Transcription ICANN Beijing Meeting

Open Discussion and Preparation Session

Saturday 6 April 2013 at 09:00 local time

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Glen DeSaintgery:Ching Chiao?

Ching Chiao: Present.

Glen DeSaintgery:Jonathan Robinson?

Jonathan Robinson: Present.

Glen DeSaintgery:Mason Cole?

Mason Cole: Present.

Glen DeSaintgery:Yoav Keren? I don't think Yoav has arrived yet.

(Porter Gleinman)? Thomas Rickert?

Thomas Rickert: Present.

Glen DeSaintgery:(Paige O'Neil)? John Berard?

John Berard: I am here.

Glen DeSaintgery:Brian Winterfeldt?

Brian Winterfeldt: Present.

Glen DeSaintgery:Peter Rindforth?

Peter Rindforth: Present.

Glen DeSaintgery:Osvaldo Novoa?

Osvaldo Novoa: Present.

Glen DeSaintgery:Wolf Ulrich-Knoben?

Wolf Ulrich-Knoben: Present.

Glen DeSaintgery:Maria Farrell is absent and we have in her place Brenden Kuerbis. Pardon?

Brenden Kuerbis: I'm actually an alternate for Magaly Pazello.

Glen DeSaintgery:Oh, you're actually the temporary alternate for Magaly.

Brenden Kuerbis: Right.

Glen DeSaintgery:Okay. And for Maria I think Milton is going to stand in and he is not here, but
                            that will be for the Council Meeting, Jonathan.

Wendy Seltzer? David Cake?

David Cake: Present.

Glen DeSaintgery:Magaly Pazello is absent and Brenden is standing in for her. He is a temporary alternate.

Joy Liddicoat?

Joy Liddicoat: Present.

Glen DeSaintgery:Wolfgang Kleinwachter?

Wolfgang Kleinwachter: I'm here.

Glen DeSaintgery:Lanre Ajayi?

Lanre Ajayi: Present.

Glen DeSaintgery:Jennifer Wolfe?

Jennifer Wolfe: Present.

Glen DeSaintgery:Alan Greenberg?

Evan Leibovitch: Alan's just on his way out. My name is Evan Leibovitch, I'm acting as his substitute as the elect representative here for the day.

Glen DeSaintgery:Thank you very much, Evan.

Hanchuan Lee? I don't think he's here.

And for staff we have Marika Konings, Lars Hoffman, (Kalis Strays), (Berry Cobb), Brian Peck - and can't see anybody else - Myself Glen DeSaintgery.

Thank you Jonathan, and over to you.

Jonathan Robinson: Thanks a lot Glen. A couple of small housekeeping items before we kick off in earnest.

Just to remind everyone to state their names before speaking so that remote participants can readily identify them as well as being identifiable for the transcript. Also to just remember to mute your microphone after speaking and also ensure that if you have a derby connect running, that the audio isn't coming out of that because it may be out of sync with what's actually going with the live audio.

Glen DeSaintgery:Sorry Jonathan, there's one more thing. We have Chinese interpretation.

Jonathan Robinson: Thank you Glen. So just to kick things off, I mean this is an introductory session. And really to start things off, I would really like to make a warm welcome to all of the Councilors and others who are in the room who have joined us for this morning's meeting. I know it certainly feels early to me and I'm sure it feels early to various of you with the travel and the time difference that we've gone through.

I mean this is our first meeting face-to-face in a long time and for many of us the first face-to-face meeting for those who have joined the Council in October. It's been a particularly and unusually long run. So it's a great opportunity to come and get together.

Of course it's the first ICANN meeting that I'm starting off in the Chair as I was elected in the October meeting in Toronto. And so it's a particularly, you know, interesting time for me and I hope for all of us.

When we had our meeting and when we came together in the October meeting, it was certainly striking to me that we come together as a new council and we rapidly disappear off all over the world and haven't had a chance to work together.

So one of the things we've been working on, and I think Wolf, you've been responsible for working on submitting a budget item, is possibly extending the meeting, the full meeting, the November meeting, by a day so that the new Council can have an opportunity to get together. So it's the first time the Council gets together in person immediately after being elected so we have an opportunity to spend some time together.

I think the one thing I should also do is make sure and extend a note of thanks to some of the key people who got us together here, and that's certainly Glen who does a lot of the background work, Mason has done a tremendous job of pulling together the agenda and doing a lot of the organizing work. So I think it's important to like just recognize and give them a quick round of applause for their hard work and getting us to the start of the meeting.

And I know Ching has certainly done some background work and getting us organized for a meal this evening. So that's also appreciated, thank you Ching.

There's a few other remarks I'd like to make before we kick things off. I mean this is our introductory session, and it's set up as sort of a free form session. And I know the genesis of this was a couple of meetings ago where we ended up having a wrap up session that people felt was particularly productive and useful because it was free of the constraints of the normal constraints of the systematic agenda and it was felt to be a very useful session to have.

And so we experimented with having a so-called brainstorming session to kick things off at the beginning. You'll see I sort of renamed it slightly and said, "Open discussion and preparation session." I think for me it's really important we take this opportunity to set the scene and the tone with which we'll work over the next couple of days in particular and try and tease out some of the key scenes or issues that we want to work with and the way in which we would like to work with them. So for me, that seems to be a critical potential outcome of this initial session.

As you know, with quite a few times at the particular outset of the Council Meetings, I've emphasized this sort of strategic focus in a way in which I felt it was very important we work together as a Council at both thinking about our internal effective working together. One of the things that particularly concerned me in Toronto was that the Council didn't end up meeting with say that GAAK or I don't think we met with the ccNSO. And so I felt that it was very important that the Council extend itself out and that we made those - we tried to reinstate some of the meetings.

So thinking about a focus externally, I think the achievements we've made in that interim period, we've seen a series of requests come to the Council for rapid input on a number of items. And you know, I think as a Council, we've worked very effectively together on some particularly controversial and heartfelt topics and produced some coherent output.

So really for me, I strongly encourage Councilors to try and take that spirit forward here in terms of how we work effectively. I think it's as important for each of us individually, but for our reputation, standing and effectiveness as a Council, I think can be in some ways judged by our ability to work together and produce consensus and effective working.

We won't be able to agree on everything; we know that. We know we have some very strong positions and we come from some very divergent backgrounds at times. But I think at the very least, the way in which we work

together, and ideally some of the outputs should represent, an effective way of working together. So that for me is important.

We've also got to set up in this meeting - in this initial meeting - we've got to be thinking about the content of some of the key meetings we will be having, in particular the board, the CEO, the board and the CEO tomorrow which the shape of those meetings have still got to be firmed up.

I think I would have liked us to be in a more advanced position prior to now, but that doesn't stop us achieving that state of readiness over the rest of the course of today.

We have a meeting set up with the GAC which I need to say a little more about with the BGRI and how that's going to work. So I should probably try and make some more remarks on that. And then some other things, I certainly like have been thinking about.

But bear in mind, there isn't a fixed agenda for this session, is I wouldn't mind any comments on the agenda for Wednesday, if there are any concerns or issues about the agenda for Wednesday. We have a session to deal with the motions that are on the table, but those will necessarily come up.

I know that one of the themes that seems to be emerging is the sort of health of the multi-stakeholder model and the Council's role within that, so expect people will want to say something about that. And you know, then the expected recognition of the Council within that and then maintaining and strengthening our role and function.

