**ICANN Costa Rica Meeting**
**Registration Accreditation Agreement (RAA) - TRANSCRIPTION**
**Saturday 10th March 2012 at 11:30 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.

Stephane van Gelder: Can I ask for quiet in the room please? Okay, so let's start the next session. We're a little bit late so let's try and make up as much time as we can. This session is on the Registrar Accreditation Agreement negotiations that are going on.

And we will - obviously this is an issue that's particularly close to the Registrars' hearts. So to introduce the session we have asked Mason Cole from the Registrar Stakeholder Group to give us an update. Mason over to you.

Mason Cole: Thank you very much Stephane. Sorry Glen, just a point of process. You're - do you mind running the slides for me? Do you have the slideshow? You don't.

Stephane van Gelder: We don't have your slides Mason.

Mason Cole: Oh well I sent them. Let me email them for you.

Stephane van Gelder: Sure.

Mason Cole:     All right, sorry.

Stephane van Gelder: Okay, well we'll have to set those up.

Mason Cole:     Okay, just give me one moment.

Stephane van Gelder: Can you talk without the slides?

Mason Cole:     I can always talk, sure. Okay, so while we're getting that set up, a few brief comments about this whole process. By the way I want to introduce Matt Serlin.

He's the Vice Chair of the Registrar Stakeholder Group. He's also part of the Negotiation Team. I don't know if there are other members of the Registrar Negotiation Team in the room, but if there are I know they'd be happy to be available for questions beyond - so Stephane we'll get back on time.

I just have a very, very short presentation and then we can move into questions. Okay, it's ready to go. Okay, so slide please. So by way of background as many of you know this has been a - at least a two year process at this point, starting back in 2009 when the previous version of the Registrar Accreditation Agreement was implemented and put into place by - between Staff and Registrars.

The GNSO and the ALAC collaborated on a review of the Agreement, and the Drafting Team was formed to collect comments from the community. There were by my count there were - if you go back and look at the original Drafting Team...

Stephane van Gelder: Mason sorry. Can I just ask the people behind this to - so it's a bit of - just be quiet please?

Mason Cole:     All right, thank you Stephane. By my count there was - there were 83 separate requests from the community to Registrars for implementation of various operational requests.

And then there were several overlaps with the - one Stakeholder Group as another. In 2010 we had the final Drafting Team report. Commensurate with that the Registrars opened a dialog with law enforcement.

When the original - when the law enforcement put their comments and requests in on the RAA, they saw it and received that - requests. We became concerned that some of those requests may not be easily implemented in the best case scenario or not able to be implemented at all in the worst case.

And we wanted to make sure that we collaborated with law enforcement, so we held a consultation with law enforcement in Washington, DC in late 2010 which was very productive and very helpful.

Next slide. So then in 2011 we had another very extensive consultation, this time in Brussels with members of the GAC - international law enforcement where we reviewed the 12 specific requests law enforcement made to Registrars in detail.

And we went through those to help to get full clarity on what the requests were, and to give law enforcement feedback on where the opportunities and the difficulties were in our implementation of those requests.

Shortly after that during the San Francisco meeting, we published a report, made it public on our mailing - our public mailing list. Also made it available to the GAC and to the GNSO Board - our - the full extent of our discussions with law enforcement and the GAC in Brussels so that there could be no confusion about the outcome of the discussions.

So then you move further into 2011. There's a Board resolution requesting negotiations between ICANN Staff and the Registrar Stakeholder Group begin immediately.

Shortly after that negotiations opened. Next slide Glen. So in order to go through the multitude of requests we needed a way to sort these out. And the Drafting Team did so by assigning high and low priority to the higher...

Law enforcement recommendations came - became really focused to Staff in negotiations and beyond that in negotiations there was general emphasis on the higher priority issues.

I know that was - mission in Dakar. During Dakar we answered that question by saying, "Yes, you would be - high priority." I know that was - we also recognized that there was going to be a compressed timeframe for negotiations, so we wanted to focus as much on the high priority issues as we could.

