

Transcription ICANN Toronto Meeting

Brainstorming Session

Saturday 13 October 2012 at 10:00 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: Thank you. The conference is now being recorded. You may begin.

Stéphane Van Gelder: Thank you very much. Welcome everybody to Toronto and to the GNSO Council work weekend. Can I ask, once again, GNSO councilors please take your seats. Thank you very much.

My name is Stéphane Van Gelder. I Chair the Council. And we will start straight away with a new session that we've - we're inaugurating for this Toronto meeting, which came out of repeated discussions that we have at the end of our work week during a session called the wrap-up where we've always felt that the discussions during the wrap-up were very productive because their free-for-all kind of nature.

So we wanted to try and open our week with similar discussions. And this is what we are trying at this meeting. It's the first time we've tried this so we'll see how it goes. We did have some topics that were suggested as leading to this just so that we have a basic framework to construct our discussions around. But other topics are welcome.

This is a one-hour session. It's done in - very much in the spirit of the wrap-up so no official agenda and we'll see where the discussion takes us.

So we had a couple of topics that we wanted to explore during this session. The first was to do with the review that the GNSO might be called upon to undertake very soon.

The second is a recurring issue that we've actually had on our agenda for our open Council meetings - our teleconference meetings for the last few months and not managed to get to so we were hoping that we might get to it today.

And the third is a topic that I introduced is looking at the role of the Council within the wider GNSO.

So let me just look around the table see if anyone wants to lead in with any of those topics and if not I'll do so. Does anyone want to speak? Jonathan.

Jonathan Robinson: Thanks, Stéphane. My thought when I was looking at these is I don't want to make a contribution yet but my feeling was it would be very useful to set some kind of baseline before we went into each of these.

So for example on the GNSO review before opening up the discussion I'd quite like to understand what the minimum or have established clearly amongst us what the minimum requirement is; what do we have to do? What is the mandatory requirement? And then on basis we can use that as the foundation for discussion.

Stéphane Van Gelder: Well let me answer that first. The GNSO is - what do we have to do? We have to do what the Board tells us is the simple answer. And the Board is working with a set of bylaws that dictate that they should look to review the GNSO every five years. And that five-year timeframe is coming up early next year.

Now there is a provision within those rules which allow the Board, at the Board's discretion, not to initiate the review in that timeframe if they feel that

it's not appropriate. So it may not begin - I think the month is February of next year. It doesn't necessarily have to begin next year if the Board feels that that is not the right timeframe.

And if you remember, Jonathan, in our discussions in - where were we last? Prague - in Prague during the wrap-up there were two very strong currents of opinion that came out of those discussions. The first one was that the GNSO review would be ill timed to start in February next year because the new gTLD program would not have been far enough down the road to gauge its impact.

The second was that the GNSO review should start even earlier because the GNSO needs review now. So does that answer your question?

Jonathan Robinson: Yes, thank you and I think it's helpful.

Stéphane Van Gelder: Marilyn.

Marilyn Cade: Thank you, Stéphane. Marilyn Cade speaking. Let me ask a framing question as well. And I see that Rob Hogarth is here. But I think sometimes I've discerned in the various discussions about what the GNSO review is, a lack of full understanding of what the review is and what its purpose is and that it needs to be - I think the statements have been made - and many of us have had this topic in our interactions between the constituencies or the SG and the Board.

And it's been clarified that restructuring of the GNSO policy process is not equal to GNSO review. And I think that's a really important thing to look at. And let me just make a statement on behalf of the BC.

One of the improvements that was made out of the last review was the establishment of a toolkit of services and support. And a GNSO review will

focus heavily, I believe - and Rob is here so we can ask - on assessing how effective the tools are that the constituencies now have in support.

So the review, having lived through one before, is broadly a about the constituencies not just about the policy process. Maybe we could - that would be helpful to further clarify to see if we all are on the same page on what the review is.

Stéphane Van Gelder: Thanks, Marilyn. I think that's a very helpful question. And you're right to separate the review from the restructure especially as people, I think those people that were involved in the restructure, remember as a painful process but I don't think it needs to be. But it's true that this is a two-step process or the process we last went through was a two-step process where you had a review and then out of the review recommendations there was work done.

I see Rob, you're nodding and you probably want to add to this.

Rob Hogarth: Thank you, Stéphane. I'm just nodding at your brilliant summary of the structure. Yes, as Marilyn pointed out the independent reviews are structural and operational. And the scope of each review is really dependant upon the status of the organization and where it is in its lifecycle and the rest.

So it's entirely in the Board's discretion to take a broader or a more narrow view. And I think you've done a good job sort of noting where they have some flexibility.

My sense is, though, based on various public statements that have been made at past public meetings that there is not any sense at this point that that process would be delayed. And I think more the structure and the focus for this community is a sense that there will be some objective and subjective reviews of the operations and how the organization's mission, purpose and operations all seek to continue to achieve its goals.

Stéphane Van Gelder: Thanks, Rob. Can I add that one of the reasons for talking about this is also that - I think it's important for the Council to understand that the Board will welcome any recommendations that Council has on the timeliness of the review; is it, you know, a review that should be started on time in February or later? What is the Council's recommendation?

Now that's - once again this is a brainstorming discussion and there's no official process to come out of this discussion. But it's important to understand that as a Council we can freely decide to make some recommendation and to say to the Board, you know, you should do this now, you should do this later, whatever.

I have Thomas, Wendy, is your hand up? Yes. And then Chuck.

