GNSO Council Meeting

ICANN-Toronto

17 October 2012

>>STEPHANE VAN GELDER: Hello, everybody. Welcome to the GNSO council open meeting. We will be starting in a couple of minutes. Just setting up here. And we will look to start this meeting immediately. So just bear with us. Thank you.

>>GLEN de SAINT GERY: Excuse me. Just a quick announcement. The coffee break that is here in the room is for the GNSO Council seated up on the stage. If you'd be so kind as to not help yourselves, there will be a coffee break in the room next door as you exit on your right where the registration is in half an hour. Thank you very much.

Is there a briefcase on the stage? Excuse me are for those sitting on the stage, is there a black rolling computer bag up there, never mind. Thank you.

>>STEPHANE VAN GELDER: .Okay, I'd like to get the meeting started. Could I ask GNSO councillors please to take your seats. Turn off your mobile phones. And we will start -- we have a very full agenda for this Toronto meeting.

We will be starting with a few presentations from stakeholder group and constituency chairs and then moving into the GNSO council agenda.

So I will ask the operator to begin the recording, please, so that we can get the meeting started. Thank you.

>>THE OPERATOR: You may begin.

>>STEPHANE VAN GELDER: All right. Can you just confirm that.

>>THE OPERATOR: You may begin, sir.

>>STEPHANE VAN GELDER: Great. Welcome, everybody to the GNSO council meeting in Toronto. We, as usual, at these open council meetings, we will start by having a session with the stakeholder group and constituency chairs, the leaders of the group that make up the GNSO, and asking them to just discuss any topics that they want to with us. It's an opportunity for the council and those leadership teams to engage and discuss points. There is no set agenda on this, apart from just having people come up and talk about what they want.

So we have, through a totally random process, assigned the registry stakeholder group as the first slot. And I will -- I see that David may not be here. But, Keith, you're standing up. So, Keith, can I ask you to come up and give us your presentation, please.

>>KEITH DRAZEK: Thank you, Stephane. Just wanted to make sure that David is not in the room, so I'm not jumping in line here. Don't see him, though. So okay.

I am Keith Drazek, alternate chair of the registry stakeholder group and also the incoming chair at the conclusion of the Toronto meeting. Just -- I know we have a busy agenda today, so I'll keep this brief. The registry stakeholder group was involved in quite a few discussions over the course of this week so far. And I expect there will be more to common the trademark clearinghouse, the sunrise, and IP claims process. And I just wanted to note that I think, from the perspectives of our stakeholder group, tremendous progress has been made here in Toronto already on this topic. The dialogue that has taken place among many or all of the interested parties and stakeholders, I think, has been long overdue. And we sincerely appreciate the commitment of ICANN staff and board members and senior staff and all members of the community for their willingness to engage in a discussion and a dialogue on the issues around the trademark clearinghouse. Obviously, a critical -- a critical part of the implementation of the new gTLD program.

Also like to note that -- what's the other issue? Yes, thank you. The NTAG. Wanted to note that the new TLD applicant group formed several months ago to provide an opportunity for new gTLD applicants to participate in the policy discussions and in the registry stakeholder group held a meeting this week. I thought it was extremely well attended, very well coordinated. And I think just wanted to note that the registry stakeholder group membership really views the progress with the NTAG as a very, very positive thing. The -- I mentioned this in their meeting at the end of their meeting. But the energy and the expertise that the NTAG has brought to the community and to the topics that we're discussing and also, quite frankly, to our stakeholder group has been very valuable and very much appreciated.

And, finally, I'd just like to note that in our stakeholder group meeting, we acknowledged the service, the excellent and long service of David Maher, our outgoing chair. David is somebody who has contributed really since the formation of ICANN and since the formation of our stakeholder group in many, many ways beyond just being chair. He's wrapping up his term as chair, and we acknowledge that in our group and just wanted to note that here. So thanks again to David.

[Applause]

>>STEPHANE VAN GELDER: Thanks, Keith. David is in the room. He's being shy. But my thanks and all of our thanks to you, David, for the years of service. There he is.

[Applause]

Thanks very much, Keith. Matt, just a minute. Are there any questions to Keith from any GNSO councillors? Okay.

Matt, thank you very much. Matt will be giving update on behalf of the registrars.

>>MATT SERLIN: Thanks, Stephane. I, too, like Keith, will be brief. I know you have a lot of business before you today.

So Very similar update to what we provided in Prague. A lot of time spent this week discussing the RAA, both in our stakeholder group meeting amongst ourselves ensuring that the members were fully updated on the status of negotiations as well as discussions with the community and the public update session.

We are hopeful to try to wrap this up by the end of the year. You know, there's half a dozen of us that have been involved on the registrar side. A lot of the ICANN staff folks have been at this for the better part of a year. And so, you know, we're hopeful that we can continue and wrap this up by the end of the year. And then, hopefully, have a negotiated RAA out for public comment, you know, in the first part of 2013.

There's been a lot of discussion this week about how ICANN itself is changing in light of new gTLDs. And we've been active in those discussions. Discussion with the stakeholder group on Monday about our bylaw review. The registry stakeholder group, I think some of you know has just posted their updated bylaws. Frankly, the registrar stakeholder group has been somewhat behind in doing that. And so we're at a point now where we've actually got some information to review with the stakeholder group that talks about how we're proposing the change the bylaws. And, again, hopeful to have that completed ahead of the Beijing meeting so that we can change our bylaws to better account for the changing landscape with new gTLDs. And I would just like to finish by expressing the registrar stakeholder group's thanks to all of the outgoing GNSO councillors. But special thanks to Mr. Van Gelder over there who, if you see that bullhorn, I shall apologize to the community in advance that it was a gift that we presented to him maybe not fully understanding the ramifications that it would have at future meetings. Because I fully anticipate him traveling with that to future meetings. But, in all seriousness, on behalf the entire stakeholder group and the community, I will echo I said the other day. Thank you for your stewardship of the council the past two years. I know the members of the community and specifically the stakeholder group are very appreciative for a job well done. So thank you very much.

[Applause]

>>STEPHANE VAN GELDER: Thank you very much, Matt. And thank you to the registries and registrars for the gift. As you can see, I've adopted it already. And I love it.

So can I ask if -- John. Yes, please.

>>JOHN BERARD: Matt, John Berard with the business constituency. At the weekend meeting of the council of the GNSO, there was some discussion about the implications from the letter from the article 29 working group and the ICANN response. Did this come up in your conversations about -- with regard to the RAA and is there anything you can tell us about what you're thinking?

>>MATT SERLIN: Yeah. It's a good question, John. And, yeah, it did come up. And it's, obviously, been an issue that we've kind of been aware of as we've gone through the discussions. The article 29 letter really just kind of solidified the notion for us. And, again, I think I'll point out that the letter was based on a sort of previous version of what we had proposed in terms of the RAA, in terms of data retention and WHOIS validation.

So I think that the proposal that we put forth subsequent to that, which is this notion of a 2-tiered data retention, 6-month life of the registration plus two year structure and the validation of e-mail addresses or phone numbers post resolution of domain name, you know, that's really where we continued to be. And, again, our position is anything beyond that, really, is more appropriate for the PDP process. And so that's, I think, what we're going to continue to push for.

>>JOHN BERARD: All right. So you don't fear that there will be separate rules for different registrars?

>>MATT SERLIN: Yeah. So, you know, we're -- staff is going through this process now to work with the GAC to come up with -- we haven't come up with a better term other than "opt out," because we don't want to term it an opt out. But, yeah, we're clearly cognizant of the fact that whatever mechanism we come up with that it continues to keep a level playing field between registrars and jurisdictions. Thanks.

>>STEPHANE VAN GELDER: Thanks. Wolf?

>>WOLF-ULRICH KNOBEN: Wolf-Ulrich Knoben speaking. I have a question to both of you to both of the contracted parties house. It's a question I could have raised years ago already. I'm interested to know how do you cooperate in your house? Are there specific items you're dealing with? To what extent are you cooperating in your house? Thank you.

>>MATT SERLIN: Yeah. So, Keith, I don't know if you have thoughts. But, from my perspective, there's a lot of similarities between the registrar stakeholder group and the registry stakeholder group, both contracted parties. So things that relate to the mechanisms by which our contracts are negotiated and enforced are relatively common. Obviously we've got different kind of business perspectives in terms of our consumer facing front on the registrar side and wholesale on the registry side. Obviously, this is all going to shift as we move into TLDs. So I think the cooperation between the parties in the contracted parties house is definitely going to continue to evolve and probably get closer as we move forward. Keith, did you have thoughts?

>>KEITH DRAZEK: Thanks, Matt. In response to the question of how do we work together, we, quite frankly, I would say monthly, depending on the weight of the business or how busy we all are, have regular meetings of our executive committees, teleconferences. Basically, get on the phone for an hour and talk through the issues of the day or the things that are pending before the council. It's often a healthy dialogue or debate. We don't always agree on the issues. But, I mean, the registry stakeholder group is -- I mean, in effect, the registrars are our customers. It matters to us what our customers think. So it's important that we engage with them and understand their positions and perspectives. So there's regular coordination. Structurally speaking, the registrars have been a stakeholder group of hundreds of companies of entities. The registries, historically, have been 13 or 14 registries.

As we look ahead to the introduction of new gTLDs and adding new contracted parties to our stakeholder group, the registries group is going to really resemble more the registrar's group in terms of its structure, in terms of probably the importance of the executive committee and how the executive committee is probably in more of a coordinating role than it has been in the past.

So, as Matt said, I think we have very similar interests both being contracted parties, not always on the same page. But it's sort of a natural, I think, sort of cooperation that we have. Thanks.

>>STEPHANE VAN GELDER: Thanks to you both. Any further questions? Okay. Thank you very much Matt. Thanks, Keith.

The next presentation that we have is from the NCUC, the non-commercial users constituency. And I believe David will be giving that presentation before he takes his seat on the council later on.

And I've been asked to ask people speaking if they can clearly state their name for the benefit of the transcript, please. Thank you.

>>DAVID CAKE: Thank you, Stephane. Yes. I'm David Cake, the interim chair of the non-commercial users constituency.

Of course, we put a lot of work in preparation for this meeting into our policy conference, which was held on the Friday before the meeting. We're very happy with how it went. We'd like to thank everybody who attended, everybody who spoke or otherwise supported it, particularly Fadi who was kind enough to speak at that conference.

And we're very happy with how that went. We're so happy that we spent a fair bit of our constituency meeting discussing future policy conferences. And we are currently planning to have one before the Beijing meeting, if we can organize it in time. So Friday before the Beijing meeting, please try and consider arriving early and attending that.

We also, of course, discussed a number of policy issues at our meeting. We still can -- we are still considering issues such as we worry about changes to the URS that may occur in the implementation phase there. We are looking at human rights concerns and how we can fit them into the ICANN process.

We are considering -- following all the discussion of WHOIS with a great deal of interest and trying to ensure how privacy concerns can best continue to be protected. We are very happy to see the responses from the -- to things like the article 29 working group, which was partly, I'm sure, we sent a letter to them asking them to become involved in the last meeting, after the last meeting. And we're very happy with the response.

And that is just about it for my report. We've been very -- we said we've considered a lot of policy issues. And we've been very happy with the work so far this meeting. So thank you.

>>STEPHANE VAN GELDER: Thanks very much, David. Any questions for the NCUC? Thank you, David.

Next up we have the not-for-profit operational concerns constituency or NPOC. And Alain is here to give us the update from the NPOC. Thank you.

>>ALAIN BERRANGER: Merci beaucoup, Stephane. I wanted to share with you the activities of our constituency since Prague. We have concentrated on our outreach effort to international not-for-profit organizations that have not engaged in the past with ICANN. Two examples, telecenter.org, a global association of telecenters headquartered in the Philippines, and the World Summit Award. We have created a program committee. We called for a nomination and an evaluation committee. And we appointed, as a result, three people -- Maria-laure Lemineur from Costa Rica as the chair of the programs committee. She's in the room right here. And two colleagues from Africa, Poncelet Ileleji from The Gambia and Olivier Kouami from Togo as cochairs. The two latter colleagues have also accepted to lead the recruiting efforts in Africa. Poncelet for the anglophone Africa and Olivier

for francophone Africa. I'm not endorsing the old colonialist separation here. It's a matter of linguistic practicality.

We had -- as a highlight, we had a lively debate on NPOC Voice -- that's a public list -- on the protection of INGOs and NGOs in general with the upcoming PDP considerations.

And the indication, really, was that clearly there was a consensus that special protection for a few does open the flood gate of protection requests by many. Probably not a surprise, but we actually did it on our list. We -- since Prague, we designed a 2-year NPOC outreach strategy or, like our speaker this morning said, Dr. San Lanfranco from York University, we -- our inclusiveness strategy.

