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MARRAKECH – IANA Stewardship Transition Implementation

Monday, March 07, 2016 – 10:30 to 11:45 WET

ICANN55 | Marrakech, Morocco

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[ Video playing ]

VIDEO:

When the National Telecommunications and Information Administration, an agency of the U.S. Department of Commerce, announced its intent to transition its stewardship of the IANA functions to the Internet's global multistakeholder community, it asked ICANN to facilitate the transition process.

In response, the multistakeholder community identified two parallel processes: The IANA stewardship transition process and the enhancing ICANN accountability process.

Overseeing the transition process is the IANA stewardship transition coordination group, made up of 30 individuals from 13 community organizations representing the broad and diverse interests of the Internet. It is tasked with collecting and evaluating proposals on how the transition should occur from the three operational communications of the IANA functions:

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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The domain names community; the number resources community; and the protocol parameters community.

The domain names community created a cross-community working group, or CWG, to develop its proposal, its charter adopted by five of ICANN's supporting organizations and advisory committees.

The number resources community created the Consolidated RIR IANA Stewardship Proposal team, or CRISP, to develop its proposal in coordination with the five Internet regional registries that allocate Internet Protocol addresses, and the community responsible for setting policy for protocol parameters developed through the Internet Engineering Task Force created the IANA plan working group to develop its proposal.

The IANA stewardship transition coordination group mandates that proposals from each of IANA's operational communities assess their oversight and accountability to the IANA functions.

Once the ICG receives the community's proposals, it will consolidate them and other recommendations into one final transition proposal and send it to NTIA through the ICANN board of directors.

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Running parallel and interrelated to the IANA stewardship transition process is the enhancing ICANN accountability process. It was created to examine how ICANN's accountability mechanisms should be strengthened, in light of its changing historical relationship with the U.S. government.

Driving the process is the cross-community working group on enhancing ICANN accountability, which was chartered by five of ICANN's supporting organizations and advisory committees and is made up of ICANN stakeholders as members, nonvoting participants, and seven independent advisors selected by a public experts group to provide outside expertise and global best practices.

The CCWG launched two work streams. The first focused on mechanisms enhancing ICANN accountability that must be in place or committed to within the time frame of the IANA stewardship transition.

The second focused on addressing accountability topics for which a time line for developing solutions and full implementation may extend beyond the IANA stewardship transition.

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The output from Work Stream 1 is essential to NTIA's acceptance of a transition proposal and also will be submitted to NTIA through the ICANN board. As such, a liaison mechanism has been established between the two processes to identify any overlaps or gaps and inform each other's time lines.

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TRANG NGUYEN:

-- taking you through each one of these projects in a little bit more detail. This first project, which is part of Track 1, is the root zone management system project.

This project essentially is the work around making code changes to the RZMS in order to remove the NTIA authorization role and doing parallel testing.

ICANN has completed the code changes on its side and have deployed them on March 2nd. We are waiting for VeriSign to complete making code changes to its system. That work is still currently on track to be completed towards the end of March. Once that's done, we'll be doing integration testing with VeriSign, and once that is completed successfully, then the parallel testing will start, and the parallel testing is anticipated to start in early April.

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During the 90-day parallel testing period, daily and monthly comparisons will be posted, and if issues are found during the parallel testing process, the parallel testing will stop, we'll investigate the issue, and then start the clock again. If everything goes smoothly, then the parallel testing will conclude in 90 days.

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The second project within Track 1 is the root zone maintainer agreement. This is the agreement that ICANN will enter into with VeriSign to perform the maintainer function. The goal of this agreement is to provide secure and stable operations through the transition period and beyond, and ICANN and VeriSign have been in active discussions to finalize the terms of this agreement.

The agreement will include an option for stakeholders to participate in a consensus process for the procurement of future RZMS service- -- RZM services, and in terms of a process, the agreement will be -- once the terms are finalized, the agreement -- the draft agreement will be posted for a 30-day public review period.

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After that, then the board will consider it and approve it, and then only after the board's approval that we will sign the agreement. And then even after that, the agreement would only become effective once the transition takes effect.

So now the -- on Track 2, with regards to the IETF MoU supplemental agreement, we -- we finalized the terms of the supplemental agreement with IETF, I believe it was in March of last year, and are just doing one final review of that document. The -- we anticipate that this document will be posted for public comment prior to board approval and then execution, and again, the agreement will become effective only once the transition takes effect.

The RIR service level agreement or SLA, this is another agreement that we are in discussion -- this is an agreement that we are in discussion with the RIRs on, and the agreement is to -- it will include service level -- service levels that we will adhere to in delivering our services, numbering services.

We are in active discussions with the RIRs as to a few remaining items that are to be finalized. We have a couple of meetings scheduled with RIRs here this week and hope to finalize the agreement with them through those discussions or soon after.

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Once the discussions conclude, we anticipate that the agreement will be posted for a public comment period, after which we'll present it to the board and then execute once the board approves, as well as we have permission to sign from NTIA.

As with the other two, the agreement will only become effective once the transition takes effect.

On the naming side, the CWG has defined a new set of service level expectations, so SLEs, for IANA, and the work that's required to implement this was -- can be -- was to make changes -- code changes to the RZMS to collect the data as per the new SLEs that have been defined.

The current system do not capture the timestamps that the CWG has defined in these new SLEs so that's why we had to made the code changes. Those code changes have been made and were deployed on March 2nd, so we are now in the next phase of the project, which is to start a period of data collection and then -- and then concurrently the team will be working on aggregating that data and then reporting it.

