

**ICANN**

**Moderator: Brenda Brewer  
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9:00 am CT**

Yuko Green: This is the CWG IANA Meeting Number 87. Today is the 11th of August 2016 at 14 UTC. I will hand it over to Lise.

Lise Fuhr: Thank you. My name is Lise Fuhr. I'm one of the two co-chairs. I can see Kavouss is asking to be dialed out. So if anyone can help Kavouss by dialing him out.

But thank you all for joining this call. The other co-chair, Jonathan Robinson, will try to join on audio. He's traveling at the moment, so he is maybe not available for this call. We'll see.

But before starting this call, I'll just give a quick status update and the objectives of the call. And I would actually start with reminding us all of the aim of the work that we're doing now as CWG after submitting the proposal, and that is actually not to create a new proposal but working together with ICANN staff to ensure that the implementation that is going on now is true to the proposal.

And this means that we as a group has to take care and not to reopen this decision that has been agreed some time ago, and we of course do have some specific issues that we need to discuss. But it's important that we are mindful that we keep to new things and changes that need to be dealt with and not to reopen things that we have been discussing before.

A quick update on what has happened in the last meeting is that we have sent the CWG comment letter was submitted to the public consultation of the PTI governance document, and there has been several calls with the IANA IPR group.

So the aim of this call is to prepare us for the NTIA report, which is to be submitted tomorrow and to prepare for the PTI bylaws comment letter, which is to be submitted today, later today. The deadline is just midnight UTC. And it's also to prepare the IANA IPR for a public comment today. There's been three meetings since the last CWG call, and Josh and Greg will give you an update on this. And I can see (Eduardo Diaz) is saying happy birthday to Greg. I will join him in congratulating you, Greg. It's great that you can join the call. I hope you have a great day where - well in New York or wherever you are.

Since Josh is only the call and has to leave 30 minutes into the call, as far as I'm informed, we have moved the IANA IPR item up so that will be the first thing to discuss, and then we'll continue with the agenda as announced before. Just before we get started with the IANA IPR, I'll just remind you that you all received the action items from the last call in the - with the agenda. And those items that are not completed will be dealt with during this call.

And with that short opening and note, I will actually rush on and hand it over to Josh and Greg to give an update and to do the presentation on the IANA

IPR. And I don't know which one of you, Greg or Josh will take the lead on the update.

Josh Hofheimer: Greg, if you want, I'm on audio only so I can't see what's happening in the chat, but if you want me to give the update and some background, I'm happy to do so.

Greg Shatan: Josh, why don't you go ahead. That'll be a birthday present to me.

Josh Hofheimer: Perfect. Happy birthday. Can everyone hear me okay?

Lise Fuhr: Yes we can.

Josh Hofheimer: Good. I apologize, I'm in a public place. I'm trying to keep things under control. So thank you, Lise. And as you said, the purpose of this call is to review and answer any questions with regard to the IANA IPR agreements and if possible hopefully get sign off from the CWG for them to be posted for public comment later today, which will then, you know, provide a 30-day comment period for the public to review and provide input as desired.

So this is not - or these are not the final drafts of the agreements but agreements that we, you know, as a group for the names community, that the community does feel comfortable releasing for public comment, and that's where we stand. They're also going for a sign off this morning by the numbers community and the protocols community.

As Lise mentioned, there's been lots of discussion and numerous drafts and revisions back and forth. These agreements, we've shared some interim drafts with you all. I thought I'd take just a moment to remind everybody to situate us and remind everyone what we're doing here and why it's happening. And

then I'll give you a brief overview of the structure of the agreements and their key goals and then I'll also talk about one of the sort of principal open action items, which is to determine who's going to sign the community agreement, or to at least consider that more openly, who's going to sign the community agreement on behalf of the names community.

So if you'll all recall, the purpose of this is as part of the original proposals that have gone through, there was a strong push by the numbers and protocols community to have the IANA intellectual property rights, specifically the trademarks, trade names, logos, service marks, and the domain names included within that, to have those be owned by a separate entity other than ICANN. In the event in the future there's a need to separate the IANA function and pull that away from ICANN, it will be an easier process because the intellectual property already will be sitting outside of ICANN and will be licensed to ICANN per its use, for the IANA services specifically.

After some, you know, discussion, at the time it was agreed that the IATF Trust would be the repository for the intellectual property, and the trust agreed to take on that, you know, role as an accommodation to the various communities that were pushing for this.

So what we have in front of us are three agreements, one of which is the - an IP assignment agreement, which is to assign ownership of the IP from ICANN to the trust, a licensing agreement, which is from the trust back to ICANN with a right of sub license to PTI, for PTI to provide the IANA services, and then a community agreement between ICANN - sorry, between the IATF Trust and the three operational communities, names, numbers, and protocols, to provide opportunities for the communities to give advice and input and provide some oversight over how IATF trust deals with the intellectual property in certain situations.

The first agreement is relatively simple, and we've had a few comments on it mostly at the time just to make sure that, you know, again as Lise said, it was being true to the principles of the proposal. And that agreement is ready to for public comment. And there's not much in that frankly that is of concern - specific concerns of the names community because it just deals with the assignment of the IP.

The second agreement is the licensing agreement back. And the way it's structured, there'll be three separate license agreements for the IANA services from each community - sorry, for the IANA services that are for the benefit of each community, but the parties to that agreement will always be the IATF trust as the licensor and ICANN as the licensee with a right of sub-license to PTI.

It was structured as three separate agreements even though the parties are the same so that, again, if there is a unlikely -- hopefully unlikely -- scenario where one community feels the need to transition the IANA services away from ICANN PTI but another community does not want to do so, that it would not require an amendment to that community's agreement or would require that community to - or would require their license to be terminated with respect to that community that was satisfied with IANA services.

So it really is just set up in advance to provide a little bit more flexibility for the communities, I mean their dealings with ICANN, given its provision of the IANA services.

The third community is where sort of the most - is where some of the discussion has taken place. I should say with respect to the - and that's in the

community agreement between the three communities and ICANN - I mean, sorry and the IATF Trust.

So again, with these agreements we - our primary goal has been to make sure that they are structured so as to respect the contours of the proposal that has been submitted by CWG and has been approved, and that also that specifically IATF, by virtue of being the owner of the trust - I mean of the IP, does not interfere with the dealings of the particular community and ICANN/PTI with respect to the provision of the IANA services.

What we don't want is for the trust to somehow feel that it has the ability or, you know, by contract or by ownership to exert some sure layer - create an extra layer of oversight or control over the provision of IANA services. And so that's been a primary, you know, objective with this and has required some discussion, but I believe in the end we got there.

The way it works, and the reason we feel comfortable that we have achieved that goal, is that the community agreement creates - it's signed by each of the operational communities or some entity organization that they designate to be their signatory, and those communities form what's called a community coordination group, or basically a supervisory committee. And that supervisory committee has three representatives from each part or each community on it, and then one from each of those is drawn to be the co-chairs, the three co-chairs.

The details of the CCG organization and process are - is something that will have to be worked out, if not specifically for the agreement. But there are constraints. There are very important constraints on what the CCWG is designed to do as well as, you know, how it interacts with ICANN.

And the most important one is that the CCG or the operational communities do not have discretion through this contract, and neither for that matter does the IATF Trust to actually direct the trust to terminate the IANA IPR license to ICANN in the event that any party believes that the IANA services are, you know, not up to snuff or not being provided in an adequate manner by ICANN.

There is an express deferral to the workings of the particular community, in our case the IFR process and the whole escalation and dispute process with the input of the empowered community to determine - that would determine whether or not the IANA services are adequate or not being adequate and whether a separation is required. The community coordination group would merely be a conduit for relaying that message if separation is determined to be necessary. They'd be a conduit for relaying that message to the IATF trust. (Unintelligible) agreement should be terminated because the services are not up to snuff and the replacement service provider has been identified. The IATF Trust does not have the discretion to reach that finding on its own. It can only take direction from the community. And once it receives that direction, it must act. It doesn't have the discretion to say no either. And the community coordination group in a sense, also does not have the discretion to make an independent decision. They mere relay the decision from the particular community that is affected or that wants to seek separation away from ICANN.

So that's the - one of two primary responsibilities of the CCG, or the community coordination group. The second one is advice and counsel to the trust regarding the handling by the intellectual property itself so that community's input is always, you know, taken and there's some deference to the community's views as well.

And this is in regards to things like, you know, style requirements or style changes, if a new logo was going to be developed, if there were going to be changes made to the logo for IANA, if there were some decisions where to register for the IP and internationally that needed to be undertaken, if there was somebody who's infringing and a third party was infringing against the IP and somebody felt it necessary to bring an action, there'd be some discussion between the trust and the community through the CCG before any such action was taken. And there would be deference given to the views of the community.

