

**ICANN**

**Moderator: Brenda Brewer  
January 12, 2016  
8:00 am CT**

Thomas Rickert: Can we get the recording started, please?

Coordinator: The recordings are started.

Thomas Rickert: Thank you so much. Good morning, good afternoon, good evening. My name is Thomas Rickert, and I am the GNSO appointed co-chair to the CCWG. And I would like to welcome all of you to this 76th call of the CCWG on the 12th of January 2016.

And as usual, we would like to do the roll call based on attendance in the remote participation room. So I would like those who are on the audio bridge only to speak up so that we can add them to the list of attendees.

Steve Crocker: This is Steve Crocker. I'm trying to get in to the Adobe room but I'm not there yet.

Thomas Rickert: Okay.

(Unintelligible)

Thomas Rickert: Same for Bruce.

Rosemary Fei: We've got a comment here from Rosemary.

Thomas Rickert: And Rosemary. Welcome all of you. And I see in the chat that (Derek) is on audio only on mute also. Anyone else? Good. Thanks everyone. Can I also ask whether there are any updates to statements of interest?

There don't seem to be any, which allows us to move in to the second agenda item and you will have noted, which is quite unusual, that I'm doing two agenda items in row. That is because I have to leave the AC room in roughly an hour. So don't be surprised if I'm disappearing. That's not a lack of interest.

So the next agenda item is the second discussion on recommendation four, or to be specific, on an aspect of recommendation four with respect to broad removal liability. And I'd like staff to bring up the recently circulated document up in the Adobe room. It has been circulated only a couple of hours ago but we just made some minor tweaks in terms of language to the document that you already know.

And I suggest that we jointly go through what's been changed to check whether everyone's happy with that. And this is sort of a pattern that you will see with the other recommendations as well. We have this draft recommendation four exactly one week ago. So we're going to bring that up today again.

The same goes for recommendation number 12, which we've heard last week as well. And then we're going to through new recommendations if you wish to have them in our first reading. So you will see at least two sessions with

respect to the same recommendation to confirm that we have - we don't take any decisions or that we don't confirm any agreement in one single meeting.

And between those meetings, as you will see, we first published high level summaries of the key findings to allow for refinement and further discussions on the list before then sending through a document with more stable language which is going to serve as instructions for those that are going to implement our recommendation at a later stage.

So the changes that we've made with respect to board member removal liability and litigation you'll find summarized at the beginning of the document. So basically we are seeking to mitigate the risk of litigation in case of board removal. And one of the options to get that done is to have the board members sign in pre-service letters before they're being seated.

We will move to the respective paragraphs in the recommendation momentarily, and that's actually going to be paragraph 39 which has been offered by our lawyers. And after the meeting, we've kindly been notified by Kavouss that we did not speak to two recommendations that have been made by the board, one of which relates to offering a rationale for why the board member is to be dismissed. So we've included that, and we've suggested language based on the conversation that was held on the list.

And the second aspect was that the board - they asked us to put something in writing, which we think should go without saying, and that is that the director in question should be contacted before all this process is started. I think that's something that you would do out of courtesy anyway to give the director a head's up where possible rooting out the issues there are so that hopefully there will never be the need for the escalation process to remove a director.

Bruce's hand is up. So before we move to paragraph 39 in this document and then paragraph 42, if I'm not mistaken, let's hear Bruce's view.

Bruce Tonkin: Yes thank you, Thomas. We had a board informational call earlier today probably about seven or eight hours ago and we did talk through some of these topics.

I think one thing that tends to provide a little bit of clarity, because I noticed that Alan Greenberg sent a note to the list saying would it be sufficient for the written rationale just to say that the particular advisory committee felt that their board members values, et cetera, we're aligned with their values or whatever it was. And our response to that is yes.

Really we're basically saying whatever you believe the rationale is that you're going to use to convince the other parts of the community that you think is justified to remove the board director, that's what should go in the written rationale. So if you just say you don't like the board members because they're rude or you don't like the board member because they seem to always vote against a particular advisory committee's interest then that's the reason that you want to give.

So the rationale is really just a case of documenting in writing so that the affected board director or board can respond to the concern, but the content of that is entirely up to the SO and AC that initiates the process.

Thomas Rickert: Thanks very much, Bruce. That's very helpful. And again thanks to the board for turning around feedback to our refined recommendations so swiftly. So this very helpful.

I understand that you also wanted...

Bruce Tonkin: Yes so if I may follow up. The first point is with not requiring cause, so instead of using that legal term. Basically the written rationale is the rationale that the SO/AC believes is their reason for why they want to remove the board director. And we're putting no restrictions on, you know, the ability to state their rationale.

In terms of a pre-service letter, I think the board is comfortable with the notion that a pre-service letter might confirm or agree that should the relevant process come up with a decision that that board member be removed that the board member agrees to go. So, you know, we can certainly incorporate the pre-service letter. The board member's not going to try and hang on if a legitimate decision is made.

What the board was uncomfortable doing was as an individual board director waiving rights for defamation, et cetera. So a process where the board member steps down based on the outcome of the process, but wasn't going to kind of indemnify people to say anything they like about the board member.

Thomas Rickert: Thanks very much, Bruce. And in fact I was about to thank you for your feedback on this first aspect and invite you to comment on the other aspects of our refinement as well, which you just did so thank you for that.

I think there are - we've given thought to the points that you mentioned, so I will speak in a moment to the issue that you've raised with respect to the waiver. And that is that I think it was you who mentioned that it would not be appropriate for the dismissed board member to waive any claims in case there's defamatory content that's voiced by SO or AC leaders or other individuals in the community.

So just to illustrate this, let's somebody says that Bruce needs to go because he's a fraudster or a murderer, then certainly you should not be without any possibility to seek legal relief. We've run this by our lawyers and in the covering note to the updated recommendation four, which was possibility not in your inbox when you did convene your board meeting, we included feedback from our lawyers that said that in cases where the -- let me just dig out for you.

As to the feeling out the deposed regarding defamation, the waiver that we're suggesting is unlikely to be viewed as absolute. Of course the likely view in through a lens of equity in relation to the specific set of text presented. Our regular text that involves internationally known falsehoods may lead to the court not recognizing the waiver for the public policy.

So this is, I think, that missing bit that you're looking for. So in the first place, we would have waivers as requested by some commenters in order to make sure that not in each every instance where criticism is being brought up against a director, the person bringing up the criticism is in danger of being sued by the departing director.

But on the other hand we would have a corrective safety net, let's say, for the director in question so that in case the SO/AC leader just brings forward a wrong accusation or any accusations that are missing (unintelligible) that the director would still be able to seek legal protection.

There are two hands raised. I would really like us to look at the concrete wording suggested by the lawyers before we open it up for discussion. But I trust that the commenters both want to speak to the very topic that I just wrote our legal advisor's note on. And since that is not explicitly covered in the

updated report, let's hear Alan and should Bruce wish to speak to this point as well, let's hear Bruce as well. Alan?

Alan Greenberg: Thank you. I'd just like clarification. I think Bruce said the board was uncomfortable with both waiving and indemnifying the - indemnifying was not captured in the notes. I wanted to make sure that's what he said or not.

((Crosstalk))

Bruce Tonkin: Yes, we're uncomfortable with the indemnification or waiver. If we're talking about a pre-service letter, we are comfortable with agreeing to comply with the instruction, if you like, from the empowered communities. If the empowered community goes through its process and wishes to remove a board director, we will commit in writing to comply with that request.

Alan Greenberg: Thank you. I'll wait till the actual discussion before I raise any issues. I just wanted a clarification. Thank you.

Thomas Rickert: Thanks, Alan. Thanks, Bruce, for the clarification. Let's now please go on to look at paragraph 39 of the document that was circulated several hours ago. In terms of only a little bit of text, and possibly not all of you had the opportunity to read through it, I will just read it out for you.

"As a condition to being nominated by an AC and SO or the Nominating Committee and seated on the board, each director nominee shall be required to sign an irrevocable letter agreement that first expressed the contractual commitment that, one, acknowledges that the nominating AC or SO or for directors appointed by the Nominating Committee, the empowered community has the right to remove the director from service at any time or for any removal through the process set out in the bylaws as prescribed below.

"Two, confirms that the service of the director process does not establish any employment or other relationship to ICANN, the empowered community, the AC, the SOs or the Nominating Committee or the agents of any of them that provides any due process rights related to the termination of service as a director other than those specified in the bylaws.

"And three, waive any and all claims against and release us from all liability, ICANN, the empowered community, the ACs, the SOs, the Nominating Committee and all of their agents, and any other individuals participating in the removal process arising from or in connection with the removal process.

"Second, provides a conditional irrevocable resignation from the board that is automatically effective upon final determination of removal through the individual director removal process or the full board recall process upon communication of such decision to the board as set forth below.

"In addition, ICANN shall indemnify any past defenses of defending against any claim against the empowered community, the ACs, the SOs, the Nominating Committee, or the agents of any of them for their good faith actions in seeking the removal of a director or the full board."

So I would like to open it up for discussion on that point. But maybe before we do so, let's also add the other few lines that we've added. And that is if you scroll further down to the next page in paragraph 41. So we've specified there that a petition must be supported by a comprehensive and written rationale stating why removal is sought. So we are not using the term fulsome, which has caused some debate, but we just ask for comprehensive and written rationale.



And the second addition in that same paragraph is that prior to completion of the petition phase, the affected director and the chair of the board, or the vice chair if appropriate, is invited to a dialogue which also includes the individuals bringing the petition and the chair of the SO/AC where the petition is under consideration.

The purpose of the dialogue is to gain a full understanding of the issues needed for the petition and consider if there are any other ways to address the concern. So those are the two additional points that we have included post meeting. And I see Alan's hand is up. So, Alan, please the floor is yours.

