ICANN

Moderator: Alice Jansen
October 25, 2010
9:15 am CT

(Brian): Good morning this is the Accountability and Transparency Review Team call of Monday, October 25. Someone just joined. Who's joined?

Alice Jansen: I think that was the recording.

(Brian): Oh that was the recording, okay. We only have one order of business today which is to finalize Working Group 4 piece of the report and then get that off for translation.

As I noted in my email I have sent the balance of the document off to the translators yesterday. So that process should be underway.

Did everyone receive the updated language that I've sent about 20 minutes ago? Did anybody not receive it?

((Crosstalk))

(Olivier): (Unintelligible) I'm not connected yes.

(Brian):   Well I - so (Olivier) you don't have it? Who else doesn't have it?

Woman: I probably do but I haven't got to it yet.

(Olivier):   And you just...

(Brian):   Okay.

(Olivier):   ...described what you've done here.

(Brian):   Well what I've done is (Olivier) you sent an email suggesting that the language I drafted in the finding session be put back into the document.

                So I circulated a document that has these pieces. It has the Executive Summary section that's specific to Working Group 4 appeal mechanisms for board decisions.

                And in that draft it has (Minalt)'s proposed language which is circulated on the list. And that it has the report of Working Group 4.

                And in the Findings section there are two edits that have been proposed by (Warren) in the past few days in the findings as well as that language that I have proposed (Olivier) that you just asked be put back into the draft or at least be discussed.

                And then lastly in the recommendations section it has the language that again (Minalt) had proposed on a list that appeared to receive strong agreement.

(Chris):   So that was the original language plus the addition of Fabio's suggestion of three twice.

(Brian):   Exactly.

(Chris):   Okay.

(Brian):   Exactly. Although...

(Chris):   Sorry.

(Brian):   Go ahead (Chris).

(Chris):   Well it would help me enormously if you could simply tell us what the language that's gone back into the findings is?

(Brian):   I'm happy to read it if you'll bear with me.

(Chris):   Because yours is not - the document I've got from you is not redlined.

Woman: No.

(Brian):   The one that I just sent 20 minutes ago?

(Chris):   Yes.

((Crosstalk))

Woman: The one I'm looking (at) 22 minutes ago.

(Chris):   I'm missing...

((Crosstalk))

(Brian):   It's Master...

(Chris):   ...which may be...

(Brian):   ...10.1?

Woman: Yes.

(Chris):   Yes.

(Brian):   It's not redlined?

(Chris):   Not on my (sign) it's not. And I don't have my computer here so...

(Brian):   Okay.

(Peter):   It's redlined on my laptop (Brian) so...

((Crosstalk))

Woman: It's not redlined if you're opening it out in some of the - it doesn't redlined in
                 mine. I've got to actually download it and open it in its original Word format.
                 My viewer isn't showing it. I'll do that.

(Brian):   Are you saying they have redlining in New Zealand but not Australia?

(Chris):   It's unlike - it's - fortunately we're close but I can't see (Peter)'s computer
                 from here.

Man: I'm...

((Crosstalk))

(Peter):   Well if you'll bear with me and I'll - (Chris) I'm just holding it up in the
                      window here and...

(Chris):   Incredibly clever.

(Brian):   Bear with me and I will...

((Crosstalk))

Man: Also this is (unintelligible) were in G10 that nobody commented on them, yes.

(Brian):   Yes they were - actually they were. They were but I'm happy to read through
                      it. It's not that lengthy. So in the findings section I'm going to read the first
                      edit proposed by (Warren) in the paragraph that was at the top of Page 9.

                      It reads in summary while some members of the ATRT believe and the
                      original text was thought...

((Crosstalk))

Man: Fabio has come in and (followed) your suggestion.

(Brian):   No problem, welcome Fabio. I was just about to walk through the proposed
                      revised language in the draft that I sent about 20 minutes ago. I don't know if
                      you've had access to that or not?

Fabio Colasanti: No, no, no.

(Brian):   Okay. I've done the following. There's a draft that people are looking at, some people are looking at that has in the findings Section a couple of edits from (Warren) that he proposed a few days ago, an edit that I had proposed. And then in the Recommendations section it has the language that (Minalt) has circulated recently.

Fabio Colasanti: Yes.

(Brian):   So for the folks who don't have it on hand I was just going to read through the new language and get reactions.

                    So we're in the Findings section. On my draft it's at the top of Page 9. This is an edit...

Fabio Colasanti: Yes.

(Brian):   ...that (Warren) had proposed. Again in the Findings section it reads in summary while some members of the ATRT believe -- and he replaced the word thought with believe -- that having a binding appeals process is critical to ensure accountability to the community and the long-term viability of the multi-stakeholder ICANN model that is an edit.

                    Other members of the ATRT raised concerns that such a standard would create a new set of accountability and transparency issues by assigning to some new unnamed set of individuals the power to overturn board decisions.

The ATRT did agree however, that ensuring appeals mechanisms were sufficiently independent of the board was critical to ensuring accountability.

((Crosstalk))

Man: (Unintelligible).

Man: That was in the previous draft wasn't it?

(Brian):   It was in the 10.0 draft, yes.

Man: Yes, fine.

(Brian):   Any objections to the language?

(Peter):   I'm just - I'm - this is (Peter) here I'm just wondering who are the people that believe a binding appeals process is critical?

(Brian):   Well I'm one of them (Peter).

((Crosstalk))

(Peter):   (Unintelligible) right? Anyone else?

Man: There was a - I can't remember exactly (Peter) but my recollection is that there was a - I mean the language might be claimed to be simplistic but there certainly was a divergence of opinion about how important a binding appeals process (easel) should be. I'm not sure that there's any harm in saying that there are differing opinions.

(Peter):   I'm just curious as to who they are. And I here that (Warren) has that view. And if it's any (Warren) why don't we say that? Well if there are others, I mean that's fine. I thought most people agreed with - and then (Warren) wasn't here when we had the discussion that happened.

I thought most people agreed with (Larry)'s sort of description which is (I think) you become this - the second group. Other members raise concerns.

(Brian):   Any comment?

(Warren):   I certainly seem to think that during some of the back and forth in the last few days in-between Harvard and now that some of the members have expressed concerns about the lack of a binding process. But if nobody's stepping up at this point or agreeing with...

(Chris):   (Warren) it's (Chris). My view is that whilst I wouldn't be prepared to say that I think a binding appeals process is critical I think at some - my view is that it should be looked at in some it should be looked at some detail.

And there are differing views about role this review team is as to what we should and shouldn't be doing.

I certainly don't think there is a problem in saying that it's the view of some people that, you know, there should be a binding review.

I have - I'm challenged by the concept of binding the board. I think (Larry)'s point about the board should be the board. And the way you solve the problem is by making the board work better.

I'm attracted by that view. But I think - I equally think that there's merit on the other side as well.

