.

Mathieu Weill: Yeah and just for everyone's knowledge and I am sure Alan was already aware of that, but the design team in the TWG that was working on the IANA

budget discussion actually had extensive exchanges with ICANN finance and the wording that is currently in Paragraph 2 of the documents in front of you in the (unintelligible) is incorporated actually. It was already mentioned in this TWG document and drafted with incorporation with ICANN finance. So I think we can have a high level of confidence that it is achievable.

Are there any other questions or concerns or objections to the way we have refined the reconsideration of the budget and strategy operating plan document? No, so I think we will move to the next section and I am turning to Leon.

Leon Sanchez: Thank you very much, this is Leon Sanchez. And the next set of items is the (unintelligible). I believe we do have an agreement on what we are coming up to in our (unintelligible) with regards to our (standard) bylaws and I think there are no major changes in the document. You can see this text on Page 5 of the same document you have on our screen, and I would just like to confirm with Jordan that what I am saying is accurate and we have had no major changes to what was discussed. We can say that we have an agreement at this point. So Jordan are there any major changes to this section? Jordan.

Woman: Leon, Jordan just wrote in the chat that his audio has crashed, so Jordan we can't hear you at the moment.

Leon Sanchez: Okay, we can't listen to him, but I do believe that there are no major changes or any changes at all at least from what I could review. And are there any comments with regard to this section of the document that addresses (standard) bylaw changes? Okay, so seeing no one having any comments, I will then turn to Thomas for our next agenda item.

Thomas Rickert: Thanks very much Leon and actually for the next community power and the removal of individual directors, we would also appreciate Jordan to give us an update on the latest changes on the document. But in the absence of that, of him being on audio, I ask you to move to Page 6 in the document. You have scroll control in the Adobe room, so please make use of that. So basically, what has been done is highlighted in yellow, so there is a clarification that subdivisions within the GNSO for example can decide on their own director, which they have seated on the ICANN board.

I think that is a very good clarification. We then have a clarification that the time span of 15 days. There are certain requirements for a meeting of the community forum. Again, there is reference on Page 7. Did somebody want to speak? Okay, on Page 7, reference is made again to 15 days, (special three quarters), and there is a clarification in there that you can't (d doc) the system to as for the removal of the same director, but that this can only happen once in a time span of 6 months. So again, for the remainder of the document, we just see clarifications on the time spans being 15 days.

Alan has raised his hand. Alan please.

Alan Greenberg: Yeah, thank you.

Mathieu Weill: Can I ask for the explanation first? Sorry, just something that Thomas said wasn't quite right.

Thomas Rickert: Okay, so please fire away.

Mathieu Weill: Sorry, Alan, I apologize for interrupting you.

Alan Greenberg: No, I prefer this. The yellows are not the only changes. There are substantive ones I needed to add - bring to your attention. So I just wanted to be clear that people knew that there are some other slight tweaks and the substantive ones are in yellow. So the reason that the subdivisions within was highlighted in yellow there was because I don't know enough about the GNSO to know whether the elections of the GNSO directors are actually by subdivisions or whether they are not. And the reason that the end of each of these protest points is in (unintelligible) yellow is completely new and I realize that I am (breaking) something that I said very strongly on the email list in terms of introducing new things at this point.

But the lawyers and the staff in looking at this document thought it might become intolerable to have a constant challenge process going on for directors or petitions (just losers) and then they are just constantly under siege. We thought that was not an appropriate use of this, so we are going to make it very directly clear that this is not something that came out of the meeting of WP1 as far as I can recall anyway.

So sorry Thomas. I just had to add those things for you.

Thomas Rickert: Sure, thank you very much for that. We have Alan next.

Alan Greenberg: Okay, thank you very much. By the way, my recollection for the GNSO is the house decides and passes it through the chair of the GNSO and the actual result comes from the GNSO, but it is unilaterally decided by the house.

Just for clarity, I think we may need to change the words on the section about the subdivision. That I presume it is all aspects that are decided by the subdivision that is issuing the petition, the initial petition, and then the final decision to vote. So if so, there may need to be some word tweaking just to

make that clear. That the ACSO - for this section, the ACSO means the ACSO or its subdivision of the directors are appointed by the subdivision. That's all. Thank you.

Thomas Rickert: So you don't think that is sufficiently clear in Paragraph 30?

Alan Greenberg: No.

Thomas Rickert: Can you maybe place some proposed language in the chat?

Alan Greenberg: I will do that. Thank you.

Thomas Rickert: Perfect, thanks Alan. James is next.

James Bladel: Hi, thank you Thomas. James speaking. Can you hear me?

Thomas Rickert: Yes, we can hear you all right.

James Bladel: All right, thank you. So hey, I am sorry. I may have misread where the timeframe was discussed, but I agree that we certainly don't want this mechanism to be used to harass or harangue a particular board member.

It just - because we want this to be an extraordinary case, I wanted to put the forth the idea that this would be a once per term situation and not a once per six months. I still think that six months is too short of a timeframe to protect against future attempts at recall, and I just wanted to propose that as an alternative. Thanks.

Thomas Rickert: Thanks James. Jordan's hand is conveniently raised, so maybe Jordan you would also like to respond to that proposal to extend that period, which by the way is getting some traction in the chat from Chris and (unintelligible).

Jordan Carter: And I don't have a strong view. I think I've got a preference if there is one and making it any shorter than six months being ridiculous. And I've got no problem, but I have to be clear that this wasn't the discussion that (unintelligible) want. This is the first time that the group has discussed it at any level and that's what I was just apologizing for.

                  And I wanted to ask you a question actually. That is why my hand was up. It was a question for Alan, which was whether the clarifications say that subdivision should be able to petition or is it a change? I don't know. I think we can logically agree that if the idea is it's an appointing body, or a removing body, or a petitioning body, then it makes sense to extend that. But I just wanted to ask if you thought that it was just making it consistent or there was actually a change.

Alan Greenberg: I hadn't read this before. As I said, I wasn't at the meeting where this document was semi finalized. I just want to make sure it is clear that later on when we are referring to the ACSO or does something such as in Section 31a, that it is clear that we mean or the subdivision if that is applicable. We are essentially redefining ACSO for the purposes of the rest of this section and I just want to make sure that is clear.

Thomas Rickert: Can I suggest that Alan you just paste your suggested or alternative language into the chat and then we revisit.

Alan Greenberg: That's what I planned on.

Thomas Rickert: And then (John) will have a chance to look at it afterwards. Before I move to Chris, let me try to take stock of where we are at the moment. So there is the proposal of six months in the document right now. Jordan doesn't have any firm views on what the time span would be, but it shouldn't be under six months. There is one position that I have noted from Sebastien that is - who is against this section, but he would like to suggest once a year or once per term.

I understand that there is a lot of traction for the proposal to limit the number of processes against individual Board members to once per term, and therefore, I would like to check with the group whether there is any substantive position to reducing it to once per term. But before we - before you chime in on that, let's hear Chris first.

Chris Disspain: Thank you Thomas. Can you hear me?

Thomas Rickert: Yes, we can.

Chris Disspain: Okay, so just in passing, I am in favor of once per term, but I just wanted to say can I recommend to us that we don't use new terms. I am not aware of the term subdivisions and it is - it throws itself open to misinterpretation. We would be better off to - since we know we are referring to the GNSO, we might be better off to use whatever the right term is within the context of the GNSO unless we are suggesting that the SOs themselves can make up their own rules and create their own subdivisions in which case we would need to know what those were. Thanks.

