ICANN80 | PF – RSS GWG Work Session (3 of 4)
Wednesday, June 12, 2024 – 9:00 to 10:15 KGL

OZAN SAHIN: The session will now begin. Please start the recording. Hello, and welcome to the Root Server System Governance Working Group meeting. My name is Ozan, and I will be the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

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BRAD VERD: All right. Good morning, good evening, good afternoon, wherever you are. I hope everybody had some time to look things over and came in prepared to talk through some more stage work. When we left yesterday, we were in the middle of the finance piece on what we thought the turnkey model would be. And there were some strong statements made just as we were finishing, which would—remember, we have two different funding buckets that we were talking about. There's money for governance, money for operations. Money for governance is everything other than operations, the RSO operations.

As I had in the document to begin with as an example, I thought at this stage funding would be collected and disbursed at this point. And that goes back to the one we talked about earlier, where the council had the ability to compel, was the word, to collect money from somewhere. And so, I wanted to get people's thoughts. We kind of ended on a hot note yesterday, so let's pick it right up there.

Who wants to start this morning? Are we happy with that? Okay. Sorry, I'm jumping between screens. So if people put hands up and I don't respond quickly, I apologize. All right, so funding is collected and disbursed. We all agree on that.

WES HARDAKER: Brad, one question. Sorry, I'm not in Zoom yet.

BRAD VERD: Go ahead, Wes.

WES HARDAKER: Disbursed to who? Isn't funding for the government for the government, which is—so I understand it for operations. I don't understand it for—but that's probably just me confused.

BRAD VERD: Well, it could be for anything, right? It depends if they're outsourcing the secretariat, if they're outsourcing monitoring, if they're outsourcing whatever, funding is collected and disbursed. And that would apply for the RSO operations also.

WES HARDAKER: The operations made perfect sense, but…

BRAD VERD: All right, any other questions on that? We're all good. Okay, good, making progress already. Look at that. Norms versus obligations. Anything we want to put in here? There were some comments made after the fact yesterday in the hallway. I just want to give people an opportunity. Do we want to add anything compared to where we are today in a turnkey model that would be like a new obligation or a documented obligation or, I don't know, something? Something that is more formal than where we are today? Anything that we feel compelled to put in there looking at the group? Wes?

WES HARDAKER: Still working on getting in Zoom. Apologies. That's going to be a huge list, right? That's like a list of everything that the entire system should do. I mean, so it has obligations to meet. It has obligations to—that box seems to be almost the pure definition of the entire governance system.

BRAD VERD: Yeah, and I will continue to try to pull us out of the weeds so that we don't document everything in the world that goes in there. But are there key things that we think that we should document here besides the obvious that you continue to point out? Sam?

SAM EISNER: So I think one way we might be able to phrase it would be obligations to abide by recommendations arising out of the committee and approved without trying to predefine what all those would be, because that is part of the purpose of getting to the governance structures, to have people obligated to abide by the outputs of the committee as approved through the council.

BRAD VERD: Yeah. So again, the conversation changed from when I first sent this out to everybody to where we are today. So I think the acceptance criteria for stage 3, which is all the RSOs under contract, maybe belongs either over here, certainly, an acceptance criteria for the last stage, the turnkey, and then maybe there's a statement going to what you just said that based upon the contract, they're now obligated to follow the recommendations that are handed down by the council.

SAM EISNER: Just to follow up, because it feels like what we're trying to do is move from a norms-based system that we have today into an obligation-based system. So I think we're just capturing that. In this bucket, we've moved from the spectrum.

BRAD VERD: Sam, your hand, you're good with that? All right. Kurt?

KURT PRITZ: I don't know if this belongs here, but I think the policy-making power of the council is limited. It's sort of ring-fenced by the—in one instance, by our principle. So the council cannot make any policy at once. So for example, it could make a policy that denigrated the autonomy of each root server operator, because that's one of our principles. So I wonder if this is the place or up in the powers is the place to say the power of the council or the—I don't know if it's a norm or a limit on the obligations, are limited by at least our principles, and probably at the end of the day, by a set of bylaws or something like that.

BRAD VERD: Peter?

PETER KOCH: Thanks, Brad. This is Peter for the record, and good morning, everyone. I missed that session yesterday, and apologies, so I might have some difficulties understanding the norms versus obligations here. But Kurt raised that point already. What I'm missing is, at some point, the existence or description of a policy development process.

BRAD VERD: All right, so I'll make some comments towards that. So hopefully, other people will climb in or chime in. Based on discussions we've had thus far in this group, we've identified a number of committees. A number of the committees were identified as a result of 37. So that's where you had the Strategic and Architecture Committee. There was a Finance Committee, Audit Committee, Performance Monitoring, and Measurement Committee. And it was so far in the conversation. And if I got this wrong, this is where hopefully people will correct me, it's in that Strategic and Architecture Committee that I believe policy would be coming out.

