

ICANN

**Moderator: Brenda Brewer
November 30, 2015
9:33 am CT**

Coordinator: Excuse me, the recordings have been started. You may now begin.

Leon Sanchez: Thank you very much and welcome, everyone, to the CCWG Accountability Meeting Number 70 on November 26, 2015. As usual, we will be doing the roll call with those attending the Adobe Connect room. And if there is anyone in the phone bridge that is not in the Adobe Connect room could you kindly please state your name at this point so we can add you to the roll call.

Theresa Swinehart: Yeah, Theresa Swinehart.

Leon Sanchez: Theresa, could you - staff, could you please add Theresa to the roll call? Is there anyone else on the phone bridge that is not in the Adobe Connect room? Okay, listening to no one else I remind you of filling in your statement of interest if you haven't done so. As usual, you can approach anyone on staff to help you update or file your statement of interest.

And our welcome to our US members and participants, happy Thanksgiving Day to celebrate the date. And with no further delay I will now turn to my co-chair, Thomas, for Agenda Item Number 2.

Thomas Rickert: Thanks very much, Leon. And also welcome to everyone. Happy Thanksgiving to the US citizens. Let's try to keep this very brief. Agenda Items Number 2 and 3 are more or less to confirm the last language that we had previously discussed and with respect to the mission language at that time over to Becky.

Becky Burr: Thank you. Yes we have agreed on our last call to language resolving the contention about regulatory provisions and contracts. The language is as circulated prior to our last call on Tuesday and again circulated yesterday. The one modification that we have agreed to in the course of discussions is the description of content and as you may recall we had language that referred to - that made sure that ICANN could consider string domain names. Milton had described this as the semantic meeting of strings.

Our friends from the technical community helped by providing a technology-neutral language so the language now reads, "The prohibition on the regulation of content is not intended to prevent ICANN policies from taking into account the use of domain names as identifiers in various natural languages."

So with that, and based on the discussion on the list prior to and since Tuesday, I believe that we do have agreement. If you go down to - I'm just going to show you - I don't know if people can see if I scroll, it's the second to the last page of this side by side comparison but you can see the language, "The prohibition on the regulation of content is not intended to prevent ICANN..."

((Crosstalk))

Becky Burr: Sorry, there's a lot of background noise. But in any case there is the language that we have agreed on. And many thanks to Andrew Sullivan and other participants for making sure that we come up with technology-neutral language.

Thomas Rickert: Thanks very much, Becky. And this is not really to reopen the discussion on this matter but just to confirm the common understanding that this is our consensus language. We've seen a lot of support for this language on the list so unless there are interventions that need to be made we can close this agenda item. Thanks very much Becky for (unintelligible) and move to the third agenda item. Mathieu.

Mathieu Weill: Thank you very much, Thomas. Our third agenda item, first of all hello, everyone. This is Mathieu Weill speaking. Sorry for jumping in too fast. Just a quick note that it's almost been a year since we started this group, just take a step back and think of the amazing progress we've made in a year.

So the third agenda item is a confirmation of the decision threshold discussion that we had during the last call. I am not sure whether Jordan has been able to join - Jordan Carter - I am not seeing him in the Adobe room and it's perfectly understandable as it's 3:00 am for him in New Zealand. So just as a recap we had discussed that we would be more clear about some vocabulary about who are the decisional participants, the organizations that participate in the community decision making.

And the potential discussion - SOs or ACs who take part to a specific decision. And we had also agreed that we would recommend that in the situation where the user of a community power only attracts decisions to support or object by four SOs or ACs and if the threshold is set at four in support in our current table, we would do a specific case where the power

would be approved if there are three in support and no more than one objection in order to take into account the considerably extended escalation process before any use of the community powers and to avoid the risk of powers being unusable through an effective veto from a specific SO or AC.

And that was especially the case and the concern was raised especially for the fundamental bylaws change which would risk making changes to these bylaws effectively impossible. So that's the confirmation if there's any objection on this which is going to be included into the third report.

I see Alan's hand is up. Alan.

Alan Greenberg: I'm not objecting as such but I do want to express dissatisfaction in how we're doing this. For the fundamental bylaws I believe there are other ways of getting around the problem to make sure that we are not frozen. And I think it's a heavy handed tool we're using to fix the fundamental bylaw one because it also includes removing the whole board.

So I think we should be - we should be addressing the fundamental bylaw one in a lot easier way and there are easy ways to do it, for instance, you know, saying if you - for fundamental bylaws if you're not objecting you are agreeing that completely - without completely changing the - lowering the power, the threshold for the removing of the whole board. Thank you.

Mathieu Weill: Thank you, Alan. I think that might - that is a discussion that we had in the previous meeting as well.

((Crosstalk))

Alan Greenberg: Mathieu, that's a new hand. I remind the group in a previous meeting we were using the word "participate" in two conflicting ways without differentiating. So I'm not sure that discussion was held, you know, was in a position to make a decision because it was not clear, there was obfuscation in it. So as said, I'm not objecting, what the ALAC - I'm speaking on my own behalf without having consulted with my colleagues. But I believe at this point we have a potential problem and I'm simply identifying it. Thank you.

Mathieu Weill: Thank you, Alan. I just would like to double check that we have the full view here. The different - the powers - okay so we have the table here on the AC room, that's going to be useful. The powers that have this case are - and we should have them in the screen - oh, Jordan, you're here. Would you like to say a word, Jordan?

Jordan Carter: I think you're doing just fine, Mathieu. Yeah, sorry I'm late. It's Jordan here.

Mathieu Weill: So the powers with the four - the necessity of full support and no more than one objections are at the blocking of the proposed operating plan, strategic plan and budget, the fundamental bylaws and the recall of the board and the reconsideration, rejection of board decisions relating to reviews of IANA functions. So that's - I think that's what we're talking about here.

Jordan, would you like to respond - what's your view on Alan's concern?

Jordan Carter: The method that he proposes, Mathieu, is the same thing. It just breaches the principle that we settle along that if people decide not to say yes or no then they should be counted as saying yes or no. That's all. They just use the same thing in terms of (preventing) a block and a lock.

Mathieu Weill: I'm afraid that that principle of being counted as a yes if you're abstaining is a little bit - might raise some concerns. But we - I'm just looking at the chat. Okay there's two discussions in the chat so that's unrelated. I think we are - we have two different views here. I would not say that we have a complete - completely new option as Alan said, it's the concern that's not objection at this point so I would suggest that we keep that proposal forward as part of the third report and obviously I look forward to comments and feedback from the various organizations as Jordan is suggesting in the chat.

And with that I think we can move to the next agenda item which is going to be chaired by Thomas.

Thomas Rickert: Thanks very much, Mathieu. And this is on Stress Test 18 and I'm sure that a lot of you have joined this call to discuss Stress Test 18 and hear from us. In fact you have heard from us with an email that Mathieu circulated, you know, we spent quite some time analyzing what has happened and making sure that we're following the process, that we're not giving this topic different treatment than we did for other subjects that we've been discussing over the last year.

And you will remember that we used a methodology whereby our group defined consensus. We then put out our consensus recommendations in the report, got feedback and worked on alternatives. And if these alternatives then got sufficient traction we would further discuss them and if we reach consensus amongst our group a new consensus proposal would actually - or a new consensus recommendation would replace the consensus recommendation that we had in our previous report.

