ABU DHABI – ccNSO Members Meeting Day 2 (pt 2)
Wednesday, November 1, 2017 – 10:30 to 12:30 GST
ICANN60 | Abu Dhabi, United Arab Emirates

UNIDENTIFIED MALE: November 1, 2017, ICANN 60 Abu Dhabi, ccNSO Members Meeting Day 2, Part 2.

UNIDENTIFIED MALE: Take your seats, please. We will go on with the next session about accountability. Please take your seats.

JORDAN CARTER: This is always the most entertaining part of the session, right? When the pointing, clicking technology is going to work.

Good morning, everyone. Welcome back from your coffee break, those who made it. My name is Jordan Carter, .NZ. It is my immense privilege and joy to chair this session for you on a number of accountability-related topics.

The first part of our session, which will run through to 11:30 is on the other side of this page, is the ccNSO as well as a decisional participant in the Empowered Community, and we'll have a presentation from Stephen Deerhake giving an update on the Empowered Community and then we'll have a presentation

from Stephen and from Katrina on the ccNSO guidelines about rejection actions and approval actions and so on.

Then we'll have a brief update from David McAuley on the new IRP, the Independent Review Process that came in as part of the accountability changes. And then we will do a little bit of a shuffle and we'll have a presentation from me on updating you on where the Cross-Community Working Group on Enhancing ICANN Accountability is.

So we'll try and get back to 11:30 by 11:30 as per the agenda. So Stephen, you're up first. Go ahead.
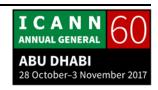
STEPHEN DEERHAKE: Thank you, Jordan. Next slide.

This is a really, really quick update on what the Empowered Community Administration has been doing since ICANN 59 and with a segue into upcoming activity because we will now be going into an active period.

We've done very little. We reported two NomCom Board Member selections to the ICANN Corporate Secretary as required by the new Bylaws. Next slide.

We're going to be having some changes in the membership, the composition of the people who actually comprise the

Empowered Community Administration, because the GAC will be sending a new representative and the GNSO will be sending a new representative. I do not expect any further changes, but it's possible one or more other ACs will make a change in personnel as well. Next slide, please.

We've got upcoming activities because ICANN is getting into a budget preparation cycle for FY19. They are currently working on the draft budget for PTI and IANA Operating Plan and I expect that the Rejection Action Petition period will begin in early February, so I encourage you to take a look at the budgets and the plan for PTI. And if you have an issue with it, start getting ready. And I'll cover this in further detail on the next presentation.

The second known activity coming up will be the Management of the Rejection Action Petitioning Process for the overall ICANN FY19 Operating Plan and I expect that will start around the beginning of June. The idea is to get all that wrapped up prior to the beginning of the Fiscal Year 19, which begins on July 1. Next slide.

All right, that's it. Any questions? Nigel, of course.

NIGEL ROBERTS: You said, "reported nomination committee."

STEPHEN DEERHAKE: I forgot what the actual terminology is, but at the end of the day, NomCom came up with selections for two Board seats and under the new Bylaws, they tell the Empowered Community Administration. The Empowered Community Administration, in turn, writes a letter to the ICANN Corporate Secretary informing them of the selections of the NomCom.

NIGEL ROBERTS: So a formal confirmation.

STEPHEN DEERHAKE: Yeah, it's formality. The actual pathway is from the Empowered Community to the Empowered Community Administration to the ICANN Corporate Secretary.

UNIDENTIFIED FEMALE: Just one clarification, it's not just NomCom's appointed Board members. Every SO/AC that appoints, that's the updated [inaudible].

STEPHEN DEERHAKE: These two are NomCom, but yeah, no, it's so everything flows through the Empowered Community Administration.

JORDAN CARTER: Are there any other questions for Stephen on that brief update? I thought there was a question, but it's a departure.

Okay, thank you for that. The next item that we'll move immediately to is ccNSO guidelines. Katrina, Stephen, I don't know which one of you is starting off for this, but go ahead.

STEPHEN DEERHAKE: This presentation is intended to cover three informal parts. The first part is centered on providing the community an introduction to two specific powers of the ten or so – I forgot the actual count – that are enjoyed by the Empowered Community under the new Bylaws.

The ability of the community to approve or disprove certain actions taken by the Board is the first topic, and the ability of the Community to reject certain actions is part of that as well. For many, this will be familiar territory, so I intend to cover it fairly quickly.

The second part revolves around informing you of upcoming Rejection Action Petition periods and giving you an overview of the mechanics of the process of filing an actual Rejection Action Petition for consideration by Council, should you indeed read

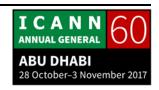the budgets and not be happy with some aspect of those budgets.

And the third part is intended to give the community an overview of the Rejection Action guideline currently under development by the Guidelines Review Committee. So with that, next slide, please.

We're discussing this because it's a byproduct of the post NTIA-Transition Bylaws and we have responses that you can see on the slide where we came from on that. The references are there for the record. Next slide, please.

The Bylaws themselves are rather complicated, as you can see from this one. Article 10 relates to the ccNSO. Annex D relates to the execution of the various powers enjoyed by the community under this new set of guidelines. Next slide, please.

We have responsibilities. They're important responsibilities. It's not just ccNSO that has these responsibilities, but indeed, all the other AC/SOs including the GAC which seems rather reluctant to get into this arena. But we will see how that plays out over the next year or so. Next slide, please.

So the actions that I'm talking about here today are approval actions and rejection actions. And approval actions are things

that the Board does that they then have to come to us, the Empowered Community, and ask our okay.

Case in point was the recent change to a fundamental bylaw by the Board which resulted in the Board coming to the Empowered Community in the Johannesburg meeting where we ran a public forum which went quite well as our first test drive of this mechanism where it was discussed and it later was approved by all the SO/ACs during the course of ICANN 59.

Rejection Actions are where we, the community, have to take the initiative to stop the Board from doing something they've approved if we don't like it. Next slide, please.

So quick overview, approval actions, there are three: fundamental bylaw amendments which is what happened at ICANN 59, articles amendments, and asset sales. I really don't expect to see the last two ever, but who knows? They're in the Bylaws. Next slide, please.

Rejection Actions, there are ten of them. ICANN budgets, which is what's coming up; IANA budgets, which is what's coming up; operating plans; strategic plans, those are both coming up as well between now and July of next year; and standard Bylaws amendment. We have no idea if we'll see any of those in the near future or not. Next slide, please.

These are additional five Rejection Actions and if we ever see any of these, we're in trouble as an organization because here, we're going down the slippery slope of really having issues with PTI/IANA and the last two are SCWG actions where the IANA function is getting carved out of ICANN, so hopefully we'll never see any of these. Next slide, please.

Current state of things, with the Approval Guideline, the Rejection Guideline. The Approval Action Guideline is done, finished. It got approved by Council. Rejection Action Guideline is now in its fifth version, or will be within a week or so, and we continue to refine it. The Rejection Guideline is very, very complex. Next slide, please.

So as I mentioned previously, we've got some upcoming Rejection Action possibilities. I'm not saying we'll definitely see any of these, but we have some. I would like to remind everyone that the draft PTI and IANA FY19 Operating Plan and Budget is out for public comment. That comment period closes on the 26th of November. I recommend you guys at least take a look at it, and if there's anything there that really gets you upset, be prepared to start jumping on dealing with that, and you'll see why on the next slide.

Upcoming Rejection Action, if you've got an issue with it, you've got to submit a comment during the comment period which

ends towards the end of November, as I mentioned. And as you can see, if you do not submit a public comment that covers the issue you have with the budget or operating plan, you will not be able to file a Rejection Action Petition. You can file it. Council can consider it. Council can subscribe to it. Council can forward it on to the Empowered Community Administration and now with my Empowered Community Administration hat on, I will tell you that we are obligated by the Bylaws to reject it. So you've got to get a public comment in the hopper that supports your petition rejection. And these apply to all rules, so the draft ICANN Petition Rejection possibility has the same stuff. Next slide, please.

So the mechanics of all this, actually, at the conclusion of the rejection period, you then have a 21-day period to file a formal Rejection Action Petition with the ccNSO and we will work out and let you inform the community of the details on that.

Because of the incredibly tight timeframes involved in all of this rejection stuff, I cannot encourage you enough if you really are serious about going down this path, that as soon as you get your public comment out there, you start working on your Rejection Action Petition. It has to meet specific requirements which will be detailed in Annex D, the Bylaws. And also, we're trying to put together a quick guidebook for the community as to if you want

to file one of these, here's the checklist and so on, and so forth, so that you're in a position to get it out as quickly as you can.

Also, we suggest very strongly that if you know other ccTLDs that might have a similar objection to whatever it is you're objecting to, that you solicit their opinion, you start working on lobbying Council, and you need to go and start soliciting support from other SO/AC members and get them to lean on their leadership as well to gather support because you will need the approval of another SO/AC for this to go forward. Next slide, please.

Again, proactively work on your stuff, early outreach to Council, because at the end of the day, the rejection setup is such that at any point in the process, if a deadline is missed, the process stops, ECA has to stop the process, and whatever it is, your petition will fail and ICANN prevails. So next slide, please.

So let me go on now and talk about where we are with Rejection Action Guideline. As you remember in ICANN 59, for those of you who were there, we had a discussion regarding decision-making points within the Rejection Action Process, and specifically, how we would handle some of the time constraints that are present in the rules of the ccNSO with regards to Council decision-making and the ability of the community to override any Council decision.

