
MARRAKECH – CCWG-Accountability Face-to-Face Meeting – Afternoon Session
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THOMAS RICKERT: Okay, everyone. We would like to start again. And thanks particularly to the remote participants for patiently waiting. Can we get the recording started again?

So just a little housekeeping note before we start. The registration desk is now open, so if you want to register for the ICANN conference, you can do that. Please note that you need a government-issued ID on you in order to complete the registration process. So don't do it now. You might do it during coffee or afterwards, but registration is possible as of now.

So we would like to continue our discussion on how to best possibly structure our work for Work Stream 1 by -- 2, I apologize, and I would like to invite Grace to shed a little bit of light how drafting -- design teams have been worked in the CWG and we should look whether we can cherry pick some of those ideas so we get closer to getting sort of a straw man project management approach for the various work items to be dealt with in Work Stream 2. And without further adieu, I would like to hand over to Grace, please.

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GRACE ABUHAMAD: Thank you, Thomas. So as we prepare to structure the work for Work Stream 2, the chairs had asked me to go a quick introduction on how we got through our toughest part of the CWG stewardship. The way we did that -- and there are some differences so I'll explain the CWG process and then, of course, the CCWG may discuss adapting that a little bit differently. We picked up -- following the ICANN meeting in Singapore last year, we decided to change our work methods, and we started -- we adopted a method that we borrowed from the IETF using what we call design teams. They were small groups of -- of volunteers with specific expertise on certain -- on specific subjects. So these groups were under ten people and they worked on different time frames and with -- they had different lengths in their life cycle.

So the way we started this out was after the Singapore meeting the chairs put together a proposal, or a sort of a template, and asked different members of the CWG to proposal design teams based on different topics that they wanted to work on. And as part of the proposal they had to put together a list of -- actually, you know, Brenda, if you can scroll down to the template, I can go through that quickly.

So we put together a version for the CCWG. It may not be how we want to work with it, but I base it off of how the CWG template was designed. So they put together a little background, they put together some information. So in the CWG's case there was information that we pulled from the IANA contract which doesn't apply here. So I modified that for this group and suggested something maybe called, you know, existing work areas documentation. This could also be the issue report or the pre-work that Alan mentioned earlier today. And then the -- the third part of this template would be some kind of a work plan, a time frame, you know, request for resources that may be different for each group or each topic. And then the last part would be some sort of a composition or expertise needed notice.

So in the CWG's case there were certain -- certain groups that required certain types of expertise, some that were more security-focused or budget-focused, et cetera. So either the individual proposing the design team already had a few people in mind or that person would put in the request for certain expertise in their proposal and then we would turn that proposal out to the CWG for them to volunteer, if they had that expertise.

So what we did is we had a proposal period for a few weeks. There were about 15 design teams proposed by the different members of the CWG, and the chairs then took -- we made sure

the templates were filled out, had as much information as needed, and then the chairs went through those templates and proposed a sort of prioritization or what we -- sequencezation of work, if that's a word. Sequencing. There's a sequence to the work that was established based on the 15 design teams. So not all 15 design teams ran at the same time. We started with a few that we thought would run longer than others. There were a few that closed sooner than others. And we structured the work that way.

All the work from the design teams was fed back into the plenary group. The plenary group made decisions about whether that work was acceptable or not, whether they had questions or not, whether the drafting met their requirements or not. And then all of those many design teams then fed into the larger report.

So that's how we structured the work with the CWG. Brenda, if you could scroll down a little bit more, I put together -- this template is just the information. But if you scroll down, I did a quick example of what that template could look like. Of course, there's not enough information probably in there based on the conversation we had today. If you maybe -- if you can zoom out and then can show the template. I'll circulate this to the list as well. But I did this example for the SO/AC accountability topic. The background I pulled from the report, Work Stream 1 annex 12, and then put some questions and some potential, you know,

expertise needed, things like that. So this template may be adjusted. It may be different for the CCWG. Our process around the work may be different as well. But it's just an example of how we proceeded with the CWG.

THOMAS RICKERT: Thanks very much, Grace. Does anyone have a question for Grace? Steve, please.

STEVE DelBIANCO: Thanks. Steve DelBianco. Grace the design of the design team said no more than three at the same time, and I think so that was based on staff limit or was it participants? And then in fact, did you have more than three running at the same time at any point?

GRACE ABUHAMAD: Yes, so I think -- I pulled these guidelines from what the CWG originally proposed. We did have more than three running at different times. I'm not sure how many were running with our maximum. I think at one point we may have had five or six running. But the frequency was different. Some of them had meetings twice a week. Some had meetings once every month. So there's -- it depended on the work methods of the group. We encouraged the groups to work on their mailing list. We had set

up mailing lists for each group and we encouraged them to work on their mailing list, but some worked better on the phone and using Adobe Connect.

STEVE DelBIANCO: And to clarify, if staff becomes the scare resource as opposed to volunteers, if the working method is email staff isn't involved unless they're getting questions. Staff gets involved though if scheduling and staffing are called, right?

GRACE ABUHAMAD: That's correct.

THOMAS RICKERT: Thanks very much. Kavouss.

KAVOUSS ARASTEH: Yes, I have no difficulty with the concept, but perhaps we should look whether we need to say design because they don't design anything. They're just doing working some process perhaps. That is not issue. The issue I want to raise, I hope that this design team or whatever you call them would not compromise the openness and inclusiveness of the activities in the ICANN. Should not prevent anybody because, first of all, it's difficult to somebody say that you are not expert because the first one who

say you are not expert, he should be expert. So I don't know who is going to make that decision, that you are or are not expert. If it remains open and inclusive, I have no problem. Thank you.

THOMAS RICKERT: Thanks, Kavouss. Paul.

PAUL TWOMEY: Yes. I just want to ask a similar question to Kavouss. Why was this number -- magic number ten devised?

GRACE ABUHAMAD: Yes, these were just -- they were suggestions. The CWG came up -- we wanted a small manageable group. We thought 7 to 10 was manageable for a small group, and I think that was the idea behind ten. So it doesn't have to be ten, and there doesn't -- you know, we don't have to have just three running. These were numbers that were developed in the process.

I wanted to quickly touch on one point. I forgot to mention that in some cases we did have where there were -- there was expertise needed that extended beyond what we had available in the volunteer group. We did reach out to experts on staff and experts that were outside of the working group in some cases,

and in particular for the budget group, Xavier, who's in the back of the room, helped a lot with framing the questions and providing information. And for the -- what we call now the RSERC, we had David Conrad come in with some expertise in the root zone system. So there we go.

THOMAS RICKERT: Andrew and then Alan.

ANDREW SULLIVAN: Thank you. It's Andrew Sullivan. So I just want to pick up on something that Grace said because I think part of the reason that this got suggested, there's some questions that people have been asking. And Grace mentioned that I think this got started because I believe it was Avri who suggested that the CWG could adopt this and it's a thing that worked from somewhere else.

So in the IETF we use design teams when we have got contentious stuff and we need to get a very small number of people to just come up with some proposal. And the whole point is to get a very small number of people to come up with some concrete proposal so you have one thing to work from. And that's the reason for the small number of people. I think -- I think maybe we can all concede that this group has demonstrated that drafting with 130 of your closest friends is

not the most efficient way to produce a proposal, you know, for the first pass. So the idea of the design team is that they come up with a concrete thing and then you can start hammering on that text. And that's a really helpful -- I thought that worked really well in the CWG, from what I saw. So I like this idea. If people want to make progress on the Work Stream 2 stuff it seems it might be helpful.

GRACE ABUHAMAD:

And Allen, just to -- I mean Andrew, just to piggyback on that, I think the other thing that worked really well for the CWG that may not apply or may be different for the CCWG was that the topics the CCWG was working on -- or were working on were very specific. And they were couched in, at least for the most part, clauses in the IANA contract. So we were trying -- the work was very specific. If you look at the list of topics we have for Work Stream 2, that work is much more broad. So there may be a question there as to how you frame the questions and whether you need multiple design teams for different -- within different topics.

THOMAS RICKERT:

Alan.

ALAN GREENBERG:

Thank you. A couple of things I guess I have to say. The -- what Grace described was the theory. And in practice the concept of experts did not always apply and it morphed into those with interest. So I think it's -- it's really important not to focus on the experts. It didn't quite apply there and it probably will apply less here. We may not be all experts on some of the issues in Work Stream 2 but some of us have some strong interests. So that's number one.

Number two, as Grace said, they were designed to do a bit of work and then disappear. One of them is still actively working. So it didn't quite all work that way. So let's be flexible if we use something that, you know, this is not a formula that has proven itself perfectly and has to be replicated exactly.

With regard to Andrew's comment that in the IETF it's used as a small group of people to formulate something which then the larger group tears apart, in general in the CWG the group did a good enough job that there was little tearing apart. There was discussion. There were changes because of it. Here we're perhaps more likely to find, because of the breadth of the issue, that that's less likely to happen. But again, just keep in mind, if we're going to try a methodology, it's not -- it's not -- I don't know if it's not rocket science or it is rocket science. It's -- we're going to try something and hope it works, and we may have to modify it as we go along. Let's just keep flexible. Thank you.

THOMAS RICKERT: Thanks very much.

KAVOUSSARASTEH: Could we have a combination of both, either expert or interested. Thank you.

THOMAS RICKERT: Thanks, Kavouss.

Let me just check if there are any further wishes to speak from those that are in the Adobe. That does not seem to be the case.

I guess we should understand this exercise presented by Grace as inspiration for what we could use. It's not -- we don't have to use this on a verbatim basis.

So what I understand is we should not -- it looks like everyone likes the concept; right? So I haven't heard any -- any disagreement on that -- on using this approach, but we need to specify whether we need experts or not, depending on the subject matter. I guess that's up for the subteams to define, or for our group to define. We don't have to insist on making those groups work for a short period of time but they can work for a longer period of time. We might have multiple of those design teams inside some of these Work Stream 2 items, so it may well

be that, let's say, the jurisdiction group sets up design teams to work on different aspects of jurisdiction, where different skill sets are required.

So we're not proscriptive on that, but you will remember that we didn't set the expectation for this week to come up with solutions for everything that needs to be done in Work Stream 2 but to agree on working methods and approaches.

So I think this feedback is welcome.

Grace, thanks again for this presentation. That's very valuable.

So let's put that into our box of tools that we have.

We actually have another document, which is hopefully available to be displayed in the AC room, and that's a little bullet point list or things that we might go through for each of the Work Stream 2 items. So let me pause for a second.

More hands raised.

Steve.

STEVE DELBIANCO:

Thank you. I wanted to make an observation, is that the design team approach that was described, had we known about it 14 months ago, we would have said that's what we did. We didn't have a name for it. But work team 1 and work area 1, work area

2. Jordan, remember this when we first met in Singapore? We did exactly that. We did a mailing list based document prep and discussion.

But I want to add what focused us on the deliverable was the co-chairs saying to the rapporteurs, "A week from Tuesday, we need you guys to be able to present. You're second on the agenda. We need you to present your inventory of accountability." Or "Jordan, we need you to be able to present the escalation process."

And those opportunities of presenting to the full CCWG, not as something that's final but even a work in process, they ended up focusing the efforts towards a draft we could all say we're ready to present.

But it's very familiar what you've described, and it was mailing list driven with occasional calls, plus the -- I guess the closure and urgency of having to make a deadline for a presentation.

THOMAS RICKERT:

Thanks, Steve.

Kavouss, I guess that was an old hand; right? New hand?

KAVOUSS ARASTEH: Yes. I think perhaps we should not go into too much detail of how these different working group manage their work, whether they should have design or not design, one or two. Leave it to them, according the circumstance, needs, they establish one, two, three. So we just go to the highest level and then the remaining will be left to them to decide.

THOMAS RICKERT: Correct. As I said, we don't want to be proscriptive, but we just want to agree on acceptable working approaches, working methods with this group.

So can we maybe have this small bullet point list up in the Adobe? That would be great.

GRACE ABUHAMAD: And the bullet point list would be in some ways a different way to phrase -- to work on a work plan or a template. So we may not need the template as proposed there or we may adjust the template based on the that list; right?

THOMAS RICKERT: Correct, correct.

Yeah, I can hardly recognize what's on the screen there because it was just a very ugly list of bullet points, and our excellent staff

has magically transformed this into something beautiful in a matter of an hour or so.

So basically what we would suggest doing for all the Work Stream 2 items, if you agree, is follow this five-step approach that follows the themes that we heard earlier in these discussions.

So basically, we would establish a subteam or a working group first. That's a first step, that we set up a group to deal with Work Stream 2 item. Then this group itself would select a coordinator. So we need someone who is -- or multiple individuals that take responsibilities -- takes responsibility for work products being produced and delivered, and for them to be produced on time.

We would ask them to establish an inventory of material available on the topic inside the CCWG. We would ask them to check work under way, previously conducted outside the CCWG. That would, for example, cover other initiatives working on human rights or other initiatives working on the ombudsman, and so on and so forth, in order to ensure that there is no duplication of efforts and no -- no -- yeah, no spending of funds unnecessarily.

They would then propose the scope of work to the CCWG and establish a list of requirements. This is pretty much what we have done when we started the CCWG work. We did the

inventory, and we established requirements. And there will surely be requirements for transparency. Robin has mentioned some areas of concern for transparency earlier this morning. But, you know, that would be the -- the second step.

Then the CCWG would review and adopt the scope and requirements. And this is to ensure that basically the groundwork is done in the subteams or in the drafting teams, or whatever name we might give them, but full control over where this is going is maintained in the CCWG; i.e., the plenary CCWG.

And after that, they're going to prepare a draft report for the CCWG, and if the CCWG is okay with the report, then it's going to be put out for public comment.

And after the public comment period is conducted, there would be a review, and the adoption of a draft. We would then put out the final report for public comment, if necessary; analyze and consider the results of the public comment period; and define next steps for the working group, and that pretty much depends on the work in question.

So that's basically a straw man project plan that we could apply for all the work areas. And would I like to open it up for questions or comments from your side.

So basically the idea is irrespectively of when the different topics are started, they would all go through these stages so that we have a unique or a standard working approach for all the subteams. And that helps us if we allocate time to that, let's say T-0 is the starting point for the working group, we would allocate time slots; right? You have three -- let's say one month for phase one and then we would give time for the other phases. And if we do that for all the exercises, that helps us balance the workload, that helps us synchronize the work with ICANN's meeting schedule so that people can make best use of face-to-face time, and so on and so forth.

There are hands raised. Steve and then Kavouss.

STEVE DELBIANCO:

Thanks, Thomas. Steve DelBianco.

Earlier we discussed how staff would contribute to the scheduling of calls, but I'm looking at step two there and wondering if there are other ways ICANN staff can be of assistance.

If, for instance, we were looking at the jurisdictional Work Stream 2 thread, is there anything staff can do in terms of research and problem definition during step two?

THOMAS RICKERT:

I think that's an excellent point.

The idea of the -- of this phase two is -- or step two is actually to collect all the information that is required in order to do a drafting exercise, so we can easily add -- and I suggest that we do so -- the idea that was brought up by Alan to have a desk research, sort of what the folks familiar with GNSO policy-making call the issue report. That is a report, research that is conducted by ICANN staff before, in the case of the GNSO, the GNSO Council takes a decision on whether or not a PDP should be initiated in order to inform that very decision.

Steve, you have a follow up?

STEVE DELBIANCO:

Yes. I'm familiar with how we've done it in GNSO, and you're right, issues report would fit nicely in 2.