Fabio Colasanti: Fabio here. I - my position was that there was some merit in having a mechanism that would force a second re-examination review of a number of issues.

But then I was sharing (Larry)'s point that at the end of the day it would not be a problem for this to be absolutely binding.

I think it would be useful to maintain the present language that shows that there are different opinions. Because it would also look a bit strange if so many people in the community were asking for a binding mechanism for the review of the decisions of the board and then the whole group who was to say to be against. So I think it's efficient uncertain the whole thing to justify maintaining the present language.

(Chris): I'm comfortable with the present language.

Woman: Yes I don't have a problem with it.

(Brian): When you say the present language do you mean...

(Chris): The language (you) just read out.

(Brian): ...accept (Warren)'s edits or not accepting (Warren)'s edits?

(Chris): No that you just read out which is - which I believe includes (Warren)'s edits.

(Brian): Okay. So we have Fabio comfortable, Cheryl comfortable, (Chris) comfortable. Anybody else?

(Louie): I'm good with it. This is (Louie).

(Brian): (Louie)'s comfortable with the language.

Man: Me too.

(Carlos): Hi. This is (Carlos), me too.

(Brian): Okay any objections? Okay, okay the language is accepted.

(Manal Ismail): This is (Manal).

(Brian): Yes (Manal)?

(Manal Ismail): I also won't have a problem with the language. I mean we did not conclude and we did not go through who was and who is against before (because) obvious was the discussions we were retooling on the pros and cons. And there were good arguments on both sides. So some of this has to be reflected into the facts that there were two sides of the view.

((Crosstalk))

(Brian): Which I yes...

(Manal Ismail): I'm fine with this language or what other language (unintelligible).

(Brian): It is constructed as showing two different views at present.

Man: Yes.

(Brian):   Any objections? Okay the language is accepted then. The next...

Man: Can I ask the next question then was how given that there are two views
                expressed in that people feel about the last sentence which seems to go back to
                the first proposition the - or is it the words proficiently?

                The ATRT did agree however that ensuring appeal mechanisms would
                sufficiently independent of the board was critical.

                That goes right back to saying you have to go to someone independent
                whereas the rest of the team as far as I understand it thinks you ought to force
                mechanisms to make the board do things properly.

                And here you are saying again no, no we have to go somewhere external and
                find an independent mechanism. And that's once again an essential bit seems
                to be repeating the same dichotomy and picking one of them.

(Chris):   I'd under - this is (Chris). I'd understood that to referred to generally all three
                of the - sorry, to the three mechanisms as a whole and go and shoot home to
                the comments that we've - that we think that perhaps the ombudsman isn't as
                independent as the ombudsman could be and also consider having the input to
                the board on pursuing recommendation 2.7 from independent experts looking
                at whether in fact it is as independent as it could be.

                But if that language is deemed to be not clear enough then I'm sure we could
                make a change to that.

(Brian) could I just ask you cause I still don't have a red line, where are we actually at, which heading are we under on this document?

(Brian): Findings, we're in the Findings section.

(Chris): Thank you very much. I'll find it now.

Man: It's on Page 8.

(Brian): And you would be - yes we would be...

Man: It's on Page 8 of my (Chris), bottom of Page 8.

(Chris): Yes, thanks.

(Brian): His pagination may be different. One, two, (Warren)'s edits were made to the third paragraph...

((Crosstalk))

(Chris): (Unintelligible) yes.

(Brian): Yes we're on the third paragraph and we're at...

(Chris): Got it.

(Brian): ...the last sentence.

(Chris): Got it, got it, got it, got it, got it, got it.

(Brian): Okay. Okay so let me make a suggestion. (Chris) if you change that to the ATRT did agree however that ensuring existing appeals mechanisms were sufficiently independent would that better capture the meaning?

Man: Yes.

(Chris): Yes I think it probably would. And I - I mean I don't think there's any - I mean I don't think it's a problem because there's no question that the IRP - that the IRP is independent.

(Peter): We'll know it's not that's the whole point. The whole point is none of those processes are independent. All of them...

((Crosstalk))

(Peter): And this says that they have to be - this completely changes the concept of accountability to it and independent appeals mechanism which I mean very few people actually agree with.

(Chris): Well I...

(Peter): It's the same dichotomy that's in the third paragraph. You either - some say they should be independent and others say they should not be because of the problem that that raises.

(Unintelligible) is that the appeal makers have to be independent of the board again. So it doesn't say what (Chris) would like it to say. But that...

((Crosstalk))

(Peter):   ...it repeats the mantra that appeal mechanisms have to be independent of the
                   board.

(Chris):   (Unintelligible) the first paragraph doesn't - the first sentence doesn't say that.
                   The first sentence says that they have - they should be binding to ensure
                   accountability in the community.

                   The third sentence deals with them being binding. The second sentence deals
                   with them being independent.

                   The point I was making -- and I'm - I mean there's no - I'm not dying in a ditch
                   over this and it's very much a semantic argument but it seems to me that we
                   have said elsewhere unless I'm very much mistaken that the IRP is
                   independent.

                   But we have said that the ombudsman could be more independent and the
                   reconsideration process isn't.

                   So in order to clarify that we're talking about all three and we're talking
                   specifically here about independence as opposed to binding this we need to
                   make a change to that sentence. And that's fine by me.

(Brian):   I was going to say that you've accurately shorthanded our view of the three
                   different mechanisms. And it is a mixed bag if you will.

(Chris):   But I'm happy to say that the current appeal, if there's any doubt that we are
                   looking to create a new appeals mechanism or there's a question of could we
                   be looking to do that which we demonstrably at this stage are not it'd be...

(Brian):   Right.

((Crosstalk))

(Chris):   ...to say simply ensuring existing appeal mechanisms are sufficiently
                  independent and that's fine.

(Brian):   Any other discussion?

(Peter):   Well the whole point is that none of the - none of them are independent
                  because they come back to the board. And that's the whole flavor of this
                  paper.

                  The public success is being independent and then complains that they're not.
                  And none of them are because they'll come back to a decision of the board.
                  And this appeared to be saying there needs to be an independent appeal
                  mechanism (of that).

Fabio Colasanti: Yes Fabio here. I think there are two different issues. One is the independent
                  from the board of this appeal mechanism in terms of their composition, their
                  capacity to take independent decision. That is one issue, and this is one that I
                  personally would defend.

                  Then there is the question do these independent people have the right to
                  absolutely overrule in a binding way the decisions of the board?

                  That's another issue and that's where I say no I would like them to be in the
                  position to give a strong recommendation to the board that the board should
                  really consider seriously utmost consideration whatever but not a binding
                  power on the board.

So there are two issues. One is the independence in their work. But at the end of the day once they've done their work independently do they have the possibility to absolutely overrule the board or not?

(Chris): I think we all agree that that's not something (unintelligible). Most of us agree that that's not something we want.

