

**ICANN**

**Moderator: Brenda Brewer  
November 13, 2015  
12:00 am CT**

Coordinator: The recordings have started.

Thomas Rickert: Thank you very much. And with this we'd like to start this call Number 67 on the 13th of November. And as usually I'd like to welcome all of you to this call and let's conduct a roll call now based on the Adobe room. I myself am still trying to get into the Adobe so I would like my name to be added to the list of attendees. And for those who are not on the Adobe please make yourselves heard so that we can add you to the list please.

Becky Burr: Thomas, this is Becky Burr. I am still trying to get into the Adobe room as well.

((Crosstalk))

Thomas Rickert: Welcome, Becky.

Rosemary Fei: This is Rosemary Fei. I'm same here. I got kicked you.

Thomas Rickert: Thanks, Rosemary. Anyone else? So that doesn't seem to be the case, thank you very much. Are there any updates to Statements of Interest? There don't seem to be any which allows us to segue into the next agenda item which are opening remarks. And we would like to use the opportunity to comment on and add to the note that has been sent out by Mathieu yesterday.

You will remember that according to our original timeline that we've agreed in Dublin we would issue a summary of our report with our recommendations to the community on the 15th of November. And that full report offering all the rationale and information on the genesis of our recommendations as well as the pros and cons and all the options that we evaluated on the 30th.

As you will also remember, and know from the traffic on the list, excuse me, can those who are not speaking please mute their lines? Thank you. That you will have noted that there are still primarily two areas where we are still trying to find consensus. And therefore some of you have commented that we should not publish a document that we called an executive summary without actually having all the work done that can be summarized.

Also there were some comments on the timeline suggesting that we should extend the public comment period by a certain number of days in order to give more time to the community and the chartering organizations to analyze our findings based on the full report that we still plan to publish on the 30th.

We have, as co-chairs, responded to this - to these comments and criticisms by clarifying that we will acknowledge that there are still open items but that we would still process with the publication of a document summarizing primarily the updates on the progress made since we met in Dublin and during the Dublin meeting.

You will remember that a lot of commenters said that it's hard for them to understand and follow our discussions and the recommendations that we're working on. So we agreed that we would produce a document that is much shorter than our full report, that does not speak to the history of our recommendations but that just summarizes and explains the recommendations to the community in plain language.

And that is the document that was circulated as an updated version a few hours ago. We know that this is all under very tight timelines and we very much appreciate that you are looking at these documents at such short notice. But all in all what we can say is that we're not going to give the impression to the community that all the recommendations are in final stage.

We are also indicating that the full report will have all the detail that people need to do an in depth analysis but nonetheless we will proceed with - we will proceed with the publication of these findings.

You will have seen that the document has been substantially revisited taking into account a plethora of comments that have been made by you as well as by the legal advisor. And we will have the opportunity to discuss the document further on in this call. But this is just to let you know to take away hopefully some of the concerns that were raised we will not create the impression that this is a summary of our final report.

So with respect to the second aspect of your concerns, on the timeline, we are still in the process of analyzing the impact of potentially extending the public comment period and therefore we will not discuss the timeline today. We have a few days to discuss this because the full report, as you know, is only going to be published on the 30th. However, given the overall time constraints and knowing that on whatever project we're working we will always have a

crunch at the end, we suggest that we work - continue our work full throttle to get closure on the remaining issues and have a separate discussion on the time scale.

So before we move to the next agenda item let me just also put on record that list of attendees on this call is unusually short which is maybe due to the fact that a lot of you are still in Brazil for the IGF where it is 3:00 am in the morning.

And also, you know, and we know that a lot of you are in Brazil at the moment and we've also heard that the connectivity is not the best one in the hotels as reported by some attendees. So we encourage you to reach out to your peers, update them on what was discussed today so that they can chime into the discussion.

So with that I'd like to move to the third agenda item and that is the continuation of the discussion on the mission, commitments and core values. There have been an awful lot of communication on the mailing list, various thoughtful contributions and we thought that it would be high time for us to establish where we stand because it looks like we actually have stopped discussing the areas that we tagged as uncontroversial or having consensus during the last call.

You will remember that we sliced the issue and took stock of aspects of the mission, commitments and core values, confirmed the consensus that we have with the group and crystallized that there is basically only one bigger question that is still controversial and where we do seem to have diverging opinions in our group.

And we've asked Becky to actually take a closer look at that, see where we stand and maybe give us all a quick recap on what the background of the discussion on this remaining question is so that we can ensure that we're all using the same terminology, that we're all having a common understanding on what contract means, what policy means, what the narrow mission means, what the enforceability of contract and its implications on policy is so that even if we do not have full agreement on this item at least we all know and can confirm that we fully understand appreciate the positions that other parts of the (unintelligible) might take.

Some of you have commented rightfully - can I ask you to mute your microphones again when not speaking? And some of you have rightfully commented that at some point we will need to give guidance to the legal experts that are - can staff maybe identify which line is producing this noise? That would be great because this is quite distracting.