And you will have seen our group change recommendations on a few instances based on exactly this methodology. We've also seen instances where

our group have discussed new approaches but where the alternative or new suggestion did not reach consensus in our group which then led to us sticking to what we had in the previous report. And in fact the discussion on Stress Test 18 in which a lot of good faith efforts from (Marilia) went - has shown exactly (unintelligible).

So as you will remember, we had language on Stress Test 18 in our second draft report. We put that out for public comment. We received feedback. We started working on alternative language and compromise language. We've seen a couple of compromises that have been reflected in the document that Mathieu circulated.

And unfortunately the - or, you know, I shouldn't say in any bias session, but our group has not been able to reach consensus on any alternative proposal that was brought forward which is why we as co-chairs have now determined what the status of what we had in our second report would remain (unintelligible) actually what has been consensus - rough consensus at the time and we have not had any minority statements to that point in our second report.

I should also clarify that our determination on the determination of where we are in terms of process has been made for before NTIA has issued its statement so we saw the NTIA statement after the fact. Unfortunately it took Mathieu's technical infrastructure a while for the email to be relayed so that you will (unintelligible) you will have received the NTIA announcement on the list but actually the sequence of happening was exactly the opposite so our message to the group was sent out before we received the NTIA announcement.

There's certainly a lot more to be discussed so we assume that this is not the end of our deliberations on Stress Test 18, but for our third report this is actually the status of where we are with our deliberations. I'm sure that (unintelligible) would like to speak to this, we want to give the opportunity to - for people to share their views on that and let's open it up for comments. So if you want to speak please do raise your hands.

Pedro. Pedro, you might be on mute. Pedro, your hand is raised and I understand that you want to speak so please do because we can't hear you. So there's obviously an audio issue with Pedro - who would like to go to the next speaker. In fact there is no other speaker lining up at the moment. Milton.

Milton Mueller: Hello. Yeah, I just have some questions about this reversion to essentially the previous recommendation. Do I understand it that that's what we're doing?

Thomas Rickert: That is correct.

Milton Mueller: So under the previous recommendation there is no definition of consensus as full consensus. And since that was the point of debate and conflict of the different positions I'm just wondering what position does this actually take on that question?

Thomas Rickert: Milton I was commenting on the outcome of our determination of where we are in terms of process. As I mentioned, this was prior to the NTIA announcement so I think we as a group now need to discuss how to take this forward but the status is actually that we have no alternative proposal to what's been on the second report that has received consensus in our group. And as we did with previous cases that were comparable that that was actually where our groups decision making stands.

Milton Mueller: Okay, but you didn't really answer my question. What is - since we stand at this point now what is the position that we're taking with respect to the definition of consensus.

Thomas Rickert: In fact we will now put the second draft report language into the report to be published on the 30th. And we as a group need to discuss how we get this issue closer to resolution to everyone's liking between today and the day when the chartering organizations shall approve. But I'd really like to hear from chartering organizations as to how they wish to go about with this. There's also been some discussion on how to assess or how to take on board the NTIA statement. But I think that this is actually a discussion that the group needs to have. And I see that Pedro's hand is up. Pedro, would you like to speak now?

Pedro Ivo Silva: Can you hear me now?

Thomas Rickert: Yes we can hear you now, Pedro. Go ahead.

Pedro Ivo Silva: Okay. Sorry for the problems here. Well thank you - initially thank you co-chairs for introducing this and also for the hard work that you have put into this over the past weeks. Well I have of course said several times, I have great appreciation for the work that you co-chairs have been doing. But on this specific issue I must say that the proposed way forward is for us not acceptable.

While I concur that no agreement was found with respect to a compromise solution, and I must say here that it was very unfortunate that the few CCWG colleagues showed no flexibility at all to reach a compromise solution, while I concur that no agreement on a compromise was found I think it's also true that no consensus was achieved with respect to the language that was presented in the second draft report.

As you all know, many governments have explicitly indicated their objection to that language. And also some known governmental CCWG members participants have said a clear no to the text. So we cannot simply ignore this fact and pretend that agreement was reached where it clearly wasn't. And I think we cannot simply ignore the efforts made by so many people who in good faith and showing willingness to flexibility entered into negotiation which began well last October in Dublin with the GAC communiqué and continued until earlier this week.

A question I put here is well who says that there was more support for the second draft report language than there was support shown for the compromise proposal that the co-chairs have presented last Monday. At least for the co-chairs proposal we have seen some indication for clear support expressed in this call or temperature check that we made last Tuesday.

So that being said, I would sincerely hope that the CCWG co-chairs come to the (unintelligible) conclusion that there is no agreed solution at all to this matter and we should continue to strive for consensus as I think this is the main mandate for this group. Thank you.

Thomas Rickert: Thanks, Pedro. Any more interventions on this?

Delila Rahmouni: Hello?

Thomas Rickert: Yes, who's that?

Delila Rahmouni: Delila, yeah, from France.

Thomas Rickert: Yes, please do speak.

((Crosstalk))

Delila Rahmouni: Yeah, okay. So thank you very much for the effort made to find a solution. But to be very short as you probably know, we cannot support the current proposition and can just reach it - your opposition and hoping as Pedro said, that a new effort and solution can be find.

Thomas Rickert: Thank you. Let me please clarify that we are not as co-chairs opposing any of the proposals that have been discussed.

Delila Rahmouni: Sorry, I don't hear very good. Thank you. Sorry. Hello?

Thomas Rickert: Yes, this is Thomas speaking.

((Crosstalk))

Thomas Rickert: I just wanted to clarify, you were using the word that we were opposing a new proposal and as co-chairs...

Delila Rahmouni: No, no...

((Crosstalk))

Delila Rahmouni: ...from the current - I think it's the compromise in the table is the compromise proposal. Yes, in the last document sent by email.

Thomas Rickert: The document that was circulated by email includes various proposals that have been...

Delila Rahmouni: Yes.

Thomas Rickert: ...discussed by this group. And...

Delila Rahmouni: Yes.

Thomas Rickert: ...what we saw is that in the Stress Test 18 subteam call there has been some traction for what we called the compromise proposal. But then on the Thursday call a week back- no last Thursday, two days back, the support that this compromise proposal enjoyed was lower which led us to the determination that our group did not have rough consensus on the compromise proposal which means that our group will likely need more time to come up with a proposal...

Delila Rahmouni: Yeah, exactly.

Thomas Rickert: ...that can then replace the second draft report's proposal. I hope this clarifies.

Delila Rahmouni: Yes, it's more clear. Thank you.

Thomas Rickert: Okay you're most welcome. Paul.

Paul Rosenzweig: Hello, can you hear me? I had to unmute my mic.

Thomas Rickert: Yes we can hear you, go ahead.

Paul Rosenzweig: Hello.

Thomas Rickert: Yes, go ahead.

Paul Rosenzweig: Yes, a few points perhaps in response to your proposal and to the comments that Pedro made. First off I will agree with Pedro, I know that surprise him, that there is no consensus or agreement on a right way forward on this issue. There are I think two very divergent views of what the GAC's role should be and how it should be defined going forward. I'm kind of reluctantly coming to the notion that this is going to be an issue that cannot find consensus in the community and at some point the co-chairs are probably going to have to take a chartering organization temperature test rather than a participant temperature test.

To amplify, however, on two points in response to Pedro where I disagree with him, first it is true that there were several comments made against the second draft report language but that was exclusively, as far as I can tell, from a couple of GAC representatives and member states and that the overwhelming majority of comments with respect to the second draft report either supported that language or as the comments - or several comments actually said that it should be strengthened even further with a definition of consensus.