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After that period of data collection, we'll be using that data to set performance targets and then incorporating those performance targets into the ICANN/PTI contract.

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IANA intellectual property rights or IPR. The -- we don't have much -- we haven't started this project yet because we are still waiting on implementation requirements from the communities. The three operational communities are currently having active discussions with regards to where the IANA IPR is going to be transferred. I believe the current thinking is that the IETF Trust will be housing the IANA IPR. There are some operational details that are still being discussed amongst the three operational communities and you can follow the discussions at the two links that are posted there.

The top link will take you to a framework document that the three operational communities are working on, and then the bottom link takes you to the mail list archive.

So we understand that the slides are not being shared by the Adobe Connect room and our technical team is working to resolve that issue. Apologies for that.



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Move on.

We'll carry on in here.

The next update is on the post-transition IANA or PTI.

As per the CWG proposal, a new legal entity will be formed named P- -- called PTI. It will be an affiliate of ICANN domiciled in California. It will be a nonprofit text-exempt organization. ICANN will be the sole member and it will have a board consisting of five directors, three that will be appointed by ICANN and two appointed by the NomCom.

In implementing PTI, our goal is to maintain as much operational stability as we can so that we can continue to deliver the high-quality services that you have come to expect from us in order to ensure a stable and secure Internet. We considered various ways of implementing PTI with that goal in mind and had numerous internal discussions and analysis with people like the folks you see at this table here, and through those discussions, you know, we looked at, you know, the -- the potential impact from an operational, HR, financial, legal perspective, and through those discussions what we have come to realize is that the most -- the approach that would provide the most operational stability and be the simplest to implement

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while meeting the requirements of the operational communities would be the arrangement where we would move only the naming function to PTI.

So next slide, please.

So in this arrangement, we would subcontract the naming function to PTI. The staff required to perform that function, as well as any other services needed to support that function, will also be subcontracted to PTI via an ICANN/PTI contract.

Under this arrangement, the IANA staff will continue to be employed by ICANN, which allows for continuity and stability. Their time would be allocated to either performing services for PTI or ICANN. There would be an intercompany arrangement that will specify what other direct shared services and support services will be provided by ICANN to PTI.

There will be no changes to the protocol parameters community arrangement. We will continue to have an MoU with the IETF, and as I mentioned earlier, the supplemental agreement is being discussed with the IETF. One will be signed, as well, before the transition.

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From a numbering perspective, there will be a couple of changes. As I mentioned earlier, we'll be signing an RIR SLA document with the RIRs to perform the numbering services. The RIR has also formed a review committee that will provide oversight of that agreement. So those are the couple of changes for the numbers community.

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So we believe that this arrangement is consistent with the requirements of the -- of the operational communities. What the numbers and the protocol parameters communities have said in their proposals is that they would like to work directly with ICANN, all of the contracts will be signed with ICANN, although they would not object to ICANN subcontracting those services to PTI.

They also did mention that they will not be participating in any of the other entities or processes defined by the CWG, such as the CSC or customer service standing committee, and IFR or -- stands for IANA function review.

So this arrangement allows for that, for the direct contracting of those two services, and then meets the names requirements to have PTI be performing the naming function.

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This arrangement also eliminates some of the oversight and governance complexities that would be introduced if all three functions were moved to PTI, and it still allows for the separation that the community looks for without actual separation at the time of transition, which is consistent with Paragraph 1241 within the CWG proposal.

And as I mentioned before, of course this arrangement would provide for the most stability for the employees because there will be no changes to the employment arrangement. It provides for continuity and stability there. And from an operational perspective, this arrangement also makes sense because of how integrated the IANA services currently are within the ICANN organization. And I invite you to also take a look at the FY17 budget which is currently posted for public comment where that will become very obvious.

Next slide, please.

Moving on to customer standing committee or CSC, the CSC is a new body that the CWG has recommended be formed in order to provide oversight of the PTI performance.

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The CSC role would include monitoring PTI performance against agreed-upon service level targets in the ICANN/PTI contract.

The CSC can also undertake remedial action, which is a new escalation process, to address PTI's poor performance. It can also escalate PTI's performance issues to the ccNSO and GNSO if those are not addressed via the defined escalation mechanisms. And it can also review, in a periodic basis, and make changes to the PTI service level targets that are in the ICANN/PTI contract.

The composition of the PTI is shown there on the slide for you. The members with voting rights will come from the ccTLDs, the gTLD -- will include ccTLDs, gTLDs, a TLD rep other than a G or a CC, and a represent from PTI. And then the CSC may also include liaisons with nonvoting rights from the other SOs and ACs listed there.

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From a -- in terms of constituting the CSC, the timing that you're looking at there shows that we anticipate that we will perform outreach to get the process started from the other SOs and ACs listed there.

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From a -- in terms of constituting the CSC, the timing that you are looking at there shows that we anticipate that we will perform outreach to get the process started sometime in April. The candidates will be appointed over a what looks like approximately three-month period. And then ICANN will send the candidates to the ccNSO/GNSO towards the beginning of August so that the CSC can be constituted by August 18th. The reason why that day is important is because NTIA has informed us that we needed to send them a final report and implementation by August 15 in order for them to have adequate time to review and sign off on the implementation.

Next slide, please.

Root zone evolution review committee, or RZERC. RZERC is a new committee that the CWG has recommended be formed to advise the ICANN board on operational and architectural changes to the root zone.

Something that is not mentioned in the CWG proposal but is something that we are considering adding to the scope of the RZERC is potentially developing an RFP for an RZM transition process, which is being added into the RZMA that we are discussing with VeriSign.