We applied for and were granted a side session slot at the IGF meeting in Baku and will deliver the contents in collaboration with NCUC. So Marie-laure and Poncelet will be managing and delivering that session with NCUC policy input. The side session team is the importance of civil society to Internet governance.

We just walked out of an NCSG executive committee meeting. And it's no secret that we were struggling with membership issues. And, well, I'm pleased to report that we worked out these devilish details on our stakeholder group membership application form, the admission criteria, and the resources needed to process in a timely manner. We hope to finally have business as usual on that front in a matter of days and suspect that we will need some staff help if we are to avoid the reputational risk and put this issue to final rest.

We feel that any further delays in -- that the membership and the outreach are very closely related and any delays in one could be critical to us appearing welcoming and inclusive to civil society at ICANN. We have about 50 members I wanted to report, give or take the uncertainties, just referred to which are -- we're processing new applications at a faster rate right now. And, as serial optimists, we continue to recruit NPOC members and, in fact, NCSG members first on a regular steady base, the bulk of newer members from being developing countries and emerging economies. We estimate the latter to be 30% of our total membership but well over 60 percentage if you consider only the latest application. Given that there are tens of millions of NGOs in the world, these numbers remain modest by any measures.

We are a planning robust involvement in WSIS World Summit on Information Society 2012 in Geneva in partnership with the global knowledge partnership foundation.

Sorry. And I will know more when I report to you again in Beijing.

The highlights from Toronto: This morning we held a 90-minute panel discussion on the subject of multistakeholder models in collaboration with at-large colleagues. We had an excellent presentation by Dr. Sam Lanfranco -- I think he's in the room -- professor emeritus at York University here in Toronto, and Rinalia Abdul Rahim and Evan Leibovitch from at-large. It was a frank success, in my opinion. And we're planning follow-up events in Geneva and Beijing in 2013. As you imagine, we didn't exhaust the subject in 90 minutes.

I'm sad to report that three of our African members could not join us here in Toronto for reasons of visa difficulties. I have also on the -- on the sad side, I've also had to accept the resignation of our vice chair Lori Schulman for personal reasons. So very sorry to lose her extremely valuable expertise

and warmly wish her good luck on her future challenges. We will appoint a future vice chair until we can effect NPOC charter provisions to appoint an elected replacement.

We had planned to have a second session in Toronto on the subject of the impact of new gTLDs on the not-for-profit NGO communities. But panelists were unable to find a time slot, so we're just going to push it forward to Beijing.

So thank you very much for your attention.

>>STEPHANE VAN GELDER: Thank you, Alain. Any questions for the NPOC? Yes, Mary.

>>MARY WONG: Actually, this is not so much a question as to thank Alain for mentioning the activities that the NCSG as a whole are undertaking in cooperation with each other. And, particularly, as someone who is elected from the NCUC before we had the SG structure and re-elected from the SGY membership, since NCSG elects and operates as an SG, I just wanted to put my personal thanks on the record for Alain. And we look forward to more collaborations.

>>ALAIN BERRANGER: Thank you.

>>STEPHANE VAN GELDER: Thanks. Any further questions? Thank you very much, Alain.

>>ALAIN BERRANGER: Thank you.

>>STEPHANE VAN GELDER: We next have the business constituency. And Marilyn is ready.

>>MARILYN CADE: Thank you. And let me thank you again for the opportunity to tell you a little bit about the very busy schedule that we have and I know all of us have now. We think we are sort of at the mid point, but I think we're slightly past that. Wednesday now is our day 5. And we've all been very, very busy. I hope that what I'll say will be helpful in also conveying a broader message and perhaps request that I see coming forward from many other groups at ICANN. And that is the need for us to try to begin to rationalize the planning of the schedule and how things are put together or next to each other or overlapping with each other. Because, while we are very busy, we're also a bit challenged to be in all the places that we need to be in. And this is not a complaint about how busy we are. I think, in the business constituency's eyes, we should all be doing all the work we're doing. We are, in fact, building an institution and setting standards and policies. So this is not a complaint about the amount of work. It's just suggested from our perspective -- and we hope others will agree -- that we need to find a way to better rationalize when the meetings are.

We spent a fair amount of time -- and I mention that to say that at this meeting we hold meetings on Sunday. As a matter of fact, we had three meetings on Sunday. We also spent -- we had a side meeting on Monday for the business constituency. We held, of course, our CSG. We helped participate in the cross constituency breakfast on Tuesday morning where the three constituencies hosted the GAC for breakfast. We then had our CSG meeting. And then we had a full half day of BC meetings. And I just held another additional meeting for an hour today. So our work has really been expanding. And part of that is because, perhaps, for the BC, we see ourselves as driving three kinds of work. One is work that focuses on ICANN governance. Another is the work that focuses on SSR from a business user perspective. And then, finally, of course, there is the important work that we do in relation to the GNSO policy. But we drive all of that from within the business constituency.

We hold a house meeting in conjunction with the rest of the non-commercial party house. Others may make reference to this as well. We had two topics -- one being the elections and the second being outreach and participation. And we focused in that segment on discussions around the concept of an intersessional meeting of the non-contracted party house. There's still a lot of work to do on that. But I'm, just from a business constituency perspective, noting that the planning on that is being welcomed. And there's high interest in organizing an event and exchange that is of mutual interest.

We also focused, of course, in lead-up to the ICANN meeting on an area of ongoing concern to the business users. And that is improvements and strengthening to the RPMs.

Many of you are aware that the business constituency wrote a formal letter to the board asking for a change in the objections period. And that request has been responded to by a post for public comments.

So we've continued to talk about that. We also have worked collaboratively with others to -- in particular, the IPC to reach a compromise on what the kinds of improvements to the -- and strengthening to the RPMs would suit the business user and IP needs. And that is being shared publicly as well. And we'll be meeting with interested parties to talk about that.

I'd like to say now one of the things we're also very pleased about and we'd like to focus on is the need to develop informational material for registrants on how they will be able to use those RPMs, the objection period, et cetera.

So not so much the materials that ICANN has developed up to about becoming an applicant for a registry, but to educate in a broader way and inform in a broader way those who must rely on the RPMs or will be interacting with ICANN.

We were very pleased and excited to see that ICANN held two regional strategy sessions, and we attended the African strategy session for ICANN.

We have members of the B.C. who will be actively engaging and involved in that.

We attended the Latin American strategy as an observer, and we do have members from the B.C. who will be looking to help contribute to that.

Both of those steps forward were very welcomed, but just as we're enthused about having this strengthening, we also want to recall that others, brands, are also now coming to ICANN; not because they're applicants but because they're users.

So this meeting saw a number of businesses coming to ICANN for the first time, and I hope all of you will be welcoming to them and helping to explain who you are and how important it is for them to continue to stay here.

I just want to say that the phrase "understanding the impact of the new gTLDs" on ICANN has begun to really become clear to us that that's not really a broad enough headline.

In fact, I participated in a meeting this morning with other chairs and plus 1s and that topic was the topic for discussion but what we're really talking about is how the Internet is changing. The Internet

is becoming multicultural. The face of the Internet is changing and the space of the Internet is changing.

 So the impact of the new gTLDs may be one example of the change, and it may be a change that ICANN has accelerated. But in thinking about the impacts on the structure and the process, we need to be thinking more broadly and more strategically as well about the how and what the organization will look like in the future and how the organization can change with a sustainable approach and a flexible enough approach to serve as well in the next 15 years as it has in the last 15 years.

 ICANN is 15 years old next year, so we should all be thinking about what we're going to celebrate for our birthday.

 You'll be getting a copy of the Toronto version of the newsletter, and we highlighted the importance of SSR and we also have an article on -- that gives some user information and breakdown on what kinds of gTLDs are being put forward.

 I'll be happy to take questions.

 >>STEPHANE VAN GELDER: Thank you very much, Marilyn, and thank you for the B.C. newsletter. It's always a good read and it's very well drafted.

 I just wanted also to address the point you made about the difficulties in scheduling meetings which are becoming greater and greater, and to encourage the next Council leadership to work with you and other leaders of the stakeholder groups and constituencies to avoid conflicts which lead to situations like we had on Sunday where we suddenly found ourselves without most of the NCPH councillors because there was a conflicting meeting, and I realize we've got ourselves into a situation now where we find it hard to avoid those kinds of conflicts.

 So I hope we'll all be able to work on that as time passes so that in China and for the next meeting we can avoid those sort of things.

 Thank you very much.

 >>MARILYN CADE: I'll just say one thing about that, Stephane. We would all welcome taking an early look at that and planning, you know, just as soon as we can so that -- because we'll have this extra work to do. So if we align our plans ahead of time, we can avoid that.

 >>STEPHANE VAN GELDER: Thank you, Marilyn. And I'm sure that's a message that the next team will take on board.

 I have Jeff in the queue.

 >>JEFF NEUMAN: Thanks, Stephane. I think I was going to make the similar point you made. I think it was kind of unfortunate that we lost all the Commercial Stakeholder Group councillors and then others during the weekend session which is so important to get our work done.

 So to the extent that we can avoid that in the future, that would be greatly appreciated.

 There were some really important substantive work that was being done on some motions that affect registries, registrars, operationally, things like transfers, things -- other issues that I think were

really important that it seems like in this community we spend a lot of time talking about process, and we can get everyone in the room to talk about process. But then when we actually talk about substance, everyone magically disappears.

So that's point one.

And point two is, Marilyn, I'm glad you brought up the issue of the discussion that was this morning. I was, I guess, a plus 1, but one of the things we brought up was the need that this community, with the new gTLDs, to have an operational session. Not one that's focused on policy or Internet governance, but actually getting the registries, registrars, and other operational entities in the community together so that we can discuss a lot of the issues that involve operations aside from policy.

Thanks.

>>STEPHANE VAN GELDER: Thank you very much, Jeff.

Jonathan is next.

>>JONATHAN ROBINSON: I'll just make a brief comment, I guess, that follows on from Jeff in that in many cases -- there's a theme that's starting to emerge that the requirement for all of us, perhaps as we move into the small operational phase of ICANN's existence, to link our thinking of policy development alongside operational impacts and the implications for implementation.

Thanks.

>>STEPHANE VAN GELDER: Thank you.

Any further questions?

Okay.

So we'll now move on to the IPC, the Intellectual Property Constituency, and Steve is coming up to the mic.

>>STEVE METALITZ: Thank you. Good afternoon.

I'm pleased to report from the Intellectual Property Constituency. We had a very big turnout here in Toronto. The previous speaker said the space of the Internet is changing. I certainly hope so, because we need more space in which to meet.

There are about as many people in this room as there were in the Marine room yesterday afternoon.

So we're going -- I'm going to request that we have a meeting space about this size in Beijing because I think we'll probably need it.

It was a big turnout and we worked on a lot of important issues. I'm going to mention only three.

One is the WHOIS Review Team report. That may be, perhaps, the most important deliverable from this meeting since the Board is almost out of time to act upon the recommendations of the WHOIS Review Team. And we raised this with the Board in our meeting with the CSG and the Board and we

very much hope they will give a strong positive endorsement to the recommendations of the WHOIS Review Team.

Marilyn has already mentioned the issue of improvements to the rights protection mechanisms at the second level. We worked very closely over the week with the business constituency and with the ISP constituency on this topic. It's clear to us that faced with the reality of the large number of applications and the nature of new gTLD applications that have come in, the existing rights protection mechanisms in the guidebook are not sufficient to build the consumer trust that is needed and should be an important factor in the new gTLD program.

So we're glad that we've come up with our list, presented it to the Board, and we will be following up with that and with the staff.

The last substantive issue I'd mention would be compliance. We had a very good briefing from the Compliance Team in our IPC meeting yesterday, and I think there's a lot of favorable news in terms of the resources that are available, in terms of the independence that the Compliance Team now has, and in terms of the focus that they showed in that briefing. And we're very pleased that all these issues, the WHOIS and compliance, were within the thought bubbles that Fadi mentioned at the opening. So we're very pleased to see the commit many of the new ICANN leadership to contract compliance.

I was going to mention this whole scheduling problem, and in my many years of attending ICANN meetings, I think the dissatisfaction about scheduling has reached a new high. And we really do need -- we actually have an unusually large gap between this meeting and our next meeting. It's about six months. So hopefully there will be time to address that and to -- I mean, I think among other things, we should push as hard as we can to make sure there are segments during the ICANN meeting in which there are not plenary activities scheduled so that our constituencies can meet. Not only have more meetings throughout the week, as we did, as well as the B.C., but actually meet with each other, which is something that's almost impossible now under the current system.

So I just think patience has run out in many quarters on this, and I hope that the staff will get that message.

Let me just close by commending David Taylor who has served us very well as a member of the GNSO Council. He stepped in and filled an unexpired term on very short notice and also a term on his own behalf. So we really appreciate his service, and we will miss him as part of the Council, but we certainly consider him to remain part of our IPC leadership. And we congratulate Petter Rindforth who will be taking that position on the GNSO Council later today.