So at least for now I think it is imperative that we realize where the balance of the community sentiment exists notwithstanding the repeated statements that there is a lack of consensus with which I agree you had to put it to a measure. It would probably be leaning more against - more in favor of confining the GAC role.

The second point I would make is simply this, I don't think that the second report's language actually satisfies anybody because it leaves ambiguous the definition of what consensus is. As Rosemary from Adler Colvin said in the chat, without a definition it means anything that falls within the general

meaning of consensus or it means today's practice. I think whatever it is this community decides to do it is absolutely imperative that it reach a decision.

Building purposeful ambiguity into founding documents like a bylaws is a formula for long-term disaster. I know personally which answer I support which is I support the same answer that the board has suggested of retaining the current definition of full UN based consensus. I'm sure I know which answer Pedro supports.

But whichever answer we pick we darn well ought to make it a definitive one rather than leaving this problem for down the road for a fight between the GAC and the board or the board and the IRP or the GAC and the IRP or somebody else. Thanks.

Thomas Rickert: Thanks very much, Paul. Next in line is Olga.

Olga Cavalli: Hi, good morning, everyone. And thank you, Mathieu - thank you, Thomas, for giving me the floor. I have to - I want to support what Pedro said and he just wrote something in the chat that I was exactly going to say that what we feel is in the cross community working group it's not only the GAC members and not only some of them or (unintelligible) minority as Paul said in the email exchange, I think there are many GAC members that we are against Stress Test 18 and also as a whole.

The GAC has made a very substantive effort in trying to find a compromise text, that's what we did in Dublin, with the communiqué. And we have been working among us towards finding a text among all of us that it supported. That was what we have been doing in the Stress Test 18 sub working group that Mathieu did a great job chairing it and thank you, Mathieu, for that.

So I agree with colleagues that there is no consensus with this issue. And I would like to stress something that I have said many times is that every time that we have done comments in the first draft and second draft they have been totally ignored and nobody takes any consideration. I have participated in many, many negotiations in my more than 10 years of experience in this issue and have never been such lack of flexibility in trying to understand the other's position.

And as (unintelligible) in the chat we feel it is not only the GAC that is against Stress Test 18 it's also some other members of the community. So we feel this is a proposal from some members in the cross community working group.
Thank you very much.

Thomas Rickert: Thanks, Olga. Alan.

Alan Greenberg: Thank you very much. My personal view, and it is just a personal view, is I really don't want to see this whole thing going down in flames over this issue. But that is not the short term issue. If we're determined to have a report out or a proposal out by the 30th and we seem to be acknowledging that this proposal is going to be read by a wider group than has looked at the past one we've put a huge amount of effort into making sure it's readable and understandable including with no surrounding text a proposal from a version of the Stress Test 18 from Proposal 2 is obfuscating. It is almost deliberately saying something we don't want to say.

I think in this report we need to be clear that, yes, there are six proposals and we can include them in an annex. We don't have closure on it and work is ongoing. We - for the people who have not been following this in detail, we must make clear what our position is at this point even if it is nothing that we can formally propose. Thank you.

Thomas Rickert: Thanks, Alan. Milton.

Milton Mueller: Yes, this is Milton Mueller, Georgia Tech, NCSG. I just want to respond to Olga, I do agree that the GAC has shown an attempt to arrive at some kind of reasonable compromise. And I would also - that is because there's actually not full agreement or even consensus within the AC itself although there seems to be a predominance of (unintelligible) on one side.

But the problem with the attempts to be flexible is precisely the one that was identified by Paul Rosenzweig which is that we cannot have an ambiguous issue here, we have to know exactly what constitutes advice and what its status within the bylaws and leaving this ambiguous through diplomatic language that manages to get some agreement through its ambiguity is actually not a viable solution.

So we really do have to decide, does consensus - first of all we have to make sure that advice is consensus advice and we cannot be ambiguous about what the definition of consensus is. It has to be fixed. And I think that the ambiguity, even though it shows an attempt to be flexible but not get us out of that box. I think the GAC is frankly just going to have to bite the bullet and accept the fact that if they want to get this special bylaws empowered advice status that it has to be full consensus advice. And we just need to accept that.

And anything else constitutes a massive expansion of the GAC's role in ICANN particularly when coupled with the new powers it's gaining in the community mechanism. So I would ask for flexibility on the GAC's side and say, you know, it's a certain kind of discipline, you're going to have to get real consensus to offer advice to the board.

Thomas Rickert: Thanks very much, Milton. Steve.

Steve DelBianco: Hi, it's Steve DelBianco. As one of the stress test team rapporteurs, I wanted to remind everyone here that there was no ambiguity intended on what we had in the first and second draft. That was explicitly decided by the stress test working party. In January and February of this year, when Stress Test 18 was introduced, we had a proposal to change the bylaws to give due deference only to GAC consensus advice and to add a definition of consensus. That was the recommendation of the stress test working team, as late as February.

And then we revised Stress Test 18 to no longer require a definition and that was in response to extreme concern from GAC members who suggested that we ought not lock them into the current definition but allow some flexibility for the GAC to define consensus. So I'm not advocating, I'm speaking the truth here so we don't have revisionist thinking on this call. We deliberately, in the stress test team, backed off of an explicit definition in response to GAC concerns.

I know that Jorge and other GAC members have talked about the cross community working group being a moving target but I can assure you that with all due respect the GAC is also a moving target. We satisfied the GAC's objections that were first raised in the Frankfurt meeting and backed off of locking in the definition but that wasn't good enough either. And for that reason many GAC members objected to the second draft proposal which allowed the GAC some flexibility.

I don't know why that was still a concern but it leaves us in the current situation where the second draft isn't ambiguous, it actually does allow the GAC to redefine what consensus might be but it does also imply that ICANN's board would have the ability to say wait a minute, that doesn't

really feel like consensus if it has some sense that there was significant objection. And therein lies the discretion that leads some of you to conclude that we're putting too many decisions on behalf of ICANN's board.

And I understand now we have come around to the feeling that not defining consensus implies that the board has to understand every time advice comes over from the GAC it has to understand the level of support that it has such that the board can determine whether consensus was adequate to justify the special procedure of having to seek a mutually acceptable solution.

So that's a recap of where we started and how we got to where we were in the first and second draft proposal and along the way NTIA weighed in that we needed to have a - we needed to address Stress Test 18 without specifically saying how to address it although the most recent letter from NTIA is far more explicit than any of their previous communications because it suggests that the bylaws ought to lock in the fact that the board should only use the current method of GAC decision making to trigger the special obligation.

Keep in mind though that the NTIA's communication still allows the GAC to change its decision methods any time it wishes but if the GAC had an interest in really forcing the board to seek a mutually acceptable solution all the GAC would have to do for that particular advice is to elevate itself to full consensus under the current definition and it would of course merit the very same treatment it's always had from the board.

So it provides an incentive for the GAC to step up its level of consensus, whenever it wants that special deference. So let's not call it create ambiguity, it in fact was a concession to the GAC in February and March of 2015 that the GAC decided was an inadequate concession. Thank you.

Thomas Rickert: Thanks very much, Steve. Jorge.

Jorge Cancio: Hello? Do you hear me?

Thomas Rickert: Yes we can hear you.

Jorge Cancio: Hello all. I'm in an airport so perhaps there's some background noise, I apologize for that. I just wanted to return to the paper produced by the co-chairs. And circulated by Mathieu. And I just wanted to first flag that if we are going to introduce this paper into the third draft report we would need to clarify or to correct some of the statements or some of the sentences that are included because I think they are not entirely factually correct. But I think that's more a question of detail.