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The composition of the RZERC is listed below so you can see.

In terms of timing, this is very similar to the timing of the CSC. The only step we don't have here is that in terms of constituting the RZERC, there is no requirement for the ccNSO and GNSO to sign off on the final composition. So there's one less step. And that concludes all of the projects under Track 2.

Moving on to Track 3, there are four projects, the first one being the ICANN bylaws. And the CWG has itself undertaken some work in this regard as well as the CCWG in some aspect.

What is being shown here are some key days that we have to work towards. Essentially NTIA has said that they need to have the ICANN bylaws be adopted before they can sign off on the proposals. So that gives us essentially -- if NTIA anticipates a 90-day review period, that sort of gives us a 90-day time frame to work toward finalizing and adopting the bylaws.

This slide list, the other three projects under Track 3, as I mentioned, these projects deal with elements of the CCWG proposal. Once that proposal is finalized, we will take a look and build out more detail project bands for these three projects.

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I believe that is it for the implementation update. And now Yuko is going to walk you through how we do reporting and implementation Web page.

YUKO GREEN:

Thank you, Trang.

As you can tell from what Trang has covered, we have a lot of implementation planning work completed so far; and we will continue our effort in planning work. In order to keep you all informed, we have created an implementation Web site which our URL is shown on the slide. Or if you prefer to go through the ICANN main site, the top upper right corner, you will see the IANA stewardship and accountability icon. If you hover over there, you will see three drop-down menus. And the third option will be implementation. That will take you to this page. Our implementation Web page has three main sections. One is the latest update and blog where you will have blogs, announcements, or any sort of updates shown there.

And second one is meetings and work sessions where we will post all the meeting materials and recordings as well as announcement for future meetings, if you would like to attend.



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And the third section will be document archive and links where you will be able to download any reports or governance document or any sort of implementation-related documents that you would like to review.

We will continue to update this page as necessary and keep you informed of all implementation planning work as well as future actual implementation work when the time comes.

So this concludes our session. And I'd like to now open up the floor to the Q&A session. We will take questions from the room, Adobe Connect room, as well as from the remote hubs.

TRANG NGUYEN: There is a queue forming at the mics. If you have any questions, please go ahead. Thank you.

AVRI DORIA: Thank you. Avri Doria speaking. I guess when I was watching this, I was really quite surprised at the implementation. And from my recall of what we did in the cross-community working group, I really thought that we had intended for a much more separate PTI, not fully separated yet but certainly not defined as just a function within ICANN.

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Now, you've stated that this is built upon one particular paragraph. I need to go back and look at the paragraph that's being spun to give you this interpretation.

But at the moment, my instinct is that this plan does not correspond to what we proposed. So I'd appreciate you explaining exactly how it matches what we proposed. Thank you.

AKRAM ATALLAH:

Thank you, Avri. I think that we looked at the intent of the proposal which says that we want to be able to separate. And if you're familiar with the NTIA contract with ICANN, they actually have the same intention in the contract. And the contract -- the current contract with NTIA actually specifies every position within the IANA team and the names of the people that are in the IANA team to allow them to say at some point if they want to separate them and want to take that team, they can take it.

Now, it's very important for stability to understand also that the employees in IANA have certain rights. And their rights are basically to move away and quit if they don't like it. So it's very important for us to maintain stability and keep the same class of employees across all of ICANN.

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Any company that's less than 50 people does not have -- an employee in a company that's less than 50 people in the State of California does not have the same rights for benefits and the rest of the services that are provided that an employee that is in a company that's more than 50 people.

So from our perspective, we looked at the stability of the organization. And we are aware that basically the separation is the ultimate goal. And we assessed that basically if we were to be asked to separate, whether we move the employees today or we move them at the point of separation, it would not be a material issue. Therefore, we opted for the stability of the organization and we decided to go down that path.

AVRI DORIA:

So, basically, you decided you knew better and you would do it your own way.

AKRAM ATALLAH:

No. Again, this is a plan that is being put in front of the community before it is actually implemented. So the point is that we are putting to you our best thinking today. And if the community decides, no, we want to separate IANA and we want to put them in Arizona, we will work with the community and comply.

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Please.

MIKE CHARTIER:

Thank you. Mike Chartier, Intel. After we deliver the proposal to the NTIA, the U.S. government will be interested in the views of industry as to the transition. The last remaining gaping hole is the root zone maintainer agreement. And we need to know what that is before we can render an opinion.

Can you tell us when you're going to publish something on that agreement?

AKRAM ATALLAH:

Thank you for your question. So we are working very hard to finalize a few remaining issues on the agreement. We plan to publish as soon as possible. We will work with VeriSign, our partner in this, and NTIA to put together something that we can publish hopefully before the end of the month, if not the entire agreement, maybe the head of terms of the agreement or something, as much as we can, that is finalized.

But the agreement is actually pretty straightforward. It's an agreement to provide services, the maintainer services, for a period of time. It will actually have a right for both parties to

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terminate the agreement. And especially if the community through the CSC or RZERC asks us to do certain things or open it up for RFP or all of these things, all these rights will be there in the agreement.

So a lot of the requirements -- we've agreed on most of these -- the terms that the community wants in the agreement. The remaining issues are more regular terms that we're discussing. So I don't foresee any major issues. We should be able to post something before the end of the month.

MIKE CHARTIER:

Thank you. In all due respect, the end of the month is pretty -- is not good enough. 200 members of the CCWG jumped through hoops to deal with a lot more parties than two to get here to Marrakech.