You know, in the Agreement there's a provision - that and working with Staff to try to better sort out the amendment requests by picket fence. That's been more difficult than anticipated, but we're still at it.

There's also - as you know there's a mandate for us to negotiate amendments to the Agreement, and then whatever isn't agreed to in there converts to the PDP process.

And one of - I also want to add here that the - since this is the negotiation it's - way to negotiate between Registrars also - in this whole process. The highest priority for us is a predictable way to amend the contract.

So the difficulty for us in much of the last two years has been understanding what exactly is the role of the contract versus the role of element and making

sure that we cap a predictable way to anticipate changes in the way that we conduct our business with our customers.

So - want any vagueness in that so that we could - by surprise and have difficulties with customer relationship like - okay Glen next slide. So this is how we - negotiation process.

Staff and Registrars - teams of negotiators. There are six on the Registrar side. We also retained some legal advisors to make sure that we understood the contract as it relates to this law.

We've had I believe five - at least five in person meetings either in Marina Del Rey, ICANN's headquarters or in Washington, DC and numerous, and I underscore numerous, other sessions by telephone to continue negotiations.

By the way at this point I want to call out two people I think have been fairly - in this process. One is Volker Greimann of Key Systems who is not here at the meeting yet, but we always have meetings in what's the middle of the night for Volker and he stays up until - I don't know.

I think he stays up all night to do the call, which is fantastic. On the Staff I want to call out Margie Milam. Margie has taken on most of the work of tracking documents and making sure that we're supplied with all the information we need, both on the ICANN Staff side and on the Registrar side.

She - enormously fast and she stays up all night too. I just - on behalf of the Registrars - Margie for all her hard work.

Margie Milam:     Thank you.

Mason Cole:      So as I mentioned Margie's and the Registrars are - drafts of the language. We have complicated comparison charts to make sure that we understand

what one side is trying to do and the other side is trying to do so we need to meet in the middle.

I also want to call to the - session with law enforcement and GAC members. The purpose of that was to - absolute clarity on what their four outcomes were - policy work.

We - session and what they really wanted, so - and we had a very productive session with them on clarifying what they - I'm sorry. I have - never mind the last couple of bullets here.

That's my formatting mistake. So here are some of the challenges that we're dealing with. These issues are far more complex than they might look, and we knew that going in but we really learned it as we started negotiation, even in simple issues.

For example the European has different privacy laws - parts of the world. And for European - to a different standard. So making uniform anything that has to do with the protection of data or the publication of data - this data - business or about a Registrar's customer or about a WHOIS - subject - and their interpretations about what can and can't be done with that data.

So - and even the simplest issues are challenging around that. Another issue is diversity in the Registrar community. Diversity by geographic depiction again because of differing jurisdictional - multiple business models, what a contract would do to one Registrar's operate may be different from what it would be to - operation.

So sometimes we have to compete with ourselves in - Registrar's where we can then go back and negotiate with Staff to find something that we - and that request - third, and probably most - this meeting - collaboration with the community.

I'm going to move to the next slide right here if we could Glen. Thank you. As I said some of these rules are very complex - input from the rest of the community because the implementation of those things won't be able to be done by Registrars alone.

I'll give you an example. Law enforcement's request and in fact the - it's a request by multiple - is for Registrars to validate or authenticate the identity of an entity populating WHOIS.

As easy as that looks on paper it's - and it's going to require lots of cooperation from all parts of this community. So here's your first - stakeholder seminar on Monday where the price of admission if you will is direct suggestions about how we can go about building, testing and paying for implementing - and everyone's invited to that so please do make time.

Next slide please. Okay - fairly characterize these collaborative - Staff has - Staff and Registrars have been interested in good outcomes for both - the entire community.

