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>>thomas rickert: this is the usual two-minute warning so we're going to reconvene in two minutes

>>thomas rickert: i respectfully summon jordan and probably jonathan to join the table for the next agenda item. Jordan, yes? Congratulations, jordan, you've been the rapporteur for the budget discussions.

Should we invite jonathan?

>> zuck? Where is jonathan?

>>thomas rickert: jonathan zuck, jonathan zuck, please join the table now. This is the last call for jonathan zuck.

>>jordan carter: i don't think you should tell him it's the last call. He might miss the flight.

>>thomas rickert: good. Let's get the recording started. And here we -- here he is.

So as everyone takes their seats, we are now moving to another area where different views were expressed in the public comment, which is the budget and strategic veto power, and we will start, just like we did for the earlier agenda items, with a recap of the public comment analysis and then see how we can move this forward.

Jordan, are you providing the recap or handing over to jonathan or -- right away.

>>jordan carter: i'll just start and then i'll throw it jonathan's way when i get bored. I mean, busy.

So the budget strategic plan, operating plan, has been discussed a number of times and the public comment report that we've provided that's on the screen in front of you looks at the areas of consensus. So there is a broad support in the comments to have a power relating to these items.

There's areas that need refinement or that commenters think need refinement, but that have already been refined. So the first one is an example of that. The endless loop, we've already said already said there's only a maximum of two vetoes in the draft proposal, that there are some escalation thresholds, you know, because there already is one.

So, you know, people sort of form a quick impression and sometimes the comments don't match the substance of what we've proposed.

But if you look down, the discussion has really moved on a bit beyond the second draft proposal based on the conversations that happened in los angeles as well, and that's been about the kind of counterproposal around veto. So that the board proposal was a different way of engaging the community in the discussion. And some of these questions come to the enforcement level that's involved.

The options for the consideration of the ccwg -- and they're on the bottom of page 3 -- are five and i'll hand over to jonathan to talk them through. Actually, there are seven of them.

Are you happy to do that?

>> (off microphone.)

>>jordan carter: i think so. I mean, all -- people, i can assume, have read the paper that we've done, and in terms of the areas of agreement, the refinement and so on, the refinement ones are not substantive things that need to detain us here because they aren't the hard issues. I guess at a high level, the hard issue is related in part, to the enforcement model. Is this a veto or is it a kind of consultation process.

And there needs to be some clarity around the -- the counterfactual, i guess, you know. If a budget is in whatever dispute process this is, what happens to preserve the operating integrity of the company? Everyone's agreed with that goal.

So there are a lot of sort of more important "how" questions than "what" questions. But jonathan, you did the public comments now, since you led that group, so, you know, feel free to add whatever you think needs to be -- have attention drawn to it now.

>>jonathan zuck: thanks, jordan. And i too don't want to pore anybody with conversations with which they're already familiar. I'll say i'll harken back to my first slide about where we consider our responsibilities in work stream 1 because there are a number of comments that continue to appear in the public comment process that are akin to wouldn't it be nice if we could just improve the process of developing the budget in the first place. And i think that there's -- just as there's broad consensus about empowering the community with some kind of veto power, i would say there's broad consensus that improving the process on the front end is ultimately the best thing for everyone, but probably falls outside of where we are in terms of work stream 1. And so to some extent, we give short shrift to those discussions because i think they'll be ongoing and that we'll be talking about them into the future, work stream 2 and beyond, but that was one of the characteristics of the comments is what we really need to do is get better community involvement, engagement in the -- in the budget process up front, and i think that there's consensus around that point that we need to do that.

But i think we think that it falls outside of our remit for work stream 1. So that's the only thing, i guess, i would harken back to in terms of one of the things that came up.

The -- as far as the issues in which there was some concern, i would say that the two areas that rise to the surface is a concern about, again, voting an allegation in the sort of tierney of the majority. In other words, is there a way that a bunch of sos, acs, gang up on one of them or something like that and is that an issue, is that a problem we need to address. And then another issue that gets raised is about what is the extent to which we're locking up the corporation? As jordan said, we deal with that with the two round trips but what is it that happens, you know, at a stalemate between the community and the board. And so there still seems to be some combination of concern and misconception about that that we probably need to delve into as well, as we discuss this.

But as jordan said, there were some options that were thrown out by folks for consideration to address these concerns, and so i'll jump right to that section, the options for ccwg consideration.

One of them was a line-item veto, so that -- that came up, afralo, in particular, suggested that we should have -- do a line-item veto because then you wouldn't hold up the entire budget associated with it.

Then this notion of limited round trips, and we've talked about that and what would happen at the end

of these two round trips. Is it adopting a 10% increase from the previous year? Escalating to alternative -- accountability measures, which is the arbitration or board reorganization? Or is it taking out individual initiatives, and this is sort of equivalent to a line-item veto at that point, picking out individual initiatives that we think fall outside icann's mission and preventing those from going into play.

So those are sort of three things that are discussed in the context of limiting the round trips.

There's discussion of vote allocation, and that's a pretty persistent conversation across the board here, but there were conflicting issues expressed around this.

There are some that believe that most of these policy is -- affects the gnso and that they ought to have a stronger position in this process because of that, and then again there are others that have suggested -- alac in particular have suggested that there's a concern that just a straight majority rule might lead to a particular group being discriminated against in the process.

The fourth suggestion that has been posed is creating sort of causal boundaries around an objection. In other words, that you have to have cause for a community objection of an annual budget. And i guess we'll talk about that particular proposal in a little bit more detail, but the idea being that there should only be certain types of budget items that -- to which the community can object and it would be on the basis of them somehow being outside of the five-year plan or outside the core mission and purpose of the organization, and that that would be then the basis for that veto.

So that suggestion was made as well.

Do you want to scroll down? It doesn't like i have scrolling ability here.

Okay. So number 5, again, this is something that came specifically from the board, which is about drawing the distinction between the five-year strategic plan and budget and the annual plan and budget, and treating them differently.

And so that proposal essentially suggests that the community would have an outright veto at the five-year level but would not at the annual level where it's more operational and there's more need to maintain sort of operational readiness of the organization and that the risks of deadlock are higher.

So the proposal was to make a separation between those two, and that came from the icann board.

Number 6 is an issue about course correction, and, again, this was raised by the board as well, which is that the board should be able to maintain the ability to allocate funds on an as-needed basis on the off budget cycle. You know, as the year progresses, if something comes up that's particularly urgent, the board should maintain the ability to fund that particular initiative, and i think that will have some discussion as well.

And then finally, in number 7, there continues to be a very large discussion about making sure that pti

is separate, that iana is separate, and i think that there's, again, consensus around this. As we talk about the specifics of this budget veto mechanism, i think we'll start to flesh out what it really means for it to be separate, and the extent to which the demands of the cwg impact the demands of the ccwg, and we'll have to have that conversation, i think, here in the room.

But the -- there was a specific suggestion about what the process might look like for the pti, you know, separate budget allocation process. But i think there's some discussion about whether or not there might still be indirect impact on the iana budget from the icann budget generally, and that we have to deal with that indirect impact as well, and so we might not be able to so clearly separate the two of them that we treat them completely parallel tracks.

Thomas asked -- it's not in the document because i was charged in the document to make this sort of completely an objective analysis of what existed in the comments, and so as we've talked in the sub-team and we've worked through this a little bit, it appears that there is still broad consensus for the community to have a veto power over the annual budget, that there's broad consensus around that power and empowering the community to stop the board from going down a particular path.

I think that there's some concern about deadlock that i think is largely unjustified for a number of reasons. One is that the budget sometimes goes longer today, and it hasn't led to the collapse of the organization, and so if we come up with clear time lines and really time-box this process, i think we can prevent anything catastrophic from occurring because the community has become activated on a particular budget item.

I think i would also say that there seems to be broad understanding in the community that this is an extreme thing to do, that no one would want to actually do it, and so the fact that it would have some consequences might not be entirely a bad thing because it would actually provide an incentive for everybody to be at the table and to make changes in a timely manner, so that whatever catastrophic outcome that we're all trying to avoid doesn't occur.

Then finally, i -- the -- again, in discussions with the community, this notion of -- of making this causal requirement for objections to the annual board has -- annual budget has some complications as well.

If you recall, there were several comments -- and one came from chris disspain -- on the first draft of the ccwg proposal, and that led to a discussion about whether or not we would ever want a situation in which an outside body was making a substantive decision about icann, and there was very broad consensus that we would never want that. That all we ever wanted to be arbitrated outside icann was about the process and was that process followed and were the powers exercised in a reasonable way.

If we, instead, say that a budget item needs to be specifically -- can only be rejected if it's outside of the five-year strategic plan or outside the mission of icann, we're putting that decision, which i would

consider to be substantive, in the hands of an outside arbiter, and i think that there's some danger associated with that and there's broad consensus around that.

And so i would say that with all this input and with discussion among the community, i think there still remains a broad consensus that there should be some form of veto of the annual budget by the community, and that we've done a great deal to address the concerns that are 234 place but we can do more to get to the specifics, but that we probably shouldn't restrict the community veto of the annual budget to a specific set of criteria because those criteria then would be measured by somebody outside the organization. Okay?

>>thomas rickert: thank you, jonathan. We are launching the debate right now, only. We've gone into some suggestions. Jordan, i think you mentioned you had an extra comment and then i'll try to recap and we'll open the door -- to the room.

>>jordan carter: it's something that isn't in the paper and that i've raised once but wanted to raise again in the room with people, which is that in respect of the -- dealing with the iana functions operator budget, we are all agreed that if anything happens to the icann budget in terms of veto, the iana function's budget has to carry on, regardless, and the caretaker -- you know, in other words, there should be no interference in the iana function's budget through any decision on a general icann budget. In you what we haven't discussed and i don't think -- haven't considered quite as well as we might, is that these powers are all set up for deployment through the community mechanism, whatever it is, and we've talked about the icann sos, acs. By consensus means, as we discussed this morning, making decisions about that.

But those sos and acs include the numbers and names communities. They don't include the protocol community and the protocols community is one of the three iana customers.

So i don't know how to raise this properly, so i'm just going to say it. There's a question, i think, about the iana function's budget, whether there needs to be a different set of decision-makers that involves names, numbers and protocols for that budget. And i'm just going to put that on the table. I hope i haven't derailed or confused anyone by doing so.

>>jonathan zuck: i want to add something too. Sorry. I dropped out from the beginning. One of the concerns that was raised by alec, also, that i want to make sure gets mentioned is in the document, is that we need to account of a budget shortfall and how do we deal with the fact that we don't actually have enough money for the budget. And so -- last year's budget plus 10% is the wrong solution if we don't have enough money. So that's one of the things i want to keep on the table and i wanted to make sure that i hadn't dropped it.

>>mathieu weill: okay. Thank you. So what i'm taking from this report from the work party is that on

the budget and strategic veto power, there's a lot of common ground. There's broad agreement that the up-front process needs to be re-enforced. Everyone agrees?

There's agreement about a five-year strategic plan and budget being subject to veto powers?

That seems to be unsaid, something we've achieved.

The pti budget, there are some refinements but it's globally agreed that it would require a veto power from the community.

There's a couple of refinements in terms of cost correction which needs to be assessed.

And then we have the most -- probably the one aspect that still requires discussion is the one-year budget and operating plans where, as jonathan has said, there was in the comments taken as a whole a rather broad support.

But certainly cannot be considered unanimous.

So we would need to assess this and starting with a discussion, obviously, and jonathon was suggesting two important ways forward, more clarity on how to constrain this process in terms of timing so that it doesn't create powerlessness for the organization. That's what i heard jonathan say. And there was a suggestion to use rationale for this -- specific rationale for this type of veto which jonathan -- where jonathan pointed out that it was raising specific issues about whether there would induce the need for assessment, whether the rationale -- it was creating a new process and new process issues.

So i think my suggest for the discussion going forward is if the arrears that we described as that it's globally agreed, you think it is not agreed, then point it out and then let's try and focus as much as possible on finalizing an agreement or proposal that do not raise -- that everybody can live with, let's do that, everybody can live with for the one-year aspect.

And with that, i'm turning to the room and alan, you are first in line.

>>alan greenberg: thank you. Two comments. Jonathan mentioned i think explicitly that alac was one of the ones that said we should look at reinforcing the process so we don't get to a showdown. And that is clearly a workstream 2 process. But we strongly feel that this report should be a little bit more specific as to where we're heading so it gives people a warmer, fuzzy people that it's not saying something we should -- simply pointing to last year's process alone with some details probably will do that. So we're not looking for any change in the recommendation, but some verbiage that makes it clear to everyone what we're talking about so we never have to get to the showdown part.

Number two, something that i -- someone i think alluded to but didn't say quite clearly if we end up with a one-year budget veto, we really have to consider the situation where the projected iana budget was going to have a significant increase and continuation of a budget from last year's would not allow that, and that's a really serious problem. The day we have to think about dnssec 2 or some other major

investment that iana has to make, we really need to make sure that's protected and isn't cut off by some other process going on in parallel. So just a note of that. Thank you.

>>mathieu weill: thank you, alan. I would notice the dnssec investment cycle in the past has not been exactly a three-process already.

>>alan greenberg: and not one you want to defer by a year.

>>mathieu weill: it has been deferred at the iana level several times for years. Investment cycles are in the iana type of technologies are not three-month cycles. This is not a startup kind of business. But that's my personal assessment. The point you are raising about the sudden raise of cost is wider than that and certainly is worth taking into account.

Next is kavouss.

>>kavouss arasteh: yes. I emphasize on the last point that alan made with respect to the iana budget, i don't explain it more.

Now, coming back to the issues mentioned by the board as a point of divergence, i look into the area of the budget approval of many governmental/non-governmental, and many others how to do that. They have the strategic plan for next years. In order to implement that strategy plan, they have a financial plan. And in order to link the financial plan to the strategic plan, they have the operational plan. What those organizations, no matter government or non-governmental, they do, they have a wording on the four years or five years or six years but they leave some degree of maneuver for the annual budget or operational annual in order to allow the executive power to properly respond to the situations.

What the executive should do is to remain within the ceiling of those five years or four years or six years. But you give them degree of flexibility. You do not go to the last thing.

So i don't think the veto of the annual budget is appropriate. You could ask for reconsideration for particular topic or particular area of budget, but veto is not appropriate. But in the five years or four years, whatever you have, you could have the power of the vetoing. With respect to few others of these things, i think all of them are positive. You could take all the positive element of those, not having unlimited number of the veto and so on and so forth about escalation threshold. Could you do that but the over-- you could do that about the overly broad and so on and so forth. So you could make a combination of this but this veto on the annual budget does not seem to have. Thank you.

>>thomas rickert: thank you, kavouss. Next is steve.

>>steve delbianco: steve delbianco with the csg. So i'm referring to the second item up there on limiting round trips. That was important to csg members and bc in particular. Of the three options listed, this is not an opportunity of introducing anything new. But this morning's discussion on the commune forum, the decision-making method, the question for jordan and jonathan, if the community

forum convened on this particular power, could the community forum say the default is last year plus 10%? But the community forum could suggest since this is an expense reduction year, reaches have dried up, could we structure it so that we solve number 2 by allowing the community forum in its consensus decision to exercise the power, to exercise the power with a reduction instead of an increase of the budget, to recognize the fact that the corporation has less revenue, not more.

>>mathieu weill: thank you, steve. Not sure we are going to the simplicity aspect.

Sorry, jonathan, i was not seeing your hand.

>>jordan carter: i realize we are using the f word a lot in this conversation, the fiduciary word. And the idea that you'd have the community forum telling the board what the overall limits level of the budget should be is one that makes me really uncomfortable. We've tried to be very -- we've tried in developing this whole part of this to be very respectful of the responsibilities that the board and directors have. And that's why this power was structured not as a line item veto, not as the community can pick and choose the budget but just an up or down -- in fact, not an up, just a down. Like, the only thing we're saying is that that budget isn't acceptable and here's why and the why is based on something we said to you in the consultation. So it isn't a surprise.

If we -- and you can put an automatic cap in the bylaws or whatever that says for your interim budget that you are going to operate while this veto is resolved, you cannot spend any more than 110% of last year, that's all easy.

But if you try to give the community forum the rights to determine what the budget is overall, to me personally you've stepped over that line and you've created an impossible situation for the board. So from my logic, that is why this was an up or down or just a veto, that that was cleaner and more respectful of fiduciary responsibilities than having a sort of finger-poking "oh, yeah, we are taking away the budget away from you guys and making it ourselves." That's the logic that we had.

>>mathieu weill: quick follow-up, jonathan?

>>jonathan zuck: i agree with jordan. My recommendation is that we get back to -- if we are not constrained, then the community can decrease the budget if there wasn't a budget shortfall. In a sense, it's too empowering and if that went to arbitration, we would be back to the same problem which is making a substantial decision about how much money is being spent.

I think there's a danger in creating too much power in that intermediate group.

>>steve delbianco: thanks for answering the question and, yet, i'm not sure whether you're looking for ideas to solve number 2 because you brought up the fact that budget reduction could be necessary. Or do you have an idea to solve that and want us to consider that idea? Are we here to come up with ideas or to vote on a preferred way out?

>>jonathan zuck: that's a good question. I think the subgroup at this point believes that if you froze a budget from the previous year that was actually higher than revenue justified, that would be a temporary situation and the board would be incented to make a correction quickly because of it.

I don't think the communities needs to make a direct -- i wanted to concede that the point was raised. I don't think it was the position of the community to make a direct correction to that fact. I think the fact that that's the case that the budget is having an overrun would be credit by the board because of their fiduciary responsibility.

>>steve delbianco: you think option a solves it?

>>jonathan zuck: i do think option a solves it. Thank you.

>>mathieu weill: thank you. Next is chérine. Thank you for your patience.

>>chérine chalaby: so i'd like to bring this point to you. If you had the power to veto the budget this year, this is what will happen. Not much.

Now, let me tell you why not much. This year's expenses are \$118 million. Over 94 million of those are expenses that virtually we can't do much about it. We have to pay rent. We have to pay salaries. We have to pay insurance. We have to pay these meetings here. We have to pay for travel. We have to pay for everything.

When you take this out, then what's left are some discretionary items including language services, aoc reviews, other things, for example, outside legal counsel this year is 7 million of that. What are you freezing.

What you are in, in fact, doing you are hurting yourself because also the discretionary items or so/ac activities requests at the beginning of the year. There is a summit were in october or september and then you veto the power, they have made a commit. They have invited people. Are you going to freeze that? That doesn't make sense.

Plus, if you freeze the budget, you have no quarterly reporting on that because once the -- once the cfo is operating in the blind without budget, he receives statements, he receives invoices, he receives bills, he has to pay. He can't report against a budget. So all of the effort we put in the last five years -- sorry, in the last two or three years in sort of moving this organization from an expense kind of reporting to a proper reporting around project, around balance sheet, around p&l, around all of that, you are freezing that as well.

So you are really switching the light bulbs off and the community will operate in the dark for period of time. That's one point. Please understand the consequences of that. You are hurting the community and i'm one of the community. And frankly i'm telling you, you are hurting us as a group.

The second point i want to make, the budget is not a board budget. This is the icann budget. It's

developed by the community with staff. It's not developed by the board. You are not really hurting the power. It is a power over the corporation, i understand. The real power you want is to make sure the board, the corporation, does not do something that you don't want them to do, right? And i heard the example of netmundial several times. That's the one that people bring. Fine.

So let's find a mechanism for you to stop the organization undertaking those initiatives, right, that the community doesn't agree with rather than freeze the budget.

So i really urge you, please consider this. That if you just go for freezing the budget, you are not going to achieve the objective you want to achieve. Whereas, if you set powers to veto new initiatives that you are not in agreement with, you will achieve your objective. Thank you.

>>mathieu weill: thank you, cherine. I think it's important that we have clarity on the objectives and certainly the one you're mentioning has been mentioned several times in these discussions, about new initiatives. But we are also facing a requirement from the cwg stewardship to have a power over icann budgets and not only pti but the icann overall budget. And i think that particular one, i'm not -- i would not speak for the cwg but it doesn't seem to me that it's about new initiatives only. And maybe it's the right point to turn to jonathan robinson as co-chair of the cwg to ask maybe that we give clarity about what's the goal behind the cwg requirement for that because we can't go into solution building until we have this clarity about the requirements. And i'm sure the cwg's an obviously one but there may be others in this room as well. Jonathan?

>>jonathan robinson: thank you, mathieu. It is jonathan robinson for the record. I can certainly give some insight and some thoughts as to where we -- how we derived from what we were doing. I actually pulled up the proposal and i looked into this a little bit this morning, aware that someone might ask after this.

[laughter]

I mean, we made it very clear that our proposal was significantly dependent and expressly conditioned on the accountability work. And we talked with myself and lisa, talked with the three co-chairs up there on a regular basis. And this was in a sense baked into our whole process from the beginning as you all know. And in many ways was viewed as a form of leverage associated with the transition. We've all expressed this explicitly if and when the transition goes ahead, we need to ensure that there's enhanced accountability that goes with it.

So we then went on to say in our proposal that if these changes were implemented as envisaged, they will meet the requirement. And then specifically with respect to the budget, what we did is we had a bunch of design teams that did some work. And in this case, the design team was design team o, and we specifically put in what design team o's requirements were. And they are detailed in the proposal here.

When you go back and look at it, it says the cwg stewardship recommends -- and it goes on to say ifos, comprehensive facts, comprehensive costs should be transparent, icann's operating plans and budget should include itemization of all iana operations. So i think one almost needs to separate out all of those specific requirements that were made up and worked on in design team o, recommended to the group and then baked into our proposal. That was what was the design team wanted and required. Now, as to vetoing the budget or not, i mean, in some ways -- and i guess this is a personal interpretation. I haven't discussed this with our group at all. But in some ways this is a sledgehammer to crack a nut. We had a bunch of requirements from the design team, what the design team required. Sure, if we could veto the budget, that appeared to meet the requirement. But i think one does need to at least tease those two apart as to the underlying objective that was made up within the design team and the overarching mechanism which certainly provided what was required but probably -- and this is where it goes into my interpretation -- wasn't a necessary condition to meet the design team's requirements.

So i'm happy to have that discussion further, but i hope that kind of illustrates a little bit because i was forced to go back on the history and say, what was really happening here? And i think there was an understanding that there were seven mechanisms being developed, which we had talked about regularly. But i think that it became clear that those seven mechanisms would meet our requirements. In this case, the question was did they exceed our requirements? Possibly yes. But they certainly met our requirements and so that's the challenge that we now have. But, i mean, i think the proposal is explicit. It's very clear because it goes on -- it's a particular paragraph where it talks about the icann and the iana budget and it goes on very clear to say the cwg stewardship recommends blah, blah, blah, blah and details exactly what came out of that design team and what was required by that design team.

