

# CCWG ACCT Meeting #83 (9 February @ 12:00 UTC)

## Attendees:

**Members:** Alan Greenberg, Becky Burr, Cheryl Langdon-Orr, Fiona Asonga, Izumi Okutani, James Bladel, Jordan Carter, Jorge Villa, Julia Wolman, Julie Hammer, Leon Sanchez, Mathieu Weill, Olga Cavalli, Pär Brumark, Robin Gross, Samantha Eisner, Sebastien Bachollet, Steve DelBianco, Suzanne Radell, Thomas Rickert, Tijani Ben Jemaa (21)

**Participants:** Aarti Bhavana, Alain Bidron, Allan MacGillivray, Andrew Harris, Andrew Sullivan, Antonio Medina Gomez, Avri Doria, Brett Schaefer, Chris Disspain, David McAuley, Erika Mann, Farzaneh Badii, Finn Petersen, Gary Hunt, Greg Shatan, Harold Arcos, Jeff Neuman, Jonathan Zuck, Jorge Cancio, Kavouss Arasteh, Keith Drazek, Lito Ibarra, Lousewies van der Laan, Malcolm Hutty, Mark Carvell, Markus Kummer, Martin Boyle, Matthew Shears, Megan Richards, Mike Chartier, Niels ten Oever, Olivier Muron, Paul Rosenzweig, Pedro da Silva, Phil Buckingham, Philip Corwin, Rafael Perez Galindo, Sabine Meyer, Snehashish Ghosh, Suzanne Woolf, Tatiana Tropina, Thomas Schneider, Tom Dale, Tracy Hackshaw (44)

**Legal Counsel:** Ed McNicholas, Holly Gregory, Michael Clark, Nancy McGlamery, Rosemary Fei (5)

**Observers & Guests:** Asha Hemrajani, Ashley Roberts, Cristina Monti, Fiona Alexander, John Poole, Konstantinos Komaitis, Manal Ismail, Michael Niebel, Mike Silber, Navid Heyrani, Nick Shorey, Rahul Gosain, Rinalia Abdul Rahim, Rory Conaty, Susan Payne, Taylor Bentley, Victor Charlie (17)

**Staff:** Bernie Turcotte, Brenda Brewer, Grace Abuhamad, Hillary Jett, Karen Mulberry, Marika Konings, Nigel Hickson, Susanna Bennett, Theresa Swinehart, Trang Nguyen, Xavier Calvez

**Apologies:** Eberhard Lisse

*\*\*Please let Brenda know if your name has been left off the list (attendees or apologies).\*\**

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## Transcript

- [Transcript\\_CCWG ACCT #83\\_9 February 2016.docx](#)
- [Transcript\\_CCWG ACCT #83\\_9 February 2016.pdf](#)

## Recording

- The Adobe Connect recording is available here: <https://icann.adobeconnect.com/p9s1ntubeno/>
- The audio recording is available here: <http://audio.icann.org/accountability/ccwg-accountability-09feb16-en.mp3>

## Agenda

1. Opening Remarks
2. Final reading on Recommendation #4 with closure of waiver/indemnification text
3. Board feedback on human rights
4. Final reading on Recommendation #5 (Mission)
5. Consideration of Recommendation #11 (GAC Advice)
6. Budget of the IANA Stewardship Transition project
7. AOB
8. Closing remarks

## Notes

*These high-level notes are designed to help you navigate through content of the call and do not substitute in any way the transcript.*

### 1. Opening Remarks:MW

Roll call: none on audio only.

No new SOI

### 2. Final reading on Recommendation #4 with closure of waiver/indemnification text: TR

Trickert: history of this item. Our legal has spoken to ICANN legal and they have reached an agreement.

HGregory: good call with ICANN legal and Jones Day.

Rosemary Fei: In order to encourage and promote healthy discussions in the director removal and Board recall process: • If a director initiates a lawsuit in connection with their removal or recall, ICANN will provide indemnification (e.g., a director claims that they were libeled in the written rationale calling for his or her removal). • Indemnification will be available (i) to a member of a Supporting Organization, Advisory Committee, the Nominating Committee or the Empowered Community (ii) who is acting as a representative of such applicable organization or committee (iii) for actions taken by such representative in such capacity pursuant to the Bylaws (e.g., a chair of a Supporting Organization submitting a written rationale for the removal of the director). • As required by California law and consistent with ICANN's current Bylaws, indemnification will only be available if the actions were taken in good faith and in a manner that the indemnified person reasonably believed to be in the best interests of ICANN. I guess it exceeded max chat size:• ICANN will develop guidelines to provide guidance as to standards of conduct that will be deemed to have been in good faith (e.g., conducting due diligence as to the truthfulness of a statement).

TRickert: Entering an Adobe room we have to tick that we agree to the standards of behaviour, if we abide by those - if they are modified, we would be ok?

GHolly: yes.

TRickert: This seems to be a smooth solution. Any objections to proceeding on this basis?

AGreenberg: People acting as representatives of the org. - would it be sufficient if an ALAC passed a resolution saying all members are representatives for such a process. The term indemnification refers to after the fact, is this about being reimbursed?

HGregory: have not addressed advancement of expenses, but permissive under California Law but must repay if found to not be in good faith. Good ask and we can work on with ICANN legal. As to the first question - if you look at what is currently there - members of SOACs - we could have the same concept here but this will be part of fine tuning the language.

RFrei: an SOAC could decide who represents them but need to meet the requirements.

TRickert: Implementation should deal with financial aid during an action.

KArasteh: If so requested for first question. As to the first question from AG let us say just representatives.

AGreenberg: originally the offer from the Board was to indemnify the Chairs of SOACs or those who wrote the reports. We now have more but we need to have a wider coverage to properly participate in the Community Fora.

**Decision** - TRickert: No further comments being made. This seems to be a consensus position and we will ask legal to work out the details. any objections? (none). this is then our consensus position.

### 3. Board feedback on human rights LS

LSanchez: history of the dev. of the recommendation.

KArateh: Do not like the OR ANOTHER text. Support deleting the parenthesis text.

TBenJemaa: Support removing this text. Re placing in core values only.

LSanchez: this have been discussed widely. We have mechanisms to ensure ICANN stays on mission.

BSchaefer: the second sentence was important.

LSanchez: let us remember these are guidelines for our lawyers to draft. Also we are only discussing the yellow text.