Negotiations also have been contentious by that but - faith, which is, you know, I think both sides are looking for. Okay Glen, next slide. So in terms of timing - is that there's an outcome that emerges from there that is accommodated by everyone.

So it would frankly - when it came time to do the implementation, so it's important that we arrive at decisions that can be actually put into place. We also - we're open to the commitments we made to the Costa Rica meeting.

Both sides committed at this stage to making sure that we have quality Agreement without sacrifice only for the sake of speed. So we are - but not at the cost of a quality deliverable.

Glen next slide. So next steps from here - one, you saw the report from Staff on where we - the items that are being negotiated as collaboration - meeting tomorrow and on Monday on verification.

Our next steps then beyond that are to conclude the negotiations for the issues that are currently in play, plus - be addressed through - and that is all my - so I turn the chair back to you Stephane.

Stephane van Gelder: Thank you very much Mason. Thanks to Glen doing those slides. And let's - up for questions and comments.

Mason Cole: Outstanding for Glen. Good job.

Stephane van Gelder: Congratulations are in order. I believe - (Farid).

(Farid): Okay. Well thank you. Thanks Mason. That was - like what's happening inside and we only - summary, you know. That was extremely helpful so thank you for that.

I just wanted to request and I think maybe the Council should consider have Staff also, you know, give us a presentation from an ICANN perspective - ICANN Staff perspective as to what's happened.

It's all good to have members - up and have some information. I think it's a responsibility of Staff to come back and also give us a presentation.

Mason Cole: Can I interrupt you there?

(Farid): Yes.

Mason Cole: I'll give you a piece of information. Before the verification - on Monday there will - presentation by Staff.

(Farid):         To the GNSO?

Mason Cole:      To anyone.

(Farid):         Yes. I'm - I would still recommend that there be a presentation by Staff, maybe whoever was in the room. I don't know if Kurt was there or (John) or somebody else, whoever might have been there.

                 I would like sort of, you know, Council have a direct discussion. The second question is if there was a certain level of transparency that was expected, because they refer in one of the motions and when the Council put forward, and I remember Kristina Rosette and that Councilor had said to withdraw the motion as we understand and we get a level of transparency going forward with the GNSO recommendations.

                 It is a comment on my part that the PIM matrix and summary that we have seen is disconcerting with respect to the transferency aspect that the community would - at least VC and others would like to see a lot more of that.

                 That's why I asked for a briefing from the Staff because this is a Council issue, because it was a Council motion. Also on the - with respect to the substance of that matrix, we see two parts.

                 We see what the law enforcement - but everything, you know, when we see that document what I'd like to see it also match just maybe enforcement recommendations and numbered 1 to 12 or whatever there were.

                 I'd like to see sort of a match as to the GNSO high priority items are matched against them because they haven't got to be part of the discussion, because I can sort of raffle off a couple things like SO database issues and issues of verification, cancellation and cancellations 6 and 7 are high priority items, which I couldn't find in the matrix.

So it seems like they - at all although they were high priority items. You know, so I'd like to see some of - than that maybe from the Staff for matrix of sorts.

And the last - whenever we have an opportunity I'd like to sort of get into some sort of a more substantive discussion to get an idea of what the privacy issue is, because my understanding is when law enforcement asks for information - the protection regulations don't stop them from getting the information.

Yes, the data protection regulations create a - privacy. If law enforcement isn't investigating criminal offenses, that's fine. But when you get into a criminal investigation, your privacy protections do not exist is my understanding.

And I could be wrong but I'd like to get clarification on that. Secondly, as far as geographic I'd like to again understand everyone why the geographic distinction makes - is relevant, because where would the - locate the Accreditation Agreement if I'm not mistaken only in our jurisdiction.

So these are the kind of questions I'd like to get into substantively - that. I don't think it's fair to have the Registrars - this. It would just get a little messy so maybe Staff could - or be available. Thank you.

Stephane van Gelder: So I have Alan. Do you want - (Wendy).