So let me ask about timing and staff availability. If, for instance, we did jurisdiction, legal jurisdiction, how long would it take for staff to prepare an issues report? And sometimes that's a function of how much detail is in it; right? Because sometimes issue reports in GNSO can be two months in the making. So we can potentially time box to say, "Staff, give us the best issues report you can within six weeks. Give us the best issues report

you can within three weeks." And that would at least give a head start to the process.

But we could adjust that depending on the expectation of timing.

THOMAS RICKERT: Thanks, Steve. And maybe we should mark as an action for staff to give us an indication of how much time they would need for issues reports on the subject areas for Work Stream 2.

I see Sam's hand is up, but before we move to Sam, let's hear Kavouss, Grace, and then Sam.

KAVOUSS ARASTEH: Yes, I think it sounds good. It may change from topic to topic, but we leave it as it is. We don't change it.

My question is about 5.4. Why in 5.4 we say "define next step of working group." Do we open a Pandora box going back again to working group? So could you clarify step 5.4, please.

THOMAS RICKERT: Sure. You're entirely correct that 5.4 is a little bit loose, but the reason for that is that what's going to happen in 5.4 depends on the feedback from the public comments.

So it may well be that the CCWG finds out that we have forgotten about an important aspect, and then maybe the CCWG hands back the report to the working group to further refine it, or the work product is great, it's going to be finalized, and the group is just wound down. So that's possible.

It may also be that this is, you know, being handed over to follow-up work. We said some work is building on other work. So we want to maintain the flexibility intentionally on that point.

You have a follow-up question, Kavouss?

KAVOUSS ARASTEH: Follow-up question. Perhaps in 5.4 we can say "taking required action as appropriate."

Thank you.

THOMAS RICKERT: I'm perfectly fine with adding that.

Grace.

GRACE ABUHAMAD: I'll lower my hand. I'll defer to Sam as the staff liaison.

THOMAS RICKERT: Staff -- Sam, please.

SAMANTHA EISNER: Sure, thank you. So this is partially in response to the question Steve raised in terms of timing, and then you followed up on for staff to develop these types of issue reports or prework.

I think -- and some of it depends on the sequencing of when you'd need it. We'd also need to understand the full scope of the issues that would be expected to be within the issues report. So if those were the items -- So it would be one thing if we could rely on what was in the Work Stream 2 portion or if there were additional questions that are related to the topic that -- that would need to be answered, those all impact the scope of potential research that we might need to do that would go into a timing estimate.

And so if it's a take-away for staff to come back with different time frames that it would need for producing the issue reports on the different topics that are identified for Work Stream 2, it would be helpful if we had a confirmation at this point we should go by the parameters that are currently within the Work Stream 2 appendix of the report.

THOMAS RICKERT: That's a great point, Sam. I think we might face a little bit of chicken and egg here, because usually, as you rightfully pointed out, the scoping should take place first so that those researching know what to research on. At the same time, the scope of the report might depend on the findings of the research. So maybe we should have two phases of scoping, one initial scoping to inform the scope of the issues report or the desk research that you are conducting and then the group would do a second phase of scoping in order to inform its own work.

Jordan.

JORDAN CARTER: Thanks, Thomas. Just to add another dimension to this which I think is a workable way of doing things, we could add in our planning and understanding of what we want to discuss at which ICANN meeting. So I think we should use the face-to-face ICANN meetings as a chance to get community input and thought in response to stuff we do.

So we've got a meeting in June somewhere, probably in June, and we've got a meeting in October, and then next March. So there are three sort of within the next year, there are three opportunities to get the ICANN community to consider these issues face to face, and I think we just have to put that in the mix.

We shouldn't organize our work in a way that accidentally misses the opportunity of when everyone is together offering input and being able to understand where our thinking is at.

THOMAS RICKERT:

Good point, Jordan.

I guess that we will need some brains to work on the initial scoping. Part of that can be drawn from the archives of our working group, because we've been discussing these things preliminarily earlier. But what I think we need to do now, and that's sort of the take-away from this session, first of all is let's try to take stock that this is a working approach that we like, and I haven't seen any objection, so if you think that this five-step approach that we're suggesting combined with the design team approach is not something that it we should take as our repertoire of tools to deploy while we're working, then please do speak up now.

Yes, and there's a hand raised. Sebastien.

SEBASTIEN BACHOLLET:

Yeah, I see some discussion on the chat. There is already, I guess, one page or two page on each topic because the work under the leadership of Leon about the Work Stream 2, we write a page or two on each topic. It's why it's wound up to be topic

for Work Stream 2. I remember that we spend some time on discussion about diversity, about accountability, and so on and so forth. And we have already some document we share within this working group, and it could be a good start for each of them.

Thank you.

THOMAS RICKERT:

Good point. Let's add that.

So there doesn't seem to be any objection, so let's conclude that.

Also we will, as the leadership team, try to come up with a sketch of how things could be planned for, let's say, the next 12, 15 months so we come up with a rough idea of a project plan.

We need some people to work on these things, so we need to launch a call for volunteers. And I think that our prioritization will depend on whether we find sufficient volunteers for all of these exercise.

And I think that the group will also guide us with the level of response to the different topics as to what they think needs to be worked on first and what can be worked on later.

So we suggest that we launch is call for volunteers soon. We will prepare an invitation in writing that will be spread to the community through the chartering organizations, but also there should be a public announcement so that we can get interested people lined up.

Eberhard, your hand is raised?

EBERHARD LISSE: Yes. Eberhard Lisse, .NA.

Can I suggest that we set a limit for working groups a volunteer can participate in so not the same people sit on every group?

THOMAS RICKERT: I think that's an excellent suggestion. And actually, it's a point that we've discussed during our preparations for this meeting. And now that you mention it, we can disclose that, for example, we would not want an individual to chair or to be the coordinator for more than one group; right? Also, we want to have different people with different expectations, with different backgrounds working on the groups.

I think we can't prescribe too much at this stage, so let's try to get people's interest first, and if we see that the balance is just entirely inappropriate, then we might need to step in.

There's another hand raised by Jan and then Grace.

JAN SCHOLTE:

Yeah. Jan Scholte. It was just asked what sort of specific measures you were thinking about in terms of the outreach to make sure that new blood and fresh faces and new ideas and beyond CCWG get involved in these Work Stream 2 debates.

THOMAS RICKERT:

Well, certainly that's not only for me to decide, but I would assume that we communicate to the chartering organizations, to the ICANN constituent groups, if you wish. We should have an announcement on ICANN's Web site. And I would hope that ICANN will use its social media channels also to solicit volunteers for this exercise.

And any ideas you might have are more than welcome. Grace.

GRACE ABUHAMAD:

Yeah. To Eberhard's point and to Steve's point earlier, one of the reasons why on the CCWG side there were a limit to the amount of DTs that were active was because there were a few people, or more than a few, who wanted to participate in multiple design teams. And so the idea was to manage the volunteer workload by structuring and sequencing the design

team so that every volunteer had the opportunity to participate but not necessarily in all of them at the same time.

THOMAS RICKERT: Thanks, Grace. Oh, there's a queue forming. That's interesting. Malcolm.

MALCOLM HUTTY: Thank you. I agree with Eberhard's point insofar as you responded to it. Namely, that the -- it would be best to avoid having the same people -- sorry. I beg pardon.

I agree with Eberhard's point, as far as you responded to it. Namely, that it's best to avoid having the same people chairing or having leadership roles in multiple working groups, to the extent possible.

However, I would take a principled objection to going further in the way that I thought Eberhard might have been suggesting; namely, that we should not prevent anyone who wishes to take part in these groups from taking part.

THOMAS RICKERT: Understood. Thanks, Malcolm. Bruce?

BRUCE TONKIN:

Thanks, Thomas. Just an observation, I guess. The Board has had a similar challenge each year when we look at board committees. We have quite a few committees. We have some committees that everyone wants to be on, some committees that nobody wants to be on. So we try to balance that.

So our general sort of rule of thumb that, as a member -- and we also distinguish members from, let's say, observers or participants. But we set the membership of committees so that you're not a member of more than two committees and you're, essentially, a chair of only one committee, for example.

But the other thing that we look at when we form those committees is balance. You want to make sure you have a balance of views and perspectives on each of these working groups. So, if you have a working group that's looking at, say, transparency and it's all the people from the sort of non-commercial side that have expertise in that area but you don't have any business people on there, I don't think you have balance. I think you want to make sure that you've got some balance in your selection.

So my recommendation is that you might want to -- ah, and the third comment: The other problem we've had at the Board level when we set up committee structures is then trying to schedule a meeting. So at one stage several years ago we had half the

Board that were pretty much members of everything, which meant you had to have three days of meetings because it was impossible to schedule anything in parallel. And likewise the teleconferences. There were only certain slots at sort of optimal times of the day or night when you've got to get the maximum participation. And, if you've got every group trying to use the same slot, you're not productive. So try to make sure that you have the actual members that are spread across and you're not members of more than two.

And then, as Malcolm points out, just as we have on the Board, anyone can turn up and participate in a meeting and listen. But, in terms of the actual members, when you're trying to schedule a call, it's helpful if you're not members of more than two things at once where you absolutely must be able to attend the meeting.

THOMAS RICKERT: Thanks very much, Bruce. Jorge.

JORGE CANCIO: Hello. Jorge Cancio, for the record.

I was just wondering -- and perhaps it's more a comment or a question -- whether we -- there is any provision for structured involvement of the CCWG advisors into this work. Because,

probably in the framing of the issues, they could not only provide us with their expertise, which is important, but also with a fresh view sometimes. So I was wondering whether there could be a way to structure this involvement a bit more than in Work Stream 1. Thank you.

THOMAS RICKERT:

Thanks, Jorge. I think that's an excellent point. I'm seeking eye contact to two of the advisors that we have in the room. I see nodding from Jan. Jan is a little bit shy, but he's also nodding.

I suggest that we take note of the suggestion. Nonetheless, I think it would be good for the subteams to then agree on a method of interaction with the advisors. But I think it's excellent to tap on their expertise in this phase as well.

Next in line is Siva.

SIVASUBRAMANIAN MUTHUSAMY: My suggestion is to pay attention both to the continuity aspects of those involved in Work Stream 2 in the work of Work Stream 1 and the work of stream 2. And, at the same time, pay attention to our significant diversity, new blood.

When new board members are seated, there is a ceremonial process of dissolving the previous board and recreating a new

board. Is there such a process? And, if there is such a process, if there is such a ceremony in transition of work from stream 1 to stream 2, then I think both the continuity of those involved can be ensured as also some fresh thinking and external advice can be brought. Thank you.

THOMAS RICKERT: Thanks, Siva. Kavouss and then Jan.

KAVOUSS ARASTEH: Yes. On the participation of advisor, if it is made -- I think it is legal advisor -- it should be some sort of provision that participation of advisor are welcome. But it's costly. Takes time. Money. So should be some approval of that to either by the chair of the group. I don't know what -- what does it mean in respect of the costs? Thank you.

THOMAS RICKERT: Kavouss, we're not talking about the legal advisors, but about the advisors picked by the public expert group. And, if they get money, at least it hasn't been brought to our attention yet. Jan.

JAN SCHOLTE: I can absolutely guarantee you I have not become a penny richer out of this. Just on the advisors, not only think about the

advisors you've got at the moment. There are issues like the human rights where I think outside the current group of advisors, you could get better advice.

THOMAS RICKERT: That's a good point. And just Alan reminds me that I should clarify that the travel and accommodation has been picked up for the public expert advisors, but they're not being paid for their consultancy.

JAN SCHOLTE: Some of us are covering that as well.

THOMAS RICKERT: Okay. Some of them are even covering that as well. Yeah, I do know. So it looks like Sebastien wants to speak.

SEBASTIEN BACHOLLET: Just to tell you -- it's Sebastien Bachollet speaking. Thomas, you need to say each time you talk that you are Thomas. Because in the report it's always Leon, Leon, Leon and sometimes Thomas. But, when you are speaking, if you do not say Thomas, you will not be recognized. And that's not a pity.

THOMAS RICKERT: I've asked the scribes to attribute all the bad sentences to Leon. That's why.

UNKNOWN SPEAKER: But you are saying a lot of bad sentence since the beginning of the meeting, Thomas.

THOMAS RICKERT: This is Thomas Rickert, for the record. And I think this has been a good conversation about how we can structure the work in order -- in terms of project management for those areas that need legal advice. We will in our preliminary proposal for project management for all these, include feedback loops with the lawyers. That will also enable us to do cost control, so there won't be infinite possibilities to interact with the lawyers. But we need to structure that in a way that they are being presented with specific questions. And then there's one or two feedback loops with the lawyers, and that is it. So we can predict what the costs will be. We will ask them for quotes more than we did during this initial phase. You will see all that. We will come back to the group with a proposal.

But now we would like to use the time that we have together on exchanging on what the substance of the Work Stream 2

discussions should be. And, in order to do that, I would like to hand over to Leon.

LEON SANCHEZ: Thank you very much, Thomas. This is Leon Sanchez. And I won't say bad sentences. And, if I do, please attribute them to Thomas.

So we're trying to carry out an exercise here about scoping of the different issues that we'll be covering on Work Stream 2.

So what we would like to hear is from all of you the different ideas that you have about which topics or how to further develop and flesh out the different topics that we have for Work Stream 2. We have heard, for example, from Steve that maybe the last four issues could be encompassed in other efforts that are being undertaken throughout the ICANN structure. So that's helpful.

And I think we could elaborate on this in this group. And we could share our thoughts as to which way we should be directing our work.

So, at this point, I would like to open the floor for all of those who have ideas or comments about the topic of diversity. And, of course, we would welcome any suggestions as to how to better drive the scope of this working group in diversity.

So I see that there are two hands already on. I see Bruce and Jorge. But I'm not sure if those are old hands. Okay. So Eberhard would be the first one. Eberhard.

EBERHARD LISSE: Eberhard Lisse, for the record. You mentioned you're starting with diversity. Should we not discuss in what order we should proceed first? I'm not sure -- I have no position on this -- whether diversity is the one to start with. But there have been concerns. Perhaps we'd like to start with human rights framework or something. Maybe we should discuss in what order -- I think we should do the ombudsman last. Maybe we should actually first, before we discuss individual things, to decide what order we're going to go.

LEON SANCHEZ: Thank you very much, Eberhard. These are, of course, not meant to be in any priority at this point. So that's why we just put them into the slide without prioritizing. And I understand that some people might want to prioritize at this point. But I suggest that if we -- our vision is that, if we begin prioritizing at this stage, we might get lost into that discussion. And it wouldn't really take us to having a fruitful outcome at this point. So, I mean, if anyone is against just going on the suggested -- or the random order that we have on the slide, or if there is any

opposition to that -- is there any opposition to going in the order that is in the slide on these topics? Kavouss.

KAVOUSS ARASTEH: Yes, Leon. I never oppose to the chair, but I think most important item is human rights. After that, jurisdiction and then ombudsman and then list the others. Human rights was the first. And then after that jurisdiction and then put ombudsman and then remaining on the list depending on the situation. Not opposing to you, but just suggesting another order of priority. Thank you.

LEON SANCHEZ: Thank you. Thank you very much. Okay. So we're going to discuss all of them, in fact. So why don't we begin with something easy, human rights? Okay. So, joking aside, could we have some input on human rights? Let's begin with human rights. Could we have some input from you on human rights as to which way we should be scoping or which would be the scope for this subgroup on human rights? And now the floor is open. And I see Jorge is that an old hand? Jorge Cancio. I don't know if -- I don't see him, so I think it's an old hand. So the first hand is Paul Twomey. Paul.

