

**ICANN**

**Moderator: Brenda Brewer  
November 24, 2015  
12:00 am CT**

Coordinator: The recordings have started.

Thomas Rickert: Thank you so much. And as usual we would like to do the roll call by capturing the attendees in the Adobe room. Anyone on the phone line only?

Julie Hammer: Julie Hammer.

Thomas Rickert: Hi Julie, welcome. Thanks. We will note your participation.

Malcolm Hutto: Malcolm Hutto. Hope to join the Adobe room shortly but currently only on audio.

Thomas Rickert: Great. Hi, Malcolm. Anyone else?

Mathieu Weill: Thomas, this is Mathieu. I have been informed by Sebastien Bachollet that he will be on audio only. But he may not be able to mention it right now.

Thomas Rickert: Okay welcome, Sebastien.

Sebastien Bachollet: Yes, I was trying to unmute my line and thank you, Mathieu, I guess you say what I wanted. I will return to my mute line. Thank you.

Thomas Rickert: Thanks, Sebastien. Welcome. Anyone else? That doesn't seem to be the case .do we have any updates to statements of interest? There don't seem to be any. I'm sorry, was there somebody trying to speak? No, that doesn't seem to be the case which allows us to move on to the second agenda item. But before we do let me just briefly say that we hope we can conclude this call in the envisaged timeframe of two hours but we think that, you know, when prepping for this that if we can resolve remaining questions by going a little bit into overtime we will do so and drop the call that has been announced for Thursday.

You know, if we see that here is material disagreement on individual points that can't be resolved by going into overtime we will try to stop that but in the absence of that we will try to get closure on all remaining aspects of our proposal during this call today. So we count on your patience and your continued devotion to the process which we've seen a lot on the mailing list and during calls over the last couple of days. I think by close, I hope you share this thought, let's try to iron out some of the remaining wrinkles and then try to cancel the call for Thursday.

Before we do we have some work in front of us and in order to get that started I'd like to hand over to Mathieu.

Mathieu Weill: Thank you very much, Thomas. And before jumping in I'd like to say that Leon is - was unfortunately unable to join this particular call so we will not benefit from his magic along this call and Thomas and I are going to try to cope without that so please bear with us as we are only two co-chairs today

and as you know a chair cannot hold on only two points, you need at least three.

So that said the - we are in Agenda Item Number 2 really looking for your feedbacks and issues to be discussed with the third draft report that you have seen on the list. It was published as planned late Friday, at least Friday European time. And it was - we received a significant number of comments and would like to thank all of you for taking the time to - of looking at this thoroughly in a short timeframe. We're aware of that.

As was mentioned in the email what we're interested in here is essentially issues with consistency of the report based on our discussions and issues of interpretation. And obviously we're not looking for line edits, we're not looking for minor details. What is of importance for our group right now is that we make sure we're all in line with the general ideas developed that no consistency issue has been introduced at the right stage. So I do hope that we can keep this at this level in this discussion on the third draft proposal. It's a key condition for us to get clarity going forward.

And I would note that we've received significantly - I mean, the comments we've received so far are took that to heart and that's very much appreciated both by us co-chairs as well as the staff incorporating the comments as we speak.

So with that said I'd like to hand over to Jordan for an overview of the discussions that took place in Work Party 1 about the comments to introduce that. Jordan, would you like to give us an overview please?

Jordan Carter: I'd love to, Mathieu. It's Jordan here, can you hear me?

Mathieu Weill: Yes.

Jordan Carter: Great, hi everyone. Jordan Carter, dotNZ, Work Party 1 rapporteur on Community Empowerment. The Work Party 1 had two calls in the last 36 hours or so which were both small calls dedicated to discussing the feedback that people had to offer on our parts of the report. And most of the feedback that has been offered has been done on email and most of it's been done on the full CCWG list.

And so most of it we don't need to discuss. Don't rely on my summary tonight being a comprehensive list of all the items that were raised and we've got time to be able to raise any other vital issues that they thought were important. What I'm going to do is just give some of the bits that stood out to me as being the most essential ones in the nature of kicking off the discussion. And we did try to make sure that we weren't going to be making decisions there but we did have some suggestions for follow up.

So one of the pieces of feedback that came through was that we talked in Dublin about having seven powers and in our five power section there are five. So the other two are related to the community IRP and the IANA functions reviews. And it was clear we needed to make sure they were incorporated appropriately in the report in a clear way. They don't go in the power section, they need to be cross referenced there if they do go there, it's all in one place.

And the issues around transparency and document inspection had been agreed a couple of weeks earlier. By the way, I'm getting quite a lot of static on this line, it may be that someone else hasn't pushed mute on their audio so if you go (unintelligible) to help make this easier for everyone else to listen to. Thanks, that would be good.

And for DIDP and for transparency really a couple of calls ago on what to put in the report there. And I'll just paste them into the chat for people to see. And in a minute I'll paste the source code - the source for that as well so I don't forget to give it to you. And so they need to be appropriately incorporated.

There was some feedback that we need to include the table of decision thresholds in the section on powers just so people can easily see what those decision thresholds are all in one place. Our lawyers picked up a couple of implementation gaps that relate mainly to decision making that I've been asked to identify. One is that we've got this fundamental bylaws provision and how we deal with that in terms of community powers. But we don't have - or have stayed silent on the matter of the bylaws.

So the proposal is that we should treat changes to the articles of incorporation the same as bylaws, in other words, impose similar thresholds and the similar co-decision process just to make sure that the fundamental bylaws can't be gotten around through easier to make changes to the articles of incorporation.

The other issue that got raised there was the issue about the scope of the corporation's activities and the suggestion that had been made when we were deciding to move from the member model to a designator model. That testing the public interest could be the result of a bottom multistakeholder process to get around the fiduciary issue.

And the lawyers I think have proposed some language for that which will be circulated I believe by the co-chairs sometime soon. And so that's a kind of two implementation details.

Another specific item that was raised in the calls was the timetable for petitions. If there's a petition to exercise the community power in response to a board decision that is announced, let's just say hypothetically that the board announces it's approved the budget and people have got significant problems with. We had a period of 15 days for petition when only one SO or AC was required to make a petition. But now we've raised that for all of these powers to at least two.

So the question was asked whether we need to extend that period and the longer you make that period the more difficult it gets for ICANN because there needs to be a delay period after a decision is announced until it's implemented in order to wait to see if a petition is going to be held. So whatever the co-chairs wanted we've got a specific proposal about how to work around that.

And the only other major outstanding item that I wanted to raise was that we had a discussion on the last call about decision thresholds and whether the powers that have four SO and ACs requiring agreement to exercise whether that's too low in a situation where possibly only four SOs or ACs maybe participating in a decision. I circulated the paper around that next week in that some points in the discussions today we should make a decision about how to approach that question.

So that's my potted summary of issues identified for this. And aside from that I don't know what else to add, Mathieu. If you want me to go into more detail of other points I can. But I would encourage people to read the summaries of those WP 1 calls to see what other issues were raised. And I guess, Mathieu, my advice would be that you invite other WP 1 participants who were on those calls to raise any other issues that they feel should be brought to the CCWG's attention.