We had two sessions. At the end of the first session, option one was leading but by the end of the second session, option two was a clear favorite of the community present. It's now incorporated into the Guideline and what it does, basically, is give the opportunity to the community to veto a Council decision regarding Rejection Action Petition, whether it's a Rejection Action Petition that's come out from within this community or a Rejection Action Petition that the Council is supporting on behalf of another SO/AC. Next slide, please.

So with regards to the structure of the Guideline, this is Version 5, closer to this than Version 4, and I want to thank Bart for this particular slide. The process in broad stroke, is that the Board submits a Rejection Action notice to the community and that would happen in, the next one that would happen would be when the Board adopts the PTI/IANA Budget and Operating Plan.

Then the AC/SOs go and their community has an opportunity to file a Rejection Action Petition. Going down the left slide, the cc Rejection Action Petition box represents the situation where a member of our community has submitted a petition. The right-hand box, Support Rejection Action Petition, represents the state of affairs where another AC/SO has submitted a Rejection Petition, and they have solicited us and we have given them our support.

Going back to the left-hand side under Seek Support Rejection Action Petition, that's a situation where after Council has approved the Rejection Action Petition arising within our community, we have to go around and solicit support from at least one other AC/SO for support of our petition. If we don't, it will fail.

Given that we've now done that successfully, or in the case of another AC/SO that's submitted a Rejection Action Petition, they have succeeded in getting support from another SO/AC, we then are down to the Supported Rejection Action Petition/Community Forum part. And once the ECA has certified that yes, we have a legitimate petition from an AC/SO that's been supported by another one, we go into this phase where we will have one or more conference calls, probably for everybody to discuss it, and possibly one or more community forums, such as the approval forum we had in ICANN 59.

So the final conclusion after the forum is a decision-making period, and that's the bottommost slot where it's the ccNSO Decision on the Rejection Action Petition. Next slide, please.

So that's what it looks like visually, and as I said, it begins with the Board sending us a rejection. It starts the 21-day clock going with respect to filing your petition. And that's why I said previously that if you're really interested in objecting to

something, you need to start working on your petition as soon as you file your public comment and have it ready to go and start being very proactive in getting support for your position.

At this point in the process, Council has done nothing and so there's no role yet for the ccNSO community to object to anything the Council has done. Next slide.

Rejection Action Petition, the requirements as I detailed previously, we expect to have those requirements in the Rejection Guideline as an annex, as well as an annex for a checklist of some sort that says, "Here are the minimum requirements of your petition, the things that have to be in it, etc."

The petition has to be accepted by vote of Council, simple majority. This makes us a Rejection Action Petitioning Decisional Participant in the jargon of the Bylaws. Next slide, please.

And as I noted previously, then Council's got a week to get the support of another AC/SO on this petition or it fails. Now even though Council has voted to accept the Rejection Petition, there is as yet, still no rule for the ccNSO community to object to the Council's acceptance of the petition from within our community or the support given by Council by vote of a petition submitted by another AC/SO. Next slide, please.

Again, this just covers the second case where Council is solicited for support and Council votes to say, "Yes, we will support your petition." Even though Council has made a decision, there's still no role for the community and this is because we don't have enough time to make those decisions in the normal fashion. Next slide, please.

As I noted previously, Council's got responsibility, [indeed], the community because these calls will be open to any member of the community, not just Council members, but Council specifically in regards to participation in conference calls, public forums – there may be more than one, ICANN can call them themselves if they don't like the results of the first one, for example – and still no role for the community with respect to Council action. Next slide, please.

So here we are at Council decision time. It is possible that the Council may decide to rescind support, withdraw its own petition, or rescind support of a Rejection Petition that was submitted by another SO/AC any time running up to the public forum or any time during the public forum or the decision period after the public forum. But at some point in the 21-day period after the public forum, Council does need to make a decision. If Council doesn't get its act together and make a decision, the ccNSO will be considered to having abstained.

At this point, the Council is actually making a decision within the 21-day timeframe so that now the community, the standard rules of overturning Council decisions apply on this final decision of the Council and the community can challenge the decision in the usual fashion. We put it out for one week, etc. Next slide, please.

So that's where we are, that's the mechanics of it all. The next steps are to complete the draft where it's going to have a further couple of rounds of review by the GRC leading to its approval. We had a discussion at ICANN 59 with ICANN's legal counsel and ICANN Legal would like to take a look at this and do a review on it. It then gets submitted to the Council for their approval. It goes out for public comment period for community review as per usual, and circulates around for final adoption by Council. Next slide, please.

That's it. Questions?

JORDAN CARTER: Katrina's got a question or an addition.

KATRINA SATAKI: No, I don't have a question. I wanted to clarify one point that we came up with during our [play] last time in Johannesburg and then after discussions with ICANN Legal. So as you see now,

okay, I'll try to make it simple. Let's say there is an ICANN budget published for public comment and we, the community, feel very strongly about some aspect of this budget. So we, or let's say you, submit a public comment.

Now the next step, again, assume that this comment has not been taken into account and the budget is still not acceptable to you, so you decide to file a petition. That's a normal process.

Now, let's take another look. So there's a budget and you're pretty happy with it. Somebody submits a comment, it's taken into account, the budget has been changed, and now you're not happy with it. You did not submit any public comments to the initial budget because you were happy. Now with the final result, you're not happy. You still have the right to submit a Rejection Action Petition. It will not be based on your public comment. It will be based, perhaps, on the public comment by somebody else, and that public comment was taken into account and you're not happy with the final result. So it does not have to be your comment, specifically, that you base your Rejection Action Petition on, so it can be any other comment that was taken or not taken into account.

JORDAN CARTER: So are there any questions or thoughts for Stephen or Katrina on this stuff? Young-eum.

YOUNG-EUM LEE: Oh, it is on, yeah. This is Young-eum Lee from .KR. Just a comment. Based on our usual way of deciding on ICANN policies, I mean, usual time period we have, like three weeks comment period, right? That's what we're used to and when I think of this and when I kind of try to go through the process, I know that the mechanisms are there for the community to raise issues or object or whatever, but then, what this means is that we have to be constantly aware of any rejections or issues that may come up in the future, be well discussed among ourselves as to what the major issues might be, and just be ready to jump on the wagon as soon as the issue is posted.

And I'd just like to make everyone aware that maybe, even within the Council, if we are aware that something is coming up, we really need to let the community know well in advance that something might be coming up that they should pay real close attention to it, and then be ready and be well-versed in all the issues that may come up so that you can, I mean, getting the support of another community within a week, I don't know if that's possible within the usual ICANN timeframe of doing things. Thanks.

KATRINA SATAKI: Thank you very much, Young-eum. I'll start and then [inaudible]. First of all, Rejection Actions, they usually, yes, you're right, they do not come as a total surprise. So we know ICANN's planning and budgeting, we know when to expect the draft budget and we have enough time to comment on it. I'd say that we, the ccNSO are in a much better position than many others because we have this SOP Working Group that is now being promoted to SOP Standing Committee. They have experience and they have the process and they do look at the budget on our behalf and all the plans, and they're really good at commenting and proposing.

Really, if you've ever read the reports or comments that the SOP Working Group is submitting, you would appreciate the work that they're doing on our behalf. So I think we're pretty good here.

As of soliciting support from other SO/ACs or agreeing to Rejection Actions triggered by other SO/ACs, yes, it's a seven-days period, of course, it's a very short timeframe as Stephen usually points out. Well, ICANN is in a very good position here because for community, it's really a stress to make through all the timelines and do things on time. But yes, whenever there are things coming and we need your support, your views, we will try to inform you as soon as we learn what's going on. Just a moment, Bernie. Maybe Stephen will….
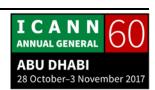
STEPHEN DEERHAKE: I just want to thank you for your succinct summary of the problem with regards to the timeline, and that's why in the slide set, I kept saying get on it early, start soliciting support early. The ECA has been thinking about this as well and I'm coming up with some ideas, formulating some ideas, about monitoring the comments on stuff and letting this community know via posts to the community cc world list as to what's going on. But it is a problem.

BERNIE TURCOTTE: Just to add on to Young-eum's thing. Let's not forget that there are other options out there also. Yes, the timelines are tight on these specific options. You'll hear from David McAuley in a few minutes when we're talking about the IRP, which if there is something that is going on that is against the Bylaws, you have an option to take that on. This is now going to be required to be listened to. And there's also the other power of if you are upset as a community, to remove either individual Board members or the entire Board. Thank you.

JORDAN CARTER: Thank you.

KATRINA SATAKI: Sorry, I heard, I hope that our Board candidates heard that.

JORDAN CARTER: Hopefully so. I'll remind them. Are there any other questions or comments on this presentation from Stephen? No, okay, well thank you both for that presentation. We'll move right now to an update on the implementation process for the new IRP. This is an implementation process that came from that first round of accountability improvements around the transition and I'm glad to welcome David McAuley here to give us a brief, five-minute run-through of what that's up to.

DAVID MCAULEY: Thank you, Jordan.

Hello, everyone. My name is David McAuley. I'm with Verisign, and I'm the leader of the IRP Implementation Oversight Team that's currently working on helping to implement the new IRP, which became a part of ICANN's landscape when the new Bylaws were adopted last year. There was a pre-existing IRP. This one's a little bit different and I'll get into that.