(Brian): Can I make a suggestion? I'm just trying to capture the meaning of what I'm hearing?

Something along the lines of try this. The ATRT did agree however that ensuring existing appeals mechanisms were either sufficiently independent of the board or adequately structured was critical to ensuring accountability.

(Chris): Look again it's fine with me.

Fabio Colasanti: I also agree, Fabio.

Woman: Yes that'll work.

(Brian): (Peter) does that hit it for you?

(Peter): Well it doesn't - I'm just trying to get clear. It does - I don't think I should express a view. I'm trying to work out what this is saying?

(Brian): That's fine. Well let me try to map it then. There is a - we - the ATRT has concluded that there is a question of independence with regard to the ombudsman.

There seems to be a global framework that ombudsman is not adhering to and perhaps that affects its independence.

So this language in the one hand either sufficiently independent could be speaking to that.

The reconsideration on the other hand, we flatly say it's not independent because the BGC effectively makes the determinations here.

But we've called into question the structure or maybe one of the grounds of appeal if you will so the or adequately structured could map to that particular mechanism.

(Peter): Well the trouble with that wording there (Brian) is that none of those two things are not appeals. The reference to ombudsman is not an appeal and neither is reconsideration an appeal.

(Chris): Well then the issues the use of the word appeal, we can use the words that we used in the recommendation, (the reviews).

((Crosstalk))

(Brian): Review mechanisms.

Man: Yes.

Woman: Yes review mechanisms.

Man: Yes.

Man: Yes, yes.

(Peter):   It should be review mechanisms sufficiently independent of the board.

(Brian):   So it would now read the ATRT did agree however that ensuring existing
                review mechanisms were either sufficiently independent of the board or
                adequately structured was critical to ensuring accountability.

(Peter):   That's fine.

Man: Yes that would be fine what we mean by independence too I think.

(Chris):   Well it's the function of the recommendation I think to that we want - that
                we're saying get independent expert advice on them.

                But then we've got to define what independent means from the point of view
                of expert advice and we'll be here for months trying to work that out.

(Brian):   Yes plus we're also - this is a public comment document. We have more time
                for final recommendations. We can wrestle...

(Peter):   Yes.

(Brian):   ...with that later.

(Peter):   Yes.

(Brian):   Any objections to the language I just read out?

Okay hearing none, moving on. So the next paragraph would be new proposed language. And I'll read it out. The entirety of it is new proposed language.

And it's - it was put into the Findings section to provide some background on this issue of the incomplete IIC recommendation work and also put some context around the specific recommendations the ATRT was making.

It reads as follows. The ATRT notes that work by ICANN and the community to address recommendations of the IIC was underway.

Public comment had been received on proposed bylaw changes. But implementation work did not advance for reasons stated in ICANN staff's response to WG4's request for information.

The ATRT recognizes that exploration by ICANN staff and the community of revised new mechanisms could continue.

With respect to the AOC review the ATRT identified specific issues with respect to the review mechanisms that should be addressed by ICANN in conjunction with a committee of independent experts.

And I'm going to add to that last sentence with respect to the AOC review, the ATRT identifies specific issues with respect to the existing review mechanisms that should be addressed by ICANN, et cetera.

Man: Yes, yes.

(Peter):   The three existing (Brian).

(Brian):   The three existing - thank you, thank you (unintelligible). The three existing, yes.

Man: Yes...

(Brian):   Okay.

Man: ...it's very important to explain - to (extend) recommendation one to have that language...

Woman: Yes.

Man: That was really missing in the earlier version.

(Peter):   I agree.

Woman: Yes.

(Brian):   Any objection - any proposed edits or changes?

Man: Just one grammatical suggestion. First sentence it is underway, not was.

(Peter):   Yes and it was underway.

Man: Or...

(Brian):   Is underway...

Man: It was, was. Okay I'm sorry. I read a were. I need to put on my glasses.

Man: And what about replacing could by should?

(Brian):   You're probably channeling (Larry) there.

(Peter):   Okay so (Brian)? (Brian)?

(Larry):   Actually this is (Larry). I'm on now.

Woman: Oh (Larry) we don't need to channel you...

(Brian):   Hi (Larry). How are you?

Woman: ...with (unintelligible) language.

(Peter):   (Brian) is it's either the ATRT notes that the work is underway or noted that
                the work was underway.

Man: It's just.

(Peter):   It's one or the other. But it either notes that it is underway or noted that it was
                underway.

(Brian):   Noted.

(Peter):   Noted that it was.

Woman: I also wondered about it being a should rather than a could.

(Peter):   Where's that Cheryl?

Woman: In the could continue mechanisms.

(Peter):   Well no, I think they're saying - are we saying it could but it doesn't have to?

Woman: Well I am...

(Peter):   Are we saying...

Woman: ...writing a point ought we not say should...

((Crosstalk))

Woman: ...all prescriptive?

(Peter):   Then it's a recommendation in which case it...

((Crosstalk))

(Brian):   The purpose of that was we were being clear that we were making specific recommendations with regard to the three and not asking that a holistic review be done of the prior work.

(Peter):   Correct, that's right.

                This leaves it to the community and to ICANN itself about whether that work moves forward or not.

(Peter):   Yes.

(Brian):   Does anyone have any discussion on that, any objection?

(Peter):   You could...

(Brian):   Any suggested changes in the language?

(Peter):   Well you could say if you wanted to be perhaps slightly more accurate you can say the ATRT recognizes that (expiration) by ICANN staff and the committee revising mechanisms may continue because it takes a lot for them to decide whether it continues or not.

Man: I'm fine...

Man: They have our permission to do so.

(Peter):   Exactly, exactly we don't have to give them permission and could, you know...

Woman: Yes okay, it may.

(Peter):   ...may is a sort of it may, it may not. It's up to them.

(Brian):   I'm fine with that. Anybody else?

Woman: Okay.

(Peter):   But again we can wordsmith it until the cows come home really can't we?

(Brian):   So there's no more wordsmithing when we hang up.

(Peter):   Want to bet?

Man: Boo.

(Brian):   Any other suggested changes to the language, any objections to the language? Okay hearing none, moving on to the last proposed edits to the Findings section and this was from (Warren).

                The last paragraph would now read last the IRP is viewed as potentially costly and too long in duration to provide a broad-based and timely review mechanism for the broader ICANN community.

                Here comes (Warren)'s proposed edit. Some members of the ATRT concluded that the IRP was inaccessible to most segments of the community and is therefore not an attractive alternative to courts as an appeals mechanism. Discussion?

(Peter):   Well (Peter) here. Let me make a point about appeals again.

Man: Well this is specific to the IRP.

(Brian):   This is the IRP, yes.

(Peter):   So again- so clearly it's not an appeal.

Man: No it's not it's...

(Brian):   Review.

Woman: Review.

(Brian):   Review mechanism.

((Crosstalk)).