What I wanted to ask the co-chairs is that they would clarify and elaborate on how exactly they have assessed the level of consensus within the CCWG on this issue. And starting from what was decided or the temperature calls that were made on last Tuesday on the basis of the finished business of the Stress Test 18 working party. So to be more specific on this request for further elaboration, if I remember well there were 17 participants, I don't know whether members or participants or both, who support it the last facilitation proposal put forward by Thomas Rickert.

And of these 17 people if I'm correct some were from the GAC, some were from the ccNSO, some were from the GNSO and I'm not sure whether there were also people from other constituencies. As for the eight people who opposed this last facilitation proposal if my - if I don't recall incorrectly there were at least two people from the very same organization, not the constituency but one single organization. And of the other six people they were basically

coming from one constituency in the GNSO with other people coming from the GNSO.

We could also give a thought on the diversity these people represent where they come from exactly. But I think that I'll let it - I let it there and I'll ask - I kindly ask the co-chairs to elaborate a little bit on the consensus assessment they made when they assessed the consensus on this temperature call. Thank you very much.

Thomas Rickert: Thanks very much, Jorge. Let's hear Keith now. And I will then make a few remarks and (unintelligible) to the previous speakers.

Keith Drazek: Okay thank you, Thomas. This is Keith Drazek for the record. Just a couple of thoughts here. I think in light of NTIA's statement I think we, the CCWG, need to move forward with defining consensus as current practice. I think that's fairly clear from the NTIA's statement. But I think we also need to acknowledge - and I sent an email to the list just before this call reflecting this but I want to underscore it here, is that it's important that we all recognize that the GAC still has the ability to define its own operating procedures.

And that it actually has the ability to, you know, to be creative in its own regard with regard to defining consensus. And I think we should all respect that and acknowledge that the GAC still has the ability to determine its own operating procedures. But I don't see how we have a path forward without defining consensus in light of NTIA's statement.

So I want to ask a question, and I posted this in chat a little while ago, but, you know, I know that the proposal was not accepted as a friendly amendment previously in the subteam or in the last CCWG call. But does adding the word "formal" - does adding the word "formal" get us to where we need to be,

replacing significant with formal. I'm trying to find a path forward for us here. And I, you know, I just think that we ought to try to find something that we can move forward with. I don't think that including a range of issues at this point is going to be helpful or constructive to this effort and certainly not to our timeline. I'll stop there. Thanks.

Thomas Rickert: Thanks very much, Keith. Let's hear Christopher and I'll close the queue after Christopher and then (unintelligible). Christopher, please.

Christopher Wilkinson: Yeah hi. Good evening - good morning, good afternoon and good evening everybody. Can you hear me?

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

Christopher Wilkinson: You can hear me. That's good, thank you. Well first of all I find I'm very close to what Keith Drazek has just said. To put this in some historical perspective, look, at the origin it was the governments, at least those in the United States and North America and Europe, it was the governments that decided to delegate what would otherwise have been a regulatory power to a self-regulating multi-stakeholder entity. I think it will be misunderstood if that entity, i.e. ourselves, now tries to regulate back what the governments can do.

We have a balanced relationship between governments and the other stakeholders and I feel that so few of us are in effect, unbalancing that relationship.

Secondly, we have since this morning, and I can understand that very few of us, including probably myself, have taken on board all the aspects and implications of the NTIA statement. But it is fairly clear in the last paragraph

that this matter should be negotiated within the GAC and not within the CCWG.

There's a pragmatic reason for that. This kind of international negotiation is fairly sensitive, it is rather more time consuming than we would prefer. And a lot of people are, frankly, highly trained professionals in this field. CCWG does not enjoy across the board those capacities. And I feel a degree of humility and respect could be justified. We are not very good in this context in negotiating internationally sensitive issues. I can explain and I think even Milton would understand why that is.

But my conclusion is that I think this particular issue at this point in time should be concluded in the CCWG. We've got a clear idea of where the parameters are, where the different positions lie. And a clear request if not stronger, from NTIA to refer this negotiation to the GAC. I believe there's wisdom there and I recommend that CCWG and the co-chairs accept that. Thank you.

Thomas Rickert: Thanks very much, Christopher. Now we've heard a couple of arguments and we've heard a lot about frustration from some of you that the - all the effort, all the hours, all the emails that went into finding a compromise for Stress Test 18 did not come to fruition to make everyone happy so far. Let me maybe start by responding to Jorge's point.

Jorge, we have explicitly set up the Stress Test 18 subteam as a working team to come up with recommendations for the plenary, for the whole CCWG to further discuss and then come to consensus on. And what we saw actually we did a couple of straw polls in the subteam and these were not decisional but just for our information to see whether alternative language did get sufficient traction. And you will remember that we had two calls taking place, the first

of which was even more limiting to the GAC position which got traction from many.

We then did a poll on the compromise language that I suggested and we saw that some said they would be inclined to opt for, for the sake of reaching compromise. And in fact some of those, and we can surely come back to the group with more information on the details although I'm not sure whether that's really helpful but what we saw in the CCWG plenary call is that those have said that they would - for the sake of compromise support the compromise language did not continue to do so when we discussed this in the decisional body which in this case was the CCWG plenary call.

So we did not see sufficient traction nor consensus for the compromise language in the CCWG. And as I mentioned at the outset of this call this would technically lead to a situation where we would fall back to what we had in our previous report. But we take seriously the points that have been made by Alan and others stating that it would not be appropriate for our group to issue a new report. And I think Milton also said something to that effect, knowing that what the language of the second report is does not accurately reflect the state of play inside our group.

And we would suggest that we actually explain how we got where we are today explain what the language of the second draft report was as we would other - as we would explain other compromise language or alternatives which you see in the document circulated by Mathieu. But explicitly mentioned in the report that this is a matter under consideration.

And I thank Keith and others for making an attempt to streamline the language so that we can come to a compromise. But let me quote the NTIA statement as well as Christopher Wilkinson, not on substance but in terms of

process because of them said that this is a matter that needs to be discussed inside the GAC that needs deliberation inside the GAC. And you will remember that on the Stress Test 18 discussions we have previously waited for the GAC to have an internal discussion and bring the outcome of that discussion back to our group. And I think that we need to do that as a matter of respect at this point as well.

And work with the chartering organizations including and foremost with the GAC to ensure that although we leave this point open under consideration that we will all work hard to make sure that supplemental draft, as already foreseen in our report, will then have consensus language on Stress Test 18 and that we don't jeopardize the overall approval by chartering organizations.

But for the time being, we would conclude that there is more discussion needed, valuable contributions have been made today. But let's continue the conversation inside the GAC and inside this group. So I would like to stop here. I think we should move to the next agenda item for which I'd like to hand over to Mathieu.

Mathieu Weill: Thank you very much, Thomas. And as I said earlier, I think it's quite important that we remain in the spirit of trying to conclude this. And we are very careful to maintain the integrity of consensus building process where the expression of objections is taken very seriously.

So in terms of the board comments we have received recently, our intention was to - is to respond to these comments that give raise to a number of discussions on the list summarizing the position of our group in terms of the various items that were raised by the board and explaining when these comments will be taken into account or not taken into account in a very

factual manner. And just correspond with the board on that basis while understanding that further comments will be sent later on.

From the discussion on the list it appears that at least a couple of misunderstandings have been revealed through the discussion so we'll certainly also recap this into the answer. But that was the item here. And I think that would be a step that we would attempt to do before the end of this week.

