

TERRI AGNEW:

Welcome to the Ad Hoc Working Group on IANA Transition and ICANN Accountability, taking place on Thursday, 19th of November 2015 at 1900 UTC. On the English channel we have Cheryl Langdon-Orr, Jean-Jacques Subrenat, Gordon Chillcott, Alan Greenberg, Sébastien Bachollet, Seun Ojedeji, Glenn McKnight, Eduardo Diaz, Olivier Crépin-Leblond, Tijani Ben Jemaa and Beran Gillen. Joining us a little later will be Leon Sanchez.

At this time we have no one on the Spanish channel. We have no apologies listed for today's meeting. From staff we have Heidi Ullrich and myself, Terri Agnew. Our Spanish interpreter today will be Sabrina. I'd like to remind all participants to please state your name before speaking, not only for transcription purposes but also for our interpreter.

OLIVIER CRÉPIN-LEBLOND:

Thank you Terri. Welcome to everyone to this call on the IANA Issues and ICANN Accountability Working Group – the At-Large Ad Hoc Working Group on these issues. Have we missed anyone on the roll call? Today's Agenda is going to be slightly changed, because Leon Sanchez is likely to join us in about 10-15 minutes. What we'll do is start with Item #4, the IANA Coordination Group. Afterwards we can move to Item #5, the CWG IANA, with a call that has just been completed a moment ago. We'll have fresh news from this Working Group.

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Finally we'll finish the bulk of this call discussing the CCWG Accountability, since there's so much going on in that that's happened in the past couple of weeks. Any additions to the Agenda? I'm not seeing anyone putting their hand up. The next Item is the AI that was to do with the Doodle. That's been done, and therefore we can move swiftly to Agenda Item #4, the ICG. Jean-Jacques, if you could please provide us with the latest news about the ICG, whether there are any updates for us to consider?

JEAN-JACQUES SUBRENAT: Thank you Olivier. Compared with the last time we had this meeting there has been no new development. You remember that I had sent by email to Olivier, who forwarded it to you on the list, a brief communique which had been listed by the ICG about its proposal, which had been readied and was awaiting only the final contribution from the Working Group on Accountability. Once we get that we will finalize our transition proposal and send it to the NTIA via the Chair of the ICANN Board. I have nothing of substance to add to that.

However just recently I saw something that might be of interest to you, and which I have listed with the link above on the chat, which is the report by the ICANN CFO on the expenditure related to the transition work. I found this interesting, because one doesn't necessarily think of the expenditure breakdown in these terms. For instance, there's more than 50 per cent – 54 per cent – which is devoted to external legal

advice to the CWG Transition and CCWG Accountability. That's mainly one firm I think, Sidley, which accounts for 48 per cent.

Then there's additional legal advice to ICANN which is separate from the external legal advice to the CCWG and CWG, which accounts for 11 per cent, as you can see. Language services – I was astonished but not surprised to see that it's about ten per cent. I'm not sure what education, 11 per cent, represents. But the most interesting thing I've found was eight per cent of expenditure, which is US Government affairs lobbying. Now I'm speaking not on behalf of ICG, but simply as an individual Member of that.

Because I represent, you, the ALAC, I thought you might be interested. At the last ICANN Meeting in Dublin there was at least one question, I think from [Keiran McCarthy 00:06:09] who came back on that question in his own blood, who asked very pointedly of the CEO of ICANN if he could give a breakdown of what the lobbying segment of the expenditure actually represented. We don't have all the details, but at least this is some inkling of what it's about. It's making sure that [unclear] governments [unclear] and places of influence on the hill in Washington, that as European and French, the angles are rounded properly.

There was some controversy about this, because there was some talk that some fairly well known former senior government officials were used in such a way to carry out the lobbying. I'll end my presentation

here. It was just as a matter of interest, but it's not central to the work of the ICG. Thank you Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you Jean-Jacques. Any questions or comments to Jean-Jacques regarding this presentation? I don't see anyone. I note Sébastien has put a link to the announcement with some explanation. I'm personally not surprised with the amount of the legal bill, and the legal advice I believe would probably be the additional legal advice dispensed by ICANN's own lawyers to themselves. I gather this breakdown only looks at the expenses for professional services – it doesn't include travel, ICANN in-house staff costs, et cetera. These are just external services. The total amount seems to have exceeded the amount that was originally intended for the transition.

But I note from a discussion that I have had with Xavier Calvez, the CFO, and that was on record – I believe he was speaking to Design Team O – that the current expenses are taken out of the contingency fund; that's all the additional expenses which were not forecast are taken out of the contingency fund. There will still be some funds allocated for the implementation further down the road. So that's the thought. Let's have a look in our queue. We have Jean-Jacques.

JEAN-JACQUES SUBRENAT: Just to complete what you suggested, and also in response to Sébastien having kindly added a link, I don't unfortunately have the figures in front

of me, but I remember reading somewhere that in the breakdown of costs established by the ICANN senior staff, I think that the expense of the Members of ICG meeting and travelling and all that was a fairly modest proportion of the total cost implicated so far in the transition plan. I think it is something around 20 per cent, or perhaps even a bit less than that, compared with the total cost.

I think that that is quite an interesting comparison of figure or proportion, because one would imagine that all our work – after all we are about 30 Members plus staff, et cetera – would have entailed a much greater proportion of the overall cost, but that's not the case. I'd be interested if anyone on this call has any comments about that. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Jean-Jacques. Sébastien?