We styled that deference in way replicating some of the operative language of the GAC, the relationship between GAC and ICANN and that the recommendations and consultation provided by the GAC are supposed to be given some deference. And in fact if the trust decides - or disagrees with those recommendations, there's supposed to be further meeting and consultation. And if ultimately the trust chose to go a different direction, it would have to articulate its reasons for doing so in writing.

So that's where that stands. And again, that - the trust does not have that flexibility with respect to terminating the IANA -- sorry, I'm going to pause in just a second -- it doesn't have that ability to exercise any discretion with respect to terminating the agreement. This is for more the kind of day-to-day use and handling of the IP itself.

So with that, let me pause and see if there's any questions. I know I've gone on a little bit, but I'll pause to see if there's any questions and we can - before we move on to the discussion of who might be the counterparty to the community agreement for the - to act on behalf of the names community.



Lise Fuhr: Josh, this is Lise. I don't have any questions. But I will recommend that Greg will steer it, but I don't see anyone at the moment.

Josh Hofheimer: Greg, is there anything in the chat that we need to address because I can't see that?

Lise Fuhr: Kavouss is having his hand up, but Greg you take over the queue from now, okay?

Josh Hofheimer: Kavouss?

Kavouss Arasteh: Yes, there is something in the chat that I don't understand. Some people say that (unintelligible) from the public comments and (unintelligible) somebody says that protocol position. What it is that you're changing? (Unintelligible) IANA for public comment or not? Simple and simple. Thank you.

Josh Hofheimer: I'm not sure I understand. When you say - you said IRP, Kavouss, but did you mean IPR, the intellectual property rights?

Kavouss Arasteh: Sorry, IPR. I'm sorry, I'm sorry, IPR. I'm very sorry because - IPR. So is this something that people want? It was mentioned to take it out. And someone says that no, take it in. So what is the situation?

Greg Shatan: Josh can't see the chat, so let me try to answer that. This is Greg. The discussion in the chat relates to what happened a year ago or more when the decision was being considered about whether the IANA IPR should remain in ICANN where it is or whether it should be moved to a third party holder and how the IANA plan and CRISP or the protocol, perimeters and numbers communities felt about that.

Josh in his opening remarks said that protocol, perimeters, and numbers supported the plan to move the IPR out. Andrew Sullivan, who is, you know, with IATF and IATF Trust is a trustee of the trust as well, clarified that the IATF's position at that time, and still, was non-objection. They did not object.

They did not initiate the plan, the IRRs did, and ultimately both other communities did not object to that plan. And that plan is now being put - has been - was made an essential part of the IANA transition plan that the ICG put together and was approved by NTIA and that we are implementing as the necessary step in the transition, whatever our personal views or even our group views might have been. That is where we are.

And this is, you know, one of the very last steps necessary to fulfill the conditions set out in the ICG plan for the transition. As such, we need to put out for public comment the three documents that Josh has described so that they can be executed as part of the transition taking place. Thanks.

Lise Fuhr: I put myself in the queue. It's Lise Fuhr again. Because I'd just like to remind us of not trying to reopen issues that has been dealt with. And of course it's important to understand the reason why we're doing this. But in relation to this, it was actually the understanding of the IATG that we needed to have dealt with the IANA IPR before we could go along with the transition. And this is why it's very important to have this dealt with at the moment.

And I saw Avri after that, how the naming community picks its CCG members. And yes, this is discussion that we will take after we have posted the document. It's premature at the moment. Thank you. Greg, you're next.

Greg Shatan: Thanks. A couple of additional answers to Avri's question. The CCG membership question is premature, though barely. Earlier drafts of the

document actually had an exhibit where the members of the CCG were going to be filled in. The decision was made to take that out just so there wouldn't be an expectation or a necessity to fill those in prior to the transition date. That said, we should be considering how to fill those spots as soon as possible, and ideally prior to the transition date so that CCW can be in place to exercise its role in the relationships set out in the document.

As to the signatory, the who signs the agreement discussion, my personal view is that we would be better off putting an entity into the document if possible, even if it is tentative, because then we can get comments on that entity or we could conceivably have a note at least to that point as to what we think might happen. The other alternative is to leave it blank and then, you know, people can just comment on that or not as they see fit and we can debate it and come to a decision, you know, during the public comment period.

You know, the only options -- and I'm not saying any of these are better than any others or even that they're necessarily even all possible -- would be ICANN itself, the empowered community, or some new co set up for that purpose, where it's an unincorporated associated or a nonprofit corporation or the like. Other people may have ideas about other existing organizations, but that's all I got. Thanks.

Lise Fuhr: Thank you, Greg. There's no other - Kavouss is back in the queue. Kavouss, go ahead.

Kavouss Arasteh: Yes, my reply with the alternatives mentioned by Greg is the one that will put something provisionally and perhaps to inject some sort of ideas and to get comment on that and then define that later, but not put in blind. Thank you.

Lise Fuhr: Okay. Thank you, Kavouss.

Josh Hofheimer: Lise?

Lise Fuhr: Yes, go ahead, Josh.

Josh Hofheimer: If I may, there's a - I have been thinking about this and I thought I'd tee up a couple of ideas for who might be the signatory and the group could debate it. And I'll be able to, in an opportune way, put it out there. And then I'll have to hop off the call and leave it to (Sharon). So it works well for me.

But there, you know, there are a few different - there are a couple, at least a couple different alternatives. As Greg mentioned, you know, there's ICANN, there's the empowered community, there could be a collection, as you will, of some of the member - sort of SOs and ACs that themselves are entities that could form kind of a coalition to represent the names community. With respect to the numbers community, they've got multiple organizations depending on sort of geographic location that need to be involved. And so they've got I think three or four different entities that are signing on behalf of the numbers community. So that would be one option. And then there, as Greg said, there may be, you know, a new co or a new entity that's formed.

But maybe just put it out for a moment some of the - we'll put out what we've seen or what we see as some of the pros and cons of the choices, and people can debate that and maybe reach some consensus on what one they want to put in tentatively at least at this point. You know, as Greg mentioned, the European - sorry, the empowered community could be one choice. It certainly would represent the community and the diversity of the community in that regard, and it is established. It does exist today. So those would be, you know, potential benefits to doing so. And clearly it's independent.

However, one of the big challenges that we see right now in the empowered community, admittedly one of the challenges that we see is that it isn't really set up to take on this role. And to make it - to enable it to take on this role would probably or most certainly require going back to the CCWG and coordinating with that group and most likely amending the ICANN bylaws to give the EC the ability to take on this role.

And because it is not, you know, at the moment created to exercise sort of independent discretion or decision-making and, as I pointed earlier, it wouldn't be exercising independent decision-making with respect to, you know, the key decisions, but whether there's a separation, it would just be relaying the choices of the community that it chose - that it didn't reject. But there is some discretion with respect to their handling of their IP, so there'd have to be some changes in its entirety to enable it to do that, to carry out that advice and consent.

So that's one sort of significant potential limitation. As Greg mentioned, ICANN could be another choice. Clearly it has the expertise to take on this role. It already is existing. It has significant relationships with the community, the names community and all of the communities, and so hopefully understands the needs and workings of those communities pretty well.

One of the challenges of ICANN doing it is that, you know, it also is the signatory under the license itself. So that's not - so it would be both the signatory to the license and the signatory to the community agreement acting on behalf of the names community. That's not an insurmountable challenge. And again, for the big decision about separation, they wouldn't have an independent choice, it would just be relaying the decisions that flowed from the IFR process and escalation and dispute resolution.

And, you know, we would probably have to as far as giving it - as far as the other areas where it may exercise some discretion, it's going to be involved in those discussions anyway as a licensee and we could probably create something - it might have to be some form of document or (unintelligible) proposal to add something to the bylaws to allow - to give ICANN some instruction as to how it's supposed to act with respect to representing the names community's interest in the community agreement.

But that's something that hopefully could be done without too much difficulty, but it is something that would have to be done. Of course we've also - we'd have to find out if ICANN is willing to take on this role. I don't know if Sam Eisner's on the call but she was going to take up this question internally within ICANN to see how much reciprocity there was for this.

PTI actually was briefly considered as a choice but ultimately it was concluded that that choice was really no different than ICANN doing. And PTI, which is primarily focused on technical functions and administering the technical aspects, doesn't really have the expertise to take on this sort of advisory role that the community agreement would require.

And then, as I mentioned before, an amalgamation of particular SOs and ACs that represent the names community or the key sort of constituents of the names community for purposes of the IP might also be designated to take on that role. It's similar to the - similar in that way to the EC taking on that role but it wouldn't require necessarily coordination with the CWG or an amendment to the bylaws of the proposal regarding the empowered community that's already been approved.