AGreenberg: I find it unusual to refer to a transient WG. Final language should fix.

KArasteh: Lets not change anything and support deletion of yellow text.

**Decision** - LSanchez: any opposition to deleting the yellow text? (none). We will be deleting this text. This will be our CCWG consensus position.

KArasteh: Thanks need to be given to Leon for doing this very difficult job.

### 4. Final reading on Recommendation #5 (Mission)- MW

MWeill: History of development. The idea given this is a final reading is to identify any strong objections. Concerns?

AGreenberg: core Value 5 and PDP issue. Given there was no support for this issue but it is important to note that there is still a level of discomfort from the ALAC regarding this.

MWeill: This is important to keep in mind and there is no intent to generate the potential issue. This needs to be considered in the implementation phase. Any further concerns (none). We have a consensus position. Congratulations to BBurr for piloting this very difficult project for the CCWG and this is a remarkable achievement.

KArasteh: Becky is a star.

AGreenberg: Judgement Free DNS - what is technical DNS as raised by ASullivan. Had proposed a small change for this remove Technical and substitute ITS. Can be note to drafters.

ASullivan: good either way.

**Decision** - MWeill: this can be fine tuned in implementation. This will not stop us from closing. Question from Izumi in the chat: is the Jan 26 language the final? This closes this item.

MHutty: We are not intending to change the mission - but there is the question of PICs and the potential solution was Grandfathering. We are currently saying this is a note to lawyers for implement - what does this mean?

MWeill:BBurr is confirming you proper interpretation.

KArasteh: This could be a note to the report.

AGreenberg: I and ALAC want to be certain PICs do not get forgotten. But I find the solution proposed acceptable.

GShatan: This is the best we can get at this point but I have concerns.

**Decision** - MWeill: we are providing the lawyers with our expectations. This closes rec. 5

## 5. Consideration of Recommendation #11 (GAC Advice) TR

TRickert: Framing of discussion on this point. Thanks to SDB and CLO and the Stress Team for their tireless work.

TBenJemaa: Are you doing a package for changes to the 3 recommendations or just rec 11.

TRickert: Package.

TBenJemaa: Do not object on rec 11 but cannot accept removing the Board with only 3.

TRickert: standard rules only two times speaking and limited time.

KArateh: Agree we are dealing with the package.

PDaSilva: Has concerns about this and this goes against inclusion. Very much against the carve out. Many countries also have countries.

TRickert: MCarvell has noted, and I can confirm, that the GAC will always be able to provide advice even if it cannot participate in the final decision.

JCarter: There is exclusion of any group.

OCavalli: Commend co-chairs for their efforts. GAC is not on equal footing because it does not participate in many activities in ICANN such as the choosing of nomcom Board members. Our concerns are the same as many other countries such as Brazil and others.

BSchaefer: RE TBJ part of the issue is that we do not need unanimity. In the description of mainly or all and should be removed in favour of only letting the Board decide if it is based on GAC advice or not.

GShatan: this is the compromise that can generate the most support. Concern is technical - this is not final language but rather as instructions to drafters. So a note of caution that the drafters consider our complete work in drafting the final texts.

RGross: Need to restate that this is not a good way forward especially when the GAC cannot even say if it is in favour of this or not, especially considering when the GAC is completely opaque vs being transparent as other SOACs requirements. This will create more problems in the long run.

TRickert: We note your concerns. Any members of other Chartering Orgs on this.

Mark Carvell GAC - UK Govt: The UK Govt supports positive consideration of this compromise proposal which we do not consider is intended to exclude the GAC from the community framework. The UK supports consensus-based advice. There is no GAC consensus support for the GAC to take a decsional role so solely advisory role is the likely way forward. Transparency of advice it provides will be paramount and the process for provision of advice must be predictable and properly recorded and open.

SDeIBiano: From the BC - agree this is a compromise our communities can live with.

Thomas Rickert, CCWG Co-Chair: Do you personally support it, Keith?

Keith Drazek: I do.

James Bladel: Registrars initially opposed Rec 11, as written in the 3rd Draft Support. With the changes in Rec #11 and Rec #1, Registrars have dropped their opposition and will support the proposed compromise.

TBenJemma: I support rec 11 but not to her changes.

AGreenberg: There are some concerns but would not refuse to ratify.

Izumi Okutani (ASO): ASO would not object to the compromised proposal

**Decision** - TRickert: Support has been established in this call. As such I would like to confirm we have a consensus position for the supplementary report. I would like to thank everyone for the significant efforts.

MWeill: Need to recognize this is the only way forward - and we need to thank and recognize Kavous, Becky, Malcom, Steve and others. We do recognize there is dissent and we encourage that minority views be submitted and included in the report, but it is time to move on. We should also step back and understand what this means for ICANN - the ongoing conflict between the GAC and the gNSO will continue to plague us. However, we may have only aggravated the situation which is not constructive. All have value to bring to the table and this should be recognized by all. We need to build bridges.

## 6. Budget of the IANA Stewardship Transition project MW

**Decision** - MWeill: This is about looking how to go forward and getting adequate support for WS2 and that costs are not only a concern for the Board but also for the community. The Board is expecting estimates and processes for managing elements which have impacts on the budget. We need to find a way to exchange with the BoardFC and the chartering orgs and have ongoing discussions on this. No comments - we will integrate the comments received on list and report on the results of the meeting.

## 7. AOB- LS

**Decision** - LSanchez: Staff accountability should be considered in WS2.

GShatan: Need to reintegrate what was in the second report for staff accountability.

LSanchez: Agree.

KArasteh: form and way forward of supplemental report?

LSanchez: trying to finish by EOB Friday, Review by CCWG over the Weekend and Freeze the supplemental on Monday.

HGregory: Congratulations to all. On the final review will we have time to review.

**Decision** - LSanchez: yes.

MWeill: we will publish a detailed timeline for all the elements over the next few days. Congratulate staff for excellent support.

LSanchez: recognition for staff work. Any other items? (none). This concludes the meeting. We look forward to sending the final supplementary for your review EOB Friday for your final review over the weekend.

