

CCWG ACCT Meeting #76 (12 January @ 06:00 UTC)

Attendees:

Members: Alan Greenberg, Athina Fragkouli, Becky Burr, Bruce Tonkin, Cheryl Langdon-Orr, Izumi Okutani, Jordan Carter, Jorge Villa, Julia Wolman, Julie Hammer, Leon Sanchez, Mathieu Weill, Pär Brumark, Robin Gross, Samantha Eisner, Sébastien Bachollet, Steve DelBianco, Thomas Rickert, Tijani Ben Jemaa (19)

Participants: Aarti Bhavana, Andrew Sullivan, Asha Hemrajani, Avri Doria, Barrack Otieno, Brett Schaefer, Cherine Chalaby, Christopher Wilkinson, David McAuley, Edward Morris, Finn Petersen, Gary Hunt, Greg Shatan, Harold Arcos, Jonathan Zuck, Jorge Cancio, Kavouss Arasteh, Keith Drazek, Malcolm Hutty, Markus Kummer, Martin Boyle, Mary Uduma, Matthew Shears, Maura Gambassi, Megan Richards, Mike Chartier, Niels ten Oever, Pedro da Silva, Rinalia Rahim, Sabine Meyer, Seun Ojedeji, Sivasubramanian Muthusamy, Steve Crocker, Suzanne Woolf, Tatian Tropina, Tom Dale, Wolf-Urich Knoblen (37)

Legal Counsel: Edward McNicholas, Mike Clark, Nancy McGlamery, Rosemary Fei

Guests/Observers: John Poole, Jonathan Robinson, Manal Ismail, Maciej Tomaszewski, Mike Silber, Navid Heyrani

Staff: Alice Jansen, Bernie Turcotte, Brenda Brewer, Laena Rahim, Marika Konings, Nigel Hickson, Theresa Swinehart, Yuko Green

Apologies: Mark Carvell, Holly Gregory

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

Transcript

- [Transcript CCWG ACCT #76_12 January.doc](#)
- [Transcript CCWG ACCT #76_12 January.pdf](#)

Recording

- The Adobe Connect recording is available here: <https://icann.adobeconnect.com/p2qycaktv3/>
- The audio recording is available here: <http://audio.icann.org/gnso/gnso-ccwg-acct-12jan16-en.mp3>

Agenda

1. Welcome, Roll Call, Sol (5 min)
 2. Rec 4 - Board removal liability mitigation - Second reading (30 min)
 3. Rec 12 - WS2 - Second reading (30 min) -
see <http://mm.icann.org/pipermail/accountability-cross-community/2016-January/009303.html>
 4. Rec 7 Scope of IRP - First reading (30 min) -
see <http://mm.icann.org/pipermail/accountability-cross-community/2016-January/009486.html>
- **Break (10 min)***
5. Rec 6 - Human rights - First reading (30 min) - see <http://mm.icann.org/pipermail/accountability-cross-community/2016-January/009487.html>
 6. Rec 5 - Mission - Update on ad hoc meeting (30 min)
 7. Marrakech meeting (10 min)
 8. A.O.B (5 min)

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.

Steve Crocker - Barrack Otieno - Malcolm Hutty on audio only.

No updates to statement of interest.

Rec 4 Board removal liability mitigation - Second reading

Board input: Whatever will be used to justify to other SO/ACs, community members should be the rationale that will be documented in writing for the Board member to address. It will be tied to the SO/AC. Restrictions are put on ability to state rationale. In terms of pre-service letter, Board is comfortable with agreeing to comply with instructions from Empowered Community but uncomfortable with waiving rights for defamation and indemnification.

- Board members facing defamatory content should not be without legal relief. Feedback from lawyers was included. See paragraph 39. We will have waiver requested by commenters but also a corrective safety net for the Director in question in case SO/AC brings wrong accusations.

Feedback:

- "comprehensive" should not be included. Without indemnification and waiving rights, no point in having power.
- Written rationale offering reasons should be sufficient
- Replace "is invited" with "if requested, will be invited". If appropriate is incorrect.
- Remove "comprehensive". It creates possibility of challenge.

Conclusion: comprehensive will be removed.

Proposed conclusion: For claims that are within what is appropriate, it will be hard to reason why there should not be any waiver. Where the allegations cross border of defamation, waiver would not be valid: Board member could seek relief.

Board input: Not agreeing that this a waiver. We could consider legal advice on indemnification.

ACTION ITEM: Bruce to relay conclusion to Board.

Feedback:

- Officer of SO/ACs should be able to exercise power in good faith but can we create that indemnity?
- If only Chairs are indemnified, Empowered Community conversation won't happen
- There should be balance between Empowered Community and Board member if exposes to outrageous allegations.

Conclusion: Ask Lawyers to reach out to ICANN legal Team/Jones Day to ensure appropriate language is found and bring back feedback from legal team.

Rec 12 - Work Stream 2 - Second reading

Board input: Discussion focused on paragraph 5. Outstanding concerns: Board preference would be: "limited to". Topics are broad. New topics can be added in regular review cycles (e.g. ATRT). A clear scope and set of issues is needed. Board is also concerned about adding dates to the Bylaws (paragraph 3). We want clear set of issues that will be resourced. Suggestion: SO/ACs could spin off some of these suggestions. Refer to comment: *First, the Board agrees that a transitional bylaw can be used to define the Board's commitment on WS2 matters. Second, the effort anticipated in WS2 should be performed through cross community working groups chartered by multiple groups across ICANN, effort and not all work must be done by the existing CCWG-Accountability. Third, the Board agrees that it will treat consensus based recommendations on the limited list of WS2 topics (set out in the CCWG-Accountability's redline) just as it will consider the consensus-based WS1 recommendations from the CCWG-Accountability. Fourth, the Board does not support the inclusion of a timeline for the required completion of WS2 efforts in the transitional Bylaw. Finally, the Board supports that the costs of WS2 must be subject to the budgetary process for the year. If the budget is exhausted and additional resources are necessary, the chartering organizations must support a request for Board consideration on additional funding.*

Conclusion: We will take on "limited to".

- Feedback from Advisors indicates that diversity needs to be strengthened. We will need to clarify Ombudsman section (Avri and Becky). Adding a note that further items beyond those enumerated in WS2 could be accommodated through regular review cycle is a good suggestion.

Feedback:

- Unsure the ATRT scope is open to any issues the community would like to introduce. We may need to change Bylaw accompanying the ATRT.
- > We have accommodated possibility.

ACTION ITEM: Double check language for ATRT can accommodate.

- Add clarification that SO/ACs can spin off new issues

Conclusion: Second reading is complete. Changes outlined above are to be incorporated.

Rec 7 - Scope of IRP - First Reading

Refer to discussion points established for first reading.

1.a - 1.b Does the group consider inclusion of PTI actions/inactions as within scope?

Feedback:

- It does not seem controversial. Exclusion of protocol parameters - likewise - is not controversial and consistent with way numbers related issues have been handled. These two suggestions are clarifications.

- Do we have outcomes that go along with it? There should be results that can address this.

--> IOT can be in charge of developing those.

- PTI structure will be a Fundamental Bylaw. There should be IRP framework to make sure there is no breaching. This requirement is reasonable.

- Inconsistency: PTI is an affiliate of ICANN.