To put a finer on it, some of us might get asked that question on St. Patrick's Day in a public forum. So can we get a commitment from the board to publish something in writing end of business March 14th?

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AKRAM ATALLAH: I can't commit to publish something in writing by March 14th. I just can't commit that to be the final, all-comprehensive. But we will try to do our best to do that by March 14th. Thank you.

PETER VAN ROSTE: Good morning. My name is Peter Van Roste. I'm the general manager of CENTR, the organization for European ccTLDs.

I'm looking for clarification on slide 21, which is on the timing of the CSC constitution, which stands for customer standing committee. It seems to suggest that ICANN is looking for the candidates, then appoints the candidates, and then sends those appointed candidates to the supporting organizations.

Can you clarify because I'm sure that's not the intention.

TRANG NGUYEN: Thank you for the question. Per the CWG proposal, the process is that the ccNSO and GNSO are the registries, the quota within the GNSO will be actually appointing the members.

So what ICANN would do is just initiate a process reaching out to them, making sure they understand what the requirements that were in the CWG proposals are. And then they will use their own internal processes to appoint them.

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The one unique step in this process is that the GNSO and ccNSO are to sign off on all final appointments. And so because the appointments will be made by a couple groups as well as the liaisons will be made by other SOs and ACs, there needs to be an intermediary to gather all of that, all of those appointments and send them to the ccNSO and GNSO at the end for them to formally adopt them all.

PETER VAN ROSTE: Can I respectfully suggest that you change the slide because it seems to suggest exactly the opposite.

Look at the wording, "ICANN sends appointed candidates to ccNSO and GNSO." So thank you for that.

PADMINI BARUAH: Good morning. My name is Padmini Baruah, and I'm a law student from India. And I represent the Center for Internet and Society.

Now, the point that I'm about to raise is something that we have already raised in the draft -- the comment for your draft

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stewardship proposal as well as at ICANN 54 in Dublin. We would really appreciate it if our concern was addressed.

This centers around something that we like to call jurisdictional resilience. And we believe that once the transfer of NTIA oversight shifts to the IANA functions operator, ICANN will potentially have the power to move the ownership of the .COM to a different entity, just to be concerned about abuse of process.

Further, the U.S. government has also used the fact that VeriSign is incorporated in the United States to extend its jurisdiction on domain names. And that makes it the only country in the world to make this claim on the basis of the jurisdiction of DNS registries. So we feel that to ensure the legal resilience of the DNS, it is essential that there should be legal immunity for core technical operators of the Internet functions from the legal sanctions of the state in which they are legally situated.

There should also be, we feel -- there should also be, we believe, division of core Internet operators among multiple jurisdictions and jurisdictional division of policy-making functions from the technical implementation functions.



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Secondly, as Mike just raised the question of the RZM function, we feel that there is an issue with potential monitoring and undue influence of one government over the other in the role. And we feel that that concern should also be taken into account. Thank you.

AKRAM ATALLAH: Thank you for our questions. A lot of them are legal questions. I'm notable to actually address them, but we will look at them. And we will provide you an answer. Thank you.

PADMINI BARUAH: Respectfully sir, by when could I bother you again for the answers to these questions? Because the initial comment period, when we received the summary that ICANN provided for the ICG transition, our concerns were absolutely blacked out from that. And we do believe jurisdictional resilience is essential for (indiscernible). Thank you.

AKRAM ATALLAH: Again, I think we will confer with our legal team and figure out, you know, what's the schedule to get back to you on that. It shouldn't be more than four weeks. So we should be able to get back to you within a four-week period.

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PADMINI BARUAH: Could I ask you for a final date by the end of this particular session in Marrakech, sir, on when you will be able to provide us with the answers?

AKRAM ATALLAH: Sure. We'll look into it, and we'll get back to you before the end of Marrakech.

PADMINI BARUAH: Merci.

AKRAM ATALLAH: Thank you.

KRISTINA ROSETTE: Kristina Rosette, Amazon. I have two questions. The first is, if I remember correctly, the slide indicating the composition of the PTI board indicated that two of those members would be appointed by the NomCom. Is that right?

Is that the currently seated NomCom or the NomCom that will start working at the end of the next annual meeting?

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**AKRAM ATALLAH:** So I'm not sure that we've actually started the process with the NomCom. We need to actually talk to them and figure out how we're going to get -- if they have enough in their current pool, for example, to be able to nominate two immediately for September, to start September 30th. So we need to work with them on the best way to nominate these two people.

But it is the NomCom that nominates our board members and our constituencies' leaders as well.

**KRISTINA ROSETTE:** Great. Thank you. I also have a request for Elise and I believe it's probably David with regard to the SLEs.

As someone who has to explain to business teams what the delegation process entails and who owns each step in that process, I've been unable to find any kind of graphic on either the ICANN site or the IANA site that sets that out. I think it would be extremely helpful to have -- if there is something like that, I would love to know where it is. And if there isn't, I would suggest that one be created that reflects the current situation and that once the SLEs are finalized to have an updated graphic so that it's easily understandable. You don't actually have to go back and read the contract to figure it all out. Is that something that would be possible?

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DAVID CONRAD: Thank you for the question. Yes, I am certain that -- I'm fairly certain -- I can't say for sure -- that there is a graphic. Actually, Elise, you might know. Yeah, there might be a graphic that already describes that. If not, we will definitely make one available.

KRISTINA ROSETTE: Great. Thank you.

VIDUSHI MARDA: Good morning. I'm Vidushi Marda, and I represent the Center for Internet and Society. I'd just like to reiterate another point that we made during the comment period that wasn't taken into consideration. And that is that the current proposal has not considered the non-contractual IANA functions as of now, and there's no clarity on what happens in the event that these non-contractual functions actually have to take place.