But it would require going back to the particular SOs and ACs and then determining whether they're willing to take on that role. And if they were,

then, you know, they would step up to do so and could craft sort of an inter-party agreement to talk about how they - to manage how they would work together.

So those were some of our ideas and some of the pros and cons of both of them. And with that, I'll back off and open it up for comment. And I do apologize but I am going to have to sign off very shortly myself. I'm going to listen for a little while and then about to go board a plane.

Lise Fuhr: Okay. Thank you Josh. I'll just tell you that Sam Eisner is on the call and she's writing in the chat. But she is trying to get an answer from ICANN if they're willing to take the role of the signatory party or signing party on this.

Thank you for a comprehensive walk through of the agreement and the different possibilities. Kavouss has a question. I don't know if you have time to - he says Josh you're referring to role. What role please? Oh...

Josh Hofheimer: We're talking about as we talked about in the beginning. Hopefully Kavouss was on. But we were talking about the operational community and its function under the community agreement and there needed to be a party to sign that agreement on behalf of the names community. And then the two decisions that I have (unintelligible) later in that briefing.

Lise Fuhr: Okay. Thank you. My answer is (unintelligible) I would actually urge us to choose a solution that is as simple as possible because I think we have a complex setup of agreements and issues. So whatever we choose for the signing party it needs to be a very simple solution or not a complex one. Any views, comments? Greg, your hand is up. Greg, go ahead.

Greg Shatan: Thank you. This is Greg Shatan for the record. In terms of simplicity although none of these are perfect, if we had some - I would say ICANN is the simplest.

I put into our conversations on the email just a few days ago the reasons why ICANN is imperfect. But, you know, those are challenges that could be overcome.

Primarily ICANN needs to, you know, act as a conduit for the names community. We may also need to decide what exactly the names community is. And for instance, does it include the numbers community because the ASO is a - is an SO or does it not?

But putting those issues aside, ICANN as a signatory is a real existing entity that can sign contracts. And that, you know, for a particular purpose at least I'm sure could possibly serve as a kind of a proxy for the names community in signing that agreement.

The challenges are that there's a relationship between the community and the IETF trust and the licensee and service operator. And the licensee and service operator is also ICANN.

So in a sense ICANN would be supervising itself. But in a sense, that's what happens. The ICANN community through the CSC provides kind of, you know, day-to-day oversight of the names functions and so forth.

So it's not illogical to do it that way. We just need to have a structure that works. And of course that's, you know, indicated. You know, Sam was only asked, you know, probably last night whether this could fly and she's, you



know, running it up the flag pole within ICANN to see what traction, you know, that could get, you know.

We'd be - EC obviously has other problems I would, you know, having initially thought it was a good idea, I no longer do. And the other ideas I, you know, standing up a new organization or dealing with structures that aren't themselves legal entities yet like the SO/ACs themselves, you know, also has challenges.

So from a simplicity point of view, ICANN itself kind of, you know, fills the bill imperfectly though it does but we shouldn't let the perfect be the enemy of the good. Thank you.

Lise Fuhr: Thank you Greg. Kavouss, you're next in line. Go ahead.

Kavouss Arasteh: Yes. I'm certainly aware from (unintelligible) idea that ICANN could sign or to be signatory on behalf of the name community (council). And some people they put in the names communities (notion in) question.

In ICG we have discussed and we have three communities. One of them is name community. I don't think that we put in question that what the name community is and I don't think that it's legally acceptable that ICANN sign on behalf of the name communities when such delegation has not been given. So I don't think that option could work at all. Thank you.

Lise Fuhr: Thank you Kavouss. I believe the idea if you use ICANN as the signing party is to actually have it done with some conditions. So it's not an unconditional signing but it's actually a delegation to ICANN from the naming community.

And the problem is that the naming community is not a legal entity that can sign anything. So that is why (unintelligible) to ICANN and as you have seen in the chat, there are some problems with the empowered communities since they are as far as I'm concerned not a legal community itself. I might be wrong and will be corrected so if I am. Thank you. Samantha, go ahead. Sam.

Samantha Eisner: Thanks Lise. This is Samantha Eisner from ICANN. I just wanted to confirm ICANN was requested last night to consider whether or not it would - it feels that it would be able to sign the community agreement on behalf of the names community. And I just wanted to provide a little bit more information to this group about some of the items that Josh and I talked about on that call last night.

I think it would be really important to understand from the community or from this group as it represents the different parts of the names community what ICANN's obligations would be as it relates to the CCG representatives and making sure that there was an appropriate process to get a complement of people named to that CCG that represented the different parts of the names community and just understand if there had been any other considerations of the different roles that ICANN might be asked to take in terms of being the signatory.

So, you know, I think that there's - we will be looking at it. We'll identify for the CWG if we have any other questions. But we'll be looking first at the question just of feasibility. We'll try to get a response back to this group as soon as possible on that.

And, you know, we look forward to any other questions or inputs you might have for us too to consider as we're looking at this issue. I just wanted to - I

see that Sharon was answering Lise' question about whether or not the EC we even a legal entity.

That was handled in the chat. The EC is a legal entity as Sharon mentioned and it's probably mentioned earlier as well. The EC is not included in the proposal as having the powers that we're contemplating if it were asked to sign this agreement.

And so I think we also have to see if it even made sense within the realm of the proposal or if this was an appropriate way to consider expanding the EC's power.

But we also couldn't be in a position, and this is an important thing to recall, is it goes back to the agreements themselves. The communities have set up the agreement so that they are capable of being signed on the date of transition.

We wouldn't have any way even if everyone agreed that it was appropriate for the EC to take on this role. And I do have some other concerns with that as well.

But we would not have any other way to get the EC to appoint that it would actually be legally empowered to take on this role until months after the transition takes place because it would require modifications to ICANN bylaws. So there is some feasibility issues with using the EC from the outset on that. So I just wanted to make sure that note was in there as well. Thanks.

Lise Fuhr: Thank you Sam. And thank you Sam and Sharon for actually specifying this legal entity. Sharon, your hand is up. Go ahead.

Sharon Flanagan: Thanks Lise. I just wanted to pick up on one of the comments Sam made and Avri also mentioned it in the chat, which is as part of the community agreement whoever is the counterparty to that agreement on behalf of the naming community will have to designate three individuals - human beings who will serve as representatives.

So even if ICANN is determined to be the right counterparty, there is still an ability to guide how the - how ICANN makes the decision about who those three individuals should be.

And, you know, that would be a whole process we would have to work through as to how to direct ICANN to make those appointments. But that's another way that the community can also have input even if ICANN is the actual legal counterparty. Thank you.

Lise Fuhr: Thank you Sharon. Very helpful. Kavouss, go ahead.

Kavouss Arasteh: Lise, you mentioned that names community is not a legal entity. Thus it cannot sign agreement. But you said that it could be one of the options delegates this also to ICANN.

Something which does not have any legal entity, how could delegate the responsibility to someone else? So you have to solve the problem of providing some sort of legal entity for names either to a combination of SO and AC, some SO and AC or combination of some of the constituencies and so on so forth.

So there's a legal point here. I don't think that the delegation it works. The entity does not exist. So no delegation could be possible because it does not

exist. So you have to find a solution. That is a legal issue to be resolved.

Thank you.

Lise Fuhr: Thank you Kavouss. And that's a very valid point. Here it's a matter of how do we ensure that the naming community first has the signing party and second has someone who can actually take care of that - the way - the work with the (IPIs) is managed in a way that's taking into account the needs of the naming community for their part and the others have their parts they want to take care of.

So I think it's a delegation that's coming from the different communities and not a legal delegation. You're right. They can't delegate it in a legal way. But I think we should get away from using the word delegation but all - but more saying it's the different communities that are asking ICANN to sign on their behalf. But then they will be a part of the CCG, the Community Coordination Group.

And with being said, I see Greg has his hand up. And I'd like to be mindful of time because we have now discussed this for 50 minutes. It's not to cut this short but I - we need to make sure we get an outcome of this discussion but also get an outcome on the PTI bylaws because that's very important for us since we need to have the IPR public comment today and we - there is the - and thus the public comment period for the PTI bylaws. But Greg, go ahead.

Greg Shatan: Thank Lise. You said a lot of what I want to say. But I think we do need if at all possible to have a decision to put something into the blank in the documents so that people can comment on the tentative entity.

Given the choices in front of us, unless ICANN objects, I would want to put ICANN in that empty slot because then people can comment on that. And if

people see obstacles or challenges as to whose (sided), they can, you know, comment on that. If there's nothing there then there's nothing to comment on as to whether the idea that's being put forward is good, bad or indifferent.