>>mathieu weill: thank you, jonathan. I think -- i'm sensing that's giving food for thought for many in the room. So we will give time to settle this in.

Cherine, did i see you wanting to -- cherine, not cheryl -- did i see that correctly that you wanted to follow up?

>>cherine chalaby: not now. Give others the opportunity. I might come later. Thank you.

>>mathieu weill: thank you. And is that an old hand? Yes, probably.

Tijani.

>>tijani ben jema: thank you very much. Three points. Jonathan, in the morning, in the growing escalation, you said clearly that -- and this group we were focusing on the enforcement much more than on the other phases which are very important for our work. I think that we are doing the same now. Since we are talking only about the budget veto, we are not speaking about what we can do before.

What can be done before? And you have the emphasis on it. I think you have to formalize the interaction between the community and icann regarding the budget so that we avoid this possibility of veto.

Second second point. You said also jonathan that given the right to the community forum to propose either reduced or augment the budget, is giving much more power to the community or something like this. I don't think so since the -- the community forum will include the board. If we are obliged to go to this kind of power, i think that the community forum may have a role. And the community forum includes the board, too. Third point, if the requirement of the cwg is to budgets, we have spilling the board. So we have the possibility to veto the budget by this way. So we don't have to be really enclosed in some how to say manner of thinking and say that we don't have any other alternative but veto the budget. Thank you.

>>mathieu weill: thank you, tijani. Jordan. Or jonathan wanted to respond maybe or --

>>jonathan zuck: sure, i don't know how -- we may be about to say the same thing. You mentioned three points and the first is that we need to make sure and codify the practices of interaction and engagement and that's similar to the point that alan made that we should at least assure everyone that we plan to do that. And i don't think there's any objection to doing that. I think the issue is not letting that process cloud this one. In other words, work stream 1 was specifically about creating leverage and power on the part of the community to effect change going forward, right? So i think sometimes it will result, as jonathan described in some of the powers being a sledge hammer to crack a nut. And i'm not sure that's a bad thing. This is empowering the community in fairly quick order to let this take place. That's why there's a focus on that. Codifying the other part or assuring the community that we will codify the other part to the budget development process is a very good thing. I don't think it has anything to do really with whether or not we have a budget veto.

Your second point i want to clarify you said that i said that the community forum suggesting a decrease in the budget would be too much power, and i think that's -- i think you answered your question in the way you asked it. I didn't say that suggesting it would be too much power. I think what mr. Delbianco was suggesting is they might actually have the power to impose a decrease in the budget as parted of this veto power and that's what i was taking some issue with. I think very specifically in their rationale for the veto explained what they thought a better budget would look like and the areas where they have an issue so that recommendation component you're talking about would in fact be a part of that veto. It just wouldn't be the ability to impose a smaller budget as a community role. So that's -- that's sort of the slight distinction.

And then the -- the third question about --

>> the big stick.

>> the big stick, right, and this comes -- this is going to come up over and over again today about whether or not everything should be resolved by spilling the board, and i -- i for one think that to go -- to harken back, you know, to roelof's intervention earlier it isn't the end of the board. It may be in some cases that you're absolutely right, while this board is useless, we need to get rid of them but i'm not sure vetoing a budget is an equivalent of this. I think this is one area that operationally this is something that could happen. Not something we would want to happen by any means but something that could happen but the board would survive it just fine out the other side of it.

>>mathieu weill: thanks, jonathan. And i'm going to close the queue after jonathan robinson now. So i'm turning to jordan.

>>jordan carter: and i wasn't going to say anything that steve just said. Jordan carter for the record. I wanted to come back to something that cherine said before about the sort of what the impact of a budget veto is. And we keep going around the loops on this. And the priority for me is that when the community has raised concerns of the draft budget through the consultation process and those concerns haven't been taken on board and so they're all on the table and the community through this proposed power says no, the budget isn't approved, go away and look at it again. We've said at a high level there needs to be a caretaker situation put in place that doesn't have the consequences that cherine described. And i haven't heard anyone say the impact of a budget veto should be to make icann descend into chaos. If anyone here does think that should happen, please put your hand up. Only one government rep is sort of putting their hand up and then chris disspain put his hand up a little bit more. But it's just because he's a chaos sower.

So it's a trick question, but it's a point that sometimes we get a bit ridiculous. So i just want to bring us away from the ridiculous. It is ridiculous to consider -- conceive that this working group would create a position where people are being fired or the bills were not being paid. That is not what is being proposed. And so we need to find better language to work out what would happen where a budget has been vetoed. And some suggestions that i started floating on the -- the last wp1 call that dealt with this, at least i think i did, i may have been asleep at the time, is that if a budget and operating plan is vetoed for the year the board has an obligation and must put in place an interim operating plan and budget. And the rules around that interim operating plan and budget would be that the total spending can't be a total of 10% increase from last year and that interim plan and budget should not advance the key point on which there was disagreement that led to the veto.

Now, that does not leave any room for chaos. It does not leave any room for breaking icann. And that's the whole point. The point of a veto like this, as far as i'm concerned, and that it is a less strong slap

than firing the board. You say we don't like the plan, you didn't take account of our feedback, we're not going to sack you, but this is really serious. Pay attention. Try again. Not hey, grace, you don't get paid this week. You know, that's not what we're trying to do here. Not what we're trying to do here.

>> (off microphone).

>> so i hope that makes the point adequately. I'm sure that we need to have a little working group on this tomorrow. We must be able to come up with a way of representing the interim state -- sorry, i chose you guys because i knew you'd turn around and look at me. We can find a way to make this work. But we've got to stay away from any argument that this has to destabilize things. It just doesn't.

>>mathieu weill: thanks, jordan. I would add that the current way we're framing it is still about a consensus-driven decision across all the community. So that's -- that would be still a very strong responsibility for -- from everyone in the community to take because i would expect that the consequences would be very well laid out before -- before the decisions are made. But i think -- and i'm going to turn to roelof in a minute, important to me that we've identify a need for the one-year budget and operational plan's veto that is based on new initiatives coming up that were not in the five-year plan which we've agreed there could be a veto on, a veto power on. I really encourage -- we've heard jonathan robinson describe with more clarity, although it was on a personal basis, what he understands the requirement on this one-year operating plan, budget veto power was. That's very important to me because that's the first time i've heard it framed like this. And if there are other key requirements, and i'm speaking of requirements here or objectives or goals, behind this power at the one-year level, it's important that we record them before we defer to further work probably tomorrow on this process. But it's really important that we can list them in the terms of reference for the group that will be working on the process.

So next in line is roelof.

>>roelof meijer: thank you, mathieu. Well, maybe first to jonathan. I think you misunderstood me because i'm not against -- i'm not a big fan of a budget veto but i'm not against it. I'm just saying that it's useless to have that veto legally enforceable. On itself. So that's a different thing. You can put in the bylaw that is the community has the power to veto the budget. But if the board doesn't respect that clause in the bylaws, i think then it's useless to take the board to court, get the clause in the bylaws enforced and still keep them. That's my point.

Reaction back to cherine, if we get the mechanism right to use such a power, i think it's the opposite, the community will prevent the board from hurting the community. And the power itself will not hurt the community. It will prevent the board from doing it.

>>mathieu weill: thank you, roelof. Just before i return to (indiscernible) i had closed the queue after

jonathan robinson in an attempt to move us forward. I see that sebastien, tijani, you raised your hand after that. May i give them the opportunity to consider seriously whether they think this is really absolutely necessary. And then i'll come back to them later. Next is everette.

>> when i hear from someone who sits on purse strings and says if you shut us down you will hurt yourself, i always get confused. Well, if that were the case, that's good. Then we will take this measure much more carefully. Never mind that threatening us with not having an icann meeting is not really something that will really be the end of the world as we know it. At least for most of us. Then i occasionally note this stupid way the u.s. Government is shutting down or threatened to be shut down all the time. I don't want to go into the underlying mechanism because that's the real stupid part of it. The government -- the congress authorizes spending but doesn't -- and then the president, for example, has to spend it but then the congress says we don't give you the money for it. However, the way if a fell furlough happens and it happens a few times there are certain parts of the government that continue to keep functioning and get a salaries, like grace, for example, she would continue to get her salary but most certainly the icann board members don't need to get their sitting fees. So i'm not trying to be totally funny here, it would be totally against my nature.

[laughter]

But we can't -- we can -- if we -- if we actually structure this -- no, no, the bottle is empty. You won't achieve much. The point is, if we were going to do this, we can design essential service that will not be affected by this. We can design essential -- non-essential services that will hurt the people who wield the power. And we can assign non essential services that don't hurt the people who we -- wield the power but insight the decision makers to take this more serious. If i hear it cannot be done, i'm sorry. That just tells me, it can be done.

>>mathieu weill: thank you, ebb eberhard. I fully support to stop funding some issues. Including this one. Jan.

>> jan scholte. Two questions. One to jonathan perhaps on the cwgs requirement, is what was wanted to block the iana part of the budget, is that what was wanted? Or was it just in terms of the requirement, not -- not to have a view one way or the other but was it to block the iana part of the budget or to block the whole and i was also imagining a little bit how this would work in practice if one went through the process that was described this morning from an objection to a petition, to a pre-call, to a face-to-face community forum, to a community council, to a submission of a written objection. How does that map onto the budget c cycle?ZUCK.

>>thomas rickert: okay. I don't know, jonathan, if you want to answer but what i can say in response is it has been the ccwg accountability's interpretation of the cwg requirement that there was -- so far, that

there was a need for a budget power for the community over the iana budget, the pti budget, as well as the overall icann budget. That was our understanding of the requirements. Jonathan has provided some clarification which i don't remember the sledgehammer for -- to crack a nut kind of metaphor which is bringing you into this analysis of requirements.

But so far, that had been our interpretation.

>>jan aarte scholte: yeah, but a couple of my own conversations in cwg suggest, although i haven't talked to the whole cwg, but perhaps a narrower objective was --

>>mathieu weill: so that's the progress we're making in this consensus-building exercise.

I am informed that i skipped asha, whose hand went down, so asha, you're in the line.

>>asha hemrajani: thank you, mathieu. Asha hemrajani for the record. So i wanted to make a couple of points on the budget.

Jonathan, you mentioned formalizing the community involvement falls outside of our remit and that should be work stream 2 and i respectfully disagree because i think this is very much something we have in practice. It's been working really well in fy16. It's really easy to enshrine those in words. We can do that fairly easily. I'm willing to work with you on that, to put that in words, because it's something we have working today. We have it success -- we have it successfully done and demonstrated. You had tijani comment on that the email. It's been described well. So i think it's worked well. I think we can enshrine it and so i don't feel that we should postpone it to work stream 2.

On the iana budget, we all heard what jonathan robinson said. You had a comment, jonathan zuck, about there might be some line items within the main icann budget which are related to icann -- which are related to the iana budget which may not be that obvious.

I don't think -- and i'm speaking now for myself. This is something, of course, we should check with staff on. But i don't think it would be too difficult to take out those items related to the iana budget and list them out separately. So that we can -- we would be able to carve out the iana portion from the icann budget. That was my second point.

I think the sledgehammer to kill a -- to kill a nut, to break a nut -- what was the --

>> (off microphone.)

>>asha hemrajani: crack a nut, yeah. I haven't been able to eat nuts for a long time so i cannot remember the last time i ate a nut, but anyway, that, i think, is a bad thing in this particular instance because, you know, we have bigger -- we have other issues, bigger more important or more serious issues to worry about. This is something where i don't feel we -- i feel if we -- as long as we are able to address the concerns, which is number one, that we want to make sure that the -- you have -- the community has say over the iana budget, which we are saying we don't have an issue with, then why

use a sledgehammer to kill the rest of it?

I still -- i still don't understand that part.

So i would rather look at it from a positive perspective, enshrine the community's rights, enshrine the community's rights to have a view from the start, enshrine the working process from the start, instead of doing it from the other way around.

I don't -- i agree with what jordan was saying that -- and we all know this -- the purpose of a veto is not to create chaos. We all know that. We're not children here. We know that. But i would again reemphasize my earlier point, which is: why not use a positive way to ensure that the community has a say? Thank you.

>>mathieu weill: thank you, asha.

>>jonathan zuck: could i answer?

>>mathieu weill: yes.

>>jonathan zuck: yes. And asha, thank you for your intervention. And i'm certainly not opposed to the inclusion of enshrining the existing system into the bylaws as part of work stream 1. I think it's more of a question of just bandwidth. So if it's easy to do, then let's by all means do it.

Where i think you and i really differ is in treating these things as somehow mutually exclusive, that the -- that the installation of a last-resort veto of the budget somehow precludes the use of the more positive mechanisms that you're describing, and it doesn't.

And it isn't -- there's no circumstance under which a veto would be used in place of those things.

So the truth of the matter is, they've improved greatly, as i think we all agree. The process has improved a great deal. And we should never get to the point to where we need to use the veto. And that would be great. But that's no reason not to make it available as a last-resort mechanism for the community.

The fact that we may never need to use it is not a reason not to have it.

So, i mean, i -- so i think it's great that we enshrine the existing processes and we continue to develop them and we focus our attention on improving community involvement in the formulation of the budget. There's broad consensus that that's where we should focus most of our attention. But we're not taking attention away from those things by implementing a community veto of the budget. That's a last-resort mechanism that is about who has the last word. That's all it's -- all it's about. And so it's not like it's something that i can choose to use instead of the existing processes. I can't run to the veto and say, "i'm going to just veto the budget." There's -- all those other processes would have to happen and fail before the budget would even be -- the veto would even be available as an option.

>>mathieu weill: thanks, jonathan.

And i'm now turning to cherine. And i would encourage both questions and answers to be as concise as

possible. Cherine?

>>cherine chalaby: i just wanted to correct two statements made. One that says the board hurts the community. I never said that. I said the community hurts itself by using the veto budget. And the other one said cancel annual meetings. I didn't say that. I said, to the contrary, these will take place anyway and the veto power will not have any effect on those. Thank you.

>>mathieu weill: thank you, cherine.

So jonathan robinson, you're now in the line. I'm seeing a hand still raised after jonathan but -- jonathan?

>>jonathan robinson: i think i should apologize for introducing a native english speaker metaphor that seems to have --

[laughter] >>jonathan robinson: but maybe it will characterize elements of the meeting.

I think i probably don't need to repeat anything on the ccwg requirements but just to -- i mean, although i gave my personal interpretation, i reference directly to the proposal and the work of the design team that set out what their requirements were. I think the ccwg's plan would have -- would be -- was more than sufficient to meet those requirements, which is why it was acceptable, and i guess at a very personal level, i understand frustrations with what appears to be, at times, the opaqueness of board decisions or frustrations about the way things go, but i'd just make a personal observation. I think the points made by people like asha and cherine are -- they seem -- they strike me as good-faith interventions from people who are directors on a board who understand corporate governance and who are genuinely making points, so i -- that they believe in. So i just -- in thinking about the ccwg's requirements for this kind of work, i would take those into account as you do the work. I'd just encourage you to do that. Thanks.

>>mathieu weill: thank you, jonathan.

And i see sebastien is still prepared to speak and i -- you haven't spoken so far on this item, so you're very welcome to do so.

>>sebastien bachollet: thank you very much. Just to remind you that when you say we are all in agreement with that, no. In the beginning, i was against this veto power. I think that what is in the discussion today about the fact that we can have some veto power about the five-year strategic plan and the -- the other operating plan for five years is already a very good tool and i really don't think that this matter of the annual budget is a good way to have power.

And sometime maybe we need to also try to find an agreement, a global agreement, if everybody stay on their position on each topic, then we will not be able to find a consensus at the end, and i just want to raise that maybe this one could be one we let go. Thank you.

>>mathieu weill: thank you very much, sebastien, for clarity on where you see the requirements are. Tijani? And then i will try to take stock.

>>tijani ben jema: thank you. Thank you. Thank you very much. As earlier said, i also am not against the veto of the budget. I am against the empowerment of this mechanism.

When i spoke about the big stick, spilling the board, it was only to respond to people who said we need this power because it is a requirement of the cwg.

That's why i -- i know that it's not the same level of gravity, of importance, as spilling the board, but it is for that.

Last point, yes, jonathan, you said that this veto -- the involvement of the community and the development of the budget will not replace the budget vetoing. I agree. But it will perhaps make us -- make us accept that the -- this power, this mechanism will not be enforceable.

Thank you.

>>mathieu weill: thank you very much, tijani.

So trying to recap --

>>mathieu weill: no, no. It's easy, it's easy.

We've heard a shift in the requirements around the budget and strategic plan veto power that -- around the cwg requirements.

It's clear that our group has one initial requirement, is the ability to avoid that some initiatives of icann would go mission creep or would put the overall financial stability of the organization in jeopardy.

That's one aspect.

We also have the cwg-induced requirement of ability to veto a pti/iana budget.

Those are the two key requirements i've heard mentioned, and then a concern which translates into a requirement that the process we put forward can guarantee also the short-term financial stability and operational stability of icann. That's what we're operating under.

Under this, we have -- i have -- i think we can confirm that there's room for improvement in this -- improvement to the process on the front end, the consultation and engagement process that could be taken on board, if it's easy, whether it's work stream 1 or work stream 2 is something different, but i think everyone agrees that it's the key asset in strategic plan and budget is the engagement phase. And there are concrete proposals to put that more formally into the bylaws, which is good, and no one challenged that.

We've agreed -- we -- no one has challenged either the five-year strategic and budget veto power for the community-based on consensus and so on, so that's -- that's also something that i take as agreed on or at least something that we can move forward on very easily.

A pti-specific process i think has also not been challenged, so that's also something we take out of the -- i will take out of this discussion and certainly something based on the inputs we've received -- particularly signer invasion one which is mentioned in the document -- james, congratulations -- that we should flesh out tomorrow in the session about -- in the subgroups, in fleshing out the processes, and then we need probably to revisit how the process for the short-term initiatives of icann, through the one-year operating plan and budget, could be illustrated, how it would look like, how long it would take, how long it would potentially affect icann's ability to redefine the budget, so that we get a better view whether we need that power or something, as cherine was suggesting, that it would just be new initiatives veto right. So that's the second aspect which i think the subgroup tomorrow will have to work on.

In terms of process, we need to work at it looking at what it would look like and then it will enable us to revisit this to have an informed discussion as a whole group of ccwg whether we want to adjust our requirements, adjust our process regarding the one-year operating plan and budget.

I am seeing -- no, the hands in the room are the old hands, so we'll have another subgroup tomorrow on this.

And with that, i think we can move to our next agenda item. I think i was supposed to chair it but i'm happy to defer to thomas, if you want to, or -- or i can do it as well.

>>thomas rickert: i can do it and then the -- so we're now rotating these points.

Next point is going to be the bylaw changes on -- after stress tests, so i'd like to invite steve and cheryl to the podium.

So this is actually the part where we start going into a quicker sequence of changing subjects, so you will remember that mathieu introduced earlier on that we're going to use a three-step approach: present, discuss, and then either confirm or defer to sub-team.

So we are not going to have long queues. So i think we need to ensure that everyone in this room understands that this is really to hear about the outcome of the public comment analysis, hear the preference or the preferred option specified by the chairs not in terms of personal taste but according to their assessment what the way forward is coming from the public comment analysis is, and then ideally our group would just say, "hey, yay, good, good, let's move on."

We would take it off the list, we would put it on a list for tomorrow, for second reading, and we could mark it green provisionally in our scorecard.

If we see that there are concerns with the ideas, then we're going to hear one or two people raising concerns, see whether we can remove them, and still confirm, but if we see that there are more than a few people opposing to capturing the result, then obviously there's more discussion needed and we will

not spend the group's time on that but we'll say, "okay, those that have concerns are going to meet" -- doesn't have to be for long, probably -- but we're going to defer it to a sub-team to flesh it out more and bring it back to the plenary. And with that, i'd like to hand over to steve and cheryl.

>>cheryl langdon-orr: just steve.

>>steve delbianco: thanks, thomas. This is the perfect antidote to day one post-lunch jet lag doldrums because we're going to talk about stress test 18.

[laughter] >>mathieu weill: ladies and gentlemen, this is stress test 18.

>>steve delbianco: we have only 15 minutes in the agenda and that ought to be sufficient because despite the quantity of comments that the stress test team accepted and analyzed on two separate calls and three different documents, only one of those issues makes its way to an option that we wish to present to the full ccwg. The others we were able to work out through clarifications and refinements as well as a divergence that we think we've attempted to as well.

So the document that you have in the adobe and the link that was sent around by staff is version 3 of the stress test analysis and i would refer you to page 5, where we actually get to the -- you can etch scroll on your own to page 5, where we wanted to discuss the item for your full consideration.

Inside of -- i mean, the way this issue was teed up is what bylaws changes were recommended by stress tests. You're all aware that stress test 14 suggested a bylaws change of bringing the affirmation of commitments into the bylaws and we had another one that dealt with the requirement for the board to act on formal advice from an ac.

Stress test 18 is a little different because it talks about the notion that we need a bylaws change to clarify that icann board's obligation to try and find a mutually acceptable solution, when it doesn't want to follow gac advice, that that obligation should only aoc gac advice that was developed through consensus.

We had 36 comments on the gac tab, 20 more on the stress test tab, so this was well commented on, and the preponderance of comments were in support of the stress test 18 and the bylaws change that was there. There were four comments that were against. This was from members of the gac stakeholder group. And then subsequently to the public comment, it's clear that other governments shared some -- several other governments shared that. Perhaps as many as a dozen or more shared that.

I will note that that was the only stakeholder group that was uncomfortable with stress test 18 and the bylaws change, but it's important to note that there are many governments who felt that way.

That 80% preponderance in the public comment doesn't count the notion that the ntia itself considered stress test 18 and the bylaws change to be a requirement for transition, in fulfilling one of the four requirements. That's something that many governments have discussed directly with the u.s.

Government, but it's not a stretch to understand that if the gac moved to simple majority voting we could see significantly more advice coming over from the gac and, worse, that presence of advice would carry with it the obligation of working out the differences among some governments who approved it and others who opposed it in a majority scheme.

And so what the ntia has said is that in their opinion, that contributes to an increase in the power of governments. But the ccwg is not ntia. We're very well well tuned to what ntia it is concerned about. But within ccwg we're focusing on what our proposals were and the rationale for doing them.