I have actually lost my train of thought. So that at one point we will need to give instructions to the legal experts to draft language and for such briefing it is imperative that we as a group are crystal clear on what we have in there in terms of substance and whatnot.

So without any further ado I'd like to hand over to Becky to give us a short introduction of where we are, set the scene, and then let's continue the conversation. Over to you, Becky.

Becky Burr: Thank you very much Thomas. I think that from the beginning there has been a consensus with respect to the proposition that ICANN has a limited mission, that it was our goal to carefully describe and clarify ICANN's limited mission with respect to all of the aspects, with respect to names and numbers and

protocols and the root server system and indeed I believe that we have succeeded in doing that.

With respect to the names function specifically, there has been agreement from the beginning that ICANN will - or that ICANN should - that ICANN has a specific mission, that ICANN should live within and act within that mission and act consistent with that mission and that ICANN should not seek to regulate areas that are outside of its mission.

And at the same time, I believe that there has been consensus that ICANN should have, as it has always had, the ability to enter into negotiated agreements with contracted parties and that those negotiated - really negotiated agreements should be enforceable. And that ICANN should have, as it has had from the beginning, the ability to impose certain policies on contracted parties in limited circumstances as it has always had.

And to that end very early on we agreed on a concept that ICANN should not regulate services that use the Internet's unique identifiers or the content that such services carry or provide. And I think that at a high level there has been for quite a long time consensus with respect to that concept. There has also been for quite a long time a robust debate about the terms that are used, the potential for unintended consequences. And an effort for many months I think to come to a sort of common vocabulary, a shared vocabulary with respect to what we mean.

And that shared vocabulary has been focused on what the term "regulate" means and how that could possibly be over or under interpreted. A question about what we mean when we talk about services that use the Internet's unique identifiers and a concern that has been expressed throughout that ICANN does of course enter into contracts with contracted parties and that

ICANN should have the ability to enter into those contracts and enforce those contracts in furtherance of its mission.

Having said that, we have had a very, very robust debate on really trying to nail down the specifics of the, you know, to get beyond the concept and to get into the specifics of that we mean and to ensure that we have a shared understanding of the concept and to ensure that we are thinking through the consequences potentially unintended, with respect to that.

And so while I think that it is fair to say that we've had consensus for a long time on the concept, we have had continued debate throughout this on the way that concept was articulated.

Up on the - in the Adobe Connect room we have language on the left hand side from the second draft report which is actually the language that was in the first draft report with respect - with the exception of the language at the bottom in italics which was language that was circulated and discussed in the aftermath of Dublin as an attempt to address and to clarify and to provide a common articulation of ICANN's role with respect to contracts.

I think it is fair to say that our debate on this - on the language, on the wording, on the specific words, has continued. This afternoon Greg Shatan circulated a proposal - proposed language that you see on the right hand side of the page that I think there has not been a huge amount of discussion on it. What discussion there has been has been positive in the sense that it brings us together to a better articulation of our shared conception.

So I think that, you know, what we are very much about here is we have an agreed upon principle. We are struggling with the words to describe that. I for one think that Greg's proposal moves the ball forward. And so to sort of

further that discussion I've put up the current language that's in the second draft report, and as I said, was in the first draft report. That language received both strong support for the concept and also strong concerns about the specific wording and how it might have unintended consequences.

And I'm hoping that we can have a debate - a discussion, conversation and input from folks on the telephone call with respect to the proposed language that we see on the right hand side. As you will see, it endeavors to define services which has been one sticking point with respect to which ICANN should not become a regulator.

And it does reiterate that ICANN has the ability - shall have the ability to enter into and enforce agreements with contracted parties in furtherance of its mission. So I would like to open the - based on this, you know, setting out the principles and I think what I think is a lot of agreement and a struggle with words, like to open the floor to discussion as to whether the language on the right side helps us reach closure on the issues.

((Crosstalk))

Thomas Rickert: Thank you very much, Becky.

Becky Burr: Go ahead.

Thomas Rickert: That's been very helpful. And before we open it up for comments from your side, there's been some communication in the chat window already. For example, Eric has mentioned that language commands received is unfortunate.

So for those who see issues with just the words, who are okay with the notion of what it wishes to describe, please just throw in alternative language for us



to take a look at. But I guess the purpose of the exercise now is try to capture whether we are in agreement on the idea of the proposal that I think is now the most update version of where the conversation stands. And if we can let's try to confirm in baby steps the areas of agreement that we can establish.

So with that I'd like to open it up for your comments. Not sure whether it's my Adobe room only connection seems to be a little bit flaky. But I don't see any hands up. Can that possibly be true? So, Greg's hand is up. Greg, fire away.

Greg Shatan: Thank you, Thomas. Greg Shatan for the record. There's been some discussions in the chat about the parenthetical after the word "services" in the proposal under my name, although I'm not the sole author, just the one who sent out the email. In any case the point of the parenthetical, and there's quite a lot of discussion about what was meant by services on the email threads and what - and there seemed to be a divergence, an understanding what was meant by services whether we're talking about a technical service such as a web service, that runs on a web server as an example.

