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OLIVIER CRÉPIN-LEBLOND: ...the recording, start the call please.

TERRI AGNEW: Certainly. We'll go ahead and begin at this time.

Good morning, good afternoon, and good evening. Welcome to the At-Large ad-hoc working group on IANA transition and ICANN accountability, taking place on Monday the 22<sup>nd</sup> of February 2016 at 20:30 UTC.

On the call today we have Beran Gillen, Kaili Kan, Gordon Chillcott, Cheryl Langdon-Orr, Seun Ojedeji, Tijani Ben Jemaa, Roberto Gaetano, Jean-Jacques Subrenat, León Sanchez, Sébastien Bachollet, Vanda Scartezini, Avri Doria, Olivier Crépin-Leblond, Alan Greenberg, and Eduardo Diaz.

For apologies, we have Jimmy Schultz and Maureen Hilyard.

From staff we have Heidi Ullrich and myself Terri Agnew.

Our Spanish interpreters today are Veronica and Sabrina.

I would like to remind all participants to please state your name before speaking, not only for transcription purposes but also for our interpreters. Thank you... And also joining us is Loris Taylor.

Thank you very much and I'll turn it back over to you Olivier.

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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OLIVIER CRÉPIN-LEBLOND: Thank you very much Terri. Olivier speaking. And apologies for the late start due to the late finish of a previous call. Now, today we are going to speak essentially about CCWG accountability. This call was originally not going to take place, but due to recent circumstances of the Board responding to some points regarding the GAC carve out, and the various points we are going to delve into on this call, we felt it was important for us to really make up our minds as to where we stand regarding all of this, ahead of tomorrow morning's call.

Morning as in UTC morning. It might be a different time of the day for you. Now, are there any additions to the agenda as currently displayed on the page?

ALAN GREENBERG: You might want to take off to be updated.

OLIVIER CRÉPIN-LEBLOND: Okay. Thank you very much for this very worthwhile update Alan. I'll update the page with removal of to be updated. Thank you. Let's get moving then. The agenda is adopted apart from one troublemaker who is raring to speak. Review of action items. Well the next, the action item was for us to meet in Marrakesh. So that's been put aside.

The ICG update. Is there any update regarding the ICG or CWG IANA stewardship transition? Nothing, there hasn't been a call of the stewardship transition working group last week. There is going to be one later this week.

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I don't see anyone putting their hands up. Jean-Jacques Subrenat, do you have anything to add on the ICG IANA coordination group?

JEAN-JACQUES SUBRENAT: Thank you Olivier. This is Jean-Jacques. No, just to indicate that there was a meeting only for part of the membership of the ICG, and it was simply on a question of communications, preparing for statements, etc. when the time will come. But that was internal work, which is not of special interest to our constituencies. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks very much for this Jean-Jacques. And I think that seeing no hands up, there are no questions on this topic so we can move to the CCWG accountability. And as I mentioned a moment ago, there has been a lot of activity on that working group. For those people that haven't followed, it has been filled with rather strong, strong points being made, arguments, emotional outbursts, this sort of thing.

And there hasn't been so much from our point of view, as to, well. We haven't really engaged that much into the discussions. We as our representatives, but Alan Greenberg will no doubt ask the right questions, hopefully. And I note that León is also here with us, although I know that León, you would have preferred a later time. With a lot of apologies to you, sorry, there were a lot of requests for the earlier timing, possibly because some people might get some sleep before the next accountability call.

Who wishes to take the floor? León or Alan? Which way do we start?

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ALAN GREENBERG: If León wants to, he's welcome to, otherwise I will say something.

León?

OLIVIER CRÉPIN-LEBLOND: So León has nothing at the moment, so perhaps...

ALAN GREENBERG: All right. Then it makes it clear who has to speak. I will try to summarize, and I haven't prepared anything so I'm winging it right now. Where we are is, the draft report was published. There is a strong minority report from certain GAC members, basically objecting to the whole concept of the carve out, and for that matter, objecting to the, to the recommendation 11 altogether, which ties them to a certain methodology is they want their advice to be considered with the preferential treatment.

That is they have to use today's definition of GAC consensus. There is a lot of rhetoric going on, you know, for instance, there was a message sent out yesterday, which said among other things, that with the new, with the GAC being tied to the old definition... I'm not wording it the way the message was worded.

With the GAC being tied to the old definition, the current definition of consensus, their advice will never be listened to again. And I don't see the basis for saying that, but that kind of thing is being said on a regular basis. So there is a lot of rhetoric going on in terms of the GAC, certain

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GAC members being very displeased. The proposal said... The Board came back to the carve out proposal, and said they were not willing to accept the reduction of three of four ACs and SOs.

Removing the entire Board. They were not willing to accept a reduction from four to three, except in the specific case of the community going to a IRP, and the IRP saying the Board violated its bylaws. And if the Board doesn't remedy that, then the Board is willing to accept three to remove that. Other than that, they said no.

That it had to stay at four, and since at that point in the carve out situation, there are only four, that required unanimity of the remaining ACs and SOs, which violated one of the original principles that is, no single AC and SO should be able to essentially veto any action.

For whatever reason, that was basically agreed to on the teleconference, as I understand the sequence. After the teleconference had agreed to that, a number of people identified the problem, in their minds, that not all issues that the community might be concerned with related to GAC advice, or eligible for an IRP.

That is the IRP is only eligible if you're claiming the Board has violated the bylaws, not if you simply don't like the action that they took. And there was a proposal that if there is no IRP available, that the threshold should also drop from four to three. And that's what was published in the final draft report, the one that is currently almost awaiting input from the chartering organizations.

That was noticed. I noticed it, among other people, and perhaps this whole thing, part of it, is blamed on me. But the proposal did say that it

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would be reduced to three, if the IRP was not a possibility. The Board has adamantly said up until that point, that they would not accept that. So we were in a situation where we had put in terms in the proposal, to meet the Board's objection, but they were not, did not quite match what the Board said.

