LOS ANGELES – ICANN Accountability and Governance Cross Community Group Meeting
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ICANN – Los Angeles, USA

THERESA SWINEHART: Okay.   So everybody that wants to hear about the accountability process now is a good time to sit down. Thank you.

Okay. Fantastic. Well, thank you.

So originally, when we posted the process on August 14th, you'll have seen that there was a suggestion for a cross-community group, and so this time slot had actually been reserved for that in order for the community to come together and have a discussion around how to organize in the context of that.

As many know, subsequent to that, we had the opportunity with community comments and feedback to go into a 21-day consultation period and make some very good and substantive revisions to the process itself, and so this session now is being modified to just give a brief introduction around what the process is, an opportunity to hear from Larry Strickling, an opportunity to hear a little bit about cross-community working groups and how they function, and to have a dialogue with the community around that. But we're not focusing in on the substantive work, we're just talking about how the cross-community working group model works and how we might encapsulate the principles around that.

So let me -- if we have the slide deck up, we can go to that.

Sorry. My bad.

Okay. So just a quick overview for those who have not been following this as closely as others may have been.

The dialogue around the accountability and ICANN accountability in the context of the announcement by NTIA really started with the announcement itself and a realization that the U.S. serves as a perceived backstop, has a role in ICANN accountability and how to address any aspects that would benefit from being strengthened or adjusted in the context of the changing historical contractual relationship with the U.S. in the context of the transition of their stewardship role.

There was a public comment process that was run 8 May through 27 June. Very good comments received.

With that, a proposed process posted on the 14th of August. Good community input. Very good important community questions that came in, clarifications, a town hall meeting at the IGF. And this is a very hard area, identifying a process that will work for the accountability dialogue which, well, for ICANN as an organization, it's also of great interest to the globe and to everybody in the context of this transition how to get this right.

With the community letter also submitted with a request for some additional time and opportunity for a 21-day public consultation period.

Again, very good comments that came in. Appreciate all the very good ideas, suggestions on how to make modifications to the originally

proposed process on the 14th, or to apply what's referred to, as many know here, a cross-community working group model to that.

And so after much exploration of the comments -- and there were 17 comments submitted, including a joint SO/AC, SG, and C comment that was signed on by many, the decision was really to suggest to proceed with a cross-community working group model which you'll hear described here later in this session, but to really retain in it some of the principles that had come up in the discussions throughout the dialogue around the consultations.

And that was up to seven advisors appointed by experts, by four experts that had already been identified in order to provide some best practices and experiences from places outside of the ICANN remit, outside of the ICANN areas of expertise that we house within obviously the community here.

And that's quite important because there's some good experiences in different models of organizations.

Retain the board liaison, which will be selected by the board itself, because in the end, the board also has to make a decision with the report that comes in. It's an opportunity to keep that dialogue open.

ICANN -- an ICANN staff person who is designated really to help provide factual information and information around existing review mechanisms that are relevant to the accountability dialogue on those areas.

Somebody from one of the ATRT1 or ATRT2 processes who had been a participant there.

The purpose there is the ATRT processes also looked at accountability. To provide that information into the discussions and also avoid duplications.

A linkage -- because this is a relevant dialogue to the IANA stewardship transition process, ensuring that there's some sort of linkage into that process itself. Retain the dialogue there.

That critically important is that participation is open to all. So while we're looking at a cross-community working group model that has the SO and ACs involved, that the -- it has to be open to everybody to be able to participate in this, including if somebody or an entity or an organization is not necessarily part of a SO or AC structure. And that came in through comments, both in this round and in the last round.

There was quite a few comments about whether the advisors, the board liaison, or the staff would have a role in any call for consensus or vote. It's explicit in the document that they do not have a role in that. And so if there is a consensus call or a vote, those groupings of participants would not be voting.

The role of the board in relation to the acceptance of the recommendations is something that the board is looking at and will be addressing.

And then another area was really around the scope.

So the scope of the process is really around the transition of the relationship to the U.S. However, during the discussions there was quite a few substantive areas that came up around accountability in the context of other areas of ICANN's work, and it was of great interest to

the community to also have dialogues around that, even though they may not have a direct impact on the change in the relationship.

And so the suggestion there is to look at two work streams that are housed under the cross-community working group. The timing of the work streams is up to the community on how they want to handle that. They can either run in parallel or sequential, depending upon how they want to do that.

The first one is really focused on enhancing ICANN accountability in light of the changing relationship -- very focused area -- with a time frame that is specific to the transition itself. Hence, they also need to coordinate closely with the IANA stewardship transition.

And the second one that is focused on accountability which is not within the scope of the first track.

Now, importantly -- and there was a discussion today at the cross-community working group that is dealing with the IANA stewardship transition for the names community, also had a discussion around accountability, and importantly one should look at their charter because that is a much, much narrower area of accountability specifically with regards to the parties that have an operational relationship with the IANA function and how they're looking at accountability there.

So we're dealing with quite a complex area, but it's a very important area, that we allow accountability with the operational areas with the IANA function to address those while we're looking at the broader pictures here with the first tracks.

So it's really now for the community to be working with this process and to start moving forward on it. This is an informational session to begin these discussions, and look forward to all the discussions that are happening this week.

And with that, if I could actually turn it over to Larry Strickling, Assistant Secretary of Communications at NTIA for a few comments. Thanks.

LARRY STRICKLING: Thank you, Theresa.

Given the confusion in the community that certainly existed when we were in Istanbul, I had an opportunity to make a few remarks at a session that had been organized in Istanbul during the IGF, and Theresa asked me to come back today and repeat some of those same comments in the hope -- hopefully not futile -- that I can provide a little clarity, at least to the way we view this in the United States in terms of these different work streams and what we think will need to be done as we look ahead to how this process is going to roll out in the United States.