Thomas Rickert: Thanks Chris. So I note two things, one of which is the agreement to once per term and then the question of not introducing new terms. I would suggest that Alan - or kindly ask Alan to bake that recommendation that Chris just made into the suggested wording that you are going to type into the chat. I will also

note Eberhard's objection against the once per term idea and I would like to do it. Take some (process) in the Adobe room so that we can get a better understanding of where we are on this question. But before we do so, let's hear Jordan again.

Jordan Carter: Hi, this is Jordan a participant. This has nothing to do with me being (unintelligible). I just want to point out a potential consequence of saying once per term, which is that if a director knowingly - if they had a plan to do something that dodgy they would trigger one of these on something that was a bit scandalous but not very bad. Have this effectively used up and then they would be able to do it. They are likely to not be removed. So I don't suggest just likely. I am just trying to shadow box or test this idea.

We've deliberately not limited any of the other powers to a once only approach and the point here in my mind in suggesting the six months was that that is kind of once per budget cycle, which (unintelligible) key decisions the director makes, but I think we are creating possibly a problematic thing if we just do it once. My preference would be a longer term or twice per three year term, but I think once just feels a bit problematic.

I've got a process suggestion, which may or may not be helpful. Many people on the call will only have heard this once and I wonder if this is an issue that we should let people think on for the (four) hours in between calls. So I am just making a suggestion to the co-chair.

Thomas Rickert: Thanks Jordan. That is much appreciated. Let's hear Sebastien now.

Sebastien Bachollet: Thank you. Jordan I get your point, but just don't forget that (unintelligible) there is a still a possibility to - I have done that. And I think if your scenario is coming to life, the other Board members will be quite upset,

and I think that they will act. And if eventually the community needs - wants any action here. They can ask the Board to act also. We have other tools than just this one and that's why I think that - my problem was once a year, but if it is once per term, it is okay too. Thank you.

Thomas Rickert: Thanks very much Sebastien and I think the upmost helpful comment to be made. The right of the Board to take action against an individual director is not truncated by the proposal that is on the table. So let's now move to (Stropar). He's used the Adobe room functionality in the upper left section of your screen and press the agree button if you think there should be the possibility to invoke the process only once per term.

If you don't like that idea or if you wish to go to the smaller intervals, let's say six months or one year or whatever might be less than a term, please press disagree. So we will do another round of straw polls unless we get huge support for once per term only. So please use the Adobe functionality now.

Tijani Ben Jamaa: Thomas difficult for me because I am not on the Adobe (unintelligible) and please put me in the queue. I have another point, please.

Thomas Rickert: Would you like to speak to this point?

Tijani Ben Jamaa: No, no, another point about the removal of the (unintelligible) but not this point.

Thomas Rickert: Okay, but Tijani, would you be willing to indicate whether you are in favor or against using a once per term limitation?

Tijani Ben Jamaa: I said (unintelligible), so yes I am.

((Crosstalk))

Thomas Rickert: Agreeing, okay, thanks very much Tijani. There seems to be broad support for once per term limitation. We have a few against. It's 18 against six, according to the counting.

So I would suggest that we proceed on the basis of once per term. So thanks everyone for participating in the (stropar). And let's now hear Tijani.

Tijani Ben Jemaa: Thank you very much chair Thomas, Tijani speaking.

Yes it is the point Paragraph 31.A. Why we are limiting this (unintelligible) of the (unintelligible) director removal? Why we are limiting this to the SO or the AC (unintelligible) the director? What is the final decision we already made in the hand of this SO or ACs?

These might be by any of the community and one of the communicators. That's one. But let's say by the community. And if it is the point (unintelligible) yes it should be (unintelligible) there is another one who had something to approach to this. I think that this is (unintelligible) come from there.

And it will not be any procedure if we don't have the discussion and if the appointing SO or AC is not okay.

Thomas Rickert: Jordan would you like to take that one?

Jordan Carter: I didn't entirely understand the point I'm afraid. So if you could restate the question.

Tijani Ben Jemaa: I'll repeat Jordan. I repeat.

Jordan Carter: Yes.

Tijani Ben Jemaa: In paragraph 31A you see that the decision to start consideration of the (instant) removal requires a call to do - as proven by (unintelligible). It's been proven by. So the call can be done by anyone. That okay I am...

Jordan Carter: So the point was to make it...

Tijani Ben Jemaa: So yes.

Jordan Carter: Okay, all right.

Thomas Rickert: Thanks. Next in line is Alan.

Alan Greenberg: Thank you. My first inclination on hearing Tijani was to agree with him that the petition could come from anyone. It still is decided by the AC SO.

                   But the addition of that last line that last provision we've just done of only one per term I think is problematic in that case. Thank you.

Thomas Rickert: Alan can you explain that a little bit more?

Alan Greenberg: Sure. Essentially some other AC or SO can remove from the appointing AC and SO the ability to do it by triggering one initially.

Thomas Rickert: No, no.

Alan Greenberg: The GNSO if they love the At-Large director but sense there's a problem coming on can trigger a review which will fail because the ALAC At-Large will not remove them but then remove the ability of the At-Large but then remove the ability of the at-large to later or vice versa.

Tijani Ben Jemaa: No they can't. No they can't.

So 31 says the following process applies to any director appointed by an SO or AC.

And so the decision to start consideration regards the call to do so an internal petition if you like, that's approved by a simple majority in the SO or AC which appointed to (unintelligible).

So if a GNSO wanted to belong to At-Large and said we want to petition to your director At-Large is probably going to say no.

And the GNSO can't - has no decision rights at all to trigger a process that would make ALAC consider the recall of its director.

So the scenario you just painted is not possible under these words.

Alan Greenberg: No Jordan. I was talking about what Tijani was suggesting where he said that the petition could come from anywhere.

Thomas Rickert: It could come from the (moon) but it could only be approved by the appointing SO.

Alan Greenberg: Okay well I think he said the GNSO as an example could trigger - send out a petition which would trigger the community assembly and whatever and the rest of the process. So I...

Jordan Carter: But the community simply has no right to make a decision on the director appointed by an SO or AC. So that can't happen either.

Alan Greenberg: Okay we're not communicating. Let's not waste time on it unless it becomes something that's integrated. Thank you.

Thomas Rickert: Thanks very much. So I suggest that we are - we will wait for Alan's suggested wording on the subdivisions.

                    And at the end of the call or at the end of the next call we're going to walk through the areas where we reached agreement. And we will then call upon the group again to look at the amendments to the language.

                    And we will also confirm whether the once per term notion is still getting more traction in the group.

                    So with that I think we can move on to the next agenda item. And that's going to be chaired by Leon - by Mathieu sorry.

Mathieu Weill: Thank you very much Thomas, Mathieu Weill speaking.

                    We're now coming to this section recalling of the Board members the recall of the whole board. And it's starting on Page Number 8 of the document in the AC room for those of you who are in the room.

                    And Jordan can you update us on the latest changes please?

Jordan Carter: I can. I can. I'm just trying to look at three things at once.

Recalling the entire ICANN board that starts on Page 8 frequent by the appointed Board.

So in this paper once again and you'll recall all of you I think that this paper about lawyers and our lovely lawyers are on the call.