- Not convinced the result is a violation of Bylaws. PTI is a creature of Bylaws. in our proposal, we need to say possible outcome is a violation of Bylaws or in case of action/inaction, a remedial action.
- ICANN's responsibility is to ensure that PTI carries out what contracted to do. Applying something to subsidiary leaves uncertainty as to what would happen if there is separation and if a new body starts new role. Wording seems specific to PTI. We cannot guarantee it will be with us forever.
- Should we not just extend standard of review to include PTI bylaws / rules ?
- If exclusion, who will develop any required appeal mechanism?
- > Mechanisms in place but clarification is needed in our report.

Conclusion: Amend 1.a and 1.b to reflect comments voiced on call.

1.c

Feedback:

- If we take out notion that IRP would have responsibility for reconciling conflicting decisions among expert panels, we would return check with respect to panels.
- We need to design a process with respect to experts panel's decisions. Setting up scope is where appeal could be.
- IRP is not there to challenge opinion of experts but should be able to challenge decisions of experts as conflicting with Bylaws". It is possible that decision is fundamentally different. It should be within scope of IRP.
- Technically, the challenge would be ICANN Board's failure to ensure consistency with Bylaws.
- If the experts were self interested, it would be overturned by the reconsideration process as it would not be operating consistent with the rules of the process. The IRP in that case would be to challenge the Board's decision on that point.

Conclusion: Refinement is needed based on comments raised during the call.

1.d

- Board concern: having IRP related to DIDP would be engaging it in operational decisions. DIDP should be a reconciliatory process.

Feedback:

- Is an appeals process available to all? Is the nature of DIDP limited to following Bylaws or can it go to substance? DIDP process should be independent.
- > Yes, available to all. Board comments call for appeal to be limited to violation of Bylaws. It is a narrower standard to what was initially proposed i.e. an independent judiciary function.
- Labeling something operational should not exclude it from IRP. IRP may itself require access to documents. IRP panels should help have oversight of process.
- Important to have independent process in current draft instead of Work Stream 2.

Board comment: DIDP in Work Stream 2 should consider if there is a more robust path. Ombudsman could apply broad tests that are in DIDP process and could be first point before reconsideration process. Board is not closing option of independent judiciary. We support that there is an independent party but we should not confuse purpose of IRP. DIDP to be examined in Work Stream 2.

Conclusion: WS2 should explore ways to enhance the DIDP to provide an appeals mechanism if not an IRP.

2.

Set of suggestions received. Feedback on how IOT should be handling these.

Feedback:

- There should be ongoing capability for keeping adequacy of IRP process under review in light of experience and with support of standing panel. This should be discussed in IOT.

Conclusion: Suggestions to be passed on to IOT. IOT to examine comments and to provide a way forward to incorporate suggestions, as appropriate.

Rec 6 – Human Rights – First reading

Refer to discussion items.

- We have certified request to lawyers to get assessment of whether inclusion of Bylaw would increase risk of ICANN be exposed to claim and as such, how can risk be mitigated. Feedback is expected for second reading.

1. - 2.

Any objections with aligning approach that we should avoid hard deadlines?

Feedback:

- ALAC suggestion is OK.

- ICANN Board mentioned that reference should be postponed until framework developed. Can we agree to refer to Human Rights in high level fashion or is the Board recommending no mention of Human Rights at all.

- Is Board concerned about timing or wording?

Conclusion: Approach is reasonable until we have further discussion in item 2.

Board concern: Board does not want Bylaw provision without explanation of how it relates to ICANN. We should first do interpretation work and then incorporate it as Bylaw. Option to have Bylaw activated once Framework of Interpretation is determined.

Feedback:

- There are different views: In order to mitigate perception, comments should be addressed in detail. Deferring to Work Stream 2 would meet Board concerns. Bylaw to come into force after framework is elaborated would be safe.

- Unable to find legal justification for the concern in Board comment. Article 19 legal counsel: in a lot of companies, there is no avalanche of law suits and extra vulnerability. This is confirmed by CCWG lawyers. Board should come up with legal analysis of where these concerns come from. Option 2A where add GPI to mix is unclear. Differ should be defer.

--> It would be helpful to receive the legal input the Board received.

- We should receive input from GAC. How is C an alternative to A and B?

- 2A would mean solving GPI first. 2C should reformulated: clarify what will be addressed in what Work Stream.

- Board comment is not isolated. 2B is best option. Consensus was to make high level recommendation in WS 1 and go deeper in WS2.

- What we currently have is a high level commitment in WS1 and framework in WS2. Unsure whether CCWG should define GPI. Board should come up with discussion. We should not conflate issues.

Board input: Of three options: B is preferred option. C is viable option. Rather than having IRP create a binding case law, we think the community should define it. Once it is defined, IRP can use it as its criteria to make determinations. What will be applicable laws is another question that comes into equation.

Feedback:

- Applicable law is intentionally put as it is.

- Agree that Framework of Interpretation should inform Bylaw. Most of Board comments are already addressed in Bylaw text. There is a misunderstanding about role of corporations and governments in enforcing human rights.

Conclusion: We will use input from lawyers and any material from Board to inform second reading next week. Modifications proposed will be included.

Rec 5 – Mission – Ad hoc meeting report

- Consumer Trust issue was specifically discussed. AOC has a reference in paragraph 3 and obligates ICANN to conduct reviews in context of gTLD expansion. We transposed consumer trust language into Core Value. We took that out on grounds that being challenged, that consumer trust language was specific to new gTLD expansion and should not add a new substantive provision, scope of responsibility to Article 1. ALAC, USCIB and others have continued to challenge that determination and note that Bylaws speak to competition, not Consumer Trust issues. We did not reach solution. There still are convictions that Article 1 should refer role with respect to Consumer Trust. Other feel we should not add a new substantive obligation with respect to Consumer Trust without understanding consequences. While we transposed AOC and did not add new concept, we will continue to report back.

Feedback:

- Are we also considering comments on coordination/facilitation?

--> IAB language was incorporated.

Marrakech meeting

Travel support from ICANN will reach out to Members for 4 March meeting where we will be discussing Work Stream 2 scoping as well as implementation for Work Stream 1. We will have same policy as for other meetings. We will be working on agendas. We are envisioning an outreach session on Monday and a closing session on Thursday. There will be SO/AC sessions depending on agendas. ICANN has been very receptive to CCWG requests.

Feedback:

- Be mindful of GAC session on Monday.

---> Participation from all members is not a requirement for outreach session but we will do our best not to clash it with other sessions.

- Timing of sessions needed.

---> We are working on this.

A.O.B

Feedback:

- Can we have a revised timeline and what is the timeline we are working with?

---> We cannot provide you with a revised timeline at this point. We need to have feedback first. We will re-evaluate timeline as soon as we have specific input.

- ICG is having a meeting tomorrow. There is no clear timeline and hope it will have no impact on ICG schedule. Can you confirm?

---> Not in a position to assure that it will have no impact. It is our intention that it will not.

