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DUBLIN – Enhancing ICANN Accountability Engagement Session I  
Monday, October 19, 2015 – 10:15 to 11:45 IST  
ICANN54 | Dublin, Ireland

LEON SANCHEZ: Hello, everyone. If you don't have your headsets, I strongly encourage you to actually have a headset available. We will be speaking in different languages, so you might want to have a headset handy.

So welcome to this CCWG accountability engagement session. We will be walking you through an update of where we are at this stage and we will also be welcoming, of course, questions and comments from the audience.

For those who are members or participants of the CCWG, we would really encourage you to do all comments that you may want to do in the Adobe Connect room because we want to privilege new voices, fresh ideas, so we do encourage those who have not been following closely our procedures and our work to please come to the front of the room. There are some microphones and we will be, of course, having them open for you to comment and to raise questions.

And as I said, now is the time for you to use your headset, as I will be speaking Spanish from now on.

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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Leon Sanchez speaking. Okay. Are we ready? Great.

So if we can please move on to the next slide. Thank you.

Thank you. So the transition process as discussed in several fora encompasses several proposals and within these proposals we have two parallel tracks.

On the one hand, we have the ICG focusing on the analysis and preparation of a single proposal on the basis of the input presented by the numbering community, the protocol community, and the naming community. Once this proposal is finalized, it will be submitted to the NTIA for approval, and so that the transition may move forward.

As I was saying, we have the accountability track in parallel. We have been working since December last year in order to strengthen the accountability and transparency mechanisms within ICANN.

To that end, we have held several face-to-face and remote meetings and we have produced two draft proposals so far that have been posted for public comment.

We received comments from the community since the beginning of this process. Then we held a first public comment round which we launched once our first draft document was ready.

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We then published our second draft document, we held a second public comment period, and as I speak, we have concluded the comments analysis phase and we are ready to adjust or tweak our proposal so that it is in line with requests and concerns raised by different members of the community.

I believe it is worth noting that our working group has a restricted scope of action or remit, so let me tell you what we are not doing, what our group is not doing.

We are not changing the policymaking aspects within the ICANN community, the way policies are developed and discussed and implemented within ICANN. We are not changing the structure of the ICANN community. That is, our work is respectful, fully respectful, of the way the community is working, is structured today. We are not changing any AC or any SO. Everything remains as is and as it always has been.

We are not changing the role of advisory committees either.

These committees will continue operating as they are doing to date, and they will keep focusing on providing their advice to the ICANN board regarding the different policies developed by the supporting organizations such as the GNSO and the ccNSO.

Let me now tell you about the way our proposal is structured.

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We have four building blocks to enhance accountability. These are the four building blocks of our proposal.

First of all, we have an empowered community. The empowered community is a community that today, or as of today, has not enlarged powers regarding ICANN accountability, so our proposal aims precisely at empowering the community with certain capabilities or powers that will enable it to carry out certain enforceability actions towards accountability and transparency in the organization.

Now, when we mention enforceability actions, this may be wrongly construed and we may tend to think about litigation. We are not referring to litigation. We are referring to a process that my colleagues will be describing in detail further on.

This has to do with requests, dialogue, and an escalation path that may lead to another type of action, but that is not the initial step or the first step. That is, exercising the community powers is the last resort or the last link in a chain that we have thought of.

Our second building block is the ICANN board, and today the ICANN board has the unilateral authority in terms of decision-making within ICANN. Clearly, there is an engagement dialogue, collaboration, public comment, and policy development process prior to that, and that is working so we do not intend to change

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it. However, we want the board to have a more collaborative role towards the community and we want the board to take into account what happens at a community level.

The third building block is made up of ICANN's principles and mission. That is, the guarantees and core values we would like the organization to embrace and promote.

As part of our proposal, clearly our mission is to incorporate these core values in our bylaws, and the mission as well, because that is another concern raised by the community.

We do not want our proposal to enlarge ICANN's activities or remit. We want ICANN to stay within its remit so far and to avoid any deviation from its mission or activities.

And the fourth building block is the -- is made up of the independent review mechanisms, known as IRP today. We -- or recently developments have shown that this is perhaps not the most efficient dispute resolution mechanism.

We have heard the community say that we need an independent review mechanism in place, a stronger one that encompasses not only the process review but also the substantive review.

So in our working group, we have drafted a new proposal that in our opinion provides these additional elements and that may

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very well work as an enhanced process in favor of the community.

The second proposal that we drafted in our group, after considering the comments received in the first round, takes into account those comments. However, we received new comments and the core or key messages we spotted in the comment round show that there's broad support to the proposal to strengthen these transparency and accountability mechanisms within ICANN, and in the second draft that we have published there is a perception that these mechanisms are even stronger compared to our first draft.

There are some fundamental differences to be resolved, some main concerns regarding our second proposal. There are very few concerns. However, they are important.

As part of these concerns, we noticed the reallocation or concentration of power. That is, the community has expressed their concern in that power may be concentrated in very few hands, so to speak, and a very reduced group of stakeholders may capture the organization, and clearly we are working to prevent this from taking place and we are working so that the mechanism is free, as much as possible, of this risk of capture.

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Clearly, this goes hand in hand with the risk of capture by one member of the community, and we are focusing on resolving this issue.

We reviewed all the comments received and we drafted replies and proposals in order to take into consideration the community's comments and concerns.

Right now, we are designing these new mechanisms in reply to these concerns so as to publish a third and hopefully final draft.

We held a working session on Friday, we held another session the day before yesterday, and today we will be holding another session between 2:00 to 6:00 p.m. with all the group members and participants to continue designing these new solutions in reply to communities' comments and concerns.

I would like to give the floor to Thomas Rickert, the CCWG co-chair, for further details.

THOMAS RICKERT:

Thank you very much, Leon. Welcome, everybody. My name is Thomas Rickert.

My name is Thomas Rickert. I'd like to welcome all of you. I'm with eco, the Internet industry association, and I'm the GNSO

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appointed co-chair to the CCWG and I would like to guide you through the next couple of slides.

But before I do so, I got word that we have hubs in Kenya and in - in Dubai that have joined us, so welcome. It's great to have you with us and we're looking forward to having a discussion with you later on in this session.

Before we go to the interactive part, we would still like to provide you with an update of where we are.

So this slide you saw earlier. It was introduced by Leon. And what you will see here is the progress that we've made. And actually, we have a green tick on the ICANN board. That remains more or less the same. We have a green tick on the independent review mechanism. I will tell you a little bit more about some details, but basically our group has advanced its work on the revisions, the enhancements to the independent review process, to a stage where we say we can now hand this over to experts to write it up. To the lawyers to write it up. So I think our group has gone as far as they could with that.

The principles, the mission core values, to go into the bylaws are almost good to go. We have some last wrinkles to be ironed out, but that work is also almost completed.



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And with respect to the community powers of an empowered community, you see only two yellow dots here and there are actually two community powers only that we discussed earlier when we convened in Dublin and we made huge progress and we would like to hear this audience's feedback on the improvements we made in those two areas.

And the two areas that got most comments in terms of community powers were the community power to reconsider -- or to ask for reconsideration and rejection of budget, strategic plan, and the operating plan.