Thomas Rickert: Yes, I'd like to start by making a remark which is that the review does not necessarily result in the restructuring. So I think that some of the hesitation that we've heard during our Prague wrap-up session was that people felt that once the review was carried out that everything will be put upside down again.

But I think that it would be good for the Council and the GNSO as such to consider the potential impact of the review. And I think it's better to come up with our own suggestions and thoughts to prevent others to impose their ideas on this group, which I think it might be likely to happen if we remain completely silent and don't make any recommendations.

And so I think that this review is closely interrelated with the work that is currently being done on the impact of new gTLDs so I think we have to put that into the equation as well. And hopefully have our preferred response or need to take action or not to take action on certain aspects before the review is actually starting.

Stéphane Van Gelder: Thank you. Wendy please.

Wendy Seltzer: Thank you. Yes, I think that we could do a lot to prepare ourselves for review and do sort of an internal pre-review that we could present to the Board with our own suggestions of what we have heard from others in the community and what we recommend looking at those and that our own internal processes for what would improve the effectiveness of the GNSO Council.

So as preparation for that I'd recommend that we try to canvas the effectiveness of GNSO Council as its perceived by others outside. For example, we've heard we're too slow. We've heard and seen places where we come to deadlock rather than being able to move forward either with a vote up or a vote down or a consensus or a lack of consensus.

And if we could catalogue those complaints and concerns and ideally develop our own recommendations to improve them that would be excellent. And frankly I would welcome a review both internal and external because I think there are serious places where the Council's structure interferes with its effectiveness.

As I've said before I believe that the siloing of houses and stakeholder groups hinders rather than helps us in reaching consensus on shared goals across those borders. But I think I'd like to develop that with review of some of these concerns we hear elsewhere.

Stéphane Van Gelder: Thanks, Wendy. The notion of canvassing outside for - to understand what others feel or think of the Council is interesting. I think it actually ties into the topic of the role of the Council in the GNSO which is one I absolutely want to get to today so we can perhaps move onto that after we've done this one.

But I just want to say - and this is probably something that you'll hear me say a few times during this week is that I also feel it's important - I understand the

pressure to react to - or to gauge or to understand how others perceive the Council. I also think it's important to understand how the Council sees itself.

How does the Council see itself within the GNSO and within the wider ICANN community? Because I think in the past in discussions here we've often lost that perspective and concentrated too much on the way others perceive us.

Chuck.

Chuck Gomes: Thanks, Stéphane. I'm one of those that thinks it's premature to review structure because of all the changes we're going to see in the next couple years. But I want to follow up with something that Marilyn suggested there and take it a little bit further probably.

It's not too early to review the GNSO improvements that have been put into place. That's a very appropriate thing to do and something we need to do every time we implement improvements. So I'll leave that at that point.

One more comment: I hear a lot of comments about structure and eventually we need to look at that. But I think we need to be careful to assume that when we get to that point, whether it's two or three years down the road, to assume that changing structure will solve our problems.

We have been through - I think we're in our third structure. And I personally, having lived through all of those, don't think that the issues have much to do - as much to do with structure as they do with our ability to collaborate together across our diverse groups.

And so just a suggestion as we do get to that point, which I personally hope is a couple years down the road because we're going to know much more then. But let's not assume that we can solve our problems by structure. We can better work together and collaborate better and be more efficient. Those kind of things need to happen whatever structure we have.

Stéphane Van Gelder: Thanks, Chuck. Alan.

Alan Greenberg: Thank you. A couple of quick things. I think some of the dichotomy you're seeing of should we have a review soon, should we delay, do we need restructuring, all fall around the core views of how well do we believe things are working and how significantly do we believe the changes are going to be in the future.

And, you know, I sit on the fence. I can see problems with the structure now and maybe it's time to review it. On the other hand I certainly would not want to go through this process again that we've gone through over the last four years. It was just too painful.

On the other hand there are real operational problems that the current structure causes. I suspect, as Chuck does, that the new GNSO environment - the new gTLD environment - is going to change things and exactly how we don't know.

So it's probably time for an informal review. I'm not convinced it's time for a formal big review and then delay the other one for 10 years from now because - or for at least starting another five or six or seven years from now because I think we're going to need a real major review much sooner than that.

So there's just a lot of different ideas. I don't think we're going to come up with a single unified view.

Stéphane Van Gelder: Thanks, Alan. Margie.

Margie Milam: From the staff perspective and you think of the effectiveness of the GNSO Council I'm not - I kind of agree with Alan in the sense that it's not necessarily

a structural issue but it's a mindset in the Council and in the community of trying to work together to get consensus.

And in some of the areas where, you know, we've seen a breakdown. I think there's areas of improvement where we can try to collaborate. It's a follow on on what Chuck said, you know, how can we collaborate, how can we try to draw people into the discussion to try to develop a consensus on some of these issues.

Because I think if you really get down to why people tend to criticize what comes out of the Council I think it's a perception that there isn't a lot of effort made in trying to reach consensus.

And then on a separate note I think from the staff perspective there's, you know, we skirted the issue of prioritization. You know, we've never really focused on how to prioritize work and how to enhance participation in the GNSO Council so that we can get some of the work done.

I mean, we're still seeing instances where working group meetings are cancelled or, you know, one or two people show up or it's the same people. And, you know, and we're worried about volunteer overload because the people that are actually writing the reports are the same people across the board.