And when the Board clarified that, well hold up, there is another thing. Steve Crocker following a Board meeting, made a statement, and some people read it as meaning the Board had listened to the GAC minority review, and essentially killed the whole proposal, the whole carve out proposal.

That isn't what he meant and that isn't what he said, but that was how it was read. So that started a firestorm, even after it was clarified, it hasn't really quelled the firestorm. And so we sit right now with a proposal that was supposed to have been a formally published and gone to the community for ratification, and it has not.

We are waiting for a meeting which will be held in about 10 hours. And I'm not sure what's going to come out of that meeting. My understanding was that there was a Board meeting, or at least a Board discussion earlier today, I don't have a clue what came out of it, if anything. If the Board is sticking to what they have previously said, or will be saying something different.

I don't believe there has been an email to any extent that I've seen anyway. So we're going into a two hour meeting today, or later, well tomorrow actually. And with the hope that we'll come out of it with

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something that is more acceptable to at least some of the parties. At this point, certainly the NCSG is likely to reject the report based on...

Well, if the Board resolution is honored completely in the report, the NCSG is likely to completely object to it. I don't know what else to say. I think I've tried to summarize the situation, I know I have confused some people, and it is confusing. There are a number of us, Avri is one, I'm another, that have said the Board carve out that is, not the Board carve out, but the Board statement saying, unanimity is required in certain exceedingly extreme cases that will never likely ever happen.

I think it's a reasonable position, but clearly, that is not a feeling held by all of the people on the group. There have been interestingly enough, relatively few comments made by formal members, capital M members, of the CCWG. Most, with one or two exceptions, have been silent. Most of the comments are by people who are not formal members, but presumably can influence parts of their chartering organizations to take action.

So that's where we stand. I see Olivier and Tijani. I don't know the order. Olivier, why don't you go first.

OLIVIER CRÉPIN-LEBLOND:

Thanks very much Alan. Olivier speaking. And I wanted to add a couple of more things. One point you have mentioned very clearly, the recommendation that we had all made earlier, and I think everyone had agreed to, that not a single SO or AC could not veto. That obviously, is a big problem if we are to move forward the way the Board wants it.

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And I can certainly understand why so many people are putting their, you know, being upset by this. But then I've heard also that many of the GNSO are saying that giving the GAC community powers, so having them as part of the community powers, is increasing the power of, in fact, not only the GAC but moving the power of all advisory committees, and the GAC is one of them, they seem to be particularly adamant that they don't want the GAC to have this community power.

We've also heard from NTIA that if the proposal does not have what used to be called stress test 18, they will not admit the proposal. They will reject it. And at the same time, we have a list of GAC countries that are not happy with the proposal as it stands and with the carve out, which effectively is the GAC not being able to vote on certain matters in the community powers.

The list of countries being, growing slowly. I really don't know which way we can go, and yeah. And so that's it. I mean, I haven't got anything else to add, it's just to add more of the problems there. And you're mentioning that the NCSG is taking a, has taken...

Well, Avri says, "I don't believe the NCSG has taken a position." It's interesting because we're being told all the time that the NCSG is totally behind that member of the NCSG, and we're also told that there are others in the GNSO now that are also agreeing with the position of that member of the NCSG. So it's a little confusing. Thank you.

ALAN GREENBERG:

Thank you. For clarity, the NCSG has not formally taken a position, but most of the speakers associated with the strong positions right now, are



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in some way affiliated with the NCSG. So one perhaps could draw conclusions from it, but it is not a formal action. Just to note, the GAC members who were upset, were upset with stress test 18 change, that is the change locking them in to the definition of consensus.

The carve out has added ammunition and given them other reasons to feel that the GAC has been treated unfairly. So it's an added process. Tijani.

TIJANI BEN JEMAA:

Thank you very much Alan. You tried the first creation was the case, thank you very much. I want to add something about that. First of all, before the GAC members expressed their [inaudible] statement, before the Board had the statement about their rejection of the reduction, of some four to three, there was members with capital M of the CWG who expressed this point of view, clearly and loudly inside the CWG.

Unfortunately they weren't supported by any of those who, today, state that they are against the reduction. I think that reducing this [inaudible] would be a very big mistake, and I see that it is a very strong issue, because if you make spilling the Board possible with only three SO or ACs, and ACs, one thing to [speak?].

So the stability, if you want, of ICANN will not be guaranteed anymore in my point of view. And from the beginning, if you remember, we said that spilling the Board is something that we will not want it to happen at all. And we said also that unanimity will be good for it. Coming back to this principle of not having one single SO or AC stop a decision of the community, principle doesn't have any [inaudible], because it is not in

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the charter. It was something that people proposed in the CWG, and nobody objected.

Personally, for example, there is a lot of things like this that I don't object to, because I don't see that it is important at the moment. But now, I consider and I realize that it was a mistake not to object to it. Because it is used today to oblige us, to accept that we will remove the Board with only three SOs and ACs supporting the decision.

I think that we are in a very [inaudible], because we have from the start, the Board will not accept the proposal as it is written now, and from the other side it is changed to make the [inaudible], not reduce only in the case of [inaudible] of the bylaw by the Board, we will have, as you said and as you probably will reject, have the GNSO reject it.

So we are more or less [inaudible]. That's why the meeting of tomorrow morning will be important, and I don't want to be in the place of the chairs, because it will not be possible. We are arriving to the point that everyone will be keeping in its place, and nobody wants to change their position.

So I think that tomorrow morning will be very important, and we need all of our diplomacy, all of our, if you want, patience, and all of our way to convince people to find [inaudible] nothing will be done, there is nobody [inaudible]. We will to find a solution so that everyone will accept it. Thank you.