So I just have, I think, three basic points to make.

The first one, which again I heard some confusion about this yesterday at the GAC meeting so -- I thought this had been well-settled, but I want to reaffirm it for everybody's benefit, which is that the issue of the Work Stream 1, the IANA functions transition, and Work Stream 2, accountability, at least as it relates to the U.S. contract and the expiration of that contract, are both efforts that we've always believed are interrelated; that they need to be working on a time line that brings

both of them to conclusion at a time at which the overall proposal would then be presented to us sometime next year. And we're not dictating to anybody when the proposal comes to us. We've observed for the community that the contract has an expiration date of September 30th, but we're really leaving it to the community to determine the work that they need to do and to get it organized in the time frame that the community chooses to organize it in order to bring us a plan when it's ready to be brought to us.

And I cannot emphasize enough that it's important that both of these work efforts be well thought through, be performed in an open, transparent, and inclusive manner, and really think through the issues that are involved with this expiration of the contract, so that when it comes to the United States, where it will be heavily scrutinized by not just us but by lots of other people who will want to take a look at the proposals and will want to be asking lots of questions, which is, you know, "How did you take care of this contingency? Did you think about this happening? Did you solve for this problem?" It will be important that we can say, all of us at that point in time, that, "Yes, we've considered all of those contingencies and the plan deals with all of them."

Because that's what's really important here is to have a well-thought-through plan. And we've heard the term "stress testing" before and I applaud Steve DelBianco for raising this early on in the process. That's really what people are going to look for. They're going to want to know that the plan has been thought through and has been stress tested in that regard.

So that's kind of Point Number 1, that these work streams are related.

I think the second one is that both work streams include some element of accountability but we're talking about different things in the two work streams, and I think Theresa just made this point but let me punctuate it again for everybody, which is that Work Stream 1, as it focuses on the individual IANA functions, will need to evaluate how those functions are performed, what are the performance measures for each of those, and what are the consequences if the functions aren't performed as they have been promised to be performed to the community.

That's accountability.

But it's not accountability in terms of the larger issues in the second work stream, which will address questions like what happens if somebody attempts a hostile takeover of the board, what happens if there's some other challenge to the governance structure from organizations or governments or that sort of thing.

People are going to want to know that at that larger level, that the absence of the United States and the absence of that contract between the United States, that there are measures that have been put in place to make sure that the board and that the ICANN management is responsive and accountable to the global Internet community.

That's what people are going to be looking for. They're going to want to know that -- that the process and that the organization can't be hijacked.

So that's very important as you all organize these two work streams to understand that accountability is present in both of them but in different ways.

And then the third point I would just make is that I do hope that as the second overall work stream on accountability gets organized that people do focus in the first instance on what are the accountability issues that are raised by the expiration of the U.S. contract.

I know that people have lots of other accountability issues that they want to raise.

And as a member of ATRT1 and 2, I wish a lot of those had been brought to us last year when the team was meeting. Many of us devoted an awful lot of time working on these issues. And, frankly, some of the things I'm hearing now, we would have loved to have had presented to us last year.

But we understand that as the kinds of changes that are in the wind emerge and people think about them, people focus their thinking a little more than perhaps they did last year. So we have no issue, and we understand ICANN has proposed that this second work stream be able -- or not limit itself in terms of the issues that it might undertake.

But it is really important that the group focus on in the first instance and set its timelines according to those issues that really emerge solely by the factor -- the fact that the contract might not be there. So to the extent people assume that the presence of the United States in a contractual relationship might have prevented bad things from happening to the organization or might have prevented the kind of

hostile takeovers as we refer to them, those are the questions that the group really ought to take up in the first instance and solve for those.

If there are issues of budgeting and financial management and other questions that people want to take up, fine. If they can't wait till the next ATRT, fine. That's for the community to decide. But if you get bogged down in a lot of those issues, it may throw the timeline for the overall transition off to a point where the ability of this organization to present a plan -- and not just the organization but all of you, the community, to present a plan to us in a timely way next year could be put in jeopardy.

So those were the three main points I wanted to make. Again, I made most of these in Turkey. But if it is important to keep repeating these, I'm be happy to do so. And we will be happy to provide any other clarification during the discussion.

So now I understand Marika is going to talk to you all about what is a cross-community working group and how to work in one. Thanks.

MARIKA KONINGS: Thank you very much, Larry.

So my name is Marika Konings. I'm a senior policy director and team leader for the GNSO, the Generic Names Supporting Organization. And I've prepared these slides together with Bart Boswinkel, who is my counterpart in the ccNSO. I see him sitting in the back of the room. I am sure he will come up if I have left anything out or if there is anything to add.

Basically we have worked on this jointly and seen our experience in supporting some of these existing groups, as well as past experiences with cross-community working groups.

As that is the model that's being proposed for this effort, we thought it might be helpful to take you through some of the existing practices and principles under which these groups operate.

So, first of all, what is the purpose of these groups? They are typically used when the community decides it may be helpful to develop recommendations on issues that are, first of all, cut across the different supporting organizations and advisory committees. They are not the sole responsibility of one of them. So, for example, if it's a specific gTLD-related issue, that's obviously the responsibility of the GNSO to deal with.

And if it is also not to be in scope for a supporting organization policy development, as cross-community working groups do not have any existing mechanism to actually make policy development recommendations or processes in place. And, again, that's the sole responsibility of the supporting organizations.

And, of course, there needs to be a desire or a wish from one or two or more of the supporting organizations and advisory committees to actually work on that issue jointly and come up with common recommendations on that particular issue.