There has been acknowledgment that there are agreements, but there has been no meaningful information as far as those agreements are concerned that have been furnished. So I was just wondering if you could shed some light on what non-

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contractual functions would look like and how the proposal seeks to address them. Thank you.

ELISE GERICH: By non-contractual agreements, could you be explicit as to what you mean? Because there's several things that come to mind, but I'm not sure if that's what you mean.

VIDUSHI MARDA: So I'm just talking about the possible outcome that there could be a separation of IANA functions and, in that case, what other things haven't been laid down that will happen. And could you throw some light on that.

ELISE GERICH: I think the agreements that are being written between the RIRs and ICANN and the IETF supplemental agreement in ICANN as well as the contracts that will be between PTI and the numbering community will be putting out what those conditions are for separation.

And so those will be agreements that are currently under development. I guess they're in progress. They're close in every case, and that's where those things will be put out.

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The proposal puts into place the proposals from all three communities, the CRISP, the IANA plan, as well as the CWG plan all list what their expectations are if they should want to separate or terminate.

And that's where we will take those and integrate those principles into these agreements. And that's being led by those communities with us.

Does that answer your question?

VIDUSHI MARDA:

I think for the time being maybe, yes. Thank you.

JARI ARKKO:

My name is Jari Arkko, chair of the IETF. I want to thank you, first of all, for the updates that you provided on the implementation. I want to provide a couple of additional pieces from my side as well, from the IETF angle.

And the IETF issue, of course, for the transition is fairly simple. We have an ongoing system that needs two minor tweaks essentially. And the first one of that is the SLA, and I think the situation there at least from our perspective is that it's been ready since last year. And we can -- as soon as we find someone

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to sign it, then we're good. And, of course, we will have to wait a little bit. That's fine. We will get there.

It's somewhat funny that we're -- I've talked about this with Akram, and we both agree that this is funny that we've had to skip our yearly maintenance of the agreement SLAs since 2014 given this process. There's no urgency as such. As said, we'll get there.

I just hope that we don't have to open any of those awards that we already previously agreed.

We even had a discussion about, you know, whether we can change 2015 number to 2016, which I agree that we have to do but we are really careful to not open too many things.

The other thing that I wanted to mention is the IPR which we are involved with and wanted to say two things.

The first is that the plan is, indeed -- you know, the CWG and everybody else decided that we will do the IETF Trust model there, so that's -- that's essentially decided. And what we're doing right now is working through principal terms of the setup. You know, what kind of things we will need in the contracts. And

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there's a team working on that. You provided the links and the current document.

Comments on that are appreciated from everybody, and we expect to close that quite soon. I think it's in very good spirits we're doing that work, and I don't see major problems there, so we're soon going to be done on that.

So -- and I think there will be some kind of, you know, last check with the community and then we'll move on and hand it over to the lawyers. Thank you.

NURANI NIMPUNO:

Nurani Nimpuno, vice chair of the CRISP team representing the number community.

Just a few additional points and a few comments.

I think Jari clarified the status of the IPR discussions very well, so I won't add anything to that.

I just wanted to say from a number community perspective that we're very encouraged to see the progress on the SLA between the RIRs and IANA.



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We -- first of all, we want to say that we're very encouraged to see that this negotiation has been taking place in public in a transparent way, as we asked it to be, and every draft version of the SLA has been published on the global NRO/IANA transfer list. I think that is a -- I was going to use the word "inspiring," but I think it's a model, actually. It shows that these things can be done in a transparent way and build trust in the community.

I also want to say that I think that with the fourth -- the latest version of the SLA, we are very near completion. The CRISP team -- yes, indeed.

The CRISP team has commented that we feel that the fourth version is very respectful of the community's wishes and what was put out in the proposal.

This is, after all, a proposal that was approved and the ICANN board also expressed support for.

So the SLA is really just one part of the implementation of the proposal, so we should remind ourselves of that, but it's also a very important part, because in essence, it constitutes the accountability mechanism for the number community, so it's important that we get it right as well.

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And the number community have asked that we complete this at the same time as the ICANN bylaw changes get completed, so let's make sure that we aim for that.

And as we move into the very, very final stages, we would like to say that we believe that we are 90% completed here, so we are at the very, very last stage here.

We would especially like to thank the RIRs for their very transparent way of working and that they have had a fantastic turnover time. Whenever they've had comments, I think they've responded within 48 hours, and they've responded to every single comment on the global list.

And just at the very -- so I would like to thank everyone for that fantastic work there, and as we move into the final stages now, let's continue to do that in a transparent way and let's continue to do it and make sure that we do it in a respectful way of the community.

We've done well so far. Let's do that to the very end.

And I think if we manage to do that, this will be a model that we can then show our grandchildren in the future. So thank you.

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AKRAM ATALLAH: Thank you. We're very committed to finishing this and I hope that we actually can finish it all this week, so thank you.

LARS-JOHAN LIMAN: Lars Liman from Netnod. I have just a quick question for clarification regarding the root -- root zone evaluation review committee, which, you know, kind of falls in my area of interest. The composition mentions a number of suborganizations and then you showed a time schedule for appointing these members, but I wasn't quite clear on the process of how they are appointed.

Is this that each of these subgroups appoints a member or is there some kind of ratification process or how does it all work?

TRANG NGUYEN: Yes. The members will be appointed by the SOs and ACs that were specified by the CWG proposal as, you know, having the opportunity to appoint members to this committee.