Action Item

- **ACTION ITEM: Bruce to relay conclusion to Board.**
- **ACTION ITEM: Double check language for ATRT can accommodate.**

Documents

- [Recommendation 6 - Human Rights.pdf](#)
- [Recommendation 7 - Scope of IRP.pdf](#)
- [Rec 4-Liability mitigation-1st reading conclusions_updated.pdf](#)
- [Formatted-Annex 12-PROOFED-1stREAD.pdf](#)
- [Deck Meeting #75 Mission Statement Discussion.pdf](#)

Adobe Chat

Brenda Brewer: (1/11/2016 16:36) Welcome to CCWG Accountability Meeting #76 on Tuesday, 12 January @ 06:00 UTC! 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>

Kavouss Arasteh: (23:36) HI BRENDA

Kavouss Arasteh: (23:36) hi Robin & Tijani

Tijani BEN JEMAA: (23:44) Hi Kavouss and all

Robin Gross [GNSO - NCSG]: (23:45) Hello from San Francisco, Kavouss and all!

Kavouss Arasteh: (23:50) HI Martin

Kavouss Arasteh: (23:50) Happy New ear

Martin Boyle, Nominet: (23:50) Morning all

Kavouss Arasteh: (23:50) Have not heard from you for sometime

Martin Boyle, Nominet: (23:50) Morning Kavouss - and a happy New Year to you, too

Martin Boyle, Nominet: (23:52) No: on a break! Family holiday period, then retired from Nominet and then returned to Nominet as a consultant

Martin Boyle, Nominet: (23:52) But just for the IANA transition & related work

Kavouss Arasteh: (23:52) Good that you got back

Martin Boyle, Nominet: (23:54) well mainly a man of leisure now - hence the long holiday break

Martin Boyle, Nominet: (23:54) did you get a bit if a break?

Martin Boyle, Nominet: (23:54) and are you fully recovered now?

Kavouss Arasteh: (23:55) Not exactly,

Jordan Carter (ccNSO, WP1 rptr): (23:55) hi all

Mathieu Weill, ccNSO, co-chair: (23:56) Hi all

Kavouss Arasteh: (23:56) Column Vebetral is a sensitive part of body and it take time for full recover. But I did work very hard for CCWG EVEN DURING MY HOSPITALISATION

Martin Boyle, Nominet: (23:57) yes, i saw

Martin Boyle, Nominet: (23:57) are you reasonably able to move around now?

Niels ten Oever: (23:57) Hi all

Pär Brumark (GAC Niue): (23:58) Hi all!

Kavouss Arasteh: (23:58) BONJOUR mATHIEU

Mathieu Weill, ccNSO, co-chair: (23:58) Bonjour Kavouss

Kavouss Arasteh: (23:58) cOMMENT VAS-TU?

Bernard Turcotte Staff Support: (23:58) good day all

nigel hickson: (23:58) good morning from a dark Budapest

Kavouss Arasteh: (23:59) Cop-Chairs and Staff

Kavouss Arasteh: (23:59) THANK YOU FOR ALL WELL PREPARED MEETING AND GOOD ORGANISATION OF THE WORK

Bernard Turcotte Staff Support: (23:59) Usual reminder to mute if not speaking please

Thomas Rickert, CCWG Co-Chair: (23:59) Hi all!

Mathieu Weill, ccNSO, co-chair: (23:59) Much appreciated Kavouss, thank you !

Athina Fragkouli (ASO): (1/12/2016 00:00) hello all!

Tatiana Tropina: (00:00) Hello everyone!

Greg Shatan: (00:01) Good night from New York.

Jordan Carter (ccNSO, WP1 rptr): (00:01) 1076th call, I think you must mean

Sabine Meyer: (00:02) Hello everyone!

Brenda Brewer: (00:02) Barrack Otieno on audio only and muted.

Keith Drazek: (00:02) The CCWG finally passed the CWG in number of calls...76 to 74. Condolences to colleagues who have participated in BOTH.

Maura Gambassi- IT: (00:02) hi! good morning from Rome

Avri Doria: (00:03) Keith, it is becoming a way of life one becomes used to.

Keith Drazek: (00:03) Ain't that the truth....

Cheryl Langdon-Orr (CLO) ALAC - APRegional Member: (00:04) YUP

Greg Shatan: (00:06) @Keith, condolences accepted....

Rosemary Fei (Adler & Colvin): (00:07) I'm now in the Adobe room. Hello, everyone!

Mathieu Weill, ccNSO, co-chair: (00:08) Congrats Rosemary !

Greg Shatan: (00:09) Bruce, that does not strike me as particularly "fulsome," thankfully.

Alan Greenberg: (00:09) Thanks Bruce. That is both helpful and reasonable. Presumably the ugly word "fulsome" will not show up in the Bylaws! ;-)

Kavouss Arasteh: (00:10) Thomas, at the second reading, once you make a summary , pls ask the Board representatives whether they have further comments to make and whether are are haappy with the outcome

Alan Greenberg: (00:11) I thnk that he said they were incomfortable with waiving rights AND indemnifying.

Alan Greenberg: (00:11) Uncomfortable

Kavouss Arasteh: (00:12) We need to address all Board's concerns to the extent possible and as far as the time constrain permits

Avri Doria: (00:13) i deciding that a Board member is not clever enough to understand what is going on acceptable cause?

Avri Doria: (00:13) is deciding ...

Jordan Carter (ccNSO, WP1 rptr): (00:14) since someone here will know - why aren't there term limits on the four liaison (de-facto members of) the ICANN Board?

Avri Doria: (00:14) becasue none were ever defined?

Asha Hemrajani: (00:14) Greetings all...Finally managed to get into Adobe

Jordan Carter (ccNSO, WP1 rptr): (00:15) hi Asha!

Asha Hemrajani: (00:15) Hello Jordan

Mathieu Weill, ccNSO, co-chair: (00:15) Welcome Asha !

Asha Hemrajani: (00:15) Bonjour Mathieu

Bruce Tonkin: (00:15) We did discuss on our call today if there was a way for ICANN to provide some form of indemnification. The legal advice we received was that would be hard to do. Any new text I can certainly take back on that specific point.

Asha Hemrajani: (00:16) ca va Mathieu?

Kavouss Arasteh: (00:16) Thomas, Pls ask whether Board has any further comments

Avri Doria: (00:16) I expect that the non-voting Board members would be immune from these considerations.

Kavouss Arasteh: (00:16) Avri+1

Alan Greenberg: (00:16) @Jordan, also note that the terms of Liaisons are not the same as for Board members.

Jordan Carter (ccNSO, WP1 rptr): (00:17) yes, i am just interested in the principle behind the difference

Avri Doria: (00:17) The non voting seats are permanent seats at the discretion of the appointing organization.

Greg Shatan: (00:18) Why does the rationale need to be "comprehensive"?

Greg Shatan: (00:18) +1 Alan

Kavouss Arasteh: (00:19) THOMAS , In the last part added pls replace " is2 by "will"

Kavouss Arasteh: (00:19) Will

Jordan Carter (ccNSO, WP1 rptr): (00:19) Avri: like Permanent Security Council members? ;-)

Greg Shatan: (00:19) @Avri, so I guess those organizations already have the discretion to change their liaison.

Bruce Tonkin: (00:19) The issue of potential liability to community members for action taken during the Board removal process raises some concerns for Board members, particularly around the suggested mitigation of using pre-service letters to obtain waivers from Board members that they will not sue community members for conduct in the Board removal process. The Board does not support the use of a waiver clause in pre-service letters (or the full indemnification clause), making service on the Board subject to waiving any manner of conduct from a large group of potential actors. That does not seem to enhance accountability. The Board notes the CCWG-Accountability's insertion of a requirement to subject both NomCom and AC/SO appointed directors to the same process (including conversations with the Board Chair), as well as highlighting the need for consideration of independence in selecting replacement directors. Additionally, the Board notes the CCWG-Accountability insertion of a requirement for a written rationale to accompa

Jordan Carter (ccNSO, WP1 rptr): (00:20) I would have thought that comprehensive just means - identify the actual reasons, don't leave out the main one/s.

