
BUENOS AIRES – GAC Morning Sessions
Sunday, June 21, 2015 – 08:30 to 12:30
ICANN – Buenos Aires, Argentina

CHAIR SCHNEIDER: Good morning, everybody. Welcome back on one more Sunday morning of our life that we are sitting in a GAC room, which is always a pleasure, of course, for everybody. Particularly for Ana, where it's her birthday today. Happy birthday.

Well, we have an item on the agenda which is a very nice one, so we hope we will get good discussions on this one. There have been some discussions before on this issue, hopefully.

And before we enter into the substance, Olga will tell you something.

OLGA CAVALLI: Buenos dias. Good morning, everyone. We had a nice dinner. I hope you had a nice rest. My English is lazy today.

Our dear friend Megan Richards from the European Commission, she has three tickets to the opera house in Buenos Aires at 11:00 a.m. today for a chorus performance, and she cannot go. I cannot go either, which is very unfortunate, and also Thomas cannot go. So if you have someone with you, someone traveling with you, and you would like to use these three tickets -- right? Three tickets? The opera house of Buenos Aires is considered one of the most beautiful opera houses in the world, also with the Scala de Milan and some other

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opera houses. And it's a very beautiful building just to visit it, and if you can be there with a chorus performance, that will be much nicer.

So she has been so kind to offer these three tickets. I have one of them and she has the other. So I will stop here, and you come to me or to her if you would like them.

Thank you.

CHAIR SCHNEIDER: Yes, Iran, please.

IRAN: Thank you, Thomas. Good morning to everybody.

Thomas, allow me on behalf of everybody to express our sincere appreciation to you for a very lovely dinner that you have organized, and enforce and enhance the friendship. We are talking about enhancement of accountability. Last night we have enhancement of the friendship and relation between the GAC members. Thank you very much.

I hope that you will repeat that; otherwise, we modify the principle and we say that the election will be every year in order to push you to have a dinner every year.

[Laughter]

But if you promise to do that, okay.

We thank you very much, and I request the colleagues to have a big round of applause to you.

Thank you very much.

[Applause]

CHAIR SCHNEIDER:

Thank you, Kavouss. Actually, I have to go back to capital and consult about this, of course.

We thought we'd start this. As I said, it actually the idea of Olga but we took it up. And it's not just the chair thing. Everybody else is also free to take initiatives like this, so this is a multistakeholder, joint thing. But thank you very much, Kavouss.

Now let's go back to the funny stuff, which is the IANA stewardship transition, where we have the two co-chairs of the working group of the CWG with us who will give us a presentation of the final proposal that they have been working in their group.

Before I give them the floor, I would just like to recall you one thing, that what we normally do in the GAC is that we agree on the formulate advice in several forms, in a letter, in the communique. It is advice to the Board, to the ICANN Board.

This exercise here is slightly different as we are not giving advice to the Board. We are supposed to fulfill our role as a chartering organization of a Cross-Community Working Group, which is something different, which is something that we're doing for the first time in this way. So

that will not be -- We will, of course, hope to have a text in one way or another that will convey the opinion and the views and the decision of the GAC to the working group, and we'll have to give that -- hand over that text by Wednesday night because tomorrow we'll hear more about this. This will then be -- the CWG, sorry, will hand over its work and its proposal to the ICG, to the Coordination Group. But our work here will be a separate process from the usual communique drafting text because that is advice to the Board, and this is not advice to the Board. This is a decision of the GAC that we will have to communicate as a chartering organization of this working group to the working group, just to make this clear.

And now I'm happy to hand over the floor to these two co-chairs of this working group. Thank you, Lise and Jonathan. Please go ahead.

LISE FUHR:

Thank you, Thomas. My name is Lise Fuhr. I'm one of the two co-chairs of the IANA Stewardship Transition Working Group together with my co-chair Jonathan Robinson. We will do a short presentation today of the work of the group.

We'd like to thank you all for the opportunity to present the proposal for you. And we would also like to thank GAC for being an active member of the Cross-Community Working Group and for being all along with us in doing this proposal.

Next slide, please.

Are as you see here, we have the statistics about the group and the diversity. And for us as co-chairs, this is a very important slide because it shows how diverse the group has been and also shows the GAC has had two members and participants in the working group. And as you see, we have participants and members from all over the world. We have North America 36, 14 from South America, 42 from Europe, Africa has 12, and 48 from Asia and that part of the countries.

We have had a lot of calls. A great effort has been put into doing this proposal. We have had more than 100 meetings, almost 5,000 volunteer hours has been put into this, and a lot of exchange has been going on on the mailing list.

The average participant for every call was 35. So this has been a very comprehensive peels of work that's been performed by the whole multistakeholder community.

Next slide, please.

Well, what are the goals and requirements of the actual proposal? One of the main goals was that the CWG should produce a proposal that would meet the needs of the direct customers, and we needed to produce, as here, a consolidated transition proposal for the elements of the IANA functions related to the Domain Name System. And this is important to underline that the CWG proposal is only for the naming community.

Well, what did a proposal require? It requires a contract that replaces the one that's now in place between NTIA and ICANN. It also requires

that we have some accountability mechanisms. And furthermore, there was a need for a further separation between the policy and operation between IANA and ICANN. And we needed to replace the NTIA role in the root zone. Funding is an important part of this also. And there was a request for ability for the multistakeholder community, for at some point if anything goes wrong, it's an absolutely last resort to be able to separate the IANA function.

During the process, we have had two public comments, periods where everyone was able to submit comments. And GAC has also been able, all the countries that are in GAC. The group used the first public comment to actually establish a premise for the proposal, and we found out after the first public comment that there was current satisfaction with the IANA function, and we also found out that the majority thought that the ICANN should remain the IANA functions operator. So throughout our work, this has been some of the most important premises that we have been building the proposal on.

And the CWG went into a second public comment period in order to try and have a new proposal. And that second public comment period gave us further refinement to the details that was lacking in the proposal that went into the second public comment period. So after this, the role and composition of the PTI board has been further refined. There has been an approval for the root zone environment, and the escalation mechanisms and separation process has also been further detailed. So this is the difference between the proposal that went into the second public comment period and the final proposal as it stands today.

And now I will hand over to my co-chair, Jonathan, to go through the structure of the actual proposal.

Thank you.

JONATHAN ROBINSON: Thank you, Lise.

Good morning, everyone. Great to be here with you this morning. Thanks for the opportunity to do so. I did make a joke with Thomas before we began. I said when I grow up, I really want to spend my Sunday mornings in a GAC meeting.

[Laughter]

But having achieved this, I'm very pleased to be with you, this life-held ambition.

Seriously, we've done a huge amount of work, as Lise said to you. And if we can have the next slide. What this does is -- I hope -- There are a lot of words. This is a very big document, something which, of course, all of you are familiar with seeing, substantial documents in which there is a lot of detail.

I hope we manage to distill in this slide, in particular, the essence of what's going on. And I hope graphically we can illustrate to you the current situation and the critical components of what will change.

On the left in gray you have a representation of the current situation where you have NTIA providing its oversight of the IANA function,

which is operated by ICANN and governed by a contract between the NTIA and ICANN. And you see IANA represented as the functions operator, doing its function quietly and effectively and to the satisfaction of its customers within ICANN. That's not to say there isn't the opportunity for ongoing future improvement, but as Lise said, generally there is a view of the customers of the IANA function that they are getting the service they require.

So our group had to recognize both that current satisfaction but provide for a new situation and also provide for various eventualities, those eventualities being the ongoing requirement to supervise and gain effective current performance, but also to deal with any critical issues that might arise in future.

And on the right-hand side of the slide, in blue and green you see a symbolic representation of what we have done, of the construct that we believe is a thorough, well-thought-out construct that will meet the requirements of, I hope, all of us, the chartering organizations and the customers of the IANA function in future, and the broader community who rely on that.

So you have the large blue area covering ICANN, and clearly the Board having a significant role as the ultimate governance entity within ICANN. You have a contract with a legally separated IANA function.

Currently, IANA is what we call functionally separate. It's operated as a business unit, an entity within ICANN, if you like. And here we take that a step further and legally separate it and create a subsidiary which we refer to as the Post-Transition IANA, a separate legal entity

with its own board, but nevertheless, tightly bound in to ICANN and contracted to provide those services to ICANN.

Why did we set up a separate legal entity? Well, it provides for an enhancement of the current structural separation and further highlights the difference between the policy and the operational elements of ICANN's overall functions.

It provides us with a distinct legal entity with which ICANN can contract, and ultimately provides a degree of safeguard against events such as bankruptcy. It provides a greater degree of protection than if the entity was simply within the ICANN corporate structure.

And as Lise referred to earlier, ultimately, in an extreme situation, when all other escalation mechanisms have failed, should that eventuality ever come to pass, which we believe is extremely unlikely, it is possible that this entity could be separated from the parent company -- from the parent organization.

In the lower right of your screen you see a green lozenge or a rounded square referring to the CSC, the Customer Standing Committee. One of the issues we had to grapple with here is for the most part IANA provides a service that is not evident to end customers. It provides a service to, in our instance, operators of name registries. But that service needs to be overseen by the customers of that function.

So one of the key components of oversight here, at an operational level, is the Customer Service Committee comprised of direct customers, registries of the IANA function.

But many in the group were concerned to ensure that there was, in the appropriate place, a relevant multistakeholder component to the oversight of the IANA function. And so what you see above the CSC is the opportunity for periodic review of the IANA function with a multistakeholder body that is convened for the purposes of reviewing the function, as many other periodic review functions take place within the ICANN structure as a whole in order to periodically review the IANA function. And that we refer to as the IANA Function Review.

There is under special circumstances the opportunity to -- And this is convened periodically. We envisage this taking place every five years. So there will be five-year oversight reviews of the IANA function.

However -- And in fact, in the first instance, we envisage a review after two years to make sure that there is not a five-year time elapsed before the new structure is reviewed.

However, in the event that there are -- that some sort of sustained operational issues occur, the CSC has the opportunity to escalate, via some other ICANN bodies, to -- and ultimately to invoke a special review. So an out-of-cycle review is possible if there are substantial concerns about the operation.

That's probably enough to say for this slide. I think that that covers most of it, except to say that I didn't touch on the board, and I think that was a topic -- the Post-Transition IANA board, and that was a topic of some discussion in the group. There was some interest in injecting a multistakeholder component here, in the event, on the basis of both the group's own deliberations and legal advice we

received, it was recognized that this post-transition entity needs to be controlled by ICANN. And what we mean by that is that the majority of the board of the post-transition entity must be appointed by ICANN and there is a very important reason for that. It is that if it is controlled by ICANN, the customers and the community at large can hold ICANN accountable for its performance. And this is a critical concept in this construct because in making the Post-Transition IANA entity controlled by ICANN and, therefore, that ICANN is accountable for its performance and operation, the community needs to rely on ICANN's accountability mechanisms in terms of ultimately accountability for the IANA function. And so that is -- that builds a key link between the work of this group and the work of the accountability group that you've heard about.

Let's go on to the next slide.

And having on the previous slide mapped out the nature of the post-transition entity, we go up a level here and look at where this proposal fits into the whole process.

On the top left-hand side of your slide, you have a graphic representing the announcement and the criteria for the transition to ICANN, and ICANN as convener of a process, commissioning, if you like, a number of activities, and the formation of the ICG.

The community, in a bottom-up way, or the communities, in fact, producing a number of different proposals to respond into the request from the ICG.

So in the middle of the slide you've got the CWG Stewardship beneath the ICG in blue producing the CWG proposal, and that is the proposal we're talking about here. But that needs to be joined together and made coherent with the proposals from the other two communities that rely on the IANA function.

And that brings us to a key point here why time is of the essence.

Because these three proposals need to be brought together by the ICG over the next few -- over the forthcoming period. So the ICG has received some time ago the proposals from the numbers and protocol communities. And everyone is now waiting and, hopefully, will very shortly receive the CWG stewardship proposal such that the ICG can start to bring these together. That is why we as a group are reliant on you and the other chartering organizations to review and ideally approve this -- or support this proposal being sent on to the ICG such that they can do their work to synthesize the three proposals in preparation for producing their combined proposal which you see up in the middle right there, the ICG proposal, which then will be submitted to the ICANN board for transmission onto the NTIA.

You see a key point in all of that, which is the -- there's a line linking, in the lower right, the CCWG proposal, that work which has been done in parallel on ICANN accountability for which we are dependent, as I referred to and Lise referred to earlier. And that linkage is critical, because that work remains -- is, essentially, a work in progress at this stage. And our proposal is specifically dependent on that work.

So one of the things we will need to do is check that work when that -- when the outcome of that CCWG, that accountability work is produced, we will need to check that that work meets our criteria prior to the whole lot coming together in a package.

I think we can go on to the next slide. So this is what I was touching on a moment ago. At the outset the work was separated into these two groups -- the work of this group that we're talking to you about now to produce that structure that you saw a couple slides ago and the work on enhanced ICANN accountability.

Now, with the removal of NTIA's oversight, many felt that it was a necessary requirement that there was additional and improved accountability measures in place. And, as we described to you, that has become fundamental to our structure that we will rely on enhanced accountability at ICANN. And, in fact, our proposal is expressly conditioned on -- it is dependent on and relies on improvements to ICANN's accountability.

And in this slide we describe and highlight the six key areas where we are depending on the work of the working group on accountability to deliver critical components to support our proposal. In fact, our proposal will ultimately not be valid without these mechanisms being delivered to us in, hopefully, a few months' time.

These are, working through them in order, the opportunity for the community to have significant input on the budget. But, in particular, clearly, this group cares about the IANA budget and making sure that that is a satisfactory budget to ensure ongoing, stable, and

satisfactory operations of the IANA function; an ability for the broader community to have -- and specifically to appoint or remove board members or in extreme to recall the entire board; and under three, to ensure that the review function, the IANA review function which I described to you a couple slides back, is incorporated into the bylaws of ICANN; to ensure that the customer standing committee, a key component of our proposal, is incorporated into the bylaws; to make sure that there is an independent review panel such that appeals can take place.

Now, for example, this is a good example where there may well be a broader set of appeals that are of interest via the work of the accountability group. But, from our point of view, we -- from this group's point of view, we need -- these are mechanisms on which we will rely. So they won't be necessarily only used for -- these are not only applicable to issues in and around the IANA function. But this group that's worked on the development of the CWG proposal would like to rely on these mechanisms. And that all of these are encapsulated into the bylaws of ICANN as so-called fundamental bylaws. Fundamental bylaws have a higher threshold than a standard bylaw.