But I do think that's a little different than what Kurt said. Kurt said that we should—and I don't disagree that maybe in this obligations box that there's a bullet that says somewhere that the council is, I don't know what you call it, the council has to follow a set of bylaws as defined by

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| | the community or something. I don't know. Looking for other people. Rob? |
| ROBERT CAROLINA: | Yeah, indeed, thank you. In terms of things like constitutional guardrails, which is to say powers that the council doesn't have, or what are the limits on power, what are the driving characteristics of that element of the governance structure. I think it's important to keep in mind that we've already developed a playbook that serves to put some limitations on what it is we think we're recommending as an end-stage product. In that playbook, are the very long list of principles that we spent so very much time discussing in a great deal of detail.<br>So there's already quite a bit in there about what we think should or should not be possible. And I just want to make sure that people don't get the misimpression that we're jettisoning that body of work to sort of re-examine this from first principles. I mean, if anything, where this roadmap is just getting us closer and closer to an end-stage product that adheres, in a sense, better with these series of principles that I think we've been describing is how I view it. I agree with the points that have been made thus far, I must say.<br>The one comment I would have about this at the moment is where we talk about obligations. Once again, we're having a form of words introduced here developed by the committees and approved by the council. And every time I see a form of words like this, I keep wondering, is it our intention to signal that we want to create an endpoint governance structure in which the council itself has limited ability to create policy on its own initiative or is it somehow held hostage to—it |

can only act by appointing a committee which makes a recommendation which it can then review?

I just see this kind of description coming up again and again, and I'm trying to figure out, is there an intention to limit the powers of the council at this point by saying, is this the only way that obligations arise, because a committee makes a recommendation and the council approves it? Or is it sufficient to say that obligations arise because the council has made a decision that this is an obligation? And we leave to the body of principles work as well as future work within the stage one, two, three, or whatever happens to be governance structure to figure out precisely what that policy mechanism is.

Forgive me, I can't remember if it was Kurt or Peter. I think it was Peter who asked a moment ago, do we have a detailed recitation about how a policy is made? Answer, no. Longer answer, I don't think we're in a position to create one here and now. We're just trying to create an outline or the key characteristics of what the end product looks like, and developing that process is something that happens in the process of moving through these stages.

BRAD VERD: Real quick, Sam. So if I may, I'll continue to try to channel the room. And I believe what the room has stated repeatedly is that the council makes all the decisions. There is no power in the committees unless otherwise delegated by the council. We can put that language in each of the box if we need to. All decision is made by the council. We can put in the council box and we can put no decisions made by the committee unless otherwise deemed in the other box, if that would help with the clarity.

ROBERT CAROLINA: I appreciate the suggestion. I don't think that's my concern. I think I have understood that everyone is converging on the idea or has converged on the idea that the council is the decision-making authority. What I'm trying to get at is, is there an intention not to limit its decision-making ability, but to limit its ability to propose policy or to propose changes or to propose things that it should be deciding?

Because the form of words being used here, obligations developed by the committees and approved by the council suggests that policies, obligations are only going to emanate through that two-step process. If that's not what we're trying to say, then I'm not sure why those words, which could be interpreted as a limitation, are in here.

BRAD VERD: Sam?

SAM EISNER: So I take Robert's point, that wasn't the intention in proposing the language. I think we could easily turn this around and say, obligations to follow those items approved by council [inaudible] including things derived by committee. What I was trying to express is that we know that part of the reason we're here is because people are agreeing to be obligated to those things that are going to come out of the specific committees. So I was just really trying to express that, but not trying to limit the powers.

But that's a bigger fundamental question that I don't actually think we need to answer today about whether or not there are commitments that are—for example, are willing to obligate themselves to follow that might not come out of a multi-stakeholder process as we're delivering here.

But that's a different question, and I don't think you need to really answer that today to get to the stage four.

BRAD VERD: Thanks, Sam. [inaudible]?

HANS PETTER HOLEN: Yeah. Thanks, Brad. I mentioned after the meeting yesterday that I think we're getting way too much into the details of specifying the detail set of the working of this organization. I mean, to me, it's important to set up a structure where there is a body that can make more detailed processes and procedures within whatever constitution is established for this. So for some kind of decisions like policy decisions, I would say that, yes, there should be a requirement to have a multi-step model with committees and public hearings and whatnot.

But for whether that should be the default decision-making model so that the council cannot make any decision without going through an elaborate multi-stakeholder model, I think that's way too restrictive. And I think also, it's way ahead in where we are right now in describing the details, because if we're going to sort out all these details before we close up this project and pass it on, we need another four years. And I'm more looking for how can we complete this in the next four months to say that we have something here that we now need to get public feedback on and the decision now to move forward, because all these nitty-gritty details, yeah, they're fun to carve out, but we need to focus on the most important ones, right? Policy decisions and funding and the structure, who makes decisions and so on, not on any detail and any corner case. Thank you.

BRAD VERD: Thanks, Hans. Okay. So I believe what I just heard the room say was no, we're not trying to limit the council from making that stuff. My question to the group is, what needs to change in the current language so that people are happy with that? It's done?

ROBERT CAROLINA: To answer your question, what she said and he wrote down. Sorry.

BRAD VERD: All right. So we're happy with the language. Sorry. Again, I'm watching too many screens. So we're okay with that as it sits then. Okay. All right. Anything else under obligations and/or acceptance criteria since they seem maybe a little combined? Rob?

ROBERT CAROLINA: Yeah, I'd like to focus for a moment on the acceptance criteria box. And I want to come back to something that I suggested yesterday, which is I believe that the acceptance criteria, since we're talking now about the acceptance criteria necessary to establish the stage four structure, I think that that can be simplified tremendously by saying it's something like the participants in the stage three governance structure have agreed where agreement is a method to be determined.