So what are some of the principles that we've been able to derive from our recent efforts? Again, I want to point out here that currently these are not written up anywhere. It is something that I think there's a

common understanding or appreciation of this being some of the basic principles by which recent cross-community working groups have operated and functioned under.

I think, first and foremost, there is an identical charter that's adopted by all the supporting organizations and advisory committees that participate in the effort or that are the chartering organizations of such an effort because we all need to work, of course, under the same understanding of what it is that is being addressed and how the group is expected to work and operate.

Typically the chartering organizations of cross-community working groups appoint members to the effort. The idea being that those members are responsible as well in reporting back to their respective communities and really making sure that their groups are being kept informed so that when a report or recommendations come back for consideration, they are not surprised, not taken off guard, and have been kept informed throughout the process.

However, this doesn't mean that others cannot participate. Cross-community working groups are typically open for anyone else that is interested to participate and all those other participants participate on an equal footing. The meetings are open, recorded, transcribed. Everyone has a right to speak and put their ideas forward. Those are considered and discussed like any proposals that may be made by members.

In addition to that, the charter typically outlines opportunities and ways in which public comment and input needs to be sought from others that may choose or may not want to participate in the effort itself. So that

normally includes public comment on initial report. It often includes as well call for input and outreach to others to provide input at an early stage on the issue at the table to make sure that all the information is available to the cross-community working group to deliberate and understand the different viewpoints that may exist on a certain issue.

And then at the end of the process, there's typically the endorsement of the final report or the final output of the cross-community working group by each of the chartering organizations, each using their own individual processes to do so before the report is actually submitted to the ICANN board.

So as I mentioned, there's typically a single charter that's adopted by all the chartering organizations. And the charter typically has a number of items that are covered in it. First and foremost, objective of the charters, we need to ensure that everyone has a common understanding of the scope and as well the working methods of the group and what is the issue being addressed, what are the boundaries of the issues being considered.

In addition to that, it contains a number, a section typically focused on the goals, objectives, scope as mentioned. It also looks at what are the deliverables or output the CWG is expected to produce, what are the specific timelines or deadlines that are foreseen, what is the reporting that the CWG is expected to respect both in relation to feeding back to their chartering organizations but also to the broader community. Are there any requirements that there should be in making sure that the broader community understands what's going on and is able to provide input?

It talks about the membership, how is that, organized, staffing provided, and how the working group organizes itself. It outlines the rules of engagement including very importantly the decision-making methodologies, how are decisions taken. And it typically is on the basis -- as I think in most of the ICANN efforts, on the basis of consensus, really making sure that everyone is heard. All positions are considered and being able to assess at the end of the day if there is broad support for the proposals and also making sure that any minority viewpoints are reflected and included.

And it also typically includes provisions on how to deal with potential modifications to the charter should a cross-community working group decide that there is a need to do so or there were certain issues that weren't covered or addressed.

And, lastly, it also talks about the process for adoption and what happens if -- or what happens when the cross-community working group finalizes its work. How is that submitted to the chartering organization? What happens, for example, if one of the chartering organizations actually comes back and has concerns or has not adopted the final report? It talks through what are the processes that are to be dealt with with those situations.

It also talks about resolution and escalation of concerns of participants in the CWG.

So the charter development itself is usually done by a drafting team that typically is formed by a small number of representatives from interested supporting organizations and advisory committees that have an interest

at the end of the day to adopt the charter formally as a chartering organization.

As mentioned before, even if an SO or AC doesn't participate necessarily in the drafting, that does not mean that they cannot decide afterwards to either join in the form of a chartering organization or just join us as participants in the effort.

Once a drafting team has completed its work, the charter goes back to each of the organizations for consideration and adoption. Each of them following their own respective processes. And once a charter has been adopted by the different groups, there is a call for volunteers that goes out as broadly as possible to call for volunteers in addition to members that may be appointed by the chartering organizations according to their own processes and procedures.

And just briefly, I will give you examples of some of the reasons why the cross-community working groups -- and some of you may have participated in those or are participating in those. So I think as I already mentioned before, there is, of course, the IANA stewardship transition cross-community working group that has recently started.

There is also a cross-community working group on the use of country and territory names as TLDs, which is an issue that particularly cuts across GNSO and ccNSO.

And then we actually have as well a cross-community working group that's looking at a framework for cross-community working group principles to really try to formalize and codify some of these principles into a document that will hopefully be adopted by all the different

ICANN NO. 51 | 12-16 OCTOBER 2014
LOS ANGELES

groups. As we go forward, we actually are able to produce on paper what these principles and procedures for cross-community working groups are expected to be.

That was all I had. So I will hand it over to Byron and Jonathan.

BYRON HOLLAND: Thanks, Marika.

I think Marika has given us a very good conceptual overview of how the cross-community working groups should, can, and do work. Jonathan, as chair of the GNSO, and myself, Byron Holland, as chair of the ccNSO, thought we would give you a little bit of a review of how we started or initiated the work behind the CWG, or the cross-community working group, on IANA transition to put a little bit of meat on the bone of the conceptual framework that Marika has just articulated.

And we think that what has been done thus far may provide a framework or at least a jumping-off point for the work of the accountability cross-community working group and, thus, felt hopefully we can share some thoughts and observations on the work that's been done around the IANA transition CWG which should be a benefit for this overall discussion.

The CWG on IANA transition is a little bit different from the accountability one in that there was an organic start to it in that where it came from was essentially -- this is specific to the namespace, too. So there are other parallel tracks for the numbers and protocols and parameters, so this is specific to namespace.

And in that context, the registry operators who most definitely are directly affected customers of the IANA services came together to think about how do we participate in the overall IANA transition process or IANA oversight transition process in a way that's meaningful and substantive.