And that inclusiveness is something that I think we really need to try to change. It may not necessarily be a structural thing but it's a, you know, trying to bring in more people, trying to work in consensus and trying to internationalize so that we're getting more perspective when we reach decisions and when the working groups come up with reports and things.

Stéphane Van Gelder: Thanks, Margie. I actually have to strongly disagree with a couple of things that you said I'm afraid. I don't think the Council has been lacking in

its efforts to do outreach. And I don't think the fact that you're seeing some working group meetings cancelled stems from a lack of engagement.

I think it stems from a couple of things that we've often discussed the first being - and I've said this before so it's not a surprise to you - I don't think there's sufficient good organization of the way we work. So we come into these ICANN meetings with the usual spate of 10, 20 documents that we had to read just before.

Whenever we work we work to timelines like this instead of spreading the work throughout the year. And that does lead to volunteer burnout because most of us have other things to do; we're not, you know, we're not full time ICANN people.

So I actually think there's a very good spread of goodwill to do the work and to engage others in the work and to engage others internationally in the work. I agree that there's a language problem but that's an ICANN thing in general. And it's better within ICANN if you can speak English to engage.

But, you know, I don't want to leave us with the notion that somehow the Council isn't inclusive enough, which I think is one of the words that you used.

John.

John Berard: Thank you, Stéphane. The - one of the questions that has come to my mind as we've grappled with the review of working group and drafting team recommendations at the Council level is that the membership of working groups and drafting teams is essentially self-selected, self-nominated.

And I know that historically there had been requirements that there be, you know, that there are membership requirements in a working group. I mean, perhaps we should think in terms of the review of seeking to return to that

point where the working groups and drafting teams have to have participation from across the GNSO in order to even commence the work that they're doing.

That might add some more - add more weight, more legitimacy to the output of the groups and therefore eliminate some of the discussion that occurs at the Council level because the Council is composed in a very structured way.

Stéphane Van Gelder: Thank you very much, John. I have Thomas then Marika. Anyone else before we move on to the role of the Council? Thomas please.

Thomas Rickert: Thanks, Stéphane. Just two or three quick points. I think that we shouldn't allow ourselves to believe that if there were a new structure that we would have more volunteers providing input.

So I think it would be an awful waste of resources to restructure everything or to put energy into that and then hope that all the other problems were - were removed instantly.

I think that's not the case so I think we have to work on efficiency and we have to work on improving in our ways to deliver results and to make the work more satisfying for the volunteers in any structure there is.

And maybe I can propose that we take a two-step approach. I think we need to make our homework and think about how to improve ourselves as the GNSO and as a Council anyway. So why don't we look at that ourselves and then draw some conclusions from it. And that conclusion may be that we talk to the Board and recommend that the external review should be carried out later.

But I think without having done any work on that we have a very weak point and it would maybe be perceived as evasive if we just say we don't want the

review. And I have no reason to doubt that the various SGs and constituencies that have responded are resilient to deal with future changes.

Nonetheless I think some work is required in order to put together a paper and be able to make sound and informed recommendations about that.

Stéphane Van Gelder: Thank you, Thomas. Marika please.

Marika Konings: Yes, this is Marika. Responding to what John was saying on, you know, I'm not necessarily advocating going back to the old model where we had the taskforce model, indeed, where every I think stakeholder group, constituency or in the old structure had a representative and that was it.

I think what we might want to consider - and I know it's something we also raised, I think, in the discussions on the PDP work team is a kind of requirement where at a minimum each stakeholder group and constituencies appoint one member to a working group.

And it doesn't necessarily mean that a member has to show up for every working group meeting and attend all the calls and do a lot of work. But at least there's a point of contact that they have a responsibility to keep up to date and at least are able to inform their constituencies and stakeholder groups when issues come to the table and certain decisions have to be made so they can flag certain issues.

I know some of you I think already do that. But we do see certain working groups where we have very limited participations or no representation at all from certain groups in the Council. So I would like to put that on the table as something to consider as a way of making sure that when then certain recommendations come to the Council it's not a surprise to certain groups and they go oh we had no idea and if we would have known we would have provided input.

But a way of saying okay there is a kind of obligation from each stakeholder group and constituency to assign someone to working groups and make sure that there's a kind of communication going back and forth and able to flag it at an early point in time when there are issues that may be of concern to the stakeholder group or constituency.

Stéphane Van Gelder: Thanks, Marika. I mean, we're certainly getting from both you and Margie that the frustration coming through that, you know, you're working with these working groups and basically what you're seeing is not enough people either engaged or helping you and the same people and you're having to really pick up that slack. I understand that. So certainly I know that the work that you're doing is truly outstanding in that regard to support the GNSO in its work.

But once again we're - I'm - my feeling is that we're constantly hitting the same wall which is, you know, groups are getting these recommendations or stuff that's coming out of working groups are not aware of it. But most of the reason for, that from a group member point of view, is that there's so much volume of stuff to read through and to understand.

Notice it's not only reading it's understanding because if you want to give an opinion or to react to a recommendation you have to understand what you're reading. And when you have, you know, I'm just overwhelmed and, you know, I spend a lot of time doing this myself, probably more than some others have time to do, you know, and it's just overwhelming.

So I've never - I don't have a solution personally. I don't know if there is one. But certainly this deluge of stuff that volunteers are constantly having to deal with. And, you know, when I talk to staff it's just the same, you know, you look - well, no, you look fine, but you are overworked, I think.