SÉBASTIAN BACHOLLET: Thank you Olivier and thank you Jean-Jacques for bringing this information to us. I think it's interesting to have a look at what the money was used for. Of course, half this money was used by our two firms who are legal advice for both the CWG and CCWG. What's interesting is that some very well known names are put in the frame of education and engagement, and you can see Madelaine Albright's company and Condaleezza Rice's company. It was something in

discussion with [Keiran], who said all [that 00:11:32] certainly used for lobbying, but in fact it's not put in this part of the split of the expense.

The three companies for the US Government [first] lobbying is just [three]. I guess that's a very specialized company for lobbying. I don't know what was different with education and engagement, and in that case, but it's quite interesting. Thank you for bringing that again to us.

OLIVIER CRÉPIN-LEBLOND: Thank you for this. I have a question. I haven't looked at the exact details here, but I thought the education and engagements were also the professional services of the [Explain] company – the people that do all these diagrams and all of the visuals and all of that. Wasn't that part of it, Jean-Jacques?

JEAN-JACQUES SUBRENAT: As far as I know, the purely educational part doesn't amount to 11 per cent. It's far less than that. Maybe there's confusion, voluntary or not, between the [tasks 00:12:58] Mr. Chair as lobbying and education. I think the diagrams, et cetera, were a marginal part. I can't say how many, unfortunately, but I think it was less than 11 per cent. Olivier, if I may, and using the advantage of having the microphone right now, I would like to say again, in my private capacity and as one of your two representatives from ALAC to the ICG, I would like to point out that in the last meeting, which was extremely constructive, of the ICG in Dublin, I had to make a point towards the end of the meeting.

I made a point of stating that in the opinion of the ALAC we would have to maintain the membership and respect the Charter of the ICG going forward, until for this or that reason, it was disbanded. Now, the most obvious reason, which would lead to the interruption or the finalization of the work of the ICG would be the acceptance by the US authorities of the transition plan, but there are also other possibilities. I'm saying this as the representative of ALAC, because I felt on the part of some of my colleagues on the ICG a very, very strong [unclear 00:14:37] to create a new format, which would have involved mainly people whose livelihoods depend on the domain name system, if you see what I mean.

I objected very strongly to any such notion. I said that there were at least three fundamental reasons why it was necessary to maintain the same format throughout, until we were disbanded. The first was that we had received a mandate from the NTIA, and the mandate was not given only to the operational communities or to this or that part of the Internet community. The second reason I put forward was that we were very careful in drafting the ICG Charter to clearly delineate that although the three operational communities did in fact have a special responsibility in the implementation of the future transition plan.

It would have consequences throughout our communities, and for that reason also I argued that the composition, the parameters of our ICG should not change until it's disbanded. The third reason was that vis-à-vis the world opinion, I think it would send the wrong message to move the goalposts, in other words change the composition, after we've sent out the transition proposal, because it might carry a political message

we don't intend necessarily to send out to the public. My point is accepted, and I received very strong support from all the Members of the ICG who come from the GAC, but also from others. So following that, the position was accepted. I thought I owed you this clarification. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Jean-Jacques. That's a very complete characterization of the discussion. I have a question for you Jean-Jacques. There was a discussion of now the ICG being disbanded and the follow up for implementation actually being the result of the operational community. I gather you did say the ICG was supposed to remain around. I'm not quite sure now that you've described the position. Has the ICG pretty much terminated its work?

JEAN-JACQUES SUBRENAT: In answer to your question directly Olivier, I can answer the following. That's the very point Olivier, is that I felt – and there were movements within the ICG instigating – that some people would have very much liked for the ICG to fall into a state of catalepsy. Those who've done medicine will understand that, and for others, this is the explanation – a profound sleeping mode. I refused this, and I said that even at the level of public statements we should avoid the notion of sleeping mode or dormant mode of anything like that.

We remain – and the term I used, which was accepted was – we remain fully constituted, which is a legal term meaning we remain true to our Charter in every aspect. I think that put to rest any temptation to put the ICG to rest as a body, and to put in its place another formation, for instance, to three operational communities. That’s why, Olivier, I started a few minutes ago by giving you my personal account of how important it was to react at that moment on the last day of the final meeting of the ICG. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Jean-Jacques. I think we’ve spent more than enough time on the ICG, and thanks for defending the values you have defended. Let’s move onto the next part of our Agenda, CWG IANA. As you’ve heard, we just had a meeting taking place for the past two hours, meeting number 71, which started with a discussion on the CWG implementation update. There was an update on the Design Team that dealt with the intellectual property issues; the various principles and requirements for this. We were shown a PowerPoint of the FY17 planning.

We also had a look at the latest version of the draft Bylaws. You have the link to each one of these things in the Agenda. Apart from the draft Bylaws, which we’ve just seen this, but if you click onto the IANA CWG Meeting 71 page, you’ll have a link to the draft Bylaws as well. On the implementation update, there’s still plenty of work going on, and there’s going to be an enormous amount of work for this group to do on the

intellectual property issues. I'm not sure it's worth going into any depth into this. Regarding the FY17 planning, maybe that's the thing we should have a quick look at. Perhaps we could look at the PowerPoint. There are a couple of slides for this.

Effectively, the Finance Department has looked at the different impacts, creation of the post-transition IANA, of the financial impact of transferring the IANA operations into PTI, the creation of a new process for the IANA functions review and the Customer Standing Committee. As you know, these would be costly, first as a creation, but then also there might be a cost into running those. Then also the cost of the Bylaws writing, community powers, and the operational impacts to be determined.