I don't want to get hung up on the word agreement, but the participants in the stage three governance structure acknowledge that the milestones established have been achieved and we're ready for stage four. I don't know. I'm trying to put together what I was saying yesterday and how Sam responded to what I said yesterday.

BRAD VERD: Is this acceptance criteria in stage four, acceptance criteria in stage three? Just for clarity.

ROBERT CAROLINA: Well, for clarity, because yesterday we had this discussion about what does the acceptance criteria box mean. And I thought it was that the acceptance criteria under stage four are the criteria necessary in order to commence operation of these stage four governance—

BRAD VERD: Agreed.

ROBERT CAROLINA: Powers. So the acceptance criteria to commence operation of stage four, it seems to me, is acknowledgement by the participants in stage three that we're ready for stage four. And I'm not only recommending that as a positive thing, I'm also making a negative recommendation that we do not adopt a phrase like contract. Obligations can be expressed in many different ways and I really think we should resist as strongly as possible the use of the term contract at this stage. Maybe there will be hundreds of contracts flying around at that point. Maybe there will be none. I don't know and I don't think we want to presuppose that.

BRAD VERD: For the record, again, all of these were suggestions by me to cause discussion. So if we don't like obligations, we can change that. If we don't like acceptance criteria, we can change that. If we don't like contract, we can change that. So what would we like to put down here under acceptance criteria for stage four? Is it something like everything in the boxes above and something else? Or do we want to list out the different attributes that we think need to be in acceptance criteria? Rob?

ROBERT CAROLINA: No. I think for this box, it should say the participants in the stage three structure acknowledge that all relevant milestones have concluded and we are ready for transition to stage four. Now, that begs a lot of questions that have to be answered, but I think that is it. I think that to me is the trigger.

BRAD VERD: And just for clarity and for discussion, I want to just add that—so if we're talking about going into stage four or turnkey stage or whatever we want to call this, all the parties agree, all the milestones have been met, and the milestones include funding being collected and potentially ready to be disbursed at this stage.

ROBERT CAROLINA: Well, we have a chicken and egg problem there. The problem is there won't be a mechanism in place to compel that kind of collection and disbursement activity until such time as the stage four structure is in operation, whereas we've defined this acceptance criteria as. All right, hang on a second. All right, I think I've got a different formulation of it. The participants in the stage three structure have agreed the details of how to implement everything above.

BRAD VERD: Yeah. So what I'm trying to get at, what I was trying to figure out is, do we need to create another stage beyond the turnkey stage where this stuff moves based upon where we're putting the acceptance criteria? That's what I was trying to—and I hope we don't, but I was trying to figure out how to solve that. Sam.

SAM EISNER: I might be saying the same thing, so I'm not trying to confuse it, but I'm just trying to get clear in my head. So there is a stage for the participants to agree in how they would show that agreement, but there's also some technical things that need to happen. So we've talked above about the fact that there has to be some sort of constitutional guardrails or constitutional documentation. Those things have to be completed. So I think it's not just agreement, but there's actually the physical completion of the necessary governance documents have to be completed, and I think that has to be part of the acceptance criteria.

BRAD VERD: So how do we modify that language there to accommodate that? Hans?

HANS PETTER HOLEN: So to me, the turnkey solution is the steady state of something beyond a mature governance system. To me, we've already started to collect funds in stage two and definitely in stage three, and I really liked your—the text that in this final stage, everybody is on a contract and everything is well-defined on all levels. This is a grown-up mature organization at that stage. Whether we will ever get there, I don't know. But saying that we need even more stages, then, yeah, I think we will never get ended. But to me, this was the vision of a future steady-state running organization that everybody trusts and is well-functioning on all levels.

So to say that there is still more to be done after that, of course, that's continuous improvement. But all of these things that needs to be done, well, I would imagine that would happen in phase two and three, not in phase four.

BRAD VERD: Thoughts, comments on that? I think we're going to challenge that comment when we start backing into these other stages, just to be clear. Because while I don't disagree with you, I couldn't get there when I did it myself. Rob?

ROBERT CAROLINA: I just want to point out that at this point, we're talking about or we're trying to identify acceptance criteria, which to my mind triggers an association with some evidence-based mechanism for understanding that this is now ready to go and ready to be switched on or put into fourth gear, put it that way. We're ready to shift into fourth gear. The actual mechanism used to accomplish that, which would be things like drafted or revised bylaws, drafted or revised contracts, drafted or revised memoranda of understanding. Whatever the mechanism is, is the implementation of everything that circulates through this.

I thought that the only point of row 13, acceptance criteria, was to just chart out how we know what is it we're looking for in order to activate the other things that all have to be put together in order for this to work. And the reason that I was suggesting that participants—and by the way, Carlos, just for clarity, in cell G13, it's not just the participants. The participants in the stage three structure. I think it's critical to reference the previous stage because the idea is that then the acceptance criteria to switch on or move into third gear, from second to third gear, the acceptance criteria for stage three becomes the participants in stage two have agreed that, et cetera.

This just walks backward in the same fashion. To my way of thinking, part of the value here is just demonstrating that each of these steps is going to be assessed internally and organically within the governance structure that's being created. There's not some sort of authority external to these participants that tells them, oh, we're now compelling you, all of you, even though you're not ready to move from stage two to stage three or whatever it is. Now, in terms of the actual mechanism, I think that's part of what needs to be developed through those stages.