So I'm pleased to conclude my report, which is the last one I will present as the president of the IPC. Kristina Rosette will become the president in a few weeks, and I expect you will probably be getting the future reports from her.

Thank you.

>>STEPHANE VAN GELDER: Thank you very much, Steve. And congratulations and thank you to you both, both David and Steve, who are leaving their offices.

Thank you very much to you both for your service.

[Applause]

>>STEPHANE VAN GELDER: Any questions for the IPC?

In which case, we'll move on to the last of our reports today, and this is from the ISPs, the Internet Service Providers. Tony Holmes is going to give that report.

>>TONY HOLMES: Good afternoon, Council.

The ISPs, we had a pretty busy series of meetings here, but particularly a very busy constituency meeting. And we took the opportunity to meet with some of the groups who have a direct impact on the work of ISPs.

We had a session with the SSAC focusing on some of their work that really is specifically impacting on our business.

We also looked at some of the work from the DSSA team and the working group and produced a report which we agreed back on their draft report, which will now be submitted.

We took the opportunity as well to meet with the team in ICANN that are working on the replacement WHOIS protocol, and had a good dialogue on that issue, as well as meeting with the NomCom.

In terms of our particular scheduled issues which we dealt with, we looked at how we would put some thinking into the intersessional meeting, the proposal for that, and of course the impact of gTLDs as well.

So a pretty busy time for all ISPs.

I'd also like to take this opportunity to actually focus on the issue that both Marilyn and Steve have raised as well, and really ask the Council to take very seriously the scheduling issue.

We've had this discussion at a number of previous meetings, and it doesn't ever get better. It just gets worse. And this meeting it's been particularly difficult for everyone in terms of scheduling.

And I'd like to thank, on that basis, the effort that Glen put in in resolving that. I wouldn't have her job for anything. I think she did an absolutely marvelous job in trying to arrange this meeting.

But what I would ask Council to do is to try to ensure that at least three weeks before the next ICANN meeting, we have a schedule that's absolutely firm. We all understand what it is, and it doesn't change under any circumstances.

And I think if we can reach that point, then we're a long way down the path to actually resolving some of the current problems.

Thanks.

>>STEPHANE VAN GELDER: Thanks.

On that point, I just want to acknowledge you mentioned Glen, and you are absolutely right to do so. I'll also acknowledge the work Wolf-Ulrich has done on this, the agenda for Toronto, for this meeting; the work that Jeff Neuman has done previously on meetings.

It's a hell of a job getting that agenda together, putting it together, getting the schedule ready. And the reason for that is, as most of -- several people have alluded to, it's just moving parts all over the place.

So getting a firm schedule is actually very difficult a long time before the meetings. And I realize that this is beginning to cause all of us a great deal of problems. So good luck to the next leadership team in dealing with that. I'm glad I'm not going to.

Jeff.

>>JEFF NEUMAN: Thanks, Tony. I share the frustration and I know Wolf does, too. We actually do plan weeks out in advance our schedule, but then our schedule is often changed by external groups.

So in certain circumstances, for example, we like to meet with the GAC and we like a scheduled time. But ultimately, they end up changing it, and that can be changed anywhere from a week before to two days before.

The same thing holds true for ICANN staff because the Board holds a workshop usually on the weekend, and so certain staff have to be with the Board at certain times.

And then there's also trying to set up a meeting with the ccNSO. Then there's also other meetings that want to take place, plus people that want to present to us from certain advisory committees.

There's the At-Large meetings that take place at the exact same time, so making sure that we can get Alan or the ALAC reps here at the same time. There are so many moving parts, and we try our best to do that.

I think one thing we can count on, though, is the weekend sessions are usually full with Council activities, and this time one of the issues was at the Commercial Stakeholder Group and others wanted to meet during that time.

Unfortunately, we do the best that we can, and we're working around everyone else's schedule. I wish I could say everyone would work around our schedule, but that doesn't always happen.

>>TONY HOLMES: Okay. If I can just respond on that.

I totally agree, Jeff, and I fully understand that. And I know the impact that it has had on you and also on Wolf-Ulrich. But he's an ISP and he knows he's got to work hard.

So what I would like to ask is the Council to elevate this themselves, because my plea is to you. And a lot of the work that you do as Council, we want to participate in and be involved in.

So it's essential that we know what you are doing before we make our arrangements.

You have exactly the same problem but with the broader ICANN community. And what I would ask is that Council send a strongest message they can to the meetings committee and to the other parts

of ICANN, because I don't accept it as an excuse that it has to be moving parts up until two days before. And you're dead right, Jeff, I would say it was almost before we arrived on-site. And there's no reason we can't set a hard and fast deadline if everyone works in the right way.

So I seek your assistance in that.

Thanks.

>>STEPHANE VAN GELDER: Thank you, Tony.

Any other questions? Wolf.

>>WOLF-ULRICH KNOBEN: Just an additional question. I wouldn't go so far as Jeff was pointing out and talking about frustration. It's a job we have to do, and it's challenging. Yes, it is challenging in scheduling all these things.

But what I have been -- seen in this meeting is, for example, we didn't find time to meet with the GAC, we didn't find time to meet with the ccNSO. So I was approached by GAC members who were asking me why don't we have a meeting together.

So it comes to my mind there is a communication issue as well between some groups and us. So to communicate even better.

So that's one thing.

On the other hand, I would like to see in future more that people who are working on there own schedules in the background, there are many people working on that, that they could get together earlier, in talking to each other and trying to make understandable what is going on in the different various groups. And that may help, then, to get to a successful scheduling.

Thanks.

>>STEPHANE VAN GELDER: Thanks, Wolf.

David.

>>DAVID TAYLOR: Thanks, Stephane.

Just following on on this, I was surprised, I suppose, on the Sunday to be sitting on the Council working session where we were discussing having a Q&A on the chair and who should be chair, and at one point there were more councillors outside the room, because of demands from stakeholder groups, than inside the group. It just surprised me. So I just throw that out. I think that's something we need to try and avoid however possibly we can avoid it.

>>STEPHANE VAN GELDER: Thanks.

Chuck.

>>CHUCK GOMES: Thanks, Stephane. Chuck Gomes.

I just wanted to point out there's probably a pretty good change the GAC won't have time to meet with the GNSO in Beijing as well because they will likely be working on GAC advice.

>>STEPHANE VAN GELDER: Thank you. That's a good point.

Milton.

>>MILTON MUELLER: Is this on?

So I do not accept the explanation for why the GAC doesn't want to meet with GNSO, and I think it's a very bad sign for the bottom-up process that the GAC is seeing the GNSO as not relevant enough to meet with.

I don't think that's something we should just take on the basis of scheduling excuses.

And it's particularly sensitive given the fact that the GAC -- or, rather, I should say, the leadership of the GAC is trying to override GNSO PDPs in a variety of areas.

>>STEPHANE VAN GELDER: Thanks, Milton.

Just to point out that those are your words. The reasons that the GAC gave us for the scheduling conflicts that led to us not meeting here were obviously not that we weren't relevant enough, but then your points have been made clearly.

>>MILTON MUELLER: I can amend that a little bit. Just like Wolf, I talked to other GNSO members who said, "Oh, we're not meeting with the GAC. What's the problem?" Which means the leadership really made the decision rather than the GAC as a whole.

>>STEPHANE VAN GELDER: They had one extra problem here which was the high-level meeting that was taking place, and at, I think, the Canadian government's initiative, which placed a heavy burden on the GAC to try and find some time, I believe.

Let's go to Marilyn and then Jeff.

>>MARILYN CADE: Thank you. Marilyn Cade.

So I have been listening very carefully to the responses from the councillors expressing concern about the conflicts of meetings of the stakeholder groups that caused conflicts in time with the Council.

The correct term, I believe, a change that happened some time ago, is that the weekend meetings are GNSO meetings, not just GNSO Council meetings. That's two days of work time for the GNSO to have, in all of its constituent parts, to have access to rooms, meeting space, transcription, staff support. And we are, after all, a constituent body that does have many, many, many moving parts, and has to work ourselves at a bottom-up level, not just work through our elected and appointed councillors on gTLD policy.

So I think that, actually, had we started earlier with a request -- I did contact Wolf-Ulrich to see if it would be possible to maybe move a couple of things around in scheduling so that the need to have a

CSG meeting wouldn't have been so vitally critical in terms of time, but I obviously was too late for that, and when the need for the meeting came up.

So I'd like for you to think, if you could, a little bit differently about this, and that is that there are two days of work time for the GNSO. Some of that must be dedicated to the Council in particular, working, in front of an audience but working as the Council. But some of it may need now to also be available to the constituencies.

I will say this because I suspect Glen is panicking as I'm saying this, because that means more time -- more rooms on the weekend as well. You know, we use a lot of rooms, and I'm not going to take time. I'm just going to say this is going to take more planning if we're going to make these -- use the -- this time on the weekend. But I think we're not alone as the CSG, and that actually being able to work on one of the weekend days as constituencies might actually improve our work throughout the rest of the week.

>>STEPHANE VAN GELDER: Thanks, Marilyn.

Jeff.

>>JEFF NEUMAN: I was going to make a comment on one -- well, let me just add to Marilyn.

You're right, they are working sessions and we had topics we needed to work through as a community, that we needed the time.

And so I would not characterize this weekend as a council session. I think there were some council portions of business, like interviewing the council chairs. But the rest of it, work on transfers, I mean these are members of the community that have dedicated a lot of time and resources into these working groups and presenting those to the community and working on then.

And so I think those two days are working sessions, you're absolutely right, but we do need to find time to fit them and respect the work that they do.

On the GAC issue, I do think it was unfortunate that we didn't get to meet because the GAC, from what I understand, has made some comments on some of the work that we're doing here. In fact, one of the motions that we're going to be voting on, there were some comments made from some GAC members, and it would have been -- would have been nice to actually be there and interact with them so we could actually explain to them why we're initiating or may initiate a PDP, for example, on the international governmental organizations and international organizations in general.

I think there's a misunderstanding of what's going on. There was a comment that was raised, which I'll talk a little bit more about when we get to the motion.

But I do think it's unfortunate that if they're going to comment on our activities in public sessions with the Board, it would be nice to actually have an interaction with them so we can explain what we're going to do so they don't just hear one side.

Thanks.

>>STEPHANE VAN GELDER: Thanks, Jeff.

Ken.

>>KEN STUBBS: Yes, my name is Ken Stubbs. I've been to 42 of these meetings, and from a practical standpoint, to -- what I see is a mind set that was in place almost ten years ago. And we need to kind of scale this thing out.

First of all, Glen, in my opinion, is buried. She needs additional resources. We need to consider the possibility of bringing somebody in who can focus on making these meetings more effective. Remember, we're going to end up, in probably a year or so, down to two meetings a year. Can you imagine trying to get all the work that we're doing in three and trying to fit that into two meetings?

I think they need to have somebody literally full time that works with each one of the interest groups. We need to have a more flexible calendar so that we can get information out.

I mean, we're getting notes and comments from people right now that the meeting space is inadequate, and yet we've already booked ourselves out for the next two meetings. We have no idea whether or not these rooms are going to be adequate.

Because I'll be honest with you, I don't think many of us in here have the slightest idea what the parameters are for the meeting in Beijing or in South Africa.

It's kind of like you get notified at the last minute, "Here's what we have available. We'll do our best to fit you in." It should be the other way around. These are the resources we need in order to operate more effectively.

They've done it electronically. Now let's take care of the thousand to 1500 people that are coming to these meetings that want to be as productive as possible, that need the time to interact, as Steve pointed out. And I think that from a practical standpoint -- This isn't the responsibility of the Council. Your job is to provide the -- The constituencies job is to provide a set of needs to the staff: Here's what we need to accomplish at the meeting. And somebody's got to fit all of this together, because it's not disrespectful but it's not putting the emphasis -- This is supposed to be bottoms-up and I don't see that in the planning process. You're pretty well given a set of parameters and told this is the way it's got to be. And all of us have had that call with Glen, where she says, "Jeez, I can't find a room for you." You know, well, it's just not fair for her and it's not fair for us.

Thanks.

>>STEPHANE VAN GELDER: Thanks, Ken.

So I think the concerns and conflicts about schedules are very clear, and I hope this will be able to -- we will be able to work on this and this will be improved in future meetings.

Let's bring this part of the agenda to a close and move straight into the actual Council meeting. And we will start that immediately with a roll call.

Glen, if I can ask you to do that, please.

>>GLEN DE SAINT GERY: Certainly, Stephane.

Jeff Neuman.

>>JEFF NEUMAN: Here.

>>GLEN DE SAINT GERY: Ching Chao.

>>CHING CHAO: Present.

>>GLEN DE SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Present.

>>GLEN DE SAINT GERY: Mason Cole.

>>MASON COLE: Here.

>>GLEN DE SAINT GERY: Yoav Keren.

>>YOAV KEREN: Here.

>>GLEN DE SAINT GERY: Stephane Van Gelder.