Greg Shatan: (00:20) My concern is that a lack of "comprehensiveness" could be used to challenge the validity of a rationale. If we don't need it, why have it.

Kavouss Arasteh: (00:20) Why , if appropriate ? who decides if it is appropriate, may be we replace by if requested by the Board in question

Avri Doria: (00:20) Jordan, no, the security council member seat are voting, infact vetoing, seats.

Jordan Carter (ccNSO, WP1 rptr): (00:20) Avri: true

Bruce Tonkin: (00:21) The have sent the text above as a Board position on the email mailing list

Greg Shatan: (00:21) @Jordan, if some SO/AC left out the main reasons, do you think they would be convincing to the other SO/ACs?

Andrew Sullivan: (00:22) It would be good to be clear about whether "non-voting board members" (i.e. liaisons) are indeed included

Jordan Carter (ccNSO, WP1 rptr): (00:22) Greg, it's hardly likely "writtenness" would be material to that, I don't think.

Greg Shatan: (00:22) And if they were able to convince the SO/ACs without their main reasons expressed, isn't that good enough?

Jordan Carter (ccNSO, WP1 rptr): (00:22) Non-voting board members clearly aren't subject to the recall process, is your question Andrew about whether they need to sign such letters?

Andrew Sullivan: (00:22) yes

Bruce Tonkin: (00:22) I don't have a particular concern about whether it is "comprehensive". I would assume that it would need to be at enough level of detail of the SO or AC to reach agreement that it is a sufficient reason to remove the Board director.

Bruce Tonkin: (00:23) Otherwise I fail to see how the SO or AC member could be doing their job if they are asked to vote on something without a valid reason.

Jordan Carter (ccNSO, WP1 rptr): (00:23) Andrew: I think it only applies to those who are nominated as Directors as per para 39

Greg Shatan: (00:24) I have no problem with the "written" requirement.

Matthew Shears: (00:24) + 1 Greg

Kavouss Arasteh: (00:24) Thomas, Pls ask whether Board has any further comments

Steve DelBianco [GNSO - CSG]: (00:24) +1 Greg

Andrew Sullivan: (00:24) (It's worth noting that appointing organizations of liaisons can't actually remove them at any time -- they'd have to ask the rest of the board to do it outside the annual appointment time)

Greg Shatan: (00:24) Comprehensive is not really a compromise, it's just less prone to misunderstanding....

Greg Shatan: (00:24) than "fulsome".

Greg Shatan: (00:25) Thanks!

Bruce Tonkin: (00:25) Agreed @Greg. Ultimately it would end up being written in one form or other - as the COuncils and ACs call are often transcribed and there are minutes of meetings etc that are published.

Jordan Carter (ccNSO, WP1 rptr): (00:25) Just saying "written" makes sense to me

Greg Shatan: (00:25) @Jordan, agree.

Alan Greenberg: (00:25) @Jordan, the term "Member" refers only to those appointed by AC/SO/NomCom and the CEO. Liaisons are not members.

Jordan Carter (ccNSO, WP1 rptr): (00:26) Alan: yes. My timing wasn't helpful as it didn't really relate to what we are discussing.

Greg Shatan: (00:26) Again, no problem with written. That is appropriate for transparency, communication and record-keeping concerns. We are no longer gathering under the old pear tree to do ICANN business, like in the old days.

Avri Doria: (00:26) if one looks at dictionaries, fulsome is indeed the wrong word: unpleasantly and excessively suave or ingratiating in manner or speech. Comprehensive does not mean complete, it means including many components.

Rosemary Fei (Adler & Colvin): (00:26) Should there be a "no" at the beginning of this sentence in the notes? "Restrictions are put on ability to state rationale."!

Alan Greenberg: (00:26) We are asking for a spirited public discussion of the potential removal.

Mathieu Weill, ccNSO, co-chair: (00:27) Agree Rosemary

Steve Crocker: (00:27) @Jordan, you asked why aren't there term limits on the liaisons? At the time the current bylaws were formulated in 2002 and the liaisons were added to the Board, it was expected they would be less active in the Board than they have turned out to be. They do not have voting rights, and it was imagined they be silent unless spoken to. In practice, the liaisons are treated as nearly similar to voting Board members, as you have noted. The formal rule is they are appointed annually by the GAC, RSSAC, SSAC and IETF. In practice, these appointments have been renewed for several years. SSAC has adopted an internal rule of choosing its liaison for three year periods, with the possibility of renewal. That means they make a formal decision internally once every three years and then inform the corporate secretary annually of their (automatic) renewal. I believe they will tend to limit the number of three year terms their liaison will have, but we do not yet have the first example.

Keith Drazek: (00:27) @Thomas: Yes.

Izumi Okutani (ASO): (00:27) I agree with Thomas' summary

Izumi Okutani (ASO): (00:27) I think it's a good balance and a reasonable way forward

Jordan Carter (ccNSO, WP1 rptr): (00:28) Steve, thanks, that's very kind of you to share - makes lots of sense.

Greg Shatan: (00:28) IMy hand has now evaporated.

Steve Crocker: (00:29) @Jordan, in practice, the continuity and experience of the liaisons has worked out well in practice. In principle, it would be possible for one of the ACs to insert a troublesome person onto the Board and have that person remain indefinitely. If that happened, I expect there would be some informal interactions in response.

Jordan Carter (ccNSO, WP1 rptr): (00:29) I don't see why Kavouss's process step is required - any more than it should be asked of other COs?

Jordan Carter (ccNSO, WP1 rptr): (00:30) Steve - "informal interactions" - love it. :) Thanks for the background

Alan Greenberg: (00:30) Leaving the community members unprotected is problematic as well.

Greg Shatan: (00:31) What is the reason for the Board's opposing the waiver?

Jordan Carter (ccNSO, WP1 rptr): (00:31) I think the protection of ICANN Participants is best achieved by the last part of that para

Jordan Carter (ccNSO, WP1 rptr): (00:32) asking Board members to waive their rights seems.... troublesome, at best.

Kavouss Arasteh: (00:33) This is a sensitive issue and must be properly addressed

Greg Shatan: (00:33) It is only the right to sue the SO/ACs or their members for being removed, or statements in that process. It's not a broad waiver.

Bruce Tonkin: (00:33) It is also unlikely to happen that ICANN the organization would indemnify thousands of people from saying whatever they like.

Avri Doria: (00:34) Aren't they public person who are subject to the slings and arrows of outrage?

Alan Greenberg: (00:34) @Bruce. I understand, which is why the waiver was attractive.

Bruce Tonkin: (00:34) What I do understand is that our insurance does provide some coverage with respect to involvement in policy development.

Bruce Tonkin: (00:34) by members of the SOs and ACs.

Alan Greenberg: (00:34) A removed director who might claim loss of future income because they have not become tainted is a very real possibility.

Kavouss Arasteh: (00:35) Whenever, we refer to chair of AC7So we need to add the following, " in consultation with and agreement of the corresponding AC7 SO2 as we should not delegate the rights and authority of any SO 7 Ac to its chair

Jordan Carter (ccNSO, WP1 rptr): (00:35) that must be unsupportable as a claim for a removed governor, surely, Alan.