And seeing no specific question, Thomas, would you like to follow up with Item Number 6?

Thomas Rickert: Yes, sure. The next item is survey and outreach and I'd like staff to bring up the document that we've prepared for that in the remote participation room. Thanks very much...

Brett Schaefer: I'm sorry, could we find out where we ended the previous conversation on Stress Test 18? Are we going to receive another text or are we going to - what is the next step? Thank you. I just want to conclude that before we move on. Thanks.

Thomas Rickert: Thanks, Brett. Thanks, Brett. We think that we can't come to a conclusion on Stress Test 18 in this very minute on this call. So more work or more discussion needs to take place inside our group as well inside the GAC. I think that, you know, Christopher as well as the NTIA statement was correct in saying that we - that this needs to be deliberated in the GAC and we should allow for a little bit of time for that. We've seen no traction or not sufficient traction on any alternative language to what we've seen so far in our second report. We are hopeful that we can find such consensus language but we need to work on that in the next couple of days.

James.

James Gannon: Hi, James Gannon. So just very briefly, I full agree with, you know, this is a bigger issue that needs to be thoroughly discussed but on the issue of continuing to discuss with...

Thomas Rickert: James, sorry, can you please move closer to the microphone? I can't understand a single word of what you're saying, I'm sorry.

James Gannon: No, sorry. James Gannon. So I agree that this is a larger issue that obviously still needs to be discussed at a more lengthy pace. But the reality is for the CCWG we're putting out our final report. I'm not sure what more discussion we can have about it. So we're going with including the text from the second draft report that's fine and that's - if that's the decision of the co-chairs I'm sure some of us can live with that.

But on the bigger question we still don't have any closure on this and I'd like to know how, you know, going over the next little while how are we going to actually have closure on this? Are we going to basically take whatever we get in the public comment period and incorporate that and then what happens after that? I still don't know what the process is to actually come to a full closure on this. It doesn't seem very clear to me at all.

Thomas Rickert: Okay, James. And as you will recall in the overall timeline that we discussed there - and that's reflected in our charter as well - there is a provision speaking to supplemental recommendations in case the recommendations do not find full support by the chartering organizations.

And we would suggest using this opportunity that our charter provides to allow for a little bit more discussion on Stress Test 18 and then issue the supplemental draft containing the consensus recommendation that hopefully we will have by then and then allow for the chartering organizations to approve the complete set of recommendations. So that's something that is perfectly possible under our charter. It would also be possible to keep our overall timeline with that.

So that's our suggestion to move forward on the basis of what we have. But we can surely continue the discussion in this group if you think that you have suggestions that can make it easier for us to come to consensus.

Okay so, I mean, we can revisit this at the end of the call. But I hope that I have answered the procedural question of where we are. Let's now move to the Agenda Item on survey and outreach. And as we explained to the group previously we want to help the commenters in the third comment period which primarily addresses the chartering organizations to make it easier for them to respond to what we're doing but highlighting the recommendations and most of all the changes that we've seen since the second report.

So while we would still accept free form comments in the public comment forum as you already know it from the ICANN Website, we would also offer an interactive dialogue, a survey where the commenters go through a dialogue where they're been presented questions with a little introduction presenting an excerpt from our report and then offering the opportunity to just take that the commenters support the recommendation, that the commenter does not support the recommendations or where the recommendation doesn't fully meet the commenter's requirements or is not fully to the commenter's liking.

The commenter still can say in the spirit of compromise I will support the recommendations. So that is not binary but that it allows for people to sort of find a middle way of saying it's okay, I wouldn't die in the ditch for it but it's not my preferred solution.

In addition to that we would allow for comments to be added to the response. We think that this format, and you see one of the questions that we've prepared as a sample here that this allows for easier analysis of the comments that we received and also it allows for easier participation by the community members to fill out this survey. So we hope that this is to your liking.

In addition to that we have two dates - or two times planned for a webinar on the 2nd of December. And by the way, you have full scroll control so that you can move to the second page of this document. You find the suggested dates here as Wednesday the 2nd of December, 11-12:30 UTC or 20 to 2130 UTC. These are the two dates that we suggest having. We're going to have interpretation in all UN languages and Portuguese. We're going to have them recorded and transcribed so those who can't make it will be able to watch the webinar after the fact.

Also there is a wiki up with the draft - with the third report where you find the full body of the report including all the appendices which you see listed here including minority views for your review and also for the community's review.

So this is a more or less for your information in terms of what we're doing in order to do outreach so that the community can adequately analyze our work product. So with that let me ask you whether you have any questions on this. James.

James Gannon: Hi thanks. Hopefully the mic will be a little bit better this time. James Gannon...

Thomas Rickert: Yes, we can understand you.

James Gannon: Excellent. I understand why you have this in the spirit of compromise option in the middle. But I would caution against possibly using it because it's actually not going to give us, as the CCWG, any valuable input. We need to know from our commenters on this very short, which I still disagree with, I still think we need a longer public comment period, we need to know their opinions, not their compromises. And I have a feeling that if we put it out with these three options we're going to get so many responses that are only going to have this middle option of in the spirit of compromise but it's not actually going to tell us what the commenters feel.

And that's what we really need, we need solid, clear, unambiguous input from our commenters on this. So I would caution against using that middle option. I'd prefer just to see a yes I support, no I don't, and let the commenter elaborate on their level of support in their actual comment but I would prefer to see a yes or no personally.

Thomas Rickert: Thanks James. The point is that we would like to avoid that those who don't see that preferred option in the recommendation say no to it because that might easily distract from the fact that this might still be a solution that is okay-ish for them that they could support but that is not their ideal solution. Any more comments on that? Andrew.

Andrew Sullivan: I don't have a strong opinion about this but I - I mean, this might be just a point of information in the IETF when we have this sort of problem the way we handle this is we ask the question instead it's always a binary question but

we ask the question is this a (unintelligible) that is acceptable to you that is you could live with it.

Thomas Rickert: Thank you. Malcolm.

Malcolm Hutty: Yes, largely in the same vein. I'm afraid I disagree with James. I think it is important to draw out the difference between people that really are unhappy about aspects of the proposal and those that are really saying no, this is seriously unacceptable to me. That's an important distinction to draw out and I think your proposal does that very well so thank you. I support it.

Thomas Rickert: Thank you. James.

James Gannon: Sorry, just very briefly. I would support Andrew's suggestion as a way to solve my problem as well.

Thomas Rickert: Thanks. Any further interventions on this? Okay so let me check whether we have any further things to discuss or whether we have reached sufficient clarity on where we are. Greg.

Greg Shatan: Thank you. It's Greg Shatan for the record. As can be noted by the very active discussion in the chat, I think there is a need before we get off this call to go back one more time to the Stress Test 18 and there is a suggestion there that I think we need to take a temperature on.

That was, you know, put out I think by Finn Petersen but it's not important who put it out but rather that we shouldn't get off this call without one more shot at this because otherwise I think, you know, conceding a supplemental draft at this point or a supplemental proposal is - would be very unfortunate.

And, you know, I've seen a number of other remarks in the chat so I would strongly encourage us before we get off the call to go back to that. Thank you.

Thomas Rickert: Thanks, Greg. So Matthew also says we should resolve. Jordan raises concerns with respect to supplemental draft. Mathieu.