So that's quite a few words to have said by way of introduction. I think it will be good to quick this session off then with understanding what, if anything, I haven't covered that any Councilors would like to see covered in this morning's session and make sure that we don't miss out or leave out any formal agenda items.

So over to you. I'm open to hearing how we might take this and what use might come out of this. John.

John Berard: I probably should have planned this more than I have, so it will seem a little like I'm blurting it out. But it strikes me, based upon conversations I've all ready had here in Beijing, that the policy versus implementation session on Thursday may wind up being the lead paragraph in the story to be written about this particular meeting.

And I noticed that - I haven't seen Avri here, but I know we have three of the four GNSO participants on that panel here in the room. I also note without commenting on, I or nay, that our motion work, all, it can be wrapped in the flag of policy versus implementation. And I'm wondering if we might not be best served to have a bit of a discussion involving those who will be participating in they choose to have a curtain raiser on that policy versus implementation panel on Thursday.

I think it is speaking to the reputation of the Council, I think our acknowledgement of involvement and focus on that issue would do us well personally, and I think it would do the community well more broadly.

Jonathan Robinson: Thanks John. Jeff?

Jeff Neuman: Yes, I want to agree that we should have a discussion on policy versus implementation here. I think this session, unless it's moved, is on Wednesday. And unfortunately, it's backed up against four or five other meetings which was kind of the unfortunately thing unless Marika is telling me it's changed now, but it's not on the schedule it's changed.

So it's up against like the new TLD applicant group which I know will take a lot of people away.

Marika Konings: Yes, this is Marika. They actually moved their session because we had it on Wednesday morning relatively the only conflicted until, I think, a few days ago. Because the End tag Meeting was actually on Monday, and that has moved opposite the policy version presentation.

Jeff Neuman: Yes, ICANN forced us to move that meeting. So yes, that was initially on Monday but then we were told we could no longer have the room.

So anyway, again, unfortunately, I think this happened the last time as well. The last time there was a policy versus implementation meeting there was another big meeting opposite that so people couldn't come. So long story short, yes; we should have a discussion on policy versus implementation here.

Jonathan Robinson: Marika?

Marika Konings: Yes, this is Marika. If I could maybe just add something about this session because as you'll see on the schedule, actually we've all ready made quite some progress with the participants for that discussion. And we've outlined some questions that each of them will be responding too.

So I think that will give the Council a ready idea of what the session is going to focus on and they may help frame as well your discussion here, so maybe we'll have a look at those questions.

Jonathan Robinson: Yes, I know it's something which Jeff, I know you've raised before. And if there is a communitywide discussion or a session on policy and implementation, if there is an area that the Council should be involved with that there. So it's certainly something which we need to have very firmly on our agenda and be prepared to take some form of lead on.

So without going straight into that, I'd like to just make sure we've formed the agenda for this session, and just hear from anyone else if there's either

support for spending a little bit of time on this topic that's been suggested by John and supported by Jeff, or if there anything else that we should have on the radar for this session - first of all.

Wolfgang?

Wolfgang Kleinwachter: I have just another question because I see in today in the afternoon there is a GAC discussion on IGO protection. It starts at four forty-five, and we start our (unintelligible) meetings with Board and GAC was at four forty-five. But I think IGO protection is an issue which is of, you know, very special concern of this Council.

And I don't know whether, you know, this is a joint meeting between the Council and the GAC or, you know, if it's just a separated meeting and how we can make sure that if the GAC discusses IGO protections, that Council is represented in this meeting adequately because I think it will certainly an important discussion of the GAC.

Jonathan Robinson: Yes John, did you want to respond to that?

John Berard: Yes, this is John. Not respond, but to suggest that we free up Thomas from the backend of our meeting so that he can participate, or at least be on hand at the GAC session because of his role in our work on that matter.

Jonathan Robinson: Yes, it's worth making a comment there. Heather Dryden reached out to me - Heather Dryden who's Chair of the GAC reached out to me this week and we have set up a short session. She wants to be briefed on the Council's work and the work of the working group on that topic.

And so I have agreed to meet with her during our lunch break now, today, together with Thomas. And I think with (Berry) with (Bryant) from staff is also being working on this, so the three of us will brief her beforehand on the progress so she's well equipped for that session.

My understanding of that session is that it's a GAC session, but nevertheless you're right. It's critically important, that's something we're working on. So I don't have any objection to freeing Thomas up to be at the GAC session if that makes sense.

Any other comments on that? Thomas.

Thomas Rickert: Yes just briefly. I guess that we should make my participation of the GAC meeting depending on what Heather says is going to be discussed in the afternoon. So if we get the impression that it's better for me to be there, I would certainly go. If they just talk about list, and there is no real policy substance behind it, then it might be an exercise and I shouldn't be present at.

Jonathan Robinson: Wolfgang?

Wolfgang Kleinwachter: Just to be clear. I think the issue of IGO protection was (unintelligible) often controversy who is doing what, if the Board was responsible or if the GNSO Council responsible and what the GAC is doing.

So my impression is that I wasted in several telephone conferences often to risk the various bodies are playing against each other. And it would be probably not enough if just Thomas would go to the session with the GAC because, you know, there could be a discussion which ends up that the GNSO Council positions and the order positions of the various constituencies of the GNSO Council will not be relevant anymore because this is done in the direct deal between the Board and the GAC or somebody else.

So I think this is a serious point and we should at least, you know, send not only Thomas, but two or more representatives from the Council to this meeting so in case it's needed, and probably we'll wait for the outcome of the lunch discussion, so that all positions are represented on the table and can

intervene if we see that there is something that which goes in direction which is not supported by the constituencies of the GNSO Council.

Jonathan Robinson: Thanks Wolfgang. Is there anymore comment or support for that as a position that we - I mean my slight concern with it, of course, it's pretty important that we are well prepared for our meeting with the Board as well. And so I don't want to schedule another session, so I take the point.

Is there any support or any other volunteers to - Thomas, your comments or thoughts on that?

Thomas Rickert: Just a remark. We're going to have one hour of today prior to the lunch break to talk about the IGO or NSO subject. And my plan is not to bother the group with a long presentation because you have been updated early on. I would like to take the majority, you know, the bigger chunk of the hour for the Council to discuss the best way forward and some strategic issues.

So we might wish to postpone this discussion to the hour that we have later this morning.

Jonathan Robinson: A practical suggestion, thanks. We'll take that up and we'll pick that up. So we've got the policy first and then implementation.

Is there anything else - I would like to give you an update of where we're at in terms of our meetings with the Board, the GAC and the CEO. Is there any other topics that we should be covering in this session that anybody would passionately like to see covered or we would like to open up for discussion here?

Okay, so is there anyone who is willing to kick off then on if we're going to open up the policy versus implementation issue? And one of the concerns I've got is that there's clearly some substance to the meeting on - is it

Wednesday? So the challenge is what we can cover ahead of that meeting on Wednesday.

John or Jeff, since you suggested it, we cover it now. Are either of you willing to frame the discussion and kick us off?

John Berard: Well the reason I suggested it is because I'm not quite sure I'm capable of framing the discussion. Right? I mean if I knew Monday's lottery number, I probably wouldn't have come to this meeting either.