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ALAN GREENBERG:

Some of us are losing our diplomacy, I'm afraid. Sébastien next, and I ask people, please, try to keep it short because otherwise we're not going to be able to finish even getting everyone to say their own peace in time if we don't. Thank you. Sébastien?

SÉBASTIEN BACHOLLET:

Yes, thank you Alan. First of all, thanks to Olivier and Alan to organizing a special time, this meeting. I think it's very important because we need to figure out what we will say. And when I say we, I consider that now we need to be, the five of us taking the same position, if possible, tomorrow morning.

It will be better for the sake of the transition. And thank you for staff for helping to organize. I think that you described the issue. I have one additional question or point, that during the discussion that one moment there were, that the GNSO or the ccNSO, when they push a policy to the Board, the Board needs to be disagree of two-thirds of the Board, [inaudible] policy development.

And the question of how we can compare with the situation with the GAC, because on one side, it's not the same threshold. And the other is that, they need to be part of the IRP if we want to move an IRP against the policy development or the decision of the Board, regarding that. And in the, for the GAC they can be part.

I see some imbalance here, and we, I would like to have the discussion with you. And the second point is that we have to be very careful what is happening here, because it's not just a struggle from some in the GAC, it's a struggle from some against the ACs. And it happens that we are

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just two ACs still on the Board with this discussion, but it's all the ACs were to be taken into account again, then we have to be really careful what we end up with.

I think what Steve write about, we need to have a discussion about all of the advice sent by all of the AC, by the Board, must be taken in one way, the same way, or a better way, how you want to say. It's an important point we need to take into account and maybe push that idea to be taken into account in work stream two, we will talk tomorrow morning.

And the last point is that, the GAC, as other organizations, but as ALAC is growing. And it's more and more difficult to have a common point of view of all the governments of the world. Then we have also to be careful. We are not taking position within ALAC, with all the ALSs agree on one single subject when, single ideas.

Maybe, even if there is a government, we need to find some way to release the unanimity. I understand the argument saying that, yes, but at the end, as the Board or the community will have to act in accordance with one part of the government. Again, the other part of the government.

But it's where we are in a very complicated organization. And my last thought is that I would have hoped that the Board a few years ago, decide to go through a reorganization of ICANN, and we would be in a better position today to discuss this transition.

The Board never agree on that, and I knew that I push that during four years, and I feel very uncomfortable that we were not able to stop the silo review and to have a full review of the organization. We would

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have been, once again, in a better position. I'm sorry to be a little bit long Alan, but I wanted to add that to the discussion. Thank you very much.

ALAN GREENBERG:

Thank you. Christopher.

We can't hear you Christopher.

Could I ask staff to work with Christopher? Eduardo, we'll go to you next.

EDUARDO DIAZ:

Thank you Alan. I hope you can hear me. I have been trying to follow up all of these conversations and have one question and one comment. The comment is that I think, I always was concern about this bylaw, you know, the current bylaws where, you know, only the GAC is advice, has a special process within the Board and the other advice is not.

So I always find an imbalance there, right now the way ICANN is. I understood Sébastien, I agree what should happen is that all advice should taken with the same process, and everyone should be involved in any IRP process, and that's it. Very simple.

Now, at the point where we are right now, I don't think that will happen, because you know, we are where we are. And my comment is, and my question is, and I think Olivier said it, but if indeed something that can be taken out of the CCWG and putting it in track number two, and then let it go? Or it has to be in there because of what Olivier said,

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that in there will not upset, not having that test in the process? Thank you.

ALAN GREENBERG:

Thank you. Do we have Christopher yet?

Apparently not. All right. [CROSSTALK] Sorry, was that Christopher? Or that was Seun. Okay, Seun I'll put you in the queue after. Sébastien raised a couple of issues and I want to address those very quickly. He first of all pointed out the imbalance that if the community acts against GNSO or rather SO advice that is accepted by the Board, that SO must be a part of the community power, whereas with the GAC, it's just the opposite, that it cannot participate.

The rationale, and I'm not defending or criticizing, the rationale that went along with it is that the SO advice, SO policy recommendations rather, are created with a, based on a very elaborate documented process, which involves lots of interaction from the community. Several public comment periods, the ability to participate in the discussions and so forth, whereas GAC advice is developed completely in isolation with no input, and not necessarily anyone even watching the process.

So that is the difference that justify to some people that the, the two differences in how it's treated. That is, there was plenty of opportunity to criticize SO policy recommendations prior to them even getting to the Board, and even when they got to the Board, whereas there is no community input into the other process.

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So that's the rationale. In terms of strengthening all of the ACs, that was discussed during ATRT 2 and was rejected, largely because it felt that the governments would object to losing their special status. When the issue was raised here, and Steve Crocker did raise it yesterday, the immediate action was, no we can't strengthen all ACs.

Certainly that's a no-starter on the very short term, I think that's quite clear. And Steve did suggest all of this being moved to work stream two, I really don't see how that can be done. So, Olivier, you have your hand up? Was that before Seun or after?

OLIVIER CRÉPIN-LEBLOND: It was after Seun actually.

ALAN GREENBERG: Okay. Then Seun, if you could go ahead please.

SEUN OJEDEJI: Hello. Can you hear me? This is Seun.

ALAN GREENBERG: Yes we can.

SEUN OJEDEJI: Okay. Thank you Alan. I just like to make two comments. The first one is in relation to the [inaudible]... has been of the opinion that the [inaudible] was necessary. It solves, it [causes more problems than it

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solves?]. I also think perhaps the [inaudible] if it was just applied to anything that goes through IRP. So if it were another community other than GAC, so long as the ALT are good in several of the communities it's [inaudible] should spill the Board.

But I don't understand the reason why some part of the community, some part of the CCWG [inaudible] GAC in this situation, because if it has just been attached to the fact that anything goes through IRP, that are actually going through some level of scrutiny, and that should give the reason to spill the Board more easily [inaudible].