Or are we talking about a class of business such as legal services or obviously not legal services in the sense perhaps but about services in the sense of business or economic sense. As I, you know, went through various, you know, look back at what we've been trying to do and drafting and various things, you know, been my understanding that what we're talking about here is the (unintelligible) which is a technological process.

Trying to find the right way to express that, you know, is challenging especially in a parenthetical. But that's the sense that I have and that's the sense that that's what it's supposed to be. Not that we're regulating, you know, business services which use the Internet's unique identifiers. But that's not

what the reference is. There may be some disagreement on that. But in terms of trying to clarify what services means, I'm wide open to what the parenthetical might say.

And Andrew Sullivan mentioned a couple of possibilities in the subsequent email one of which I mentioned in the chat. Milton mentioned information services but then I'm not entirely sure whether that describes a class of business or a class of technological process. So it begs the question. So that's the issue with the word services. Other than that, I think actually I believe that we'll be (unintelligible) thread to needle between number of different steps of concern so that's - thank you.

Thomas Rickert: Greg, thanks so much. And also thank you for your continued efforts to bridge gaps with finding appropriate language. I'd like to take the opportunity now that you have your microphone unmuted, for you to repeat for us what you thought the different understandings of the word "service" were. So you mentioned that, you know, that you're not talking about legal services or, you know, other content related services probably.

Can you maybe repeat the different understandings that you saw on the list on the "service" so that we can put them into the notes section? And, you know, even if it's a narrative type description let's try to exclude those options and definitions of service that we agree we do not want to enshrined in the language. You know, so even if we don't have a positive description of what we want to have covered, let's try to exclude and be crystal clear on what we don't want service to mean. Can you help with this?

Greg Shatan: Sure, I'll try. Was my mic muted at some point while I was talking or I don't quite understand. But I'm happy to...

((Crosstalk))

Thomas Rickert: No I was just saying - I was just saying that I want to take the opportunity while your mic is unmuted, i.e. while we have you there speaking to us for you to...

Greg Shatan: Okay thank you.

Thomas Rickert: ...to help with this. I'm sorry for not being clear.

Greg Shatan: Yeah, it's 1:30 in the morning and I'm at this point.

Thomas Rickert: You're doing great.

Greg Shatan: So basically as I say there's kind of two divergent threads as to what services means. One is are we defining a class of business that offer services and maybe try and exclude certain businesses that offer services that, again, might be a different one.

Or are we trying to mention a type of technological - or technical process that runs on - that is in essence, you know, connected to the Internet and uses the DNS to, you know, oftentimes to rescind and receive signal or datagram or that is in essence a process that runs on a web server, for instance, you know, to give an example, an e.g. rather than an i.e. in the case of a web service, the process by which in response to a command from a user's web browser calls on the various content and data and algorithms and the like and then responds with a webpage that is delivered to the browser. That type of service, that - is that what we're talking about.

And it's my understanding, having worked through this, that what most people have meant when they've seen this or at least when this was first drafted, and as it carries through that what was meant was the technical process and not a class of businesses.

But there are definitely kind of two - at least two strains of thought as to what this might mean and should mean and they're not really reconcilable in the question about whether we're talking about a technical service - a technological service that runs, you know, on a system or are we talking about a service that people offer when somebody wants them to perform a service.

So that is - that's the question. And the parenthetical is imperfect and, you know, being someone who is more technical than some but by no means a technologist, it's definitely imperfect. But at least it shows which path of those two paths we're headed down and when we say services. If it can be better expressed I'm all for it.

But at least it shows where, you know, in my understanding - understanding a variety of people I've talked to from a variety of different communities that was and is the intention. So that's the best reason to have the parenthetical in there which is to show the - which of those two paths that we're running down. Thanks.

Thomas Rickert: Thanks very much, Greg. And as we move to Alan, I think it's very important for us to understand these two dimensions of what service can be because people came from different directions using these terms. If you think that there is a third component maybe to it or that the term "service" has not been accurately described in the narratives offered by Greg, please speak up and that is - let us know.

As we progress with this summarization, I think once we have clarity on what the term “service” means let’s then proceed to discuss whether we want to have a positive or a negative demarcation in the language of what ICANN can and what can’t do. But let’s keep that for in a few minutes and let’s establish first whether we have additional definitions that we need in order to do this demarcation exercise.

So please make yourself heard in the chat or put yourself in the queue. And if we don’t hear from you we would take that - the two facets of the term “service” are sufficient to describe the notion of what we want to put on paper here. Alan.

Alan Greenberg: Thank you very much. Can you hear me?

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

Alan Greenberg: Good, thank you. Subject to the discussions that are going on here, from an overall point of view, I think ALAC is happy with the discussion - with the direction this is taking. But I wanted to reiterate that we have expressed a concern that as we go forward there is at least a note to people drafting the legal language that we want an explicit exclusion that the identifiers, specifically the top level domain identifiers, that are ICANN’s business are deemed not to be content for the purposes of this mission item. Thank you, that’s all.