But I thought because we have Brian and Steve and Chuck here in the room and they've all ready been giving some thought to it, and because we have motions on the table from Wendy and from Maria which I think speak to, at least in part, to the motion of policy and implementation, we've got a built in expert working group of six people all ready that could help lead us in that discussion.

So I would be reluctant to try and frame an issue of such import before we had the benefit of the discussion from people who have all ready given it a lot more thought than I.

Jonathan Robinson: I see that as an invitation to some of those participants. But it strikes me that the concern may be that that's pre-empting of - have any of the people that John has mentioned, is anyone willing to come forward and talk to us a little bit about the work that they have done in preparation for it or some of the inputs that's being done or to date? Chuck are you willing to - is that - Steve, that would be great.

Let's hear from you and maybe that will stimulate some of the discussion then. So Steve DelBianco and then I suspect Chuck will be willing to throw in his lot on this as well. Thanks.

Steve DelBianco: Thanks Jonathan. (Bruce Tonkin) is moderator and structured the panel on Wednesday. And I thought it would be helpful if I was to describe the way the questions will be addressed.

And John, wondering if this is in keeping - you surely don't want me to walk through what the BC's position is that's all ready written and submitted into public comment.

But if we talk about the four questions that (Bruce) wants us to address, I think you'll see the way that this might be steered. Logistically it's a short period with a lot of panelists and (Bruce) would love to leave a lot of time for audience questions and answers. So there will be a tightly limited response to the four questions that have been teed up.

The first question is - he's asked each of us on the panel what's the perspective of our particular SG on the main priority with regard to the discussion of policy. What's our main priority as opposed to summarizing everything we've said in our comments? So each of us would assumably go through that main priority.

The second question is sort of an easy one. "Do you believe," - it's a yes/no question, "that an overall framework should be created for policy versus implementation or should we have specific models that would apply for policy implementation activities in each of the ACSO's."

And the third question is how to deal with instances where there's no consensus reached on a key issue. So our policy advice is received from different ACSOs and they're not in full agreement; very lively question on that. It gets to the question of whether we ought to look to other models for our reconciliation procedure, other models from institutions like the EC.

And fourth and final question, "What should be the next steps in addressing this issue of policy versus implementation." Should there be yet another working group across the community group to address it?

And through that theme there, it's clear; we don't want this to just be about the new gTLD program and the policy associated with it. It's broader than that. It's about all policy matters, not just the new gTLD program.

And having said that, it is important that we see it through the lens of the new gTLD program as to, "Well, if we do come up with a new model, how would that model apply to a decision like say the strawman as an example?" And the BC in our comments took great pains to sort of walk through the strawman solutions to indicate which we thought were implementation, which we thought were policy.

Because ultimately, any new model will be judged by how well that model actually fits actual circumstances and whether that makes sense when you run the model through.

Jonathan Robinson: John.

John Berard: This is not (unintelligible). Is it on the basis of the conversations that you've collectively including (Bruce), is this viewed as a big issue or one of many issues - talking about policy versus implementation?

Jonathan Robinson: Chuck.

Chuck Gomes: Thanks Jonathan, and good morning to everyone.

I agree - it's a big issue. We've seen it in the new gTLD implementation process that's been going on for the last seven years or so.

It's really important to the multi stakeholder model because it would be really easy to use the excuse of calling something implementation to get around a multi stakeholder bottom process. So it's very important that we deal with this carefully.

Now it's not simple. As you can tell by the questions that Steve went over there, there aren't simple answers to those.

And one thing in regards to cross-community work, I think most of you know I'm very supportive of that. But the GNSO is different from the ccNSO on this. We're very different; we have a very different set of factors that come into play. We're much more heterogeneous than we are homogenous in the GNSO.

And consequently, we're going to have to take some time to work on this carefully, and I think we can do it.

One of the things I did is I not only reviewed the summary - the good summary - that staff did, but I reviewed all the comments. And if you look at the comments, there was a lot more convergence of the points people made than there was divergence.

So I think it's something that we can constructively and effectively work on together. But I think we're probably going to have to do it as a GNSO body because our issues are very different than the ccNSO. That does not mean that we shouldn't also do some coordination with the ccNSO because we should because some of the things do crossover.

But bottom line, I think it's an issue that's complicated enough that as much as we don't want to hear it, we're probably going to have to form another working group to work on this.

I don't think it will be a controversial one. I think it's one - and you can tell by the comments - that we'll be able to constructively work together and come up with - use the framework.

And I also compliment staff on putting the framework forward that facilitates this process.

Jonathan Robinson: Thanks Chuck. I've got Jeff and then Evan and then Joy and David. Well David and Joy I mean.

Jeff Neuman: Thanks, this is Jeff Neuman with Registry Stakeholder Group.

The comment I have to make, and I guess Steve got me thinking about this a little bit because he said that when the BC was formulating this, they walked through the strawman. And I guess I'll be a little controversial.

I actually think that's the very wrong thing to do. And the reason I don't think that's not necessarily the right thing to do here is because people were outcome oriented when dealing with the strawman, or even dealing with any of the new gTLD issues.

People knew what outcomes they wanted and they used that outcome to justify whether it was policy versus implementation - on both sides. It's not just, you know, I'm not just submitting a comment for, you know, the intellectual property wanted one side and non-commercials and registries wanted something else or something third.

I think actually when we approach this discussion, it needs to be more of the 50,000 foot level without walking through controversial examples which is again why - one of the other things I wanted to say is I think we need to kind of come together as a Council. We're very polarized right now and we think very much at the small micro level. We think about the issue and then the issue determines how we feel about the overall policy.

So you know, and I'll pick on the ICC a little bit although I love them. Right. They're very much thinking, "Well the motion that came out from the non-commercials mentions the strawman, and we very much supported the strawman. So if we come out on this issue in any way that looks like it was policy then that's going to go against our strawman. I find the same thing about the motion which I think is not the most appropriate which is its focus on the strawman. Right? If we take a step back and we focus on what is policy and what is implementation like we did with the letter that came out a lot of us, I mean, again I know the IPC had a minority opinion on that.

But with the letter we took an approach of these things we as the GNSO believe are policy. Now the ICANN staff did something that contravenes that which I think we also need to very much discuss here which is what happens when the GNSO believes it's policy and then the ICANN staff ignores it. I think that's a big issue we need to tackle. And in fact I think that's inappropriate.

So I guess my overall message - I'm rambling a little bit - but essentially the overall message is that we need to focus at the higher level. We need to not focus on the actual examples because that gets us very polarized. It gets us very much of here's my position on that and therefore I have to come up with a position on policy versus implementation that matches the overall outcome. And I think that's the wrong way to go about it.

Jonathan Robinson: Yes. So thanks, Jeff. I know we've got a queue. But, I mean, for me I really appreciate that comment because if at all possible, like I said at the outset, I'd like us to be taking - I think Chuck set the tone a little bit for that as well - at a sort of strategic level and try and work some examples as we all know can be very, very useful to work with. They can also distract us down the specifics of that example.

And for me this is an issue for us as the GNSO and as the Council. This is a longer-term issue than the short term issues on the table. So in that sense I'd like to - us to be framing it strategically if at all possible. So if you can think about your comments in that sense rather than focusing on, you know, one issue within the strawman, for example, which we need to deal with, but if we can elevate ourselves from that that would be great.