And in writing this and editing it they did a thorough job that's a bit more towards what a bylaw might look like. So a lot of process and (unintelligible) was included. And we've been having a little bit of indirect back and forth through the staff and trying not to avoid this description getting too detailed.

So one substantive is change in the first bullet point there. The way that we have been talking about this power is that you would require two SOs or ACs - the draft still isn't right.

So you'd require two SOs or ACs to petition for this power at least one of which had to be an SO. And that's reflected in the first bullet point there at the bottom of page X with the yellow blob of the two of the SOs or ACs.

Because in the previous version we said at least one of which was an AC and at least one of which was in SO. And that gave an AC, the ALAC an effective veto in ever exercising this because they may be the only AC that has both.

But elsewhere somehow from the earlier draft you can see on the third line of the paragraph above the community was - (unintelligible) started a petition of 2/3 of the SOs and ACs participated.

So of all of the SOs and ACs were voting it would require five of the seven to petition not to exercise, but petition.

And if four SOs and ACs were petitioning it would require three.

So you would have a position once again where the thresholds to even consider these two (as powers) is very high. And I don't think that anyone has thought that that should actually be the case.

So in the bullet point we deleted it. But in the paragraph above we failed to delete it.

So I want to be really clear that we're going to do agreed change that at least one of the two petitioning SOs - so one of the two petitioning SOs and ACs has to be and SO. There's old language still there unfortunately which says that 2/3 of all the SOs and ACs have position.

I don't believe that's correct and I think it should be deleted. So that's one substantive change.

The other changes are not substantive as far as I can recall. So you might recall that when we originally drafted this if you scroll down to the one, two, three, fourth petition, fourth paragraph after the bullet points on Page 9, the fourth paragraph after the bullet points on Page 9 it's (unintelligible) this threshold was changed into (unintelligible) dah, dah, dah.

There were some lines above that because you remember that we initially said that it would have to be based on - this was going to be only power where the threshold was an absolute threshold where you had to have all the potential votes counted.

But for the vote counting measures that we've adopted now in Part 5A that happens to all of the votes. So we just deleted the language to avoid doubly saying something in different language in different places.

The last point I just want to note is that there's a paragraph on the following page which is about Noncom appointees to the Board and to the interim board. It's right on the bottom of Page 9.

And there was a valid question about whether the identity of such people if they had to be lodged when the petition was lodged which does have to happen with the SOs and ACs.

And the answer I'm supposing was no it wouldn't. And that was agreed in WT 1 I think that the NomCom would only name such director (unintelligible) by the interim board if the vote to recall was successful.

So I think that those are the only substantive changes. The last point I guess to make is that there is a long footnote at the end which was Malcolm Hutty a proposal that any single SO or AC ought to be able to recall them and select there. So sorry that was a long longer than it should have been (unintelligible).

Mathieu Weill: Thank you Jordan. Tijani, glad you joined (unintelligible) too.

Tijani Ben Jemaa: Thank you. Thank you Mathieu. I'm sorry I will (unintelligible) a remark about the previous point that just came to my mind.

If we remove a director six months or less before the end of his term I think that it's business to proceed to (unintelligible) him since it is a heavy

procedure at least for At-Large. I know it is a heavy procedure to make the election - the selection of the Board director.

So I think that we have to push accretion. I said six months but you can say four months or you can say one year. I think it is not good for to move it to (unintelligible) at this time. Okay thank you.

Mathieu Weill: Thank you to Tijani. I suggest we make a note of this. And I would say that I think that can be fine-tuned as we implement this power.

But probably some other details like this will emerge where we can fine-tune this in the application implementation phase. And I think it's a good comment.

Chris you're next?

Chris Disspain: Thank you Mathieu, just two things. Just to - just on the single director removal if I understood correctly you are going to ask section call for their input on this. And that's fine.

But I want to make sure that for those of us who aren't on - can't be on the section call that we all are clear, my clear vote is that it should be once a term.

In other words I don't want a recount on the second call to certainly discount those who can't be on this.

But that's just a minor point I just wanted to make so that we were clear.

On the removal of the Board directors just a question to make sure I've understood, it's correct that if we - is it correct that if we end up with four SOs, four lots to five votes -- and I know that may not happen -- but if we do

end up with four lots for five votes then the three - the three SOs ACs can petition. And then those three would win the vote automatically effective presumably because they would make up 75%.

I'm not saying that's necessarily a bad thing. I'm just making sure that that's - that we're clear that that's what would happen if we had four for ccNSO GNSO ALAC and (unintelligible) I say as the making up the members.

Three of those would petition and then if all three of those voted in favor the Board would be filled.

Jordan Carter: Do you want me to reply to that?

Mathieu Weill: Yes.

My understanding of the requirement is that the petition needs two SOs or ACs. So they need - sorry two.

((Crosstalk))

Chris Disspain: Sorry two. I apologize but...

Mathieu Weill: But it doesn't - takes Chris a second one when there's a problem. Because the petition is just to consider the discussion.

Jordan Carter: Yes Chris. Three SOs could recall the Board even if a fourth SO or AC was entirely opposed.

And the reason we chose that threshold was when we were expecting to have that number of SOs and ACs participating. We won't make it impossible so anyone SO or AC to present the Boards being removed.

So that works with four, five, six or seven SOs and ACs for this setting. It breaks with three or two or one.

Chris Disspain: Yes. Well I think we can assume that one is not going to be a workable model anyway. But...

Jordan Carter: True.

Chris Disspain: ...okay fine. Again I'm not saying it's an issue I just want to make sure that we're clear that that's what we're doing.

And the other thing to remember is that again it's interesting just to play with the numbers. And I might suggest that people do that as (unintelligible) the time.

You know, the addition of an additional SO or more specifically perhaps an additional AC doesn't actually make a huge amount of difference to the threshold requirements or rather the voting requirements of actual number.

But anyway I wasn't trying to make a point. I was just to be clear so thank you for that. I appreciate it.

Mathieu Weill: Thank you Chris. Any others - Jordan?

Jordan Carter: Yes I could just add to Chris's thing. The voting threshold, that's still going to be percentages. They'll be percentages of all the potential votes that could be cast depending on the participants.

So if there's a 75% threshold while there are 20 votes it means 15 votes. If it's while there are (unintelligible) but, you know, if the number of participating SOs and ACs go up the percentage thresholds don't change. The number of votes required to catch them goes up. So yes it is designed to be flexible for that Chris.

Mathieu Weill: Thank you. I know that Sebastien appears to be cut off from the conversation but he sort of implied earlier that he would object to this section. Are there any strong concerns or objections to this section on the recall of the entire bored?

So seeing none I would like to now move on to Section 5C. And that's going to be Leon.

Leon Sanchez: Thank you very much Mathieu. This is Leon once again and with regards to Section 5C. It addresses the emerging issues diversity (unintelligible) on diversity and accountability of SO and AC accountability.

In this section of our report there hasn't been anything as well from our last call. So I think we have reached an agreement on this section.

And I would like to of course cover any comments on this section. As I said there have been no changes from what we last discussed in the previous call.

So are there any comments or suggestions with regards to this section?

If we have no comments then we'll (unintelligible) closing.

Okay so seeing no comments nor objections in the room we can take this section closed. And I would turn now to Thomas for Section 6.

Thomas Rickert: Thanks very much Leon. And we're now going to discuss how the parts of the AC of been incorporated into the bylaws.

And I would like Steve to take the floor and show us through the latest changes.