**Adjourned.**

## Action Items

none

## Documents

- [Agenda Item 2](#)
- [Agenda Item 3](#)
- [Agenda Item 4](#)
- [Agenda Item 5](#)

## Adobe Chat

Brenda Brewer: (2/9/2016 05:30) Good day all and welcome to CCWG ACCT Meeting #83 on Tuesday, 9 February 2016! Please note that chat sessions are being archived and follow the ICANN Expected Standards of Behavior: <http://www.icann.org/en/news/in-focus/accountability/expected-standards>

Antonio Medina Gomez: (05:39) good morning

Kavouss Arasteh: (05:53) Hi Dear Brenda ,the fithful ICANN sTAFF TO ccwg

Martin Boyle, Nominet: (05:54) good morning

Kavouss Arasteh: (05:54) Brenda

Brenda Brewer: (05:54) Hello Kavouss!

Thomas Rickert, CCWG Co-Chair: (05:54) Hi all!

Brenda Brewer: (05:55) Hello all!

Kavouss Arasteh: (05:55) I AM CALLED BUT NO INCOMING VOICE

Olga Cavalli - GAC Argentina: (05:55) Hello!

Kavouss Arasteh: (05:55) MAY YOU CK PLS

Harold Arcos: (05:55) Hello all

Markus Kummer: (05:55) Hello all

Kavouss Arasteh: (05:55) dEAR bRENDA

Brenda Brewer: (05:56) We are calling you back Kavouss.

Kavouss Arasteh: (05:56) tHE OPERATOR CONTINUE TO DIAL BUT THERE IS NO CONNECTION

Kavouss Arasteh: (05:56) mAY YOU PLS CK

Kavouss Arasteh: (05:56) THre is incoming ring but no voice

Jeff Neuman (Valideus): (05:57) Wow....someone is beating up their keyboard

Rosemary Fei: (05:57) Good morning again, all.

Aarti Bhavana: (05:57) Hi All

Phil Buckingham: (05:58) Good morning from the UK .

Andrew Sullivan: (05:58) Good day, all

Sabine Meyer (GAC - Germany): (05:58) Hello everyone!

Suzanne Radell (GAC): (05:58) Hello everyone

Pär Brumark (GAC Niue): (05:58) Hi everyone!

Pedro da Silva [GAC Brasil]: (05:59) Hello everyone!

Tatiana Tropina: (05:59) Hi everyone!

Kavouss Arasteh: (05:59) Hi all

Robin Gross [GNSO-NCSG]: (05:59) Good morning (4am) again!

David McAuley (RySG): (05:59) Hello all

Kavouss Arasteh: (06:00) Robin, good morning, pls advise why you selecting Magenta colour to be more distinguished?

Kavouss Arasteh: (06:00) You are a very distinguished lady already

Jordan Carter (.nz, WP1 Rapporteur): (06:00) morning. 1am Robin!

Robin Gross [GNSO-NCSG]: (06:00) Thanks, Kavouss, pink just makes me happy! :-)

Rahul Gosain GAC-India: (06:00) Hi Everyone!

Kavouss Arasteh: (06:01) Yes me too

James Bladel: (06:01) Good morning, apologies for being late.

Jeff Neuman (Valideus): (06:01) I am on Adobe, but will be audio only in a few minutes

Kavouss Arasteh: (06:02) dEAR mATHIEU cO-cHAIR

Kavouss Arasteh: (06:02) are you present 5today , if yes

Kavouss Arasteh: (06:02) Bonjour diplomat

jorge cancio (GAC Switzerland): (06:03) hi all

Mathieu Weill, ccNSO, co-chair: (06:03) Thank you Kavouss, bonjour !

Kavouss Arasteh: (06:04) Brenda, Is the meeting started as I have no incoming voice

Aarti Bhavana: (06:04) It has started, Kavouss

Kavouss Arasteh: (06:04) I have no incoming voice

Kavouss Arasteh: (06:04) Brenda

Kavouss Arasteh: (06:05) Pls tell the operator that I have no incoming at all

Kavouss Arasteh: (06:05) I hear nothing

Rosemary Fei: (06:05) In order to encourage and promote healthy discussions in the director removal and Board recall process: • If a director initiates a lawsuit in connection with their removal or recall, ICANN will provide indemnification (e.g., a director claims that they were libeled in the written rationale calling for his or her removal). • Indemnification will be available (i) to a member of a Supporting Organization, Advisory Committee, the Nominating Committee or the Empowered Community (ii) who is acting as a representative of such applicable organization or committee (iii) for actions taken by such representative in such capacity pursuant to the Bylaws (e.g., a chair of a Supporting Organization submitting a written rationale for the removal of the director). • As required by California law and consistent with ICANN's current Bylaws, indemnification will only be available if the actions were taken in good faith and in a manner that the indemnified person reasonably believed to be in the best interests of ICANN. I

Chris Disspain: (06:05) maybe your speakers are muted Kavouss

Rosemary Fei: (06:06) And here's the rest -- I guess it exceeded max chat size:• ICANN will develop guidelines to provide guidance as to standards of conduct that will be deemed to have been in good faith (e.g., conducting due diligence as to the truthfulness of a statement).

Kavouss Arasteh: (06:07) I HAVE NO AUDIO

Mathieu Weill, ccNSO, co-chair: (06:07) Kavouss, we are trying to reach you. Thanks for your patience

nigel hickson: (06:07) good afternoon

Rosemary Fei: (06:08) Bernie, please add final bullet to the notes.

Brenda Brewer: (06:08) Kavouss, the operator continues to dial your phone...there seem to be phone difficulties.

Samantha Eisner: (06:08) The guidelines would be more tailored to board removal

Kavouss Arasteh: (06:10) NOW IS OK

Greg Shatan: (06:17) "Indemnification" is a general term. Indemnification should be expressed as an obligation to "defend, indemnify and hold harmless." But this can be left to implementation.

Rosemary Fei: (06:17) Agreed, Greg

Kavouss Arasteh: (06:17) THOMAS, WE NEED TO JUST TAKE THE INITIAL BOARD'S LANGUAGE

Kavouss Arasteh: (06:18) SORRY TO TYPE IN CAPITAL

Kavouss Arasteh: (06:18) Thomas. Very wise conclusion you made

Alan Greenberg: (06:19) To be clear, I was not requesting that the words be changed, but I wanted to make clear that if the end-point was not sufficient, the power would have no value.

Alan Greenberg: (06:20) Appointing a "spokesperson" will be sufficient for the "statement", but not the process of convincing others to support the action.