Mathieu Weill: Thank you very much, Jordan, for this comprehensive overview. And I think that demonstrates that a thorough analysis is being conducted at Work Party 1 level. I would - from the list of issues you've mentioned can we maybe ensure we have clarity on the decision threshold paper so that we can make sure we have this item agreed on? I would probably start with that. And then we'll open for - the rest I think was really more detail so I would go on ensuring that no one has any objections to what you said or other issues. But on this one I think we need to make sure everyone captures the idea behind the decision threshold paper.

Jordan Carter: I'm happy to do that, Mathieu. And if we're going to go through that one I'd ask the staff to put that paper in the Adobe room so that people can easily see it. And if staff could also paste a link to that paper in the Adobe room that would be helpful as well. I won't start until it's available there though, Mathieu.

Mathieu Weill: Yes, that would be good. Can we have that document on? Jordan, are you able to start introducing it?

Jordan Carter: Yes, I can do that, yes, I was just going to say. So the issues here is we may have situations where only four SOs and ACs are participating in a decision. And we have a general principle that none of the community powers should require unanimous agreement among the participating SOs and ACs to exercise them. And so the original numbers in these thresholds, the four versus the three were set up when we had some ideas that there might be seven SOs and ACs participating.

And now it's looking like there'll probably be five SOs and SOs that are written into the bylaws as being able to express views either for or against the

use of these powers drawing the consensus in favor of that or objecting to it. And in that situation, four out of five is pretty tight.

So what the paper worked through is a scenario that sounded like that and that's set out in italics on the first page. The problem as I've mentioned that threshold might be too high and one way to deal with that, to lower the threshold a little bit flexibly is at the top of the second page.

And it's dealing - it says," Where only four SOs and ACs are participating in a decision to exercise the power through supporting it or objecting to it the threshold required is only three SOs and ACs in favor and no more than one objection."

And what that does is slightly lower that threshold where those decisional numbers are lower. It doesn't set a common universal threshold of three SOs and ACs for the powers, it makes sure that if we've got full participation from the expected participants we can, you know, expect the thresholds to be exactly as they stand today.

And it's a relatively simple way to do it in the sense of adding an exception without having to rewrite the table or to have multiple tables and so on. And when I, you know, the other argument - the counter argument to that perspective is that regardless of how many participate you should have to show a high level of community consensus in favor of these powers so if you can't get four in favor you shouldn't be able to use them regardless of what the circumstances are.

And in the paper I told you all that my view was pretty fine and I didn't really mind either way. I said that's split, I could see the arguments both ways. I've changed my position on that a little bit because over the past, you know, few



days as we've been working through this decision process, it's become clearer and clearer to me that the Dublin compromise in terms of increased numbers of SOs to petition and increased number of SOs to hold a call, which wasn't even there and then increased numbers again to hold a community forum, which was intended to be basically automatic after a petition, means that we've put several layers of bureaucracy, several layers of decision, several layers of consideration already in place before any of these powers even get to the decision phase.

And I fear that we've created a recipe for these powers being too hard to use. And the risk with accountability powers being too hard to use is that their intended effect doesn't work. The intended effects is to give decision makers a good reason to never incur the accountability powers. And if they are a fiction, if they're too hard to practically ever use they don't have that effect and in effect they provide a fig leaf of accountability behind which bad behavior is actually encouraged rather than discouraged.

And so given all those other changes, which are now well embedded in the proposal, my view is that we should in fact move to the slightly lower thresholds in the case where only four SOs and ACs are done. I think that without doing that we risk creating a spectacular problem of log jam especially given that that threshold applies to perspective changes to the fundamental bylaws and articles. We should not risk putting ICANN in a position where it cannot change its own rules which is what I think will be a risk if we don't adopt the changes proposed in the paper.

So that's a summary of what's in the paper and that's my personal view on the question that's evolved over the past few days. And I hope that's what you were looking for, Mathieu.

Mathieu Weill: Exactly. Exactly, thank you very much, Jordan. And indeed that's an important aspect that will need clarity on for actually the purpose of drafting the report. I see some discussion - see in the chat about this balance. We have a proposal of amendment to the Dublin outcome from Jordan. And I know Jorge is very reluctant to this amendment at this point.

Would anyone care to comment or express support or explain reservations? Chris? Chris Disspain please. Chris, if you're speaking I can't hear you. Okay, Chris is going to move to the chat to type his intervention. Jordan, could you answer Chris Disspain's question about what you call participating? I think that would be - bring clarity.

Jordan Carter: Yes, I can do that. It's Jordan here. In respect of this - in respect of this proposal that's dealt with on the second page, the participating is defined as supporting the sort of power or objecting to it. So it's designed to deal with situation where an SO or an AC can't come to a decision either way and so generally is abstaining.

And Chris types in a second option which is there's a halfway house where there are four participating; three agree and the other does not formally object. I think - I'm not sure that that's any different, Chris.

Chris Disspain: Can you hear - can you hear me now?

Jordan Carter: Yes.

Mathieu Weill: Yes.

Chris Disspain: Okay. Well it's different in the sense that what (unintelligible) suggesting it, Jordan, and I get that - I get the rationale. If I understand you correctly what

you're saying is that you drop - where there are only four you drop the thresholds to three and no more than one objection. But where there are only four there can be no more than one objection.

So my point is simply to possibly move to a sort of - if that's challenging for some to move to a compromise position which is that you could have three in favor and the fourth one doesn't formally object. In other words, they can do nothing. Again, I...

((Crosstalk))

Chris Disspain: ...in an effort to see if we can reach a compromise, that's all.

Mathieu Weill: Thank you, Chris. Jordan, would you consider this a friendly amendment, as we say?

Jordan Carter: I think it goes back the other way. So the reason to do any of this at all was to make sure you don't need unanimity. And one of our principles has been that you shouldn't need unanimity to exercise one of our powers. One of the other principles has been that you shouldn't allow any single SO or AC to be able to block the powers. And my solution prevents either of those undesirable things happening. The status quo doesn't - it means you have to have unanimity. And Chris's proposal doesn't either because it means that a single SO or AC could block the use of the power. So I don't think it quite works in terms of solving that problem.

Mathieu Weill: Thank you, Jordan. Any other views? Alan.

Alan Greenberg: Well I have a question. What happens if - my understanding of the current definition of participating is the group has not explicitly said they're not

participating so we list them and like the SSAC they have not - unlike the SSAC they have not said they're not participating. So now we're envisioning a case where three of the organizations have explicitly made a positive statement we are not participating. I guess I find it somewhat problematic that we're talking about community powers where almost half the community is saying we don't want to talk, we don't want to do this. And the document is also silent of what happens if we're down to three.

If we're down to let's say only three of the seven groups are participating the other four have definitively and positively opted out does that mean...

((Crosstalk))

Alan Greenberg: ...those three can take action?

((Crosstalk))

Mathieu Weill: That was not my understanding. I think we were talking of the particular decision, right, Jordan?

Jordan Carter: Yes, so, Alan, that's not right because I'm only talking about in this case about decisions of the five, if you like, decisional participants. The SSAC and the RSAC won't be listed as groups whose views would ever count in an authoritative way in this so it's not fair to include them in this discussion.