And that sort of forming stage was relatively organic. And as that started to take shape, we also recognized that while, yes, we as registry operators were the directly affected customers of the IANA functions, we would be very well-served to make sure that the other ICANN communities were also involved in this. And as the chairs of our respective community groups, we extended the offer to participate to the other ICANN communities, to the other SO and AC chairs. And a number of them have ended up participating in this community work -- cross-community working group.

In the beginning, we created the drafting team. It was a relatively lightweight process where we had two participants from each SO and AC that were the chartering organizations, including SSAC and ALAC, GNSO, ccNSO. Am I missing anybody?

JONATHAN ROBINSON: I think the GAC.

BYRON HOLLAND: And the GAC signed on as well, yes.

So between us we created the drafting team with approximately ten people on it and created the charter that is available for all to see. That

charter then actually went back to the communities for review and discussion and was adopted by all.

I think there are a number of elements contained within the charter that may be relevant to the coming cross-community working group on accountability. First there was relatively significant discussion about size of the working group itself, the scope, and also the goals. Fortunately, on size we were able to come to conclusion. I will speak to that in a moment.

And as it turns out, the ICG put forward an RFP which really essentially outlined very specifically what the goals of this working group were going to be and also boxed it in, in terms of scope what it would be and what it would not be.

And we also have the IANA contract itself which is quite specific in terms of what's articulated within the contract, which, again, provided us a framework within which to work. So we had the benefit of those two key documents to help us shape our scope.

It is very important, I would say, to recognize what's in scope and also very important to recognize what's out of scope. And within the drafting team, we had considerable discussion about what that was. And needless to say, accountability was one of those core components. And there's very specific language regarding scope on accountability which is really more around the operational and implementation elements of the IANA transition than around the broad ICANN governance accountability elements.

That said, clearly there is a linkage and they have to work in concert particularly from a timing perspective. So that is something that the drafting team wrestled with, and you can see the outcome of that in the agreed-upon charter.

Size of the overall working group was another challenging issue because the different -- the different participants had differing levels of capability in terms of the number of people they could dedicate to this endeavor, the relative interest levels between those of us who are actually direct customers and maybe some of the others who are interested but it's not quite so critical.

So we came to conclusion that -- and we think it is a relatively -- hopefully relatively elegant conclusion here, that we left it up to each participating constituency to have between two and five members. So from the GNSO and the ccNSO where this is an exceptionally critical issue as a customer, we each have five. But other SOs and ACs elected to put fewer members on.

Now, of course, immediately you think, Well, how would that work in terms of voting? Is just sheer numbers going to get you a different vote? We certainly wrestled with that and came to some conclusions about the decision-making process, what full consensus looked like versus consensus, and created a structure where sheer numbers wouldn't be the final determinant on the decision-making process.

So I think we in a sense squared that circle to find a fair and reasonable outcome in the decision-making process while recognizing there may be a need for a different number of participants from each SO and AC.

We also recognized that in that process -- and I would argue probably in the accountability process -- that these members weren't just doing the work of the work group. They are a key communications vehicle from the community and to the community. And that was recognized in the call for volunteers, that not only are those volunteers expected to do the work, but also that they are expected to be taking information and feedback and input and opinion from their communities and expressing that to the work group, but also, equally importantly, taking the outputs and decisions and discussion from the work group itself and conveying that in a regular way back to their own respective constituencies.

So that was another, I think, critical element of the IANA CWG, and I believe probably also will be of the accountability CCWG.

In part, also recognizing that there's broad community interest in this space and that not everybody can be an actual voting member of the CWG, we also conferred very significant rights and privileges on people who wished to participate but that weren't members.

So we gave participants, as distinguished from actual members of the CWG, the full right to speak, have access to all the materials, participate in the meetings, as any member.

The only thing that the participants don't get to do is actually vote, should it come to that. So very, very broad opportunity for everybody in the community to actually have a say and to participate in these important discussions and decisions.

Now, I would say we also made very, very clear that we take the "W" in this very seriously. There's -- this is going to be a lot of work, and everybody was expected -- is expected to do heavy lifting here.

So we've made that clear over and over and over again.

And just by way of example, within the ccNSO we set those expectations very explicitly by requiring a statement of interest and also an expression of support from the member's organization, or in this case, the ccTLD that they're part of, so that their organization or company acknowledges it and supports the level of effort that those members are going to have to engage in.

So I think that's another critical element.

Given the time lines that this work group is expected or anticipating doing its work in, the other thing that we've done is reach out to ICANN and start a discussion about alternative face-to-face meetings. Not just at ICANN meetings, but how can we get this group together to do real work in a face-to-face format that's not just specifically at ICANN meetings.

So those are some of -- you know, puts some meat on the bone in terms of what the concepts of a cross-community working group are and how we actually brought it to life on the IANA transition work stream here.

Did I miss anything, from my partner in crime here, the newly anointed Jonathan Robinson? Congratulations again.

Yes, exactly.

[Applause]

BYRON HOLLAND: Well-deserved.

JONATHAN ROBINSON: Thank you. I'm not sure I'm going to live that award down. I may now live to regret it.

I see the one thing you almost missed the microphone picked up. It's very sensitive, so I need to be aware of that.

But Byron, that was a very thorough job. You covered things well. I wouldn't have -- I don't think I have much to add at all.

We did cover -- in this morning's meeting, face-to-face meeting of the working group on the transition, we covered some sort of cultural norms or expectations of the members, such that this -- things -- some of the things that Byron touched on already, the commitments and expectations of the liaison to and from groups so that we could work with the kind of speed and efficiency we need to do.

It strikes me that with -- in particular with this accountability work, there may be other organizations outside of those chartering organizations that will have an interest in this, and I think it's important to emphasize -- Byron touched on it, but it wasn't perhaps completely explicit -- that other organizations will be welcome to, in a sense, adopt the charter and, through the openness of participation, participate.