So in yellow in the screen in front of you are the two items that the stress test work team which is to put in front of the broader ccwg for consideration, the first is to recommend removing the example text in stress test 18. And i will quote it to you. It said the majority of the governments could thereby approve gac advice that restricted freedom of expression, for example. So let me, once again, apologize and take full responsibility for that example. I came up with that a year and a half when we were discussing the notion of stress testing and it certainly captured the imagination. But inadvertently it also offended many governments who felt it was a completely inappropriate example and you are right. And i apologize. And the stress test team very quickly accepted the step that we ought to remove that example from both instances on the stress test. Are there any objections to the ccwg to removing that example? Milton mueller wants to object. Noted, milton.

And the second and final item which would presumably use the rest of the time we have here is to respond to requests from many gac members. And it was made emphatically when we met in los angeles where several gac members said, look, the rationale that the stress test team has laid out for this bylaws change is inadequate. It doesn't really hold together. And so we undertook to rewrite the rationale. And the rationale is in front of you now. It is the simple four paragraphs explaining why it is, first of all, why we decided to add stress test 18 and, second, why did we come up with a bylaws change as a result of the stress test. The stress test team has drafted that rationale and simply wishes to get conformance from the ccwg to insert that rationale into our document in front of the rationale that we already had.

It really goes straight down to the notion of we were aware without much dispute, we were aware that certain gac members wished to move away from the very strict consensus model that's locked into their operating principles today that the gac could move to some other model of decision-making other than the absence of an objection. We are aware of that. I don't think that's in dispute.

We also understood that our bylaws require icann to try and find a mutually acceptable that it need not be backed by consensus. This creates a real knot in the fact that gac advice that's supported by 60%, 55, 51% of the governments and opposed by 49% could well find itself presented to the board of directors

with icann's obligation to try and find a mutually acceptable solution. It's hard enough to find a mutually acceptable solution when the gac as a whole differs from the board. But it's next impossible to find a mutually acceptable solution when there are two huge divergent camps of the governments themselves and the board. In that sense, it is not even a mutually acceptable solution. It would have to be in some respects a three-party mutually acceptable solution.

We have dealt with comments from gac members who suggested that the sentiments -- the admit the sentiment to moving to majority voting was no longer so popular in the gac. And if that's the case, fantastic. But if the gac is no longer interested to moving to majority voting, well, then, i fail to understand what the objection would be to putting into the bylaws the practice we've always used, is gac consensus advice that brings the obligation to work out a mutually acceptable solution.

So we were aware it was a sentiment among gac members and it may come back in the future when the gac members in this room have long since moved on to greener pastures and other gac members, once again, become frustrated with the challenge of working out consensus. It is a challenge we are all very well aware.

The second part of the rationale -- and then i will stop talking and take a queue -- given that stress test why did we decide we needed a bylaws change. The first and most important reason is not to entangle icann's board at working out differences between governments of the world because the governments may have a 60/40 decision and forcing the board trying to find something mutual there we think would be a recipe for disaster.

Second, we believe this provides a strong incentive for the gac to continue using consensus for the advice that you do provide to icann. And that is already the practice used by the gac today and if the gac decided that it also wanted to offer advice from time to time based on majority, have at it. That would be wonderful. But then when the advice comes over, it wouldn't get the same obligatory treatment that it would if it had consensus. So that rationale for why we came up with the stress test and the rationale for why we believe we need the bylaws change laid out, you are all aware of the ntia's position on this. So our proposal is to insert the rationale and retain the bylaws change that the ccwg has significant majority consensus to support.

So to the co-chairs, how do you want to raise objections to that? Or take a discussion?

>>thomas rickert: yes. Let's just very quickly see whether we have objections to these refinements suggested by the subteam. So just a show of hands in the ac room or here.

>> show of hands for what?

>>thomas rickert: show of hands if there are concerns with the refinements as proposed by steve.

>> on the rationale?

>>thomas rickert: we have proposals on the rationale as well as on the bylaw language. And i just want to do a quick show of hands if there are concerns with this. I anticipate there to be some, right? But just make -- indicate whether there's the need to discuss. And i've seen olga and pedro so that's reason enough to open it up for discussion. And i think we should have the discussion twofold. Let's discuss maybe the rationale first, how about the revised rationale and then we are going to discuss the bylaw language afterwards. So i'm asking for comments on the rationale please now.

Kavouss has raised his hand.

>>kavouss arasteh: thank you, thomas.

This is a super sensitive and delicate issue that you cannot take show of hand or room temperature. There are very few people interested in the subject in this room. We have 152 members of the gac. I hope some 80 to 100 will attend in the gac meeting on saturday, sunday -- or i don't know what day. That must be discussed there. And you postpone decision on this until you receive a communication from chairman of gac.

Number two, there are many other people in the gac email that are against it. It is not only argentina, spain, france and brazil. I don't want to quote them. I don't think any part of show of hand. It is not show of hand. It is a principle.

I can live with many, many other changes in the affirmation of commitments, many things. But this one is sensitive. You have to listen to the views of the gac and these views have not yet been communicated to you. So i strongly object to put it in any sort of show of hand or temperature or whatever. Thank you.

>>thomas rickert: kavouss, i was asking for comments on the rationale.

>>cheryl langdon-orr: if i may, thomas. Kavouss, to your second part first. We did and quite deliberately make sure in presentations, steve was very specific to say a considerably larger number of governments have, we believe, also raised concerns beyond those that formally put in public commentary. So we have recognized your second point. We will continue to recognize your second point.

To your first point regarding the temperature of the room, what we are asking for is the ccwg, i.e., Members and participants, in other words, the people in this room as to whether or not this version of the rationale is worthwhile now putting into our document to go forward to all of the acs and sos for discussion at this coming up coming way. So it is in no way intended to disenfranchise any advisory committee and certainly not the gac.

>>thomas rickert: and just to be perfectly clear, you will see us doing this on other topics as well, to check whether there are issues with the refined proposals. And if there are none, then we can move on. We can take it green. We wouldn't take this one green because this one is sort of different.

Next is olga.

>>olga cavalli: thank you, chair. Thank you, thomas.

I would like to support what kavouss said. I won't go into details. But i think it's a delicate issue. The gac is still working on it, deliberating on it. So that's my first part of the comment.

The second part about the rationale and about why is the gac -- members of the gac commenting and maybe not many other members of the community, well, it is a bylaw change related with the role of the gac. So that's obvious that the gac is the one to comment whether in favor or against.

So what else i would like to say?

Honestly, i read the rationale before. I read it again. And i think it does say the same as before. So it doesn't explain much of what we wanted to understand. We think -- talking about argentina, when you say olga cavalli, please understand that my role here is the government of argentina, because i saw my name there, it's fine, i am olga cavalli with that. But it's the government of argentina saying we think this change in the bylaw is not needed. And this is supported by other members of the gac. But i won't talk in the name of them.

So i think the rationale does say the same as before and we are working in the gac to try to find perhaps an outcome of our discussions. And that will be communicated to the group at a certain moment. Thank you.

>>steve delbianco: olga, thank you for that. I do want to point out when we met in los angeles a few weeks ago there was a suggestion that perhaps the gac would have some text to offer us. And we asked about that a few times and realized that it wasn't ready yet. Perhaps it will be ready this week. But we needed to move ahead and prepare for this meeting. And i noted in the document that we haven't seen the new gac text yet, but we are happy to see that when it gets here.

>>thomas rickert: just before we move on, at this point, i would have ended the discussion say we can't get any further in this room, right? So i think the take-away message is that we are awaiting feedback from the gac. You must understand that this group is between a rock and a hard place. We have a ntia requirement saying we can't go without stress test 18. We are trying our best to find the right words to make this work for you. Obviously we have heard two interventions from gac representatives -- or from gac members that we have not succeeded in convincing everyone that the language is now good to go. And that means we can't go any further.

So both pedro and milton haven't spoken. So i'm not inclined to suppress their views, but should you agree with me that we can just end this discussion here, wait open armed for feedback from the gac, then reopen the discussion and hopefully come to a conclusion on it. Then i would like you to lower your hands if you still want to speak, i won't deter you from that. Pedro is passing. Milton, how about

you?

>>milton mueller: just a point of clarification. Yes, it would be nice to have wording from the gac. But i'm not sure i understand how you can square a circle no matter wording they come up with. So the question here is: will gac be offering advice based on consensus or not? This seems to be a logical binary. Either have you consensus or you don't. Either your decision-making procedure support that is or it doesn't.

I would be very interested in seeing how the gac comes down on this. And i think the u.s. Congress will be very interested in seeing how the gac comes down on this.

So maybe our discussion would be more productive, but it's just -- i don't understand what they're objecting to at this point. I think steve has put the point very clearly. So why can't we have a discussion of that?

>>thomas rickert: to your point, milton, if you had asked me ten months back whether the group would be where it is today, i would have been quite hesitant to say that i believe that we would get this far. So i think we have been able to make circles out of squares in certain areas, or the other way around.

But since we know that there's work in the making in the gac, i think it would be disrespectful of our group to do a consensus call and carve anything in stone without -- as we're sort of like 95.9% completion status in the gac's deliberations. So i think we should be respectful of that and see whether we can do something with the outcome of the gac deliberations. And until that point, i think we should agree that this check box is going to be red so we can't resolve that any further.

So, steve, back over to you.

>>steve delbianco: before we go to thomas schneider who is next in the queue there, milton, it's possible that the gac would come back and suggest different words for the rationale. We would want to consider that. It's possible the gac would come back with different words for the bylaws change necessary to address the rationale held by the rest of the community.

But if the gac merely comes back and says the consensus of the gac is this is unnecessary, we would receive that with respect and yet suggesting that it's unnecessary is by no means objecting to its conclusion because so many of us in the rest of the community feel it is absolutely necessary not to mention the fact it is a requirement of ntia.

With that, i guess we have one more, thomas.

>>thomas rickert: thanks very much.

Thomas?

>>thomas schneider: thank you, thomas.

>>thomas rickert: thank you, thomas.

[laughter]

>>thomas schneider: no, i wanted to thank you, thomas, first, because i think you are all doing a great job, thomas, and the other non-thomases.

[laughter]

It's a real pleasure to work with you.

[applause]

So on the substance, i agree with my colleagues that, of course, this is a sensitive issue. But, i mean, many things are sensitive issues. And i just wanted to invite everybody for the sake of trying to mutually understand concerns why something is necessary or is not necessary, that the fact that something is a sensitive issue shouldn't prohibit us from exchanging views, talking to each other, whether it is here at this point in time or later. But i think the gac is not a closed box in that sense and doesn't want to be a closed box. So don't perceive this as a refusal to talk.

It is a sensitive issue and there are device agreements inside the gac and maybe outside of the gac at least to some extent. And i just wanted to invite everybody to talk to each other because we will somehow need to find a solution to this hopefully. And without talking, this is difficult. Thank you.

>>thomas rickert: thanks very much. We just thought about giving it another color than red, just saying we are awaiting gac feedback which is slightly more optimistic for our group. So let's close this topic now. Thanks so much to cheryl and to steve. As always, i think you guys and your team are doing a splendid job on the stress test. Let's now move to leon to get us to the next topic.

>>leon sanchez: thank you very much, thomas. This non-thomas leon. We have another thorny issue which is human rights.

>>cheryl langdon-orr: another sensitive topic.

>>leon sanchez: yes, another sensitive topic.

Could we please get the slides that i sent earlier? There are some slides that i sent earlier.

That is the one. Thank you.

So if we scroll, please, to the next slide. So we received, of course, many comments on this track in our second public comment period. And the two areas of consensus that we found in analyzing these comments were that human rights should be addressed as a matter of workstream 2 issue. This wasn't a comment by all commenters but the sense of the working party is that most of the commenters support addressing human rights as part of workstream 1.

The other point of consensus we found is including any kind of bylaw wording into icann's bylaws with regards to human rights should not broaden icann's activity or mission. So we should be careful of whatever we propose, what we come up to, would enable to actually deviate icann's mission or

activities into -- turning it into a policeman of human rights.

So the next slide please.

In the areas needing refinement. We found out that there is a need for refining the proposed language for the bylaws. We actually came up with four options. We began with two and we end up with four, so we are in a good track.

And this is something that we, of course, will put on the table for us all here to consider and whether we should go with one or another option.

There are also some comments that state that icann is already subject to respect human rights because we have article 4 on articles of incorporation. So that is also an area that needs to be further discussed as there doesn't seem to be a consensus on whether this is enough for icann to be bind to respect human rights or if it's something that we should also include in its bylaws.

Then another discussion, then it's refinement is the one that refers to -- referring to specific documents on human rights. When we thought of the wording or the proposed bylaw that we would be suggesting, there was this discussion on whether these bylaw language should include the reference, for example, to the universal declaration on human rights or other documents. So this is a discussion that in the working party came to a close. But, of course, this is just the report on the comments.

Then there was also the suggestion that we should use verbatim text of already-agreed language from existing human rights instruments. And this was also -- this was also considered in the working party.

So can we change to next slide please.

And the points of divergence is is that some commenters think that this should not be included in the bylaws. Some commenters said that as things stand, it's okay to continue working and article 4 of articles of incorporation already takes care of this. Other commenters say this is a workstream 2 issue. Some commenters say this is a premature issue for the ccwg to actually work while others say that there's more work to be done.

And could we go to the next slide? And for consideration, we'll be putting on the table to revisit the bylaws language and decide on the text to be proposed. As i said, we have four options that come from the discussion in the working party 4. To consider the level of support as a workstream 1 issue, whether we should definitely go with this in workstream 1 because some feel that this is either premature or this is not something that is affecting the iana transition directly so it shouldn't be taken care of in workstream 1. And then the need for more detail, of course. And clarify the limited mission and scope. When we say -- when we are proposing bylaw text, we are trying to be very precise in stating that these bylaw changes would refer only to icann's mission and activities.

Then collaboration with other communities, ccwg is aware there is another cross-community working

group dealing with human rights within icann. So it was suggest that had we should also consider acting with them and coordinating so we don't have to reinvent the wheel. I think they have made a lot of progress in these tracts, so we could as a group benefit from what they have done also.

And of course the options some suggested text? And now we can go to the report on the comments to see the four different options of text. So that we can put it in front of the group. It's a little bit further down the document? Further down, please. There we are. Next page. Next page.

Okay, so these are the four options that we were speaking about in this working party. And the first one is within its mission and in its operations, icann will respect internationally recognized human rights. That is the first option. And as a matter of fact, this was an option that was already considered in our second public -- our second draft proposal. Then the second suggested text is that in its submission and in its operations icann will respect the internationally recognized human rights set out in the universal declaration of human rights. Then the third operation is in its mission and ights operations icann will respect the internationally recognized human rights set out in the international declaration of human rights, the international (inaudible) on economic and cultural rights. And then the fourth one is within its mission and its operation icann will respect the internationally recognized human rights set out in the international declaration of human rights, the international covenant on political rights and the international covenant on economic social and cultural rights and will carry out its word guided by the u.n. Guiding principles on business and human rights. Whatever wording we agree to actually suggest to be -- or to amend the bylaws would be accompanied by an explanatory note and of course a rationale of why we -- why we decided as a group to actually suggest that text to be in the bylaws. But before we do the rationale and before we actually give any explanations we need to come to a closure as to which of these options would be most suitable. And of course whatever language we choose to suggest will also go to our lawyers and i see -- and i hear an echo at some point. So this would be also sent to our lawyers just to make sure that the wording that we are subjecting is legally feasible because because i mean some of us are lawyers but our lawyers are better than us. So we definitely need to go so them. So at this point i would like to open the floor for discussion. I think that the points that we need to refine are whether these are -- whether rue man rights should be a work stream 1 issue. Another point we need to refine is whether we refer to single or multiple documents in the proposed bylaw language that we want to suggest and of course the third point would be choosing one out of these four options that we have came up as a suggested bylaw text. And i see the first in the queue is kavouss.

>>kavouss arasteh: yes, thank you. Not to have a comment of (indiscernible) this time, it is a sensitive and fundamental and important issue and we have to reflect that. However, i think either you take the most simplest or you take the most complete, but not in between. The first is the most simplest. The last

is most complete. Not not even complete. Most complete as far as we have. But now have i a point. There is no criteria to see whether or not icann has respected this is good to put in the paper to satisfy the people. Then you go back to community and say okay, we have done what we could do. But it's difficult. Perhaps my suggestion would be take the simplest. Thank you.

>>leon sanchez: thank you, kavouss. And actually we did go through a poll in the working party to decide whether -- i mean internally in the working party, not as a matter of ccwg decision because of course we would be accident our charter. But in the internal poll that we ran through the working party 4, the decision said that we shouldn't be referring to a specific document. There were only five votes that suggest to referring to any kind of document in this proposed bylaw change and there were 17 that said no. So there was, of course, a broad pushback to referring to any single or either multiple documents in our proposal. So i guess that is aligned with what you suggest of going with the simplest -- the simplest text which would be the first one. So i don't know if there are any other comments and -- or if there would be any kind of opposition that the final if text that we include as a suggestion in our next draft proposal is the first option that you are seeing here in your green which reads, within its mission and in its operations icann will respect internationally recognized human rights. Are there any oppositions to go with that suggested text? I see two hands. And one is bruce tonkin and then greg shatan. Bruce, could you please take the floor?

>>bruce tonkin: thanks, leon. How's that different to what we have in our articles to incorporation? I'll just read it, it says the corporation shall operate for the benefit of the internet community as a whole, carrying out its activities in conformity with relative principles of international law and applicable international conventions and local law. I would think that covers point one. Or perhaps (indiscernible) nodding their head. If someone can explain to me why what we already have doesn't cover point one?

>>leon sanchez: thank you very much, bruce. And i don't have an answer for you, but what i've heard from the discussion in the working party and of course through the many comments is that even though the article -- the article 4 of articles of incorporation refers to this that you just described, that wouldn't be enough for many in our community to guarantee that icann will be actually respecting and taking its activities in respect to human rights. So that is why it is proposed that an amendment to the bylaws is added so that is an express provision, that icann should actually respect human rights and all its activities but within its mission. And next in the queue i have greg shatan.

>>greg shatan: thanks. Greg shatan for the record. Two quick things. One, a possible answer to bruce, but i'm not entirely certain. I believe we had a memo from our counsel a couple of months back which opined or at least took a view that article 4 did not completely embrace the concept that's set forth of respecting internationally recognized human rights. So we may need to look back to counsel and to our

-- our archives on that, but i think we actually had a written opinion on that point. So rather than belabor it here, we should look to our collective wisdom.

Secondly, unless there is just a general feeling in this room that number one is the way to go, i wonder whether the same poll that we took in our working party should be taken in this group, since the working party is not by itself dispositive, it's just there to make suggestions for this group, but, you know, if there's kind of acclimation in this room for number one, then i suppose there's no point in taking a poll. But just curious what the sense of the room is on that. Thanks.

>>leon sanchez: thank you very much, greg. And while i -- i would go the other way, i would suggest that if we don't have any opposition or major opposition, we could go with number one. Next in the queue i have tijani ben jamaa.

>>tijani ben jamaa: thank you very much. I am not very happy with this proposal. It is very good, but it is -- it gives room for interpretation. Anyone can interpret it as it wants. As he wants. We have to mention clearly that this doesn't have anything to do with the content. This is only about names and numbers, which is our mission. We don't have -- nigel confirmed that it is like this but it is not written. And people can interpret it as they want. Thank you.

>>leon sanchez: thank you very much, tijani. And yes, that is why the proposal that we're trying to build here specifies that it's within its mission and in its activities. That would avoid to actually broaden icann's mission or to deviate its activities into territories that we are well-known that we want to avoid.

>>tijani ben jamaa: thank you. But it must be clearly mentioned. If it is not, it -- it can be interpreted -- interpreted otherwise. Thank you.

>>leon sanchez: thank you very much, tijani. Next in the queue i have james bladel -- no, i'm sorry. Avri, avri doria.

>>avri doria: thank you, avri speaking. Yes, i just want to address the question people keep bringing up. It's one i also addressed in my comments that the articles included it. The articles and -- and i got into detail in my comment. The articles are very specific about if applicable, if as stated in the articles, if as stated in the bylaws. So they're very specific.

As far as i remember, yes, we did get a memo that said there are no applicable human rights to corporations. The applicable human rights are bound on states. States then have the obligation to create laws. They may or may not. So that -- so by putting it in the bylaws we make the article 4 of the -- we make article 4 applicable because article 4 says, as applicable international law, as included in the articles, as included in the bylaws. Once we have nit the bylaws, it's -- it becomes applicable to the corporation. Otherwise, we have absolutely nothing to hang a human rights respect on. It's just basically it's normative, it's moral. Yes, we ought to do it. We can interpret our values that way. But

there is no self-imposed obligation to respect human rights. And that's one of the things that we lose with the loss of ntia because as the nation state, as the one that's responsible for that, as our oversight, they can be expected to oversee us doing that. Once we lose them, there's absolutely no binding on us to do so. Thanks.

>>leon sanchez: thank you very much, avri. And i think that kind of answers bruce's question. And i'm closing the queue now with kavouss, so kavouss is last on the queue. But next i have james bladel.

>>james bladel: thank you, leon.

>>leon sanchez: i'm sorry, i'm closing the queue with you but the next one -- is james.

>>james bladel: thank you, leon, thanks kavouss. This is james bladel. A couple of points. Thanks to the working partying to putting this out to someone who hasn't followed the issue very closely, i appreciate having it laid out and enumerated like this. I think it's going back to tijani's point, i think it makes more sense to be as less prescriptive as possible when citing the sources of human rights, not going through all those documents which can change in the future as well as their depth and breadth of recognition. But perhaps where we need a little more expansion in item number 1 which is my preference now is expand what we mean by the mission and scope of operations. And we also need to know what it means to respect. You know, if someone comes to icann and say a registry or a registrar is violating my human rights with this contract, icann, what's your mission here? What are you going to do? And i think that's where i'd like to see a little bit more -- i'd like to have a little bit more comfort around this language. Of course not getting into a situation where we appear to be coming out against the inclusion or recognition or respect for human rights at all, but we'd like to have a little bit more certainty around the scope of the mission and operations part of that language. Thanks.

>>leon sanchez: thank you very much, james. Next is malcolm hutty.