Alan Greenberg: No...

((Crosstalk))

Jordan Carter: What we're talking about is a situation where one of the five major SOs and ACs is unable to come to a decision within the timeframe. And in that case it goes back to Chris's first question - in that case lowering the affirmative thresholds to three.

Alan Greenberg: Okay. In that case I seem to have had a completely different understanding of what we were talking about. I thought the decision point that you were referencing is if there are only four ACs or SOs who are essentially participating, who will ever say yes, no or abstain, we're now saying...

((Crosstalk))

Jordan Carter: No, this is dealing for a case...

((Crosstalk))

Jordan Carter: This is dealing with a case by - this is not saying this is not dealing with the problem of an SO or an AC saying we don't want to participate in community decision making. This is not dealing with that case. This is dealing with a case where the five SOs and ACs are part of this system but for whatever reason because the nature of the decision that's being made, because of the issue, and I tried to give an example of that in the paper, one of those SOs and ACs can't come to a decision on this question for whatever reason.

And that's why in some ways this is still a finely grained decision because you say we designed the threshold to that, that's the point of the thresholds. And you could say, given how hard we've made all of these processes already the risk is on the other side, the risk is that we've made it too hard to use the four - the powers of four and as a result we risk locking ICANN to a situation where

it can never change its fundamental bylaws. So this is trying to deal with that side of the risk.

Mathieu Weill: Thank you, Jordan, for clarifying this distinction between SO ACs who are going to be providing inputs into each decision in this particular case which is on a particular decision whether or not how many of them we have. I think we are - we have the decision table and I really encourage you to look at it on Page 2 of your - in the document on your screen.

I would be - based on this initial feedback tempted to move forward with the proposal from Work Party 1 taking - we need to look carefully to the concerns raised essentially by Jorge about potential capture by some part of the community. But I think with three SOs or ACs already in support that is already quite a strong support and I think with the - this particular threshold applying to fundamental bylaw change this is an important aspect.

So I would say we move for that...

Alan Greenberg: Yes, Mathieu, that's a new hand.

Mathieu Weill: Oh it's a new hand, Alan, I'm sorry please.

Alan Greenberg: Yes, I've asked before and nothing has happened. We are using the term "participate" in two different ways and using the same spelling and the same word each time. If you look in the draft report on Page 10 in the middle we talk about if fewer than five of the groups agree to participate these thresholds will have to change. But we're talking about participating as the five who are listed in the diagram.

Mathieu Weill: You're right.

Alan Greenberg: In Jordan's new paper we're now talking about participating as casting a yes or a no and not an abstain. We really need clarity here...

((Crosstalk))

Alan Greenberg: ...because I'm sure I'm not the only one who's presuming we're using the word consistently.

Mathieu Weill: Absolutely. And I actually had made that note for myself in my notes that we need to use different words for that, probably there are SO and ACs who participate in the community decision making process as a whole and so an ACs do make a decision or indicate support or objections on a case by case basis we will take that on for clarification in the report. Thank you very much for bringing it up, Alan.

Alan Greenberg: Well it's more than that. There may be people who read it and presumed they understood what it meant and now it's going to mean something different so I'm just raising that red flag.

Mathieu Weill: I know. Yes, yes, that's really important for us to clarify. I haven't seen any other key topics raised at this point so I will now move to Thomas for the Work Party 2 update. Thomas. Thomas, you might be speaking through a muted microphone.

Thomas Rickert: I was, thank you so much for reminding me, Mathieu. This is...

Mathieu Weill: My pleasure.

Thomas Rickert: This is the opportunity to discuss the outstanding issues on Work Party 2. And as you will recall the whole discussion about the mission which we see a lot of traffic on on the email list started when we tried to implement and operationalize the community requirement to prevent ICANN from mission creeping into other areas. And that made us look not only into the future but also into the existing legal framework that ICANN is operating under and also some past cases.

And I'm sure that a lot of you have considerable difficulties in following the discussion which at times is focused on minute details. And we will now hear from Becky who's going to bring us up to speed on where we are with this discussion and what the options are on the table in order to get this resolved. Over to you, Becky.

Becky Burr: Thank you, Thomas. So first let me begin by saying that we've noted the various comments on the draft and we're taking those into consideration so I'm really going to focus on this one outstanding issue. But I appreciate all of the comments that people have provided with respect to clarification and details in the draft report itself and those will be taken into account and reflected.

Staff, if we could have the - I sent a deck with two slides that I - what I'm looking for is the very first slide from that deck to be shown which compares the language in the second draft proposal to language that we had spoken with - no not this chart. Sorry. It should be just a PowerPoint with one - it has two - I hope I sent the right one. Just going to check to make sure that staff has the proper slide so we can be very clear about - yes, I sent just a bit ago a two slide deck. And while the staff is getting that and putting it up - staff, can you confirm that you have that deck? It was shared to the staff accountability email list. Okay. I believe it's coming in one second.



So we have language in the second draft report that basically is language that has been around for a long time that says that ICANN has no power to act other than in accordance with and is reasonably appropriate to achieve its mission. And then also contains a prohibition on regulating services that use the Internet's unique identifiers or the content that such services carry or provide.

Following Dublin we also agreed on some additional language that has since become the source of some contention. But also includes a statement to the effect that ICANN has the ability to negotiate, enter into and enforce agreements with contracted parties in service of its mission. I'm sorry this is taking a while for the upload to come so that we can see. But if we just wait I think it'll be clearer if we have the language in front of us.

There has been quite a lot of discussion on the list about precisely what we mean by the prohibition on regulation of services that use the Internet's unique identifiers or the content that such services carry. In the current - the third draft report we also have, as you will see the language on the right side which includes a parenthetical that attempts to describe services or define the services. That parenthetical in particular has been a source of some contention as opposed to what we mean to include and not include.

In the course of discussions today on the list, extensive discussions, we have had new language proposed. I take away from this - and I would like to remind everybody that we are not proposing in this language final bylaws language rather we are proposing language that is intended to guide the drafters of the final bylaws language.

And so what I would like to propose is that we take the language minus the parenthetical in red on the third draft proposal. So essentially we accept the second draft report language and we add the following direction to the drafters which is to say we intend to include within the scope of ICANN's mission all of those activities that are currently described in the consensus and temporary policy specification of the - both the Registrar Accreditation Agreement and the Registry Agreement so that we essentially say ICANN shall not impose regulations on services that use the unique - the Internet's unique identifiers or the content that such services carry provide.

However, we mean to include this in ICANN's mission all of those things that are currently accepted as within ICANN's mission in the Registry and Registrar Agreement and that has been documented from essentially the beginning of ICANN time as within the scope of ICANN's mission.

So that's the proposal that I would like to put on the table. I think that it's - I don't think - I think that we could look at sort of a million different flavors of the specific language that dates on the discussion. The one thing that I can find that we intend to do is we intend to clarify but we do not intend to change ICANN's mission.

And in all of the formulations that we have proposed back and forth on the list people have agreed that Specification 1 to the Registry Agreement and Specification 4 of the Registrar Accreditation Agreement which contained the description of those things that ICANN can unilaterally impose on registries and registrars so long as they are developed by consensus policy would be within ICANN's mission. I think we can go to comments on this. I see Alan and then Malcolm.