It'll be a brief presentation because I've actually given some of this presentation to this group before and I'll stress more what happened, developments since the last time I spoke here, and

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I'm trying to also talk with SOs and ACs as well because you'll see, there's some joint action required. Next slide, please.

The IRP Implementation Oversight Team was created in Work Stream 1 and it's now a function of the Bylaws. It's something that was adopted by and incorporated into the Bylaws. Next slide, please, Kim.

The purpose of the IRP is basically to make sure that ICANN lives within its mission. I mean, that's the short form. You'll see some of this overlaps with the standard that the IRP rules by, but basically, it's a question of compliance with articles and Bylaws. That's the test that's going to be brought to IRP. Minor claims that don't arise to that standard really aren't going to be heard by IRP.

It also recognizes that the Empowered Community can be a claimant, as well as individuals can be claimants with an effort to bring enforcement of ICANN's conduct within compliance with articles and Bylaws.

There are certain things called out. You'll see them on this slide. A good example is to make sure that ICANN lives within the terms of the IANA Naming Functions contract and enforces its own rights under that contract. Service complaints with respect to PTI services and things of that nature are now cognizable at IRP.

The important part on this slide is that bottom bullet, and two words in that bottom bullet stand out, "binding" and "enforceable." That's what's new here with this new IRP. The IRP used to be an arbitration coming to the ICANN Board with a recommendation that they may have done something wrong and the Board would take that under advisement.

Now the IRP is authorized to issue a ruling that says the Board has, in fact, gone beyond the articles or Bylaws and that would be enforceable. They won't be directing the relief. The Board will still have the discretion to fix its conduct. But a finding that it has violated or breached the articles or Bylaws will be binding. Next slide, please.

The standard of review is exactly that, what I just spoke of. The standard of review is did the Board or the staff violate the articles or the Bylaws by their action or by their inaction? There are specific things that are now cognizable under IRP, like I mentioned before. One of them will be IRP can review decisions from expert panels. These are the panels that were created in the new gTLD program, things like string similarity review panels, community objection panels, I think there was a legal rights panel, those kind of panels. In the new gTLD program, there were no appeals from those decisions. Now there will be an appeal to IRP. The standard will be that ICANN's

implementation of the decision of such a panel was wrong and that it was contrary to Bylaws or articles. Next slide, please.

You'll notice this is more of the same on this. I'll let you read it, but you'll notice in one of the bullets under here, ICANN's response to a DIDP, the Documentary Information Disclosure Policy. If someone who is seeking documents thinks that ICANN has acted in a way in responding that is not right and that amounts to a violation of the articles or Bylaws, they'll be able to bring that claim to the IRP. It's specifically called out. Next slide, please.

Important exclusions from IRP, the Empowered Community can bring a challenge but they cannot bring a challenge to the results, ICANN's action with respect to the results of a PDP unless the supporting organizations that approve the PDP support that challenge. IRP can't hear claims resulting to numbering resources or protocol parameters, and most importantly on this page, IRP cannot hear claims respecting ccTLD delegations or re-delegations. Next slide, please.

Here's where I want to talk about something that's really critical to this community in conjunction with the other SOs and ACs, and it's the Standing Panel. There will be created under the IRP a Standing Panel of at least seven members. These are basically jurists of some stature who will be applying to become members

of the Standing Panel. They shall be, under the Bylaws, independent of ICANN. ICANN has to give them DNS training so they know the context within which they're working, but they're going to be independent and they're going to be setting precedent. This is important to recognize.

ICANN will soon be issuing an Expression of Interest – actually, I've said that before, so you may wonder, but hopefully, it will be soon – for people to respond. One reason that's been held up is ICANN Legal and ICANN Policy staff are working on ways to help the communities organize themselves. There is organizational work to do among SOs and ACs – and Katrina and I have spoken about this – to nominate people to the panels. That's going to be the SO and AC job, is to nominate people who submit applications and who, upon review, look like they're qualified.

That takes work, and so, the Expression of Interest won't go out until a reasonably close time to that organization being in place because you don't want people to apply for something and not hear an answer for the next six or 12 months. SOs and ACs, along with ICANN, will vet, review, the applications that come in. But then once they've come in, it'll be up to SOs and ACs and not ICANN to nominate those people to the panel. ICANN will have the right to confirm them on the panel, but they can't unreasonably withhold that confirmation. Next slide, please.

Panelists will serve a five-year term. They're going to be independent, as I said. One of the things that's interesting about the IRP panel is you'll have three panelists hearing one case. If the parties to that case, if one of the parties is dissatisfied with the result, they'll be able to appeal it to the full Standing Panel and so it's going to be a very formal proceeding, as it now, but it's becoming a little bit more so. It will have secretariat support from the International Center for Dispute Resolution that can be changed if the community wishes, but everything's in place for the panel to work. Next slide, please.

My group, the group that I'm leading, rather, the IOT is working on updating the Rules of Procedure. They're called supplementary rules because they supplement the ICDR's own rules. But they're not supplemental in this respect. These rules take primacy because they take account of ICANN's uniqueness, and so they simply supplement the ICDR rules, but they take first place in applying the rules.

Some of the things we've been working on that the community commented on in public comments are the time within which a claimant needs to bring a claim, the retroactivity of the rules and of the standard, how do interested parties become joined to a claim, translation, interpretation, discovery, evidence. We're going through a series of rules and we are making progress. We're close to being done with that. Next slide, please.

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And the IOT team has work to do once we get done with the rules. We will develop rules for the appeals if there are appeals. We will develop rules for what happens if ICANN fails to reply to a claim. Interestingly, the bottom bullet is we will be making recommendations about periodic review of IRP. Currently in the Bylaws, it's part of the ATRT review every five years, but on a discretionary basis. The bylaw says that this review may take place.

Those on the team, we may make a recommendation that it be a little bit more substantive than that, that discretion be taken away. That may mean that we would need to look to a new review rather than ATRT. We're considering it, but there's plenty of work for us to do after which we will recommend that we be disbanded until such time as the Board needs a new IRP IOT team. That's likely to happen. I can't commit for the team yet, but that's likely where we're headed.

So anyway, that's a large overview, a quick overview, of the work of this team and the important thing to stress is this IRP is the crown jewel in ICANN's Accountability Dispute Resolution procedures and it is important. And the organizational work and the picking of the people on this panel is going to be critical because they're going to be setting precedent from the beginning, and so these early decisions that IRP panels make will have an oversized impact. They will be precedential. These

will be independent folks, and so the SOs and the ACs, when they get together to pick, must exercise some diligence to do some really good work. Thank you, and I'd be happy to answer questions.

JORDAN CARTER: Thank you, David, for that update. Are there any questions about the IOT stuff? Ching Chiao, please go ahead.

CHING CHIAO: Is this on? Okay, thank you. Ching Chiao, NomCom appointee to the Council. Just a quick question, and first of all, thanks for the update. I think by reading through the slides and one thing that just pretty much popped out in my head is that when the IRP, let's say, follows this particular path and then on one of your slides, you mentioned about a six-month target date to get things kind of to resolved, let's say if ICANN does not fill in the final result, meaning that the IRP needs ICANN to make things right, and these particular things potentially may trigger another PDP process in order for ICANN's implementation to get things done or done right. So what would be the expectation here because it seems like it would trigger another, not just only a six-month time but much longer PDP process? So that's the only question here.

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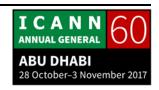ABU DHABI
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DAVID MCAULEY: Thank you. That's an interesting observation. Currently, the Bylaws talk in terms of expediting the process. There's talk about trying to get it wrapped up within six months. It's a target. It's not mandatory, and I should note that we, the IRP IOT Team, are actually taking on board, we've taken on the responsibility to fold in what's called CEP, Cooperative Engagement Process, which is a formalized way of trying to settle a case. And so we're working on that. That may stretch that six-month period, let's say, to eight months.

But in any event, the Bylaws only speak in this respect, they only speak to the date from which a claim is made until the IRP panel rules. They don't put dates on ICANN's receipt of an action on a ruling from the panel, and so, you're right. You bring up a good point. What will ICANN do? And when it gets to that point, when they have a ruling that is "binding and enforceable," it will be up to the community to demand some action in that respect. But we all know that that takes some time.

But I have to mention that that's nothing to keep a claimant from going into a court somewhere and saying, "Look, I have a judgment in my favor, and inattention to it is taking away what I want." That's my personal opinion, that's possible. But the Bylaws don't speak to ICANN's subsequent action.

CHING CHIAO: Thank you.

JORDAN CARTER: I know that Stephen has got a quick question. Stephen, please go ahead.

STEPHEN DEERHAKE: Have you guys thought about the qualifications for these panelists? It sounds to me like we should start combing the world for retired judges or something.

DAVID MCAULEY: Thank you, Stephen. The Bylaws do speak of qualifications and included in the qualifications is diversity, target for not only regional diversity, gender diversity, those kind of things, but also for diversity of legal systems. For instance, I come from a common law country. There are civil law countries and there are other kinds of law, so they are looking for diversity among those things as well.

                         The qualifications are fairly generally stated and the Expression of Interest will be a little bit more detailed along those lines. People with arbitration experience, senior, that are experienced, that have legal qualifications. And I can tell you that before the

Expression of Interest has gone out, there are people queueing up to apply because I know they're contacting me, not that I have anything to do with that. So you're right, and we need to search the world. And I think to the SOs and ACs will come a pile of very good applications, and it's going to be hard work to go through that. That's the job. That's the challenge. Thank you.