Thomas Rickert: Thanks, Alan. Thanks, Alan. Anyone else? And again if you're not speaking please do mute your microphones. Alan, is that a new hand? No it’s not. So, Becky, now that we have these explanations on the table I guess then there has been some discussion in the chat as to whether we want to cover both or

whether we use only one definition. Can we maybe try to boil that down a little bit more?

I understand that, you know, in the mission statement and that has been our approach to drafting we would list the enumerated powers that ICANN has and not mention all the things that ICANN can't do. But in order to be able to give those instructions for the drafters I think we need to be clear about what ICANN should and what ICANN shouldn't be able to do.

Becky Burr: Well I think - if I could just say, I think that what we have been discussing for so long as, you know, that we have been saying, ICANN is - to be a creature with enumerated powers. That is to say it has only those powers that are given to it. With respect to this clause there is an additional - for the avoidance of doubt we want to be clear that ICANN does not regulate in a fear that we are struggling to articulate clearly. But I think there is a sphere where we feel that ICANN should not articulate.

So it's a bit of both things. It's enumerated powers. ICANN has the powers that are given to it. And with respect to this there is a strong sense in the community that if we can get - if we can articulate this correctly there is a period - a place where we want to say for the avoidance of doubt, ICANN does not have the power to do a certain thing.

So I think to me that the definition of services is really the only thing that we need to close on because I believe that if we have clarity and agreement about the definition of services and it does seem like this language moves us in that direction, that we can close this issue. So notwithstanding Greg's demurs on the parenthetical that's where the issue is.

Kavouss Arasteh: Thomas. This is Kavouss. Thomas, I want to have an opportunity to (unintelligible) on audio only. Is this possible?

Thomas Rickert: Please do speak now, it's your opportunity. Sure. Hello? Yes, it's your turn, Kavouss. Fire away.

Kavouss Arasteh: Yes, I'm sorry, I was listening to this debate for hours and hours, I do fully appreciate every effort in particular, Greg. Thomas, please do not go to multiple definitions. One single definition and please kindly do not call them definitions. If you want to talk about service you put service in the text. You introduce and (unintelligible) a footnote. And on the (unintelligible) and footnote you mention the use of the term "service" in this provision is understood to mean, and cover and put whatever you want.

But one single description. It is difficult to define service because of its very large scope. Once again, my text is somebody take it out. I am not on chat, unfortunately, we could put asterisk above the service or any other things and underneath saying that the use of this term in this provision is understood to mean, and cover and then you put what does it mean and cover. We don't define. We discard that. I'm very sorry I came in. Please accept my apology.

Thomas Rickert: Don't you worry, Kavouss. Thank you very much for your helpful contribution. I trust that the lawyers who are with us on the call today take good note of your suggestion on this drafting technique. So thanks again for that. And let's move to Andrew now.

Andrew Sullivan: Hi there. Thanks. I guess I'll just confirm this is working since the network from the Internet Governance Forum is surprisingly not Internet-like.

Okay so the specific text that Greg has is, as we've been talking in the chat room, you know, maybe could be refined some. And that's okay with me that we're refining it. We can do that on the list. I don't think this is a great place to do wordsmithing.

But it does occur to me, you know, that there have got to be - since this is really just instruction to the lawyers maybe what we could as just, you know, parenthetical remark or something which says, look, if there's a standard definition for the technical service, that thing that you connect to on the Internet rather than the business service, which is think what we're trying to say here, use that definition or something along those lines.

Because I think that we're in risk here of trying to, I mean, as I guess I've suggested on the list the refinement that I was proposing effectively boils this down to every computer that's connected to the Internet. And I don't know how helpful that is.

But I'm not actually sure how to write this such that it's technically accurate and that doesn't turn into a computer connected to the Internet. So that's the only worry I would have so maybe we could put that sort of instruction for the lawyers in. I apologize if this isn't too clear.

Thomas Rickert: No it's fine, thank you very much, Andrew. Anyone else? So I think that we're struggling to find the right words but there seems to be increasing common understanding on the notion of what we're trying to say. So Becky, would you be in the position to confirm a direction in which we can take this? And let the lawyers think about language that is potentially technology-neutral and still encapsulates the essence of what we're trying to describe.



Becky Burr: Well I think that, you know, I think that we can collect the words in the chat here but I think that there seems to be comfort with the general direction of the language and the sense that's conveyed here albeit with perhaps some tweaks necessary to make - to ensure that it's technologically neutral. And I think that we can probably write that up using this language as the basis. And just a reminder for everybody, of course we are not writing final bylaws language, we are writing, you know, directions and for the final legal drafters.

So I am finding - I am hearing more comfort with this language than, you know, more sort of general acquiescence that we are in the - pointed in the right direction with this language than I've heard on any - in any conversation about this before.

Thomas Rickert: Becky, can you maybe confirm for us which aspects of the definition of service that we've established with Greg we would need to encapsulate?