That is a good rationale to actually say that it should work, [inaudible]... impression that [they are hauled in?] for building that [inaudible] know to position what [inaudible] at all. That's my view about the [inaudible]... past I think makes a lot of sense. My second comment is in relation to the consensus, the comment for consensus that has been put into the proposal.

I'm not, I don't think people within the GAC are saying that they would never be listened to again. I think they're saying that a clear requirement would actually make it impractical, in quotes, that they will actually achieve or get the Board to act on their concerns, because [inaudible] their concerns or whether their immediate concerns, should [inaudible]. And it's obvious that one of the reasons why GAC is in the situation where it is now, is because they do not get consensus on issues, and [inaudible] communities get it.

And [inaudible] they will get it. So I think the definition of consensus, what I just be putting in the proposal, requires just only a consensus



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advice from the GAC, that will require a position from the Board. And of course, the Board [inaudible] to reject or [inaudible]. So I think that is a lot of blow, if you want to put it, that have been given to the GAC already. That is a lot of [inaudible] in the GAC advice [inaudible].

So I don't think this is going for extra mile, but also refusing them [inaudible] in the IRP. That independent review [inaudible] that one party because the one that's being reviewed, and the other party [inaudible] participate. However, I saw the view of the Board by a compromise, [inaudible] that even if the Board does not, the GAC does not particularly [inaudible], then it makes [inaudible] concern that after the IRP has [inaudible] Board acted consistently, they acted in consistent with the bylaws, it shouldn't be easier to spill that Board.

Just [inaudible] why the [inaudible] GNSO, for instance. And the level of the ACSG, I like to confirm if [inaudible] organization. Thank you.

ALAN GREENBERG:

Thank you. To summarize for the interpreters, Seun was restating his position that he didn't believe a carve out was reasonable. That in his mind, it was not something that was justified to begin with, and the... I made the statement that there are some who have said that with the locked in definition of consensus, the GAC would not be able to ever give advice again.

I didn't say that that's what the petition said, the minority statement said, I said, it has been said. And in fact, if you read Kavouss's statement, he did claim that. So it has been said. In terms of the overall position and, well sorry. And he also, Seun also said that he doesn't

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think that the threshold requirement was really required. At this point, we are not going to change the NTIA's opinion, at least I don't believe we are. So I think we have to take that part as a given.

But you know, clearly we're going to have to decide where we're going to go. Christopher, are you on yet?

CHRISTOPHER WILKINSON: I believe I am on now.

ALAN GREENBERG: You are. Go ahead then.

CHRISTOPHER WILKINSON: Okay, thank you. Thank you very much.

ALAN GREENBERG: Christopher, if I may interrupt. Please everyone, keep short. We're running down to only 45 minutes left in this call, and many of us have another call immediately afterwards.

CHRISTOPHER WILKINSON: Yes, that's why I put two basic points to the list, which has already been supported by Holly and Vanda, and thank you both very much. Regarding the general temperature of, first of all, let's be frank. I don't understand how the components of GNSO developed their positions, but Milton and Robin are pursuing lines which if prevailed, would blow

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ICANN out, out of the water. And at some juncture, one of us or one other of us will have to say quite clearly that this [inaudible] is an approach to ICANN accountability, is going to be destructive.

Secondly I've made the point that, let's please be realistic. The attacks of the GAC in the CCWG, from the point of view of GAC members, and as some of you know, until about 10 years ago, I had some affiliation with the GAC, but these attacks will be treated as quite outrageous and totally unacceptable, at a level of political diplomacy without discussion of the substance.

And I associate some of these points of view with the American Heritage Foundation, but not naming names, you know perfectly well what I'm talking about. But directly from our point of view, from At Large's point of view, at this juncture, you must not accept a solution which results in the final decision being taken by a cartel of supporting organizations against the sole opposition or qualification of At-Large.

I don't care whether GAC is or is not in the empowered community, but if, from their choice or from the CCWG's recommendation, if they're not, then what is left in the empowered community, must be balanced 50/50 between the operators in the SOs and the user interest. I say again, at least 50/50 Alan. The risk of At-Large being basically put in a permanent minority position is totally unacceptable, and sooner or later will finish up in the anti-trust courts.

Please take note of the points that I've made on the list, and the comments in support that has been received.

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ALAN GREENBERG: Thank you very much Christopher. Just one quick comment. I find it hard to believe that the ASO is going to side with the registries essentially, if it came down to that, if it was some dispute that the registries felt that strongly about. So if that lends any comfort, they are a SO also, and [CROSSTALK] from a different point of view...

CHRISTOPHER WILKINSON: ...I could agree, but we are faced with, and have been for the past two years, we're faced with a concerted operation aiming at basically taking ICANN out of its present, into a registry, registrar dominated system.

ALAN GREENBERG: Thank you Christopher. Could I ask people, given that we have limited time, try to some extent, not just putting forward the position that you believe is the right one, because everyone on this list is putting forward the position that they believe is the right one, but looking for a way forward out of this morass, because that really is the important thing right now. Olivier.

OLIVIER CRÉPIN-LEBLOND: Thanks very much Alan. I was going to make your life any worse [CROSSTALK] even worse, by providing you even more of an insight as to my feelings as to why we are where we are today. It's clear that there is a disagreement, a strong disagreement within the GAC between the US government and other governments.

And we've seen the minority statements being that of those other governments having a disagreement. If you look at the history of

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ICANN, prior to ICANN there was the Internet ad-hoc committee. That organization, well, it was a working group, if you want, with sponsoring organizations like the Internet society, the international telecommunications union, the ITU, the international trademark association, and WIPO, the world intellectual property organization.

These were some of the organizations that were there. [CROSSTALK]  
And the EU as well...

CHRISTOPHER WILKINSON: Actually me.

ALAN GREENBERG: One speaker at a time.