Jordan Carter (.nz, WP1 Rapporteur): (06:21) I do think there are some self-imposed limitations here beyond what is formal. Any Board member that tried to take legal action where that was clearly not supported by a reasonable interpretation would be assuring their removal.

Tatiana Tropina: (06:23) I agree with Alan's arguments about using a general language about the group for WS2 - mean, the latest email exchange

Jordan Carter (.nz, WP1 Rapporteur): (06:23) and if they tried to take action that was widely seen as reasonable, then they would never have been removed anyway

Jordan Carter (.nz, WP1 Rapporteur): (06:23) so while a waiver would clearly have been better, we are where we are and we should be able to live with it

Jorge Cancio (GAC Switzerland): (06:24) to liaise with the CCWP-HR will be important...

Tatiana Tropina: (06:24) It is important, but there is no need for a separate group for HR in WS2

Robin Gross [GNSO-NCSG]: (06:24) Agree, Leon, it should be in CCWG's charge.

Tatiana Tropina: (06:24) it shall be a part of a broader group

Tatiana Tropina: (06:25) Yes, +1 to Leon

Aarti Bhavana: (06:25) Agreed, +1

Avri Doria: (06:25) +!

Avri Doria: (06:25) +1 i mean

Kavouss Arasteh: (06:27) Agree with all those mentioned in the chat

Tatiana Tropina: (06:27) avri, +1! looks even nicer

Avri Doria: (06:28) Tatian, not that excited by the compromise. +1 is about as far as I can go.

Tatiana Tropina: (06:28) @Avri, am excited by the possibility to reach closure

Kavouss Arasteh: (06:29) Greed with Leon

Mark Carvell GAC - UK Govt: (06:30) Support this CCWG taking forward implementation. The new GAC working Group on HR and International Law chaired by Peru, Switzerland and UK will monitor progress and contribute to the work as appropriate. Thanks Leon for all work on this Rec.

matthew shears: (06:30) + 1 to CCWG taking the work forward

Kavouss Arasteh: (06:30) Thank leon to NOT OPENING THIS VERY DELICATE AND SENSITIVE

Tatiana Tropina: (06:31) Brett, it is covered in the second sentence

Kavouss Arasteh: (06:31) Thank leon to NOT OPENING THIS VERY DELICATE AND SENSITIVE AGAIN

Tatiana Tropina: (06:31) covered

Tatiana Tropina: (06:31) "seeking for the enforcement" clause

Jordan Carter (.nz, WP1 Rapporteur): (06:32) happy to delete the yellow highlighted text

Brett Schaefer: (06:33) @Holly and Rosemary, I would just like to highlight the previous exchange with Leon that there is explicit intent for ICANN not to enforce or protect human rights in the final bylaw text.

Rosemary Fei: (06:33) Understood, Brett

Brett Schaefer: (06:34) Thank you.

Kavouss Arasteh: (06:34) Let me sincerely congratulate LEON for his hard works during many months

Kavouss Arasteh: (06:35) Well done LEON

jorge cancio (GAC Switzerland): (06:35) well done!

Niels ten Oever: (06:35) Great work everyone on getting consensus on HR

matthew shears: (06:35) excellent!

Leon Sanchez (Co-Chair ALAC): (06:35) Thank you very much Kavouss! I am only the messenger with the message coming out from the work of many people including you!

Olga Cavalli - GAC Argentina: (06:38) Bien Leon! Buen trabajo!

Thomas Rickert, CCWG Co-Chair: (06:38) Kavouss +1

Thomas Rickert, CCWG Co-Chair: (06:38) León is a star!

Mark Carvell GAC - UK Govt: (06:38) +1 - well done Leon.

Rahul Gosain GAC-India: (06:38) Kavouss+2

jorge cancio (GAC Switzerland): (06:39) this sets the bar at a very high level for the co-chairs :P

Leon Sanchez (Co-Chair ALAC): (06:39) Thank you very much everyone! It is an honor and a privilege to work with you all :-)

David McAuley (RySG): (06:39) +! Thomas

Rahul Gosain GAC-India: (06:39) Very Well done Leon

Megan Richards, European Commission: (06:39) 2016 is Mexico year for IG :-)

Pedro da Silva [GAC Brasil]: (06:40) +1 Megan!

Jordan Carter (.nz, WP1 Rapporteur): (06:40) Unless meetings get moved because of Zika...

Izumi Okutani (ASO): (06:40) May I confirm my understanding that we can agree with the 26th Jan text I suggested on the number resources part of the Mission?

Kavouss Arasteh: (06:40) THANK YOU ALAN NOT TO PUSHING ON THAT POINT SINCE THAT COULD BE TROUBLESOME TO REOPEN THE CASE

Leon Sanchez (Co-Chair ALAC): (06:40) Indeed Megan! :-)

Rahul Gosain GAC-India: (06:41) I echo Jordan's concerns

Izumi Okutani (ASO): (06:41) May I confirm my question?

Izumi Okutani (ASO): (06:41) with the Co Chairs?

Kavouss Arasteh: (06:41) Mathieu+ 1

David McAuley (RySG): (06:41) Agree, thanks Becky

Thomas Rickert, CCWG Co-Chair: (06:42) Yes, kudos to Becky!

Thomas Rickert, CCWG Co-Chair: (06:42) and Mathieu!!!

matthew shears: (06:42) yes, well done

Leon Sanchez (Co-Chair ALAC): (06:42) Great work Becky!

Phil Buckingham: (06:42) absolutely thank you Becky

Leon Sanchez (Co-Chair ALAC): (06:42) Indeed Becky is a super star!

Becky Burr: (06:44) its judgment free administration of the DNS

Becky Burr: (06:44) ok by me

Kavouss Arasteh: (06:44) We have agreed and I wish not to open

Avri Doria: (06:44) this effort has been full of stars, some super stars and regular stars and some divas

Jordan Carter (.nz, WP1 Rapporteur): (06:44) primadonnas among the divas

Kavouss Arasteh: (06:44) We have agreed to the text by consensus . No change

Jordan Carter (.nz, WP1 Rapporteur): (06:44) only now and again tho ;)

Paul Rosenzweig: (06:44) I would keep the language that the NTIA uses ... which included "technical"

Alan Greenberg: (06:45) My point was that once pointed out, the change to "its" improves the clarity.