The planning approach was that they would take a base approach – so this is the base – with looking at ICANN now, the IANA Department having shared resources and allocated overheads, and looking at post-transition IANA you'd have as little change as possible for the time-being, so the IANA Department would continue. There would be shared resources and allocated overheads, but there would be in addition an IANA functions review, and a Customer Standing Committee that would be created.

That's the first base with no changes, and then adding to this the costs of the further separation. So if resources were not to be shared between ICANN and IANA, if the support functions would have to be done separately, if staff were to not be shared perhaps as far as legal

staff is concerned, or as far as some common resources are concerned, they would look at the additional costs on this. then that table, which hasn't come out well at all, what the Finance Department has committed to is to do a first draft available no later than the 15th of January.

That would be looking at the minimum information required. So separation into the legal entity, it wouldn't be looking at that, but it would be looking at the standard IANA Department budget, looking at the shared resources – pretty much the base scenario – and providing high-level estimates of the overheads, assets, and IANA functions review and Customer Standing Committee processes.

Then no earlier than April 30th, when the budget would be a little more focused, plus the fact that there would be more knowledge from the accountability proposal itself, at that point they would be providing further details; the minimum being the costs for the legal form, the Bylaws, the Board composition, et cetera. Effectively, providing a lot more detail into the work and budget than they have done so far. What we've asked is they also consider the added cost if an actual separation does occur, and what the costs would be for the separation.

As you know, things have to be happening fast if such a thing happens, so that's the next stage of discussion. Then the last slide in the presentation provides more details here about the number of employees that are concerned, about the activities that are directly related or currently supported by shared resources. There's a whole list

of these, and so these are the ones that they are aware of. The question was if you think of anything else that might fit in there, then please raise it now, because there's still time for it to be done. Others have been on the call – Cheryl, Alan. Cheryl was on the Design Team O call as well. Please feel free to add to what I have just summarized.

CHERYL LANGDON-ORR: You've done a good job as far as I can tell.

OLIVIER CRÉPIN-LEBLOND: Alan, anything else on this?

ALAN GREENBERG: Not really. I have some concern on the intellectual property issues, and the depth and detail in which this has been gone into, but it's out of my level of expertise, so I'm going to sit back, wait a little longer, and see how it evolves.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Yes, the intellectual property list at the moment is a bullet list, which is four pages in length. It's in true IPR fashion. It's going to be another mission to have this one completed in time, but it's certainly very detailed, and I was also surprised about the level of detail that was there. I'm not sure how well that will be understood and followed by others on this.

ALAN GREENBERG:

The only other thing I would go into a little bit more detail on is the part we did at the end, where Sidley is drafting the Bylaws associated with the various arcane aspects of PTI and the new IANA function. I've been heard to say that the end result for the CWG was acceptable, overkill, much heavier weight than it needs to be, and those details are showing themselves, in the amount of detail that at this point may well be going into the Bylaws themselves.

I and a number of other people made some strong statements saying that they should be somewhere else. I don't much care if there are [unclear 00:28:37] changes in the Bylaws, although others have been advocating that they be a little easier, because we are feeling around in the dark and don't know quite what we're doing, but I can live with them being hard to change, but cluttering up the Bylaws with this level of detail I just don't think is appropriate.

Our Bylaws already have too much in them. But we'll see where that goes. There was a not quite universal reaction that way, and we'll see where it goes.

OLIVIER CRÉPIN-LEBLOND: Indeed.

ALAN GREENBERG: Suffice to say it was 59 pages long. That's not the actual Bylaws, but nevertheless.

OLIVIER CRÉPIN-LEBLOND: The way to Bylaw document was created is it's a matrix, basically. It looks at the review on the left-hand side, and it looks at the corresponding proposed Bylaw. They translate the CWG final proposal into each one being a Bylaw. That said, Alan, you do say it's more than 50 pages in length, and not all of their right-hand columns are filled, but I've not managed to read through to the end of this, but it seems to be so detailed, to a point where I have a feeling it's going to double the overall size of the ICANN Bylaws.

The idea was to perhaps have some kind of an annexed document, which would have these operational things added to it, but I'm a little concerned, and I do note that Christopher Wilkinson has shared with us on the call that he was concerned that these things have been untested.

All these Bylaw changes are being added in at the same time, and there certainly is a risk regarding casting those in stone, and realizing a couple of years down the line that we've made a mistake or it doesn't work, and having to extract those again and use some kind of a tooth-extracting device, or Bylaw-extracting advice to take those out if they don't work well. I wondered if there are any comments or thoughts about this? Alan?

ALAN GREENBERG: We're casting a huge amount in stone. Whether they go into the Bylaws or other documents, we've done a lot of writing in the last year plus, and the untested part of it is true for everything. There will be something to add on that when we start talking about the CCWG, because a little bomb was dropped today, but we'll wait until we get to that.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for whetting our appetite. Any other comments on the Bylaws document? Leon, I'm not sure if you were on the CCWG call earlier – you probably weren't – but there's certainly some discussion regarding Bylaws that takes place on the CWG as well. I understand there was a real push for these to be all included in there? Leon was not aware. Seun?

SEUN OJEDEJI: I was in the CWG call. I don't really think [unclear 00:33:00] I wasn't following what was on the AC chat. There was a push for including the entire contents in the Bylaws [unclear 00:33:12] position about not actually [unclear] everything into the Bylaws. However, I think it's down to the fact that wherever we put it, it's [unclear]. So the question is it's a matter of choosing the content that [reflects] the Bylaws [unclear] [unclear phrase] of what the Bylaws communicate. There was also a position... I didn't hear your position to that [position]. I think it was not heard, and I think it should be followed up. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Seun. Alan?