So I've got Steve coming up after Evan - sorry, I've got to get - let me just get this. (Unintelligible). So first of all let's go with Evan and I'll build the queue from there. I know I've got David and Joy in there and I've got Wolfgang, I've got Marika.

Evan Leibovitch: Hi there. It's Evan Leibovitch speaking sitting in for Alan Greenberg as ALAC liaison. And I wanted to first agree with Jeff on the whole issue of, you know, taking the real sky high view of this or we're just going to be lurching from issue to issue to issue. Having an overall look at this is really important.

But also what you said, Chuck, about the - about whether or not this is a GNSO thing or a ccNSO thing. I really, really would like to argue or at least recommend that you consider the cross-constituency approach to this as this is, to me, the exact example of something in which you can't have silos.

You can't have the ccNSO understanding one issue of where you make the split between policy and implementation, the GNSO has another, ASO has another, ALAC has another and so on.

It seems to be one thing in which if you can't have some kind of a convergence of ideas on where that - where that change makes, where that distinction is made and where there's some kind of common ground on this I think we're all in a lot of trouble if each of these groups has their own idea of where to make that split. Thanks.

Jonathan Robinson: Thanks, Evan. I think I've got David and then Joy.

David Cake: Right, on the policy versus implementation first I'm going to agree generally with Jeff. Let's put aside specifics for the moment and deal with the big issue of policy versus implementation. I think on policy versus implementation we're really sort of - there are two sides to it.

We've got an important valuable sort of reform process that we're looking at that will solve a long-term problem and we also have a sort of recent dangerous tendency that we should kind of jump on.

So to speak to those in turn, I think the important process is that this idea of policy versus implementation obviously it's not an ICANN-specific kind of problem.

And looking at the staff discussion paper it strikes to me that to a large extent the idea of finding where the split between policy and implementation is kind of the - missing the most valuable - the most important way in which we could reform the process which is essentially we should instead be smoothing over that split.

We should be finding ways in which we can get both - which we can give feedback to staff - for the policy bodies can continue to guide the implementation process later on and we should also be seeking input from staff earlier about what implementation problems they see coming up that we should address.

We need to smooth over that process as much as we can. I think there are some good suggestions in that staff paper. It's certainly no one wants to stop the implementation process and so oh unexpected problem, let's stop and have a PDP. But we do need some way in which we can guide that process without it just being a staff decision if it - genuinely has policy impetus.

I think this will not be - I mean, it won't be easy, as I said, the work here to do and it will be evolving, I think. But that should be our goal to smooth over that difference to make - to give staff more guidance about what is policy and for them to give more feedback about what they want from us earlier.

Anyway that is it. We have to do it. We should - it should be ongoing sort of reform of how the Council - and in fact how the whole organization works that we should be looking at. I don't want this idea where we just - we create a policy, we throw it over walls to the staff and something comes out that we may or may not like which should be working together more closely.

In terms of the dangerous tendency though there is a - people who want to make a sharp distinction between policy and implementation in order to bypass a bit of the policy process they don't like. It isn't - I'm not, you know, pointing the finger at anyone within the Council, it's coming from outside Council as well.

And we should just, as a Council, stand firm and say no, we are the policy body; we are willing to change the way we work, we're willing to work more cooperatively but we are the - we are the gTLD policy body and we want to be involved in policymaking.

Jonathan Robinson: Thanks, David. So, I mean, all right I won't come in now. Let me just let the queue run and let's go with Joy then and we'll keep going through.

Joy Liddicoat: Thank you, Jonathan. Joy Liddicoat, Non Commercial Stakeholder Group. First I just want to welcome the raising of this topic, John, and also thank you for your comments, Jeff, that we lift ourselves up and look at this from a strategic point of view. I think that thinking about our role as a governance body in terms of policy development is the right pitch on this. And I agree entirely that looking at specific examples that have recently happened would not be helpful at this point.

We've been having a lot of discussion within the Non Commercial Stakeholder Group about the cycle of policymaking, about how policy, you know, is driven up from a bottom-up process because of issues that are happening which need policy direction. They move through to implementation and then over the lifecycle new issues can emerge which then begin to drive up policy.

So, I mean, I welcomed the staff discussion paper. I think it raised some interesting - a useful contribution to how to frame policy versus implementation. I think primarily because in the past perhaps the bright lines have been between who did what. The Council made policy and staff were implementation then if staff were implementation therefore by definition there was no policy issue.

And equally perhaps from time to time as Council - it's important not to stray into implementation issues from the other perspective, you know, from ICANN's perspective.

So bearing in mind that there can't be a bright line and that we need to stay up above the issues, you know, we - I think - and reflecting on this certainly in my time in Council we seem to have slide away from our policymaking responsibilities because we've become concerned about and really conflicted by our indifferences on detail of policy topics.

And, I mean, if we look at even our current agenda over the last period it seems that meaty policy issues aren't being brought forward in ways that might be (accepted) of Council. And I suppose - I say that frankly just to try and get us to reflect that in the policy development process perhaps one way to stay (unintelligible) is to look ahead and not be immersed in reflecting on what's happened but rather to be having a longer term view.

You know, what is the Council's policy plan and framework for the next, you know, three-year period, for example and the context of ICANN's strategic plan more broadly. How often do we think ahead?

So, you know, we wanted to offer those kinds of things. I also think we need to talk frankly about when Council lets go of issues and constituency groups - how constituency groups can demonstrate their respect for Council policymaking processes.

And I think that we've seen some problematic issues in the last year in particular which have forced councilors into the rear view mirror because of re-litigation of policy issues outside Council.

So, I mean, I raise those issues because I think it's timely that we reflect on them strategically and look at the trajectory going forward. We aren't making policy then the Council can say it's relevant and important but if it isn't making strong good policy then I think it's at risk of (unintelligible) itself out of its role. Thank you.

Jonathan Robinson: Thanks, Joy. There's some great points there. Marika.

Marika Konings: Yes, this is Marika from ICANN staff. First a comment from myself and then a comment from a remote participant. Just to emphasize again - and I think we also did this in the paper that the paper is really intended, indeed, to be forward looking and not focusing on the current discussions in relation to the new gTLD implementation.

I think we all know that that discussion has triggered some important questions and as well as controversy that helped inspire the paper but it's definitely not intended to be a model for how to address those current issues but really instead of the, you know, high level forward-looking approach and I think mainly focused on looking at, you know, predictability and transparency

in the process and whatever one can expect to happen in relation to policy as well as implementation related discussions.

And then a comment from a remote participant from (Ijika Diaz). He or she notes that, "It could be better framed as policy and implementation instead of policy versus implementation which sounds like they're opposing and not much mutually integrated issues."

Jonathan Robinson: That's a great comment. And I'm sorry I skipped over you, Wolfgang, for Marika so come in now.

Wolfgang Kleinwachter: No problem. Thank you. It's Wolfgang Kleinwachter from the Non Commercial Stakeholder Group. Jonathan has rightly invited us to put this more in a strategic context and I want to echo Chuck Gomes who said, you know, this goes to the heart of the multistakeholder model.

And I think that's absolutely true. And we have to consider that ICANN is not - ICANN operates in a proto-political environment. And we have now a lot of competing institutions in this field which all claim that they follow the multistakeholder model including the International Telecommunications Union, the ITU.

And that means you have to look very precisely what the different organizations understand under the multistakeholder model. And the questions here with the policy development process and the bottom up transparent way which has been developed in ICANN is in really the most developed procedure we have.