PAUL TWOMEY: Thanks, Leon. There's been quite a discussion about human rights on the CCWG list for the last months. I think simply a search to that will give you some of the criteria. I think there's a general perspective that human rights are a good thing. But the difficulty has been around several ones.

First of all, to which functions of ICANN's operations and policy making do we wish this to apply? That's one of the key issues.

Second question has been: What set of rights?

And the third one has been are there models for implementation? And there's been a lot of discussion on the pros and cons of the Ruggie at the U.N. level. And there may well be -- if I'm to understand the suggestion about their experts being available, there might be other models that are out there in international organizations to look to. So that's my understanding of the scoping of the working group.

LEON SANCHEZ: Thank you very much, Paul. Next in the queue I have Niels ten Oever. Niels.

NIELS TEN OEVER: Thank you very much. This is Niels ten Oever, for the record. Also the chair of the cross-community working party 4. It is

ICANN's corporate and social responsibility to respect human rights and participants in working party 4.

And I think that we actually have a pretty clear way forward. And I'd like to build on what Paul said before is that we have a very clear set of things that we need to work on in annex 12 with a clear set of questions.

And I again agree with Paul that it's first very important to understand what exactly we're talking about. Luckily, in the cross-community working party we've been also trying to deal with this question. And, luckily, there's also a standard for that. And that's called a human rights impact assessment.

And we'll present during our session on Monday a potential model in which we could go forward with that. And I think that would be a constructive way forward to understand where ICANN impacts human rights positively or adversely. And then we understand the playing field much better. And then, subsequently -- that's further down the road -- then we could see what different kinds of models would fit to that. Whether that would be Ruggie, the U.N. Guiding Principles on Business and Human Rights, which are often also referred to as the Ruggie Principles after the leader of the working group, John Ruggie, or the U.N. global impact or many other standards out there in the industry.

So I would not go ahead to the discussion of how but first try to properly map what and agree on a method for that. And I think a human rights impact assessment could be one of that. And I am very eager and willing to contribute to that process.

LEON SANCHEZ: Thank you very much for that, Niels. Next on the queue I have Alan Greenberg.

ALAN GREENBERG: Thank you. Much of what I was going to say has already been references, so I have got to rescript myself on the fly. I'm not an expert on human rights, and I'm first to admit that.

It's really important that whatever we end up doing gets wide buy-in, including from those who are not experts on human rights. And the kind of scoping we just heard about of just what does human rights mean within ICANN's limited scope is a really important issue. And it's got to be put in words that those of us who are not experts understand. And I think it's -- that reiterates my earlier comments saying we need the prep work ahead of time. And maybe the CCWG that Niels referenced is doing some of that.

Even if whatever statements are made are going to be controversial -- and I suspect some of them will be -- it's really

important to get things down so that we can all, you know, critique it and work from there.

It's an area which is clearly important in the real world and clearly not well understood within ICANN just what it means from our perspective.

You know, where are the areas that not having such a statement in place means we have violated human rights? Are there such areas? How do we go about rectifying them, and what is the impact of those? I think it's got to be understood widely, not just by the experts. Thank you.

LEON SANCHEZ:

Thank you very much, Alan. This is absolutely useful because sometimes, when speaking about rights, we tend to use big words that not many people actually understand. So it's very important that we -- whatever the outcome we get from this group is producing a language and common language that people without great knowledge in human rights may be able to understand.

So next in the queue I have Avri Doria. Avri.

AVRI DORIA:

Thanks. Avri speaking. I'm not going to repeat. I think the things that were said about what that group should be working on were good.

One of the things that I did want to address was the conversation that has gone on in the chat about, well, there are other groups working on human rights within ICANN. Maybe we shouldn't reinvent wheels. We should just let them do it.

First of all, I've never been against reinventing wheels. That's how we get better ones. But they have broader scope in some sense than I think the specifically scoped as was written in the report WS2 questions.

And so -- and also there's a group in the GAC and there's the human rights working party that has some of the SO/AC in it, but by no means all.

And I think for the Work Stream 2 effort, it's really important that those groups continue to contribute, continue to feed information, arguments, what have you, into the Work Stream 2 effort. But I really do believe that we need to have an effort that specifically targets the questions and issues of that framework that was requested in -- you know, that got in during Work Stream 1. So I just wanted to speak to that particular issue.

LEON SANCHEZ: Thank you very much for that, Avri. That is also very useful.

Next in the queue I have Kavouss. Kavouss Arasteh.

KAVOUSS ARASTEH: Yes. I think first thing input to the human rights is in paragraph 172 our reports or proposal of the CCWG.

Second, I think we should think whether we need to have this multiple group -- GAC working on human rights, GNSO working on human rights, ccNSO human rights, and so on. Why not we put them all together and have one area that all experts come in there and talk about human rights, unless we are talking about different human rights? Human rights for the gTLD and human rights for this and this and so on and so forth. Is this part of working? Is it required?

LEON SANCHEZ: Thank you very much, Kavouss. I have Avri and then Eberhard.

AVRI DORIA: Sorry, I defer --

LEON SANCHEZ: Or was Eberhard before?

EBERHARD LISSE: I wanted to have a go at this. As much as I'm not against talking to others and getting information, this is a Work Stream item that we decide we need to do which means we need to do this. I'm also not worried about a budget. We have all the money we need. We may be a little bit careful in spending it, but we cannot have, again or whatever, have decisions be subject to availability of funds. We will make the decisions as we see fit and we'll try to make it in as small a budget as possible. But I'm totally against of trying to fob off things that we decide -- that we push from Work Stream 1 to Work Stream 2 with a little bit of heartbreak and with a specific condition and intention that we will attempt it that we now say no, we can fob this off on someone else. That really would irritate me.

LEON SANCHEZ: Thank you very much, Eberhard. Avri.

AVRI DORIA: Yes. To build on what was just said, I think that we're having all of these efforts in all these separate places because these groups have different concerns on human rights. And I don't think that we want to try the whole boil -- the whole ocean of human rights in this Work Stream 2 effort. We have a very specific build of framework.

I think within the working party we're going to be looking at issues related to specific PDPs. I think in GAC they're going to be looking at human rights directed to various specific issues that are under discussion. Sure they'll be contributing to this Work Stream 2 framework issue, but there's also the current issues that are being discussed. And I think that would be much too much of an ocean boil for achieving the Work Stream 2 effort.

LEON SANCHEZ: Thank you very much, Avri. Next in the queue I have Erika Mann.

ERIKA MANN: It's difficult between all the waters to find a mic here. So what I would love to do is to talk about the issue maybe and frame it in a little bit different way. I'm -- I was part of the last years and many years, 20 years actually when I worked on Internet legislations, and the most recent decisions the European Court of Justice talks about, many of them impacted Internet companies that are actually based on human rights relations. So it's a very sensitive and a very problematic issue. And it's not easy, actually, for ICANN to find a way to frame it in such a way that we are not impacted by it without knowing negatively. So I would say we should -- maybe when we frame the topic, we should have somebody who's really experienced, I'm not just talking about the European but this goes much beyond Europe,

I'm just taking the ECG decision as one example. So I think we should invite somebody who is really knowledgeable in this field from a legal point of view to tell us what it means if we include reference to human rights and what it means if we don't do it. Because both -- both examples are interesting because we have to apply human right standards anyway independently, if we frame it and have it part of our -- part of the -- part of our ecosystems. But if we include it, it probably might have a different meaning. So I think we should have somebody -- invite somebody who's really knowledgeable in this area and is an expert in our field. So I think it's not helpful to have an -- a lawyer looking into it who never worked in this field, but somebody who's knowledgeable and understands the domain name world and somebody who really can understand and investigate what this means, what we are doing.

And the second I think coming to what Avri said, I think I agree with her in many ways. I just would love to have first somebody looking into it and give us, you know, from a more objective and neutral perspective, and then I think it might be easier for us to frame the topic.

LEON SANCHEZ:

Thank you very much, Erika. So what I'm listening on this discussion is that the orientation of the discussion should also

be mindful of which operational aspects of ICANN does -- do we relate with the human rights discussion, that to take into account the different models of implementation that have been discussed, both on the mailing list and in the working party that took care of the discussion on human rights, whether it's Ruggie principles, the Universal Declaration on Human Rights, et cetera. So we need to define that framework. We also need to take into account what is the potential impact of ICANN's actions in human rights, and that will also be part of the -- of the discussion and the output. And we also need to build upon the work that other groups have -- have done already. Because we don't want to duplicate efforts. We don't want to duplicate our work. Of course, we don't want to reinvent the wheel as Avri was putting it. So we should be mindful of what work we can take advantage of, what work can be reused for -- to feeding into this subgroups work. And we, of course, need to define human rights within ICANN's limited scope. What are we talking about? We need to not only name the beast but we have to describe the beast, too. So this is also another -- another task that we will be undertaking this -- in this working group. And the clearer -- the clearer the language for others that are not experts in human rights, the more welcome the outcome. So we'll be trying to conduct this -- this work in a very clear and understandable language. And we also need to avoid broadening the scope of -- of this working group. As Avri pointed out there is also another

cross community working group already working on this but it has a broader scope on human rights, so our task or our focus should be to specifically target the questions that were raised on Work Stream 1 in regard to human rights.

So that would be my first impressions on human rights. And since we've already tackled an easy one let's jump to the other easy discussion, jurisdiction.

UNKNOWN SPEAKER: (Off microphone).

[Laughter]

LEON SANCHEZ: Okay. So the floor is now open for thoughts and ideas on jurisdiction. And I see Kavouss.

KAVOUSS ARASTEH: No, I -- sorry, excuse me. Just one point. Too many emphasis was given to the external adviser. The group that you elect was open to everybody. We had sufficient individual expert on human rights. And the group was open. Anyone could come. We don't need to make it specific invitation to somebody coming from the sky and saying I am the adviser of the human rights. What I say, please follow. He is welcome, she is welcome,

they can come and contribute like others, without any specific privilege that I am adviser, listen to me. So let us exclude that. Thank you.

LEON SANCHEZ: Thank you very much, Kavouss. That is important. As Thomas said earlier, we will be calling for volunteers at some point to form this group, so I think everyone will be actually welcome to join any of the groups. So we'll keep this as open and as inclusive and transparent as we have conducted the rest of the work in this working group.

So now the floor is open for thoughts on jurisdiction. And I see two hands up that I'm not sure if those are old hands or new hands. I see Erika and I see Alan. So could you just please --

ERIKA MANN: Yeah, it's a new hand.

LEON SANCHEZ: Okay, so Erika.

ERIKA MANN: You wanted me? Okay. It actually fits to both topics, to the human rights topic and to the jurisdiction. And it was a reference to what Kavouss just said. I think it was -- I'm not

saying that we need to invite outside expert on the human rights field forever, but you need sometimes expertise which is really looking into a specific topic which is so controversial and which is so actual and currently debated in the legal environment and which is so -- can be so challenging for our particular system that it is sometimes important because we will not automatically have the knowledge available. We do have a lot of knowledge, and I agree with you, but you need sometimes somebody coming in because it is so -- you know, so new and so fresh, you know, how it is a topic is reviewed, that we will need this. So I'm -- in principle I agree with you, we have enough knowledge in our environment, but there will be occasions, and this would be my -- when we talk about jurisdiction as well, there will be my plea, that whenever it is needed we don't need to have a constant team of legal advisers talking to us all the time but sometimes there will be a particular topic which is so conflictual and this is in jurisdiction as well when you talk about international law and local laws and how they clash and in particular in our environment, maybe we need sometimes some kind of advice. And I would urge us not to -- not to overlook this, Kavouss. I hope it's understood.

LEON SANCHEZ:

Thank you very much, Erika. I think it's very clear now. So next in the queue I have Alan Greenberg.

ALAN GREENBERG: Thank you. I'm going to make a comment and some people might consider light-hearted or not. I suggest we defer this topic for nine months until we find out who the incoming U.S. president is. It may change some people's perspective.

LEON SANCHEZ: Well, that is a factor to consider actually. Mathieu.

MATHIEU WEILL: Thank you, Alan. I don't know what you're referring to. That's --
[Laughter]
-- totally alien to me.

UNKNOWN SPEAKER Stress test 38.
[Laughter]

MATHIEU WEILL: So what I -- what I want to remind all of us, and I think that's worth doing it on each of the topics, is the amount of discussion we've already had on jurisdiction as part of Work Stream 1. That work was pretty much focused in the first months of Work

Stream 1. We haven't touched more -- a lot this part of our report since the first public comment actually, but we have actually already tried to outline the multi-faceted approach of jurisdiction and identified a -- sort of a preferred way forward or at least one facet we thought would be valuable in investigating. And I would encourage us not to reopen everything but stay focused on that facet, which was the contractual -- the jurisdiction of the contract mostly, if I'm not mistaken. And I think that's something that we'll need to -- that would be useful for when we come to Work Stream 2 is not to reinvent our own wheel. We can reinvent other wheels, if we want to, but maybe not our own. And so that's the one point -- the first point.

Second point that's part of the call we've had with the -- our independent lawyers before we came into Marrakech a few days ago and the notes have been circulated to the full list now. The lawyers specifically pointed at this particular item as one where some legal input in terms of terminology and general concepts might be useful to avoid people talking past each other in the course of the work. And that's very much echoing what Erika was saying earlier. So I think that's -- those are the two points that I wanted to put on the record for that Work Stream 2 item. Thank you.

LEON SANCHEZ: Thank you very much, Mathieu. Next in the queue I have Samantha Eisner.

SAMANTHA EISNER: Hi, this is Samantha Eisner from ICANN staff. On jurisdiction, I think that there are others on the list that the -- that could also fall into this, but this is one where there's a clear experiential base within ICANN and ICANN staff that deals with the operations of how this works. And I think that that's a really important input to be taken into account. We have a -- we have a group within ICANN that works on globalization efforts that have actually, in the past couple of years, have innovated some of our contracts to allow for different jurisdictions to be taken into account. And so these are the kinds of -- it's not just about going outside of ICANN and asking what you can do, but I think it's really important to get the inputs on how ICANN operations impact and what they've already done, what they've looked at, what they consider in terms of this and take that as another input and potentially work collaboratively with them so that we don't run into a place where we have recommendations that might not be legally feasible for the organization. I think there's a good path to collaboration here.

LEON SANCHEZ: Thank you very much, Sam. And I think that compliments what Mathieu was highlighting. There is -- there are more topics into jurisdiction than just where ICANN is based. So I think that the -- the work that this group within ICANN staff has done should be a very valuable asset for this working group, should be definitely taken into account. I think it could be a -- a very good starting point to flesh out more details about jurisdiction. So next in the queue I have Siva.

SIVASUBRAMANIAN MUTHUSAMY: Leon, your observations just now helps me explain my point more easily. I was going to propose that the topic of jurisdiction could even be renamed as justice or global justice or a judicial framework because ICANN could act in a fair and just manner even with all the change of jurisdiction. And then when we talk about jurisdiction, we tend to have an approach related to which lawyer we engage and which court of law we go to. Whereas if we rename the topic and look at the topic a little more broadly, a lot more aspects could be covered. And the topic could proceed less controversially. Thank you.

LEON SANCHEZ: Thank you very much, Siva. I wouldn't jump into renaming the issue at this point. I would rather defer it for the -- the group that will be taking care of the issue to actually decide whether

we should rename it or not. For the moment I would like to remain consistent with what our report states. So I would keep away from renaming any of the issues at this point, but that's definitely also a constructive view, Siva. Thank you very much. Next in the queue I have Steve DelBianco.