OLIVIER CRÉPIN-LEBLOND: Thanks for this Christopher. So that's what we had before. Then ICANN came up as a private sector led, or it was an organization that was in the private sector. And what we're seeing now, I feel, is coming back to this problem and this division in between, you know, where is ICANN going to go? Is ICANN going to be going the other way? Or is it going to continue as a private sector led organization?

And this is where we have a real problem. I don't know whether we can actually go beyond this, Alan. And you're saying let's have a solution to this, well one of the things is absolutely sure for anyone who has been to WCIT, for example the world conference on international telecommunications in 2012. ICANN is always under fire for being

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controlled by the United States, and also many governments have spoken to me and to others made it very well known that they're very unhappy about the fact that the Internet is this global network, in which they have so little control of, and especially as far as the DNS, domain names, all of that is concerned.

Now, in response of course, my response and the response of people who are from ICANN in those forums, say well, but you have the GAC and the GAC, the government advisory committee, has a special relationship with the Board. So if governments really think there is a very strong issue they need to push forward, then the Board will deal, the ICANN Board will deal directly with the GAC.

If we are to now take this away from them, I am not sure what the response of those governments is going to be. And that's the concern that I have. But as I said, I don't have a solution for it at the moment, thank you.

ALAN GREENBERG: Thank you. Jean-Jacques.

JEAN-JACQUES SUBRENAT: Thank you Alan. This is Jean-Jacques. Two points. One is about the GAC, and the other one is about leveling out, or equalizing ACs and SOs. So on the GAC, I think it's necessary to note, if we place the current debate in ICANN in a more historical context, it's clear that many [inaudible] right now, just to the catching up game, because they have neglected their governments for some time.

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They don't want to be seen by their own population as neglect continually [inaudible] Internet government. So the conclusion of what I'm saying now, is that in the GAC, I don't see we will see either a prevalence either of the United States, or that they are trying very hard, nor the constitution of separate groups.

Let's say, what's in favor of or against any group of countries or any position. The GAC can only operate on total unanimity. If there is no unanimity, it won't work. Olivier just mentioned the fact that some in the GAC are hoping that the Board will deal directly with the GAC. As you know, the chair of the GAC is a member of the Board, non-voting member, but nonetheless, it's there each and every time.

But whoever that is, the chair of the GAC cannot express anything that has not been agreed by all of the GAC members. So my conclusion on the GAC is that we should not condone anything which is trying to divide up members in the GAC. It is [inaudible] and I don't see any weakening appetite of the GAC in the coming years.

My second point refers to what you said Alan, and also Christopher, but Alan has said that the Board, or the chair of the Board was not willing to entertain the idea that perhaps some of these questions such as creating lower quality between the SOs and ACs, could not go into stream two, meaning questions to be debated later. Now my question, and this was a proposal Alan, is can you, as ALAC, support the idea that should in fact go into work stream two?

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And also, my question to you Alan is, if that's the case, would you be able to find some allies in other ACs and SOs in order to obtain that inscription of that important item in work stream two? Thank you.

ALAN GREENBERG: Thank you Jean-Jacques. For clarity, I didn't say the chair of the Board would not entertain it, I said the chair of the Board suggested it.

SEUN OJEDEJI: [Inaudible], Seun.

ALAN GREENBERG: I'll add you to the queue. Thank you. Tijani, go ahead.

TIJANI BEN JEMAA: Thank you very much Alan. Tijani speaking. Alan, you mentioned that the [inaudible] position regarding the [inaudible] something like this? Is it right?

ALAN GREENBERG: I'm sorry, say that again Tijani, you were rather muffled.

TIJANI BEN JEMAA: You said something that I understood to be a position of the NTIA regarding [thresholds?].



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ALAN GREENBERG: No. I said the position of the NTIA was they were absolute requirement that the method for developing consensus, if the Board is to treat it preferentially, be locked in. That was a very, one of the very few clear statements the NTIA has made. It was nothing about thresholds.

TIJANI BEN JEMAA: Okay. Thank you very much. So I think that we have to go forward now. We have to something positive, and we have to, how do you say, agree on a position [inaudible]...

I don't know, but I propose, you know very well my position, it is not my position, but I propose it. I propose that we stick to the four to spill the Board, except in the case of [inaudible] of the bylaws by the Board. What do you think about that?

ALAN GREENBERG: I will let other people comment. Tijani is proposing that we basically support the Board and would not accept anything less than that. At least, the last position the Board has stated. We don't know what their position will be today. Roberto? Sorry, go ahead Tijani.

TIJANI BEN JEMAA: Yes. It is not because the Board took this position, it is because we believe from the beginning.

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ALAN GREENBERG: Tijani, I wasn't implying the cause, I was just trying to summarize Roberto.

ROBERTO GAETANO: [Inaudible]. Roberto Gaetano for the transcript. On the last question from Tijani, I agree with him. I think that we, that's a reasonable position. It was suggested by [inaudible]...

ALAN GREENBERG: Sorry, were you finished or did you get cut off?

We seem to have lost Roberto. I'm not quite sure if he was finished or not. Christopher, you're next.

CHRISTOPHER WILKINSON: Thank you. Thank you very short. I ask for the floor purely to support Olivier's comments regarding the GAC members. It is a very sensitive issue, and it's necessary to take this into account because we have had some success particularly with [inaudible] as chair in enlarging the GAC, but these countries have to be sure that there is something in it for them to...

TERRI AGNEW: Excuse me, this is Terri. I apologize for the interruption. Our Adobe Connect line has been disconnected. I'm quickly getting it connected back up, and I think that is why we lost Roberto. One moment please.

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CHRISTOPHER WILKINSON: Okay. Thanks Terri.

But that's the main point. But I think at some juncture, we have to call a spade a spade. And basically, can make quite clear that we do not accept the results of this GNSO dominant over the new gTLD program. I was surprised but not shocked to discover the difficulties the major registry like Minds and Machines is going through, as a result of over investment in nonviable new gTLDs.