BRAD VERD: Hans?

HANS PETTER HOLEN: So trying to take it through the phases and thinking what is needed in each phase. A mature governance structure needs to have funds and needs to be operated, otherwise it's not mature. That means that it needs to have bank accounts and things to be paid. That means that the constitution and everything needs to be in place. So that needs to happen before mature. So I would say that the draft constitution is somewhere between minimum viable GS and minimum viable functioning GS because you can't really start to function. You don't have a council that has a clear mandate before you have the first version of the constitution.

And it may not be the full-fledged one, but it needs to be the minimum constitution. And if you're going to incorporate and be separate from the ICANN structure, well, then you actually need incorporation documents and all that stuff filed in order to get the bank account. If it lives within another structure that somebody else holds the bank accounts and does all or part of the funding, well, that could be a minimum viable model. But once you move into mature, all of those formalities needs to be in place, in my mind.

Now, all the contracts and stuff and commitment from all the players, maybe that actually needs to be in place in the mature level as well, but definitely in the turnkey model. But in the minimum viable GS and the minimum viable functioning GS, I don't think all of that needs to be played. So that's at least my reasoning of the maturity here, thinking about when does it need to start to collect mainly, when does it need to be self-funded, when does it need to be able to handle that, whether it's outsourced to somebody else or itself.

But with that reasoning, it becomes pretty clear that the constitutional documents and also, there needs to be in place somewhere for stage two or stage three. So then the acceptance criteria to go into stage four, I would say all the RSOs and the funding people and so on have actually signed some documents saying that, yeah, we're committed to this thing going forward. That would be a steady state for me. If we still have people that say that, this is all well and good, but I don't want to commit to anything, I would say, we're not done.

BRAD VERD: All right. So, I mean, you kind of did what I did, but with the language we have up there, it's a little hard to go through some of this exercise, I feel, because we've removed the term contract, but yet you just said contract half a dozen times.

HANS PETTER HOLEN: You removed the term contract. I liked it.

BRAD VERD: I said we removed it.

HANS PETTER HOLEN: The lawyer removed it.

BRAD VERD: So kind of expanding on that, as I started yesterday, you can see in the funding structure where I put governance and under—funding for governance and operations in the mature one, the example I gave was committed. The funding was committed in this stage, and in the previous stage it's defined, because we have yet to define what it is. I guess, you're saying that—you're agreeing with this, but you're adding to it saying that all the contracting pieces need to be in the mature state.

All right. Any other thoughts? I'm trying to show, if you start to back into these things, you start to see where the blockers are as to what we can and can't do. I mean, I'm hoping people are seeing that. All right. Shall we go to stage three since we already kind of started here? Rob, you have something to add?

ROBERT CAROLINA: Yeah, I just wanted to point out that I think Hans Petter has just done something extremely helpful that I would encourage us perhaps to do more of. And that is, we can try to go through this in any way that makes sense. I'm wondering if, rather than looking at stage three—well, I've got two proposals, and I'm not really hung up on either of them. One is that instead of going in stage three, why don't we look at stage one and ask ourselves, what do we think is the minimum viable governance structure to get everything started, to get everything jump-started?

And the reason I suggest that is because the second suggestion is that rather than necessarily marching through each column one at a time, perhaps we start drawing contrasts from earlier and later in the model the way Hans Petter just did, because I found that observation very helpful. The idea that there's going to have to come a point sooner than stage four where certain things have to happen, so that's going to perhaps be in stage one or stage two, things like bylaws or governing documents, and that might be a helpful way to approach some of the discussion is to try to draw contrasts between where do we start, where are we trying to end up, and what are the intervening things that have to hit.

Maybe this is a four-stage process. Well, all right, maybe it's a four-stage process. I don't have to say anything more about that. So that's just a couple of suggestions about the structure of the discussion going forward.

BRAD VERD: What does the group want to do? I'm not married to any approach here. Don't all speak at once. Rob, would you like to start with stage one?

ROBERT CAROLINA: All right, I'll formally propose. We continue our discussion by moving now to stage one. If anybody wishes to raise an issue or disagree, I welcome disagreement.

BRAD VERD: All right, so I'm just going to call on people then. So, Rob, what do you see as the council's powers and/or function in stage one? if you were going to take a stab at it?

ROBERT CAROLINA: The council on stage one, I think power is the easier side of this, because we're talking about starting in what I've described as a low-stakes environment where people know that there is little at immediate risk individually and to give everybody maximum opportunity to get to work together collaboratively. I think that the powers of the council need to be as close to zero as possible. By power, I mean the power to compel things.

Now, in terms of functions, I think there's probably a longer list of things that the council can and should do, first and foremost among them, is to start analyzing and issuing suggestions and recommendations about the future of the governance structure itself and the future of the RSS. Now, there comes a point where you ask the question, well, is this duplicative of either RSSAC or root ops? Does it exist in parallel with those? And I don't know the answer to that right now. But I think it should be a place where that kind of recommendations for the future that dovetail in with this staging process are done.

I think the Council should also serve a function of aiding the transparency of root server system governance. I think there is a transparency function that can be fulfilled because that doesn't require—I don't think that requires powers. It just requires information gathering and dissemination and information sharing. So in terms of transparency, I'm thinking at one level, I think that the RSS is long overdue for some type of periodic transparency reporting about what are we facing collectively were our problems. So this would be a place where that could be developed.