So, you know, I think in the - as we go along, we can, you know, look to Sam and ICANN legal and to Josh and Sharon and (Holly) and Sidley as our legal to tell us how that, you know, authorization or request or whatever it might be can be appropriately put in place and, you know, a structure kind of -- or I don't - structure's too strong a word -- a method made for that to work as well. And so I'll - that's what I've got. Thanks. Bye.

Lise Fuhr: Thank you Greg. So you have a proposal that you put in ICANN as the signing party in the document. I see that Sam is trying to get an authorization for that before the documents are submitted for comment. That would be - that would be helpful.

But it has to be sent out today. I know that (Jonathan) is supporting also putting in ICANN as the signatory for the public comment. But of course we need to have ICANN's approval there. Alan Greenberg, go ahead.

Alan Greenberg: Thank you very much. I'd like to make a plea for pragmatism. We've taken something which to many of us at the beginning sounded like something that was pretty simple. And it's grown into a monster that is - well, I think it's exceedingly complex.

And we're on a tight timeline. I think we need to take any reasonable answer and put it in and go with it at this point. As I've said a number of times, the risks that are in front of us if this whole thing blows up and we lose access to the IPR and to the domain name are manageable.

The chances of it happening are not large. And the risks of it if it happens is something that we can circumvent and live with. I think we just need to move forward with something that's legal and implementable as quickly as possible. Thank you.

Lise Fuhr: Thank you Alan. With that, I would actually like to ask the group if there is any objections that of course subject to ICANN's approval that we put in ICANN as the signing party. And as Greg is suggesting, it can be put in brackets. But I agree with Greg that it's always best to have something in there so people can think about is this the right solution or not. Kavouss, your hand is up. Kavouss, go ahead.

Kavouss Arasteh: Yes. No problem to take the proposal of Greg to put ICANN. But we should add something that under conditions and criteria yet to be determined. We have to mention that. And perhaps we receive something from the public comment. Thank you.

Lise Fuhr: Thank you Kavouss. That's a very good idea to put in a footnote that is actually underlining that. Okay. With that, I would like to sum up this or make a short summary of this point.

So we are sending out the three agreements for public comment today. We will put in the - we'll put in ICANN as the signing party if they approve. I hope they'll approve today. And we'll make a footnote saying that this is for - to be discussed but it's a placeholder for now.

So someone else can find much better wording than I'm saying now. But we will make a footnote reflecting what Kavouss was saying. I see Chuck in the chat says what happens if ICANN is unwilling or unable to assume the signatory role.

If they are, I actually think we have no other choice than to leave it blank and saying that ICANN is not able to assume this or not to. But we need to leave it blank and ask for ideas because so far the group has not come up with another solution unless - is that - anyone objecting to that? Kavouss, go ahead.

Kavouss Arasteh: Yes. I could reply to Chuck. Perhaps in the footnote when we put ICANN in the text in the footnote saying that assuming that ICANN would be ready to play that role, in that case conditions and criteria under which this action to be done yet to be determined. This is the text that I propose. Thank you.

Lise Fuhr: Thank you Kavouss. We only have the - Sam is actually asking us not to put ICANN in unless they approve it. So that gives us some very clear directions on what to do and what not to do, so on this one. And I think we need to respect ICANN's wish not to be included if they don't approve.

So I agree we put in the footnote anyway. If ICANN is there we have a footnote. If it's empty, we will need to put in a footnote again asking that we need input on how this can be solved. And I see Sam Eisner is saying she's working to get approval for at least the purpose of public comment. Thank you Sam. Good.

Any other questions, issue? If not, I'll move on because we used almost the first hour of the call. It's been a very good discussion. Thank you for that. But we still have many issues to deal with.

And I'll go back to the implementation update. Before I do this, Sam, you will get back to Greg and the Chairs with the approval I hope. And I would - then we will ensure that the wording in the agreements sent out for public comment reflect what's been discussed on this call. Thank you.



Having said that, I'll move on to the implementation update. And I will hand it over to Trang to give a status update on the implementation. Trang, go ahead.

Trang Nguyen: Thank you Lise. I will try to get through this quickly. And I know there's not a - there's only an hour left on the call. So Brenda, if you could go to the slide with the graphic of the three tracks please. Thank you.

So as you can see, we've - we have been able to put a few more checkmarks on - a few more items on this graphic that is being projected here in the Adobe Connect room.

The major thing that we are working on this week is our implementation report to NTIA, which is due tomorrow. The implementation report will provide an update to NTIA as to what work has been completed and what work is still outstanding.

And based on that information, NTIA will make a determination as to whether or not it will extend the IANA functions contract. So it is a very important report for us and we are - we have been working very closely with NTIA to better understand what it is that they specifically want to see in the report, et cetera. So that's what's taking the most time for many of us here at ICANN this week.

From a progress perspective, there is an agenda item I think for Paul Kane to provide update to the group with regards to the service level expectation. And so I will let Paul do that in a few minutes.

The service level agreements and - would be numbers community was signed in Helsinki. And the supplemental agreement with the IETF was signed also during that week - the Helsinki meeting week.

With regards to the post- transition, IANA or PTI - the ICANN Board met yesterday and approved the PTI Articles of Incorporation. And also at the same time approved for ICANN staff to move forward with the incorporation of PTI under the name of public technical identifiers.

So ICANN staff has filed the incorporation paperwork with the Secretary of State - the California Secretary of State. And we are expecting that that incorporation process should complete sometime today. And we'll certainly make an announcement on our Web site when we receive confirmation.

The governance documents, which are the Conflict of Interest Policy, the Board Code of Conduct and as well as the Expected Standard of Behavior for PTI have all closed public comment period.

We are scheduled to have those documents - the staff analysis report as well as the final document published tomorrow. And maybe Sam, you can chime in and see - and let us know we're still on track to do that. That was the scheduled date for those documents to be finalized.

The second version, I'm sorry, the subcontracting agreement - we have two subcontracting agreements; one for the number services and the other for the protocol parameter services.

As I reported on the last CWG call, the IETF has informed ICANN that it would not be providing input to that report because it is -- I'm sorry -- that

subcontracting agreement because that agreement is an internal agreement between ICANN and PTI.

The numbers community has come back to us with a couple of minor comments and suggestions on revisions to align the language in the subcontracting agreement with the language in the RAR SLA document that we signed with them. So I think - I don't think we should have any issues with accommodating those requests and finalizing that this week as well.

The bylaws - the public comment period - so the bylaws close today and I know Sharon's going to talk about that in a little bit. So I'll skip over that. The naming functions agreement was circulated to the group yesterday and also went out for public comment.

It will be a 30-day public comment period, which will now close on September 9. And there is an ICANN Board meeting already calendared for September 16. So we were sort of hoping to work with that timing.

The version that we circulated yesterday incorporated Sidley's comments. And we are working on providing a more detailed document that explains how we took on Sidley's comments that were provided on the previous draft as well as a document that will explain how we have incorporated the various principles of Annex C into the version that we circulated yesterday. So those documents will be circulated to the CWG over the next few days.

The root zone evolution -- I'm sorry -- the services agreement - I skipped over that. The services agreement we are - we have a near final version of that document. We had forgotten to add something to it. So we have to go back and add additional language to it to reflect that. And it's just currently going

over - being under review - being reviewed for that new language that was added. So I hope to get that out to you very soon this week.

The Root Zone Evolution Review Committee are - we have received quite a few appointments already from the appointing organizations. I think we're only missing three appointments from the RySG, ccNSO and from VeriSign as the root zone maintainer. And we will be following up with those organizations to ensure that we can receive the appointment by tomorrow.

The Customer Standing Committee - we just this morning received a message from the GNSO and ccNSO Chairs that they have approved a final slate of membership to the CSC. So that is now complete. And we will be putting out an announcement around that tomorrow.

The IANA Intellectual Property Rights - that's a lot of the work that's done you've just heard about and the progress that was reported by Greg. So I will skip over that.

The IANA operational escalation processes. So this item we may be rolling this back a little bit and not calling this complete. And the reason being that, as you know, the IANA operational escalation processes were defined in the CWG proposal. Internally ICANN staff has updated our internal process documentation to be aligned with the processes that were defined in the proposal.

Additionally, the escalation processes were also incorporated into the naming function agreement that's currently out for public comment. But because of that linkage and because the naming function agreement would not be finalized until mid-September and there is a chance that someone could

comment that the way that we had incorporated the escalation processes into the naming function contract is not consistent with the CWG's proposal.

I don't think we can call that item done until the naming function agreement is done. So we may be rolling that back and not (bring) it as completed but showing it as ongoing work that will be completed by September - mid September and a dependency between that work and the naming function agreement.