Whether you look at the At-Large statements, sometimes nearly 10 years ago, whether you look at the GAC letter to the Board about the new gTLD program, these advices were ignored and we're in the very difficult situation now with the new gTLD program of the results of having a decision making process dominated by the commercial interests who think they know best have proved to be disastrous for ICANN.

So let's not be shy. We want to have full balanced representation, including governments in order to correct the misdirection which is being perpetrated by the GNSO.

ALAN GREENBERG: Thank you Christopher. Seun?

Do we have Seun online?

SEUN OJEDEJI: Hear me?

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ALAN GREENBERG: Yes we can.

SEUN OJEDEJI: Can you hear me? Okay. Thank you Alan. I want to make sure that you can me well. Can you hear me loud and clear [inaudible] loud and clear?

ALAN GREENBERG: I can't speak for the interpreters. Do your best and we'll try to cover.

SEUN OJEDEJI: Okay. One of my questions, I think [inaudible] your responses is sufficient. My other comment is relation to your question about the way forward. I think it was yesterday or was it days ago, depending on the time zone, you sent a message to the accountability list about the positions of this other group, in that the At-Large support for the comment of the Board.

I think we need to, at this point then, change that from being just ALAC support to the full support, and I would really suggest that the five members [inaudible] make such declaration in the meeting that is going to be holding very soon, this is the [BG?] meeting. I think we should say, supporting such a particular view of the Board at a minimum compromise that is possible in this situation.

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I would also suggest that if we propose in the call, that the covers actually be applied to any issue that goes through [inaudible], and not necessarily for the [inaudible], and not necessarily for, just for any issue that [inaudible] favor in the community to, I mean, the community should be able to remove the Board with this.

And so I would suggest that this [inaudible], however, if that is not acceptable, a compromise, a minimum that the ALAC should support is, [inaudible] for when Board actually asks in context of the bylaw as adequate. Thank you.

ALAN GREENBERG:

Okay. Seun has said two different things, I'll point out. That we should make public statements at the meeting today, that we are supporting the Board position, and that we support the reduction for only in the case of a bylaw violation, the IRP thing does bylaw violation. I'll simply point out that at this point, we do not know the position that the Board will take going into this meeting.

It may have changed. So the Board may well, I don't know, I doubt it, but the Board may well have decided that in some other cases, they're willing to accept the reduction of three. So those two statements may not be the same as we think they are today.

So just be careful what instructions we are given to our members. Roberto, you're next. Sorry, Olivier you're next then Roberto.

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OLIVIER CRÉPIN-LEBLOND: Thanks Alan. It's Olivier speaking. I was going to give the floor to Roberto [CROSSTALK]...

SEUN OJEDEJI: ...this is Seun.

ALAN GREENBERG: Go ahead Seun.

SEUN OJEDEJI: Yes, Alan, this is Seun for the record. I think that was not captured. What I said is that, okay. Maybe we should leave the Board out of this. What I said is this. The work stream sent to the list, [inaudible] to the list, in that minimum of four when it is out [inaudible] and then three, bare minimum compromise that ALAC should make, is just [inaudible] it was the view, it was also the view of Board [inaudible] yesterday and today.

If the Board view changes, it should not change the view of ALAC. And the other statement is, I'm saying aside that, ALAC should also recommend, okay. ALAC, I'm using ALAC loosely now, the five members should also recommend that it would be better if the IRP is applied not to just to GAC, that would be [inaudible] GAC to three, not just to GAC, but to anything that goes through IRP, the pressure should be reduced to three.

It should not be on the GAC advice alone, the two options that I have. Thank you.

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ALAN GREENBERG: Okay. You're suggesting that the threshold be reduced to three to remove the Board, if the Board does not follow an IRP, period.

SEUN OJEDEJI: Yes.

ALAN GREENBERG: Okay. I just want to make sure I got it correctly. Thank you. I have lost track. Olivier, I think you're next.

OLIVIER CRÉPIN-LEBLOND: I was going to give the floor to Roberto since he wasn't able to speak yet, and then I'll intervene after.

ALAN GREENBERG: Then Roberto it is.

ROBERTO GAETANO: Thank you. Roberto Gaetano for the transcript. First of all, I said that I was agreeing with Tijani's proposal, as also [inaudible] has proposed. But I have two comments basically. One is that this is probably an attempt by parts of the ICANN community to change the way the model works. And one of the guiding principles that we should have, and the mandate that we give to the negotiators, is that we need to defend the multistakeholder model in its entirety with all the possibility for all of

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those components, advisory committees, and the supporting organization, to have a role and to leave the Board the role of mediator among the different parts of the community.

And secondly, I would like to remind the GAC is a very different, has some working methods that are different from the working methods of other advisory councils and supporting organization. And they should be given the freedom to use internal procedures the way they want, and not try to attack for the way that they are doing their own work.

And I would like us all to remind that if the GAC is cornered within the ICANN community, the governments are powerful entities that will find a different venue, and the different sandbox where to conduct their policy. And it's to have the GAC cornered at, diminished at, their importance, is at the end of the day going to be another nail in ICANN's coffin. Thank you.

ALAN GREENBERG: Thank you very much. Olivier.

OLIVIER CRÉPIN-LEBLOND: Thanks very much Alan. Olivier speaking. And I think, if we want to focus on a result on this call, we really have three questions to ask ourselves, which are based on the Board position that Steve Crocker has put on the mailing list. The first question is, do we support a GAC carve out clause? The second question is, do we support the Board's position of four, which is unanimity, to spill the Board? And three, do we



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support that this issue being complex, we should move it over to work stream two?

I think this is what I read from Steve Crocker's message, and these are the three main questions we have to have an answer for tomorrow, isn't that correct?

ALAN GREENBERG: Perhaps. Remember, the Board has also had these discussions, so we don't know what the Board's position is today. That was the Board's position yesterday or two days ago.