JORDAN CARTER: We've got time for one last question at the mic. Please introduce yourself.

RICHARD HILL: I wanted to comment on the qualifications. As I understand it, the qualifications for the new panelists will be adequate legal background, knowledge of ICANN and its operations, and independence of the ACs and the SOs, so I don't expect that there are many retired judges out there in the world that will qualify.

And then to the previous point, the new process is clearly an arbitration process, which is defined in most national laws and covered by international convention, the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards.

So the judgment can be appealed in the seat at which the judgment was rendered – it would probably be California in

most cases here – but on very limited grounds, basically, lack of due process or the arbitrators were corrupt or stuff like that. Other than that, the judgment is directly enforceable anywhere in the world. You do have to go to a national court but it's just to get a [stamp] called an [exec] [blotter], and then you can implement [the sentence]. So there's no appeal process per se other than the one from the Standing Panel [inaudible]. So when it comes out of the full Standing Panel, then it's final and enforceable anywhere around the world.

DAVID MCAULEY: Thank you, Richard. I agree with that. It is a final judgment coming out of the panel.

I didn't mean to imply, if I did imply, that someone could go to a court and appeal the ruling. They can go to a court to enforce the ruling, basically.

JORDAN CARTER: Okay, thank you. We've run out of time, so if you did have any more questions, please refer them to David during the rest of the course of the meeting if you can catch him. Thank you, David, for that presentation, Katrina, Stephen.

We'll move straight into the next phase of this, and I asked Thomas Rickert to come and join me on the front table. Thomas

is one of the other Co-Chairs of the CCWG from the GNSO. What we're going to do is run you through a kind of update presentation that explains the work of the CCWG, the Cross-Community Working Group, Enhancing ICANN Accountability.

And then because there was some feedback or wondering whether the jurisdiction debate that's swirling around might be of interest for CC discussion, we'll curl back to that. I'll ask Thomas to maybe add a few more comments than the summary that I'll run through and we can take the discussion from there.

We do have a hard stop at 12:00 because then the SSR2 Review Team will be joining us in the room, so I'm sure that will be of great excitement to us all. But hopefully, this will be as well.

So I won't spend too much time on the process side and I won't spend too much time on topic areas where there's no opportunity for public comment, but we will run through. It's all available in the slide pack. There are links to the more detailed information in the slide pack if you need them. So we'll just talk about the process, the topics, and then come back to jurisdiction as a particular topic.

The first thing to say is that we are on time and on schedule with the work to complete by next June, which is good. We've already extended this Working Group by a year. I don't think any of us want to extend it by another year. And the kind of process that

we're engaged in is there will be some public comments on some subject areas of the work of the CCWG open starting now and over the next few weeks.

Next year, once we've had public comments on all of the topics, we'll fold together a single report and have another public comment for that after the next ICANN meeting, which is aimed at identifying if there are any inconsistencies within the work of the CCWG that need to be reconciled before we make final recommendations.

This is where the nine pieces of work are up to, eight pieces of work, sorry, in the plan. You'll see that everyone is past the black line of death. If anything was not up to that black line by this meeting, it would mean there were no recommendations possible to be made. The one that's closest to the line is the jurisdiction topic we'll talk about today.

And these are the topics. So the top four lines there on diversity of ICANN, staff accountability, the office of the Ombuds, and jurisdiction are the four topics where we'll be asking for public comments over the next little while. And I'll explain why it's important to offer any views you've got through these public comment rounds in a moment.

The other four topics have already had public comments and are already ready to be incorporated into the final draft report.

So the approval process I alluded to already. We're asking for substantive public comments through these topic-specific public comment periods. So they're about to launch diversity, about to launch jurisdiction, about to launch Ombuds office, about to launch staff accountability because that gives the CCWG the chance to actually address your feedback, and take it into account, and maybe adjust recommendations, improve things based on your knowledge and expertise.

Once that's all happened for the topics and the whole report is pulled together and the proposal is integrated and put back out for a final check, it's going to be much harder for the CCWG to make any final substantive changes to recommendations. There won't be a chance to litigate through all of the substantive points.

So if the first time you really think about any of these issues is after next March, you're going to be in for a little bit of a disappointment in terms of the ability of the group to take your feedback into account. So the messages on the four topics that are about to go out for public comment or are already this year. The next few weeks is the chance to have your substantive input.

So those are the topic lists that we've got to work through, and I'm going to give, as I said, a brief update on each of them and I'll

spend a little bit more time on the areas that you can have input on, the ones that are open for public comment.

The first is diversity, and this is recommendations that are about improving and sustaining the diversity of the ICANN community and organization and the important policy work that we do. And the recommendations work through defining, measuring, and supporting diversity, and they identify the kind of elements of diversity that we should be aiming for in the ICANN community.

It's important to say that there are some challenged views or different views about how to go about implementing this diversity work. Some parts of the CCWG would like to see a formal office of diversity established in ICANN. Others are happy to leave it to the organization to work out how to implement the recommendations. I'm sure that there will be public comments both ways on that, and it's something that you can think about as you read through the report that's been made available on the public comment. They're open now. That's one of the four topics open for public comments.

The next one on this list has got a horrible title, guidelines – more guidelines, but not from the Guidelines Review Committee – Guidelines on Good Faith Conduct in Participating in Board Removal Discussions. What essentially this does is give you the parameters within which if you want to challenge a decision of

ICANN or participate in a petition to remove a director or the whole ICANN Board, you'll be protected from liability if you're following these Good Faith Guidelines. This slide is a little bit out of date. The ASO has agreed with the language. It's been a fairly non-controversial area of work and you can go and review the material if you like. The links, as I said, are at the end of the slide pack.

Human Rights, so in the first Work Stream, the first accountability improvements that we did, there were new Bylaws about human rights at ICANN. What Work Stream 2 has done is, so there was a framework of interpretation, if you like, about how to implement human rights in the ICANN framework. This work has been about how to put it into practice, is the simplest way that I can put it. And there's been a bit of an ongoing debate about the UN Ruggie Principles about how they could apply. This isn't one of the areas where public comments are open now because they've already been taken earlier in the year. But again, it's kind of about a workable framework for improving the attention paid to human rights in the ICANN community.

Jurisdiction is the next one. I'm sure that people will be familiar with some of the interesting debate and tensions that have been on in this, and there is a cross-community high interest session

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on this topic that's been organized for tomorrow afternoon if you're interested.

What the subgroup within the CCWG has been able to come to consensus on are recommendations in two areas. One of them is to get agreements from U.S. authorities that any sanctions under the OFAC framework, the Office of Foreign Asset Control, shouldn't interfere in the way that ICANN does its work, including dealing with ccTLD delegation revocation issues. Basically, the organization is based somewhere. It happens to be based in the United States and minimizing the impact of any sort of sanctions frameworks that may have been decided by the Americans or globally is the focus of those recommendations.

The other is the fact that today, the registry and registrar agreements are only available under California law and the subgroup has recommended a sort of menu approach where you could agree, agreements like that based on at least one jurisdiction in each of the ICANN regions. So it's improving the contractual flexibility, if you like, or the choice of law flexibility on the [G] side. I know this is the ccNSO, but some of you may be new gTLD operators and so that might be of interest to you in that role.

There is a dissenting opinion from Brazil backed by a few others, Argentina, France, Iran, and so on, which essentially – and this is

my summary, and I hope I'm not offending anyone politically by being so brief – essentially saying those consensus recommendations don't go far enough and we need to be looking at a broader community for ICANN from any decisions the American authorities might like to make. But I'm going to have Thomas come back to this topic when we just wind back after this initial presentation to talk through that in a bit more depth. The other thing is those will be going out for public comment shortly. So this is one of the areas where you can offer public comments in the next little while.

The next one is looking at SO/AC Accountability. How are we, as the ccNSO accountable to the broad community of ccTLD managers? How is the GNSO operating in an accountable way? And so, there are a bunch of best practices recommended for SOs and ACs to consider, not rules that we have to follow, but suggestions for us to consider and improve our own practices with regard to transparency and accountability. There are 29 of them.

There was a look at the mutual accountability roundtable concept. If you know what that is, you'll know it hasn't been progressed in terms of formal implementation. If you don't know what it is, don't worry about it. Nothing will happen, bad or good.

And the third one is about whether the IRP, that David just briefed us about, should be applicable to SO and AC activities. And the recommendation there was that it should not, that that would be going too far for the IRP. There are ways for people to deal with concerns about anything that happens in an SO or AC that don't require resorting to the IRP. So there was public comment earlier in the year. Those are already going to the final report.

Staff Accountability is one of those areas where public comments will be invited shortly. Essentially, the group came up with some process improvements and information sharing improvements, not to replace the normal line management of staff being responsible to a CEO or anything like that, but improved explanation about what accountability measures are in place. If there are accountability concerns between community members and staff members, and vice versa, better information on ways to deal with them, and an improved set of information about service level definitions and so on, and all about the organization paying good attention to its performance and accountability and improving that over time. So we think that those recommendations have a good balance and look forward to the public comments to come on those.

