

**ICANN Costa Rica Meeting
Discussion of potential Council Motions - TRANSCRIPTION
Sunday 11th March 2012 at 14:30 local time**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Coordinator: Welcome and thank you for standing by. At this time your lines are being recorded. If anyone does object you may disconnect at this time. You may begin.

Stephane van Gelder: Okay, if we can start this session please. Councilors please take your seats. We will be discussing the motions on the table for our Wednesday Open Council meeting.

This session is designed to help facilitate consideration of those motions as we come into the open meeting and identify any potential issues that people may have.

You have on a sheet of paper in front of you or in the wiki you should have the motions that we have on the table for Wednesday. So we have a motion on thick WHOIS, which was made by me and seconded by Yoav and amended by David.

We have a motion on the locking of a domain name subject to UDRP, which was made by Joy and has yet to be seconded. We have a motion to approve

Cross Community Working Group principles that was made by Jonathan and seconded by Jeff.

And we have a IOC/RC - thank you very much Glen. You're lovely - IOC/RC motion which has been made by Jeff, not yet seconded. And if I may I would like to suggest we start off our discussions with that motion, because I think it might be the one that - oh you want to end with it.

Okay, that makes sense as well. So Jeff Neuman has told me that we'll end with it instead of start with it, so we'll do that.

Jeff Neuman: I like that title actually.

Stephane van Gelder: So the first motion then, any issues on this, anything that anyone would like to ask? I don't suggest that we read the motions at this stage. We all have them in front of us.

Motion on the initiation of a PDP process on thick WHOIS - this was deferred at the last meeting. It's been amended by David and the IPC. Wendy you have your hand up.

Wendy Seltzer: Thanks. I'll just - Wendy Seltzer just to say briefly that as I suggested last time I think this is a distraction. And with our thick and growing pending projects list, I would recommend that we not spend valuable Council time on thick WHOIS PDP for a single Registry, but rather look to broader policy issues.

Stephane van Gelder: Thank you. Thank you Wendy. Any further comments on this? Jeff.

Jeff Neuman: At the last Council meeting when it was deferred we actually talked about the option of because the .com agreements are coming up for renewal and none of us know what's going on with that, although, you know, I'm assuming soon there'll be more information, you know, to defer it.

I think we did it with the UDRP. It's basically - if there - if it looks like it's going to go through because of the lower thresholds for PDP, then possibility of just deferring it until after all of those issues are sorted out.

Stephane van Gelder: Marika.

Marika Konings: This is Marika. Just a process issue and it might be helpful to really clarify whether the amendment that was proposed by David, if that's considered friendly or not by you and Yoav.

Stephane van Gelder: I think it - we had accepted it as friendly. I thought we'd done that, hadn't we?

Man: I can't remember. We discussed it briefly but then...

Stephane van Gelder: I thought we...

Man: ...we amended it so...

Stephane van Gelder: Okay. Yes.

Man: It seemed friendly to me but that's...

Stephane van Gelder: Well in that case I'll read it a second time before saying anything. Zahid you had a comment.

Zahid Jamil: So - sorry. I'm having difficulty sort of wrapping my head around this issue of whether this will prejudice the negotiations currently ongoing with the Registrars.

So I had a question and this question is basically sort of addressed to Registrars and addressed to Staff. Would the placing in of the whereas

clause be sufficient to ensure that during those negotiations nobody says, either the Registrars or anyone else, that, "Hold on.

We can't put in language into this contract with respect to thick WHOIS because we have an ongoing PDP." And I'd like to get clarification from Registrars as well as Staff on this, because if that's not the case that's fine.

It's fine. Let's move ahead. But if in any form or way this is going to be used in the contractual negotiations, do not allow this to go through or to say, "Well we can't have thick WHOIS because ongoing - well there's a PDP going on," then, you know, I'd like to reconsider.