So I think if I could go on to the last slide, then, please. If there is another one. I think -- that's it, is it? So really, I think -- I mean, this is a significant document, as we said at the outset.

We've tried to give you, respectful of your time and your schedule, a condensed view of the critical components of the proposal, what the

group needs from you as a chartering organization, and the links to the work of the accountability.

I think it's fantastic that we've had the level of participation, including from the GAC, and that you've been able to be with us along the route. There are some realities of the timelines ahead. And, if we are to continue with getting the work done, we need yours and the other chartering organization's support to get there. And I have emphasized to you, I hope effectively, the linkage with the accountability.

So thank you from me and from Lise for the opportunity to talk with you about this. And we'll welcome any other questions or comments that you might have. Thank you, Thomas.

CHAIR SCHNEIDER:

Thank you, Lise and Jonathan.

Before starting the discussion, I would like to quickly give the floor to Manal from Egypt and to Kavouss to tell us in a few quick words about their participation in the ICG. Remember, we have five participants in the coordination group and, in order to complement Jonathan, what will happen next once this proposal of the ICG will arrive -- of the CWG will arrive in the ICG. So, Manal, thank you.

MANAL ISMAIL:

Thank you, Thomas. And thank you, Lise and Jonathan, for the presentation. I'll try to be as concise as possible.

So, as everyone knows by now, I'm sure, the ICG's mandate is to assemble a combined proposal from the operational community proposals on IANA transition that satisfies the NTIA criteria and enjoys broad community consensus. So the ICG issued an RFP outlining topics that should be addressed by the operational communities, namely, the IETF, RIRs and names communities.

The ICG has received proposals from the IETF on the 6th of January and the RIRs on the 15th and, as mentioned, now expects to receive the names proposal after being signed off by the chartering organizations at the end of this week.

The ICG has already started evaluating the two proposals received individually in terms of openness and inclusiveness of the process as well as clarity and completeness of the proposal and how they meet the NTIA criteria.

The ICG has also evaluated both proposals together, identified the IANA trademark and domain name to be an area of incompatibility, asked the RIR and IETF communities if their proposals can be compatible, and received an affirmative response in that respect.

So the ICG's currently discussing the IANA trademark and domain name issues with the CWG working group on IANA transition similar to what has happened with the other operational communities and has sent a request to the CWG to get the incompatibilities between its draft text and the proposals of the other two communities resolved, hopefully, by the 2nd of July.

On the other hand, the ICG and the ICANN accountability working group each received an inquiry from the NTIA regarding the estimated timelines for proposal's completion including implementation and requesting a reply by the end of June.

In that respect, the ICG is gathering input from the operational communities about how much time they believe they'll need to complete developing their proposals and implementing aspects needed prior to NTIA contract expiration.

The ICG also, through its liaisons, one of which is our distinguished colleague from Iran, has requested feedback from the working group on -- cross-constituency working group on accountability on timing and procedure for finalizing proposed bylaws changes as the CWG transition working group has identified the need for a fundamental bylaw amendment in order to secure the PTI structure.

So it's worth noting here that the ICG has agreed at its meeting here in Buenos Aires to have a volunteer working group to complete individual assessment of the names proposal by July 7th in time for discussion on the ICG call on July 8th and the second volunteer group to complete individual assessment of the combined proposal by July 14th in time for discussion on the ICG call on July 15th and a third volunteer group to look at formulating public comment questions and to draft some sort of an introduction or an executive summary for the combined proposal. This is still under discussion within the ICG, so I don't want to preempt what exactly is going to happen and the fourth working group to continue to flag issues in the accountability cross-

constituency working group that may impact the names proposal or ICG's assessment process and, ultimately, the final proposal.

So, as you see, several conference calls have been scheduled immediately after the Buenos Aires meeting as well as a face-to-face meeting in September.

The target is to put the final proposal for public comment prior to Dublin meeting and finalize it there where the ICG intends to submit the three operational community proposals as received accompanied by an executive summary by the ICG, as I mentioned earlier.

So at the end, like Thomas said, Egypt participates to the ICG along with the GAC chair, Brazil, Iran, and the European Commission, of course in no specific order. So I would very much appreciate being corrected or complemented by them or any other GAC colleagues who are following the process. Thank you.

CHAIR SCHNEIDER: Thank you, Egypt. Iran, please. Complement or correct, if necessary.

KAVOUSS ARASTEH: Thank you, Thomas.

In the mission of the ICG, I should be referred as Kavouss Arasteh but not Iran because we're representing the GAC, not the country.

Manal has made a very concise overview of the situation. What I may complement what she said that there are two things. One, even if we

have not received formally the proposal from the CWG, we started to work on that. We put it into a draft combined proposals, at least from the (indiscernible) of view how it should look like. And then starting to have some preassessment of that. No doubt we're waiting for the formal receipt of a proposal from the CWG. And we have discussed the timeline of the completion of our proposals, that means ICG proposals. For your information, our proposal will go directly to NTIA but not to ICANN. ICANN received a copy, could have a comment on that, but would not touch the proposals from the ICG. Proposal of ICG goes to NTIA as it is with the comments, possibly the comments from ICANN.

We discussed a timeline. Our timeline at the beginning was to meet the September 2015. But, due to the circumstances, we are not in a position to do that. For the time being the timeline as foreseen is about November. However, with some qualification pending whether or not there would be any other issue that may change that timeline. That is what we have.

From the Los Angeles meeting the activities of ICG is static, not too much activities because we're waiting for the main proposal, which is a substantial proposal from the CWG. The two proposals from number and parameters are I would say more or less more technical, more straightforward and less, I would say, complex because does not have too much complexity with regard to the accountability. But the main issue is the naming, which we received.

And then now we would have a face-to-face meeting in September to see what we can do. One thing is important to mention. There is a direct link between the CCWG and CWG. As Jonathan mentioned, there are five or six areas that CWG identified the interdependence is ICANN budget, community empowerment, mechanism review, and address mechanism, and appeal mechanisms. But these five or six areas are now under extensive discussion of CCWG.

And in our meeting day before yesterday which may sometimes come to the CCWG, we would inform distinguished colleagues from GAC what is going on there. So this is interdependent. So we have to take that into account that these are not the things that we could have a definitive decision on that.

So that is what I could, Chairman, or Thomas, add to what I said. After that, I would have, if you allow me, one comment and one suggestion.

The first comment I congratulate Jonathan and Lise for a very, very devoted, complete, complex, and appreciable work that they have done during months of work.

Before the two submissions of the proposal for the public comment, they have almost daily calls, spent considerable amount of time. It is one of the most complex areas of the entire transition. We congratulate you. You have done a good job.

And also congratulate two of our members in the CWG, Wanawit and Elise. Both of you have been continuously following the issue. We thank you very much. This is the comment.

And, Chairman, I have a proposal to you. I suggest that for your consideration we first ask whether there is any point of query or clarifications or questions that may require answers from our two distinguished cochairs in order to enable us to further analyze the situation. And, with respect to how we should proceed to reply to the CWG, this is something we will discuss later. But first we have to have some general questions or clarifications benefiting of their presence and, to clarify the matter, maybe some of these will be immediately clarified and facilitate our words. And, after that, it is up to you how to further discuss to proceed in order to be able to respond before 25th of June to the CWG our reactions and our reply. Thank you.

CHAIR SCHNEIDER:

Thank you, Kavouss. With regard to your suggestion, Lise and Jonathan will be with us. So we will have the opportunity to ask questions and ask for clarification.

I would like to start first giving the floor to Elise because she will help us first giving some impression as GAC member together with Wanawit from Thailand in this working group and will help us start assessing and analyzing the proposal. Thank you, Elise.

ELISE LINDEBERG:

Thank you. And thank you, Lise and Jonathan, for giving a very thorough presentation and overview of the proposal. I'm glad you did it and that we didn't have to do it ourselves in the GAC, because it is

complex. And you have followed the process very, very tightly. And you've been a brilliant leading the group. So thank you.

I was thinking to highlight two things. It is for the discussion that could have had multistakeholder components to it that could be of interest for the GAC. And that is, of course, the PTI board composition. You already mentioned it, Jonathan. I think you were the one who underlined why the PTI board looks or the model looks like it does and why it is tightly bound to ICANN as an organization and not with independent board members. Because we need to use accountability mechanisms in ICANN as such to control the PTI board. And that is very important to underline and to have as a background when you comment on this. And also to understand why we ended up with like an inside board, if you can call it that. But what I was wondering is if, Jonathan or Lise, do you have the possibility to comment a bit more about the review processes, the differences between the special review and the periodic review and also the role of the multistakeholder community in the review processes and more the targeted review? What is the role of the periodic one, and what is the role of the special review? The differences between them. Because I think the review is of interest for the GAC. Thank you.

JONATHAN ROBINSON: Thank you, Elise. Maybe you would want to react to this right now. Thank you.

Sure. Thanks, Elise. Thanks, Thomas. We can give some points on that.

I think just a very brief additional remark on the PTI board, which you touched on there. Although it is controlled by and bound into ICANN by virtue of the majority appointments from ICANN, there is the opportunity -- and the proposal includes this -- to have two independent directors on that board. So there is a form of corporate governance and oversight, independent oversight injected at that level. But it's very balanced and nuanced such that the IANA PTI remains tightly bound into ICANN.

To your questions on the relationship between the periodic review and the special review, this is important. Clearly, we, the members of the group, felt it was important to have significant oversight and review of the performance and all aspects, in fact, of the IANA function in the post transition world.

One key component of the way in which these reviews are set up is there is not -- it's not prescribed what the limits or parameters of that review should be or what any prescribed outcomes will be. So they have a very wide-ranging scope to look at the operation and structure of the PTI and to comment accordingly in their final report. As I said, these periodic reviews are scheduled to take place every five years and to be mandated within the ICANN bylaws. In addition, there will be one -- one of those will take place early on after two years post transition.

And then, Elise, to your question about the special review and how that's distinct, a special review doesn't occur unless there is a request and a requirement to do so based on perceived or -- and actual

performance deficits or issues arising. In terms of the multistakeholder composition, this is an opportunity for a much broader composition to make up -- and we can give you detail on the makeup from -- of those review teams. But the idea is here to inject a - - a broader composition than simply customers of the IANA function and make sure there is a broad and independent oversight or at least multistakeholder oversight of the IANA function. And that is sort of constitutionally, if you like, bound into the new structure.

I don't know if, Lise, would you like to make any additional remarks?

LISE FUHR:

Well, I think you covered it very well. But, as you said, the review function is the actual multistakeholder part of this proposal. Because this is where we have members from all communities participating in the actual reviews. And I think that's very important to underline. And that's going to be both in the periodic reviews and the special reviews.

Thank you.

CHAIR SCHNEIDER:

Thank you, Jonathan and Lise.

So now the floor is ours. Yes, we already have a list come up with questions, comments. Don't hesitate. We want to know what you think of this. So I have (indiscernible) of notes.

I have Indonesia, Singapore, Brazil for the time being.

So Indonesia, please start.

Thank you.

INDONESIA:

Thank you, Mr. Chairman. Thank you, Tom.

One clarification from the presenters. First of all, I would like to appreciate all their hard works. If I look at the -- if I read all the proposals, CWG, ICG, really admire the effort they put into making the proposals.

Now, I just want to get clarifications from the proposal that I read. There are many wording saying that for the accountability, for example, that the community or the GAC, for example, can give advice or solution for a particular problem. And if there is no agreement from the Board and so on, then the two sides should find mutually agreed solutions in, say, an acceptable time schedule.

Now, I read this several times. My question is very simple. What if there is no mutually agreed solution? Will the time goes on and on or what will happen? Who will make the final decision if there is no mutually agreed decision? Or so one guy should make the decisions, and the rest, what they should do? They just follow it or they can just (indiscernible) like we have in many U.N. meetings, for example?

Now, the second is regarding the process, I understand the proposals may be submitted finally to U.S. government, and I would like to get clarifications as who will do the negotiations or do the talking to U.S.

government? Is it the ICANN Board or the ICG? And how can they interact with the community or with the GAC or with the other governments should there is a request of significant change from the U.S. government for that proposal? Should we do again all this process or we just leave it to the ICANN Board to discuss this with the U.S. government, and so on?

Thank you.

CHAIR SCHNEIDER:

Thank you. I propose we take two more so -- there may be more questions that you may collect.

Singapore, please.

SINGAPORE:

Thank you, Thomas.

Now, first of all, we would like to join our other GAC colleagues in conveying our appreciation to the two vice chairs, Jonathan and Lise, for the excellent work you have done, and we really appreciate it.

Our comment is when we read the CWG report, we were given to understand that the PTI budget will be funded by ICANN. Now, if that is the case, would it jeopardize the independent functioning of PTI? And will there be a long-term plan for PTI to achieve sound finance status? Because we've always -- on budget, I think it would be difficult and impractical for the PTI to operate functionally independent of, you know, whatever ICANN's processes and procedures.

Thank you, Thomas.

CHAIR SCHNEIDER: Thank you, Singapore.

Next I have Brazil.

BRAZIL: Thank you, Mr. Chair, and good morning to everyone.

I'd like to also start by thanking the two co-chairs of the group and to acknowledge the tremendous amount of work that was invested in the preparation of the draft proposal before us. We think a lot of work, effort, and real attempt to reconcile so many views was vested in this exercise and we'd like to acknowledge it.

However, first of all, I'd like to, as Kavouss Arasteh has mentioned, and he made a differentiation between his participation and -- as representative of Iran and representative of the GAC, I would also like to make in a similar fashion kind of a differentiation or clarification with regard to our role here as representative to this body and the position of the Brazilian government as a whole.

We, of course, coordinate internally with different ministries and institutions, and of course the best effort we make, we have, of course, always to make sure it is endorsed by the wider group. Otherwise, it would be misleading to say that by saying yes here, we are -- the Brazilian government is saying yes.

I think this is the way governments normally operate. And I think maybe this will be the same would apply to other colleagues.

Basically what I want to say is everything we do here in a way would be a referendum of final approval by the government as the representative of the full areas involved. This is on the one hand.

Just to mention in regard to that, our minister of communications is coming to town today. I would like to brief him on everything that is taking place. He is one of the ministers involved, and it is very important that we make sure we convey to him everything that will be said here.

In regard to the proposal itself, I'd like to make a few reflections in the sense we think it addresses -- it takes on board some concerns we have. On the other hand, some other concerns, important concerns we have are not dealt with adequately. We have indicated this in our comments we sent both to the CWG Stewardship and CCWG Accountability groups.