ALAN GREENBERG: The other thing that I don't think was mentioned – but maybe I fell asleep – and there has been a discussion on our email list a little bit about it, and the CWG is taking a poll of the chartering organizations that we extend the mandate of the CWG to oversee implementation, and that we not do it as a formal Charter change, but just get the agreement of the chartering organizations. It's currently out for discussion in the ALAC, and I presume is in other groups, and it's something I strongly support.

The concept of formally changing the Charter right now, this would effectively change the Charter, if all the chartering organizations agree, a de facto allows the CWG to continue, the concept of formally changing the Charter is something I don't want to contemplate. Some of us, the ALAC, for instance, could probably do it pretty quickly, I suspect the GAC could not, and I think the Co Chairs have taken a very wise move in doing it through a less formal process than any other one.

Because it's really important that as the implementation goes ahead, the CWG does maintain its ability to oversee and make sure that it's being done according to the original intent set out. I think the process could become unwieldy if we're not careful. Thank you.

OLIVIER CRÉPIN-LEBLOND: I know there has been some discussion on the ALAC list about this, and the question was brought forth as to why there shouldn't be an actual Charter change. Both you and I have explained that if there is a Charter change, there might be a need for a total, brand new re-chartering from scratch.

But the point that was raised by Seun, I believe, was pretty fair in that if one is to then take a softer way of adopting this – in other words not changing the Charter but perhaps providing the ability for the ACs and SOs to say, “Keep on working on implementation,” and so on, how does one reconcile this with the Charter itself? And how does one make sure that the CWG stays true to its mission? Alan?

ALAN GREENBERG: If we were some legal entity that had to report to someone else, we might have a problem, but we don't. ICANN has chosen of its own volition to have a relatively formal chartering process. The ALAC, for instance, does not have that, and the ALAC has the ability of cutting any Working Group off at its knees, should we decide that they are doing things that are not to our liking. Whether we have a formal Charter or not, we have the ability to do that. I think if the CWG were to go striding off in some direction that is not to the liking of the chartering organizations, we have effective means of stopping that.

We've chosen to be formal with the Charter, but there's nothing written in stone that says we have to. So I'm very comfortable with what we're doing.

OLIVIER CRÉPIN-LEBLOND: Any comments or questions?

SEUN OJEDEJI: Thank you Alan for raising the point. I think one of the things I think is important is that this particular process is not [unclear 00:38:19] shouldn't be seen as entirely an [unclear] ICANN process. It should actually be seen that the world is actually watching, and they are following how we stick to processes. [unclear] are actually guidelines [unclear] CWG is actually guidelines for how the CWG operates. There is a section of that in the details that [if there] is a need to expand this Charter, or expand the scope of the CWG, the Co Chairs would work towards ensuring that [unclear 00:39:04].

My point actually is that yes, I entirely support the expansion. This is not the question here. I [unclear] very [unclear] referenced it in the Charter. [unclear] CWG [unclear]. I think end users are the supporters of ensuring compliance to processes. Yes, it's really not a problem, but I'm really saying that anyhow, this expansion of scope would still go through the processes of [each document 00:39:45] shows the [unclear] is accepted. [unclear] we are talking about.

But again, I have no [reservations] about this, but if ALAC feels it's fine to go without [unclear] but I think [unclear] implications and [unclear] given to the public, who are not actually in this process, and who are not actually [in touch with] the organization. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Seun. I'll put on my hat as ALAC Chair. When I sent out the note to the ALAC I basically asked, "Is there any opposition? If there is a strong opposition then we can take a vote and we can decide that we do not ratify it, we don't agree with the change, or we can make a formal statement to the CWG." My personal position I think I've made clear. There is a large difference between giving the chartering organizations the opportunity to object and asking them to formally ratify.

I think because of the difficulty that some of the groups would have in doing that, asking for formal ratification is not the thing we want to do right now. Of course, the ALAC can, by its normal rules, make a decision otherwise. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this Alan. I have a question for you. You mentioned that it's effectively a no objection call. Can this be seen as a consensus call then, that's being asked by the Co Chairs of the Working Group? As in saying asking all the SOs and ACs, "Do you object to the Mandate continuing in the way that we're describing below?"

ALAN GREENBERG: I'd have to go and look at the words in the email again, but my gut feeling is that is what they asked, but I don't have it in front of me and I won't say that, but certainly they asking, "Is there any reason not to

consider this?” That’s the tone which I took. But whether they’re the actual words they used, I’d have to go back and check, as can we all.

OLIVIER CRÉPIN-LEBLOND: Thank you for this. I note that Cheryl couldn’t understand very well Seun’s line; it was a little bit garbled. What Seun was basically saying is he wishes to see due process being followed, because the world is watching, and therefore it would be important that things were done in the [arch 00:42:31], as such. He would prefer if there was a formal process of endorsing the activity changes, and have those into the Charter, so that the Charter would need to be amended.

That said, he doesn’t feel strongly enough so as to object to the ALAC providing its green light for the process proposed by the current Co Chairs of the CWG to move forward as they’ve presented. That’s the way forward. I hope I’ve summarized this well, Seun. If I haven’t, please feel free to come in. I’m therefore saying going once, going twice... Alan, your hand is still up?

ALAN GREENBERG: It’s not intentionally up, but since you’ve given me the floor I’ll take it anyway for a moment. [unclear 00:43:34] which battles are worth fighting and which ones you can simply say, “I can live with it.” This is one, from my point of view, that I don’t think is worth putting a lot of energy into. That may just be me.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Your voice did appear a little chopped up on my end just now, but I understood what you meant about not wanting to fight every single battle. I think we can move swiftly forward. I note Leon has joined us a while ago, and so we have the bulk of this call allocated to CCWG Accountability, and therefore I hand the floor over to Leon or Alan. Thank you.