Alan Greenberg: Thank you. Two quick points. In light of Bruce's comments on, you know, that if we say we don't like the color of the director's hair or whatever and that's satisfactory if that's the reason, I'm not sure the word comprehensive is appropriate here. I'm not going to die on my sword on it, but I think that's overkill in light of what has been said so far.

And I just want a clarification. Is this the right time to talk about - are we just talking about the words written or are we talking about the board's reaction?

Thomas Rickert: I'm not sure I'm clear on the last aspect you mentioned.

Alan Greenberg: The words here in paragraph 39 talk about both the waiver and indemnification. Bruce has said the board is not comfortable with that. Is this the right time to talk about that or not?

Thomas Rickert: Please do. But before you continue on that point, if it's just the color of the hair of the director to be removed, then a statement speaking to the color of the hair would be comprehensive. But I'm not...

Alan Greenberg: All right. As I said, I'm not dying on my sword on it.

Thomas Rickert: Okay. Let's all try to stay alive on that point.

Alan Greenberg: It just sounds like overkill, but I take your point.

The ALAC was one of the groups that raised -- maybe we were the only one; I don't think so though -- that raised the issue of indemnification and waiving rights or some combination of the two. Without either, I really don't see how anyone would ever dare to try to remove a director. And it makes the whole power rather impotent. Thank you.

Bruce Tonkin: Can I understand that? Alan, I'm really struggling with that, to be honest.

Alan Greenberg: Okay. If there's the threat against me personally as chair of the ALAC for raising the issue on behalf of the ALAC that our director has done something that we think is improper or whatever and the director now has the ability of saying, "Hey because you've made that accusation in public, I can no longer ever get a job again and I'm going to seek restitution," that puts the group in a position where they're not likely to take any chances like that when their personal liability might be at stake.

Bruce Tonkin: Right.

Alan Greenberg: It's not just the AC or SO, it's the people who are saying the words.

Bruce Tonkin: Right okay.

Thomas Rickert: So we have Kavouss' hand up. Kavouss'?

Kavouss Arasteh: Yes. A small point on the last part. I suggest that we replace "if appropriate" by "if requested" because I don't understand who will decide whether it is appropriate or not to invite the board. And second, if invited has a different connotation. I suggest that we replace is by will be invited so the text should read that "If requested, will be invited."

So the board in question may request to be invited and that will be done. So (unintelligible) is not correct here, if appropriate, because you put the decision under whom: who will decide that. So we have to slightly modify this last part here. Thank you.

Thomas Rickert: Thanks, Kavouss. I think that the inclusion of "if so requested" - I think Kavouss you're saying that board participation if so requested by the affected director or the petitioning SO/AC, right?

Kavouss Arasteh: Yes, right. Yes.

Thomas Rickert: So let's please put that point in the note section. I think that's useful feedback. And for those who are against the inclusion of that addition, please do speak up. Otherwise I hope that this is uncontroversial. I see Greg's hand is up. Greg?

Greg Shatan: I'm actually going to go back to the point on the word comprehensive which I think should be removed. I think it only creates a possibility of a challenge. If the reasons are sufficient to convince other SO/ACs to go along to remove that director, that should be fine.

I think it only creates the potential for mischief in challenging other - in challenging a rationale that somehow not being comprehensive it would clearly be foolhardy for any SO/AC to, you know, leave out the main reasons

they were trying to remove a director since they need convince other SO/ACs to come along with them. And on the other hand, if they were able to convince the SO/ACs on whatever reasons they decided to put forward, that should be good enough.

So I think this does us no good, and potentially harm. Therefore I think it should be removed. Thank you.

Thomas Rickert: Thanks very much, Greg. And I take your feedback as well as the feedback mentioned by others in the chat and orally as an encouragement to just remove the word comprehensive. You will see or you will remember that on the mailing list there was a discussion surrounding the word fulsome, which is why Mathieu ultimately suggested the word comprehensive as a replacement and basically a compromise position.

But since individuals on this call don't seem to like it and since Bruce has specified that the written rationale offering the reasons why director removal was sought should be sufficient, let's just strike it out. And let's just say "A petition must be supported by a written rationale stating the reasons why removal is sought." And I would like those who are about die in the ditch for either inclusion of comprehensive or fulsome to speak up. Otherwise I would like to close that language on that specific aspect of paragraph 41 and move back to the waiver language.

And I'm not sure whether the explanations given so far have been sufficient to shed enough light on the issue so that we can close it, but I think that we tried to find a balance between Alan's concern and the rightfully framed argument that Bruce brought forward that we must neither leave directors exposed to defamatory statements that are entirely unjustified, but at the same time we

should not leave a SO or AC leader that might need to bring up concerns about a director publicly with the exposure to legal liability.

And again, the reasoning behind what's been suggested with the assistance of our lawyer at the moment is that for claims that are within what's appropriate, i.e. we don't like the positions the director is taking or the person is just not appropriately working on the board, should be okay. In that scenario, I think it will be hard to agree to reasons why for those cases there shouldn't be any waiver, because in fact there shouldn't be any reason for the removed director to seek legal protection.

And on the other hand where the allegations against the director cross the board of being defamation, then the waiver wouldn't be valid anyway according to our lawyer's assessment. And then the director in question could actually go to a court and try to get that rectified or seek relief.

Is that something that we can settle on or are there any concerns with what language that has now been suggested? Steve is confirming his support. So is (Azumi). Thank you for that. I understand that our language has not been sent to the list when the board convened, so I hope that this additional information is good enough to address the board's concerns.

Greg, I think I haven't seen your hand lowered since you last spoke. So I trust that it was an old hand. Kavouss has raised his hand. And just to ensure that we don't get any friction and that we can close this matter today, I would like one of the board representatives to confirm that they're okay with the suggested way forward. But before we do so, let's hear Kavouss.

Kavouss Arasteh: Yes, Thomas. I put two times in the chat that before ending the second reading, please ask once again the board member whether all the concerns that

they have referred has been met. Because I don't want after the second reading still they come back with a new concern. Thank you.

Thomas Rickert: Thanks, Kavouss. And you will have noted that before inviting you to speak I have invited the board to do exactly that. So thanks for the reminder. I'm not sure whether Bruce or Steve or any other board member on this call would like to respond.

Bruce Tonkin: I think we're not yet agreeing to that proposal that there's a waiver. I think that that's our position at the moment that certainly at an individual director level through a service letter, the position is that the individual director would not provide a waiver.

Now is there a possibility for the organization to provide some sort of indemnity? That's something that we could research further and consider the legal advice that you've received. But that's our position as I had stated earlier in the call.

Thomas Rickert: Okay. So, Bruce, I understand that you will take this back to the board.

Bruce Tonkin: Yes.

Thomas Rickert: I also trust that the information that we've offered might be sufficient to also address the concerns that you've raised. Again, the intention is not to leave the directors entirely unprotected. But in normal cases that they - there shouldn't be the reason to have a scenario where let's say the SO and AC leaders are silent because they're afraid that they are taken to court if only they mention anything negative about the director in question.

Can I also...

Bruce Tonkin: Thomas, if I can just say what I think is fairly - it's unlikely that the board would change its position on the idea that individual board members are going to give that waiver.

The bit that I think we can investigate further is that last paragraph. And the last paragraph says that -- and I'm looking at paragraph 39 -- the text that I can see on the screen in Adobe chat says that "ICANN shall indemnify in advance (unintelligible) any claim against the empowered community, the AC, the SO, the Nominating Committee, or the agents for their good faith actions in seeking removal of a director.

That is something I will ask our legal team to investigate further if there's a way of getting the indemnity. Some of the concerns that were raised in our discussion today was that certainly when it comes to individual members, they may have commercial incentives to take action against a particular director. There may be a whole raft of reasons why, you know, it would be inappropriate to have sort of an open indemnity.

But to the extent that something can be crafted there any maybe the - Rosemary and her colleagues may have some ideas of how to limit that. But I think the last principle -- and I'm speaking only personally now -- the principle is that, from my perspective, is that an officer of one of these SOs or ACs or a nominating committee should be able to in good faith exercise the powers and indemnity. The question is can we create such an indemnity. That's a question I will ask our legal team to investigate.

Thomas Rickert: Thanks, Bruce. I think that is well understood. Last to speak on this topic is going to be Alan.

Alan Greenberg: Thank you. I'll just point out that if we're using the term agent, and Bruce just used the term officers of the AC and SO, we're not going to have a really, to use the word fulsome, discussion. We're not going to have a spirited discussion with lots of contributions if the only people that are indemnified are the chairs.

So we're talking about a community forum with lots of people. At one point we were even saying we're going to fly them somewhere so they can talk face to face. That's not going to happen if only the chairs are the ones who are indemnified. I'm just raising that flag. Thank you.

Thomas Rickert: Thanks, Alan. I think there is a little bit of work to be done on this, but I think what I'm hearing is that there should be a balance between the community being able, or community representatives being able to speak up and voice concerns, because otherwise the community power would never be invoked. And on the other hand, not let the director twist in the wind in case he or she is exposed to outrageous allegations.

There is the - we have two legal instruments at our fingertips, which is the waiver and indemnification. And I would suggest that we ask our lawyers to reach out to the ICANN legal team or Jones Day directly. Bruce you said that you wanted to reach out to the legal team to conduct some analysis, and I think that, you know, we're all seeking to achieve the same result here. And since this is more a matter of legal work (unintelligible) appropriately, let's put them together and come up with suggested language and way forward for that.

So I think we have exchanged the argument that needs to be exchanged in order to give guidance to that dialogue. And let's therefore not spend further time in this group but bring back feedback from the legal team if and when it is ready.



So I hope that this is an acceptable way forward for everyone. Thank you so much for this discussion. And for the next topic if I'm not mistaken I'm going to hand over to Mathieu.