And if we just, you know, try to water this down then ICANN would lose its leadership, you know, further enhance the multistakeholder model. I think this is the big asset which ICANN has in the global international debate. It's not only the ITU. We are certainly aware that the United Nations has created a

working group with enhanced cooperation where enhanced cooperation is just a buzzword for oversight over ICANN.

People still remember the discussion in the World Summit and Information Society. And the best protection ICANN can get, you know, from a stronger governmental oversight is to present a model for the multistakeholder (unintelligible) and transparent policy development process where everybody is included in issues which are related to policy.

That's a big difference for other organizations. And I think this would be taken into consideration. And it's not only the strawman or the trademark clearinghouse it's a look to the IGO or NGO protection, it's the same issue that, you know, some people say okay no, no it's just implementation; the GAC has already made a decision and the Board has made a decision and there is no need for new policy. It means you are confronted again and again and again with the same questions.

And so far the letter was very helpful to clarify this. And I think we as a Council should (unintelligible) and also the, you know, to say, you know, this is the policy body and we decide ourselves and independently when an issue is a policy issue. And I would also echo (Dave) and the remote participants. I personally do not see a conflict between policy and implementation for these are two sides of the coin and both sides have to work together (unintelligible) the policy bodies and should not be work against each other.

And if it comes to concrete cases then it has to be discussed, you know, what is the policy element and where is the implementation. And I do not see any problem that we cannot find a solution for this.

While we have - and some people have stressed this GNSO Council is very diverse with different positions but if you look back into the history there are so many things in common between the different constituencies that at least it's always possible to reach a rough consensus.

It costs more time, it costs more dialogue. But at the end of the day I think the overriding common interest are much - go much deeper than the differences if it comes to some details. Thank you.

Jonathan Robinson: Thanks, Wolfgang. I mean, I - for me it's - I just very much appreciate the and that we got suggested from the remote participant. And I can see it's picked up the policy and implementation rather than the dichotomy of the two. So, Chuck, I know I've got you next in the queue followed by Steve.

Chuck Gomes: Thanks. Thanks, Joy, for mentioning the bright line because that's one of the things that the paper said that there was no bright line. And nobody disagreed with that in the public comments. I think we all know that.

One of the reasons for that is that every policy that's adopted is different. The more specific with regard to implementation the policy recommendations from the GNSO are the less controversy we'll have with regard to implementation. The more general they are, like the new gTLD process, we're going to have more controversy and that's really where we need the framework and some principles by which we can deal with those and processes as well.

I agree we need to deal with it at a high level. But one of the problems with that is we keep it too theoretical. One of the advantages of examples, even those that have divided us, is they help us get down to the nitty gritty. And so they do help in that regard.

Finally in just listening to all the good comments that have been made this morning I'd like to point out that all of us seem to recognize we have behavioral problems that we need to work with. And that's an ideal issue for the Council to work on as the policy management body.

We've been talking in recent months a lot about GNSO review and need for structural reform. And you've heard me say this before and it applies to the

policy versus implementation or policy and implementation issue as well. We can do all the structural changes we want; if we don't learn how to make our behavior more effective from our diverse positions we'll never have much success.

So I challenge the Council to focus on the behavior in the policymaking process along with other issues. And I think that's an area where we can be very constructive in becoming more efficient, more effective going forward.

Jonathan Robinson: Thanks, Chuck. I did skip over Brian so I need to come back to Brian before Steve. And I, you know, I accept that there's work to be done on our behavior and how we work together but I, you know, already I hope you can see that the tone is very constructive in the way people are approaching this.

So I'm immediately encouraged by that and I'm sure we can do more. But, Brian, I'm sorry I skipped over you.

Brian Winterfeldt: No problem. Brian Winterfeldt, Intellectual Property Constituency. I wanted to just say I think this is a very important topic. I do look forward to our panel and we're definitely working on putting together official Intellectual Property Constituency points of view in response to the questions that Steve outlined that we're going to be going over on the panel.

I think that I also agree with Chuck what he just said. I think it can be very illustrative to really talk about specific examples even though sometimes these things have divided us, if we get too theoretical. I know that Jeff spoke earlier about sort of the characterization of the straw man proposal and I know that's something that people feel very passionate about and are very strong - and have strong opinions.

And, you know, I do think at some point sort of dissecting that and talking about it in more detail is something I that would be very helpful because folks

did come to the table from the Intellectual Property Constituency and other parts of the community to have a very long list of issues and concerns.

And they were brought to a much smaller list and then that list was further whittled down which became the strawman proposal which was further whittled down into what was actually adopted. And people are still screaming it's policy not implementation.

So I think that at some point really talking about that would be helpful because I think, you know, I guess it goes back to what Jeff basically said which is, you know, if you don't like it then it's policy.

And I think looking at the strawman proposal is a good example because essentially people want to say that there is no such thing as implementation when it comes to trademark clearinghouse; every single decision is policy and I think that that's helpful eventually to think about and talk about.

Jonathan Robinson: Thanks, Brian. Steve.

Steve DelBianco: Yes, you're absolutely right that it's not a confrontation between policy and implementation, simply a distinction, a transition. And it's not a bright line but a fuzzy line. And to that extent the BC really did try to achieve a little bit of high level consensus at the 1000-foot level. Our comments said that, quote, any rule that imposes material new obligations should be considered policy.

So here we are at a 50,000-foot level and probably everybody would agree with that. And maybe we don't need to have the panel if we're going to stop at 50,000 feet.

But it ends up becoming important what is material for the purposes of determining what's a material new obligation. And even if we all agree that extending something from 60 to 90 days wasn't a material obligation we'd still need to have a process to make sure we work out the details on how it works.

And then other consensus bodies that we model ourselves on like W3E, IETF, I mean, they're all about execution details. They're really not - they don't spend very much time at the 50,000-foot level. They're on a ground level all the time. And it takes quite a while to implement on things like that.

And I would close by suggesting that Wolfgang's right in that the multistakeholder model is one form of protection from let's say protections for the ICANN model. And it will be judged, Wolfgang, not on whether we present a good model theoretically at 50,000 feet. We will be judged on how that model was executed in the immediately important issue.

And unfortunately we're having this discussion in the middle of a very controversial and critical point which is the execution and rollout of the new gTLDs. So those who wish to judge us against which Wolfgang said we ought to defend ICANN those - they will be watching precisely how we do the execution and implementation of the new gTLD rollout.

So don't want to get wrapped up in details but if we stop at 50,000 feet I think we all already agree.

Jonathan Robinson: Thanks, Steve. I've got a queue and Jeff is next. I see your hand up, Joy. Have I missed you, Thomas? Sorry. Thomas and then Jeff. I've got Jeff, Thomas, Zahid and Joy.

Jeff Neuman: Thanks, Jonathan. Sorry - my voice this morning. You know, one of the things I do want us to kind of come to some conclusions or at least some things that we could talk about with the Board when we do have a discussion with them is - and this may sound a little controversial but it's almost - we're never going to be able to define policy in any kind of concrete way that's not going to be subjective in some sort of say.

And one of the things I think we should all agree on even if there's minority opinions on a specific issue I think we should agree that if the Council comes together and says something is policy then by gosh it's policy unless the Board or staff come to us and explain their position as to why it's not. Right?