OLIVIER CRÉPIN-LEBLOND: Then what do you want out of this call Alan? The reason why I'm asking those three questions is, what do you want out of this call?

ALAN GREENBERG: Let's quickly go through the rest of the speakers, then I'll try to summarize where I think we are. Next we have Tijani.

Can't hear you Tijani.

TIJANI BEN JEMAA: Okay. Yes, you hear me now?

ALAN GREENBERG: Yes.

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TIJANI BEN JEMAA: Okay, thank you. Why I didn't want it to be a support to the Board, it is because presently, as Alan said, the Board may change its position, but our position is not because the Board to quit. I remind you at the beginning, if you want me to remind you, I can remind you that my position was just before any other position, and I was the only one who objected to the reduction to three.

So I think it is a principle position. We don't want to accept to reduce the threshold to three to spill the Board, and it's a consensus. We may live with three if the Board will break the bylaws. I think that we have to formulate it like this. Thank you.

ALAN GREENBERG: Thank you. Christopher.

CHRISTOPHER WILKINSON: Yes. I was just going to say Olivier, yes, yes, and yes. Except that Tijani's last is relevant, so if on that particular point the Board is supporting At-Large and Tijani rather than the other way around, that's fine by me.

ALAN GREENBERG: Thank you. Anyone else want in?

Cheryl any words from you? I now you had a tick mark, but I don't know quite what it was a tick mark to.

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CHERYL LANGDON-ORR: I was, Cheryl for the record. I was specifically agreeing with Roberto. I think his observations are [inaudible] of what I would say. If you want my opinion, I am, okay, I'm sufficiently comfortable to put forward as a member, the reduction to three only in a situation with IRP issue. And I think that is what is proposed anyway, so I don't see that that's a problem.

I am concerned that we are going to end up with either making one of the advisory committees, not ourselves, in other words the GAC, unhappy or we will make sufficient component parts of the GNSO are unhappy, that will rather have difficulty in continuing on to completion of that process.

That's between a rock and a hard place. I would like to avoid that, if possible, that would take compromise, and I think we should allow the members to work with some flexibility if a form of compromise comes out of today's call. But I also encourage as many of the ALAC in this ad-hoc group, but also the ALAC as ALAC members to join in on this call, and listen carefully to the ICANN debates, because some of the debates is actually based on [inaudible] carefully not understanding the positions as they are proposed in the documents.

And some of it is [inaudible] based on the [inaudible] or accidental being unable to or unwilling to see the points of view. And both of those things need to be fixed in this single purpose call that we're running later today.

One of the advantages in the single purpose call later today is that we're working on, as we all know, a number of graphic representations which

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may help reduce those abilities for some of the players in this to accidentally or deliberately mislead and misinterpret what the intention is. That's about as diplomatic as I can be Alan.

ALAN GREENBERG:

Thank you very much. A couple of points. I think one of the key things that has been said here, that we have little control over, but is really, really important, is sufficient parts of the GAC being upset with ICANN and their ability to work within the ICANN structure, that they are going to be very tempted to walk or something close to that.

There will be, if you recall, a high level GAC meeting on the Monday of the Marrakesh meeting. I think that is really crucial, because if some statement, some communique comes out of that high level meeting, it could have very significant impact on how we move forward. I suspect of all of the people who were involved in this discussion right now, the Board is more likely keyed in, and has conduits into the discussions that are going on privately right now, than any of the rest of us.

So, I believe, although I am not, I've never supported the Board because the Board said something. I believe we have to independently decide whether we believe it's good or not, and we have disagreed with the Board on a number of times, and we have agreed with them in other times.

And I think this is one of those times where I think we have to be flexible enough to take a little bit of direction from what they are doing, because I suspect they have better sources right now than we do, in terms of the undercurrents going on with relation to the GAC. So that's

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point number one. I think the whole carve out was a mistake. It was a visceral reaction of the GNSO, and it went along with a compromise between 66% and 50% to 60, which was a completely meaningless compromise, but allowed people to save face.

And I think we're back in the saving face part of the world right now. If I had my [way], I would make the carve out completely disappear, and come up with some other innovative way of addressing the GNSO's concern of the GAC, of the situation of a community action against the GAC. And I think there are probably are other ways to address it, but I think that was the one thing that really put the GAC in a defensive position, and I don't know if there is any time left to fix this.

We don't have much time. This is, tonight is pretty much, you know, tonight, maybe tomorrow via email, is pretty much the only opportunity we're going to have. So I would suggest that the ALAC take a listening stance to see how things are going. I don't know whether the ALAC would refuse to ratify, if the Board approved a reduction of three in some other cases.

I hope it doesn't come down to that, but I think we need to be somewhat flexible because we are in a very critical point right now, and the whole thing could fall apart. And when I talk about the whole thing, I'm not talking about the transition. I'm talking about ICANN. Without the support of a significant number of governments in ICANN, we have no power.

The GNSO people do not appreciate that, tough. We have to make sure we appreciate it. So I really don't know if I want to lay down a law, but

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what all five ALAC members should say tonight, or four because León is not likely to state an ALAC position, but I think we have to listen. I agree with Cheryl that I think we need to listen carefully, and we need to, you know, the back channel is going to be really important, so make sure you have Skype on.

And that includes all those including the people who are not members. I really don't know how this night is going to go forward. I suspect we're going to have some surprises, but I don't know that as a fact. So that's not a very definite statement, but I think we're going to have to be flexible, and I think we're going to have to be prepared to make strong statements, but we have to listen and see whether they're going to be supportive.

I will point out that the ALAC has taken positions that are counter to the CCWG in many cases, as we did on the CWG. We ended up, very often, having the outcome being in line with what the ALAC was saying, but we weren't very popular along the way.