Mathieu Weill: Thank you, Thomas. Mathieu Weill speaking. I want to recap what I - where we are on this Stress Test 18 and why we are actually all feeling that it's a deadlock and it could well just blow up the whole thing. So just remember, we went to this Stress Test 18 subgroup compromise temperature polling and there were significant objections to that. And our definition consensus is whether or not this - the level of objection is sufficiently small that it can be considered rough consensus and it is our impression of Thomas, Leon and I that it's - that was not working enough.

We are - according to process we said let's fall back to second report. And we heard you loud and clear a number of you saying we can't accept second report proposal, it's not good enough and we even go as far as saying we did not object last time but this time we would certainly not support the - an express very concern that the second report proposal it now it's not - it's no longer good enough, that's what I heard.

If we went that way then considering that our charter says we need to provide the chartering organizations with consensus recommendations then we would have to say look, we may not have any consensus recommendation to make at this point on Stress Test 18 and that's creating a number of other concerns about the acceptability to that. And I'm fully aware of that.

So I think if we want to reopen this the key question is what are our options in terms of keeping in line with our charter and moving forward on this? And

I'm very conscious like all of you of the degree of fatigue with this issue and the degree of to which it has become almost a symbol of discussions that took place for a very long time where people were - invest a lot of time, did invest a lot of their energy, did invest a lot of their I'd say reputation sometimes.

But now it's probably the time to say okay, what's really more important? Do we want to get that through? Do we want to use this as a way to basically delay the whole process? And I think as co-chairs we're really open. What we are standing by for is it needs to be consensus driven. It needs to be multi-stakeholder because that's what we've been tasked for.

So I'm really - I think we - it's good that we reopen this discussion in the spirit of what exactly are we to do now. If we - are people willing to withdraw their objections to one or the other of the previous solutions, I think that's what I would like to hear now if there are anyone willing to speak at this point. And I see James's hand is up.

James Gannon: Hi, James Gannon. So I'd like to suggest that we poll on Steve DelBianco's question that he has posed in the chat a few moments ago.

Mathieu Weill: And why do you think this proposal, which was rejected by the broad - basically a number of the group participants and members in the previous discussions would they change their mind? Do you have any indication that would be...

((Crosstalk))

James Gannon: Yeah, the discussion has moved on since that point and we've had additional statements from stakeholder. We're trying to move forward and I think that in the spirit of that we should reexamine certain things. Yes.

Mathieu Weill: Steve.

Steve DelBianco: Thanks, Mathieu. It's Steve DelBianco. Right after Dublin when GAC members came back with proposed language on the 2/3 board vote to reject GAC advice that is when I, just acting for myself, countered and said that potentially get the CCWG to go to 2/3 of the board to reject GAC advice but only if that GAC advice was adopted the current way in the absence of a formal objection. And that that would be the only way that ICANN's board could be forced to try and seek a mutually acceptable solution after a 2/3 rejection.

Finn Petersen and other GAC members then came back and said that they would accept that but then they also added in the European Commission language, they added the notion that regular GAC advice that wasn't supported by today's consensus, would require a majority of the board to reject and it would still trigger the special obligation of ICANN's board to try and find a mutually acceptable solution.

And, Mathieu, that is why the European Commission proposal did not enjoy broad support when we talked about polling it the other day because it's both. It would preserve the GAC decision making method and elevate it to a 2/3 to object but it also said that GAC could do advice on any level of consensus and still get the special deference of seeking a mutually acceptable solution.

So to this point on the CCWG we have never polled a very simple proposal, which I'm calling a compromise, which is to step up to 2/3 of the board to reject GAC advice but only if that GAC advice is in the absence of formal objection and to clarify that is the only way that the GAC could trigger the board's obligation to seek a mutually acceptable solution.

So that's never been polled and it's why the number of folks in the chat are seeing it as something new. It gives the GAC what they asked for in Dublin, which was brand new, right, we'd never heard it before Dublin, this notion of 2/3 instead of simple majority. And so we give the GAC frankly the most important part of their Dublin communiqué and we satisfy the overwhelming folks on this call who want to require that we lock in the current definition of GAC consensus for just that kind of obligation on the board. Thank you.

Mathieu Weill: Steve, I have a question for you because that's something I don't understand. I've seen some discussions in the chat about the definition of formal objection and the ability for the GAC to for instance define how formal objections could be sustained. Was that part of your proposal or not?

Steve DelBianco: No, it simply said in the absence of a formal objection.

((Crosstalk))

Steve DelBianco: So we are allowing the GAC, go ahead.

Mathieu Weill: So that was discussed in the subgroup. Okay.

Jorge Cancio: Hello. Hello, do you hear me?

Mathieu Weill: Yes.

Jorge Cancio: Hello. I'm a bit (unintelligible) that we are going back to this discussion. And after it's been a bit of a clumsy discussion or difficult to follow especially for those of us who are non-native English speakers. And I am seeing repeated (unintelligible) of the very same people who blocked the consensus proposal

on Tuesday to come up now with a different proposal. It's a bit weird because it puts us in a position where it's difficult to take a position right now.

In any case what I would comment to this proposal which I don't know exactly what it is but as I understand it's a combination of full consensus and 2/3 for rejection and also an element which I think was proposed by Keith so I don't know if somebody else that the GAC could retain flexibility in deciding whether formal objection is how it may be sustained and so on and so forth.

If this last element is meant seriously I'm not sure but perhaps there would be a possibility - a room for discussing this further. But we would need to have this on paper or to have clarity on what this flexibility element means so as to fulfill also the requirement - or the consideration the GAC consensus of Dublin meet that advisory committees need flexibility in addressing this.

And also the - to address cases or situations where one single delegate or very small minority of delegates captures the organization. So I would request clarifications on this whether this is part of what we are talking about and I don't know, I suppose everybody's - it's open for discussion if a discussion is meant seriously and not as a rabbit chase or a moving target game as has been perceived before it was. Thank you.

Mathieu Weill: Thank you, Jorge. And that was precisely my question to Steve to understand whether that degree of flexibility of how formal objection can be sustained, which is mentioned in the email from Keith Drazek was part of the proposal. And if there would be - Steve answer was no but if - and what I understand from you is that if it was then there might be room for further discussion on this. Pedro, you're next.

Pedro Ivo Silva: Yes, can you hear me?

Mathieu Weill: Yes, Pedro.

Pedro Ivo Silva: Yes. Just very briefly I would like to support Jorge's comments. I think the proposal that was put forward by Steve is worth considering with the condition that we preserve - there is a flexibility reserved for the GAC to define what formal objection means. So I think that we see as an option to consider and I think would be a goal - good way forward to reach a compromise solution. Thank you.

Mathieu Weill: Thank you, Pedro. And I really appreciate because that's - this is probably one of the first time in this discussion that a proposal coming from I'd say one side is sort of seized as a way forward by the other side and it's good to see that.

I'd like to hear from either Keith or Steve or others who were supportive of the no formal objection option whether the introduction of this degree of flexibility as laid out in Keith Drazeck's email is something that they would be willing to work on and because as Jorge was saying, we are all a little bit tired of chasing rabbits and so no point in getting further discussions if this isn't a serious opening so I want to double check that.

And I see Keith's hand is up.

Keith Drazeck: Okay, thank you, Mathieu. Yeah, this is Keith. I typed into chat just a minute ago but I think at this point it's worth speaking up. I think I support Jorge's request for clarification on this and I support a clear acknowledgement that the GAC's operating principles are its own business and that flexibility is warranted. I mean, it's clear to me from NTIA's statement that we need to define the consensus and advice as current practice. I don't think that's really open for debate at this point.