Mathieu Weill: Thank you, Thomas. This is Mathieu Weill speaking, and hello everyone. So the next - second reading item on our agenda is Work Stream 2 recommendation number 12. We're going to upload the document that was circulated after last week's call.

A quick reminder, we had clarified that in the answering bylaw article that we are recommending there was some confusion but the intent was that Work Stream 2 recommendation be considered by the ICANN board with exactly the same type of rules as Work Stream 1.

We had also reminded that deliberations of Work Stream 2 would follow the same process as the current deliberation, including the fact that it would be open to all. And that in terms of timeframe, we would certainly use target dates that hard deadlines would not be appropriate or even helpful. And we had also agreed that enhancing (unintelligible) would be confirmed as a Work Stream 2 item. Some further description will be provided shortly.

So to start off with this item, since Bruce confirmed there was - there has been an informal informational call from the board very recently, maybe I can turn to you, Bruce, for confirmation that these clarifications do address your concerns raised by the ICANN board in its latest comment, or if there's anything outstanding.

Bruce Tonkin: Yes, sorry, Mathieu. This is relation to the Work Stream 2, is that correct?

Mathieu Weill: Correct, Work Stream 2 recommendation 12.

Bruce Tonkin: Okay. The discussion we had on that was really focused on paragraph five. And we noticed there's been a change to the bylaw which has the group creating further enhancements to ICANN's accountability. The words that are being struck by including but not limited to and the replacement words are - were related to, I think the board's preference there would be that the replacement word be limited to rather than related to. We felt related to could be, you know, pretty much given that the topics are fairly broad already that you could probably create another 100,000 topics that are related to them in some way.

We wanted to keep it limited to that set of issues, because that's really a set of issues where we're going to provide staffing and legal counsel and other resources, and we want to be able to make sure that we can provide those resources to that set of issues.

That's also recognizing that there is an ATRT review process, so new topics can always be added in a regular review cycle. So every three to five years, the accountability is reviewed and that work would kick off further pieces of work to do. So it's not constraining anything into the future, but we felt that we needed to have a clear scope, if you like, for Work Stream 2 that's got a clear set of issues, and those issues we'd provide staffing and resources to try and complete those issues.

And the only other comment we were concerned about, and I'm not sure where the relevant paragraph is, but I gather there's a paragraph that talks about trying to put a date in the bylaws for when the Work Stream 2 must be completed. Is that correct?

Mathieu Weill: No, the intent is not to have a date in the bylaws either on the use target dates for our internal - I mean for the development of the process but that's all.

Bruce Tonkin: Yes. So there was a concern that there was some date - I think it might be paragraph three actually because it says, "Intended that the Work Stream 2 publish comments by the end of 2016." Yes. So as long as that's not something that we're trying to put in the bylaws, I think the only comment, final comment, we had was that we just wanted to have a clear set of Work Stream 2 issues that was a result.

Mathieu Weill: Thank you. Just a question for clarification. You - are you implying that for the rest of the concerns of the board about the way the Work Stream 2 recommendations were to be considered and everything, your absence of comments means that it's been correctly addressed? I'm just trying to...

Bruce Tonkin: Yes that is correct. The rest of the changes in paragraph five, we believe address the concerns. So yes. So the only outstanding item for us was that we wanted to have a constrained list of Work Stream 2 issues to resource rather than an open-ended list that's in the bylaws themselves.

But still remember that the community can work on any issue they want and then it's just a question of them doing their own resourcing of those. There's nothing stopping people from getting together and looking at something. But we also have the ATRT2 process, so the review process for the accountability and transparency, which is an ongoing process. So new issues can always be added.

Mathieu Weill: Thank you. Thank you very much, Bruce. I think - so my understanding from the board feedback is that the only outstanding point of discussion is the wording limited to - I mean the wording regarding the list of issues for Work

Stream whether it's related to a number of things or limited to, and probably before going to the next item after that I just would like to check if there's any specific concern to limited to in the list of issues. I think that was the intent. And I want to check there's no objection to that.

Okay. So we won't take that on for the moment. The only other significant concern that we've received from the public expert group advisors. The PEG advisors had a discussion that was started earlier. We did reinforce their advice that we strengthen diversity as part of Work Stream 2 because it's perceived to be absolutely critical to capture the diversity of views across the globe on global public interest. So there's a recommendation from them to strengthen this aspect of the Work Stream 2 proposal, which I think could be agreed on quite easily.

And we have to also clarify the ombudsmen action. Becky and Avri were identified as volunteers to provide this but I don't think it's a blocking issue at this point. I see Matthew's note on the chat. He suggests to add that further items beyond those in Work Stream 2 can be accommodated through a regular review cycle. That's a very good suggestion for clarification.

And I am seeing no hands. Maybe my AC room is stuck. But it's a good sign, which means that I think we can consider this second reading on recommendation 12 successful. And with the small changes that we've discussed, we would probably be able to move that to the finalization stage.

And before that, Sebastien's hand was raised.

Sebastien Bachollet: Yes thank you, Mathieu. I hope you can hear me well.

Mathieu Weill: Yes.

Sebastien Bachollet: Just to be sure what Bruce said maybe, if there are another topic, it will be - we would be able to raise it within the regular review. But I am not sure that currently the ATRT is open any issue that the community would like to raise. And I am not sure that it's a little bit of where we will do that and maybe we need to change something in the bylaw concerning the ATRT. But I just want to be sure that if any new issue are raised and we are not able to do it in Work Stream 2, then it will be accommodated in the review team. Thank you.

Mathieu Weill: Thank you, Sebastien. Avri's noting in the chat that we - in the ATRT system being rolled back to the bylaws, I think we have accommodated for that possibility to review any accountability issue. We can certainly double check that, because we are somehow amending the ATRT system already.

Bruce, you're next in line.

Bruce Tonkin: Yes thank you, Mathieu. One thing I also just wanted to point out, it's just kind of a restatement of something that we had said earlier, but we also wanted the flexibility if the chartered organizations wanted to do this. This is more kind of bylaw drafting I guess but, you know, there'd be the ability for the chartering organizations to spin off separate cross-community working groups if they wished so that they wouldn't be constrained by the bylaws in that area.

I say that's quite big topics for those to be - SO accountability, transparency, human rights, jurisdiction, ICANN ombudsmen. Those are quite diverse topics and we just wanted to give scope if the supporting organization or chartering organizations wished that they could create those as a separate cross-community working groups if they wished to, but needing all the same requirements as the current one. In other words, open participation is critical.

Mathieu Weill: Thank you very much, Bruce. That was helpful. And I noted that you pasted your - a board comment in the chat, and we'll all capture in the notes as well. That's extremely helpful.

And with that, I believe we can consider that our second meeting has been very positive here. Thank you to the ICANN board for being very reactive to our comments. That's been very helpful.

Malcolm Hutton: Mathieu, Malcolm Hutton here.

Mathieu Weill: Yes?

Malcolm Hutton: Malcolm Hutton. I'm on audio only, apology. I'd like to point Bruce to that last particular suggestion, the idea that SO and ACs can spin off specific targeted CCWGs and ask could that also include new issues that the SOs and ACs identify that have not been identified in this report?

I'm concerned that the limitation of so-called Work Stream 2 doesn't even include all the things that we've previously identified in this CCWG as an earlier stage in the process, let alone things you think there might be identified. But if SO and ACs can spin off new CCWGs to address those specifically at a later stage, that would satisfy me. So could I have that clarification?

Mathieu Weill: I think we can definitely add this as a clarification with Matthew Shears' suggestion.

Malcolm Hutton: Thank you.

Mathieu Weill: Good. So with that, we're now moving to our next agenda item and I'm turning to my co-chair León. León, if you're speaking we cannot hear you yet. I think we have lost León at the moment so I will give it a short introduction and hopefully he'll be joining shortly.

So the next item, the item is the first reading. It's on - related to recommendation number seven on strengthening the IRPs, the independent review process. Some of the - most of the comments we received are actually related to the scope of the IRP and that...

León Sanchez: I am back, Mathieu.

Mathieu Weill: Okay. I turn over to you for the remaining of the introduction.

León Sanchez: Thank you very much. I am sorry for the call being dropped. And as Mathieu was saying, we will now be reviewing recommendation seven. This would be the first reading for the recommendation. And we have had a couple of comments from different commenters of course.

We have key two discussion points with this recommendation, the first being to discuss - the discussion on comments related to the scope of the IRP, which of course has some other related topics as the possible inclusions of the PTI actions or inactions as to the matter of the scope in the IRP, and the exclusion of the protocol and the perimeter positions as per requested by the IAB's comment.

The exper panel decision, which is a concern raised by the board and we'll be go into just in a minute. And then the DIDP position, which is also a board concern, which will also be analyzed in a couple of minutes.

Then the second key discussion point would be to discuss how to best transfer or incorporate the different comments that we received in regard to suggestion to the implementation and the details for implementation and of the oversight group on the IRP.

So the first key discussion point is the scope of the IRP and the first subtopic for discussion here would be to include the PTI actions or inactions as a matter that could be challenged by an IRP. So I would like to of course open the floor for comments as to whether the group considers it feasible to actually include PTI actions or inactions as a matter of an IRP.

So I see that first in the queue is Becky Burr. Becky, can you please take the floor?

Becky Burr: Yes thanks. I have a sort of broader comment. I think that with respect to making very specific the inclusion of PTI actions or inactions as a CWG requirement, it doesn't seem to me to be very controversial. Likewise, the exclusion of the protocol perimeter decisions per the IAB's comment likewise seems not controversial and consistent with the manner in which we have handled the numbers related issue.

So I think that those two recommendations or suggestions are really by way of clarification and they're not particularly controversial. I would support them. So that's all I have to say on those two things.