Basically, as the government of Brazil, we were looking at this exercise as one in which the final outcome would address the NTIA requirements. The criteria, of course, we are fully in agreement with those. We think this actually reflects the way we have been operating, and we don't see there any consistency with anything we have been doing, so we are fully behind this.

At the other side, we are also accountable, of course, to our own governments and to some historical demands we have in regard to this process.

First of all, we still -- and we will take the opportunity of those days we have here in Buenos Aires to go through the proposal and to discuss with the co-chairs and colleagues, because we were very firmly interested that, at the end, we would have a really clear separation between the policy/operational aspects. At this point, I must say the proposal as it stands doesn't seem to be -- seems to have some inconsistencies. On the one hand we say there is a legal separation. On the other hand, we say PTI should be controlled by ICANN. So we would like to have some more discussion around this, because we don't think that in the end, the ultimate objective will be reached.

And I think maybe the fundamental problem about this is that from the beginning, we have been working -- we have not been working on a clean slate or a blank sheet, having all the options before us. Everything we have been doing is trying to adjust our proposals, our mechanism to existing status. So anything that comes forward as a proposal should adjust itself to the fact that ICANN is incorporated as an entity under the California legislation, and we think -- it might be okay, but it reflects a situation that was predetermined as we started this exercise, that was imposed. It was not agreed by the whole community, and by governments as part of that community.

So what we are doing is trying to adjust a new era to the existing formats, which -- and, you know, we endorsing this. So for

governments, I think it's a very hard step to take. It's an unprecedented thing, maybe.

Usually, as a government, we don't have any problem in having a decision that will go against our intentions to the extent that we're part of the design of the process that will lead to this decision.

So what we are doing here is to -- on the basis of something that was already there and which we did not participate, trying to reflect on how to improve it but maintaining the same characteristics. So we think it's a very challenging thing from a perspective of government. And of course this is not some things -- a decision we should take lightly.

We have, if I wouldn't like to mention, our own criteria or our own red lines, but we think in the end some reflections should be given to the issue of how ICANN will emerge from this with more legitimacy, vis-a-vis all stakeholders including governments, and we also don't see exactly how this is being addressed by the proposal we have at hand.

So basically what I'd like just to indicate from the start is that we have been engaged in this exercise in the -- we think in a constructive mode. My colleagues have been there, and following and making inputs to those processes. But I think we -- And I think this is also included in the presentation of the co-chairs; that we have -- we must have the -- an appraisal of the full picture that will emerge from this, the two proposals combined, how they will look, how the parlance of that proposal will provide us with the certainty that we have improved in regard to what we have today, and it is not so clear for us right now.

And basically, just to conclude, to say that this exercise involves different stakeholders which have different cultures. In regard to governments, clearly the culture and the way governments are comfortable in working is not being followed. We work under rules. We have no designs. I see in many documents saying that we must strict to the rules and regulations we are forced to adopt. This is something very strange to do. It's not something usual, and we'll have to report back to our government and say we have been there, we have agreed to this, and this is what we have. And I'm really concerned that if we don't meet some of those very basic concerns, in the end it might be misleading for us to say here we are giving final approval from the perspective of governments.

We were looking at this exercise from the beginning as one that would provide a new paradigm of cooperation between stakeholders and governments included, one in which all stakeholders come together and have full liberty to discuss among the stakeholders how we are going to design a new format for cooperation. And unfortunately, this did not take place.

We have been saying this from the beginning. I don't think this will come as a surprise to you. We think the -- we have been working in a straitjacket, and it becomes clearly evident when we look at some very creative ideas that came to the fore, and they were dismissed because they do not adjust to the form that we -- and this is something really uncomfortable from the perspective of governments.

Maybe, in the end, we may come to an agreement that it addresses or it is in our best interest to endorse the situation because in the final balance, it will -- we'll be in a better position, but it's something we still need to reflect.

So again, we are looking forward to work constructively with you to have better understanding and all the aspects of the proposal; however, we will look at something much more ambitious that will provide real separation, real independent overview. And we think at this point it doesn't -- the proposal, as it stands, will need some more details on how this would work.

Thank you.

CHAIR SCHNEIDER:

Thank you very much, Brazil.

Before I give the floor to others, maybe it's a good moment to give some answers to the -- or make some comments on the questions that have been raised up to now.

So thank you.

JONATHAN ROBINSON:

Thanks, Thomas. I think, yeah, comments and some thoughts.

First of all, thank you, Singapore, Indonesia, Brazil. Those are some very thoughtful and important comments from each and all of you.

And to take it -- maybe take it in order in which they arose, but there is some commonality across the different points.

Certainly as far as -- I suppose if I take a step back, and this is -- we must remember that at its heart, the performance of the IANA function is a technical function. It's an operational function on which we all rely. And the critical -- If there was one overarching objection we wanted out -- we should collectively want out of this, it's technical and operational stability. And I think we have that at present, and our proposal has the ability to deliver that in future.

You all were very gracious in thanking us for the amount of effort we put into it, and I appreciate that. It has been extremely time consuming. But to be honest with you, I'm also pleased with the quality and substance of the outcome. I think we have delivered something which hangs together.

I think Brazil makes a very good point. We didn't start with a clean slate. We started from a point of departure and to try and develop to a new situation from that point. And I think given that context, I feel pleased with what we've done, and I think it delivers what we needed to do.

I think Indonesia talked about a point which I thought was related to escalation and how -- there is quite a substantial element to the proposal which deals with escalation. In the event of any problems or issues occurring, there are ways in which, in a structured way, these problems can be escalated and dealt through the various structures, either by the customer getting directly in touch with the IANA function

or working through the CSC or the CSC raising this with the management, and so on. And there's a whole area of the proposal that deals with escalation.

Two of you touched on concerns over the independence or not of the PTI, and I suppose that's one of the reasons why I raise this technical point. In some ways, I'm not sure we want independence. We want to be able to hold -- ICANN has, to date, been responsible for the running of the IANA function. We want to be able to hold ICANN's feet to the fire in the future, in the post-transition world, and expect that the IANA function will continue to operate and deliver the performance and security and stability we need, and not -- And so therefore there's that link between lack of independence and accountability.

Now, if that accountability breaks down for whatever reason and we do not get the service we need, that's when the escalation comes in. And the ultimate end of that escalation is separation, and in so doing, independence. But there were significant concerns that if there was too great an independence in the first instance, we broke down the accountability, which we've come to rely on, and we potentially create an instability in the beginning or at the outset of the transition.

So clear separation was, in a sense -- and I'm respectful of that concern over independence and separation, but in a sense it became clear that that wasn't -- although it was on the table in the first instance, it became clear as we worked through this that it wasn't a desirable outcome, at least from where we began right now. If it was a necessary condition due to a performance breakdown in future, well,

then, we have to have the capacity to deal with that, but it wasn't a necessary condition at the outset, it seemed to the group.

I'll say one other point, and a couple of you referred to the public comments. Those public comments were gone through diligently and thoroughly, and to the best of our ability we tried to absorb and collate and aggregate those, and there is a comprehensive document that shows how we dealt with the public comment in each case.

I do think that the link with the accountability will create greater legitimacy for ICANN in the long term as those accountability measures get to take place. And I think there's going to be -- one of the themselves that goes through all of this will be the timing. And I hope we've done an effective job of explaining that whilst these two cannot be separated, the work of this group and the accountability, we need to temporarily separate them as this piece of work goes through the path via the ICG, but it will come back to meet again. And the ICG's proposal will go out for public comment, and all of this will then come back together. And our proposal does not fly, it does not stand on its own two feet. If you imagine it as a sort of two-legged stool it needs a third leg to stand up which is the completion of the accountability work.

And so in a sense, through this proposal we get the technical and operational stability that we require, but also through the link with the accountability, ultimately greater accountability and, therefore, legitimacy for ICANN for all of us.

So I hope that tries to answer all three of your points by -- by recognizing some of the critical and important issues you raise.

CHAIR SCHNEIDER: Further on the list I have Spain. Do you want to comment on this? Okay. Norway first, then Spain, and then I have Iran and U.K.

NORWAY: I just wanted to comment more to the comment that Brazil made about why do we have this legal entity and why we call it a separate legal entity if it's not separate.

So the whole concept, as Jonathan said, is that we prepare for a possible nuclear, last-resort option of separation in the future by making a separate legal entity. It's an easier thing to spin out if that's needed in the future. But for the operation now, it's not separate from ICANN, no.

CHAIR SCHNEIDER: Thank you.

Spain.

SPAIN: Thank you and good morning.

It's a question regarding the participation of the GAC. In the Customer Standing Committee and the IANA Functions Review.

I've seen that the Customer Standing Committee, there is a possibility for the GAC to appoint a liaison. I would like to know if we are required to appoint a person to that committee or it's up to us to designate it.

And, in this respect, I could ask you what value do you think governments can contribute to the Customer Standing Committee, if you think that the Customer Standing Committee should be open for the participation of parties that don't have a contract with IANA, and why is it worthwhile to incorporate those views to this Customer Standing Committee?

And also, regarding the IANA functions review, I guess that the GAC could participate in either -- I think it would be compulsory for us to appoint someone. But I have seen that the special review needs the majority approval or should be triggered by the GNSO and the ccNSO. Does it mean that the functions review team as a whole would not have to have a vote on that? Or it's just that the issue has to be supported by GNSO and ccNSO. But, on top of that, there should be a consensus or majority in favor of initiating that special review. Two small comments, too, on the IANA function transition. I'm glad that the disputes over ccTLDs delegation or redelegations are outside of this exercise, because these are sensitive issues for governments. And I don't think that it's mature enough now to incorporate them into the appeals mechanisms. I also read in the proposal that ICANN is encouraged to apply for a waiver to the application of certain U.S. laws that permit U.S. government to impose sanctions on certain agents. I think -- I support that ICANN ask for those waivers, because

the IANA function should not be interfered from the outside. The community should meet to have predictable procedures, and we will try to avoid outside interference to the application of those procedures. Thank you.

CHAIR SCHNEIDER: Thank you, Spain. Iran.

IRAN: Thank you, Thomas. My comment is not a question, is perhaps clarifying of my understanding. The issue of whether or not PTI should be totally separate or not separate was discussed at the very beginning. And there was proposal to have totally outside, totally inside, and then become some kind of hybrid. That, legally and operationally, they are separate but they have some link. That has been discussed in the legal assessment of 18th of March and 4th of April in detail, pros and cons against each of these. And, finally, CWG comes to the conclusion that for the time being, it is the most possible approach with the view that at the latest stage it could be totally separate. So this is point number one.

Point number two, the ccTLD actions is not in the review panel. It is clearly mentioned in the document on page 21 saying that the appeal mechanism will not cover issues relating to ccTLD delegation and redelegation, which mechanism is to be developed by the ccTLD community post transitions. That, with respect to the inclusions in the review panel and the CSC that are already there, we are in two cases

there, in composition of the IANA function review, it is mentioned GAC as well as this one. And, for the other one, CSC, also GAC is fine.

The only thing that was raised whether or not we should be member of the board of the PTI. And Jonathan mentioned, for various reasons, at this stage it is considered that we should not be a member of that. And these three directors appointed by ICANN plus two independent seems to be sufficient for the time being to cover this situation because of the reason that he was given. One point was raised whether ICANN will get into negotiation with IANA. I don't think so. The proposal of ICG goes to IANA -- sorry, to NTIA. I'm sorry, to NTIA. And I don't know. We could talk whether there would be any negotiation. I don't think there would be any negotiations. It is up to NTIA saying yes, I agree with the proposal; no, I don't for this reason. Go and correct it and come back again. So there is no negotiation and no such delegation of authority given by the community to ICANN board to go to the NTIA and negotiate on our behalf because the proposal to the ICG is not from ICANN. The proposal to ICG is from community. That is up to community to negotiate. And I don't know how NTIA comes back to us, to the community, not the GAC, everybody, saying I like it, I don't like it. So let's just wait for that.

And some other issue is perhaps there are sufficient clarifications in the document. So we have to be more careful, read the document and try to understand it. Considerable amount of time has been mentioned. We are dealing with the accountability. And we are dealing how the transition will take place. We are not dealing with the

governance of the issue. Those are two different things. Accountability is one thing; governance is another thing. Thank you.

CHAIR SCHNEIDER: Thank you, Iran. Maybe a short quick answer on the issues raised by both Spain and Iran. Thank you.

LISE FUHR: Thank you, Thomas. I'd like to get back to Spain on the questions and I'd like to thank you all for raising questions. Because I think it's very important that you get a thorough understanding of this proposal.

But Spain asked if it was a requirement to appoint a liaison for the Customer Standing Committee. And this is more out of respect for the GAC that there's a possibility to have a liaison for the Customer Standing Committee. Whereas, the IANA Functions Review, it would be very important to have a GAC member in these reviews. Because that's where we have the multistakeholder community in play.

Furthermore, there was a question regarding if the IANA Functions Review was going to decide on the special reviews. A special review is actually part of an escalation that's outside the periodic review. So, if we have a special review, it's triggered by an escalation. And that escalation has to be agreed by the customers. And that's the GNSO and the ccNSO. So this is kind of a check and balances of the stability. It's a stability issue that you don't just trigger a special review on a basis that's not necessary.

So it's very important that that has been a thorough process and not -- so we need to have both the GNSO and the ccNSO approve this.

Regarding the ICANN waiver, it's been a legal issue that's -- it's a waiver that's for all of ICANN. And we found that it's natural that this is also a waiver that covers the affiliate. Thank you.

CHAIR SCHNEIDER: Thank you very much. I have U.K. on the list.

UNITED KINGDOM: Thank you, Chair. And good morning, everybody. And many thanks to everybody who has contributed so far, in particular Jonathan and Lise for opening up the discussion of the stewardship proposal and for our colleagues on the ICG to update us on the prospect for the work of the ICG. It's all been very helpful. And I'm sure many colleagues have been furiously making notes, as indeed I have, to help me report back to capitol and identify the key issues.

I just want to, first of all, commend, really, all the stakeholders who contributed to the CWG effort. It's been a tremendous demonstration of the value of the multistakeholder model and, picking up a highly complex issue, embracing the opportunity to develop a new approach building on what already exists. And the two cochairs of the CWG have steered this process with remarkable diligence, clarity, authority, management, but openness and regard for all the views and contributions of members of the CWG participants and other commentators in the comment process.

The comment process, I think, was very good. The early stages I thought of the CWG's work did allow that open free thinking and innovative ideas to be explored and so on. So I was very impressed. But, of course, you have to narrow down and focus to a proposal.

