

# Day 2 Meeting #56 AM Session (26 September)

**Members:** Alan Greenberg, Athina Fragkouli, Becky Burr, Cheryl Langdon-Orr, Eberhard Lisse, Fiona Asonga, Izumi Okutani, James Bladel, Jordan Carter, Jorge Villa, Julia Wolman, Leon Sanchez, Lyman Chapin, Mathieu Weill, Olga Cavalli, Pär Brumark, Robin Gross, Samantha Eisner, Sébastien Bachollet, Steve DelBianco, Suzanne Radell, Thomas Rickert, Tijani Ben Jemaa (23)

**Participants:** Anne Aikman-Scalese, Arun Sukumar, Avri Doria, Brett Schaefer, Carlos Raul, Christopher Wilkinson, David Cake, David Maher, David McAuley, Edward Morris, Erika Mann, Farzaneh Badii, Finn Petersen, Fiona Alexander, Greg DiBiase, Greg Shatan, Guru Acharya, James Gannon, Jeff Neuman, Jonathan Zuck, Jorge Cancio, Kavouss Arasteh, Keith Drazek, Kieren McCarthy, Konstantinos Komaitis, Marilia Maciel, Mark Carvell, Matthew Shears, Maura Gambassi, Mike Chartier, Niels ten Oever, Nigel Roberts, Olivier Muron, Pedro Ivo Silva, Phil Buckingham, Philip Corwin, Qusai AlShatty, Rafael Perez Galindo, Rinalia Abdul Rahim, Sabine Meyer, Seun Ojedeji, Stephen Deerhake, Tatiana Tropina, Thomas Schneider, Tom Dale, Tracy Hackshaw, Wolf-Ulrich Knoben, Young-Eum Lee (45)

**Board Members:** Asha Hemrajani, Bruce Tonkin, Cherine Chalaby, Chris Disspain, Fadi Chehadi, George Sadowski, Gonzalo Navarro, Jonne Soininen, Kuo Wu, Markus Kummer, Mike Silber, Ray Plzak, Steve Crocker, Suzanne Woolf, Wolfgang Kleinwächter (15)

**Advisors:** Jan Scholte, Ira Magaziner

**Legal Counsel:** Edward McNicholas, Holly Gregory, Josh Hofheimer, Michael Clark, Rosemary Fei, Stephanie Petit (7)

**Guests:** Adiel Akplogan, Alexandra Kulikova, Anne-Rachel Inne, Ben Fuller, Bret Fausett, Carl H., Claudio, Daniel Fink, David Conrad, David King, David Olive, David R Johnson, Dexter Gerig, Duncan Burns, Eduardo Diaz, Gordon Chillcott, Graham Schreiber, Jamie Hedlund, Jari Arkko, Jennifer Chung, Jimm Phillips, Joe Catapano, John Demco, John Jeffrey, John Poole, Karine Perset, Kate Wallace, Kevin Espinola, Kevin Murphy, Louise, Manal Ismail, Mary Uduma, M Ermert, Michael Niebel, Michele Neylon, Michelle Bright, Mongi Marzoug, Nigel Hickson, Ole Jacobsen, Patricio Poblete, Paul Wilson, Rafik Dammak, Ron Da Silva, Rubens Kuhl, Russ Mundy, S. Terry, Shawn W. Susan Payne, Tapani Tarvainen, Tarek Kamel, Teresa Elias, Theo Geurts (45)

**Staff:** Alice Jansen, Bernie Turcotte, Berry Cobb, Brenda Brewer, Grace Abuhamad, Hillary Jett, Laina Rahim, Nancy Lupiano, Sally Costerton, Theresa Swinehart, Trang Nguyen

**Apologies:** Paul Rosenzweig, Julie Hammer, Ken Salaets

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

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## Transcript

- [Transcript CCWG-Accountability Meeting - Day 2-EN.pdf](#)  
AM Session: pages 1 - 104  
PM Session: pages 105 - 263

## Recording

- **The Adobe Connect recording is available here:** <https://icann.adobeconnect.com/p504k0ooonn/>
- **The audio recording is available here:**  
**Part 1:** <http://audio.icann.org/gnso/gnso-ccwg-acct-26sep15-en.mp3>  
**Part 2:** <http://audio.icann.org/gnso/gnso-ccwg-acct-2-26sep15-en.mp3>

## Proposed Agenda

08:30 - 08:45 – Debrief Day 1 Progress and identify day 2 roadmap  
08:45 - 09:30 – Human Rights  
09:30 - 10:30 – Break-Outs  
10:30 - 10:45 – Coffee break  
10:45 - 11:25 – Break-outs  
12:15 - 13:15 – Lunch break

## Notes

### Notes – Day 2 Session 1

#### Debrief

- Group has excellent history in following process, which is to establish requirements, transform these requirements into an implementation that meets requirements. We tried to confirm areas of support and address concerns. When a compatible idea cannot be found, we abandon the idea and create something new.

- We need clarification of underlying concerns. We need to understand the root cause for why people like certain ideas and why they don't like others.

- There is a constant request for simplification. It must be made a requirement.

- NTIA has never made enforceability a requirement. We should consider putting the CWG's request for enforceability under scrutiny in terms of what was meant by it and do we have wiggle room.

- We need to understand whom we are serving, what is our mission. We want to protect this organization to make it sufficiently robust. We are trying to establish a safety net to replace U.S. government backstop.
- In either model voting version consensus remains unresolved.
- How do we reconcile differences between Board decisions and community decisions? Let's have lawyers come up with suggestions on how to operationalize that.
- Two breakout sessions will be organized: 1) on decision-making in community; 2) on reconciling differences between Board and community views.

### ***On Human Rights***

Work Party 4 is working on language as well as explanatory note and rationale.

#### Feedback:

- Support human rights but we are told we should stay within our remit. ICANN should take a proactive stand.
- It is a duty to respect human right. If it is done in ICANN's mission, there should be 100% support and consensus but we should be careful with language.
- We should make a commitment that we will abide by human rights within our mission.
- This is a work stream 1 issue.
- ICANN should have a general description. We need to put this within the context of ICANN's mission.
- Human rights should be restricted to mission. ICANN is not about content.
- There are three particular rights that affect ICANN's mission: protection of property, right to private and family, and right to free expression. There is an interaction and creative tension between all three. We must put in place an overriding within ICANN's mission not to say: "this means that we have to completely abolish WHOIS or make any changes or so on". We must judge what we are going forward on based on respect for human rights.
- It is critical to have context/rationale. A statement in Bylaws is needed. It is important to refer to UN declaration of human rights. There are issues that need to be solved. It needs to be constructive and instructive including for stress tests.
- The way forward would be to find wording. Suggestion to have two stress tests: 1) what happens if we include that addresses human rights; 2) what happens if we don't.
- There is an obligation to support human rights but unsure it is within remit.
- Work on mapping relevant rights is being undertaken by a CCWG in GAC. It would be relevant for work stream 2 to deal with: what are the specific treaties and international law that would be relevant in this case? By making a general commitment, we are opening the door to discussion in Work Stream 2. It would corroborate article 4 of current Articles of incorporation i.e. ICANN must respect international law – it encompasses human rights. It is well accepted and understood that ICANN as an organization in its separations should respect and follow human rights laws.
- It is important that we go on record with obligation to respect rights in policy, process and mission.
- Internet principles are completely consistent and committed to human rights and there is a reference to human rights, which reflects the commitment of the technical community under ICANN to this concept.
- Welcome decision to receive WS1 to formulate text in Bylaws. Declaration is a useful text. It refers to number of conventions. Paragraph 5 refers to resolution 17 on human rights. This resolution was adopted by the UN in June 2011. It is highly relevant to ICANN's mission.
- Agree with human rights concept. We need to be careful to construct language in narrow way and limit ICANN to the appropriate role. Abuse or hate speech cannot be removed because of ICANN championing human rights.
- CCWG needs to explain for Bylaw. Who are you going to go to to claim that human rights have been breached? Unless it is clear what we are going to, it cannot be put to work stream 2. A clear definition of what is going to be used is needed.
- With respect to need to protect human rights outside of its mission, it is definitely not the case. Only states have the obligation to protect human rights. We don't need to be afraid of mission creep. We don't need to be afraid about creating crisis in the industry as we practically already have a commitment in article 4. There is very broad agreement on the commitment to human rights. Suggest going with current commitment, which does not expand ICANN's obligation in article 4. It will give us the support to work on a proper human rights policy and come up with a proper balanced way to implement that.
- Failure to do this in work stream 1 will cause further consternation.
- Access to name space and policy of facilitating linguistic cultural comments is within our direct control and should not be overlooked.
- We have to be very cautious that we don't give impression we can somehow escape our companies registrars or registries or ICANN as a whole can escape legal obligations from national/international treaties. Would not want to see ICANN drafting recommendations in such a way that give impressions. This would mean we would all need to respond to requests from law enforcement agencies. Clarify that we don't give an impression these principles can override obligations.