>>malcolm hutty: thank you, chair. I would prefer not to include any of this language, and i have two main reasons. Firstly, by bringing in these references, we are referring to a broad range of rights that are not well understood or well agreed upon as to what their substantive comment means in practice. Very diverging views. Even noting the statement within its mission and operations, i think the inclusion of this language would tend to make icann a place where people come to seek to vindicate those rights as they interpret them. In a way that will create confusion and pressure upon the understanding of what the limits of the mission and operations are. That would tend to politicize icann in an unhelpful way. Secondly, my second reason, with regard to those human rights which are particularly relevant to icann's mission and operations, and i'm thinking here particularly of freedom of expression, freedom of association, due process, those sorts of rights, i'm concerned that the inclusion of this language would actually weaken the much stronger protection that we already give through the core values and other

important elements of the bylaws. By including this language, we would be focusing people on the standards that are legally recognized and legally enforceable standards for human rights which are not always as strong as they could be. And not always as strong as they could be in all places. Whereas we have particular standards that we have set throughout the rest of the bylaws that give much stronger vindication to those interests than are always found in a legally-enforceable fashion. So i think that those that are quite legitimately concerned that we should indeed be concerned to protect, ensuring that icann does not encroach upon these rights, may actually be scoring our own goal in focusing the attention on the legal standards by the inclusion of this language. Thank you.

>>leon sanchez: thank very much, malcolm. Next in the queue i have alan greenberg.

>>alan greenberg: thank you. I share some of the concerns of the previous two speakers. Certainly among those four i would prefer the first. But i -- i have a large concern that we are doing this because it is, quote, right but at the same time without understanding the implications, without understanding the potential for 45 usely trying to do these things even if it's not applicable because of the lack of specificity of that first phrase. Moreover, i believe we should be entering into fully knowing what kinds of things we're talking about. It has been stated, and i believe correctly that icann's whois rules going along with the registration -- going along with the raa have put on registrars that violated certain rights in contracts. And we have been giving waivers in certain countries and things like that. I would like to -- if we're going to put this in the bylaws to go into it knowing what is it? In what ways at this point have people claimed we are violating human rights? What are the implications of us doing this. Not that we should be saying we're going to honor them, of course we should, but understand what this means to us and the implications if we put these words in. Thank you.

>>leon sanchez: thank you very much, alan. And finally, kavouss.

>>kavouss arasteh: yes, i misyou understood you first. And i apologize to the distinguished colleagues before me. As i mentioned at that time very beginning of my intervention, there is no criteria that you can examine whether or not icann has respected or not. It is difficult. Give me one example. There is no example of any criteria. However, in order to salve the big lawyers, yes, put it there. Any qualifier to add, you will make it weaker. But i have no problem you add the qualifier after will, comma, if applicable or where applicable, comma, and continue.

Thirdly, this sentence does not have any mandatory application because you use the deterministic of will. That means icann will do that. There is no mandatory. Otherwise you have to use icann shall respect. So i think in order to satisfy the colleagues, put any qualifier that you want in the middle, at the beginning, at the end, and make it as simple as possible. But there is no criteria to examine. And if icann has not respected that, there is no criteria to make any redress or any punishment t

>>leon sanchez: thank you very much, kavouss. So i guess my take from this discussion is that we obviously need refinement and i would just call for refining point number 1, because that is the one that i think has actually had more traction and we would take that language and refine it, and from there, we would of course come back to the group.

Is that something that we agree on?

Yes?

[applause]

>>leon sanchez: perfect. I see eberhard lease's hand is up. Eberhard? Can we have a microphone for eberhard, please?

>>eberhard lisse: i have problems with un-saluting human rights, in particular since i've been -- since i'm living in a country where human rights are only allowed for -- since 25 years. And the first statement makes it, for me -- not all of us, but i'm really concerned if we're trying to water this down. I come from -- and some of us here in this room come from countries where human rights are not as absolute as they are in others, but i'm a little bit astonished that in countries where human rights are considered sacrosanct concerns come of what motivations are being made to water them down. I don't think that should happen.

>>leon sanchez: thank you very much, eberhard.

Okay. So we have an action item, which is refining point number 1 of this language and come back to our group.

So i think that could close the discussion on human rights, and now i will go back to my co-chair, thomas.

>>thomas rickert: thank you very much, and i'd like to ask jordan again. We're going to do the board recall.

[laughter]

>>mathieu weill: i think he quits.

[laughter] >> (off microphone.)

>>mathieu weill: coffee break now?

>> (off microphone.)

>>mathieu weill: don't you think we can do the board recall in three minutes?

[laughter] >>jonathan zuck: all those in favor of recalling the board?

[laughter] >>thomas rickert: so we should have printed the "spill the board" t-shirts, right? Okay. So then we're going to do the coffee break now and reconvene afterwards. Thank you.

>>mathieu weill: and don't spill your coffee.

[break] >>thomas rickert: so this is the two-minute warning. We need to reconvene, please. Please be seated. -- can we ask greg shatan to the podium, please. Greg shatan, we need you for this next session. Two minutes over.

>> (off microphone.)

>>thomas rickert: greg shatan, if you can hear me, please do come back into the room. So if we can get the recording started.

>> (off microphone.)

>>thomas rickert: we're going to reconvene now and continue with the next item, which is the recall of the entire board. And i think we're (indiscernible) so we'll just call for the consensus.

>> (off microphone.)

>>thomas rickert: decisions are made by those in the room, right?

>> (off microphone.)

>> oh, and the remote participants.

>>thomas rickert: and the remote participants.

>> that was the first reading. Let's go for the second. Listen.

>>thomas rickert: and very friendly hello to our remote participants and --

>> that sounds super-friendly.

>>thomas rickert: jordan will introduce the topic and then over to greg shatan, so jordan, fire away.

>>jordan carter: thanks. Has anyone told the people outside that we're starting again?

>> no, no. We don't care. Jordan jordan do they know?

>> no, they don't know.

>>jordan carter: byron, did you get everyone in? He might be able to do that or they might just be locked out. I'm stalling while i find my place in our plan.

We're doing the recall of the icann board, right?

>> (off microphone.)

>>jordan carter: no, there's no difference. There's no difference.

On the paper, it's starting on page 10 for those of you who are looking at it. Greg, do you want to come and join up on the front table? Is that going to be upsetting?

Greg led the collation and analysis of the public comments in this area, and so the overall consensus was in support of the power in the sense of 14 commenters expressly supported it.

There were some areas that needed clarification and refinement as -- as shown. The headings for those, if we just flick over them, we have the idea of standards for board member recall. There was the -- a quite involved discussion in the work party about the standards that my need to be applied for selection

of interim board members. And so, greg i think will take you through that.

And there were a couple of times a question asked about what happens if we don't follow the process, if in recalling the whole board the process isn't followed, the deadlines aren't met and so on, and i think there's an easy answer to that which is that the process falls over and the board isn't recalled. But some people might like that to be more complicated. I don't know.

And in terms of the areas of concern and divergence, some people just did not want this power in place. There were some concerns or issues with the time period for the interim board's existence.

You'll recall that the interim board has a 120-day life or a 4-month life and then by that point, people are meant to have appointed their replacement directors.

There's a question about whether the time lines are too tight.

There's the need that we've already been discussing for widespread community support to exercise this power. And, you know, a number of other questions about the complexity and so on were set -- were raised.

There were some options for consideration by the full ccwg that did emerge, and that's the point where i'll hand over to greg to just briefly run us through those.

>>gregory shatan: thank you, jordan.

Of course now my computer says "connection lost."

>> (off microphone.)

>>gregory shatan: what?

>> (off microphone.)

>>gregory shatan: yes. Anyway, these are echos of what you've just heard, clearly, since they are based on the comments that were made.

The first was the suggestion that we have more detailed standards for the selection of the interim board, and that's in large part because the actual second draft is -- doesn't even mention the idea of standards for selection of the board except that it mentions waiving the geographic diversity requirement.

So that left some readers concerned that we had no standards.

The suggestion that we developed in the working party was that we would state that we would use the same standards for the interim board as set out in the bylaws for the icann board, the regular board, if you will, other than the geographic diversity requirement.

So that seemed logical to those of us in the group. I don't know if it's logical to anybody else. So i seem to have lost my --

>> (off microphone.)

>>gregory shatan: yes. See if there's anybody in the queue, please.

>>thomas rickert: there are no hands up.

>>gregory shatan: oh, okay. Well, i've dazzled you once again.

So i think that seemed fairly straightforward.

The next was, as you say, clarifying the consequences for failing to meet the process requirements. The concern was that -- and these really fell into three different categories. Kind of goals and principles and deadlines. And as indicated, if we do have rigid deadlines and we fail to meet them in the process, that the process simply fails. That kind of ties into the third suggestion, which is to look at the time lines and time periods and determine if we need to make them less rigid, so that things don't fail just because the multistakeholder process is a little slower and messier than usual. On the other hand, the concern is that if you don't make them somewhat tight, you have the chance that things will drag on and on and you'll have a prolonged period of instability, concern -- which again is balanced against the idea that you may have a situation of capture if you have shorter time lines, and some community -- parts of the community are more ready to work on tight time lines than others, as i'm sure those of us in this room can sympathize. Tight timeliness sometimes do discriminate between those who are -- who can make the those who have a harder time.

So the 120-day period for selecting the replacement board is really one of the hard time lines that we had, so the suggestion was to make that a target rather than a hard stop, or perhaps to build in some sort of trapdoor to allow for some additional time as long as perhaps the parties are working in good faith or something along that -- along those lines.

But that was, you know, the major point there in 2 and 3.

Next was the -- there was concern by one commenter that there could actually be a failure in the process to identify the interim directors, which are supposed to be identified by the nominating -- or by the designating parties, so in that case, i think we just agreed that we would go back and -- as we looked at this and see if we needed to refine anything around that process to see if we could mitigate or lessen the chance of failure. But, again, as with any failure to move the process forward, if we don't succeed, the process fails.

Next was a concern that the process was, in the words of one commenter, labyrinthian and cumbersome.

We did want to make it -- make sure that total recall of the board was not easy, but it seemed at least to some that it was not only difficult but confusing and perhaps even confused as to the levels and actions that needed to take place.

So, again, there, i think we need to take it back and look at refining it, to see if there's any way that we can make it less -- you know, more clear, even if -- without necessarily making it any easier. Jordan

jordan can i just interrupt with a -- so people understand why this one is a little bit more detailed and maybe false more into that category of too detailed to be easy to understand but not detailed enough to be the bylaws is because our outstanding lawyers had a go at drafting it, and their drafting was great in providing the level of detail that you might want to define a bylaws process at the start, but we did -- we kind of didn't disentangle as quickly as we might have done. So this is one of the parts of the report -- this is no reflection on you guys. You did exactly the right stuff. We didn't make it into nonlawyer language as we might have done.

>> we took the process as it had been designed and put it directly into our report rather than describing the process. We actually, you know, showed the whole process, which again, you know, shows the difficulty of drafting, you know, both for the rigor of a legal process and for the understandable nature of nonlawyers reading it.

But in any case, i think we can look back at at least simplifying how it is expressed.

Next was the question of whether we should establish minimum standards for board removal. It does say that we are going to leave this for work stream 2, so the question is whether we should at least say something about -- about standards, and we discussed standards quite a bit as we were discussing individual board removal, including whether there really should -- there should be standards and the amount of discretion left to the individual acos. You know, this is different since we're talking about recall of the entire board, so the question is whether there should be a minimum standard for board removal, and we -- whether we should at least outline what that might be in work stream 1. As with other proposals we've made, it's a, you know, relatively significant proposal, and to say that we have -- we won't tell you why we would do it may fall short of our necessary explanations that we need to make to the rest of the world. Maybe we know why we would do it but it doesn't really say why we would do it.

There was a suggestion that there should even be a higher threshold -- in this case, 80% was suggested -- for board recall. That's something that clearly we can take under consideration but i think the general sense of the room and of -- and this was a single comment -- the sense of either commenters either was that we got it right or they don't comment at all, so perhaps there's, you know, no reason to move forward on looking at the higher threshold.

So those are the elements for consideration.

>>thomas rickert: before we move to the queue, can you specify any way forward on the individual topics? You know, so for some, you have made suggestions that you -- you've spoken about, suggestions to make 120 days a target rather than a fixed deadline, but for the 80% threshold i guess that's something that the group doesn't want to follow up on, right?

So hopefully i think we -- we can leave certain areas for implementation -- right? -- but if we could maybe wrap a package that consists of some concrete suggestions, then we could ask for consensus in this room.

>>gregory shatan: right. Just very briefly, in looking back through the list, in terms of, number one, creating standards for selection, i don't think we need to. We just need to specify that we're going to use the standards that are set forth in the bylaws for selecting the icann board.

Section 2, in terms of clarifying consequences for failure of the community to meet the process requirements, in terms of time lines i think we just need to clarify that if you do in fact, run up against the end of a time line without having satisfied it, then the process ends unsuccessfully.

And making the 120-day period a target, i think we have to specify that there is, you know, work taking place in good faith and that it will be completed, you know, in a reasonable time after the 120 days.

Otherwise, there will just be drift.

With regard to the failure to agree on interim directors, i think we -- since that's really a process that has to take place at the individual soac level, there's probably not much that we can actually say about it, so i don't think we need to actually respond to number 4. You know, thinking about it, that's a question. If we have soacs that can't, you know, decide to put up interim directors in the time period, again, the -- our attempt to remove the board would fail fairly -- in terms of simplifying the processes as jordan says, i think we have to have just another go at looking at the language and see if we can make it a little less lawyerly, even for those of us who are lawyers and enjoy reading that stuff. We don't need to impose that on everyone.

So i think that's just a drafting -- another drafting pass at the section.

Number 6, a basic outline of minimum standards for board removal, i think that's one we should talk about a little bit because that's a question about what -- how much -- what are we going to say? We haven't really talked -- we've talked a lot about removing the board and we have general ideas of why we would do it and it's the last -- it seems to be the last resort, potentially, for everything, but yet we haven't quite discussed, you know, something concrete that we would say the board needs -- will be removed because. In so many words. So that's one i think we should talk about.

And then the last one, number 7, i think we shouldn't talk about.

Thank you.

>>thomas rickert: thanks.

>>gregory shatan: that's my package.

>>thomas rickert: john, you wanted to answer that?

>>jordan carter: just really briefly to say that a number of you have noticed that isn't -- these aren't

clangor issues here, right? Yeah, the big one is actually the standards or not, so that would be the one to test how people feel generally when the ccwg has decided that, it's decided in favor of explanation of rationale but not some list of objective standards that might get us stuck in court, and i haven't heard anyone suggest a coherent argument why that will be removed from.

So...

>>thomas rickert: yes. And i guess that's a good suggestion. But now you heard the options. I guess that this might be a point where we just ask the group for agreement that we put this into -- a-to-be refined mode, right? And we have it in a considered mode but i think we can advance it to the-to-be refined mode.

I think we can conclude that the existence of this community power for board spill is -- cannot be questioned at this stage, so it's going -- this community power has been requested by the -- the overwhelming part of the community, so i think we should discuss that.

We have a queue request forming with steve, george, and alan. I'm going to close the queue afterwards because we've only allocated short periods of time for that. And, again, the goal is to elevate this from -- to be considered to the-to-be refined status, so that we -- we're going to then make the refinements that greg and jordan spoke about.

Steve?

>>steve delbianco:

>>steve delbianco: steve delbianco with the csg. I agree with the comments that characterize alright. I wanted to speak to number eight for a moment. Greg, you brought up the moment for a threshold. I believe we spent this morning discussing how the community -- the acs and sos would reach the goal of consensus with respect to exercising a community power and they might do so through the multistep process that jonathan zuck is going to explore in a subgroup tomorrow. It's that group that is to achieve consensus. This is just one of the seven powers n. That respect, we are currently heading down a path where that notion of 75%, 80% is no longer specifically assigned to board spill anymore but rather if it is the consensus of the acs and sos according to the definition that we come up then that's what trigger it is and it wouldn't be a special percentage anymore. Is that the way you see it as well?

>>greg shatan: i think that would be the case. I guess the question is whether we will have the same consensus definition for every community decision.

>> that's the goal.

>>greg shatan: i guess that's the goal.

>>thomas rickert: thanks. George?

>>george sadowsky: thank you. George sadowsky for the record. First, on a personal note, i'd like to

say that my wife was in the room this morning and she volunteers to work with any group that wants to lessen the standards for board -- for individual board member removal so i can be home more often.

[laughter]

On a more serious note, i want to address the threshold question also at a slightly meta-level.

If the entire board is spilled, it's relatively cataclysmic and the post-spill icann may behave very differently than the prespill icann. Maybe that will be good. Maybe that will be bad. But it will certainly be different.

And i'd like to echo the advice of my colleague here in the room, horge when he said we cannot define consensus in using a no objection standard. It is too important. I would urge you to require positive ascent by way of a supermajority of some strength to make any such decision.

Thank you.

>>thomas rickert: thank you, george. Good points. I understood that the terms of reference for jonathan's group would include exactly that. I think that's an excellent reminder. Very much needed for this community power.

Alan?

>>alan greenberg: thank you. A number of quick points. On the interim board, my understanding was a prerequisite for supporting the removal is to provide the interim director. So there's no issue of what if you don't name someone. And my other presumption -- because i don't think it's stated -- is the interim director serves until replaced. If a group does not make the 120-day deadline, then their member/members stay until they are -- each of them stay until they are replaced. So, again, there's no penalty but there's a presumption that you will do it quickly.

In terms of standards, i really worry about standards. How do we define standards? I'm not quite sure how you do it. But if we have a very heavy consensus -- and we've always assumed there will be different levels of support on the budget veto, for instance. We said different levels for the first and second one. I suspect here, too, we may have different levels of consensus for the different powers. So that's something i would support.

Lastly, there was a comment the alac made on both types of board removals that it now strikes me was never discussed this morning on the individual member. But it applies in both cases and that is some level of waiver that the bodies, the groups that are kicking out board members are not going to be liable for defamation suits or something like that by the people removed.

And i think that really needs to be something that we have to look at.

>>thomas rickert: thanks, alan. I guess that's a good point for the pan holders to include in their refinement work. I guess the good news for us is that we can -- i haven't seen any opposition to us

moving that, elevating this to be considered to be confined -- refined. Also, i think that sort of direction to the pen holders or to the subteam having criteria might be a difficult task. So i think as we -- as when we discussed individual board member removal in I.a., It's more about providing a rationale rather than coming up with a catalog of reasons why you can spill the board.

So i guess that's good news. So with that, we should end this topic and we will move to matt.

Mathieu. Thanks, for our rapporteur jordan. He is double, triple booked as rapporteur.

>>mathieu weill: i think you are done for the day. You are not going to the table anymore.

>>jordan carter: oh, no.

>>cheryl langdon-orr: we will come up with something.

>>mathieu weill: next agenda item is workstream 2 comments received received. This is a paper that has not been discussed in substance before this meeting. We've obviously had other things to focus on. But to keep a broad overview of the comments we received about workstream 2, really they showed that there was a fundamental misunderstanding between what -- between two things, one is workstream 1 implementation. For example, implementing, setting up the irp and the workstream 2 items which would be discussed in principle and whether we would recommend improvements or not is still very much open after -- or at least our discussion would not close before the transition happens. That was really a misunderstanding on our side and something that we did not communicate adequately. But the comments showed there was misunderstanding a lot.

Second is the scope -- so the scopes of workstream 1, workstream 2 were sometimes confusingly interpreted. And there were also a number of comments regarding the need to keep workstream 2 as focused as possible. And even some commenters suggesting that many of these items be moved into the regular continuous improvement cycles that icann is so familiar with, with the review teams and everything.

And i'm going straight to the proposals here because it's already been a long day and we only have a small amount of time.

Proposals for your consideration, first of all, clarify exactly the difference between workstream 1 implementation and workstream 2 in our report. We've had suggestions including by the government of brazil to clarify the scope of the jurisdiction issue in order to make clear that the core discussion point is about the jurisdiction for the settlement of disputes. This suggestion is something that we need to consider and i think actually is a helpful suggestion to make sure that our workstream 2 discussion on the issue is not, number one, misinterpreted and, number two, is more focused and, therefore, more efficient.

Then there's the discussion about the scope of workstream 2 where we've had on the one side people

saying all of workstream 2 could go into the continuous improvements cycles. On the other side, we've been coming up with a recommendation that workstream 2 includes a certain number of items which is, yes, slightly impressive. We're touching about the ten items, so that's ten subgroups and everything. And we need to consider something called volunteer fatigue. I don't know if you are familiar with it. I have never encountered it, really. It never touched -- even remotely close to it. So the suggestion that i'm putting for consideration, that we're putting for consideration here, would be to focus the ccwg workstream 2 efforts to those items that are absolutely key to the foundations of the accountability framework; namely, the transparency issues including the enhancements to the didp. It was touched upon this morning on the chat when we discussed designator, it's true that designators do not have the same right of access to documents as members so if we were to do that, then that reinforces the need for clarifying the transparency issues in workstream 2.

So/ac accountability we'll discuss later about work party 3 outcomes on this. But it's been clear in the public comment that many raised some concerns about whether the sos and acs were representing the global community and those are the key accountability discussions we've had from the start. So i think that's a fundamental one. Diversity, same reason.

And jurisdiction with the clarification provided if we take on the comment from brazil is also a very fundamental accountability topic about dispute settlements around contracts and everything. So that's certainly fundamental.

Which means that some other items which may be are already rather easily addressed by the continuous improvement cycles would be -- would be moving to other -- beyond the ccwg. Doesn't mean they're forgotten or discarded. They would include the whistleblower policy, transparency about icann interactions with governments, which was one of the inputs we've received in the comments -- in the two rounds of public comments. Audit specification requirements for i.t. Systems, enhancements of ombudsman role except for what relates to the enhancements to the requests for reconsideration obviously where that is already a big chunk of extra work for the ombudsman. So we would focus on this in the ccwg and leave it to further work for the rest.

And, of course, i was making a note in the document that depending on the outcome of the human rights discussion, we might have some follow-up work, whether it's implementation of workstream 1 or workstream 2 is still open in my mind, but i think we need to relate it to work party 4. And there was an item which actually not relevant anymore when we finalized the report but stayed on about further assessing enhancements to government participation in icann which actually didn't have any substance behind it, so it was pointed out by some commenters. So i suggest we remove it.

And that's both a summary and a proposal where we want to test whether this approach raises concerns

and objections and whether we move into a status of we have an agreed way forward, green -- remember, color of ireland, green -- or if there are significant concerns about it in the room.

And i see pedro and a queue has been formed and pedro is first.

>> pedro silva: thank you, mathieu. I just wanted to clarify one comment from the brazilian government actually. In our comment we have express what was our main concern with respect to jurisdiction but we didn't necessarily ask to limit the discussion of jurisdiction to that subject. Of course, other members, participants of this group may have other concerns with regards to this topic. We remember that in our initial discussions, we agreed to consider this a multilayered issue with different, let's say, areas. So i think probably we should keep it open to the topic of jurisdiction to be considered, still to be considered as a multilayered.