Alan Greenberg: Thank you very much. In at least one case that definition is not satisfactory and it may be wider than that because I'd have to see the exact words. Number 1, there are things that are within the specifications within the picket fence that were developed prior to consensus policies. Much of Whois, for instance, predates the consensus policy, that is they are within the picket fence but they were not developed by a bottom up process. So that's problem number one. And maybe that one we can fix.

The other one is there are other things in the contracts that are not within Specification 1 in the Registry Agreement such as PICs which would be - which would mean that under those terms PICs could be completely struck and invalidated by an IRP. And there may well be other parts of the contract that are similar, they are not within the picket fence, they are not subject to consensus policy but they do potentially talk about content.

Becky Burr: Alan, if I could just respond to that? I think we need to be very clear that no matter what we are not talking about invalidating language that is in the current Registrar Accreditation Agreement or the current Registry Agreement. So, you know, we may have to have an exclusion that says, you know, provisions of the current agreement are subject to, you know, that says that they can't be subject to IRP on the grounds that they exceed ICANN's mission.

Although, I would have to say I don't think that we tested, you know, a bunch of the provisions in the discussion. And the agreement is - and I'm going to set aside PICs for the moment because, you know, what I would propose to say is we are not - none of this has retroactive impact on the language in the current Registrar Accreditation Agreement or the current Registry Agreement.

Alan Greenberg: But it would also have to apply to all future agreements where the same language or similar language is used.

Becky Burr: Well I don't think that that's actually correct and I'll explain why. So first of all I think that ICANN has the ability under the - under both Specification 1 and Specification 4 to develop policies - develop consensus policy...

((Crosstalk))

Becky Burr: ...and to enforce those consensus policies so long as they are within the subject that remit of issues that are reasonably necessary to coordinate to preserve openness, interoperability, stability and security. And I think that most people would agree for example, that the new Applicant Guidebook, you know, policy, the new gTLD policy would be within that proposal. And that's why I want to put aside the specs because I think that there are lots of provisions within respect to new gTLDs that are within the new Applicant Guidebook specification that would be included. So going forwards things would need to be included in a policy of that sort.

Second of all, I don't believe that there is any other provision other than - that anybody has pointed to that is not encompassed within the scope of - that is not included in the scope of the so called picket fence. And we've had a very detailed, you know, discussion about paragraph 3.7.7.9 of the Registrar Accreditation Agreement and Paragraph 3.1.8 of the Registrar Accreditation Agreement and the, you know, the - at least I have not seen anybody on the list - well I can't say that I've not seen anybody on the list but I think that the consensus on the list has been that those things are encompassed within the picket fence.

Thomas Rickert: Thanks, Becky. Before we move to Malcolm let's be very clear that there should be language added and I think we should maybe even add that to the chart so everyone can see it that we're not going to touch existing arrangements. This is to address the two points of concern that Alan motioned. So that is basically to protect the existing agreements. I have not heard support for perpetuating language for future instances as suggested by Alan. So let's just try to resolve this for the existing arrangements and then discuss additional requirements. But this, you know, just so that you don't go back to these points as you speak.

Next in line is Malcolm and then Milton and Greg.

Malcolm Huty: Hello. Can you confirm you can hear me off mute?

Thomas Rickert: I confirm.

Malcolm Huty: Thank you. A question for Becky. Becky, you referred to this as not being intended to change the situation with regard to existing contracts. But you also refer to just not being able to - in the situation with regard to the picket fence. And I just wanted a clarification there. Can you confirm that you are not intending to remove any rights that registries may currently have to challenge anything that may be imposed on the grounds as it's outside the picket fence?

Becky Burr: I am not proposing to change any rights that existing - that registries or registrars have under their existing contracts and that would include the ability to challenge the unilateral imposition of some obligation outside the picket fence.

So I can confirm that. It's proposed to leave the existing contracts exactly as they are and to essentially direct the drafting attorneys to embrace the - to take

the language that we have in the second draft report along with the affirmation of ICANN's ability to negotiate, enter into and enforce agreements and further enforce its mission and to embrace the picket fence that is currently incorporated into the ICANN Registrar Agreement and the Registry Agreement.

And just for the avoidance of doubt, that picket fence has been included in the Registry Agreement since the very beginning of time and has been included in the Registrar Accreditation Agreement since 2001.

Thomas Rickert: Thanks, Becky. Next is Milton.

Milton Mueller: Yes hello, can everyone hear me?

Thomas Rickert: We can.

Milton Mueller: Okay good. So I want to make it very clear that I do not object to grandfathering existing PICs even though I think that they're a bad idea, that they (unintelligible) from a bottom up policy process and then many of them, if not go outside of ICANN's mission, are coming extremely close and pressing the boundaries.

But the grandfathering I think is necessary simply to avoid confusion and disruption in the transition. But the idea that we can write language that guarantees that any future PIC will be accepted is precisely what this mission limitation is designed to prevent that we want to make sure that any requests for these kinds of agreements in the future are in fact within ICANN's mission. And if they pressure on registries to accept some kind of semi-extortion requirement to conform to, you know, extra mission kinds of activities or requirements could be challenged.

I mean, if we allow an open ended - only PICs that somebody negotiates in the future would be accepted then we have no mission limitation whatsoever, we're simply saying you can do anything, you can try to impose anything you want on (unintelligible) regardless of whether it's on ICANN's mission.

So grandfathering, yes. Any kind of a guarantee in the future, no. Every kind of addition to a contract must be subject to a mission test in the future. And I appreciate that Keith Drazek in the chat has expressed the idea that existing PIC specs - or that PICs are not within the picket fence but - and should - the next round should consider carefully whether PICs are within ICANN's mission but I don't think that's a Work Stream 2 issue.

I think it really has to do with what is requested in the public interest commitment. And so it's a case by case situation. And I think we don't want to Work Stream 2 to decide that we can blow away all of our mission limitations either, right? So I think we simply decide now that things have to be within mission. We grandfather anything that might be questionable in this round simply for the sake of avoiding disruption. And we, you know, make anybody who wants to impose certain kinds of extra additions to the registry make them pass the mission test. Thanks. That's all.

Thomas Rickert: Thanks, Milton. I think we need to be very precise on what we mean by grandfathering PICs. I heard you say two different things but maybe I'm wrong. But I guess the - I guess you said that existing agreements shall remain unaltered and that future agreements shall pass the mission test. And then at the very end of your statement you said something in the middle that where you were making reference to round one. And I think that maybe that is where the compromise could lie.

I understand that Alan's concern is that if we only talk about grandfathering existing agreements we would exclude yet to be signed Registry Agreements from grandfathering. So can we agree that PIC statements with respect to this first round of new gTLDs will grandfathered. I think that could take some steam out. And I agree that when it comes to future rounds of TLDs that this discussion needs to be in the light of the then enacted mission statement.

Milton, is that something that you could live with?

Milton Mueller: That's not something I would favor. I think that the problem, I mean, it seems that by the time we do the transition maybe all of those new TLDs from round one will be signed anyway. But if they're not I think I would not favor that.