#### Conclusion:

- Human rights is work stream 1 issue. We must deliver so we can approve by Dublin. Lawyers will help wordsmithing this Bylaw language. It will be the task of WP4 to direct the work of lawyers.

### ***Ira Magaziner's Remarks***

You are 90% or more on the way to completing a successful set of recommendations. However, you have a limited amount of time to get there. This will be something truly historic. None of the issues are showstoppers. Concerns that you can fail: 1) time is running out – US political scene is in a state of instability. Nationalistic points of view are being shared. Need to get this wrapped up in terms of agreement on various issues by the end of Dublin; 2) This has been a bottom up process. It does not mean it is not bottom up if there is delegation to a smaller set of group properly designated to bring some to conclusions. Suggestion to designate Chairs of seven groups to facilitate a set of transparent conference calls discussions to resolve remaining issues for consideration in Dublin. CCWG task is to replace backstop, not the rewrite the way ICANN works. Member of Congress will not trust multistakeholder model if it is given impression it does not work. Get to the accountability mission you have and reframe your document. Compromises need to be struck.

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## **Notes – Day 2 Session 2**

### ***Break out session on Community Decision-Making***

#### **Group 1 report**

There has been various work that has been documented, clarified, codified relating to process leading to the Board votes. We consider changing Board votes. Anyone could lodge an objection, as an individual, group of individuals, a stakeholder group, followed by a period of time for the party to call for consensus view on their objection – i.e. a consensus objection. If there is more than one objection, the call cannot get through. There are two tracks: 1) fast-track if consensus; 2) slow-track if objection. It could be moved out of slow-track but rules to be determined.

#### Feedback:

- Is there a deadline for group to respond or else they are considered non-responsive? A group could be non-responsive and block the whole process.

à No detail on process yet but there would be a deadline. Abstentions would not count as objections.

- Quid of quorum?

à There is no quorum.

- There may be danger of capture if individual raises objection and no SO/ACs react.

à The consensus would get a suspension and move to reconciliation.

- Who participates to reconciliation?

à No detail defined yet.

#### **Group 2 report**

Illustrated with change to standard bylaw. The change needs to be suggested. SO/ACs could start a petition process. Petition to oppose could be triggered by a single SO or AC. All SO/ACs would go back and have discussions among themselves. Then we would look for a threshold to support to continue the process. Then comes the question whether there is a decision to mount an objection. Board could get objection and decision and decide to override that decision by a supermajority vote. If Board chooses to do that, we would move to a dispute resolution process which would begin with mediation, collaborative attempt to bridge the gap and into IRP or arbitration process if that failed. If an IRP comes into favor of community and the Board still decided to move forward, the IRP decision would be binding and enforceable in Court at that point. On split votes, it will be a matter for SO/AC to sort out. Abstentions are not blocking. Four of them have to say yes.

#### Feedback:

- Fracture of votes would be a real problem.

à Each SO/AC works out their agreement. To agree we would need 66% agreement in the room.

- Did you discuss petition coming out of SO/AC?

à No

- If 75% of Board overrides, then you go into dispute resolution. Can you elaborate on that?

à We did not discuss whether the communities needed to refresh its vote and even have a higher threshold to overcome the higher threshold the Board had. If the community continues to object, there would be mediation, a cooperative attempt to resolve the community's differences. If the community still objected and Board did not meet community's needed, the community could commence an IRP to oppose the standing Board. The community forum would involve SO/ACs and other community members.

#### **Group 3 report**

The Board should have obligation to announce it plans to consider a Bylaws change and then wait 30 days before voting. Four steps: trigger – quorum – decision-making and outcome. A petition would indicate the rationale the change is needed. Once the SO/AC has established that it has consensus within its own membership, it would take it to the next level of inviting all SO/ACs to participate in the quorum. ICANN would be asked to host a conference call that would be open to all interested participants from all AC/SOs. After the call, two ACs and SOs would have to indicate that they intend to participate in the community forum. The community forum would be the basis for decision-making. Most of the consensus discussion would center around the rationale for why we ought to block the bylaw. AC/SOs that petitioned can request that we go to voting. Each AC/SO would come back using its own method of voting. If the community decided to block this statement, there could be a minority statement saying they do not agree with blocking the Bylaw.

#### Feedback:

- Doubts that the decision-making threshold and quorum are too low (two SOs or ACs are needed to go forward followed by majority of those). With two SOs or ACs you could block a decision by the Board which represents all the community.

à If SO/ACs really do not want to see this Bylaw change be blocked, they need to participate.

- It would be awkward to accept that two ACs or SOs get evenly because the rest of the community does not care too much. It leads to capture problems.  
à If that was the perception of the community, the Board would probably put that Bylaw straight back in. 30 days later vote on it. The participation would be broader.

- What was the degree of being affected one would have to display?

à I do not think affected has to be a requirement.

- Start of this process assumes that the current process of changing Bylaw will have been done. It would mean that it has gone through public comment.

à The Bylaws do not require that the Board give advance notice or public comment. It can do a Bylaws change with two-thirds vote any time it wants. It's advanced notice requirement so we can let the Board know whether there is concern about a Bylaws change.

- Does this give consideration to an immediate change?

à It would say that the Board could not make a Bylaws change any sooner than 30 days from when it thought it needed one.

- Worry that in setting up rules that the established community will block other entities. We really need to make sure we are not blocking ourselves into our current structure because that would necessitate a lower threshold.

- Each AC and SO decides its vote by its own method. Does that mean they are voting as an AC or SO are they voting in bits?

à It is binary. Each makes its own decision.

- We need clear picture of what was agreed on.

## Documents Presented

- [CCWG - Breakout Instructions v1.pdf](#)

## Chat Transcript

Matthew Shears: (9/26/2015 07:46) good morning

Matthew Shears: (07:46) is there a transcript from yesterday yet?

James Gannon [GNSO-NCSG]: (08:26) Morning all

Sabine Meyer: (08:27) hello everyone!

Niels ten Oever: (08:27) Good morning!

Matthew Shears: (08:27) seems there is only a dial in option for audio

Niels ten Oever: (08:28) Indeed, same as yesterday. Don't know why that is the case.

David McAuley (RySG): (08:30) Good morning all

Tatiana Tropina: (08:31) Good morning (and good afternoon)!

Mathieu Weill, ccNSO, co-chair: (08:32) Good afternoon everyone !

Holly J. Gregory (Sidley): (08:33) Hi everyone!

Young eum Lee: (08:33) Good morning!

Philip Corwin 2: (08:33) well this is a first. I'm participating from 30000 feet

Matthew Shears: (08:34) awesome!

Sabine Meyer: (08:34) show-off ;)

James Gannon [GNSO-NCSG]: (08:34) The wonders of technology I love it =)

Philip Corwin 2: (08:35) free wifi on JetBlue's

Matthew Shears: (08:35) great airline

Philip Corwin 2: (08:35) on way to domain conference in FLL

David McAuley (RySG): (08:36) I see break outs on agenda, will we be able to attend remotely?

Kavouss Arasteh: (08:36) Hi Everybody

Kavouss Arasteh: (08:36) Good Morning to Co -Chairs

Kavouss Arasteh: (08:37) Good morning to ICANN Staff

Kavouss Arasteh: (08:37) Good morning to the ICANN Board

Becky Burr: (08:38) good morning from DC

Seun Ojedeji: (08:38) Hello everyone, good morning!

Philip Corwin 2: (08:38) h

Seun Ojedeji: (08:39) Looking forward to the day...wisdom to the Co-Chairs ;-)

Philip Corwin 2: (08:39) Hello to all stakeholders

Niels ten Oever: (08:39) I don't hear audio, am I the only one?