On the Ombuds Office, public comment is on the way. There was an independent review of the Ombudsman function done as an

input to the work of this group. There are some recommendations about more timely responses, a bit more mediation training in the office, turning the office of the Ombuds from one person with that title into at least two people to allow for a bit more diversity, having an advisory panel to slightly insulate the function from the ICANN Board and the day-to-day pressures that that direct line might provide, and to act as a bit of a wise counsel for the Ombuds in dealing with the situations they come across from time to time, and trying to just have them communicating a bit better and assessing the quality of their work a bit better. So feedback on that will be welcome in the next little while too.

Improvements to Transparency will also be going out for public comment shortly. No, Transparency has already gone, hasn't it? Yeah, sorry, a little slide error there. There are a bunch of improvements that have already been canvassed to improving Document Information Disclosure, transparency of Board deliberations, whistleblowing, and so on. It's an area that I'm not an expert on, but if you're interested, let me know and I can put you in touch with the people who are.

And we've just had the update on the IRP-IOT, so I won't dwell on that slide at all.

So that's a very quick rattle through the topics here and I just want to wind back to jurisdiction to ask Thomas to take a couple of minutes on any other items. You've got two or three minutes, and then we've got about ten minutes for questions, discussion, and so on. Thomas.

THOMAS RICKERT: Thanks very much, Jordan, and hello, everyone. I tried to be as brief as I can, and Jordan has already explained the two recommendations that the jurisdiction group came up with to this group. We can go into more detail on that, but I'd really like to use the time that I have to speak to some overarching discussions and procedural issues that you will have heard about and that will surely be discussed tomorrow during the jurisdiction cross-community session.

Our group has already gone into overtime. We've asked for an additional year's time. We have promised to the community that Work Stream 2 would be an exercise limited in time, so that we would come up with our recommendations to finalize this part of enhancing ICANN's accountability, and you can only do that much within the time and the resources that you have.

So when the Jurisdiction Group started, they were looking at issues. They did a public consultation on learning about what jurisdictional concerns the community had where they were

facing insurmountable hurdles in dealing with ICANN, and then the group was trying to come up with recommendations that would help this. And while the two recommendations that Jordan outlined in my view, and the view of the plenary, the vast majority are huge improvements to ICANN's accountability, these recommendations do not go far enough in addressing the concerns of some.

And the small group in numbers, not in terms of relevance of whom they represent, but the small group is really disappointed that, for example, we did not look into the concept of immunity as much as they would have liked us to. There was even discussion about making ICANN fully immune. Now we're talking about partial immunity. Immunity would require a legal act in the U.S., and that's nothing that's easy to establish. Also, there are some or many that have been quite vocal on the other end of the spectrum who said that immunity is the enemy of accountability because they said that you need to be able to hold a party accountable, if need be, in court if they are doing something wrong.

So long story short, first, the question of relocation of ICANN, then the question of immunity and a few others have been introduced over and over again by those who want to advance these ideas, but they never really got traction – that's the term that we're using – in our path towards consensus. We're

collecting ideas from the whole group and then we'll take a look at whether there is support for these ideas.

And there are a lot of ideas that we had during the journey of the CCWG, but unless a lot of folks say, "Well, I like this idea, we'd like to work on this further," i.e. if there's no chance for a suggestion to get sufficient traction to make it to a consensus policy, we would throw those away and focus on those that have greater likelihood of reaching consensus. And the jurisdiction subteam was moving, more or less, in circles causing a lot of volunteer fatigue and frustration because it didn't really make progress so that the Co-Chairs had to step in and remind the group that certain proposals did not get sufficient traction and ask for these to be abandoned.

This didn't go down well with some of the participants. There have been allegations that this has been top-down, but in fact, we've just used the same techniques that we have been using throughout the lifetime of the CCWG. That raised concerns. We couldn't put these concerns at rest. We did what we could in order to help remove at least the procedural concerns there were. So if you look at the dissenting opinion by Brazil, in an earlier version, it had some procedural aspects in it. Those have been removed, but that does not put the substantive concerns at rest.

So there are some who still say, "This doesn't go far enough, you should have done more," and what we've then done, and I think this is something that we can't really go further than that, last Friday, we had a time window of three hours in total, I think, where we allowed for those who did not think that the recommendations we ended up with were appropriate or going far enough, had the opportunity to put that on record. So we had a representative from India, from Brazil and many others who raised their concerns, and that's been put on the record and we're going to attach the transcript of that part of the session to our final report to inform future debates about jurisdiction.

And I should say that jurisdiction discussions have been there even before ICANN was incorporated, so chances are slim that there will be no jurisdiction debate when Work Stream 2 concludes, but we just have to make sure that Work Stream 2 is a finite exercise and we did the best we could to inform future jurisdiction-related debates with the archive, with the inventory of additional concerns that could not be addressed to the full satisfaction of everyone.

So that's just for you to know that there is a lot of controversy surrounding this. I think that the report we came up with is great. It had huge support and I would hope that the ccNSO as a chartering organization, as well as the ccTLD community will take a few minutes, go to the public comment forum on the
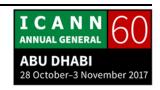
ICANN website, and express its support for the recommendations we came up with. Because what we can foresee is that there will be a lot of objection by those who have been vocal about the recommendations not going far enough, and I think it would be good to see some voices of support.

JORDAN CARTER: Thank you, Thomas. So that's a little bit more context around the jurisdiction issue. The floor is open for any questions or comments. We've got eight minutes until we move on to the next topic.

While you're thinking of them, if you've got any, please do have a look at the public comments here and if you've got views, add them. If there's anything that's happened to you as a ccTLD manager where there's been issues of jurisdiction, of the jurisdiction of court sanctions, anything like that, even just sharing the story of what happened through the public comments would probably be valuable for the group in terms of understanding any practicalities. Comments are not just welcome on jurisdiction. They are on any of the other listed topics that we've got in this group.

I see your screens are all very interesting today.

THOMAS RICKERT: Well, at least, this time we didn't put the audience to sleep. I think that's great progress.

JORDAN CARTER: Young-eum, please.

YOUNG-EUM LEE: Thanks, Jordan. Just a question. You said that the comments made by those small, but significant, group of people not agreeing with the results of the Jurisdiction Working Group, and you said that they would be attached, but is there anywhere we can kind of go to for now to see what those dissenting opinions are?

JORDAN CARTER: Yes, so on the community.ICANN.org site, there is a wiki space for Work Stream 2, and in the subgroups there in the jurisdiction one you'll find it. If you find navigating community.ICANN.org a really horrible experience, when the slides are circulated for this meeting, there is a direct link to the jurisdiction material at the end of the slide pack, so the Brazilian statement should be available on that wiki. Thanks.

I'd be very tempted to say thank you for your attention and hand it back to Katrina, but Katrina isn't here. So I don't know who is

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chairing the session on the SSR. Bernie, you've got a comment or a question?

BERNIE TURCOTTE: Just a note to underline what you said earlier. Public comments – staff end up gathering up all the comments – it's very useful to get positive feedback also. It can make all the difference. Public comments should not only be for negative things. If you think the subgroups have done a good job, you can just say that. That's okay, and that really can make a difference when we're trying to inform our working groups as to what the community is thinking. So the public comments are there for all your comments. Of course, if you have issues with what's being proposed, do state them. But also, if you like it, please do say that. Thank you.

JORDAN CARTER: Thanks, Bernie. If there are no more comments or questions here, I will thank you all for your attention through that. Thank you, Thomas, for coming and giving us a bit of a talk. If you've got any questions on the work of the Accountability Working Group, anything you want to talk about one-on-one, feel free to grab me at any time, send me an e-mail, Skype me, etc. We're always happy to help try and translate some of the occasionally complicated and process-driven work that we're doing into

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more easily accessible language. And thank you to Bernie Turcotte for all the work you and the Staff Accountability Team, the CCWG Accountability Team are doing on this work, including drafting the slides.

So that'll conclude this session and our next session is starting in two or three minutes with the SSR2 Review Team. I'll just find out exactly what we're going to do in terms of managing that discussion.
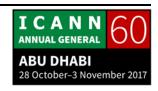
We're just waiting for the Review Team members to get here for their presentation. It's been described as being an outreach type session for them to brief us on their work and seek input, so we'll see if that comes to pass.

KATRINA SATAKI: So dear colleagues, sorry to take part of your lunch time. We invited SSR2 Team members to join us here today because unfortunately, we didn't have any planned session with them. If there are any more SSR2 Team members in the audience, please join us here at the table. Is that it? Not much of a team.

UNIDENTIFIED MALE: We're very [inaudible].

KATRINA SATAKI:	Oh, you're very [inaudible]. Okay, I'll give you a brief introduction. So first, as you know, according to the Bylaws, there are four specific reviews that a community is supposed to carry out periodically. It's like every five years. And again, according to the Bylaws, each SO/AC – and there are seven of them – they can nominate up to three people to the team. Margarita, be careful. You be careful too because that was your leg.

So they can nominate up to three people. Do I understand correctly? This is the team. Yes, please join us here at the table. Team members, please join us at the table.

So we can nominate up to three people to a specific Review Team, which means that the total number of team members on a team can reach 21. It doesn't mean that each SO/AC has to nominate three people. We can nominate less, but when a team is formed, then they start working on the specific reviews. There are several specific reviews as I already mentioned in the Bylaws.

Currently here, we are going to meet the SSR2 Team, which is the Security, Stability, and Resiliency Review Team. And the reason why we meet is that as you may have heard, there have been some speculations about the work of the team. It looks, well, at least to me, it looks that there are some problems within

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the team and members cannot come to a common position on several issues. Plus, when they submitted their Terms of Reference to the Board, the Board said, "No." They were not happy, basically, with the document. They sent it back and didn't hear back from the team.