Thomas Rickert: Okay thanks for that clarification. Alan.

Alan Greenberg: Yes, two things. Just to be clear, I'm not talking about conditions that ICANN may impose in PICs; I'm talking about the voluntary ones which are not within the picket fence, are not eligible for bottom up consensus policy creation. And I think as we go forward we better make sure that when these contracts have to be renewed, and I believe there are renewal periods in them, that we can sign the renewals.

Thomas Rickert: That's what I would (unintelligible) under the term of grandfathering so that's a useful clarification, Alan. So we're talking about round one or new gTLD program round one TLDs where we're going to grandfather PIC specs whether contracts are entered into already or yet to be signed.

Greg.



Greg Shatan: Thank you. It's Greg Shatan for the record. Becky, I really appreciate the thought that's gone into what you proposed here and the evolution even on this call to try to find the right line. So while I've been, you know, quite active on the discussion of this I think that we're at least - we're heading in the right direction or at least the direction that I can live with as we go forward with this particular provision.

You know, I think the - obviously we have to see how this kind of the instructional language lays out, you know, what it says. But it's - I am greatly heartened by where we're moving. And, you know, the interests of movement, you know, hope that we stay kind of within this particular conceptual area that we're in right now. So just wanted to say that I actually don't have a lot to say about this right now, which is probably the best thing I can say, thanks.

Thomas Rickert: Nicely put, Greg. Thanks for that. Any further interventions? You know, I think we have reached clarity on the question of grandfathering. So with respect to the proposed language that Becky was offering are there any further comments on that? Any further interventions or issues with the language proposed by Becky? And you should add the grandfathering clause that we've discussed to that language. Good. So, Becky, any concluding remarks on your side?

Becky Burr: No, I just want to thank everybody who's been working so hard on the list as this is a very difficult issue and I feel like we're - we have really clarified a lot of our differences on the issue and I hope this will be a way to resolve those.

Thomas Rickert: Thanks so much. And with that we can move to the next agenda item which is going to be chaired by - not Malcolm, sorry, Malcolm, I'm not going to put you on the spot - it's going to be Mathieu.

Mathieu Weill: Thank you, Thomas. And I am flattered to be confused with Malcolm. I don't have his mastering of the English language I'm afraid. So Thomas was speaking earlier about the last remaining item and I guess we're getting into the last-last-last remaining item with the Stress Test 18 discussion.

And as you know we convened a subgroup recently to - with the goal to assess the existing options, the areas of agreement and disagreement and provide the full group with a brief summary of views and options. And put us in a position to clarify how to move forward with the third report.

Over the last eight days we've had four meetings, four calls of this group. There has been robust email discussions on the mailing list as well. And I just - I would like to really acknowledge the efforts from many in the group, including many GAC members, to provide very constructive compromise proposals so that we manage to come out of this discussion with significantly enhanced proposals towards - in the spirit of compromise and consensus that we all strive for.

If you - so you have a set of slides which are the sort of report that's being put together very quickly after our last call took place yesterday about 12 hours ago. And so it's still to be refined in some aspects. But what you will find in there is a reminder on Page - it should be 3 - that our second report proposal was clarifying something in the bylaws that the attempt by the board and the GAC to find a mutually acceptable solution was with respect to Governmental Advisory Committee advice, that is supported by consensus, which is currently not mentioned in the bylaws.

And there was an explanation that there is currently a rule which is in Operating Principle 47 of the GAC about how consensus is understood. And it was an acknowledgement that this rule could change in the future. And that

was one of the reasons behind this to avoid putting the board in a position to arbitrate among sovereign governments. That was the key idea behind Stress Test 18 and the proposed bylaw change.

And the starting point of our report was the second report proposal as well as the facts that there has been - there had been some pushback from several governments in the public comment number two and also a very significant GAC input in Dublin where this discussion had raised very significant amount of concern within many GAC members, and as such it was agreed in our group that we had to discuss our how to best address this in order to find a proposal that will ensure that consensus is broad within the chartering organizations but also within the GAC itself. And that's certainly important.

What have we been discussing about in this group, and that's on the Slide Number 4 if you can follow. We - there's a lot of agreement in what - in our discussions. There's agreement that the GAC is - should define its own rules just like other advisory committees. The GAC is committed to consensus. And that's an agreement - a broad agreement. The working on the basis of simple majority is not wished for by anyone in the group including the GAC.

It is clear for everyone that the board has the ability to disagree with GAC advice after trying to find a mutually acceptable solution. And it's clear also that the GAC advice needs to provide clear direction and to provide a rationale and this last item was - we discussed and agreed on the way to include this in the bylaw section that deals with advisory committee in general so that's something to keep in mind when discussing the other options later on.

We had intensive discussions about the GAC Dublin input which included several of the considerations that I already mentioned plus a proposal to have

a 2/3 majority threshold for board decisions that would reject GAC advice and suggestions also to avoid having the GAC advice create new policy. And I must stress at this point that there was considerable amount of discussion with support but also resistance expressed to some proposals that were taking the 2/3 threshold into account but only for the specific consensus advice without formal objection, which is the current Operating Principle 47 rule.

And essentially so this report will be amended to make it clearer that this has been discussed. It was a proposal by Brett Schaeffer and Paul Rosenzweig essentially. It has been thoroughly discussed. And the reason why it's not in the list of the options for the CCWG consideration is that we had - we found as co-chairs that the group was too split over it to enable our - to be a basis for consensus.

So what are the options on the table now? We've sort of narrowed down the options. On the left of your - of Slide 5 you will find a proposal that was circulated by the - a group of European GAC members which basically defines that any GAC advice approved by a full GAC consensus and is stood to mean the practice of adopting decisions by general agreement in the absence of any formal objection, may only be rejected by a (unintelligible) of 2/3 on the board. That's decision threshold Number 1.

And any advice approved by GAC consensus with objections only from a very small minority of GAC members may be rejected by a majority vote of the board. And in both instances the GAC and the ICANN board try in good faith and in a timely and efficient manner to find a mutually acceptable solution. So that's the option that was circulated after a number of rounds and iterations of enhancements on the basis of a proposal put forward - it was actually an enhancement based on the Brazil proposal then by Denmark and there were several rounds. But that's where we were.

And on your right you have a proposal that was a form of compromise elaborated during the last call which is no longer mentioning those 2/3 threshold for the board because it was giving raise to some concerns. And so it's only saying that GAC advice which enjoys broad support of GAC members in the absence of significant objections may be rejected by a majority vote of the board. And so that's a form of middle ground.

Both options do provide a balance between the concern that the GAC might change its Operating Principle 47 despite a clear commitment to consensus and also between the different aspects of the GAC Dublin input which was obviously a significant step forward in the discussion.

When testing the room in the subgroup about the two such thresholds it appeared that it was raising significant concerns. There was split views within the subgroup about it. I'm on Slide 5 I should mention now. And the split views led us to this compromise option. And it was our perception that in the subgroup this compromise was significantly increasing the potential for more support and lower objection levels to the proposal. It's a sacrifice for all parties within the Stress Test 18 subgroup definitely.