I mean, I think what happened in this case is we said it's policy. Now we could be wrong. But we should have at least had the courtesy of someone coming to us and discussing the issue with us if they disagree rather than just implementing something which is what happened.

And I would hope that in our discussion with the Board - and I know I would certainly say this - is we at least should have the - there should be enough respect for our organization to come to us and have that discussion with us if they disagree as opposed to just doing what they did. That's number one.

Number two is, you know, there are guidelines for policy in addition to what was put out by the staff in the policy implementation discussion paper. Every single issue report has got this, is this in the - is this within the scope of the GNSO?

And if you look even at the last one on the gTLD registration services, right, they talk about whether it's in the scope of GNSO. They say is it broadly applicable to multiple organizations. They say things like whether the issue is likely to have long-lasting value or applicability.

You know, this stuff - it's not like we have to create this from scratch, it's there. It's been there. It's in even single issue report. So if you kind of view that as another starting point or another point in the discussion we already have that so you can use that going forward in taking down these issues.

So right now, for example, we said - at least the staff has said that the Whois - the gTLD Whois policy is within the scope of the GNSO. But I could foresee when this expert working group comes out and makes certain

recommendations there's going to be people that argue that it's just straight implementation and shouldn't even go through the GNSO.

So I just - I want us to basically stand firm, look forward to future decisions and policies and if we all come together and the GNSO says you know what, this is policy and we want to tackle this issue then there should be no one that goes around us.

Even if there's a minority report. And I pledge, as a councilor, even if I'm in a minority that if the Council as a whole comes to a decision that it's policy then I'll stick by it regardless of whether I agree or disagree with it.

Jonathan Robinson: Thanks, Jeff.

Steve DelBianco: Thanks for using an example, Jeff.

Jonathan Robinson: Thomas.

Thomas Rickert: Thanks, Jonathan. A lot of good comments have been made so I don't intend to be repetitive. But I think that we have two different starting points for our discussion one of which is a completely new subject where a determination needs to be made whether it's policy or implementation. And I think that if we have that then Jeff is perfectly correct in saying that the if the Council says it's policy it should be deemed policy period.

The second thing is - and these are the topics where we have practical examples at hand - is that we're in the face of implementing something which has been policy and then we need to find out whether during the implementation certain things needs to go back to being policy.

And I think that's even more critical because as others have said before there is no clear demarcation so you will always find some who would say the opposite, right, who say it's either policy or implementation.

And my question is what does the Council have to offer in a constructive way to have resolved this? And I think that we're, at times, a little bit shortsighted. It almost looks like we're trying to answer the question of policy versus implementation in order to be able to say okay policy work is done so we can take it off the list.

But actually if you look at the PDP lifecycle there is something that goes into the implementation phase which I think we as a Council at times do not pay enough attention to and that is implementation oversight.

So I think that the Council should build into the process, although it's already there, but in practical terms we need to make sure that whatever policy we're making we have responsible allocated councilors or people from the community that work with staff when it comes to the implementation.

And then we have sort of - if we monitor that closely we are involved in the process so we have more or less an early warning system that helps us avoid these issues before they are too late. And I think that we should focus on that.

And maybe for the existing projects we should, you know, like there was the case with the IRT when it comes to protection we should offer resources to actually help with that.

You know, I think that a lot of issues can be avoided by monitoring closely. Because what happens when - and the frustration stems from the fact that we are caught by surprise when things are suddenly being implemented which we thought should have been policy in the first place. So I think it's a lot about communication because by definition we're not going to be able to resolve this.

Jonathan Robinson: I've got Zahid and Joy in the queue and now Ching. I know, Marika, did you want to respond specifically to what Thomas was saying? And then we've got Zahid, Joy and then Ching.

Marika Konings: Yes, thanks, Jonathan. This is Marika. So to Thomas's point because the new or the revised PDP does foresee the use of implementation review teams. But I think you're absolutely right that there's definitely more detail that can be worked in there because I think currently as it read it's more like a, you know, Council can, if it wishes, form an implementation review team.

But I think in practice we've had a few of those but there are no real rules around it on, you know, how those should operate, how staff interaction with the review team should work, what the process should be.

I think it does mention like if the review team feels that the implementation touches on policy questions that it can bring that back to the Council as a whole for further review.

I think it also has a provision in there that says if the Council believes that indeed the implementation plan is actually policy work it can recommend to the Board that it halts implementation until a time that issues or the Council can develop further advice.

But again it's all very soft at the moment, it's not very prescribed. And that may exactly be an area where you may want to look and develop further details of further guidance on how such processes should work as part of the implementation process and how the oversight of the Council should work in that regard. So I just wanted to note that.

Jonathan Robinson: I've got Zahid, Joy.

Zahid Jamil: Thank you. I heard about the thought of the Council rebuttable veto over the sovereignty and jurisdiction of the aspect of policy. And it reminds me of the

thing I keep hearing governments keep saying that, you know, I wish they had respect for us and our organization and came and asked us.

So I take the point that was made but I think we may want to reframe that argument because the same concept them applies in other places. So, you know, we're different and so we should sort of in a way have a different sort of language and nomenclature. So we do need to solve this problem.

There is this whole thinking that, you know, sometimes the whole policy process gets sort of sacrificed at the alter of efficiency or trying to get things implemented.

And, you know, the way I look at it there are two aspects. There is true policy and you have this in governments in many countries, mine, others, etcetera, where you have legislation which lays out principles and those are material like I think Steve mentioned, material. Then there's implementing regulations.

I don't see why we cannot come to some sort of definition internally in ICANN to actually have that distinction between the two. We should strive for that because otherwise our work is going to be extremely difficult.

And there are truly certain aspects which are implementation. I mean, 60-90 days is - I struggled to understand why that would be a policy that would need to come back to the Council but nonetheless.

Just one last point; the way I see this whole, you know, debate sort of, you know, moving forward you've got the issue of trying to develop policy being taken over by certain, shall we say, reasons or practical imperatives by some saying well let's try to do this by defining it as implementation.

So what are the two reasons I see that happening? Two, one is that maybe our policy process is too slow and people feel it's not efficient enough to be able to respond to the gaps that may be left in the policy. So we need to think

about - and I'm going outside any other sort of context of what we've been doing for the last whatever number of years.

We need to find a way we can respond to gaps so that the implementation aspects where - so we don't have to struggle over whether it's policy or not. So that's one.

The second is some people do feel that bringing back as a policy issue to the Council due to the structure of the Council and the way it's been sort of dealing with bottom up processes where instead of being a policy manager as it's supposed to be it becomes a policy decider.

And that feeling of disenfranchisement of bottom up policy coming up and then gets rejected is an issue. So maybe we do need to look at also the structure so these are the two elements of why I think that's the underlying thing, why it's happening. And really if we address it I think we can find a solution. Sorry to take so long.

Jonathan Robinson: Thanks, Zahid. I've got Joy next.

Joy Liddicoat: Thank you. Joy Liddicoat from the Non Commercial Stakeholder Group. I just want to add a couple of points that haven't been mentioned to date. And it's really - speaks to this discussion which I'm hearing a consensus around taking a strategic look at Council's work.

You know, we have an extraordinary community which works extremely hard in our working groups which develop policy. And I just look at some of the working groups that - even those that are reporting to us this morning - and the level of detail and the level of thought that goes in to the development of, you know, policy development processes to really take into account implementation details, you know, I think is quite evident.