So we'll trigger the process, but the appointment will be done within the SOs and ACs, using their own internal processes.

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LARS-JOHAN LIMAN:           Okay. Thank you.

LISE FUHR:                    I'm Lise Fuhr. I'm one of the two co-chairs of the CWG.

Thank you for a very good and explanatory video of the whole process. It's very complex and I think it's great to have the visuals of how it's done.

That being said, I'm a little surprised by seeing the slides today, which you, Trang, say you believe they meet the requirements of the two groups.

I must echo Avri in this. I don't know if they meet the requirements because I haven't seen them yet. It would have been great to have a chance to discuss them with you. We're still an active group, the CWG, and I know the other communities have active groups, too. So I'd urge you to have this conversation with us beforehand because we might come back to you and say we don't believe it meets the requirements and that's just double work.

So I think a reach-out for us and we -- you're at our call, so we have calls every second week -- it would be great. Thank you.

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TRANG NGUYEN: Thank you, Lise.

OSCAR ROBLES: Hi. Good morning. My name is Oscar Robles. I am the NRO AC chairman. Just wanted you to let you know that we, the RIRs, we don't expect more delays on this process, on the SLA process, on our agreement. Just to let you know that the -- I mean, you should know that through -- we've been through a process where we have had different public comment periods during the development of the CRISP principles. For -- after that, the inclusion of these principles into the ICG proposal, that's been actually a public comment period in ICANN. Also, during the SLA different versions since May, we have published all these different versions and it's posted for public comments, so we still have the commitment to make it -- this process in a transparent way and publicize all the additional versions but always relying on the CRISP team to validate that we are still aligned to the CRISP principles.

But just to underline that we don't expect any more delays in this process. Thank you.

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GREGORY SHATAN: Greg Shatan. I'm a member of the CWG appointed by the commercial stakeholder group constituencies of the GNSO.

I share the concerns of my fellow colleagues on the CWG, Avri and Lise, with regard to whether the proposal that's been brought here, and somehow not brought to the CWG first, meets the requirements of the CWG.

I think that the proposal is not based on the principles of separability that were fundamental to our -- to the conclusions of our work and that the proposal here really guts the viability of PTI and turns it into an accounting exercise.

I also think that the justification offered here regarding the size of the company and the number of employees is, to my mind, baloney. I'm not a qualified lawyer in California but I am a lawyer in the United States. While there may be certain legal requirements that do not attach to a company with fewer than 50 employees, there is no reason that the benefits and other protections that ICANN offers could not be offered to a company with fewer than 50 employees. There is no prohibition against it; all there is, is there is no requirement that it must be there.

So if ICANN's intent, or PTI's intent, is to screw its employees by not giving them benefits, that would be highly unfortunate but

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not illegal. However, if they intended to give all of the benefits and other protections that employees get in larger companies, that would be both legal, expected, and proper under this transition.

So again, I think that using that as an excuse -- again, not one that has been brought to the CWG or to our counsel -- and we have counsel and I'm sure that we will be certifying that question to counsel unless you decide that that is no longer a reason. We look forward to discussing this in a proper forum and ultimately resolving this. Thank you.

SEUN OJEDEJI:

Okay. Thank you very much. My name is Seun Ojedeji, a member of the CWG as well. I'd like to echo what has been said by the co-chair of CWG. I'm quite surprised to see the presentation as well. Not that I have any view about whether it's consistent with our proposal or not yet, but I -- I'd really like to encourage ICANN to try to avoid this. Especially at this stage. It could create an impression about the whole process. I encourage you to try to engage with the CWG first always. Especially we are at a very critical stage, and disagreeing at this stage publicly like this may not really help the entire process. Now to my question.

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I'd just like to ask: Do -- is there an intent to actually continue the process of implementing some of the recommendations from the CCWG, irrespective of the outcome of the NTIA's view of the whole proposal?

Thank you.

AKRAM ATALLAH:

So this is a question to the board. The board could actually decide to adopt certain elements of the process, regardless of whether the transition happens or not, but that remains -- that's something that the board will have to decide on. Thank you.

SEUN OJEDEJI:

Okay. Just a follow-up. The reason why I'm asking is because you have a time line that is starting in April and it says something about bylaw implementation and so on and so forth, so it means that I don't think NTIA -- there's also a time line that says NTIA will respond by maybe June or something, so that means that you already made up your mind that you implement something before the response of the NTIA, so that's why I'm asking. Thank you.

AKRAM ATALLAH:

The intent is to actually implement the bylaws, but the bylaws will not take effect until actually the transition happens.



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So if -- if there is a change to that, we can change that.

You want to -- okay. Thanks.

PATRIK FALTSTROM:

Hello. Patrik Faltstrom. I'm vice chair of the ICG.

Can we go to Slide Number 6, please?

This might sound pedantic, but it's actually pretty important.

It says there, the first bullet, that "ICG submitted its final proposal on October 29." That is wrong. The proposal is not submitted yet. Thank you.

LIU YUE:

Hi. My name is Liu Yue from China and please permit me to use Chinese to ask my question. Thank you.

I have noticed that you've been debating a lot of issues. I remember some of them in the Dublin conference because this is relevant to the -- all the communities, especially the IDN communities, so I hope ICANN would update all the information on the Web site and would update more quickly especially all the versions of the update. Especially the versions in other languages.

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For example, today I'm enabled to talk and propose my question in Chinese.

Second question.

I noticed previously that some of the communities expressed that even the American government might delay the proposal, or the acceptance of the proposal, or they might not even accept the proposal after all, but IP protocol parameters as well as the separation of domain names. I'm not sure whether the ICANN board would be able to express any comments on this.