And the second public comment period -- at that stage the proposal, I think, was very clearly articulated. And the architecture of the PTI was, I think, commendably explained.

And I just -- I just want to reflect a little bit on the PTI's board. I don't think anybody wanted to establish another parallel complex multistakeholder board for the PTI that would in some way mirror or act in parallel with the ICANN board.

I don't think anybody really seriously contemplated that and the elaborate structures and legal issues and processes for determining membership and so on that that would create.

So our view from the U.K., following consultation with our advisory group of experts that we've convened to review progress, has been to welcome the identification of a board for the PTI, which is tightly related to the functional operations of the operator to be managing the affairs of the operator of the IANA functions. So we welcome that approach. Perhaps we need to look at the membership of the board in terms of ensuring that there is some independent expertise that is contributing to the Board's actions. And that brings me, really, to a question I have about, in that extreme situation where an escalation process with the involvement of all stakeholders, including governments -- and that, I think, is where a key issue of legitimacy of

the proposal lies when it gets to escalation of review and also how do we address a fundamental failure or sustained issue of problems that have not been resolved by the key actors?

That process, I think, does create profound legitimacy in the proposal that it's multistakeholder and we in governments will play our part.

In that respect, we're waiting for the final part of the jigsaw to come through from the CCWG. And we in the GAC will need to determine how we play that role.

When it comes to a process of separation, as I say, in that extreme situation, what then is the role of the PTI board? Would it still continue in its established function? Or would the membership of the board have to change in that situation where we're going down a track of separation? And here I think we come back to the concern about sustained stability and predictability. What is the role of the PTI board in that situation? And would we have to redefine or reappoint it in some way; whereas, previously, of course, it's been appointed by ICANN as a designated board as a subsidiary of ICANN?

I would expect some reorientation of the board of the PTI to be necessary in that situation. But perhaps some clarification of that would be helpful at this point. Thank you very much.

CHAIR SCHNEIDER: Thank you, U.K.

We can go a little bit into the coffee break. I think this is worth it. So, if you want to quickly answer that particular question about the PTI board.

JONATHAN ROBINSON:

Thank you, U.K., for those points and questions. I think you asked about the Board expertise. And, actually, the proposal speaks to and expects that the expertise forms -- comes in two categories, really.

The appointments from the -- the direct appointments from ICANN, it proposes that there be three direct appointments who are substantially responsible for and qualified in the operations of the IANA function. So those are the three direct appointments. And then you really asked about the independent directors. And we expect -- and I recall, I believe, it is explicit in the proposal -- that those directors should be appropriately qualified and appointed via an appropriately robust mechanism. We make reference to the Nominating Committee as being one such mechanism. But we don't require that they come in via the Nominating Committee.

But, certainly, we expect that those two independent directors provide a form of oversight. Whilst they don't control the Board, they provide a form of independent oversight and, to that extent, good governance.

You then went on to raise an interesting area about what the shape of the PTI board might be in the event of separation. And you also made a very valid point that, in a sense, the legitimacy of the proposal is based on the fact that, ultimately, it has this recourse.

Having said that, to get to that point, there are so many in-built corrections and escalation points in the mechanism that, in practical terms, it would seem to me that it's extremely unlikely that those corrections wouldn't sort out the issues prior to a separation. But, nevertheless, if you get to that point, I think your question and, to some extent, the statement that it's a logical conclusion that at that point the Board would have to be -- this composition of the board would have to be revisited. It couldn't sustainably continue as was in the event of separation.

I should say that there's something that I didn't mention that is a component of the proposal. That, in the event that a separation was recommended via a review function, in other words, there was a sustained and chronic failure to perform that wasn't addressed through any of the escalation mechanisms, there is, even at that point, a further check and balance. And at that point a cross-community multistakeholder group comes together to think about and design what form of separation is required.

And it is at that point that the Board would have -- the composition of the separated board would need to be looked into.

So, in effect, at that point you would constitute something analogous to what we've just been through now. Because it is a second order transition that would be -- and it would have to be approached with a level of diligence, thoroughness, and comprehensiveness that we've just worked on today. So that's the way -- that's what's contemplated in the proposal in that unlikely end-game scenario.

CHAIR SCHNEIDER: Thank you, Jonathan.

Further questions or comments? I see Iran and China. Thank you.

IRAN: Thank you, Thomas. In the event that, very unlikely, we go to the total separation and having a PTI, the composition of the board, if we could mention at least composition to be different, but it would be difficult at this stage to say how different it would be, whether it would be a multistakeholder board. In that case we come to the point of accountability. So we cannot make multistakeholder accountable to multistakeholder.

So one of the issue that the board now is part of the ICANN, because at the end, ICANN accountability multistakeholder. So that is a very critical question and need thorough analysis and study.

Thank you.

CHAIR SCHNEIDER: Thank you.

China, please.

CHINA: Thank you. Good morning.

We'd like to thank all the volunteers and all the related ICANN staff to their effort for this proposal. So we believe this report has combined all the wisdom and their effort. We also think this is the very good result at this point.

But to the transfer of the IANA function, the technical part is not difficult. We think the focus point is IANA, the process, how to establish sensible accountability. That is how -- why we insisted to have the CWG and CCWG's work simultaneously together.

We believe that all the IANA transfer accountability design has to be evaluated and combine all the feedback and comments, and we fine-tuning and improve this proposal.

Also, in ICANN accountability, we want to make sure there should be a sensible accountability mechanism, because now I see CCWG's work is not complete yet. Based on what we learned, the CCWG, their proposal can only be submitted at the next meeting. We believe that process should be escalated to get faster, because that way they can submit to the ICG earlier. But I don't think that should be right now at this point to approve that proposal, so we don't believe that CWG's proposal and CCWG's proposal needs to be separated. We need to consider them together. In that case, if they don't get it together, then they don't get the support of all the communities. For PTI, we think the problem is also at the transparency and accountability.

At this point, we'd like to further discuss and seek clarification of the PTI itself and the relationship of PTI and ICANN as well as the member of the PTI committee, the board.

So all that is to ensure the accountability of ICANN PTI to make sure you that transfer is smooth and benefit to all the communities.

Thank you.

JONATHAN ROBINSON:

Thank you. I think you, like us, China, feel this linkage is very, very fundamental between the work on the stewardship and the work on the accountability. And in that the accountability work not being complete, the CC -- that our work is, in a sense, not complete.

We don't propose to separate these two proposals. They will ultimately be, in effect, delivered simultaneously to the NTIA. What we require in the interim is a separation of tracks. They need to go -- Our proposal as it stands needs to go via the ICG in order to be consolidated, but we bring them back together and lock them together in -- currently planned in Dublin.

So it is really important to emphasize that whilst they travel on separate tracks for the period between now and the Dublin meeting, that does not in any way suggest that they are separated. And in fact, we worked really hard and it was a key component of our work to ensure that our proposal was expressly conditioned and locked into the outcomes of the CCWG. And to that end, we expect that the ICG will come to us at or around the Dublin meeting and say is the conditionality satisfied.

I know -- I heard a second point that you had which was sustained concerns about the PTI board and the relationship to ICANN and the

accountability. I would emphasize again, we rely on IANA for its technical performance. We rely on ICANN to ensure that IANA delivers that technical performance. If we lock IANA into ICANN by virtue of ICANN controlling IANA, we are able to go to the accountability mechanisms for the overarching ICANN and use those very powerful mechanisms to ensure that we have accountability of the IANA function.

And so that's -- there's -- It's critical to look at the structure overall. And I really appreciate your points in highlighting the linkage and recognizing that that linkage is crucial for both PTI accountability and overarching ICANN accountability. So thank you.

CHAIR SCHNEIDER: Thank you.

We have one more from Egypt.

EGYPT: Thank you, Thomas. Actually, this is in response to the comment from our distinguished colleague from China, and to further confirm what Jonathan just mentioned regarding the relationship or the interdependency between the names proposal and the accountability track.

As I mentioned earlier, the ICG has created a work group that will keep an eye on the work of the accountability and flag any impact regarding the names proposal or the ICG assessment. What I forgot to mention

is that one of the decisions, the output of our meeting, the ICG meeting here in Buenos Aires, is that once the CCWG workstream one output is submitted to the S.O.s and A.C.s for approval, that the ICG will seek confirmation from the CWG that the accountability work meets the names proposal requirements.

So this is just to confirm what Jonathan mentioned.

Thank you.

CHAIR SCHNEIDER:

Thank you.

We understand that you, Lise and Jonathan, have other meetings, so if you have to leave, then of course we understand this. I think it's worth spending a few more minutes on getting agreement in the GAC on how to continue to discuss and work on this until Wednesday. We have a two-hour session after the break on CCWG, so we have a little bit of flexibility now with moving the break, but it's important that we know how to take this forward. And it has been clearly expressed.

We will have to give an answer to the CWG by Wednesday night, whenever that will be, based on the situation that we are now, that we're in. That means there are some dependencies of the CCWG work which is not completed yet that we will somehow manage to take into account, and then ideally give an opinion on this draft proposal reflecting the linkages and referring to the other process. But in a way, our answer is final in the sense that it is clear what the view of the GAC over this part of the proposal is that is not linked to the CCWG.

So we'll need to be -- This is the first time we're doing this, and so we need to be a little bit, also, innovative and constructive, all of us together, because -- yeah, this is the situation, and we have time until Wednesday.

JONATHAN ROBINSON: Thanks, Thomas. Just one very brief final comment on that point. Wearing my GNSO hat for a moment, we looked at this in the preparation of the motion for the GNSO and whether the GNSO motion should have conditionality built into it. But in fact, it is correct as you say it. The chartering organizations need to approve the proposal, and the proposal itself has the conditionality built in. So we don't need to make a conditional approval of the proposal because the conditionality is built into the proposal itself.

So I guess what I'm saying with the CWG hat on is we are seeking, to the extent that the chartering organizations find it possible, unconditional support for the proposal because the proposal is inherently conditioned on this -- on the accountability work.

Thank you, Thomas, and thank you, GAC colleagues.

CHAIR SCHNEIDER: Thank you.

Brazil, and Iran.

BRAZIL:

Just a quick comment in that regard.

I -- If I understand correctly the chair, and you can count on us to continue to work constructively on this. I think the important thing to achieve by Wednesday is to give the ICG the go-ahead to continue its work.

I -- In the light of the constraint that other's government -- at least I'm speaking from Brazil, not the full body, I think it would be hard maybe for us to say we explicitly approve and endorse everything that's in the draft because there are some things that still need to have more detail and we should go into some more discussion and have a better understanding, and as others have said, to see in the end how this will link to the accountability output.

So I think at this point to say that we explicitly completely approve, endorse based on the understanding that there are some built-in mechanisms, I think that would be too farfetched for some of us. But at the same time, I think it's very important that we should give the go-ahead to make sure that the work will proceed smoothly and that in the end we will be able to have a five-hour appraisal of the full proposal. I think maybe if we don't have the ambition to get out of this meeting the full, everything that is inside, that might provide us with a way forward in this. And we are looking very much forward to being constructive in that regard.

Thank you.

CHAIR SCHNEIDER: Thank you, and see you soon, actually, on Wednesday at the latest.

So, Iran, please be brief, and then we have to try and agree on how we use the time until Wednesday internally.

Thank you.

IRAN: Let's make it clear. GAC is not expected to give any reply to ICG. GAC is expected to give reply to the CWG, but not ICG.

Two, of course reply of the GAC could be among several options. One option, yes, we agree with that with the conditionality if all the condition are met, and could have other qualifications, and that qualification need to be further discussed.

So these are the questions. It's not only the conditionality. Might be some other questions that we raise and say, okay, this is our reply provided that conditionality is met and these other questions are clarified.

Thank you.

CHAIR SCHNEIDER: Thank you.

I think we should try and end here.

With regard to the way forward, we have some time on Wednesday to discuss and further exchange, but also then to actually finalize a

written text that we will have to send by Thursday. And if possible, I would like to somehow start in a very informal way us writing this text so that we can continue to discuss it and that we are not starting from a blank sheet on Wednesday because that might be a little bit of a risk that we will have to have a very long Wednesday. Then we go into Thursday, which is something we should try and prevent if possible.

So looking to Elise and Wanawit, do you think that you have enough feedback or substance that would allow you to, in cooperation with everyone else who is willing to participate in this, to lead a drafting exercise starting from now? So we will form something like -- we don't need to have a name for this. Something like an ad hoc group that would come up with a draft. And as soon as we don't -- probably it doesn't make sense to give you a concrete timeline, but as soon as you feel that you have something that would be worth sharing with others and then asking for comments electronically or in coffee breaks. So whenever we find a slot before Wednesday, that would be -- that would be, of course, important.

So that is -- of course, they can't do it alone, so they need all of you, those of you who have clear views and interest in shaping this reply from the GAC to the CWG, to support them and participate.

Is that okay? Yes, Elise.

ELISE LINDEBERG:

Yes, maybe just a practical thing. Can the secretariat then make a thread of all the interested parties to have an email exchange on it?

So we can then -- So we can -- Who wants to join can tell the secretariat, and then we make a group, and then we circulate emails and text. That's okay?

CHAIR SCHNEIDER: Maybe -- Could you be a little bit more clear in what you ask? So the secretariat collects the names of those that are interested; is that right?

ELISE LINDEBERG: Yes.

CHAIR SCHNEIDER: So let's put it the other way around. Everybody who is interested, maybe send an email to Tom and to me and to Elise and Wanawit, or at least to Tom that you will be part so that we know a little bit more, like, who is going to be -- Is that what you....

Okay.

Yes, U.K., and then Iran.

UNITED KINGDOM: Yes, thanks. I mean, just on the logistics of this. Perhaps -- Everybody in the GAC is interested. I think it goes without saying. But perhaps in terms of collating the temperature of the room and the sense of the room, those who are willing to meet physically with Wanawit and Elise to try and capture the points, that would be the aim, I think, in terms --

you know, to get together physically. And so maybe not everybody in the GAC can do that, but maybe that's our objective at this point. Is that right? Thank you.

ELISE LINDEBERG:

That's a good idea. So we just raise our hand for interest, and we meet somewhere now, very soon, and we discuss and try to put something together, and we can post it to the whole of the GAC, of course. Everyone can then dive in and look at it.

CHAIR SCHNEIDER:

Just for information, we have actually tried to build in a little bit of air that may be useful for things like this. If you look at this afternoon's agenda item, the session 10 is free for exactly an exercise like this. We'll also see how the discussion on the accountability part goes, and then we may, like, share that space. But there is half an hour free of this. And then tomorrow -- not tomorrow. Of course Wednesday there is no GAC -- there are no GAC meetings. You may have other obligations, but Monday is a day that you may use also to advance this.