Similarly, incident handling. We've stated that we want to have a collaborative mechanism for dealing in real time with incidents, and perhaps this is the stage in which to implement that. So just off the top of my head, those are the things I'm thinking of in terms of functions.

But in terms of powers, the council at this stage would not have the power to do things like designate or remove designations. It would not have the power to compel anyone to make financial contributions. It would not have the power to do a lot of things. The one power that it might need either in stage one or stage two is the power to go out and contract for a secretariat. Figure out where the money's coming from further down the list, but hire a couple of part-time people or engage with a service that does that for a living.

So that's a power that I think it's going to have to enter sooner rather than later. That can't wait for stage four. That's got to happen, I think, at least by stage two, if not stage one. So that's a quick list off the top of my head.

BRAD VERD: Thanks, Rob. Ken?

KEN RENARD: Thanks. I approach this, whether powers, functions, or tasks, or even an acceptance criteria, what we need in stage one for the council. I came up with, hopefully these are obvious here, but the identification of the council members, development of the charter, identifying the committees, the executive committee and all the subcommittees, the positions, and call for nominations. Those are things that need to be done in that stage for the council.

BRAD VERD: I'm going to break that up a little bit, just because—well, I don't disagree with anything you have there. I feel like the committee’s piece would be down in the committee section on what would happen, meaning committees would be identified, committees would be—possibly, it's ordered by the council, it's done if you look at the stages, if you break into the components. But I go to your first point, which was the council would be formed or the council would be—

UNIDENTIFIED MALE: Identification of the members.

BRAD VERD: Identification of the members. So if we go to—again, we've all stated for a long, long time now that the success of the recommendation of the GWG will be measured by the acceptance by the [inaudible] parties. So what does the formation of the council look like to this group? How does that happen? I'm sorry. Okay. If you raise your hand, please raise it and keep it up. I can't see it.

In stage one, how is the council formed? Because I feel like that's the first thing that would have to happen, right? I mean, just me thinking out loud, how would that happen? It's not magic, so how does it happen? Jeff Osborn?

JEFF OSBORN: Well, we need to figure out who's on it. There's some obvious questions, like, are all of the RSOs on it? Do they each have one person? Who else is on it? And I think before you form it, you have to figure out what it's supposed to look like.

BRAD VERD: We have to figure out what it's supposed to look like, or does the GS have to figure out what it needs to look like? Rob?

ROBERT CAROLINA: I think for the stage one to move forward expeditiously, it's probably up to GWG to make a recommendation on what that should look like. Whether that recommendation holds or it changes after exposure to the relevant parties is open to question but if we're talking about who is in the council, who gets seated, shall we say, since we're looking at sort of minimum viable, I think we ought to start—I would suggest that we start with something as simple as possible, so avoid the whole bicameral thing. If that needs to split out later, people will identify it as a problem. Something happened out there.

So I would suggest it's one body. There are 12 seats that are filled by appointment from the 12 RSOs, and just to pick a number out of a hat, five seats each from gTLDs and ccTLDs, and keeping in mind that this is a body that has absolutely zero power. The goal is to get these communities of participant stakeholders together from time to time in a room to focus on the matter of governing the root server system. And I think that's the place to start. In terms of the mechanism for doing it, I suppose the minimum viable mechanism that I can think of would be something like a memorandum of understanding that lays out the terms of engagement between people who come together.

Some very light-touch document that explains why we're getting together, what our purpose is. If there have to be funds held for some reason, then how they're going to be dealt with, something short form-ish.

BRAD VERD: Liman?

LARS-JOHAN LIMAN: Liman here. I have to remember to let go of my computer before I touch the mic. Aren't we getting ahead of ourselves a bit here? Because our job here is to make a recommendation to the board and to start forming committees and stuff before the board has said, yes, please do that. Sounds to be a bit premature. Just saying.

BRAD VERD: Well, if I may, I didn't hear Rob say anything about forming committees. We're only talking about forming the council, which would be the governance structure.

LARS-JOHAN LIMAN: Sorry, wrong term. Forming any type of grouping of people other than ourselves here in this room.

BRAD VERD: I'm a bit confused on that train of thought. Can you expand on that a bit?

LARS-JOHAN LIMAN: How can we create a council and populate it without the board having accepted our proposal?

BRAD VERD: But the proposal is, , it's just that. It's a proposal. We're not forming it. It's a proposal to form a council, and the makeup of that council is, as Rob suggested, 12 are associates, five each from the Gs and the Cs. That's a proposal.

LARS-JOHAN LIMAN: Yes, and that's fine but are we then going to propose to propose the staged thing forward? Because I have a bit of a problem understanding the relationship with the board and how it's going to deal with how the staged thing going forward here. So we either we propose stage one and see how that goes, and then somehow we go back and prepare stage two and have that approved, and then stage three, have that approved.

Always say, this is the thing going forward. Stage one, two, three, four. This is the package deal. Please approve it or what is it that I don't understand?

BRAD VERD:: Maybe I misunderstand. I don't know. A roadmap is just that, a roadmap and as I stated yesterday, that roadmap will evolve as you go through stage one and you learn things and you experience things, you get operational experience and things. You might change what is on the roadmap for stage two, stage three, stage four, stage twenty. That might change. That's all I can say. Sam, do you want to add?