Stephane van Gelder: Thanks. Jeff I know you're next. Just want to make one comment, which is that the reason I made this motion is because we have a - this is an ongoing PDP.

We have an - sorry. This is an ongoing process. We have an Issue Report which recommends the initiation of a PDP, so as a Council we don't have the option of just ignoring that.

And what I've heard from Wendy or you, I mean, that could be a no vote to the motion or it could be what can we do? Do we need to defer this, which we've had these discussions in the past on other items.

But I just - that's just brainstorming. I'm not saying - I'm not suggesting we do that. All I'm explaining is that the reason I've made the motion here is housekeeping.

The Council has this in front of it. I wanted this to move forward one way or the other.

Zahid Jamil: Very quickly.

Stephane van Gelder: Yes.

Zahid Jamil: There was - there's nothing in my mind that thinks that there was an intention behind this. I definitely agree that's housekeeping, it's process - completely agree with that.

It's just that I'm not even saying we want to not have this motion go forward. Just want to make sure there's no collateral damage to other things that are going on, that's all.

Stephane van Gelder: Understood. Thank you. Jeff.

Jeff Neuman: Yes, I'm still trying to figure out how there could be collateral damage when this motion is directed towards Registrars, and the ongoing process you're worried about is with Registrars.

They are completely independent and regardless of whether there's a thick WHOIS at the Registry level, I don't see how that would affect at all the Registrar level.

So maybe you can help me understand the concern, and I think I asked the last time and I didn't really get an answer so help me understand that.

Zahid Jamil: So here's the question. Actually I'm going to try to answer that question with a question. The WHOIS data is provided by Registrants at the Registrar level, right?

Right. And in that case it would impact how the Registrar Accreditation Agreement would deal with WHOIS if they were to pick over the list.

Jeff Neuman: This PDP would not affect that at all. Registrars have a separate agreement with the - sorry. Registrars have a separate agreement with the Registry that is completely separate and apart from the Registrar Accreditation Agreement.

If - like NeuStar is required to have a thick WHOIS for .biz. We pass through those requirements through the Registry/Registrar Agreement, not through the Registrar Accreditation Agreement through ICANN.

Those are two separate agreements so it's irrelevant what the - I shouldn't say it's irrelevant. That's not nice. But it is - it - regardless of what it says in the Registrar Accreditation Agreement, it is the agreement between the Registry and the Registrar that dictates what information has to populate the Registry database.

Zahid Jamil: I think that's interesting for me because I'm going to have to consider that and go back to the constituency what they have to say. But nonetheless the point you're making is a valid one on the face of it, but it's coming from the Registrars.

What do the Registrars - question that I posed? What do the Registrars have to say about this? Do they see this motion in any way prejudicing the negotiations that they're having with Staff right now on the issue of WHOIS or not? And if they say it isn't, has no impact, that's fine by me.

Stephane van Gelder: Mason.

Mason Cole: No. Zahid. The answer is now.

Zahid Jamil: The category of that status - that we'll trust. Thank you.

Stephane van Gelder: Thanks. That's useful. Any further comments on this motion? Okay, Yoav and I will have to decide whether David is friendly or not. The next motion is a request to approve the charter for the locking of a domain name subject to UDRP proceedings.

I guess the first question is do we have a second for the motion that's been made by Joy? No need to respond right now but, you know, just give that some thought because obviously we can't present the motion unless it's been seconded. Joy did you want to...?

Joy Liddicoat: Thank you Stephane. Joy Liddicoat for the transcribers. I just really wanted to acknowledge the work of the Drafting Team, in particular the Chair, Michele and also Konstantinos who Co-Chairs.

And just to mention that we've had a good engagement across the NCUC - sorry, the NCSG Group and I wanted to just acknowledge Alain Berranger and Klaus Stoll for their support for this motion as well.

And, you know, we have yet to be approached about a second there but we'd be looking across the Houses for that. So the - at this point the - there is, you know, good agreement on the charter and that's all the - that's the only comments to make at this point.