And we have another session on Tuesday, right? Before the lunch break, where we have built in a half hour for review of the communicate. We can also use that to have an exchange not just of the communicate that we'll have until then, but also of this text. So there are some elements that we could use. But in the end we need to be flexible and creative. But thank you for taking on that

responsibility. And I think it's -- after giving the floor to Iran, then we will make the coffee break; okay?

IRAN:

Thank you, chairman. Sorry to delay your coffee break.

I think this afternoon would be a little bit early. Let's communicate to the GAC mailing list. We have done it in previous meetings also on some other subject. And we collect all the information, give some time to the people to prepare their comments, and combine those comments and have a meeting at the time you mentioned, tomorrow or the day after tomorrow, but not today. Today meeting is too early because people have to prepare themselves after this discussion. So give them some time. But put it to the mailing list of GAC, open to all of the GAC members.

Thank you.

CHAIR SCHNEIDER:

Whatever. We'll see. Thank you.

So if there is -- This is okay for everybody, let's have a coffee break. What is the time now? It's half past. Let us make it 15 minutes and not much more than 15 minutes, or something like 15 minutes, and then resume; okay?

All right.

Thank you.

[Coffee break]

CHAIR SCHNEIDER:

Please take your seats, everybody. We will resume.

Please take your seat. Thank you very much.

Okay. Please sit down. We will start as soon as the presentation is up on the screen, which will happen any second. I guess.

So, first of all, thank you for this discussion this morning and for the constructive spirit. We hope that this will continue.

And we have the second element of this transition process which we will start, actually, to discuss with more substance and in more detail for the first time in the GAC today.

We are not having the cochairs of the second working group with us. But we will have them with us in our Wednesday discussion. And, just for your information, later today there will be a meeting with the CCWG and the Board from 3:00 to 4:00. And, as you can see in our agenda, we have no -- have extended the break of the GAC to an hour to actually allow all GAC members to participate and attend that session. It's in, if the program is right, in La Pampa Room. So that will be another opportunity for us to -- yeah, get more information and, hopefully, more clarity as well and to exchange.

So, having said this, I would like to start this session and, basically, hand over the floor to the GAC members and participants who have been striving to follow and participate actively in the CCWG, which is a

great challenge given the time and workloads and the amount of discussions that was held so far in the CCWG and is continuing. While we work here in the GAC, the CCWG is continuing to work and trying to move these forward because they have to, as we heard, and because they have to answer a few issues also related to the CCWG work.

So I will give the floor to Olga, who is one of the GAC members in the CCWG, to start with presenting and discussing. Thank you. Olga, please, go ahead.

OLGA CAVALLI:

Thank you, Thomas. And thank you, everyone, for coming back after the coffee. Thank you for the session this morning. It was very informative for all of us who are following more closely the accountability process.

We have prepared for you some slides, so it's easier for newcomers to the GAC to follow and also easier for our lovely translators there -- hola -- that do a fantastic job. Maybe it's easier if you can follow my speech looking at the slides. The idea is that I will present the report that was open for public comment in early May. And then we have a very interesting team in the group. We are some of us that are actively participating. Pedro from Brazil will talk about what happened in this Friday meeting that was interesting because it changed a little bit the way that the discussion was going forward.

And then Alice and Par will talk about what the GAC has to decide, what we have to think about among ourselves in relation with this new text and new proposal.

And then we will have some time for discussion. And also Julia will present us the timeline. And we will have a time for interaction. And then we will wrap up. How much time we have? One hour and a half?

CHAIR SCHNEIDER:

On the agenda it says that we are supposed to finish at 12:30. Maybe we will have one or two minutes more. We will see.

OLGA CAVALLI:

So please interrupt me at any moment, especially my colleagues from the cross-community working group from the GAC. Because, as you know, I have limitations with legal issues. I'm an engineer. So feel free to say that I'm wrong or that I have to say something more.

So next slide, please.

As you know, the GAC is participating in the cross-community accountability working group as a chartering organization. This is important to have in mind, because this means that we have members participating in the group, although it's an open group to everyone that is interested to.

We have five members as members of the working group selected or appointed with geographic diversity. But there are other GAC

members that are also working with us. And we have worked as a team. It's Pedro, Par, Julia, Finn, Suzanne, Jorge, Alice, and myself.

So the fact that we're a chartering organization means that we have a say in what are the outcomes, and we have to participate actively. I have been uploaded all the documents and all the sessions and all the reports in a GAC web space. For those new in the group, you can go to that link. You don't need to login. Now it's in the open space of the GAC Web site. Can we go to the next one, Julia, please? So there's a report that was issued by the cross-community on accountability working group. It was put for public comments on the 4th of May. It received many comments. And it's based on some building blocks that should be -- that's what the working group thinks -- that should be in place in order to have an accountable mechanism to improve this accountability.

So these building blocks -- I will show a graphic in a second, but I will mention them now -- is the principles that are the mission and core values of ICANN, the board of directors, the community that it's empowered -- and that's an important concept for the GAC, how we are part of that community -- and the independent appeal mechanism that was also reviewed and informed this morning.

Can we go to the next one? So we have this nice graphic. And I have included what is not in the graphic, what it's intended to have a similar comparison with some elements of other republican states. So this robust accountability architecture should rely on these four elements: The people, which is the empowered community and the

people of the country; the executive, the politico -- how you say in English? Executive power? It's the Board. Then the constitution would be the principles. And then the judiciary would be the independent appeal mechanisms. So these four building blocks are the ones proposed in the document as essential for the accountability of the new structure. Can we move to the next one, Julia, please?

So one of the fundamental things of this new structure is that the bylaws should reflect some elements that have kind of fundamental laws that are essential for this accountability. And these fundamental bylaws should only be changed with approval from the community.

These fundamental bylaws are the mission, commitments, and core values; the independent review process; the power to veto non-fundamental bylaw changes and to approve changes to fundamental bylaws; any reviews required by the cross working group on stewardship, for example, the IANA Function Review; new community powers such as recall of the board. And it would include as well regular reviews. As we all know, this could be changing in the future. And, as the Affirmation of Commitments now establishes a periodic review of all the structure, this could be also included.

Can we go to the next one, please?

So the community powers, how the community has more influence on certain board decisions. This is essential for the accountability of the new structure. So the document and the group identified powers and mechanisms. And these include the ability to recall the ICANN board of directors, if they're not performing what the community wants;

remove individual board directors; veto or approve changes to the ICANN bylaws, the mission and commitment and core values; reject the board decisions on strategic plan and budget where the Board has failed to appropriately reflect community input in these documents. So the input from the community should be well-empowered to control the Board.

Next, please.

About the independent review process: This independent review process or panel should be binding, should be final, should create precedent, and should be truly independent. That's what this document says. It should be a standing panel of seven independent panelists proposed by the ICANN board with the confirmation procedure involving the community. The affected parties, including in some cases the community itself, would have standing to initiate a procedure in front of the panel. And the decisions of the panel would be binding upon the ICANN board.

Please remember that all that I'm -- these points are from the document that was for public comments. This may change in new versions of the document.

The next, please.

So how this could be implemented. This could be implemented with some assumptions. ICANN should remain as a not-for-profit public benefit corporation based in California. ICANN could change from a corporation with non-members to a membership-based organization

where SO and AC membership with SOs and ACs participating in a membership model. Please have this in mind, because then we will review what happened on Friday. And this has slightly changed from the original document. SOs and ACs would each form unincorporated associations as members of ICANN for the SOs and ACs to exercise these membership powers. This also has been discussed last Friday and new information to share with you.

And a community group exercising the community powers would have 29 votes in total -- five for each the GNSO, ccNSO, ASO, the GAC, the ALAC, two each for SSAC and RSSAC. And this has to be reviewed also after the Friday meeting.

The next one, please.

So the document, quite long document, has 150 pages. But there are some parts that specifically talk about the GAC. I have listed them here. Just for you to have a reference, we also prepared a document where these parts are highlighted before the comments that were sent to the public comment period. It's referred mainly to changes to GAC operating principles related to the way GAC makes decisions. If we vote. If we work by consensus. Also some parts that talk about forcing the Board to respond to GAC advice and majority voting and the membership model as well how the GAC can be involved in the membership model.

So I also included the pages where you can find that information in the document that it's already being commented.

So the document was open for public comments until early June.

Can we go to the next one, please, Julia? And this is not a slide that I prepared. It's just copy/pasted them from ICANN. But I thought it was interesting to see the comments.

Can we go to the next one?

So governments made eight comments. And I will go briefly about the main concerns from the government in a second.

Can we go to the next one?

Maybe you cannot see here, but this is a document prepared by ICANN. So mechanism to empower the community is the one that got more comments. Independent review panel, also many comments. And incorporating the Affirmation of Commitments into the ICANN bylaws. Then there are general comments that are the highest bar at the left.

Can we go to the next one?

So we had 4 comments from Latin America, the Caribbean, 15 North America, 14 Europe, 5 Africa, 1 Asia, and 1 other SOs and ACs. So it's not so different. It's not such a big difference with other processes. I'm happy to see several comments from my region.

And the next one I think -- well, this is only to know how many from the community or outside the community made the comments.

And the next one?

I don't know if we have a next -- we have a next one? We have a next one, Julia, or not? No. Okay.

So I will go briefly now which are the questions made by some GAC members, mainly related with a GAC. And, as an unincorporated association and the associated powers with this unincorporated association, can a legal person creating and acting on behalf of the GAC become a member of ICANN even though the GAC does not appoint board members? If the GAC decided not to create a legal person such as an unincorporated association to become a member of ICANN, would that prevent the GAC from participating to the exercise of the six community powers? In such case, which of these powers would be prevented?

So, you see, the questions are how the GAC can be included in this new structure through this concept of the unincorporated association.

Other questions were, if the GAC does not wish to become a member, how could it still be associated to the exercise of the powers? Do we remain as an advisory committee? Do we participate in this structure? Participation in foreign associations requires a number of legal steps by each and every national authority which may vary in its degree of complexity or be even next to impossible in some jurisdictions. This may entail some governments may be part of the unincorporated association while others may not be so often for a long period of time. What are the consequences of an isometrical composition between the GAC and the UA in the meantime?

The others are similar. So I won't go through all of them.

So this document has all the GAC questions and also the answers prepared by the legal advice or to the cross-community working group. I have sent the link to the GAC. But, if you want, I can resend it to you.

So I will stop here, and I will give the floor to Pedro that will tell us what happened on Friday. Because this concept of the UA, of an unincorporated association really brought a lot of comments and a lot of thoughts not only from the governments. So on Friday we had a discussion about that. And, Pedro, if you're so kind to let us know what happened, also you must have seen a communique issued by the working group. Maybe, Pedro, you can show us the communique that was also sent by Thomas this morning, early morning. Thank you, Pedro.

PEDRO DA SILVA:

Okay. Gracias, Olga. Briefly, report what happened in the meeting of the CCWG accountability last Friday. We had a day-long session with the objective of reviewing the summary and the comments of this public consultation that was conducted during May and also with the aim of discussing how the group will proceed with respect to the development of next version of recommendations.

The main conclusions from the analysis that we discussed -- and this is reflected in that communique statement that was circulated yesterday -- was initially that there was considerable support to this accountability structure proposed based on these four building blocks

that you have mentioned, so empower community, board, independent review process, and the bylaws, the principles.

Second, that there were many comments that suggested that the accountability of the supporting organizations and the advisory committees be also taken into account by the CCWG.

And, third, and perhaps main issue of discussion and main conclusion from the comments received was that, well, many, many commenters considered that the implementation details of the community empowerment mechanism considered them too complex and also expressed concerns with regards to the legal implications related to them.

So here we are talking, essentially, about the membership model, which would require that the SOs and ACs would become members of ICANN through the establishment of an unincorporated association or by appointing individuals that would have that member status.

So, based on these conclusions and, in particular, this last one, the group -- the CCWG started the discussion how to enhance its recommendations. The main debate was around this implementation model. There were some members of the group that continued to defend the membership model. I think I'd say, based on the rationale, that it would be the only way through which the desired community powers would be enforceable. But others have, on the contrary, expressed that -- well, they have expressed support for a more lightweight model devoid of all these legal complexities associated with the membership model which -- well, according to these persons,

would represent a barrier for individuals or organizations to join the ICANN community. That would be required.

So the CCWG accountability is now considering, let's say, another variation of the community model, which could be called the empowered SOs/ACs model which would give the community considerable authority while not adding legal entities separate from the SOs and ACs. Of course, the implementation details of this model remains to be sorted out and to be discussed and analyzed.

I think in a nutshell, that's what we discussed on Friday, although many other things remain to be discussed. The CCWG will hold two other working sessions during ICANN 53, one on Wednesday, another on Thursday. And we will be discussing other topics that we weren't able to touch, to address in this initial meeting, like the IRP and issues related to human rights and diversity enhancements, and so on.

That's basically it. Thank you.

OLGA CAVALLI:

Thank you, Pedro.

As you can see after the public comment period and after the meeting on Friday, there is a revision of the original wording of the document that, as Pedro rightly said, how to implement that. It's to be seen, how this will evolve. So we will see what happens this week and how the discussions move forward during Buenos Aires and after Buenos Aires.

So I would like to give the floor to Alice and Par, that would bring to us some of the questions that the GAC has to think about, and we may have to answer at some point in our role as chartering organization.

I cannot see you. Where are you? Are they there? Alice? Par? No?

ALICE MUNYUA: Thank you, Olga.

OLGA CAVALLI: Oh, I cannot see you. Where are you?

ALICE MUNYUA: Right behind you.

Thank you very much, and thank you colleagues, and especially colleagues that are on the CCWG working group that we have been working together.

There is a very helpful document that has been circulated by secretariat, ACIG --

OLGA CAVALLI: Alice, can you talk closer to the mic? Thank you.

ALICE MUNYUA: There is a very helpful document that ACIG had prepared and was proposing that we pose as question to the CCWG, and there was suggestion from members of the CCWG working group that we may

want to have these questions first considered at the GAC plenary before we propose them, or we ask them to the CCWG chairs. And I'll just go through them very quickly.

The most important one is obviously whether the GAC wants to participate in the proposed community empowerment mechanism as an organization with voting seats or do we want to have a special advisory role as it is today with respect to the ICANN Board. Especially taking into consideration that the GAC provides public-policy advice to the ICANN Board, how does the proposed voting model reflect this? And how will GAC advice be considered? How will public-policy considerations be taken into account by ICANN in the new proposed structure? So that's one of the most important overarching questions.