But I think absolutely an acknowledgement that the GAC's operating principles are its own business and that flexibility is warranted I think is a reasonable path forward here. Let me speak also to the 2/3 issue. I've made it very clear in recent weeks that the Registries - Registry Stakeholder Group of the GNSO are uncomfortable with the 2/3 threshold.

But I also acknowledge that not everybody is getting everything they want out of this process and in the interest of consensus and compromise and as I said back in Los Angeles, you know, we all need to be prepared to compromise without compromising our ideals and our goals, that we need to I think consider that seriously. So I feel or I sense that there is an opportunity here perhaps our last opportunity to reach a recommendation for the community and the chartering organizations to consider. And I don't think we should lose this opportunity. Thanks.

Mathieu Weill: Thank you very much, Keith, for your willingness to look for consensus here. Milton.

Milton Mueller: Yes, I pretty much agree with what Keith is saying. And I'm also looking for consensus. And, again, I've indicated we opposed the 2/3 threshold a long time ago when it was proposed independently of the accountability reform process. Our stakeholder group was completely (unintelligible). But I think as a compromise to get some kind of an acceptable proposal out of this process that I would certainly be willing to advocate that our stakeholder group change its position on that.

I think the most important issue now however is one of clarification. When we talk about GAC changing its operational procedures and other people are talking about current practice, we need to make it very clear that what I see

happening is that as part of the reform proposal we would get current practice, the is GAC advice, that triggered the board obligations would be defined as advice that had no formal objection and that would become part of the fundamental bylaws.

Then if the GAC changed its operational procedures in a way that reduced the threshold for formal advice or for - reduced what it considered consensus and they wanted that to change in turn the nature of formal advice to the board, that we have a process to the fundamental bylaw and it would go through the community mechanism and could indeed be approved or not approved depending on what the community as a whole thought. So that's my understanding of that is being proposed. And I hope it's congruent with what everybody else is thinking.

Mathieu Weill: Thank you very much, Milton. Steve.

Steve DelBianco: Thank you. I just pasted in the text Finn Petersen of Denmark's text for the proposal that we've been discussing. And, Finn, you got it exactly right, in your text you repeated the standard for today's decision making in the GAC which is the notion of general agreement and the absence of any formal objection. And I believe the GAC, in Operating Principle 47, got that from looking at the United Nations and adopted that definition.

And the words "formal objection" are not upper case formal and upper case objection, it's just the word formal objection. It's a plain language meaning, because that's what the United Nations wrote, of a country giving a formal objection. And I presume that in diplomatic speak that means a country was willing to stand up and say we object. I don't know whether it had to be writing but its plain language common sense understanding of the word formal objection.

So I would suggest to you those both Finn and I are proposing that that would have to be locked in to the bylaws obligation of ICANN's - the word formal objection. So to Jorge's point, I don't think that the GAC could, in the future, redefine what the word and concept of formal objection means. I hope that wasn't what Jorge was suggesting.

I do understand that the GAC can change its operating principles so that it comes up with lots of different levels of consensus for its advice. And that's just fine. But we can't be ambiguous in what we tell the board of directors. The board of directors of ICANN has to know that hey, this came over in the absence of a formal objection and therefore, you guys need 2/3 to reject it and if you reject it you've got to enter into a process of seeking a mutually acceptable solution.

So we want to be clear with our board and the GAC can change its rules but it really can't change the plain language meaning of Finn's text, which is the absence of formal objection. Let's be clear about that, okay? Thank you.

Mathieu Weill: Thank you, Steve. I'm still a little concerned about a little bit of ambiguity about what we're talking about. And I'm seeing this in the chat. I think Keith's proposal had a very specific addition to things that we had discussed earlier, which was about the ability for the GAC to define how objections are raised and considered, for example, disallowing a single country to continue an objection on the same issue if no other countries will join the objection.

I think the key for me at this point is - that's what I understand Jorge was mentioning as potential flexibility. And the key for me is checking - and I'm not sure I understood you correctly, Steve, on that, whether this is something

that is potentially agreeable or not. If it's not and it's not for most of the group let's not waste time with us looking at this. Jorge.

Jorge Cancio: Hello. Can you hear me?

Mathieu Weill: Yes.

Jorge Cancio: Hello. And apology for coming back so again to take the floor. I think that Keith's email what he sets out in his email is quite a useful wording. What I wonder is whether at this point of time we should engage into finding a specific wording or whether we could, if this is the agreement of everybody on this call, and as with the reservations other colleagues have made both from the GAC and from other constituencies that they will have to get back to their constituencies because we are just making that new language as we are discussing.

The point I want to make is if we are coming up with concepts or we are coming up with agreement on the conceptual level why don't we agree on a conceptual level without getting into a bylaws language on the elements that we have been discussing, the full consensus with 2/3 with leeway for the GAC to handle formal objection.

And we wait for reactions and the third public comment period on this and as in other topic - very difficult topics as the mission statement that Becky has been handling so efficiently, we make the clarification or the disclaimer that this is an agreement on the conceptual level that anyway we will later look into the specific bylaws language whenever that bylaws changes is really implemented and discussed and implemented. So that would be the idea.

Have the elements state that we have a rough agreement on those elements but one of those elements should be definitely be inspired by this wording of Keith email where he talks about the GAC having some control on how it may handle objection...

Mathieu Weill: Jorge, have we lost you? We've lost Jorge. Okay next is Steve. And, Jorge, if you can come back we'll gladly hear the rest of your intervention. Steve.

Steve DelBianco: Hey, thank you, Mathieu. Now that I see Keith's email in the Adobe it occurs to me that if we use the words "formal objection" just like Denmark's text in the bylaws, you may not need for the bylaws to reflect what Keith is saying here since it's obvious that the GAC Operating Principles could bind GAC members to certain procedures that they have to follow to do what the word understands to be a formal objection.

And as Keith indicates, the GAC could, at any time, make its procedures such that a formal objection from a country would have to be successively considered in a couple of meetings, that it had to have rationale behind it. That is completely up to the GAC to define sort of restrictions or parameters around what a country would have to do to register a formal objection. And that's understood.

I understand that. If you think that has to show up in the bylaws I'd be surprised but we could do that to acknowledge that any AC can define its own operating procedures but that currently is the practice and we all understand that. And each AC reserves the right to change its operating procedures by whatever method they have for that amendment.

But the key here is that the words "absence of formal objection" would be in the bylaws and ICANN's board would have to be sensitive to know whether a

formal objection showed up. And if we think we can do that for our board and at the same time allow the GAC to have certain rules around the registering of a formal objection, then I think we have a compromise we could all live with.
Thank you.

Mathieu Weill: Thank you, Steve. Cheryl.

Cheryl Langdon-Orr: I believe Jorge is back. And I thought it might be appropriate to go to him to make sure he's finished before I speak.

Mathieu Weill: Your audio was a little distorted. You were encouraging us to go Finn, right?

Cheryl Langdon-Orr: To Jorge.

Mathieu Weill: I'm not sure - I'm not sure I heard you right, Cheryl.

Cheryl Langdon-Orr: I've got the microphone as close as I possibly can without eating it. I was saying I believe if Jorge is back on the line we should go to make sure he has completed what he was saying before I speak.

Mathieu Weill: Okay go to Finn. And indeed if he's on the line is much welcome except if Jorge would like to - because I see your hand is up, Jorge, whether you wanted to add something?

Cheryl Langdon-Orr: Okay apparently not. He may have dropped completely.

Mathieu Weill: Yeah.