On Friday, the OEC, that's Organizational Whatever Committee of the Board, Effectiveness Committee of the Board met with the Chairs of SO/ACs and they informed us about the situation. They informed, well actually, we knew that SSAC is one of the organizations that appointed members to the team. They have sent a letter to the Board expressing their concerns about the work of the team and the Board informed us that they are going to pose the group to help them come up with the scope. So that's the background as I understand it. I may be wrong, and we invited the group here to hear, actually, your views, to see what's going on in the group.

So I've spoken to several people, and well, to me, it looks that things are wrong on the team. Therefore, I would really appreciate if you speak openly and not just say, "Oh, everything's fine," but openly about issues that you have. If you haven't identified any issues, then how are you going to proposing to solve them? So anything that was wrong in my summary I try to give to the community, I really appreciate if you could openly state and at the end, tell us what we as ccNSO

community that has appointed three members to this team, what we can do to help this review to move forward to ensure that you have all necessary resources, necessary skillsets, all the necessary whatever you need to ensure that you can do your job, come up with recommendations, and complete the review.

So who would like to start? Denise.

DENISE MICHEL: Hi. We really appreciate you taking time to hear the status of the SSR2, the Security, Stability, and Resiliency Review Team, and allow us to get input from you on our work.

It's a bit challenging to have that introduction, which sounded a bit like, "Please tell us how you failed," but what I'd like to do is have Eric, my Co-Chair, give you some more background on the Review Team and the activities that we have been engaged in, invite your substantive input on the work of the team and our mandate, and then address some of the larger issues that seem to be swirling around ICANN at this point.

And please feel free to raise your hand and speak up if you have questions as we'll quickly run through these initial slides. Thanks.

ERIC OSTERWEIL:	Thanks, Denise. Thank you for having us here today, and as Denise just said, I'd like to continue to have this be a very conversational back-and-forth, so I'll keep my eyes open for hands or questions at any point. Feel free to stop me. But this will be just kind of a general overview, and hopefully, this answers some questions. So next slide, please.

So from the outset, from the get-go, we've had a lot of ground to cover. SSR issues kind of pervade every corner of the ICANN community and the work that gets done here. So the idea of keeping an eye on SSR issues is one that's baked into the Bylaws where every five years, among other Review Teams, an SSR Review Team is convened to assess the status as things go forward.

Did I do this wrong? I think I'm out of range. Yeah, it's not working. Yeah. Next slide, please. Thank you very much.

So as I said, the team focuses its work based on what's in the Bylaws in Section 4.6(c), and we kind of generalized them here. You can sort of take a look for yourself, but for the most part, we look to see how the security, stability, and resiliency has been implemented across ICANN, the effectiveness of the implementation efforts and how robust it is in the face of the evolving landscape. And then in our case as SSR2, we have a really lofty additional set of tasks, which is to go and look at the

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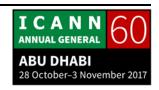ANNUAL GENERAL
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SSR1 recommendations and assess the extent to which they have been effectuated and implemented today, so it's not quite double-duty but it sort of frames quite a bit of work. Next slide, please. Thank you.

So in tackling this, this is a huge amount of information, data, thought that goes into how you structure this, so it's taken a lot of hours from our volunteer team. And we've done a lot of document review, we've asked for a lot of briefings, we've certainly had a lot of deliberations, and we spent a lot of time working really hard because we want to do a conscientious job.

Because of the large quantity of work that we've faced, we kind of always knew it was going to take a long time. It was necessarily, not going to be quick. But that said, I think we have made some fairly good progress that I'd like to illustrate for you now. Next slide, please.

Actually, before that, I just want to sort of outline, this is a list of our team, a lot of whom are up on the stage now. We've had a couple people that have had to step down for reasons that are slightly askew to what the function of the team has been. Next slide, please.

So these are the five general categories we broke our work down into, so we spent a lot of time over the phone calls and face-to-face meetings coming to this, but to us, as a team, after looking

at a lot of the breadth of the material we were dealing with, these were the categories that seemed like they best fit a structured work plan.

The 28 recommendations that were sent in SSR1 are ours to have to evaluate, so that was an entire subarea. The extent to which ICANN is implementing SSR activities, supporting SSR activities, the internals of that, sort of an inward-facing view of SSR was the second subcategory. A third subcategory was more generally speaking about the identifier system in general, the SSR issues that revolve around that. The fourth one was called futures, but the general gist of it was how do we maintain a view of the evolving landscape and consider SSR issues that don't necessarily come from things that have happened in the past but things that may wind up being relevant or topical or important to consider between now and the next SSR Review Team's chartering. And then finally, the SSR aspects of the IANA transition. Next slide, please.

So to date, this has been our timeline and going forward. We met each other and we kicked off the team's work in March 2017. In May 2017, we gave our Terms of Reference which included our scope to the Board. And since then, we've been basically in collection and analysis work. We've been, like I said, receiving loss of documents, reviewing them as a team, individually. We've been given numerous briefings on all manner of things

and it's taken a long time, but we're finally kind of coming to the point where we're starting to do our formulation phase and as a lot of investigations go, there will be a bit of iteration whereby we do some analysis and we wind up backtracking and doing a little more digging, and then we go forward, but for the most part, we're at the part now where we can actually start to produce a lot from all of the work that we've put in so far.

And we have on the books, drafting sessions set up for January whereby we'd be able to produce a draft report for public comment and then subsequently submit it to the Board. Next slide, please.

So this is just a listing of some of our key milestones just to give you some sense for the work that we've actually done. As I said, we first met in March and we pretty quickly developed a structure to move forward within the team and the leadership structure. We had three Co-Chairs at the time. Sadly, one of them had to step down for separate reasons. We've been doing a lot of our briefings, and yeah, you guys can read the slide as well as I can. Let's move forward please.

So we've been looking forward to coming to ICANN 60 for quite a while because we've been looking forward to talking with you and the other SOs and ACs out there. This has been, one of our primary goals has been to do the work that we think we can,

look at the things that we think we can analyze and then connect with the community in the highest bandwidth way we can. And so to us, ICANN 60 was going to be a really good opportunity to explain to where we've gotten and hear from you about what you think is important.

So we came here a day early. We were here on Friday and we had a very productive meeting in preparation for, among other things, today. And we'll be sticking around for an extra day after the meeting wraps up to do synthesis and analysis of what we've heard and what we've been able to accomplish. And this has been, our intention is to start conversations here that we continue going forward with the community. Next slide, please.

So that's where we've been and I didn't go into a great amount of detail. I'm very keen to answer any questions or comments, especially if you have specific things that you'd like to ask us about where we've been or what we've done. But I think mostly we want to listen to you in general and [modulo] anything else that people want to talk about, which I think is fine, all fair game, we are interested in the SSR Review. We are interested in doing the job that we all came together and volunteered for. So to that end, whatever else you may or may not want to chat with us about, we'd love to get some input or thoughts from you all on SSR topics from your perspective.

And so, just to sort of prime the pump just as a straw man, if it's not really clear what you might chat with us about, the last bullet is just a sort of example question of if you had one thing that you would say we should consider on the SSR team as an SSR issue from your perspective, what would it be.

Can I get the next slide? Which is basically a holder slide that says there's a lot of other stuff in the appendix of this deck – I think the deck is available to you all – including coordinates to reach out to us. All of our meetings are recorded. There's an open mailing list. Everything we say in the mailing list is available to you, and certainly, among other things, there's an e-mail address for you all to reach out to us at in the additional section of this deck. So if you don't think of something now or if you think of something later, please hit us up. Thank you very much.

KATRINA SATAKI: Thank you. Are there any immediate questions about the presentation? And thank you very much for a very good introduction into your work and what you're doing. So if there are not any questions or comments from the audience, then I will ask a couple of questions.

So first thing, so you're asking us to provide some input on the scope. Do we understand you correctly, or just some details of the scope?

DENISE MICHEL: Well, the community can certainly provide input on any issue that's relevant to SSR that they choose to. Eric's particular question was SSR priorities, but we would certainly welcome any additional input on scope that you may have.

KATRINA SATAKI: Yeah, thank you. So with that, going back to the scope, you submitted Terms of Reference to the Board. My understanding is that scope is part of the Terms of Reference, right? So is there a common position on the team with respect to the scope?

DENISE MICHEL: So the 15-member Review Team operates by consensus. As many of you who have been involved in various ICANN PDPs, and Working Groups, and Cross-Community Working Groups, there's often people from a lot of different areas, different perspectives, but the group strives to have agreement on everything. And when full agreement is not possible, we operate by consensus. And there was a strong level of consensus on the

Terms of Reference that were sent to the Board in May, I believe. Yeah.

KATRINA SATAKI: Okay, thank you. Any comments from the team that would like to comment?

GEOFF HUSTON: I was put on the Review Team by SSAC. It is always difficult when there is a variety of perspectives, and certainly, a lack of a constant level of participation and engagement by all. And so what you get is inevitably as folk do drop out because of other priorities – this is a volunteer effort – the groups that engage in any particular subject are necessarily, or at least logically, relatively small. And in some ways, if you define consensus as a uniform level of disagreement amongst all, then I'm not sure we achieved consensus. We achieved something more like a majority rule where the sort of large number of folk at the time sort of took one position and others certainly had different views. The issue around whether this was a full operational audit of aspects of what ICANN do or a more abstract review of the way in which they go about it was certainly part and parcel of this issue of exactly what the Terms of Reference and scope were.