And then can the CCWG accept as a guiding principle that the framework for ICANN considerations of public-policy aspects of its work should not be less than at present, whatever the new mechanisms are eventually agreed upon?

And then there's the issue of ICANN bylaws. Can they be changed to allow for ICANN advice to be proposed through the community empowerment mechanism in addition to advising the Board? And what this would imply, then, that we would take part in the community empowerment mechanism, perhaps with the liaison from GAC leadership, and the GAC would be informed of all issues the community empowerment mechanism would have to consider. Which means again we have a vote and GAC could provide advice as appropriate.

And then there's the issue of the Independent Review Panel. We need to ask ourselves is -- the way it's currently proposed, does it really increase transparency? And does it increase efficiency and effectiveness of the panel, especially taking into consideration that we already have a little bit of experience with the current IRP model and some of the challenges that we're experiencing?

So those are the main questions, and I'll let my colleague Par contribute to the rest.

Thanks.

PAR BRUMARK: Thank you. I think you covered it all, Alice.

OLGA CAVALLI: Sorry, I cannot see you from here. It's difficult to see you. Okay. No problem.

Okay. Julia, would you give us an idea of the timeline and where we are? Which are the dates that we have to have in mind to provide some comments, some -- what we expect in the next days, months? By the way, having in mind that the Cross-Community Working Group will have a face-to-face meeting in Paris the week of the 16th and 18th, I think, in July. It's a Friday and a Saturday. So the group will gather again to review how to move forward after the public comments.

So, Julia, please tell us about the timeline. And then we open the floor for questions and comments.

JULIA WOLMAN:

Thank you very much. I would like to give you a bit of an overview of the indicative timeline that the CCWG Accountability is working towards.

I was hoping to have a slide showing -- I think it's number 23. So it's almost the last one. And we can see the timeline. It's from the 11th of May, so the face-to-face meeting is not there yet. But we are -- we're working with this timeline that we have done for a while now, even with these changes that came on last Friday. We have to bear in mind that the CWG Stewardship is dependent on this work, and so we are continuing along these lines.

So I think....

So the public comment period will -- or the first public comment period has just ended. That was in May. And then now here in Buenos Aires we're having meetings throughout the week, talking about the -- with the community about the proposal.

And then there has been a proposed -- or we have a face-to-face meeting in Paris the 17th and 18th of July where we will prepare a proposal for the second public comment period, which will start approximately around the 20th of July, and it's supposed to be 30 days. This is, of course, still a bit indicative, so please bear in mind.

Then the group will deliver a revised proposal to the A.C.s and S.O.s on the 13th of September, as far as I have understood, and we as chartering organization have to find out how we will answer to this.

And the plan is to deliver the final -- the proposal to the Board at the ICANN meeting in Dublin around the 22nd of October.

CHAIR SCHNEIDER: Julia, just one second.

CHRIS DISSPAIN: With regard to the screen, it's the one slide after the one that is on the screen, so you just have to move one forward so that we have the timeline. So, please. Other Julia -- Yes, thank you very much. Sorry for interrupting.

JULIA WOLMAN: Thank you. I hope you can read it.

Well, this timeline shows that we are working iteratively and quite fast. And as you can see, we have some time now before the face-to-face meeting in Paris where several of us are going. So we would like -- If you have any views to share, please do that. Then we can bring them to the forum or to the meeting in Paris.

Then, of course, we have the second public comment period focusing on the remaining issues. But here you have a window again to provide your views and your comments, and we urge you to do this.

Thank you very much.

OLGA CAVALLI:

Thank you very much, Julia. And I would really like to thank all my colleagues in the working group. For me, their questions and their comments have been really enlightening.

Thank you, Julia, Pedro, Jorge, Alice, Par, Suzanne, all of you, and Kavouss, yeah. But Kavouss is overarching, everything. He's our guide to -- yeah, really. But we had an interaction among us, so he linking with other parts of this process. So thank you, Kavouss, for helping us as well.

So having said so, and we have explained to you, more or less, the content of the draft document, the comments are many. I sent to the GAC list all the comments. I know that they are long documents, but they are very well organized, so if you're interested in reviewing the comments made by other members of the community, by other S.O.s and A.C.s, I encourage you to open the document and look at them because they are very -- it's easy to review them. Although it's long to read, because there are a lot of comments, it's very well organized, so ICANN has done a very good job in putting that information together.

And, also, there are some answers, too, from the legal advisors also in the Web site of the Cross-Community Working Group, the Web space.

So having said that, and Julia pointed out very nicely that we value your feedback for the next steps for the next face-to-face meeting. So -- And just for you to know, in all these meetings, they're expecting the GAC to say something, and they look at us like the GAC -- what will the GAC say, and they look at us very closely, and we remain silent. So

there will be a time that we have to deliver some comments and some outcomes from our group. So please have that in mind.

Having said so, I will see if there are comments or questions from all of you.

I see France. Let me prepare a queue. Netherlands, Iran, Alice, Thailand. Thank you, that side. It's very difficult to see you, so if I don't name you, wave me.

Thailand, and Brazil.

So France, go ahead.

FRANCE:

Thank you, Olga. Thank you, Olga. I have four comments, and I will speak in French.

First of all, regarding the community empowerment mechanisms, and excuse my English, we know that in the last CCWG meeting, this group reviewed its initial proposal. This is correct in that we faced several difficulties derived from the original proposal, so we would like to know what progress has been made regarding this proposal.

Secondly, we see a risk of having the new system captured. We had made certain comments indicating this risk of having ICANN's decision-making mechanisms captured by a group of individuals. So in order to mitigate this risk, we wanted the different participants to be able to respect the principles of cultural diversity as stated in the NETmundial statement.

We understand that the CCWG held discussions on this topic, and this topic is taken very seriously, which we really welcome.

We have three proposals with regard to this topic. First of all, we would like to see a policy to fight against conflicts of interest within ICANN, a robust and firm policy. In that regard, we want to see a limitation in the number of terms that a person can serve both simultaneously and consecutively.

Secondly, we encourage the creation of a committee within ICANN that would take care of controlling the -- or supervising the conflict-of-interest statements or disclosures made by the board members. This would be an independent committee, of course.

And thirdly, we would like the ICANN community to select the Independent Review Panel members, rather than having a selection confirmed and having a selection made by the board as it is done nowadays.

And perhaps most importantly at this stage in the discussions, let me speak about the appellation mechanisms or appeal mechanisms. First of all, France wants to underscore the remarkable progress made in this regard, especially regarding the principles underlying this process, which are very important. First of all, the IRP decisions have to be binding. And, secondly, the IRP has to be able to make decisions on claims, not only on the regularity of procedures, on the basis of that regularity, but also on the basis of the substance of the matter underlying such claims.

We do see some kind of issue, however, regarding the way in which the CCWG is thinking about implementing these processes or procedures, so the IRP should be a true international arbitration court to resolve ICANN policy issues.

We have analyzed these from a legal standpoint. We have performed a thorough analysis, and I encourage my colleagues to read this legal opinion drafted by expert counsel hired by ICANN. This is a document dated April 20th. It was drafted by the legal experts hired by ICANN, and it addresses this issue.

Generally speaking, regarding arbitration, according to applicable law, there should be an agreement or contract between two parties, and we see -- or we don't see how ICANN bylaws or policies and -- the policies or bylaws that we still do not know because they're nonexistent, well, we don't see how these bylaws or policies can foresee contracts or agreements between ICANN and participants on a global scale so that such agreements could be taken as the basis of an arbitration procedure.

Secondly, we need to focus on accountability mechanisms. The proposal indicates that arbitrators would be paid by ICANN, and that creates an issue, because that would not be in line with international arbitration practices that aim at having independent arbitrators. And, also, and this is the third reason that has to do with the consequences of resorting to these international arbitration mechanism, the IRP decisions in line with international arbitration decisions would be bound by international private law. So if this mechanism, if the IRP

can resolve or can decide on the content of these mechanisms, then these policies that so far have always been technical would become legal policies on an international scale, and that would not be in line or would be contrary to ICANN's technical mission and remit.

Therefore, we believe that the expert opinions drafted by the legal experts -- that is, an IRP whose decisions should be binding -- well, we believe that these mechanisms should be taken or considered as ICANN internal mechanisms. There are many ways in which these decisions may be binding within ICANN. The details need to be adjusted, so I really encourage you to read this April 20th document that has very -- that has a lot of information on this topic.

Finally, Olga, I would like to focus on stress tests and on agreement number 11 or specification 11. We were surprised to see these two amendments. We are under the impression that they reflect intent to willingly or unwillingly include governments' responsibilities in terms of public policy.

Regarding the solution of stress test number 18, it is only when there is a consensus with a government that we can take GAC advice as a public-policy recommendation.

Dear colleagues, this phrase, as I am quoting it, can be translated in the following way: Governments are not responsible for public policies until they reach straight consensus on GAC advice. That would not be acceptable, and it would also be false, because, clearly, we, the government representatives, are always responsible for public policies.

I'm speaking or I'm quoting paragraph 11 in the Tunisia statement. This is also included in the NETmundial statement, and this is ICANN's fundamental value number 11.

As it happens in other organizations, the legitimacy of the GAC advice has to do with the fact that it is pronounced by governments, and it doesn't come from the way in which such advice is pronounced. Otherwise, we would be in trouble regarding our own responsibilities.

In terms of core value number 11, we wonder if -- excuse me -- if these core value were to be implemented or applied, we wonder who within ICANN would be able to determine whether or not the governmental advice in terms of public policy would be in line to the internal rules of procedure and in line to the fundamental values.

This would seem -- or apparently, the Board or the community empowerment mechanisms could take care of making decisions or passing judgments on the merits on GAC's decisions or recommendations rather than observing, just observing the current procedure by which people can respond to GAC advice, which in our opinion is the appropriate mechanism.

Once again, all the ICANN stakeholders can say or have a voice in terms of what may happen with GAC advice, and we understand that nongovernmental stakeholders may have a voice in terms of our advice, but we cannot understand that nongovernmental stakeholders may have a voice in terms of GAC advice legitimacy.

Thank you.

OLGA CAVALLI: I lost my list. Okay. Thank you. Netherlands.

NETHERLANDS: Thank you, Olga, and thank you also to everybody who -- I think the room is full with people who have contributed to this, so I think this is a very good example of multistakeholder cooperation.

I just wanted to go back to two points from The Netherlands, and that's the point of the linkage of the two processes.

I think we heard some GAC members who said, okay, this is a very strong linkage and there's a dependency. And I think we agree there's dependency. On the other hand, I think we should look also at the merits of the CWG proposal as a means, as a very practical means to basically absorb the NTIA stewardship, which is, let's say, in the clerical function which is now being to be effectively -- basically deleted and absorbed in a new mechanism.

So -- And there's a merit in this, and I think as The Netherlands, we see a lot of merit in this proposal because it basically doesn't introduce new risks. It keeps the function as an administrative technical function. It doesn't politicize, it doesn't introduce new capture of, let's say, stakeholders in this process.

So I think there's some merit in going on, and certainly as The Netherlands we would -- maybe not endorse but, let's say, give a very positive signal about going on with this model. But it doesn't mean

there is no linkage. I think the conditional aspects which everybody talked about is very important, and so on, for The Netherlands. And for that, I think it's important for the GAC to know, because at this moment it's kind of a moving target. There are several solutions, and even yesterday, other solutions emerged.

For the GAC, it's very important to have at least fixed and determined what the exact goals and exact prerequisites are for the CCWG.

So without knowing which will be the ultimate solutions, we need to have this very clear in order for us to have what I would say conditional goal for the CWG proposal.

So I think it would be very useful to have -- we have seen lists with, for example, the list of powers for the empowered community to have. If this is very clear that this will be the real prerequisites, then as GAC we can say more in our communique on how we assess this.

Thank you.

OLGA CAVALLI:

Thank you very much, Netherlands.

Iran.

IRAN:

Thank you, Olga.

I think it might be good, a few minutes of refreshment what is the CCWG.

The CCWG is mandated for enhanced accountability of ICANN. To do that, CCWG look into the current accountability, result of ATRT; look at the comment received for that current accountability; look at the requirement of accountability from CWG; and look at the contingencies and stress tests. For that, they created two workstream. Workstream one, accountability should be in place or committed to be in place before transition take place. Workstream two, accountability, which is the long-term accountability after transitions.

For the time being we can concentrate on workstream one. For workstream one, there are two main issues: empowerment of the community, redress and remedy.

Empowerment of community, on six areas for the time being. Area one, bylaw changes that committee have a word or have a saying on that. They thought that they might need to create a fundamental bylaw. Currently, according to Californian law, this fundamental bylaw terms does not exist, so we have to change that and put in the issue in two different way. One, the bylaws require two-thirds of majority and bylaws requires the three-fourths of majority for changes.

Then the issue is removal of the individual board member. The other one, removal or recall of the entire board. These are the, more or less, more straightforward and simpler. However, we come to the difficult area. There are two areas.

Budget, rejection of the budget, and rejection of the strategic plan. These are the difficult issues. The difficulty is from the legal point of view, that none of these issues have any conflict with the fiduciary actions of the board, because board has some fiduciary duties. And any of these actions may have a conflict. And board says they cannot breach these actions at all. So we have to look at that one. Having said that, there are three models to implement this. The first model, which recently came up, is voluntarily or voluntary model. Existing situations. Simple. But may be difficult to have all these powers.

Second would be designator model. The designator model is those who designate the director. For the time being there's a question whether designating director with the vote. Power of the board.

They could have exercised four of these powers that are mentioned, change fundamental or different terms, change of removal of the individual board and removal of the entire board.

Then come to the budget and strategic plan, that designator doesn't work because does not have such a situation that to exercise this except with respect to the budget and with respect to the operation -- the strategic plan. Just ask for reconsideration. But we could not -- they could not reject that.

So the third model is the membership. And that is the difficulty comes. In order to be membership, you need to have sort of unincorporated association. And that is difficult area from the very legal point of view. We raised this issue in April in one of the calls. And we said that it is difficult to implement in particular for the

government, from the legal and from the procedural and from the jurisdiction point of view that the government will be involved in any incorporation with any other things which may not be compatible with the national jurisdiction of the country. And that is very, very important questions. After all discussions on Friday, last week, the issue of unincorporated associations more or less is dropped. So no longer is on the table.

So the table is that how we could exercise these six powers in what model? Designator model or membership model. If membership model, what is situation? What are the legal implications? Again, this is the simpler part.