>>STEPHANE VAN GELDER: Yes.

>>GLEN DE SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Present.

>>GLEN DE SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Present.

>>GLEN DE SAINT GERY: Zahid Jamil is absent and he has given his proxy to John Berard.

John Berard.

>>JOHN BERARD: Present.

>>GLEN DE SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Here.

>>GLEN DE SAINT GERY: David Taylor.

>>DAVID TAYLOR: Yes.

>>GLEN DE SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN DE SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Here.

>>GLEN DE SAINT GERY: Bill Drake.

>>BILL DRAKE: Here.

>>GLEN DE SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN DE SAINT GERY: Mary Wong.

>>MARY WONG: Present.

>>GLEN DE SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Here.

>>GLEN DE SAINT GERY: Joy Liddicoat is absent and the Noncommercial Stakeholder Group has appointed Milton Mueller as her temporary alternate.

Milton Mueller.

>>MILTON MUELLER: Here.

>>GLEN DE SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Here.

>>GLEN DE SAINT GERY: Carlos Aguirre.

>>Carlos Aguirre: Here.

>>GLEN DE SAINT GERY: Thank you, Stephane.

>>STEPHANE VAN GELDER: Thank you very much. Can I ask Alan?

>>ALAN GREENBERG: I'm here.

>>STEPHANE VAN GELDER: You forgot Alan, Glen.

>>GLEN DE SAINT GERY: Sorry. Alan.

I forgot Alan and Han Chuan Lee --

>>HAN CHUAN LEE: Present.

>>GLEN DE SAINT GERY: -- our observer from the ccNSO.

>>STEPHANE VAN GELDER: Thank you very much.

So can I ask at this time if there are any updates to statements of interest, please?

Seeing or hearing none, can I ask if there are any requests to review or amend the agenda at this time, please.

Wolf.

>>WOLF-ULRICH KNOBEN: It's not a point. It's a point which I refer to the ATRT announcement, you know, call for volunteers.

I would have made that before because all the executives of the stakeholder groups are still here. So -- and would like to draw the attention from this stage here to that. Can I do that right now? Or how can I do that?

>>STEPHANE VAN GELDER: Yes.

Can it not be done as any other business?

>>WOLF-ULRICH KNOBEN: It could be, but then it's at the end of this meeting.

>>STEPHANE VAN GELDER: You want -- You think there will be no one left at the end.

>>WOLF-ULRICH KNOBEN: Okay.

>>STEPHANE VAN GELDER: Which you're probably right, but....

I think it should be done at the end, Wolf. I don't think it can be done easily as part of this part of the agenda. Is it okay?

>>WOLF-ULRICH KNOBEN: Okay.

>>STEPHANE VAN GELDER: Okay. Or perhaps I can -- perhaps you can make that statement, Wolf, as -- just before we go into item 3, considering that there's no consent agenda. That might be simplest. Okay?

So let's just finish item 1. You have the minutes of the previous meeting on the agenda, and there's a link provided to that. And I will draw your attention, as usual, to the GNSO council's pending project list.

And there's a link to that given on the agenda. Please continue to use that list as the basis for our work.

So we do not have any consent agenda items for this meeting. Before we go into item 3, Wolf, please talk about the ATRT.

>>WOLF-ULRICH KNOBEN: Thank you very much, Stephane. Just very briefly, you have been made aware, more or less, that there has been an announcement made by ICANN to call for volunteers for the next ATRT round.

And you remember that ATRT committee is a very important one. And it's a call for applications for that. Now, as you know, as you may know, the GNSO has, under the leadership three years ago from Chuck, implemented a process for that, which means we have allocated the several number, a dedicated number of slots of applications to the ATRT.

Right now I had a talk and conversation with staff. So I was not aware and I was not sure whether the new ATRT shall be structured in the same way and in terms of in terms of number of members. Because it's uncertain to me. I would like to raise that point and make it aware to you that there may

be additional discussion in the future. Maybe -- Olof Nordling is here. Maybe he could just comment on that.

>>STEPHANE VAN GELDER: Thank you very much. Olof.

>>OLOF NORDLING: Thank you very much, Chair. Thank you, Wolf, for bringing it up. Because it's important in very many respects. First of all, it's clear from the AoC that it's the prerogative of the selectors to both select the composition and the size of the review team.

It is true that at first ATRT review had a special discussion with the selectors in order to find a particular structure at that time. Now every review team, every review is independent. It doesn't predicate what will happen with the next one. That's the only thing I want to say.

And there are no provisions for a particular structure in it, in the AoC itself, which is the ground for the reviews.

And, as you may have noticed, we have had three reviews of that nature so far. Slightly different approaches. So it would be premature to prejudge the choice of the selectors at this point in time. And, if you have particular concerns in that regard, well, I think you should address that to the selectors themselves.

>>STEPHANE VAN GELDER: Thank you, Olof. Any further comments on this? Okay. So let's go into item 3, which is an item where we have a motion. The motion is on consumer trusts, consumer choice, and competition. We have a working group that has been working on these issues.

And the working group has produced a letter, an advice letter. So we are considering a motion today or about to consider a motion on this. The motion has been made by John Berard and seconded by Carlos Aguirre. And before we go into the discussion on the motion, I will ask John Berard to read it for us, please.

>>JOHN BERARD: Thank you, Stephane. I think for good reason we can probably not belabor the reading of the motion. As you know, there were two things that surfaced in the GNSO working session on the weekend. One was the unanimous recognition of the extraordinary work done by the team in putting the advice together. I don't think anybody can quibble with the level of effort, level of commitment, and the outputs of that team. There were, however, questions raised, particularly by the registries and now seconded by the registrars, that perhaps there was a timing problem in terms of what the team had to deliberate with, as opposed to what the actual outcome was of applications. Far more single registrant branded registrations.

And so the discussion on Saturday, which has followed on, leads me to withdraw this motion at this time so that those considerations can be made and then to bring it back to the council as quickly as is possible and prudent.

>>STEPHANE VAN GELDER: Thank you, John. So the motion is withdrawn. We can still discuss it, if the council wishes. And I have Jeff in the queue. Or don't I? No, you've put your hand down, now. Okay. So you're in the queue or not? Jeff?

>>JEFF NEUMAN: Thanks. And thank you, John, for withdrawing the motion. I just thought maybe an explanation of why the motion was withdrawn and the comments that the registry made.

You know, I think you started to say it a little bit. And I want to commend the work that the -- the work that the group has done. I can't remember if it's a drafting team or a working group. I want to commend you on the work that has been done already. But most of the work was done at a time before we knew what the landscape of new TLDs would be like. And I think you did an excellent job in trying to come up with that.

But, you know, in June, when the TLDs were revealed, it showed us that about a third of the TLDs, for example, were brand or single registrant TLDs. And, if you look at some of the criteria that was in there, it seemed to be more appropriate for the open TLDs. So, as an example, there's a criterion there that says, you know, does the TLD's home page indicate the benefit -- the benefits of having that TLD and all the restrictions? And so that certainly makes sense for an open TLD, let's say, a dot web or dot book or whatever it is that's open.

But for a brand TLD -- I'll use our own application for dot Neustar. We intend to use dot Neustar as our main home page and to have -- you know, we're a $2 1/2 billion company. We have multiple lines of business. We're not going to put on the front page of our home page, you know, why we like using dot Neustar. And, of course, nothing about our restrictions because it's not an open TLD.

So one of the things we were worried about is, if you have a number of TLDs like ours that, in aggregate, that could skew the results as if to imply that introducing brand TLDs like ours did not introduce competition or choice. And I know that wasn't intended by the group. But, again, it's one of those things that, after you look at the landscape, may not make as much sense for the brand TLDs.

So, on behalf of the registries, we have committed to Jonathan Zuck and to Steve Delbianco and other members of that working group to work with you on that and very quickly, because we're understanding of the timeline, to make sure that the next version of the letter that goes to the board does reflect the changing nature and the landscape of the TLDs.

So thank you again for the work that you've done. We're sending it back not because we think that there were huge problems or that we don't like it but more that there's just a little more work that needs to be done.

>>STEPHANE VAN GELDER: Thank you, Jeff. Any further comments? Wolfgang.

>>WOLFGANG KLEINWACHTER: I just want to add that the non-commercial user constituency also welcomed a lot of elements in this advice. But we had also some problems with the definition in particular with the definition of consumer trust. And I think, if you define such key questions, you need much more discussion and it needs further reflection about it.

We, you know, discovered that definitions so far is a very narrow definition. And we discussed also a pro definition or a two-layered definition would cover all aspects. And so far, you know, we are thankful for the work done so far. But we believe it's good to have more time to go into all the details and to include also the new challenges just raised by Jeff. Thank you.

>>STEPHANE VAN GELDER: Thank you very much. Any further comments? Okay. So the motion has been withdrawn.

We will move on to agenda item 4. And that is an item dealing with the uniformity of contracts to address registration abuse. The motion has been made by Zahid, who is not here today. Unfortunately, he wasn't able to get a visa to come to Canada. But he's here in thought. And has not been seconded yet. So, before we can go into the discussion of this motion, may I ask if there is a second for it? John?

>>JOHN BERARD: Stephane, I may single-handedly be responsible for getting us done early, but I'd like to withdraw this motion as well.

>>STEPHANE VAN GELDER: Marika.

>>MARIKA KONINGS: This is Marika. Just to point out, it will be required for the council to vote on it, whether it's up or down, as it is a part of a policy development process. So -- it's fine to withdraw. But at some point it will need to get back on the table as there needs to be a formal closure or step forward.

>>STEPHANE VAN GELDER: Jeff?

>>JEFF NEUMAN: Given that, I do believe in closure. Even though I'm against the motion, I'm going to second it. And I'll explain why I'm against it. But I do think Marika is right, but we do need to bring it to formality.

>>STEPHANE VAN GELDER: You've got us in trouble because we're just seconding a motion that's been withdrawn.

[Laughter]

Yes, he's representing the group. Yes, John.

>>JOHN BERARD: What Marika is telling me is that I can't withdraw it.

>>STEPHANE VAN GELDER: No, no. Marika said we needed to, at some point, get to a resolution on this. But it doesn't necessarily have to be today. You can wait until I've gone.

>>JOHN BERARD: No, I fully intend -- this will see the light of day. I just don't think it's this particular day.

>>STEPHANE VAN GELDER: Good. So are you still withdrawing the motion, John?

>>JOHN BERARD: I'm pulling as hard as I can, Stephane.

>>STEPHANE VAN GELDER: Can I second the withdrawal of the motion then?

>>STEPHANE VAN GELDER: You've got no motion to second. The motion has been withdrawn, Jeff.

>>JEFF NEUMAN: We can still have discussion, right?

>>STEPHANE VAN GELDER: Of course.

>>JEFF NEUMAN: This is an interesting one.

>>STEPHANE VAN GELDER: Are you in the queue?

>>JEFF NEUMAN: Oh. You got to love his last meeting. He's going to pull some punches. Please add me to the queue.

>>STEPHANE VAN GELDER: Please go ahead.

>>JEFF NEUMAN: Thank you, Stephane. I guess I deserved that.

So this motion and I believe the next one that's on table are the last two that stem from the registration abuse policy working group that issued its final report in 2009, which was over three years ago.

And this motion in particular -- this recommendation and in the final report, it had listed that there was strong support and strong opposition. And this is one of those motions that or recommendations that I don't believe should have seen the light of day. If you go back and look at the report, in the report there were eight votes in favor of this motion and there were six votes against this motion.

And I know we haven't read it yet. But, essentially, what it says, for people following along, is that it's, essentially, working on uniform contract terms with registries and registrars in dealing with abuse so that all of our contracts pretty much say the same thing. There were eight votes in support, and there were six votes against it. And, if you look down at what happened in more detail, every one of the eight votes that were in support were from the business constituency. The six votes that were against were spread out from the registries, registrars, and non-commercial stakeholder group. And it's interesting that it actually came to light that that -- that, first of all, the working group chair called it strong support and that it actually made it this far. On the substance, the reason why the registries at least did not support the motion was because we want to deal with -- we want to change the environment of the GNSO to focus not on contractual language but to focus, actually, on the activities, the abuse itself. And a lot of those activities have been addressed or are being addressed in the past several years. One of them was on cybersquatting, for example. And, you know, there was a motion to actually have a UDRP reform. That one was tabled until 18 months after the launch of the new gTLDs, the first gTLD, at the request of the commercial stakeholder group and others.

Another one was on a number of abuse or anti-abuse practices which have been either adopted in the new gTLD process for the new gTLDs or have been in the discussions on the registrar accreditation agreement.

So we have been addressing a lot of the abusive conduct that was referenced in the uniformity of contract language.

And I really want to urge the community to not focus on contractual legal language, but to focus on the elements of abuse that we want addressed. And this motion is specifically geared towards creating uniform contract language.