So I will stop there and see if there are any questions. Obviously Track 3 are all the items relating to the (unintelligible).

Lise Fuhr: Trang, this is Lise. I have the one question. You might have said it but I just missed it then. The service agreement when is that to be sent to the CWG?  
Trang, if you're talking, you're on mute.

Trang Nguyen: Oh, I'm so sorry about that. I was on mute. Yes I'm hoping that I would be able to circulate that to the CWG this week upon a final review of the document. We were ready to release it and upon that final review we identified one important item that we forgot to include in the agreement so we had to go back and write some additional language on it. And the additional language is being reviewed right now so I'm hoping that that process can complete today but it may go into tomorrow.

Lise Fuhr: Okay thank you. Any other questions...

Trang Nguyen: And some...

((Crosstalk))

Lise Fuhr: ...for Trang? Yes I'm sorry go ahead Trang.

Trang Nguyen: Thank you Lise. There are some comments in the chat room with regards to updating the timeline. Yes we will do that. The timeline was actually prepared a couple of days ago and as you know there is a lot of progress and activities that are going on this week. So it's already outdated in a couple of days so yes we will absolutely update this before we post it.

Lise Fuhr: Okay good. If there is no questions for Trang, Trang are you completed with the update then?

Trang Nguyen: Yes thank you Lise.

Lise Fuhr: Oh thank you. It was very comprehensive and good update as usual. Thank you very much, mindful of time because we still as I said before have some things to go through. I'll move on to the update on the SLE by Paul Kane. Is Paul on the call? Yes he is. Paul could you give us an update...

Paul Kane: Oh, thanks...

Lise Fuhr: ...on SLE? Thank you.

Paul Kane: Thank you Lise. Afternoon, evening all. The - I'm very pleased to say that on the 8th of August the Service Level Expectation Working Group had a very constructive call with ICANN IANA just wrapping the mailing issues. The document that was approved by the CWG last year now has thresholds for all fields that are applicable. And at the end of the call the working group which comprised of Jeff Eckhaus, Jeff Neuman, Elaine Priutt, Jay Daley, Patricia Poblete and Adam Smith from my staff and I of course I think unanimously agreed along with IANA that the document was ready to be presented to

CWG with a recommendation for adoption by CWG. And then it goes forward to ICANN for inclusion in the various agreements so that this concludes the naming part of the service level expectations from the IANA.

Just as a matter of process I don't know if anyone has any questions relating to the service level agreement. The thresholds were entered and circulated on the 9th a few days ago now. And if anyone has any questions please feel free to ask them but I would ideally like to at the end or during this call or even at the end of this session invite Lise to conduct approval by the CWG of this document so it can indeed move forward. So any questions to me on behalf of the CWG Working Group please?

Good thank you very much. That's the end of my update so good news. I'd like to thank the members of the Working Group, thank ICANN, IANA particularly Kim Davis who was very helpful in the early days when we were putting the thresholds together. I think you will all be very pleased with the dashboard that is in (unintelligible) at the moment. And I would like to hand back to Lise to formally have the CWG adopt this document so it can move forward and become an integral part of the transition step. Thanks.

Lise Fuhr: Thank you Paul. Thank you for the update and thank you to you and the DTA for all the hard work you've been doing on this. It's great that we now can actually finalize it hopefully. And I know Paul sent out the SLE to the group so I will follow the request from Paul and ask if the group can approve the SLE or are there are any objections to approving them? I see and hear none so I will consider this approved by the group. Thank you very much. Again to the DTA. Okay.

((Crosstalk))

Paul Kane: Thank you all. I will notify ICANN accordingly and they can adopt it in their formal documents. Thank you.

Lise Fuhr: Thank you. And I can see a lot of people are thanking Paul and the group on the group work in the chat. Great. The next issue is actually DTO update on PTI budget. This is actually related to the PTI bylaws so I would actually - oh, Olivier has his hand up. Olivier go ahead.

Olivier Crepin-Leblond: Yes thanks very much Lise, Olivier Crepin-Leblond speaking. Just a point on the process here. You just said you - I gather you just asked for a consensus call. And I'm not sure whether we record it, who was on the call, et cetera, at this point in time if we have quorum and all that. I thought that the procedure was to (unintelligible) on the mailing list and just give it another 24 hours or something and then we can move forward. Maybe I'm wrong. You know the procedure better than I do but I just felt it - it felt a little fast here.

Lise Fuhr: Okay sorry. Sorry if I went too fast but the procedure is normally that we discuss the issues a couple of times. We've have had before if it's not in a meeting and we have decided there we could have it on the list and discuss it for 24 hours. But if you feel that you need more time to look at this I'm fine with giving us until tomorrow to actually approve it. But it's just that we've been looking on the SLEs for quite a couple of times and it was a few outstanding open items that was left so I felt that it wasn't rushing by approving it on this call like this. So...

Olivier Crepin-Leblond: Just to clarify, its Olivier speaking. I personally have no problem with it at all. I've gone through it and I'm very happy with them. It's just in case anyone who is not on the call might be complaining and saying well wait a minute, when did something, you know, when did we accept it? But if it's fine with everyone here I have no objection.



Lise Fuhr: I would like to hear if there's anyone who needs more time because I'm absolutely fine giving more time if needed? It's just I was of the impression that we have seen the documents before so it wasn't the first time. And I'm - I think it's really good you raised this Olivier. We don't want to have people thinking that we're rushing things. That's only been presented once.

Seeing no one is actually asking for more time and you seem to be fine also with going ahead Olivier I'll just conclude that we approved it. Okay yes good. I'll move on to the DTO update and on the PTI budget but I would actually like to combine it with the PTI bylaws.

So I would like to move a little around in the agenda -- sorry for that -- and have the PTI bylaws discussed now under key issues together with the DTO update on the PTI budget. And with that I'll just I hope you - you're okay with this slight change in the agenda but it's because much of the PTI or the DTO update is related to some wording that we need to have in the covering letter for the bylaws. And in my opinion we have two open issues here. We actually have the DTO wording and we have (Jonathan) and I sent you an email earlier today regarding an issue that Christopher Wilkinson raised about the chairperson of the board.

But I would like to do with the DTO first. So if we could have Chuck give the update and during this update also give us a presentation of the proposed wording. I know Kavouss sent some alternative wording to this but let's have the update and then the discussion also after wording to the comment letter. Chuck?

Chuck Gomes: Okay, thanks Lise. This is Chuck. And let me apologize for the fact that the DTO assessment of the proposal in the bylaws changes just occurred

yesterday so that's why you received it so late because we received the latest proposal for a budget development and approval process just earlier this week. So in very brief form I can say that those who participated in the design team all meeting yesterday all supported the latest proposal that I distributed late yesterday.

And because of our short time today I suspect I don't know that we have time to go through it in detail. Let me briefly say that only a couple edits in the bylaws were proposed and I distributed those separately. But I also distributed the - a redlined version of the draft bylaws that have those as well so that people can look at those. I myself didn't immediately see any problems with the edits that Kavouss suggested but I did want to get feedback from Xavier whether he was okay with those because staff developed the process and the wording for the bylaws changes.

And I don't know if there was any significance that they had in the specific wording or not, didn't seem to be a problem with the edits Kavouss suggested as I said. But Xavier if you can confirm either on this call - oh he has responded by email. I haven't been watching my email during the meeting. So he didn't see any problems with the edits either as you can see in the chat. So I think those edits are fine in terms of including in the bylaws.

And as far as approval of the budget development and approval process because only just a small portion of that in the DTO opinion is - affects the bylaws I think we can talk about the process itself if people would like at our meeting next week after people have had a chance to look at it and ask questions next week or on the list in the meantime. The most urgent thing is the bylaws language.

Now the process itself DTO did not think needed to be detailed in the bylaws. And so we made some suggestions. One of the documents I sent around that I would appreciate everyone looking at is a simple table, a matrix that itemizes six different requirements related to the budget from the CWG proposal. And then next to that we - the next column shows what the process does or the bylaws changes do and then the DTO's assessment of that and that - thank you for putting that table up.

Just to help people understand this and Lise if you want me to go through it in detail I can. I won't do that unless you want me to because I know that time is pressing. So you just let me know what you want to do. But to help people understand in our proposal the requirements related to budget occurred in multiple places. And they were almost identical in all the occurrences and so what I did in this table is I color-coded the requirements there were essentially duplicates or very closely related.

So you'll see that under Requirement 1 - and if people could have the scrolling option that's easy to do that would probably help them and me too. The four Requirement 1 basically relates to transparency and appropriate detail of the budget. And I think there are five different places in our proposal were that occurred.