Stephane van Gelder: Thanks Joy. Yoav.

Yoav Keren: Yes, I personally am looking for just a clarification on what started this whole thing. Why do we need that? As much as I know in the UDRP process Registrars are practically supposed or are demanded to locking a domain. So why do we need a PDP?

Stephane van Gelder: Marika will answer that.

Marika Konings: So this is Marika. This was an issue that first raised in the context of the IRTP Part B PDP, where it raised that indeed there is indeed a requirement to lock but there's no further guidance on when that locking should happen, you know, at what stage it needs to be unlocked.

The policy itself I think talks about status quo, but there's no definition of what status quo means. And this was again an issue which was then - came up in the context of the Issue Report and the review of the UDRP.

So I think at that stage the Council actually decided on all the other issues. I think there's just a, you know, motion to initiate a review in a - two years after first allegation of New gTLDs to look at that again.

But on this specific issue as it was raised in the context of the IRTP and as well as the UDRP, to have a PDP on this very specific issue. And I think if you look at the charter it identifies already some of the elements that need to be looked at.

For example like, you know, developing a process where there are clear expectations from all parties at what stage in the process the domain name should be locked and unlocked.

So those are some of the questions and that's why it's being looked at. I understand.

Yoav Keren: Thank you.

Stephane van Gelder: Thank you. Any further comments and - or questions on this motion? So we'll go to the next one, which is a motion to approve the Cross Community Working Group principles.

This motion was deferred from the 19th of January meeting. It was made by Jonathan; seconded by Jeff. Are there any issues or comments on this one?

Jonathan Robinson: Stephane, it's Jonathan - made the motion. I guess I would say that we covered this fairly comprehensively yesterday. The one point I'd make is just to reiterate that this is - the objective of this exercise and therefore ultimately

this motion is to form a GNSO agreed perspective on Community Working Groups not to prescribe to the rest of the community how they should work.

Stephane van Gelder: Any other comments? Okay, so the next motion is the one about the IOC/RC made by Jeff. Same question - not been seconded yet so we may want to give that some thought. And let's open this up for comment or discussions.

Jeff Neuman: So obviously this is a continuing discussion from the session we had earlier - a couple hours earlier. Just as an update the Drafting Team is going to meet tomorrow at 7:30 in the morning.

We're still trying to come up with a room or a location, but our goal is to try to as we discussed rework Recommendation Number 2 on the translations and also to work on some language that Alan had brought up regarding the fact that if the Board doesn't approve these recommendations in Round 1, then these recommendations should not necessarily be held to apply to any subsequent round.

Again essentially the notion is, and I'm not sure how we write it, but if it doesn't apply in Round 1 then essentially for the next round we go back to square one and start over, and that's when the question should these marks even be protected at all would get addressed.

I do want to note, you know, not to ignore the comments made from Steve during the last session where he said that the Board probably would not vote on it at this meeting.

I don't want that to deter us but - and he did say that we should move forward with it, and he said if necessary that he could call a special Board meeting on this topic.

So if this is something the GNSO Council does end up passing, then obviously we would urge quick action and hopefully he would take us up on - or he would take us up on that and call a special meeting to make sure it's done before the first round ends.

That said does anyone have any additional comments that weren't addressed in the last session? Yes, I'm sorry. I'm...

Stephane van Gelder: You just carry on Jeff. Do you want me to leave?

Jeff Neuman: Sorry. I'm just used to the fact when you did leave so - well I'm sorry. One last topic we may want to discuss that came up was the possibility of splitting the - or voting on each recommendation separately as opposed to one package.

Stephane van Gelder: Yes there's a lot there actually. And Thomas I know you're next in the queue, but first of all as you mentioned Jeff we did hear Steve Crocker say the Board would not act on this here.