And I just think that's the wrong approach. We thought that back in 2009. I believe the registrars had the same viewpoint. And I believe the non-commercial stakeholder group was in line with that as well.

So thanks.

>>STEPHANE VAN GELDER: Thank you, Jeff. In light of what you mentioned about the distribution of the votes, I would encourage whatever way forward the council sees fit to question that vote with the working group so that you get an appropriate answer.

Any further comments? Okay. So this -- Margie, sorry.

>>MARGIE MILAM: Yeah, this is Margie Milam. I'm staff.

I know you'll eventually get to the vote, and it sounds like there's not much support for the vote. One of the things, as you look at the agenda and the various motions that are out there, a lot of these topics take a tremendous amount of staff work. And I know we haven't spent a lot of time focusing on the project plan and that sort of thing and the project list. But it would be something to think about in the future as we request issue reports to think about whether there's going to be support for a PDP going forward, only because, you know, if you look at this particular issue, I think it was what? 70 page or something? It was really a lot of staff effort in doing this. And given all the -- you know, other projects that are out there, it's just something for the council to think about. Obviously, you can't always predict whether there's going to be support for a motion or not. But, you know, in light of the tremendous amount of activity that the council anticipates taking on in the future, I just -- you know, from a staff perspective, would like you to keep that in mind.

>>STEPHANE VAN GELDER: Thank you very much. I've got -- Jeff, are you back in the queue? So Jeff, Wendy, John, Jonathan.

>>JEFF NEUMAN: Thank you, Margie. I apologize for not thanking you all for the work you've done. I think this is indicative of the nature of the extremely low threshold to get an issue report out of the council. It's a very, very low vote. So, if one -- essentially, if one stakeholder group wants an issue report, they're going to get it. And, you know, I can't -- we can't stop that. Unfortunately, unless we go back and think about that and review that.

If you look at the vote for the issue report, you will see that the registries -- I believe the registrars also oppose that. There's nothing we can do. And I apologize. And, actually, I said at the meeting that it was approved that this is going to come back to haunt us because this is going to be one of those things that we are going to keep voting against for all the reasons we voted against the original recommendation.

So it's one thing for the council to think about. As we go through this GNSO review next year, this is something I strongly believe should be included on that agenda.

>>STEPHANE VAN GELDER: Thanks, Jeff. Talking about thresholds, you may have noticed that for this meeting what we've begun to do is to add the voting threshold for each motion on the agenda so that everyone's well aware of what voting thresholds we need to reach in order to approve a motion. So I hope that's helpful for people. And we'll move on to Wendy.

>>WENDY SELTZER: Thanks, Stephane. In another display of cross house agreement, I'm going to agree with Jeff that this is a real problem in the way that the council has become fragmented and vote driven, that we don't have good ways to operate to recognize the likely outcome of the later vote on the -- so the low threshold for issue report just gets taken forward, and the higher threshold

for PDP stops. And we engage in churn rather than consensus building around what's actually needed.

I -- at times issue reports can elucidate new issues. I think in many cases we know the issues and are just forced through drawn-out processes.

>>STEPHANE VAN GELDER: Thanks, Wendy. John.

>>JOHN BERARD: I feel a little bit conflicted. I'm personally feeling a bit defensive. As a consultant who cares deeply about prioritization, I feel that pain. One of the reasons that I agreed to run for the council from the B.C. was to try and inject a bit more data-driven -- a more data-driven basis into our decision making thinking that might take some of the emotional content out of it, which I had seen by being a member of the audience for a long time. And I'm also cognizant that the next motion is mine, and it calls for an issue report.

So, you know, before the oil begins to be boiled and the feathers taken from their pillows, I do want to suggest that an issue report that drives to generate data that can then help us make informed decisions, those are the very best kinds of issues reports. When we suspect that there are anomalies in the way ICANN works, an issue report can surface those anomalies and give us guidance as to how we might suggest from a policy basis maybe change.

So I understand it completely. I'm a big fan of prioritization. But I'm also a big fan of, if there's data to be found, we should get it. And even though right now the issue report is a low threshold, I guess, by consensus opinion, we can revisit that. But I still think that, no matter what level they are, they do and continue to provide real value.

>>STEPHANE VAN GELDER: Thank you. Jonathan. Milton.

>>MILTON MUELLER: So, John, I agree with you, actually, that issue reports should have a low threshold and can contribute to next steps.

But, clearly, in this case, the next step is not going to be there. So I'm wondering if you could actually propose this motion so that we could kill it.

>>STEPHANE VAN GELDER: John?

>>JOHN BERARD: No.

>>STEPHANE VAN GELDER: Any further comments? Yeah.

>>Jeff just mentioned a moment ago about whether the registrars agree with the registries on the matter of motion. And I just wanted to be on record that, yes, in fact, we do. Legislating behavior, end user behavior or contracting party behavior by endless amendment I don't think, over time, is going to get us to where we want to go. It would be far more effective to address the problems themselves rather than fight over contract language.

>>STEPHANE VAN GELDER: Thank you. Anything further on this? Okay. So we'll move on to item 5, as this motion has been withdrawn.

Item 5 is another motion vote. This is another motion that is made by John Berard. John just mentioned the motion. And it's a motion that is on the recommendation to -- on uniformity of reporting.

So, you know, before we go into the discussion itself, I'd ask -- actually, do we want to read the motions? Or do we just want to start the discussion and leave early?

>>That's an unfair choice, I think.

>>STEPHANE VAN GELDER: Do you want to read the motion very quickly? Perhaps just the "resolved "clauses, just for the -- to make sure that everyone listening in and in the audience can know what's being voted on, please.

>>JOHN BERARD: I want to thank Wolf for walking on this plank with me. The resolved clauses of the motion, "The GNSO council requests an issue report on the current state of uniformity in the mechanisms to initiate, track, and analyze policy violations reports. The issue report should consider the issues highlighted in the RAP working group final report, section 9.1, the ICANN compliance department report, and the thought paper from Mikey O'Connor. In addition to covering the required elements of an issue report, ICANN staff is also explicitly requested to provide its recommendation or recommendations on how the issue can be further addressed outside of a PDP if recommendations in relation to this issue do not require consensus policies to implement."

Those are -- that's the "resolved" clause. And, essentially, this is, yes, another bit of cleanup from the RAP working group, but speaks, I think, to the concern that many of us and, in particular, the business constituency has with consistent and understandable policies.

The concern, of course, is that those -- that some feel the background is that the current regime is confusing, leading to frustration -- two words that we want to try to squeeze out of ICANN -- certainly but the lack of historical database, because of the different ways and approaches that are taken, it's impossible to create -- to do any real comparative analysis or forward thinking policy making. And that's why I offered this motion.

>>STEPHANE VAN GELDER: Thank you, John. And thanks to Wolf for seconding the motion. So let's open it up for discussion before we proceed to a vote. Jeff.

>>JEFF NEUMAN: Thanks, Stephane. This is one we do agree with. We support this one completely, at least the registries. And I want to emphasize -- for all the reasons that John has mentioned. I also want to emphasize the last part. This is one where we're doing an issue report or an issues report. But the registries did not feel like this one will ultimately have to go to a PDP. We believe that we could just issue an issues report and then work on whatever it is we need to work on, but not through the formal PDP process. Because this is not one of those items that, you know, is likely to result in consensus policies, we believe. And so we think some relatively quick work can be done on it. Actually, some work has already been done by the compliance department. And so this is one, for the reasons that John has stated, that we support.

>>STEPHANE VAN GELDER: Thank you, Jeff. Mason.

>>MASON COLE: Registrars support as well.

>>STEPHANE VAN GELDER: Thank you. Anything further? Mary?

>>MARY WONG: This is not so much a comment on the substance of the motion, but really to note that we had a lot of discussion recently, including this past weekend, on the role of the council versus the role of the working groups and the contributions that are effectively and substantively made by members of the community through those working groups or even in other capacities aside from being councillors.

 I just want to note, for the record, that I'm not an ICANN historian. It may not be the first time. But, in reading the "whereas" clauses to the motion, I note that one community member, Mikey O'Connor's name is mentioned as being the person who presented us with this proposal. Thank you, Mikey.

>>STEPHANE VAN GELDER: Thank you, Mary. Anything further? In which case we will proceed to a vote. And I will ask Glen to do a roll call vote, please.

>>GLEN de SAINT GERY: Certainly, Stephane. David Taylor.

>>DAVID TAYLOR: For.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: Yes.

>>GLEN de SAINT GERY: Stephane van Gelder.

>>STEPHANE VAN GELDER: Yes.

>>GLEN de SAINT GERY: John Berard.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Yes.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: Mason Cole?

>>MASON COLE: Yes.

>>GLEN de SAINT GERY: Jeff Neuman?

>>JEFF NEUMAN: Yes.

>>GLEN de SAINT GERY: Milton for -- John Berard for Zahid Jamil. Sorry.

>>ZAHID JAMIL: Yes.

>>GLEN de SAINT GERY: William Drake?

>>WILLIAM DRAKE: Yes.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN de SAINT GERY: Mary Wong?

>>MARY WONG: In favor.

>>GLEN de SAINT GERY: Joy Liddicoat. Milton, will you vote for Joy, please.

>>MILTON MUELLER: Yes.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Have I missed anyone? It passes unanimously, Stephane.

>>STEPHANE VAN GELDER: Thank you very much. So we have approval of this motion for the initiation of an issue report.

And the next two agenda items that we have are on the protection of names as part of the new gTLD program.

The first item is an update from the drafting team that, the GNSO council set up on the protection of IOC Olympic Committee and RC Red Cross names at the second level. And the next item will be on the consideration of a motion that we also have today to initiate a PDP on IGO names and the protection of those.

So we will go into those two agenda items which everyone, I'm sure, is keen to hear about after a 5-minute break.

(Break)

>>STEPHANE VAN GELDER: Can I ask the GNSO councillors to come back please to restart the meeting. Operator, can we please restart, if we need to.

>>STEPHANE VAN GELDER: Sorry. I'm still eating. I will continue eating because Jeff, you're up.

>>JEFF NEUMAN: Thank you, Stephane. By the way, this is meant as a discussion item, this first one. And we do take comments from the floor, if people want to speak.

>>STEPHANE VAN GELDER: Absolutely. And this is something I should have said and remembered before is that, at each agenda item in the open council meetings, if you do want to comment, make comments, ask questions, please do come up, state your name, use the two microphones in the middle of the room. This is an interactive session. And it's certainly something that anyone should take the opportunity to speak if they want to. So please do so. Thank you for reminding me, Jeff.

>>JEFF NEUMAN: Okay. Thanks, Stephane. These next two items, as Stephane said before the break, are really closely related. We're keeping them intentionally separate, but I have a feeling discussion is going to merge the two.

The first item is just an update on the drafting team that was put in place after the meeting last year in Dakar. So it was the annual meeting last year.

And it was really -- that drafting team was really meant to advise the council on the GAC proposal in September of 2011 recommending the protection of International Olympic Committee and Red Cross/Red Crescent marks at both the top and the second level. Really quick background. The drafting team met, had actually proposed some recommendations at the top level.

The GNSO council, after a lively debate, approved those recommendations. It was sent to the board. The board did not accept those recommendations, not necessarily on the substance of those recommendations but more as a matter of timing and -- because that was right about the time that the window for applications was about to close before the glitch.

Subsequently after that, the drafting team addressed or began addressing the protections of the Olympic Committee and Red Cross/Red Crescent marks at the second level. And there were a number of discussions that took place. The group met at first every other week and then more recently every week.

And the group had some great discussions, participation with the International Olympic Committee representatives as well as the Red Cross/Red Crescent representatives. Very valuable information was exchanged.

In the end, the drafting team has made some recommendations, which is currently out for public comment and is actually in the reply period. So there was a 20-day public comment period that ended very recently or is about to end, may still actually be in the comment period. Yeah, I think it might be until October 20th. And then there's a reply period until early November.

The drafting team has recommended that a PDP be commenced on the protection of International Olympic Committee and Red Cross/Red Crescent marks at both the top and second level in all gTLDs, not just the new gTLDs.

And the drafting team has also recommended that, in the interim, while this PDP is ongoing, the drafting team recommendations a temporary reservation of the Red Cross/Red Crescent and IOC marks that are in the GAC proposal. And they're actually also listed in section 2.2.1.2.3 of the applicant guidebook.

So, really, the drafting team wants to emphasize that they would like to do a PDP as quickly as possible, which, by the way, we'll address in the next agenda item. And then also, while that PDP is ongoing, that the names be placed on a temporary reservation -- some people are calling it moratorium -- while the PDP is ongoing.

Again, this is not up for a council decision right now. We anticipate it will be up for a council decision at its November meeting. But it's out for comment. And, if there's any discussion on that, I think now would be a good time from council members or those in the audience.

>>STEPHANE VAN GELDER: Thanks very much, Jeff. Thanks for that update. And please convey our thanks to the drafting team for their work on this. And thanks to you for chairing it. Are there any comments, please? Milton.