Avri Doria: (00:35) Alan, why would that be the case more for a director than for any other public person?

Bruce Tonkin: (00:36) Yes - my comments were not about just the chair - I was assuming all Council members of an SO and members of an AC that actually take part in a decision process to remove a director - ie vote in the process.

Alan Greenberg: (00:36) I would not think an ICANN director is viewed as a public persona as someone in national politics (or whatever) would be.

Jordan Carter (ccNSO, WP1 rptr): (00:36) People should face the consequences of their actions - so what we need to get to in that last item is a reasonable freedom for people to say what they think in any removal proceedings, but not protection for outrageous or scurrilous attacks.

Steve Crocker: (00:36) Re "liaison" vs "non-voting director", I had been in favor of using the latter term in order to recognize the fact that these people have tended to perform pretty much as regular directors. (The main exception has been the GAC liaison. The GAC has made it a practice to appoint their chair as the liaison to the Board, and the GAC chair is often unable to attend all of the Board meetings and to serve on Board committees.) I have recently been informed by our general counsel that the term "non-voting director" might pose a difficulty within the interpretation of California law. I don't immediately recall the details, but it has caused me to stop using the term "non-voting director." We can recover the details if there's interest.

Greg Shatan: (00:36) Bruce, we are not discussing "thousands" of people, saying "whatever they like." We are only talking about SO/ACs and their members providing rationales for removing Board members.

Kavouss Arasteh: (00:37) Thank you Mathieu in raising that point to Board

Avri Doria: (00:38) Steve, but if they function as non-voting directors, including hold committee posts, shouldn't we call it like it is?

Sabine Meyer: (00:38) Not if a "director" in the legal sense is voting by definition, I would assume.

Jordan Carter (ccNSO, WP1 rptr): (00:38) I would have thought that liaisons shouldn't perform as if they were directors, but anyhow

Avri Doria: (00:39) but except for voting, they do.

Alan Greenberg: (00:39) Voting and being able to make and second motions

Rosemary Fei (Adler & Colvin): (00:39) The CA nonprofit corporate law specifies that people who do not vote are not within the term director as used in the law.

Sabine Meyer: (00:40) Thank you, Rosemary!

Kavouss Arasteh: (00:40) Mathieu, thank you again to be so clear with the Board's concerns raised before

Keith Drazek: (00:41) I support a defined list of WS-2 issues, rather than open-ended.

Bruce Tonkin: (00:41) Our preference is that the last sentence of paragraph 5 should state:

Bruce Tonkin: (00:41) The bylaw would task the group with creating further enhancement to ICANN's accountability be limited to the work stream 2 list of issues

Avri Doria: (00:42) Keith, makes sense to me as well.

Jordan Carter (ccNSO, WP1 rptr): (00:42) No issues with me in "limited to" - we aren't trying to create a new Neverending Story

Matthew Shears: (00:42) Perhaps it would be useful to add a note that further items beyond those enumerated in WS2 could be accommodated through regular review cycles

Sébastien (ALAC): (00:43) Are we sure that the community can raise any issue within ATRT?

Alan Greenberg: (00:43) @Sebastien, I believe that we have inserted a change to the ATRT to allow that.

Avri Doria: (00:44) I believe any accountability issues can be discussed. Not any issue, but any accountability issue.

Brett Schaefer: (00:44) Does this mean that the Board is satisfied with HR language in Rec 12?

Avri Doria: (00:44) we also cannot predict all possible future accountability issues.

Jordan Carter (ccNSO, WP1 rptr): (00:44) we have changed the ATRTs

Bruce Tonkin: (00:45) Board comment:

Bruce Tonkin: (00:45) First, the Board agrees that a transitional bylaw can be used to define the Board's commitment on WS2 matters. Second, the effort anticipated in WS2 should be performed through cross community working groups chartered by multiple groups across ICANN, effort and not all work must be done by the existing CCWG-Accountability. Third, the Board agrees that it will treat consensus based recommendations on the limited list of WS2 topics (set out in the CCWG-Accountability's redline) just as it will consider the consensus-based WS1 recommendations from the CCWG-Accountability. Fourth, the Board does not support the inclusion of a timeline for the required completion of WS2 efforts in the transitional Bylaw. Finally, the Board supports that the costs of WS2 must be subject to the budgetary process for the year. If the budget is exhausted and additional resources are necessary, the chartering organizations must support a request for Board consideration on additional funding.

Avri Doria: (00:45) WS2 was always supposed to be bounded.

Keith Drazek: (00:46) Agreed Avri.

Becky Burr: (00:46) we may need to add "consumer trust" to WS2

Jordan Carter (ccNSO, WP1 rptr): (00:46) I guess we don't want to cut off reasonably related and secondary matters related to the primary list

Jordan Carter (ccNSO, WP1 rptr): (00:46) but I trust we can all be sensibly flexible on it

Becky Burr: (00:46) generalized consumer trust as opposed to consumer trust in expansion of TLD space

Matthew Shears: (00:46) + 1 Jordan

Keith Drazek: (00:47) +1 Jordan and Becky

Athina Fragkouli (ASO): (00:47) support this approach and the way forward

Cheryl Langdon-Orr (CLO) ALAC - APRegional Member: (00:47) excellent progress...THANKS ALL

Bruce Tonkin: (00:47) An SO and AC can spin off a new CCWG at any time.

Bruce Tonkin: (00:48) Ultimately I think we need to formalize the cross-community working group concept in that same way we have formalized working groups within SOs.

Avri Doria: (00:48) Bruce, they may well do so, but what authority to recommend would it have?

Jordan Carter (ccNSO, WP1 rptr): (00:49) Bruce: there's a whole CCWG about CCWGs

Alan Greenberg: (00:49) @Sebastien, the AoC gave a prescriptive list of the things the ATRT had to review. The draft Bylaw says that these are issues that "may merit attention".

Avri Doria: (00:50) Jordan, isn't the CCWG about the modlaieites and methods, not the authority of such groups.

Avri Doria: (00:50) i mean the CCWG CCWG

Mathieu Weill, ccNSO, co-chair: (00:50) Isn't it the CWG CCWG ?

Bruce Tonkin: (00:51) Avri - currently I think the authority is from the chartering organizations. ie Ultimately the chartering organization can take the output of work like the joint application support working group and recommend it to the Board etc. Ultimately it is these details which I think need to be formalized. ie If a cross-community working group consists of a minimum of a certain number of SO and Cs makes recommendations then those recommendations should be treated by the Board using similar mechanisms as for recommendations from SOs and Acs.

Jordan Carter (ccNSO, WP1 rptr): (00:51) Avri: I haven't followed it closely enough

Avri Doria: (00:51) Bruce, wouldn't that require new bylaws work to make it so?

Bruce Tonkin: (00:52) @Jordan - yes exactly - I am suggesting that works needs to be picked up again. I am not aware there is any active work in the CCWG for CCWZG's :-) I am not even sure how many SOs and ACs are participating in that work - I do know that the GNSO is a participant.

Bruce Tonkin: (00:53) Agreed @Avri - it would result in new bylaws - which would have to go through the wonderful new processes being developed by this CCWG :-)

Becky Burr: (00:54) no, but we can charge the IRP Oversight group with developing those

Becky Burr: (00:55) consistent with CWG recommendation and fundamental bylaws per Jordan

Mathieu Weill, ccNSO, co-chair: (00:56) Should be not just extend standard of review to include PTI bylaws / rules ?