Andrew Sullivan: (06:45) agree

Becky Burr: (06:45) also fine by me

Izumi Okutani (ASO): (06:45) great thanks Mathieu

Greg Shatan: (06:46) I think the NTIA language originally referred to "technical DNS functions." We removed the word "functions" along the way, which left the word technical modifying DNS rather than functions.

Malcolm Hutty: (06:46) What about rest of items on Rec5?

Alan Greenberg: (06:47) The NTIA also included the term IANA which framed the issue.

Greg Shatan: (06:47) Malcolm, we are on the Accountability bullet train.

Malcolm Hutty: (06:47) Chairs never called the remaining items listed on Rec 5 - when are we going to table them?

Mathieu Weill, ccNSO, co-chair: (06:48) Malcolm I called for any objection on all items ? Which items did you want to reopen ?

Greg Shatan: (06:48) Alan, true -- by picking some words and not others, we have not necessarily captured the NTIA's meaning....

jorge cancio (GAC Switzerland): (06:48) Dear co-chairs: please include the clarifications -which are useful- into the recommendations' texts

Malcolm Hutty: (06:48) You only called for objections on the item under discussion

Becky Burr: (06:48) Greg, the current language is exactly the NTIA formulation

Malcolm Hutty: (06:48) I wanted to ask about the grandfathering clause

Becky Burr: (06:49) we got an objection to the earlier formulation which may have referenced functions

Paul Rosenzweig: (06:49) FWIW, I agree w/ Malcolm -- you went too quickly Mathieu -- I also wanted to at least ask a question about FG ....

Malcolm Hutty: (06:49) whether this notion of "note to lawyers" empowered them to create a grandfathering clause if they feel necessary

Becky Burr: (06:49) FG?

Paul Rosenzweig: (06:50) GF == grand father .. type ... same question as Malcolm just wrote so I will defer to him

Mathieu Weill, ccNSO, co-chair: (06:51) Thanks Malcolm and Paul, let's ensure clarity on this after Rec11

Malcolm Hutty: (06:52) Thank you

Alan Greenberg: (06:53) Becky, on DNS, the NTIA words were "The neutral and judgment free administration of the technical DNS and IANA functions".. So IANA and functions were omitted. It may be reasonable for the IANA link to not be in our bylaws, but I read the phrase to be the technical DNS functions and the IANA functions. So there have been changes. I can live with them, but that doesn't change what we wrote

Becky Burr: (06:54) Malcolm - the discussion on grandfathering in the text includes your fix to the order of the words

Becky Burr: (06:54) if that is the question

Malcolm Hutty: (06:54) It's not

Cheryl Langdon-Orr: (06:54) ;-)

Jordan Carter (.nz, WP1 Rapporteur): (06:54) let's come back to that after this

Jordan Carter (.nz, WP1 Rapporteur): (06:55) I do not object to the compromise language

Becky Burr: (06:55) it may be that NTIA formulated this differently in different settings Alan. I was seeking to capture that, and I have no particular fixed position

Malcolm Hutty: (06:55) My question is what the effect of the "note to lawyers" is, in terms of empowering them. Are they empowered to create a grandfather clause, by this language? If so, fine. If they are required to maintain PICs by changing the Mission, not fine.

Steve DelBianco [GNSO - CSG]: (06:55) Rec 11 and the proposed process for carve-out in Rec 1/2

Greg Shatan: (06:55) @Alan, thanks -- that was the language I was thinking of as well.

Steve DelBianco [GNSO - CSG]: (06:56) The display now shows Rec 11 changes AND the process for carve-out

Becky Burr: (06:56) I am fine to see the grandfathering language go, to be clear

Brett Schaefer: (06:57) Disagree with Tijani, the thresholds were lowered to avoid requiring unanimous support from the SOACs to exercise community powers. Exercising it would require 3 of 4 in support. 2 objecting would block. It is consistent with thresholds in other powers.

Chris Disspain: (06:57) the Board still has serious concerns about any reference to grandfathering in the bylaws

Robin Gross [GNSO-NCSG]: (06:57) Agree with Brett.

Becky Burr: (06:57) correct Brett

Keith Drazek: (06:58) As a reminder of NTIA's position on Rec-11, here's recent language from NTIA's 5th quarterly report to Congress: "In late November, NTIA circulated a brief public statement to the CCWG-Accountability group reiterating its position that the CCWG's proposal for amendments to ICANN's Bylaws must preserve the current practice of the ICANN Board providing special consideration of the advice of the Governmental Advisory Committee ("GAC") only when such advice that is based on consensus with no GAC member raising a formal objection."

Paul Rosenzweig: (06:58) Can we get Rec 11 back on the display please?

Becky Burr: (06:59) agree Kavouss, no one is thrilled

jorge cancio (GAC Switzerland): (06:59) +1 Paul

Pär Brumark (GAC Niue): (06:59) Kavouss +1

Thomas Rickert, CCWG Co-Chair: (06:59) we are working on it, Paul

Paul Rosenzweig: (07:00) Did I just get a +1 from Joreg? :-)

Paul Rosenzweig: (07:00) Jorge ...

Andrew Sullivan: (07:01) I believe that the interpretation of the text currently being offered is simply wrong. I believe the proposal is as balanced as it can be

Steve DelBianco [GNSO - CSG]: (07:01) The carve-out does not exclude GAC from the decision making process. The GAC can discuss and advise the empowered community, but cannot object in order to block the challenge of a board decision

jorge cancio (GAC Switzerland): (07:02) yep, Paul: to your suggestion to get the text back on screen :P

Paul Rosenzweig: (07:02) @ Jorge :-)

Jordan Carter (.nz, WP1 Rapporteur): (07:02) consensus starts w small steps ;)

Steve DelBianco [GNSO - CSG]: (07:03) On screen is the 'package' text, Jorge.

Philip Corwin: (07:03) In regard to the proposed modification of the Table in Rec 2/Annex 2, what happens to the thresholds in the likely scenario that the GAC is unable to reach consensus for or against the question before a Decisional AC? Would that abstention in any way hobble the progress and utility of the accountability escalation process?

Sabine Meyer (GAC - Germany): (07:03) WRT the notes: while many countries may also have concerns, I think in this case Pedro was talking about concerns ;)

jorge cancio (GAC Switzerland): (07:03) I feel that, as Mark has suggested, whenever the carve-out is applicable, there should be a formalized procedure for the advice coming from the GAC to the rest of the community

Kavouss Arasteh: (07:03) Jore

Pedro da Silva [GAC Brasil]: (07:04) Thanks, Sabine ;-)

Kavouss Arasteh: (07:04) That text is there

Leon Sanchez (Co-Chair ALAC): (07:04) Thanks Olga!