David McAuley (RySG): (08:39) Don't hear also, expect not on yet

Michael Clark (Sidley): (08:39) I don't have it either

Tatiana Tropina: (08:40) No audio yet

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (08:40) We are about to begin and then I suspect the audio will be on

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (08:40) and Hi All :-)

nigel hickson: (08:40) good afternoon

David McAuley (RySG): (08:40) Thank you @CLO

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (08:41) in today's Agenda (refreshed and altered from that sent out BTW you will see we are using 'Break Out Groups' please note we intend to run this AC room as a BO room in that time so YOU can all participate as equitably as possible ... so please help us make this work :-)

David McAuley (RySG): (08:42) Good to know Cheryl, TY

Robin Gross [GNSO - NCSG]: (08:46) Good morning, all!

Philip Corwin 2: (08:47) thx for the shoutout Thomas!

Anne Aikman-Scalese - IPC: (08:47) Thanks Cheryl. Good morning everyone!

Jordan Carter (.nz, WP1 rapporteur): (08:47) morning chat types

Avri Doria: (08:48) it is not that we will prove whether the multistakeholder model works or not, what we will be proving is whether the ICANN version of the model works. the multistakeholder model is neither proven nor disproven by ICANN's actions.

Asha Hemrajani: (08:48) Good morning

Jorge Cancio (GAC Switzerland): (08:50) Sometimes it is good to have an open conversation at the start - now we have to go through the pain of arriving at solutions which are workable for all

Matthew Shears: (08:50) need to take the 2nd draft proposal and work on how it can be improved and strengthened in each of the very specific areas identified as needing work. no more restating of well heard positions, etc., but very concrete workable ways forward.

Greg Shatan: (08:51) @Avri, the "ICANN version of the model" includes the Board as well as the "community," so it's really ICANN's structure that is being tested.

Matthew Shears: (08:52) clarity is more important than simplicity - perhaps the model lacks clarity more than anything else

Greg Shatan: (08:53) @Matthew -- agree 100%.

James Gannon [GNSO-NCSG] 2: (08:54) +1 Matt. Corporate governance is never going to be 'simple' it's always going to be complex. But how we communicate and put detail into our proposal is a different issue and something that we can definitely make a requirement.

Philip Corwin 2: (08:54) no true accountability without enforceability.

Mathieu Weill, ccNSO, co-chair: (08:54) I hear you\$

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (08:55) :-)

Greg Shatan: (08:55) I think robust powers are the centrepiece of our current proposal; "enforceability" is an outgrowth of that. Framing the model primarily in terms of enforceability is a miscasting.

Edward Morris: (08:55) In politics, which this is, you need a bumper sticker slogan to have an idea or candidate accepted, yet you also need a workable often complicated plan to govern or legislate successfully. Without the former, your idea or candidate has no chance to be tested. Without the latter, you can not govern or legislate successfully. You need both.

Avri Doria: (08:55) i think i am uncomfortable with this denigration of peoples' concerns.

Mathieu Weill, ccNSO, co-chair: (08:56) Please, at least boost my traffic stats by checking the original blog post at <https://www.afnic.fr/en/resources/blog/icann-what-does-accountability-stand-for.html>

Mathieu Weill, ccNSO, co-chair: (08:56) ;-)

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (08:56) How is this deigration Avri I do not believe there is any intent of that at all so if thst is percived we need to fi ASAP

Greg Shatan: (08:56) What we did do yesterday was more frustrating than what we didn't do.

Matthew Shears: (08:56) for so long as ALL the stakeholder concens and expressions on support are taken into account and not just the Boards

Avri Doria: (08:56) identifying concerns as just people's favorite little items.

Jordan Carter (.nz, WP1 rapporteur): (08:56) all of the models we've ever discussed are, at heart, simple. But we've never taken the time to distill the language down to get that simplicity across. That's only our fault

Edward Morris: (08:57) Agreed Jordan.

Keith Drazek: (08:57) @Jordan: I think that was a result of the time pressure more than anything.

Jordan Carter (.nz, WP1 rapporteur): (08:58) Of course. But doesn't it show how poor a job rushing can lead to? (:

Avri Doria: (08:58) so going back to the beginning?

James Gannon [GNSO-NCSG] 2: (08:58) Agreed Avri, why are we going back to Day 1?

Avri Doria: (08:59) i find this stat to the day offensive.. just saying. showing us a armed combattants is insulting.

Leon Sanchez (Co-chair ALAC): (08:59) @Avri, @James, what we are trying to do is to build from where we are to find middle ground

James Gannon [GNSO-NCSG] 2: (09:00) Leon , as long as its not a from the beginning revamp of the work we ahve been doing..

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:00) Ahh a off the top of the head phrase use... OK we still need to note that this is not (I truly believe) the intent of that language, rsther it is an attempt to be light and upbeat in the intro Thomas is doing to fram the days work... But your reaction is duly noted and I am sure we will hear from Thomas on this when he gets to this chat

Mathieu Weill, ccNSO, co-chair: (09:00) @Avri : not everyone was, but from a distance a lot of what I witnessed yesterday felt like this sketch

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:00) It is meant to be humor Avri

Chris Disspain: (09:01) I thought Ira was going to say somrthing

Avri Doria: (09:01) i do not find it funny.

Sébastien (ALAC): (09:02) "Non à la guerre, la paix partout"

Avri Doria: (09:02) i came into the room optimistic, now i find myself sunk in despair.

Matthew Shears: (09:02) the middle ground between the community and the board? do not agree with that approach

Anne Aikman-Scaless - IPC: (09:02) The true answer given the conditions imposed by prior work of the CWG- Stewardship and given concerns raised by NTIA and Congressional leaders, is actually to adopt the Sole Member model but to restrict the Member's powers - e.g. require cause for removal of directors. Then address each public concern item by item to "tweak" the proposal. It is actually NOT a good idea at all at this stage to start over in the process. We will open up Pandora's box by doing so.

Matthew Shears: (09:03) + 1

James Gannon [GNSO-NCSG] 2: (09:03) +2

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:03) I know I am sorry that the cartoon gave offence but I do find it amusing I hope others did to and am happy however to apologise for any offence given ...

Jonathan Zuck (IPC): (09:04) Agree

Avri Doria: (09:04) yesterday we were being entreated to not leave it in the hands of lawyers. today we are told that is the path forward. how the world turns.

Matthew Shears: (09:05) I hope that there will be a full accounting for how the public consultation respondents concerns were taken into account in these discussions and the result thereof

Matthew Shears: (09:05) and not just he Board's

James Gannon [GNSO-NCSG] 2: (09:05) I dont see how 'leaving the lawyers to fix it' can be a reasonable approach.

Robin Gross [GNSO - NCSG]: (09:05) we \*must\* do that, Matthew.

Keith Drazek: (09:07) I don't think anyone is suggesting we start over from scratch. It's become pretty clear that some compromise and more detailed work is going to be necessary to reach consensus. We need to find that path forward based on the public comments. The Board's comments were not the only submission raising concerns about the CCWG direction.

Matthew Shears: (09:07) +1 keith

Greg Shatan (GNSO/CSG/IPC): (09:08) How the lawyers are instructed will be critical in any lawyer to lawyer interaction.

David McAuley (RySG): (09:08) Agree w/Keith - what I thought I heard from Thomas is a request that we be open to compromise – at this time, and after much meetings/discussions, it makes a great deal of sense, IMO

Avri Doria: (09:08) that is not what i heard.

Keith Drazek: (09:08) And I have faith in the lawyers to help us find a path forward in the context of California law. They won't make the decisions, but I think we need their help in finding a consensus solution. At least I do...

Sabine Meyer: (09:08) And of course taking into account all public comments also entails taking into account the positive ones

Matthew Shears: (09:09) + 1 Sabine

Anne Aikman-Scaless - IPC: (09:09) Public comment by and large supported the Sole Member model. There were suggestions as to modifications needed to make it work. If we assume we may switch to some other model that is not the MEM and not the Sole Member - we are absolutely obligated to seek further public comment. Does a further public comment period really fit the notion of "embrace the fact that the time is now?"

Matthew Shears: (09:09) and that is exactly my concern - many have expressed support for things the Board disagrees with including the SMM

James Gannon [GNSO-NCSG] 2: (09:10) Exactly, I think a qualitative check will show majority support for these 'issues' that we are now going to seek compromise on

Matthew Shears: (09:10) I would hate to think this process has become 2 track - the Board's concerns and everyone else's

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:10) Indeed it does Sabine... and the Public Comment Tool we will work through will I trust ensure that we do justice to all the Comments received in a transparent way

Seun Ojedeji: (09:11) @Anne i think what would determine whether "now" is evident is whether there is broad consensus on whatever comes out of this current meeting. Like it has been said, i don't think its about the model but about whether mechanism put in place further takes ICANN a step(or many steps) further in its accountability enhancement

Anne Aikman-Scaless - IPC: (09:12) Another example of addressing issues and tweaking the proposal. If everyone is upset by the voting structure, then fall back to the notion that each SO/AC giving input to the Sole Member must develop consensus and the Sole Member must have certain levels of consensus in order to exercise certain community powers - escalating levels of consensus for escalating problems.