Fabio Colasanti: But then the last sentence proposed by (Warren) still remains correct because it is not an attractive alternative to cause as an appeals mechanism because it is not an appeals mechanism. It's a review mechanism.

(Chris): It's not supposed to be an alternative is really the saying Fabio I think.

Fabio Colasanti: (No), I find that whatever we say about the IRP, the last sentence proposed by (Warren) remains correct, the one that says saying some members of the ATRT after he concluded the IRP was an accessible to most segments and is therefore not an attractive alternative to (call) as an appeals mechanism.

One might even say it's not an appeals mechanism. Maybe we should be strengthening that.

(Chris): So that's the point. If it's not an appeals mechanism then the fact that it's not an attractive alternative is relevant because it's like saying a massage is not an attractive alternative to a long car journey.

I mean the two things are entirely separate. And I think the point - isn't the point (Warren), I mean you made the suggestion so what's the message you're trying to deliver?

(Warren): No it's just a message here is that given the, you know, there's only one case that we can actually look at but...

(Chris): Yes.

(Warren):   ...given the cost, the time, the lack of binding, you know, quality et cetera, et cetera that, you know, why would anybody bother with this? You know, why wouldn't you go to the courts and...

(Chris):   But maybe you could say something maybe - I mean I agree with that. But maybe you could say something like because of the cost, blah, blah, blah, blah, which I think we've said earlier on, it's not a mechanism that people would be comfortable to use especially in circumstances where launching court proceedings would be an alternative.

              Because there will be circumstances where (unintelligible) court proceedings are not an alternative.

(Peter):   Can I just intervene again? The reality - the fact - and the only case that there is it's demonstrated to be an effective alternative for the courts as they review mechanisms.

              The only case we had of this sort has used this mechanism has not gone to the courts. (They)...

Man: But that doesn't mean that it...

((Crosstalk)).

(Peter):   And probably because of the cost et cetera, it probably is inaccessible. So (Brian) can we get rid of some of the crackle, some of the noise on the line?

(Brian):   If people could go on mute please if you would if you're not speaking?

(Peter): The first part probably, you know, undoubtedly true. Some members out here concluded that the IRP was inaccessible to most segments of the community.

But the second part doesn't necessarily follow because it has actually been the mechanism of choice for the only party that's used it.

Man: Yes that's a fair point.

((Crosstalk))

(Warren): This is (Warren).

(Chris): (Warren) do you need me to say that last bit?

(Warren): Sorry (Chris) I missed that? What was that?

(Chris): Do you really need to say the last bit? Isn't enough to say included that the IRP was inaccessible to most segments of the community full stop?

(Warren): You know, I think, you know, one of the things that we heard and done of the things that, you know, well (Peter)'s right the - I mean first of all I don't know, you know, ICM could still conceivably end up going to the, you know, the courts. I have no idea.

But I think, you know, the issue is the fact that it's nonbinding and in this particular case was very extended and expensive why would someone not opt for the courts where at least perhaps after a series of appeals decisions binding? You know, I'm going to (unintelligible).

(Larry):   Well I'll give you a reason. One reason you would go is if you thought you
                  were going to lose in court then you were just going to roll the dice and take
                  your gamble on three, you know, unelected people then hope you might
                  convince them of something else.

                  I mean that's my problem with the IRP is that it doesn't have limits around it
                  the way courts would.

(Warren):   So (Larry) you're suggesting that we should scrap the - I mean the IRP is not
                  the place to go. You're better off going to the courts that...

(Larry):   Unless you think you're going to lose.

(Warren):   Right.

(Larry):   In which case you say well I've only got one option left and it - and I'm not
                  suggesting that was - I had no idea what the motivation was of the one
                  example where it was used.

                  But speaking hypothetically if you have this as a mechanism if you've lost at
                  the board, if you don't think you're going to do well in the courts then but
                  you've got this third option which is a total Hail Mary, it - people will - might
                  use it depending on how much it's - is at risk.

(Peter):   And (Larry) the cynics and the price you say you only have to appeal to one
                  person because you're - the person you appoint is going to vote your way. The
                  person ICANN appoints is going to vote ICANN's way. And so all you really
                  need to do is persuade the floating third person. So that would be a cynical
                  view.

Man: Yes God forbid we should have one of those.

(Brian):   So what I'm hearing - (Warren) what I'm hearing from you though is you recognize that you're doing an apples to oranges comparison. And that's implicit in the statement you're trying to make.

((Crosstalk))

(Warren):   You know, I guess I'm wondering here, you know, is (Larry)'s kind of suggesting that he's not comfortable with the IRP process. It doesn't matter for what reasons.

And I'm suggesting that, you know, why would you use it? You'd go to the courts, you know, you have at least a few shots at a better outcome.

And I think we're both saying, you know, in some ways the courts are not about, you know, should - aren't people really looking - aren't people going to sort of be looking at the courts as an alternative given the fact that this process is long costly and at the end nonbinding?

(Brian):   Well the statement begins some members of the ATRT concluded. So that's what we're putting on paper here. (Larry) and (Warren) it sounds like you're in a similar place.

(Warren):   Well I don't think (Larry) would take that opinion at this particular juncture on this. But I do think in some ways we're both saying well in different ways that the court actually represents something of an attractive alternative.

And if that's the case then, you know, why are we - what's really the point of the IRP?

(Larry):   I don't mind that the IRP exists. But I - my concern is that we - there have
                been enough concerns raised about it and I'm concerned about implementing
                changes to address the concerns people have raised.

                I think as I've said numerous times before now it takes us down a road where
                we're just going to re-create all the same issues we have about the board with
                three people who aren't elected to anything in a position to kind of go off the
                rails if they're inclined to.

                And so I don't have a lot of interest in trying to make this mechanism more
                accessible to people or make it more likely to be used because of those
                reasons.

(Brian):   How about this? I've modified the language little bit here. Some members of
                the ATRT conclude that the IRP was inaccessible to most segments of the
                community and is not necessarily an attractive alternative to courts as a review
                mechanism.

(Larry):   I mean that's a statement of fact. I don't oppose the statement of fact. I only
                raised concerns about the implications.

                But I wasn't trying to change the language that's before us. Is just the unstated
                implication beyond that is where I have an issue. But I don't have a problem
                with the language as you've read it.

(Brian):   Okay. Are there - is - are there any objections to the language...

(Chris):   One more read it one more time (Brian).

(Brian): Well do we go with (Warren)'s version?

(Chris): Just the one you just read out.

Man: Yes I don't mind the one you just read out either (Brian).

(Brian): All right let me try that. Some members of the ATRT concluded that the IRP was inaccessible to most segments of the community and is not necessarily an attractive alternative to courts as a review mechanism.

(Chris): That's fine.

(Brian): Any objection?

Man: Right.

(Brian): Okay hearing none the Finding section is closed. I'll make those edits. Now on to the recommendation language and I'll read it out. This is now what's on the table as circulated by (Minalt).