Now I apologize if it creates confusion. The section references I used were from the CWG proposal rather than the ICG proposal so I hope that doesn't make things too difficult. But as you'll see if you scroll down after the five rows for Requirement 1 then there's one on in green there on itemization requirement and then the next is the fact that there should be an annual budget and approved by ICANN by the ICANN community.

The fourth one is the - that the budget has to be submitted, a proposed budget has to be submitted at least nine months in advance of the next fiscal year. That's the three purple ones you see. And then in gray there Requirement Number 5 was that the ICANN budget should be approved by the ICANN board much earlier than the overall ICANN budget which usually occurs the end of June.

And then last of all it's more of a functional one Number 6 that a process has to be developed. And staff took the lead on that and this design team always provided feedback through that process. And we believe that the process satisfies the requirements of the CWG proposal. So my suggestion Lise unless you want to handle it differently and spend more time on it in this meeting is that we certainly get approval at least for the bylaws languages with Kavouss edits for the draft bylaws which will be posted for public comment today. And then if people would like we can discuss the DTO assessments and see whether there's approval for the DTO assessments by the broader CWG in terms of the overall process.

Lise Fuhr: Thank you Chuck. I agree with you we should focus on getting the language for the bylaws concluded and then on the next call discuss this in more detail. I think is excellent you made this matrix. It's good. And you also we also have the process as such from ICANN that we can discuss. I think it would be great to discuss it on the next call but focus on the bylaws language now. Olivier is having his hand up. Olivier?

Olivier Crepin-Leblond: Thank you very much Lise, Olivier speaking. And I want to just touch on the bylaw amendments that Kavouss suggested. Specifically the it mentions in there shall submit to the board. And if one then says to the board and ICANN I think that it might introduce some ambiguity as to what board it is. We also have a PTI board that's included in this equation. So perhaps

should we say submit to the ICANN board and ICANN? I have noticed that nobody else objects to Kavouss' changes but I'd hope that on each instance where we mentioned the board we would say the ICANN board just to make it precise.

Chuck Gomes: Yes this is Chuck.

Lise Fuhr: Olivier sorry. Yes Chuck before we go ahead can we have the wording posted here as also requested by Sharon? It would be nice to see those Kavouss suggestions and the original one that was sent out by DTO and Chuck. Thank you. Go ahead Chuck sorry.

Chuck Gomes: Okay thanks Lise. This is Chuck. And just wanted to say I think Olivier makes a good point there. We may want to not only specify the ICANN board when we need the ICANN board. We may also want to specify the PTI board.

Now I understand that the bylaws are for PTI so when it says board it means PTI board. But it certainly would add more clarity if we stated which board we were talking about each time that it happened so I think Olivier makes a good point and I'll stop there. Thanks.

Lise Fuhr: Thank you. Sharon go ahead.

Sharon Flanagan: Yes. I'm just looking at the language now. I hadn't seen it before but I just had one question about the revised version. So it says nine months before the PTI submits to the PTI board and ICANN. And then it said set immediately after the PTI board approves it submitted to ICANN. So my question is is the intention that it goes twice to ICANN once the PTI management is giving it to PTI and ICANN at the same time and PTI approves it and it goes back to ICANN? I think that's what it's saying right now. It's a bit confusing.

Chuck Gomes: Really good question Sharon. This is Chuck. And the problem is we haven't - you haven't looked at the process yet. It would make more sense if you saw the process in connection with this because the PTI board the first thing that's presented -- and Xavier feel free to jump in if you'd like -- but nine months in advance of a proposed budget a baseline budget is presented to the PTI board and to ICANN. And then there's a process of review that goes on including review by the community and input by the community. And it's only after that public comment and input from the key stakeholders like the IANA direct customers and so forth happens that the PTI board approves a final budget. So changes could have occurred after the public comment and input from the community.

And then the PTI board approves that and it's - that's when the ICANN board would approve it as well. So I hope that makes sense. We'll go through the process in detail next week. It would have been ideal probably to do it today but because of timing it'll take a little bit of time to do that. Does that make sense Sharon?

Sharon Flanagan: Yes. That makes sense. And then should though in A we say it's the draft budget because it's the draft until it's approved by the PTI board. Then it's the defined term annual budget and it goes formally to the ICANN and then it goes through the whole community process at ICANN. I just want to make sure it's clear that what happens in A isn't what syncs up with the ICANN bylaws. That's premature. It's not until you get to E that you are officially in a budget process that is subject to the community mechanism, et cetera.

Chuck Gomes: Well not exactly true. This is Chuck. So the PT in the - as part of the PTI budget process there will be a - the community will be involved in input from

the community regarding the PTI budget will happen before the ICANN budget process actually kicks off for public input.

Again when you see the timeline it will make more sense. And I don't know if we need to bring up that timeline now. There's one slide in particular that shows how these things fit. But I'll leave it to Lise to say how she wants to handle it. Xavier please jump in and help.

Xavier Calvez: Thank you Chuck. Can you hear me?

Chuck Gomes: Yes.

Xavier Calvez: Thank you. This is Xavier Calvez for the record. I just wanted to jump in on the suggestion of calling this a draft. I think that the draft could be a version of a document that also stays and is never used. In this case the draft is actually a draft that is proposed to the PTI board. So there's an action in addition to the status of the document and I think that it should be called at the minimum a proposed draft. And I think proposed annual budget is actually the better description. Just to summarize for everyone the main I would say three steps is that no later than - sorry no later than nine months in advance there's a proposed draft that's submitted to the PTI board. If - that then is offered for public comment in obviously community input through that public comment. It is then finalized on the basis of the public comments by the PTI board.

And the PTI board approves and then it's submitted for approval by the ICANN board and then included into the ICANN public comment process for the broader ICANN budget process. So it's in very summary that's what the process suggests. And I'll answer any further questions or Chuck can do the same of course if there is anymore. Thank you.

Lise Fuhr: Sharon, go ahead.

Sharon Flanagan: Thanks. So I see in A we do already say it's the proposed annual operating plan and budget so I think I'm good. So I withdraw the comment. Thanks.

Lise Fuhr: Okay thank you. Kavouss go ahead.

Kavouss Arasteh: I don't think that adding draft would make any problem if people want to have draft. But in fact proposed is already embedded to the draft issue but you have no - typically we are proposed drafts. Thank you.

Lise Fuhr: Okay. So we have had Kavouss' changes. We've had Olivier is suggesting to be more specific about when it's ICANN board. I don't know if we can have the actual wording but we - I know that Sharon do you have the overview of the actual wording of this now or do we need to re-conclude on this?

Sharon Flanagan: Yes.

Lise Fuhr: Or do we need to...

Sharon Flanagan: ...I haven't really been copied on any of this so I don't know what I have. I mean Lise you just sent me something a few minutes ago...

Lise Fuhr: Okay.

Sharon Flanagan: ...but we need to obviously put this into the comment letter as well. But I - we'll go ahead and do that. If we have any questions we'll come back.

Lise Fuhr: Okay great. Xavier?



Xavier Calvez: Thank you Lise. I will ensure that the text that's been discussed with the DTO and agreed with the DTO yesterday is sent to Sharon and I'm sure I will find Sharon's email address and I will copy the DTO. And I'll do that in the next few minutes to make sure Sharon has it.

Lise Fuhr: Thank you Xavier. My concern was more we had some changes from Kavouss, we've had some changes from Olivier. And we need to have those. And it seems that no one was objecting to these changes. So I just want to make sure that we incorporate all what has been suggested and people seem to approve those minor changes. And you have approved the changes from Kavouss in your email too. Okay. Great but Chuck maybe you together with Sidley can ensure that we have the right wording for this also.

Chuck Gomes: Glad to help in that. This is Chuck.

Lise Fuhr: Thank you. Thank you Chuck. Kavouss or your hand is up or...

Kavouss Arasteh: Yes. I just wanted to say yes that the changes that are made is not changes in substance. I just tried not to repeat the sentence, that's all. And I don't...

Lise Fuhr: Yes.

Kavouss Arasteh: ...because I made changes to the substance of the matter. To replace 270 days by nine months usually after 120 days we don't count the days anymore. We talk about the months.

Lise Fuhr: Okay.

Xavier Calvez: And then there was a repetition. I just tried to avoid that repetition. That's all. I hope that you maintain the changes that I made adding would whenever is

necessary having the PTI word wherever is necessary or ICANN board whenever is necessary, that's all but not make another changes. Thank you.

Lise Fuhr: No thank you Kavouss and thank you for the specification. The intent was actually to keep the wording you suggested and just to add what Olivier had suggested. So Paul Kane your hand is up. Go ahead.