David McAuley (RySG): (09:12) As we approach human rights, let's remember that there is a working party in ICANN looking at human rights – perhaps we should coordinate.

mike chartier: (09:12) there was broad consensus coming out of Paris for the sole member model

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:12) That makes Very Good Sense David

Niels ten Oever: (09:13) What is requested of ICANN is to respect human rights, not protect human rights. So that is completely within ICANN's mission.

Niels ten Oever: (09:13) And in line with what Steve said

jeff neuman: (09:13) The concern about a general statement on human rights is that different members of the community interpret different actions differently. For example, some believe that not allowing proxy registrations violates the human rights of free speech. However, others believe that owning a domain name is not a human right and therefore restricting proxy registrations does not violate the human right of free speech. Who is the arbiter of what truly is a human right and what is not?

David McAuley (RySG): (09:15) whoqa - audio going south

David McAuley (RySG): (09:15) sounds better now

James Gannon [GNSO-NCSG] 2: (09:16) +1 Anne

Rinalia Abdul Rahim: (09:16) Is someone going to present an analysis of the public comments on the human rights group?

mike chartier: (09:17) +1

Matthew Shears: (09:17) + 1 Anne

Robin Gross [GNSO - NCSG]: (09:17) Rinalia, yes, we need that. Thanks.

Niels ten Oever: (09:18) Overview of statements on HR can be found here: <https://docs.google.com/spreadsheets/d/1Eg-8P2tyj15cNi7PIXOMFriiHeq80geCd7z5PKOJJ7w/edit#gid=0>

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:19) Well said Avri

Matthew Shears: (09:19) agree Avri

Wolfgang: (09:19) @ Avri We do not harm is a 1++

Chris Disspain: (09:19) Thanks Avri. Who is the judge of whether X is a breach?

jeff neuman: (09:20) +1 Chris. That is my biggest concern. See my example above

Robin Gross [GNSO - NCSG]: (09:20) We could ask Article 29 about ICANN's whois policy? They might know what their law requires.

Robin Gross [GNSO - NCSG]: (09:20) Or at least read the submissions they have sent to ICANN on the issue over the years.

Thomas Rickert, CCWG Co-Chair: (09:20) @Avri - let me be clear that no offence was intended. The cartoon was shared as a funny illustration on the co-chair's chat earlier and I recommended we should share it because it illustrates that different parts of the community stick to their positions. In retrospect, this was not a good idea. I am sorry to have upset you.

Bruce Tonkin: (09:20) One of the problems is that names often contain content. Domain names are not usually random collections of characters like you may see in airline reservations etc. The names themselves convey meaning.

Avri Doria: (09:21) we need to understand the implications of what we do so that we can respect them. and we need to be committed to that. otherwise we have no answer for point 4 of the NTIA instructions to us.

jeff neuman: (09:22) In the case of Peterson vs. NTIA a bunch of years ago, a group challenged the United States .us policy banning proxy registrations. They argued that banning proxies violated free speech. The District Court dismissed that argument stating that owning a domain name was not a fundamental right and therefore putting restrictions on ownership could not violate free speech. This was appealed and the Appeals Court dismissed the appeal on different grounds. The point is that many groups thought it violated human rights, but the courts disagreed

Niels ten Oever: (09:23) So what is the question Jeff, ICANN is already committed to Human Rights based on Art 4 of Articles of Incorporation, no?

Niels ten Oever: (09:23) Working on a more detailed approach in WS2 will actually ensure there is more predictability.

Avri Doria: (09:24) i think that if we try to get approval from the US congress without a hook for freedom of expression we will have immediate problems with our solution, whatever mishmash we end up with.

Robin Gross [GNSO - NCSG]: (09:24) Agree, Avri.

Tatiana Tropina: (09:24) Avri + 1

Anne Aikman-Scalese - IPC: (09:24) Congress knows that the UN Declaration of Human Rights includes free speech.

Niels ten Oever: (09:25) I think we had the discussion that we would not refer to specific documents. But we would rather have a high level commitment in WS1.

jeff neuman: (09:25) I agree that we should not do any harm to human rights. The part that is complicated is that there will always be groups claiming that certain things are human rights when they may or may not be. Then someone needs to be that arbiter

Edward Morris: (09:25) Agreed Avri. That pesky little open internet requirement.

Niels ten Oever: (09:25) Saying human rights will run wild is an interesting argument, 67 years after the Universal Declaration got adopted.

Anne Aikman-Scalese - IPC: (09:26) Good point Niels!

Steve DelBianco [GNSO - CSG]: (09:26) The proposed IRP would allow anyone to challenge ICANN action or inaction, for being a violation of the bylaws. So if we put HR obligation in bylaws, you should expect challenges to ICANN policies that were developed long ago and being enforced today.

Avri Doria: (09:26) our articles do not contain respect for human rights as corporations have not obligation for human rights they don't themselves accept in the articles of bylaws.

Matthew Shears: (09:26) "within ICANN's mission and operations" means it won't run wild

Tatiana Tropina: (09:26) If we put in the bylaws respect human rights it doesn't mean we have to be a watchdog for others

Greg Shatan (GNSO/CSG/IPC): (09:26) @Niels, that's not what I said. It's interesting you would choose to miscast my statement. But not constructive.

Niels ten Oever: (09:26) @Steve, how is that a stronger commitment than Art 4 of Art of Incorporation?

David McAuley (RySG): (09:26) If the HR language is in a bylaw, and if bylaws violations are open to IRP, then those "materially harmed" can bring HR-related claims to IRP limited only by their imagination when it comes to TLDs conveying, as Bruce noted, content of some sort.

Seun Ojedeji: (09:27) @Matthew so you think it should not be within ICANN mission? What would be the motivations for that?

Greg Shatan (GNSO/CSG/IPC): (09:27) These are all answerable questions. And we should answer them in WS1.

Matthew Shears: (09:28) @ Seun - no meant it should be within

Niels ten Oever: (09:29) There is a fundamental difference between respect and protect human rights. That is what the current speaker is not taking into account.

Jordan Carter (.nz, WP1 rapporteur): (09:29) ICANN would only apply human rights in the context of its mission, is Matt's point, I think?

Anne Aikman-Scalese - IPC: (09:29) @Steve -what was the BC's specific suggestion as to amending language to include Human Rights? It was in your public comment. What did it say?

Seun Ojedeji: (09:29) Okay thanks @Matthew :-)



Jordan Carter (.nz, WP1 rapporteur): (09:30) Neils: states protect human rights, right, but anyone can respect them? Is that the distinction?

Kavouss Arasteh: (09:30) Leon

Kavouss Arasteh: (09:30) I raised my hand three times but it was lowered.

Chris Disspain: (09:30) "Applying" HR within mission would mean we would mean in respect to new gtlds I assume....correct?

Kavouss Arasteh: (09:31) One colleagues yesterday in the lift asked me why I did state the same issue yesterday

Kavouss Arasteh: (09:31) My question is technical

Niels ten Oever: (09:31) @Jordan, indeed! States have a positive obligation, other don't. Respect human rights simply means that operations and policies should not violate HRs.

Kavouss Arasteh: (09:31) ARE THE CHAIRS ABLE TO LOWER THE HAND OF THOSE REQUESTING IT?

Chris Disspain: (09:31) Let me try that in English...."applying" HR within our mission would mean we would need to 'apply' those to new gtlds....correct?

Kavouss Arasteh: (09:31) WHY?

Niels ten Oever: (09:32) @Chris yes, as is already an obligation under art 4 of art of incorporation.

Chris Disspain: (09:33) Thanks Niels - so what is the difference we are discussing?

Kavouss Arasteh: (09:33) I would very much appreciate if my question be answered

Niels ten Oever: (09:34) @chris That ICANN did not create a clear framework for implementing this. This commitment in the bylaw will help us to create a clear framework for doing so in WS2.