León Sanchez: Thank you very much, Becky. So I see no other hands raised. So I would now call for any objections to actually modify our report in a way that we include PTI actions or inactions that's a clarifying item for IRP and of course to also exclude the protocol and perimeters position as per the IAB comment.



And since the feedback that we have received from Becky, which is the penholder for the IRP, is that this wouldn't seem to be controversial, I would just like to call for any objections on this. And I note Alan Greenberg's hand is up. Alan, could you please take the floor?

Alan Greenberg: Yes thank you. I'm not objecting nor do think it's controversial. The question is do we have outcomes that go along with it? Because at this point, the outcomes of an IRP are to say ICANN violated bylaws. I'm not sure PTI action or inaction falls into that category. So whatever we put within the purview of the IRP, we need to make sure that there are results that it can generate that addresses whatever the thing is it's considering. Thank you.

León Sanchez: Thanks, Alan. Next in the queue I have Jordan.

Jordan Carter: Thanks. Can you hear me?

León Sanchez: Yes, Jordan.

Jordan Carter: Hi. Thanks. This is Jordan Carter, .nz year. Just to slightly query what Alan just said, the PTI structure will be set out in the fundamental bylaws as per the requirement of the CWG. And so I think that it's reasonable to the IRP framework to make sure that it isn't breaching those fundamental bylaws and any other bylaws that are in place around it. So if that doesn't happen here, it needs to happen somewhere else. So I'm - so I think the CWG's requirement is reasonable there. Thanks.

León Sanchez: Thanks, Jordan. And I note that Becky is suggesting a reply to Alan's comments, I guess, that the IRP oversight team could be charged with actually developing those outcomes. So I guess that goes in line with key discussion point number two, and we would be adding that to the report.

And next in the queue I have Kavouss. Kavouss, could you please take the floor?

Kavouss Arasteh: Yes, León. I see some inconsistencies for that inclusion. PTI is an affiliate of ICANN. It's a subcontractor of ICANN, and now any action or inaction of PTI subcontractor power of ICANN may mean at the end that ICANN has violated the bylaw. I don't see any consistency and coherence with that. So I have some doubt about that inclusion. Thank you.

León Sanchez: Thank you very much, Kavouss. Alan, you're next.

Alan Greenberg: Thank you. I was going to say something similar. I'm not at all convinced that the result is a violation of ICANN's bylaws because PTI is a creature of the bylaws. And I'm happy with the implementation team doing it. I just believe that in our proposal we need to say a possible outcome of the IRP is a violation - is pointing out a violation of ICANN's bylaws, or in the case of PTI action or inaction appropriate remedial action. Just some words that give the implementation team the right to do that. That's all.

León Sanchez: Thanks, Alan. Next in the queue I have Martin Boyle. Martin?

Martin Boyle: Thanks, León. Can you hear me?

León Sanchez: Yes we can.

Martin Boyle: Okay thanks. Yes, so following up in a similar sort of vein, that ICANN's responsibility to PTI is to ensure that PTI carry out what they are contracted to do from ICANN and applying something directly to PTI because it is a subsidiary, an affiliate of ICANN leaves me sort of uncertain as to what would

happen should there be subsequently separation and a new body, new organization starts carrying out the role of PTI under contract to ICANN. At the moment, the wording here seems to me to be a little bit specific to just PTI and we cannot guarantee that PTI will be with us forever. Thanks.

León Sanchez: Thank you very much, Martin. So I note that (Matthew)'s pointed that shouldn't we be talking about extending the terms of review to include the PTI in the bylaws or the rules.

And what I would suggest to move forward on these two points, which are including the PTI actions or inactions and excluding the protocol and perimeter position, what I would be suggesting as a way forward is to make a proposal for amending our report that would take into the comment that had been raised in this call by several of you (unintelligible) of course Alan, Kavouss, Martin, et cetera, and having this in mind there would be a new wording that would try to address both issues, points A, B and of course the comments related to those points in this call.

Would there be any objection to moving forward in the suggested way? Okay, so I see no objection. And then the way forward would be to modify this and go back to the list, circulate this modification and of course continue discussion in the second reading.

Then as for points C and D, which is the expert panel decision, we have some concerns raised by the board in their comments. And these more specifically refer to the approved mechanisms for such process and the specific expert panels that should be part addressed within the PDP or (unintelligible).

So I would like to listen from some board members about a little bit more about his concern. And I note that Becky Burr's hand is up. Becky, could you please take the floor?

Becky Burr: Yes. I think that, you know, we can go, you know, this is decision that we have to make within the group and we've gone back and forth on it. Right now, you know, actions by the expert decision panel that essentially amounts to an action in violation of ICANN's bylaws and that is not corrected by the board would be covered by the independent review process.

So there, you know, there is a - even if we took out the notion that the IRP would be - would have some responsibility for reconciling conflicting decisions among the expert panels, we still would remain unchecked with respect to those expert panels to the extent that the ICANN board didn't exercise its authority to correct decisions that put ICANN contrary cross-wise with its bylaws.

So I just want to make sure that people understand that taking out the expert panel decisions reconciliation does not mean that there is no accountability for those decisions. And I would note that some people have pointed out on the list, and I think it's a reasonable position, that, you know, we had specifically intended the IRP to be a constitutional court of limited jurisdiction and, to some extent, a sort of generalized reconciliation role goes a bit beyond that.

León Sanchez: Thank you very much, Becky. Next in the queue I have Kavouss.

Kavouss Arasteh: Yes, León. I have one comment about, if you allow me. I have no problem with exclusion of protocol, but in your recommendation, recommendation seven, in the report, the third proposal of the CCWG, we have mentioned that with respect to the CCWG's (unintelligible) decision for the country code

because we say until country code top level domains and others develop relevant appeal mechanisms. But in respect to real and the IATF, no problem to exclude them, but who will develop any required appeal mechanism?

There should be no appeal mechanism at all or will not be here, but elsewhere would be because we need to do the same treatment as we did for the relocation of the ccTLD. We exclude them from the appeal mechanism but leave it to the ccTLD in consultation with others to develop appropriate mechanism. But now we exclude ASOs, we exclude IATFs. Who will develop any required appeal mechanism? We should mention at least something in final proposal that until this time that (unintelligible) I don't know who, will develop the required appeal mechanism.

This is the comment that I made for the recommendation many days ago. It was not considered, but now we have to consider it. So no problem with the exclusion of IATF, no problem with the exclusion of ISO, but we have to mention until the time that it requires appeal mechanism developed by and (unintelligible). I don't know who will develop that. Thank you.

León Sanchez: Thank you very much, Kavouss. I note that after the comments in the chat box from Becky and Andrew Sullivan, I believe that both the ASO and the IATF already have an appeals mechanism in place. So what I would suggest, I think this is a very important comment that you've made and I really appreciate you pointing to this need for clarification in our note, so what I would say is that we could add maybe some clarification language to note that these appeals mechanisms are already placed in the case of the ASO and the IATF so they don't need to actually be developed anymore. And that would leave - or provide more clarity to what we are trying to reflect in our report. Thanks, Kavouss.

Next in the queue I have Bruce Tonkin.

Bruce Tonkin: Thank you, León. I just wanted to flesh out some of Becky's comments a little bit further regarding expert panels and bylaws. If we look at the new gTLD process and let's take a particular example with some decisions being contentious, and that might be the decision on whether something is confusingly similar or not.

I would think that the rules and the process that have been set up in the policy would be what's subject to whether it's consistent with the bylaws or not. Other than that, the expert panel has really chosen to develop an opinion on whether something is confusingly similar or not. I don't think that itself is a violation of the bylaws.

What I think we need in that situation -- this is where the board was leaning -- was that we need to design appeal processes within those expert decision panels. So as part of the new gTLD process you might say well you have an expert panel and they decide whether something is confusingly similar. But there's an appeal mechanism to, you know, bring to a group of experts for example if there seems to be reasonable ground that the first expert wasn't to take everything into account for example.

So I just wanted to sort of separate out that the we have the bylaws I think we the appeal is when you're actually setting up the panels in the first place and setting up their scope and what they can decide on. And appeal, most of what we view as the reconsideration process is people not disputing the ground by which we are deciding because it's part of the new gTLD policy. They just basically have a different opinion and they want the board to override the opinion of the experts. And I don't think that's what the IRP should be used for.

León Sanchez: Thank you very much, Bruce. So the other topic...

Malcolm Hutty: Hand up.

León Sanchez: Malcolm?

Malcolm Hutty: Yes it is. Thank you. I'd agree with Bruce's point. The IRP is not there to challenge the opinion of the experts but it should still be able to challenge the expert decisions whether the experts' decisions were inconsistent with the bylaws.

So for example we have a fundamental commitment that ICANN should always act in implementing its policy in a way that is -- and I'm quoting here from (Marian) -- but I think it's a fair, neutral, objective and not self-interested. Now I think that if the experts were found to have acted in a way, or were claimed to have acted in a way, that was self-interested, that should be open to challenge.

The mere difference of opinion as to whether or not something is confusingly similar, I agree should be excluded from the scope of the IRP. But it is possible that the decision is fundamentally inconsistent with the fundamental commitment, and that should be within the scope of the IRP.

León Sanchez: Thank you very much, Malcolm. And I note that Becky is putting it on chat -- so I see you're not in the Adobe Connect room -- she's putting in the chat box that "Although I think technically the challenge would be ICANN board failure to ensure consistency with bylaws." And then she's putting a "Plus one Malcolm. Delete if that's the case." So that's for you to note Becky's acknowledging and actually replying to what you just said.

Malcolm Hutty: Thank you.

León Sanchez: And also Bruce is putting in the chat box: "Fair enough. But if the experts were self-interested, I think it would be overturned by the reconsideration process as it would not be operating consistent with the rules of the process. So I guess the IRP in that case would be challenge the board's decision on that point."

Okay. And Becky's saying that she thinks that Bruce and her on saying the same thing.