It satisfies some of the GAC's Dublin input but not all. It is probably a little more flexible definition of consensus than the current practice but this is still very limited and definitely is very, very far from the simple majority concern that we had at the start. And I think this would - this proposal also enables the group as a whole to demonstrate that it has taken public comment Number 2 and the Dublin input into account before finalizing the third report.

And that is why as co-chairs it was our perception that this compromise proposal which you have on your screens on Slide 7 as well as 5, could be a

way forward for our third report because basically our discussion now should be focused on whether - what we put in the third report for the Stress Test 18 bylaw change.

And that concludes my report on the subgroup. I'd like to now take questions or expressions about how to move forward on these options which are put for your consideration now.

And, Alan, Slides 5 and 7 are identical. Could be identical. Milton.

Milton Mueller: Yes, so this is Milton Mueller. I think it's pretty clear that most people don't view this compromise as acceptable, either one of them. I mean, neither one of them is dealing with the real issue which is that you're putting the GAC in a position to have a majority, however large as states, essentially override the views of another group of states.

And this not only puts the board in a very difficult position but it also is extremely deleterious to the bottom up policy making process in the supporting organizations and particularly the GNSO because, you know, advice gets its force not simply from the fact that it is not overturned by any particular majority of the board, frankly I don't care whether it requires a 2/3 majority or not. I think that's something that we can offer the GAC as a compromise.

But when you call something "advice" it sets into motion so many processes and commitments and requirements that it essentially holds up in the game theoretic sense, holds up the policy process. And so before you call something advice of the GAC it really has to have full consensus. This is a requirement not only for the supporting organizations that make the policy which then may have to be completely renegotiated and changed on the basis of this advice.

It's necessary for the board so that it's not brokering, you know, positions of different factions of governments. And it's necessary for the governments because they're all sovereign and they all should not be bound by policies that they didn't support. So I can't understand how, you know, creating a two tiered advice system and having different board vote thresholds that simply doesn't - that makes the situation worse, that's in my point of view.

And then the so-called compromise proposal is just so vague, the idea of broad support which basically fudges the issue of whether you're dealing with full consensus as states should be doing or some kind of a majority is - it's just not - it's not resolving that question. It's kicking a can down the road.

Neither one of these proposals - and this is something I just don't see the chairs addressing - neither one of these proposals is going to make it through the US Congress. So why are we wasting time on proposals that simply aren't viable in the process?

Mathieu Weill: Thank you, Milton. Just for clarity, and I do agree there's room for interpretation on the turns and that was subject to lengthy discussions about the ability to provide absolutely clear definitions and at the same time respect the nature of the GAC as it is now and I think that's the best we can achieve.

I would note that the second report from the CCWG, which is the baseline, also does not provide any perfect discussion about what's a - what's a consensus position or not and that's something that we have all around within ICANN and including in this CCWG about a definition of consensus which is not embedded into particular figures. So, yes, we haven't been able to solve that at this point. And certainly that might be something for the future.

Greg.

Greg Shatan: Thank you, Greg Shatan for the record. I too have, you know, significant problems with both of these proposals. And this is a case that I have run things by members of the constituency of which I am a member with similar reactions. I think that the ambiguous language regarding something that is less than full GAC consensus which is in both of these two proposals is extremely troublesome, essentially, you know, heads us down the road toward rough consensus in the GAC and having rough consensus advice being given the due deference of the mutually acceptable solution if it is rejected or if there's an attempt to reject.

To my mind that's really something we should avoid. Now the 2/3 vote issue is one that I have also been very uncomfortable with but frankly if we are looking for some compromise to make saying that basically taking the European GAC members' proposal but striking the second bulleted paragraph regarding non-full consensus advice would be something I might try to live with and sell as much as I don't love it. But I think it at least provides and keeps clarity and it also makes it clear that anything less than full consensus advice does not get due deference.

The 2/3 vote as has been pointed out is only two more board members and I, you know, would look to board members to discuss this. But my general understanding is the board, you know, tries to work toward unanimity, may not end up with, you know, split type of majority votes very often anyway. So as regards kind of various relatively unpalatable alternatives I think the most palatable alternative is to allow the 2/3 vote to be in there. We'll see what reactions to that are down the line especially once it leaves the ICANN universe. But that's what I think we should do.



Mathieu Weill: Thanks.

Greg Shatan: Yes.

Mathieu Weill: Thank you, Greg. And it's good that you mention it - this proposal that would keep the 2/3 but only in a case where there is no formal objection within the GAC and it gives me the opportunity to say that it has been also discussed several times in the subgroup and it's raised very significant concerns so the group was very split on that and that's the reason why it's not here. I don't think it can be considered as a way to address the concerns that we've heard from the GAC based on the second report. And that was made very clear in the group by many GAC members.

And I would love to have a clear and perfect solution that addresses everyone's concerns but I think that's probably not the one. Are there any other views on this? So far I've heard only people who were pretty vocal in the Stress Test 18 group and mailing list in the calls and the mailing list. Anyone who was not part of this group who wants to give a view?

Okay, Brett, you hardly clarify as not being active in the subgroup but certainly please share your view.

Brett Schaeffer: Thank you. I just wanted to make a brief intervention. I hope that these are not the only two options that are going to be offered here because clearly, based on the comments and by both the email and in the chat here there seems to be considerable dissatisfaction plus the fact that the board itself weighed in today and specifically said that they would not be in favor of GAC advice that was sent to them, excuse me, absent consensus, which used the UN definition which is lack of formal objection.

I made an offer previously and in the chat to resolve this by replacing the words “of significant” with the word “formal.” I think that would resolve it to everybody’s satisfaction except for obviously some people in the GAC. Thank you.

Mathieu Weill: Thank you, Brett. Keith.

Keith Drazek: Thank you, Mathieu. This is Keith Drazek. Hi, everybody. And apologies for my voice, dealing with a little bit of a cold and the fact that it’s early hours. The suggestion that I made in the chat - first let me just say thank you to the co-chairs, thank you to the members of the GAC, thank you to everybody that’s participating on this very difficult issue in the Stress Test 18 subgroup. And I would like to thank Thomas for his suggested compromise language that we see now on the right side of our screen of the two choices that are presented.

And I think that if we can agree to replace the word “significant” with “formal” in this construct I think this is a compromise proposal that can lead us to a solution. I think there’s a really - obviously this is a difficult and a very challenging situation that we’re dealing with. But the term “significant objection” is I think a bit too ambiguous for many. And I think the recognition that formal objection is simply - it’s a more clear way of giving everybody confidence that this language can be managed appropriately and that I hope that it would address the concerns raised by the board in their recent submission.

So I’m suggesting a friendly amendment here. I don’t know if it’s possible or not. But we replace the term “significant objection” with “formal objection” and we find a way to move forward. Thank you.

Mathieu Weill: Thank you, Keith. I would note that formal - making the word “formal” would be exactly the same words as the existing Operating Principle 47 which has been the source of some concern from GAC members and I’m noting feedback on this in the chat that it’s not considered friendly by many in the GAC. And so I’m not sure that would work.

Izumi.