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (09:35) Kavouss as I understand the operations of the Adobe Connect room only those listed as "hosts" in any room can do that... If you look to the hosts and participant list in the attendees pod you can see who at any time has that role... here in this room and meeting I note that none of the Chairs are listed as Hosts... I also think there may be some power to room management if you are made a Presenter (we have not listed in our meeting

Greg Shatan (GNSO/CSG/IPC): (09:35) Do any current ICANN policies and operations currently violate human rights? What if anything would be the effect of a bylaw on current policies and operations? On policy development and implementation, if any? These are questions we need to consider now, so we understand what we are doing.

Seun Ojedeji: (09:36) +1 Greg

FIONA ASONGA (ASO): (09:40) +1 Greg

jeff neuman: (09:42) +1 James

James Gannon [GNSO-NCSG] 2: (09:43) Big echo

Brett Schaefer: (09:43) +1 Chris

jeff neuman: (09:44) I agree with Chris 100%

Greg Shatan (GNSO/CSG/IPC): (09:44) Chris +1000

David McAuley (RySG): (09:44) audio issues on remote please mute

James Gannon [GNSO-NCSG] 2: (09:44) can't hear nigel lots of background

Wolfgang: (09:46) Niels 1+

Tatiana Tropina: (09:47) Niels - agree!

Greg Shatan (GNSO/CSG/IPC): (09:48) Implementation of the Human Rights bylaw can't come after the bylaw is enacted. That's putting the cart before the horse.

Greg Shatan (GNSO/CSG/IPC): (09:50) Policies don't come into effect until they are implemented. This should be no exception.

Niels ten Oever: (09:51) @greg - Am not sure if I understand what you are saying. Could you elaborate?

Tatiana Tropina: (09:51) Greg, +1 to elaboration. You mean that bylaw shall come after the policy is implemented? this doesn't make sense.

Greg Shatan (GNSO/CSG/IPC): (09:53) No, that's not what I'm saying. I'm saying that a bylaw is uniquely strong form of policy. And that this policy can't be made effective without an understanding of how it will be implemented and what the effects of that implementation will be.

Marilia Maciel (GNSO/NCSG): (09:53) @Greg Policies would be developed as they always have been. In GNSO, through PDP. The change is we should assess the impact on HR in the PDP, include HR assessments, not only when the policy is already approved. It is harder to remedy, sometimes impossible.

Tatiana Tropina: (09:53) Thanks for elaborating, Greg

Mathieu Weill, ccNSO, co-chair: (09:54) @Greg: a commitment in the bylaws is not policy is it ?

Greg Shatan (GNSO/CSG/IPC): (09:54) I think that the rationale and context document is even more important than wordsmithing the bylaw. The bylaw may almost write itself after we bring these issues into focus.

Seun Ojedeji: (09:54) I was trying to raise my hand but now that the floor is closed i will write here. I think we should be careful about how the HR is worded into the bylaw, and don't get me wrong, i am a fan of HR but i think institutionalising it within ICANN that does coordination on behalf for other communities can be very complicated and requires care. We need to recognise that numbers and protocol don't have such commitments in their bylaws (at least i am sure of AFRINIC). We need to put those 2 communities into consideration as whatever is in the bylaw affects not jsut the names community.

Greg Shatan (GNSO/CSG/IPC): (09:54) A bylaw is a uniquely strong form of policy, Mathieu.

Marilia Maciel (GNSO/NCSG): (09:55) @Greg, if we go for the rationale without the language we tend to be theoretical and touch upon unnecessary points. That has been happening a lot in the drafting of the document.

Mike Silber: (09:57) there is no recognition of a balancing of rights: your freedom of expression to call me a @\$% balanced against my right to dignity

Mike Silber: (09:57) and varous others. Also that it is entirely legitimate to restrict rights in the public interest

Mathieu Weill, ccNSO, co-chair: (09:58) I guess I do not understand how a commitment is a form of policy. Certainly a different understanding of words. Would request having coffee or, better, a beer

Anne Aikman-Scalese - IPC: (09:58) Timing is the best explanation for not seeking a new model that will require new period of public comment.

Mike Silber: (09:58) and ICANN is not going to get into that business

Greg Shatan (GNSO/CSG/IPC): (09:59) @Marilia, that's not my suggestion. I'm just saying that some of our difficulties in getting the language right will be much more easily resolved if we are clear on the rationale and context.

Greg Shatan (GNSO/CSG/IPC): (09:59) You can't create a tool if you are not clear on its use.

Tatiana Tropina: (09:59) Greg, I disagree. I think without agreeing on the language we are just stuck in drafting this rationale and that's what we can see from that document we are trying to amend

Niels ten Oever: (09:59) @Greg but there seems to be broad support (also in comments) to the second option of proposed texts, right?

Tatiana Tropina: (10:00) There are already two pption proposed, and the second one has broad suport. We can just take this option, fine-tune it and draft a short rationale

Anne Aikman-Scalese - IPC: (10:00) agree with Niels - there is broad suppor for the broader option referring to UN Universal Declaration

Greg Shatan (GNSO/CSG/IPC): (10:00) I look forward to an analysis of the comments, but I'm not going to attempt on the fly in chat while we are trying to listen to Ira Magaziner.

Matthew Shears: (10:00) agree also

Tatiana Tropina: (10:02) Why the outcome of the discussion brought us to delegating the drafting issues to lawyers? Or did I get it wrong? I think it's not a good idea - we already have two options (and one of them has broad support)

Anne Aikman-Scalese - IPC: (10:03) agree with Tatiana

Jonathan Zuck (IPC): (10:03) and of course, no one is suggesting we do that

Steve DelBianco [GNSO - CSG]: (10:04) (sigh) CCWG proposal changes nothing about how ICANN operates on a day-to-day basis. The proposal is mostly about creating and enhancing challenge/review mechanisms.

Greg Shatan (GNSO/CSG/IPC): (10:05) If we are creating the impression we are turning over the multistakeholder model, we need to work on our messaging as much as anything else.

Matthew Shears: (10:05) Agree Steve and Greg

Edward Morris: (10:05) Steve, you are absolutely correct. What we have here is a marketing problem as much as anything.

Jordan Carter (.nz, WP1 rapporteur): (10:06) it's a slur on the model which is being oft-repeated.

Keith Drazek: (10:06) I support Ira's comments regarding the need to remove emotion and focus on where compromise is needed and possible in order to reach consensus. It's pretty clear that no proposal currently enjoys consensus accross the community. We need to double down to fiind it.

Keith Drazek: (10:07) Part of that is improving the messaging and understanding of the proposal, but perhaps not all of it.

Matthew Shears: (10:07) Well the public comments showed support for the SMM with the exception of some elemets including voting

Greg Shatan (GNSO/CSG/IPC): (10:07) @Jordan, that may mean that somebody else's messaging is better than ours! Not only that our messaging is suboptimal.

Bruce Tonkin: (10:08) Agree @Keith.

Jordan Carter (.nz, WP1 rapporteur): (10:10) +1 Keith D

Bruce Tonkin: (10:10) While communication of the proposals is very important - particularly as you move to the next step to get the chaterig orgnaizations to approve,. I think for now most people at least in this room understand the proposals - so now it is about identifying where there is strong support from all members of the community and building on that.

Matthew Shears: (10:10) I hope that these BOs will focus on very specific issues that need addressing and come up with very concrete proposals with the intent of improving the proposal as a whole

Avri Doria: (10:11) we are becoming more and more top down. too bad we did not get the opportunity for agenda bash.

James Gannon [GNSO-NCSG] 2: (10:12) I'm not sure what the goal here is

Robin Gross [GNSO - NCSG]: (10:13) what are we supposed to writing on the white board? I don't understand.

Avri Doria: (10:13) to appear as if we are doing something new to respond to yesterday's comments.

Avri Doria: (10:13) ... are doing ...

Steve DelBianco [GNSO - CSG]: (10:13) To all those on Adobe, I'll dial-in and we can start our discussion in 5 minutes.

James Gannon [GNSO-NCSG] 2: (10:14) So when exactly are we going to work through the public comments?

Niels ten Oever: (10:16) Is remote participation part of the group work?

James Gannon [GNSO-NCSG] 2: (10:16) Steve is going to come tell us

Los Angeles Video: (10:17) Hello all, I am setting the room up for remote participation now

Brenda Brewer: (10:18) Remote Participants: Room is currently getting organized. Steve will be with you shortly. Thank you for your patience.

Los Angeles Video: (10:18) You won't be able to speak on the phone but I'm going to add in a whiteboard, and Steve will be speaking with you directly on camera

Becky Burr: (10:21) will we be able to hear each other?

Sabine Meyer: (10:21) there you are!