So there were some concerns that a community veto against the budget could lead to a paralyzation of the organization, that this would be detrimental and could ultimately be destabilizing. So we've been working on that, we've made excellent progress on that, and we hope that we can during the yellow check mark to a green check mark later this week.

Second point that was so contentious was the individual board member removal, where some parts of the community, some commenters, felt that if we allow for individual board member removal without any cause, that these board members might be under pressure just to parrot the views of their respective organizations and not act in the best interests of the whole -- the whole community, which actually is their duty to do.

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And so we discussed, we revised that process, and we're going to discuss it with you later, but also we have the hope that we can turn that to a green check mark, because we seem to have found a solution to that issue that satisfies most of us, removes most of the concerns, and so I think that that's good -- very good news.

Then we have the community power to reject changes to standard bylaws, the community power to approve changes to fundamental bylaws, and these are good to go. They got overwhelming support from the community. And just for those that haven't followed the discussion too closely, let me explain the difference.

The ICANN board currently can make changes to the bylaws, and they do that after a consultation process with the community, but we think that the community needs the power to step in, if it feels that the board did not adequately honor the wishes of the community for standard bylaws.

So board takes a resolution, community doesn't like it, the community has the power to step in. That's for standard bylaws.

Now, you might ask, "What's the difference between a standard bylaw and a fundamental bylaw?"

So we think ICANN should not sell shoes or televisions or cars, and I think that you will join me in saying so.

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Fadi mentioned in the opening ceremony what ICANN's remit is and what not, and I think we're all very conscious that ICANN must not mission-creep. ICANN must be focused on its limited mission.

So we thought that we need to firm up more those very, very important things about what makes ICANN.

That's also that ICANN should function in a multistakeholder way, that it should develop its policies bottom-up. You know, those core ideas about what makes ICANN unique should be firmed up. So that we're saying it's not good enough to have the community veto a board resolution on a bylaw change after the fact, but that for these essential parts, we would ask and require community approval before the board takes such decisions.

And that got overwhelming support, so we're good to go there.

And then the last community power is about recall of the entire ICANN board.

Let's assume some case in the future we will have a rogue board that just does not act in the interest of the community. Then we need to have a possibility to get rid of the board.

So far, this power doesn't exist and we have consensus that it's needed. So that's also good news.

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So I mentioned that we can now turn over the IRP to the experts to draft it, but let me just refresh your memory on where we are with this.

So the independent review will have -- review process will have a standing panel, so we will find at the global level, following some diversity requirements, a standing panel of experts out of which a selection can be used for individual IRP cases.

The IRP shall resolve cases with respect to the community powers, so if there are issues with the community powers, then we can use the IRP for bylaw violations, so if the ICANN board acts in violation of the bylaws, then the IRP can be used, and for certain decisions with respect to the IANA functions, the IRP should be available.

And why this is important, I'm going to speak to in a moment.

Then we will have a requirement that whenever the community is forced to take ICANN through an IRP, that ICANN will pick up the cost for that so that there is no limitation of exercising community powers for financial reasons.

And we will have a substantive standard of review.

The community has complained about the fact that the IRP would look at procedural aspects only and that it would not look

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at the merits of the case. We're going to change that. That got overwhelming support.

And the decisions made by the IRP panels shall also serve as the basis for future decisions. So again we're good to go with that. We hand it over to the experts to write it up, but we're going to do that under supervision of our group to ensure that the implementation of the IRP is actually conducted in the spirit of the CCWG's work.

We also have to make sure that we meet the CWG requirements. As you know, the chartering organization's approval to the CWG report was conditional to us, the CCWG accountability, delivering certain features which are that we need to have a budget veto, particularly with respect to the IANA functions to ensure that, let's say, a budget veto doesn't have a negative impact on the IANA operations. Also, they want some transparency with respect to the budget. They can have it.

They want to be -- they want us to ensure that we have community empowerment and accountability mechanisms to review board decisions. I spoke to that earlier. We are going to deliver on that.

They want us to put the IANA functions review into the bylaws so that it's perpetuated in there. It's going to be in there as a fundamental bylaw so we can tick that off the list as well.

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And they want us to have an appeals mechanism. I spoke to the IRP earlier. We are going to deliver on that, but there is a particularity with that. When it comes to ccTLD delegations, revocations, they don't want us to get involved with that. And we don't want to. Let's be very clear, we have our charter. We have the remit of our work. The ccTLD operators have their own thing. We're not going to step over the line. But they've asked us to come up with an IRP that allows for appeal in all other areas rather than this core ccTLD area where we are waiting for the ccNSO, for the ccTLD operators, to come up with a proposal and then that can be embedded into this appeals mechanism framework.

So we think we can tick all the CCWG requirements and mark them green. We're good to go on that.

So we think we're almost there with the community powers. And let's be very clear, the community powers will be there. They will be put into the bylaws. The community can have them. But there has been a lot of confusion about different legal implementation models for enforceability. There's a lot of discussion about single designator, multiple designator, multiple member, single member, and even other variations thereof. Let us show you on this slide where this becomes important.

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And I think we're overstating in certain areas what the impact on ICANN's daily life is with what we're doing. There were even people going as far as saying now the community can step in and try to rectify whatever decision the board makes. Nothing could be further from the truth. We are only talking about the enumerated list of community powers. That's a finite list.

What's not on that list is not on our radar. Let's be clear about this. Also, our work only starts once a board resolution has been passed except for the fundamental bylaws where we need to step in a little bit earlier. But that's an exceptional case.

So usual case is our work would only be relevant in the phase or after a board resolution has been passed. But we know a lot of things happen before the board takes a resolution. The board has a process of engaging with the community when it comes to setting up a strategic plan, when it comes to setting up an operating plan or the budget. And that is what you see on the left-hand side.

We ticked this the triple E approach. We have an engagement phase. We have an escalation phase. And then we have an enforcement phase.

Most of what we will see in terms of interaction between the community and the board will be in this very first phase. So the better the interaction between the board and the community is

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in this first phase. The lesser the risk that we will ever need to escalate and even lesser that we will ever need to enforce, right?

So we need to think hard about making this first phase better. That's not in our remit. But I think it's on us as a community to work with the board to approve these processes.

But let's just assume a board resolution has been passed and somebody doesn't like it, again a board resolution on one of these in the area of these five community powers. Then an individual can object. But in order to ensure that we're not dealing with the potential objection of as many people as we have on this earth, this individual would need to find an SO or AC in the ICANN system that supports this objection.

And we think that everyone has a home in the ICANN world. So you can go to your -- to the group that reflects your interest and talk to them and say, "Okay. I'm taking issue with this decision and you might want to take a look at whether you are supportive of this objection." And you don't even need to be a member of, let's say, the registry stakeholder group or the registrars, but you can talk to them and share your concerns.

And let's assume that you find a group that shares the objection. Then we would not kick off a big crisis meeting, but we would schedule a telephone call -- that's what we call a precall -- to give the community the opportunity to come together remotely



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incurring low costs to discuss this issue and to see whether this objection gets traction in the community. And the level of traction required depends on the community power. We're going to speak to that a little bit later.