Kavouss Arasteh: (07:05) The CCWG now provide almost equal footing for GAC

Steve DelBianco [GNSO - CSG]: (07:05) Pages 2-3 in the Adobe Window describe a process for the carve-out

Steve DelBianco [GNSO - CSG]: (07:05) This was worked-out on the dedicated Rec 11 calls we had

Sabine Meyer (GAC - Germany): (07:05) Not at all, Pedro. I trust that this will still be corrected.

Steve DelBianco [GNSO - CSG]: (07:06) GAC may participate, and may contribute. It just cannot block the exercise of a community power challenging the board's implementation of GAC Advice

Finn Petersen, GAC - DK: (07:07) Olga: That is because GAC don't want to participate in NONCOM ect.

Keith Drazek: (07:07) The GAC's position within ICANN is enhanced as a result of the CCWG's work. It becomes decisional in the empowered community AND gets a higher threshold for Board rejection of consensus advice. Any suggestion that the GAC is being disadvantaged by our work I believe is incorrect.

matthew shears: (07:08) agree Keith

Jordan Carter (.nz, WP1 Rapporteur): (07:08) the GAC joins the rest of the community as one of five equal votes on exercising significant new accountability powers, Keith, so I agree with you.

Avri Doria: (07:08) Brett +1 on both points

Keith Drazek: (07:09) Agree with Brett

Jonathan Zuck: (07:09) agree Keith

Kavouss Arasteh: (07:09) cURRENT STATUS OF gac HAS BEEN DRASTICALLY IMPROVED BY ccwg ACCOUNTABILITY PROCESS

Steve DelBianco [GNSO - CSG]: (07:10) @Brett -- if a petitioning AC/SO did not agree with the board's attribution of its decision, that AC/SO could still file a petition challenging board action based on GAC advice. It's then up to the EC to support that petition

Pedro da Silva [GAC Brasil]: (07:10) @Keith: you did not mention that the GAC is now required to give advice only based on full consensus without formal objections...for many GAC members, this is a step back.

Steve DelBianco [GNSO - CSG]: (07:11) @Pedro -- but that is exactly how the GAC has always developed formal advice.

Brett Schaefer: (07:11) @Steve, yes, but that would also be the case without the mainly or solely language.

Paul Rosenzweig: (07:11) +1 with Brett -- especially w/r/t the "mainly or solely" lanugage which almost purposefully invitees disagreement and litigation. The process should be that the GAC designates its advice as "full consensus" advice triggering the 60% and mandatory neogotation rules and the Board, as required responds to that advice by adopting (orr rejecting) it. Of thereafter, if the EC is din disagreement witht he Boards decision (whehter to accept or reject) and if an EC member petitions identifygin the gGAC advice as the challenge will the careve out apply. Let' waovid undefined and undefinable terms if we can ...

Keith Drazek: (07:11) @Pedro: It's not a step back, it's only confirming current practice, as required by NTIA.

Kavouss Arasteh: (07:12) gac CURRENTLY MAKES IT ADVICE BASED ON un principle of Conesusus

Kavouss Arasteh: (07:13) let us be together and not divided

Pedro da Silva [GAC Brasil]: (07:13) @Steve: But the GAC has currently the ability to change that in case there is misuse of objection by one or a few countries...with rec 11 that ability is gone

Paul Rosenzweig: (07:13) @ Robin -- you are right ... the only indiccation of GAC views are its statement that it lacks consensus on Rec 11. I should add that there were 5 commentators as individual nations that opposed the ST18 test -- and that's about it ...

Jordan Carter (.nz, WP1 Rapporteur): (07:13) ..... for the exercise of the narrow (albeit significant) accountability powers this group has specified.

Olga Cavalli - GAC Argentina: (07:13) @Robin, review the transcripts of the DUblin communiqueand you will see how many countries oppose ST 18

Paul Rosenzweig: (07:13) @ Pedro -- it still can ... and if it does then its advice will be considered in the non-mandatory/non 60% system and the carveout would not apply when/if the Board acted

Mark Carvell GAC - UK Govt: (07:13) The UK Govt supports positive consideration of this compromise proposal which we do not consider is intended to exclude the GAC from the community framework. The UK supports consensus-based advice. There is no GAC consensus support for the GAC to take a deciosnal role so solely dvisory role is the likely way forward. Transparency of advice it provides will be paramount and the process for provision of advice must be predictable and properly recorded and open.

Olga Cavalli - GAC Argentina: (07:13) dublin meeting I meant sorry

matthew shears: (07:14) thanks Mark

Izumi Okutani (ASO): (07:14) ASO would not object to the compromised proposal

James Bladel: (07:14) Thanks, Mark. It is good to hear all perspectives from GAC participants.

Kavouss Arasteh: (07:15) If CAG CHANGED ITS CONSENSUS TO SIMPLE MAJORITY THEN IF icann is obliged to negotiate with GAC advice based on Simple majority ,that willé casue serious difficulties as the Board is obliged to negotiate with half of the CAG on the expense of another half

Keith Drazek: (07:15) I'm confident the RySG will support the current proposal.

Thomas Rickert, CCWG Co-Chair: (07:15) Do you personally support it, Keith?

Keith Drazek: (07:16) I do.

Thomas Rickert, CCWG Co-Chair: (07:16) Thanks, Keith

James Bladel: (07:16) Registrars initially opposed Rec 11, as written in the 3rd Draft Support. With the changes in Rec #11 and Rec #1, Registrars have dropped their opposition and will support the proposed compromise.

Victor Charlie: (07:16) Would GNSO agree to a similar carve out?

Jordan Carter (.nz, WP1 Rapporteur): (07:17) the GNSO has no power to give advice as per GAC, so there'd be nothing to carve out?

Paul Rosenzweig: (07:17) @ Victor -- of course not, since as we have discussed at many many instances the two are not equivalent

Finn Petersen, GAC - DK: (07:17) DK is ready to support the compromise

James Bladel: (07:17) @Victor: Those parts of the GNSO that opposed Rec #11 are now supporting (tentatively). Those who supported previously appear to continue to support. This, on the surface, appears to lead to unified GNSO support for the compromise.