He didn't say they may not. He said they would not so that's the first thing that we need to take into account. I absolutely agree with what Jeff said personally that with that Steve said - Steve urged the Council to continue working on this, act on this and did mention that a special meeting of the Board could be convened if necessary to act on this in a timely manner.

I'd also like us to identify whether we want to split these recommendations or not. I've been told by several people that there was a desire to do so, and I'd like to know that before going into the meeting for technical reasons obviously.

So if we could address those points I've got Thomas, Wendy - anyone else that wants to be in the queue just raise your hands. Thank you.

Thomas Rickert: Thanks Stephane. We're going to meet the GAC, and the GAC has made very clear in the call that we had with them that they are seeing this as a test balloon for this new collaboration between the GAC and the GNSO.

And therefore we should not even think about slowing this down regardless what Steve says in terms of the Board's behavior towards this issue. So therefore my recommendation is that we do all we can in order to put this on track.

The second thing is that as a matter of caution I would recommend that we actually do split the resolutions. I mean, if they all go through, fine, otherwise we don't need to worry about process of voting when we come to it.

And the third point that I want to make is, and that's following up to what I said earlier this morning, I think that in terms of praising the resolution would be good to have an additional whereas clause saying why we are taking the action that we're taking and saying something about the process that we're applying, because that's an opportunity for us that this is really an exemption to the ordinary process and that we're giving special treatment just implementing the Board resolution that has already been made.

Stephane van Gelder: Thanks Thomas. Can I suggest then that you have to - for any amendments there that you may want to make on the list, the first is to split the resolutions and the second is to add the whereas clause that you just mentioned.

Thomas Rickert: Yes.

Stephane van Gelder: Can you make those on the list and we'll pick those up? Thank you very much. I have Wendy next then Bill.

Wendy Profit: Sure. Wendy with a procedural question, which is we have - are we prepared to deal with a deferral request, because we are interested or we've heard interest in being speedy in responding to this.

We've had continual questions about the Council's informal but formalized through practice policy of accepting deferrals. And I'd like to tee up as a more general question, we - should we be streamlining our processes so that we are able to respond to questions quickly by taking decisive action, and how might we do that?

Stephane van Gelder: Jeff.

Jeff Neuman: So I think yes, the first question of how would we respond to a deferral I think as Thomas had pointed out, the - there is an urgent need to act. I'd rather have a no vote than a let's defer it.

To me that's - it just shows that this process can't work and it's going to send the very wrong message to the GAC regardless of how we spin it, regardless of how - what lie we put in that we needed more time.

I think from the GAC's point of view we've had the request since September, and it is now March. The application period is ending so I would - obviously we have a time honored - there's been no exceptions granted so when it's asked for a deferral there's never been a vote or anything to undo that deferral.

So if there's a group out there that wants to defer it, you know, I think the wrath that will come down on that group is not something that I'd want to be responsible for.

But, you know, there's nothing saying that a group can't do it, and if that happens I think we've shown the community that we can't act, that we can't respond.

But - so I do think - but I do think you're right. We do need to at some point consider in our rules whether there'd be some sort of thing where a group asks for a deferral, and there's others in the Council - that there's some sort of vote, refused to allow the deferral because of the urgency needed for action.

I don't know what that is. I think it's too late to build that in for Wednesday's vote.

Stephane van Gelder: I have Bill and Chuck next.

William Drake: Thanks. I guess I wanted to pick up on what Thomas said, because I think I have a different view on this matter. Well no, I - the whole question of whether the new relationship with the GAC is being tested here and how that should influence our thinking is to me really kind of a problematic way of getting at this matter.

I really think we have to consider this on the substantive merits. The fact that it's the GAC that has a certain kind of orientation doesn't mean that you take ill-considered decisions and shoot them.

I'm - I would like to hear more discussion about how people see the relationship emerging or evolving going forward with the GAC, depending on the different ways we might respond to this and whether that matters to them.