>>MILTON MUELLER: Well, I just wanted to take slight issue with something Jeff said, which is that the board, when it initially voted down the recommendations of the drafting team, did so purely for process reasons. And I recall that resolution, even though I've been searching in vain for the comments that embody it. I think there were substantive reasons, too. I think they said also that they thought there were already some protections in the applicant guidebook and that these additional ones were not necessary. And that was something I thought was an accurate statement at the time.

>>STEPHANE VAN GELDER: Thanks, Milton. (saying name)

>> Thank you very much. I'd like to say that the issues raised by the IGOs and the IGOs asking for additional protections are quite important. And they deserve to be considered. And I believe that this PDP offers a good opportunity to evaluate the merit and the merits of such requests. So I want to be -- I want to have a chance to consider this PDP. And I also want to request that the PDP be done in a expedited manner considering the fact that the new gTLD will soon be delegated. Thank you.

>>STEPHANE VAN GELDER: Thank you. Any further comments? Yes, Wolfgang?

>>WOLFGANG KLEINWACHTER: I just want to make a comment that, if we start a PDP, the process should be open. And the outcome of the PDP is the result of the work of the PDP. There should be no, let's say, predetermination from the outcome of the PDP. And so that means, if we start to discuss here on the special protection of IGO and INGOs and the Red Cross, Olympic committees, we have to consider all dimensions. And we should not work toward a predetermined aim. Thank you.

>>STEPHANE VAN GELDER: Thank you, Wolfgang. Thomas.

>>THOMAS RICKERT: Thank you, Stephane. In yesterday's meeting between the GAC and the board, reference was made to the PDP. And concerns were raised by the GAC that the GNSO council

might -- or the GNSO such during the PDP might wish to review the existing legal protections for the designations of the IOC and the RCRC by doing a PDP.

And I think that's one point where it now proves unfortunate that we didn't have a chance to meet with the GAC. Because I think there is some confusion surrounding the requirement for a PDP and the implications. So I would like to recommend that we follow up at least with the board so that they include in their response to the GAC some clarifying information about the requirement for the PDP and the potential impact thereof.

>>STEPHANE VAN GELDER: Thank you, Thomas. Jeff.

>>JEFF NEUMAN: Thank you. I agree with Thomas. I'll save some comments for when we talk about the motion on thoughts from the GAC statement yesterday.

But what I do want to also mention is that we -- precisely for the reason that Wolfgang has mentioned, that we didn't really want to use the term "reserved name." We had some reluctance about that, because we didn't want to create the presumption that the drafting team found necessarily merit in putting those names on the reserved list. But the drafting team went through a bunch of iterations where it, basically -- at least a majority of the drafting team basically concluded that the -- it would be a lot more difficult to -- if the PDP -- if there is a PDP and the PDP ultimately concludes that these marks should be protected, it would be a lot more difficult to take the names back if they were actually registered by third parties.

So this is more of a conservative approach where you temporarily prevent those names from being registered with the understanding that the PDP may come out as such to say that these marks shouldn't be protected. And then we can figure out a release mechanism, if that's the case.

That's all I'll go into for now until we get into the PDP, because I have other thoughts.

>>CHAIR DRYDEN: Thanks. Ching.

>>CHING CHIAO: Thanks, Stephane. I would like to put it on the record, when we discuss about these IGO names on the council list, we also mention about the voluntary effort made by not only the existing gTLD registries but, potentially, the new gTLD applicants they're showing goodwill on the protection of those names. So I'd just like to -- just like to emphasize that, you know, no matter what would be the outcome of this PDP, I'd just like to put it on the record that the voluntary effort is there.

>>STEPHANE VAN GELDER: Thank very much, Ching.

Seeing no further comments here, can I ask if there are comments from the floor?

So let's move on to this related item on the possibility of initiating a PDP on the protection of certain international organization names in all gTLDs. This is a motion that has been made by Jeff Neuman and seconded by Mary Wong.

Jeff, before we go into the discussion of the motion, can I ask you just to read the resolved clause, please.

>>JEFF NEUMAN: Sure. Thank you, Stephane.

Therefore, be it resolved, the GNSO hereby initiates a PDP to evaluate, (i), whether there's a need for special protections at the top and second level in all gTLDs for the names of the following types of international organizations: Intergovernmental organizations (IGOs) and international nongovernmental organizations, (INGOs) --

>> Your line is in silent mode. To return to talk mode....

>>JEFF NEUMAN: I guess --

[Laughter]

>>JEFF NEUMAN: -- I can talk now.

Sorry, where was I?

>>STEPHANE VAN GELDER: I promise that wasn't me.

[Laughter]

>>JEFF NEUMAN: Okay.

Receiving protections under treaties and statutes under multiple jurisdictions and specifically including the Red Cross/Red Crescent movement, RCRC, and the International Olympic Committee (IOC), and, (ii), if so, to develop policy recommendations for such protections. Further resolved, that in conducting this PDP, the GNSO Council requests that the PDP Working Group be convened as soon as possible to fulfill the requirements of this PDP in an expedited manner.

>>STEPHANE VAN GELDER: Thanks, Jeff.

We had planned for an update from ICANN staff on this agenda items, in discussions in preparing both for this meeting and out of the sessions we had this weekend, we've already had several updates, so we were of the mind we would try to avoid updates where possible unless theirs there's a feeling that we absolutely need a refresher on the issue.

I'm not sure this is one of them. I think we're all very well aware of what we're dealing with here. However, Brian Peck from ICANN staff is with us by phone, I believe, Marika; right? So if anyone wants a refresh, we can ask Brian to do that, and if not, let's open it up for discussion.

Jeff.

>>JEFF NEUMAN: Thanks, Stephane.

So there was a comment made at the GAC meeting yesterday about the notion -- or I guess a concern expressed by the GAC that we would initiate a PDP on the subject, especially with relation to the International Olympic Committee and Red Cross/Red Crescent marks.

I wish, as we said earlier, that we would have had a chance to talk with the Board about this and to the GAC.

The argument or the rationale, I'm led to believe, was that there's a belief from the GAC that these marks are protected under law and, therefore, since it involved a law, it really didn't matter what the

GNSO thought from a policy perspective because the law requires these marks to be -- the use to be protected against.

And I just want to draw a little bit of a distinction and why I feel like this motion -- why this is something that should be for the GNSO Council.

It is true that the law does protect against certain uses of the Olympic Committee marks and the Red Cross/Red Crescent marks. That is a fact. There are laws that do protect against uses of those marks and symbols, and so that is a fact.

However, there is also law in many jurisdictions that say that a registry or a registrar by merely acting as a registry or registrar and registering domains does not infringe on the rights of third parties. In other words, a registry or registrar cannot be liable for infringing someone else's use by just merely acting as a registry or registrar.

So while the law does protect against uses of those marks, the law does not require a registry or a registrar to block the registration of those names.

And it sounds like a subtle distinction but it's a very important distinction, and it's one which I believe will be examined by the working group and one in which the statement that the GNSO shouldn't be involved I don't agree with on a personal level. I do actually believe we should be involved.

And let's say -- and I'm not presupposing how the working group is going to come out, but let's say we do agree with the GAC that these marks should be protected. Then there's a notion of what exceptions are there. And the laws do, in many jurisdictions, and I can't say everyone because I don't know every jurisdiction's laws, but there are exceptions built into the law.

There are, in the case of the Olympic Committee, there is a grandfathering clause that does protect certain marks or the use of the Olympic mark in certain limited circumstances. One of those happens to be, for example, Olympic Paint. Olympic Paint does have Olympic.com, and they may want something like Olympic.art or Olympic.home. Or there may be examples of things they want. Olympic Airlines is another example of a permitted use.

So through this PDP, even if we do decide that these marks should be protected, we need to come up with an exception policy and work through how that would be done. And that's a view that's actually shared by the Registry Stakeholder Group.

So we do believe a PDP is necessary even with respect to those two marks -- or those two groups of marks.

And of course the whole notion of IGOs and INGOs, that has been brought up. There were letters sent to the Board. And for me personally, being deeply involved in this, I want to put this to rest. I want to get this done so that we're not talking about this issue for years to come into the next round of new gTLDs. And so I would like this PDP now, I'd like it quickly. And, also, I want to speak out, there was -- I think it was Ching had mentioned, I do believe that registries should be free to voluntarily reserve these names, as some registries have announced, and I think that may be a wise

practice to do. So nothing here that we do is going to prevent in any way voluntary actions by these registries.

Thanks.

>>STEPHANE VAN GELDER: Thanks, Jeff.

Any further comments before we proceed for a vote -- to a vote?

Mary.

>>MARY WONG: Thanks, Stephane. The Noncommercial Stakeholder Group also supports this PDP, and by that I mean both constituencies, the NCUC and the NPOC. I would also like to second many of the comments made by Jeff as to doing it now and doing it quickly and some of the distinctions that might be explored through the PDP medium.

One thing that we don't want happening, and this fear was voiced during the process of other organizations or other groups running forward at some point saying, "We, too, want special protections."

So if there's one thing this PDP can accomplish, it would be to say this is -- or these are the legal bases for protections of this type of organization or this other type.

Since we understand through this process already that protection under international humanitarian law may be a little bit different than intellectual property protections under the Paris Convention. This is what the PDP is for. This is why we're going do it.

And I would like to conclude my remark by going back to an earlier discussion as to the use of issue reports.

On the INGO issue versus the NGO definition, the issue reports that the staff made made it very clear that there are different types of organizations and made a specific recommendation as to what and why to limit this PDP to certain recommendations, and we wouldn't have got there without those issue reports.

>>STEPHANE VAN GELDER: Thank you, Mary.

Anything further?

In which case we'll proceed to a vote on this. The threshold for this motion is the PDP threshold which requires to have the motion approved that at least one-third of each house or two-thirds of one house vote in favor.

So I will ask Glen to do a roll call vote on this motion, please.

>>GLEN DE SAINT GERY: Thank you, Stephane.

Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN DE SAINT GERY: John Berard for Zahid Jamil.

>>JOHN BERARD: Yes.

>>GLEN DE SAINT GERY: Milton for Joy Liddicoat, please.

Milton?

>>MILTON MUELLER: Yes.

>>GLEN DE SAINT GERY: John Berard.

>>JOHN BERARD: Yes.

>>GLEN DE SAINT GERY: Stephane Van Gelder.

>>STEPHANE VAN GELDER: Yeah.

>>GLEN DE SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN DE SAINT GERY: Ching Chao.

>>CHING CHAO: Yes.

>>GLEN DE SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN DE SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN DE SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN DE SAINT GERY: Mason Cole.

>>MASON COLE: Yes.

>>GLEN DE SAINT GERY: Mary Wong.

>>MARY WONG: In favor.

>>GLEN DE SAINT GERY: Jeff Neuman.

>>JEFF NEUMAN: Yes.

>>GLEN DE SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Yes.

>>GLEN DE SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN DE SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Yes.

>>GLEN DE SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Yes.

>>GLEN DE SAINT GERY: William Drake.

>>BILL DRAKE: Yes.

>>GLEN DE SAINT GERY: David Taylor.

>>DAVID TAYLOR: Yes.

>>GLEN DE SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN DE SAINT GERY: The motion passes unanimously, Stephane.

>>STEPHANE VAN GELDER: Thank you very much, Glen.

Thanks to all of you.

So we'll move on to the next agenda item, and this, once again, is a motion that we are considering today. This motion is on the thick WHOIS PDP work group charter. We have a drafting team that has prepared a charter for the working group to work on this thick WHOIS PDP. And so the Council is now being asked to consider approval of this charter so that the work can begin.

The motion was made by Jeff, I believe, yes, and seconded by me. So, Jeff, if you can just read the resolved and then we'll go into discussion on this.

Thank you.

>>JEFF NEUMAN: Thanks, Stephane. And just before I read it, one of the first resolution clauses is actually an area we need to discuss before we vote on it.

You'll see why.

It's resolved, the GNSO Council approves the charter and appoint blank as the GNSO Council liaison to the thick WHOIS PDP working group.

Second resolved is the GNSO Council further directs that the work of thick WHOIS PDP working group be initiated no later than 14 days after the approval of this motion, until such time as the working group can select a chair, and that chair can be confirmed by the GNSO Council, the GNSO Council liaison shall act as the interim chair. And then there's a link to the charter.

>>STEPHANE VAN GELDER: Thanks, Jeff.

So part of our discussion is to decide, if the motion passes, whom will serve as council liaison. And let me open it up for discussion on this motion.

Milton.

>>MILTON MUELLER: So we did prefer to have the charter amended. We know that there is supposed to be a rights assessment in all of these policy documents, and we tried to get a specific mention of, I think, freedom of expression and privacy in the charter for this working group. We thought it was simply carrying out the mandate that the GNSO is supposed to have to do these rights assessments. And for some reason, I really don't understand why, but for some reason this was resisted.