Becky Burr: (00:56) that would also work I think Mathieu

Becky Burr: (00:57) And ICANN Board's failure to ensure that would be actionable, right?

Alan Greenberg: (00:57) As per Martin, the issue could be a contract violation and not Bylaw related.

Mathieu Weill, ccNSO, co-chair: (00:57) I am afraid of changing the type of "outcomes"

Kavouss Arasteh: (00:58) Martin+1

Martin Boyle, Nominet: (00:58) @Alan: I see it as a bylaw

Martin Boyle, Nominet: (00:59) but not one related to PTI but of ICANN's responsibility to enforce its contract

Mathieu Weill, ccNSO, co-chair: (00:59) @Martin: CWG requirement is also to provide last resort appeal to PTI decisions

Izumi Okutani (ASO): (01:00) Just to confirm my understanding, PTI action and inaction is focused on names functions, excluding any matters on protocols and numbers. If so I'm fine with the suggested way forward

Alan Greenberg: (01:00) No objection. You will recall that the ALAC was originally concerned that the IRP could recommend remedial action instead of just identify a Bylaw problem. If the Implementation team can unilaterally add new outcomes, then our original concern becomes very real.

Mathieu Weill, ccNSO, co-chair: (01:01) Good point Izumi. Noted.

Izumi Okutani (ASO): (01:01) Thanks Mathieu!

Jordan Carter (ccNSO, WP1 rptr): (01:02) at this rate, we can finish this call early!

Becky Burr: (01:04) like the ASO, where disputes are resolved in accordance with MOU

Andrew Sullivan: (01:04) The IETF already has an appeals mechanism

Andrew Sullivan: (01:05) That's the reason the IAB made the comment it did

Andrew Sullivan: (01:05) (It's more a "reconsideration" than "appeals", but that's a detail)

Kavouss Arasteh: (01:05) Then pls refer to those existing appeal mechanisms

Izumi Okutani (ASO): (01:06) Leon's summary is correct. this is covered through the SLA - as already shared in our feedback

Mathieu Weill, ccNSO, co-chair: (01:07) We will do that Kavouss

Becky Burr: (01:07) @Bruce - need to do that at a minimum!

Becky Burr: (01:08) or give Board (in PDP) authority to reconcile inconsistent decisions

Athina Fragkouli (ASO): (01:08) ust a clarification on numbering issues: disputes on the IANA numbering function are covered in the SLA and disputes on the numbers policy process are covered in the MoU

Becky Burr: (01:09) Yes Malcolm - although I think technically, the challenge would be ICANN Board's failure to ensure consistency with Bylaws

Becky Burr: (01:09) +1 Malcolm, believe that's the case

Bruce Tonkin: (01:09) @Malcolm - fair enough - but if the experts were self interested - I tink it would be overturned by the reconsideration process as it would not be operating consistent with the rules of the process. So I guess the IRP in that case would be to challenge the Board's decision on that point.

Becky Burr: (01:10) I think we are saying the same thing Bruce

Bruce Tonkin: (01:10) Yes agreed @Becky

Becky Burr: (01:11) I think this just needs clarification in the text

Brett Schaefer: (01:11) going to discuss d?

Becky Burr: (01:12) DIDP clearly subject to reconsideration, but that is just Board checking itself

Becky Burr: (01:13) so the question is, is that enough?

Kavouss Arasteh: (01:13) Is there any difficulties to accept the Board's suggestions?

Bruce Tonkin: (01:14) I think the DIDP itself needs an appeals process where an independent party (e.g Ombudsman) can review the decision.

Becky Burr: (01:14) Any DIDP failure that rises to the level of a Bylaws violation would clearly be covered by IRP. Question is whether there is more

Rosemary Fei (Adler & Colvin): (01:14) Does this sentence in the notes, " IRP is not there to challenge opinion of experts but should be able to challenge decisions of experts." needs "as conflicting with Bylaws" added at the end?

Becky Burr: (01:14) yes Rosemary

Becky Burr: (01:14) good catch

Mathieu Weill, ccNSO, co-chair: (01:14) Good point Rosemary

David McAuley (RySG): (01:15) Some form of discovery will likely relate to IRP process subject to details to be worked out by IRP subgroup – the IRP panel would handle issues around that wouldn't it?

Becky Burr: (01:16) Although in most governance schemes, there is some sort of truly independent (i.e., judicial) appeal

Becky Burr: (01:17) @ David - yes

Avri Doria: (01:17) Bruce: Are you saying that a DIDP redaction can be currently subjected to reconsideration?

Bruce Tonkin: (01:17) The Board's comments in our submission in Dec was that appeals processes for the DIDP should be part of the improvement

Bruce Tonkin: (01:18) in work stream 2. For example we suggest that the Ombudsman could be an independent party that could review a staff decision on a DIDP.

Steve DeBianco [GNSO - CSG]: (01:20) regarding this IRP document, paragraphs 13-14. For a Community IRP, it says ICANN pays costs for standing panel. But we also want ICANN to pay legal fees of the sole Designator Community too, right?

Mathieu Weill, ccNSO, co-chair: (01:21) Correct Steve. This is described in REc 4 - Community IRP power. We should update to avoid confusion. I note the point

Steve DelBianco [GNSO - CSG]: (01:22) Thanks, Mathieu

Avri Doria: (01:22) what needs to be a bylaws issues: the fact of the DIDP predaction or the issue that one is trying to uncover.

Avri Doria: (01:23) to only be able to appeal a DIDP on a bylaws basis seems odd.

Brett Schaefer: (01:23) agree Avri

Becky Burr: (01:23) Ah - agree Bruce. But why couldn't we use the panel to provide the independent judicial review

Becky Burr: (01:23) why create a new panel?

Avri Doria: (01:24) As fr as I know, we have no bylaws related to redaction.

Bruce Tonkin: (01:24) @Becky -= it is jsut that we have an IRP panel for bylaws and articialres of incorporation.

Edward McNicholas (Sidley Austin LLP): (01:25) Perhaps it may be useful to focus on the standard used by the IRP to consider whether a DIDP is proper; not whether it is "substantive" or "procedural" per se

Kavouss Arasteh: (01:26) Leon,

Bruce Tonkin: (01:26) Why not just require that the IDIP have an appeals process where there is an indepdent rreview as part of that process. We were thinking the ombudsman was independent but you could identify another group with expertise in that area .

Avri Doria: (01:26) i am concerned about the prior restraints we are trying to put on the IRP. creating yet another IRPlike mechanism for operational appelas seems problematic. Isn't this similar to the issue of IRP and PTI, in that PTI issues are not likely to be bylaws issues.

Kavouss Arasteh: (01:26) We have passed the time that you should have announce the Break

Kavouss Arasteh: (01:26) Break

Bruce Tonkin: (01:27) ICNAN has a defined set of resaons for non-disclosure at:

Jordan Carter: (01:27) The break is at half past

Bruce Tonkin: (01:27) <https://www.icann.org/resources/pages/didp-2012-02-25-en>

Brett Schaefer: (01:27) @Bruce, that sounds workable, I just didn't want it to slip through unaddressed

Kavouss Arasteh: (01:27) No

Avri Doria: (01:27) yes, i know but that list is not bylaws.