LEON SANCHEZ: As you know, on November 15th the CCWG Accountability published an update on where we are standing now as for the progress that we made in the Dublin Meeting, and the progress made after the Dublin Meeting until November 15th. What we have on the screen is not a summarized report as it was intended to be in the first place, but it's an update on where we're standing. As you go through the document you'll see a summary of the recommendations on different issues, like, for example, the [unclear 00:45:37] is about establishing an empowered community, or enforcing community powers.

We are going through which community enforcement mechanism we are proposing for our third document. We are also speaking about the concerns that were raised on the sole member model, and why we chose to go with the designator model. With regards to the second recommendation, we are speaking about empowering the community through consensus, engaging, escalating their voice, and here we are telling the story about how through exercising the powers of the

community we would be creating the whole ecosystem around engagement, and with an escalation path that would ultimately lead to a way of [unclear 00:45:35] powers.

As I said, in Recommendation #2 you can see how exercising and enforcing the powers in this new model would work, from starting with [unclear] SO or AC, and then following the escalation path that I hope that we are all familiar with – if not, I'll jump into it in a moment – and of course, ultimately the enforcement of these powers. In Recommendation #3 we are explaining how we are going to classify the Bylaws in our next proposal. We are talking about standard Bylaws and fundamental Bylaws. This is not something that's new.

This is something that's been spoken of and that has been agreed from our first draft proposal, I think, and it's of course a reminder of how this would work and be labeled on our final proposal. Then on Recommendation #4 we have the ways of ensuring that all the community will be involved and able to participate in the decision-making process, and of course the exercising of the five new community powers.

These powers are of course the power to reject ICANN's Budget or Strategic Operating Plan, the IANA functions budget, the power to remove individual ICANN Board Members, the power to recall the entire Board, and we're also talking about the interim Board, in case the community decides to recall the whole Board – how this would be

managed and how an interim Board would be in charge of ICANN's operations in the meantime of selecting a completely new Board.

Then on Recommendation #5 we see some aspects on ICANN's mission. This is still a work in progress. What we have on this report is just a [unclear 00:49:10] of what's been going on in the group, and as I say, it's still a work in progress. We haven't closed that discussion, but we feel that we are pretty close to actually being able to close this discussion.

This comes because of several comments that have been made lately – not only by people in the Working Group but also by operational communities, the IETF through the IAB have been requesting that we update the text that defines ICANN's mission, in order for it to reflect the reality of what ICANN is so far doing in not only coordinating, but also providing support to the operational and technical communities in the tasks that ICANN carries out for them.

Then on Recommendation #6 we are speaking about the AOC. We are giving an update on where we are in regards... It's not the AOC here. It's the commitments for human rights. It was also an issue raised in the public comment periods. It was also raised within the group, and we are given a reel of how we would be including this commitment into the Bylaws, and of course how this would actually be operationalized in our day-to-day jobs within ICANN.

Then on Recommendation #7 we're speaking about the IRP, the independent review process; how we'd strengthen this process and how it would actually be operationalized and [unclear 00:51:27] escalation

path that would lead us to an IRP. Then on Recommendation #8 we are speaking about the request for a reconsideration process – how we’d be enhancing it and fortifying this process.

Then on Recommendation #9 we’re speaking about the AOC – how we’d be incorporating the different commitments made in the AOC between the US Government and ICANN into the Bylaws. We’re given, of course, some examples of how this would actually work. We are also speaking about how we’d be enhancing the accountability of the SOs and ACs, as you well know.

This has been a concern expressed by many during the PCPs, and it was also a concern raised by the advisors of the CCWG in the sense that if the community was to be empowered then there should also be a check and balance on the community itself, so we would be required to actually enhance the SOs and ACs’ accountability, not only through their constituents, but also through the rest of the community, from both inside and outside ICANN.

Then on Recommendation #11 we are suggesting some changes to the Bylaws [unclear 00:53:10] to the Bylaws response, to the stress test that has been carried out by the Stress Test Working Group. We are also speaking about Recommendation #12 about [unclear] further accountability work in Work Stream 2, which you may already be familiar with. We have a list of Items that are of course included in these updates, and that would be the task for the CCWG to carry out as part of Work Stream 2.

At this point I think I would pause to open the floor for any comments with regard to this small update that I've given. I believe that my sound is not very clear. I think it's okay now. Olivier, would you like me to handle the queue or will you do that?

OLIVIER CRÉPIN-LEBLOND: Thank you Leon. That's why I was putting my hand up – because you're handling the queue. Since it's your part of the call, it probably would be easier for you to handle it at this time. If you'd prefer that I handle it, I'm fine with that too. I had a question with regard to these proposals. As you know, this is the first real summary now that's been basically sent out, not only to ICANN but to operational communities outside of ICANN.

Just recently looking at this from a third-person point of view, in other words someone who hasn't been involved in the process, I was reading the IANA transfer mailing list in the NRO – the number resource organization; the people that deal with the IP addresses – and the first comment that was sent out, after Seun forwarded this formal update on the progress made in and after ICANN 54 in Dublin, the first thing that was received was a note from Vint Cerf, who mentions verbatim, "The proposals for community powers are inimical to any sensible operation of ICANN as a California corporation.