The more difficult part is address and remedy. And that comes to the empowerment of the IRP for the individual -- sorry -- independent review panel. That is a very, very difficult situation. And coming to the Board what board or members? You have seven people. And, among these seven people, we designated -- it is mentioned -- three will be designated to do that. And perhaps in some areas only one. We have mentioned from the very beginning. It is very difficult from the same point as France mentioned, we have work with existing procedure which may not be compatible with international law.

Second, it would be quite dangerous to give a decision to one single member, arbitrator to decide on something, usually the minimum in the entire customary law or international are three, but not one. Never we put the decision on something in hands of one single person. That is something that we have to be totally reviewed.

But, starting the situations that everything starts from that -- the ICANN remains in the United States and remains under the United States law. In that case, we have a lot of limitations. Everything should be compatible with the California law. And there are many, many restrictions on that. There are courts. There are many things. So these are the things that people need to look at that one.

So the situation from now is that.

All of these questions needs to be raised to the CCWG, the accountability group. And they have to look at that one.

We have requested a tabular form. In that form in the vertical column we have all SO and ACs. In the horizontal column we have different models -- voluntary, designator and membership. And we say that which of these has what power. And, in particular, coming to the point that, if a particular SO or AC, supporting organization or advisory, decides not to be a member, what happens? Do we lose all of our rights? We don't have any more right to discuss or anything or to participate? If we do not be a member, could we participate with the others who are a member and we have the same rights? These are some of the legal issues yet to be answered. We raise this question. And a final reply that we have received, that is given to the second group under Becky Burr to discuss the matter. And the chairman and co-chair of the CCWG told -- at least sending a message that it is difficult to answer my questions. Because this is a very important question, in particular, for the government to decide what part and what action they will take.

So, Chairman, the situation is quite complex. There are very dark points on the situations. There are many questions yet to be answered. And, on the other hand, everything in CCWG is interdependent with the CWG on which we have to have a reply on -- as a chartering organization. We have to be very careful distinguish GAC members individually or collectively or encourage and perhaps, if you agree, are urged to actively participate in the activity of CCWG, sending their comments individually, collectively, participating in the call. Calls are open for everybody. But be careful. Some of the calls are 2:00 in the morning. I have been participated in 36 hours conference call. And my government doesn't know that I have participated and spent so much time on those issues and so on and so forth. I have been pushing the corner to do the computer. These are very tedious works and very, let us say, complex issue. Government should be more active. I'm not saying that they are not active. I'm saying they should be more active, should pay more attention to this. This is a very, very important issue.

And we have this -- by the way, the public comment period for the second public comment is 40 days. And that is the last chance that we have. So, if you do not react, you will lose the time. Thank you.

OLGA CAVALLI:

Thank you, Kavouss, especially for all the detailed summary of the process and the powers and all that. And your participation is really very much appreciated.

Alice, you're next.

ALICE MUNYUA: Thank you. I'll give the microphone to my colleague from Niue. Most of the issues have already been brought up. Niue.

NIUE: Yes. Well, I think we're getting a bit far from the core issue here. The GAC issue is getting lost. Because the issue is how can the GAC withhold its strong AC role in a soft, as mentioned Friday, or a pure membership model of the ICANN.

That is the core issue.

OLGA CAVALLI: Thank you, Par.

I have in the list Thailand.

THAILAND: This is Wanawit, for the record. So I would like to answer, because you have the workstream two and one and there seems like there will be a lot of change, I do believe that we need to work with the teams on that working now on the GAC. Working method or principle to be sure that we could be able to address -- I still have a doubt to whom we should communicate, which and which form. From the principles standpoint, we only have the advice to the Board.

CWG is very clear. We communicate with them. And there is a process going on. But CCWG's accountabilities, the structure is still not to

clear for me whether to form what it this will look like. Like Iran mentioned, whatever the form of coordinating the works will look like, we have to address the GAC principles and how we work. Because, otherwise, I still do not know how could we communicate with the entity and to whom. Because there seems to be IRP panels, seems to be a lot of new entity that do not reflect in the GAC principles. So that's a point I'd like to raise. Thank you.

OLGA CAVALLI: Thank you, Thailand. Can I ask a clarification question? When you say "entity," what do you mean by entity?

THAILAND: Because CWG is process law, very clear. So when the SO communicate with them, so then they propose -- when the CO communicate with them, so then they comply with those proposals and send it to the ICG, ICG sending to the Board, right? In the earlier why -- the SO will receive the comments. And then we're telling them the CWG and our three proposals need to combine. But CCWG accountability is different. It's in the parallel tracks. And you have the workstream one and workstream two, which I don't know how this will be organized. It's just my feeling. I did not see the SO or AC how we could coordinate, either through which IRP panels or --

CHAIR SCHNEIDER: Yes. Maybe to add to this, you're right. These two processes are very different.

The unique thing about the CCWG is, as you say, the division, if you want, in workstream one and workstream two, which is something that doesn't exist. There are other divisions and other structures in the other process.

But I don't think that's necessarily a problem. I think, at least what I understand, there's the agreement that we are now actually working on workstream one, which is directly linked to, as we've heard also in the earlier session, to making the transition happen. So workstream one should concentrate on whatever is necessary to make the transition happen. And, all the rest, which will be -- already some issues of workstream one are very complex, but the rest may be even more complex than we've heard from our dear colleague from Iran that is actually complex.

If I get you right, it's that maybe we are missing a little bit of clarity on how workstream two will develop once workstream one, including the transition, is over. I think this is something that we all need to be aware of and also probably have developed our own ideas on our expectations on workstream two, which is the longer term process on enhancing accountability.

So I think this is -- if I take this out of what you said, this is something that is still lying ahead of us. We may not have time and the whole ICANN community may not have time into defining too clear about what to do and how to work on workstream two, although, of course, there are some provisions on this in the charter of the cross-community working group.

But I think at least my takeaway would be to note and also maybe reflect our expectations on whatever is not in workstream one on how that should develop, if I get this right. Thank you.

OLGA CAVALLI:

Thank you very much, Thomas. And thank you, Wanawit. I have Brazil next and U.K.

BRAZIL:

Well, thank you, Olga. And, well, I'm not repeat everything I said in the previous session. But I'd like to just to reaffirm our sentiment that we have been too much restricted in the exercise to the existing format in which you operate and which raises a number of issues for a number of us. So we know we are called to endorse something which we have been saying for many years we have difficulties with.

My second point -- and I will also repeat all the points we made in our comments, which I'd like to reiterate. And, in the light of what we have been hearing here, some of those elements we are led to reflect a little further on this. But the general approach remains.

We take an approach to this process, the same approach we take to all Internet governance processes. We seek to be extent in our participation here and in other fora. We think we are guided -- we try to be guided and be consistently guided by the two core principles, I should say, that in our assessment emerged from the Tunis agenda, which is first that Internet governance requires full participation of different stakeholders. And the second core principle is that that full

participation should take into account the roles and responsibilities of each stakeholder.

And I think, from the perspective of governments, I tend to look at this exercise here that it is our responsibility and duty as governments to make sure that our particular role and responsibility is duly addressed in the process. I would -- I do not feel comfortable hearing that as governments we should just be guided by a purely technical approach and be sure that the system should continue to -- I think other communities would be involved with this. And we are very comfortable to rely on their work.

I think, from the perspective of governments, it's important to ensure that the new structure will allow us as governments to have the appropriate way to express and to provide advice on public policy issues. I think this is what governments should be concerned about here.

And, in that sense, I'd like to thank France for bringing this to the fore. I think it would be very problematic, from the perspective of my government at least, if, in the new structure we are developing, there will be limitations to the way we can provide advice or that the ability or the possibility to provide advice would have to be filtered or estimated to be adequate by other stakeholders.

We think that would be something inappropriate. I don't think the same criteria is applying to any other stakeholder in this process that their participation should be judged or others, if it is coherent or not.

So the way the GAC will express and make sure that its advice would be given, I think it's up to us. I don't think -- I fully agree with France. This was also in our comments -- that any kind of limitation that might be -- should be firmly rejected. Otherwise, we'll be found in a situation in which we cannot influence that power or anything that will happen in ICANN as of now. And we -- that that's not the approach I take to this exercise and, again, to any other discussion related to Internet governance in different forms.

Another point that was raised by France -- well, in principle I must say we fully support the other points raised by France as well in regard to the needs to think about rules to avoid conflicts of interest for those who would be participating in this new IRP.

We also agree with the idea that it would be up to the community itself to select its members rather than the Board. Regarding, stress test 11 and 18 we have already referred also support.

I'd also like to thank France for bringing to discussion -- one point we mentioned in our comment is that we thought the IRP arbitration mechanism would be something in itself very good because it would provide independent oversight over ICANN. But I hear again -- and I thank France for bringing to the floor -- that that might entail some problematic aspects on the respect of governments. I think those should be further investigated. We take that point, and we'd like to have more clarity on this. Again, thinking from the perspective of what -- from our perspective as governments, not to adopt a mechanism to entail difficulties for us, particularly from the point of view of our way

to express. In that sense, one comment that was made by France in the written comment in the written contribution is that they were seeking legal advice from their own sources. And, based on the fact that the legal advice that was offered to us clearly specifies at some point that those legal experts, they are legal experts regarding the U.S. legislation. And here we are trying to put in place a system that will work for all of us. So I think it will be very important. And we'll certainly take up the same challenge to also think from the perspective of our legal experts. Because we have legal experts that are not paid by ICANN who can also provide some ideas and some concrete proposals for us. There are some issues for us to discuss that are very important.

Elise has raised, I think, the fundamental issue, and I think all those discussions have converged to this decision whether we will have the quality of our participation, will that be in a fully participatory way, voting way, or advisory role?

I would also look forward for more discussion on those models that are now, as I understand, on the table with regard to the CCWG Accountability, the membership model or the empowered -- empowerment SO/ACs model. I think we should have further discussed on that.

Well, I think basically that's what I'd like to say at this point.

I think we have so many important elements that are induced by the draft proposal we have before us, but I would certainly invite colleagues, and this is the approach to take, to look from the

perspective of our budget specific responsibilities, and from -- and make sure that our role as providing advice for public-policy issues will be there.

I was somewhat surprised to see that we should -- our main concerns should be to retain our strong advisory committee role. In our assessment, this is not a role that satisfies us or that allows us to provide the input should be inserted in this process. So this is not, certainly, a goal for us to maintain things as they are.

I think if it is the case, I wouldn't see a goal for us to participate. Let's just let the technical community do the job.

OLGA CAVALLI: Thank you very much, Benedicto.

Mark.

MARK CARVELL: Yes, thank you, Chair. Mark Carvell, U.K. government for the record.

First of all, many thanks to all the colleagues who have contributed to this vital updating discussion, as we are between two versions of the CCWG proposal. It's very useful.

Like Brazil and others, I've gone to legal advisors in my ministry to look at the options for community empowerment and what that means for the GAC in its current role as advisory committee to the Board, what potential impact of that could be, and also whether it's

possible for GAC representatives to participate in strategic community voting and decision taking under such empowerment mechanisms. So I've got that in train, but of course that now is outdated, what I've gone to my legal advisors on. And also the briefing I put up to my minister very recently is also out of date because we are in a pretty fluid situation. We've seen the emergence still at preliminary conceptual stage of an empowered SO/AC model.

So it's a bit difficult to take a firm position at this time beyond the types of mechanisms which the CCWG has been devising: ability to scrutinize the budget, strategic plan, membership of the board, and so on. Those elements we're readily familiar with but the crucial element of how governments in pursuit of the public interest and their role in that regard, how that is going to be secured in these new empowerment mechanisms, that's a bit all up in the air, as I say.

So I presume the intent of the CCWG is to come up with a revised proposal that will include the empowered SO/AC model, assuming it's going to be more fully developed, in which case we will then be able to look at that as perhaps providing a way out of a lot of these very tricky legal and constitutional issues we're now grappling with. And I really do appreciate colleagues who have -- in particular, France, for examining these issues with such useful intensity and highlighting some of the critical questions for governments. That's been very helpful, and we've taken due note of France's efforts in this regard and comments of colleagues on the same topic, with particular reference to the Sidley memorandum of 20 April.

So I guess my question is are we going to be in a better position after the Paris face-to-face meeting, which coincides with while I'm on a holiday break, unfortunately, but it's going to be a critical decision. I may have to revise my vacation planning after a very intensive June. That is going to -- My question is, is that really going to put us in a better place as the GAC to take a view as a chartering organization and ensure this part of the jigsaw of IANA stewardship transition is securely put in place with the support it needs to have from us as a chartering organization? So that's my question. Sorry it was a rather long-winded question, but that's what I was heading to. Hope that's clear.

Thank you.

OLGA CAVALLI:

Thank you very much, Mark.

Any other comments?

Indonesia.

INDONESIA:

Yes. Thank you, Olga.

And (indiscernible) I would like for us to appreciate the work of the GAC members in the team of ICG CCWG for their hard work and making proposal, which is quite comprehensive like this.

And following Iran's comment on the proposals, especially regarding the jurisdictions of the operation and so on, I would like to draw your

attention that many of this has been discussed before, and one of the proposal that I would like to make to request our GAC members in the working group is the possibilities to accommodate what many countries have discussed on the Working Group on Internet Governance under the U.N. umbrella back in 2005.

If -- I think many of us still remember. In 2005 we set up the Working Group on Internet Governance. That was after the Geneva WSIS and before the Tunis Agenda setup. And proposals of Working Group on Internet Governance I think is clear and, from my point of view, is still valid until today.

Of course, the NTIA is -- NTIA's proposal is different with the WGIG made under (indiscernible) umbrella because one of the NTIA request is that it should -- the institution that run the IANA should not be a country or a group of countries. However, we can still accommodate the idea that was set up, the U.N. Working Group on Internet Governance, in these proposals. Not countries, but multistakeholders.

Now, of course it is not as simple as that because we have to review again, but if we can accommodate that, then perhaps many of the comments from Iran and from other countries can also be accommodated. And also don't forget that these proposals of WGIG has been discussed intensively by many countries under the U.N. umbrella. Let's try to accommodate that since the country to multistakeholders and hope that we can find -- what you call it? An agreed system. Together we can accommodate how we transfer the IANA.

Why I mention this, because looking at some discussion, other discussion, not about the Internet, when several countries discussing about the GPS system, if many of us still remember when we discuss about the GPS, we have the problems, (indiscernible) similar with to these problems. As a result of the discussion on GPS, then what we have today, we know that history has told us, we have the Galileo system, we have the Glonass system, we have the Bedous system, and perhaps other system in few years to come.