So I expect that if we go down a similar route to what we've done with the stewardship transition work, that will be an opportunity for as broad a participation and involvement as desired.

We certainly need to think about liaison and coordination between the group we -- that does this work and that that's doing the work on the stewardship transition because it's been a pretty clear principle for some time the interlinking of these two and the sort of codependency or interdependence of the two items, so that bridging is going to need to be -- and I noticed on the original slide, Theresa, there's a place for a liaison to the ICG, but I think we might need to think about how that -- that liaison or another function that makes sure we bridge between the two effectively. Yeah.

THERESA SWINEHART: Just to clarify, it's a liaising mechanism, but how the community chooses to do that is up to the community.

JONATHAN ROBINSON: So I think that, Byron, you did a very thorough job, as did Marika before you, so there's not a whole lot more to add. Thank you.

THERESA SWINEHART: I think we're handing it over to Thomas to moderate the rest of the session.

THOMAS RICKERT: Thank you very much, Theresa. My name is Thomas Rickert and I'm a member of the GNSO Council. I've been asked to moderate the remaining part of this session, and I would like to make a couple of introductory remarks just to set the scene for a discussion that we have,

because certainly this is not intended to be a unilateral thing but this is to get feedback from the audience on what we just heard.

I'm sure that those that are not too familiar with cross-community working groups, it's even more confusing to hear about two cross-community working groups working in parallel, and then we heard about two different work streams, and I think that this is quite complicated procedurally.

And we have to make sure that we get this right and that we get this right in a timely fashion.

And as you heard, the next step for this community, the cross-community working group, is the drafting of a charter, which is actually the manual on the basis of which the working group then does its work.

So I think that it's vital for us to make sure that we are three -- clear on three points, the first of which is that everybody understands the process. So should you have questions on what this is all about and how we move on with this, please do ask them. Everybody needs to understand.

Secondly, concerns should be voiced and heard. So if you have any issues with this approach, please make yourself heard. It's important that this has the buy-in of the whole community.

And thirdly, if you have suggestions as to what should go into the charter that should be recorded as well so that it can be taken into consideration by the drafting team.

And with this, I would like to open the floor to those who would like to make statements. We also have remote participation, and as questions from remote participants are noted, I will hear that and you will then get the chance to get that conveyed to the whole audience and to the panel.

I would like to ask you to keep your statements brief, if possible, so that a lot of community members have the opportunity to speak. And also, I would like you to identify yourself when you start making your statement.

Steve?

STEVE DelBIANCO: Is it on yet?

Thank you. Steve DelBianco with the business constituency. We're grateful for the turnaround and recognition of community-driven process and we're ready to get to work. And the key is the draft of the charter, which will have board input but it's really going to be a community-driven charter and I think that's appropriate. And the key part of the charter for this accountability working group will be figuring out the two work streams and the distinction between it.

So let me just focus my question about that.

Staff and Secretary Strickling gave us suggestions that are relatively similar, suggestions that we do two work streams, and what's the difference.

Secretary Strickling just suggested that we should focus on the first stream, on accountability issues that were raised by expiration of the contract. And then he went on to say it slightly differently, to say, "Set your focus on the fact that the contract might not be there anymore."

We're talking about the IANA contract.

And then I think actually Fadi this morning described it in a way that was closer to what the community had been asking over the past several weeks. He described it this way: He said, "We need one stream to deal with accountability mechanisms that must be reinforced or added before the transition occurs." So things that have to be done before the IANA transition, before the contract is let go.

The second thing Fadi said was, "And the other stream would look at the broader ICANN accountability and governance improvements that we may not need to do, necessarily taken care of, before the transition occurs."

So it's a before and an after transition.

So I think both Fadi and Secretary Strickling are recognizing that the IANA contract expiration, what it means is it means the end of contract leverage.

Why does that matter? Why do you need leverage?

It's simply this: We may need some leverage -- we in the community -- to encourage the board to accept some very tough new accountability mechanisms that would hold the board and management accountable to the community.

So we view that -- I think if we view that consistently, it's the two streams are, things we know we need to do before the IANA transition, because they're things for which we need the IANA contract as leverage, and then everything else is that second stream that can occur after the transition.

And the BC had put forth six elements that we think could form that, and I realize that community working group, we're all going to figure out what they ought to be, but I do think it could be a handful of account- -- a handful of accountability mechanisms that just need to be there before we expire the IANA contract.

Is that close to your thinking?

THOMAS RICKERT: Would you like to comment on that, please?

LARRY STRICKLING: Well, first off, I hope you weren't suggesting that there was anything different in my two formulations.

Okay. Good.

Because I intended to just say it consistently.

So I think I agree with what you said, but I'm not sure what was left unsaid in your question.

[Laughter]

LARRY STRICKLING: So I -- so for example, I have noted in prior public statements that -- the absence of a board recall mechanism for the community. That would seem to me to be the kind of question that would definitely be within the more limited initial scope of the accountability.

Now, that's a big issue.

STEVE DelBIANCO: Sure.

LARRY STRICKLING: It's not a tiny issue whatsoever. But it does seem to me those are the kinds of issues people will have concern about when they're thinking about what would happen if -- what prevents this organization from spinning out of control when the U.S. contract isn't there any longer.

Nobody expects it to happen, but I think all of us, to be responsible to this transition, need to think through those possibilities and understand what mechanisms exist today or need to be put into place to prevent bad things like that from happening.

STEVE DelBIANCO: And I'm just mentioning that what is (indiscernible) the board and that is, in fact, one of the six things the BC was recommending. Thank you very much.