And then, let's say there's sufficient traction for a petition for an objection, then what we call the community forum meets. It's an open session such as this one. Maybe the panel would look a little bit different. But that's a place for the community to convene in person and discuss the subject matter so that everyone can be heard, all views can be taken into account. Then the SOs and the ACs discuss the matter in their respective groups. That's actually the community decision phase. So the individual groups go and make decisions on the subject matter regarding their own processes. We are not going to interfere with those processes. Let's be clear. We are not asking for them to change their status or change their operational procedures. They're going to back, do their homework, take into account all the views, and form a view and then say, "Okay, we support the objection" or, "We don't support it."

And at that point, the decision is being made. So we would likely have the SO/AC leaders count how many voices of support we have, how many objections we have. And then, again, the threshold of those will depend on the community power concerned. But then there will either be an objection or not.

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And at that point, the board can either say, okay, we're going to fix this or they say, well, we think our resolution was correct, we're not going to fix it.

And in that case, we're going to have a resolution dialogue to see whether gaps can be reconciled. And if that fails, then the community can take it to an IRP. And then the possibility is that the IRP goes against the community. Then it's over.

But in case the community gets a favorable IRP decision and then cumulatively to that, you would need a board that still says "I'm not going to follow that IRP decision," only then it will become relevant what enforcement model we're going to use.

So we are at the far right of a very long escalation path. And we hope that we will never see that happening in practice. But the difference about models is there. And the better we are further to the left, the lower the risk of this ever being invoked.

And let's not forget, at any time during this process, the community and the board can come to agreement and stop the process.

So we thought it was important to put that into perspective in order to ensure that we're all clear that we're talking about a scenario that will hopefully never happen.

I will turn over to Mathieu now.

MATHIEU WEILL:

I will speak in French.

Mathieu Weill speaking. This is the time in our session that's most important to most of us because now we will be able to exchange our opinions on the parts or portions of the proposals that receive the most comments.

First of all, I would like to highlight the progress we have made in Dublin since our first meeting last Friday. We have held lots of working sessions. We have made huge progress. And as you can see in this bar chart, the list of topics on which we could test that we were receiving support from the community and that the disagreements have been cleared, we may say that there is one outstanding issue. And we will work in this topic during the afternoon.

We are going to give a certain structure to the Q&A session. And for that purpose, we have put on the screen the four bullet points that basically summarize the comments we have received. Let's take them one by one. We will answer questions on these bullet points, and we will provide information regarding each of them.

There's one member of the group that will describe the latest process so as to add more information to our exchange. Please

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remember the rules that Leon outlined at the very beginning of the session on how we will work with the Q&A session.

We certainly encourage all members of our working group to which we thank here in this room for their effort, for their time, for their work, because it involves lots of energy. And now that we are chairing this session, we will want to appreciate their work.

Please make your questions through the Adobe Connect chatroom, if possible. And we will first hear from the people that is not usually in our session.

We have two microphones here in the room. To my left or your right, you have the mic for the new questions. And to my right, your left, you have the mic for the follow-up questions.

We will also answer remote questions. We have mentioned that we have hubs in Dubai, Nairobi, and Pakistan. There will be two questions in the room, one remote question and that will be the way -- and one question from the hubs.

So I take advantage of the situation to thank for the possibility of having remote participation. Thank you very much, Hillary, because she and Alice will be managing these logistics.

And thanks for the ICANN staff for their work that makes this possible. So in two minutes we will introduce the first topic, the

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one that received lots of comments during the public comment period.

This is the community decision-making topic. So Steve DelBianco will talk right now.

STEVE DelBIANCO:

-- the participant on the CCWG. And I think that all of those individual perspectives disappear once you join the CCWG because we're really all about trying to move forward to a positive place and a solution that will work for the community.

So the slide you have in front of you is really just an explosion of what Thomas covered on Slide 10 between engagement, escalation, and enforcement.

This is that middle step called escalation. The objective here was to describe in the bylaws a process whereby the community can initiate, come together to discuss, consider, and achieve consensus on exercising one of the community powers that were described earlier.

And in that process, we endeavor to address some of the public comments received in both rounds, public comments with respect to the weighted voting models that CCWG had initially proposed. And the comments wanted us to move away from

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weighted voting, more towards the notion of achieving consensus in the ICANN style.

So this is a process called escalation, and it moves from the simple notion of a petition. For example, you might call it a community power to block a proposed change to a bylaw. So as Thomas described, it starts with a very low threshold of perhaps two of the ACs and SOs, two of the seven that we have would need to say, We need to have a call to discuss whether we want to exercise the community power to block a proposed bylaws change.

Those of us who have been on the CCWG for what feels like the last year know what this is like. A phone call is literally a staff-supported Adobe Connect session open to all. Invitations would go out to the entire ICANN community.

But the purpose of it would be for a discussion of the idea of exercising a community power.

We would hope that board and staff from ICANN would be on the call as well, and we would make the decision at that point whether we want to consider moving to the next step called a community forum. So we have another threshold. We'd ask the ACs and SOs themselves to use their own decision-making processes to decide: Does this community power merit going to a formal get-together? That's what a community forum would

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be. It would be an opportunity to gather physically in a face-to-face setting hopefully at the beginning or end of an ICANN meeting that's already scheduled. But if the timing is critical and we have to do it between ICANN meetings, it would be a face-to-face meeting such as the ones that a lot of you attended. We did them in Istanbul, Frankfurt, and Los Angeles. That would require staff support as well as travel support for designated representatives of what? The ACs and SOs. So they would gather in the community forum. We had to decide what would be the threshold of support necessary to move to community forum. And the example you see here, it's an additional AC and SO, in addition to the ones who supported the petition, would have to join in.

The community forum would last a day potentially, possibly more. And at the end of that, with engagement from the board, we would hope to understand whether we want to move forward with the community power or not. If we are successful in a lot of these exercising of community powers, the board, the corporation, will have certainly gotten the message that the community has concerns. And there are so many opportunities for the board to simply address those concerns by amending the bylaws change, for instance, they were considering, withdrawing it, delaying it for further community discussion.

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So at any point in this stair-step process, you can get off the stairs. In other words, if a problem is solved through the dialogue we are having, then there isn't any need to keep climbing the stairs in the form of ultimate enforcement. We have seven community powers in total. And for four of them, the escalation steps are two, three. And for the others, it is two and two. Two ACs and SOs to have a precall, two to have a community forum. And at the end of the community forum, each of the ACs and SOs go back to their respective communities and decide do we want to exercise the community power. And using whatever method they have to come up with advice, to come up with a resolution or a decision, they circulate those decisions over the next two to three, four weeks after the community forum about whether to proceed.

And we do have a threshold that steps up another level. In other words, it might have taken three ACs and SOs to decide to hold a community forum. But it's going to take another AC and SO to support the idea of exercising the community power.

We also at that stage ask the question if any of the SO/ACs object, if more than one of them object, then we're proposing that that is not a consensus. So that would be it for the escalation process. And then I would turn it over back to Mathieu because I think Jordan is going to describe the enforcement process.