Sam Eisner: Yeah. I was thinking about the same issue, Liman, about—I'll express it in terms of the autonomy of the council. Right? What is the relationship? And I think this is something that's going to be really important about defining for stage one, what is the relationship between the council and any other entity, including the ICANN board, including IANA, that we need to really make clear in there what it is. I think it makes sense for us to make some level of recommendation of what the council should look like so that there's the ability to consider that in the recommendations and then if that's approved, make a proposal.

Where I think it's a bit different. When I heard going back on stage two, going back on stage three, I think part of what we're saying here is, so this group, this GWG is gone after we deliver the recommendation. So the other thing that we need to build into there is, I think our recommendations, if we're recommending a stage approach, also need to include the path. Not the definition of all the steps, but the path that there will have to be accountability and a system and a way to get agreement on stage one, moves to stage two. And that those are things that have to be built into that implementation of the structure. And so, it doesn't mean that it comes back.

But then within that, and there's probably places where we can't predefine too much into the future, but we will need to identify at least the autonomy of stage one who we're looking to—Are these going to be further recommendations to the ICANN board to a different entity. What else is needed? Who else is needed to get from stage one to stage two? And who else is buy-in? Who else needs to be committed to the success of this governance structure, not just the stakeholders within it?

BRAD VERD: Thanks, Sam. Peter? Liman, is that an old hand? Peter?

PETER KOCH: Thanks, Brad. This is Peter for the record. So I agree with what was just said about the timeliness or not of the current proposal. I don't think this is populating it, but it would obviously be setting the scene. Now in a bizarre style negotiation, I would now counter propose to have seven each of the C's and the D's so that we might end up at the obvious solution, which is six each. And then six plus six and 12. And of course in a bizarre style, I would have not disclosed my tactics here.

That said, the subliminal statement here was the shift of power, obviously and I would much prefer to have that in a more direct discussion than going by weird numbers but that also needs to—what Sam said, what is the message we send to the board and to the wider community if we're coming up with those numbers? And is there a perspective to change that while going through the stages, which could actually happen? And I'll regret the bizarre remark, of course.

BRAD VERD: Thank you, Peter. Wes.

WES HARDAKER: Jeff asked yesterday, and so, hopefully, this is not too in the weeds as I apparently keep going too far down. But Jeff asked yesterday where the line was, where the GWG turns over, the bodies that have the right to sort of veto the results or whatever don't and the governance system is at its minimum valuable point. Right? To me, the minimal valuable point is the ability to self-modify because in order to bootstrap the system at some point, and I worry that, we're thinking that the turnkey model was that point. And I'd argue that it's not.

That one of the things that we need in the minimal valuable GS is the initial start-up of the council has been created with the proper numbers that Peter agrees is correct and after that point, it has a base charter that's got to come out of this group, a base bylaws, I don't know quite what the formula is going to be. But after that point, it's got to be able to do self-modify. So it wants to change the number to seven for everything or whatever it might be. At that point, it is a stand-up minimal implementation of a multi-stakeholder model. Right? It's on its own. It's been approved, yes.

So I think that that's the fine line where the ICANN board or whatever is no longer involved, including the IAB and essentially the RSOs, too, right? That none of those bodies individually get the right to say, let's make these changes anymore, right, or, they can't veto the system anymore. It's up. It's running. It's minimal. So to answer Jeff's question from yesterday, the line to me is everything beyond stage one is the system should be self-modifying and should do the rest by itself.

BRAD VERD: Just to confirm what you're saying here, a little selfish motivation with this question, and the GWG ceases right there.

WES HARDAKER: Yes.

BRAD VERD: Okay. I just wanted everybody to hear that because I'm not sure when ICANN80 started, everybody believed that. I think everybody believed turnkey solution was where the GWG ended, and that's not based upon [inaudible].

WES HARDAKER: But fair enough.

BRAD VERD: We're just getting there is not something that we can do. All right, Hans.

HANS PETTER HOLEN: So, what Wes said, and I—to comment on what's the role of the ICANN board here and how does this function? Well, it depends on how we want to set up this organization, top down or bottom up. Either it's set up by the ICANN board and we're given a mandate from the ICANN board to form this top down. It's an easy way to do it. We know how the decision-making structure is to get it. Then there is the minimum constitution that gives the council a minimum power to actually move this forward.

The other way to do it is to do it bottom up and then the players that want to form these organizations needs to get together and sign an MOU or sign the constitution and saying that, together we do this. That's not only the RSOs, but that's also the other players that will be on the council or have a role there. Now, whether or not the ICANN Board will have any role in the future once this is up and running, that depends a bit on the constitution.

In the NRO scenario, the ICANN board has roles in policies and so on going forward and there is an MOU with criteria that if we want to change this, there is a contract with IANA. So if we want to change that, that will be based on negotiations, not unilateral actions by this organization. So top down or bottom up, plus MOUs or contracts with the parties that we have a close relationship, that needs to get done. But you need the council to kind of do some of that stuff, to sign these other things unless this is all specified in the constitution when we start. And I think looking at this, I think maybe we have one or maybe even two steps too many in this model because in the minimum viable GS, as Wes said, we need quite a lot of stuff in place in order to go there. And then there isn't really that many more steps to move. It could be just step one and four. It could be an intermediary step, but I don't think there will be more than that.