So the recommendation is the ICANN board should implement as soon as possible but no later than insert date.

Recommendation 2.7 of the 2009 Improving Institutional Confidence Implementation plan which calls on ICANN to seek input from a committee of independent experts on the restructuring of the three review mechanisms -- the Independent Review Panel, the reconsideration process, and the Office of Ombudsman.

This should be a broad comprehensive assessment of the accountability and transparency of the three existing mechanisms their interrelation if any in parentheses i.e., through the three processes provided provide for a graduated appeals process...

Man: Review process.

(Brian): Yes, closed parens with a view towards reducing costs issuing timelier decisions and covering a wider spectrum of issues in the IRP.

(Peter): No I don't - along with (Larry) I think I don't understand the background for the last point.
Where's the evidence that a wider spectrum of issues is required to be included in independent review?

(Warren): Yes I thought the one place that came up was the reconsideration request.

Man: Yes it shouldn't be - it shouldn't say the issues in the IRP. It should be issues in the review mechanism I think.

Man: This should...

(Peter): Well again where's the evidence that there are issues that you cannot take to the ombudsman that you should or issues that you should be able to take to IRP but you can't? As (Larry) said, the only issue that I'm aware of, because I raised it, was the scope of reconsideration.

But I'm not saying there aren't more, I just don't - I just haven't seen any evidence of it or heard any discussion about it.

Man: Well, I think if you - I agree with that. I think if you start - if you try to do this
                     incrementally, if you start by taking out all those in the IRP at the end, where
                     it says, "With a view towards reducing costs, issuing timely decisions and
                     covering a wider spectrum of issues."

                     That knocks out the specific reference to the IRP and then all you have to do
                     is talk about whether you think a wider spectrum of issues both need to be
                     covered or not. And certainly in respect to the reconsideration mechanism, I
                     think we've agreed there.

                     (Brian) did your get the change appeals process to review process in the
                     brackets?

(Brian):   Yes, got it.

Man: It should be provide, not (provoke), yes.

(Brian):   Yes, I've got provide.

Man: Yes.

(Brian):   Yes, I've got provide and review.

Man: Okay.

(Brian):   Thank you. Any other discussion on this last point?

(Olivier):   I suggest, (Olivier), I suggest to other less sentences I'm not sure with in my
                     mail this morning being the (unintelligible) specified issues that will be at
                     risk. I think I put them through...

(Brian):   You're right.

(Olivier):   ...some (unintelligible) to the work of (unintelligible). So that's (165) out of
              the complex, we don't give the impression that (unintelligible).

(Brian):   You're right, (Olivier), I forgot one last sentence.

(Olivier):   I mean, just to discuss (unintelligible).

(Brian):   Yes, at the end of this paragraph (Olivier) had suggested that we include the
              specific issues identified by the ATRT with respect to the review mechanisms
              should be addressed in this context. That would be the three review
              mechanisms. I'll include that now.

              Other discussion on the last point in particular? The one that referenced the
              IRP, (Chris)'s suggestion of modifying the language.

(Peter):   I've got, sorry, different question which is the recommendation 2.7 is not
              limited to the three recommendations to the three (carat) review, but you keep
              restricting this review of 2.7 to just the three mechanisms. Is that deliberate?
              Is there a reason why the full recommendation 2.7 isn't being taken up?

(Brian):   Shorthand answer is yes, it's deliberate. But what we're trying to do is make it
              clear that the ATRT had some findings with respect to the three mechanisms
              and wants consultation with independent experts on those specific points.
              Now I'd have to look at the scope of 2.7, if you will, we've restricted it,
              (Peter), to answer your question.

(Peter):   (Not a two), I've got it in front of me, it says, "Seek advice from a committee of independent experts on the restructuring of the review mechanisms to provide (unintelligible) mechanisms that will provide for improved accountability in relation to individual rights. And having regard to the two proposed further mechanism and recommendations 2.8 and 2.9 below."

(Brian):   Yes, we cleaved off 2.8 and 2.9 by design, and that goes back to the earlier language we reviewed where we said that work may continue. We're making a dichotomy between 2.8, 2.9 and 2.7, as you read it. So I think what we need to do is make that explicit.

(Peter):   Well, I think you are, I'm just checking that you did it deliberate.

(Brian):   No, it's a good catch, (Peter); it is deliberate unless anyone questions that.

Man: We had words about 2.8 and 2.9 in there originally but there was no agreement on those and we took them out.

(Larry):   Is 2.8 the community revote?

(Brian):   Yes, it is, (Larry).

Man: That's right.

Man: I thought - did we have an outstanding request to (Berkman) to give us something back on that? Did I miss whatever the (unintelligible)?

(Brian):   No, Professor (Goodenoff) while we were in Boston spoke with James Bladel about it. They sat down and went over all of these points and I guess James, whatever he spoke to you about was working to your earlier text, right?

Man: Mostly we talked about California law. Somebody talked to us about the California law, but I wasn't aware of any read out on community revotes.

James Bladel: Yes, I think that that will, (Brian), this is James speaking. I think that that was discussed in the context of a change to the model that would include some type of membership. So I wouldn't say that it was directly lifted from that discussion with Professor (Goodenoff).

(Brian):   What were his inputs on that particular question, community revote?

James Bladel: He didn't have any inputs on that particular question. It was in the context of discussing California law, the idea that there would be a creation of a membership category and then that membership - it would be more of a membership revote than a community revote. So he didn't really weigh-in on this particular idea.

Man: And I realize that we as a group may be - aren't prepared to make a recommendation, but personally I'd like to know more about community revote before we just dispense with it. It may have overwhelming problems, but I just felt that we didn't know enough when we were talking about it in Boston, and that's why I thought we had referred it to (Berkman) to kind of give us a, "Hey, here are the pros and cons of this kind of mechanism," so that we could decide if we wanted to make a judgment about whether it should be studied further.

(Brian):   Go ahead.

Man: I had asked (Erst) for that specifically and he said, "Professor (Goodenoff) is here and James is drafting at the hotel. Why not put the two of them

together?" It wasn't reported back into the entire review team. We didn't have a discussion on it, you're right about that. So if he - if that was the only advice that he gave to James and we haven't gotten a full read out from (Berkman) on that particular question.

(Chris): (Brian), it's (Chris), James, I seem to - I could be wrong here, but I seem to remember that after you'd spoken to Professor (Goodenoff) we talked and his input had been, and I may be paraphrasing here, but his input had been along the lines of it's almost impossible to run a community revote unless you know who your community is. And in the case of the membership organization then it's very clear because your members can organize a community revote.

And didn't he make reference - I mean, you - I think it was you that told me that didn't he make reference to something like the Scouts, or the Girl Scouts or some organization where he said they do that. But the challenge in the ICANN model is that there's no membership, and so therefore - whereas (unintelligible). This is me talking now rather than him, whereas in the (CC) world it's fairly easy to see who your community is because it's members.