Becky Burr: Well I think the definition that Greg has in here is sort of in general correct but may need some fine tweaks as the conversation in the chat has proposed. So I'm not sure exactly what you're asking me. But I think, you know, the direction that the language that t Greg has proposed here seems to be moving us in the right direction with a large degree of comfort around the room.

Thomas Rickert: Yeah, let me clarify my question. That at the outset of this discussion we'd asked Greg to clarify the two dimensions of the term "service" with respect to business - or classes of business and then the technical services. And I understand that there has been different views in the chat that have been expressed as to what dimension of this we need. Some said we would need both, others were leaning more towards the technical services question.

So since you've been in this discussion from the very beginning, can you confirm to us which of these dimensions you would like to see covered in the description?

Becky Burr: Well first of all it's not up to me to decide what language I would like to see covered in the description. I don't - I think that the language it seems to me stand - should stand on its own. And I'm not sure why we need to split things up between business and technical. If something - because what we're talking about is services, not service providers, right? So the question is what is the service. And that is the software processes as described by Greg.

Thomas Rickert: So that would be - and that's - to be quite honest, that's almost my understanding...

((Crosstalk))

Becky Burr: So I'm saying I don't understand - I don't see why we need to parse those two things.

Thomas Rickert: So we - and this is my understanding too looking at the - looking at the work being expressed here and in other places that we would need to find a technology-neutral description of the technical processes rather than status of business that offer the service.

((Crosstalk))

Becky Burr: Well, no, I mean, I think that the point is - and Greg has just echoed me in this - what we are talking about is services, not service providers. So the question is what is the underlying service, not what is the nature of the business. So I guess I agree with - I agree with the way it is set up in this language here.

Thomas Rickert: Yes, and I guess that what you've just refined is a better description of what Greg I think meant by saying differing classes of services - class of businesses. So I guess that's helpful. So I think we can confirm and please let me know if you do not agree with this, that we're not talking about the service providers or the class of business that they're in but that we're talking about the technical processes, the technical services that we are looking for a technology-neutral description of this.

But still if we're using the technique that Kavouss has suggested, for example, we could have examples of technology to illustrate what we mean by the definition that should then go - or by the language that should then go into the bylaws. Alan, you've raised your hand.

Alan Greenberg: Yeah, thank you. It dawns on me that when we're looking at the two classes of service, someone may be offering a graphics design service over the web. Clearly, we are never saying we are going to be regulating the graphics design service. So at some level we could not - we don't have to differentiate because we're - the higher level service is always carved out. But since the word has two different very distinct meanings it's probably better to be clear. Thank you.

Thomas Rickert: Thanks very much, Alan. And I think that these are excellent final words on this conversation. So I think this is as far as we can get during this call. And with that I'd like to thank you all for your contributions and for bearing with us for those who are not calling this their favorite item. And let's now move to the next agenda item which is going to be chaired by Mathieu.

Mathieu Weill: Thank you, Thomas. This is Mathieu Weill speaking. Hello everyone. Our next agenda item is an attempt to summarize the discussions and the state of

play on the Stress Test 18 discussion as well as a discussion that we should have about how best to proceed with this discussion in terms of probably process.

So there's been a very long history of debate and emails within our group about Stress Test 18. And I think we need to really acknowledge the contributions - continued over the history of this group from the Stress Test Working Party and in particular Cheryl and Steve in trying to adjust to the various positions expressed on this topic and being flexible about the way to accommodate this into the various reports that we've come through and the latest discussion.

So this debate has really been circling about - it was first about the relevance and the rationale of the stress tests. It's now I think somehow quite clarified. There's been a lot about the definition of consensus within the GAC. And about potential differentiation of treatment of advice that are supported by consensus or not.

If we focus only on the recommendations that are stemming from the stress tests, there is - we have - there was a recommendation in the first public comment. It had been significantly reviewed for the second public comment in August after fruitful discussions took place in the Paris meeting.

In the second public comment this proposal drew a significant number of comments a majority of which were in support. But there were four strong objections from governments and which were later joined by others in the debate but after the public comment closed. There was very significant engagement taking place in Dublin around the GAC meeting. And this demonstrated the willingness to engage in discussion at a more appropriate

level. And in Dublin when we discussed the item in the CCWG we decided that we would wait for GAC input before considering our options.

After Dublin probably a week or 10 days ago, Brazil introduced a proposal to our list and this stemmed further debate. And I know that during the IGF in Brazil some discussions took place between various stakeholders, not - in informal manners. But my understanding is that the gap is not yet fully breached.

So we have to make a decision about the way we are going to address this topic which had been for - in our scorecard it was mentioned as a standby. But I don't think we can afford to keep that status and it's now important that we discuss how to move forward.

This is especially important because obviously this issue is going to be looked into very carefully in Congress and by the NTIA. But also, and I think it's worthwhile reminding is in many other countries where this topic has been given a lot of attention and we need to ensure that the consensus we are getting is sufficient for the transition to be recognized globally.

So in looking at the various discussions, especially the latest ones, I think we should not underestimate the level of commonality that exists on this topic. The - number one, I think everyone has recognized that the GAC should define its own rules. Everyone has recognized the value of working by consensus including within the GAC. And that has been a strong input from the GAC.