Jordan Carter (.nz, WP1 Rapporteur): (07:17) Tijani: I think we fixed that

Pedro da Silva [GAC Brasil]: (07:17) @Paul: what makes the GNSO not "eligible" for a carve-out?

Julie Hammer (SSAC): (07:18) Consistent with our previously advised position, the SSAC will not express a view on this issue. Accordingly, this issue would not prevent SSAC supporting any ultimate proposal.

Avri Doria: (07:18) I do not believe that the NCSG has determined what the SG consensus on Rec 11 is yet. Our council members are not bound in their votes. NCSG should, in my view, be seen as mixed, though of course have only one member.

Jordan Carter (.nz, WP1 Rapporteur): (07:18) it hasn't got the power to do what GAC does, Pedro, as you know

Paul Rosenzweig: (07:18) @ Pedro -- Becky has written literally 3500 words in the list explaining the difference. I get it that you don't like the answer, but you have yet to actually suggest a reason why her analysis is wrong.

Paul Rosenzweig: (07:18) +1 Jordan ...

Alan Greenberg: (07:19) @Jordan, we fixed it (removal of board by 3 in favour) in the general case, but re-added it in the case of entire board removal triggered by GAC advice.

matthew shears: (07:19) + 1 James

Jordan Carter (.nz, WP1 Rapporteur): (07:19) if the gNSO could offer advice on GAC matters that, if offered by consensus, the Board was bound to implement or otherwise try to negotiate an agreement... well, there'd be a basis for a compromise.

Jordan Carter (.nz, WP1 Rapporteur): (07:19) SORRYt - for a Carve Out, not a Compromise.

Julia Wolman, GAC Denmark: (07:20) I would like to state for the record that I, as one of the GAC Members of the CCWG will "step away" as there are differing views in the GAC, incl. At the same time I would like to underline the importance of finding a compromise in order to allow for a timely transition to take place. At the same time I would like to ask whether it would be appropriate to send the proposal for another comment period as it is materially different from the proposal in the 3rd Draft?.

Paul Rosenzweig: (07:20) @ Thomas -- you should note several governments on the call UK and DK that I saw are in favor ....

Brett Schaefer: (07:20) @Alan, in the circumstances of a GAC carve out, retaining the 4 supporting threshold would require community unanimity to exercise. That is something we have sought to oppose.

Pedro da Silva [GAC Brasil]: (07:20) @Paul: I acknowledge Becky's reasoning but I still don't see why the GNSO or any other constituency would not be subject to the carve-out...

Thomas Rickert, CCWG Co-Chair: (07:20) Paul, I did!

Brett Schaefer: (07:21) Edit, sorry, oppose should be avoid

Jordan Carter (.nz, WP1 Rapporteur): (07:21) Pedro: because they don't do what GAC does

Jordan Carter (.nz, WP1 Rapporteur): (07:21) they have no power to.

Alan Greenberg: (07:21) @Brett, I was not questioning whether it was reasonable or not. Just addressing Jordan's message that

Jordan Carter (.nz, WP1 Rapporteur): (07:21) so there's nothing to "carve out".

Alan Greenberg: (07:21) @Brett, I was not questioning whether it was reasonable or not. Just addressing Jordan's message that "we had fixed that"

Jordan Carter (.nz, WP1 Rapporteur): (07:21) Alan: thanks for that clarification.

Leon Sanchez (Co-Chair ALAC): (07:21) Indeed a big round of applause to all who have tirelessly worked on shaping these recommendations!

Brett Schaefer: (07:21) @Alan, ah, got it.

Robin Gross [GNSO-NCSG]: (07:22) Mathieu, what is the process for getting the minority views in the record?

Victor Charlie: (07:24) The rationale for the Rec. 11 compromise is not related to the status of the GAC Advice and there lies the problem.

Kavouss Arasteh: (07:25) In french, it is said "LE TEMPS VOUS DIRA LA VERITE"

Paul Rosenzweig: (07:25) Very well said Mathieu ....

Keith Drazek: (07:25) +1

Andrew Sullivan: (07:25) I think the chairs deserve a hearty thanks as well for patient and cool chairing

Jordan Carter (.nz, WP1 Rapporteur): (07:25) Nice words Mathieu, agree.

Avri Doria: (07:25) they are a dynamite tag team.

Izumi Okutani (ASO): (07:25) +1 Andrew

Andrew Sullivan: (07:25) Keeping everyone on track was plainly hard, and they did a good job

Pär Brumark (GAC Niue): (07:26) Very well spoken Mathieu!

David McAuley (RySG): (07:26) +! Andrew

jorge cancio (GAC Switzerland): (07:26) +1 Kavouss

Izumi Okutani (ASO): (07:26) I believe the Co Chairs have done an amazing job, to lead us this far.

Julia Wolman, GAC Denmark: (07:26) Yes, well said Mathieu

Kavouss Arasteh: (07:27) it should be as a note to the report as well as to Laywer

Becky Burr: (07:27) no!

Jordan Carter (.nz, WP1 Rapporteur): (07:27) everyone involved has been, well, remarkable, as Fadi might once have said

Becky Burr: (07:27) they cannot change the mission.

nigel hickson: (07:28) @Jordan - I am sure Fadi can still say that!

Rosemary Fei: (07:29) Understood -- the lawyers will not change ICANN's mission

Mathieu Weill, ccNSO, co-chair: (07:29) Thanks Rosemary

Kavouss Arasteh: (07:30) We have decided on Rec. 5

Jordan Carter (.nz, WP1 Rapporteur): (07:31) this has been a very good call

Jordan Carter (.nz, WP1 Rapporteur): (07:31) I am so optimistic we are basically, nearly, closed

Kavouss Arasteh: (07:31) jORDAN+ 1

Alan Greenberg: (07:31) Grandfathering was a technique to ensure contracts could stay in force (and unsigned contracts could be signed). I presume that suitable wording will be found and it is best that we not try to do the wordsmithing here.

Keith Drazek: (07:31) Agree Alan

Kavouss Arasteh: (07:31) yES IT WAS BUT.....

Kavouss Arasteh: (07:32) kEITH + 1

Kavouss Arasteh: (07:32) mATHIEU + 1

Jordan Carter (.nz, WP1 Rapporteur): (07:33) Turning over to yourself sounds complicated, Mathieu.