Okay. So I am - I think that while we do acknowledge that there might be some things to make refinement in this issue on expert panel decisions, I can't foresee a clear conclusion on this yet. But what I would suggest is that we also analyze the comments that have been raised during the call and put some clarifications in place in the report and circulate a new version so that we can of course continue discussion in the list and hopefully have a final decision on the next reading on this item. So the conclusion would be to clarify of course the language that is in the report.

So then the next subtopic would be the DIDP decision in which the board has raised the concern that having the IRP related to the DIDP would be to actually be engaging the IRP in operational decisions. And the board is suggesting that instead of being subject to IRP that DIDP should be subject to a reconsideration process as opposed to IRPs.

So I would like to open the floor for comments. And I see that (Brad Shafer) is asking whether we're going to discuss point D, and that is precisely the



point we are discussing but - so do you want to comment this is the time for you to actually shoot.

Anyone want to comment on this? So the issue is that the board is saying that the (IDP) (deficient) shouldn't be subject to IRP so far as I understand, but instead they should be subject to reconsideration process. Brett, you're next in the queue, please take the floor.

Brett Schaefer: Yes. Actually I had a couple comments based on a note I sent to the board earlier today. I just wanted to verify that it's the understanding that everybody - the chairs and everybody in the CCWG that an appeals process through DIDP is available to any individual or anybody else that feels that they were harmed or would like to question or have a reconsideration, I suppose, of a decision to deny a request for information under DID policies. That's the first thing.

Second, I would like to make sure that the nature of those appeals aren't limited just to whether the board or ICANN followed the bylaws or were in violation of its mission that it could actually get you to the substance of the denial itself. And I want to make sure that that is part of this process.

I am interested in the board's discussion or suggestion that it go through the reconsideration process. But what I don't - I'm uncertain about rather, is that that process is truly independent of ICANN itself and that we, you know, be willing to have a DIDP appeals process that it should be absolutely independent in a true review of the decision itself in all its aspects whether that's on the basis of being a frivolous request or whether it's based on proprietary information or whatever the justification that original denial in all or in part might be. Thanks.

Leon Sanchez: Thanks, Brett. So I note that there are some comments in the chat box and I see Bruce hand is up so I would go to Bruce first and afterwards I would go to - into the comments in the chat box. So, Bruce, could you please take the floor?

Bruce Tonkin: Sorry, I was on mute. Yeah, so what we actually said in the board comments for the DIDP - the sentence we've had in there was for the DIDP the Work Stream 2 effort on (D)-DIDP can and should consider if there is a more robust escalation path, for example, considering the refinement to the ombudsman role. And then it says, "The conflicting decisions and appeals process should be developed."

So I think our position on this one - just picking up comments about the independence of reconsideration - generally reconsiderations on document appeals is independent of staff so the board is looking at that separate from the staff member that might have made the decision to redact something. But in our discussions at a board level we can also see that this might well be a role for the ombudsman as well so that the ombudsman independently could be part of an appeals process in the DIDP process so that, you know, the ombudsman can look at the original document, look at the request and see if the staff has done - acted appropriately.

Our general position as a board is that, you know, all documents should be public. So that's really the ombudsman should be applying those broad tests that are in the DIDP process and perhaps being the first point of appeal before it gets to a reconsideration process.

Leon Sanchez: Thank you very much, Bruce. Next in the queue I have Kavouss.

Kavouss Arasteh: Yes. Once you dealt with the DIDP I have another general question and that is in the board comment on Recommendation 7, they mentioned that all operational issues should not be subject to IRP; should be subject to the consideration including the IDP. But there are other issues that the board defer. Have we addressed these issues in a general term or we not do that. Thank you.

Leon Sanchez: Thank you very much, Kavouss. Next I have - I don't know if that's an old hand, Bruce, or a new hand. And after that I have Brett Schaeffer so, Bruce, is that - okay that was an old hand. Brett, is that a new hand?

Brett Schaefer: It is. I just would like to get answers to the questions that I asked or at least clarification that my understanding is correct. The three questions are accurately laid out in the feedback section over to the right. Thank you.

Leon Sanchez: Okay so appeals process available to all. The answer is I believe yes, the IRP is available to any affected party. Then the second question, is the nature of the IDP limited to following bylaws or can it go to substance? My understanding is that the IRP - the new IRP as it stands, would be looking not only to process but also into substance as opposed to the regular - to the regular IRP that we have to date. So...

Brett Schaefer: So it could overturn the decision then.

Leon Sanchez: That is my understanding but I could of course be mistaken and I would like to maybe call on Becky to correct me if I'm wrong on this. Becky.

Becky Burr: I'm sorry, could you repeat the question? I was distracted.

Leon Sanchez: Yes of course. Brett, could you please repeat the question for Becky?

Brett Schaefer: Sure, Becky. Thank you for answering my question here. One is that most - I wanted to make sure that the IRP process, as we've outlined here, would be able to address not just the question of whether a DIDP refusal was in violation of the bylaws or in conflict with the mission but would actually go to the substance of the reason behind denial in the first place. So if I can reach the determination that a DIDP request was frivolous or vexatious of whatever justification they had would the IRP process be able to challenge that and overturn that decision on the substance of the decision itself, not just whether they're in violation of the bylaws?

Becky Burr: So the language in the third draft report I think did contemplate that. But I understand the board comment to be saying is that - and that the - those kinds of appeals should be actually limited to whatever the reason whether it's, you know, the board said that the request was frivolous or whatever - whatever that reason was the fact of the denial was a violation of the bylaws. So that's - that is a somewhat narrower standard than we had initially proposed.

I think that in the draft report what we were talking about was essentially having an independent judiciary function for, you know, the substantive decision making with respect to that. I mean, I guess my question is I don't have a problem saying yes reconsideration is the first way and, yes, in Work Stream 2 we're talking about reviewing this process.

And there should be some escalation provision. But in all kind of governance things that I'm aware of where there is essentially a freedom of information function as the DIDP function, you usually have the ability to appeal to a, you know, an independent judiciary for a substantive review of the decision. And here I think that the board is urging is that that would be available only if there is a bylaws violation.

Leon Sanchez: Thank you, Becky. Brett, I hope that answers your question.

((Crosstalk))

Brett Schaefer: It answers the question but I think that that is a very limited application of this process and it really doesn't go to the substance of what was intended in the first place, which was to provide an independent means for appealing DIDP decisions themselves rather than whether they're in violation of the bylaws. So I do have an ongoing concern about this. Thank you.

Leon Sanchez: Thanks, Brett. And well let's continue discussing these concerns in the list and let's see if we can...

Bruce Tonkin: Leon, can I just clarify Becky's comment?

Leon Sanchez: Yes of course, Bruce.

Bruce Tonkin: Yeah, I don't think the board is closing the option of having some independent judiciary to use your terminology with respect to the IDP. In fact I think we support that there should be some independent party that can - that you can appeal to and that can make a decision or recommendation. I think what we're suggesting is let's not confuse the purpose of the IRP. The IRP itself is the violation of ICANN's bylaws or articles of incorporation. So we're developing a standing panel and processes around experts in that particular area.

I think what we've suggested for DIDP is we're saying that these more operational processes need to have their own appeals mechanism. And if the Work Stream 2 decided that there should be some independent judiciary

panel, whatever terminology you want to call it, then, you know, that's what Work Stream 2 should recommend. I don't think we've got any objection to that.

Leon Sanchez: Thanks, Bruce. So I guess that...

((Crosstalk))

Leon Sanchez: Yes, Malcolm?

Malcolm Hutty: Thank you. I would like to, you know, quickly address Kavouss' intervention as to the general issue of whether so-called operational things should be excluded from the scope of the IRP. I think that Bruce has just stated it quite correctly in that last comment, in that last sentence he said; the IRP exists to ensure that ICANN has always acted at all times in compliance with its bylaws. Merely labeling something that's operational or intervention shouldn't exclude it from review under the IRP and that includes the IDP or anything else.

Secondly, an IRP takes itself - may require access to (unintelligible) and I would think that that would be part of the rules and procedure of the IRP (unintelligible) when that's available and how that's available. I would think that the IRP panel itself has oversight of that process.

Leon Sanchez: Thank you very much, Malcolm. And I see Bruce hand is up and Brett Schaefer's hand is up but I believe that Bruce, that's an old hand, is that correct? Yes, so next in the queue I have Brett Schaefer.

Brett Schaefer: Okay, this is very quick. I just think that it's important for us to try and find an independent process in the current draft rather than waiting for Work Stream

2. The Work Stream 2 was determined to review the DIDP process itself, not necessarily to check the appeals process to the second stream - or to the second work stream. Thanks.

And so if we could do - include an effort to try and identify whatever independent review process that Bruce was saying that the board is interested in and insert that here whether that is an ombudsman task or whether that's some other independent judiciary appeals process or what have you, I think we need to try and incorporate that into the current draft. Thank you.

Leon Sanchez: Thank you very much, Brett. And I think that this (unintelligible) to move forward in the second key discussion point because the second key discussion point is how to best transfer the comments and suggestions as - in presentation details for implementation for the implementation oversight group. So I guess that this last comment appears binds perfect both subjects and it would be best if we could clarify or add, as you said, that under Work Stream 2 we should be actually identifying best ways to actually achieve this independence in the DIDP process.

So we have received, as I said, some other comments in regards to implementation and these comments relate to prioritization of (unintelligible) presentation program at the start of the exercise, other working language is accepted, other than English of course.

Appointment of independent support staff, training of panelists by ICANN and ICANN community, technical resource available to panelists, IRP and financial benefits available to all recognized organizational units at ICANN, an exception to looser pay for not for profit organizations and early indication from panels on previews requests to save costs, a review of the IRP tool

midterm, CEP proceedings open to public and review of the cooperative engagement process as part of Work Stream 2.