Steve DelBianco: Thank you Thomas. This is Steve DelBianco. There were no changes since our last CCWG call.

For those of you who missed that call I could recap the two changes we discussed from the prior version.

You can see though if you look at the chapeau for all reviews regarding the disclosure of information to the Review Team that begins on Page 3, Page 3. And see several paragraphs that were developed by multiple people on this and the CCWG to describe the way in which the Review Team can access confidential information held by ICANN and then the disclosure requirements in their own recommendations or otherwise.

Our lawyers also added the second to last paragraph suggesting that the disclosure framework should indicate the review team member should understand any documents, any nondisclosure promises they need to sign.

Aside from that our lawyers incorporated many specific requirements for what has to be in the IANA function review. The IANA functions review is a CWG requirement. And it begins on Page 9 of the document in Adobe.

That text was expanded by bringing an text that was directly quoted from the ICG CWG stewardship proposal. And so we have not altered it in any way. That's Page 9.

And with that Thomas as I said earlier there were no changes since our last call. That's why there wasn't any yellow in the document. And I'm happy to take questions.

Thomas Rickert: Thanks very much Steve. I guess that's the purpose of the exercise to give the whole group the opportunity to comment on the (variants) that they have in front of us.

Let me also take this opportunity and just clarify that, you know, these documents have been developed over months. So, you know, there's only a little new information in it.

I'm not saying it's not important new information but most of the parts the group already knows for quite some time.

Are there any comments on this document?

So there don't seem to be any which is a very good sign. So obviously you have not had any ambiguous language in the document that you could use Steve and others have produced. So congratulations on that.

And that allows us to move to the executive summary. So we're now jumping to the top of the report. And Mathieu is going to show you that.

Mathieu Weill: Thank you very much Thomas. In this document we haven't discussed earlier obviously because it's a summary of the overall report. So it was produced once we have found some table document in the other side.

To take you through this briefly of course it's the (new) introduction on Page 1. A reminder of the four building blocks at the top of Page 2 the principles, the empowered community, the ICANN Board of Directors and the independent or pure mechanical.

The reminder that the changes to the ICANN bylaws are to clarify the mission to report this group or organizational activities.

And I will note its right away that we have one thing to correct that currently the mission is describe that focus from the CNS and it's wider than that. It's not only the DNS. It's also coordinated a number of resources in the protocols.

And incorporating the AOC principles into the ICANN bylaws is also one of the items we're doing.

We are describing the powers. And you will see the title says six powers and you have a list of five. That's just intended to see whether you're carefully listening to this call or reading the documents.

And the six powers comes from CWG presentation that was mentioning six powers. But actually power number six was the ability to challenge decision

by the ICANN board to implement or not implement in IANA function review recommendation.

And we - our approach for the report will be that we think this is covered by the scope, the standard of review of the - the standing sorry, recommendations for the IRP. And therefore it's not the sixth power but it's definitely a condition of the CWG were meetings through one of the five powers we're adding for the community.

I'm sorry for to one of the powers we're adding to the community not through the IRP. I'm sorry for the confusion. So that's the confusion on the six and five.

And then we describe the reform to the independent review and request for consideration process very shortly and describe what Leon just introduced about the various enhancements to the overall accountability, authority accountability, diversity and so on.

And we describe the fundamental bylaws on Page 4 and remind the community that we're doing stress test in an extensive manner bottom of Page 4 and then go on for describing the implementation and what will be under consideration in Workstream 2.

And at this point I think our goal here at this point of the meeting since we haven't reviewed all the sections of the report would be for you to signal whether you think this structure of the executive summary is appropriate for the reader to get a broad view of what we're suggesting as part of Workstream 1 or if some key elements are missing rather than go into the detail of each section which obviously we will work on comments on.

But it might be difficult to get into some of the sections we haven't discussed so far.

And so with that introduction are there any structural comments on this executive summary?

Tijani Ben Jemaa: Yes I have some comments.

Thomas Rickert: Mathieu?

Mathieu Weill: Yes?

Thomas Rickert: Mathieu?

Tijani Ben Jemaa: Thank you very much Mathieu. I have read the executive summary comments by (Grace) from the (group). And if it was not changing I think that a section - the (unintelligible) of the numbers should need to be reworded according to the text that we have now for this - for this power for the recording or (unintelligible) number.

Because I recall that it was written in a manner that as it is absolutely - the (unintelligible) doesn't have any (unintelligible) something like this.

So please read it again and try to make it conform to what is - what - to the text that is now we just read about the (unintelligible) and (unintelligible) number. Thank you.

Mathieu Weill: Thank you Tijani. I think that's a very good point. And we will review the wording to highlight the need for a community discussion before the decision's made. Thank you.

Chris, I see a green tick but I suppose you have your hand raised.

Chris Disspain: Yes I do. Do you hear me?

Mathieu Weill: Absolutely.

Chris Disspain: Thank you. First of all of thank you very much for this staff and rapporteur and other contributors to these documents.

I confess that I've read the executive summary from a sort of professional drafting point of view. On the basis that 90% of the people who follow this report and its subsequent activities will only read the executive summary.

There's not enough in the executive summary really to carry the weight of the full document. I think it needs a little bit more work from that point of view.

I - my suggestions would go along the following lines some of which can be implemented quickly, some of which may be - may question the underlying assumptions.

First of all vis-à-vis the outside world of we need right up in the first paragraph a definition, the legal definition of the community. Since everything else involves legal structures we need to be very clear about who we're talking about in that paragraph what is the community.

Now some of us know but I guess that most of us have slightly different views as to what the community is. So something has to be crystallized to bear.

Secondly later in the first page the expression is convenient but the attempt to align the new structure on a national constitutional concept, the constitution the people, whoever people as opposed to the community of the executive, the judiciary I think most people outside our processes would find us a bit far-fetched. And I think a little - some modesty would be appropriate.

The jobs that have been described, whether they're Board members or whether they're selected representatives in the sole member model, increasingly look like full-time paid, particularly to achieve real political balance within the new structure the representatives of users will have to be fully reimbursed for their full-time work in this field. And it's not good enough for a few commercial supporting organizations and their representatives to be paid by their firms and for everybody else in the sole member model to be working voluntarily. That's not going to work.

Including, I would say since the members of the appeal mechanism have to be fully independent, they also have to be paid, so I think somewhere there has to be a reference to the budget for the implementation of the whole of this new structure. It will be much more expensive than the existing ICANN structure, which to a very large extent depends on voluntary participation.

Mathieu Weill: Thank you, Chris.

((Crosstalk))

Chris Disspain: This is necessary to avoid conflict of interest. Finally, if I jump straight to the last page, the reference to diversity should be given a much higher priority. I'd put that at the top. And secondly, just before this conference call I read the (Sid Lee) memorandum on human rights. I think that means that we remove the brackets and we delete within its mission.

I'm not quite sure 100 percent what the full implications of the (Sid Lee) memorandum are, but they certainly strongly suggest that the future ICANN structure will have a fairly wide range of human rights obligations. And the only footnote I would say to that, particularly to Avri and to others, it's rather surprising that the (Sid Lee) memorandum does not refer to freedom of information or the freedom of expression.

But, that I think Chairman would be enough from me just now. Thank you.

Mathieu Weill: Thank you very much, Christopher. And I look forward to your comments on the executive summary in writing. They will be certainly considered. The next in the queue is Holly.