No one is suggesting in this debate that GAC advice should be based on simple majority. It has been stated to the contrary by many. Everyone has agreed, as well, that GAC advice needs to provide clear rationale. And finally,

the ability for the board to disagree with GAC advice was repeatedly recognized once the board and GAC have tried to find a mutually acceptable solution. So that particular point is certainly something that is not being challenged in this debate. So that's still - that's a number of aspects that are getting common views.

Where different views can step in is whether or not the - a definition of consensus should be provided in the ICANN bylaws, whether or not the absence of objection is the only acceptable definition of consensus for that purpose, and whether or not that part of the latest input from Brazil through for the board to make a decision to act in a manner that is not consistent with GAC advice, should be based on a 2/3 majority.

I'm hearing someone so please mute your mic. I'm almost done with my introductory remarks. I promise I'm going to open the floor. So those are the key items where agreement has not been reached so far. And we need to probably look at how we bridge this gap so that we have a consistent proposal.

In terms of way forward, I think there has been several proposals on the table so far. We, as co-chairs we think it would be appropriate to convene a small group of the - some of the key players obviously would be open - to assess existing options in the areas of agreement and disagreement so that the whole CCWG can be provided with a pure baseline of positions around the table.

And a list of options. And then we would have to discuss them and assess the level of consensus to define how - what is the way forward for our third report. So our proposal would be to set up quickly this small group to prepare a clear and comprehensive document that would serve as the basis for assessing this way forward as a group. And that's the proposal that I would put up for discussion right now. And obviously if the summary that I have

provided draws any significant comment or dissent please that's also the right time to raise this issue.

And with that I think that Thomas Schneider has raised his hand so, Thomas, please.

Thomas Schneider: Yes hello, can you hear me all?

Thomas Rickert: Yes I can hear you now.

Thomas Schneider: I'm in Brazil at the IGF and it's four o'clock in the morning so I hope my (unintelligible). First of all thank you for the discussion (unintelligible) a few comments regarding the GAC communiqué and also the proposal (unintelligible) discussion on the list.

So first of all - in case that was not clear I think we should note that the GAC has (unintelligible) intense effort to come up again with (unintelligible) working party communiqué are elements in which the GAC agrees that these are elements that should be the basis of a solution on the (unintelligible) and others have clearly indicated on CCWG calls and (unintelligible) that they will not - they didn't understand or didn't (unintelligible).

And many have expressed their un-satisfaction with the fact that (unintelligible) a number of GAC members have (unintelligible) so there is a clear expectation that (unintelligible) GAC members and also others who support (unintelligible), this is part number one.

And with regard to (unintelligible) there is an attempt from the GAC...

Thomas Rickert: Thomas? Thomas, it's - the audio line is very difficult to hear. And - is there - so I don't know if there's a way for you to get a better audio line and maybe we get back to you or maybe if you want to summarize your key point so that we make sure that the whole group really understand where you're heading at because I'm sensing in the chat that it's difficult for people to understand right now.

Thomas Schneider: Okay well I'm in a hotel room in Brazil so I don't have any other audio line but maybe (unintelligible) if I speak more slowly. Can you understand me now?

((Crosstalk))

Thomas Rickert: For me...

((Crosstalk))

Thomas Rickert: It's average. But...

((Crosstalk))

Thomas Rickert: ...in short sentences it can be I think a bit better.

Thomas Schneider: Okay, let's try it, if it doesn't work please tell me. Okay so was referring to the fact that the GAC (unintelligible) that its concerns which are shared by also members of the community from outside the GAC and is truly reflected this time in the third report.

And I was also saying that the GAC consensus input to the CCWG via the GAC's communiqué was meant as (unintelligible) elements that the GAC



agreed on that should be part of a solution on Stress Test 18. This is a compromise that is based on the fact that some governments did not - or many governments, actually, did not see the - a reason or relevant of the Stress Test 18 and of the outcome so there has been a lot of (unintelligible) actually from both sides in the GAC towards consensus elements so there is an expectation that these consensus elements are taken into account in the third report.

What - can you understand - follow me so far?

Thomas Rickert: So far you've said that there's an expectation that the GAC communiqué from Dublin is taken into account in the third report.

Thomas Schneider: Yes, okay. And the proposal that (unintelligible) is a proposal or it's a start of a discussion in the CCWG triggered by Brazil and now followed up by a lot of other people that these elements should be turned into what I would call an alternative version, an alternative formulation of Stress Test 18 and the (unintelligible) bylaw changes for the third report. And this is a first attempt of Brazil. Others have joined in so the discussion is ongoing. So I think we should build on this.

As I said, the Brazilian proposal is - it's a proposal from one country to start the discussion based on the elements of the GAC advice - the GAC communiqué. And actually I would think it's a good thing - your proposal since it was (unintelligible) maybe a constructive one to use in the short time that we have between now and the finalization of the third report to engage in such a discussion and try and come up with an alternative text to the existing Stress Test 18 its rationale and also its outcome.