So these are the comments that we received and that we feel that should be subject of these implementation oversight group. And of course part of the work that the implementation oversight group would be dealing with would be to address main issues in Work Stream 2. So at this point I would like to open the floor for comments or any feedback as to how these implementation oversight things would be carrying out their work.

Malcolm Hutty: Okay, hand up.

Leon Sanchez: Yes, Malcolm.

Malcolm Hutty: These comments are all very valid and good suggestions, I think. But our report proposed that there should be an ongoing capability for the community to keep the IRP - the adequacy of the IRP process under review and make provisions for its further resolution in the light of experience and with the support of the standing panel so that's - so that's not just before transition and not just this Work Stream 2 but on an ongoing basis. And I think that that is the group that should be taking up these comments rather than the IRP implementation team, which will have to do it immediately.

Leon Sanchez: Thanks, Malcolm. I did lose a little bit of community, my line cut a little bit. So would you mind repeating the last words that you said please?

Malcolm Hutty: So the CCWG report proposes an ongoing team from the community that would work on these kinds of issues in the light of experience and with the support of the standing panel. So I believe that we've created a mechanism to



address these - the comments. And we don't need to discuss them in the implementation team that would happen immediately.

Leon Sanchez: Thanks, Malcolm. And your comments have been noted in the notes. And I think that the implementation overview team will actually be taking this into account. So are there any other comments in regard to how the different suggestions that were received in this public comment period should be passed on to the IOT for the next steps?

Okay, I see no more comments on this so I guess that the way forward for this would be to actually pass these comments to the IOT and then the IOT would be reviewing and evaluating the different comments and provide a way forward to actually implement this or incorporate these comments into implementation phases.

Okay so with this we have reached the break - the scheduled break in our call. We are three minutes ahead of time so we're doing well. And that gives us a 10-minute break. And we will be reconvening at 15 minutes before the hour, that would give us a 30-minute break. So we will be reconvening at 15 minutes before the hour. And I would like to ask for the recording to pause. And we'll talk to each other in 30 minutes. Thank you.

Mathieu Weill: Hello, everyone. This is Mathieu Weill speaking. It is 15 to the hour and we will start this call again. Is the recording back on?

Coordinator: Yes, the recording is back on.

Mathieu Weill: Thank you very much. So I hope you all joined again. We are now on our agenda item Number 5. Agenda item Number 5 is Recommendation 6 on human rights. And just to launch this discussion and its first reading, so I will

start with a brief summary of the comment we've received. This is what I will read is a quote from the summary provided by staff that you all have seen.

What we've seen in the comments is that a majority of the responses submitted supported the adoption of this recommendation. However, there were concerns raised. Those concerns were on the one side that a significant number of respondents requested that the inclusion of human rights language into the bylaws be delayed until the proposed framework of interpretation was completed or even only be considered as part of Work Stream 2.

And also several commenters suggested that human rights statements do not belong to the bylaws. So we've had a lot of support but it was not unanimous support. We have reviewed these comments in detail and the key discussion points that we're suggesting to have in this first reading are, Number 1, the discussion about the proposal that was part of the Recommendation 6 to have a one-year deadline to develop the framework of interpretation.

We would like to discuss this in light with our previous discussion regarding the need for timelines and deadlines, sorry, in the report. I think we should have this quick discussion. And then obviously the more substantial discussion, but it's more of a process discussion at this point, is regarding the concerns received about keeping the bylaw as part of Work Stream 1 or moving it to Work Stream 2. And that's a very substantial type of discussion.

It's useful to recall at this point that we have certified request to our lawyers in order to get an assessment whether the inclusion of these bylaws as proposed in the third draft will increase the risk of ICANN being exposed to legal claims or even lawsuits, vis-à-vis the current situation. And if so how such risks could be mitigated.

This request has been certified very recently. We expect some feedback in the next few days, certainly in time for the second reading. But the indications we are getting from our lawyers are consistent with the previous discussions where the level of risk did not seem to increase that much. But obviously that is pending confirmation.

To kick start this before moving to the substantial discussion I'd like to first check with the group whether on the Discussion item Number 1 there would be any objection to aligning our approach in terms of deadlines with that with the one we discussed last week on Work Stream 2 which is that target dates are useful but we should avoid hard deadlines which might have a counterproductive effect in developing further work.

Brett, you have a comment on this?

Brett Schaefer: Just a quick clarification. I want to make sure that before we proceed into this full discussion that the board doesn't have any problems with the human rights language as laid out in Annex 12 in the Work Stream 2 because...

((Crosstalk))

Mathieu Weill: Can I just...

((Crosstalk))

Mathieu Weill: Happy to take that question once we get into the substantial discussion of Work Stream 1, Work Stream 2. What I'm trying to see here is whether we can just before that close the hopefully easier item about hard deadline versus target dates which was a concern raised by ALAC I believe in their comments in the - in the comment we received from ALAC on the third report.

Niels, you're next.

Niels ten Oever: Perhaps it's better to have Alan go first because he might be better to explain his exact comments so I'll go after Alan if that's okay.

Mathieu Weill: That's perfectly okay. Thank you very much, Niels. Alan.

Alan Greenberg: Yeah, thank you. I just wanted to make one qualification. We didn't say it was too aggressive. We said it was not prudent but a hard deadline in the bylaws where if, for whatever reason, whether it was too aggressive or, you know, there's a hurricane that stops us from doing work, we end up being in violation of our bylaws. So the net result is the same and I'm happy if we put something softer in but I just wanted to clarify. Thank you.

Mathieu Weill: Thank you, Alan. And sorry for the mischaracterization. Niels.

Niels ten Oever: This sounds completely okay to me but I think that the discussions under Point 2 might then also (unintelligible) affect Point 1 but let's first finish Point 1 for now and then go to Point 2 I think where the real discussion is at.

Mathieu Weill: Indeed. And so there's no further hand in the queue I would consider the proposed approach to be reasonable at this point until we have further discussion in Item Number 2. Kavouss. Kavouss, if you're speaking we cannot hear you at this point. Kavouss, your line may be muted. Can we double check that Kavouss line is open? I see Brenda confirming that Kavouss line is open. Okay in seeing that we have some technical issues with Kavouss, we will make sure we fix this quickly and give Kavouss the floor as soon as he gets back online.

Meanwhile, moving to Item Number 2, I think we've received concern from the ICANN board on this matter so it would be extremely helpful if Bruce or someone from the ICANN board could elaborate a little bit on the concerns regarding the inclusion of the broad human rights language...

((Crosstalk))

Mathieu Weill: Oh, Kavouss, you're back.

Kavouss Arasteh: Okay, can I talk please?

Mathieu Weill: Yes, go ahead, Kavouss.

Kavouss Arasteh: Okay. My question about (unintelligible). ICANN board mentioned that reference to the human rights should be postponed until the framework of interpretation is ready. Do they agree that we refer to the human rights in a very high level as it was discussed by Leon in many, many hours of the meeting or ICANN board does not want to have any reference at all to the human rights under Work Stream 1. That was my question. Thank you.

Mathieu Weill: Thank you, Kavouss. And it's very good that you are - managed to get back in just before I was about to turn to Bruce because that's also clarifying part of the question about the concern from the board which we'd like to hear in the - make sure we have clarity on the rationale but also this question that you're raising, Kavouss, and that Brett was raising earlier about whether the board is only concerned about the timing or only about - or also about the wording of the proposed bylaw change.

I don't know, Bruce, if you are online and can respond.

Bruce Tonkin: Yeah, I am. This is probably...

((Crosstalk))

Mathieu Weill: Okay.

Bruce Tonkin: ...especially expert in. But what do you mean by timing, sorry, Mathieu?

Mathieu Weill: We understand the concern from the board that the suggestion from the board to defer adoption of this bylaw article until Work Stream 2 and the framework of interpretation is completed. Does that imply that the board is comfortable with the way the bylaw article is currently written? Or is there also an issue with the way it's written at this point?

Bruce Tonkin: I think a broader issue, as I understand it, is basically we didn't want a bylaw provision that said we were doing something with human rights without actually explaining how they relate to ICANN so I think it does relate to your timing question, Mathieu. Our view was that we should first do the work on what our framework should be for interpreting human rights in the context of ICANN's mission as a work item and then once that's done we incorporate that in the bylaws.

I gather that potential solution around that is the bylaws doesn't come into effect or something until that is done, is that what you mean by timing?

Mathieu Weill: Yeah, I think you're answering somehow the question that was raised. I notice that Markus Kummer raised his hand and that might be an elaboration on the board's position on this. Markus, welcome.

Markus Kummer: Yes, hello. Can you hear me? I'm not sure whether my audio works. It seems to.

Mathieu Weill: It works pretty well. Thank you, Markus.

Markus Kummer: Well, I was on a chat with Niels and we actually had a brief discussion whether the email Thomas had sent out is the lawyers' opinion was convinced the board that the perceived risk on (unintelligible). In my opinion there are essentially two different views and the board makes fairly detailed comments on the perceived risks.

And I think in order to mitigate these - this perception these comments will be addressed more in detail as there were more or less two page on the board's reaction, the board's (unintelligible) reaction to the CCWG. And that I think would need a more detailed discussion. But at the very high level I think we have - and you outlined these options quite nicely. You have three options and that key discussion items and that's 2a, 2b and 2c.

So deferring it to Work Stream 2 I think would meet the board's concerns but I also understand that would have a - would be objected by many as so much work has already been invested. And but looking at this without having been able to discuss this with the board, the proposal on the 2c would seem a reasonable compromise that is to have a (unintelligible), this is a moving target but (unintelligible) enter into (unintelligible) only after the framework of interpretation has been worked out. So that would be for me at least seems to be a reasonable safeguard.