And us making a statement today almost will guarantee that certain other people will oppose it, just because we're making the statement. So I think that's something to factor in, I don't quite know how it will play out. I see Tijani has his hand up. We have eight minutes before we have to, several of us have to be on another call. Tijani.

TIJANI BEN JEMAA:

Thank you Alan.

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ALAN GREENBERG:

Yes.

TIJANI BEN JEMAA:

Okay. I want a discussion tonight, was only to have a position for the meeting tomorrow if we come to a vote among the members. If we don't have this vote, we will not make a statement. I don't think it is a good thing to make a statement, because we don't want to be with or against anyone. At the end, if we have to express ourselves, we have to get the right position, in my point of view.

And there is, in my point of view, some principles, some positions that are related to principles that for me, I will always take it because I think that the stability of ICANN is related to it, such as using the threshold. So the conclusion of this meeting, I think we don't have any conclusion as you said.

It is only wait and see, it is only perhaps the Board changes its mind. Even if the vote changes its mind, I will not change mine, because it is not because the Board has it, it is because I express it from the very beginning. Thank you.

ALAN GREENBERG:

Thank you Tijani. Just to be clear, from my point of view, the stability of ICANN, due to losing the GAC, is of much more serious concern than the stability of ICANN because the whole Board can be removed by three under certain really obscure situations. That's my opinion. It doesn't have to be supported by others.

Anyone else? We have a full six minutes left.

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SEUN OJEDEJI:                    Yeah, this is Seun.

ALAN GREENBERG:                Seun go ahead, and then we have Olivier.

SEUN OJEDEJI:                    Yeah, just to [inaudible], I just wanted to say, what the comment is quite in line I think with what Tijani is also saying, because everything [inaudible] different types, the possibility of leaving GAC is [inaudible], and we actually do need to [inaudible]...

I think irrespective of the outcome of the Board, or the mind of the Board, what it decides, I think it's good to have a minimum principle for At-Large to have a minimum principle, even if it gets to a point that says the Board says it's fine, if we say we are not fine with that, it's still in my opinion, [inaudible] that the proposal will go through, or at least it should be logged, it should be recorded, that we actually [inaudible] adopt it.

So I think we should try to have that in mind. Thank you. One more thing, please. This is Seun. Yeah, [inaudible] because [inaudible] during that period. Thank you.

ALAN GREENBERG:                Thank you. Olivier.



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OLIVIER CRÉPIN-LEBLOND: Thanks Alan, it's Olivier speaking. I just wanted to say that I trust your judgment, and Cheryl's judgment, and Avri's judgment as three people who have been around and acting in ICANN for longer than most of us. And so, what you've said, by the way, totally resonates with my feelings, and if I'm not able to make it tomorrow, I know you'll do the right thing in responding to the points.

But I would like us to stand our ground and to stick what we believe is correct. And certainly, losing the GAC would be a much, much bigger problem than anything else that we've come across so far, and I have real concerns on it. And you've expressed it much better than I have, so there you go.

ALAN GREENBERG: Thank you. And to be clear, we're not talking about the GAC walking out en masse, we're talking about sufficient governments with power in the world walking out, and looking for other alternatives. So you know, this is not going to happen overnight. But a communique coming out of a high level meeting, very much against ICANN, would not be a good thing.

Any final words? We have two minutes to go, and I wouldn't mind a two minute break.

TIJANI BEN JEMAA: I have my hand up.

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ALAN GREENBERG: Sorry. I didn't realize that was a new hand. We have two hands. Sébastien, Tijani and then Sébastien.

TIJANI BEN JEMAA: Okay, thank you. May I understand from what you said Alan, and what Olivier just said, that you will be against the carve out? That you will try to make the position, to remove the carve out? It means that should you take a position against it?

ALAN GREENBERG: If the opportunity comes up, and I'm not necessarily going to raise it out of the blue, if the opportunity comes up, that there is some other way of addressing the concerns, because a complete veto from the GNSO is not going to be a good way to go forward in this process. It may be less damaging to ICANN, it will certainly damage the IANA transition, but yes, if all other things being equal, if we can make the carve out go away, and eliminate the whole problem of thresholds, and address the GNSO problems some other way, yes I would certainly support that.

I'm sure someone can come up with a worse way of supporting the GNSO position, but assuming it wasn't a worse way, yes. Sébastien.

SÉBASTIEN BACHOLLET: Yes, just... Sébastien Bachollet speaking. Just a few words. It's just that I agree with you the description of the, what it had to take regarding ICANN. But I want to say once again, if ICANN is in trouble, it's not just a multistakeholder in general who is in trouble, it's the end user's voice that is in trouble. We already have a quite weak voice. If you look to

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the last letter from the CO, you can see that it's, he never referred to end user. It's seemed that end user disappeared from ICANN. More and more we are talking about Civil Society, but not about us anymore, and it's where I think we will add if ICANN disappear, that we as end user voice, we will disappear.

And it's worth it that the [inaudible] tomorrow and in the next few weeks. Thank you.

ALAN GREENBERG:

Thank you Sébastien. I'm afraid I agree 100%. When people have asked me, as I have been asked a number of times, why are we spending so much time on accountability? And the answer very simply is because for ALAC to do, for ALAC and At-Large to do its job, we need a strong ICANN.

If we don't have a strong ICANN, we would not likely get a voice in the ITU, or whatever comes about afterwards. And that is the reason that we've been putting all of this energy into it, from my perspective. So yes, I strongly support that.

But saying that out loud, simply means we're acting in a purely self-serving way because we like our travel. So I would caution that we not use that argument in the public forums. Thank you.

It is on the hour, we have another meeting, several of us, another crucial meeting. By the way, it's the first meeting of the GNSO PDP on new gTLDs, which will be an interesting group and an interesting meeting over the next year or two, but I think it's really important that

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we be there at the first meeting. Thank you all very much, and we'll report on what happens tonight after it happens. Bye-bye.

**[END OF TRANSCRIPTION]**