STEVE DelBIANCO:

Thanks, Leon. On this particular one, jurisdiction, it strikes me that it is more descriptive than normative. The task of this Work Stream is to understand the jurisdictional aspects of not just ICANN per se but contracted parties, registrars, registrants, end users, and so on, because that is the confusion that has caused us so many times to ask what does applicable law mean. And we deferred it to Work Stream 2 since it wasn't essential to resolve these questions in Work Stream 1, and I am as eager as anyone to understand the jurisdiction. In particular there was an RSEP for xyz.com that got into this whole notion of jurisdiction and I want to know more. And the business constituency where I work we submitted comments on that that really just asked questions. So because this is more descriptive than normative, right? It takes some of the pressure off of trying to come up with recommendations to change things. So I don't really -- I mean, I enjoyed the humor about wondering who the next U.S. president is but like Avri, I don't think that's relevant to the question of descriptively. Where -- where you're doing

business, where you're incorporated, where you're registrar is based and where ICANN is based, how do those all factor in to the question of what is the applicable law that applies to the conduct and content on the web. Not a lot of which has much to do with ICANN frankly. But it would be useful for us to discover that.

LEON SANCHEZ:

Thank you very much, Steve. Next in the queue I have Pedro. Pedro da Silva.

PEDRO da SILVA:

Yes, thank you, Leon. This is Pedro from the Brazilian government. I think during the short period that we have discussed the issue of jurisdiction, as Mathieu reminded us, it was right at the beginning of our work, I think we have made quite some progress. We actually all agree that this is not a simple issue. It's quite complex. It entails many aspects. And we even came to -- to making a, let's say, a list of -- initial list of items that this concept would entail. But -- and if you allow me, Mathieu, to a little bit disagree with you, but I think we should -- since this list was made, let's say, as an informal brainstorming at the -- let's say long time ago, I think we should revisit that list and -- as an initial task of this working group is to redo that brainstorming and based on the -- let's say, the experience we

have had throughout this last year and all the months we have worked and I think reassess all the items that we have indicated here, probably adding new ones. I think, for example, during the discussion on human rights also some issues related to jurisdiction also came -- came into the discussion. So I think as a first task of the working group we should definitely revisit the concept and really list, again, what are all the aspects related to it. Thank you.

LEON SANCHEZ:

Thank you very much, Pedro. And just as you highlight, some definitions are missing in this exercise. Just as Steve was also pointing out, we need to understand what does "applicable law" mean, and that is something that feeds also into the human rights discussion.

So I see already some linkage between the work from one group to the other. So that is something that we should also factor in when designing the groups and, of course, carrying out the work of each of the groups.

Next in the queue I have Sebastien Bachollet.

SEBASTIEN BACHOLLET: Yes. Thank you, Leon. Sebastien Bachollet speaking.

Just as you take note here about this topic, to repeat what I said earlier this morning, there was a President's Strategy Committee who work on that issue long, long time ago, but it may be useful to take those documents to this working group.

Thank you.

LEON SANCHEZ: Thank you very much, Sebastien.

SEBASTIEN BACHOLLET: Just to be clear, it was Paul Twomey President strategy committee on this question. He may also be helpful in that.

Thank you.

LEON SANCHEZ: Thank you very much, Sebastien.

Kavouss.

KAVOUSS ARASTEH: Yes. Jurisdiction is an extremely complex issue. First of all, I think it might be good that we do not talk about the elections in our group here; that this is something outside our mandate and we should not talk (indiscernible). The discussions on the jurisdiction depends on the result of elections. That means

we're prejudging or we're entering in something which is not our duty at all.

So I suggest, if possible, we should not mention that. It was said. Very good. We heard, but I think that it doesn't mean it reflects the views of anybody here. So it's not good to talk about that. And I don't think that election of individual would have impact on the legal issues in the world. Jurisdiction is legal issues. I don't think that X and Y will change that.

Outside expert is good provided that would not dominate and would not put anything as a status that what I'm saying is this. So we are prepared to listen to that, if the area is so difficult that we don't have. But I don't see any major output out of that. Applicable law, 125 mails has been exchanged, and there is no agreement what is applicable law. So extremely difficult, but please kindly be aware of that. It may not come to some sort of results that you expect.

Thank you.

LEON SANCHEZ:

Thank you very much, Kavouss.

Anyone else wants to share their thoughts or ideas on this topic?

Okay. I see no one else raising their hand.

So just to recap a little bit on what we have heard. We should have outside expertise available and ready to provide any advice or any knowledge in a neutral and objective way outside ICANN. We also have to take advantage of the work that the ICANN staff has done already in the globalization working team. That should also be taken into account because it could be a very valuable asset for this discussion.

We should be mindful that this is a more descriptive than a normative discussion, and we need to find out a way to define what applicable law means in the remit of ICANN's operations and in the remit of this subworking group.

We might be needing to revisit the concept of jurisdiction about what does jurisdiction mean, how we focus the discussion of the different impacts that jurisdiction might have on the different areas within ICANN. And of course we should have a look at the work that Sebastien was mentioning about this committee that worked on this issue years ago. We might have also valuable input there that someone else has already done, so it should be taken into account.

So to continue our discussion, we have tackled two of the issues, and I would like to continue with the next topic, SO and AC accountability. And I see Erika's and Siva's hands are up but I'm not sure if those are old hands or new hands.

Erika, is that a new hand or an old hand?

ERIKA MANN: It's an old hand, but I have something else which I will send by email. There's something which was written here not really responding to what we said, but I do this by email.

LEON SANCHEZ: Thank you, Erika.

Siva is not here so I assume that is an old hand.

And I see Olga Cavalli's hand is up.

Olga.

OLGA CAVALLI: Hello, this is Olga Cavalli, for the record. Thank you, Leon.

My comment was going to be -- addressed for diversity but I think it's relevant for SO and AC accountability.

I think that part of the things that should be revised in relation with the structure of the SOs and AC is related with accountability.

There is no accountability if it's not related with diversity. If -- As far as I have been participating in ICANN for more than ten years,

I don't see part of the broad Internet community reflected in the ICANN structure today. I don't see small and medium enterprises of Latin America, which are essential part of our economy, reflected in the business constituency. And although I see the GAC growing, we still need relevant participation.

So there is a lot to do within the SO and ACs to improve diversity and that will bring more accountability to these groups.

We have learned some lessons in the past. I think we can learn from them. New gTLDs was a good example that if you do some events, it's not enough to bring the broad, diverse community to the -- what happens in ICANN. So I think this discussion is really linked with diversity.

We have done some efforts. There are some documents that I was involved in my times of the GNSO, so I would like to work in this aspect and also in the diverse Citigroup.

Thank you.

LEON SANCHEZ:

Thank you very much, Olga, for highlighting the importance of the linkage between accountability and diversity.

I have a queue that goes for people in the AC room and outside the AC room. So I have Alan, Jan, Thomas, Eberhard, and Avri.

So, Alan, could you please.

ALAN GREENBERG:

Thank you very much. A very brief intervention.

I think this is another one that we need to have a common understanding or at least a common statement of what we mean by it so others can critique it.

The concept of accountability, if it's accountability to the people who are in the room, it's one thing. If it's accountability to the wider group, some of whom don't know ICANN exists, it's a completely different thing. And I think we need to understand what we're trying to fix by making sure the ACs and SOs are accountable before we try to fix them. It's -- We're talking about some very, very different constructs and different situations, and we really have to have a common idea of what we're trying to fix or we're going to go off in multiple directions with things that don't necessarily make sense.

Thank you.

LEON SANCHEZ:

Thanks, Alan.

Mathieu.

MATHIEU WEILL: Yeah, just a reminder that I think we've discussed this question a few times already, every time we've discussed SO/AC accountability, and our approach has been constantly that it's about SO and AC accountability to the broader set of stakeholders that each SO or AC is designed to represent. I think that's the wording we've used.

So it's definitely the broader approach from -- in your options, so that how does the -- how is the ccNSO accountable to all managers, for instance?

Just to make -- to use the easiest approach, but trust me, from a ccNSO perspective, it's not that easy, but it's -- that's the approach.

LEON SANCHEZ: Alan, do you want to follow-up on that.

ALAN GREENBERG: Yeah, just a very quick one.

You're right, we have said that, but every time we have the discussion, many of the people who intervene are talking about a different accountability. That's why I said we have to come to an agreement, not just say the words.

LEON SANCHEZ: Thank you, Alan.

Next on the queue I have Jan Scholte.

JAN SCHOLTE: Thanks. Jan Scholte.

Just that we have already done a lot of work in Frankfurt and afterwards and in the proposal on the framework of analysis for accountability, and I think we can take that and apply it to the question of SO/AC accountability. And I think then we basically have a conceptual framework. We have largely done the work. We don't need to redo it.

LEON SANCHEZ: Thank you, Jan. That's also true and very important. Next is Thomas.

THOMAS RICKERT: Thanks, Leon. What I would like to understand, and maybe you guys are all clear about this and it's just me, is the plan in this group to come up with general principles applicable to all SOs/ACs on how they should improve their accountability to their respective stakeholders, or are you actually reviewing SO/AC accountability one by one, coming up with specific recommendations on, let's say, Steve and his BC should not

raise membership fees to \$500,000, excluding everyone but the richest companies in the world to be able to participate?

Likewise, we've heard requests for more transparency in the GAC's operations; right?

So is the group's intention to come up with a list of recommendations for individual groups or are we discussing general principles of accountability for all SO/ACs? I think that's, for me at least, an unanswered question so far.

LEON SANCHEZ:

Thank you, Thomas. And if I may comment on that, I think that the scope of our work in that subgroup should be focused on designing general principles for the different SOs and ACs rather than digging into each of the SOs and ACs. We have a system for SOs and ACs to establish their own governance rules, et cetera, so we don't want to go into each of the SOs and ACs particularly, but, rather, design general principles that all SOs and ACs should abide to in their -- in their respective ambience or environments to be held accountable and transparent to the different constituencies and SOs and ACs.

So I think the short answer is general principles.

Next in the queue, I have Eberhard.

EBERHARD LISSE: Eberhard Lisse, .NA.

I'm very grateful for the remarks of the GAC representative for Argentina to include the GAC in increasing its accountability.

LEON SANCHEZ: Thank you very much, Eberhard.

Next in the queue I have Avri.

AVRI DORIA: Thank you. Avri speaking.

I think it's interesting, the last couple comments made sort of anticipated where I was going to go in my comment. I think that we have a real issue here in terms of even understanding what we're talking about when we're talking about this, because it's easy, as Alan said, for example, are we talking about the general or are we talking about the specific accountability of a particular SO or AC? And we're able to say, sure, we're talking about accountability in the world, but we're only looking at it through the microcosm of ccTLDs when it's ccNSO or gTLDs. So we don't have one group that represents all people, and so it is global, but it always has to be specific to the kind of orientation.

I think the larger question goes up, if there is some group that we are not including in one of our SOs or ACs, then how are we dealing with that?

So that particular question is complex in that you have to deal with both the foreground and the background. Is it global or is it specific?

I think -- and this comes out partly from what Eberhard has said, we've had various conversations about is group X accountable enough or group Y doesn't have, you know, sufficient accountability measures, and we had within, certainly, NCSG a certain concern about GAC accountability.

But when looking at that -- and this is why I don't think we should get into specifics too much, but we also have to realize that each of the groups is essentially so very different, so that the notion of accountability within that group but still situated within the global is confusing and is complicated.

So I think that even before we get to a framework, we really have to get to an understanding of what we mean by SO/AC or AC/SO accountability and how we parse those differences and the foreground/background discussions.

LEON SANCHEZ:

Thank you very much, Avri.

Next on the queue, I have Kavouss.

KAVOUSS ARASTEH: Yeah, I was typing here that if, as Mathieu said, we establish a principle to make a given SO and AC accountable to larger group, if it is not implementable, it is useless.

Thank you.

LEON SANCHEZ: Thank you, Kavouss.

Next on the queue, I have Sebastien. Sebastien Bachollet.

SEBASTIEN BACHOLLET: Thank you. Sebastien Bachollet.

Yes, just to add one point, I think that each group need to be accountable to the population or member participant, whatever, and we need also to find a way to have accountability between SO and ACs, and that's maybe one part of the work of this working group.

Thank you.

LEON SANCHEZ: Thank you very much, Sebastien. And that -- I think that has been discussed and reflected in the mutual accountability roundtable that at some point we discussed within the working party. So I guess that's an idea that will need to be further developed and fleshed out throughout the work of this subgroup.

Next on the queue, I have Alan Greenberg.

ALAN GREENBERG: Thank you very much. Sebastien just mentioned members, and Thomas made reference to the fees someone may charge to join. I think we have to keep in mind that this may not apply across the board. There's a very different issue about who you are accountable to or who you should be accountable to, if they had a mechanism to make you accountable, versus your members.

At Large, for instance, claims we are representing the interest of end users. All end users, 4 billion or whatever the number is today.

The number of people who are members of At Large or the groups are those with an interest in ICANN. I have news for you, most end users don't have an interest in ICANN, and if we do our job right, that will stay that way.

So who you are representing, who you should be accountable to for doing your job right, not necessarily the members who have to pay your fees or join.

Thank you.

LEON SANCHEZ: Thanks, Alan.

Next on the queue I have Brett Schaefer.

BRETT SCHAEFER: Thank you. I'm a bit confused. I thought we were talking about diversity, but we seem to have merged the two topics?

LEON SANCHEZ: SO/AC Brett Schaefer were I'll wait on my comment, then.

I'll close the queue with Chris Disspain. I have Steve DelBianco and Chris Disspain. So the queue is now closed.

Steve.

STEVE DELBIANCO: Thank you.

I want to remind all of you, and I put this in the chat in our Work Stream 1 recommendations, the ones we published, Annex 10 is

on SO/AC accountability. We already have a recommendation for Work Stream 1 in the bylaws drafting to say that in the review of SO/AC accountability mechanisms in the independent periodic structural reviews, because as you know, ICANN does periodic structural reviews of the SOs and ACs themselves, other than the GAC. And we said, quote, "These reviews should include consideration of the mechanisms that each SO and AC has in place to be accountable to their respective constituencies, stakeholder groups, regional At Large organizations, et cetera.

Mathieu, you made this point earlier in clarifying to whom is this accountable. We approved that. So we're expecting our lawyers to come back with a small bylaws change to the section on the bylaws on reviews of ACs and SOs. So that is a phase one item.

One of the reasons it's phase one is our stress tests. In fact, they were suggested by NTIA after our first draft in May. And NTIA asked about accountability. And we are relying on this improvement in the structural reviews to be sure that there are mechanisms in place that would allow something like BC membership to challenge this idea of raising dues to an exorbitant level and excluding people who couldn't afford it.

So some of this is in Work Stream 1. I realize Work Stream 2 is described in annex 10, but Work Stream 1 takes a bite out of this issue for us.

LEON SANCHEZ:

Thank you very much, Steve. And Chris has lowered his hand. So, just to do a very quick recap, some of the points that we heard here and that are captured, of course, in the notes are the link between accountability and diversity, which Olga raised; the need for a common statement or a common understanding on what do we mean about -- or in regard to SO and AC accountability? We already have a lot of work done as part of our Work Stream 1 efforts. And that should definitely feed the work of this subgroup and should definitely be taken into account, as John pointed.