The thought was that somehow this talk was too vague or aspirational.

When we're talking about WHOIS, I have no idea how anybody can think that privacy is not involved, and then there's a short step from privacy to free expression in the sense that people can be sometimes threatened or chilled by not having certain kinds of protection for their identity.

So it's not asking a lot. Just put an amendment in there that explicitly calls out the human rights issues involved.

We had a discussion with the Board yesterday as our stakeholder group, and the Board -- several board members expressed great sympathy for this, and the new CEO actually said that ICANN needs a human rights watch of its own.

So I would hope we would -- we would be willing to amend this charter in the way I've proposed.

>>STEPHANE VAN GELDER: Are you actually proposing an amendment to the motion, Milton?

>>MILTON MUELLER: Yes. I would like to develop one.

>>STEPHANE VAN GELDER: Now? On the fly?

>>MILTON MUELLER: Can you give me ten minutes? We'll work on something else. Talk amongst yourselves.

>>STEPHANE VAN GELDER: We can jump ahead and come back to this if you need the time.

Jeff.

>>JEFF NEUMAN: Thanks, Stephane. I can't agree with the interpretation of my colleague, Milton. If you look at the charter already, it does ask for an impact on privacy and data protection, how would thick WHOIS affect privacy and data protection, also take into account the involvement of different jurisdictions with different laws and legislation with regard to data privacy as well as possible cross-border transfers of registrant data.

So the members of the drafting team of this charter felt that that adequately covered the concerns that were expressed by the -- well, that have now been expressed by Milton.

I think one thing to keep in mind and one thing I'm very concerned with is that this PDP is focused on a thick WHOIS. It's focused on the impact of moving just a limited number of registries -- dot com, dot net and dot jobs -- from a thin to a thick. I do not want -- I hope and I pray that this PDP does not turn into a PDP about WHOIS in general.

This should not be about WHOIS in general. It should be the impact of moving from a thin to a thick, of taking existing records that are thin and then requiring the publishing at a registry level of all of the data. Now, mind you, all of the data has to be on the registrar side already.

So I want people in this group to really focus on that and not to focus on the issues that we have with WHOIS in general. I do support -- I don't want it sound like I don't support freedom of association and freedom of speech. I do, as well as privacy. But I think the reason why we didn't accept it is it seemed to us it was expanding the scope.

So, Milton, you can work on an amendment, but from my perspective, I would find it tough to accept it as a friendly amendment, anyway.

>>STEPHANE VAN GELDER: Thanks, Jeff.

There is the issue of a possible amendment, and if Milton needs five minutes to bring one up, then I suggest that we give him those five minutes, and then you can decide whether you think it's friendly or not.

Milton, I hope you're busy drafting.

We've got Mikey who is the chair of the drafting team who might be able to add something useful to these discussions.

>>MIKEY O'CONNOR: Thanks, Stephane. Mikey O'Connor, for the transcript. And, Milton, I may have some help for you on drafting the amendment as well.

There's been a fairly lively exchange on the -- I don't think -- I don't think it's me. I think it's a little light on volume. There we go.

So there is proposed language on the list. And if it's all right with you, Milton, this is language that came from Avri and has been modified a couple of times. And if it's all right --

>>STEPHANE VAN GELDER: No, no. It works. It works. You just need to actually speak into the mic.

>>MIKEY O'CONNOR: I'm sorry. My apologies. Oh, that is better. I can hear myself better.

So let me read the two versions. These are very -- In my opinion as chair of the working group, these are actually closer than people think. And I would also point out that although it's been a very busy week, there has been discussion about the scope increase issue on the list, and Avri is in agreement with the position that Jeff took which is that this is about the transition from thick to thin, not the rights issues associated with thick across all registries. So I think we're closer than we may think here.

But let me read the two versions. The current version reads: Impact on privacy and data protection, colon, how would thick WHOIS affect privacy and data protection, also taking into account the

involvement of different jurisdictions with different laws and legislation with regard to data privacy as well as possible cross-border transfers of registrant data.

That's the current language in the proposed charter. Okay?

The revised language is similar but slightly different. And I'll try and highlight those as I go.

The pre-colon introductory clause is shortened from "Impact on Privacy and Data Protection," colon, it's now shortened to "Impact on Rights," and then goes on to say, "How would thick WHOIS specifically affect internationally agreed rights -- for example, rights of others, privacy, freedoms such as expression and association -- as well as adherence to data protection regulations." And then from there reverts to the original language, "taking into account the involvement of different jurisdictions with different laws and legislation with regard to data privacy as well as cross-border transfers of registrant data."

Let me editorialize a little bit. I attended the NCUC conference on Friday, and I thought -- I learned a lot there, and I think that what is being done here is a commendable thing, and I support it personally. Not as the chair of the working group.

This language is effectively already included in the PDP, but I think it's a good thing to sort of highlight this and kind of get it into the mainstream of our thinking.

It does not, and I repeat, it does not affect, in my opinion, the scope of the working group.

We had some conversation on the list that had we left it where it was would have dramatically increased the scope of the working group, and I would oppose that increase.

But in subsequent conversation on the list, between me and Avri, we've arrived at a position that's exactly what Jeff stated; which is that this is about the impact as a result of the transition from thick to thin, not the issue of rights associated with all thick registries.

And so as chair of the working group, I would support that amendment, and I would be happy to give it to someone to put in the record or I could reread it all at once, however you want to handle the mechanics.

>>STEPHANE VAN GELDER: Thanks, Mikey.

So I have Bill and Alan, Thomas.

I am going to have to ask all of you to keep your remarks short. We haven't moved far enough ahead in the agenda, really, and we've got three-quarters of an hour left, and I'm afraid we've got a hard deadline for this Council meeting which must end at 6:00. So there is no way to move that, so it's clear that we won't get through all the agenda items today, but we must get through all the motion items. That's clear.

So please keep your remarks short, and don't repeat what others have said.

Bill.

>>BILL DRAKE: I got in the queue a while ago, so now I can actually be quite short because of the dialogues.

 Given the agreement on the specific focus, I really don't see how just adding "freedom of expression and association" to what's going to be looked at quickly greatly expands the scope of the activity or slows it all down.

 I think it's a fairly bounded thing, and it may be that you have a look at those issues and you come to a relatively quick conclusion that there are/are not major questions associated with that. It's entirely possible.

 So I wouldn't prejudge the notion that those few words will necessarily greatly throw the whole effort off.

 Thanks.

 >>STEPHANE VAN GELDER: Thank you, Bill.

 Alan.

 >>ALAN GREENBERG: Thank you.

 I'll note that I am a co-chair of the working group drafting team, and I'm speaking on behalf of the ALAC.

 The ALAC has a strong consensus not to change the words in the draft charter. It was driven by a number of issues. One of the more relevant ones at this point is that the expression "internationally agreed," given the widely different interpretations of the rights of association and rights of speech, vary so highly in different countries that this leads into a quagmire.

 The PDP rules already call for rights to be considered and there is no modifier, so that includes all rights.

 I have no doubt that people will bring the issue of the specific rights up within the PDP -- within the working group when it's being discussed, and adding them in the charter as explicit items we believe is simply going to cause a huge amount of discussion and no real change in the output.

 Thank you.

 >>STEPHANE VAN GELDER: Thanks.

 Just to clarify, I don't know if there is an amendment being proposed or not, but the amendment can only propose to amend the motion. We cannot propose to amend the charter. That must be done by the group itself.

 Thomas.

 >>THOMAS RICKERT: Thanks, Stephane.

 First of all, I think it's great to have a discussion about the important subject of human rights. I am a little bit uncertain whether the rights that should be considered in the review should be explicitly

spelled out each time. In other words, does that mean that whenever human rights or freedom of expression are not explicitly mentioned that the rights review should not cover those?

So I think that we need more discussion on that, certainly, but I would rather like to focus on the work itself during the PDP to make sure that all these aspects are actually covered during the work rather than specifying what needs to be covered in the charter itself.

So I will be more than happy to leave it with a general catchall phrase basically that legal rights review should be conducted.

>>STEPHANE VAN GELDER: Thank you. Bill and then Milton.

>>BILL DRAKE: Just a quick -- I wanted to ask Alan, when you say there was a strong agreement in ALAC on this, I'm on the list and I didn't see the discussion that clarified to me what the quagmire would be that would result from adding the words "freedom of expression and association." So could you just tell me why the ALAC thinks that's a quagmire?

>>ALAN GREENBERG: Number one, there are several ALAC lists. I did not say there was a formal vote. I believe that a majority of people on the ALAC, however, agreed that they would prefer to keep the original wording.

We can document this if you believe I'm not speaking accurately. But that was the answer.

I can't tell you the exact motivation for each of the people who said, "Keep the original wording." Some gave some explanation. Some simply said that was their view.

So I can't give you the rationale.

>>BILL DRAKE: I thought you were saying there was agreement that it would lead to a quagmire. So that was --

>>ALAN GREENBERG: No. I said that was one of the motion -- That was one of the driving factors. I can't tell you if that was the reason that everyone -- that the people who raised their -- who gave their opinions said so.

Of the people who responded, only one person believed that a change should be made.

>>STEPHANE VAN GELDER: Thank you.

Milton.

>>MILTON MUELLER: Yes. Just again responding to Alan's intervention. So it's been established now that there really is no At-Large consensus on this.

I would also want to disagree with the rationale that Alan supported. I think it lacks any logic.

The argument, as I understood it, was that because these concepts of rights are defined differently in different jurisdictions that we cannot mention them. However, the existing charter already mentions rights to privacy and data protection which are, in fact, differing across jurisdictions. So, apparently, by that logic, Alan thinks we should remove that as well.

I don't think this is a -- it simply makes me uncomfortable that people are so uncomfortable about making this change, but let me also address Thomas's argument which is that if we do mention it, then every other time we don't mention it we're saying it's not important. I have trouble grasping that also.

I think thick WHOIS is a very -- I agree with Jeff, it should be narrowly focused on thick WHOIS, and thick WHOIS because it eliminates the ability of registrants to choose the kind of WHOIS they're getting from their registrar, it has these global implications. We're only interested in the implications for these rights to freedom of association, expression, and privacy. That's all. And we just think it would be nice to call that out in the charter.

I'm not sure why this is so controversial.

Thank you.

>>STEPHANE VAN GELDER: Alan.

>>ALAN GREENBERG: Just for the record, without using the word "consensus," if this had gone to a formal ALAC vote, it would have been a quorate vote and all but one person agreeing that the change should be made.

I'm not sure that meets various definitions of consensus, but it seems to be a valid way of making decisions since in most cases majority wins.

>>STEPHANE VAN GELDER: Please keep comments short.

Jeff.

>>JEFF NEUMAN: Thanks. I have to ask about the procedural aspect of how we would change the charter, because it's not really an amendment to the motion. It's an amendment to the charter.

So if you could think about that and how that works procedurally.

My comment is -- it's kind of taken out of -- this whole debate is being taken out of proportion.

>>STEPHANE VAN GELDER: Hang on, Jeff. Jeff, let's just address that, because it's quite important to those discussions.

So the only thing we can do is amend the motion, but the motion actually points -- currently points to a charter. It could point to a different charter.

So I don't know what's being prepared, and I don't know what amendment's being prepared. And it would help to know -- It would help to determine what we can do to know what's being asked.

The amendment could be on a different matter.

So until we have an amendment, we are still in the discussion phase.

>>JEFF NEUMAN: So I guess maybe my -- The group worked pretty hard in coming up with all of this, and the group -- I don't want to discount the group's back and forth.

I would say everyone on the group, with the exception of Avri, actually supported the language as is.

But I guess one thing we could do -- again, I really wish we had the group here -- we could strike the whole thing, the entire paragraph, and just repeat what a PDP requires, which would be each PDP requires a statement on the working group discussion concerning impact of the proposed recommendations which could consider areas such as economic, competition, operations, privacy, and other rights, scalability and feasibility.

I think that would be bizarre, because if we're going to do this, if we're going to single out language that we think is really important to stress, then I would want to add a paragraph on competition, because I think this actually really involves more language, more focus on competition. I didn't do that because I think it's inherent in any PDP.

I want to move forward with this PDP. I really do. I don't want to get distracted.

I think the charter and what's implicit in the PDP are enough. But I'm going to go with the what the Council wants to do. I'm not going to stand up here and make it look like I'm against freedom of association or anything like that. I'll look like a bad person, which I generally am not.

But -- So I want to hear from the council as to what they want to do. I don't think it's necessary. It's inherent in any PDP, just like I think competition is. And I feel like if we stress it here, then we have to stress all of the other elements, like economic, competition, operations, and other rights.

So....

>>STEPHANE VAN GELDER: So once again, we are discussing a motion. The motion has been made, formally made, properly made, and so far there's no amendments being proposed.