So we still want one Internet. We saw one global Internet. So we have to try to accommodate the idea that was discussed. And hopefully, the basic proposals discussed at the WGIG can be accommodated and can overcome the problem.

Thank you.

OLGA CAVALLI:

Thank you very much.

More comments? Other comments?

Okay. All right. I think we all share the question about how this new model that was discussed, the S.O. and -- empowered S.O.s and empowered A.C.s, will really be -- could be implemented, or which will be the different functions and powers. And we -- really, from the meeting on Friday, we didn't finalize that and we don't have that information so far.

So -- And I'm -- I'm bringing this question to you and to our leadership team. Could we -- Could we prepare a set of general comments or questions from the GAC? Because -- And I'm talking out loud now without thinking a lot. I see some concerns raised by some countries, but -- and also have been sent as comments from countries to the public comment period. Not sure if these are concerns from the whole GAC. Should be perhaps -- Should we prepare a list of general questions to be shared with the Cross-Community Working Group as concerns from the governments or how we could give a way out to these important concerns that several countries have, but perhaps not all of them? How could we move forward?

Our chair maybe has some ideas.

CHAIR SCHNEIDER:

Thank you, Olga, and thanks, everybody, for this very substantive and very also rational and constructive debate.

Before giving the floor to Peru, I think it may be helpful if we make a step back and see, okay, where are we now with this? What is expected of us from the outside? What is our expectation as GAC internally on what that means?

So that, basically, two things. One is the IANA transition related aspect, again, of this work, we've clearly heard in the first session that we have to give a rather clear answer to the CWG on what the GAC's view on the proposal is, knowing that there are some conditional

elements that bring us back in this discussion. Or forward, maybe, rather, in this discussion.

And from this discussion, we have to make that link to the CWG as well. This is one thing. And then the other elements, where we are maybe a little less on time pressure, that we can express -- give an orientation, maybe, to the CCWG actually on both, on the IANA related part but also on the other ones. We do not have to give a black-and-white message to the co-chairs of the CCWG, so we can ideally find a way in formulating the elements that are consensual from the GAC that we've heard in this discussion and that will continue in a way that we are able, as GAC, to have an impact on the future discussion in the CCWG. And I guess that's also where Mark from the U.K. was aiming at.

This process is not over. We've had a first draft. Now we are in the middle of developing a second one, which is a little bit of a challenge because we -- it relativizes our discussion on the previous draft, but we are not there yet with discussing something that is only existing as a rough idea. So that brings us to the question to how do we organize ourselves between now and Buenos Aires -- Dublin, sorry. Not Durban but Dublin. That's another issue.

We need to be very, very clear in what we want, and then be very clear in how we can actually get there in terms of organizing our work.

Until Wednesday, again, we will need at some point in time, ideally now, to start to draft something but it is probably less clear yet in what direction, what the content of this text that we will deliver, also the

form, because we are not asked yet to adopt or not adopt or support or not support the proposal. So this is the difference between this process and the other process where it's quite clear what the expectation is.

I would rather say, at least from what I hear and what I understand, we are expected to give a response that will help the CCWG move forward, that they know what is -- how the governments see a possible success of this, in the sense of starting from France and Brazil and many others, we have some substantive elements that have been put forward that we would need to see how can we, to the extent that they are shared, communicate these elements that are fundamental conditions in the end, at least for some governments to sign up to this. How can we communicate this part to the CCWG as a reflection from the discussion as it stands now? I think this is what we should do. And of course we can comment on the process and recognize the number of efforts, but I think this is not a big issue. But we should give some kind of guidance what governments expect from the CCWG to deliver in workstream one, definitely. To what extent we express ourselves in workstream two is something else. And feed this back in. And I can only recall, this is one thing. And the other thing is we need to be prepared to actually participate in a discussion, as Kavouss from Iran has said. There will be a decisive moment probably in July, because the idea of this empowered SO/AC model sounds promising. I think we have some agreement. This is also something that we may formulate in one way. But it's a very vague idea association we will have to take our responsibility in shaping the model in a way that the

GAC thinks it works for governments. So I hope that is helpful as trying to make it a little bit more clear.

We have -- After the break, we have a meeting with the SSAC first, where -- which is maybe interesting, also, for us because that's an A.C. that decided they will not become part of a membership structure. They will remain outside in an advisory role. They are not one-to-one comparable to us because they have a different role and they have a different function and different working methods, but their reflections may also help us to know more clear what our role and the form for us to exercise our role may be.

Then we have another half an hour to continue this discussion on the CWG and/or the CCWG after that. And then again, as has been announced earlier, we have a one-hour break to participate in the exchange with the board, which may also help us clarifying things. But we need to get to some way of expressing a direction, as I would like to call it. Maybe we find a better word. Some orientation to the CCWG by Wednesday.

I have Peru and Iran, and maybe more.

Thank you.

Peru, please, go ahead.

PERU: I will speak in Spanish.

Peru speaking. I would simply like to share a brief thought. I have been closely following the debate this morning, and all views are really valuable. But in particular, I have closely followed the views of Brazil and France. France also provided its opinion in writing. And so did Brazil.

In Peru we also considered the opinion of the Sidley firm. Now I'm asking for the floor in order to place emphasis on the fact that throughout this discussion there is an issue that cuts across all the other issues that we are addressing at GAC. And that is the ultimate application and enforcement of international law.

Therefore, I believe it is important to note this now in light of the fact that we are now embarking on a change process in which we need to take into account the international law. There is no other way. There is no other scenario or stage that we can consider as government representatives. It is our duty. This is the role that we need to fulfill. That is the only way we can do it. It is the only way in which we can eventually enforce the differences and changes that we believe that need to be introduced into ICANN. Thank you.

CHAIR SCHNEIDER: Gracias, Peru. Iran.

IRAN: Thank you, Chairman. As a participant of ICG liaison into the CCWG, I am of the opinion that it is very unlikely that we, in these two or three days in GAC, could have a common position on the matter. We could

raise our understanding and reflect that saying that having considered that the concept of the unincorporated association is being dropped, GAC would wish to know how the community empowerment and how the community review mechanism would work within the two possible approaches of designator and membership model. Taking into account that for each of these two, in order to have standing, which in legal terms means to bring suit to the court, we need to create a personhood. In order to create a personhood, we have to designate who would represent each of the SOs and ACs. In particular, in the GAC to have that delegation is something that has legal consequences.

Having said that, we could add during the discussion the following questions were raised. And we just list the questions. And that would help CCWG at the physical meeting here as well as between now and Paris 17 and 18 of July to further reflect on the matter encouraging our colleagues, if possible, to participate in the physical meeting between CCWG these days and raise their concerns once again and any other concerns that would help the CCWG. Because all the other experts are there. And you might have some answer with some of the questions which have not been answered here. So that is it.

But I think it is very unlikely that we have a common position and also taking into account that currently CCWG does not expect a common position of GAC, expect to receive comments either individually, collectively, to help them what are the questions, what are the issues?

I have heard that, instead of unincorporated association, they are thinking of some sort of resolution. I have also approached the CCWG, what is the content of that resolution?

What is the operative part of that resolution that means the important part of that resolution and whether that is within international law or not.

So we could table that but, once again, may not be quite possible to have a common position saying that this is our position. Rather than describing and listing the questions. Thank you.

CHAIR SCHNEIDER: Thank you, Iran. Argentina.

ARGENTINA: Thank you. I think Kavouss raises a very interesting point. Maybe we don't agree during these days on a common position in the GAC. But we may have a list of questions and concerns that, if clarified, whoever the country is doing those questions, could be enlightening for the others. And they may agree or not, but could bring more detail and clarity to all the doubts that we have now. So that could, perhaps, be an exercise that we do. Not having a common ground position for everyone, but having a request of clarification and doubts that, when answered, could help us all. Thank you.

CHAIR SCHNEIDER: Thank you. We actually may have both. We may have some agreement on some elements. I wouldn't exclude that we may agree on some elements or some things to say. But we may also broaden up and say this is what is being discussed. These are the questions being raised in the GAC and so on.

Any further comments before we break for lunch? Food for thought for our lunch? Yes. Thank you, Indonesia.

INDONESIA: Yes, Tom, before lunch. I just wanted to draw the attention again to the -- to the discussion on the working group on Internet governance. Because, basically, they just proposed two possibilities. We can go further into the details, of course. One is the possibility of the Internet to be run under the U.N. organizations, which is unacceptable today, or under IGO, which is also not acceptable today. So, instead of intergovernmental organizations, what we can do is to set up an IMO, international multistakeholder's organizations. But this has to be tied up with the conventions as was proposed in the WCIT. If we have conventions, then all countries will have to be bound by that conventions and also the multistakeholder within that countries.

Now, this will not affect any proposal relating to the empowerment of SOs, ACs, whatever. It's only the decision point, decision making system, and the jurisdictions of those organizations which is affected.

Now, I would like to -- I mention this because the failure to have this all finalized by, say, I don't know, September/October this year, I don't

want to see that the failure to discuss this will follow the failure when we discuss the convention for the GPS that has resulted. As you know, we have navigation system today. We do not want in a few years to come. We follow the similar things when the countries failed to discuss global navigation system. Now we want to have one Internet system, one global Internet system. So we have to make sure that there should be no failure in the next September/October final decision. Thank you.

CHAIR SCHNEIDER: Thank you very much, Indonesia.

Yes, United States.

UNITED STATES: Thank you, Chair.

Not that I wish to keep the room from our lunch break, but I wanted to thank all of the colleagues who have spoken and shared their national perspectives, if you will. Because it's extremely useful. That's the real value of this particular meeting at this time so that we can hear individual concerns and questions.

Obviously, the CCWG work, those of us who were here Friday, we know it's a work in progress. It's very fluid.

A new proposal has just been circulated called "The Empowered SO/AC Model."

It's, obviously, way too early for us to begin have a thought.

But I wanted to throw out a suggestion and maybe see if I could get your views and the community afterwards when we can circle back. I wonder if it might help us, no matter what the actual shape of the final proposal is, if we could also give some thought to what role does the GAC think it should have in terms of the decisions that are being proposed for the empowered community? So, for example, one is to veto or modify a proposed budget. Another relates to strategic plan. Another relates to spilling the Board, spilling individual board members.

So, if we look at ourselves today as we are structured under the bylaws, we are clearly, frankly, from the United States' perspective -- and I think it is shared by others in the community -- I think the GAC is first among equals. We are the only advisory committee whose advice, consensus-based advice requires the Board to duly take it into account. And, if they feel they cannot follow it, there is quite an elaborate consultative process that they must engage in. They don't have that commitment to anyone else, so I think that's important for us to think about.

I'm not sure I heard properly, so apologies if I misheard. But I can't tell if I'm picking up a sense from some countries that their goal is to modify the role of the GAC from what we are today. So, if that could be clarified, I think that would be helpful. But that might guide us as we look at the proposed powers for the empowered community. Are those powers ones that the GAC can exercise?

So just some thoughts to, perhaps, guide us. Because I think you're quite correct. At this moment in time, it is probably -- I think it was Iran who also stressed this -- probably unlikely that we can arrive at a consensus position today or by Wednesday.

Because a lot of this is very fluid.

But I think it would be helpful -- and we certainly were looking forward to this meeting to do that, to help us know what colleagues are thinking. What is it we are seeking. And do we -- how do we see ourselves applying those tools? Thank you.

CHAIR SCHNEIDER:

Thank you. I think there's one important point. There were actually a number of important elements of what you just said. But there's one thing that hasn't come up so clearly.

With regard to these different community powers our colleague from Iran has mentioned, maybe there are some differences in each of them. Maybe there's a difference in particular with regard to the role of GAC and the role of governments on budgetary issues or on policy issues like fundamental bylaws and so on and so forth. So we'd actually probably need to look at each of these powers separately and see on each of these powers what do we think is the appropriate role of governments on each of them. I see that Brazil would like to make a comment. Thank you.

BRAZIL:

Yes, very briefly. And I thank the U.S. for those points. I think those are very important and should reflect on how as a GAC we want to deal with this.

But I'd like, just from the perspective of my government, I think what the U.S. said is correct in regard to the way our advice is dealt with by the board.

However, we can -- should not forget, on the other hand, that government is the stakeholder community or the multistakeholders, the only one that is not represented at the Board itself. So we provide advice, but this advice can be just dropped and as it has been already taken place in, I think, more than once. So it is okay. There is an aspect of the advice and how it would be taken up by the board. But in the end, in the decision making, we are not part of that.

So we are not at this point seeking to change from this. I think our approach is, in this newest structure, that we are advising how can we make sure not to even diminish our possibility to even influence the decisions to be made if the kind of advice we'll provide, how this will be addressed. So I think, though, those are maybe a different way of looking on how as governments we can influence the process. Thank you.

CHAIR SCHNEIDER:

Thank you very much, Brazil. Further comments or -- yes, we have two more. Let's be brief. I have Alice from the African Union and Kavouss. Thank you.

ALICE MUNYUA: Thank you very much. I'd like to thank the U.S. for bringing us back to asking ourselves the very important and fundamental question that I think we asked before. What do we see as the role of the GAC within these proposed new mechanisms? And are we thinking of changing how the GAC provides advice? I think we need to really be clear about that. And we may not be able to have clarity, perhaps, at this meeting. But this is something that we need to continuously ask ourselves and perhaps discuss and be able to contribute back to the CCWG, because I think that is the expectation how the GAC sees itself within these new proposed mechanisms. Especially within the context of how we provide advice to the ICANN board. Thank you.

CHAIR SCHNEIDER: Thank you.

Iran.

IRAN: Thank you, Chairman. One point we should clarify. With respect to the removal of individual board members, usually, it was mentioned several times that those SO and ACs who designate director with the voting power could remove the director, we do not designate director with voting power. Therefore, it is a question to see whether still we are in a position to remove director from the other SO and ACs while we do not have any power to have that directors be designated. There is a question there.

But the issue that which of these powers is required for GAC is something useful to study. Whether we want to have any standing on the budget, whether we have standing on the searching plan, that is good to discuss. But, if we say we don't have any standing on this, then we separate ourselves from the rest of the community. Then we have to see the consequence of that. Thank you.

CHAIR SCHNEIDER:

Thank you very much. I think it is now good moment to give us some -- our brains some air and whatever.

And the rest of the body a few things that we would help us to make the other half of the day. Thank you very much. This was a very, very substantive and constructive debate.

Enjoy lunch. Those who can.

And we meet at 2:00. Yes. Thank you.

Bye-bye.

[Lunch break]