And we would be looking for defining general principles as opposed to reviewing particular issues of each SO and AC. We need to refine the focus on whether this work or this accountability should be something global or specific. And the idea of the mutual accountability roundtable is still on the table. So we should definitely -- we should definitely revisit that idea and see how accountability from different SOs and ACs to each other relates and flesh it out.

So, with that, I would close this item. And I would turn to my co-chair, Mathieu, for the next issue.

MATHIEU WEILL:

Thank you very much, Leon. And, indeed, you served well on some very interesting issues already. So the next on the list is diversity. Diversity is a word we've been using a lot in our discussions and discussing a lot in the course of our Work Stream 1 efforts.

Just as a reminder, we had formal contribution by our external advisors that there was a strong linkage between the diversity of stakeholders involved in the ICANN processes and the ability for ICANN to make decisions that are consistent with the global public interests. It was better worded than that in the report. But that's -- I think that's really the core fact that made it one of the key issues for Work Stream 2.

And so I think we also need to recognize that there are multiple dimensions to diversity, multiple views, and also that diversity discussions are very, very widely documented in corporate governance, political science, everything, sociology, everywhere. There's certainly a lot to take from existing experience into increasing diversity into a specific organization or culture.

But, having said that, which was really what we had in Work Stream 1, let's start the exchange of ideas. And I would like to turn to Brett because you said you were deferring your comment until we come to diversity. So maybe you want to take the floor first, and then I'll go to the queue.

BRETT SCHAEFER:

Thank you. My comment is not about the subject matter but what actually underlies it, which is a question. Do we have statistics on the diversity of ICANN in the SO and ACs and in the general discussions currently? And then do we have statistics going backwards so we can see trends over time?

I think that kind of information would inform the discussion and find out exactly what the areas lacking might be, whether there's been improvements over time and so whether this needs a nudge in the right direction or whether this is something more serious than that. And I think metrics on this issue would be helpful in trying to inform the discussion. And that's, basically, my comment.

MATHIEU WEILL:

So I'm not going to answer your question, but I think it's a really good idea to start with actual data for such a discussion. Thank you very much, Brett. Erika, is that a new hand? No. Okay.

So Sebastien is next.

SEBASTIEN BACHOLLET: Yes, thank you. Sebastien Bachollet.

I totally agree with Brett. And I would like to extend that to not just SO and AC but to all the ICANN bodies. We need to have those metrics. There are plenty of others, not just SO and ACs or not just at the level of SO and ACs. We need to do that. I think it's very important. And I just want, as you say it, Mathieu, but we have a document on the 24th of July, year 2015, about diversity would could be a very good document to start with. Because we had a subgroup working on that, and it could be the document to start the work on this working group. Thank you.

MATHIEU WEILL: How could I ever forget the work party 3 document on diversity chaired by my co-chair Leon with your help, Sebastien. Next is Paul.

PAUL TWOMEY: Thank you Mathieu. I raised diversity as an issue at one of our public meetings last year. And I've thought about it very carefully. I wonder if I could make a couple of quite pointed comments. And they're pointed in this sense: That I just wanted

to focus on one aspect of diversity and to take a quite hard-nosed rare politic view of ICANN's future, which I think is important.

It's always been my personal analysis of ICANN since 1999 that the only two groups within its broad range of constituencies who have the power to destroy ICANN or who, at a minimum, had the power to change the global nature of its functions or limit the global nature of its functions are the technical and network operating groups, the actual geeks, or it's the governments.

And coming -- I think the chances of what we're doing here in the ICG work, et cetera, and the involvement of the various constituencies limits and keeps engaged the technical and geek part of the world.

But I think we should be clear that since 1999 the environment around governments has changed significantly. If you think about the formation of ICANN, it was formed at the peak of western influence in the 1990s. And not only the peak of western influence, but the peak of Wilsonian thinking in American influence. So American policy has, over time, varied between rare politic through to Wilsonian ideals. So the global ideals of the technology community and the global ideas,

Wilsonian reflection of universalist values in the Americans all came together in 1990s when ICANN was formed.

And so, if you look at the way in which we think about who attends, the values we put forward, it's a globalized, meritocratic, bottom-up architecture that we talk about. But we are now in a different world. We should be quite clear about that.

And, Kavouss, please forgive me. I am going to mention specific countries in a general sense.

But, you know, we are definitely in a time when the U.S -- there's a debate about overreach. We're at a time when China, which has generally adhered to Wilsonian state principles during its rise, is now clearly indicating in broad senses that it's willing to rewrite the rule books on various things. Europe has got a hybrid. Russia, which sees itself as the essential state and culture in Eurasia, is also showing strength. The Middle East is changing. The point I'm trying to make is we're not in the same world order.

Which brings me to the statistics people asked about. Because it strikes me we do have to look at the issues not only about our own culture and bottom up; but from the outside perspective, do we continue to maintain legitimacy? So, to give you some specific numbers people have asked about, I've done the

numbers on broad participation in ICANN. I've still got those statistics.

And, if you look at the Board representation in ICANN until last year, 32% of the years of Board years are held by Americans. 27% is held by Europe, less than 1% by China. The rest of Asia Pacific is 17% of which Australia takes up a fair amount. India it's 4%. Russia it's zero. Africa and Latin America together is 19%.

But, if you then turn around and say who the majority uses the Internet today, it is China. Then we've got -- I think I've made my point.

So this, for us, is going to be a very difficult issue. Because I think it says that our method of bottom-up election processes, which I think are incredibly important, we do have to think about what we have to do or where are we failing to not at least have some better reflection of the world as it is today as opposed to the world it was in the 1990s.

MATHIEU WEILL:

Thanks, Paul. I think that's an excellent point. I'm going to close the queue after Kavouss on this item because I'm conscious of time. And I want us to still have time for the last remaining two items, although it might be a little shorter.

Next in the queue is Tijani.

TIJANI BEN JEMAA:

Thank you, Mathieu. Paul just spoke about one aspect of diversity, which is regional diversity. And you are right to include the multiple dimension of the diversity. We need to have all other diversities that are well-documented in the document that Sebastien spoke about.

But, even for the regional diversity, I think that things have to change. Because, if you give people the choice between the country where they are living and their original country, you may end up having people from the same spirit and with the same interests.

Because for sure I may be born in Tunisia but living all my life in France. So I will not have the interest of Tunisian people in mind.

So I think things have to change in this regard, and we have to be clear about what is the regional diversity. If you have roots anywhere, you are coming from this region.

MATHIEU WEILL:

Thank you, Tijani.

Next is Malcolm. I think what's really valuable here, if we highlight new items that need to be considered in the reflections. And let's not reinstate the points that have been made already. Please, Malcolm.

MALCOLM HUTTY:

This is not a point that is already made, Mathieu. Thank you for the floor.

ICANN, to a large extent, and like the rest of the ISTAR organizations, has always sought to be operated according, to a very large extent, taken pride in being and succeeded from being a largely meritocratic organization. And by meritocratic I mean where people bring their ideas and propositions and demands to it. And they're evaluated by those that do the evaluation on the basis of the content of what they say and not on the basis of who is saying it. I think it is extremely important that this is preserved.

It has only worked and only successful and only can create real legitimacy if the people that are there and that are willing to come raise those issues really reflect all the people that are impacted by the decisions that are brought forward or -- the issues that are brought forward and the decisions that are made. If it is a small and closed group and if those who have legitimate interests in the matters under discussions either are unable to or

feel that they are unable to come and take part fully, then that significantly undermines the legitimacy and effectiveness of what is being decided.

So it is very important that outreach mechanisms and things like travel support plans and things are looked at and extended so as to ensure that the community can really affect those that are impacted by the decisions that the community takes collectively.

However, Mathieu, you spoke about a range of political and sociological views on this. And I think we are all aware that there is a big strand in diversity science -- no, "science" is the wrong word. Diversity theory -- that seeks to construct privileged sociological groups that determines whether or not ideas are given weight according to who is speaking and not -- and their characteristics and not according to the content of the idea itself. Instead, it divides us into tribes. I would -- in my view, these things can verge -- and it is extreme -- on out and out racism. There should be no place in ICANN for this.

So we need to be very wary, as we look at the diversity issue, of ensuring that we improve and build upon and reinforce the ability of this community to give full voice to all those that are affected by and wish to participate in and encourage the supports of those that are impacted by this community's work

and do not revert into, essentially, warring tribes where we count the value of what is said according to some status in a hierarchy of sociological groupings. Thank you.

MATHIEU WEILL: Thank you very much, Malcolm. Because you're framing exactly the kind of difference of views that exist about how to approach diversity in corporate governance, political elections, whatever you want. And that's exactly the kind of discussion we need to have in this diversity group. I'm not going to step into that right now. But I think, from the looks I'm seeing in the room, it's obvious we'll have some discussions on that. And that's very, very welcome.

Next is Olga. I think I had closed after Kavouss. But -- Olga.

OLGA CAVALLI: Thank you, Mathieu. This is Olga Cavalli, for the record. I would like to support what Paul Twomey said. And I welcome the statistics. I would encourage also to add one other dimension, which is the gender diversity. It is clear that all the ISTAR organizations need more gender diversity, especially in their leadership positions. So I would encourage to add that dimension to it. And I also would like to support what Tijani said

about define where people come from and where they live.
Thank you very much.

MATHIEU WEILL: Thank you, Olga. Kavouss.

KAVOUSS ARASTEH: Yes, Mathieu. Once again, a variety of issues. Expertise, knowledge, qualification, diversity, cultural diversity, linguistic diversity, sexual diversity, ability versus disability diversity, age diversity, social diversity, and so on and so forth. You can write a book. You can write five pages. Unless you have criteria to implement that, it remains words in the book.

Not implementable. Thank you.

MATHIEU WEILL: Thank you very much, Kavouss. That's good. Excellent reminder. And last, but not least, Siva. And then we'll break for coffee.

SIVASUBRAMANIAN MUTHUSAMY: Thank you. Diversity is very important. But, at the same time, the topic has to be approached in such a manner that it's not politicized. Otherwise, we'll end up with 210 board

members and have a subcommittee for developing south and board and so on. I suggest that we approach it very carefully.

I recall that Olivier Crepin La Blond of At-Large would say that At-Large works in the best interests of Internet users. He would not say it represents the interest of Internet users. So extending that, if we have a structure whereby we can say that ICANN acts in the best interests of the global Internet user and global Internet community, that should be good enough rather than have gender diversity, geographic diversity, and every country having a seat in ICANN and so on. So thank you.

MATHIEU WEILL:

Thank you very much, Siva. I think that highlights very much what the size of the issue is going to be on this item. Certainly, a very interesting one to follow. Encourage everyone to participate.

But for now on, being conscious of time, I think we can have a well-deserved coffee break. We'll resume with these three other items and try to narrow a little bit the amount of time we can dedicate to them at this point so that we can end up roughly on time. But we can definitely take 15 minutes break and reconvene at 25 past. Thank you very much.

[Coffee break]

MATHIEU WEILL:

Okay. Let us resume our meeting. We took a little more time on the previous agenda item, so we still have three Work Stream 2 items to shortly discuss. And I'm very aware of the timing of the meeting. I don't want to delay you too much, and certainly not to the point where the sun would be setting and you would not be able to enjoy it anymore.

So the next item is the staff accountability item. We had a few discussions in work party 3 about the potential Code of Conduct approach that could be developed around this, and I think it was pretty well framed. You will note in the document a comment by Sam, Sam Eisner, and as staff liaison, obviously her input is very valuable to this particular item, that we need to be careful about not interfering with the employer/employee relationship in this kind of matter.

And I'd just like to keep it at this. We would need to add the point about Code of Conduct which was one of the approaches

that was discussed earlier to the list of item here on the document, and I'd like to now turn to other short, concise contributions that need to be taken into account when discussing this item, if there are any. There doesn't seem to be any, which proves that this is right to the point and that our framing has been excellent. So I will -- I think we shouldn't dwell on this too much at this point. It doesn't really create an issue.

The next item is transparency. And transparency has several dimensions that are already outlined in our recommendation number 12. There is DIDP document information disclosure, there's transparency of board deliberations, there is transparency of interactions with governments. I'm missing I think at least one of them, but somebody in the room will remind me. I think we've already had a number of significant discussions on this, but if anyone wants to add clarifications or things that would be out of the scope for this group that's also very useful because it helps us focus. But to -- to me, we've had already extensive discussions about transparency and how this is a key aspect of accountability in many ways. Robin. Robin.

ROBIN GROSS:

Sorry. I was trying to raise my hand online but it wasn't seeming to register. I just wanted to add that we had talked about creating a culture of transparency throughout all of ICANN's

operations and the way it does business. So that was something else to put on the list. Thanks.

MATHIEU WEILL: Thank you, Robin. Eberhard.

UNKNOWN SPEAKER: Just maybe an issue of effective transparency. It's one thing to disclose documents. It's another thing to make them readable.

MATHIEU WEILL: Thanks. Okay. So once again, I think we've framed that discussion quite well in our past work. So it shouldn't be too much of an issue, but Malcolm.

MALCOLM HUTTY: I mean, this may come under cultural transparency but something I think the principle transparency meaning that things should be open, unless there's a good reason not to be, as opposed to the other way around.

MATHIEU WEILL: Thank you. That's indeed been something we've discussed a number of times. And finally -- the AC room is not working anymore? But Ed?

EDWARD MORRIS: Thanks, guys. Ed Morris, for the record. I don't know how to phrase this. One of the things that interests me and that we should probably take a look at are board -- I love my board members. They would never do anything unethical. I know that. But there are board members in the year 2025 I'm not too sure about. And external speaking fees, speaking before trade associations, the income received from that, is there some way we could talk about and take a look at how other corporations deal with this but seeing whether should be something they should have to disclose under the guise of transparency.

MATHIEU WEILL: Thanks, Ed. Jonathan and then Alan. And then Avri. And then we'll probably wrap this up. Jonathan.

JONATHAN ZUCK: Mathieu, I know you want to wrap this up and at the risk of sounding redundant, on this notion of effective transparency, I think the only way that you can define that is by outlining the goals for transparency. And I think sometimes we make the mistake of treating transparency as an end goal when it's not. It's a means to an end, which is sometimes accountability or something else. And operational accountability is partly what

will help define whether or not you have effective transparency. So transparency without context is a useless term, and I think defining the objectives for it and measuring the success of those objectives is how we'll determine whether we have the good transparency.

MATHIEU WEILL: Thanks. Very useful indeed to have to map different mechanisms with their respective goals. Alan.

ALAN GREENBERG: Thank you. The question was asked earlier do we want to merge any of these items, and I and others said no. But I will point out this one and the previous one are closely linked. A lot of issues of lack of accountability of staff are because they can do it invisibly. And the two are heavily linked. Thank you.

MATHIEU WEILL: Thank you. That's a point to keep in mind, indeed. Avri.

AVRI DORIA: Thanks. Avri speaking. One of the things I wanted to mention, and it's a point related to many of these, is that in the previous two ATRT outcomes documents there were lots of recommendations made. So I think one of the things especially

this group more than many of the others is to make sure to go back and hit those and compare them and such. Thanks.

MATHIEU WEILL: Yeah. Some background work really needed on this because there's a lot of documentation already. Excellent point, Avri. I have Kavouss and then Brett. Kavouss.