In the (G) world it's much harder because anyone can turn up. And how do you decide that you've got a vote?

Man: (Chris), I don't quite understand what the relevance of that discussion is because the recommendation doesn't talk about that. It takes about two-thirds of the councils of the supporting organizations who to my knowledge are all very well identified and...

((Crosstalk))

Man: So it sounds like (unintelligible) a problem that's interesting and hard to solve,
                but actually not relevant to the debate. The issue here was the (unintelligible)
                committee spent a lot of time on these recommendations and the whole point
                of 2.8 was because of the absence of any mechanism to get the Board to look
                at the whole decision all over again. That's why this concept of reexamination
                was created as opposed to reconsidering it on the limited grounds of
                availability or independently reviewing it by the outside.

                And the only objection that I'm aware of that's come from this is that the
                thresh- the community comment that was very limited was that the threshold
                was too high and getting two-thirds of all of the councils and all of the (AC)'s
                it was seen as being very heard to orchestrate.

(Chris):   Sure. My - I think that's absolutely right. And I agree with you. I, you know,
                to be (unintelligible) that's what I've been (unintelligible) from James. But my
                recollection is that we had included, (Brian), did we not include originally in
                our draft that 2.8 should also be part of the review?

(Brian):   It is.

(Chris):   And someone was uncomfortable about that, and I can't remember who that
                was.

(Brian):   Well, I think where the discomfort came in, (Chris), if I read it right, I may not
                have, was this concern about we're basically as a review team charged to
                review - getting ICANN to go do a review under the ISC. It fell under the
                umbrella of that overarching concern and the solution to that was where we
                are now, which is we've cleaved off 2.8 and 2.9 as potential work that could
                be continued by the community, may be continued by the community and
                staff and the (APR) team making specific recommendations about

consultations and independent experts on the three mechanisms. That was my read of how we got to where we are now.

(Chris):   Well, that's fine except that - except for two things, one, the words in finding don't make us - at least I don't think make specific reference to 2.8 or 2.9.

Woman: Not anymore. They did.

(Chris):   So let's talk generally first.

(Brian):   And I was - yes, I was just actually looking back at that language and the - in the paragraph that I had drafted that we just signed off on we could say - I'm going back to the middle of that paragraph. "The ATRT recognizes that exploration by ICANN staff and the community of revised new mechanisms under recommendations 2.8 and 2.9 of the IIC may continue." I'm jumping forward to text fixes now. But that's something that we could add to that findings paragraph that would make that point clearer.

(Chris):   And that's fine, but I think what (Peter)'s saying is that the actually - is it 2.7 actually suggests that the input should - the input from the expert input should cover not just the three existing mechanisms, but also the two suggestions in 2.8 and 2.9.

(Brian):   It does that by...

(Chris):   What's wrong with us adding that in as a recommendation? Someone is crackling.

(Brian):   That's an open question. Discussion on that?

(Peter): (Brian), (Peter) here. The reason for that is that you don't want to have your independent experts limited to just looking at those three mechanisms. The idea is that the whole of the mechanisms should be able to be looked at by the experts with why they're linked. If we could have a recommendation that told you expert committees perhaps concentrate on those three, but bear in mind future work going on in these other areas or something. That might keep the thing open and still be useful.

Man: Well, I'm fine with keeping 2.8 and 2.9 in if...

(Peter): I think if some attention can be directed to the - if people aren't prepared to recommend that they be implemented that, you know, I can accept that. But obviously making...

Cheryl Langdon-Orr: Cheryl here.

(Peter): ...because preventing the experts from looking at them was what I'm trying to get clear. If the experts are limited to just focusing on those three my question was is that deliberate?

(Brian): Not - it was deliberate. Now, if we go in this direction we would then remove the word "three." And Fabio your edit - the restructuring of the three mechanisms and transference to the three existing mechanisms.

Fabio Colasanti: If you leave "existing," that's fine. You can remove the "three."

(Brian): Okay, because we're now talking about three existing and two potential.

Man: Can we now - look, if you look at the current recommendation, it's effectively one recommendation with some sub-points underneath which (Olivier)

suggested added sentence which actually brings those three sub-points in as sub-points of that recommendation. Is there anything wrong with making a second recommendation that says that, "And," just to keep it simple, because it's easy to read, "And the independent expert should also look at the suggestions in 2.8 and 2.9"?

Cheryl Langdon-Orr: That's what we had said when we left Boston. That's what the text was saying.

Fabio Colasanti: Fabio here. I have a different concern on 2.9 which was, I believe, is the Board removal mechanism, is it not? Whether that should not be discussed elsewhere, and whether that should not be linked to that fundamental point that I was raising about the nominating committee having practically the power to fire the Board members, is there a case for saying Board members should be appointed for the fixed non-renewable term?

Man: Well, they are. That's the trouble. And the trouble with the nominating committee is that the nominating committee goes into - there's a different nominating committee each time. So the nominating committee you call together to fire somebody would be different from the nominating committee that appointed them, and this was seen as a reasonably fundamental stumbling block. Once you know you were putting the nominating committee together to fire people, now we thought that would lead to inappropriate conduct.

Fabio Colasanti: But it any case the removal of the Directors, nominating committee, it's a separate issue from review mechanism.

Man: Yes, it is, you're right. The 2.8 is part of review, but 2.9 is not.

Man: Well, except that fear of removal is one of the most powerful techniques that there is. So the ultimate (stip) in a review - the challenge to the Board's decision is to challenge the Board itself. That seems the present strategy committee to be the last of the appropriate mechanisms.

(Brian): Well, we can address that just by using the word "mechanism" as opposed to "review mechanism." Like (Chris) said, and the independent experts should also look at the mechanisms in recommendation 2.8 and recommendation 2.9 of the IIC.

Man: I can't see that there's any harm in doing that and I don't think it mitigates against the paragraph in the findings that says that we recognize that the community may still be working on it. I mean, that's fine, but we - they may still be working on it.

(Brian): And does anybody feel as though this opens the door to the ATRT is recommending that a review be done.

Man: But we are, (Brian).

Cheryl Langdon-Orr: Yes, Cheryl here. I have no problem with us going back to language that is somewhat similar to what we had when we had diversion after we left Boston which did reserve 2.8 and 2.9 and actually had the color sentence in reference to 2.9 that said some members of the ATRT were concerned about how 2.9 might be implemented. But yes, we certainly had it in the text.

(Brian): Yes, we did. And I think where we ended up with that was that we would drop off any opining about implementation or workability of the mechanisms, just say, "Go look at them."

Cheryl Langdon-Orr: Yes, and...

Man: (Unintelligible).

Cheryl Langdon-Orr: ...but now we're not. We're just talking about the three.