KAVOUS ARASTEH: Thank you. Good afternoon to everybody. I think --

THOMAS RICKERT: Excuse me. Would you please be as kind as to introduce yourself?

KAVOUS ARASTEH: Yes. My name is Mr. Arasteh from GAC. Yes. I am not representative of GAC, I am member of the GAC. I think I am sufficiently known by everybody, but I am 40 years in the national scene and so on, but it doesn't matter, so -- for young people, it's good, but for the people (indiscernible).

Let's go to the business.

There are a lot of confusions. There are so many cross-community coordination group, cross-community working groups and so on and so forth.

I think what now we're discussing, we're discussing the accountability. We understood that the accountability has two tracks. One track, accountability related -- or relating to transition, and the other is overall accountability of ICANN.

So if you call this group cross-community working group on accountability, therefore there is another group which dealt with cross-community working group relating to the naming or names in the IANA transition which we discussed this morning. These are two mixed up together. So we have to find a way not to have mix-up, because people, they don't know who is who. We have to have very clear indication who is who.

Then reference was made to the chartering organizations. I don't find. What is chartering organization? Who is chartering organizations? Do you have any organizations in the process you call them chartering organization or organizations? If it is plural, how many and why -- how -- more than one?

I think we should take examples and lessons from what we did in ICG.

In ICG, first we discuss about organization of the group. Then we discuss about charter of the group. Then we discuss about the time line of the group. Then discuss about the RFC, whatever we have to ask the questions or ask the community to reply. And last, but not least, we discuss about the guidelines for decision-making. A lot of work has been done. Shouldn't we take some benefit of that for decision-making, for instance?

We have exchanged 800 emails, guidelines for decision-making. You don't want to consider that to see whether it was wrong or right or maybe has some value?

Then size of the group. I don't understand what you mean by the size of the group, it depends on each organization how many.

Why not from the very beginning we establish, like ICG, similar things, like these are the size of the group from each constituency, which we have 13 currently. We have a number of 20, 25, 30, I don't know how -- whatever you want to say. We have to have that one.

Then the element which is not very clear here, that that group is more or less a group which decides on something that later on will be edited by ICANN itself. Why it should be that? That group, if decides on

something and agree on something as a final report, why ICANN should give the last word on that. Why ICANN should have the authority to modify that. The maximum could do, ICANN could put comments on that without editing and without modifying the content of something which has been agreed by the group, the people which have legitimacy identified and have been elected or selected by the people.

So that is an important point that we have to take into account.

And then you have some of the people you put in. These people that are members of the board, staff of the ICANN, and a few others, they could participate good but they should have an advisory capacity, merely and solely advisory capacity, without any right to the participation in the decision-making.

In that case, you could maintain the legitimacy of those groups which has been elected.

Then you said that the people, they send the reply to their community.

What community? What time they could do that? Suppose the group is doing something, send it to GAC, and how GAC could reply to that? In what sense they reply to that?

So there is something missing in that process. So we should have more concrete proposal what we do and then we have to address after the NTIA who will be responsible for the oversighting. Do we have any entity of oversighting, any mechanism oversighting, or not, or we don't have any mechanism oversighting.

Who will be -- there's many other issues and why ICANN could be accountable (indiscernible) to ICANN itself. They should be identity and mechanisms that ICANN should be accountable. That is something we talked from the very beginning and unfortunately we have not seen that. Thank you.

THOMAS RICKERT: Thanks so much for these comments and observations.

Marika, would you like to comment on the procedural aspects of this?

MARIKA KONINGS: It is Marika. I can maybe answer two of the questions. One on chartering organizations.

Basically any supporting organization or advisory committee that adopts the charter is called or referred to as a chartering organization.

And one of your other points, I didn't mention it in my introduction to CWGs but staff has a supporting role and never takes part in any of the decision-making in CWGs, so just to make that maybe clear is that's one of the principles that at least has applied so far to cross-community working groups.

THOMAS RICKERT: Theresa, please.

THERESA SWINEHART: Yeah. Also, there -- I think one of the points made was the point about whether the advisors or the board liaison or staff participate in a call for consensus or vote, and that's explicit in the document that they do not.

And also, the limits on numbers and things of that sort I think had been addressed also in the comments that Byron, Jonathan, and Marika had identified in how the cross-community groups come together. So this has been put together with community input. Thanks.

THOMAS RICKERT: Thanks so much. And before we hear the next speaker, during the public forum there is this rule of two-minute time slots, so I would like to -- although we don't have a clock ticking, I would like to make sure that you keep your statements as brief as possible.

Mathieu.

MATHIEU WEILL: Thank you. My name is --

Is the mic working? Yeah, it's on.

My name is Mathieu Weill. I'm the CEO of .FR, manage a ccTLD member, a member of the ccNSO, and I was involved in the drafting of the ccNSO council response to the public comments. And first of all, I want to state that I'm pleased to see that the process has significantly improved following this comment period, and I echo Steve's comments about the community-driven process.

I have a clarification question which relates to one point that apparently was not taken on board in our comments related to advisors. We just mentioned advisors, and we really support the idea of having independent experts to provide expertise and substance to the group without having any voting rights, and this is taken on board.

But one other aspect was that we felt it would be input for this cross-community working group to select their own advisors based on their own assumption of needs of expertise. And in the latest proposal, I see that there is -- these advisors are still to be appointed by a -- what's it called? PEG? I don't remember what it stands for. And I would like to have a clarification about why this was felt a better option than the CCWG selecting their advisors.

And the second point we were raising on advisors was that if we want good advisors that put in time and are independent, we think they will have to be compensated. Otherwise, we will struggle to find them.

And I haven't seen any response on this compensation topic in the current process. So I welcome the clarification. Thank you.