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MATHIEU WEILL: Thank you, Steve. This is Mathieu speaking. Indeed, we are going to go beyond that. We held a conversation regarding the last part of these diagrams regarding enforcement, the last element, that is, enforcement. So now I would like to give you the opportunity to make questions regarding these parts that specifically address decision-making.

Our group took into consideration the concerns regarding the evolution of the significance of these components within ICANN as of today.

And our group took into consideration the concerns regarding the system as we had initially proposed so as to move forward or towards a consensus-based system that Steve just described.

Since I see no one standing in front of the microphones, let me check with Hillary. We have a question from a hub or a remote participant? No.

So we will move on to our next topic, and I encourage you to make questions as we move forward because we want this session to be more interactive. We want to listen to you so as to take your viewpoints into consideration in our working session this afternoon.

Now we're going to address the second topic on our agenda.

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Okay. Let me see.

Thomas Rickert, as you know, is somebody who is very, very brave and innovative. And here's what he proposes. He would like to run a test to check if there is anyone in the room with concerns or serious worries about this evolution towards a consensus-oriented system for the decision-making process within the community. So let us check this in the room. Is there anyone that is concerned about this? I do not see anyone expressing that concern. And I am being very cautious because this is -- there's plenty of new information here. But it would be interesting for us to gauge the feelings in the room so far.

So let us move on to our next point. That was a very important discussion point. It has to do with procedures that would enable the community to veto ICANN's budget and strategic plan. This weekend we worked in a collaborative fashion. So I'm going to ask Jonathan Zuck to quickly explain the changes that we have incorporated in this process.

JONATHAN ZUCK:

I'm going to talk a little bit briefly about the budget power and the response to public comments and some discussions that we've had thus far here in Dublin. One of the early decisions was that the community wanted some form of say over the budget. And that resulted in a recommendation for a budget veto on the

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part of the community. And looking at the public comments, there's pretty broad support for the notion of a budget veto. But most of the comments have to do with putting principle into practice. Right? So the question then becomes once you have a budget veto, then what next? Right? And there's sort of two aspects to the public comments surrounding the budget veto. One has to do with the outcome itself and whether or not too small a group of SOs and ACs would have too much influence and might single out another SO or AC and affect their programs or their budget, et cetera.

And the other has to do with the process getting to the veto and the state in which that would leave the organization while the community was sort of working out the final version of the veto and the Board was trying to reconcile with the community's wishes. So there was sort of those comments thrown into those two buckets, if you will. We all recognize that the budget development process has gone through significant improvement over the past few years and people are much happier with it than they have been in the past and already feel it's a much more collaborative process than it has traditionally been with detail in the budget. And we all want that process to continue. So, if you will, the third category of comments was let's not lose any momentum or disrupt in any way the progress that we've made thus far both in terms of the budget development and the

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reporting, financial reporting that the organization has begun to do in earnest.

So we had a meeting of a subteam on Saturday to discuss the community concerns surrounding the budget veto power. And, interestingly, there were very broad participation of interested parties. There were four members of the board that were on that subteam. And other people that have been involved with the budgets in the past. So -- and we also were joined by Xavier, the CFO of ICANN. So it was a very productive and practical discussion. And the answer actually came from Cherine Chehade in the form of looking at the budget differently. Chalaby, sorry.

UNKNOWN SPEAKER: You said Chehade.

JONATHAN ZUCK: Sorry. Chalaby. I should have just said Cherine. And because what we -- where we were in the budget in the second draft proposal was the notion of going back to the previous year's budget while we worked out the final resolution of the budget veto. And there were a number of problems associated with that. One was that there might be a revenue shortfall, so continuing with the budget from the year before might mean we

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were spending more money than we had. There was also this notion that it was a total mismatch to the programs of the current year. So there might be thing that had been budgeted for projects that had already concluded, et cetera. So there was some concern about that being the default state during the resolution of the budget. So what Cherine came up with was this notion of almost a kind of a caretaker budget or reference budget. That was sort of the budget necessary to make sure that the organization continued to function efficiently and that all that got sort of put on hold were these more discretionary programs that might be in dispute associated with the budget.

And so currently Xavier is working on a set of principles or a methodology to come up with a kind of caretaker budget that would be put in place in the interim. And we've gotten good consensus around that notion of making sure that the organization isn't in any way thrown into chaos as a result of this. But there is sufficient discomfort caused that all parties involved, both the Board and the community, would be incented to come back to the table and make sure the situation were resolved. Because this caretaker budget wouldn't be anyone's favorite budget. It would simply be the budget necessary to keep the organization functioning. So that solution seems to be the one that really addresses most of the concerns that were raised in the public comments. And so, you know,

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send all of your thoughts and prayers to Xavier that he's able to come up with a methodology that we can all live with for coming up with for taking care of this caretaker budget. But that's, basically, what has transpired this week. And I'd love to jump immediately to any questions people may have.

MATTHIEU WEILL:

Thank you, Jonathan. I see that people are rushing to the microphones. Of course, this is quite a big auditorium. It might be a little bit overwhelming, but please, rest assured that nothing will happen to you. The panel members, we are very open people. We take any type of questions. So, please I encourage you to post or make any questions. Do we have questions from the hubs or questions from remote participants? We do have a question. Go ahead, please.

GEORGE SADOWSKY:

George Sadowsky speaking in my individual capacity and not for the Board, although I am a member of the board.

You guys have done a lot of work. It's been really interesting to watch. You've tried to involve the community activities and comments in ways that I think have been very productive.

I'm really responding to Mathieu's comment about does anybody feel uncertain or concerned about the situation? And I

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think maybe you should ask several questions such as who feels some concern and who doesn't feel any concern and who's really thinking about the gala tonight? Because I think there's a large middle here. One of the concerns that I have -- and I think we all share, to some extent -- is that we're in uncharted territory. What you've done involves a lot of work. It's involved a small group, not too small a group. But, certainly, a group representative of the community. But we don't know with this kind of engineering of process exactly what the unintended consequences are going to be. We all think we know the consequences you're working toward, and these are quite reasonable as objectives. But we don't know the unintended ones. So it's probably a good idea to err on the conservative side of what is recommended and what is put into action. Thank you.

MATTHIEU WEILL:

Thank you, George. And, certainly, our group has been very aware of this requirement from the start and has made extreme efforts to be as conservative as possible, keeping in mind that the IANA stewardship transition itself is -- basically, its own principle is putting us into uncharted territories as well. So that's the balance we need to keep in mind at all times.

Okay. Let's -- Jonathan, last word on this?

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JONATHAN ZUCK: To George's comment, I guess I would just refer you back to the presentation of that escalation path. And I think that part of what the group took very seriously was making it very comprehensive and if not difficult to execute a lot of the community powers and the stages that we would go through to do it. I think that's probably what the group has done most to alleviate concerns about unintended consequences by raising the bar for consensus among the community and really giving a lot of opportunities to get off the train, if resolution is found for a particular issue. And I think that your concerns are well expressed. And I think that that's the area where that particular focus manifested itself in the proposal.

MATTHIEU WEILL: Thank you, Jonathan. Please.