Jordan Carter: (01:27) actually 8.35

Bruce Tonkin: (01:27) I thin it woudl be within the campability of the ombudsmand to verify is the reasons was appropriate by reiewing the source document.

Kavouss Arasteh: (01:27) It is at 20 past hour exactly in the middle

Becky Burr: (01:28) the ombudsman is not independent Bruce, unless we dramatically alter the charter. Also, the Ombuds function isn't by definition decisional, unless I am mistaken

Jordan Carter: (01:28) 20 past the hour for 10 mins is not half way through a three hour call...

Brett Schaefer: (01:28) Those DIDP reasons are to be reviewed in WS2, but appeal was to be WS1

Bruce Tonkin: (01:29) Exactly Avri - but if we try to incorporate every process in our bylaws they will jsut be unworkable.

Bruce Tonkin: (01:29) WE have lots of proceses - regidtrar accriedtaion, new gtd process, DIDP, etc - each of these processes shoudl have apprapraite appeals mechasnims.

Becky Burr: (01:29) correct Malcolm

Kavouss Arasteh: (01:29) Jordan, $180-20=160$ divided by $2 = 80$,It means 80 mints = 20 mints past the hour

Bruce Tonkin: (01:30) At a reconsideration level we do confirm whether a process was followed - but in many cases people want an issue re-examined by a relevant expert.

Jordan Carter: (01:30) i'm just going by the times noted in the agenda, Kavouss :-)

Becky Burr: (01:30) but I am not sure that it makes any sense to create an additional independent process for DIDP. I don't think I actually understand Board's concern

Mike Silber: (01:31) has anyone noticed the possibility of conflict of interest, where the standing panel gets to review the IRP process?

Bruce Tonkin: (01:31) @Becky an IRP panel for a DIDP deicision sounds like massive over-kill to me. They are usually expenswes processes with legal counsel on both sides etc.

Niels ten Oever: (01:31) Am I the only one who is experiencing audio issues with Adobe today?

Bruce Tonkin: (01:31) An lighter weight Ombudsman process I think would be more fit for purpose.

Mike Silber: (01:32) no Niels, it seems we all are

David McAuley (RySG): (01:32) no issue here Niels

Becky Burr: (01:32) why is review of Board action on a DIDP a review of the IRP process Mike? Also, courts manage discovery all the time

Bruce Tonkin: (01:32) We are just trying to keep the IRP focussed on bylaws and article of incorporation - which should rarely need to be invoked.

Kavouss Arasteh: (01:32) No 17 mints behind the time , see my comments

Bruce Tonkin: (01:32) I can imagine though that a DIDP appeal will probably be involved regularly and needs to be lighter weight and lower cost for the parties wanting to appeal.

Mike Silber: (01:32) Becky - you just missed my point so completely, it is remarkable

Mike Silber: (01:33) here should be ongoing capability for keeping adequacy of IRP process under review in light of experience and with support of standing panel.

Brenda Brewer: (01:33) Break -- Meeting will resume at 15 minutes before top of hour.

Mike Silber: (01:33) it is the "support of the standing panel" that intrigued me. I merely asked if there could be a conflict there?

Becky Burr: (01:33) sorry Mike, there are several conversations going on here. Not usually thick ...

Keith Drazek: (01:34) ...not to mention it's 2:30am here.

Mike Silber: (01:34) understood :-)

Becky Burr: (01:34) again, I think that judicial bodies often engage in introspection ...

Mike Silber: (01:41) yes indeed. however they are unlikely to streamline themselves and are more likely to call for greater power and resources. So I am just suggesting it be tempered. The SOs and ACs also engage in introspection in their reviews, but their views get tempered

Mathieu Weill, ccNSO, co-chair: (01:46) @Mike : change of the IRP would be fundamental bylaw. So it would only be brought in front of the IRP if someone had a complaint about the Board actions or inactions in that process. Not by IRP itself right ? That is the temper for the judicial power ; it can not start a case on its own

Brenda Brewer: (01:46) recordings are going

Keith Drazek: (01:49) I support a deadline for initiation of WS2 processes, but not necessarily a deadline for completion. Our recent experience with deadlines should be instructive. ;-)

Mike Silber: (01:49) @Mathieu: my comment was about the remark: "there should be ongoing capability for keeping adequacy of IRP process under review in light of experience and with support of standing panel." It has ABSOLUTELY nothing to do with starting a case. It is not being "brought in front of the IRP"

Niels ten Oever: (01:49) Risk not increasing at all, right?

Jorge Cancio (GAC Switzerland): (01:50) Ok with flexibility on deadline; Not agreeing with deferring to ws2 as a lot of work has already been invested into this phase and according to lawyers increased risks seem not to be an issue

Mike Silber: (01:50) I assume 2.c. should be defer and not differ?

Tatiana Tropina 3: (01:50) 2b. Defer I think

Bernard Turcotte Staff Support: (01:50) yes

Mike Silber: (01:50) yes Tatitaina 2b

Tatiana Tropina 3: (01:51) ALAC and some others

Brenda Brewer: (01:53) Kavouss, your line is open

Jordan Carter: (01:56) dropping off the adobe room for 10, will be on voice

Bruce Tonkin: (01:59) Note the Board did not discuss this recommendation in our information call today.

Bruce Tonkin: (02:00) With proposed language Markus and I can take the issue back to the Board.

Tatiana Tropina 3: (02:02) Bruce, Markus, thanks a lot for such a constructive approach.

Tatiana Tropina 3: (02:05) sorry

Tatiana Tropina 3: (02:05) I will be next in the queue

Matthew Shears: (02:06) + 1 it would be good to have a far better understanding of the increased vulnerability concerns related to HR

Bruce Tonkin: (02:07) Yes we can

David McAuley (RySG): (02:07) IMO, a commitment to HR by an organization coordinating DNS (where interests may well clash – e.g. freedom of expression and personal privacy) and which organization itself maintains an appeals process might well need to be litigation-proof until we have time to consider it fully -

Jonathan Zuck/ACT: (02:08) +1 David

Niels ten Oever: (02:08) @david according to the lawyers it is

David McAuley (RySG): (02:08) But FOI is not developed

Niels ten Oever: (02:08) @david eventhough, the lawyers say it is

Niels ten Oever: (02:08) Human rights are not rly a new concept

Greg Shatan: (02:09) I hope we can clarify what the lawyers' advice actually is.

Mathieu Weill, ccNSO, co-chair: (02:09) We will receive legal advice in writing in next few days

Tatiana Tropina 3: (02:10) @Greg, that's a nice comment from the lawyer :)

jorge cancio (GAC Switzerland): (02:10) looking forward to seeing that legal advice

Greg Shatan: (02:10) It's too late at night to be a lawyer.

Bruce Tonkin: (02:10) Tijani - which option was your preferred option?

Mathieu Weill, ccNSO, co-chair: (02:10) Tijani supports 2b

Tatiana Tropina 3: (02:10) @Greg the same here but too early in the morning :(

Bruce Tonkin: (02:10) @ZGreg - you could become an engineer instead after midnight I suppose.

Niels ten Oever: (02:11) @Tijani - that i currently the case as described in the bylaw, right?