(Farid):       ...density of questions I'm going to ask a more simple one. But I - it does I guess relate in a way to the transparency question. So outside of this process we don't know what's going on.

Registrar - the density of law enforcement. Well - involved in this discussion. There's been - Americans and the Europeans. Is it basically just that?

Is that what we're dealing with to be talking about - from - and questions from law enforcement agencies also around the world? How much coherence is there?

Once - in terms of the - forward. We don't have any sense for what's going on. We're curious about some of the other things - law enforcement is in - have interest in the Registrar.

Stephane van Gelder: Alan.

Alan Greenberg: Thank you. (Farid), my question might be - might best be asked to Staff but I'm asking it here. Cases that want to be the highest item on the Registrar's list is a clear way of how - RAA in the future.

Clearly that would apply only future changes - this one. The 2009 - 2008 - RAA changes began in 2009 because Council refused to approve it. The issue was that - RAA change had to be approved by Council because majority could be rubber-stamped.

Council hadn't even been involved in the process. And there was a lot of difficulty getting approval of that. Does anyone know at this point, once Registrars and Staff negotiate a contract, how does that - already approved? Do we know or are we still ignoring that aspect of it?

Stephane van Gelder: I have Mason and...

Mason Cole: So I think I can - couple of questions. This is a heeds question on - diversity of geographic Registrars and privacy. I wish Volker were here because he's representing your point of view - team.

He - Monday he's going to - Registrar's side of this alongside of Staff. And I think that would be an opportunity to clarify some of these questions. He's an

attorney and he can speak much more authoritatively than I could on that. But I do - are in play regardless of where the contract resides.

Stephane van Gelder: So - okay so - and then to (Bill).

(Bill): Diversity of law enforcement - yes it's - but there's publication that - somewhere about - comes from their participation that there are South Americans, there are Eastern Europeans, there are Asians so - U.S. and...

Stephane van Gelder: Thank you. I have (Wendy) next. Sorry. I can't hear you.

(Farid): Sorry. I was trying to be polite, you know.

(Wendy): Okay.

(Farid): I appreciate the fact and I - and I did not want to detract from the value that that will bring to the community. From - the GNSO will - I think the Council has a better opportunity - address some of those questions.

And I also think that it's unfair to have the Registrar sort of go back and forth with Council on this issue. That's something you guys need to negotiate with the Staff, but I think Council can ask Staff.

I just don't want distract from that either, that Staff should be present and Staff should make a presentation. Council should have an opportunity - as far as your question Matt, if we agree with you it's not just U.S.

From what I understand there are others in the room as well, but - and recommendations of the - based on what is expected. Yes, so - available to the Council obviously - that.

Stephane van Gelder: Okay (Wendy).

(Wendy): Thanks. I think the - as much to Staff as to make - so thank you for that state. I've been trying to follow the process from what's published. I found the wiki totally impenetrable.

It keeps on proliferating new pages - no text on any of the pages - being - ways that we could put comments/discussion in. I've tried - to the bottom of those wiki pages as I was suggested would be a way to add public comment to the process.

And it's unclear to me whether anyone has read those or anything has ever happened to them. And then we get the progress report here where in some columns it says, "Agreement on language."

Great. I would love to see the language and to see - even if we're not parties to the negotiation if we have comments on when - whether that language is clear, helpful to our communities or could be improved, it would be great if there were ways to get some of these issues that are critically important to commercial Registrants among others.

Stephane van Gelder: Okay (Wendy). Go ahead - respond to some of the questions that have been asked of Staff, so perhaps we can - okay.

Margie Milam: I just wanted to point out that if you have questions that you want Staff to answer, you can email them to us and we'll follow up and make sure - thanks. You know, we'll have to give it to the Negotiation Team and have...

(Farid): Thanks. I think that's a good idea and we should - but I think there's a difference of dynamics. When Staff first makes a presentation get more information on the basis of that information questions that are posed currently, we would have enough information on the - from Staff to be able to formulate much more I think effectively.