BRAD VERD: Rob?

ROBERT CAROLINA: Just to respond to what I've heard in the last few minutes. First of all, Peter, Peter Koch, thank you so much for asking for more seats at the table, which fills my heart with gladness. And I think you're absolutely right. I think six is a great number to settle on. Yeah. Well, indeed. I'm just very, very pleased that there is an enthusiasm to increase the numbers and increase the participation. That is a very, very positive step, and I think it augurs well for the future of the discussions to come because it sounds like there are going to be discussions to come after GWG concludes its work.

Wes, agree with everything that you just said, so nothing more on that. Hans, I think you are absolutely right about the sort of like two different methodologies. I would, however, point out that even if we were to follow the top-down model, the top-down model is really only a top-down model if the board is somehow able to impose a solution. And based on discussions that we've had over the course of the past many years, it isn't. It doesn't have the power to impose a top-down solution, so even if the board were to say, here's something we've drafted earlier, we would still end up in discussion and negotiation with all the participating parties to see if they were ready to go.

So personally, I think that the future of this structure is much stronger. I think it has a much better chance of success if the founding document is put together by the participants themselves in a bottom-up style fashion. I see that you're anxious to say something, so I'll end my comments there.

HANS PETTER HOLEN: So I think the difference in the two scenarios is that if the ICANN board forms this council, it will have to negotiate with all the RSOs and the other parties for this funding. If it's formed bottom-up, this function will have to negotiate with ICANN on this. So I think if we do it bottom-up, it will be just one negotiation with ICANN. If we do it top-down, it will be 13-plus negotiations in order to get this.

So I think there needs to be a combination here. If there is consensus in this room on the proposal, then I would assume that everybody would be willing to sign on to this, and if we get an endorsement or a commitment from the ICANN board, well, then everybody actually agrees, so then we have a starting point. But I fully take your point that we need the bottom-up element here as well. That we need agreement from all the players before the ICANN board decision on what to do, and then exactly what that resolution will look like will also be a very politically sensitive matter.

BRAD VERD: Sure. Go ahead, real quick, and then we'll go to Sam.

ROBERT CAROLINA: If I could just follow up with that. One thing I would point out is that in our discussions of identifying participant stakeholders, which are currently the people we're talking about seating, together with observers, I mean, I don't want to in any way minimize the necessity of and having seats at the table for the observer communities that we've identified. ICANN itself, as an organization, is not identified as a participant stakeholder community, nor do I think it can be, technically. Now, from my perspective, while I would certainly welcome endorsement from the board for the direction that we're taking, as a technical matter, the kind of structure we're looking at now can be formed simply by the agreement of the parties who are involved. I don't see anything in stage one that technically requires the agreement of the board, because we're not talking about changing ICANN bylaws. There's nothing that would require consultation with the empowered community, because we're not making fundamental changes to ICANN bylaws.

So there's a great deal about stage one that can be created simply by the participant stakeholder communities acting on their own. Again, I would welcome endorsement from any members of the community and comment from everybody in the community, but I just want to narrow down on who it is we think we're negotiating and we need to get the agreement of in order to launch a stage one minimum viable structure.

BRAD VERD: Sam.

SAM EISNER: Thanks. First, I just wanted to clarify something around my understanding of what Hans Petter was saying. I think, the ICANN board, if something's set up within the ICANN bylaws for example, but it’s a community group, ICANN board doesn’t dictate how the community group looks like. It takes the input from the group that they do like here and then it's put out for public comment. But it's not really the decision of the ICANN board, it's a decision after taking on public comment. So it really is like, this is the conversation, right? This is that bottom-up conversation of what something will look like.

And so, there's not necessarily that two-phase approach of if it's bottom-up, or top-down. But I think, as we're talking about the role of ICANN, whether ICANN is a stakeholder, I think we do have to make sure that we're preserving the role of ICANN in its performance of the IANA functions and in the root. And we have it reflected in that way, right? So if this group winds up fully outside of ICANN and doesn't require any changes to the ICANN bylaws, et cetera, of course, what Robert said makes sense.

But maybe this is just a concern that I have and other people won't share it. If stage one is saying, we're just going to go straight out here and do this there, we have to make sure that this group is set up for success, right? Where are you going to find your funding compulsion? How are you going to make sure that the ccTLDs and the gTLDs who normally participate through ICANN processes are coming there? How are you going to make sure that the funding model that you need has teeth? How are you taking care of your liabilities? How are you taking care of your relationships that you'll have to form with outside entities? Those are all things that have to be thought of and have to make sure that you're setting yourself up for success if the first part of this is still—if it's not that stage of moving away from having autonomy. But if autonomy exists in stage one, you have to think about all the different parts that autonomy brings. So it brings a bit of complexity. It's not impossible, but it does bring a bit of complexity as you think about what that looks like to make it happen tomorrow. Right after the recommendations are out of the GWG.

So these will be presented to the community through public comment. You guys, this will all be subject to public input, people looking at it, people thinking about it. I think we've always anticipated some level of ICANN board action over these recommendations and then there's a thought of who the board is then instructing to, say, go and implement if the solution is implementing outside of ICANN. So all things we have to think about.

BRAD VERD: Peter?