But as I said, again, a word of caution, we have not discussed this with the board. And the question whether the risks are there or not I think would need a more detailed discussion. I'm not a lawyer and I'm not familiar with US law

but I do know litigation is (unintelligible) issue in the (unintelligible) that would need to be discussed by legal specialists who have more insight against (unintelligible). Thanks.

Mathieu Weill: Thank you very much, Markus, for confirming this approach. From Bruce and Markus's comment my understanding is that the concern is that much the number of potential litigations which might divert ICANN resources to prefer it - just defend ICANN's views rather than - just the level of risk of being round in breach of the particular bylaw change. That's I think is an important point to have in mind.

Now we should move definitely to the discussion on this keeping in mind it's a first reading and as noted by Bruce in the chat the document here has not been considered by the board so we are just at the stage of initial discussion. And Niels please take the floor now.

Niels ten Oever: Thank you very much for this - for the floor, Mathieu. I would like to respond to Markus and Bruce. And I would like to thank the board very much for their comments. On the other hand I was quite surprised by the board after long work, considerations and discussions that we had in Work Party 4. And so I've been looking at the concerns raised by the board and I have not been able to find in the board comments a legal justification or an example for that concern.

So I went back to the legal advice we as Article 19 have been looking at by our own lawyers but also by the lawyers of the Institute for Human Rights and Business. And there we found out that in a lot of companies or organizations that have made human rights commitments such as banks, such as (unintelligible), we have not seen an avalanche of lawsuits. And actually that a



commitment to see if our sustainability policy claims any human rights is not leading to extra vulnerability and risks.

And this is now, again, confirmed by the CCWG lawyers. So I would be really grateful if the board would come up with a legal analysis from where their concerns would come from because right now I really do not see where these concerns come from. And if they could substantiate that I would be really happy to further engage in this discussion.

Then I had some very short comments on the key points that were made in the document that we're now looking at. And so I'm not sure if I understand Option 2a where we're adding the global public interest to the mix. I am quite sure that it will not help this discussion if we mix global public interest with human rights. So I would strongly advise to keep - to separate it. I think in 2b they defer instead of differ, just to make things clear. And then I'll give it up to the next person in the queue. Thank you very much.

Mathieu Weill: Thank you, Niels. The intent behind 2e was to say that 2a - sorry - is basically keeping Recommendation 6 as is. And since the board raised the concerns that it would have to assess this recommendation based on potential global public interest issues. The recommendation would be, in that case, to provide our own view on whether Recommendation 6 does raise global public interest in 2. But I think that's consistent with what you were asking. And I'm just - and that's probably not for immediate answer for the board.

But I think Niels's question regarding any documentation that the board would have received during its preparation on human rights recommendation that it would lead to a significant increase in lawsuits, for instance. So if the board has some recommendation or insights provided by advisors I think it

would be extremely helpful if it could be shared with this group. And I'm noting this question for maybe the recap at the end.

But the next in line is Tatiana. Tatiana, you may be on mute. No. We can't hear you at this point. Tatiana, I suggest we move to Kavouss and come back to you - yes, we will come back to you after Kavouss. Kavouss.

Kavouss Arasteh: Yes, Mathieu. First, last night GAC had the first meeting and among the discussions we refer to Recommendation 6 and certainly CCWG will receive a reply from GAC before 21st of January in regard with Recommendation 6 that they generally are in favor in saying that there should be a - in the form of the board principle (base) interim bylaw which is (unintelligible) to the ICANN commitment to respect the human rights. So you will receive something, number one.

Number two, I have some difficulty to see whether C is an alternative of A and B. It may be some sort of the extension or complement. A and B could be alternative to each other in one way or other but C is not really an alternative. So before you're taking decision on any of these so you have to clarify whether C is a real independent alternative to A and B or is it complementary to B. Thank you.

Mathieu Weill: Thank you, Kavouss, that's a good point. In light of timing I will close the queue after Bruce but next is Tatiana.

Tatiana Tropina: Hi. I hope you can hear me now.

Mathieu Weill: Very well. Thank you, Tatiana.

Tatiana Tropina: Oh thank you very much. So I'm going to elaborate a bit on (unintelligible) about discussion points because I think they have to be fine-tuned. So as far as I understand the point 2a, option 2a, refers to the global public interest and basically what this option means is that we will just proceed with the bylaw language.

And I think that rather than referring to the GPI issue - to global public interest which will definitely get us down the rabbit hole because we could see from the previous calls how diverse the opinion on this issue are. Maybe we can modify to something like confirmed bylaw language as a part of Work Stream 2 with legal opinion addressing the issue of the risk of litigation. Because basically why did the board refer to the global public interest? It was about the risk of litigation which will disturb provision of the ICANN services in the global public interest.

So it will have a real legal analysis and opinion raising the issue of the risk of litigation I think the question of GPI should be solved anyway. So this is my suggestion for the point 2a. While option 2b, as Markus said, of course it's a valid option but so many people will disagree with this I don't think it's real. And for the sake of clarification I think that the option 2c shall be reformulated to B because it is not clear that we will confirm the bylaw language in the Work Stream 1.

So I think that we have to clarify that we will adjust the bylaw language as part of Work Stream 2 but clarify that it will only be enforced after the framework or for implementation is approved in Work Stream 2 because I think there is a bit of confusion what is going to be addressed and in which work stream in the option 2c. Once it's clarified then I think, I mean, it definitely means that we will get bylaw in the Work Stream 1 but it would be

dormant until the framework of implementation is approved. So that's my short suggestion. Thanks a lot.

Mathieu Weill: Thanks for that, Tatiana. That's very helpful and we'll certainly refine this definition. Next in the queue is Tijani.

Tijani Ben Jemaa: Thank you, Mathieu. Do you hear me?

Mathieu Weill: Yes, very well, Tijani.

Tijani Ben Jemaa: Thank you very much. Tijani speaking. I think it's not only the board that made this kind of comment. I had seen some other comments about it. And I think that the proposal you make here, 2a, 2b, 2c would be the best in my point of view. If I - if you will remember well, at the beginning we decided inside the group to address the human rights in Work Stream 2, first up. And then some from the group wanted to address it in Work Stream 1. And the consensus was to make very high level indication about human rights in Work Stream 1 in the report of Work Stream 1 and address it in Work Stream 2.

The fear was the explanation - the interpretation of human rights because of the mission - the very limited mission of ICANN. So now I think that the best is to choose 2b so that we will stick to what we decided in the working group when we decided to address it in Work Stream 1. Thank you.

Mathieu Weill: Thank you, Tijani. Next in line is Niels.

Niels ten Oever: Thank you very much, Mathieu. I am a bit confused with by what Tijani said before because I think what we have currently is a high level commitment in Work Stream 1 and the framework in Work Stream 2 so that's exactly according to what Tijani requested but still he preferred option 2b where it

sound for me like option 2a. So I am slightly confused by that, perhaps he could elaborate a bit on that.

And according to 2a, the comment you just made, I am not sure if - whether the board asked for a public interest definition or a relevance there, whether the CCWG should define it. As we all know we have a whole process within ICANN to develop the global public interest so if the board is going to involve or talk about global public interest here I think the board should come up with the discussion and we should not get into the muddy waters of the global public interest discussion here with human rights and definitely not conflate the two issues because that will really not help us forward, in my humble opinion. Thank you.

Mathieu Weill: Thank you very much, Niels. Now for Bruce for the last intervention on this proceeding before we try and define a way forward. Bruce.

Bruce Tonkin: Yes thank you. Firstly let me agree with Niels. I think - there's no point in conflating the two issues. I would have thought by default human rights is in the global public interest. Just picking up - a couple questions about the legal analysis. And legal analysis is actually, you know, our comments, or at least from my perspective, and I'm not a lawyer.

But I think the key point here is that of the three options we have obviously we prefer the second option, which is - it was in Work Stream 2. But I'll recognize that some people may not have faith that Work Stream 2 will deliver. And so 2c I think is a potentially viable option.

And the key about that is - because it refers back to our board comments - we're afraid that without properly defining what the human rights means in the context of ICANN's mission, which to be frank is about names and numbers -

domain names and numbers, we're not - we don't deal with most of the topics like human slavery and other things that might be in the human rights treaties.

So our first point really is rather than have an IRP start to create case law because the IRP becomes binding, so if we just go in without any definition at all the IRP will basically start defining it for us. And we think that the ICANN community should define how human rights relates to the Internet protocol parameters, how it relates to the IP addresses and how it relates to domain names. That really should be done as an ICANN community exercise. And once that's defined then the IRP can then use it as a criteria in making its determination. So that's the first point.

The other point we had there was about applicable law. As most of you realize, the international human rights as a treaty but essentially implemented as national law in different countries and varies quite a bit. So the question is what would be the applicable law? Is that the law in the US in California? Is it the law where the party raising the IRP is based? That's not clear either. So again I think it's better that we define how human rights works within our context. And then we have an IRP to make sure that we're adhering to those concepts.

And then the last point we had was that ICANN doesn't have direct power to bind, you know, parties which could be registrants or, you know, domain name owners or domain name holders and try to define how they're using domain names as a context of human rights. We don't generally go as far as trying to control the registrants and domain names. So those are sort of the legal issues that we raise. And so I think the - our preferred option is that we work on how human rights works in Work Stream 2.

And another comment was - I've just got a text here saying we're also not clear how it would work with ccTLDs because country codes operate within their own national law typically. And they would use whatever the national law relates to human rights rather than something that, you know, might be defined somewhere else in the world.

So I think prefer that we do this in Work Stream 2. If you need a hook in the bylaws then I think we can look at some sort of hook in the bylaws that says, you know, human rights is an important core value but that it's not subject to IRP until we've defined the framework. I think that's, you know, a potential compromise.

Mathieu Weill: Thank you very much, Bruce. And I think that's a useful clarification you're bringing about the board's concern being that the IRP would be defining the human rights commitment in the - during the time the framework of interpretation would not yet be approved by the community. And I think that's a point that I hadn't really nailed down until then.