So - how do we pose questions about something we don't know till we get a presentation? I - that possible if - appreciate it. Thank you.

Stephane van Gelder: Thanks. (Bruce) please.

(Bruce): Yes. (Farid) - towards - not yet - you'll have the - to consider that and you could also ask questions of the Board and Staff during constituency day. And then obviously sending emails to, you know, on the Council list or directly to Staff that can also respond, then potentially give further answers to those questions in the public forum on Thursday. So I think it's just giving time so you will get what you want.

Alan Greenberg: What I was trying to get back - question I asked about how the contract will be approved after negotiations and...

Stephane van Gelder: You know what? If - feels they can just - hang on. Margie wants to go.

Margie Milam: Yes and I thought I answered that. We're going to take it back and - to the Council, put it in writing - give it to Staff. We'll send it to the Negotiation Team and - more...

Stephane van Gelder: Is that (John)?

(John): You know, we've all learned quite a lot about this process. Do you have a new time?

Man: Yes and no. I'll - I think I can speak accurately for the Registrars on this point of view. The first, I refer back to part of my presentation where we - both sides are interested in getting - do we have a new timeline?

I think the answer to that is no, not immediately. I mean, you know, if I'm eyeballing this I'm going to say, you know, we're pretty close to having

something ready to publish but I can't tell you what day that'll be. I don't know if Staff wants to comment on that.

Stephane van Gelder: No apparently they don't. Yes (John).

(John):            Just one more specific question. In the course of -- hey, hey, hey, hey, hey -- in the course of the discussions, in thinking through the requests from law enforcement and then from others, has there been any thought or any time devoted to the economic consequences of any of these, all of these, recommendations?

                   I ask only because as a member of the business constituency I'm concerned about what the outcome might be and I haven't seen any data on that point. Discussion about the economic impacts?

Man:              No. Nobody's studied it but it's been discussed?

Man:              That's a big yes.

Man:              That's a huge concern for us.

Stephane van Gelder: I'm waiting for the mics to cut out again, Zahid.

Zahid Jamil:      Thank you, Stephane. Always a pleasure. A couple of points, first of all I appreciate the fact that this is actually going to be discussed in a session, (Bruce). And as I said, I don't want to detract from that value because it brings value to the community.

                   But that's a separate aspect or issue as compared to when staff comes and presents in front of the GNSO. Let me explain why. Because you've done that in (other cases), even if there's a new GTO, the update (card) still has come here and given the GNSO an update on the (unintelligible) process.

So I think we should just keep that in mind that GNSO has the - they should have the opportunity to be able to have - to pose questions, because the format of those meetings that we're talking about, the ones that will be open to the community, it doesn't get a lot of questions in if counselors want to get it in. And I think that is the value that we will lose if we don't have that opportunity, one, so I'd like to sort of say on target on that.

Secondly, as far as us having an opportunity, I have a timetable of tomorrow and I see that our joint CCNSO/GNSO council meeting starts at 12:30 and ends at 2:00 while this briefing that you're talking about starts at around 1:15-1:30.

Stephane van Gelder: You're talking about Monday, right? It's Monday?

Zahid Jamil: Yes, I am.

Stephane van Gelder: Okay.

Zahid Jamil: So it overlaps, therefore it's not going to be possible for everybody to be in that room and not be able to, you know, and to be able to do the (unintelligible) without either having staff in the room, making a presentation to council, not that it distracts from what's happening on Monday.

Stephane van Gelder: Thanks. I hate to - I have Joy and then (Yohav).

Joy Liddicoat: Thanks, Stephane, and thank you, Mason, for the overview and also for the good work at the registrar. We just (unintelligible) doing in this topic. It's one that's certainly dear to the hearts of those in the ENTSG, particularly in terms of concerns about private contracts that have public implications for (states') human rights obligations, particularly in (unintelligible) law enforcement. And, in fact, at the human rights council...