Man: Well, I think it's worth making the distinction there is (unintelligible) having
                           two recommendations. We've got one recommendation refer to existing
                           mechanisms and a review of those, which is one thing, and the other
                           recommendation refers to a look at some of these things. So I think it's hard to
                           separate them because they are actually two different things.

                           One is an examination of - one is a sort of broad brush examination of
                           (unintelligible) broad brush ideas, and the other one is a specific review of the
                           existing mechanisms. That's worth separating them, I think.

Cheryl Langdon-Orr: Happy to separate but want them mentioned.

Man: Sure.

(Brian):   All right, so should I do a read through of what we've got on the page?

Man: Yes.

(Brian):   All right. Recommendations, "The ICANN Board should implement
                           recommendation 2.7 of the 2009 Improving Institutional Conference
                           Implementation Plan which calls on ICANN to seek input from a committee
                           of independent experts on the restructuring of the three review mechanisms,
                           the independent review panel, the reconsideration process, and the Office of
                           Ombudsman.

This should be a broad comprehensive assessment of the accountability and transparency of the three existing mechanisms, their interrelation, if any, i.e. do the three processes provide for a graduated review process, with a view toward reducing costs, issuing timelier decisions, and covering a wider spectrum of issues in the IRP."

Let's hold on that last one.

((Crosstalk))

(Brian): Yes. "The specific issues identified by the ATRT with respect to the review mechanisms should be addressed in this context."

Next recommendation. "And the independent experts should also look at the mechanisms in recommendation 2.8 and recommendation 2.9 of the IIC."

Cheryl Langdon-Orr: Other than deleting reference to the IRP in the preceding paragraph.

Man: Yes.

(Brian): Any objection? And that last sentence would then read, "With a view toward reducing costs, issuing timely decisions, and covering a wider spectrum of issues."

Cheryl Langdon-Orr: Period.

(Brian): Period. Any objection, discussion? Sounds like assent. All right, now let me...

(Larry): Well, well, well, well, well.

(Brian):   No, no, (Larry).

(Larry):   I was thinking.

(Brian):   Oh, no. The floor is yours.

(Larry):   I have to tell you, because I want to reach agreement as much as anybody else does today.

(Brian):   That's fine, go.

(Larry):   But, I mean, again, how about if we took the last phrase, beginning with, "with a view towards," and inserted the words, "determining whether reducing costs, issuing timelier decisions, and covering a wider spectrum of issues would improve the accountability of the Board"?

Man: Yes.

(Larry):   I mean, that's why we're doing this.

Man: Yes, I'm happy with that.

(Chris):   (Unintelligible).

Man: Yes.

(Chris):   And I'm not just saying that because I want to go to bed.

Cheryl Langdon-Orr: Or with the 4:00 a.m. meeting looming at me I must say it's beginning to become a priority in my life.

(Chris):   What, me going to bed is a priority in your life? That's (unintelligible).

Cheryl Langdon-Orr: I'm always concerned for you, (Chris), you know that.

(Brian):   Okay, let me just make sure I've captured that, (Larry). I've got after the parentheses, "Do the three processes provide for graduated review process." (Unintelligible)...

(Larry):   Well...

(Brian):   Go ahead.

(Larry):   No, that's fine, "Determining whether..."

(Brian):   Reducing cost?

(Larry):   ...and then it just - yes, keep track of all the language up to "issues" and then, "would improve Board accountability."

(Brian):   Okay, I've captured that. Any objections? Okay, I'm hearing none. Okay, one last bit then. Last chance to object. Is everyone comfortable with the earlier suggested change I made to the findings paragraph which would now read, "The ATRT recognizes that exploration by ICANN staff and the community of revised new mechanisms under recommendation 2.8 and 2.9 of the IIC may continue."

We've actually just now made a second recommendation asking the independent experts to look at 2.8 and 2.9 now. So we've now impacted this paragraph.

Man: No we haven't, because that talks about the staff in the community and that's not independent experts.

(Brian): True.

Man: I think there's a problem with that. But, (Brian), honestly if that is a problem, if we think about it afterwards and we think it's a problem, we've got this as a draft. I think it's not enough of an issue to - honestly to worry about right now. We can make changes to that paragraph in the findings section if we need to.

(Brian): Okay.

Man: It's the recommendation (unintelligible), I think.

(Brian): Okay, here I am going to - when we hang up I am accepting the changes that we've agreed to, the document is going to the translation team. So if you have any inspiration in the next 24 hours on this language, get it to me quickly, get it to the review team quickly.

(Peter): I've got a different question. You sound like you're closing things, I've got a different question when you're ready, (Brian).

(Brian): Yes, please, (Peter).

(Peter): And I'm still I think on the same page. It's about the Ombudsman. This may be just a question for me - to help me, but there's a single line that says,

"Questions have been raised about inconsistencies between the structure and operation of ICANN's Office of the Ombudsman, an internationally accepted..." My questions are, who raised the questions?

And what are the inconsistencies, because that seems to be the entire factual basis for their later recommendation that they should be examined and brought into line. And my worry is that they may no - none of that seems to pay any attention to the fact that this is the very first ever Ombudsman for the very first multi-stakeholder organization.

What (unintelligible), what perhaps would help me, what are the questions that have been raised? Where do I find them and where do I know what the inconsistencies alleged to be between our Ombudsmen and internationally accepted standards are?

(Larry):   This is (Larry), I don't know if it's a complete answer, but certainly when we met with the Ombudsman, he gave us two or three specific examples of how he thought he had been hampered.

And part of it I think dealt with how his salary was determined and his term and that sort of thing. And he, I think, asserted at the time, they were not within international standards. Because that's all I remember specifically.

Cheryl Langdon-Orr: (Larry), in Boston when we gathered in the earlier morning meeting to review under Work Team Four, we also looked very quickly at some very simple searches which put out some best practice models.

And those particular aspects in terms of recognizing international standards or independence of Ombudsman's offices were definitely highlighted there and feted with the questions raised by him.

And also by, I think it was part of the non-commercial stakeholders group or the GNSO meeting in Brussels as well. (Unintelligible) community question as well.

(Peter): Could that just be captured somewhere and put in there? Because otherwise, there's no guidance at all to the reader what these are. Someone's going to have to go away and not having had the privilege of an interview with the Ombudsman. They're going to have to guess by looking at the bylaws and guess by looking at the standards.

Fabio Colasanti: Fabio here, perhaps we could have in the findings some language that refers to what (Larry) and others have just said and mention such as that, but I'm sure that if one compares systematically the standards of the International Ombudsman Association with the integration, probably we will find these and something else as well.

(Peter): I'm not saying that they don't exist, Fabio, I'm just saying it'd be helpful if they could be pointed to and to be clear if they arrived from the fact that this is an internet Ombudsman from multi-stakeholder organization rather than, say, the banking Ombudsman from somewhere, they may, in other words, it may be very good reason for some differences from some international standards.