"It is not reasonable to ask the Board to restrict or allow others to aggregate its powers in this fashion. The Board is already selected by a community process. The proposal sets up a conflict between two

authorities. This is a non-start in my opinion.” That’s Vint Cerf, who is former Chairman of ICANN. If Vint thinks this, and I know he’s highly respected out there, what sort of expectation does the Working Group believe it will receive to some of these proposals that are given there? I’m a little concerned, because we’re now into this case of having all of these coming closer to these coming out. What happens if there is significant pushback in the PCP? What goes on there?

LEON SANCHEZ:

I did see this comment from Vint Cerf, and as I do respect Vint – as I think everyone here does – and I am grateful to him, because if it wasn’t for him we wouldn’t be even talking about the Internet, I do feel and think that this comment is way too late in the process, and for me it’s such a price that you have a comment that says that all the proposal is a non-starter, because the numbers community has been deeply involved throughout the whole process, from the beginning. If it was a non-starter at all for the numbers community then why didn’t they raise this eight months ago? That would be my question.

On the other side, I’m not sure that the message that we’re trying to convey with these plain-language documents did actually reach in the correct way that we’re trying to convey it, because I don’t feel that going to a designator model would actually make the Board give up its powers. It would only bring some checks and balances in-between the Board and the community. So if the Board would at any stage go rogue, and the

community would have this [unclear 00:58:35] substituting the United States Government, as we are all aware, in this transition process.

As regard to expectations, we definitely don't expect too many messages of this type. Hopefully we won't have too many messages of this type. I don't know what was the follow up in the NRO list to Vint's message, but it would be interesting to know if there were reactions to this message, and actually how this story developed in that list. If you have anything, that would be very much appreciated. Yes, certainly, I'm not speaking on behalf of either the CCWG or my Co Chairs, but I think this comment is completely out of time and out of any context within the CCWG.

OLIVIER CRÉPIN-LEBLOND: Just as a follow up, I was one of the people that responded to Vint, and I did say that I do agree with the point he was making. I've been saying for months that a shadow Board is a non-starter, but I have pointed out that this has been watered down, and that the community powers could only be involved with full AC/SO approval, and under very specific circumstances. There hasn't been any further follow up, to my knowledge, on this issue yet. That's it. Thanks.

LEON SANCHEZ: Thanks Olivier. Alan, do you want to comment?

ALAN GREENBERG: Somewhat similar to what Olivier said, I think what Vint said is completely rational. I think it's pretty close to what the ALAC has been saying all along, although in a somewhat more blunter form, and we've been more flexible because we want to see this go through, and we have been participating in listening to other people who are far more radical than we are, or certainly than Vint is. But Leon is right – it's a bit late right now to have keyed in on this and tossed his comments into the pool. But from a purely objective point of view, he's right. What can we do? Thank you.

LEON SANCHEZ: Cheryl?

CHERYL LANGDON-ORR: Look, I also respect and understand where Vint's comments have come from, but – and this is a significant but – if they come from a set of experiences and a set of management styles, which are just becoming rapidly more outdated in a modern context for institutional accountability. He's probably not quite over-reacted, but reacted at a very visceral level, and Olivier's responses to him I think have clarified a great deal on when these powers can be, if at all, performed. Most of us, as Alan has said, have maintained that we've spent a huge amount of time setting things up that are basically never, if ever – and we hope certainly never if ever – going to be utilized.

Whilst that's okay, the higher barriers to implementation of these powers, and these single sole designator or sole model that... I try not to use the word "designator" because Alan gets tetchy with it, but you all know what I mean. At this stage it's probably the best way forward to set up something that is really, in my mind, much more like a [hatchet 01:03:08] system for risk minimization and risk management in the food industry, where you put in a system that's so unlikely to ever be used, but should it ever be used, there are clear and reasonably rapid response plans and methodologies you can manage and issue.

We're looking at the less of one per cent risk here, but in the heyday of the types of management and organizational management that Vint's vintage comes from, you elect the board and the board is responsible. But institutional accountability is sadly, because of some notable things – FIFA included – no longer is in a position in today's world to trust their board absolutely.

I think as one of those, with the greatest respect, we hope we've just minimized the problem by putting together what will satisfy, we hope, in the unusual situation where such responsibilities need to be taken away from a duly constituted board, and if the trust, for whatever reason, suddenly disappears. I think Olivier, what you've done is extremely important, but we might want to preface some future ALAC statement recognizing that yet again. Thank you.

LEON SANCHEZ:

Thank you Cheryl. Seun?

SEUN OJEDEJI: Thank you Leon. My comment is not in relation to that. Can I continue?

ALAN GREENBERG: I'd like to get in on the same subject though.

LEON SANCHEZ: Then we'll go to Alan and then Seun.

ALAN GREENBERG: I think all the comments are pretty well on and not very different. Olivier said that he explained to Vint that these powers are only going to be exercisable with all the community supporting them, and of course one of the critical things that we've not finalized yet are the exact thresholds that are going to be needed to exercise the powers. It comes down to which SOs and ACs are participating, and what our definition of participating is.

I was asked the other day what the likely red lines are that might cause the ALAC to not ratify, and one of the few ones is the exact thresholds that allow the ACs and SOs to exercise these powers, and if ultimately it can be exercised by a relatively small number of the seven ACs and SOs then that is potentially problematic. We're still working on some of the details, and some of the details are really important. Thank you.

LEON SANCHEZ: Thank you Alan. I will now to go Seun. I hope that this illustrates the views of those who have been participating in the CCWG, in regard to Vint's comments. If you have any follow up into the discussion, that would be very much appreciated to actually continue to follow up that story. Seun?