Athina Fragkouli (ASO): (10:22) I can hear you

Sabine Meyer: (10:22) hi Becky :)

Becky Burr: (10:22) Hi Sabine!

Becky Burr: (10:23) I've been here (remote) through out

Sabine Meyer: (10:23) I was glad to notice. I reacted to hearing you speak :)

David McAuley (RySG): (10:24) Hi - i stepped away a bit

James Gannon [GNSO-NCSG] 2: (10:24) An online petition process

Becky Burr: (10:25) how would the community be notified that the Board wanted to change the bylaws? At what point would proposed bylaws amendment be made public by ICANN?

James Gannon [GNSO-NCSG] 2: (10:25) I would support pushing the trigger down the community as far as possible

James Gannon [GNSO-NCSG] 2: (10:25) (No audio and can't dial in from current location)

James Gannon [GNSO-NCSG] 2: (10:26) This would then initiate a discussion in the petitioning SOAC

David McAuley (RySG): (10:26) That makes sense as a "start" to a process to reach a trigger point

James Gannon [GNSO-NCSG] 2: (10:26) on whether they want to bring that as an official recommendation

James Gannon [GNSO-NCSG] 2: (10:26) to the other SOACs

David McAuley (RySG): (10:26) Steve, I can no longer see the statement of the exercise -

David McAuley (RySG): (10:26) sorry I stepped away a bit

Becky Burr: (10:27) I agree that the threshold for triggering the discussion among the community should be fairly low. Goes nowhere beyond that if it does not garner sufficient support

James Gannon [GNSO-NCSG] 2: (10:27) Hold on let me attempt to dial in :P

Becky Burr: (10:27) I would stay away from a petition, however, kick off a discussion!

Becky Burr: (10:27) petitions are sometimes just shouting

David McAuley (RySG): (10:28) Agree Becky but a trigger point does not appear fully formed - need a way to get there

David McAuley (RySG): (10:29) I don't see those comments

David McAuley (RySG): (10:29) just now see it

David McAuley (RySG): (10:30) did not see it Steve when you first read it

Becky Burr: (10:30) i understand - still worried about getting people dug in before the conversation. Would rather have

David McAuley (RySG): (10:30) Steve if we call in who will hear us - the whole room?

Brenda Brewer: (10:31) Remote Group: Izumi is now on phone line

Athina Fragkouli (ASO): (10:31) it would make sense if SO/ACs are eligible to trigger this process.. I don't have an opinion on how many SO/AC should be enough to do that (one SO/AC or more)

Mathieu Weill, ccNSO, co-chair: (10:32) Hi all, i'm online

Mike Brennan: (10:32) @David, Only people on the phone will be able to hear you now. We've muted the speakers in the room here

Athina Fragkouli (ASO): (10:32) The whiteboard is hiding the chatting room.. :(

Athina Fragkouli (ASO): (10:32) thank you :)

Becky Burr: (10:33) ok with that - petition followed by discussion within an SO or AC, then a formal invocation by one SO or AC for a decision by the rest of the groups about more formalized process

Becky Burr: (10:33) i'm ok with Jame's suggestion

James Gannon [GNSO-NCSG] 2: (10:33) exactly becky

RussMundy: (10:33) speaking as an individual (not an ssac rep), it seems that it could be open to anyone but they would need to have an SO or AC that would be willing to sponsor

Mathieu Weill, ccNSO, co-chair: (10:34) Should we clarify WHEN that trigger should take place ? Is it after the Board resolution is approved and published ?

Becky Burr: (10:34) leave it up to SO or AC to decide what level of support is needed internally. NO NO NO on the 1000 people in 15 days stuff

James Gannon [GNSO-NCSG] 2: (10:34) +1 Becky

Becky Burr: (10:35) +1 David

Athina Fragkouli (ASO): (10:35) I agree with Becky

Becky Burr: (10:37) but if the Board was required to provide formal notice in advance of amending bylaws, then it would be possible to start the process BEFORE the Board voted so that the Board would have the opportunity to avoid confrontation

David McAuley (RySG): (10:38) Good point Becky

James Gannon [GNSO-NCSG] 2: (10:38) Agreed sounds good

James Gannon [GNSO-NCSG] 2: (10:38) I have to step away for a few moments unfortunately

Izumi Okutani (ASO): (10:39) I have a question about relationship of individuals to petition and SOs/ACs. Do they just chose any SOs/ACs.? Trying to understand how it works

RussMundy: (10:39) I think Becky's point is a good one particularly avoiding confrontation is possible

Becky Burr: (10:40) @ Izumi, SOs and ACs each have different affiliation rules, more or less formal.

Izumi Okutani (ASO): (10:40) I agree with Becky on leaving the decision to SOs/ACs and on the advanced notice from the Board

Athina Fragkouli (ASO): (10:41) I think this "anyone can start an online petition" could creat complications... we should stick to the procedures we already know. SO/ACs have internal procedures to make the decision to trigger the process

Athina Fragkouli (ASO): (10:41) thank you Steve

Izumi Okutani (ASO): (10:42) @SO/AC Sure I understand each SOs and ACs each have different rules. Once individuals to petition, does this mean each SOs/ACs make a decision whether to pick up that petition and take it further in their process?

Becky Burr: (10:44) i think yes Izumi, up to the point where there is enough support among the groups to move to the next level of formality.

Izumi Okutani (ASO): (10:45) OK noted thanks Becky

Izumi Okutani (ASO): (10:46) I prefer to start the petition through SOs/ACs. Individuals can join each SOs/ACs (such as ALAC) if they wish to raise voices.

Becky Burr: (10:46) I am happy sticking with the SO/AC structure for decision making - that's the structure we know and love today. You could use the community forum as a place for conversation and sharing but not decision making

Becky Burr: (10:46) concerned otherwise about ballot box stuffing

David McAuley (RySG): (10:46) I worry about a quorum of individuals as that can be gamed fairly easily

Izumi Okutani (ASO): (10:46) For simplicity of the process and make use of existing mechanisms

RussMundy: (10:47) if the structure for deciding falls to the the SOs & ACs, it seems that the objective for the decision would be for a unanimous choice of all

jorge villa (ASO): (10:47) +1 Izumi

David McAuley (RySG): (10:47) I think it may be worth considering weighted voting per issue

Becky Burr: (10:48) can I ask how we deal with SOs that have no particular interest in an issue? That to me is a threshold issue.

Becky Burr: (10:48) could we talk about equal voting among affected stakeholder groups

David McAuley (RySG): (10:49) Agree with Becky

Athina Fragkouli (ASO): (10:49) Becky could you please louder prease? the background is very busy

Sabine Meyer: (10:50) affected by what, if I may ask?

David McAuley (RySG): (10:50) yes, background noise is very high

Sabine Meyer: (10:51) ah okay, understood

RussMundy: (10:51) a concern I have about any 'voting' role of any kind for an AC might have a negative impact on their freedom to provide the best technical advice for the good of the Internet

Becky Burr: (10:53) again, any AC can follow its own processes to decide whether or not to participate via votes. There should be NO REQUIREMENT that advisory organizations participate directly, e.g., through voting. They should always be free to remain in an advisory role

James Gannon [GNSO-NCSG] 2: (10:54) Agreed becky

Becky Burr: (10:55) Russ - I think you make a very good argument for treating truly "advisory" groups as advisoroy only. That is a global change I would support. (FWIW, i think that the ALAC, because it elects a Board Member, can not be described as truly advisory only)

James Gannon [GNSO-NCSG] 2: (10:55) For it to go to the community forum yes

RussMundy: (10:55) @Becky: my concern is related to actually being 'granted' power in the official decision making process for ICANN governance would not only increase the 'power' of an AC who today can only offer advice that no one is required to follow

Mathieu Weill, ccNSO, co-chair: (10:56) Steve, is it voting by SO/ACs ?

Becky Burr: (10:56) well I am with you Russ, I think it would be better if purely advisory bodies remained purely advisory = but I do NOT include the ALAC in that category

James Gannon [GNSO-NCSG] 2: (10:57) +1 Becky

David McAuley (RySG): (10:57) agree with that , ie.e AC/SO structure. Breakthrough could happen but not in 30 min

Becky Burr: (10:57) doesn't it matter which model we are using? I am comfortable with voting - and I think that "consensus" defined by 66% is actually voting

David McAuley (RySG): (10:57) i said no to consensus and yes to voting so counted twice

RussMundy: (10:58) @Becky: my primary concern is SSAC & RSSAC and not ALAC so I think we're in agreement

Becky Burr: (10:58) consensus has a dictionary meeting

Mathieu Weill, ccNSO, co-chair: (10:58) There could be a consensus call in the Forum before formal votes

David McAuley (RySG): (10:58) That's why I \voted that way - a higher threshold almost demands voting

Becky Burr: (10:58) agree Mathieu

James Gannon [GNSO-NCSG] 2: (10:58) I think consensus is too high a threshold, and may create issues going forward aswell.