Holly Gregory: Hello everybody. I just wanted to comment that in picking up what has been previously been called the sixth power...

Mathieu Weill: Holly? The volume is very low. Can you...

Holly Gregory: Is this better?

Mathieu Weill: ...a little louder?

Holly Gregory: Is this better?

Mathieu Weill: Yes.

Holly Gregory: Okay. All I wanted to suggest, and I suggested it in the chat, was that in the section where you've removed the bullet in the powers about the CWG and a review, that instead if we're considering that as part of the independent review

process we just make a note of that in the next paragraph where you talk about independent review process.

I think it's important to have a little place saver that you can point to, to show that the CWG contingency on this issue has been addressed. And it would be good to have that in the executive summary. Thank you.

Mathieu Weill: Thank you Holly. That's a very good suggestion. Next is Steve.

Steve DelBianco: Thank you Mathieu. I'll paste in the chat the text that we had on Page 11 of our May 3 draft. And it was carefully worked out text explaining our group's rationale between what's in work stream one, and what's in work stream two. It's just a single paragraph. And it gets to this rationale that we needed in work stream one that the powers necessary to give us the confidence that we could implement work stream two even in the face of resistance from ICANN management and Board.

That paragraph's essential to help explain to readers who only look at the executive summary for helping them understand what was contingent between one and two. So Mathieu I've submitted in the text in the chat. It's already the same text we had (unintelligible). And I'll leave it to you to decide where to put it, but it needs to be some place close to where we make the description of the distinction between work stream one and two. Thank you.

Mathieu Weill: Thank you very much Steve. That's a valuable suggestion as well. Holly? Is that an old hand? Yes. It is. And I think those were very useful feedback on the individual board member removal on the famous sixth power characterization, as well as the work stream one definition. We might also clarify that the community powers are a recourse or escalation path and will

not interfere with day-to-day management unless there are exceptional circumstances, and we'll proudly expedite it.

And with that, we'll try and circle back with the next version very soon of the executive summary. And I'm turning now to Leon for the next section of the agenda.

Leon Sanchez: Thank you very much, Mathieu. This is Leon Sanchez and our next section is the one that addresses fulfillment of requirement. And I think that we have already discussed this very widely in our last call, so I won't go into detail again in this section. But, I will just say that stage four we'll be adding the detailed text on ICANN project, and of course ICANN Boards.

We have space holders there already. And there have been some adjustments also on page five. Other than that we have no substantial edits from the last time we reviewed this section, so I would like of course to call for any comments or questions related to this section. And I see Avri Doria. Avri? Could you please take the floor?

Avri Doria: Thank you. Yes. In terms of fulfilling the requirements for maintaining the openness of the Internet, I think the core values as they are don't really fulfill that requirement at the moment. As I've argued several times in relation to the human rights, which I know is a subject for later, so I would just like to put a caveat on that that I don't believe that that requirement has been met. Thank you.

Leon Sanchez: Thank you very much Avri. And we will be discussing the human rights subject later on the call, so your point is noted at this stage. And we'll definitely continue to discuss your concerns. Are there any other comments with regards to fulfillment of requirements? Okay so having no more

comments, I will now go to section one, which is our background. And if we could please have that displayed on the screen that would be helpful?

And in this section as well we haven't had any substantial changes. We have of course what we've been reviewing many times, which is the general complications of our group, how we were formed. We have made some minor tweaks to the number of people that are in the group. Of course the number of participants, mail observers, et cetera.

We have not made any substantial changes to this document as well, so I think there are really no details to go into. I think we all agree with what's in this section. And I would now call for comments in section one, which is background. Okay, so I see no comments. And then I would close this section and go back to Thomas for our next agenda item.

Thomas Rickert: Thanks very much Leon. And the next topic we're going to discuss is the chapter on the accountability mechanisms. You have seen this multiple times. It's the introduction to the idea of having four building blocks and their brief description. So unless there are comments from your side or questions with respect to the draft, I would like to keep this relatively short and just ask whether there's any opposition to using that proposed text? Sebastian?

Sebastian Bachollet: Yes. Thank you. I have a question. I know that we keep these building blocks in the beginning. I was thinking that it was also important to have the accountability of the community. Where it will be informed? Because I have the impression that here we are still going to the Board and not taking into account what was discussed since the (unintelligible), but it's a question. It's not anything else other than that. Thank you.

Thomas Rickert: Sebastian before we move to Mathieu, let me try to answer that one. This is where we propose or where we describe the components out of which the ICANN accountability architecture is built. We do have, and the whole report speaks to the question of how accountability is achieved, so we have something on the accountability of the Board. We have something on the accountability via means of the judiciary, which is the independent appeals mechanism.

But, we also have something on the empowered community. And this is just a quick introduction to those four components, but the whole report speaks to the accountability and interaction in accountability of those four building blocks, and also in particular to the point that you were mentioning, i.e. the accountability of the community, which is also known as the watcher's concept.

Mathieu, you had your hand raised.

Mathieu Weill: Thank you. Thomas. This was to add to your responses to that, you know, that part of the text that is not underlined for some reasons, probably aversion, success aversion issue. On page two under the ICANN board we have added a specific mention of the role of the Board to conduct regular structural reviews of the various ASOs and ACs and that these reviews include an assessment of their accountability to their respective communities along with regular participants. Oh, there's a problem with the writing here--regular participants as well as the wider community they are designed to represent.

So, that was in addition to taking into account the discussion that you and others requested on the ASO and AC accountability. So, just wanted to stress out that this was one of the main additions actually in this section.

Thomas Rickert: Thanks Sebastian and thanks Mathieu. Sebastian? You've raised your hand again? Sebastian? You might be on mute.

Sebastien Bachollet: Sorry for that. Yes, I was. (Unintelligible) if I recall, just to the question is that do we have something about mutual accountability, but I see here not accountability for each NSOAC is there participants and so on, but we we're also talking about mutual accountability. Is it somewhere? Thank you.

Thomas Rickert: As Mathieu described in the chat, you can find information on that in section five c, so please do check that out. We also take note of Eberhard's suggestion, which he noted in the chat. And unless there are further interventions to made on this point, I suggest we move onto to the next topic that's going to be the discussion on the stress tests.

And that's going to be chaired by Mathieu.

Mathieu Weill: Thank you very much Thomas. So we have the two sections on the stress tests, which describe the stress tests themselves and the changes in the bylaws introduced by some of the stress tests. And to introduce on the latest changes in this section, I will turn to Cheryl (unintelligible). Cheryl?

Cheryl Langdon-Orr: Thank you. Yes, it's Cheryl Langdon-Orr for the transcript record. And if those of you who are looking at the difference between the last documentation and this current documentation will note that we have blended without particularly any if not many in the beginning of this section substantial changes to sections so that we are now just a section seven in just testing.

That does talk about the proposed bylaws changes, as well as the, by now, relatively familiar set of stress tests, both those that you are sure very familiar with under the five categories variably listed on page five of the

documentation, plus those that have been added since the public comments. But, what I want to do is hand it to our primary pin holder Paul (Unintelligible) working group, Steve DelBianco, just to take you through the specifics of any particular changes that have been made. Steve, over to you.

Steve DelBianco: Thank you Cheryl. This is a long document, but the good news is very little has changed since our first draft with respect to the first 27 pages. As Cheryl indicated both the implications of the stress test and through page 27 we only made changes pursuant to public comments that were received, as well as discussions that occurred in this CCWG.