Cheryl Langdon-Orr: Okay thank you. Cheryl for the record. We have until the close of business in the US today to have text in next report if we're going to run with our time - our current timetable. I also agree with those who are saying that we are close.

But I do believe it would be appropriate to have text which is more like a reflection of the considerable work on consensus that has gone on since the second report then it would be to simply emulate the text from the second report therefore with the language that Keith has put out on - in his earlier email than is currently on the screen, which appears to have not garnered very much objection if any and certainly many people called (unintelligible) upon it, if that is proposed to somehow be put in as a overarching statement in the section on Stress Test 18 and bylaws language.

And that was followed specifically by an example of bylaws language from Denmark recently introduced is and we put in the text that Finn has very thoughtfully, and I think very efficiently and effectively, put together and got agreement with Steve and certainly has mine and many others support in chat, as an example at least, then at least we still have good solid bylaw language which of course we did have bylaw language in the second proposal - second draft, which Jordan has pointed out it would be odd to not have it in the third and final.

If that was the case it doesn't stop us continuing work which we do need to do and it certainly doesn't mean that the bylaw language as proposed by Denmark is any other than proposed. Obviously all bylaw language changes would have to go through the (unintelligible) and complete process that ICANN bylaw changes require.

So perhaps that may give enough of us comfort to have newer language in the bylaws full report and that we may then get a little bit closer to completion on this matter. Thank you.

Mathieu Weill: Thank you, Cheryl. And there is some traction towards a DK KD proposal - DK for Denmark and KD for Keith Drazek. I don't know if you - something that would sort of merge both options here. I know staff is trying to do some merging here. And we've got Keith's email on the top and in the - and below is the Denmark proposal with the 2/3, the absence - oh with objections from very small minority of GAC members but falling short of consensus the majority vote. Is that the one we're talking about, the...

Steve DelBianco: No, Mathieu.

((Crosstalk))

Steve DelBianco: No, Mathieu. This is Steve. That is not it.

Mathieu Weill: Yeah, that's not the right one.

Steve DelBianco: No. That's not the right one. So I'll prepare a draft...

((Crosstalk))

Steve DelBianco: Yeah, because that preserves the ability for non-consensus advice with objections to still force the board into seeking mutually acceptable solution and that's why that wasn't going anywhere. So Finn's text today says the only way to force the board to seek a mutually acceptable solution is to come up with the absence of formal objection.

And so what Keith's text suggests is reminding us all that the GAC can have rules about the raising of formal objections within the GAC and requiring rationale and clarity and whatever it wants to do but it's still a formal objection, its formal objection. I'll combine Keith and Denmark on one text and send it over to staff right away.

Mathieu Weill: Okay so while we're trying to do that, so what we're going to test in this text is whether it's meeting the key principles that were laid out and discussed about the 2/3 threshold, the consensus means no formal objection, but the ability for the GAC in the - through the operating principle to define how sustainable objections can be sustained, something like to that effect.

I am - I'm recapping this for the notes at this point while Steve is recapping this. So bear with us for a minute. I think it's worth taking a deep breath and looking at this. My impression is that we're getting close because the various inputs are being taken into account. And James - oh that was up and down. James, would you like to sing us a song while we wait or something.

James Gannon: So very briefly on a totally different matter, just for the - while we have a moment. The notes on the right hand side way, way back up at the top on the confirmation of the mission language can we just ensure that staff put in that we had a probably long discussion about it and we agreed also in the chat to change from "in furtherance of" to "in service of" in the language just to make sure that we captured that while we have a spare minute here. And no, I won't sing for you.

Mathieu Weill: That's very disappointing, James. And I'm not speaking about your comment which is thoughtful and relevant but your refusal to sing. That would have been actually a highlight of our group and it's a missed opportunity I believe. So we're going to have this shortly - okay and regarding the note from Brett in

the chat regarding the autonomy of SOs and ACs over their operating processes, I think it's somewhere in our report if I'm not mistaken, and I would not put that as part of Stress Test 18. But it's been reaffirmed a few times already.

While we try to get that text, but I think it's - the text is going to be the two proposals at this point, maybe I should test whether anyone at this point feels that they would have to - they would have to die in the ditch for - against a proposal that would comply with the principles we discussed of the 2/3 threshold, the no formal objection, a condition for the GAC advice and the ability for the GAC to define how the objections can be sustained.

And because if there is no objection to that then that could be our basis for really revisiting the draft on Stress Test 18 circulating on the list right now assuming that there's no objection, and ensuring that we move from there. So those are the two proposals, one from Finn on the top has the 2/3 vote for the board. And the one - the note from Keith provides an explanation that is the GAC still has autonomy to refine its operating principle to specify how objections are raised and considered, for example, etcetera etcetera.

And if - it wouldn't be that hard to merge this very shortly into a document to make sure we put that as our third report recommendation. And Mark, yes, I am asking whether there would be any formal objection to that.

Brett Schaefer: Mathieu?

Mathieu Weill: Yes.

Brett Schaefer: Mathieu, this is...

((Crosstalk))

Mathieu Weill: Sorry, I didn't see your hand, please.

Brett Schaefer: Mathieu, this is Brett Schaefer. I'm just noting that as you mentioned before, if the confirmation that all SOs and ACs have autonomy over their operating procedures is already in the draft report and that it's been confirmed and it's going to be included in whatever changes are made to the bylaws, is Keith's note necessary? Just a question, thanks.

Mathieu Weill: I think it would be at least necessary as an explanation of the rationale why we are presenting this as a potential way for all the parties to agree on this proposal. So it really needs to be spelled out very clearly if we want to reach that level of consensus that we hadn't reached that so far. But it does not necessarily mean it has to be in the bylaws but I would go, I mean, for - probably not going to be appropriate to mention that in the bylaws but it needs to be spelled out quite clearly.

Brett Schaefer: Okay, understood.

Mathieu Weill: I would defer to legal people for that. But I would certainly spell it out. Otherwise I think we're going to meet the same resistance as we've seen earlier. Okay I think against all odds, and maybe that's the Thanksgiving spirit, and we can all pardon each other's - we might have a way forward for the report.

Brett Schaefer: Just one more small comment. I want to highlight a point that Phil Corwin made in the chat which means - which is that the - at the very last sentence where it says "with respect to such advice" I think he's right that we should

say “with respect to consensus advice” and it’s just to clarify that point. Thank you.

Mathieu Weill: Thank you, that’s drafting input but I think that was the intent. So way forward, we reviewed the Stress Test 18 recommendation against these lines. Send it out in writing as soon as possible noting that during this call no formal objection was lodged against it. I’m expecting at least one on the mailing list. I would not disclose which one. But try to move with that as part of the third report.

Thomas, Leon, would you agree with that way forward since obviously it’s been designed on the fly here?

Leon Sanchez: This is Leon, Mathieu. I agree.

Mathieu Weill: Okay. So let’s move like this. And I’m asking whether there’s any other business. There’s no other business and so I think for all of you in the US it’s high time that you go back to your families. This group is taking everyone away from their families too much. And I hope today we’ve achieved a significant step towards more family times and towards obviously the - our goal which is the IANA stewardship transition completion. So thank you very much all for staying in very constructive spirits. And I’d like to turn over to Leon now.

Leon Sanchez: Thank you very much, Mathieu. And just to take advantage of the day it’s Thanksgiving and we as co-chairs wouldn’t like to miss the opportunity to thank everyone in this working group for your efforts and for your flexibility. So have a happy Thanksgiving, everyone, and this call is now adjourned.

END