KAVOUSS ARASTEH: Sorry, Mathieu, when you deal with the staff accountability I miss one point. I don't -- unless this relationship coming from the report, I don't think we should talk about relationship. We should talk about hierarchy but not relationship. We don't enter into the business of relationship between the staff employee/employer. We talk about hierarchy. Any accountability should not impact the hierarchy between the employee and employer. So we should not want to destroy that order, that employee should be treated under the hierarchy in response to the responsibility they have. We don't want to undermine the -- the duties of the hierarchies people with respect to their staff. So perhaps instead of relationship in the first bullet it should be hierarchy but not relationship. Thank you.

MATHIEU WEILL: Thank you, Kavouss. And certainly there must be a proper legal wording for that aspect in English that I'm not familiar with anyway. Brett. And then we'll go to the next item, please.

BRETT SCHAEFER: Thank you. This has a bit to do with both staff accountability and transparency. But I would like to make sure that the issue of ICANN's conflict of interest policy is examined or reexamined in one of these two areas. I was talking with someone earlier and apparently there's a question about how that conduct of -- or conflict of interest policy is actually interpreted. And there is apparently some ambiguity there. And I don't think that it's good to have ambiguity on that matter. So if there is indeed ambiguity over conflict of interest policy, who is covered, under what circumstances you have to report a conflict of interest if you're a covered person, I think that that needs to be resolved and clarified. Thank you.

MATHIEU WEILL: Thank you, Brett. So I think what we can conclude and take stock of regarding transparency is that there are many dimensions. I think the point raised by Jonathan about linking these dimensions to a specific accountability goal is extremely -- is going to be extremely useful if we want to prioritize but also

explain the purpose of what we are introducing. And that was a valuable discussion.

The last item on our list is the ombudsman. We have identified a number of potential improvements, discussed this already a little bit earlier today. I mean, just like for other items, if there are any substantial inputs about how to frame this discussion, I'm seeing Siva's hand up to initiate the discussion. Siva.

SIVASUBRAMANIAN MUTHUSAMY: My suggestion is that not only the independence of the ombudsman should be enhanced but his stature also needs to be enhanced. Ombudsman must be plenipotentiary -- no pun intended in using this term -- that he does not have to depend on the pleasure or displeasure of anybody in ICANN and he has to decide whether to accept a case or not accept a case and not accept only those cases that are pre-screened. There are several barriers that are associated with the office of the ombudsman. Everything must go and the stature of the ombudsman must be enhanced to a sufficient level so that he's fully empowered. And if there is any -- if there is a need to make any provision to remove the ombudsman, the removal process of the ombudsman should exceed the thresholds that are specified for removal of a board member. Thank you.

MATHIEU WEILL: Thank you, Siva. Important points. Avri.

AVRI DORIA: Thank you. Avri speaking. I think one of the issues that we have to discuss in terms of the ombudsman is, at the moment the role is very limited to sort of a mediation, giving advice, giving comment, but really has no -- there's no issue on which the ombudsman is a decider. Now, some of the discussions we had across the year had the possibility of using an ombudsman's decision as a gating mechanism for some further process. And that would be a deviation from that. Probably a good deviation. I'm not judging it. But really there's in that role are they purely -- is it purely an -- a suggestive mechanism, mediative mechanism, or are there any points at which an ombudsman actually has some decision-making capability. And not trying to prejudice that discussion, just I think it's one we need to have.

MATHIEU WEILL: And you're right to point this out. It's been a constant question being raised and raised and discussed again on our list every time we've discussed the ombudsman. Ed, and then it's going to be Chris. Ed.

EDWARD MORRIS: Okay. Thanks, guys. I think some of the earlier comments can be dealt with by saying we need to look at the hiring, firing, and retention of ombudsman. Who does it? Right now it's the board, and he's responsible to the board. That can't go on in our new statement. The question is, who should do it.

Number two, the access of employees to the ombudsman. Currently at ICANN employees cannot take problems to the ombudsman. I think that should change or something we should look at.

The criteria the ombudsman can use to render decisions, we've had the discussion on list about this, but fairness tends to be number one criteria. Should that be expanded? Should he be able to evaluate on other criteria. And then if so, do we in this community want an ombudsman or are we looking at something more like an Inspector General or some other unique classification? Because some of the things that folks have proposed for the ombudsman to do generally are not within the remit of a classical ombudsman. So I think we should take a look at whether an ombudsman suits what we want best or whether some other classification could work better. Thanks.

MATHIEU WEILL: Thanks, Ed. And Chris is next.

CHRIS LaHATTE:

Thank you. Chris LaHatte, for the record. This isn't the time for me to tell you about the model of an ombudsman under the International Ombudsman Association principles, but if you come to my session later on in the week, I can tell you about that in more detail.

One of the purposes of that session is to do the sort of information gathering rather than necessarily the recommendations out of it. I want to get ideas about what people want, but I think the real purpose for me speaking now is to adopt what Eberhard said, that the discussion about the ombudsman role should come at the end of this process. The ombudsman has a role in virtually all of the previous topics. So once you decide on the sort of issues for accountability in those previous topics, things like diversity, things like human rights, you'll have to think well, should this be something we send to the ombudsman? Is this an area where the ombudsman should have a specific mention as the mechanism for exploring problems which have arisen. I already have specific jurisdiction on diversity, for example, and to some extent human rights as well to the limited extent that they have been raised in my office. Things like transparency, the document disclosure policy. I've been very surprised that people haven't utilized my office to try and get access to documents because if you look at my bylaw, it

says, I've got access to everything. Now, how often when you're trying to dig through the DIDP policy have people thought well, let's ask the ombudsman to have a look at that? That might be my fault, for not explaining that sufficiently well to people, but there are powers which are there.

And so therefore, my session will hopefully consider some of these issues, and just start thinking on what I can actually do. But I can tell you now that decision-making is unlikely to be something that would make my office an ombudsman office. If you want to get somebody to make decisions, then it's not going to be called an ombudsman. Thank you.

MATHIEU WEILL:

Thank you very much, Chris. That's extremely useful. And, I mean, what I'm taking from this discussion is we need to be clear on the requirements first, before thinking about the tool, whether it's an ombudsman or Inspector General or any other tool. That one thing we need to be clear about -- and that's going to be true for every Work Stream 2 item -- is what are our requirements? What are we trying to achieve and why? We have -- Avri, is that an old hand or new hand?

AVRI DORIA:

Old hand.

MATHIEU WEILL: Old hand. And so Kavouss, Siva, and then we'll move to our next agenda item. Kavouss.

KAVOUSS ARASTEH: Yes, I am checking something. First of all, bullet two is not clear. Removal process thresholds for ombudsman should exceed thresholds for removal of the board members. Are we talking about the recall of the entire board or what? What means exceeds? Should not exceeds.

MATHIEU WEILL: I think at this point we should probably be less specific about this in this document. It's about should there be a removal process for the ombudsman.

KAVOUSS ARASTEH: Maybe put it in that way because you are just putting explicit --

MATHIEU WEILL: We haven't agreed on that.

KAVOUSS ARASTEH: And then the fourth one I have difficulty. What is the fourth one? Is this from the proposal of the CCWG that no longer

ombudsman report to the board and no more longer appointed by you or is this something we want to study? Approved by the board?

MATHIEU WEILL: There was a point raised in the discussion, and one of the questions that was raised was the independence of the ombudsman and how it can be placed in the structure. I think once again we need to reframe this sentence in a more generic way because it's -- in no way have we agreed on this at this point. Issues to consider.

KAVOUSS ARASTEH: But I have problems.

MATHIEU WEILL: I agree, and we'll rephrase this. Next is Siva.

SIVASUBRAMANIAN MUTHUSAMY: Well, ombudsman said that decision-making is unlikely to be within his purview, but does he strike a distinction between a decision and a ruling? An ombudsman is supposed to make a ruling, and if he is to make a ruling on whether -- whether a decision is right or wrong, then that also becomes a decision. And so there is some clarity needed on that.

And on Kavouss, I was just suggesting the idea of the stature of the ombudsman, that it should be very high. Stature has to be elevated. And the details that I suggested were in a manner of speaking. I was not conclusively saying that -- this and that. Thank you.

MATHIEU WEILL: Thank you, Siva. And Chris, maybe you -- you should be allowed an opportunity to answer the question from Siva.

CHRIS LaHATTE: I don't make decisions, I make recommendations. There's a very important distinction. What I hope is that if I make a recommendation to the Board or one of the other bodies that they will adopt it. And I haven't often had to make recommendations, but from time to time I do, and the Board has respected those. That's very different from a binding decision-making power. And an ombudsman would never have that.

Just one other quick thing. In terms of removal, my bylaws says that there has to be a 75% majority of the Board to remove the ombudsman. So the protection is there.

MATHIEU WEILL:

Not bad. Not bad. Okay. So I think it's really fleshing out this discussion and it's very useful. Overall, taking all these items into account, I repeat what I've said earlier and what is actually - - what was actually coming out of our process discussion. We really -- we really need to be quite strict into starting to discuss the requirements, agreeing on requirements before getting into developing any solution or tools to address this. Otherwise we -- we're not going to be efficient with our own time, we're not going to be cost efficient, and we will definitely lose sight of priorities. So that's going to be a challenge. We managed to do that in Work Stream 1 by prioritizing, and at the requirement level I think it's going to be essential that we do -- do the same approach with Work Stream 2. And there's a lot of excellent substance in our quite short discussions item by item, but I'd highlight how much diverse and important work we have to do still is ahead of us. So I think it's -- it's quite a good feeling to finally get into these topics. Let's not underestimate the workload that's ahead of us, and remind ourselves that our top priority is to finish Work Stream 1, but we can slow start and do the background search and all this volunteer work to make sure that we are up and running as soon as Work Stream 1 is finished to get these items underway.

Items under way.

With that, we will turn to -- I think it's almost our last agenda item, which is the resources discussion. It's a discussion where we specifically invited our friends and colleagues from the Board Finance Committee because, as you know, there have been a number of discussions between the CCWG, the CWG Stewardship, the Board Finance Committee, the chartering organizations about the management of the cost of the IANA stewardship transition as a whole. And there has been a lot of progress made in terms of reporting on these costs, and one of the examples that's currently on your screen is a focus on the accountability track costs that is on -- published by ICANN on a regular basis now, thanks to Xavier's team. I'm trying to capture where Xavier is in the room, if he is. Okay. You're here.

So that's giving us some -- a view on the regular basis about where we stand and clearly -- and purely on a factual basis, if you compare the estimate at the beginning of fiscal year '16, which starts on July 1st, 2015 and ends on July -- June the 30th, 2016, there's a big gap between the estimate and what the real figures are going to be.

So the key issue here is how to address the fact that there is a gap. It was not predicted, and we want this under control in the future because that's also part of the accountability to be accountable to the way we are spending ICANN's money. And

that's a collective responsibility for members, participants, staff, everyone has a voice in this.

So there's been a number of discussions. We did discuss this already during previous calls. Our goal today was to first take stock of a proposal that has been pushed forward by the ICANN Board Finance Committee and look at how we will be learning from the past experience to improve the way we are managing resources in the future for the CCWG Accountability.

So if we go to the next slide.

We have received and shared on the list a proposal by the ICANN Board to set up a pilot proposal -- a pilot that would first work on developing reliable estimates for the rest of the fiscal year '16. So we still have three months to go, basically, if I'm not mistaken. And I'd like to maybe offer Cherine the opportunity to speak to that proposal, that pilot proposal, so that we can consider it together, ask questions if need be, and see how we move forward on this. And I don't think it should be too controversial but I think it's good for you, Cherine, to introduce the proposal, if you will.

Thank you.

CHERINE CHALABY:

Because this is on the public record, I just want to put some historical perspective, if you allow me for a minute.

The historical perspective is it's not been part of our DNA and our multistakeholder model to have any one person or any group of people responsible or having the authority to make decisions, including on costs. And also, historically I think the SOs and ACs have not been able to obtain a lot of detailed information about cost of their work, meeting, staff, et cetera.

But the sums involved over the last couple of years and -- in FY15, FY16, almost to the tune of \$25 million, and the future expenditure potentially between 6 to 9 million in FY17 makes us think together, collectively -- and this is not just the Board or the Finance Committee; I think the SO and AC leaders and yourself are on this -- is that it would be good practice to produce some reliable estimates and to consider how we can manage costs going forward.

This would then represent a real change in culture for the community. But to introduce that change, we better have a step-by-step approach so that we don't jump in in one go but do one step at a time, listen to each other, learn, and then formulate the next step.

And the first step is what we called producing reliable estimate. Why do we need that? And then I'll say what is the suggested

idea collectively by the SOs and ACs leaders and yourself will talk to.

To get a project of any magnitude going requires a real transparent dialogue between all of the parties concerned, from those that request the resources -- for example, could be the SO and AC chairs, and they request resources, let's say, for Work Stream 2, the SO and AC chairs that then has to evaluate this request, and then the Board that has to then fulfill its fiduciary responsibility by saying are these estimates reasonable and how are they included in the annual budget.

For this conversation to be -- and this dialogue to be really transparent and meaningful and effective, we need some reliable estimates; okay? And to get those reliable estimates, it's hard to do it on a part-time basis. It's hard to do it on a sort of ad hoc basis.

And the idea here is that why don't we pilot the idea of putting a small team together consisting of project management experience, some legal management experience, financial planning and administration, and that group is not a decision-making body. That group is not a management body. That group is only a support body. And for a short period of time.

And we would ask for this team to do two things. One is to look back on historical expenditure and learn from there how and

where we spent our money, where we could be more efficient, what assumptions drove the expenditure, and then take those and be in a position to project future expenditure and produce reliable estimates for us.

So that's the whole idea about producing those estimates in that way. And then we any that could take four to six weeks, maybe a little bit longer. I don't think it should take much longer than that. And then once we have information and data, we're going to group together again and decide what do we do with it and how do we go forward with it and continue this open dialogue and transparent dialogue.

Thank you.

MATHIEU WEILL:

Thank you very much, Cherine. And I want, through you, to thank the Board Finance Committee for their -- and Xavier for their continued engagement on this topic. I think it's extremely useful to insert this into the way we manage the group as we move forward.

I'd like to ask whether there are any clarification -- questions for clarifications or reactions to this proposal, which, once again, to me does not seem particularly controversial.

I am seeing Siva's hand up. Siva. No? Old hand.

So Roelof.

ROELOF MEIJER:

It's not a question for Cherine but more a remark or reaction.

I think it's good to have those estimates, first of all, but I think in the future, we also need another kind of estimates, and I think many of us in our normal day jobs will always require those if we ask external consultants to pursue a certain subject or deliver an answer a question on a particular question. We will ask this consultant how much is this going to cost you to figure it out.

And this is something we have never done in Work Stream 1, as far as I know. We just -- we were just asking the legal advisors questions without knowing how much it would cost to get the answer. So I think that's another estimate we will need in Work Stream 2. If we have a particular question and we want an external consultant or a group to chase an answer, to deliver an answer to us, we ask them an estimate first.

MATHIEU WEILL:

That's a very good point, Roelof, and we have started doing this for Work Stream 1 implementation in the bylaw draftings. We did receive estimates that we've used to provide the Board Finance Committee with insights, I think back in Dublin. We started this in Dublin.

And so we had received estimates, and we also requested an update on estimates to the lawyers in the call we had recently on the Work Stream 1 implementation and the bylaw drafting. But that's certainly a practice we need to develop more and more as our project moves from everything is urgent and we need the answer now to a phase where we have more time, so we can proceed with more caution on that aspect.

You want to follow up?

ROELOF MEIJER:

And I think in addition to that, it would be good if we budget beforehand because although the money should not restrict the quality of our work, I think it will help us to stay focused if we know that there is limits to the amount that we can spend figuring out things.