When you take note of the fact that the first section covers changes to bylaws, section 7.3 is the infamous stress test 18, and I did want to suggest that two days ago on our CCWG call I know that Becky Burr was answering a question from Kavouss with regards to GAC advice and the degree to which ICANNs board must take it onboard and try to find a mutually acceptable solution.

And when Becky and Kavouss where discussing it I think Becky said yes Kavouss we're not making any changes in that section. And Becky was speaking of the bylaws, missions, core values, IRP. But, I did want to clarify the stress test 18 does recommend that we add, that were GAC advice is supported by consensus. And that hasn't changed. That was in our original proposal, and it's in our current proposal.

And then Cheryl and co-chairs, I would indicate to the folks on the CCWG that pages 28 through 37, 28-37 of the document you have, are where we indicate the new stress tests that were added after the first public comment period. And you'll see in there that we picked up and described two stress tests that Chris Disspain suggested a couple of months ago with regard to California courts.

We then built in the public commenters who specifically asked for new stress tests. David Post and Damienle Kehl for instance, talked about ICANN exceeding its limited mission and the enforcement of RAA contracts. We picked up stress tests that other facilities could talk about with respect to rogue voting that could occur.

If you had a problem like an under incorporated association or an avatar, as you well imagine those stress tests are no longer a concern under the sole member model, but we wanted to note all of that for the record. And then if you look at pages 33 through 38, we picked up four stress tests that were specifically requested by assistant secretary Larry Strickland of the NTIA in the blog post that he put up on the 16th of June.

They were four new stress tests. And I think we've done a good job analyzing each of those. And then I can finally conclude that the ICANN board sent us a letter on the 20th of June. We all discussed it on the first day we met in Buenos Aires. It's 156 questions. Now, many of those questions were not necessarily relevant to this community mechanism sole member model.

However, the Board legal letter did ask for two stress tests, so what we've endeavored to do on the stress test team is to cover both of those on stress test number 36, which shows up on page 37 of your document. And again we believe that the proposed measures and the CMSM or the community mechanism as a sole member are adequate to avoid this scenario. So, that concludes a walk-through on what's new about stress tests; happy to take questions.

Cheryl Langdon-Orr: Thanks Steve. The floor is yours and back to you, Mathieu.

Mathieu Weill: Thank you very much, Cheryl and Steve. That's a very impressive piece of work. Any strong concerns, comments? Olga?

Olga Cavalli: Hello. Good morning. This is Olga. Can you hear me?

Mathieu Weill: Yes. Perfectly Olga. Please. Go ahead.

Olga Cavalli: Thank you. Thank you very much Mathieu. This is Olga Cavalli from Argentina. As you know, and we discussed this in Paris, we had some discussion about stress test 18. We are working within the GAC in trying to find the common position about this stress test. But, what I want to say is from the perspective of the government of Argentina, we don't agree in this change in the bylaws.

We're saying that the GAC has to find a way to make decisions whichever we decide, and whichever consensus provides by voting. It should be respected in the same way by the ICANN board. So, we don't agree with this text and with this addition with respect to government with respect to community advice that is supported by ICANNs stance.

We don't see the point in that. If it's an internal thing for the GAC to decide in how we make decisions. So this is the position of the government of Argentina. And as I said, we in the GAC are working towards perhaps having a common understanding about this stress test. Thank you.

Mathieu Weill: Thank you very much Olga. Avri?

Avri Doria: Thank you. Avri speaking. I wanted to ask for kind of a point of clarification of this and on use of the word consensus. In ICANN by and large, we use consensus in various ways, and each of the groups define its own definition of

consensus. For example, the GNSO speaks of consensus and yet our consensus is defined in a bottom up process and involves a very complicated voting mechanism to determine when we have reached this GNSO consensus for sending our recommendations to the Board.

And the Board has certain responsibility when it receives our consensus-based recommendations that it doesn't have when it receives our non-consensus recommendations. So within the context, is there any way to sort of accept the usage of the word consensus? But, make it clear that what we mean by consensus is indeed defined in all of the ACSO by their own mechanisms?

And as I say, I'm not so much making a recommendation as asking a question that sort of relates parity in the way we define consensus in the various groups? Thank you.

Mathieu Weill: Thank you Avri. Next we have Pedro.

Pedro Ivo Silva: Yes. Hello. I would like to thank the stress test working group for the impressive amount of work they have done. But, I would also like to express my concerns with respect to the proposed change in the bylaws and reiterate what you have already said in the first public comment series about our objection to changes in the bylaws.

In that respect, and I think that this document, this section does not properly reflect the discussion we have had in Paris or (unintelligible). It doesn't show that there is distance concerning the specific bylaw change. I think it shows just one side of the discussion. It takes one opinion about this and does not show the other side. Let's say that some governments specifically do not agree with that respect.

I think maybe some text related to showing that there is still discussion, that the GAC is still discussing that issue maybe should be mentioned here so not to indicate that the group as a whole has a unique opinion about that matter. Thank you.

Mathieu Weill: Thank you Pedro. I think. What I'm taking from this discussion is that we can definitely acknowledge the concerns that were expressed by some GAC members. And if you want to be referenced specifically, of course that can be made. We can also acknowledge the ongoing discussion within the GAC on that matter.

And I think that would probably confirm that there have been some extensive and significant discussions and the divergence of views with Argentina, Brazil, and with others on this topic. And we'll definitely review this in the public comments, this input that we will receive on that matter. And I think that would I think be a way forward at this point.

And unless there are any others...

Damien Coudeville: Mathieu?

Mathieu Weill: Yep.

Damien Coudeville: This Damien from France. Can I cut in?

Mathieu Weill: Oh Damien.

Damien Coudeville: Thank you. Damien (unintelligible) for the record from France. Just to add to what Olga, Avri, and (unintelligible) said, I was actually quite surprised that our (unintelligible) on stress test 18 were not taken into account by

CCWG. I would have expected at the very least that the text that was suggested in Paris would be the basis for future comments by governments. And I would (unintelligible) not expect that the CCWG would submit this 37-page text on bylaw changes for stress test 18.

Although, many governments rest underlying that such text would not get GAC approval, so I don't want to elaborate on that. I just wanted to flag that once more because now in our view the risks are higher and higher that the IANA transition will be delayed if the text is maintained in the final proposal. So I would hope that you have, or the CCWG has an alternative text ready for supplementary proposal because there won't be GAC consensus on that. Thank you.

Mathieu Weill: Sorry. I was on mute. So just to confirm that the (unintelligible) will be added to the list and a reminder that we had come forward with some alternate language in Paris, which for different reasons, and not for the same types of participants and members was not getting consensus easers, so we had to go back to the initial proposal, which currently we don't have better options to offer to the overall group.

And we certainly hope that we can try and find something that is certainly not perfect, but reasonably that everyone can live with and that's why I think it's important to recognize the ongoing discussions within the GAC. And I think that's the current status and we have to acknowledge that we may not be quite at the end of our journey here, but I think that's our best effort to do that at this point in these discussions.

And with that, I think I will now move to the next agenda item, which is going to be chaired by Leon.

Leon Sanchez: Thank you very much, Mathieu. This is Leon Sanchez and our next section is section nine, which addresses work stream two. And as per our cover work stream two is focused in addressing the accountability topics for which time I would extend further to the IANA stewardship transition, and we have compiled a list of Work Stream 2 issues. That is of course still under discussion as pointed in the chat by I think Robin. We have the last item on the list is in parenthesis and we'll jump into that in the discussion we'll have later on human rights.