SEUN OJEDEJI: Thank you. One of the things that was talked about after the Co Chair, I think Leon, sent out the timeline for the CCWG, I think yesterday, was about the short gap between the transition and the actual end of public comment. I was wondering, is there any intention for ALAC to find a way of getting some of [transmitted questions 01:08:17] internally, within ALAC, within At-Large, available for our community members?

Because I think [unclear] some regions – AFRALO for instance – and I think it also affects LACRALO. It would be good to have the transitions up for them as early as possible. It would be good for us to think what we can do to actually get the transition up, available internally, even if it's not the entire [unclear 01:09:54] so that they can communicate something to our community members. The other thing I wanted to say, there was actually a submission from the Board on the ICANN mission, which was sent in yesterday, I think.

I found it to be quite an interesting and constructive response from the Board. My question to Leon is is that then considered at all? I would think that needs acknowledgement from the Co Chairs. Thank you.

LEON SANCHEZ:

Thank you very much Seun. To your first question, we are aware that we need to get those translations out as soon as possible. Staff is working with translators to provide everyone with translations of the documents as soon as possible. What I would suggest in order for us to have better participation and involvement from our regional At-Large organizations would be to maybe organize a couple of webinars to explain the main updates and the differences between the second draft proposal and the third draft proposal.

For that, I'd be of course very happy and willing to see with my Co Chairs how we could actually manage to [update 01:10:41] the different RALOs in this sense. I am aware that as Africa is concerned, French would be the best language to hold the webinar in, I think, so I would be asking Mathieu if he could help us in briefing the AFRALO community in French. We'd need to request neither interpretation nor translation at this stage, and that's something I'll take back to my Co Chairs.

Of course, I would like to coordinate with the RALO Leadership so that if they feel or see the need for a webinar explaining this update, we can of course find ways to deliver this webinar in a timely fashion. Then to your second question, in regard to ICANN's mission, yes, what the Board sent is being considered. As I said, the mission is one of the open issues on the CCWG with Stress Test 18. They are two issues that are still open and are a work in progress. I believe that Becky, who is in charge for holding the pen for the mission statement, is considering the Board's

comments that just came in. Yes, they are being considered, Seun. I hope this answers both your questions. I see Olivier's hand is up.

OLIVIER CRÉPIN-LEBLOND: Just a quick question on the issue of the timing here – the SO and AC Chairs were given a time earlier this afternoon that was showing a PCP that will be only 21 days in length, and I think that Seun's concern was really that if the translated version comes in five days before the end of the comment period then it's going to be really terrible, and really was there any way to have this translation done faster than the current process? Or was this taken into account? You've mentioned very well here that there could be webinars.

I gather you could do a webinar in Spanish, and Mathieu could do a webinar in French to explain the functions – although I know it could be a bit of a challenge, because if I was to explain this in French, I would be quite challenged, due to the lingo and all of the words used and acronyms, which are all in English. This seems to be a very long proposal, and I also have concerns about the time it's going to take to translate. We have to look at the political dimension again of this – if this is not translated in time, there's going to be some real significant opposition out there, and you know how it is.

It's going to work on hearsay, and there will be opposition raised about those issues that are being proposed, the proposal, without people ever having read any of it. This proposal Work Stream here, the document we have in front of us, is that translated? How soon will that be

available as translated? It's this sort of thing. We really have to think of this in an international way now. Thanks.

LEON SANCHEZ:

Thank you Olivier. The translations are supposed to be released on December 12th, and the PCP would end on December 21st. That's why I'm aware that nine days for reviewing the proposal, which will most likely be 100 pages or so in length would be very [unclear 01:15:!4] into details and review the whole document in just five days, and then form a comment and pass it through the RALOs and to all of the ALSes that encompass each of the RALOs. I do see the challenge in that.

That's why I'm proposing that we hold webinars to inform the RALOs, so that when the translation document gets into their hands, they will most likely, hopefully already have issues flagged so they can go directly into them when the translation comes in. Then of course as soon as the webinar ends they can begin working on any comments or proposals that they would want to file as comments to the third proposal. I think that the way that we are trying to drive the public comment on this proposal will be only into those things that have changed in comparison our second proposal.

So we'd not be calling for comments on the overall proposal, because of course there are things that didn't change from our first and second draft proposals, but we will try to focus those comments on the things that actually changed, like for example the model, in which we went

from a membership model to a designator model. I think that's the best we can do.

I am aware that is not the optimal, but it's the best that everybody can do in this very tight timeline, so we'll do our best to be as inclusive and diverse as possible, but of course keeping in mind these restrictions that we naturally have within the Work Stream that we're trying to pull here. Cheryl?

CHERYL LANGDON-ORR:

Leon, I'm going to ask you to stop using the term "public comment" because in fact whilst we will be welcoming any comment made on the streets of Sydney, we will be taking more attention of those if they indeed come through their AC or SO, should they have one. What we're asking for in fact is a specific focus on the changes, the primary of which is the details about the model, and for SO and AC feedback, because under our Charter we are at the point where we are seeking the AC and SO agreement or otherwise.

This is the penultimate, I hope, phase of making sure that the ACs and SOs have had the opportunity to look at the substantive changes and make final comments and suggestions regarding that. So it's very much a 15-person ALAC response that we are after from the CCWG's point of view. That said, the bottom-up and multistakeholder nature in how we, in the most culturally and language-diverse group, I would suggest, out of almost all of the ICANN community, manage that, clearly means we would like our translations done as soon as possible and practical, and

that we should be running webinars with interpretation on the primary changes as early in the process as possible.