And I'm thinking that as part of the strategic look, you know, we also need to reflect on, you know, if we're having these problems is there something wrong with our working group model? Is it that there's some aspect of the way in which those discussions are happening that we aren't getting right?

I'm personally not sure that that's the case. I think that in fact those working groups do work very hard to bring the benefit of expertise and thinking through implementation details. But if it isn't then let's put that on the table and then - and particularly perhaps we could draw on some of that (meta) level experience of the workings group who have actually done well to think through implementation and for whom staff has found that those processes have worked well to remind us of that sort of why the strategic look.

And the point about, you know, what happens when process isn't followed? I think, you know, the cycle of policy reviews among, you know, most policymaking bodies has processes for policy reviews that are structured in some way either in a practical way or a thematic way.

And that may be another aspect at that strategic level that Council needs to think about if it's developing a forward looking plan for policy development, thinking about and including by way of structured regular reviews that - not in a burdensome way but in ways which will lift up and benefit further policymaking going forward. Thank you.

Jonathan Robinson: Thanks, Joy. If you'll just permit me for a moment, I mean, I am struck by the fact that - and this is important and I think you highlighted that this well for me is that there is an extraordinary amount of good work gets done. We are very effective in some of the working groups and the outputs of useful and uncontroversial often.

So I think in doing this sort of soul searching which is clearly necessary and clearly needs to drive us forward we've got to not throw the baby out with the bathwater and recognize because we've dealt with an extremely high

pressure high profile implementation of the most significant program of activity that we've all experienced and that's thrown up some particularly controversial and challenging things.

It's not that we shouldn't look at how to deal with those better and more effectively in the future but we should also not - be careful not to override some of the good, for want of a better expression, bread and butter work that's gone on over the years and still going on currently. So that for me is striking.

Let me let the queue continue then. I think I've got Ching, Mason and Wolf lined up and then John.

Ching Chiao: Thank you, Jonathan. This is Ching Chiao from the Registry Stakeholder Group. So, Jonathan, you just put it gracefully about this quote unquote soul searching which the Council needs to take. I would like to offer my views and actually two points here is that this process has actually - we've been through this from the GNSO principle and then being - actually being implemented into the AGB in 2012.

So we have that general version of AGB which carries many years of works based on the GNSO principles so that was a very good implementation plan that we have already been through. And in the past three, four years when there was troubles, when there is a, what I call a choking point, the staff or the community always goes back to those 20 plus principles and to look at can we have a relation back to the GNSO, some principles that we actually developed. Now it's the guidelines for the AGB.

Now I think what others have said that this is really a ground-level execution into a operational gTLD delegation or process. Now we are facing other choking points from the governments or from other outside factors, from other constituencies which now in the process people or particular the applicants or other public interest groups that they may find this choke point.

They are not able to deal within the process and they're going for outside kind of help. So I'm just trying to throw out this point here is that we've been through this from the GNSO principle to the AGB, now to the - I mean, the real operational and delegation for the gTLD. So I would really hope that those choke points let's take the example from what's been done in the past few years.

The other point that I'd like to actually point out is that as the implementation issues I'd like to raise in particular the lesson learned from the close generic and extreme issues that I realize personally the staff or the community picks some of the issues to implement and to avoid some of other issues let me put it very straightforward is the IDN issue.

Those are actually some of the GNSO principle which was not being implemented in the AGB, I mean, despite of the latest stage. So I will also encourage once we talked about the policy versus implementation issues there is also such an issue of kind of a preference of - from the staff or from - I mean, from the - from others, I mean, about how they preferred to implement some and to try to avoid some. That's my two cents. Thank you.

Jonathan Robinson: Thanks, Ching. I've got Mason, Wolf and then John and I think we should try and make some concluding remarks. Lanre, we'll put you at the end of the queue and then I think we'll try and wrap up this session. So, Mason.

Mason Cole: Thank you. Mason Cole, Registrar Stakeholder Group. I just wanted to add, excuse me, some observations about what I see is influencing this entire process. I think Zahid made a very good point a moment ago, as did Joy. I agree with Joy there's nothing inherently wrong with the GNSO model and how it works.

I agree with Zahid, however, that the process is too slow. And my observation about why these factors exist today is that ICANN is, to use a clichéd term, is

that at an inflection point. I've been involved in ICANN for many, many years and I think now that what we're seeing really is a bigger inflection point that we've seen in some time.

And it's due to a number of things. We have a new CEO who is very keen on making ICANN much more efficient and much more responsive and quick on its feet. We have external pressures from governments and other places that are demanding output from ICANN that it traditionally has not had the capability or need to deliver on as quickly as it does now.

And then we have this compression of activity due to the imminent rollout of new gTLDs. It's a much bigger project than ICANN has undertaken really in its life except maybe for the creation of the DNS and the governments of that itself.

So, you know, you've got a GNSO process that inherently there's really nothing wrong with it but it's sort of being overrun now by all these external pressures and that's why you see, I think, a - what's the word I'm looking for - attention turned away from GNSO processes in favor of other things .

So the question then in my mind becomes what do we do about it? Well I agree that the Council needs to become much more quick on its feet and efficient.

And at the same time though as it relates to process versus implementation I think now is a good time for us to reset with staff in particular desired outcomes on both side's parts so that there's no - so that Council is not taken by surprise, as Jeff pointed out earlier, when we delivered our opinion and in some respects it was simply ignored in favor of staff decisions.

So I'd like to use some of our time with staff and with Fadi in particular to make sure that those things are clarified in light of how the GNSO needs to operate in a new environment going forward.

Jonathan Robinson: Thanks, Mason. Wolf.

Wolf-Ulrich Knoben: Thanks. Wolf-Ulrich Knoben speaking from Non Commercial Stakeholder
                Group. Well I was wondering on how we could proceed with that issue - with
                that item. I thought that before I came in I thought well we have the Council
                (unintelligible) very much have diverse views on that and there may be basic
                issues on that.

                However I want the impression right now through this discussion that on the
                basic point of view on the stakeholder group - to support the stakeholder
                group model and then to how we shall deal with that that there is a broad
                consent on that - how to deal with that.

                And the question is then, I wonder whether we should deal with that - with
                that item in a - either in a more broader environment finding out solutions or
                should we do that case by case how we did that in the past, you know.

                Because I remember from my experience we had a lot of - in the past already
                items where we - where the question came up is it implementation? Is it
                policy? How shall we deal with that?

                Now at this point it came up to a very strong debate. Maybe the issue is more
                - is more important than it used to be in the past. But I think that we only
                could handle those items really case by case, not in a general view. So we
                should have some time the discussion like this here but we should deal with it
                in case by case.

                We should discuss it case by case. We should come to a result case by case.
                And the most important thing is when it comes down to a decision or to a
                recommendation but from the Council we should really take care about that it
                is not being overruled or circumvented or how do you call it anyway by

ICANN staff or that there is not the impression that it could be circumvented by that. Thank you.

Jonathan Robinson: Thanks, Wolf. I've got John and then Lanre to try and close off the call.

John Berard: This is John Berard from the Business Constituency. I was struck by the general undercurrent actually stated that concern about the role of the GNSO Council and whether it would be diminished. My view is that if you took the GNSO Council out of the picture, if it were no longer a creature of the GNSO, that we would wind up seeing a number of group's important issues marginalized.