I mean, I - if that's really an important dimension of this I'd like us to be clear about what it is, because if it's a sort of underlying current that we're just assuming I think there's some aspects of it that some of us might want to challenge.

And particularly when we - I know that people have said, "Well it's not a precedent and we can always say no to other things later on." But when I look

at those international organizations and the background, the political background and the support that they have, I tend to see things a little differently so...

Stephane van Gelder: Chuck.

Chuck Gomes: Thanks Stephane. Chuck Gomes again on the Drafting Team representing the Registrars. The first thing, in the letter from Kurt that the Drafting Team received one of the things they requested and I don't think any of us on the Drafting Team disagreed with was the need for providing rationale, regardless of the fact that maybe we didn't get it from the Board.

And I had understood that we were going to work on a rationale. And Thomas, was that - the whereas clause, is that the rationale for doing what we're doing that you're suggesting?

Thomas Rickert: Stephane may I?

Stephane van Gelder: Sure.

Thomas Rickert: I think it would not qualify as a rationale. My point was not to provide a rationale.

Chuck Gomes: Okay.

Thomas Rickert: But with this specific proposal - but to make very clear that we're implementing the Board resolution in order to make clear that we are acting in the way and the expedient manner that we do, and that this is not sort of violating intentionally PDP process that would otherwise be required.

Chuck Gomes: No. Thanks, because what I was going to say related, I didn't know if it connected or not and it doesn't so that's good to know. So personally as a member of the Drafting Team I would like to - well I guess that if this thing

goes through, and maybe it's part of the motion too, that we do provide a rationale.

Now I don't think the rationale is complicated. First of all the first part of the rationale is the Board initiated this thing. Not a whole lot more needs to be said.

So secondly, I think the GAC's provided a lot of rationale. We may not all support that but they provided a good rationale, so I don't see that as a complicated exercise but I do think that was a reasonable request on the part of Staff in their letter.

With regard to deferral, and I think this is what I'm going to suggest next, it's easier if the motion is split up. But if possible for those that have concerns about elements - and I know Mary you did a real nice job of communicating your concerns about the whole thing lumped together.

But if possible I would encourage people to consider friendly amendments, and we can all pretty much judge whether they'd be friendly or not. That might be a way of moving elements of it forward.

We don't need to talk about those now, but I would encourage that rather than deferral for some of the reasons that have been said if that is a possible way to go. Thanks.

Stephane van Gelder: Thanks Chuck. Zahid.

Zahid Jamil: So the GAC's governance have concerns here, but whatever we're doing over here in - within the Working Group and in the Council, the concern is not that we shouldn't protect the two entities we're talking about, but that we should.

It's just a question of, you know, what is the extent to which you want to protect them? Now here's an issue. And this may, you know, resonate with some of the GAC members, I don't know.

I'll give you an example of my own country. There is a party, which is a political party in my country, which would have - would - and it's in government.

And what we're trying to protect here - one of the things we're trying to protect here in the long phrases would actually mean that they cannot register certain names if this goes to the second level.

Let's avoid the possibility that GAC may have a problem coming back. Just explain to them that we're trying to implement this properly. They can either have it quick and incomplete, or they can have it properly done.

The delay is not because we're not cooperating. It's just that we want to make sure it's done properly, and I think if that is communicated to the GAC I'm sure with some challenges maybe they'll understand.

But it's important that we don't send this to them incomplete or with problems, because it's going to come back in our faces.

Stephane van Gelder: Thanks. Lanre.

Lanre Ajayi: Thank you. It occurred to me that the Board does not have anything to say I think. And in getting this job done as quickly as we seems to be, I don't - I want someone to explain why the Board is taking that direction.

Could it be if we will vote of a positive then I think not on positive? I just want someone to explain to me why they are not as interactive as we are.

Stephane van Gelder: John.