((Audio Gap))

Joy Liddicoat:     ...so I'm just writing it here, not to (shoulder us) with more responsibility (ration) but to point out that for council members there are wider public policy implications from the private treaty contract arrangements, and I think that Mason's question about the policy issues in relation to registrar agreements is a good one and I think it's one that the council does need to pay attention to.

Stephane van Gelder: Mason, I've got you up next and then I'll come to you. And I will remind everyone that -- in the room -- that these are free and open sessions. If you want to participate, please do so. (Yohav)

(Yohav):     Yeah, so, the point that (John) brought up, the economic point of this whole issue, and it's important to understand, you know, Mason stressed it a few times, that when we got into things we realized that this is much more complicated than things look like.

I'll just give an example. We had a discussion within the registrar's stakeholder group. I think there was a thread of about 200 emails just on how do we deal with the request on the phone, the specific phone, for the (outtakes).

And then you get into things like what happens if a police authority from Iran goes after an Israel, my registrar? And we have a website maybe - we hold a website where that is not legal (unintelligible).

Later on these things were clarified but, you know, the initial requests were too general. And when you get into the details you find out that, you know, you need to be much more specific in what you're asking for.

I think this is one of the main issues on the verification. What exactly do we want to get on verification? And the economical results of it are (apart), so if it's just going to be, I don't know, email verification, well, that's one thing.

Maybe someone wants to go as far as have people physically provide their IDs. So that's another way, and that will have additional economic implications. So I think it's too early to even think about a study of what is going to happen.

And clearly this is the something that can happen here that will change this whole market as we know it, so we need to be very careful in the steps that we're taking forward.

Stephane van Gelder: Thank, (Yohav). I've got Mason next.

Mason Cole: So just stacking on what (Yohav) just said, he's 100% accurate. I know that for the last several months, you know, there have been various points of exasperation from parts of this community, from the U.S. Congress, from lots of people, who look at just to take the law enforcement...

((Audio Gap))

Mason Cole: ...number on your website. What's so hard about that? It's - again, when you start digging into this you realize that those are - that even the simplest things can become very complicated. So I want to dispel any suspicion that the registrars are just pounding their fists and saying no to everything. We're absolutely not doing that.

What we're trying to do is (at) a workable solution that can fit everybody under an agreement. And I don't want to, you know, I don't want to just - I don't want to pound the table on that, but to Joy's point - I'm sorry. I wanted to come back to...

((Audio Gap))

Mason Cole: ...so I don't want that to be lost.

Stephane van Gelder: So is it (that), Thomas, or the other way around it?

Thomas: (Unintelligible), just a question in terms of timing again. You know, I do appreciate that all the things that law enforcement authorities have requested. You know, when you carefully analyze them you find out that it's much more complex to implement.

I think everybody in this room appreciates that, but we - I think we (all need) to remember the joint session with the GAC at the last ICANN meeting where the GAC was very upset with how things went.

And I just want to make sure that this is not, you know, the next opportunity to get some negative feedback. So will there be a joint statement by law enforcement and the registrars and ICANN and, especially, the GAC to say that we're working on this? It's a joint effort. We're in a good way.

And even the fact that we don't, you know, get the new agreement ready by the Costa Rica meeting this is done, you know, in an agreed (manner), because I see dark clouds coming up with the Red Cross thing and this new form of collaboration with the GAC, at least it seems (as being such). You know, if we get issues with these two particular things I think we wouldn't look good.

Stephane van Gelder: Thanks, Thomas. Is that (unintelligible).

Man: Thank you. Just wanted to say (Yohav) and Mason's substantive discussion right now is extremely valuable and helpful. It explains to us, you know, the difficulties you have on - even on just one data point that needs to be negotiated. I completely appreciate the example, (Yohav). For instance, I come from a country where we would have concerns, et cetera.