And so there's an issue there. I don't know the solution but there's an issue that's making stuff difficult for us. Marika.

Marika Konings: Yes and just to respond to that I think the idea or, you know, the suggestion of having someone from each stakeholder or constituency there the idea would be as well that that person then on a regular basis would report back to the constituencies and stakeholder groups where everything stands.

So when the report comes out it's not all new, you know, it wouldn't hopefully be as difficult to digest what is in there because you would have received regular updates on what a working group - which direction they're heading to. So I think that's a bit, you know, maybe a possible way of addressing that.

And I know we tried to do that as well through these kind of meetings or we provide status updates on what working groups are doing. But maybe having someone, indeed, from your own constituency or stakeholder group giving that briefing they might focus more on the issues that they know you will care about while, you know, we provide more the general update and we try to pick up the issues where we think, you know, the more discussion might be needed.

But that might an intermediate way of saying - having that kind of information on a gradual basis instead of waiting at the end of the process where you have, indeed, the 70-page report with a lot of recommendation, a lot of detail and you go oh, you know, what am I supposed to focus on so.

Stéphane Van Gelder: Thanks very much to you both. Mikey, can you close this off and then I'll turn to Jeff. I don't know if you want to lead into the next topic or what but Mikey.

Mikey O'Connor: Thanks, Stéphane. I think I may segue a bit into the next topic anyway. I'm Mikey O'Connor for the transcript. And I'm one of those folks that spends a lot of time on the working groups and none on the Council and I love that. I actually want to put in a plug for the working groups as way to solve a lot of the issues that we're working on.

One of the neat things about working groups is that as a participant unless you decide to cart yourself off to an ICANN meeting they're free. You know, you get to meet people over the wire once a week, have a very engaged conversation with people from all over the world.

And one of the things that I think is a very low cost opportunity for the GNSO - not the Council but the GNSO - is to put a little bit more focus on the participation in the working groups. So I'm really here to back up Marika and Margie in this.

It's not really an overwork thing; it's an opportunity to fill what is really a void right now. There are very few people who participate in working groups; you know who the usual suspects are. I'm one of them.

But it's - we would love to bring more people into that process and bring new blood into the GNSO. And, you know, it's a great way - when people ask me how can I learn about ICANN I say join a working group. You can be silent for like two years and learn a lot. And then in your next working group, you know, you'll be able to help.

So I think there's a way to bridge these two points of view. I understand the issue that you've got, Stéphane, with timing and I've got some ideas about that but I'll save those for later.

Stéphane Van Gelder: Thanks, Mikey. You've just made a point I think that we haven't heard before and it's great to hear it from someone who's that involved in working groups, which is that you don't need to come to ICANN meetings and then if you participate in working groups remotely you just get to meet lots of interesting people working on, we hope, something that's interesting.

I think that - and, you know, so thanks for putting the focus on that. Thanks for your efforts - continued efforts in working groups. Perhaps one of the problems is that we focus too much on actually being here. I don't know.

Jeff.

Jeff Neuman: Thanks. I'm trying to segue into the next topic, the role of the Council in the GNSO. I think this is a topic that comes up a lot. Because I think it - there's no common view when you go through stakeholder groups or constituencies as to what the role of the Council is and in fact even what the role of each council member from those constituencies, right.

And each charter is different. And Rob, I know, knows this. If you read all the charters some charters give the Council member complete discretion to vote as they see fit and to make independent decisions.

Other charters, you know, like the Registries Stakeholder Group one the Council members are basically instructed to vote as the stakeholder group, you know, they have their - we have our collaborations, we decide things and then with rare exceptions we're basically there representing the views of the stakeholder group as opposed to our own individuals.

And coming to that we get to these interesting debates where, you know, at least with the Registries with a working group comes out with a product we've thoroughly discussed it within the Registries Stakeholder Group and we pretty much know where we are at the time we come to the Council and so at that point we're ready to vote and debates don't necessarily help that much.

Where others are just, you know, taking up these working group papers and consider the Council being like the next area to debate something you didn't win at the working group level.

And I think that also creates this kind of deadlock with the Council where a number of us who, like Mikey who participates in working groups, you know, you kind of get - you spent all this time in the working group and you've had all these debates back and forth and then you just see the Council as another mechanism to debate the same thing that you had in the working groups themselves. And it really leads to this perception that, you know, we're not getting anywhere.

And then of course if you lose at the - if your argument doesn't win at the Council level, you know, you just back-channel through the GAC or you go to the Board and you have the exact same debate all over again. So that's one of the topics I think we need to kind of just brainstorm and talk about here.

And the second one is also on there's a differing view as to what the Council should be doing as opposed to the leadership of the - each stakeholder group and constituency.

And I know - and I'll look at Marilyn, who's obviously got - been very vocal on her beliefs and the Business Constituency's beliefs on, you know, what decisions are for the Council and what decisions are for the leadership of the stakeholder groups.

And I think that's a topic that I'd be very interested to see if we have some sort of common view as to, you know, this decision should be something for the Council; this decision should be for the stakeholder group.

So for example one of my - and that's come up on this list - is that Thomas had introduced, at one point, the notion of should we talk about GNSO review in light of more - or different types of registries that are coming into the fold in the next couple years with the new TLD process.

And I believe firmly that this is actually an issue for the stakeholder group to be deciding and not for the Council to be deciding. That the stakeholder

group needs to be having these discussions and of course welcoming input but it's really a stakeholder group decision and not a decision of the Council to impose on the stakeholder group.