John Berard: I will let Lanre's comments hang in the air for a bit, and then suggest that if we can avoid a deferral that would be my preference. If by cutting it into three pieces we help achieve that purpose but we're then able to vote at least for one of the three if not for all three, my feeling is that the most problematic bits are the - currently, and I know that the Drafting Team's probably already at work on this, it does not specifically say that we are not setting precedent so that we don't want a bunch of people lining up to follow the same path of lobbying to get a preference.

And there is some serious concern about the extent of the names and phrases, words, names and phrases that are included in Recommendation 2. So if - my assumption is that if we can smooth those rough edges, that I would like to see it come to a vote and I would hope that we'd be able to have the vote and move on.

Stephane van Gelder: Thanks. Jeff, Thomas, David.

Jeff Neuman: You know, I think I'll defer. I'll let others go ahead.

Stephane van Gelder: Is that a request from the Registries for deferral? Thomas.

Thomas Rickert: Thanks Stephane. Also on the subject of deferral I think a deferral would not be the appropriate way to dealing with this. I think we need a resolution and if the resolution does not pass, so be it.

But then at least we have appropriately dealt with the matter, and I think we've - we are able to evidence bona fide efforts - deal with this matter from all sides.

I think that, you know, and I would like to - looking back to what Bill said, I do have an issue with the whole thing, right. But the - it - this all originates in a Board decision, changing the original GNSO recommendation that did not

have any special treatment for the parties, whatever - whoever they might be in them.

And so we now get the heat for a Board decision that has been made without consulting with the GNSO. So if the answer is no that's okay, but I think deferral is something that I would at least like to see at this stage.

Stephane van Gelder: Thank you. David.

David Taylor: I can keep this very short. I agree completely word for word with John.

Stephane van Gelder: Wendy.

Wendy Profit: Thanks. I - I'll make clear I was not proposing and I was not saying that I would defer or to move to defer this motion. I was rather asking can we tee up a later conversation on what we do about deferrals, because I think they've gotten a bit out of hand.

And I've used them as much as others, you know, in that vein. Here I'm inclined to vote no, but I think that having it go through the process quickly and come to that conclusion is valuable.

Stephane van Gelder: Thank you. Wolfgang.

Wolfgang Kleinwachter: I think I'm concerned partly what Thomas has said, that we, you know, are confronted with the dilemma which it wasn't produced by us - by somebody else.

So - and now we are the victim of this constellation, so probably, you know, with some time if we wait with the final decision until the meeting with the GAC, because we - I think Chuck proposed this too this morning saying, you know, that we need probably additional clarification or additional letter so that the constellation is clear, because we operated on the decision by the Board

and also by letter of the GAC, you know, which gave the impression that there is a clear position by the GAC, which now in the light of the last 24 hours, you know, I'm not 100% sure whether this is true.

So that means - and so far, you know, we asked for more clarification. We have demonstrated. I think Jeff made this point saying, you know, okay, whether we get the direct calculation by the GAC as a work - as a body which is able to work, yes or no, I think we have demonstrated this.

So we are able to produce something but this has to be reconsidered in the light of the recent developments, and then so far I would say we hold on for the moment and pack it, as said in United Nations context.

And then, you know, we can come back to the final decision tomorrow when we have all this interaction with the GAC later this afternoon.

Stephane van Gelder: Jeff.

Jeff Neuman: Yes I think I wanted to address this because I don't think that what happened yesterday in the GAC changes anything. What we have right now is a letter from the GAC that clearly states the only two marks or the only two classes - I'm wording this wrong.

But essentially the only two groups of names that they're seeking to protect are the IOC and Red Cross. The question in their Q&A document that they sent in October clearly says, "and no other marks."

And then that was clarified again on the call that we were on that said, "Yes, we still stand by that same exact answer that we got." The fact that a couple of GAC members said something during a meeting, which didn't result in any kind of action, unless we hear something from the GAC today that they completely changed their mind as a GAC, then we need to proceed on the same path.