But considering that for the government of brazil, the issue of settlement of (indiscernible) is the main concern.

>>mathieu weill: thank you, pedro.

The next is avri.

>>avri doria: thank you. Avri doria speaking. And at least through part of this, i'll be wearing the attr type of hat. I'm sort of uncomfortable with the moving of the transparency and whistle blowing out of workstream 2. Part of it is they have been in the continual improvement. It didn't look like you were moving into the continual improvement track which is important but these have been issue that is have come up in almost -- in both of the attr reports and, therefore, should really, i think, stay -- you know, we had talked about them at first perhaps being in this one and then, okay, we've moved them. So i would caution against doing that. And then taking off the attr hat in terms of the human rights. I think that how we take it, i think we'll have to do some work in workstream 2 as opposed to just, you know, leave it that we've got this now and everything's fine. I think there will be a lot of work that we need to do in terms of understanding how it all happens. So thanks.

>>mathieu weill: thank you, avri. I will follow up on your suggestion and say maybe what we can do is reinforce the transparency -- 3a point which is already meant to address the transparency -- the fundamental transparency discussions that are needed for a proper set of accountability mechanisms but not only focus this on access to documents, didp document information disclosure policies, but also add the whistleblower and interactions with governments in the scope of this item because i take your point. If it's already been tried in a continuous improvement and it hasn't worked, then let's take it back on. I take your point.

And i see the opportunity that robin is the next in line to ask whether that would be satisfactory. Robin?

>>robin gross: i'm sorry. Can you hear me? This is robin gross for the record.

>>mathieu weill: yes. Robin gross you asked if what was satisfactory?

>>mathieu weill: so if we bring back whistleblower and transparency about icann interactions with governments, in point 3a about transparency as a whole, so it's brought back into workstream 2.

>>robin gross: that would make me very happy and make me remove my objection and turn over the time back to the chairs.

[laughter]

>>mathieu weill: excellent, robin. That's what i like!

Malcolm.

>>malcolm hutty: thank you. Those that have been working on the irp know that there's the potential for significant continued improvement that will be needed beyond that that we thought was necessary to do in ws1. In particular when receiving comments, one of the things that's been mentioned repeatedly is the cost of actually accessing the irp and some means of support for those that can't afford it. We've repeatedly said that's a workstream 2 issue, we can come to that later, it doesn't have to be before transition. But i don't think that taking that out of future work and saying, oh, well -- and leaving it would be a good idea. So i don't know whether you're focusing thing is intended --

>>mathieu weill: to me that's workstream 1, implementation, and not the workstream 2 discussion.

That's the distinction i was trying to draw between the necessity for us to implement fully the workstream 1 proposals. And workstream 2 items which are topics we haven't fully discussed on what the recommendations would be and we'll need to discuss -- and this discussion will go beyond the transition. So what you're describing, the cost of the irp and the way we implement the irp is workstream implementation. And we need to put that in place before the transition can happen.

>>malcolm hutty: we haven't said that before. Before we said that certain aspects of it we would actually be happy to defer to after transition. For example, the idea that has been raised of having a fund to support the financial costs of impecuious claimants. It hasn't been discussed properly. It's not really an implementation issue. It is a further reform for, yet, further improvement. There needs to be place for that kind of thing somewhere.

>>mathieu weill: i would defer this discussion until when we have finalized and heard about work party 2 and irp. But our list can certainly be -- remain open to anything that comes from the other discussions that suddenly -- were suddenly another item for workstream 2 discussion that needs consideration.

So certainly if the work -- if the irp analysis of comments shows that there is a need for a fundamental new break in the accountability framework, that needs to be discussed, then we'll bring it on. Certainly i think that's perfectly legitimate.

Yes, thomas?

>>thomas rickert: i hope we can agree though that we will mark this green because we have agreement on the list with the addition on transparency that mathieu just outlined. That is not to say that we can't add to that list, but let's demonstrate to the community that what we have on the list is our current state of play.

>>mathieu weill: and i hope our last two speakers -- because the queue is closed -- are going to confirm this. I'm now turning to alan for confirming his agreement.

>>alan greenberg: as usual i will ignore you and say what i was going to say.

[laughter]

But i'll be very quick. As a recovering attr addict -- sorry, member, who is now watching almost two years into implementation are transparency requests not being acting on at all as far as we can tell, at least i can tell, i support avri and robin keeping those items there, please. I would be delighted to move them to some other process if we had any belief that they would actually get done. Thank you.

I am subject to burnout perhaps as much as anybody else so i do support the concep

>>thomas rickert: thank you, alan. We are sympathetic for you, your burnout.

Kavouss?

>>kavouss arasteh: yes. Perhaps to some extent, it's editorial. In the second bullet, you say "planning process to guarantee the ability." No one could guarantee the ability. Maybe to enforce -- not enforce. To foster or enhance, but not guarantee the ability. There is no guarantee for the ability. And then in after that group, you have further assessing enhancement to government participation. That means there are already enhancement and you want to assess that enhancement? What are those enhancements?

>>thomas rickert: that was the item i said was totally void and needed to be removed. There was no substantial -- so that's removed. Consider it removed.

>> (off microphone.)

>>thomas rickert: thank you. So i think we are going to turn this part of the scorecard into green.

>> greenwashing.

>>thomas rickert: no, it's not greenwashing.

[applause]

>>thomas rickert: it's what, it's 4:00 p.m. And we got a green.

>> yes!

>>thomas rickert: so i'm now turning back to leon for the next agenda item with becky, and i would deeply encourage that we aim at green as well.

>>leon sanchez: okay. Let's see if we can come to green.

And our next agenda item, this is leon sanchez for the record. Our next agenda item is refine wording of mission and core values based on the public comment feedback, and for that, i will turn to our superstar rapporteur, becky.

>>becky burr: oh, with an introduction like that, apologies. I am a victim of volunteer burnout and i'm sort of losing my voice, so i hope you can bear with me here.

What i have done is taken the comparison of the proposed mission commitments and core values compared to the red-line comparing it to the existing bylaws, and i have highlighted the areas where we have comments and need clarification and/or reconciliation.

So i'm not in the adobe room. I need to get in the adobe room to be able to move this.

The first area -- and this was really the largest area --

I'm moving it but it's not moving here, so could we go to -- further down to, "without in any way limiting"? Keep going. Stop.

So you will recall that we spent a lot of time in both the first and the second round talking about clarifying that icann's powers would be limited and enumerated, and i sent -- i sent one updated version from this. I -- can we get the updated version up? Hold on one second. Bear with me, guys.

So one of the concerns that we heard in the first round of comments was that the limitation on icann's regulation of the -- or its attempt to regulate the services that use the internet's unique identifiers or the content that those services carry or provide could be interpreted in a way that would preclude icann from pro- -- from enforcing either consensus policies or voluntary commitments such as commitments made in new tld applications or in pics, public interest commitment statements.

And that was not the intention of the group. We -- between the first and the second round of draft proposals, we believed that the language was clear enough but based on the number of comments that we got again in the second round, that it was important to expressly clarify that icann can and should enforce both consensus policy and voluntary commitments. And keeping in mind that the language -- language that we have proposed here is -- i just sent it a couple minutes ago -- is -- okay. Sorry. Is not intended to prohibit -- that the language we have proposed here is not the final legal language, and that legal counsel will be sitting down and clarifying the language and putting it into final form. The -- based on the discussions that we've had, the approach that makes the most sense is to ask the council when they're doing to clarify that we do not mean to prohibit and, indeed, icann should enforce voluntary commitments that registries make and consensus policies as those are adopted in this. What's going on here?

So i think that that is something that i think that we do have consensus on. We can open that particular one up for a brief discussion. If anybody wants to talk about it.

The other thing that i will -- if you could just go down a little bit and make the -- that paragraph.
So there's the paragraph.

The other two things on this one paragraph which was the source of significant discussion is that we had two wording changes from the -- from the second draft report that people suggested would clarify, so it's icann shall not engage in or use its powers to regulate services that use the internet's unique identifiers or the content that such services carry or provide. So it's a combination of just disambiguation language, but, again, the question here is are we agreed that in fact, what we should do is ask the lawyers to clarify that this prohibition, while important, is not intended to in any way interfere with icann's ability to enforce its contracts and consensus policy.

>>leon sanchez: thank you very much, becky. So are there any oppositions to proceed forward as becky has just suggested? Steve?

>>steve delbianco: steve delbianco, csg. Not an opposition. It's a point of clarification.

So as i understand it, the blue text is -- are instructions for our attorneys to come back with language to achieve the objectives. The second part of your objective was the notion of voluntary, so i wanted to bring up something that's rather timely. The business constituency and the noncommercial stakeholders group just two, three nights ago filed a reconsideration request on the question of whether the new contracts presented for renewal of legacy gtlds -- dot travel, dot cat, et cetera -- whether when those contracts were laid on the table and were signed by those parties to get their renewal, they contained things that didn't come from the bottom-up process. The urs, namely.

So that the reconsideration request under today's bylaws is whether or not that was appropriate, but under your proposed -- and i support this proposal -- would it be voluntary if, upon renewal of my tld, icann puts a contract in front of me that includes new terms i haven't seen -- sorry, new terms i've never agreed to before and that were not the result of a bottom-up process, is it truly voluntary to include them in a propose- -- to include them in a contract that's sort of a take it or leave it as opposed to voluntarily suggested by the registry operator like the pic specs were.

>>becky burr: so i hate responding to hypothetical questions.

>> (off microphone.)

>>becky burr: well, so the u- -- i would say, for example, that the udrp is clearly within the picket fence consensus policy as defined by specification 1.

>>steve delbianco: so nothing hypothetical. The urs was what i brought up and the reconsideration request we just filed was over the urs being included in dot cat and dot travel's renewal even though urs has never been a bottom-up.

>>becky burr: so i don't want to speak to the specific situation in terms of what that was.

The registry contract -- and i -- and i don't remember exactly when the urs came into the registry contract negotiations.

The fact is that generally these things are not just laid on the table for the first time. They're the product of a discussion and a negotiation and a process.

I think -- i think it's a question if these are just demands that are -- that have not been formalized by consensus policy. I -- i mean, i do think that it's possible to argue that the urs could be made a consensus policy, that it fits within the -- and that are not voluntary, but i -- other than that, i don't want to prejudge the specific situation as i just haven't been party to those discussions.

>>steve delbianco: all i asked was let's ask our attorneys to clarify what "voluntary" means as specifically as they can.

>>becky burr: well, let me just tell you i think that's an important piece of this, but -- but let me just say that the -- you know, things like new gtl applications contain lots and lots of commitments that are the basis on which gtld -- gtlds are awarded.

Those things that people put in their applications, those are voluntary, and, you know, if you come up with pics for your application, those are voluntary.

I think those were the things that we were definitely talking about including, and -- and then consensus policies.

But -- so, i mean, the notion here is that consensus policy, by definition, should not constitute a regulation because that is what we're -- what we're talking about.

Okay. Going down to commitment number 2, i have highlighted -- and this has been in for a while --

>> (off microphone.)

>>leon sanchez: i'm sorry, i'm sorry, we have a queue.

>>becky burr: oh, i'm sorry. I apologize, kavouss.

>>leon sanchez: thank you very much, becky, for your comprehension. And next on the queue i have kavouss, alan, malcolm, jorge, greg and pedro. So i am closing the queue with pedro, again, so nobody else in the queue after pedro and kavouss, you have the floor.

>>kavouss arasteh: yes. This is -- don't take it, becky, as a criticism. I have full confidence -- i have full confidence in your ability and competence and so on and so forth, but i took this four times and still i am not happy because nothing was changed.

The first one, it seems to be very awkward.

There is the plate and you take the mouth. You take the food and put it here but not turning around three times and put it here. What does it mean that icann shall have no power other than acting in accordance to its mission? That means icann has no power to walk? Icann has no power to talk? This is

what to say. We should say icann shall act in accordance with so on and so forth, but shall have no power other than -- this is a very awkward language.

And then you put two qualifiers there, reasonably appropriate. First of all, what is appropriate, what is inappropriate? Being an engineer and at the same time having a legal background, it is very difficult to say what is appropriate, what is not appropriate. It's subjective.

Adding another subjective issue, reasonably, why is it there? So you make it totally weak. Either we don't put it or if you want to put it, put it in a proper manner.

Icann shall act --

>> (off microphone.)

>>kavouss arasteh: -- to something in accordance with to something to achieve its objectives. That's right. But not "reasonably appropriate" and so forth. Too many qualifiers is weakening totally this objective. I'm very sorry i discuss it, and even the author of the phrase was ready to change it, but perhaps it was forgotten. I apologize. I request this to be redrafted. Thank you.

>>leon sanchez: thank you very much, kavouss. And that's -- that's actually the purpose of forwarding this text to the lawyers because they will be actually refining this text and, you know, ironing out those details that you have -- that you have pointed to, but i am aware that this is also language that has been into this concept since the very beginning, so yes, we will be running it through our lawyers.

Yes, thomas, you want to add something?

>>thomas rickert: just for those who are waiting in the queue, let's not make this a wordsmithing group exercise. If we are okay with the notion of what's in there, let the experts refine it, right?

I would mark this green if we are comfortable with the content in there, and then we will have the legal language to be double-checked by this group anyway. So you'll get another chance to look at the exact language.

>>leon sanchez: to the message in short, if we are okay with the concept, let's go ahead and forward it to the lawyers and they'll come back to us with some wordsmithing.

Next in the queue is alan greenberg.

>>alan greenberg: i think i'm okay with the content but the wording of the caveat to the lawyers i think is incomplete.

The alac's concern was there are some people and groups that believe that the url, the domain name itself, and specifically the top-level domain, is content, and from that perspective, regulation -- that may take away icann's ability to regulate the top-level domain.

I understand that much of what we are doing is, indeed, as a result of the consensus policies that were determined, but certainly in the past we have taken action. Maybe we shouldn't in the future, that were

outside of the consensus policy. That is the gld process committee has invented rules as we've gone along. The pic was not the result of consensus policy directly.

So i want to make sure that we don't have a big loophole you can drive a truck through and that those abilities to do those levels of regulation which are currently within our process be suddenly declared invalid by some irp. Thank you.

>>becky burr: that's not the intent and, again, we're going to have the attorneys put some -- some cycles in on getting this language right.

>>leon sanchez: thanks, alan. Thanks, becky. Next in the queue, i have malcolm hutty.

>>malcolm hutty: thank you. On the same point, that blue text of clarification is not well expressed and needs continued refinements, i would say.

I think that we understand what we're trying to get to here but i'd like to express it so that we can be clear.

We don't want to stop icann from developing consensus policy as to what the purpose of a domain is, like .BANK Is for banks, that kind of thing. And we don't think that that constitutes regulation. And we don't want to stop icann doing the udrp either. That's an entirely proper element of the regulation -- of the domain name system.

That said, it is absolutely the intent of that text to limit the powers of icann, including the powers to develop consensus policy, so that it's only -- that consensus policy can only be consensus policy for the things that are within icann's mission. And what is not within icann's mission, according to this text, is attempting to use those powers to attempt to regulate the services that use unique identifiers -- the dns, for example -- or the content that those services carry. And to alan's point here, this is not talking about internet content; this is talking about the content that is carried by the services that use the dns, which is a different thing.

So it's -- before we say that we agree to this principle, we need to understand what principle it is that we're agreeing to as expressed on the table there, and i'd have real concerns with it, but i think that ultimately we're all on the same page. I hope my comments have helped clarify.

>>becky burr: thank you.

>>leon sanchez: thank you very much, malcolm. Next in the queue is jorge cancio.

>>jorge cancio: thank you. Jorge cancio for the record.

First of all, i would like to stress that we have -- or at least i have a problem with being able to react to a table which has been just distributed, and it's -- so it's difficult to express endorsement or agreement with something which we haven't been able to see, although some of us we have been participating in the meetings of the -- of the working party. So that's the first thing i want to say.

Second, i agree with much of what has been said by other speakers, especially with what alan greenberg has said about what the meaning of this limitation at the end of section 1 would really mean with all the work that has to be -- still be done by the lawyers.

And third, before i leave the floor, i want to ask the co-chairs if we are talking only about section 1 or if this is for comments on all this document. We just have received.

>>leon sanchez: thank you very much, jorge, and i'm surprised that you were unable to check the document in the five minutes you had to do it, and that's, of course, a joke.

[laughter] >>leon sanchez: and, yes, we are taking care of only section 1 at the point. My connection seems to be lost but i remember that i had greg shatan and then pedro in the queue. So next in greg shatan.

>>greg shatan: thanks. Greg shatan for the record. I also have continuing concerns about this section at the end of section 1, not just the drafting, wordsmithing which we will leave to another day but the intent and the scope of it. For one thing, you say we seem to know what regulation isn't, but we don't really know what regulation is. And whether is icann is never a regulator or always a regulator is, to my mind, open to interpretation. Especially if you view -- so we need to really -- the word "regulate" has givingen heejebies from day one here because it implies there could be a variety of different things. In my mind, it is a completely unilateral position of a rule of law on -- or regulation on parties that haven't agreed to it other than by being, say, citizens or within the jurisdiction.

>> the fcc would disagree with you.

>>greg shatan: as well. As i said, it's open to question.

And then i share alan's concern with regard to the content. I do get malcolm's gloss on the way to read this. But not only top-level domains but there are those who said that second level domains are content. And so we need to distinguish what kind of content we're talking about, in whose content, and who are these -- what services are we talking about here? There just seems to be that this could mean -- this could be incredibly broad.

>>becky burr: can i just add? I just throw out here, consensus policies is a well-defined term and it is not particularly narrow. And what we're saying is if it fits -- if it's within icann mission and consensus policies are by definition within icann's mission -- then it's okay. And the regulation of registration of domain names at the second level is specifically called out in specification 1 as permitted.

So we can go through this in great detail, but i urge you to go back and read specification 1 which details the scope of consensus policies which i think will address a lot of these concerns.

I mean, the point here is that icann has to stay within its mission and consensus policies is a way of defining -- is another way of defining icann's mission. So that's really what the point here is.

>>greg shatan: i think the exclusion of consensus policy is clearly in a step in the right direction. The whole discussion about voluntary, i think, was getting us down a rabbit hole and freedom of contract versus voluntary agreement to pic specks and things takes us to a whole other question here. But i can see this one is going to be often cited in years to come. Maybe at that point, i should start opening my irp practice up.

>>becky burr: just to be clear, it's been on the -- consensus policy has been defined and in operation since the beginning of time. That was one of the most highly negotiated issues in 1998 and 1999. And i do not believe that there has been a dispute about consensus policy. So we are not inventing something new.

>>greg shatan: i'm not suggesting that the consensus -- as i said, the clear exclusion of consensus policy is a step in the right direction. I'm just saying outside the issue of obvious consensus policy, this still raises other issues.

>>leon sanchez: okay. Let's move forward.

Next in the queue, i have pedro and then the queue is closed and we'll continue with the next point.

So, pedro?

>>pedro ivo ferraz da silva: actually, my comment is about commitment number 5 and actually becky didn't talk about that.

>>leon sanchez: we'll get there. You will be the first to speak when we get to that point.

Becky, please?

>>becky burr: commitment number 2. I have highlighted the language that is in there regarding the neutral and judgment-free operation of the dns.

And can i just say -- i mean, one of the things that we may want to do is just highlight these issues and then have a breakout group to sort of nail down some of these things. I'm just suggesting that to address some of the concerns.

There was a comment from alac regarding the nature and judgment-free -- the neutral and judgment-free operation of the dns included in commitment number 2. This is language that is taken from the ntia commitments but it is one area we didn't get a lot of comments on it. But in round 2, we did get a comment from alac on it. And so i don't know if we want to just have a mission commitment and core values breakout tomorrow to come back with a bunch of --

>>thomas rickert: we've heard a couple of concerns in the first section of this. Our hope was certainly that we could agree on the motion and leave the implementation of the language to the lawyers. But there seems to be some more concerns.

So my question would be in the essence of time, we cut this discussion short. We will have becky lead

on a subteam that's going to meet for an hour, hour and a half tomorrow, refine this. And those who have concerns such as pedro, make sure that you join us in an email --

>>becky burr: could we just go through?

>>thomas rickert: we are not going to discuss now. Becky is just going to present where she is. And if you have concerns around that, we are not going to discuss this in the plenary, but we will take it offline and bring back a revised version to the plenary at the next possible location.

And if you have concerns, either join the subteam or send an email to becky or the subteam mailing list and then we will proceed.

>>becky burr: i think what this has done was designed to sort of identify the areas where we have some discussion points.

So, as i said, in commitment number 2, that language, the neutral and judgment-free operation of the dns, about preserving that, is one language that was flagged.

Coming down to commitment number 5, this is -- this is highly interrelated to a number of other things. So i want to walk through this slowly. So the language here includes a reference to icann employing open, transparent and bottom-up multistakeholder policy development processes led by the private sector including business stakeholders, civil society, the technical community, academia. And would he did not have end users in the second draft proposal. Several commenters suggested that we specifically include end users in the list of the private sector.

At the same time, this language here that's highlighted led by the private sector which essentially says the policy development process at icann is led by the private sector.

The current bylaws -- that language "private sector leadership" occurs in a number of places. It occurs in the white paper. It is implicit in other places in the bylaws. But that language itself -- and steve delbianco pointed this out to me -- was not in the original bylaws in this section. So we have introduced -- and this has been there since the first comment period and it is a point of contention, particularly for the government participants here who believe that references to the private sector are outdated, that we are living in a multistakeholder world so that the reference to private sector leadership, which i have to -- i want to be clear -- was introduced -- it is implicit in other places. But it was introduced here in the first draft proposal. It doesn't exist in the current bylaws language.

So that becomes an issue here. It also becomes an issue if you could just scroll down to core values 3. Keep going down.

Somehow that got cut off.

If you go down to core value 7, we have this while remaining rooted in the private sector including business stakeholders, civil society, the technical community, academia and end users recognizing that

governments and public authorities are responsible for the public policy -- for public policy. That language, what we have done is expanded the meaning of "private sector" to ensure that it is clear that it is not just business stakeholders. And i am again repeating the comment that we had from various people about we need to have a clear reference to end users in here.

In any case, this language is quite contentious largely in two ways. I think the government participants in work party 2 have said very clearly and very repeatedly that we live in a multistakeholder world. The notion of private sector leadership is outdated. It's a concept from 1999. I think that there are an equally strong number of views that private sector leadership with respect to policy development which i think can be seen in the current bylaws, it is the gnso and the ccso and the various policy development processes that are here where the government does have a role and is a participant but, in fact, those policy development processes are grounded in the supporting organizations.