My third point, which has been mentioned at the Dublin conference.

A lot of the legal relevant issues have been consulted with the attorneys in America. I don't think a lot of the voices have been heard from other constituencies or jurisdictions, other IDN communities or communities that operate in Chinese language. Would they be able to voice their opinions?

I hope more attention will be given to these issues because my colleague from India also expressed a similar concern.

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So that's all for my questions. Thank you.

AKRAM ATALLAH:

We -- regarding the first thing, that -- updating all of this information on the Web site, we've committed to that. There will be some delay between the time we can do the translations and updating all of those, but we're committed to that.

Regarding listening to the rest of the community, we listen to all of the community. We have multiple mechanisms for the rest of the community to participate in the discussions that were happening, as well as posting things for public comment so that the rest of the community can also provide their input on all of these things.

So -- including the bylaws changes, including all of our plans will be posted for public comment and we will gather all the information and respond to it. Thank you.

SAMANTHA EISNER:

Good morning. I'm Samantha Eisner, associate general counsel with ICANN. I just wanted to address some of the comments we heard earlier about the employment-related issues that could fall on a full separation of PTI.

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We understand that PTI would necessarily be a very small organization. And to confirm, the concerns that we have within ICANN are not solely about monetary benefits. We know that there are ways to make people whole in terms of quality of pay or -- or insurance availability, et cetera.

The concerns that we have are specific state and federal laws that apply to organizations based on the number of employees that they have, and we have concerns that we would have employees, by virtue of working in a separate part but still related to ICANN, would no longer have certain rights at law if they work for a smaller organization than the people that they used to sit next to.

So we'll be providing more information, but I just wanted to make sure that the record was clear that there are specific legal concerns about losses of rights at law that are -- is part of the driving on the employment-related issues behind this.

RUSS MUNDY:

Good morning. My name is Russ Mundy, speaking strictly in my own capacity here. I happen to be a long-time member of SSAC and have been a member of the NomCom several times and I would suggest that the approach, given the time lines that are laid out, and using the NomCom to select the independent

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board advisors or board members, I think they were referred to, in the proposal from the CWG is probably not good for the initial appointment because of the way that the NomCom cycle tends to work, the way that applicants are sought coming into the NomCom. They know what their possibilities of appointments are and what kind of things they're interested in working on. And I would suggest that probably none of the people that have applied at this point in time even had thought about being appointed to the PTI board.

So it might be worthwhile considering, at least for the initial appointments, some alternate mechanism, especially if you haven't had the discussion with the NomCom at this point. Thank you.

AKRAM ATALLAH:

Thank you for your kind words. I appreciate that and we will work with both the NomCom and the CWG on alternatives if the cycle doesn't work with the NomCom. Thank you.

MIKE SILBER:

Mike Silber, again following Russ' example, very strictly in my personal capacity.

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I noticed one comment about obstacles and barriers to participation. And I think if you read the -- or listen to Steve's reading out of the stats in terms of number of meetings and hours and emails exchanged on lists, it's very disturbing but it's very understandable that people feel that they haven't been included in a very English-centric, legal-centric approach and that their voices haven't been considered.

And what I'd really ask if people feel they have been disenfranchised in this process, they not just indicate their feelings but they try and give some practical suggestions because this has consumed an enormous amount of work and an enormous amount of effort. And if people don't feel that they have the opportunity to participate, I don't think we can't reverse the process but reintroduce them into it. But we need to ensure that future processes will resolve this issue.

The second thing that I'm hearing is a repeat of some of the issues we had in the new gTLD program, this debate between policy and implementation or recommendations in this case and implementation.

And what I would really encourage the groups is to be clearer. If they don't feel that they're being included in a feedback loop, it's very difficult to work out what is enough feedback, what's

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too much feedback. Does every comma require return back to the CWG or the CCWG for review and comment before it can be proceeded on?

So I would really encourage people to actually bake that review cycle in instead of now standing and saying, Well, you haven't given us an opportunity to comment. And how dare you proceed with implementation when this is our proposal and we demand to be involved in the implementation detail.

And if that's the case, then good and well. But then staff can plan around it if it's baked in.

The third comment that's been raised a number of times is the board commitment to implementing the accountability processes irrespective of the transition continuing or not. And while I can't speak for the board, I can speak personally. And that is these are very important accountability changes in the organization. And I personally and several of my colleagues to whom I've spoken are committed to proceeding.

At the same time, there is a nuance involved. The transition may not proceed because there may be certain elements of the proposals that are not acceptable to NTIA in which case we can't simply say, "Well, we're implementing this and the transition be

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damned." So I think it's too early to say that the board is proceeding irregardless.

But at the same time, is there a commitment? Certainly from those board members to whom I've spoken, the commitment is there to proceed and implement all of the accountability improvements, changes, alterations, revisions, not just for the purpose of getting to the transition but actually to improve the operations of this organization and make it more accountable to the stakeholders and participants.

AKRAM ATALLAH: Thank you, Mike.

AVRI DORIA: Thank you. Avri Doria, if I might be permitted to make one extra comment based upon what Mike said.

I think it's very true. When it comes to interpretation of words, there really does need to be a give and take and a back and forth. But when it comes to specifically ignoring words such as "There will be a separate legal entity" and a decision to do something other than that, then it's not really a matter of interpretation. It's a matter of saying, "We don't" -- obviously you're saying we don't think that was a good idea. But at that



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point, you really do need to come back and have a conversation with the folks that said, "But this is what we decided to do."