Nothing has changed. It's just like a conversation here. We may pass a motion and 99% of the Council can pass it. One person could say they don't agree, but that doesn't mean the Council still hasn't passed it.

It still doesn't mean that that's the direction the Council wanted to go. When the Board passes a resolution they discuss it. Now it used to be they discussed it a little bit more in the open and you used to hear more of the dissenting opinions but, you know, just because one Board member is - doesn't agree with something, like George Sadowsky didn't agree with the New gTLD motion, doesn't mean that the Board didn't vote to say, "Yes go ahead."

It doesn't mean that you don't have Board members today that are questioning why we're not going ahead. Either way until there's an action I don't think there's been any - like you said that there's a development.

There haven't been any developments. There's been some discussions but that's not a development. But the real thing I want to address is the danger of not acting now is I think - or even the danger of voting no, and I kind of want to press a little bit into Wendy's vote of no, and whether that's no to all three or just no to parts of those if we separated it out.

But I think what we're left with and this may be acceptable, but the Drafting Team found as a group, as a consensus, that the existing Staff implementation was flawed.

So if we vote no to this we're basically saying yes to the existing Staff implementation. And for us the Registrars in other groups, whether we liked the fact that the Board resolved in the first place to protect these marks or not, the fact is that we think that voting no is worse or not voting at all is worse, because that's the status quo, than voting for the new protections and that's kind of the balance that we've done.

Stephane van Gelder: Thanks. Mary.

Mary Wong: Essentially I want to make the same point that Jeff has just made, and I'd like to try to separate why and how we got to where we are. We all know that and we're not happy about it.

We shouldn't be happy about it and I think we should say so very strongly. From - as Jeff said what is going to be the end result? And to that end as he says if nothing is done then we're left with what's in the Guidebook.

And I think for us and all of our communities the question then, if we're going to go ahead to a vote is, is what's on the table now a better option we think than what's in the Guidebook?

And if we think it's not then we vote no. If we think it is then we can vote yes. I mean, there's obviously other ways you can play this but I think it would be helpful to think about it on that ground.

Joy Liddicoat: Thanks Stephane. Joy Liddicoat. A couple of sort of other thoughts and reflections. One is we are meeting with the NCSG next week to discuss the motion, and I think there has been some mutual discussion about splitting the recommendations, which I think is useful, and (Tiffany Boaz) for any amendments.

I know that there have been a number of suggestions and a number of concerns raised both within the Drafting Team and also in this discussion in the last day or so, that I'm wondering whether it's possible to sort of accurately really truly reflect in the motion as it stands.

And I'm just wondering as a point of process whether in its communication of the motion should it be passed to the Board, the GNSO is also able to attach

a letter by way of explanation which perhaps advises the Board of some of the particular aspects that have been brought up in discussion.

For example the range of concerns about the pertinent value and so on, and whether that might be a vehicle with which to catch a - sort of some of the range of Council views about this, you know, and rather than risk complex amendments to a motion which may ultimately make recommendations unworkable. So I just offer that as a question.

Stephane van Gelder: It's a kind proposal for an amendment. It really is that.

Joy Liddicoat: Well...

Stephane van Gelder: We add some text explaining it.

Joy Liddicoat: It's more rather with a - and forwarding the motion to the Board that the GNSO is able to do that by way of a letter, which outlines, you know, how it's gone about developing this...

Stephane van Gelder: But that would have to be in the motion.

Joy Liddicoat: So it has to be in the motion.

Stephane van Gelder: Yes. Okay, I mean, it can be put in the motion as a friendly amendment.

Jeff Neuman: Just another, I mean, the other way is that those that vote no have the right to have a minority report or a minority statement as to why they're voting no. That could always go in the...

Stephane van Gelder: In the transcript you mean.

Jeff Neuman: I think it's to the Board. I think there's a right...

Stephane van Gelder: No. Yes. You're talking about...