Izumi Okutani: Thank you. Hello everyone. So I’ve noted the observation by Mathieu that this replacement of “formal” with “significant” would not be considered as a friendly amendment. Well I don’t have a specific suggestion to address but in terms of like simply the sentiment I do support Keith’s suggestion to replace “formal” with “significant” it seems to add more clarity. And given that this would still cause concern for the GAC colleagues I unfortunately don’t have a specific language as an alternative. But I just want to express the support in terms of the sentiment.

And I’ve also shared on the principles the ASO think is important in considering this issue within the Stress Test 18 group but I want to share this again with this wider group. And I think it’s quite important for the CCWG that we actually maintain the influence that the GAC has on the board advice as it is. And we don’t significantly make changes to this to this existing practice. And it’s quite important that GAC has the ability to change and define consensus in the way that it wants.

But at the same time it shouldn’t actually change the status quo where in terms of the things that the GAC is able to influence the board in its advice. So we totally support giving more clarity to the existing practice but I don’t think it should change the way it is from the practice that we have. So I’m just sharing

the basic ideas and principles behind a way forward that the ASO would be able to support.

And then in terms of the two options, I think that the compromise proposal would be much closer to what we would be able to support. So we would like to explore in refining language based on this compromise proposal. Thanks.

Mathieu Weill: Thank you very much, Izumi. And indeed what your rightly point out is that at this point of the discussion on such a tricky issue we need to really look not for the perfect solution which is something that is certainly not going to be achievable in the consensus manner but really apply the die in the ditch test, as we say. Milton, you're back for a second intervention please.

Milton Mueller: Yes I just wanted to address Keith's proposed amendment. And I think we're forgetting what Stress Test 18 was about and we're getting hung up in the language and in trying to make everybody happy when that probably can't really happen. The simple fact is Stress Test 18 was about the problem that the GAC could change its operating rules in a way that made its advice not require full consensus.

And the compromise proposal without Keith's amendment does not pass that stress test. And with Keith's amendment it seems to be the status quo that is that the GAC requires consensus which apparently is not - not acceptable to certain members, not all, but certain members of the GAC. So I don't think we're going to achieve, you know, agreement on all sides. There's not going to be some magic solution. We do have to make a choice here. And again I would just say (unintelligible) opinion here is that we want something called GAC advice to have full consensus.

Mathieu Weill: Thank you, Milton. Okay what I would like to do now is get the temperature in this room about the compromise proposal to assess - help us assess as co-chairs where we are standing. I want to say that it's called a compromise proposal for a reason. It certainly implies sacrifice from because it's from the government side because it's significantly influencing the margin of maneuver and flexibility for the GAC to define its current Operating Principle 47 and it's also a significant step back from the Dublin input.

On the other side, yes it's also not fully addressing the expectation and wish that we would have perfect clarity on the GAC's internal rules. And it - but it's still upholding the key premise that it is not - it is addressing the concern about simple majority voting. So it's really a form of compromise. So I would like to get input and especially from members of the CCWG to assess whether - where we stand before we make what is going to be a very difficult call anyway for the co-chairs.

And a significant one because it's been highlighted several times, it's going to be - it may be a key issue that determines the ability for our group to get support from the chartering organizations but also later on in the process. So I'd like to get expressions of either - of support but probably more importantly if there are any members of the group that would object to the compromise proposal and couldn't live with it and would die in a ditch for that, I would like to - this to be mentioned now in the room.

You can use green ticks and red crosses so that we can have a full view whether you're a participant or a member. And we'll try and look at this in detail later on. I see Jordan can live with uncomfortably. I'm not seeing any green ticks or red crosses so far. I have a couple ones, Robin is expressing objection. I think Brett's objection as well. And we see this...

Alan Greenberg: Mathieu, it's Alan. Can you please clarify what the tick means? It wasn't...

((Crosstalk))

Mathieu Weill: Ticks mean - green ticks can live with the compromise proposal; red cross means object to the compromise proposal.

Alan Greenberg: Okay so you're not asking for...

((Crosstalk))

Alan Greenberg: ...a preference, you're asking purely about the compromise.

Mathieu Weill: No. Absolutely.

Alan Greenberg: Thank you.

Milton Mueller: Is this the compromise as amended or just as it is on the...

Mathieu Weill: Compromise as it is. I note Sam objection. Thank you. Athina. Okay and significant amount who can live with. Malcolm's objecting as well. Okay so if I want to summarize at this point there's - we have 17 agree and 8 disagree. We have in the disagreement we have Robin, who is a member; we have Sam who is staff liaison; and we have a certain number of GNSO-related participants as well. And I noted Chris Disspain, I don't know which was the hat you were raising, Chris, whether it was at a ccTLD manager or as a board member but I took note of that.

And I note that some who were expressing some support yesterday changed their mind, I'm thinking of Greg for instance. Well that's going to be quite a

difficult call. I think we have all the information we can have on this. Honestly with this kind of temperature in the room I'd say the co-chairs - the conclusion would be that the co-chairs will confer and assess what's the appropriate way forward based on this and report on that later on in a few hours we'll - I need to discuss with my fellow co-chairs on that before we make a call.

And I see Alan's hand is raised. Alan.

Alan Greenberg: Yes, Mathieu, if you were presenting these two options for the CCWG consideration, shouldn't you ask the same question on the left hand one?

Mathieu Weill: I could but my expectation is the that level of support would be lower. And as such I don't think it's going to help much.

Alan Greenberg: Okay.

Malcolm Hutty: Thomas, what about - Keith's alternative? There have been a number of people that said they objected that would support Keith's alternative. Perhaps you could test whether there were those - whether that would solve the problem or whether there was continuing objections...

((Crosstalk))

Mathieu Weill: Malcolm, I understand that. We - based on the input we got so far in the subgroup it's our understanding that it would not bring on board any of the adverse feedback we got from the second report. So I don't think...

Malcolm Hutty: Okay.

Mathieu Weill: ...we'll certainly get some support but it's going to be a split between - I mean, we're not gaining anything on the GAC side when remember we need to address the concerns that were raised in the second proposal in Dublin from the GAC side. So that's why I'm not testing the temperature on that and so that's - yes. I'm trying not to multiple the number of temperature taking as well because that's creating confusion. And so that's my concern.

So that's where we are now. And I would go now for the next - so as I said, conclusion is we need to confer with the other co-chairs - the three co-chairs and do our assessment job and then report to you guys.

I think that will be all for that item so far. And, Thomas, would you take over for timeline?

Thomas Rickert: Sure. Thank you so much, Mathieu. And with respect to the timeline we would like to briefly update you on where we presently are. We have been, you know, there has been obviously some tension surrounding the timeline, there's been a lot of exchange on the email list and what we can say now is that during SO AC leadership call that took place yesterday, Fadi conveyed some information about the next steps and the overall timeline.

As you know, we will - or the last step before we move to implementation of Work Stream 2 recommendations and working on Work Stream 2 recommendations is that we pass on the recommendations to the ICANN board. And after that the board will pass onto NTIA. NTIA will need to evaluate the proposal or the, you know, the overall package and then it's likely that the dotCom Act will be enacted in December and that there will be a time period in which Congress is in a position to veto the recommendation.