So that is an issue that we do not have consensus on in our discussions here. And i want to just make that very clear, that that's another issue that we're going to need to talk about.

Finally, actually, if you go back to core value 3 -- there's something wrong with this. It's not rendering. It's not showing core value 3.

>> core value 3 is before core value 2. That's perfectly logical.

[laughter]

>>becky burr: no. This doesn't look like mine even remotely. But okay.

>>mathieu weill: we can think outside the box.

>>becky burr: we can get this answer -- we can get to this in core value 5 where the language that says introducing and promoting competition in the registration of domain names in the public -- hold on one second. It's impossible to read this.

Let me just say that there are a couple of places where the language said "where feasible and appropriate, depending on market mechanisms to promote and sustain a healthy, competitive environment in the dns market," there was one point that the language in the public -- that where feasible and appropriate was dropped out of here at the suggestion of the u.k. Government, in fact. And in another place, to the extent feasible and appropriate delegating coordination functions to or recognizing the policy role of other responsible entities.

I will send around to everybody the document that i'm looking at which is not the document that's on the screen here. And alac objected to the deletion of "where feasible and appropriate" in both of those cases.

Finally, the other set of comments that we got -- and there were quite a lot of comments -- are you guys laughing at me? Alac suggested it. So i expect whoever in alac has a view on it to come to my breakout

session.

Finally, as you will recall in the first public -- in the first draft proposal, we did cabin the obligation for icann to engage in consultation with the gac to those situations where its advice was in accordance with the bylaws and to the extent consistent with these fundamental commitments and core values. So the notion was in the first draft proposal, that icann did not have to engage in a large back and forth with the governmental advisory committee if the governmental advisory committee was advising icann to do something that was inconsistent with the bylaws.

As you will recall, we got a huge of pushback from the governments on that point and their argument was that nothing should undermine the current authority and the current responsibility that icann has to engage constructively with the gac on -- in response to public -- to advice.

After -- as a result of our discussions over -- and comments on the first draft proposal, what we agreed to do and what we implemented in this draft was we took that language out and we said, okay, icann, just as you do right now, you have an obligation to engage constructively with the gac regarding their advice and to work to find -- to try to find a mutually acceptable position.

In addition to that, we said, one, advisory committees should provide a rationale for their advice including reference to international and local laws where relevant. That was an implementation of atrt2's recommendation.

It is not specific to the gac. And, again, it does not in any way undermine icann's obligation to engage constructively with the gac over its advice.

We also clarified that icann must engage constructively with the gac on all of its advice. But icann -- but icann has an obligation to implement any advice it receives and decides to implement in a way that is consistent with the bylaws. So, in other words, just because the gac advised icann to do something, that doesn't mean icann can violate its bylaws. It means icann must implement gac advice in a way that is consistent with the bylaws.

I think that those -- i think that we had a sort of -- in work party 2 at least, a fairly strong sense that we had cabined the notion that we were not diminishing the gac's and icann's obligation for consultation and interaction. But we were saying, please provide a rationale. And we were also saying, icann, no matter what advice you get, you still have to act in a manner that is consistent with the bylaws. So if you get gac advice, implement it -- and you want to implement it, implement it in a way that's consistent with the bylaws.

I just want to mention that some governments did notice that we fixed that and i appreciate the callout. But a lot of people in the comments really objected to taking that language out that said that we had in the core values that required icann to engage in the interaction only where the advice was consistent

with the bylaws.

I raise that only because many of the people in the room here are the people who objected to the taking it out. No, i feel pretty comfortable that we tried to accommodate everything. And i'm going into a detailed explanation because i think people who were objecting to the arrangements that we made may not have understood all of the compensations that we put in place. But i cannot say that the public comments reflect consensus at this point with the change that we made after the first public comments. And that's the list. >>leon sanchez: thank you very much, becky.

I believe that thomas tells me that we agreed not to have a discussion here but instead take it offline. And i see a lot of people already in the queue wanting to speak on this topic, so i believe it's important to actually listen to those who are in the queue, but i would -- i would just ask you to be very concise and very concrete. We're not going to fix this in this moment, so just let us know your concerns. I am pretty sure that becky will take note of them, and when the work comes for refinement, they will be taken into account, so i'm closing the queue with olga cavalli, just to let you know, and please be concise. We are already behind schedule, so -- and we need to take care of many issues, still. So pedro, you are the first one.

>>pedro da silva: yeah. Thank you, leon. Thank you, becky, for the presentation.

A quick comment. Additionally to the fact that private sector, the definition of private sector that is mentioned here seems to be outdated. You know, additionally to that, i think we need to make use yeah of concepts that have, let's say, wider acceptance by the international community. And this is, again -- this is not the case, again, with this specific concept and the definition that is put here.

For example, in brazil -- and i'm sure in other countries as well -- we would have -- we don't agree with the definition that academia would be part of the private sector as it's indicated here. It's a contradiction, actually. While there are universities that belong to the private sector, many of them are a hundred percent funded by public funds.

So i think that's an additional argument of why we should stick to maybe other concepts like the multistakeholder concept that have wider acceptance. Thank you.

>>leon sanchez: thank you very much, pedro. Next in the queue is tijani ben jema.

>>tijani ben jema: i would like to be very brief.

This issue of private sector led has a lot of -- how to say -- lots of objections and it is because the definition of "private sector" internationally, if you want, is not what we are doing now.

I am very happy with the language you have come with, and defining what you mean by "private sector," so we have -- now we have clarity, but in general, the term "private sector" worldwide is not what we are defining here. That's all.

>>leon sanchez: thank you, tijani. Next in the queue is kavouss.

>>kavouss arasteh: yes. -- (non-english word or phrase) -- kavouss arasteh. I think we in the icann are equal with respect to each other.

There is no subordination, no leadership. I don't think that the ngo is subordinated by civil sector nor civil community, nowhere technical community and so on and so forth. This is a collective work, teamwork, and we work together, so i suggest that we remove all of these "private sector," "civil society," -- (making sound) -- and go to the multistakeholder bottom-up approach, full stop.

>>leon sanchez: thank you very much.

>>kavouss arasteh: it is very, very difficult if we can't do that.

And the second point is mentioned that in the advice of the gac reference to be made to the rationale with reference to the national and local law. I don't think that it is implementable. We have several advisors and i don't think that (indiscernible) want to advise what national law we have to refer and what local law we have to refer. It may put some big obstacle in any advice that we have given, that saying that the reference to have given to national law is not valid.

I don't think that the national law will be dominating or will prevailing on any other law. I don't think that that's how. This is -- those are the two areas to be reviewed. Thank you.

>>leon sanchez: thank you very much, kavouss. Next in the queue, i have jorge cancio.

>>jorge cancio: jorge cancio, for the record.

Thank you very much to the co-chairs for giving this opportunity to state our concerns.

On commitment number 5, i think that we should reflect what is current practice within icann, and that means, amongst other things, that governments are part of the bottom-up public development process of policies and that that should be stated in commitment number 5 very clearly without making distinctions whether we are on the top or in the middle or on the bottom but we are participating in the bottom-up develop- -- public policy development process.

And returning to the question that becky alluded before on the -- on the changes on -- which made a reference that only public policy advice which is consistent with the bylaws should be considered, i think we had a good discussion in working party 2 some months ago, and that addition of "consistent with the bylaws" was changed in comparison with what is on the bylaws nowadays. It was clear that there was no consensus on that change. So i think we shouldn't go back to that discussion.

Thank you.

>>leon sanchez: thank you very much, jorg. Next in the queue is wolfgang.

>>wolfgang kleinwachter: thank you very much. Wolfgang kleinwachter. I just want to echo what pedro and kavouss have said with the language to the stakeholders.

I think the language from the 1990s has really evolved through experiences, and we have a number of other bodies which have further developed the language, what multistakeholderism is.

There is no definition, but, you know, if you go through the language of the ntia, they used it now in a way which is very natural and they do not refer anymore to private sector leadership as they did in the 1990s.

So we have a clear definition in the tunis agenda and we have practices, you know, what multistakeholder participation means and who are the stakeholders in the cstd of the united nations, and if we draft new language, this would be consistent because icann is seen as the most advanced model for a multistakeholder cooperation, and so if we describe the role of the stakeholders, we should be inspired by this u.n. Processes and to be consistent with this language. Thank you.

>>leon sanchez: thank you very much, wolfgang. Next in the queue is alan greenberg.

>>alan greenberg: thank you. I won't talk about substance but i hope before we leave and some of us have other meetings right after this we can have some clarity about what's happening in the breakout sessions. Not all of us can be at all breakout sessions in parallel, nor do we have the time to write detailed emails on anything that may be discussed there, so i'm a little bit worried that the breakouts are not going to be particularly inclusive and, therefore, we'll have problems coming out of them. Thank you.

>>leon sanchez: thank you very much, alan. I think we'll be touching that point further in the agenda today, to flesh out the details on how these working sessions will actually work out tomorrow.

>>alan greenberg: preferably before i leave.

>>leon sanchez: hopefully, yes.

>>thomas rickert: just if i may, alan, i'm not sure whether we can provide a full overview before you leave, if you have to leave in the next couple of minutes, because at the end of this day, we will know which topics need further refinement, and then we need to make a determination as to what is needed most to advance the whole project. So we're going to try to have at least -- the least overlap tomorrow and concentrate on the most important things and spread the other work over the week.

So i know that might -- that this answer might not be satisfactory, but i think it's the best answer we can give at this stage.

>>alan greenberg: let's try to end by 6:30.

>>leon sanchez: thank you. So next in the queue, i have milton mueller.

>>milton mueller: yes. Milton mueller, noncommercial stakeholders group.

My comments relate to commitment number 7, and actually i'm partly just asking for clarification and i'm a bit confused about where -- what you have actually decided to do or have not decided to do.

I know that our stakeholder group, and many others, were very concerned about the removal of that language.

I thought i just heard jorg say that there was no consensus about removing the language, in which case i'm happy. You did not, okay. So, yes, the problem there was not so much the removal of the language because you could assume that of course everything they do have to be within their mission. The problem we had was looking at the gac discussion of this that many governments were interpreting they wanted that language removed because they thought of it as a limitation on the kind of advice they could give.

And this was disturbing because it's not about -- you know, these commitments are commitments of icann, the corporation, icann, the institution. They are not commitments of the gac. The gac can offer, you know, advice that the law of gravity should be repealed, but icann is bound by these commitments and therefore it must be very clear that whatever advice it takes has to be commitment -- consistent with its commitments and its mission and its scope.

So given the idea that seemed to be floating around certain quarters that gac could offer advice on anything it wants and that would be duly taken into account, we want it to be extremely clear that there is a limit. You cannot ask icann to implement or take advice that is contradicting its basic commitments and core values and mission.

So we would argue to keep that language in.

>>leon sanchez: thank you very much, milton. In exin the queue, i have olga cavalli and then next greg shatan and then we'll move forward.

Olga?

>>olga cavalli: thank you. This is olga cavalli, for the record. Argentina has commented in the two rounds of comments that we accept the definition of "multistakeholder" that was agreed in the world summit of information society and also in netmundial.

If we understand that icann should be multistakeholder organization, it should take the multistakeholder definition from those agreed documents and meetings.

We also have agreed using that language in several regional and -- in latin america and the caribbean, several regional documents.

So we think that the private sector reference is not consistent with those definitions and at the same time i would agree with my colleague, pedro, from brazil, that academia -- academia is not private sector or civil society is not private sector. Thank you so much.

>>leon sanchez: thank you very much, olga. And lastly, greg?

>>gregory shatan: thank you. Greg shatan for the record.

With regard to this whole discussion about private sector, i think it's clear that what was meant by private sector when this was drafted, you know, would include academia and the technical community. It was not meant to be just the commercial/industrial sector.

So saying that it doesn't include it is just to misread the definition, to misread it as it was meant, and the reason that we added -- or that was it added in there, act an indemnify yeah, technical communities, is to clarify that this is the words "private sector" as being used here.

So -- and i think that if icann is going to say that it's no longer rooted in the private sector, that to me is a very significant decision that we would need to make, and i think it would actually -- not that we should be dictated by the transition, but given the ntia's clear requirements, it would seem to me to be interpreted in a way that easily could impede or derail the transition.

And i don't have any special inside information but i'm just saying that i think that, you know, taking away rooted in the private secto," especially in the context of this discussion, would be very troublesome.

And lastly, i think the whyed that we should adopt the tunis agenda or wsis definitions i think again also at the very least is something that deserves, you know, very substantial discussions. We are not those organizations. We are not -- we are who we are and i think that we need to, you know, make our own consideration of our own definitions and i think particularly with regard to the tunis agenda there's a wide degree of different opinions about whether and how it should be applied. Thanks.

>>leon sanchez: thank you very much, greg.

So this is an item that is in our scorecard as needing refinement and it is clearly something that will still need refinement, so this will be further worked out in the breakout sessions tomorrow.

Thank you very much, becky, for this. Don't go just yet and i'll turn to my co-chair, thomas, for the next agenda item.

>>thomas rickert: which is the subject of irp refinements, so becky, you can just continue to present to us briefly what you've done since what we know already and then i would suggest that we --

>>becky burr: okay.

>>thomas rickert: -- try to agree on some changes, hopefully, and advance this part of the -- of our -- this part of our work.

>>becky burr: okay. There was -- there were a number of comments about the irp. In the vast majority of them were actually very supportive of the irp as proposed in and.

To the extent that they were -- there were major issues, there were some issues about funding costs, accessibility, and independence. These came from a variety of commenters. One that the -- that work party 2 has discussed was a sort of potential way forward of saying that essentially icann would bear

the costs of community irps. However, those are styled, so i know that there's a potential issue of whether something is an arbitration to enforce the community powers or whether it's an irp involving a community-supported concern that icann has acted in violation of its bylaws that icann would fund those as well, but for a variety of different reasons where the dispute is more -- is sort of the more traditionally commercially based dispute, that the costs would be allocated as they currently are, which is borne by the parties with the panel having the ability to assign the costs for the arbitrators to one or the other.

That solution with respect to funding and cost and also some of the independence issues got some -- got some traction in our discussions of -- of this.

For the most part, there was strong support for the standard of review that was expressed in the second draft proposal, which is the de novo standard of review, and although it's a little bit hard to tell from the board's comments, i believe that at least in part, the board -- at least in certain circumstances, the board agreed with that.

We did have one or two comments where people were arguing for an abuse of standard discretion, so i'd just point that out.

There was concern -- there was a concern about standing and it went sort of both ways, and i think this is an issue where we sort of need to drill down some more.

At some level, people were saying, "make sure that you can't have sort of tyranny of the minority where somebody's bringing a community irp without sufficient support." On the other hand, people were arguing that an individual constituency should be able to bring -- or stakeholder group should be able to bring an irp.

I mean, that certainly would be permitted out in the materially -- or significantly harmed standard if a -- if an so or ac was -- was materially harmed. It would be able to bring a -- an irp under the general standard for standing.

At least one government was very concerned that the material harm standard meant that a government could not bring an irp outside of the commitment irp, so i think there are a range of issues on standing here.

There was -- there was concerns -- a variety of concerns expressed about abuse of the process. All of those sort of roll back to, you know, required participation, for example, in a pdp before you had the ability to stand, fee shifting, all of those kinds of things.

With regard to that, i think that the -- all of those things except for the standing fall into the discussion about the need to create a subgroup to get going right away to work on the details, as we said in the second draft proposal, there are a lot of details to be worked out here.

We needed a highly skilled -- we needed some expertise and a highly dedicated team to start rolling up their sleeves and sitting down and writing these, and so to me, coming out of the irp that really is the major issue is the -- is getting the detailed work going on this, so that -- so that it can be under way. And then the one other issue that there's some -- some disagreement on is that the second draft proposal contemplates that the irp would be available to resolve inconsistent decisions of expert panels. That is something that the board comments did not support, and the view of the board was that those should be -- should be handled by the policy development process that leads to whatever those processes are that create the expert panels.

The question for this group is, that's fine, that's probably actually, you know, the right way to approach it, but do you want to have a panel of last resort in the event that a policy development process fails to think of all of the ways in which you might get weird decisions, and rather than make it up on the fly, do you want to have a sort of more institutionalized body to resolve those.

>> thanks, becky. I guess we all know that we need experts to flesh this out, but you still have a couple of options in there. And if we could, i think it would be ideal for us to try to reach agreement on which option we wanted to pursue. So if you look at the third bullet point, for example, abuse of discretion versus de novo, those points a permissive approach is abusive prevention. If we could, maybe you could specify what you think could get better traction after having analyzed public comment and then let's try to limit it to one reference option and try to agree on giving those those -- this basically as a term of reference.

>>becky burr: okay.

>>thomas rickert: for further work.

>>becky burr: on the standard of abuse of discretion versus de novo, the vast majority of the comments a de novo approach. I think it was a small handful of comments, commenters who had raised this point in the first round and repeated it in the second round. And called for a abuse of discretion. It was repeated -- since it was repeated from the first to the second, i did not feel like i could ignore those comments and felt that i needed to bring them up. But i -- i think the -- the sense of every discussion that i've been in is that there is support for a de novo standard of review where the judges are held to, you know, to exercise their judgment based on a -- on a standard that -- that is typical in that kind of a judicial proceeding.

>>thomas rickert: okay. So let's remove abuse of discretion from this slide, just to try to get agreement on what needs to be refined. Right? So i think we should give some guidance.

Then the other optional thing on this slide is permissive approach versus abuse prevention. I don't think we need a lengthy rationale for you to provide us with but which option to choose, from recollection?

>>becky burr: well, what my -- i think that the comments are -- actually it's a little harder on this one to be clear about it. There's strong support for the community irp and the question of whether it's very permissive or not depends on the thresholds that the -- get set by work -- by work party 2 or work party 1 for when you bring a community irp. I think that there is a very permissive standard invites a lot of potential for abuse and it -- and it has the -- could have the ability to delay progress on implementing policies and the like. I mean, you could game a system that was very permissive.

So to my mind, the notion would be that if you were not materially harmed directly that it would be incumbent upon you to collect the support of the community to bring a community irp and that that's -- that is the balance that i would -- would set, which is a sort of -- you know, depends -- there's a threshold that needs to be set for the community irp and i think that really comes out of the work party 1 discussions. And if that is set properly, then -- then that takes care of the problem and the material harm or the substantial harm standard works to control all of the other -- all of the other issues. Also, it's important for cost, too, because remember, this is about the community irps which icann is going to fund.

>>thomas rickert: i think what -- what may be a potential way forward is just deleting that bullet point from here. Because i think we will have this being taken care of in wp1. So my suggestion, let's strike out that point, delete it here, because, you know, i think we will surely look at abuse prevention when we craft all these things. Then i guess the other point that we'd like to hear your feedback on is what was the community's response to the rollback to 2013 standards?

>>becky burr: i think that the -- the devil's in the details and i think that there are a lot of moving pieces here. So that is -- is something that, you know, the standard that we've set in the proposed standard is actually pretty close to the substantive standard in 2013 but with some clarifications. So i think that that's really in the details for the -- the subgroup to work on the details. I actually don't think it's a substantive issue.

>>thomas rickert: but then i think it -- you know, we're just stating here that the board suggested rollback to 2013. If i hear what you're saying and what came back from the responses is that we should rather say that whoever is going to work on fleshing this out further should take a look at the 2013 standard when doing so.

>>becky burr: well, i think the 2013 standard, with some clarifications, because remember, icann has argued that the 2013 standard means something else than the community thinks the 2013 -- at least than the community thinks in this standard. So i have some concerns about that. But what i actually think the rollback to the 2013 standard is is about timing. And the timing issue is something that is going to have to be decided by the subgroup, which is how you roll it out, what the process is, what the timing is. So i

don't think -- that's why i'm saying it's really more about timing than anything else.

>>thomas rickert: then i suggest we change the languages to consider 2013 standard in terms of timing. Let's just make it concrete. Right? And so with these -- with these amendments are we happy to task the subgroup or even external counsel to flesh that out. I think everybody needs to read it, anyway, but these are requirements -- requests coming from the community and i would suggest that we sign off on them, agree on them, and say that's the -- that's the basis for further work.

So unless there are --

>> (off microphone).

>>thomas rickert: go ahead.

>> if i'm allowed.

>>thomas rickert: and then we're going to go to alan.

>> just wanted to mention, one of the things becky mentioned -- nope.

>> i was about to make a comment and struggling with the mic. Just my suggestion is that later on this week we consider how best to organize work on implementing this -- on refining and implementing the irp, taking into account that this is -- this is one of the recommendations that has the longest lead time because we need a panel, we need to set up the rules and everything and i suggest maybe we consider how to organize so that we get into the refinement and implementation phase very, very, very soon. So that we can deliver in time. With the rest of the process. That was my suggestion, thomas.

>>thomas rickert: yes, and i guess that's spot on. I think the first thing we should be doing is actually see whether there's pushback on this time sheet, if you wish. And maybe alan is going to speak to that and we'll talk about the process.

>>alan greenberg: thank you. I don't have pushback. One of the things becky mentioned is whether the irp should be the panel of last resort for panel decisions, and just to point out that if indeed we decide it should be, then we need an allowed outcome that addresses that. Currently the allowed outcome is did you follow the bylaws or not and that kind of question would need a different outcome. So that's just something to note.

Regarding the irp and what you just last said, the not clear to me, maybe it is to others, that the irp has to be implementing and working the day that all of this rest starts. We may have -- your honor we may say the i were will come into effect in december 2016. March 20 -- 2017 or something like that and not have to do all the detailed work right now. It would be nice if it was available, but i don't see it as mandatory.

>>becky burr: so let me just say, i think that we need to get the timing -- we need to get the details right and the details are then going to dictate the timing and we should not put the cart before the horse.

Having said that, i think what mathieu and thomas' we want to get as many of the details down as possible, as quickly as possible. So there's no -- i mean, to me, this is the next step and it's a really important step.

>>thomas rickert: so we have two more hands up, kavouss and tijani.

>>kavouss arasteh: yes, you talk about working groups. How many working groups we have? I hope they are not working in parallel, they are working in sequence. Thank you.

>>thomas rickert: at the moment the only question in front of this group is whether we agree to these refinements. And we're going to talk about how -- who does it when later. So this is just us asking for confirmation that we can add to the requirements that we have in our report these refinements. Because i think if we have that, then we have terms of reference for whoever writes this up, right? So that's the idea of this exercise, kavouss. I hope this clarifies things. Tijani.

>>tijani ben jamaa: thank you very much. Seeing that the irp can be implemented a while after the transition happen, disturbs me very -- really because that means that you not make refinement now and you will wait after the transition. Because no, we -- we are building our -- our model on the irp, on the independent review process. So we have to refine it very clear. Because if it is not well defined, we may end up with something that is not acceptable. What will we do after that?