If we were to move to an environment where lobbying of the Board became the dominant decision making process; I don't think that would be good. I think chaos would ensue and other groups move to fill that void.

I was also impressed by a point that I hadn't really given as much thought to as others have which is that there is a history of thinking through the question of policy and/or implementation. It occurs most visibly at the time of the consideration of a motion for an issues report.

And I would encourage the members of the GNSO who are going to be participating in that panel on Wednesday - and I want to apologize that I did not note that Evan is also on that panel - to take a look at the issues reports motions that we have considered over the last few years and perhaps use some of the insight from each of those to discuss the history of how policy and/or implementation is to be considered.

Now from a personal perspective I often fall back on the few skills that I have and one of them is as a communications person. And I would ask that we think about eliminating the policy development process and the fast track policy development process as terms of art.

That there ought to be a policy development process that is as expeditious as possible. And if that would require perhaps asking Jeff to reconvene for a short period of time to think through just what that might mean - I don't want to give you nightmares, Jeff, for, you know, getting back into that.

I think that we do ourselves a disservice when we say publicly that there is a policy development process and oh and by the way we have a fast track policy development process which suggests that our policy development process is long and laborious. And from a communications perspective that's probably not a good place to be. Thank you.

Lanre Ajayi: Okay. This is Lanre. Is that the policy that is the creation of the Council and in the cost of implementing such a policy there are issues that cannot (unintelligible) as policy or implementation.

I think the best approach for the (unintelligible) is to refer those issues to the body that created the policy in the first place which is the Council. So my suggestion is whenever we have issues that are so broad and so difficult to distinguish whether it is policy or implementation such issues should be referred to the Council for interpretation because the policy response by the Council in the first place.

I think the Council is most suitable, most appropriate to determine what is policy, what is implementation because in the first place it was created by the Council. So there must be a process at which such issues are referred back to the Council. Where the implementing body like the staff is (unintelligible) position. Thank you.

Jonathan Robinson: Thanks, Lanre. It's 10:25 and we've closed the queue at that point. Mikey, I'll give deference to the last word it seems.

Mikey O'Connor: I'm going to set a record. I just want to give you a URL. I've got a little rant out on the Net about working groups that might be relevant to this discussion so

here's the URL, Bar.com - -B-A-R-.com/w for working groups - lower case, that's it.

Jonathan Robinson: Thanks, Mikey. It's 10:26 now and we've got a couple of minutes to wrap up before we go on with the next session and so to be presented by Michele. I would like to compliment the councilors on a tremendously high quality conversation. It certainly exceeded my expectations. I'd thank John for kicking us off in the right direction, Chuck and Steve for setting us going.

And I think we, you know, I battle to sum this up but there's certainly some meta themes here about how, in effect, defending the multistakeholder model by effective work within the Council and how we do things, the role of the Council, the speed with which we work, a number of issues.

I see I've got a couple of councilors who would like to come in with some closing remarks and I'll indulge them. But certainly the challenge here is how we take this forward but nevertheless it's very encouraging to have had the tone and not simply the tone but the underlying quality of the conversation here. So what a great way to kick us off on Saturday morning.

I started off feeling a little groggy; I feel a lot more wide awake and stimulated by the conversation so thanks very much. I hear that Thomas and Jeff would like to take over with the last word.

Thomas Rickert: You should have the last word, certainly. So I don't intend to take that away from you. But you mentioned that we need to talk about next steps and I think that, you know, having good conversations such as this should not end with the transcript and be buried somewhere on ICANN's Website. So actually how do we operationalize out of this? So...

Jeff Neuman: So I have a recommendation. This is Jeff Neuman. And it's going back to something Steve actually said that there are principles I think that we can

take out of the BC statement, we could take out of other statements that were received and there are things in issue reports that we can look at.

And I think we form a little committee that we basically not wait for ICANN staff or the Board to come down with some sort of ruling as to what they declare it to be. And the staff paper does say that they are waiting for us to take the next steps.

So why don't we propose the creation of a Council-led group - or actually, sorry, a GNSO group - it doesn't have to be councilors, to just work on this issue and with the mandate to come back to us by no later than Durban with a set of concrete principles of what we believe very high level should constitute policy and should be within the mandate of the GNSO such that all matters that fall within these general principles should be referred to us first. I think that's the proposal.

Jonathan Robinson: Is there anyone who's not - I'm encouraged by that. I think we do have to take some clear action. It's - Jeff mentioned a meeting or two back that we as a Council do need to see some initiative here, so I'm encouraged by that. I'm aware, Evan, are you hoping to say something? I was - I am - I'm cognizant of your point you made earlier of the cross community issue.

And I know that hasn't been resolved. It wasn't really picked up by anyone. Very conscious that as a GNSO and as a Council we've got something to do but I'm also conscious of the point you made. And so I think that's something which we may not be able to fix now.

But Chuck did touch on that a little by saying that we should do this in conjunction with other groups and we should in no way work in complete isolation. But we didn't resolve whether this is a GNSO group or a - in its entirety or at least we can deal with your point completely.

Marika, your comment?

Marika Konings: Yes, this is Marika. In addition to what Jeff outlined as being part of the (charter) I would hope as well that the group would look at maybe some of more the practical elements as well. We've spoken before about, you know, how the Council would be able and in a position to provide policy advice or guidance where there currently is no process.

I mean, we've spoken about, you know, implementation how to work, indeed with implementation review teams, should there be more detailed processes or practices in place. Looking as well at those kind of elements I would hope that maybe it could be part as well of any such groups mandates to look at in addition to what Jeff outlined.

Jonathan Robinson: Yes, there were some very practical issues that have challenged us recently and you're right. So I'm - I take that Jeff's suggestion. Is there any - Joy.

Joy Liddicoat: Thanks. Yes, good idea to think about what limits (the stakes) might be. I'm wondering if we might want to just reflect on that after coffee (unintelligible) more inspiration. Not that I disagree but I'm just trying to think maybe we should really just try and think that next step.

I mean, another thing that I'd like to see Council do is to begin to develop its own strategic forward-looking policy development program. And I know that's not directly related to the policy and implementation discussion but I think it would be a good thing to bubble up out of this broader discussion in addition to the other ideas that we've reflected on.

So I don't want to lose the discussion but also mindful that there might be some other ideas and thoughts.

Jonathan Robinson: Right. So thanks, Joy. We've got a very constructive and defined practical suggestion from Jeff. Got you're point that there may be more to be done. I'm

conscious that one of the issues I wanted to talk about, and we won't talk about now in this session but we do need to come back to is that we've got a question bubbling on the outside about the GAC's earlier or early involvement in the policy process.

And in fact that's the subject of the discussion with the GAC tomorrow so that is something which links into this at least from the side. And we do need to discuss that. We won't have time to talk about that now. But let's wrap the conversation up at this point. It has been constructive.

I think it's useful to put a full stop under it or at least to bring it to some form of conclusion with a practical suggestion of where we go next and I'm mindful, Joy, of your point that there may be some other steps to be taken. But we can pick those up in later sessions this weekend and/or at the wrap up session.

Thanks again everyone. Let's just pause the recording now while we change sessions. So we'll just take a minute's break if you want to grab a drink or something but please don't disappear or wander around the room for too long. Thanks very much.

END