And under this recommendation, there's no latitude give to anybody, we just have to bring our Ombudsman for better or worse and align with some international standards. We wouldn't - I...

Fabio Colasanti: We will not find an answer to this now, we will have to again look at those standards and probably this is something that we will have to do between now and Cartagena.

(Peter):   (Unintelligible) not to.

(Brian):   Well, with regard to the, okay, since we're in a drafting exercise and time is of the essence here, we could, based on those behaviors, probably...

Fabio Colasanti: (Unintelligible) long.

(Brian):   We could pull in, you know, a sentence or two of generic issues that were raised by the Ombudsman that were not, in his view, in line with the standards. I would be hesitant to go far beyond that, (Peter) just because of time.

(Peter):   Okay, perhaps focus rather on the recommendation (unintelligible) because the recommendation simply brings us into line with the - with international standards and why don't you make the recommendation, you know, with a view to aligning them or the compulsory (unintelligible) with a compulsory alignment with...

Fabio Colasanti: Fabio here. Why not make the recommendation say to bring it in line with the relevant part of the standards of the international organization.

(Peter):   Or the applicable path or something, that would seem to me a better recommendation.

(Brian):   Discussion? Any other views?

Cheryl Langdon-Orr: I'm comfortable with that because the relevant parts are the bits that we found in all sorts of Ombudsman standard measures of independence, so I

don't think it'll be a terribly difficult nor challenging exercise to see where the relevant parts may be. (Unintelligible) reviews...

(Larry):   I think (Peter)'s clarification is fine as well.

Cheryl Langdon-Orr: Yes.

(Carlos):   Hi, this is (Carlos), and I agree as well and maybe it's a good idea to go with adequate or relevant so then we can do some study and study it a little bit more until Cartagena.

(Brian):   Thank you (Carlos). So what I've got in the draft now, God help me, am I in the right place? Yes. It would read, "The operations of the Ombudsman - office of Ombudsman - should be assessed and to the extent they are not, should be brought into compliance with the relevant aspects of internationally recognized standard," etcetera, etcetera.

(Peter):   Works for me.

Man: Fine.

(Brian):   Okay. Any other discussion on this point?

(Carlos):   Sorry, (Brian) this is (Carlos). Can you say it again? Are we using adequate or relevant - how we are creating this, or...?

(Brian):   It would read, "Should be brought into compliance with the relevant aspects of internationally recognized standards."

(Carlos):   I'm fine with that.

Cheryl Langdon-Orr: (Brian), I had my hand up earlier, but it wasn't - it was before (Peter) rose the clarification (unintelligible)...

(Brian):   I'm sorry, I'm not (unintelligible) apologize.

Cheryl Langdon-Orr: Not a problem (Brian), the only reason I wanted to before you were heading towards - heading things to translate, which is why I jumped in.

((Crosstalk))

(Brian):   Could somebody mute their line, we have some background noise.

Cheryl Langdon-Orr: And I wanted to know where it says, "Insert date" what date is going to be inserted? Otherwise we're just going to have translated "insert date here", which really won't work.

Man: (Unintelligible) we don't know...

(Brian):   We are going to have "insert date", that's in fact the point. We're going to determine that later, but we want to A) signal to the community that for some of the recommendations, we do in fact intend to set a date...

Cheryl Langdon-Orr: Okay.

(Brian):   ...as a deliverable, that's the point.

Cheryl Langdon-Orr: Not clear on the rating that that's what that does. That looks like it's drafting that haven't been completed, not that a date will be inserted here.

(Brian):   Ah, yes, I see what you're saying.

Cheryl Langdon-Orr: And if it goes into (unintelligible) languages, it's not going to become any
                    clearer.

Man: Yes.

(Brian):   Yes, so maybe we should have something in the introduction...

Man: (Unintelligible) the date to be inserted.

(Brian):   Date to be inserted?

Man: Date to be inserted. Something like that, I mean, you know?

(Brian):   Yes.

Man: Maybe we should.

(Brian):   Yes, yes, I'll make that change.

Man: And that is a search and replace for the whole document.

(Brian):   Date to be inserted, yes, yes, yes. Okay. Does that solve it for you, Cheryl?

Cheryl Langdon-Orr: Yes, I'd be tempted to stretch it a little bit longer and say, "Date will be
                    inserted in later documentation".

Man: Okay, right.

(Brian):   Dates will be inserted?

Cheryl Langdon-Orr: In later documentation.

(Brian):   Right. In later documentation?

Cheryl Langdon-Orr: Or something similar. Otherwise, it just looks like - it edits stuff up rather than a (unintelligible) exercise.

(Brian):   How about, "Date to be inserted in final recommendation?"

Cheryl Langdon-Orr: Final reporting?

(Brian):   Final report?

Cheryl Langdon-Orr: Yes, thank you.

(Brian):   Which means if we don't do one of these dates, we're going to have to provide an explanation of how, of course, we decided not to.

Cheryl Langdon-Orr: And that's okay, that's it.

(Brian):   Which is fine. Okay, so date will be inserted in the final report. Okay. Any other catches before we finalize this? Anything at all? Because I'm making changes and sending it off.

Woman: (Brian)?

(Brian):   Yes?

Woman: (Unintelligible).

(Brian):   The typos?

Woman: (Unintelligible) the section of the relevance (unintelligible) I can send them
                again.

(Brian):   Send them again, I believe I caught them all now, but please send them again
                just to be sure.

Woman: I will.

(Brian):   Thank you. Okay, I think we've wrapped this up. I did look at the calendar, we
                now are going out to public comment, our next call is in two weeks' time,
                which is fine.

                We only have one call scheduled between now and Cartagena. I - if people
                were comfortable, was going to start a rough draft of the final report. I think
                we're going to have, you know, more content here to add into the final report
                and we might as well start that process, even in rough form to get ahead of it.

                I'll hope to have something circulated to the group before the next call so we
                can begin addressing that and then we're going to have - if I've heard from the
                translation team back from Olof, we will probably be fortunate if the
                translation is done by this Friday.

Man: Okay.

(Brian):   And that it's (unintelligible) public this Friday. So we're going to have a 30-
                day comment period and very close to the Cartagena meeting, if not, you

know, a couple of days beforehand and we'll have to address how we at least review or manage the public comment that's been received when we walk into Cartagena.

And that's on other item that we have to address. Other than that, that's all that I have on top of mind for now. Any other agenda items before we close?

Cheryl Langdon-Orr: No, that's (unintelligible).

(Brian): Okay, thanks everybody for your very, very hard work getting this wrestled to the ground. I appreciate it and this will be out for translation. If you have any other epiphanies within 24 hours, please get them to the (list) so we can make corrections before it gets translated. Thank you all.

Man: Thanks, (Brian).

Cheryl Langdon-Orr: Okay.

Woman: Bye.

Man: Okay.

(Brian): Thanks, bye-bye.

Man: Ciao.

END