Evidently, the majority view was a more thorough, almost ordered-styled approach, as far as I could tell personally, and I could certainly see some concerns in the limited ability of the Review Team to accomplish that within the resources available to us, which is just basically voluntary effort. And in some ways, you get the output that the community is willing to resource, and this is really relying on the extraordinary efforts and voluntary hours of what, at times, is a very small collection of folk.

And the expectations of the community about the importance of this review does not match the resourcing. It just simply does not, and that, I think, becomes rather than a failing of the chairs, and it's not, and even a failing of the Review Team, and it becomes a failing of the broader community as to how well you want this resource because, in some ways, the quality of the output is based about the amount of hours that can be put into doing this work. Thank you.

KATRINA SATAKI: Thank you very much. Yes, Denise.

DENISE MICHEL: Yeah, sure. We also have a former Co-Chair, I think is in the room, who also did a lot of work on the Terms of Reference and scope.

Is Emily here? It would be great to have Emily come up too. She could probably add some more detail on this.

So the overall Terms of Reference and scope were reviewed by all of the team members and agreed with a very strong consensus that that was our overall scope and Terms of Reference. We broke it up, as was indicated, into five areas in a subgroup.

The great volunteers at the ccNSO sent to the Security Review Team – Alain, and Boban, and Žarko – have done a lot of heavy lifting and provided great substantive contributions and leadership to the team, and I think the subgroup that Geoff may have been referring to was the one that was looking at ICANN SSR activities which includes those activities for which ICANN has a core, sole responsibility.

In creating a work plan for that subteam, the word "audit" was used as a shorthand term for "review and discuss" and those activities flow from, in large part, the requirement that this Review Team has to look at 28 recommendations from the first Review Team. That's a mandate from the Bylaws.

And so I think there has certainly been some confusion about that during this week, and one of our takeaways has been some new and different and more ways to communicate more clearly what the team is doing and why the team is doing it. Emily, did

you have something you want to share on the Terms of Reference?

KATRINA SATAKI: Emily, before you do that, please state your affiliation with [it]. Thank you.

EMILY TAYLOR: Actually, my first comment, Katrina, was to you as Chair of the session and to ask you whether you are comfortable with me taking the microphone in any capacity.

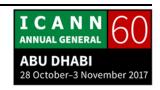KATRINA SATAKI: We are always, we know you as a very highly skilled professional, and we always value your input and your comments. But before you do that, just to make it clear to everyone in the room, please state your affiliation to the team.

EMILY TAYLOR: Sorry. Was there any indication in any context that I have ever done anything different or that I would?

KATRINA SATAKI: I just asked you to do that for everyone to know. Thank you.

EMILY TAYLOR: My first comment was going to be after asking your permission to speak, was going to be state as my Co-Chairs have done that I am not a member of this team. Anything I say is not purporting to be on behalf of the team. It is in my personal capacity. I would think, Katrina, that you knowing me for so many years would be aware that I would do that anyway and that you wouldn't need to give me a warning from the Chair.

KATRINA SATAKI: It wasn't a warning. It was, yeah, please.

EMILY TAYLOR: Thank you very much. I'm happy to contribute anything that I can to help to resolve the current extremely unfortunate position. I think raising it up a level, there's a lot of information here and there's a huge amount of information online about the activities of the team and, as you would expect in any Cross-Community Review, there is fully transcribed sessions or the e-mails and everything. We know all that and we can all inquire into it.

All of these community reviews are part and parcel of the whole post-IANA picture. They are an important plank in the accountability mechanisms to which the Board and the organization have submitted in return for, if you like, freedom

from the United States government. For that accountability mechanism to be meaningful, it has to actually be able to operate, obviously, at the hest of and on behalf of the community. The community appoints its people and it can de-appoint people.

The reason why I came down to Abu Dhabi this week, which I wasn't intending to do, is because I'm incredibly concerned that the Board has overstepped, in my opinion, its remit in this and is sending a very poor signal about how it views the post-IANA transition settlement. If it believes it can direct these independent community reviews on its scope, if it believes that it can approve or not approve the Terms of Reference, if it believes that it has wording in the Bylaws that allow it to pause or suspend or terminate these reviews, I can't see them and I would really like some clarity, perhaps Kaveh can give us a reading of the Bylaws on this.

So I don't want to take up too much time. I can see you testily looking at your watches, so I'll leave it there but I'm here in the audience if you have any questions for me.

KATRINA SATAKI: Thank you very much, Emily. Sorry, before you go back to your seat, Denise actually asked you to give us some insight on the Terms of Reference. Could you do that? Thank you.

EMILY TAYLOR: Yeah, I'd just like to clarify. I'm not speaking in any SSR2 capacity, but I'm giving my personal recollection of the time. My recollection is that it was difficult to understand what the Bylaws intended this team to be looking at. There's a fairly unclear but very wide-ranging language, and I think everyone on the team wants to do the best they can on fulfilling the Bylaws' mandate while getting through with the work sometime in the next, well, reasonable time, not in the next century. This is an incredibly wide subject, so of course, there were diverse views.

My recollection, my personal recollection, is that this was adopted from consensus. I didn't see any minority reports on the record. I haven't seen – everyone was unhappy, everybody was worried about how to get to a resolution and move forward. There was also, as ever with these groups, a time constraint. We've got to get moving, we've got to get this done, and we've got to know what we're doing. These are difficult things to come to terms with and I think guidance from the community is always welcome in these community reviews. But that is not the same as direction from the Board. The Board doesn't get to say, in my opinion, "You must concentrate on this, and you mustn't do that; otherwise, we suspend you." I don't think that's the way it's supposed to work.

KATRINA SATAKI: Okay, thank you. Simon, you had a question.

SIMON JOHNSON: Yeah, I did actually. I'm an IANA Board Director and Chair of the Security and Risk Committee for .AU, so Australia. Just sitting here in the audience, I'm hearing three different things so I wouldn't mind some clarification and I think the answers to the first two questions I have is going to be no, but can the committee agree on a scope and does the ICANN Board agree? And I'm thinking that's no and no. Do you have the resources? And from what I'm hearing from Geoff, no, we don't.

So my question is what do you need from us in the land of ccTLDs and people like me? And what powers does the Board have to send all this back, dovetailing into Emily's question? And if, indeed, what Emily said was correct, I've got no ability to judge that. If the Board has overstepped its remit, what do we do?

KATRINA SATAKI: Thank you. I could take the last part. So apparently, it will be up to the community SO/ACs to take the ball from the Board and keep it rolling.

How we do that, that's another question. This is something that we need to discuss and we need to come up with solutions, apparently. Yeah.

[KAVEH RANJBAR]:   So thank you, to reply to your comments and Emily, let me start by saying that the Board is fully committed to SSR2 Review, so let's get that out of the way. We really think it's important for ICANN's ability to ensure it's fulfilling its core mandate, so the Board is committed to SSR2 Review.

As mentioned, with a bit of history, the Board has raised some concerns on the workplan, on the Terms of Reference, and the scope and there are e-mails which you can find in correspondence. So we sent one e-mail mid-June and another one early October, in which we raise these issues.

We also received an e-mail from SSAC and heard from other SOs and ACs that there might be concerns about the scope and resources available to the team. Based on that, Board had a meeting on Friday with SO and AC Chairs and informed them that we are proposing a pause. Is there any objection to that? And there was no objection.

So first of all, this is where I take issue with the way Emily painted the picture. The Board is not intervening by any means.
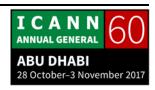
The Board only paused, and this is also not an indefinite pause. We just issued a pause because we saw things are not going in a way that they should and we had concerns raised by at least one AC formally, which was written to us as a letter sent from SSAC to the Board. Based on that, we issued an early pause.

Then, immediately, we also sent a letter and we explained that it's up to the community. If the community wants to unpause and continue the work as it is, please, we can let the Board know and we will do that today. But we raised the issues, we explained why and we wanted to give the opportunity to the committee members to discuss, talk to your own representatives, talk to the team, talk within the ACs and SOs, and let us know.

We are also facilitating that. Tomorrow, there is a meeting between SO and AC leadership to see how we can move forward. So the only thing that the Board has proposed and is defending the action, basically, is the pause and we read the Bylaws and we understood clearly that we can initiate such a pause. We also understand we cannot intervene and we don't want to intervene or direct, as the word Emily used.

KATRINA SATAKI: Thank you very much. Any follow-up questions, comments?

SIMON JOHNSON: Just a quick question. Your interpretation of the Bylaws is that the Board can pause and the committee can unpause or does the committee have to come back to you and say, "Please, sir, can we unpause our review now and get on with it?"

[KAVEH RANJBAR]:   Okay, so the unpause, most of it is unchartered territory. So the Bylaws is also not super-clear. But we asked Legal, they looked into the Bylaws, and based on Board's fiduciary responsibility as well, making sure that resources are spent wisely, we understood clearly, and we got that from Legal, that we can pause.

I would like to separate this into two different extremes. One is the Board, based on also input from the community and our observation, we saw and we decided that we need to take action. The modality of the action, we looked in the Bylaws and we thought based on what are the limitations and what the Board can do, the best way is to initiate a pause at the beginning of the week and let the community decide. We can decide that modality and legality. That's something that's [for the Board]. Thank you.