Asha Hemrajani: (02:11) @bruce @greg I think Greg is an engineer most of the time and only a lawyer during daylight

Megan Richards, European Commission: (02:11) not sure anything, anywhere is "litigation-proof" but ensuring that provisions meet the best requirements possible with least legal "offence" is perhaps best that can be attained

Tatiana Tropina 3: (02:12) agree with Megan, nothing is litigation-proof, the question is whether we will have additional risks

Tatiana Tropina 3: (02:12) not for litigation but for losing the court case. Like vulnerabilities assessment

Matthew Shears: (02:12) + 1 Niels

Tatiana Tropina 3: (02:12) Also +1, Niels

jorge cancio (GAC Switzerland): (02:12) Agree with Niels

Markus Kummer: (02:13) I agree with Niels re 1a

Kavouss Arasteh: (02:13) Mathieu, Leon has spent considerable time as the chair of WP4 in so far as inclusion of a very high level text in the Balwas under work stream 1 and differ the rest to work stream 2. I am not sure what is the problem ? Do we go back to square 1 (to the discussion which was held several months ago)

Kavouss Arasteh: (02:14) Bruce, if the Board opts for option 2b) Does the Board confirm to retain the high level reference to HR in the Bylaws under WS1?

Niels ten Oever: (02:16) ccTLD issue has been covered extensively in bylaw

Mike Silber: (02:16) Kavous - it is not for the Board to select an option.

Tatiana Tropina 3: (02:17) oops... I thought I was the first in the queue :)

Mathieu Weill, ccNSO, co-chair: (02:17) Me too , apologies

Tatiana Tropina 3: (02:17) :D

Bruce Tonkin: (02:18) OK by the laws relating to humans vary substantially by country.

Brett Schaefer: (02:19) @Bruce, is the Board wholly supportive of HR language in Annex 12? Just want to see if the HR discussion is focused on timing.

Keith Drazek: (02:20) I support the suggestion of a WS1 hook with dormant treatment until FOI is completed.

Cheryl Langdon-Orr (CLO) ALAC - APRegional Member: (02:20) I agree Kieth

Tatiana Tropina 3: (02:20) Bruce, normally they do but re to what governments are going to do. Re corporations and private enforcement of HR frameworks... I am not sure anyone can come with the examples of any real danger re "applicable law"

Jordan Carter: (02:21) go Becky

Tatiana Tropina 3: (02:26) I am still inclined to think that the bylaw language itself with its restrictions solves the problem of claims

Kavouss Arasteh: (02:26) Leon, did we take into account comments received from RSSAC AND BEFORE THAT FROM iab to introduce the term " FACILITATE" before " coordinate7 Coordination 2 in the ICANN Mission?

Gary Hunt - UK Government: (02:27) We would like to ensure any amendments to the mission do not inadvertently remove its obligations with regards to Public Interest Commitments...

Kavouss Arasteh: (02:28) Tks Becky

Seun Ojedeji: (02:28)Will be good to have..... the currentmission text sent to the list to have overall idea of what it now look like

Becky Burr: (02:28) Yes Gary, we understand. That concern continues to be a point of discussion with respect, especially, to grandfathering language.

jorge cancio (GAC Switzerland): (02:29) +1 Gary

Gary Hunt - UK Government: (02:29) Thanks Becky!

Keith Drazek: (02:29) Making ICANN a consumer protection/trust agency for the DNS would be a substantial expansion of ICANN's mission and scope of responsibilities. The AoC was explicit about the need for a Review Team to assess the New gTLD program and the marketplace expansion associated it, but that was a very appropriately targeted mandate.

Bernard Turcotte Staff Support: (02:29) @Seun - best reference is the slide deck from Thursday call last week

Andrew Sullivan: (02:29) I observe that the IAB's comment on this draft was that it was comfortable with the revised mission text, subject to whatever final bylaw text comes out

Kavouss Arasteh: (02:29) Monday is GAC High Lecvel meeting

Bernard Turcotte Staff Support: (02:30) on Mission of course

Sabine Meyer: (02:30) just wanted to mention the HLM as well.

Sabine Meyer: (02:30) 7 March, for anybody checking their calendars

Jordan Carter: (02:30) avoid clashing the HLM?

Becky Burr: (02:30) @ Andrew, noted

jorge cancio (GAC Switzerland): (02:31) Agree with concerns on 7th of March

Seun Ojedeji: (02:31) Thanks @Bernard

Kavouss Arasteh: (02:33) Alan11

jorge cancio (GAC Switzerland): (02:33) Agree with Alan on need of a revised timeline as soon as possible. Otherwise SO/AC will have difficulties in providing feedback

Mathieu Weill, ccNSO, co-chair: (02:33) Point taken on Monday HLM clasj

Mathieu Weill, ccNSO, co-chair: (02:33) clash

Sabine Meyer: (02:33) That is a bit of a catch-22 for SO/ACs trying to give feedback on a finalized proposal.

jorge cancio (GAC Switzerland): (02:34) is this a chicken-egg problem?

Seun Ojedeji: (02:34) Can we propose a timeline based on the dates SO/AC will provide their feedback

Keith Drazek: (02:34) The GNSO expects to finalize its feedback to the CCWG on the 14th...this Thursday.

Mathieu Weill, ccNSO, co-chair: (02:34) @Seun : it depends also on the extent of concerns raised

jorge cancio (GAC Switzerland): (02:34) at Keith: will the GNSO issue a final feedback?

Keith Drazek: (02:34) Finalized feedback on the current draft, that is. Not necessarily final approval of a future revised proposal.

Seun Ojedeji: (02:35) @Mathieu, makes sense. Thanks

Greg Shatan: (02:35) Sabine, I think at this point the SOACs can only provide feedback on the Third Draft. That is the approach the GNSO is taking. Anything else is a moving target.

Sabine Meyer: (02:35) Thank you, Greg and Keith.

Kavouss Arasteh: (02:35) Tks Leon

Greg Shatan: (02:35) @Alan, thaks for trying.

jorge cancio (GAC Switzerland): (02:35) thanks, Keith - that is the logical problem: until there is a final CCWG doc on the table SO/AC cannot give a final feedback, right?

Mathieu Weill, ccNSO, co-chair: (02:35) But can provide feedback on 3rd report.

Markus Kummer: (02:36) Bye all

Brett Schaefer: (02:36) good night all

Keith Drazek: (02:36) @Jorge: The GNSO will provide initial feedback and guidance on the current draft. Final approval will be subject to the supplemental report.

Jordan Carter: (02:36) bye all

Cheryl Langdon-Orr (CLO) ALAC - APRegional Member: (02:36) Good progress Thanks everyone talk again soon... bye for now...

Pär Brumark (GAC Niue): (02:36) Thx all!

Bernard Turcotte Staff Support: (02:36) bye all

Seun Ojedeji: (02:36) Thanks Bye

David McAuley (RySG): (02:36) Thanks all, early end

Aarti Bhavana: (02:36) Bye all

Athina Fragkouli (ASO): (02:36) bye all

Kavouss Arasteh: (02:36) Yes .It was good cakll, Tks for co-chairs and astaff

Asha Hemrajani: (02:36) Thank you

Steve Crocker: (02:36) Thanks, everyone.

Gary Hunt - UK Government: (02:36) Good bye from London!

Avri Doria: (02:36) bye

Tatiana Tropina 3: (02:36) bye everyone!

Greg Shatan: (02:36) Good night!

Matthew Shears: (02:36) thanks