The queue was closed and I think it will - it is time for us to move forward. But, Tatiana and Kavouss, can you be very short?

Kavouss Arasteh: Yes. Just to reply to Bruce, applicable law is intentionally put it as such depending the area in which the IRP is initiated but not necessarily the California law so I don't know why and how Bruce want to have a clear definition of given particular law. It is as such it depends where the IRP is initiated and law of that country is applicable. Thank you.

Mathieu Weill: Thank you, Kavouss. And, Tatiana, you have the privilege of closing this discussion.

Tatiana Tropina: Thank you, Mathieu. I hope everyone can hear me well. Tatiana Tropina speaking. Well thanks to Bruce for the clarification. I totally agree that the framework of interpretation shall follow the bylaw and the bylaw cannot be like really fully affected without this framework. And it shall be a community exercise.

Well, I have three points. First of all, I do think that most of the bylaws, comments and concerns about litigations are already addressed in the bylaw text because there is something about by law (unintelligible) that ICANN should enforce and protect human rights and then anyone can raise claims about this. This is my first point.

But if it's not enough then the issue of the applicable law, I think there is a big misunderstanding about the role of the corporations and the role of the governments in enforcing human rights. And I will not go into big discussion right now because it's a long discussion. But if we are talking about applicable law and what corporation can be enforced to do in applicable law in almost any jurisdiction I know I'm not aware about any jurisdiction where applicable law will mean the corporation be like forced to enforce human rights in the court. This is my second point.

And my third point I also think that option 2c actually addresses all the concerns about the IRPs quite well because it will make this bylaw dormant before the framework is implemented. Well, I think this would be the best case. So I think we can discuss the possibility of this option if no one will be happy with the option 2a to proceed with what we have. Thank you very much.

Mathieu Weill: Thank you very much, Tatiana. And in light of this discussion we will reconvene for a second reading on Recommendation 6 in a week's time. Until



then we will benefit from extra lawyer input from our independent lawyers. Any extra material that the board would have and would like to share is of course very welcome but we had some clear clarifications and additions from Markus and Bruce, I think, on the board's insight.

And we have - there's certainly some interest expressed for approach 2c with some modifications as proposed by Tatiana so we'll sort of reframe this in the next couple of days for consideration from everyone. Sorry for the background noise. And we invite everyone to consider this with their respective groups before our second reading.

And with that I will move to Leon for next agenda item. Leon.

Leon Sanchez: Thank you very much, Mathieu. And the next agenda item is an update on the mission ad hoc meeting that took place. And for that I would turn to Becky to provide us with an update on how the call went and where we're standing on Recommendation 5, which is the mission statement. So, Becky, could you please take the floor?

Becky Burr: Thanks very much, Leon. I wanted to - we had a very good full hour call this morning on - specifically on the consumer trust issue which we did not discuss at great length last week. Just for a recap for those of you who weren't on this morning, the Affirmation of Commitment has a reference in Paragraph 3 which describes what the Affirmation of Commitment does that references consumer - competition, consumer trust and consumer choice.

And then in Section 9.3 it is ICANN specifically to conduct reviews related to, among other things, consumer protection provisions with respect to the expansion of new gTLDs. In the first draft we transposed to do consumer trust language into Article 1 into the core values.

We took that out in Draft 2 and Draft 3 on the grounds that is being challenged that the consumer trust language was specific to new gTLD expansion and should relate to that and that we shouldn't add a new substantive provision - substantive obligation scope of responsibility to Article 1.

ALAC, (USTID) and others have continue to challenge that determination. And note while the bylaws - the core values do speak to the promotion of competition, they do not speak to consumer trust issues. We had a very lengthy discussion about that. I am afraid to say that we did not really reach any solutions on that. ALAC and others continue to express strong conviction that Article 1 should specifically reference ICANN's role with respect to consumer trust.

Other participants equally strongly felt that we should not rightly add a new substantive obligation with respect to consumer trust, consumer protection in the core values where it has not ever been to this point without understanding fully the consequences of that, the effect for mission creep and the concerns about, you know, consumer protection laws, sovereignty and the like.

So, you know, we're trying to resolve this. I did go back through the bylaws provisions - Article 1 and while we did transpose the Affirmation of Commitments and we didn't really add any wholly new concepts like this, we did not reach any conclusions, we're continuing to work on this. And I think we'll just have to continue to report back.

Leon Sanchez: Thank you very much, Becky. So I guess this would be the update on the call. And if there are any comments at this point I guess this the time for you to actually raise your hands and comment on the update that we just got from

Becky. Otherwise if there are no comments I would like to move forward and go to the next agenda item. Okay so I see Kavouss hand is up. Kavouss, could you please take the floor?

Kavouss Arasteh: Yes, just a small point. We have received comment from (unintelligible) relating to amending the missions. I just ask whether we are taking into account that we have received similar comment from IAB that instead of coordinate in the mission we mention facilitate the coordination. Just a small (ed memoir). Thank you.

Leon Sanchez: Thank you very much, Kavouss.

Becky Burr: Leon, I can answer that. We did - we did...

Leon Sanchez: Yes, Becky.

Becky Burr: ...incorporate - we did incorporate the IAB language. I don't believe that there is any issue with respect to that language in the comments.

Leon Sanchez: Thank you very much, Becky, for answering Kavouss' question. And if there are no more comments on this issue, as I said, I would like to move forward to the next agenda item. And for that I will turn to my cochair, Mathieu.

Mathieu Weill: Thank you very much, Leon. And this is a more informal - or at least less substantial item regarding the Marrakesh meeting. As announced last week, travel support from ICANN will reach out to members for the March 4 full day face to face meeting where we will be discussing most probably Work Stream 2 scoping as well as some Work Stream 1 implementation hopefully updates.

So travel support we'll reach out to members. We'll have the same policy in place as for previous meetings including the part submitted for alternates for members. We are also working on the agenda of meetings for the week so after the full day working session on March 4 we're trying to locate slot for an engagement session hopefully on the Monday. And another closing working session on the Thursday in order to organize our work moving forward.

So that's going to - obviously there will also be some SO/AC session depending on their respective agendas but that's the way we are currently shaping the Marrakesh meeting and we wanted to update you all on this important development. I want to stress there very constructive discussion that we've had with Theresa who was there on the call last week for that matter. And I think ICANN has been very receptive to our group's demands and that must be noted and acknowledged by everyone. This is very much appreciated in terms of support and it's a significant effort that's been made for - to accommodate our group.

Next - so Kavouss, you may want to raise a point about Marrakesh?

Kavouss Arasteh: Yes, you mentioned Monday to have engagement meeting. Monday is high level meeting of the GAC and many people that are involved. Do you plan to have a difficulty with that - to create a difficulty with the participants of that meeting not to be able to attend the engagement meeting? Thank you.

Mathieu Weill: Thank you very much, Kavouss. The point of an engagement meeting is to reach out to stakeholders that are not necessarily part of our group. And so I don't think participation from everyone - every participant and member is a requirement. However, you are right that we need to avoid clashing with high level meeting as much as possible and we'll convey this request to the full group. Thank you for raising this.

Are there any other points? No - yes, Tijani.

Tijani Ben Jemaa: Thank you very much, Mathieu. I think that we need to have the dates and the hours of the engagement session there is some - there is toolset, one on Monday and one on Thursday. If you can have the timing of those sessions it would be better for us to organize ourselves so that a maximum number of the working group would be attending these sessions. Thank you.

Mathieu Weill: Thank you, Tijani. That's very reasonable and that's what we're working at right now, Hilary and the meetings team and all our full staff are frantically trying to nail down the slots right now so I think we'll try to provide this as early as possibly obviously. And I think with that we are - we can close this item and move to AOB with Leon. Leon.

Leon Sanchez: Thank you very much, Mathieu. And at this point if there are any other business that anyone wants to raise this is the point you should. So I see Alan Greenberg's hand is up. Alan.

Alan Greenberg: Thank you. There was a question on the list of can we have a revised timeline? Clearly the timeline where we make our decision by January 22 is no longer operable. And what is the envisioned timeline we're talking about now?

Leon Sanchez: Thank you very much, Alan. And I believe that Thomas replied to the question and at this point we cannot provide you with a revised timeline. We need to wait for the feedback from the SOs and ACs that are pending to provide their feedback. So once we have that in hand then we will be able to assess and evaluate any modifications to the timeline.

So at this point it is clear that we are not on track with the timeline that was sent to the list as a reference but it is also clear that we are not able to provide with our revised timeline until we get the feedback from all SOs and ACs. But as soon as we have them we will be of course reaching out to the group with the proposed amended timeline.

Kavouss, I see your hand up.

Kavouss Arasteh: The timeline is important as far as the ICG is concerned. Tomorrow night we have our meeting and we have to have something as far as you mentioned that we don't have any clear idea about the timeline. I hope this timeline would not have any impact on the ICG activities. Can you please confirm that?

Leon Sanchez: Thank you very much, Kavouss. We cannot assure at this point whether the revised timeline will have an impact on ICG or not because, as I said, we are not able to provide a revised timeline at this point. So we can also not assure that this will not impact the ICG. It is of course our intention to avoid impacting ICG's timeline but at this point we cannot know for sure whether this is actually an accurate statement or if it will in the end impact ICG's timeline.

Okay so are there any other business at this point? Well seeing no more hands up, as I assume that Kavouss' hand is an old hand, I would like to thank everyone for attending this call. It's been a good call. And as soon as we have the revised documents we will be circulating those to the list. And of course this also applies to the timelines.

And we would like to thank you again. And this call is now adjourned.  
Thanks, everyone. Bye-bye.

Cheryl Langdon-Orr: Bye.

((Crosstalk))

END