STEVE METALITZ: Thank you. My name is Steve Metalitz. I'm vice president of the intellectual property constituency. I just want to know, since you don't seem to be getting any questions on the very specific topics that you put forward, will there be a time during this session to ask questions about other issues raised in the public comments that don't appear on your list of topics?



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MATTHIEU WEILL: Thank you for your question. Indeed, once we've covered the last couple of items, we're open for wider questions. Thank you for your question. It's good to clarify.

Without further ado, I would like now to turn to the next item, which is the Board member removal process where we had some slightly different views expressed. But not on the principle itself, rather on the way to proceed.

And Chris Disspain has been one of the most involved board members in our process and especially during this breakout session on this board member removal aspect. So Chris will introduce the outcome of this group. Chris.

CHRIS DISSPAIN: Thank you, Mathieu. I'm hoping my involvement will become a self-fulfilling prophecy.

The -- I need to say, before I start, that going through the slide that there are gaps here because this was done on its own. And Steve was working on the decision -- on the steps on the enforcement tree.

So there are things like how many SOs and ACs need to do things. So this is all about the principle. It's founded on the

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basis of an agreement that the SO or AC that appoints the director, that elects the director, should make the ultimate decision about the removal of that director but that there should be significant amount of opportunity for the director to interact and -- I mean, I don't want to used word "defend," but it's the easiest one. And that there should be community involvement.

So the idea is that the -- let's use me as an example because it's just simple.

So some people in the ccNSO have decided that they're not happy with me and they want me to be removed as a board member. They would petition in the ccNSO. And the ccNSO would agree to move forward on that process. And they would agree that by their own definition of consensus, which at the moment in the ccNSO is 66%.

There would be a briefing call. And the briefing call would be for anybody who wanted to attend. And on that briefing call, there would be an explanation as to why the ccNSO wanted to recall me. There would then need to be an agreement among a number of SOs and ACs. And I think from memory the current suggestion is two. There would be a community forum. And in the community forum there would be a discussion in the round about why it is that I would be being removed.

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It's important to say at this point that this is probably the only example of a community power where you probably wouldn't need to have a physical community forum. Given that the decision at the end of the day is the SOs and ACs, it's probably sufficient to have a forum on Adobe and telephone.

Then, if the forum ticks the box and says go ahead -- and, again, I think it's three SOs and ACs. But that's still to be talked about. There would then be a request for comments. The SOs and ACs would discuss, convene, process, and so on.

They would deliver their comments, their written responses back to the relevant SO and AC.

And the relevant SO and AC makes the decision. And they do that by 75% majority. We think that provides all the necessary community consultation without removing the removal power from the people who should have the removal power. We think that there is still some work to do about the steps. Clearly, so that we're clear, the petitioning SO or AC is in charge of this process. So it really is not about being blocked by other SOs and ACs from making a final decision. But it is about enrolling the community and making sure that the community understands. I'll stop there. And, if there are any questions, I'll happily answer them.

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MATTHIEU WEILL: Thank you, Chris. Any questions on a particular topic?

EDUARDO DIAZ: Thank you. Good morning. This is Eduardo Diaz from ALAC. Question I have is what happened to the directors selected by the NomCom? What's the process there? Thank you.

CHRIS DISSPAIN: So, Eduardo, that's a really good question. The answer is we're still kind of working on that. There needs to be a process. To some extent, the answer to that question is dependent on the model. Because it depends on what you do with the Nominating Committee in order for it to be able to do that.

But I think the answer is that, in principle, there's been no pushback on the thing that was -- on what was in the report. Do you want to say that Mathieu?

MATTHIEU WEILL: So for the NomCom appointed members of the board, the community decision-making process that was outlined by Steve earlier would apply with, actually, the higher level of support for the removal being required. So that's exactly what Steve was describing earlier that would apply. And it would be a

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community decision based on consensus to remove a particular NomCom appointed member of the board.

Roelof and then Bertrand.

ROELOF MEIJER: Am I at the right mic?

CHRIS DISSPAIN: The other one is a bit higher.

ROELOF MEIJER: Okay. Roelof Meijer from .NL. It's an IDN. I probably have to declare that I'm a member of the CCWG and ccNSO. It might be a bit strange to have a question, but I have it anyway, so I'll ask it.

If I understood correctly, in all the other powers, if the minimum amount of support is not reached or the maximum amount of disagreement or the minimum amount of disagreement is reached, then the process stops. It cannot continue. Right?

CHRIS DISSPAIN: That's right.

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ROELOF MEIJER: Okay. In this process am I wrong if I say the individual board member can still be removed by a decision of the SO or AC in question but there will be no community process supporting it any more?

CHRIS DISSPAIN: In -- Roelof, yes. In effect, the idea that we coalesced around is that -- okay. Look at it this way: In our policy making bylaws, the ccNSO is in charge of making policy for ccTLDs, right? But there is an obligation on us to take input from the GAC and at-large and so on.

So that was the starting point for our discussion is can we build a process around a similar principle that the SO has the right, but that there is an obligation to, obviously, give a voice to the director themselves and to create the ability for the rest of the community to provide weighty and significant input? So that's what this has been built on. But the principle that you've enunciated is correct that it can't -- the community can't block the SO or AC from removing.

ROELOF MEIJER: So we might want to reflect on the question, if it is not counterproductive, to phrase it there is not enough support for the idea that there will be not a community forum discussion on

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this while the SO or AC in question can still take the decision. It is probably always good, if the SO or AC wants to proceed, to have a community forum to get as much input as they can.

CHRIS DISSPAIN: You're completely correct. The community forum must be called, but you can't force people to turn up.

[ Laughter ]

ROELOF MEIJER: I think they're all come.

MATHIEU WEILL: Thank you, Roelof. That's a very good point. And I see the queue is now formed and I'm delighted to see that.

Bertrand?

BERTRAND DE LA CHAPELLE: Good morning. My name is Bertrand de la Chapelle and I'm here as an individual participant. One question of precision. There is no specific list of grounds on which a person can be removed, so that means any kind of reason can be involved?

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CHRIS DISSPAIN: Yes.

BERTRAND DE LA CHAPELLE: If that is the case, can you tell me why this was chosen as an option? Because it -- if you transpose this to normal electoral processes, it's a little bit like you're electing a deputy to a parliament and then suddenly at one point there is a recall process during the mandate.

Why is it decided to have not a list?

CHRIS DISSPAIN: Because -- this was discussed at some considerable length, and there was a clear consensus in the CCWG, in the SOs and ACs, that a specific and for-cause list wasn't the right to do it but that requiring a rationale and reasoning was.

It -- Alan could provide a -- probably a clearer answer than I can, because he's been one of the clearest advocates for being able to remove without cause. And the other point, I think, is "cause" is a very specific legal term that has different meanings in different jurisdictions, so -- but we're very clear, or the consensus is very clear that it should be for reason that is stated and clear, but it doesn't have to be a particular reason.