KATRINA SATAKI:	Thank you. Any more comments from the team? Anyone from the team would like? Yeah.
GEOFF HUSTON:	Your first question, Simon, was can the committee agree on the scope? Now, agree is a strange kind of word going on here and if you're after some kind of unanimity, there certainly has been some areas where agreement has not been universal.
	A particular illustration of this was at one stage, it was foreshadowed that for a certain amount of the work, we were told that we had to undertake a nondisclosure agreement with ICANN. Now, I personally found that I could not do that and I found that the idea of undertaking a nondisclosure agreement in the terms of an open review seemed to me to be contradictory to the point where I dropped out of one of the subgroup teams, and in particular, the one that went to L.A. because I did not feel that that was an appropriate request to make of me in the terms of an open review.
	So obviously, there's some degree of disparate perspectives on precisely what's required to qualify for some of this work. So yes, if agreement is considered universal acquiescence, then no, there is evidently not that degree of agreement. Thank you.

SIMON JOHNSON: Geoff, could I just ask a follow-up question? And it might be the elephant in the room, and being Australian, I can be quite blunt. What's the problem? What's the issue?

KATRINA SATAKI: We're trying to find it out.

SIMON JOHNSON: So the Board paused. Why? What's the issue? I don't want to put any words in people's mouths. You're doing a security review. You're being given NDAs to sign. You're not comfortable with them. That's my interpretation. Is it, are you concerned? Is the Board saying, "Hey, don't look under here," or "Go and look over here"? What's the issue?

GEOFF HUSTON: Let me answer you. I do not feel personally that there is enough resourcing within the members who are active in this team to complete a review to the standards and thoroughness that I expect this community expects from us. I have severe doubts that the almost glacial progress at times, and the piecemeal sort of efforts that energy in one area but none in the others lead to a strong supposition that the timeline is unattainable and that this is not going to be an outcome that any of us would be proud of doing.

Now, I don't personally like doing failures, and none of us do, I think. So we're all aimed at doing the right thing here, but getting the necessary wherewithal to do that is proving difficult.

KATRINA SATAKI: Thank you very much. Sorry, Simon. We took now 35 minutes out of your lunch time. Is it okay that we continue? I must ask you. Okay, I see some people nodding. Yes, please, [Roloff].

[ROLOFF MEYER]:   This is off-topic, but I would like to make a suggestion to you, Emily. I would suggest that you apologize to our Chair. We cherish her and I think your reaction to her was uncalled for.

EMILY TAYLOR: [Roloff], I'm very happy to apologize to Katrina who I love and have worked with incredibly well for many, many years. I apologize to you, personally. I apologize to every single person in this room, and I will promise to try and be better in the future.

KATRINA SATAKI: You're excellent, Emily. Thank you very much for being with us. We've known you as a really, highly qualified, professional and I wouldn't want to come into any legal discussion with you because I know I would lose.

So I saw Denise wanted to comment.

DENISE MICHEL: Yeah, to get back on topic. So Geoff, of course, is entitled to his opinion. It's not an opinion shared by many of the Review Team members, some of whom are here at this table. As you know, if you've been in the ICANN community for a while, people have strong opinions, and often, different opinions. And part of the challenge of this group is to come to a consensus and achieve a majority consensus on what we do.

So we've, the most recent survey, stop and check how are we doing, came out with a majority of team members still happy and confident that we're on the right course. Eric can go into greater detail on that.

The team has a road map going forward, waiting to get more input from the community. I think a couple of things we've learned this week are there's a lot of confusion over or lack of understanding that the Bylaws require us to look at 28 broad-ranging recommendations from the first Security Review that was done back in 2012.

That initial Security Review, which covered a lot of areas wasn't complete by the time we started. It took several months for them to give a complete final report. It took them well over five

months to actually provide the team with all of the information and details on those 28 recommendations, and those recommendations get us into a number of areas. So when people say, "Why are you looking at risk management or business continuity?" we point specifically to the recommendations from the first Security Review that says that has recommendations on those areas and we're required to look at that.

So one of the things we've taken away is that we can do a much better job of clarifying our responsibilities, why we're looking at different things, how they tie back to the Bylaws and the first review, and also with staff to do a better job on communicating our activities to the community. I think Eric had.

KATRINA SATAKI: Yeah, thank you very much. Alain?

ALAIN AINA: I think we must admit that, as a team, we had some internal issues and we are trying to address them, and we are using this week to really get a common understanding of the issue. We cannot dismiss the issues and I think from what I heard from Denise, I think Geoff has an opinion. It may not be shared, but I think part of our consensus process should be to address the

[consensus] and engage more people because if you don't have enough engagement, you make the consensus process weak.

So we have some issue, and the good thing is we have identified them and we are in the process of addressing them, including we had some communication issues, which brought this issue of scope and this and that. Yes, we have issues and we are working to address them and we hope that it will really help this team, okay, to get a common understanding and maybe restart something where we stop where we are and we can do a better job. But so this is what I want to add.

KATRINA SATAKI: Thank you. Boban?

BOBAN KRSIC: Thank you. I fully agree with Alain. And I have also some concerns about resources that Geoff mentioned and we are on the way to address them. And I personally see the suspension of SSR2 at the moment as an opportunity. We need some improvement. We have weaknesses, definitely, and we had a really productive meeting this morning with some SSAC team members to address them. So we are in a good way. We will work on them and we will bring it to a good end.

And I think it's up to you, yeah? Because we definitely need feedback. We need feedback on all [or our outputs] that we sent out and we got nothing. Yeah, so we work on draft reports, on drafted scoping document, so we had a majority and the question of how find a consensus is, in my opinion, unclear. So we had a way how we work with that, but it's unclear. We have no defined Terms of References. For me, it's a point that should be addressed there. So yeah, there are weaknesses. We should use the time we have now for [solving] and we are working on them. Thank you.

KATRINA SATAKI: Thank you very much. One thing I want to point out that Bylaws, when they are read by different people are interpreted differently. When we started all this work on setting up review teams, our position was that at first, we need operating standards in place to make things easier for the teams. Unfortunately, that was not the case. We had to launch all these reviews without any clear rules being set. Now draft operating standards are out for public comments and one of the things, actually, again, there's no consensus on that, but we do believe, at least, I certainly do believe that the scope must be set before an actual specific Review Team is being formed. Yeah, so that was basically the question. Would that help the work, you, if we

had scope set before you come together and start working? Not details, perhaps, but just in general. Boban?

BOBAN KRSIC: Yeah, thank you. I think so. It's easier when you have a scope and you know what you have for objectives, to find the right skillset, and to commit them, and to commit also on the work plan, you have to achieve them. For us, we came together in March for the first time. We started to draft a scope. We had to find some decisions about who is Co-Chairing this and so on. And many questions were unclear, so there were many questions in the room and I think it would be easier. It's a conceptual problem for review teams at the moment that we were appointed by constituencies, so we came together but we have to start on what is the objective of them and the goal to reach them. So I think it would be easier.

KATRINA SATAKI: Of course, Bylaws provide some guidance on that, but you agree that it would be better to have clearer scope. Any other views on this one, on setting scope prior to the review?

Okay, thank you. So if now, SO/ACs would help with setting up the scope, would that be a helpful move for the team? Okay.

UNIDENTIFIED MALE: Yep.

KATRINA SATAKI: Okay, thank you. And next question, and then apparently, you would, but I keep hearing that probably you do not have enough people who are ready to do the work and know how to do the work. So this is some other expectation you would really like the SO/ACs to take on board, discuss and appoint probably more people.
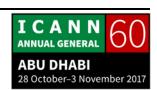
GEOFF HUSTON: Certainly, in my discussions with SSAC, SSAC, I believe, would certainly recommend in the SO and AC Chairs context that more folk to help with this work would, indeed, make the work have a much better chance of success, yes.

KATRINA SATAKI: Okay, thank you. Are there any questions or comments from the floor? If not, then, yes, some final words.

[KAVEH RANJBAR]:   So, Simon, you asked for what's the real problem? Speaking for the Board, we have in detail, our concerns. We have explained them in our letter, 3rd of October, so it's on correspondence page, Board letter to the SSR2 Team. This is our detailed

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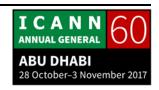ANNUAL GENERAL
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concerns and this is only ours. Our SSAC letter is also online and you can also talk to them directly.

And I just wanted to thank ccNSO for actually giving us the appointees because a lot of work has been done by them, so very thankful. The concerns is about, as discussed. First of all, some of them come from Bylaws so it's not about specific people, and actually, we have a lot of contributions from ccNSO appointees and I want to thank the ccNSO [inaudible].

KATRINA SATAKI: Thank you very much, and before we close this meeting, first, I'd like to thank the team for coming. Then thank you very much for staying hungry. And then I really would like to point out the importance of these specific reviews. We do need to carry them out. That was one of our commitments we made when we entered into this IANA Stewardship Transition when we took it over at the NTIA. So we have to carry out these reviews. There's no question about that, and we have to do it professionally, efficiently, and hopefully not by 2030.

So with that, I thank the team. If there's anything we, the ccNSO, can do, let us know. Thank you very much and we reconvene at 1:30 when we have a meeting with the Board and we have the meeting here in this very room. So thank you very much. Enjoy your lunch.

[END OF TRANSCRIPTION]