I stop here for the time being and I'll try to communicate also on the Adobe because I think it will be easier to understand for everyone. Thank you.

Thomas Rickert: Thank you very much, Thomas. And thanks for your comments - your kind comments on the approach. Pedro, you're next. Pedro? We can't hear you so far. If you are speaking, Pedro, we still cannot hear you. Okay I'm seeing that you are typing in the chat, you have a problem with your microphone.

Okay, Pedro will try to come back. Are there any other views on either the summary or the proposed approach? Greg, would you like to chime in while Pedro is trying to reconnect? Greg.

Greg Shatan: Sure. Thanks. I think, you know, looking at Pedro's - or looking at the - actually, yeah, Pedro da Silva's suggestion of language I think that with one exception where the issues are more around drafting, maybe the removal of a words, "will make every effort." But otherwise I think we're talking about drafting except for one kind of very clear and essentially binary issue which is the request new to this group, although not the first time that ICANN has considered the concept of a 2/3 vote to reject GAC advice or at least GAC consensus advice.

And I'm not sure what large or small group can kind of - what small group can do much with that as this group as a whole can't do. And that's kind of a fairly, you know, clear issue. You know, the GAC itself has reached consensus that it would like to have that considered but I don't know if anybody - any other group has reached any level of support for that. It just seems to me that that - the rest of it I think is some drafting concerns but this is I think a substantive concern. I'm not sure that a drafting subgroup will really help us much with that concept. Thanks.

Thomas Rickert: Thank you, Greg. And I do agree with you that it's not a drafting issue, it's a more substantial one. And as such the - if there's a point to a subgroup it's

certainly to not to draft a particular solution because I don't think we are there yet.

But rather to provide the whole CCWG a perspective on the various options that is accessible to everyone without having been deeply involved into this in order to make a decision that is sufficiently informed by all about ways to proceed in our third report taking all the elements of the recent discussions into account. So that would be the point at least of this group, certainly not to provide a silver bullet solution or, you know, in a subgroup.

Pedro, I don't know if you have been able to reconnect? I'm trying to - I'm seeing some volunteering for the group in the chat, Steve DelBianco, Megan, Brett, okay. And Greg is right there are - thanks for counting the 86 emails on the thread but it's only thread on Stress Test 18 and I guess there are many, many more if you go back in time.

And but I think summarizing views is acceptable. It's not that complex - there are ways. And that's a challenge that I think we can take up. Okay so Brenda is trying to reach out to Pedro. But it's currently not working. So my suggestion is seeing no other hands and taking into account the chat volunteering of Greg, is that, number one, we'll call for volunteers for this group on the list and we'll ask staff to draft - to draft an email so that we can have those people who are not on the call today join it if need be.

And we'll try to organize a work swiftly so we can consider our way forward with Stress Test 18 in a timely manner once we get these volunteers. Pedro, are you with us? If not I will move to the next agenda item. Yes, we have Pedro. Please, Pedro. Okay, so that was a yes go on. So that's going to be - that's going to be unfortunately difficult for Pedro to speak up but I'm sure he

will participate to the discussion as he's been doing so far in a very constructive manner and I look forward for his contribution.

So with that I think that laying out the perspective about how to address this important discussion and I will now move actually in your agenda I will move back to Agenda Item Number 3 about the summary document. Thomas provided a very clear - a very clear overview about what happened between the first and second version. As he said, we took into account as many of the comments as possible, obviously not the conflicting ones.

What we are - what we've tried to achieve is avoid some of the repetitiveness that has been flagged in the - this version, make sure we clearly represent that the issues that are still outstanding, that's including obviously Stress Test 18, and ensure clarity about what we are reflecting about the direction of our work.

We will - comments on this document are possible until 17 UTC today. But I want to stress very clearly that we will not take line edits into account. What we are looking for, because it's just a formal update on our group, it's not the - the executive summary, not the - it's not the final report, and what we are looking for is whether there is anything that is misrepresented from our proposals, that we need to check.

And that the type of comments we're looking for, if need be obviously we're not looking for extra work. Staff has been doing an amazing job at taking all the improvements into account in a very quick turnaround. And I think they really, really deserve our applause for that. So the point of this agenda item is really to flag any potential issues with this formal update document and ensure we have clarity on this.

And I see that Kavouss hand is up so...

Kavouss Arasteh: Yes, yes...

((Crosstalk))

Kavouss Arasteh: ...my hand is up. Yes, my hand is up. Mathieu, I - since 10 minutes ago I want to talk. The document of Brazil perhaps reflect the views of Brazil. In the GAC if you look in the communiqué there is the last paragraph mentions GAC (unintelligible) to discuss the matter with a view to find a more reasonable solution which satisfied everybody. Nothing has been done by GAC up to now.

They just concentrate on what they sent you months ago. This is not what is expected. Thomas Schneider is expected to convene in one way or other, (unintelligible) a group meeting in order to come up with a (unintelligible) definition or description of Stress Test 18 which satisfies all concerned parties, GAC and non GAC. This is still pending in GAC.