So I don't think it's a matter of interpretation in this point that we're talking about. It's a matter of specific words and a decision to do otherwise. Thanks.

AKRAM ATALLAH:

Avri, I want to assure you that there is no decision to do otherwise. The decision is that we have -- our best thinking right now is to do something like that. We think it will meet the requirements.

The reason we did not put the plan for public comment before we got into here is because we wanted to discuss it with the community and agree on the best way forward and come up with something that -- because we are sure that you care about the staff of IANA. So we have no -- we know that you don't want to hurt the staff or have the staff leave. So we want to discuss that with you guys so we make sure to get to the best solution for all of us, get the stability, get the separability, and move forward as quickly as possible.

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So we left the plan to be put out for public comment after the meeting so that we can vet these things through with you and then move forward.

I hope that you see it from our perspective as well, not that we're trying to dictate a certain way of action or anything like that. I hope that clarifies this. Thanks.

TRANG NGUYEN:

Bruce, if I may just add on to what Akram said in response to Avri, just to confirm, Avri, maybe I didn't make it clear, that we do intend to make PTI a separate legal entity as per the recommendation in the CWG proposal. So it will be a separate legal entity domiciled in California. And we'll be applying for non-profit 501(c)(3) status for the entity. So it will be a separate legal entity.

BRUCE TONKIN:

This is Bruce Tonkin from the ICANN board. Just a comment. I noticed that we've got members of the audience that are -- know the text word for word in the actual documents which are big, extensive documents.

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What you've seen here is PowerPoint. And I can see people jumping to lots of conclusions from a couple of block diagrams and a couple of lines of text.

What the group actually needs to see is actually the detail behind the PowerPoint, what actually is the agreement, what actually is the detail. So just caution people don't jump to conclusions. Don't jump all over the staff. It's a picture.

And, Avri, you are essentially saying this picture isn't giving you comfort. And a couple of others said another picture doesn't give them comfort on another piece of detail.

So the right response is that the staff will actually provide you the detail, and then you can comment on that detail against your design document essentially.

I think that's the right way to proceed rather than debating PowerPoint.

CHUCK GOMES:

This is Chuck Gomes. I'm speaking in the capacity as the former chair of the policy and implementation working group. This is two days in a row that I've heard people talk about policy and implementation. And I realize that that working group was a

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non-PDP working group and it was for the GNSO and that this is a cross-community working group, okay?

But if the recommendations that came out of that group would have been followed here, we would have avoided a lot that we experienced today. And several people have already said it.

Involving the CWG in this could have avoided a lot of what we're seeing today. I know that would have taken a little bit more time, but I think it could happen.

I was in a very good three-hour meeting last night where I offered to take some ideas that related to the budget back starting with Design Team 0, which I lead, and then to the full CWG. And that would have been a very effective way to do it.

I think the intentions are all good here. I don't doubt that in the least. But if we would just learn to go back to the policy-making body, in this case the CWG, we could have ironed a lot of this out and avoided the misunderstanding -- and I think a lot of it is misunderstanding. I think when we start looking at the details, we examine it together. We're going to be able to come up with good solutions from everyone's perspective.

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And so I'd just encourage us to learn from this and to involve the people that made the recommendations that were directly impacted by it before going public and presenting those things, and it will work a lot better.

AKRAM ATALLAH: Thank you, Chuck. I want to assure you we're striving to do that because we don't want to come back with a final product and then know that we didn't meet the expectations. So we plan to actually engage on a regular basis with the policy development body so that we can at the end of the day deliver to their needs. So that's the plan.

I think maybe coming into Marrakech and getting these plans done so late in the game and all of that, we skipped a step and that shouldn't happen. Thanks.

TRANG NGUYEN: If I may, we are two minutes past our session time. So we would like to close the queue for questions at this time.

JONATHAN ROBINSON: Are you going to close me off, or may I speak? Thank you.

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So I'm Jonathan Robinson, one of the co-chairs, with Lise Fuhr here. I haven't attended this whole session, but I was watching the transcript from the other meeting I was in. And some alarm bells started to ring.

We've worked together, Akram and Trang, and we are working together very effectively. But it does concern me that there's unique content come out at this point, as you just said. This is a problem. And it's -- the chairs of the group shouldn't be finding out, especially when we've committed not only to working on policy but on implementation together in an iterative way.

So I think we do have a problem. I'm sure it's not insurmountable. And I should say that the queue was closed before my colleague Alissa was able to get in, too. And we had a quick word before, and I think we have a similar concern.

So something seems to have been set off here, a concern about unique content, interpretation of the policy. And we really need to get this back on track without raising the temperature too much but also recognizing that there are some issues.

I heard just one example when I came in here of the use of the NomCom. Now, my recollection of the document said "the NomCom or equivalent body." So we should have the

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conversation with you what's the most practicable solution given Russ' point, which was a very good one, and what's relevant now and what might be relevant in the future. So that's just one example that I heard.

But for goodness sake, let's just get this back on track and make sure there aren't divergences where there don't need to be. Thank you.

AKRAM ATALLAH:

Thank you, Jonathan. I agree 100%. And I apologize for the surprise content. We were probably running too fast, and we skipped a step coming to Marrakech. But you know that we want to vet things with the policy development body to make sure we're on the same wavelength before we publish. So hopefully we'll do -- we'll be more careful doing that in the future. Thank you.

TRANG NGUYEN:

We're a little bit over time. Thank you everyone for staying. We will go ahead and close this session now. Thank you.

**[END OF TRANSCRIPTION]**