PETER KOCH: Thanks, Brad. This is Peter for the record. And since Robert so kindly followed me to the bazaar, I have to stay there a bit. Just to clarify, and

I guess, that was hopefully obvious from our previous statement that when I said 12 plus 6 plus 6, and that would be the obvious thing, it doesn't mean that that is the good solution in terms of numbers. The shadow discussion, of course, is about parity and representation, which needs to be explained to the community as well. And I sincerely do not believe that a 24-headed committee would be good for the purpose and reducing the number of heads to 22, well of course, shift the decision-making, but it would still be an odd size, well, no pun, for that kind of committee. So my plea is to get the real questions on the table rather than proxying them through numbers. Thank you.

BRAD VERD: All right. I'm not sure where that leaves us here in stage one. So, what does the group think? Is it 24 or is it a different number? Rob?

ROBERT CAROLINA: I don't know what the magic number is, but the goal, I think, is to get more people from the TLD registry community into closer working proximity to more people in the root server system community. That's the goal. In terms of what this committee does, or this council does, there will undoubtedly be bits of work identified that people can work on collaboratively, et cetera. It's a 22-headed, 24-headed, 26-headed, or 18-headed, or 19-headed committee. We've all worked on them, and we all know that a lot of work actually gets done off-cycle.

So whatever the number is, it has to be sufficient, in my mind, to make sure that we have broad participation from within the TLD registry community and that they get better visibility, because we've asked, we've heard people asking for transparency. We've heard people asking for accountability. Well, the people who we think we're accountable to and the people we want to be transparent to, here's a room we're inviting you to participate in, and I'm hoping that whatever the number is, it will be sufficient to fulfill that.

BRAD VERD: Wes?

WES HARDAKER: I'm actually surprised you're asking us to go down into the weeds of how many people, but—

BRAD VERD: The group went there.

WES HARDAKER: We've been thinking about it and talking about it for a long time. I've argued for a long time. I think I suggested quite a while ago. It's time to do that because, if we can't get past that point, we're done. Somebody a while back, may their good suggestion of the number of seats from each constituency group probably doesn't need to be equal.

The important thing is that we structure a different mechanism of voting that relates to the stakeholders so that if there are three stakeholders that get voting powers, which came out of the workshop, right, that, say there's three, because that's sort of what's, I think, on the current spreadsheet, that each one of those stakeholders would get one vote. And it's up to those stakeholders to independently organize to figure out how many voting powers do they need to figure out that they can cast their one vote, and then we set the minimum threshold of, you need three or two votes to actually make a change.

Now, I don't know that that's necessarily the right structure. The problem with fixating on the number of seats is 12 and 12 and whatever,

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| | is that, by definition, the whole purpose of this structure is to change the number of seats in one of those constituencies, right? Adding and removing an RSO will change the power structure. Therefore, we have to have a voting system or a resolution system that is agnostic of that structure. |
| BRAD VERD: | Hans, and then I'm going to insert myself after Hans. |
| HANS PETTER HOLEN: | So the size of this council will, to some extent, determine a bit what it's going to be doing. If the main purpose of this council is to do the really important decisions like changing the bylaws and adding or removing RSOs, it could be a large one, whether it's 22 or 42. It doesn't really matter. The larger it gets, the more likely it is that somebody won't show up, so it doesn't really matter if you try to balance it or not. If there is 50-50 RSO and non-RSOs, it only takes one or two RSOs to not show up for a vote, and then the majority is on the other side.<br>So trying to speculate in those balances will only get you so far in the constitution. For anything, if the committee is large, like the ICANN board or larger, it needs to work in sub-committees, and we've already talked about that. There may need to be an executive committee or a chair team of three to five chairs that kind of drives stuff forward. And if this is supposed to be an organization, that does as little as possible and makes sure that the root service system updates in a stable manner, I think that's fine. It can be fairly large. That's not the problem. |
| BRAD VERD: | All right, I'm going to insert myself here. Yeah, I think we as a group have a tendency to dive into the weeds first because it's what we're |

comfortable with. It's what we know. Executive council, council, board, whatever you want to call it. I think my train of thought on this is that stage one can be three. It can be 24. But I think, and this is why I think—I said to a couple people after the meeting yesterday, I think maybe the GWG's work ends after stage two because I think we should define that roadmap all the way to what the turnkey is, at least what we think the milestones are.

But I think stage one, you can have a large group of people, but I think in order to get—and that's minimum viable. And then to get to a mature is when that group has to agree to change that and make it something manageable, representative or whatever you want to call it. It's a step approach to what the council might look like in the future. Those are my thoughts on possible scenarios. Rob, you dropped your hand. Okay. Hans, that's an old hand? Liman?

LARS-JOHAN LIMAN: Yeah, Liman here. To me, most of these problems are solved by a bicameral solution. If you have a bicameral solution where you require that any proposal has to be approved by both houses, thank you, no group can force a proposal onto the other group because they both have veto to proposals. And the size of each house doesn't really matter because it's the house that has to approve the group. So you can change the number of root server operators if that's one house, and you can change the number of representatives from this the registries up and down and you maintain this balance between the two. So I remain in favor of the bicameral solution. Thanks.

BRAD VERD: Thanks, Liman. All right, with that, we have come to an end in our time. So take the next 30 minutes to ruminate on bicameral and we'll pick it up at 10:45. See you then. Thanks.

OZAN SAHIN: Please stop the recording.

**[END OF TRANSCRIPTION]**