So the relevant issues here can be seen at Page 2 on 9.2. We have this list compiled so far with regards to Work Stream 2. And we are also adding at the end of the document -- that would be on Page 6 -- a tentative working plan for Work Stream 2. This of course is dependable on the output we get from Work Stream 1, but at least a consistent timeline with the team in our Dublin meeting by continuing to define or -- not continuing to define -- but locking the definition of scope of work and how we point to organizing the subgroups that will be dealing with the different issues on our Work Stream 2 item list.

We will then be drafting a proposal in between October and January. And we would of course open for a public comment period, the first public comment period, during on these dates until mid May. We would be refining our proposal by subgroups, and again we would open a second 40-day public comment period from mid May to June, till the end of June. And hopefully we would be finalizing proposals tentatively at the chartering (unintelligible) on - by the end of July so we can obtain approval by the Board on ICANN 57.

So as you can see there has been also major substantial changes to what we have so far discussed and agreed with regards to Work Stream 2. And I'd like to open the floor now for any comments or questions on this section. Okay so having no comments, I will now turn back to Thomas for Section 10.

Thomas Rickert: Thanks very much, León. And we're now going to briefly discuss the implementation. There is the timeline is this document that you already know. Also the next steps are described in there, i.e. the plan of what we're going to do. There is some recap of what we agreed with you in terms of bylaw drafting. And so there shouldn't be anything surprising in there.

Let me ask whether there are any questions or statements with respect to this chapter of the report. So there doesn't seem to be anything on this one, which is - and I know that (Edward) has renewed his objection for this topic as well, which is noted, and that allows for us to move to the next substantive discussion. And I'm sure that we will have more discussion on that one as opposed to this chapter, and that's an update on the human rights discussion after the vigorous advice that we received. Over to you, Mathieu.

Mathieu Weill: Thank you very much, Thomas. And the good news is we've reviewed all sections of the report at least once. Now we're coming into the outstanding discussion, and the discussion on human rights was started last Tuesday officially in the CCWG. And so this is a follow up to this discussion, although it's been ticking on for awhile now.

And it is related to the section of the report on mission and core value. And the discussion is whether and how our groups should propose to include into the new mission commitment and core values section a specific mention of human rights as part of Work Stream 1. And just a reminder that, taking stock of past discussions, we have agreed that it was going to be a Work Stream 2 item of discussion to further rationalize this and that's still what is intended, and the diverging views expressed were whether it should be part of the Work Stream 1 discussion or not whether ICANN should have a reference to human rights or operate this according to the human rights principle.

Since last Tuesday, we've had several proposals put forward on the mailing list. Avri Doria put forward a couple of wordings in writing. We've had a proposal by Keith Drazek, who unfortunately can't be with us on this call today, to add - which got significant - I mean some traction on the mailing list, although not unanimous.

And what we also have received since Tuesday is the legal advice, which upon the question of whether the ending of the NTIA contract was actually creating the need for adding to ICANN's human rights commitment due to the fact that some of them were inherited from the NTIA contract.

And my understanding from this legal advice is that there is no obvious immediate need for that in light of the NTIA contract as it is now and - but of course that's not a closure of the discussion at all, and we need now to discuss what we are going to be doing in Work Stream 1 and hopefully finding a compromise so that we can the broadest support possible for our proposal.

And just to remind you of what for instance Keith Drazek, because it's the proposal I got a little bit of traction on the list with, suggesting - it was suggesting an addition to the commitments of ICANN. That was within its mission and its operations, ICANN will be committed to respect the fundamental human rights of the exercise of free expression and the free flow of information. And the rationale for that was to stick to as close as possible to the NTIA criteria for the transition, which we refer to as the openness criteria that which expressly refers to these items.

And with that, I'd like to open the discussion, which I hope will be focused on finding the right balance and the right agreement that everyone can live with. And first in line is Tijani.

Tijani Ben Jemaa: Thank you very much. Okay. I'd like to say that I would disagree with the legal advisors that agree not - it not clear that now for the Work Stream 1. Second point, if we to do something about human rights in our advisors, in our (unintelligible) we have to decide that this doesn't conform at all in the views of the (unintelligible) forces by anyone who use that. It will not prevent someone or some country to have a domain. If we judge this government or this one, we will get the human rights. It's not our work.

What I understand by human rights here is about - inside the mission of ICANN, and the mission of ICANN doesn't concern the content, what is inside, what will it (unintelligible) of your resources we are giving to people on the government. Thank you.

Mathieu Weill: Thank you, Tijani. So just to make sure I understood correctly and I'm not misreading, you would be in favor of not addressing this in Work Stream 1 but in Work Stream 2, correct?

Tijani Ben Jemaa: Yes.

Mathieu Weill: And next is Avri.

Avri Doria: Okay thank you. Avri speaking. And I most respectfully disagree fundamentally with Tijani there. In reading what we've got from the legal team, I understand that they said that in a large sense there were no special contractual obligations, so there may have been some particulars where there was indeed an issue but there was no real explanation of those issues.

However, I wanted to point out that that contractual obligation is across the Board not the only criteria we use. We've used the criteria of the significance

of the loss of NTIA as a backstop, as a final arbiter of ICANN doing the right thing.

I also want to indicate that while I did some research, I found that indeed the Department of Commerce hasn't adopted the (unintelligible) requirements that pass onto their contractors. Department of Defense and Homeland Security have, but Commerce doesn't seem to have yet. So not disagreeing with the legal analysis. Of course that would have very little legal footing for disagreeing with them.

In terms of the compromise offered, I read it - I had a little bit of anxiety about its restriction to just two of the rights. And as (Nigel) argued quite well on the list that, you know, by some token we should not accept the separation of rights and only require ICANN to.

But in the efforts to compromise, and I was basically looking at it to say if we were to put this, as Keith had mentioned, in the bylaws and we were to require that Work Stream 2 went further on trying to understand the impacts and the obligations of ICANN in relation to the whole spectrum, the International Bill of Rights, which is the UDHR, the CCPR, the civil and political rights, and the ESCR, the Economic Special Cultural Rights, then, you know, this limitation was sufficient.

I could - and so that was my reason for accepting, though I did appreciate (Nigel) trying to strengthen my backbone on it, and yet would still be willing to talk about a compromise. And, you know, a wording I would have preferred is in compromise which is closer, I think, what (Nigel) was looking for was in its mission and its operation, ICANN will be committed to respect fundamental human rights with special focus on the rights of the exercise of free expression and the free flow of information.

I think that basically by pinning this on words that were specifically included in some of the NTIA obligations - I mean not obligations, but the NTIA statements, would come closer to meeting our obligation to meet their requirements for openness. And as I stated in terms of looking at our stress test, I don't see one that deals specifically with what it means to be open.

Those that have attended IGFs over the last nine years have seen that the topic of openness is quite a flawed topic, and even within ICANN's mission, it may be broader than just those two particular rights, but that is a complicated topic. And so for me the absence of these words is really a fundamental flaw in an otherwise good document. It's a fatal flaw for me within an otherwise very strong document.