And I know that may not be a view that is universally shared. But there should be some sort of line of demarcation between what's for the stakeholder group and what's for the Council so I wanted to kind of throw that as a potential topic.

Stéphane Van Gelder: Jeff, thanks very much. Yes, so I have Thomas and then Bill and anyone else? Let me just - Marilyn, yes, I was almost worried there. Can I just add to just the points that - because people were asking for us to frame these topics. Perhaps I can just explain a little more on what I had in mind when we put this topic on the table just extending that the discussion from what Jeff just mentioned.

I also think - I just want to pick up on something that Chuck said about working together. In the past one of the things that has been difficult for me as Chair has been the feeling that there's constant conflict or divergent interests - if we don't want to use such a strong word - between the Council and the groups, the GNSO.

And I think, you know, we should be or are working all in the same direction. So really my idea for bringing this topic to the table is to try and understand if there's a feeling that we should be doing very different things or working towards the same goals.

And I'm - I actually don't have, as chair, that much clarity on it. I'm very clear with the fact that I'm Chair of the GNSO Council. Some people think that makes me Chair of the GNSO. Others violently think that's not the case, don't they, Marilyn?

Marilyn Cade: I'm sorry, I think we suggest that that's not the case.

Stéphane Van Gelder: Thank you. So joking aside the next leadership team and the next Council will have to grapple with these issues through a possible review process. And this all ties in together in the end, you know, what's the role of the Council and what's the recommendations that the Council and the GNSO will give to the Board? Thank you.

So we have Thomas please.

Thomas Rickert: Thank you, Stéphane. Let me start by saying that I think what is needed in that regard is training for councilors or even having sessions for everybody that's interested in the community. Because I think there is a lack of clarity as to what the role is all over the place.

I think there's even one official document - and I'm going to dig that out in the course of the day and should there be interest, report back to you - that speaks of the GNSO Chair - of the GNSO Council Chair. So, you know, I think there is at least partially quite some confusion.

When it comes to the role of the Council I think look into the bylaws helps and that clearly states that we are managers of the policy development process. As Jeff said I think it's most important to remind ourselves every now and then that it is our role to be stewards of this process and to make sure that the processes are abided by and not to provide for a next round of opening up topics where the working groups have made their recommendation.

So we should much more focus on reviewing whether the working groups have done their job properly and whether they have covered what they have been chartered with and should they haven't delivered on that we can get - go back to the working groups and ask them to take a second look at what they did.

But I think that that requires training for each and every one. And so I think that what is needed is to have discussions such as this to shape what our mission is and what we should work towards.

This example, Jeff, that you gave regarding the impact of new gTLDs I'd just like to clarify that I had volunteered to chair this subgroup - it wasn't a drafting team or working group but this group to collect views and respond to the request that had been sent out by Bertrand.

And this is why I kept it a little bit more open conscious of the fact that the GNSO Council has its role and that certainly we have to focus in a Council response of what is actually belonging to the Council.

But if you look at the impact of new TLDs on the democratic system within the GNSO Council, on the potential number of councilors, how that impacts the whole policymaking and decision making you need to dig a little bit deeper, you need to know what the impact on the groups is although it's certainly up to the groups to speak for themselves and determine whether they are equipped for that or not.

But this information is required in order to be able to assess the impact on the Council. And that, you know, maybe I should have phrased that clearer but I think - and I think I called it the fact-finding mission that we have to do first to find out what is there in the GNSO as such to then draw conclusions for the things that affect the Council. And I hope that just clarifies it a little more.

Thanks.

Stéphane Van Gelder: Thanks, Thomas. Jeff just wants to come back on one of your points and then I have Bill next.

Jeff Neuman: Yes, I think, Thomas, you're right, it actually - it did stem from a request from the Board. And I think that's maybe an education process we need to do at the Board as well, right? Because I think the Board asking the community for

input on how it'll affect things like the stakeholder groups when really I think that question should have been directed from the Board directly to the Registries Stakeholder Group first as to get its own assessment.

Because initially when it came up it was almost as if the Board was saying that nobody has thought of this. And actually we in the stakeholder group - in the Registries - had been thinking of this for years and trying to plan for it. So it came to us as a little bit of a surprise.

But I do think there are things that we should be looking at and I contributed to that group, Thomas, as well. As the Council there are certainly things that we do need to be looking at from a Council level. But we need to be very careful to make sure that we're not delving into some of the things that are uniquely for the stakeholder group.

And I think there's a fine line. And I think it's a little tougher for the Nominating Committee appointees because, you know, just to be fair to you and the two others that are elected, you know, you're not coming from a - or appointed, sorry - you're not coming from a particular community and you don't have to go back so for you you're only chance to talk about this stuff is really at the Council level.

And I don't know if that's a structural issue. And maybe it's also an issue of we should be - you know, the Contracted Parties' House or the Non Contracted Parties' House should be inviting you into our discussions as well. I think that's something we need to take back and do a better job of that, you know, for Thomas, you know, the Contracted Party House we've tried and we should do better at involving you in those discussions.

((Crosstalk))

Jeff Neuman: Yes. And I think - and I don't know if the same thing holds true for the Non Contracted Parties' House; I don't know if they reach out to Lanre and try to do that. But I think we all should make a better effort to do that kind of thing.

Stéphane Van Gelder: Thanks, Jeff. Can we - I'll come back to you if that's okay. Bill.