((Crosstalk))

Joy Liddicoat: ...is not a Working Group, right?

Jeff Neuman: Okay.

Marika Konings: I think it's - that's part of - if you look at the Work Group Guidelines how you define consensus and a part of a report that a Working Group produces, there you can have minority.

Jeff Neuman: Yes, I guess I'm thinking...

((Crosstalk))

Stephane van Gelder: This is just - to be clear this is a motion so there's a vote. The vote is on the record. If anyone wants to make any statement during the vote you can.

Jeff Neuman: Right.

Stephane van Gelder: The record can or can't, you know, I mean, the Board could look at the record or not. If you, the Council, wants - I'll get to you Mary. If the Council wants some special communication from the Council towards the Board as a result of the vote that's taken place, then that should be in the motion.

So we would say if the motion carries the Council requests that the Chair send for so and so to the Board.

Jeff Neuman: I just - I seem to recall though there have been certain circumstances where we've included - where someone's voted no, certainly when someone abstains, we allow them to put the rationale into the formal minutes in the record that...

Stephane van Gelder: That's exactly what I've just said.

Jeff Neuman: But I don't - but what we said is, I mean, I think...

Stephane van Gelder: I've said it's - that there's a vote you can - if you say - you can make a comment at any time. You know, you can make a comment when you vote for, against or abstain. But if you make a comment it will be in the transcript.

Jeff Neuman: I just think when the Board publishes its votes it usually publishes - if someone wants a statement on, you know, when it's just posted on the Web site they would post.

If a Board of Director wanted their rationale it'd be posted. It gets posted with it. I don't see why we couldn't do that with the motion here.

Stephane van Gelder: Right.

Jeff Neuman: Not the whole transcript, not just saying, "Here Board, here's our motion and the entire transcript." It's, "Here Board, here's our motion and some people wanted their rationale attached to it."

Stephane van Gelder: But where's the "Here Board" part? We don't send our motions to the Board specifically. Our motions are out for the world.

Jeff Neuman: Okay.

Stephane van Gelder: Now in the motion there could be something that says, "Send this to the Board." That's what I'm saying.

Jeff Neuman: Right.

Stephane van Gelder: That's no problem. Mary.

Mary Wong: I think we're talking about a couple of things here. One is should anyone vote no they can make a statement for the record, and should anybody abstain we do ask that they state their reasons for the record.

That's clear and I suppose if any group wanted to communicate in other ways they could. I think Stephane your point about it has to be in the motion, I think there's a couple of ways we can do this.

Obviously one of the things is what Thomas was talking about earlier, and rewording it to have some of these other things that aren't there yet in the motion.

Secondly and additionally, what you said is that we could specifically request that this be forwarded to the Board with the appropriate language. But there's also been other occasions where - and now I'm not talking about, you know, your reasons for voting yes or no.

I'm just talking about the Council. There have been occasions where we have communicated directly to the Board or the GAC by means of an email letter that we've agreed the language for.

And this may be something we might want to consider in this very exceptional circumstance.

Stephane van Gelder: That's absolutely right. In fact I recall that at the last meeting we drafted something that you drafted very quickly and that we sent to the Board, so that could be done that way.

That's outside of the discussion that we were just having about the actual motion vote, but you're absolutely right. If someone wants to suggest that and - then that is also something that can happen.

We're over time. I'm going to bring this to a close. We have a short break. I would ask that you all be back at quarter to for our discussion with the WHOIS Review Team.

We have half - sorry, an hour with them and then we will have our last session of the day with the GAC that will require a room change. If you don't know where the GAC are, they are in the other building in the Ramada Hotel and we will all go to them.

So that will be happening at 5 o'clock. So the next session is at quarter to 4:00 with the WHOIS Review Team and then 5 o'clock with the GAC. Thank you very much.

The GAC is in the GAC room. The WHOIS Review Team is here. Thank you.

END