THOMAS RICKERT: Thank you, Mathieu. I think this is one for Theresa.

THERESA SWINEHART: I'm happy so.

So first the ccNSO comments were excellent, and thank you for all of those. On the point with regards to the comments in relation to the advisors, one observation is that as the community is selecting their

participants or their members to the cross-community working group and obviously the other participants, many experts will be identified during that from the community itself.

There had been the observation through the comments that having expertise that comes from other areas, whether it is around governance practices or consumer-related areas, risk assessment, any of those areas, that comes from other -- oopsie -- comes from other -- what do you call it -- other areas that we can benefit from can be very valuable and can bring maybe some additional ideas and some additional best practices to this process.

And so from that standpoint, it can complement also the members that are selected by the community itself who have expertise around accountability but that it would be valuable to the opportunity to have additional advisors coming in who come from different entities and different scopes of expertise on top of that.

So that was the thinking behind that.

In particular, going with the cross-community working group model, it allows for as many participants as the community wishes and obviously identifies in that. So they're also identifying as many community experts as the community would like to have. So that was the thinking there.

On your second point with regards to compensation, the experts had also looked at this and felt that compensation at this point was probably better not at this point. Obviously if the situation changes, we'd have to reassess that and be transparent about it.

MATHIEU WEILL: Apologies for following up. --- principle at least advisors would be selected by another community, not by the cross-community working group.

THERESA SWINEHART: I'm sorry?

MATHIEU WEILL: Those external advisors, in the paper that was published last Friday, it stated they would be selected not by the cross-community working group but by a four-person --

THERESA SWINEHART: Yes, correct. That part --

MATHIEU WEILL: My question is why.

THERESA SWINEHART: Because the comments that were coming in had also identified the value of the advisor, had identified the value of external advisors to the organization, and it was felt that having the four experts retain that role in the selection of it through their working methodologies would be a good way to do the selection of the advisors to allow for additional complimentary advisors into the process.

MATHIEU WEILL: --- responding to my question.

THERESA SWINEHART: I apologize. I'm happy to take it offline if I am misunderstanding the question.

THOMAS RICKERT: I would suggest you do so. Given that we have 15 minutes left, I would like to end the queue after the comments or questions we get from the remote participants.

So next in line, please.

BEN TOWN: Hi, my name is Ben Town (phonetic). And I have a question that I think follows up on one of the questions that was asked by Mr. Arasteh, two speakers before me.

And earlier today I attended a session of the CWG to develop the IANA stewardship transition proposal on naming related functions.   And there, there was a considerable amount of confusion about the relationship between that CWG and this one about accountability.

I was wondering if you could help clarify the distinction between the scope of work that each of these two groups will be addressing.

THOMAS RICKERT: I'm looking at Jonathan. Is that something you would volunteer to answer?

JONATHAN ROBINSON: Yeah. I will make a stab at that.

I think you heard earlier today and Larry Strickling highlighted that he felt that his comments and the ones that Fadi made earlier in his speech about the work of the two streams of accountability in this group, one set is required and, in essence, specific to the removal of the USG from the equation and the other stream is not specific to that.

So I tend to think of them as good governance principles. That's more familiar terminology to me, but there are two sets of governance principles or accountability.

And then going back to the stewardship on naming, which you obviously were in that group earlier, as far as that's concerned, there's some accountability -- my mic -- I've got the light. I just don't have the -- let me try. Any better? Okay.

UNDISCERNABLE: So we've got as far as two streams associated with this, right?

JONATHAN ROBINSON: Yes, exactly. And then going to the stewardship on naming, there is an accountability requirement, but that's more -- I think maybe another way of phrasing that accountability is to talk about it as an SLA. It's accountability for the performance of those technical and operational functions.

UNDISCERNABLE: They can't hear you.

UNDISCERNABLE: You are saying the other group --

JONATHAN ROBINSON: Sorry. Can you hear me now at the back? No? I think it's a technical -- how is that now? Better? Can you hear me? Good. Okay.

So we had -- we talked about the two accountability streams here and made reference to the fact that those had been referred to in two different contexts. And we seem clear on those.

And then there is, if you like, the accountability associated with the stewardship on naming. And there, there is a requirement for a more technical form of accountability. I think of that as a little bit more like an SLA. It is an accountability to perform according to certain performance criteria.

And so I think in a sense -- I hope that clarifies it. It is -- the repeated use of the word "accountability" isn't totally helpful there because -- oh, there we go. Now we got the -- oh, wow. Here we go. All right.

So I hope that in spite of the audio, that was clear enough.

Thank you.

THOMAS RICKERT: Thanks. Wolf-Ulrich Knoben.

WOLF-ULRICH KNOBEN: Thanks. Good afternoon. My name is Wolf-Ulrich Knoben. I'm a member of the GNSO, and I'm also a member of the ICG.

Being a member of the ICG, I'm very interested that this process is going -- running and is coming to success.

So in this respect, I would like to thank you for your presentation and shedding more light on the two streams and also to the timeline, the timing of that.

However, in this regard, I have a specific question to you. Timing is essential in this process. And the ICG started to develop a timeline counting back from the contract situation -- the IANA contract situation which is going to coming to end by next year. So that was the reason why we counted back and came to that timeline for the time being.

Now, you could see in a discussion of the cross-community working group today whatever that means, how that pressure is done to that group. And they are counting days right now in providing and putting their timeline.

There is another argument which often is used which puts pressure on the timeline. This is that argument that the U.S. government is going to change in the future. And that may be just a short window for that process to be successful because never knows what is coming after the present administration.

So that is an argument which I couldn't value as a European. I'm not an American. So I have a specific question to you as a member of this administration, how do you value this argument because that is putting a lot of pressure in that timeline. Thank you.