>>thomas rickert: tijani, good points. I guess we need to be very clear on what we do when and who does it. All right? So the way that i see it ask that if we -- if we agree, which we seem we do, unless malcolm objects, is that we agree on this set of criteria and then the question is, what do we do with the criteria? We need to put some language in the bylaws. So i think we should tax experts with drafting bylaw language that sufficiently reflects what's -- what needs to be reflected in the bylaws. Then we will have some rules of procedure. They need to be worked on as well. So the question is, do we do that? And i think we should rather oversee what's being done. But maybe we should just get some arbitration or experts on that to work on that for us. And then we need to -- you know, if we have all that language ready, we need to seat the panel. We need to select panelists. I think what we're trying to say when saying that we can't have this ready on day one is that we will not have all the paperwork plus the selected panelists ready on day one. So we have to work sequentially and i think the next step for us to confirm today is agree on this and hand it over to the lawyers for drafting bylaw language. And i think that satisfies your immediate needs, doesn't it?

>>tijani ben jamaa: okay, to postpone the selection of the panel, that's normal. But for the rule of procedure they must be there before the transition. We are building on that. So we have to define everything.

>>thomas rickert: yes. But i guess that's not necessarily for our group to do itself. I think it's wiser to

task experts in the field to do that, and we just oversee it. So actually we could -- we could mark this green and say this is all this group can -- can do on this at this stage and we hand it over for experts to work on the implementation. Malcolm.

>>malcolm hutty: i share tijani's concerns. I think it's fine to defer the appointment of panelists and stuff like that until later, that's fine. And i accept your recommendation that having developed the specification we hand this to lawyers to drafts up some bylaws for us. But once they have done so, they should hand that back to us for review, and we need to approve that.

>>thomas rickert: i think, malcolm, we're -- we're in perfect agreement.

>>malcolm hutty: perfect.

>>thomas rickert: what we tried to establish through the meeting is we ensure in as many areas of our work that we can't go any further. And i think us all being -- at least i don't claim to be an expert in the field, as many of you. Maybe we have some experts, but i think it would be wise for us to say okay, this is our set of requirements. We can't go further. We mark this green for us as we've delivered what we can at the moment. We pass it on to the experts, bring it back to the group for revision. As we do with every other area that we have in our work as well. You know, we need bylaw language on almost everything. And still we mark this green because it's green because our group can't take it further. That's the idea behind it. And i don't see any further objection to this at the moment. And i'm sure that ehard is coming up with an objection, i suggest.

>>eberhard lisse: i wouldn't accept a suggestion of yours if my life depended upon it. I do not -- i do not accept also that we call something green which is red. You have had significant headwind here. You've got some pushback and you say it's green because we can't do anything about it. If that's -- if it's not green, it's not green. I mean, i'm not color-blind.

>>becky burr: i'm not sure that talking about the green or red is particularly helpful here. I think where we are is we have agreement about the shape and the next steps. The next steps involve lawyers drafting bylaws language that implements this and work on rules of procedures and operations. I think that what thomas is saying, i'm going to channel thomas, which is scary, is that we have come to the point where we need to pass it off, not permanently but for the time to get further work and input and refinement on it. It will come back to this group. So the green and red may not be helpful eberhard but i think it moves us. What we are ready o do is take the next step so we can come back and refine.

>>eberhard lisse: if you remain on the analogy of traffic lights, to be refined is yellow. I don't really mind the colors here, but you cannot say something is -- is agreed when it's not agreed. If it needs to be refined, it needs to be refined.

>>thomas rickert: let's not dwell on this for long. It depends on how you define refine. But there's only

so much this group can do. And we are marking things green at a point where we need to hand over to somebody else. That doesn't mean that we're letting loose. So we close on this and i hand over to mathieu for the next agenda item. But before that, let me thank becky for work on this.

[applause] >> and the work party 2 volunteers.

>>mathieu weill: i think we'll have to call jordan back to the table. It's been a request from the room. So i have to defer to that.

>> we've missed you, jordan.

>>mathieu weill: yeah, we've missed him.

>> (offso we have actually three items.

And the number one is the community forum. Then we have the standard bylaw changes and fundamental bylaw changes that are still relevant to work party 1.

What i would like to have -- and welcome mathieu who has been organizing work on the community forum is if we clarify whether we still have a lot of work of refinement on the community forum, whether we've received feedback that it was something that was raising -- that was getting consensus, refinements. Very quickly because we are way beyond schedule, but that we actually have a common view of where we stand with the community forum. And we'll try to assess whether we can put it into green or not with the definition

>> let's go first with the forum report back.

>>thomas rickert: thanks, jordan, thanks, cochair. Actually the community did get a considerable amount of support as pros proposed by the wol and this is it is an information sharing exercise to occur between the decision part of that process we've talked a lot about before. There's broad support -- is this up? There's broad support for one that's open to participation beyond the icann community for open and transparent processes and for some form of documented discussions. So documented the process of the discussion itself. Documentation of the discussion itself. One person made a very good comment that from their perspective, this was a very important part of the multistakeholder nature of in that it's open to broader representation and it really is a place to bring items for discussion. Kind of a common mind share, if you will.

Now, there were many areas needing refinement. But i think we recognized that we didn't put a lot of detail into the proposal on this. So it's understandable. Also one of the other problems was that the community forum was kind of split between two parts in the proposal itself as well. Which made it difficult to follow in some of these questions. I don't think i really need to go through the questions except just to say that you know, these kind of varied between is it permanent? Is it ad hoc? Does it occur when there's a need? I mean, there are a number of things that still we put into the proposal that

give guidance. But there is still a little bit more refinement that needs to be done. And the issue really then becomes -- we can go through these triggers. Periodicity. How often should they meet? Should there be virtual meetings? What's the composition of the community forum? Who actually sits in it and what is that structure? And you can go through these points and see that. I think in many ways there's considerable support. We just have to come forward with a little bit more detail and a little bit more refinement. What we've said in the proposal is that that work would be undertaken in the implementation phase. I'll just quote that directly here. In the proposal it says the working group will pursue the establishment of the icann community forum in the implementation phase of workstream 1. We kind of have a choice. In a way there's an expectation that we'll bring more detail to the community at this point in time, I believe, from some of the questions. And it probably does require and necessitate additional work at this point in time. But it is in the refinement stage. There is not a significant divergence of view or alternative options that we thought when we discussed it that we thought we could bring forward.

>>jordan carter: thank you, mathieu. So the assessment is that it's still to be refined with very strong support received in the public comments. Is that assessment not shared by anyone in the room. I see two hands raised. Kavouss and tijani, old hands. Kavouss is that a new hand. So tijani we'll be short on this.

>>tijani ben jema: i'd like to stress the fact that the community forum should be a mandatory phase, a mandatory system, a mandatory mechanism of our system, of our model. I understood from some of our group that they wanted it to be perhaps we can use it and we cannot use it. We will make the consultation outside the forum. I would like this forum to be something mandatory. And all the discussions about the exercise of the powers of those mechanisms should go through it.

>>matthieu weill: there are some who suggested it doesn't need to be mandatory. If we're looking at a process and I want here this morning but I understand that process may be evolving further but it does in effect become part of that process and in that sense, mandatory if that's what we're referring to

>> that's why we have broad support for that.

>>jordan carter: so I think that's agreed and we still have to refine some of the models, some of the details of the model. We're very close to agreeing I would say, but I would state to be refined at this point. That's probably something where, if there's an ability to further detail among this, we can even reach green by the end of the week. Because I think the gap is not that big. You've made a lot of work on this. And that's to be commended.

>>thomas rickert: great thanks to horge who contributed a lot to this process. Perhaps the two of us can take it away and see what we can do in terms of bringing it forward another step. I'm not sure what the process is going to be going forward.

>>jordan carter: we'll be see what we can do

>> a full draft by the end of next week that's ready for approval.

>>jordan carter: end of this week

>> that's only half an hour

>> that's a few hours.

>> no, it's only friday. It depends on when you put the end of the week.

>>jordan carter: so the next -- thank you very much, mathieu and jordan. The next two items i would like to make a suggestion that we actually sort of use them as consent agenda items. The next two items are standard bylaw change, fundamental bylaw change. And jordan, i'm oversummarizing the summary that your group has provided. But i see we're getting support on the idea and the only refine mentsz are those that are related to the mechanism for decision making and model for enforcement.

As a consequence, i would put them in green pending obviously, those conversations because we'll decline whatever model decision making comes out from this. So i think -- and there's been a lot of support for the idea from everyone. I haven't heard about any objections on this, so unless there's objection to that, i would consider these two items discussed in that fashion.

Okay. I'm not seeing anything. Obviously, it's two readings, whatever. But that's okay. So that's green.

And jordan, i think we'll try to get you back to the table later. But i'm not sure exactly how we will do it right now. So please stay with us. And it's been a delight having you at the table.

Well done, jordan.

[applause].

Our next items are the other stress tests. And yes, steve is going to be -- do you want to come to the table as well, cheryl

>>cheryl langdon-orr: i'm very comfortable where i am.

>>matthieu weill: okay. Please, keep your seat. I think there is an item where there hasn't been so much. There have been comments. But i think we're very close to agreeing as well. So steve, update us on this please.

>>steve delbianco: thank you. Staff, if you can display pages 112 of the second draft comment that's the place where stress tests 29 and 30 appear and that's all i'm up here to discuss. The stress test work teams analysis recommended two channelings to the stress tests. 29 and 30 came to us as

recommendations during the first public comment period. The new america foundation in particular wanted to put a stress test together that assessed whether icann could really, if it enforced registrar accreditation agreement requirements and pic specs and seans policies that could be considered running afoul much a limited mission statement or we're not necessarily a bottom-up developed process, the question was well what would happen then? The stress test is supposed to evaluate that if an irp ruled something like those can not be enforced by icann because they don't enforce the bylaws, then what would happen? Then again, the purpose of stress tests is to evaluate plausible scenarios, not probable but plausible scenarios and the stress test work team takes suggestions from our community. So when folks asked us to do a stress test, we didn't necessarily think the answer could be no. Our answer is let's do the best with it. I feel like 29 and 30 generated quite a bit of interest and quite a bit of comments. There were 7 commentors who objected to the inclusion of 29 and 30 and there were other commentors that supported it. But the stress test team wasn't going to say no we're not going to do it. But we analyzed what they came up with and 29 is similar to 30 so we'll leave 29 on the screen and I think you'll follow along.

And one of the concerns I had was that the consequence -- if you see the consequence right there in paragraph 938, the consequence suggested by the people that suggested 29 and 30 was that icann effectively becomes a regulator of conduct and content on registrant web sites and that consequence was suggested by a numeric foundation because it matched pretty closely with the proposal at that point in time way back in our first draft, our proposal for what we were going to put in the revised mission and core values. And becky discussed this morning whether there will be some pivoting and adjusting of what the mission and core values are. So our first change is to not be presumptive like we were by accepting their paragraph 938 but to simply change it to this: quote, icann's enforcement of registry and registrar contact terms might be blocked by an irp, an irp ruling that cites the amended mission and core values."

So that's the plausible scenario and the consequence would be my goodness, icann is suddenly unable to enforce pdp consensus policies or enforce terms that are in the raa or enforce voluntary pic specs and things like that. That's the consequence we want to change it to. And then we'll discuss only one other change which is at the conclusion of bottom of 29. It might be best to leave the stress test up that you had because I can quickly go through what those changes are. So against, the consequence 938 would be revised to say icann's enforcement of registry and registrar contact terms might be blocked by an irp ruling citing amended mission and core values. So is there any objection to making that change, which was endorsed by the stress test work party? So there were a couple of hands that shot up. So at this point we should look at the queue. Greg, you would go first

>> greg shatan: thanks, i object to sevrn of these changes here. I think that -- i think for one thing, this stress test will be looked at to interpret the bylaws change regarding content regulation because this is going to be read as a document together. And as people try to figure out how these things will work together, and what our interpretation of these things are, this is going to be part of the whole system. So the -- i think that the idea that this -- the new consequence i think still -- basically, has the same implication as the old consequence, which is that it's a plausible interpretation of the mission and core values that enforcement of contracts is content regulation and therefore, outside icann's mission. So unless the consequence -- unless we're saying that the new consequence as stated is that the irp gets it wrong. And if we do think that's the case, then we should say that. Because otherwise, i would read this as a statement that we -- that consequence is that the irp is getting it right. And that they shouldn't be enforcing these contracts. So i think that, you know, right now this is kind of a big muddle. And i also think that the second paragraph in stress test 29 up there is a completely different fact scenario than the first one, which says that icann also insists that legacy gtld operators adopt the new gtld contract upon renew. I think that fits in very nicely with the business constituencies reconsideration request, but i don't think that that is, again, something that would be -- the conclusion from that isn't necessarily that icann is becoming a regulator of content either. So that seems to me it's -- i don't know why there are two stress tests in one here. We've kind of ignored that second line there. But i think that's also troublesome. So you know, i still think this is -- it's maybe damaged differently than it was in its previous iteration. But i you.

>> greg.

>>steve delbianco: you greg, you talked earlier about starting a process, and if you want to start one it would be a mistake to count upon the lawyers in the stress test to analyze plausible scenarios, and you're suggesting that could be relied upon as future irp panels, interpret whether the bylaws were changed. And i find that astounding to be coming from you.

>>greg shatan: that's not what i said, so maybe that's why you're astounded. What i said was as people read our draft proposals and they try to figure out what the heck we meant in our changed mission and core values, they're going to look at the stress test and the consequence and use you that to interpret what we meant. What i said is the proposal is going to be read as a unitary document, with the exception of possibly minority statements which we may not have any, but all of this will be a related piece. So this will relate back to the mission and core values that it is interpreted.

>>steve delbianco: great. If you are yield for a second, we're analyzing public comments in an effort to produce our third draft, hopefully our fim draft and that will include not only revision of some stress tests but it will include new mission and core values that becky spent about an hour sitting up here

talking about today. And those mission and core values were anticipated by the final change i was sent up here to pitch. If you scroll down a little bit, please, staff, to the conclusion of these stress tests, our conclusion, stress test teams the proposed measures would be adequate to challenge icann's enforcement decision. So icann's decision to enforce, voluntary contract provisions could be challenged. That doesn't mean that we are predicting the irp could overturn them. We have no idea. So the stress test team unanimously proposes that we change the conclusion to read proposed megs that would be adequate to challenge icann enforcement actions, but it is unlikely that irp panels would block enforcement of voluntary contract terms and consensus policies. And we wrote that without even having seen the document that becky displayed about an our ago. Because we wrote this last -- three or four days ago. So it dovetails perfectly with what becky presented this morning from wp2. So that revised version, greg, should give you great peace if em actually read our stress test and take notes from them, would be at quit to challenge icann's enforcement actions but it's you be unlikely. Consensus policies.

So we're putting out for your consideration both of those changes, and that's the entirety of it. We'll get back to the queue which i think is malcolm.

>> just before we get to malcolm, greg, if you want to suggest particular edits, please do. I think that would be much appreciated by the group.

Malcolm.

And -- sorry, malcolm. I'm just informing that i'm closing the queue after robin so that we -- we're getting close to the end of this meeting and we want to make sure we stay on track.

Thank you, malcolm, for your patience.

>>malcolm hutty: thank you. Malcolm hutty, for the record.

Thank you, chair, and thank you, steve, for the valuable work of you and awr team on this and particularly to you personally for originate being the concept of stress tests which has been so valuable to us.

Now, these stress tests form a useful purpose the. Help us to analyze the concerns that the community has so that we can see whether our proposal will meet those concerns, and it's likely to be something that is supportable that we can put forward as a community proposal.

The responses that you've had from members of the community that caused you first to create this stress test and that is causing you to seek to amend it, are coming from different groups of people with different concerns. Those that originally created this were motivated primarily by a concern that icann could become a general regulator for internet content and behavior and they wished to put in a stress test to analyze whether or not we had considered that was an outcome that could happen. And you said

no, the measures we put in place will prevent that. So the people who were concerned about that will be very happy by that.

There were other people who are motivated by another concern. They are motivated by a concern that those measures to prevent that general regulation might be so strong and so overreaching that it might prevent icann from doing things it should be doing, is doing railroad will and should continue to do.

These are separate concerns.

So my recommendation is this. We ought to keep this stress test here that in the current form, unamended, because it validly speaks to a legitimate concern that people want to see that we have analyzed.

The people that have asked for it to be amended, they also have a legitimate concern, and their concern should be documented and analyzed too. So instead of amending this in the way that you propose, what we should do instead is create an additional stress test to address this new concern.

>>steve delbianco: if we retain 29 and 30, the stress test feels very strongly given the clarifications that becky is presenting in her next draft, we feel very strongly that the 29 and 30 should be amended according to the ways we presented. And in addition, if you'd like to suggest a new stress test that gets to this general content called content regulation, write it up and get it in and we'll analyze it while we're here this week. So we'll add one.

But with respect to 29 and 30, we can't leave this text in here because it doesn't reflect any more what the next draft will have in it with respect to the limits on the mission and the core values.

So we can do both and accommodate your point.

>>malcolm hutty: this stress test analyzes a possibility. We should absolutely expect that that possibility will not be realized because we are hoping that our measures have -- just as with the other stress tests, our measures have precluded that possibility from being brought about.

So i don't see that there's any -- any reason to amend it.

>>steve delbianco: malcolm, paragraphs 933 and 944 have to be changed if the proposal that becky put on the table is adopted in our next draft. I just can't put this back out basing it on an inconsistency in the document. So we have to make the revisions to 29 and 30 and then consider a new stress test that looks at general content regulation.

You're quite correct that the folks who put 29 and 30 in were looking to blow up the raa provision 3.1a which was to investigate and respond to reports of abuse. This is suggesting that if those were the result of a bottom-up policy and they were voluntarily agreed to it by the registrar selling names in the new gtld space, that, you could blow them up with a new irp.

So this is going to take more work than i think we will be able to go through in a colloquy here, so i'll

take the rest of the queue and you and i will have to speak more this weekend.

The next on the queue is alan greenberg, and (saying name) i see you're raising your hand hand, but can you raise the adobe hand to get in the queue. Thank you.

>>mathieu weill: which was supposed to be closed. But it's your first intervention so certainly we'll hear your comment.

Thank you. Al alan.

>>alan greenberg: i'm not sure i have a question. Be steve at the beginning of this you said you had rewritten 938 and could you read it again and i'll either have a question or not have a question.

>>steve delbianco: staff, if you could paste from the yellow document or simply bring up the new page 3 of the stress test document. I know you have it ready and i appreciate that.

So, alan, we'll are bring it up and have you take a look at the text.

>>alan greenberg: i'll feel better if you read it.

>>steve delbianco: being the consequence or the conclusion?

>>alan greenberg: consequence. Steve delbianco stoovd the consequence will be changed to say icann's enforcement of registry and registrar contract terms might be blocked by an irp citing amended mission and core values. Because that's the consequence of the stress test.

>>alan greenberg: in that case, i don't have a question. I misheard you. Thank you.

>>steve delbianco: thank you very much.

After alan is milton.

>>milton mueller: yes, i'm finding this discussion -- first of all, it's absolutely core and central to what we're trying to do here, and i'm getting very confusing signals about where this is going, so i'm liking the idea of not making any decision right here and discussing it further, getting our signals straight in terms of what's actually going on.

Just let me say that your proposed -- what you're saying, steve, if i understand right, is that we have changed the mission statements in a way that would allow an irp challenge to block certain forms of overreach by icann that would extend regulation to content and services simply because they use domain names; is that correct?

>>steve delbianco: so in the second draft that we put out, we had a mission statement and a core value that could potentially, plausibly be interpreted to prevent the enforcement of a policy that was voluntary or that extended into the regulation of content on a registrant's web site. I think that answers the last piece of your question. And because we are in the middle right now, this weekend, of revising that particular core value and mission statement to say that notwithstanding those limitations and the requirement for bottom-up, icann should enforce contract terms that are consensus policies and contract

terms that are voluntarily agreed to by contract parties.

So because of that particular change that's coming down in the next -- hopefully in two days, we need to revise the stress test pursuant to that in our next draft that we put out.

I hope that that answers your question, but if you're still distressed, let's talk about it some more.

>>milton mueller: well, i'm not quite finished with my comment. I want to add one other thing here, and that is this idea of voluntary agreements is very slippery in this -- be in this environment. You know, if icann -- these -- frequently, these are contracts of adhesion, and they're not really contracts in the sense that they can walk off and go somewhere else else. So if icann says you want to get into this business, you know, we won't approve you unless you agree to add, let's say, some weird public interest commitment that somebody came up with at the last minute, is that a voluntary agreement or is that icann acting as a regulator?

I think however we discuss this, we need to keep that slippery line in mind. So i think we need to defer this and actually come to an agreement on what we're trying to do here.

>>steve delbianco: milton, would i agree, and if you were here an hour ago, i brought up almost the exact same point about what constitutes voluntary and that we would keenly look at the way our attorneys come back with language to expand on what "voluntary" really means. I appreciate that comment.

Next in the queue is kavouss.

>>mathieu weill: it's kavouss, yes.

>>kavouss arasteh: yes, if you kindly go back to the table, just a simple question of presentation. Yes. Yeah, first of all, when you talk about 939 and 942, they are exactly the same, so perhaps in 942 you put something knock be, otherwise i have to read word by word to see whether they are exactly the same or not. So that is a standard that people are doing.

First.

Second, existing. Existing in the first public comment or existing in the currently bylaw?

>>steve delbianco: current bylaw. Current bylaw.

>>kavouss arasteh: and people say what happened to 930 and 931. Stop, delete it. They are not modified. So what happened to those? So people (indiscernible) ask final proposals.

>>steve delbianco: kavouss, these are readability. We'll take them on board to make them more readable.

Next in the queue, robin.

>>robin gross: hello, this is robin gross, for the record.

I will be brief because a lot of folks have already said what i wanted to say. I just wanted to support

malcolm and milton in urging caution in this change. I feel like it is a slippery slope, and we want to be very careful to avoid a situation where icann becomes a content regulator. And so i think we have a slippery slope here, and we need to be very clear and very sure about this particular stress test before we go any further.

Thanks.

>>steve delbianco: thanks, robin.

So, cheryl, i think that your cw; right? There's a christopher wilkinson so --

>> cheryl cheryl no, i'm not are christopher wilkinson.

>>steve delbianco: thank you, we'll take cheryl miller.

>> obviously the way the language existed, we couldn't live with it, so we just need to be careful. So i look forward to the final text.