So, on the one hand you have people who are concerned about the sort of freedom issues that are being discussed and on the other hand you have people who are concerned about cybercrime issues, which are in place there, you know, security versus openness, balance.

I think that giving less information and substantive information only creates a (thinking among) many, a perception, that something has been hidden and it doesn't help you because pressure's mounted on you even though you're discussing very important and difficult issues.

So these sorts of things coming out and for our people to understand that this is not an easy challenge will actually help and that's why I think the matrix (should) be more substantive or a summary being more substantive actually helps the negotiations as opposed to just having politics being played with the whole dynamic. So, you know, I'm trying to be helpful, not just be critical. Thanks.

Stephane van Gelder: Thanks. Matt?

Matt Serlin:     Thanks, Stephane. Matt Serlin, I'm the Vice Chair of the stakeholder group and a member of the negotiating team. I just wanted to follow up on Thomas' point about the GAC/law enforcement/registrar and staff communication.

So I think Mason touched on it in his presentation, but we did have a session in (unintelligible) last month. Had a number of GAC representatives, law enforcement representatives, the president on the phone, and in person as well, to, again, work through some of the specifics of the requests that we were seeing. And so we had good communication, a good session with them. That was, you know, a half-day session in D.C...

((Audio Gap))

Matt Serlin:     ...Costa Rica...

((Audio Gap))

Matt Serlin:        ...the verification session as well and so we'll make sure (that) positive engagements...

((Audio Gap))

Stephane van Gelder:Thanks, Matt. Mason?

Mason Cole:        I agree 100% with Matt. To your question, Thomas, I think the registrar's relationship with the GAC now is far better than it was in Dakar...

((Audio Gap))

Mason Cole:        ...our negotiation. So I think some of that rancor has been reduced and that's the way I want it. So, and then, Zahid made one point about additional clarity in this process. I appreciate, Zahid, that, you know, this is helpful. I think -- and I'm not being mean-spirited here -- I think everybody has a great idea about how we should conduct this negotiation.

And, you know, we're - I just want to underline that we're doing this in good faith. Now is an appropriate time for us to be able to come back to the community with any kind of substance because it's taken us this long to get to anything, and we're still not all the way there. So I just hope that good faith is absorbed and known in the community.

Stephane van Gelder:I've got Mary, Thomas.

Mary Wong:        This is just a quick question for the council, actually. And because tomorrow morning we have a session to prepare for the lunch meeting with the Board, and during the lunch meeting with the Board, I guess RAA is going to be one

of the topics of discussion. So I don't want to jump the gun, but I'd just like to tee us up for our discussions either for tomorrow or going forward...

((Audio Gap))

Mary Wong:     ...recommendations as to how and when the council should consider initiating...

((Audio Gap))

Mary Wong:     ...I don't know what to do first, second or third, but I do think that at some point we need to figure out as a council not just what we want to talk about at the Board tomorrow, but when we talk about the report and how we want to manage this process.

Stephane van Gelder:I have (Jonathan) next.

(Jonathan):     Thanks. The queue sounds like it's shortened. It's shorter. I guess I've got two questions or points. One goes back to a point of Zahid's earlier that I may or may not have understood correctly, but, Zahid, I think you talked about when law enforcement made a request for data that that would - that it would be very difficult to refuse that request at that time or that, you know, how that data may or may not be given over.

But the point with, as I understand it, with privacy and jurisdictional issues around the world of data is that that issue comes up well in advance of a law enforcement...

((Audio Gap))

(Jonathan):     ...maybe envisage within these new ways of operating, modifying the registrar and just have authenticated data. It comes up very, very early on by simply

storing it in different locations and so on. But, you know, as I say, I may not have fully understood what you are saying.

And the other point I wanted to make was a follow-on from Thomas' earlier point, and just to the extent that we can reflect the positive nature of the negotiations and how things have developed and we can publicly get that (information)...