MATHIEU WEILL:

So stay tuned for the next slide.

Quick.

THOMAS RICKERT:

Roelof, this is tied closely to the conversation that we had earlier. This draft project plan with the different stages also helps us to get the groups get focused on what they're trying to

achieve and discipline their interaction with both the CCWG and then, through the CCWG, with external advisors.

So we want to get more structure on that in order to avoid crunch times over weekends and things like that which make things extremely costly. And so we can help spread the workload and do proper cost management, cost control.

ROELOF MEIJER: Yes, I think many of us do this in our day jobs. If you want a group to deliver an answer of a certain quality within a certain time, you give them a deadline and a fixed budget. It helps keeping them focused.

MATHIEU WEILL: Robin.

ROBIN GROSS: Thank you. This is Robin Gross, for the record.

I just had a question about this proposal. I'm wondering who the project manager, the lead legal manager, the financial manager, the project administrator, who would they report to and take their direction from? Is it the CEO? Is it ICANN staff? Or would it be the co-chairs that would be directly overseeing and

to whom these people would report and ultimately be accountable?

MATHIEU WEILL: So Cherine would like to answer that.

CHERINE CHALABY: Very good question, Robin. I think at this stage it doesn't really matter. The job is to do some analysis for all of us. They have to work with the co-chairs and be support to them. They have to work with the Finance Department to get information from them. So their job is to produce estimate at this stage.

Once we have estimates, the next stage will be, okay, what do we do with it, because let's say we get estimates and the project gets approved and then we go into execution. After this, there has to be some form of reporting against these estimates.

We can make that decision later. At this stage, this is just a short four- to six-week project just to produce some historical estimate -- analysis of historical expenditure and produce estimate for the future.

Where it reports I personally think is not relevant at this point in time.

MATHIEU WEILL: Thank you. And a follow-up by Robin.

ROBIN GROSS: Thank you. I just wanted to suggest that I think it's important that these people would report to the co-chairs and -- who report to the community. And so in keeping with the bottom-up spirit that we operate under, I think it's important to whom they ultimately report.

Thanks.

MATHIEU WEILL: Thank you. Thank you very much, Robin.

Next is Jordan, and I will close the queue after Kavouss.

JORDAN CARTER: Yeah, lucky co-chairs managing some more people. Good on you.

Look, I think insofar as it goes, this proposal is fine. It's always good to get some support in doing some estimates and then quizzing the lawyers and so on. The thing I don't know, because it's presented as a first start, is where the Board's mind is as to what follows up on it. And I think certainly we have to avoid a situation where control of resources is used -- you know, we have to set a reasonable cap on the cost of this project and then

stick to it. But what we can't do is have the work flow decided outside this group.

So there's no point in a mix of board members and SO/AC chairs deciding a budget quantum for this group that doesn't allow it to do the job that it needs to do.

So as long as that isn't the kind of end game, I strongly support getting better info.

I think that it's been our own working method with our external counsel that's been the biggest, most (indiscernible) driver of cost here, and then as long as we do work and ask them to comment on it, rather than asking them random questions, some of which are highly irrelevant, and doing so again and again and again, we'll be much better off in the next phase.

MATHIEU WEILL: Thank you, Jordan.

Kavouss.

KAVOUSS ARASTEH: Thank you, Mathieu.

I think we have a 2016 budget, and we should work within that limit, number one, unless there is a procedure that asks additional budget. I don't know how they do it.

And second, we don't need to create a post project manager, and so on and so forth. Everything will be under the control or supervision of the co-chairs. This time the co-chairs should be a little bit more cautious. Not every question raised by the people going direct to the legal counsel. They should think it over whether sometime the question can be replied internally.

And, if it really goes to the area beyond the qualification or capability of the group, then it will go to the counsel. So this time we should be quite efficient, effective, economical, and take care of that thing.

We have today this morning, that we don't have any problem with budget. I don't think so. Always budget must be spent efficiently and economically and appropriately. Thank you.

MATHIEU WEILL:

Thank you, Kavouss. Cherine will respond to that and excellent segue into the next slide. Cherine.

CHERINE CHALABY:

I think the word -- it's probably my fault. The word project manager, legal manager is not correct. What we need here is skills in estimate -- in producing project plans, skills in legal planning and, you know, how to get costings from a legal -- that's what we need. We don't need managers to do this. We

just need people with the experience that have skills to produce this estimate. So it is my fault. The word "manager" is the wrong "manager" here. It's more like project planner, legal manner, financial planner. That's what I meant.

MATHIEU WEILL:

Okay. We can, certainly, first welcome the proposal by the Board Finance Committee, gladly accept it as a pilot. And, obviously, then we'll report and share experience once the pilot is achieved. We'll have estimates and see how we can make this more efficient moving forward.

And Kavouss was already touching on the next slide, which is what adjustments we would have with regards to the legal expenses.

And, if we can go to the next slide, I think most of the ideas have been circulated already. It hasn't been our practice to take legal requests straight to the lawyers from everyone. But certainly, in the stretch to the compromise, it's been sometimes very challenging for the lawyers to answer the questions in very short turnaround times and also very difficult to have a constructive discussion with the whole group before handing over a specific request which was, basically, especially designed to reassure a particular stakeholder about the consequences of a particular

compromise or things like this. So, hopefully, we can move away from that. Okay. So I was going a little too fast.

So we have three different type of expenses -- face-to-face meetings such as this one, staff support, legal advice. That's, basically, what we have.

We have discussed in a previous meeting sometime in February that going forward we will still need staff support. I think we can confirm that.

We will still need face-to-face meetings before the ICANN meetings such as this one. And I think the breadth of discussions on Work Stream 2 will tend to confirm that we will still need this kind of setting to get together, agree on requirements, probably agree on recommendations later on. We will also probably -- we might have a need for that for Work Stream 1 implementation, which is our top priority in June.

So I think that's still our -- part of our request. And legal advice might be needed, although it should be less intensive than it has been so far.

And that's where I go to the next slide.

So this -- we've identified ways to optimize those costs or those expenses. One is that, first of all, we should be less intense. And it's been clear from the lawyers that part of the cost was due to

the fact that we were asking for very short turnaround time. They were having to keep their teams ready, basically, at all times and 24/7 almost.

We may also decide on some requests that are not controversial that other types of available legal expertise could do the trick.

ICANN legal has a lot of expertise that, in many cases, we could also agree that this is perfectly fine to get their input because maybe it has already been provided to the Board. It's already existing or things like this. We can use other legal resources.

What's important for us is that we have the ability to go to the independent lawyers when we feel the need for that.

So I think it's also a pathway to optimize cost.

Since we'll be working in drafting teams, design teams, teams, the question that will be raised is whether these teams have direct access to legal advice or need to go through a gating process.

Certainly, our proposed approach is a gating process as it is now with the -- it's the co-chairs acting and some transparency requirements about the requests that are being prepared and the responses that are provided. And so we are suggesting that we keep this process moving forward with more leeway for the lawyers to define the turnaround time so that we don't get the

peak costs associated to urgent requests. And we believe that this should help lower the intensity of these costs moving forward.

And I think this is already captured -- this proposal already sort of captures what you were saying, Kavouss, and what others were suggesting. But I'd like to check if there are any specific proposals on this for the management of legal advice moving forward.

I have three people in the queue and then Ed.

But first, Kavouss, or is that an old hand? It's an old hand.

KAVOUSS ARASTEH: Yes, Mathieu. I wanted to make it clear in my previous comment I did in no way criticize nor put in question what you, co-chair, have done, nor anybody at all. I'm talking about future. So please make it quite clear that this is not my habit to talk about the past nor to criticize anybody. Thank you.

MATHIEU WEILL: The record is set straight.

Next is Sebastien.

SEBASTIEN BACHOLLET: Yes. Thank you very much, Mathieu. My question is about turnaround time left to lawyers. I understand that we don't want to have something on the very short time, and we need to impose some short deadline. But I think we need to have some deadlines. Because, if not, depending on where and when, it could take too much time.

MATHIEU WEILL: Yeah, let me -- I think that the phrasing is not correct here.

SEBASTIEN BACHOLLET: Thank you.

MATHIEU WEILL: The point here was to say, when asking for an estimate and considering the request, we could ask the lawyers how long do they think it's going to take. And, of course, after that there's a deadline. It's not just you will deliver whenever you want, which is certainly not good practice whether with lawyers or any other profession.

Next is Xavier over here.

XAVIER CALVEZ: Thank you, Mathieu. Xavier Calvez speaking. Just -- you may have mentioned it, but I may have missed it. Just an additional

suggestion is that they're requesting an estimate with a question that is being asked. And to define the scope from the legal firm seems to have been an efficient process used by the CWG and then maybe considered worthwhile by this group as well to try to optimize the value and the understanding of the costs up front. And then the group can maybe decide and the co-chairs can decide better how to either proceed or proceed differently with the -- their request to the lawyers.

And we will assist with negotiating with the lawyers as to whether they do charge or not fees for their estimates, because I don't think that's going to be accepted as such.

MATHIEU WEILL:

Thank you, Xavier. You're right to point this out. Because that's something that was not in the existing terms of the contractual framework with the lawyers, so that would need to be clarified with them. I just want to underline that estimates are valuable when the type of request is not -- has a significant size and not if it's only a 2-hour request. That's just waste of time for everyone, including the volunteers that would be doing this discussion with the lawyers.

So we need to find the right balance.

I think, Ed, that's where you were in this queue, please.

ED MORRIS:

Thank you, Mathieu. Excuse me. Back when I was young when we started this whole thing, I was a member of something called the legal subteam, which actually hired the lawyers. And, actually, to those in the room -- I see a few members here -- this was actually the finest group of people I've ever worked with here in ICANN. Leon chaired the group. And it was intensive. And, quite frankly, I think we hired some pretty good lawyers.

As we move forward, though, in Work Stream 2, I question whether we actually need two law firms. If we are trying to reduce costs, memory serves me correct, one of the law firms is substantially cheaper than the other. I remember, in terms of lead counsel, it's almost a differential of 200% of what we paid one lead counsel to what we paid another. Again, I'm not sure what's privileged, so I'm not going to quote figures. But there was a difference.

My question going forward in Work Stream 2 is: Do we need the expertise of both firms? From my perspective, I think Adler Colvin could handle all of this. And that would be a reduced cost to the community and maybe allow us to get a little bit more legal help for -- a bigger bang for the buck, basically. I don't know if you guys have considered going with one firm in Work Stream 2. If not, perhaps you should.

MATHIEU WEILL: Leon, would you like to answer that?

LEON SANCHEZ: Yes, thank you. Leon Sanchez. You are right. This isn't something that we have yet considered, because I don't think that is our role to define whether we go with one law firm or two. We'd rather have the group decide it.

It is fair enough that you set the record straight. And we are aware in the difference of fees between one law firm and the other. They are substantially higher with one against another. And maybe I am not sure if the right way to go is just to rule out one of the two firms. Depending on the kind of work that we will be carrying out on Work Stream 2, we might even be looking at a new firm. I mean, we're not married to either firm. So we -- as much as we love them, we're not married to them. So I don't know. Maybe at some point it's worth revisiting the convenience, first, of having two law firms. And then second maybe we can either stick to one of either law firms or we could hire another -- a new one. I don't know. I think that that's something that will come out from the dynamics of the group.

MATHIEU WEILL: Thanks very much. Okay. So I think that's a point of consideration whether we should review our current independent legal system as a whole and assess various scenarios, including the cost factor, but not only the cost factor but a skill factor as well, depending on the items we need to deal with in Work Stream 2. I also want to make clear, if we go this way, it's only for Work Stream 2. Because for Work Stream 1 implementation, that's -- we're not changing anything.

I'm seeing a long queue until Bruce. And I close it after Bruce, but Malcolm is next.

MALCOLM HUTTY: Thank you, Mathieu. These suggestions strike me as mostly reasonable and pragmatic.

The -- sorry, on these -- Malcolm Hutto, for the record. These suggestions strike me as mostly reasonable and pragmatic on the turnaround time left for lawyers. Perhaps I may try to rephrase that slightly. But the instructions to the lawyers would be to propose a time frame to the chairs on the basis of cost minimization and that we would just leave it to the chairs to ensure that that -- that the time frame was managed in a way that did not become excessive.

On that basis, I see you nodding, Chair. If that were the case, then I would feel quite comfortable with this. The only one that gives me pause is the statement that some requests may be handled by ICANN legal where no independent view is needed.

Now, I may be misrecollecting this. But my recollection is that ICANN legal has always been of the view that it, together with its preferred -- with its corporate external counsel, Jones Day, have always been capable of providing sufficiently independent advice to support this group and never particularly saw the need for us to appoint our own independent counsel.

Now, if that's, indeed, a possible viewpoint that they might have, I wondered how we would go about separating when you thought that ICANN legal's advice was sufficient.

MATHIEU WEILL:

I think that would be for the various groups and tracking group to decide. But, obviously, there may be a trust factor here at some point to be built and enabled. But I think it will depend on the kind of request.

MALCOLM HUTTY:

Are you suggesting the considerations as to that trust have changed between Work Stream 1 and Work Stream 2?

MATHIEU WEILL: I'm an optimist.

MALCOLM HUTTY: Okay. I'll just leave this at saying this still gives me pause.

MATHIEU WEILL: I understand. That's well-noted, Malcolm. That's well-noted.
Jordan. And, Eberhard, I noted your hand raised for the end of the queue.

JORDAN CARTER: Thanks, Mathieu. I think we need the two frames. Because, if there are any bylaws changes coming out of the Work Stream 2, it would not make sense to have a new lawyer dealing with those. And the balance goes between the two firms is probably still useful. But, if we did a review and found one of them wasn't used, it wouldn't be -- as long as it wasn't Sidley, given the bylaws drafting, it would make sense to drop them.

And I think there's a bit of a cultural issue about the use of the legal support. I think we should have a general presumption of don't ask and don't say yes. I think we should be looking, generally, for advice from counsel once we've got relatively well-formed ideas that can then be tested in whole rather than

nagging with details, questions about issues that probably the marginal benefit to the project or the work from finding out the answer is much lower than the marginal cost of providing the answer.

So, certainly, I'm ruled out from running any of these workgroups, which is great as far as I'm concerned. So I think people should definitely not be looking for legal advice until there's something to get a considered view, kind of one-stop, yes, this will work and there are some tweaks answer.

MATHIEU WEILL: Very good point. Jordan, thank you. Kavouss.

KAVOUSS ARASTEH: Yes, Mathieu. I think the three bullets you have written need a little bit of improvement. One way of reading of that that each group requests for a legal things and sharing on the list among the people within the team.

The other is that they submit such a thing in the cultures and that is the cultures who share it on the list with everybody. And, once received, the comment but not approved, the culture decides to certify or not.

So that is -- we would like to make it quite clear that this is a culture who decides for certifications to submit that to GAC, but not the CCWG group. Because you don't want to waste time to go to the consensus and so on and so forth. This is your ability and you're competent to decide, yes, you need that sort of thing. So could you make it kindly clarify the issue?

MATHIEU WEILL:

We'll attempt to do so while protecting the requirements that requests are also transparent to the whole group so that the whole group is aware of the request that is being prepared, which was our intent when we said CCWG here.

So we'll try to find a better wording for that, Kavouss. I fully agree that there's room for improvement.

Bruce, you are next.