Paul Kane: So thank you very much. I don't have any comment on the wording. I just would like to thank Chuck very much for the hard work he has done throughout this process and for Xavier for the work they have done. I have sort of missed the points and I apologize if it's already been addressed.

One of the things we were discussing some time ago on this matter were that IANA PTI held its own bank account with its own cash able to hire staff and do its own thing. And it was not a budget question per se. But could you just remind us of the conclusion of that debate? Has there been an agreement that funds will be transferred to PTI so PTI has the right after three years to hire its staff if it so wishes?

Lise Fuhr: Thank you Paul. I see Xavier has his hand up. I guess it's to answer that question. Xavier go ahead.

Xavier Calvez: Yes thank you for Paul and for the this very specific topic of the treasury structure which is the vocabulary I'm using to address the point that Paul makes relative to a bank account has not been included yet. Paul so you haven't missed much on that front.

I just want to specify though that the ability by PTI to hire its own employees has absolutely nothing to do with the fact that it has a bank account or not so

it's entirely unrelated because IANA and PTI to hire its own employees has absolutely nothing to do with the fact that it has a bank account or not.

So it's entirely unrelated because IANA and PTI could hire employees irrespective of the existence of a bank account. But nonetheless the topic of the bank account and the treasury structure that supports IANA and PTI will need to be addressed as Paul is aware and will help contribute to when we discuss that with the (PTO).

But we have yet to offer a suggested approach for implementation of this very operational topic to DTO so Paul has not missed anything yet.

Lise Fuhr: Thank you Xavier. And as you actually mentioned now, Xavier, there's still some more to be done by DTO and we all decided to discuss the matrix on the next call.

So this is not, it's not over yet for DTO. Sorry about that guys. Kavouss go ahead and I would like to just before you go ahead, sorry, we have 20 minutes left. I would really like to discuss the ...

((Crosstalk))

Kavouss Arasteh: After three years PTI could hire a staff irrespective of the existing staff from the IANA and so forth. Is there conclusions? I think it's not a very productive approach unless we put something that if justified or something like that.

Why do we have the PTI given such authority after three years going to put off everything of the staff that they have and try to hire newer staff? Are we looking jobs for the people here?

Lise Fuhr: Sorry Kavouss. I'm not sure I'm following you on this one and it has not been concluded yet, this issue on the treasury structure and bank account. So we will still discuss this on the next call.

Kavouss Arasteh: Okay. Thank you.

Lise Fuhr: Thank you. Regarding, we need to finalize the PTI bylaws. This is very, very important. So I conclude that we have the letter. We have the wording. So we need to move on and we need to discuss the concern that was raised by (Christopher Winkinson) as he saw the email that (Jonathan) and I sent out earlier.

We're actually trying to look into this matter to see what happened with the text and why we actually have the point raised that with the dominating committee directors. And we have actually looked into this two meetings and we, the concern was that we didn't want to limit the potential of chairs to the NonCom nominated directors.

We also, but we never concluded directly on removing preferred chair from the NonCom directors. At the same time, as Jonathan and I also mentioned in the email, being the interim directors, we're actually have a conflict of interest in suggesting to specific language here.

So we put it out to the group to have an open discussion on that. We had to emails on this. One from Kavouss and the other one from Matthew Shears. And I can see Kavouss is actually supporting (Christopher) for his concerns.

Matthew Shears sent an email suggesting an alternative language and Matthew, I don't know if you could briefly give us a walkthrough of your alternative language. Matthew go ahead.

Matthew Shears: Yes, thanks Lise. Can you hear me all right?

Lise Fuhr: Now we can. Yes.

Matthew Shears: Okay. Yes, thanks for this. And I know we have touched on this in the past and I think it's useful that you and Jonathan did again. And I think the issue from my perspective and I guess it's in a sense it's the same issue from (Christopher's) perspective and possibly others is the importance of ensuring the independence of the chair of the PTI board.

I know we talked about some concerns related to putting too many constraints on the board if the chair were to come only from the NonCom directors. I think that that is unfortunate that we kind of had that discussion but didn't take it on any further. And the language that's now in the proposal seems to advise comments. I should say seems to go too far in the other direction now.

So the two points that I made was, you know, I think we do have to discuss this. I raised the points about the importance of best practice from a governance perspective which Greg has responded to on the list also.

And I think that if we feel that we have to move forward with the proposed text as it stands at the moment from the CWG, not the language that it's in the comment, in the public consultation, I think that we need to somehow parameter that so there's a better sense of balance when it comes to selecting a chair.

I would also note that I think this is important also because there is from my perspective a bit of a discrepancy between the limitations on consecutive terms and I think if we have a situation where the NonCom directors are

limited to two consecutive terms but from my read of the current language ICANN directors are not, that could put us in a situation of having an ICANN director as chair going forward for some number of terms beyond just two which the NonCom directors are limited to.

So I think there are a couple of issues in there. One, how do we ensure that we've got the best possible best practice from a governance perspective in terms of the best practice of chair. And also, how do we certainly from my perspective better align the NonCom directors and the ICANN directors in terms of their term limitations. Thanks.

Lise Fuhr: Thank you Matthew. Any other views or concerns on this. We have so far heard from (Christopher Wilkinson). We've heard now from Matthew. And I see Kavouss is having his hand up. You also expressed concerns Kavouss. Go ahead.

Kavouss Arasteh: Yes. I have given in the email my reasons why I am not in favor of this NonCom directors. So the reason that I have given, and I proposed something more neutral saying that the existing board by majority, two terms of majority could nominate or elect or select the directors.

I don't want that NonCom directors which are not, some of them, or sorry, some (constituency) or some OAC are not, have any role in the election of these NonCom directors. That we are forced to accept that board director, that NonCom director in the PTI has the very major impact on those (SONACs).

There prefer not to have the NonCom directors of any other solution, any other formulation (that are possible). Thank you.

Lise Fuhr: Thank you Kavouss. Actually, I believe that (Christopher Wilkinson) was actually very concerned about not having a NonCom director as chair because we thought that was independent. But I see Sharon has her hand up. I'll let Sharon chime in. Sharon go ahead.

Sharon Flanagan: Thanks Lisa. So just by way of background and you may have been discussing this on the list but originally the CWG recommended that there be a preference for nominating committee directors as chair. It wasn't a requirement. It was a preference.

And ICANN legal came back in early July with some comments about that request, a concern that by requiring or having a preference for nominating committee as a chair, that that might put undo weight on the selection process on the front end that the selection would be focused on someone with chairing abilities rather than someone who's focused on the complete set of skills.

So that was where the concern originally was raised. We were not, on behalf of CWG overly concerned by having it just be that the chair could be any of the, any of the four nonemployee directors because, as I mentioned last week, the, one of the biggest powers of a chair is the power to call meetings.

And in the PTI bylaws, any two directors, not only the chair, any two directors have the powers to call meetings. So the nominating committee, those two directors do have the power to call meetings which is a critical important power.

The other thing is the, as the PTI bylaws are currently drafted, the chair is not de facto ICANN. It's just, it's open and it's selected by a majority of the board. And we could further specify that that majority would require at least one nominating committee director in support and one non-precedent ICANN

director in support to ensure that it's not simply ICANN pushing forward a chair without any consensus.

So that's one, just one suggestion as a way to bridge the gap. I don't know what people think about that.

Lise Fuhr: Thank you Sharon. That is certainly, but that's in line with what I understand also. Matthew is suggesting and I see Jonathan added in the chat that Greg did an additional (unintelligible) by suggesting that NonCom provide at least one candidate with qualifications which also seems to be a compromise and that could work. Alan Greenberg, go ahead.

Alan Greenberg: Thank you very much. I'm somewhat concerned that we are reopening issues that I thought we had signed, sealed and delivered. The NonCom people were added by the CWG so we have a level of independence. Therefore, we certainly don't want to play with that concept.

(Christopher's) concern was that the non-NonCom people were selected. He was worried about undo influence from the registries, the CCNG registries, and that was based on I believe an incorrect understanding that these two directors were named by those communities and not by ICANN itself and in fact, they are ICANN employees.

So we came up with something that was accepted by the overall community, was approved by the chartering organizations. And yes, if we've identified a problem that term limits do not apply in all cases, maybe we need to address that.

But we really don't want to go away from what we have approved and what we have said going forward. So I don't much care whether we say it's a



preference to NonCom because then it's a decision, a conscientious decision of the board or whether we say it's completely open.

And they will still make a conscientious decision hopefully to pick the best person. So I think we need to make the minimal number of changes at this point and certainly nothing that goes against what the CWG originally said. Otherwise, we're going to start reopening everything as Lise says, Lise as you said at the beginning of this meeting. And we really don't have the time for that. Thank you.