But we do not expect something that the GAC has not done his job yet. This is unfortunately missing from him. Brazil sending his own view, which is part of the communiqué. But please read the last paragraph of communiqué and ask Thomas Schneider what has been done on that paragraph. We cannot stick on one single view. We have to work (toward) each other.

We have to find a consensus, a solution and agreed. So and then we expressed that the communiqué is the result of that discussion yet to be carried out to cross community working group before you publish your third published comments. That is missing. Please call or tell Schneider, I do not whether

Thomas Schneider hear me or not, but that is something yet to be done. I'm sorry to come in because I'm on audio only. Thank you.

Mathieu Weill: Thank you very much, Kavouss. And I think this call is proceeding very much like our group with it's not linear, it's going back and forth and that's what we could call agile meeting management because now we have Pedro and maybe Pedro can speak to it as well. Pedro.

Pedro da Silva: Yes, I think you can hear me now.

Mathieu Weill: Perfectly, Pedro.

Pedro da Silva: Okay. Thank you very much. I'm sorry for the problem. Well basically I think Thomas said most of the things I wanted to say. Just to - wanted to reiterate the fact that our proposal has been made with the intention to translate into concrete bylaw language the requirement - the consideration to statements made by the GAC in the communiqué. And I wanted to stress that these considerations that have been put forth in the Dublin communiqué have been based on requirements or on consensus.

So basically all governments that were in the GAC session devoted to this in Dublin agreed to that language meaning governments that were originally in favor of Stress Test 18 and those who were not a compromise solution has found this language to be acceptable.

So I think this is very important to stress so - and I really truly hope that this language will be used as a base for discussion within the drafting group that is going to be set up now. By the way, I think that is a noble suggestion, I really think it's a way forward. And I'm happy to be part of it.

With regard to Kavouss comments right now, if you look at the precise language of the communiqué you will find not only the sentence that the GAC will continue to work on the issue but it also clearly states that GAC members will continue to work within the CCWG to finalize the proposal for the accountability and this includes of course also the specific issue of Stress Test 18.

So based on this spirit that we have Brazil as the CCWG participant as they tried in good faith to provide language that would initiate the debate and really come up with an alternative spec for Stress Test 18 that would, let's say, take into account all the concerns that have been expressed by all the stakeholders so far. So that's it. Thank you.

Mathieu Weill: Thank you very much, Pedro. And I'm glad we managed to reconnect you so that you can state your view here. So I think we had turned the Stress Test 18 page hoping for an ability to close this in the next, I mean, shortly. Regarding the document - the formal update document, I'd like to restate what I was saying earlier that my edits are not what we're looking for but rather a potential issues of representing equitably our proposal since it is an update that we're providing in order to engage and reach out to the community and facilitate understanding of the progress we've made in Dublin.

And remind that the deadline for such comments will be set at 17 UTC today so that we can publish in the proposed timeframe of Sunday. I'm having some difficulty with my AC room, it's now back. Kavouss, is that an old hand or a hand related to this summary from the document? Probably an old hand then. Tijani, you're next.

Tijani Ben Jemaa: Thomas, (unintelligible) a few hours ago the modified text, I am afraid I didn't receive it. I don't know - there is perhaps problems of email but I didn't receive it. Can you please send it again?

Mathieu Weill: What we'll do is we'll - if we put the - I think it's on the archived on the mailing list obviously so can we - can staff please paste the link in the chat? Tijani we will issue it again anyway for you. We can do that in private as well if you have...

Tijani Ben Jemaa: Thank you.

((Crosstalk))

Tijani Ben Jemaa: Thank you. Thank you very much.

Mathieu Weill: And, Brett, I think you were commenting earlier in the chat about previous comments not incorporated into the draft. I know - I had paid attention to your comments and thought they were incorporated. So maybe if you could be a little more specific about what comments you think has not been taken into account that would be appreciated because I do remember looking at (unintelligible). But they are supposed to be taken into account.

And the (unintelligible) language I don't think - we have double checked that it did not mention human rights protocol so I'm - I suggest we take offline where it does because our intention was not - was to align with the latest discussion and you were right to mention that there was mention of this. And we couldn't find it and I know Sabine is confirming that she cannot find it either. So maybe there's a version issue here. But your point was well taken.



If there is no other comments I would like to now turn back to Thomas for AOB including remarks. Thomas.

Thomas Rickert: Thanks very much, Mathieu. And this can likely be very brief. Let me ask you whether there are any comments or any AOB for this call? Kavouss, I trust that's an old hand? So with that we can express our gratitude to you by closing this call early.

And we would like to continue our conversation with you during the regularly scheduled call next Tuesday. We will accept, as you know, comments on the updated document until 17 UTC today so we're going to publish the document as announced. And we're looking forward to continuing the conversation with you next Tuesday. Thanks everyone. And bye for today.

Mathieu Weill: By everyone.

Tijani Ben Jemaa: Thank you, everyone. Bye-bye.

END