William Drake: I wanted to respond to two things Jeff said. The first has to do with the whole question of whether or not the Council is more of a rubber-stamp type process or if it's - has some autonomy and so on. And I think the NCSG has always been pretty much of the view that the latter has to be the case.

And I would say there's two aspects of this for us from a parochial standpoint. One, when you talk about, well, things will come to the Council that you lost elsewhere and so then we retry it here. Well part of the problem, for us, is always going to be populating the working groups sufficiently.

Simply by virtue of the nature of our constituencies the fact that we're talking about people who don't have financial skin in the game, their jobs are not focused on ICANN, they may be interested in particular issues like privacy or human rights or something like that so they're going to delve in on particular points, etcetera. Many of them have never had the resources to come to an ICANN meeting so ICANN feels a little bit abstract.

So getting them to want to commit a lot of work into working groups can be difficult. So there's all these factors that impede us having the capacity to have the same robust level of engagement at the pre-Council level.

When things come to the Council level that's when we're able to sort of like shake people and go hey the Council is taking this up; this is the sort of quasi-legislative process now. A decision is going to be made. How do people react? And it's a lot easier to aggregate the people's interactions to get them mobilized. So for us I think that's somewhat important.

It also has to be borne in mind that, you know, we select our councilors on a stakeholder group-wide election process. So - and we don't direct them. Okay nobody tells the councilors you've (unintelligible) - we have a mechanism where when there's a strong unanimity of view we can do that if we have to. But generally speaking the councilors vote their conscience.

So since they're voting their conscience again coming into this space and talking to other people hearing arguments and figuring out what kind of deals can be made with people and which arguments are most persuasive becomes important to us.

The other point I guess I would make is about the notion of - that, you know, questions of like the growth of constituencies should be imposed. I think we - there's a more general discussion that has to be had about what types of things need to be common across stakeholder groups and constituencies and what types of things don't.

I don't think we've ever heard - maybe those conversations happened before I was on Council and everybody came to a very clear understanding of it. But in my time at Council I've never felt that that was the case.

And so, you know, we get people coming to us - to Non Commercial - sometimes who may not even be Non Commercial but they're being told elsewhere well, no, you don't have a place here. So I kind of think that we have to think about if there are not broadly equivalent levels of transparency, an ability to participate and form new groups within stakeholder groups across the board then you create some kind of weird asymmetries which has perverse consequences.

You end up with people shopping around trying to find where do they fit and then a lot of people spinning a lot of cycles on whether that fits correct, etcetera. So it seems to me that we should be thinking about whether or not

all the parts of the GNSO community shouldn't have a broadly comparable approach to making all their information available.

I mean, even if you go the Websites and try and figure out who are the members of all the different groups and it's not always easy to do that, but, you know, transparency across the board of all of the entities and I think comparable levels of - comparable kinds of rules for how one might come in as a newbie and proposed to get engaged rather than being told you don't fit.

And to me that's a Council level discussion; that's not a - just let the stakeholder group figure it out. If you just let the stakeholder group figure it out then, you know, the default could easily be we're going to lock down and we're not going to let anybody new in. And that's not necessarily the best option.

Stéphane Van Gelder: Thanks, Bill. I have a rather long queue and nine minutes left so please try and be brief. I have Marilyn, Mikey, Wolf, Alan, Thomas, Milton and Chuck. Marilyn.

Marilyn Cade: Thank you. I actually raised my hand in the previous discussion so I'll say what I was going to say then but I think it's applicable now. My name is Marilyn Cade. I'm going to focus on just a quick reminder that echoing what Chuck said.

We have been through - this is our third restructuring. And so the bylaws are important, I think, and interesting to read about what the purpose of the GNSO is and what the purpose of the Council is.

And also probably helpful to read the language that is written about the ccNSO, another supporting organization, which has a - which has defined things differently in terms of the role of their Council. So at least there's a place to go and look and see what do the bylaws say.

The thing that I am hearing in the discussion here is I think really helpful in terms of thinking about the role of the Council within the greater GNSO. This is a supporting organization; the Council exists for a specific and important purpose. No one else does what the Council does.

That the supporting organization has a broader role of participating actively in ICANN and the stakeholder groups and constituencies happen to be the sort of structural places that are in place today for how to bring together communities of interest.

Are there enough of them? Are they diverse enough? The NCSG is probably to be congratulated in that they have the first new entrant constituency. We're still waiting to see councilors accepted and coming from that constituency but that's a big step forward to have that new constituency.

And new constituencies are going to be evolving. That doesn't change the nature of the Council and its purpose. And I think that's an important thing. I have not heard here very many speakers talk about the broader responsibilities of the GNSO. And if we're going to talk about the Council versus the GNSO I think that's the wrong approach.

I think we need to be thinking about this as a bigger hole with a Council that has a defined purpose and how does it fulfill that purpose inside that larger organization. To have that conversation the larger - to have that conversation the elected representatives of the separate groups need to be engaged in that conversation not just the councilors who do have different roles.

And I would just say we fought that battle before and we felt, in the BC, that the constituencies have to have a certain amount of flexibility to organize in a way that represents their community.

But there is consistency across all of the SGs and the constituency and if you don't remember that Rob can maybe give us another update on that when

you have more time. There are requirements for each of the constituencies on transparency, on having a mailing list, other things.

So I think that need - that requirement, Bill, is there. Maybe it's not enforced but it is there.

Stéphane Van Gelder: Thank you, Marilyn. Mikey.