Yes, the devil's in the details, but the details are only really about the changes, and the fact that we're getting it professionally written and should also be in more simple and plain language should also help, and things that aren't substantially changed from our last text, once the professional writers have already finished with it, those things are already going out for translation. So considerable lumps of text are already being translated.

So it's not quite as dire as you might all think, but just let's be really clear – this is not a traditional public comment phase. This is a phase where we're seeking input from the ACs and SOs, with, we trust, the ultimate sign-off or otherwise from them according to our timeline. Thank you. I know I'm being a bit pedantry, but this is going to be important soon.

LEON SANCHEZ:

Thank you very much Cheryl. I really do appreciate the correction and clarification that you made. As I said, I'm just so familiar to the term now that it doesn't seem to leave my mouth. Thank you for this. I hope this also clarifies, for the rest of the group, the intent of the type of input that we're seeking from each SO and AC. Next in the queue is Jean-Jacques.

JEAN-JACQUES SUBRENAT: I was saying that I support very much Cheryl's views. I think that we have gone beyond the stage of what is generally called public comment, and I agree with her that now it's very much the views of ICANN's SOs and ACs that are expected. In that context, I think Leon that it's very important that the presentation, which was made by the Working Group, be aimed exactly at the target. In other words, don't give the impression to the targets of the target population that everything has to be reviewed; all the text, et cetera. It's mainly recent, admittedly important, changes.

I think a word of explanation, just a few lines at the beginning of the send-off text, should make that apparent. The second point is about translation. As the former Chair of the Public Participation Committee of the Board, I would say that in this case it's not about translating 100 pages of 50 pages. It's about really making the most of the recent changes in the text, as you pointed out Leon, and therefore I think it's very important that the translation of these additions or transformations be very well drafted, both in the original English and in the translations. The intention of the SOs and ACs should be brought to bear only on that. Thank you.

LEON SANCHEZ: Thank you very much Jean-Jacques. Cheryl, is that an old hand?

CHERYL LANGDON-ORR: It's an old hand.

LEON SANCHEZ: Thank you. I see a time check, we've reached the top of the hour on our call. I'll hand this back to Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Leon. You read my mind. We are thankfully being given another ten minutes by Sabrina, our only interpreter for today, so please bear with her. She's been speaking for the past hour and a half, but I just wonder whether there are any additional things that you need to let us know about? You've got another 5-10 minutes to let us know about it.

LEON SANCHEZ: I don't want to go into details on the Stress Test 18 or on the mission statement. As I said while I was speaking a couple of minutes earlier, both are issues that are still open, that are works in progress. There will be a call of the Stress Test 18 sub-group tomorrow morning, my time, and that is at 13:00 UTC tomorrow, Friday. Hopefully in that call we'll be able to reach closure on this issue. So far the discussion has been flowing around three or four different proposals.

Of course, the status quo, as we have on the Bylaws today, the text that was proposed both in our first and second draft proposals, then a third way of looking at things proposed by the Government of Brazil, and then a fourth [wait 01:25:42] that tries to reach middle-ground in-between all

the different proposals that have been discussed, that were put on the table by the Government of Denmark. We, the Co Chairs, have also been discussing the issue and most likely will try to achieve middle-ground tomorrow, as I said, in the call that this sub-group will be holding. That is the update on Stress Test 18.

At least I feel that we will be closing this issue hopefully tomorrow, and in regard to the mission statement, as I said earlier when Seun commented on the comments of the Board, this is something that is being taken care of by Becky Burr, and she will be updating us on how she took into account the comments received by the Board. Another issue that is important is the tentative face-to-face meeting that could be happening in mid-January.

We haven't still decided whether this face-to-face meeting will be needed, nor have we a tentative venue for the face-to-face meeting. But as soon as we have any updates on this issue I will of course let you all know so that everyone is aware and ready to attend the face-to-face meeting, should it be needed. That will be all on my part, Olivier. I don't know if Alan wants to add anything to this. If he doesn't, then I would of course thank you all for your attention and hand it back to you Olivier.

OLIVIER CRÉPIN-LEBLOND: I note that Alan says he has nothing else to add, so we are only five minutes beyond the official end of our call. Are there any questions for Leon or on any aspects of the CCWG Accountability work? I do not see anyone putting their hand up. That's fine. We just have one more Item

to look at, which is when we wish to have our next call. Seeing that there is so much going on, and we are in full swing, I believe that the commenting period will be opening up soon, should we have our next call next week?

I'm looking for green ticks if we're okay for next week? Or in two weeks' time? I would think next week is probably a better idea. Perhaps another Doodle? Thursday/Friday next week I note from Leon. Can I have a similar Doodle to the one we had just now? Thursday/Friday sounds like a good idea. I see a green tick from Jean-Jacques. Thursday and Friday is a holiday in the US, I'm told. Is that Thanksgiving already?

HEIDI ULLRICH:

It is indeed. Most staff will be gone, but since we are an international staff, we will be able to cover you if you choose to have a meeting on those days.

EDUARDO DIAZ:

In Puerto Rico it's already Christmas!

OLIVIER CRÉPIN-LEBLOND:

Thank you Eduardo. That's kind of you. We are jealous already. Then again, I have just come back from Brazil, so I know what it's like at the moment in that part of the world. We have green ticks from Jean-Jacques and Tijani. Heidi, as long as you can have a staff working on any of those days, and I'm sure your European staff will be more than happy

to not celebrate on those days, Thursday or Friday via Doodle sounds great. Super. With this I'd like to thank in particular our interpreter, because she was by herself today, Sabrina. Well done. Thanks to all of you for this call, which is now adjourned.

[END OF TRANSCRIPT]