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My concern -- just to follow up quickly, my concern is that once somebody has been elected or designated to the ICANN board, in my understanding this person should become and behave as an independent person. That's the mandate. That's the responsibility in a collegial body. And I'm a little bit concerned -- and I understand where the community is going -- that in this environment every community, by definition, wants to have accountability of the person that they designate to what their interest is, but what happens if this person is actually acting independently on the ICANN board in the global public interest that is in contradiction with the interest of the community that has designated them? Isn't this the core of the tension?

MATHIEU WEILL: Well, this --

CHRIS DISSPAIN: Yes, it is.

MATHIEU WEILL: -- this has been given a lot of debate within the CCWG, and you're right that there is a balance to be struck between the right, which is existing today, for SO and ACs to appoint their own representatives on their own criteria with absolutely no way for the rest of the community to check on it, their board

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directors, and renew them or not; and on the other hand, the fact that the board directors are in their positions to serve ICANN's purpose, the mission of ICANN, which is a global mission that goes beyond each and every SO and AC.

However, it's clear in our debates it's not a contradiction. There is no contradiction.

UNKNOWN SPEAKER: There can be.

MATHIEU WEILL: There is room for interpretation about what is an SO -- specific SO or AC's interest. There is room for interpretation about what the global public interest is, always, always, and you know that because you've been working in high-level positions in ministries where that's something very important. And what matters is that each board member provides his own input into this.

So we are trying, with this carefully crafted balance, to find something that can be acceptable to all, but we recognize completely the need for board members to act in the interest of the purpose of the organization, and I think this is -- that the balance as it is is obviously up for comment but is interestingly struck in this new proposal.

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CHRIS DISSPAIN: But Bertrand, just to finish off, think about it this way -- I don't disagree with you, but think about it this way: You could hang -- you could wait until the end of the term of the board member and just silently remove them by not electing them and no one would know why. There would be no community understanding or discussion. In some respects, it's actually more transparent, more open, and more input into the global -- that thing you said --

[ Laughter ]

CHRIS DISSPAIN: -- to have a process by which you are actually removed and it's public and you can defend yourself, et cetera.

So there's a very, very difficult balance here. I don't disagree with you.

BERTRAND DE LA CHAPELLE: Yeah. Just wanted to --

MATHIEU WEILL: No. Bertrand, there's a lot of people behind so I suggest we take it off line and we'll go to a remote question that was actually on, I think the budget, but Hillary will read out the remote question.

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MATHIEU WEILL: Can tech please switch on the roaming mic for --

REMOTE INTERVENTION: We have a remote question from Jay Sudowski. He says, "With regards to the caretaker budget, has any consideration been given to the potential impacts to human capital at ICANN? Would employees of ICANN continue to get paid during this kind of dispute?"

JONATHAN ZUCK: Thanks, Jay. I answered your question in the chat but I'll answer it here for the group as well.

That issue has definitely come up. It's a great question and it is a very fine line that Xavier will have to walk in coming up with the caretaker budget. It's every intention to minimize any kind of human suffering associated with the caretaker budget.

There may be a case where there was an intention to hire five new people for a new program, for example, and with that on hold, those hires might be on hold, but there's certainly not a situation which anyone is sent home in the way that you've read about in the news, you know, on a furlough in the U.S. or something like that. It's meant to be a more liberal caretaker

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budget than that. But this will be an ongoing process and also subject to review, so please participate when that methodology for determining the caretaker budget is published.

MATHIEU WEILL: Thank you. Sir?

NARESH AJWANI: Naresh Ajwani speaking for myself.

In continuation of Bertrand's comments, I have a very simple query.

Is there any definition of "community"? And if it is not 7 billion, is there any accountability of this in your charter? Thank you.

MATHIEU WEILL: Thank you very much. I think this has -- this has been a key discussion in our group and we haven't focused here on it, but when we mention "the community," there is a clear intention that this community is as representative as possible of the overall Internet global community as possible, so the business as well as end users and all its components, and not only those of us who can come to ICANN meetings.

If I can simplify the answer, that is the answer.

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However, we are aware of the challenges and part of our proposals and recommendations focus on how to enhance the ability for each supporting organization or advisory committee to be accountable to the communities they're designed to represent as well, because that is the big challenge in this -- in this area.

Sir? Andrew?

ANDREW SULLIVAN:

Hi. Thanks. My name is Andrew Sullivan. I work for Dyn. I also happen to be the chair of the IAB, but I want to be really, really clear that this has nothing to do with the IAB I'm going to ask you about.

I want to follow up on this question about NomCom-appointed board members because it wasn't clear to me why you don't just treat the NomCom, for that purpose, as just another SO and AC and run it the same way.

THOMAS RICKERT:

Thank you very much for that question. This has been discussed, and the answer, from recollection, was that we did not want to put the NomCom in a difficult situation that it is seen as an organization that at the same time places people on the board and then potentially punishes them if it doesn't like it.

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So we're going to keep the NomCom as a resource for board members but we're not forcing them to be involved in the recall.

ANDREW SULLIVAN: So the only obvious problem there -- right? -- is that it seems you're creating two different classes of board member instead, right? Ones that could be removed by this somewhat simpler process, and then another group that needs the -- like the whole full-blown mechanism to go.

And so I just -- I mean, I -- I don't have any real strong opinion about it, but it seemed to me it creates a tension in the proposal.

THOMAS RICKERT: Thank you for that.

MATHIEU WEILL: Milton?

MILTON MUELLER: Yes. I -- Milton Mueller, noncommercial stakeholder group.

I'm really concerned about the casual way in which you talk about SOs and ACs as your units of governance, because these ACs and SOs are completely different things and you are creating a voting structure. You can call it consensus, but in

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effect if you say you need more than one SO or AC to not support something, then you're having a vote of yes or no.

So you have a voting structure. What are your units of voting and what is the justification for those units?

If you're telling me that the Root-Server System Advisory Committee is equal in weight in its voting structure to the entire GNSO or ccNSO, I think you're making a huge mistake.

If you're telling me that the At-Large Advisory Committee, which is somewhat different but certainly should have some kind of a role in this voting structure, has the same weight as the GNSO, I think that's kind of weird because the ALAC is represented on the GNSO and the GNSO is not represented in the ALAC in certain ways.

I really think you need to think very carefully about the nature of this voting structure and what are your units and who is included in it and who is not. And there were public comments about this and I don't see those public comments addressed in any of the summaries you've given of the public comments, so I'd really like to hear your opinions about that.

MATHIEU WEILL:

Thomas?



THOMAS RICKERT:

Thanks, Milton.

In fact, we are going to have a second engagement session on Wednesday, so you can expect us to discuss it -- these items a little bit more on Wednesday, but what we can say is that with the second report, there were a lot of concerns about a concentration of power if we only allow a subset of what makes the community to vote.

And this is why our group is now very closely look at -- and again, there's no decision made by this group as of yet -- on how to be more inclusive in the community's decision-making. And thereby, we came up with the idea of looking at a consensus-based decision-making, and we could foresee it just from what we hear from SSAC and RSSAC that they would likely only chime in in areas that really concerned their mandate.

So I'm -- I think we can discuss this more, we should discuss this more, but the aim is to be more inclusive and reflective of the community as a whole, rather than to look at only a few bodies that make a subset of the community and give those voting powers.