Mikey O'Connor: This is Mikey. I'll - I've got this down to four words. I think that the Council has two roles. And it just dawned on me. It has a functional management role and it has a project management role.

The functional management role is the Council is the summary of a representational body. The project management role is that the Council is the steering committee or the steering function for a whole series of projects that are the PDPs.

And I think that there's a pretty tasty discussion to be had about which pieces fall in which pile. But because we're running a bit short on time I'll just leave those four words; functional versus project management; representational stuff versus the steering sort of role. Ta-da.

Stéphane Van Gelder: Thanks, Mikey. Wolf.

Wolf-Ulrich Knoben: Thanks. Thank you, Mikey. I fully agree. I also agree to what Marilyn was saying. But it is - for me it is about how we can execute that. So from my experience on Council I would just simply say, you know, what the Council is doing has to do with it's about motions.

Now yes, the Council is dealing with motions bringing some thing which has been discussed in the community and the GNSO and in the broader community - is going to focus and bring it to the point with motions. So the question is how then to deal with that, how to execute on this.

I understand also this role is - personally I'm a representative of a specific group as we all are besides the NCAs, you know, Non Commercial Appointees and that's a different role.

So I understand that fully that all these things - the Council has to deal with the project development and also structural items, improvement and these things have to be discussed before in the broader community, in the GNSO community in the different groups.

And that this is where the tensions come from. So the extreme would be that councilors are to be seen as a kind of, let me say, marionette where some more executive people are behind that and steering them how to deal with that and how to move things forward.

So I wouldn't like to see that in this way while we're into understand that process that there is a discussion process on the one hand side within our own respective group and then on the Council level itself.

And for me the most important thing is that I personally can be sure that I have the confidence from my group that they are - that they trust me that I don't do wrong on Council level. So that's up to the councilors themselves, well, to discuss within their respective groups things where, for example, we have to find compromises here on Council level that we are not only sticking on the views of our respective groups. That's one point.

On the other hand I would like to make another point that the external representation of the Council. The question really is to some extent we are asked and we are seen from the outside, from outside from the Board and from others, that we represent, to some extent, the GNSO - the Council - the GNSO, I would say.

So and the question is then really and that makes it very difficult how to deal with that. Every time we come back to our constituencies, stakeholder groups, executive people there and saying okay we are approached here by somebody, by the Board, and we should come up with an opinion from the GNSO side.

And it takes time - it takes time because we have to refer to our respective groups. It cannot, at the time being, really represent the GNSO itself. So that is how it is at the time being. I have no solution at the time being how we can overcome that problem because it may, well, it may lead to that point that, for example, we are seen as a kind of cloud, not really cleared, what we are dealing with. Thank you.

Stéphane Van Gelder: Thanks, Wolf. We've run out of time and still have four people in the queue so I'm going to ask you to be very brief. As usual these sessions produce some great discussions. So I'll just apologize to the next session for eating into their time slightly. And ask Alan, Thomas, Milton and Chuck to make their points very quickly.

Alan Greenberg: Thank you. I will be quick. The difference between the GNSO and the Council is very close to the difference between At Large and ALAC. And it has become a right of passage that any new ICANN executive will use the terms wrongly and be chastised in public and they'll still probably not quite get it. I think we're going to have to live with that.

If we, on Council, or we on the ALAC, can at least understand the difference we've made a big point. We're never going to get the rest of the world to understand I'm afraid. So that's point number one.

Point number two, I want to take issue with Jeff saying that we should leave to the Registries Stakeholder Group the issue of expansion of the new gTLDs. It is - yes there will be a lot new - a lot of new Registries but we also have the situation where there will be Registries who are also Registrars.

We will likely have new contracted parties that don't fit into the current model. And in some cases the Non Contracted Party Houses have said over my dead body will they part of us. It's a larger issue and it's not just the Registries so it's going to be interesting. Thank you.

Stéphane Van Gelder: Thanks. Thomas.

Thomas Rickert: Just very briefly as I promised I have looked up the document actually the GNSO Operating Procedures that speak of the GNSO Chair. So I think for those who are interested in what the GNSO does if they look at the Operating Procedures they might be misguided by the terminology used even in that document.

Stéphane Van Gelder: Or not.

Thomas Rickert: Or not.

Stéphane Van Gelder: Milton.

Milton Mueller: Yes, you asked for comments about the role of the Council; you said you wanted to hear our views about what is the role of the Council. And somebody who's lived through the three different iterations I thought I have some definite views about that.

The Council provides a gate-keeping function that is it deals with the inputs of policy, the formation of working groups and then once the working groups are done it deals with the output whether it goes to the Board or not.

And the reason to have that gatekeeper there, in my view, is that at the Council representation is carefully balanced though it's supposed to be carefully balanced at that level whereas the working groups are supposed to

be open and to have a variety of views and to provide an escape valve for all of the rigidity that this balance provides. So that, in my view, is the Council.

Now I see two problems with that going forward. First of all the Council has proven not to be good at quickly creating and chartering working groups and handling their results. It seems to me, indeed, that - I hate to say this but it seems like we do everything possible to avoid creating a working group because nobody trusts that process so that's one problem that I'll just flag.

And the other side is the input to the Council that is the stakeholders and constituency groups. We have contented, for a long time that we should just have integrated stakeholder groups; we should not have constituencies anymore. We sort of won this argument in that we got the staff and the Board to agree to decouple constituencies from Council seats, at least in our stakeholder group.