LARRY STRICKLING: Well, absent something unusual happening, there won't be a change in administration until after January 2017. So -- but under your point of the timeline, I think the point is that September 30th, 2015, the current expiration of the contract, is almost a year away. We hope the community organizes itself to work assiduously and with full dispatch to develop a plan.

But at the end of the day, we want a plan that's well thought through, that will stand up to any scrutiny that is directed its way. And the community should make sure it puts that effort in to deliver that sort of plan to us.

THOMAS RICKERT: Thank you, Secretary Strickling, for their clarification.

And the next question, please.

ATHINA FRAGKOULI: Hi, my name is Athina Fragkouli from RIPE NCC. I would say that as of -- the five RIR communities are also working towards a proposal for the future of the IANA stewardship. It needs a lot of focus on the accountability of all --- and strategic organizations. The five RIRs are also addressing the RIR accountability issues.

And so in September 2014, five RIRs published our RIR governance matrix. And we now published a set of RIR questions and answers, and these questions came forward from the discussions of the ICANN meeting in London and on the IGF. And so those two documents are

giving, like, an overview for all the stakeholders on the RIR and governments. And I would like to bring those two documents to your attention. Thank you very much.

THOMAS RICKERT: Thank you very much.

Next in line.

JONATHAN ZUCK: Yes, hello. Jonathan Zuck from ACT-the App Association of the IPC.

Thanks again for the clarity on the two working streams. That's been something I think we have been stressing about, a little bit about what that distinction would be.

I guess the one question remains in my mind is how we believe the board will react to advice that comes from the community working group, particularly if it is advice with which they disagree and also how the administration might react to a disagreement between the cross-community working group and the board.

LARRY STRICKLING: There shouldn't be any disagreement.

JONATHAN ZUCK: I agree completely.

[Laughter]

So that's good to know. There is a board resolution that there won't be any disagreement with the cross-community working group is --

LARRY STRICKLING: No, no. I think what I'm saying is, that this needs to be a consensus proposal. If some element like the board or the cross-community working group ends up feeling that what is being presented doesn't provide the solution that will withstand scrutiny, then almost certainly it won't withstand scrutiny.

So I think what's incumbent on this community is to work together to bring to Washington a consensus proposal that has the support of the full community, including the board and everyone else.

JONATHAN ZUCK: Thank you.

THOMAS RICKERT: Thank you. Bertrand.

BERTRAND DE LA CHAPELLE: Good afternoon. My name is Bertrand de La Chapelle.

That's not fair. Okay. Put the timer.

First comment on the fact that if you look at the agenda this week, as is traditional in ICANN, the same topic is going to be addressed separately in two hours or three hours' discussion in every single subgroup, sub constituency.

The amount of community discussion is disproportionately low. Enhance the capacity for the community to grow progressively in a better understanding of what of the positions of each of the actors are is insufficient.

I strongly encourage for the Marrakech meeting to make all efforts with the SO/AC chairs to make sure that the community discussion is strongly enhanced.

The second element is regarding the two streams, there clearly are accountability mechanisms or issues in both streams. The ones that are related to the IANA contract actually deal with on the one hand the day-to-day accountability on a case-by-case request management but more importantly on the mechanisms that would deal with the allocation of the mandate and the potential rescinding of the mandate if performance criteria are not adopted.

The second element is probably the most important and was delicate because it poses the question of where does the legitimacy for the mandate come from and the legitimacy for taking this mandate away.

Finally, the second dimension on the accountability in more general, it has many dimensions but there is -- building from my experience having been on the board and having to look at reconsideration mechanisms, words are extremely important.

I only understood recently that the word "reconsideration" is being used in the U.S. environment for procedures that are actually done to the same body, which is something that we in French call (speaking in French).

This is not an appeal. The only appeal that exists more or less today is the independent review panel that has a threshold of accessibility that is completely disproportionate for most of the potential requesters of a review.

In the accountability mechanism, without covering all the other aspects, this sort of three-layered mechanism needs to be addressed as a potential structuring of the debate like having reconsideration the way it is, maybe but an intermediary appeal system that is lower than the IRP.

And the final question on the IRP which is currently being discussed in the .AFRICA discussion as we just saw the position of the panel is the question of is it binding or not. And one of the questions is: If it has to be binding as an ultimate accountability, it may be have to be designed in a slightly different way. But there is a need for this organization to have some kind of external accountability that is binding.

And the question of compatibility with U.S. law has to be explored very closely. I don't have an answer. But in terms of framing the debate, I hope it helps the work.

THOMAS RICKERT: Thank you very much, Bertrand. As I indicated, we have to -- that was perfect in terms of time. We had to close the queue after Bertrand. So I still think that the discussion will go on.

Unless I've missed it, maybe Marika can say whether there will be a public comment for the charter or what's the next opportunity for the community to comment or make themselves heard.

MARIKA KONINGS: This is Marika. There's typically no public comment on a charter, at least for the CWGs that we've run so far. The idea is that the participants in the drafting team feed back to their respective communities to obtain input on what should go in or what should be out of the charter and use that mechanism. And then the charter is put forward for consideration to the supporting organizations and advisory committees for adoption. That's at least a typical process.

THOMAS RICKERT: Thanks for clarifying that. So I think the call for you is to work with your respective groups to provide input to this drafting team.

I would like to give the opportunity to the panelists to make some closing remarks if they want to.

>>   I'm happy. Thanks, Thomas. I think it was a thorough discussion. And I'm okay. Thank you.

THOMAS RICKERT: With that, I would like to close the session. I would like to thank everybody for their participation and interest in this important topic and also to the panelists. Thank you.

[Applause]

[END OF TRANSCRIPT]