Lise Fuhr: Thank you Alan. And I agree. We should not bring up issues that we decided on, so. I agree on the approach that we need to, we work with the wording now on this bylaws letter but it's not a reopening if it's not going to be NonCom directors because that has been concluded a long time ago. Greg, go ahead.

Greg Shatan: Thanks. I think PTI should be structured as a trust and I think that we should ask the (registry) in the months to nominate the trustees. But not to reopen things. Seriously, I think that the, you know, we should deal with the nuances but the overall structure is what it is.

I do think the chair, whether it's independent or not, probably should have a term limit on the chair especially if there is no term limit on the ICANN appointed board members so that there isn't a permanent chair or a long term chair.

And but I don't think that, you know, even if (unintelligible) slowly rises to the level of being mentioned in here although I have no objection to it and, you know, certainly the idea that, you know, there should be, if possible, a

board, chair worthy candidates from the NonCom, one or both would be good. The more qualified the candidates are the better. Thanks.

Lise Fuhr: Thank you Greg. Having listened to you all, could we then agree to go with the wording from Matthew Shears' and maybe combined with the wording Greg also suggested on actually having a balance by adding the majority such as with at least one ICANN director, non-precedent and one NonCom director, I'm in favor.

And then Greg put in that the NonCom should appoint at least one that could serve as the chair. So we're not going to tie us in to that it has to be NonCom directors who are chairs. That that's, but it is together with an ICANN director and a NonCom director choosing the majority for the chair.

I don't know if I'm confusing things here. Then we look at the limits for the chair where Sharon is asking us how many years and everyone is looking for a limit, for the chair.

And I think it's reasonable to have a chair for a chair no matter if it's NonCom or an ICANN director. I see Avri sent three question marks. Others says a six years because all of you are suggesting it should be the same term limits in line with NonCom directors.

It makes sense to say two times three year terms. I think (we're) saying it's too long but Sharon is having her hand up so we need to conclude and I'll just say we have three minutes left to this call.

We might need to run like five minutes overtime. I hope that's acceptable for all but I would really like to conclude on this because, and I also need to ask if

there are any questions to the new version of the PTI bylaws letters before we end.

So Sam, go ahead.

Samantha Eisner: Thank you. I'll be very quick on this. The ICANN directors, the term limit that's being suggested here, I think that ICANN might have difficulty accepting the proposal that's being forwarded in the CWG on the call today.

If you recall the ICANN directors, there's actually a president that's serving ex officio and then there's other directors that are being appointed by virtue of the work that they do within ICANN. And so unless, this really seems to be impeding on ICANN's ability to select those into the ICANN controlled affiliates that are appropriate to be related to the function that PTI is serving.

So I would encourage the comment to not include a term limit suggestion on the ICANN directors themselves. I understand that there's also consideration of putting a term limit on if it was a term for someone serving as ICANN, as a chair PTI, no concerns on that item.

But in terms of the pure term limits for ICANN directors, I don't think that that inappropriate matter to introduce at this point, it really impacts governance too much from the ICANN side.

Lise Fuhr: Thank you Sam. I didn't hear anyone, I heard Matthew from the beginning said there was, that this, I don't know how to translate it in English but it was not aligned with having a time limit on the NonCom directors not to have it on the chair, if you had a NonCom director as a chair.

So for me this is a matter directed to the PTI chair, not the ICANN director's term. So for me it's only the chair issue. So and I hear you said that was fine with you because that should not affect ICANN's ability to select people for the board. Is that correct, Sam, if it's only meant to be a time limit for the chair?

Samantha Eisner: Yes, no problem with that. Thank you.

Lise Fuhr: Okay. Great. Okay. So for the wording we are taking the proposal by Matthew and Greg and we need to decide on the number of years. And my suggestion would be to go with the six years.

I see Jonathan has his hand up. He might want to chime in here. The reasons for actually suggesting six years is that it's in line with the time limits for the NonCom chairs. But before concluding, anything Jonathan? Go ahead. Jonathan, you're on mute, if you're talking. Jonathan is writing his audio draft.

Okay. Good. So any objections to the two term three years for the chair which will be for any chair, for an internal director or a NonCom director. Don't see any. Okay. Good. So I will move on and I would ask, as you know, Jonathan send out the new version of the PTI bylaws comments letter.

Is there any questions or any remarks to this? We have Sharon on the call so you can ask her if you have anything. No, I don't see any. So with this, I'll briefly sum up. We have decided on language for the DTO with additions from Kavouss and Olivier.

We have decided that the issues regarding the chair. We have a suggestion from Matthew and from Greg. So but and Sharon asks if we can send

Matthew's and Greg's proposal. We certainly will do so. I see Jonathan is writing that Greg's point may be one for NonCom's specification and now necessarily for CWG or PGI bylaws I guess it is.

So that's to be included in the specifications for NonCom. I will send the proposals for you Sharon and make sure it's done right after this meeting. And we will, if you have any questions, feel free to ask. I have one last thing I really would like us to deal with before we finalize this call. And that's actually that is Trang.

It will give us an update on the naming functions agreement. Because that has been sent out for public comment but I know that training has some, I have some comments to that. But I can see, meanwhile Greg and Kavouss have their hands up. So I'll go to them before handing it over to you Trang. Sorry about this. Greg, go ahead.

Greg Shatan: Greg Shatan. Just very briefly, I've pasted into the chat, I just did again a proposed footnote for the, to be included with the bracketed inclusion of ICANN as the signatory, possible signatory of the community agreement

So if people could just take a look at that. You know, this needs to be done in the next you know, hour or so. So unless they're violent objections or spectacular suggestions, I would like to move this forward. Thank you.

Lise Fuhr: Thank you Greg and thank you for the wording. Kavouss, go ahead.

Kavouss Arasteh: Have you finished all your topics? I have some additional points but have you finished the agenda?

Lise Fuhr: No, not yet.

Kavouss Arasteh: Okay.

((Crosstalk))

Lise Fuhr: I'll let you in on the AOB. Thank you.

Kavouss Arasteh: Go ahead. Go ahead.

Lise Fuhr: Okay, thank you. Trang, just a quick update on the naming functions agreement.

Trang Nguyen: Thank you Lise. On the naming functions agreement we have circulated like I mentioned a second draft to the agreement that incorporated some of the feedback that we received from the prom the previous draft of CWG as well as from Sidley.

And some of the feedback that we had received from Sidley included recommendations on incorporation of some of the terms that had been previously drafted for (NXC)

And we had reviewed those items and incorporated, you know, what we could incorporate into the documents. So as I mentioned earlier, the, as I mentioned earlier, what we're going to be working on providing the CWG over the next few days a document that would show, you know how we've taken on Sidley's edits as well as how we have incorporated the principles of (NXC) into the document.

So hopefully that will show sort of where we are and it will show the CWG that we have in fact actually incorporate it, a lot of the principles of (NXC), the naming function agreement.

And hopefully that will help to facilitate the discussion in moving forward. What we hope to continue to do is based on that document, you know, show that, number one, the principles have been incorporated and number two, if there are any issues or concerns around how we have incorporated those principles, that we can focus the discussion moving forward that way.

So hopefully that document will be helpful and we will try to get that out over the next few days.

Lise Fuhr: Thank you. Okay. And moving along, I don't know if there are any questions for that, the naming functions agreement? Kavouss your hand is up. Is that a hand for the issue that you want to talk about under AOB?

Kavouss Yes, AOB, right.

Lise Fuhr: Okay. I'll just quickly move forward and say that since there is no news on the service agreement, I think we should move onto AOB now and Kavouss, go ahead.

Kavouss Arasteh: Yes. I think some of us in one way or another have expressed an appreciation but I think the first the staff of ICANN and also the (unintelligible) or the working group or the (DON) group and so on and so forth have spent considerable amount of time, devotion and we have to reach a level of the CWG even if you are 20 people only participating.

But I just think that anybody objects to that, that's eternally expressing our sincere gratitude and appreciation to the hard work and devotions that have been done by the ICANN staff and also by those chairing the group in order to meet the deadlines that was put for the 11th of August. Thank you.

Lise Fuhr: Thank you for that. And I agree. We have had excellent help from ICANN staff and a lot of hard work. Also from our legal advisors. Thank you. And the group says it's been, it is a pleasure to work with you all.

With that, I'd like to conclude the call and say thank you for some very good and constructive discussion. I skipped the (client) committee and that's because there's nothing new from the (client) committee. So it's a placeholder. If we have anything, this is a fixed agenda.

And if we don't have anymore, I'm sorry to run ten minutes late but thank you again for joining and we will have the public comment period starting for the IPI issues. We will send in our comments from the PTI bylaws. Sidley will help us do the last revision of the comments there. Thank you.

Good bye all and have a nice day.

END