David McAuley (RySG): (10:59) ok, understand, agree W/Mathieu

Becky Burr: (10:59) that's why we are realistically saying voting

RussMundy: (10:59) I do think that starting with consensus is the right beginning objective if it can be reached

James Gannon [GNSO-NCSG] 2: (10:59) For such important matters with large ramifications I think if consensus is not acheived then voting

Sabine Meyer: (10:59) yep, I think it's great to aim for consensus first

Becky Burr: (11:00) agree, starting with consensus (as defined in the dictionary) is always the best place to start, and any SO/AC should be free to continue with that requirement - e.g., the ccNSO acts by consensus, period.

Sabine Meyer: (11:00) as defined in the dictionary = nobody saying no?

James Gannon [GNSO-NCSG] 2: (11:00) lol

James Gannon [GNSO-NCSG] 2: (11:01) I must be in the wrong stakeholder group =)

Mathieu Weill, ccNSO, co-chair: (11:01) Also note that the ccNSO has a member petition system as well. Right becky ?

Mathieu Weill, ccNSO, co-chair: (11:01) I think it's a certain # of ccTLD managers that can trigger a review of certain decisions ?

Becky Burr: (11:02) Sabine - well, i don't think that's exactly the dictionary definition - as I said, the absence of someone who says that they will die in a ditch rather than go along with the proposal.

James Gannon [GNSO-NCSG] 2: (11:03) Agree with Becky

Sabine Meyer: (11:03) that's why I was asking for clarification

Sabine Meyer: (11:03) thanks, Becky.

David McAuley (RySG): (11:03) yes, 66%

Mathieu Weill, ccNSO, co-chair: (11:03) absolutely 66%

Mathieu Weill, ccNSO, co-chair: (11:05) Steve : what you said is important. This process is a way to confirm the consensus that should occur on ALL I-cann decisions. You can't require consensus to assess consensus

Becky Burr: (11:05) Sabine - the current GAC approach and the ccNSO approach seem similar to me - correct?

James Gannon [GNSO-NCSG] 2: (11:05) Can you repeat that Steve

Sabine Meyer: (11:05) I'm not entirely sure

Becky Burr: (11:06) +1 mathieu

Mathieu Weill, ccNSO, co-chair: (11:06) What we're doing here is double checking what the Board should have done in assessing that the bylaw change reached consensus.

Becky Burr: (11:06) LOL Sabine

James Gannon [GNSO-NCSG] 2: (11:06) Ok

Sabine Meyer: (11:06) Sorry for using GAC speak, but it's true...

James Gannon [GNSO-NCSG] 2: (11:06) and yes I think that would be a fair threshold

Mathieu Weill, ccNSO, co-chair: (11:07) To me at least, this presentation is a "messaging" breakthrough

Becky Burr: (11:07) i defer to the inter-governmental norm of creative ambiguity

David McAuley (RySG): (11:07) 66% of all ACs/SOs?

David McAuley (RySG): (11:07) It should be hard

Becky Burr: (11:07) all AFFECTED SOs and or ACs

Sabine Meyer: (11:07) this could possibly be perceived as a low blow by some.

Becky Burr: (11:07) depends on whether or not ACs are affected

Sabine Meyer: (11:07) :)

James Gannon [GNSO-NCSG] 2: (11:07) Affected. By their own choice.

Becky Burr: (11:08) low blow or honest assesment - i guess it depends on your perspective, but remember that I was a government type for years

Becky Burr: (11:09) affected by their own choice, I guess we can't get better than that

David McAuley (RySG): (11:09) I tend to agree w/Becky that it should be a function of affected SO/AC – or potentially affected

David McAuley (RySG): (11:09) depends of what we mean by affected

Becky Burr: (11:10) agree James very important\

David McAuley (RySG): (11:10) Sounds like the room has gone quiet - hard to think without the noise

James Gannon [GNSO-NCSG] 2: (11:11) Yes

James Gannon [GNSO-NCSG] 2: (11:11) We should then reflect that for the same risk

Becky Burr: (11:11) i agree with that change

RussMundy: (11:12) if the individual SO/ACs can decide whether or not they participate, it seems unwise to define a structure that requires participation of an AC & an SO

RussMundy: (11:12) agree

James Gannon [GNSO-NCSG] 2: (11:12) (And I think that was my suggestion so my bad, thinking on my feet)

David McAuley (RySG): (11:12) I think you are doing great Steve

Becky Burr: (11:13) correct

James Gannon [GNSO-NCSG] 2: (11:13) Outcome would be a position statement of the participating community.

Becky Burr: (11:13) yes Steve - that is correct.

James Gannon [GNSO-NCSG] 2: (11:14) Including that decision yes

Becky Burr: (11:14) that's what I was raising earlier - an obligation to announce its intent to CONSIDER a bylaws change

Sabine Meyer: (11:14) James, would this position only be change/don't change or also "change along these following lines"?

Izumi Okutani (ASO): (11:14) + 1 James about providing a reason

James Gannon [GNSO-NCSG] 2: (11:15) I would like it to be explanatory rather than prescriptive.

Mathieu Weill, ccNSO, co-chair: (11:15) Reason should be provided at petition level, fleshed out within the Forum

James Gannon [GNSO-NCSG] 2: (11:15) If the explanation is good enough the action should be apparent

James Gannon [GNSO-NCSG] 2: (11:16) Exactly Matthieu

Izumi Okutani (ASO): (11:16) I agree Becky

Izumi Okutani (ASO): (11:16) about the Board sharing in advance before going to blocking

Izumi Okutani (ASO): (11:16) + 1 Mathieu about providing reason at petition level

RussMundy: (11:17) I agree with adding Becky

RussMundy: (11:17) 'Becky's suggestion

James Gannon [GNSO-NCSG] 2: (11:17) thanks steve

Izumi Okutani (ASO): (11:17) Thanks Steve

Athina Fragkouli (ASO): (11:17) thank you Steve

RussMundy: (11:18) @Steve, excellent job - thanks

Sabine Meyer: (11:18) thank you everyone!

Becky Burr: (11:18) are we supposed to be in a different adobe room now?

Sabine Meyer: (11:18) probably...

James Gannon [GNSO-NCSG] 2: (11:18) nope

Keith Drazek: (11:18) We're back

David McAuley (RySG): (11:18) A tip of the hat to Steve DelBianco – herding cats in this exercise was very hard in the remote room – very hard to hear each other and gel as a group. Steve did an excellent job.

Sabine Meyer: (11:18) well, I mean of course "our" whiteboard might be of little use to the others

James Gannon [GNSO-NCSG] 2: (11:18) Yes great work

Mathieu Weill, ccNSO, co-chair: (11:18) Great job Steve !

Becky Burr: (11:18) agree - good work Steve

Sabine Meyer: (11:19) esp as it's blocking the transcript

James Gannon [GNSO-NCSG] 2: (11:19) Can someone make sure our whiteboard is saved before its removed

Sabine Meyer: (11:20) seems like Steve might still be working in it?

Becky Burr: (11:20) clean up and removal of short hand probably

Cheryl Langdon-Orr (CLO) ALAC AP-Regional Member: (11:24) if there is a hand up in the room mention it in chat please so I can recognise

Becky Burr: (11:32) the reference to 7 - makes some assumptions - all SOs and ACs are affected and all ACs have decided to take on a role that is not exclusively advisory

Becky Burr: (11:35) but the SSAC may decide to remain advisory only

Becky Burr: (11:36) and what if the bylaws change has nothing to do with security??

James Gannon [GNSO-NCSG] 2: (11:36) Yes and we must respect that

Suzanne Woolf: (11:36) I do wonder what happens to the assumptions we're all making about quorums, thresholds, and balance of power if we ever want to change the number of SOs or ACs or constitutions.

Suzanne Woolf: (11:36) Do we start over?

James Gannon [GNSO-NCSG] 2: (11:36) And not operationalise groups that don't want to be

Becky Burr: (11:37) I just think the thresholds need to be keyed off stakeholders who affirmatively consider themselves affected

ebw: (11:38) becky: agree.