MILTON MUELLER:

So it is unresolved. It is unresolved.

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THOMAS RICKERT: We are presenting a current state of play of the group's deliberations, so there is a lot of traction for a consensus-based decision model, but we have no consensus in the group on that yet.

MATHIEU WEILL: For your information, I'm closing the queue because we'll be short on time. Otherwise, I'll take one question and then we'll -- Hillary will stay at this mic and give us the remote questions.

KEN STUBBS: Good morning. My name is Ken Stubbs, and my question comes to you as an individual.

I am somewhat concerned because I've seen over history, in dealing with various global communities, the possibility that either a vendetta or some sort of action could be taken towards a specific individual such as a director.

So what -- and we all know that the process of removing a director is going to be a very, very distractive process.

Is there anything built into this system that ensures that if somebody tries to remove a director and is not successful, that a

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certain period of time would pass before some attempt could be made again?

I apologize if this has been covered, but honestly I've not heard it.

Thank you.

MATHIEU WEILL: So the short answer: Yes, there is -- we will provide it probably in the chat, but there is a limit on the frequency where this particular type of process can be used.

Hillary?

REMOTE INTERVENTION: We have a question from Arthur Zonnenberg. "What influence will these community powers give to contracted parties when renegotiating their own contracts?"

BECKY BURR: Thank you. So first of all, I'd like to say that ICANN has always had a limited power to impose obligations on contracting parties. From the beginning of ICANN's history, those limits have been enshrined in specification 1, the so-called picket fence. That has been a part of every registrar accreditation agreement

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and every registration agreement since ICANN started contracting with parties.

Nothing that we have proposed would change the scope of ICANN's ability to impose obligations through consensus policy in contracts from what it has been from the beginning of time.

If something is in specification 1 and a proper subject of consensus policy, it is fair game. If it is not, ICANN does not have the unilateral authority to impose obligations on registries and registrars.

That does not go to the question of whether registries -- for example, applicants for new top-level domains -- may voluntarily commit to conduct themselves in certain ways. Indeed, many applicants for new gTLDs, for community-based new gTLD applications, have made such commitments, and I think that those are clearly -- it is clearly within the power of a gTLD applicant to provide binding commitments in that way.

There have been some questions raised in the discussion about specifically how the mission statement now reads. We're looking very carefully at those, but the picket fence has stood the test of time.

People asked -- raised questions about whether there would be disputes about this. We haven't had a single dispute about the

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scope of ICANN's contracting authority or its enforcement authority within the picket fence since 1998, and we don't propose to change that.

MATHIEU WEILL:

Thank you, Becky.

I'm not going to make friends now, so we said we want --

We have only seven minutes left, and we would like the input of people we're not used to hearing, so I would like to ask for your permission -- Seun, Cherine, George, Alan -- to please leave the privilege to those who are not usually in our CCWG session to ask their questions, if you -- if you don't mind.

I think that would be really, really appreciated because that's really where the value of this session comes from, in hearing new voices, and that would be much appreciated.

Jonathan, I don't know. You're in between. You're in between. If your question is in two words and it can get a yes/no, then that's fine.

JONATHAN ROBINSON:

I think it's a very brief question. Jonathan Robinson speaking in my personal capacity, not as a representative or co-chair of the CWG.

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I -- when I was thinking about the board removal process, it's clear that there is the president and CEO appointed by the board to the board, and I wondered if the group had given consideration on what your position was on how you might deal with this process in relation to the president and CEO in terms of their capacity as a board member.

CHRIS DISSPAIN: Jordan will answer.

JORDAN CARTER: This is Jordan Carter here, one of the rapporteurs on the group. Very simple answer. They're totally excluded from this process. The president and CEO is an employee. They're all on the board in their role as an employee. They cannot be touched by this.

JONATHAN ROBINSON: Thank you. That's helpful.

MATHIEU WEILL: Thank you, Jonathan, and I'd like to take a question from a hub now.

JIA HE: Yeah. Jia from China. ICANN fellow -- (off microphone.)

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MATHIEU WEILL:                   Okay. Welcome.

JIA HE:                                Jia from China. ICANN fellow. I'm still -- (off microphone) -- so one question about this structure is: Why do we need some board member which are selected by NomCom? Because AC and SO, they're from community and the board member should also be from community, so why do we need some board member which are selected by the NomCom?

MATHIEU WEILL:                   Thank you. That's an excellent question and welcome -- welcome to ICANN. Cheryl, who is a member of the NomCom, has been a member of the NomCom this year, at least --

CHERYL LANGDON-ORR:        For a couple of years, yes.

MATHIEU WEILL:                   -- and probably I think this coming year, so I think she is the best person to answer. Thank you.

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CHERYL LANGDON-ORR: Very briefly. If you think about the role of the NomCom which itself is constituted from members of the community, all right -- so this is a crossing of our ICANN community -- make up the NomCom. What the Nominating Committee, which is actually a selection committee, is doing is seeking to, where possible, appoint what you can think of as independent directors. So it is a very specific role.

MATHIEU WEILL: Thank you, Cheryl.

And now to the hub. You have the floor.

REMOTE HUB: Hello?

MATHIEU WEILL: Hello, welcome.

REMOTE HUB: Hello. My name is Charles from Kenya. I have one question. I looked at the document from the community contribution for the public comments dated 11 October 2015.



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And what I can see is very little contribution from developing countries, e.g., Africa. Why is it so (indiscernible) are the ones encountering more challenges? How this can be improved?

I ask this because At-Large for the African region is supposed to provide the news, keeps us (indiscernible) activities, (indiscernible) information sharing for individuals. And yet -- and these are groups. But there has been very little outreach due to lack of resources. How can this be improved? Thank you.

MATHIEU WEILL:

Thank you very much for this question. And this is certainly something that we've been encountering as other groups have in the past in ICANN, and it's an ongoing challenge.

But I want to really stress that the African RALO, AFRALO, has been extremely engaged in this process, submitting comments all along and their contributions have been extremely valuable to the progress. And I know they are making a lot of efforts for engaging in Africa, and I want to recognize that effort here.

Next is Nurani.

NURANI NIMPUNO:

Good morning, everyone. My name is Nurani Nimpuno. I'm the vice chair of the CRISP team representing the numbers

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community in the IANA stewardship transition. I'm going to take a step back and make a broader comment.

I just want to say from the numbers community, we are incredibly encouraged to see the tremendous progress that you have made and especially in the last -- even just the last few days.

And when we -- I found that in this process we often talk about the different needs of the different communities. And there's often a focus on the differences between the communities. But essentially we are one community. And we are all dependent on each other to achieve this successful transition. So I just wanted to remind us all of that, that we all need to work towards the same goal.

And as a longstanding member of the number community, I certainly sympathize and support the effort to get community empowerment for part of your community. It is something that you are entitled to. It is also something that's very consistent with really the multistakeholder model, the community-driven, bottom-up model that is really essential to -- it's a cornerstone in the technical community.

But drawing upon my experience in the number community, I find that we often try to -- when looking at the difference governance models, we try to find the perfect model. And it's

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not about finding the perfect model. It is making sure that the community is adequately empowered.