>>steve delbianco: and then christopher.

>>christopher wilkinson: thank you, christopher wilkinson for the record. Adobe doesn't like long names, i warn you.

Steve, i've listened to you carefully. I couldn't possibly explain to a third party outside the room what on earth it is you are trying to achieve with this text. So i abstain.

Please, we would like to be able to save that text on the screen so that i can read it overnight. It's not savable at present.

>>steve delbianco: it's been published since august the 3rd. That text theabs right there, and staff can give you a link to is so you can bring it up.

>>christopher wilkinson: that would be a help. And just as a detail, that is just legible from this distance. Half the stuff we've been putting on the screen is almost illegible from this distance. But, steve, we need more time to sort that out.

>>steve delbianco: chris, this was published on august the 3rd and everybody commented on the document, first of all. So all i needed to do was mention to you on page 112 and qun hundred 13 of our suggest 3rd. Third point ks the stress test recommendation to change two paragraphs was plishedz last week and was published to everybody in the are ccwg and the link to that was available to the chat. I didn't really expect anybody to read from back there what's on the screen. I'm in the front row and can't read it. But those documents have been published and they're right there in the chat. With that, it sounds to me like we do not have a green on these two changes. We're going to wait until we see what our lawyers come back in terms of modifying the mission and core values, and then we'll dovetail that with this. And i do want to hear from malcolm, milton, robin and others who being think we ought to add another stress test, but let's do it this weekend, please.

Thank you.

>>mathieu weill: thank you very much, steve, and i think cheryl, steve and stress test working party deserve a lot of credit for all their efforts. And obviously they did waiting on the mission and 64 value to finalize the stress test and we've known from the start the stress test part will need to be reviewed at the end when we have all the proposals finalized. So great job, and unfortunately you still have a lot on your plate ahead of you, but i know you're going to tackle this with efficiency.

Thank you, steve.

[applause] we have half an hour before the end of the meeting and we have four items, but i have good news. Three of them i think we could probably skip if we consider that they are mostly already addressed for the fundamental bylaws or already supported for the aoc incorporation into the bylaws, so there's -- we're already in the implementation phase, if you want, although there have been some interesting comments, so i would suggest we focus on so/ac accountability, which was a new item in our second report, and then move straight to the conclusion of this meeting.

And for that, i'll turn to leon for so/ac accountability.

>>leon sanchez: thank you very much, mathieu. This is leon sanchez. Can we please have the so/ac accountability slides up? Thank you.

So it actually comes to three different topics, which are diversity, so/ac accountability, and staff accountability.

But i'd like to center on so and ac accountability, thank you very much.

So we received, of course, a lot of comments on so and ac accountability and one of the overarching issues on so and ac accountability is that, as (indiscernible) said, with more power comes more responsibility, so if we are to empower the community, then there needs to be corresponding responsibility from the community to -- not only to the larger interim community but to each other, we have discussed this with our advisors and we have had some feedback on some mutual accountability model which we have discussed.

But the consensus side, we -- as i said leaned towards -- or more precisely, the commenters lead towards having more responsibility into the sos and acs if they are going to be empowered.

Then there is also consensus that there needs to be more work done on this issue, and this could, of course, take place as something to be further developed as part of our work stream 2, but it is important also to avoid wearing down commitments for work stream 2, so we should definitely look into having a strong commitment that this will be -- actually be further fleshed out in work stream 2.

Then the areas needing refinement is periodical reviews, there are -- there were many comments on whether these periodical reviews should be taken by -- or undertaken by the atrt team. Some of the

comments said that the attr is already -- have a lot of things on their hands, so bringing these reviews into them would overburden the attr team, and so these are the areas, as i said, that we need refinement. And then who watches the watchers, this is also one issue that has been widely commented, and it's a major concern by many in the community, with the different models that have been proposed there's always been this underlying question on who watches the watchers.

So we would be looking for some kind of formula to actually address this issue.

Then we only have one comment on -- that diverged from incorporating so and ac accountability, and this comment was not really to the point so that's why we really didn't take it into account for -- for our report.

And then for consideration, we spotted some issues like having the sos and acs subject to the irp. This is something that we should need to consider as a group, of course. Diversity versus conflict of interest, there are some comments that say that the more diversity we bring into icann, then the more -- the more conflict of interest we open the door to.

Then there's also the revolving door effect. There are many comments saying that it's the same people around different bodies, so this should also be taken care of.

We also have the independent commission, the controlling conflict of interest. It is suggested by some comments that there should be this independent commission that would be overlooking to conflict of interest within interest. Especially, of course, within sos and acs.

And then having the structural reviews as a two-step process, which this would be undertaken by the sos and acs as a first step and the second step would be taking these results into an independent examiner which would in turn, deliver a report on this structural abuse. Then the escalation path before going to adversarial arbitration or irp, as jonathan zuck explained in the morning, we should be looking at all these processes as not being the last resort but also as to -- to draw an escalation path before we actually go into the irp.

So at this point i see some hands already lining up in the adobe connect room. I would like to open the floor for comments.

So first on the queue is james gannon.

>> james gannon: thanks, leon. So i probably will be the one to say it but i think many people are saying it, i didn't have the bandwidth to follow work party 3 so i'm seeing some of these things for the first time. And i have to say some some of those considerations, some of those issues terrify me, because some of them are way beyond destabilizing in their potential influence, so i'd have serious -- without having gone through the process that you guys have gone through, maybe there are various considerations that there's strong reasoning behind them but, for example, take the very first one, so/ac

should object to irp. I could see that being a total deadlock situation for icann policymaking going forward. There are serious concerns about some of these.

I'll be the first to say i have serious concerns about so/ac accountability in general, but we need to be very careful as we move forward how we manage that concern because i know we speak about who watches the watchers. It's the -- it was the start of this conversation, and i think it was in paris that i said that at some stage we have to accept that there is a bottom line of responsibility within the community and we have to determine that as a community where that bottom about line sits, where we're going to say, "okay, the board watches the gnso," the gnso watches the ncsg, the nsg watches the ncuc and the ncsg responds to its members. We have to find that bottom line because otherwise it just comes an infinitely recursive, we keep going down this line, okay, then we go out to an independent consultant to watch the ncuc members. You know, there is a point of practicality on so/ac accountability where we have to say, "no, there is a stopping point where this is where we are accountable to," and in my personal opinion, it's the membership of the various sos and acs at the bottom level.

We're a bottom-up multistakeholder model. The bottom is where we are accountable to.

>>leon sanchez: thank you very much, james.

And the queue has grown long and i'm closing it at this point with sebastien bachollet, so next in the queue, i have rinalia abdul rahim.

>>rinalia abdul rahim: thank you, leon. I just wanted to make a clarification.

The structural reviews would involve a two-part process that goes in parallel where you would have the specific parts of the community undergoing the review, performing their own self-assessment, at the same time the independent examiner is doing the same thing.

That's one point.

The other thing i wanted to flag is a challenge that i see that if we proceed with structural reviews as the condominium for doing so/ac accountability review, is that to have a snapshot of all so/ac accountability you would have to wait for the entire cycle of organizational reviews to finish, because the org reviews are not all happening at the same time.

An example i would make is, we have just finished the gnso review. The at-large review is just starting right now. And the ssac/rssac, and so on are starting later.

So if we wanted a snapshot of what is the status of icann's so/ac accountability, it would be challenging to do that until we've finished one complete cycle, which would take several years. Thanks.

>>leon sanchez: thank you, rinalia.

And next in the queue, i have mathieu weill.

>>mathieu weill: thank you very much, leon. Mathieu weill speaking. I'd like to offer a suggestion for

the group going forward on this topic, which would be to split this discussion on so/ac accountability between what we would consider work stream 1 and work stream 2.

Remember that's one of the work stream 2 items that has been identified in the discussion we've had a couple of hours ago. And our second report suggests that the main -- the main recommendation that is work stream 1 is improving the aso, a -- the structural reviews that rinalia just talked about.

By adding this accountability topic into this.

I think in the comments, most of the consideration items are eligible more for the work stream 2 work, and so we would probably have to look today whether, based on the comments we've received, we can consider that the work stream 1 recommendation, which was to add accountability into the structural reviews, is something that is deemed an agreement or supported, and then moves forward, and that it's enough for the moment to make this happen.

And to me, i think we could definitely mark that green and take the rest of the comments into the work stream 2 item that we have on so/ac accountability, so if you ask me, what i would suggest is to count this green and take those -- the rest of the items into work stream 2. Thank you.

>>leon sanchez: thank you very much, mathieu. This is a great suggestion. I think that we all agree that we must address so and ac accountability, so that could be green ticked already, and we will be, of course, explaining this -- this strings into work stream 1 and work stream 2. So is there any opposition to actually move forward with the suggested path that mathieu has suggested?

>> may i just ask a clarifying question?

>>leon sanchez: yes, of course.

>> yes. James gannon. Just so i'm infinitely clear, merely saying that we will address it in work stream 2?

>>mathieu weill: the current recommendation, the current status is adding to the structural review system the fact that the review is also about accountability of the so and ac and' making it clearer that this accountability is to the current members but also to the communities that these bodies are designed to represent.

>> okay. Thank you.

>>leon sanchez: okay. So next in the queue, i have -- kavouss, is that you? Yes? Okay. Kavouss. You're next, kavouss.

>>kavouss arasteh: yes. Just very, very minor. In the last line, you don't need the adjective "adversarial arbitration." Arbitration is arbitration. It is not amicable arbitration. It's not adversarial arbitration. It is neutral, so just delete that. We don't need that. Thank you.

>>leon sanchez: thank you very much, kavouss. And next i have milton mueller.

>>milton mueller: yeah. I think when you're talking about ac and so accountability, it's very hard for me to not see this as a diversionary tactic to kind of take the heat off of the board.

It's very strange to be suddenly worried about the -- the sos and the acs when those are the people who elected the board and are supposedly the paragons of this multistakeholder model. If we think there's something fundamentally wrong with how we're organized now, then i could see this being a priority for work stream 1, but, you know, essentially when you talk about accountability for the sos and acs and how well they represent the community, you're talking about redesigning the entire basis of icann, okay? And this is something that you can -- it's a can of worms. It's a -- it's not a rathole. It's like 47 different ratholes.

Our job is to come up with work stream 1 accountability mechanisms that make it possible for there to be an iana transition, full stop. It's not to reform everything and anything about icann. The fact that the board has tried to use our accountability as a shield against their own should not be allowed to divert us into spending lots and lots of time on this.

At best, i could accept a general statement along the lines of what mathieu suggested, saying, "yeah, we need to pay attention to so/ac accountability, we'll do it in work stream 2," but fundamentally, you know, we already have ongoing reforms and changes and reviews of these structures.

So i just view this as a -- really a diversion from our main task.

>>leon sanchez: thank you very much, milton. Just to clarify, i personally don't think that this is a diversion because it was raised by many commenters in the public comments and it's also been a suggestion by our advisors that we take a look at so and ac accountability and i don't think that it is meant to take the heat off of the board or anyone else or to put more heat on sos and acs.

But thank you for your comments.

Next in the queue, i have greg shatan.

>>gregory shatan: thanks. Greg shatan, for the record.

I would dearly love to move this off to work stream 2, but i don't think it's entirely realistic for the reason, leon, that you just cited.

Which is that a number of commenters including but not limited to the board, oh, if you're going to hold me account, who's holding you accountable,.

>>delphine nana:

>>delphine nana: that.

>>chris disspain: we'd be delighted to put it like that, if you like, greg.

>>gregory shatan: apologies --

>> (off microphone.)

>>gregory shatan: oh, thank you. Yes, i can see the transcript is also having a problem with the nan he he -- that's n-a-y-h, by the way. I'm not vilnius -- but it's a clark term, but in any case, i digress.

[laughter] >>gregory shatan: but more seriously, i do think we need to respond.

But there's an implication -- or maybe not an implication, explicit statement, that we have insufficient accountability and that we're all -- maybe we are all on the playground and we're immature as organizations, but let's recall that this all started with the idea that we were ready for accountability to be placed upon the global multistakeholder community, which means somebody thought we were ready.

And i do think we're ready. I think there's plenty of room for improvement in so/ac accountability, but there's plenty of accountability right now among the sos and acs. I don't know that we need to commission a study to -- or a section of this to talk about how sos and acs are accountable, but i think each of us who are members of an so or an ac can think about how they work de facto, in terms of accountability, and how people are held accountable and how people, you know -- when things seem to be going off the reservation, how things are held back.

So i think that we have a good story to tell about accountability. It could get better, but that doesn't mean that we should just sit here and say, "well, we have to add it to reviews and we have to move this off to work stream 2." I think we can respond cogently and more succinctly than i've been talking that we do have significant accountability measures in place and, you know, it's part of the culture.

It includes serious accountability within and between sos and acs. Thank you.

>>leon sanchez: thank you very much, greg. So just to be very clear, because i think that at some point i must -- i might have miscommunicated, this will be taken care of as a matter of work stream 2, okay? So we have a green status that we do agree that this is something that must be addressed, but it's going to be addressed as part of work stream 2, okay?

>>gregory shatan: if i could just add, does that mean that we're not going to respond to the comments?

>>leon sanchez: no, we will respond to the comments because we are -- we are supposed to act --

>>gregory shatan: i mean, respond substantively along the lines that we said, that we should say in fact, that we are, you know, accountable communities.

>>leon sanchez: yes. We'll figure that out.

And next in the queue, i have sebastien bachollet.

>>sebastien bachollet: yeah. Building on what was just said, i think that we do review periodically on each so and ac. Then the goal was to add to the list of what the reviewers have to take into account, the question of accountability, and even if we think that today we are very good with accountability, there is no reason why not to review them each -- each five years, and it's why it's important to have it.

Now, there's another question raised both by rinalia and by greg that do we need overall discussion of the organization of icann and the accountability of the overall grouping, and that's a good question, and i suggest that really this question be put into work stream 2.

There is no urgency to answer this question even if i think it's important to answer this question. Thank you.

>>leon sanchez: thank you very much, sebastien. And last, but not least, steve delbianco.

>>steve delbianco: thanks. Steve delbianco with the csg and i'm answering for the stress test work party, leon, because you may not have been conscious of this, but in the stress test work party, we had to address stress test number 33. It was requested on june 16th in a blog post by assistant secretary strickling in the work we did in buenos aires, and so it's stress test number 33, known as ntia number 2, and i put into the chat what the text is for those of you not familiar with it. It said, "participants in an ac/zook might attempt to capture an a and so by arranging to overrepresent them in a working group and electing officers or voting on a decision." And on page 16 of you're second draft we analyzed that stress test. The first two are in existing policies. The notion that internal structural reviews, which are comment brought up earlier. We also brought about up the fact that acs and sos can revise their own charters if they see a need to change their operating procedures or charters to guard against capture. We did note in the stress test team that if you had been, well, captured, it would be hard for you to push through a change to your charter, reducing capture.

So that has limited effect. And the third and final point we made was that in work stream 1, we already have something new. We have an irp that enables you to challenge board action or inaction on the basis of whether it's supported by the bottom-up multistakeholder process.

So this might be a bit of a stretch, and folks in the ipc -- greg knows -- said it was too much of a stretch. But but we suggested an irp in workstream 1 would allow you to challenge or the community to challenge a board decision based on advice from an ac or so, policy from an so that had been captured. That would require that you present evidence that the gnso policy was only approved by a 2/3 supermajority because the bc and icp were captured by contract parties. The second thing is you would have to make sure that the irp panel would understand that it would interpret the bottom-up consensus-based multistakeholder process by looking beneath the surface of the acs and sos into an assessment of how decisions were reached within the ac and so. So we certainly hatched a thread that's worth a conversation. But i would not conclude that there is zero -- there is zero being done in workstream 1 to address this. Let's keep in mind stress test 33 and then irp on the basis of the new bylaws requirement that it must be a bottom-up multistakeholder process or it's subject to challenge by an irp.

>>leon sanchez: thank you very much, steve.

Okay. Mathieu, do you want to say something?

>>mathieu weill: no, no. Tell me whether it's green or red --

>>leon sanchez: it's green. It's green. It's green.

Okay. So now i'm going to turn back to thomas. Or mathieu.

>>mathieu weill: thank you, leon. We have ten minutes to go and we've come a long way. I don't know about you, but i have found this day to be long.

[laughter]

And the week promises to be even longer. But i think we've made tremendous progress. And i can prove it. We've been updating the scorecard. I think probably someone can put back the google doc link into the chat and also doing a little bit of spreadsheet -- you know, when i get a bit stressed and things go too slowly, then do i spreadsheets.

[laughter]

That's a problem that's been raised by some in the co-chair team that i do spreadsheets.

So if you go to the progress tracking stuff here, you'll see our progress. Ta-da!

Are you controlling this, progress tracking? Sheet number 2. Here it comes. Ta-da!

So in blue you have where we were when we started this meeting.

[laughter]

>>cheryl langdon-orr: i feel so much better now. Thank you.

>>mathieu weill: and in red, what we've achieved. So we have less disagreement. We have less to be considered. We have a bit less to be refined. And we have significantly more where we agree on. And we have one item where we were waiting external input.

>>thomas rickert: which one might that be?

>>mathieu weill: i don't know.

[laughter]

Let's look at the minutes to be sure. So i think that's the kind of progress that we need to keep doing. And, of course, you may not be sensitive to this as demonstrating progress, but i think we've also made a lot of progress in the way we have been engaging around these issues, in the openness that everyone has demonstrated into making things move forward, i think that's a very, very significant achievement as well and an asset that we need to keep going upon in the next few sessions.

And that brings me to very briefly outlining what's the plan for tomorrow's sessions. Tomorrow's sessions are starting at 8:30 until 12:00. So it gives us a lot of prep time, thank you.

So the idea of these sessions is to work on the four items we have been discussing, the four most contentious ones.

Oh, thanks, i like the new colors.

So the four --

>> (off microphone).

>>mathieu weill: so the four items we'll be discussing in breakout sessions are going to be decision-making, enforcement model, board removal, budget and veto -- budget and operating plan veto.

So we will send terms of reference to each of these groups to the list tonight. Yes, we were not able to send it. So tonight we will send terms of reference. We will take some time tomorrow to reconvene to discuss these terms of reference so that everyone has clarity about what's expected from these groups. Then we'll break out the sessions. At least three of them will be facilitated by x plane. No pressure, guys but we really, really need this facilitation to be really efficient. And we will come back and reconvene before the end and try to take stock of ideally all sessions but i'm not totally crazy. I think it's not going to be possible. So if we can at least take stock of two of them and demonstrate progress on these two, that would already be meeting expectations.

So that's the plan. So don't do -- don't party too much tonight, there is still taking place tomorrow. We know there are other things taking place tomorrow. And we've really encouraged everyone to rearrange plans as much as possible but we are aware not everyone is going to be able to participate. So that's going to be taken into account in how we -- how far we can go because obviously it cannot be the same kind of decision-making meeting in these conditions.

But those that cannot be there, i hope you can trust the others for really making an effort at accommodating everyone's views. And that would really be one of our focus during the sessions.

And i see that alan wants to speak. I'm checking the ac room to see whether there's another queue. James, is that an old hand? A new one? So james and then alan.

>> james gannon: two quick questions. Are we going to be running all four breakouts in parallel.

>>mathieu weill: i think that's the intention.

>> james gannon: if we do that can we make sure we have significant breadth in stakeholder because we need to make sure the groups are balanced.

>>mathieu weill: that's a good point and we will take into our prep discussions. Thank you.

>>alan greenberg: we are not going to be able to cover all of them in ours so we will have to fake it. When is our next session as a ccwg?

>>mathieu weill: after that, we will have a ccwg session on monday afternoon starting at 1:30 p.m. Until 6:00 p.m. From memory.

>>thomas rickert: the engagement session in the morning.

>>mathieu weill: we have an engagement session in the morning.

>>alan greenberg: we're meeting as a group to do more work prior to constituency day.

>>mathieu weill: yes. I have robin and encourage -- i know people have wrapped up. I have robin gross, remote participant priority. Robin or are you here, robin? I've seen you. Yes, you are here! You are remote. You are on the other side of the room.

>>robin gross: i would just like a little bit of clarification on the difference between the first breakout and the second breakout that you mentioned, one being decision-making and the other being enforcement models. I just want to be sure i understand which specific issues are going to be in those sessions. Thanks.

>>mathieu weill: i would tend to defer this clarification to the terms of reference that we will provide. But before we start the breakout sessions, yes, we will have clarity on this. I'm conscious of time. But decision-making is the consensus--type of decision in the community body.

>>robin gross: that's like the consensus versus voting.

>>mathieu weill: yes, exactly. And the other is the discussion we had this morning about single designator, single member.

>>robin gross: okay. Thanks for that clarification.

>>thomas rickert: if i can add.

>>mathieu weill: you may add.

>>thomas rickert: let me just add that we have circulated material on the different models. Please take a look at that. Send questions if you have any. I guess the attempt is really to try to make designator-based approach work and not go back to square one and discuss all the options that we had on the table, right?

Let's try to operationalize that and remove concerns with it. That's the intent. So let's not be misled by the breakout session being called "models.." It's actually working full throttle on operationalizing and removing concerns on the single designator model.

>>mathieu weill: excellent point, thomas. From memory, kavouss, bruce, were you raising your hand. So kavouss and bruce and then we will wrap the day.

>>kavouss arasteh: first of all, congratulations for today. We made i think relatively good progress for that. So we should be happy.

Second, discussion for the schedule tomorrow, which will be the first group, which will be the second one? I have some commitment in the afternoon for gac.

>>mathieu weill: they are parallel groups. They will all take place in the same room at the same time. But hopefully you can join in between. As it goes, we will be as inclusive as possible.

>>kavouss arasteh: i know thomas is pushing -- not pushing, emphasizing, focusing on the alan's effort,

model, but don't forget we have the other thing to discuss that, that is the plan b. Thank you.

>>mathieu weill: not forgotten. We circulated a number of memos that were inspired by this work which thomas was referring to.

Bruce?

>>bruce tonkin: thanks, mathieu. Can you hear me? No? Yes, okay.

Mathieu, are you able to put on the screen or you may have already -- i am having trouble getting email -- the actual list of the groups tomorrow. I think it would be help to be clear. I would kind of like to see on the screen or an email just what they are.

>>mathieu weill: we'll send tonight the terms of reference for each group. So you will have more than just a bullet point. You will have the purpose of the group, the key requirements, what deliverables are expected.

And i think with that, i'm going to miss you all for the next few hours.

[laughter]

But we reconvene at 8:30 tomorrow.

Thank you very much, everyone.

[applause]

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