((Audio Gap))

(Jonathan): ...several for, in my view, reinforcing the ICANN model, which is an important point, and I think that's what Thomas was saying. Because (unintelligible) we looked terrible coming out of -- as a community -- coming out of Dakar and we looked fractured and unable to work together.

And to the extent that we are able to work together and making effective progress, that's a very valuable message for all of us to get out, so that's a point I'd like to make.

Stephane van Gelder: Okay, we're getting close to the end of this. I've got Thomas, Zahid, and I'd like to close it after that, so if anybody else has any comments can you raise your hands now, please.

Man: I might have.

Stephane van Gelder: Yes. And then we'll stop. Thank you.

Man: Just a quick follow-up, and thanks, (Jonathan), for your comment right now. (Unintelligible) I think that...

((Audio Gap))

Man:            ...you know that everybody's using best intentions to make progress, but what I was asking for was actually one statement that maybe could be - probably could be made publicly available because, you know, we're under scrutiny from (circuits) that go far beyond those that come to the meetings. Thanks.

Man:            That's precisely my point, too.

Stephane van Gelder: Zahid?

Zahid Jamil:    I support both the - a staff presentation as well as joint statement as Thomas has pointed out. I think that's a great idea. Just to clarify, because (Jonathan) said, you know, what it was that I was trying to get to, I'm not saying it's very difficult to refuse it. You can, depending on which jurisdiction you're in. That's the purpose of having these guidelines set up with the LEA and the RAA.

With respect to the data protection issue, I'd like to dig deeper, because as you rightly sort of identified they are different discussions. The issue with, as I understand, a cross-border data flow is that if you are an entity within the EU then you can't send that data out. But if you're an entity that is outside the country and somebody freely gives you the data that's not a problem.

If it's a regulation issue within the European Union, for instance, as an example, all you need to do as a business is follow the guidelines by the information commissioner of data protection authority. So there are workarounds and there are solutions to this, so I don't see it as a yes or no situation.

That's why I think it's a little more complex and we need a little more information. And that's precisely why I think (unintelligible) presentation digging deeper into this would be very helpful, because I think a lot of people are concerned about what the privacy aspect is. On the other hand, a lot of people are concerned about how do we get these bad actors?

It's going to be difficult to just say, you know, just trust the staff and the registrars. I completely understand, and I do believe that it's happening in good faith, but you will not be able to satisfy the community unless you have some sort of transparency.

Stephane van Gelder: Thanks, and let's close it off with Jeff, please.

Jeff Neuman: Yeah, and this comment -- and this is Jeff Neuman -- is really in relation to when we present to the GAC tomorrow or if the subject comes up or when it comes up. I think we need to, as a council, avoid what happened the last meeting where each individual group, constituency or stakeholder group that had an opinion went in front of the GAC and it almost looked like we were - what do we say, at least in...

((Audio Gap))

Jeff Neuman: ...council level, and I really would like to avoid that. And we have time later on to talk about what we're going to do at the GAC session or, you know, what we're going to talk about specifically, but we really need to not engage in the surprise attacks.

And, you know, Zahid, I hear your comments and I know that individual groups may have individual thoughts on what's going on. I think one question we should anticipate getting, which we didn't have time to go into, is what's the relationship between these negotiations and the policy work that, you know, (unintelligible) around a final -- is it final? Yes? -- final issue report.

So we need to think about it the next few hours and then when we talk about the joint session how we answer the question from the GAC as to how that relates to each other is going to be important.

Stephane van Gelder: Thanks, Jeff. And I'd like to suggest that this leads on to the topic we're going to discuss, which is lunches -- sorry -- meetings with both the GAC and

the Board, so obviously we might want to carry this on. We will do this over a working lunch, which, as usual, is being served in this room so please help yourself to some lunch and let's take ten minutes to do that and then move back to our seats and continue the discussion on which topics we want to discuss with the Board and the GAC. Thank you very much. Operator, this session is now closed. Thank you.

END