And I'd like to -- for all of us as we are moving into this last process -- last part of the process, to remind ourselves of that. It's about looking at are we adequately empowered.

And I have not personally been involved with the CCWG accountability work. But I respect and I appreciate the work that you're doing.

And as we move forward, I ask you to be conscious of this need not only for this community to achieve adequate empowerment but for the broader community's need and also its right to move forward with the transition.

I think we can achieve both of those things. We just need to focus in these coming days, coming weeks, in trying to keep those broader goals in mind.

We are happy to contribute to that process. Now we just need to make it happen. Thanks.

MATHIEU WEILL:

Thank you very much, Nurani.

Mary?

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MARY UDAMA:

My name is Mary Udama. I'm from Nigeria. And I'm speaking on my personal behalf. I want to comment on the budget vetoing in which fortunately there has been a lot of progress made on that. And when Thomas was making presentation, he said that the process had been improved, the budget process over the years. And if that is the case, that we've had collaboration and input -- collaboration and input of the community into the process, why not formalize that process? Because I cannot understand where if we are part of the process, haven't finished the budget, publish it, and then veto what you have done.

I think that should be something that we should consider going forward. I could see the five-year operating plan could be a process that vetoing could come.

When it comes to annual budget, I think if the community is involved, committee has no -- I don't see the standing of vetoing it after it has been published.

MATHIEU WEILL:

Thank you very much. Very quick responses.

JONATHAN ZUCK:

Mary, thank you for your comment. I was too brief in my summary. We also reached some consensus that there would be a distinction between the five-year plan and as well as

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immortalizing the current reforms on the budget formulation process into the bylaws. I just skipped right to the controversial stuff. But there was some agreement to do exactly as you suggested.

MATHIEU WEILL: Thank you, Jonathan.

Axel.

AXEL PAWLIK: Mathieu, thank you for letting me skip the line. We do see the intensive productive work that is being done on accountability. Congratulations to that.

It seems to be moving positively sometimes slowly towards some critical shared goals. We agree that community empowerment is one of those goals. The I.P. community clearly deserves to be sufficiently empowered to ensure ICANN's accountability.

However, this work only has been in the context of IANA stewardship transition. That is the goal that has brought this process about. And the wider Internet community also deserves to see this work finally completed.

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So we urge community members to only seek sufficient power to achieve this and to achieve a compromise with any of the various ways to do so. We think there is not only one correct idea or perfect solution there.

If we do not bring this process to conclusion soon, inevitably other options will be explored. And those, I'm sure, will not be better options. As signatories of the Montevideo statement of 2013, which called for accelerating the globalization of ICANN and IANA functions, we urged the community to take this opportunity, take it soon, to come to a conclusion on accountability soon enough to allow the transition process to be successful. Thank you.

MATHIEU WEILL:

Thank you. Thank you very much.

[ Applause ]

I think that's a statement. So no response. I'm glad you can make it to -- raise your question, Steve.

STEVE METALITZ:

Thank you, Mathieu. And I appreciate the opportunity. Becky's response to another question addressed it in part.

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But I would just ask on behalf of the intellectual property constituency to whom this is not just a wrinkle to be worked out but a very fundamental problem with the second draft report, are you considering including in your third report an explicit recognition, putting into the bylaws and, therefore, enforceable through IRP, et cetera, an explicit recognition of ICANN's responsibility to enter into, interpret, and enforce contracts in order to fulfill its mission?

BECKY BURR: This issue was raised by a number of commenters. And it is under consideration, yes.

STEVE METALITZ: Thank you. We'll look forward to seeing what comes out of that.

MATHIEU WEILL: Thank you very much. And last, but not least, please.

PADMINI BARUAH: So my question actually was about the enforceability models. But we haven't raised that yet and we are running out of time. So if I could just maybe --

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MATHIEU WEILL: Please. If you have a question, raise it. We can definitely answer.

PADMINI BARUAH: My name is Padmini Baruah. And I'm speaking on behalf the Center for Internet and Society. We are a civil society organization based out of India.

Sorry, may I?

My question is: Since -- from what we've been following so far, no analysis has actually happened on how easy it's going to be to shift jurisdictions under the different enforceability models and how do you expect workstream 2 discussion of jurisdiction is going to go ahead.

I also had another concern to raise largely. So we know that transparency is one of the strongest preconditions to accountability. And the U.S. Senate itself has said that if there's no rubber stamp accountability measures, then the IANA transition might not proceed in the direction that it needs to.

So we wanted to flag our concerns about the weaknesses in existing transparency mechanisms. And I just wanted to point out my own research on your documentary information disclosure policy. And that analysis is showing of the 91 requests that ICANN has processed so far, 88% have been



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subject to your non-disclosure clauses. And we think that this is an outstanding figure that says ICANN has the power to effectively block or deny any member of the stakeholder community access to information. And I just wanted to put that on the record. Thank you.

MATHIEU WEILL:

Thank you very much. And welcome to our group because I know you've joined the list recently.

Jordan, would you like to answer?

JORDAN CARTER:

Really briefly -- Jordan Carter here -- does the choice of enforcement model affect future jurisdictional debates, no, it doesn't in the strict sense that if there was to be a change in jurisdiction for ICANN at some point -- and that's not on the table today -- there would be a new organization incorporated in a new jurisdiction to do that. And my view is that whether -- whatever model we take here won't affect that question.

The second point, the answer to the point about documentary disclosure and transparency comes back to the previous question, which is we have to do as little as possible now to allow the IANA stewardship transition to proceed. Transparency documentary disclosure is very important, which is why it's

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essential for part of workstream 2 work, the work this group will do after the first part of this accountability improvement phase is done.

PADMINI BARUAH: I understand that. The reason I just wanted to flag it because there seems to be not enough comment on the opacity of ICANN. So I thought it makes sense to put it on there.

JORDAN CARTER: Thank you.

MATHIEU WEILL: Thank you very much. I would like to apologize again for those in the room who were not -- did not have time to speak and were kind enough to remain seated or actually seat themselves when we had to cut off.

I would like to offer them the opportunity to share their questions on the list. Answers will be provided and added to the summary of this session so that it is a comprehensive view that can be provided.

And I would also like to apologize to my fellow co-chairs and chairs of the ICG for taking a little bit of extra time and eating some of your time. We're already in the last piece of the puzzle,

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and now we are even eating your own time. But I think it was a very useful session for us. We received very substantial and useful input.

I hope you're measuring that we are full throttle into trying to solve this last piece of the puzzle, as I was saying. And our group has a full afternoon of work sessions starting in two hours, I think. Yeah, approximately two hours. And we will debrief on the feedback we've received, follow up. And I encourage every one of you to come and attend our sessions if you want to see how we are moving things forward and see how this process is actually inclusive, bottom-up, and involving all parts of the community.

Thank you very much for your attending. Thank you for your questions. And look forward to further exchanges across the week. Thank you to our presenters who were kind enough to be brief and provide accurate answers to all the questions. Thank you, everyone.

[ Applause ]

**[END OF TRANSCRIPTION]**