Suzanne Woolf: (11:38) @Becky sure but my point was that the entire discussion of voting thresholds, etc. seems tied to the current specifics. I'd be happy with some kind of provision to re-evaluate in the event the community changes from the number 7 as the base number of relevant groups.

Suzanne Woolf: (11:39) not thinking it's a showstopper of any kind, just another thing to consider

Mike Silber: (11:39) David Clark: "We reject kings, presidents and voting. We believe in rough consensus and running code"

RussMundy: (11:39) I agree with Suzanne that whatever process is created needs to be able to reasonably change

Suzanne Woolf: (11:40) @Mike a great decision process for a lot of things. Not everything, but a lot of things. :)

Lyman Chapin (SSAC): (11:41) +1 to Alan's reading of SSAC's view

Suzanne Woolf: (11:41) @Alan: RSSAC has been equally unequivocal.

ebw: (11:41) "out of the game" appears to be the stated desire of the authors of ssac071

James Gannon [GNSO-NCSG] 2: (11:41) Yes so let's please stop trying to force part of our community into something they have repeatedly said they don't want to do

Suzanne Woolf: (11:42) @James thank you :)

RussMundy: (11:42) This time as an SSAC person, +1 to Alan & Lyman - that is what SSAC has said

RussMundy: (11:43) yes, thanks James

Becky Burr: (11:44) I WOULD say that!

Suzanne Woolf: (11:45) Chris channels Becky, cool :-)

James Gannon [GNSO-NCSG] 2: (11:45) =)

Becky Burr: (11:45) that's not channeling, that would be quoting

Jeff Neuman: (11:46) Agree with Chris, that would have never gotten through. I know Steve says they take it seriously, but that bylaws change was on the consent agenda

Bruce Tonkin: (11:46) Here is the text from the SSAC 71 that was relevant to the point that Alan Greenberg made earlier:

Bruce Tonkin: (11:46) According to its Charter, the role of the SSAC is to "advise the ICANN community and Board on matters relating to the security and integrity of the Internet's naming and address allocation systems."3 The SSAC has neither been given nor sought any standing for its advice other than that it be evaluated on its merits and adopted (or not) according to that evaluation by the affected parties. The SSAC believes that this purely advisory role is the one to which it is best suited, and asks the CCWG-Accountability to take this into account in its review of the options

Steve: (11:47) "Steve" was indeed me, Steve Crocker, and I have lowered my hand.

Anne Aikman-Scaless - IPC: (11:48) @Bruce - but of course SSAC may elect to participate if security and stability is affected. Witness SSAC 69, 70, 71. So first call may be to ask each SO/AC whether or not it will weigh in. If no, then change threshold.

Avri Doria: (11:51) we still have one more to review?

Avri Doria: (11:51) what do we do with these once we have reviewed the 4 proposals?

James Gannon [GNSO-NCSG] 2: (11:51) Yes Steve DeB

Lyman Chapin (SSAC): (11:51) @Anne yes



Steve: (11:52) Why change the threshold? If an AC decides not to participate, does it matter whether it does so on a case by case basis or as its own standing policy. I haven't discussed this with anyone on SSAC, but as the founding chair of SSAC I can easily imagine having an internal SSAC policy that says they will generally not participate but they reserve the right to do so. Then, within SSAC, I would have instructed the support staff that whenever one of these issues comes up, they should do a quick check with the committee to see if we want to be involved, and to send a pro forma "not going to participate" unless the committee indicated it wanted to think about it.

Steve: (11:52) about it.

Avri Doria: (11:53) my question is would the SSAC be concerned about changes in the bylaws that affected the way they functioned with ICANN. or the degree to which their advice was used and considered. or is the giving of advice an end in itself and all the rest is irrelevant?

Jordan Carter (.nz, WP1 rpt): (11:53) we got pretty strong feedback in the comments that people have little tolerance with "not knowing who has decision rights"

Becky Burr: (11:54) that works Steve so long as the decision not to participate does not count as a negative vote or raise the level of agreement required. So you can't use an absolute number (i.e., 4) when the size of the decisional pool changes on a case by case basis

ebw: (11:55) avri, there are members of the ssac in the chat who may respond, i'm not, my reading is that the second clause of your sentence is probably correct.

RussMundy: (11:57) @Avri: as an individual that participates in ssac but speaking as an individual, currently SSAC has no 'power' to require anyone to do anything, if this process being discussed results in the SSAC having 'power' to 'vote' on anything then that is an increase in SSAC 'power'

David McAuley (RySG): (11:58) Agree w Steve - very challenging

ebw: (12:01) so four of seven, a number Steve and previously Chris used, is really four of five.

Greg Shatan: (12:06) The accidental power of apathy or internal conflict is a concern.

James Gannon [GNSO-NCSG] 2: (12:07) Doing good without us Steve =>

James Gannon [GNSO-NCSG] 2: (12:07) Wow. Doing good without us Steve.

James Gannon [GNSO-NCSG] 2: (12:08) hahahaha

Jorge Cancio (GAC Switzerland): (12:08) Please consider this: specific interests (2 SO/AC) are easier to mobilize than diffuse interests as perhaps embodied by a vague compromise necessary to please the community as a whole (Board decision)

James Gannon [GNSO-NCSG] 2: (12:09) We have the pre-forum call

RussMundy: (12:10) similarly, there's no requirement for an individual that normally works in one SO/AC from petitioning another, different SO/AC if it makes sense

Lyman Chapin (SSAC): (12:11) @Avri The consistent view within SSAC is indeed that the giving of advice is an end in itself. Whether or not the advice is followed is not relevant (strictly from the point of view of SSAC as a body—I'm sure that individual SSAC members would have individual views and concerns)

Becky Burr: (12:12) that they care

James Gannon [GNSO-NCSG] 2: (12:12) Lyman, and personally I feel that is one of the reasons for the strength and status of the SSACs advice.

Becky Burr: (12:12) self declared

Becky Burr: (12:13) assume that people participate if they have a stake, not if they don't

Jorge Cancio (GAC Switzerland): (12:13) 2 SO/AC overturning a Board decision is a danger of capture by activist SO/AC

James Gannon [GNSO-NCSG] 2: (12:14) So that's where we start, and if we don't achieve that we move to voting

James Gannon [GNSO-NCSG] 2: (12:15) Jorge, I think the concept that you would have a radicalisation of 2 entire SO's or AC's is a risk that is negligible, yes potentially high impact for likelihood would be approaching 0 thus the overall risk is very low

Greg Shatan: (12:16) @Steve., ... "and feelin' like a fool."

Suzanne Woolf: (12:16) A basic question in any process design exercise is what sorts of failures do you prefer? Things won't happen that should, or things will happen that shouldn't?

Jorge Cancio (GAC Switzerland): (12:17) James, It's a question of balance between the representatives of the whole and the parts of the community - and two SO/AC are too low a threshold to overturn a decision of the majority of the Board. A majority of the community would be needed too

Becky Burr: (12:18) which is consistent with its current practice in any case - just not required

James Gannon [GNSO-NCSG] 2: (12:18) It would be the same quorum

James Gannon [GNSO-NCSG] 2: (12:20) +1 Steve

Avri Doria: (12:21) Russ and Lyman thanks for your responses, I still wonder at the complete non caring about bylaws or the organization with which you are situated. it is almost Franciscan in its selfless devotion.

James Gannon [GNSO-NCSG] 2: (12:22) Thanks Steve

RussMundy: (12:23) @Avri: & that's one of the reasons that Lyman & I doing this on our Saturday afternoon :-)

David McAuley (RySG): (12:23) +1 James, thanks Steve

Lyman Chapin (SSAC): (12:24) @Russ :-)

Suzanne Woolf: (12:25) Well I did get on a plane....

Avri Doria: (12:25) Russ&Lyman, Well i assume you guys do it out of personal interest as it is not a technical issue of concern to SSAC. or do I misunderstand.

RussMundy: (12:26) @Avri - sounds about right to me - no direct technical content here :-)

Suzanne Woolf: (12:26) @Avri, SSAC did recently decide to join CCWG as a chartering organization, Lyman is one of our reps but couldn't be here in person.

Tracy Hackshaw (Trinidad and Tobago): (12:26) That was an excellent session indeed. Happy at the involvement of Remote Participants

Avri Doria: (12:26) so i do misunderstand

Brenda Brewer: (12:28) Lunch Break until 1:15 PM/PT. Enjoy!