So that's why even though I know there's a tendency to restrict and not put these words in, I continue to suggest that I will indeed file a minority statement if we can't get some compromise. But I really am hoping that we get some compromised wording, and as I said, what Keith offered is minimal as long as it is in the bylaws and there is a continuing of Work Stream 2 commitment to keep working on it. So I hope that we can find a compromise and that I don't feel a need to file a minority statement on a fatal flaw to an otherwise wonderful process. Thank you.

Mathieu Weill: Thank you very much, Avri. Your willingness to be flexible is much appreciated. And the next in line is Greg. Greg, you may be muted. We cannot hear you.

Greg Shatan: Hi. Greg Shatan. Sorry, I thought I was after Robin Gross but she appears to have put her hand down and then put it back up again, falling in line behind me. I hadn't seen that change.

I'm certainly in favor of a commitment in our report to make a Work Stream 2 priority item out of 1 and hopefully coming to a conclusion on how to include human rights commitments in the work of ICANN, conceivably even in the bylaws.

I think right now we just don't know what we're getting ourselves into. I sent an e-mail to the list yesterday with about a dozen bullet points for what I thought would be important work in understanding what we mean by human rights, in this particular instance, what the application would mean to ICANN, what other rights and concerns would be implicated.

No need for me to kind of go over the list of issues I thought we would need to explore before we really had our arms around this issue, but we haven't explored any of them in any real workman-like deliberate fashion. I don't think we've even explored them in a rushed fashion.

The human rights is an attractive thing to support and I support human rights completely, but there is a lot around those words and how they're applied and what they mean, especially in this context that concerns me, and without proper study, I think we may be committing ourselves to something that we don't really fully understand.

In particular I'm concerned that human rights and in particular the term free expression have been used to support various arguments in ICANN that in my mind are not really about those things but rather they are being used in service of other arguments. For instance the argument that makes the advance that decision to limit - or the recommendation to limit .doctor to admitted as medical doctors -- maybe it included psychologists -- I don't remember, was a violation of free expression.

It may be a good decision or a bad decision but free expression was used as an argument against it. If we put that, free expression, into the bylaws or even put human rights into the bylaws, are we rebalancing that argument or strengthening that argument by putting it in the bylaws? Do we want to change the way that argument would be looked at it in the future with regard to (unintelligible)?

Secondly, there are those who would say adding in a reference to human rights, and particularly freedom of expression, should change the way that ICANN looked at intellectual property rights. The Council of Europe report on this, written by (Monica Zellricky) and Thomas Schneider, states specific reference to the need to respect the right to freedom of expression and the right of freedom of association in case of resolution of trademark and other IP disputes of added value.

In this respect, ICANN's policy should have a solitary rebalancing effect. So there is at least - whether or not it's the intention, and I'm not going to refute anything other than sincere intentions to everyone in this argument, because human rights are of incredible importance, but the effect of this could be to rebalance how ICANN has treated intellectual property rights for the past decade or more.

That alone is reason to need study on this before anything goes in here, because having, you know, rebalancing how anything works here, whether it's how doctor - .doctor should be analyzed or how intellectual property rights should be analyzed, to my mind is not really what human rights and freedom of expression are about, because it clearly would become a thumb on the scales of those arguments. And if that is where we - if that's not where we want to go, we have to figure out how to avoid that. Thank you.

Mathieu Weill: Greg, can I recap by saying that you're still not convinced of putting it into Work Stream 1 because of your fear for an unintended consequences? The new proposal by Keith does not make you change your position expressed already in the last meeting? Am I correct?

Greg Shatan: Yes, in addition, I think it actually heightens it by fleshing out a limited number of human rights. I think if we are going to deal with human rights, we have to deal with them as a totality. Thank you.

Mathieu Weill: So still nothing else and not Work Stream 1, that works for you. Thank you. Robin?

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

Mathieu Weill: Yes, Robin.

Robin Gross: Thank you. So I wanted to support Keith's compromise proposal. And I think it's important to recognize that we all have to compromise here, that we can't all get what we want. And, you know, I wanted a much stronger statement for human rights, Avri wanted a much stronger statement for human rights, but we weren't able to get that.

But what we are able to get perhaps is a compromise that at least there's a recognition that economic interests and economic rights are not the only rights that ICANN is going to take into consideration in its operations and its policies. So I think that it's important to - for part of ICANN's maturity as it tries to become more of a legitimate international governance organization that it recognizes that there are these other fundamental human rights obligations.

And if it's going to undertake these governance responsibilities, it's going to have to have some of those duties as well. And this is a commitment to just recognizing that. And I know it's going to be a lot of work to work through the details, and that's what Work Stream 2 is for. And I think we're all committed to doing that.

But we're never going to get there if we don't get the commitment now in Work Stream 1 to this limited fundamental human rights of freedom of expression, free flow of information, which is so much of what ICANN is about. I mean clearly what ICANN is doing is enabling the free flow of information, so of course that should be within our bylaws in Work Stream 1.

And I think, again, Keith's proposal is a good compromise. Not everybody got what everybody wanted, but that's supposed to be what this is about, that everybody has to make some compromises, and that includes trademark rights. So I think that that means that we have to have some kind of recognition for the other side of that coin for freedom of expression if we're going to be able to - for ICANN to consider itself a legitimate government institution for the Internet. Thank you.

Mathieu Weill: Thank you very much, Robin. We're reaching the end of first call of the day. And I would like test the temperature of the room using ticks and crosses on this discussion. The sort of proposal that I would like to ask green ticks for would be the proposal of the addition in Work Stream 1 of the Keith Drazek wording, and I want to see what's the temperature of the room, bearing in mind that that would be obviously a compromise and a proposal for the public comment report.

Why we are pursuing our investigation, especially against the concern about unintended consequences that's being voiced, and the rationale for introducing this would be obviously based on the NTIA criteria on openness. And then obviously for our final report we would have to assess where we are in - based on the comments we received.

I am pasting in the chat Keith Drazek's wording and would like to ask for your green ticks or red crosses on this particular issue in the chat right now.

Tijani Ben Jemaa: Mathieu?

Mathieu Weill: Tijani, it's a red cross I guess?

Tijani Ben Jemaa: Yes, okay. Yes.

Mathieu Weill: Thank you. It's noted. Tijani and Greg and (Edward) are objecting. Can someone just count and share the counting for everyone to see? I'm seeing in the notes eight green ticks and four red crosses, so a majority. It's difficult to saying that - it's definitely not full consensus. So updated.

Thomas Rickert: Mathieu, it's still not correct. This is Thomas. I have 16 and 4.

Mathieu Weill: Sixteen and four. So it's quite a broad majority. And I think that would be enough for us to include this in the public comment with the reservations that I mentioned earlier about the context and obviously the need for further investigations on possible unintended consequences.

And I think with that I'd like to thank everyone for their constructive spirit on this issue, as well as on the rest of the items we've discussed so far. I'd like to also encourage you if possible to participate in the call that we will have at

17:00 UTC. So if I'm not mistaken, that's in four hours' time. And we still have some significant discussions to be expecting in this call, so hopefully we will be ask constructive as we've been in this session, which has been actually extremely productive and very useful.

And with that, I think I will close this meeting and wish you to take a little bit of rest before we get to the last session of our day later tonight. And thank you very much for your participation. And, (Edward), your white card objection is well noted. Thank you and talk to you in a few hours.

Woman: Thank you.

León Sanchez: Thank you, everyone.

Thomas Rickert: Thanks everyone. Bye.

León Sanchez: Bye-bye.

Avri Doria: Bye. Thank you.

                           END