Now I noticed that the Registries and Registrars also have integrated stakeholder groups even though going forward they're going to be incredibly diverse. I think creating new constituencies is a disruptive thing that shatters this carefully balanced representational structure or has the power to shatter it. It creates all kinds of weird incentives.

And going forward I think we have to rethink the whole idea of constituencies and whether we can do without them completely.

Stéphane Van Gelder: Chuck, you get the final word.

Chuck Gomes: Thanks, Stéphane. This has been a great session. These kind of things we never have enough time for. And I - and so many people have made great contributions. There's probably only one point I would disagree with at least initially and that is that we should do away with constituencies but we can talk more about that at other times. That's correct but I think - that's not what I want to talk about here.

Back to Jeff's point about the - and Thomas's point about the Council being the policy management - policy manager - and I like Mikey's capture of that; I thought that was constructive.

Because of that, and the fact that the GNSO is the policymaking body, not the Council, it doesn't make sense - and this is education for the Board - I don't know that Bertrand necessarily needs this.

But it doesn't make sense for the Board to come to the GNSO Council and ask for the Council's position on an issue unless it's a position with regard to whether the policy development process was followed, with regard to whether it was inclusive, whether the impacted stakeholders were involved and things like that. And so I think that is a change in direction that we need.

Those of us that have been on the Council, those of you that are on the Council now and the new members coming in, you know how hard it is to get a GNSO Council position.

And that's okay because the position of the Council should relate to the process and whether it was followed not with regard to the merits or demerits of a particular proposal so I think that's a important thing.

And, Bill, back to some of the things you said, those are the kinds of things, I think, that are part of that policy management process that would be very valuable if the Council did focus on those and how can we solve some of those problems.

Stéphane Van Gelder: Thank you very much, Chuck. Jeff has something that he wants to say taking advantage I think of Bertrand's presence and eating into his session so that's his prerogative and then we'll close.

Jeff Neuman: Yes, I think we're right now going to transition into the next topic which is the International Olympic Committee and Red Cross names. You know, a lot of this whole debate on the IOC and the Red Cross started with the Board kind of - I'll call meddling into the policy affairs.

And, you know, I'm not going to talk too much about the Board resolution that was passed, you know, in September, I think it was, about the GNSO - basically it was the GNSO better come to a decision by January 31 or we're going to decide it for you.

I think what the Board did in that instance, again, was completely the wrong thing even though I'm sure it was well intentioned. But by the Board passing that resolution it circumvented the policy process and gives more credence for those special interests to go directly to the Board around the GNSO to get what it wants.

I mean, we're going to, in this next session, talk about the substance and what's coming out. But I think - although trying, I think, to be helpful and trying to get a faster resolution I think that type of resolution by the Board actually does damage to the role of the Council and the stakeholder groups and the constituencies as opposed to helping it.

And I don't know, Bertrand, how long you're going to be around and I'm sure we're going to talk about this at the full Board level when the Board meets with the Council. But...

Stéphane Van Gelder: Around in this session; you don't mean around in general.

((Crosstalk))

Jeff Neuman: Oh yes, around for the session. Yes, Bertrand, I hope you're around for a very long, long time. But in this session. So I just want to add that and we'll talk more about this in a substantive IOC Red Cross. But I just was - I think

we got into this mess because of the Board - original Board resolution in Singapore. I think it was - I don't think it was very helpful this last time around either.

Stéphane Van Gelder: Well that's courting disaster now because Bertrand wants to respond.

Bertrand de la Chappelle: One - no, no, no, no it's just to say that the question that you're raising shows that the problem of the relationship between the Board and the policy development process is the very mirror of the questions that you just discussed regarding the role of the Council versus the working groups and the rest.

It's a whole matter of (unintelligible) and it is a fundamental question in the whole architecture. That's all. And I fully agree that it is a question that we need to address at each of the different levels.

Jeff Neuman: Thanks, Bertrand. And one thing I would ask is I think that resolution came as a surprise to all of us. If there's any way - and we had no idea that the staff or - you know, was going to bring that to the Board and the Board - if there could be some sort of mechanism where members of the Board or the staff could come to us saying hey this is going to be on the agenda for the Board; what are your thoughts?

You know, because I think what the Board had decided was actually the way that the working group was sort of heading anyway. But it would be great to have some sort of collaboration between the two organizations.

Stéphane Van Gelder: Wendy you want to make a contribution so let's get to you and then really try and end it. Thank you.

Wendy Seltzer: Thanks. I just want to make a brief - a response on that point because I don't think that's shared unanimously among the Council. I think that we recognize

that there's a - sort of stickiness of the status quo and that can block action. And sometimes the Board needs to take action to change the status quo to enable us to move forward. And so it can be useful for the Board if it's consciously taking an action that changes the status quo not as a final position but as a - folks do something to avert disaster.

Stéphane Van Gelder: Thank you, Wendy. Thanks to you all. I think this first experiment can be deemed a success. There were many other topics, I'm sure, that we could have discussed on this role of the Council issue. I was rather hoping we might get to the point of who is the real spokesperson for the GNSO or the Council because that's also something that you might want to consider in the months to come. Who does the outside community come to to talk to - about GNSO issues; that's an issue of - that's often confusing for others.

There are lots of other issues. I would encourage the next leadership team to have a look at what happened today and perhaps schedule more of these sessions for the meetings to come. Thank you very much for your participation.

Operator, this session is now closed. And we'll start again immediately so don't nobody move.

END