Malcolm Hutty: (07:33) "Rec 5 closed" - time for a huge vote of thanks/congratulations to Becky as rapporteur for this crucial and difficult item

Jordan Carter (.nz, WP1 Rapporteur): (07:33) Grand work Becky et al

Pedro da Silva [GAC Brasil]: (07:34) Sorry, I have a hard stop now...thanks everyone for the discussions...bye!

Jordan Carter (.nz, WP1 Rapporteur): (07:34) ciao Pedro and thanks! :)

Paul Rosenzweig: (07:34) Enjoy carnival!

Pedro da Silva [GAC Brasil]: (07:34) Obrigado! Will do!

Kavouss Arasteh: (07:34) nOW WE JUST SAY " SUPER sTAR " beckie

Malcolm Hutty: (07:35) :-)

Becky Burr: (07:35) group work

Paul Rosenzweig: (07:36) I, too, must leave now. Congratulations on succeeding in a challenging endeavor. On to Marrakesh ....

Kavouss Arasteh: (07:36) YES gROUP wORK UNDER bECKIE LEADERSHIP

Jordan Carter (.nz, WP1 Rapporteur): (07:36) bye Paul!

jorge cancio (GAC Switzerland): (07:36) bye!

Becky Burr: (07:37) many thanks to all, including especially hard working co-chairs, for getting us here!

Keith Drazek: (07:37) Can the Co-Chairs summarize next steps for the group?

Keith Drazek: (07:37) Expectations for finalization and delivery to the chartering orgs, etc.

Mathieu Weill, ccNSO, co-chair: (07:37) Yes Keith : Finalize report ASAP, review from group, confirm, send to SO/ACs

Mathieu Weill, ccNSO, co-chair: (07:38) I think Leon might have some tentative dates

Jordan Carter (.nz, WP1 Rapporteur): (07:38) sounds easy M.

Keith Drazek: (07:38) Thanks Mathieu. Expected timing? Apologies if I missed it.

Mathieu Weill, ccNSO, co-chair: (07:38) You have not missed it

matthew shears: (07:38) expected hand over to NTIA?

Keith Drazek: (07:38) I'm asking in part so Kavouss and I can update the ICG.

Avri Doria: (07:38) confirmation please: have we decided that it IS part of WS2?

Robin Gross [GNSO-NCSG]: (07:39) Leon confirmed staff accountability is back in WS2.

Mathieu Weill, ccNSO, co-chair: (07:39) @Matthew : we are still in a timeframe where Chartering Orgs approve in Marrakech at the latest

Avri Doria: (07:39) thanks Robin

Tatiana Tropina: (07:40) @Robin, thanks. also for bringing it to the list

Kavouss Arasteh: (07:40) yes keith I will do my best to do so

matthew shears: (07:40) agree - thanks |Robin

Brett Schaefer: (07:40) Yes, good catch Robin

Mathieu Weill, ccNSO, co-chair: (07:40) Supplement timeline (tentative) : finalize report by EOB Friday. Review over week end. Freeze on Monday.

Mathieu Weill, ccNSO, co-chair: (07:41) Chartering Org approval Marrakech at latest

Keith Drazek: (07:41) Thanks Mathieu, sounds good to me.

Mathieu Weill, ccNSO, co-chair: (07:41) Action item for chairs to circulate a timeline that includes also Minority view submission deadline etc.

Kavouss Arasteh: (07:42) Keith+ 1

Kavouss Arasteh: (07:44) Mathieu + 1\$

Kavouss Arasteh: (07:44) Matheiu + all

David McAuley (RySG): (07:44) +1 Mathieu, staff have been exceptional

Thomas Rickert, CCWG Co-Chair: (07:44) +1

Jordan Carter (.nz, WP1 Rapporteur): (07:44) +100 for the staff support, above and beyond for sure

Keith Drazek: (07:44) Major props to the ICANN staff supporting the CCWG. Very impressed, but not surprised.

Suzanne Radell (GAC): (07:44) Well said, Mathieu

FIONA ASONGA (ASO): (07:45) Thanks staff for all the effort, +1 Mathieu

matthew shears: (07:45) agree - fantastic support

Rory Conaty [GAC - Ireland]: (07:45) +1 Mathieu

Izumi Okutani (ASO): (07:45) Indeed Mathieu, staff support has been excellent and constantly keepin up with the level of work load!

Jordan Carter (.nz, WP1 Rapporteur): (07:45) good work everyone!!!

James Bladel: (07:45) Thanks, all. Great progress.

Andrew Sullivan: (07:45) Great work! Thank you very much.

David McAuley (RySG): (07:45) Thank you chairs, rapporteurs, staff and all

Keith Drazek: (07:45) Congratulations, one and all.

Izumi Okutani (ASO): (07:45) Thank you, it was very good progress

Brett Schaefer: (07:45) What am I going to do to replace the 1am to 4am calls when this process is done?

Pär Brumark (GAC Niue): (07:45) Huge Thx all!

Rory Conaty [GAC - Ireland]: (07:45) Thanks all.

Tatiana Tropina: (07:45) Thanks all!

Greg Shatan: (07:45) Congratulations and thanks all!

FIONA ASONGA (ASO): (07:46) Thanks everyone bye

Olga Cavalli - GAC Argentina: (07:46) thanks

jorge cancio (GAC Switzerland): (07:46) thanks and bye

Andrew Sullivan: (07:46) bye

matthew shears: (07:46) thanks

Brett Schaefer: (07:46) bye all

Finn Petersen, GAC - DK: (07:46) Thx to the co-Chairs

Jordan Carter (.nz, WP1 Rapporteur): (07:46) bye

Markus Kummer: (07:46) Bye all -- comgrats and well done!

Avri Doria: (07:46) bye

Robin Gross [GNSO-NCSG]: (07:46) Thanks, all, bye!

Julia Wolman, GAC Denmark: (07:46) Thanks all:-)

Harold Arcos: (07:46) Thanks all, bye

Asha Hemrajani: (07:46) Thanks and bye

Sabine Meyer (GAC - Germany): (07:46) Thank you everyone!

nigel hickson: (07:46) thnaks; great Call

Theresa Swinehart: (07:46) Thank you all

Niels ten Oever: (07:46) thanks all

Gary Hunt - UK Government: (07:46) Good afternoon from London!

Rahul Gosain GAC-India: (07:47) Thanks all and Bye for Now