And the overall timeline projected back was from the end of the first extension of the IANA functions contract so we need to count backwards from September 2016. And from we heard now the congressional calendar has been published and that shows the calendar to be a light calendar, I think that's the term that's being used, i.e. there are only a few days where Congress has meetings which means that there is a longer period of time that is needed for the 60-day objection period than in other years.

Also, NTIA will need 60 days to evaluate the proposal as a best case scenario reportedly and in case there are - there is a requirement for them to get legal advice from other parts of the government or where questions need to be answered that could extend to a 90 day period, which leads to a situation where we have to get the recommendations from the CCWG approved by mid-January.

And according to the current timeline that is something, you know, we are a little bit past that with January 22. And we will certainly not change that. But this is to give you a little bit of context why we have been asked or why we want to deliver on the promise of making the overall timeline work. And that's actually something that has been - that hasn't been objected by the SO/AC leaders yesterday.

There also has been some comment in the call yesterday that delivering by the timeline should be feasible but that particularly there will be a crunch towards the end of this year but what we've heard is an overwhelming support of good faith attempts to make this timeline work.

So with that we would like to open it up for questions and comments but before we do so let me just note that at the moment we are on track with

detailed timeline that we have presented so far. We think we can stay on time with the existing planning. Alan.

Alan Greenberg: Thank you very much. You or someone said words at some recent meeting that we really need to identify the problems that will stop the ACs or SOs, the chartering groups from ratifying so that the proposal - that goes forward will not have a lot of substantive comments.

We received another missive from the board today which implies, if certainly the way I read it, that they're likely to submit a comment in the middle of December which will probably strongly object to at least a few things in the report - in the proposal. And since the board ultimately is the group that has to pass the bylaws, that's not an insignificant issue. How do we foresee incorporating or addressing those things if indeed they are positions that strongly differ from ones that we've come to? What kind of magic is going to happen in the time between Christmas and New Years to allow us to suddenly fix the report?

Thomas Rickert: Alan, I would strongly advice we don't speculate over what the board might or might not be saying. Certainly the board's input, which was clearly tagged as preliminary input, needs to be analyzed and discussed. And I think we need to reach out to the board to understand better how we can, must or should react to the board's comments.

Ultimately, you know, we're trying to come up with the solution that is suitable for everyone. But we haven't seen other groups' comments so far either. So I would be hesitant to single out the signals that we're getting from the board at this stage. You are right though that we need to understand as early as potentially practically possible from the chartering organizations in

particular whether there are reasons for them to reject one or multiple of the recommendations that we come up with.

And if that were the case then we need to discuss with the whole CCWG and make adjustments to the report that are - that are capable of bridging the gaps between the different views. Again, let me also state that according to our charter we need the approval from five out of six chartering organizations to proceed. And I'm not sure whether the board comments so far are meant to be comments to inform the chartering organizations when they come to their decisions on the recommendations or whether that would conclude in some further escalation by the board.

You're clearly seeing from this that we're entering into the realm of speculation and I would hesitate to speculate at the moment. I think we should try to proceed as planned. Malcolm.

Malcolm Huty: Thank you. Since you've put the timeline up there for comments I would like to put on the table my previous recommendation that the public comment period not close until Friday the 8th of January. Thank you.

Thomas Rickert: Thanks, Malcolm. As you will note we have foreseen to send the amended report to the chartering organizations on January 7 so we definitely do need some time to analyze public comment. And if we want to allow for the chartering organizations to adopt our recommendations by the 22nd we need to factor in motion and document deadlines. As you know...

((Crosstalk))

Malcolm Hutter: Sorry, Thomas - sorry, I wasn't clear, Thomas. What I meant was close the public comment period on Friday January and adjust all subsequent dates accordingly. Sorry for not being clear.

Thomas Rickert: Thanks, Malcolm. That clarifies at least the request. But as I mentioned earlier, you know, we really need to keep the January 22 date for approval from the chartering organizations. And from what I heard from SO AC leaders I guess the general notion was that it was difficult for them to approve in December but that they were confident they could meet the January 22 date. Any further comment on this?

Let me also say that during the call yesterday the individual groups have been asked by - I think it was David Olive or Fadi - how this could be made workable with the processes. And there didn't seem to be pushback on achieving the overall timeline so we're confident that the component parts or the constituent parts of the ICANN community actually can deliver on that timeline.

Good so there don't seem to be any hands raised at the moment which allows me to hand over to Mathieu.

Mathieu Weill: Thank you very much, Thomas. And I think we are bringing this meeting very close to its closure with the other business. From what I've heard during this call I am afraid we will need this Thursday call for - to bring closure on the - at least a couple of items and finalize considerations of the third draft report. We have 90%-95% closure I would say. But I would hope to keep this Thursday call short but would keep it on the agenda.

Are there any other business that would have to be mentioned before we conclude? I am seeing none so agenda for Thursday will be basically only one

agenda item which will be the finalization of the third draft proposal. We will report - the co-chairs will report on our assessment on Stress Test 18. And if the analysis of comments received on the third draft show the need for a substantial assessment by the group it will be brought into the agenda. And I hope that answers your request, Malcolm.

I think in closing to this meeting, I'd say we are - it's amazing how much progress we are making in terms of approaching the third report. Yes, sticking points remain; yes, tension is somehow higher than it was and I would certainly encourage everyone to remember the spirit into which we have been conducting this work by trying to not only express our views but also listen and understand the views of the other parties so that we can bridge gaps.

And we're not very far yet it's a bit sad that some of the efforts that have been made are not fully delivering at this point. Certainly we take that very seriously now because it would be such a disappointment if for one or two items that where consensus or would be only achievable on something that would not be perfectly clear to everyone. We would miss the - we will turn this tremendous efforts that we're doing into something that is just a report and never comes into life. So really, really I encourage everyone to keep this constructive spirit that has been at the core of our efforts so far.

And make sure that we are reaching out to the community to promote it but also putting our efforts into finalizing a compromise that's acceptable for all. Holly, is that a quick other business?

Holly Gregory: First of all I wanted to just ask if there is - if another draft of the third draft report will circulate or if that's sort of it and then the next draft is the draft that goes out publicly.

Mathieu Weill: I know we had issued a timeline for that. Bernie would you - or Alice, can you answer this question? I don't have this in - with me at this point.

Holly Gregory: And then my second question was we provided comments early this morning and I was wondering if those were going to be posted to the email list. We didn't post ourselves because of the size of the document.

Mathieu Weill: Thank you, Holly. So yes your comments will be posted to the list. It hasn't been done so far because we've been working on looking at all the comments and not everyone was awake in the meantime. And just to confirm that there is no circulation of another draft to the whole group will be attempted except for some significant parts if for instance with Stress Test 18 will be. And so the Thursday meeting will be the finalization.

And the mission language obviously with - Becky is reminding me privately as well because it's been the ones we have been finalizing during this call. So with that thank you again for your commitment and to this call. And I look forward to further exchanges on the list and on Thursday. Thank you everyone. Bye.

Cheryl Langdon-Orr: Thanks, everyone.

Thomas Rickert: Thank you, bye.

END