BRUCE TONKIN:

Yes. Thank you, Mathieu. I just want to pick up on a couple things. One is in managing legal costs, what most commercial organizations and probably nonprofits as well, will generally use in-house counsel for sort of routine legal work. And then they use external counsel for very specialized areas and often from different law firms. In other words, you're not generally locked in to any particular external law firm.

So your internal counsel is actually able to help formulate the questions properly and use the external law firms cost effectively and for their particular expertise.

So I think that it's come to the time -- if we look at the amount of money that we're spending on legal, it seems to me that we need to have an in-house legal function that's supporting the CCWG.

Then there's the issue of separation of duties. When I -- before I joined the Board, I was chair of the GNSO. And before that I was chair of the DNSO, for those who know all the acronyms. And back then we went through a number of different phases. So, initially, the DNSO employed its own staff entirely independently of ICANN.

Then we actually ended up having ICANN employ our support person at that stage, which was Glen De Saint Gery. Then the policy support was still basically out of the general counsel's office, which was Louis Touton at the time.

And I pushed, when I was chair at that time, that we needed a separation of duty. We needed a separate policy support staff. And that staff that was built in Brussels, completely separate to the Los Angeles office.

And I think those -- people on the GNSO now probably most of you don't remember those days. But my sense is that GNSO counsel trusts the policy support that it gets, because there's a clear separation of duties. Those policy people in the Brussels office and at different offices have nothing to do with the normal sort of corporate function. They're not part of Akram's team. They're not part of John Jeffrey's team. They're reporting to David Olive, and it's a completely separation of duties.

I think that there's a way forward here in having your own in-house legal counsel that is not reporting into John Jeffrey's team but actually reports in to David Olive and is just part of the support that we provide our policy teams.

So I do urge you to seriously consider that. Because I think that will both give you confidence that you're dealing with a legal counsel that's working on your behalf and also allow that legal counsel to manage the external firms and choose the external firms with specialist skills. If we look at the Work Stream 2 topics, they're really quite diverse. The sort of law firm that will give you advice on how to manage sort of documents disclosure policies. There's a sort of law firm that can provide human rights, specialist advice. Generally, not the same law firm.

So I would suggest you want more diversity in the external law firms that you use. But you need an in-house counsel to,

basically, sort of manage the day-to-day questions that the group may have. But separate -- make a separation of duties that that in-house counsel is operating as part of the policy support function of ICANN and is independent of the normal corporate operational services in the general counsel's office or in the domain name or IANA offices.

MATHIEU WEILL: Thank you, Bruce. Short response, Thomas.

THOMAS RICKERT: Yes. Very briefly, Bruce. Thanks so much for bringing that up. And I guess it's not the appropriate time for our group to discuss this. But we will put out the question on the list for you to share your views on having a separate legal advisor for us that's not reporting to J.J. You know, whether we accept your suggestion, I think that's really worthwhile discussing. We would need some time before that person gets operational. You know, we would need to put out job ads and what have you.

So I think we should try to get a group's view and an agreement on that as soon as possible. But we'll do that on the list. So watch out for that thread.

MATHIEU WEILL: Thank you, Thomas. And that was the thread and not the threat, right? Thank you.

THOMAS RICKERT: Both.

MATHIEU WEILL: Eberhard, you were next. And then Asha.

EBERHARD LISSE: I just wanted to comment on two things. I don't agree really with what Malcolm Hutto says. Jones Day may be entitled to their opinion. And I know they are sometimes wrong, but they are never in doubt about their opinion.

But I also want to comment on what Bruce said. We have two lawyers on the co-chairs. And he's, basically, saying the two lawyers as co-chairs cannot sort this out for themselves. A lawyer is responsible to the person who pays him. As long -- we had this discussion in the beginning. And we decided that we wanted external counsel because we were not really confident about the direction or the advice. And I think that's a decision that the group must make.

And I hear what Thomas has just said. I don't really think we need an in-house counsel. That will not improve the situation, as far as I'm concerned.

MATHIEU WEILL: Thank you, Eberhard. Asha.

ASHA HEMRAJANI: Thank you, Mathieu. Asha Hemrajani, for the record. I've read all the chats in the window, and I heard what people have been saying today. But I want to go back to how we started this discussion.

So what the Board is proposing is that we set up a support team. And this support team is going to help us come up with estimates of the cost of the work and the costs -- related costs for the work for the rest of Work Stream 1 and for Work Stream 2.

We're not talking about hiring additional lawyers. We're talking about people to help us with the planning or people to help the co-chairs with the estimates. It's very important we have estimates. Because we cannot go into this blindly. We have to know how much work is going to be involved and how much we're going to spend. It's important that we know how much we're going to spend. That is the purpose of this proposal. I just wanted to remind everyone of that. Thank you.

MATHIEU WEILL: Thank you, Asha. And I think we've agreed on the proposal which we are already looking one step further here on the way forward as well.

ASHA HEMRAJANI: Yes, but I wanted to clarify the point about there was some discussion going on about hiring an in-house lawyer and all that. In the proposal we're talking about a planner.

MATHIEU WEILL: Yeah, that's very clear. Thank you. Thank you for clarifying. So I had closed the queue on this, but Jordan and Robin, was that an immediate response that cannot wait for the list discussion? No? Okay. Old hand. And Robin, old hand as well? New hand. So Robin.

ROBIN GROSS: Thanks. Yeah, I just wanted to make a suggestion on this about the way that the lawyers are currently managed. I think it would be useful if we went back to using the CCWG legal list to manage the lawyers because that is publicly archived so we can be more transparent that way and the co-chairs can still manage the lawyers but it will show the community, it will show the Board,

that we're doing all that we can to manage the costs and that we're being transparent and open in our managing of these very sensitive issues. Thank you.

MATHIEU WEILL:

Thank you very much, Robin. And that's actually also a good segue into our next and I think it's the last slide. I wish. Some people wish. About how we can address the planning of costs a little bit more efficiently and clarify the roles and responsibilities of each of the parties in this process, managing the costs of the project going forward. And the idea here is to introduce some form of iterative approach which could run -- each iteration could be from one ICANN meeting to another so that it -- it actually involves some face-to-face discussions. And I think the principles that are behind this are -- and that's on the top -- that it's incumbent upon us as the CCWG to define what we want to achieve in the upcoming periods? What are the goals we are setting for ourselves? For instance, in the next period we want to provide the bylaw drafts for Work Stream 1, and this is the support we estimate reliably that we need to get that done. So that's on the top. If you go -- slide to your right. I think it would be great and very useful, because it is, after all, for them, we are accountable to the chartering organizations, to chime in and say oh, we think this goal is -- the value of these goals is actually -- there's value for money doing this so we're in favor or we think

that given the other projects going on, if you could do that, maybe with a little more -- being a little more aware of the cost or maybe reducing a little bit your ambitions because we have other things and we need to be aware of the global impact for the cost of ICANN, that would be -- and that's why I think ICANN meetings are useful because many chartering organizations can only make these kind of discussions in the face-to-face meetings. Then it's clearly ICANN Board's responsibility to allocate the funds, update the budget, and I would note that once Work Stream 1 is in place, if we're unhappy about their decisions, we have ways to hold them accountable. So that's -- that's -- I mean, it's not just the Board can do whatever it wants. It's really a discussion that we need to have.

We need some improvements in the tracking of expenses, and that's the point behind the additional skills in support for the project cost tracking. And obviously this doesn't work out if there's no reporting about what we've achieved and how much we've spent in the process. And I think if we could clarify these roles and responsibilities and set up this kind of loop efficiently, then we would be in a much better position to assess at any point in time what's the value of keeping the project open, what would we miss if we -- if we didn't have any more resources on the project. And obviously you find all the balance in between, which is the -- what's valuable about the project.

So I think we've already started working on the top aspect here which is the estimate, based on the proposal by the Board Finance Committee, and putting that into this kind of perspective would certainly help moving forward, ensuring that everyone is clear about each other's roles and responsibilities but also has visibility at any point in time about where we're going and why we're spending money and how we are actually making this.

It's not written on the slide, but we -- it was mentioned earlier about the idea of a budget cap. I think whether we want it or not there are budget caps in ICANN's existing processes. If you go over the amount that is in the budget, obviously the Board has to give -- make a new decision. So there is a budget cap right now, and I think this process can accommodate this quite well by the discussion within the CCWG, the chartering organizations, and the ICANN Board.

So I think that's the wider view about how to move things forward. And this is probably, if the group agrees, something that we could try and also explain in the various discussions that I have no doubt will take place during this ICANN meeting in Marrakech about the expenses of the IANA stewardship transition project and how we see it moving forward. I think this is a good -- a good starting point for these discussions. And that's the introduction for that purpose. And I don't know if

there are any reactions in the room or if you are too tired to react at this point, which was our goal, having this as the last slide.

[Laughter]

I see Cherine's reaction. Cherine is not that tired yet.

CHERINE CHALABY: No. I just want to say I really like this and support it wholeheartedly. And the reason for that is just it goes back to what I said earlier, this is about dialogue between all of us. And it's an iterative process. You keep going and if one party doesn't like something, they need to discuss with the others, go back, discuss, do trade-offs, and we move on collectively as a group. So I fully support that. Thank you.

MATHIEU WEILL: Thank you, Cherine. Kavouss.

KAVOUSS ARASTEH: Yes, Mathieu. We are not tired. At least I never be tired of anything at all. I think there is always a benefit that we consult colleagues. So whatever decision you want to take, and you, if you think you could consult CCWG, please do that. Whatever decision you want to make and if you think appropriate that you

consult the Board, please do that. So do not exclude that. It is not harmful to get views of the people, whether you think that views to be implemented or not, but at least it is better. It gives you more support. It brings richness and so on and so forth. So do not deal with only the three. Consult CCWG and when appropriate and necessary consult the Board. Thank you.

MATHIEU WEILL: Thank you, Kavouss. Eberhard.

EBERHARD LISSE: I have an improvement proposal. I think we should remove four of these buttons and change one leftover with cut legal fees. The costs that we're having are not -- are not -- the meeting fees are not the staff support. They are left in what -- 8% or something. Admin costs are 1% or something. The lobby fees shouldn't be -- the lobbyist fees shouldn't be lumped into this project because we have no control over this. Of the fees where we have some form of control, the only contributing factor that is actually starting to mess with Xavier's sleep is the legal fees. So we must find whatever way, we must find a way of lowering those costs and then it will all come together.

I'm not -- as I said, a budget cap, as far as I'm concerned, is helpful because it gives us something to look at. But it's not going to shape the -- the substance of our discussion in the end.

MATHIEU WEILL: Thanks, Eberhard. And that was precisely the previous discussion, and I think this kind of system also creates a consistent incentive of cutting the legal fees if that's the -- the input from the chartering organization, from our group, and the ICANN Board. Yes, please, go follow-up.

EBERHARD LISSE: What I mean is we shouldn't spend too much time on this iterative administrative approach when the actual cost factor that we -- the only cost factor that we really need to be concerned about is the legal fees. If we get -- if we get them down to a -- to a manageable level, all this can -- we can dispense with. If we had gotten them down to a manageable level we didn't -- we wouldn't have to put in another project to contain these costs. I'm not arguing about the -- the actual value of the proposal of this project management team, but the goal behind it is very clearly that they are very expensive and the financial manager is getting concerned about where he's getting the money from because it will interfere with a long-term planning that they're having.

MATHIEU WEILL: Thank you, Eberhard. Good point. I understand your point. Kavouss, was that a new hand? No? So Avri.

AVRI DORIA: Thank you. Avri speaking. I guess looking at it, I mean, it looks like, you know, very healthy bureaucratic overhead. But I worry about trying to go through this entire cycle every three months. I think we're just creating more work, we're asking for more staff time and such. So I think having the idea of a cycle of five things periodically makes sense. But I really do worry about this being a constant cycle that's going on in the background of the work we're doing. Thanks.

MATHIEU WEILL: So could certainly -- the cycle could run over two meetings, for instance, to make it smoother. Okay. Thanks for -- Cherine, a last word on this before we go to the closing remarks?

CHERINE CHALABY: Yes. I think -- I think people may read this chart in a different way. There isn't a constant looping over three months' period to do this. What this says is that CCWG defines a request, the SO and ACs approve the value of it, and the Board allocates the

resources. That's done. The left side of the chart is during the duration of a project, no matter how long it takes, a year or more, there should be some reporting and some feedback on the achievements. That's all there is to it. So Avri, this is not a big overhead nor --

UNKNOWN SPEAKER: (Off microphone).

CHERINE CHALABY: Yeah, I think -- well, I think Mathieu would agree with that, this is -- so you may want --

MATHIEU WEILL: I think let's do it once and we'll see whether that's a heavy burden or not, and then we'll see -- we'll adjust this. As Eberhard was saying, maybe by the time we do it once there won't be any budget issue anymore because we'll be done. But I -- I wish it's the case. Okay. So thank you very much for the discussion. It was -- I know it was a hard discussion to have after a long day after you had long trips in the previous days. And certainly the energy in the room sort of started dipping. Yeah, must be my energy, yes. And -- but I think it's important that we have these elements in mind, all of us, and especially the members who do -- will discuss with their respective

organizations. And I'm certain there will be a number of questions on budget. So it's important that we have aligned our views on this and can demonstrate that we have a plan moving forward to manage costs effectively and that this is something we're taking very seriously as a group.

And with that, I'd like to turn to Thomas for some closing remarks. From what I hear, they should be short.

THOMAS RICKERT:

And that is certainly true. Just to briefly recap, you know, this has been a long day, but I think it has been a very fruitful day. Best news today is that two chartering organizations have approved, that there are no dark clouds approaching from other areas.

[Applause]

At least not that we're aware of. So hopefully we'll be able to really celebrate next Thursday. We got more clarity on Work Stream 1 implementation by sorting out the question of what's going to happen with implementation oversight. We've clarified the role of the IRP team. We've made a demarcation to Work Stream 2. We've discussed the substantive issues. The most important take-away for me during the substantive discussion on what's going to fall into these topics is that we've clarified

what we're not going to do. So I think we're -- we've set expectations as to what the scope of work is going to be for the Work Stream 2 discussions.

We are now in a position, after we've discussed with you the process and approach, working with other methodologies as well as costs and budget approach, we're now in a position to come up with a proposal on how to approach Work Stream 2. So I think we can signal to the outside world something that's very important, Work Stream 1 is coming. It's not being put on the back burner. We've got it rolling basically today. We're going to issue a call for volunteers, hoping to get some fresh blood to the scene to get the work started on these important areas.

So with that, I'd like to close the day. Although I can't. Kavouss has raised his hand.

[Laughter]

KAVOUSS ARASTEH: Yes, yes, yes, yes. Thank you very much, co-chairs, for your contributions, for your preparation of documents and so on and so forth. Thanks to ICANN staff for the material that they prepared for us. Thanks to the Board members who are here and contributed, and one plea to the people, let us take the

SSAC example in approving the proposal of CCWG. Short, concise, precise. We agree with that. Thank you.

THOMAS RICKERT: Thanks very much, Kavouss. So you stole my thunder in thanking certain -- certain people, but I would like to add to that. You know you mentioned members, participants, staff, our advisers. Let me add the interpreters. Let me add the scribes. Let me add the remote participants. I mean, it's so hard to follow conversations for so many hours. So let's give them a round of applause.

[Applause]

Don't forget, we have the engagement session on Monday, and we have another working session on Thursday. See you there. Thank you very much.

MATHIEU WEILL: And registration is open. There are -- is the registration still open, Grace? So if you haven't collected your badge, you can go now. It's at registration.

[END OF TRANSCRIPTION]