So once there is an amendment, and I guess there's about to be one, then an amendment is proposed and, Jeff, you are the maker of this motion. You can either consider it friendly or unfriendly.

If you consider it unfriendly, we will vote on the amendment first.

So I suggest we end the discussion on these points now, and Steve and Avri, you have been standing for a long time. I'm happy for you to speak if you wish to, but after that, I would like to end it and move to actually work on the motion itself.

>>AVRI DORIA: So Avri speaking. I guess I just -- I was confused at first about what you were saying about you could only amend a motion. But that motion could include a proposed paragraph on amending the charter. I'm assuming that anything that comes from a drafting team is, indeed, just a draft that you all have the ability to voice possible amendments to the language of. So I just wanted to make sure that my understanding was correct. What you all do is, of course, what you all do. But that would be a reasonable way forward if someone were to propose that.

>>STEPHANE VAN GELDER: I think that is exactly what I said earlier, which is, until we have an amendment in front of us, we don't know what we're amending. And we can only amend the motion. But the motion can be amended in any way that is proposed. So, once again, I use the

example of the link to the charter. It could be something else. I don't know. But we're about to find out.

>>MILTON MUELLER: Basically, the language I'm proposing is what Mikey read. I'm not on the council list. I sent an e-mail to people that are that was supposed to be forwarded to you. It has that language. If you want me to read it again, I will. If you don't --

>>STEPHANE VAN GELDER: That might be useful. Sorry, you've proposed an amendment on list, which I'm not looking at, obviously, which has been forwarded. Let me just read it out. So you would like for this to be added in the motion text where, Milton?

>>MILTON MUELLER: To replace the sentence that Mikey specified. I know that's not a precise way to put it. I don't have the charter in front of me somewhere. By the way, when we're shuffling papers, I just want to say I agree with Jeff. We need to act on this. You will get the proposed amendment. It will be accepted as friendly, I hope. If it's not, then we'll vote on it and we'll do something.

 So that's not the proposed charter.

>>STEPHANE VAN GELDER: Can you reread the motion as you would like it amended?

>>MILTON MUELLER: So what it says now is impact on privacy and data protection. How would think WHOIS affect privacy and data protection, also taking into account involvement of jurisdictions, et cetera.

 It would be amended to say impact on rights: how would thick WHOIS specifically affect internationally agreed rights such as rights of others, privacy, freedom, such as expression and association as well as adherence to data protection regulations taking into account the involvement of different jurisdictions, et cetera.

>>STEPHANE VAN GELDER: Am I mistaken? The amendment you're proposing is amendment to a text that's in the charter, right? I'm asking you whether you'd like to suggest the motion -- how would the motion be changed? That is what -- that is what we do when we amend motions, you change the motion. So would you like this text -- would you like -- as Avri suggested earlier on, this motion to read we would like this text: Added to the charter?

>>MILTON MUELLER: Yes. The GNSO Council directs that the charter be amended in accordance with this language.

>>STEPHANE VAN GELDER: Thanks very much. Jeff, can I ask if that is an amendment you'd consider as friendly?

>>JEFF NEUMAN: I'd like to get thoughts from other councillors on that language. To me, using terms like -- what was it? International --

>>STEPHANE VAN GELDER: You will get thoughts from other -- whether you consider it friendly or not, you will get thoughts from other councillors. If you don't consider it as friendly, people will vote and you'll get thoughts.

>>JEFF NEUMAN: I'd like some thoughts before I consider it friendly or not.

>>STEPHANE VAN GELDER: Mary?

>>JEFF NEUMAN: Thank you.

>>STEPHANE VAN GELDER: Mary.

>>MARY WONG: So it might help if we made a few clarifications. Because this discussion seems to be getting a little involved and confusing.

First of all, we're not trying to expand the notion -- the PDP, it should be narrow, focus on the issue at hand. So it's not an attempt to create a broad WHOIS discussion out of this motion.

Secondly, the proposed language is meant to not encompass all rights that are out there, whether it be competition or other forms of right or contracts or so forth. What we were really trying to get at here was the notion that any impact that a thick WHOIS in this vein might have on fundamental human rights. So, if that is the language that might make people more comfortable because it makes it clearer that it is quite narrow, then perhaps we could consider that.

>>STEPHANE VAN GELDER: Jeff.

>>JEFF NEUMAN: I feel a little bit out of my expertise here because I don't know what terms like "internationally agreed rights are." To me, that's something that -- I believe in being pretty definitive in a charter. The working group can do a bunch of things and can look at rights in general and then actually talk about those internationally agreed rights. It makes me uncomfortable to put that language in the charter, because I could foresee people arguing as to what does "internationally agreed rights."

I will note that the working group or the drafting team did discuss that. And did not agree with this language. So I guess, on behalf of the drafting team, I'm going to have to not accept it as friendly because I just don't believe that's fair to do that to the drafting team that spent a lot of time discussing it.

>>STEPHANE VAN GELDER: Thanks, Jeff. So Wolfgang and Bill were in the queue. We have an amendment that's not been accepted as friendly that we need to, therefore, vote on before the motion.

I would suggest that we move on to vote. But, as you're both in the queue, can I ask you to make your points very succinctly, please. Wolfgang first.

>>WOLFGANG KLEINWACHTER: Yes, I can help with internationally agreed rights. This is mainly the declaration of human rights and the international covenant on political and civil rights, which are ratified by nearly 190 member states of the United Nations. And it's part of the international law. And article four of the Articles of Incorporation of ICANN states that ICANN operates within the framework of international law and national legislation. So it does add no aspect or does not open new avenues. Just a reconfirmation of what is already in the legal framework for ICANN. But it gives the working group a certain orientation that says takes this into consideration when they discussed the second thick WHOIS issue questions. Thank you.

>>STEPHANE VAN GELDER: Thanks. Bill, you get the last word. I hope it's just one.

>>BILL DRAKE: Okay. Well, actually, then I'll leave it.

>>STEPHANE VAN GELDER: Thanks. So we have -- for those of you in the Adobe Connect room for the council, the motion has been edited with the amendment in square brackets, so you can see it very clearly. We are voting on this amendment first. I will ask Glen to do a roll call vote on this amendment, please.

>>GLEN de SAINT GERY: Certainly. Stephane. Stephane van Gelder.

>>STEPHANE VAN GELDER: God, I don't know. No.

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: No.

>>GLEN de SAINT GERY: Milton Mueller.

>>MILTON MUELLER: Yes.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: No.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yeah, I missed something. Sorry, no.

>>GLEN de SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: No.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: No.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Bill Drake.

>>BILL DRAKE: Si.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: No.

>>GLEN de SAINT GERY: No, sorry. John Berard.

>>JOHN BERARD: No.

>>GLEN de SAINT GERY: Mary Wong.

>>MARY WONG: Yes.

>>GLEN de SAINT GERY: Milton for Zahid, please. I'm sorry. Milton.

>>MILTON MUELLER: Yes.

>>GLEN de SAINT GERY: Oh, sorry. It's John Berard for Zahid, yes. John for Zahid.

>>JOHN BERARD: No.

>>GLEN de SAINT GERY: David Taylor.

>>DAVID TAYLOR: No.

>>GLEN de SAINT GERY: Jeff Neuman.

>>JEFF NEUMAN: No.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: No.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: No.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: No.

>>GLEN de SAINT GERY: Have I called everybody?

>>STEPHANE van GELDER: So is that right, the amendment is 50, so majority?

>>GLEN de SAINT GERY: I have not called --

>>STEPHANE van GELDER: So we're checking on two things: That we have everyone accounted for, that we know what Zahid's reaction to learning that Milton's voting for him is, to making sure that this is a simple majority for the amendment, which is correct.

So do we have a tally?

So the amendment has not carried. It has not -- it will not be included in the motion.

And we will now vote on the motion itself. I will ask Glen to do a roll call vote on the motion itself, please.

>>WENDY SELTZER: Thanks. Do we discuss the motion itself now that the amendment has failed?

>>STEPHANE VAN GELDER: Haven't we just -- If there's need, yes, of course.

>>WENDY SELTZER: Then I'll just raise a quick question. I plan to vote for the motion. I have a reservation that I strongly support the SSAC's recommendation that no further WHOIS work go forward until the purpose of WHOIS has been clearly specified. I think that this is not a motion of that character. So I can support this one without supporting other WHOIS work.

>>STEPHANE VAN GELDER: Thank you, Jonathan.

>>JONATHAN ROBINSON: Thanks, Stephane. It's a very brief comment, and I think it relates to what Wendy's saying. I think one of the things we have to do is look at this in the round as part of all the council's work and think how it fits in relative to other priorities. So that's all I'll say for now.

>>STEPHANE VAN GELDER: Thank you. Any further comments? Glen, please do a roll call vote on this.

>>GLEN de SAINT GERY: Yes. Jeff Neuman.

>>JEFF NEUMAN: Yes.

>>GLEN de SAINT GERY: John Berard.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: David Taylor.

>>DAVID TAYLOR: Yes.

>>GLEN de SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: Yes.

>>GLEN de SAINT GERY: Milton for Joy, please.

>>MILTON MUELLER: Yes.

>>GLEN de SAINT GERY: John Berard for Zahid Jamil, please.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: Yes.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN de SAINT GERY: Stephane van Gelder.

>>STEPHANE VAN GELDER: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: William Drake.

>>WILLIAM DRAKE: Yes.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Yes.

>>GLEN de SAINT GERY: Mary Wong.

>>MARY WONG: Yes.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Yes

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Yes.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: The motion passes unanimously. Thank you, Stephane.

>>STEPHANE VAN GELDER: Thank you very much, Glen. We'll move straight to the next agenda item, which is -- oh, God. I forgot the liaison. See, I'm in such a hurry to get out of here, it's obscene. Who wants to be liaison? So we need to determine a council liaison to this group. If anyone wants to volunteer.

No one wants to volunteer?

In which case we'll defer that discussion and ask the council to have a look at this in the coming days to make sure that a liaison is assigned.

Let's move on to item 9 and the IRTP part C working group, which did extremely well to get this work in to us before the deadline for motions for this meeting. It came in just before the deadline. With everyone traveling, et cetera, it was difficult to make the motion before the deadline. So I was able to make the motion just after the deadline and asked the council to approve this motion for consideration here despite that slight time discrepancy. And the council agreed, I'm happy to say. So we will be considering this motion today.

 In the interest of time and of my own laziness, I will not read any part of this motion and just lead straight into the discussion on this motion, which was made by me, seconded by Wolf, and amended by Mary. And the amendment that Mary sent in was accepted by -- as friendly by Wolf and myself.

 Does anyone want to make any comments on this motion before we proceed to a vote? In which case, Glen, can I ask you to do a roll call vote on this motion, please.

 >>GLEN de SAINT GERY: Yes, certainly. Wolfgang Kleinwachter.

 >>WOLFGANG KLEINWACHTER: Yes.

 >>GLEN de SAINT GERY: Mary Wong.

 >>MARY WONG: Yes.

 >>GLEN de SAINT GERY: Osvaldo Novoa.

 >>OSVALDO NOVOA: Yes.

 >>GLEN de SAINT GERY: John Berard.

 >>JOHN BERARD: Yes.

 >>GLEN de SAINT GERY: David Taylor.

 >>DAVID TAYLOR: Yes.

 >>GLEN de SAINT GERY: John for Zahid, please.

 >>JOHN BERARD: Sorry. I thought Milton was going to handle that. Yes.

 >>GLEN de SAINT GERY: Wendy Seltzer.

 >>WENDY SELTZER: Yes.

 >>GLEN de SAINT GERY: Mason Cole.

 >>MASON COLE: Yes.

 >>GLEN de SAINT GERY: Ching Chiao.

 >>CHING CHIAO: Yes.

 >>GLEN de SAINT GERY: Lanre Ajayi.

 >>LANRE AJAYI: Yes.

>>GLEN de SAINT GERY: Stephane van Gelder.

>>STEPHANE VAN GELDER: Yes.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Yes.

>>GLEN de SAINT GERY: Milton for Joy, please.

>>MILTON MUELLER: Yep.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Yes.

>>GLEN de SAINT GERY: Bill Drake.

>>BILL DRAKE: Yes.

>>GLEN de SAINT GERY: The motion passes unanimously. Thank you.

>>STEPHANE VAN GELDER: Thank you. Let's move to the last motion of the day. This motion was made by Ching and seconded by Rafik. It's a motion to initiate an issues report on rec 2 of the IRD, internationalized registration data working group. And let's extend Ching the same courtesy I've just extended myself and not ask him to read the motion but lead straight into the discussion on this motion, please.

As this motion is to initiate an issue report and requires a threshold of 25% of each house or the majority in one house, which is a specific threshold, I will call for a roll call vote on this, please.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN de SAINT GERY: Milton for Joy Liddicoat.

>>MILTON MUELLER: Yes.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: Yes.

>>GLEN de SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Yes.

>>GLEN de SAINT GERY: John Berard for Zahid Jamil.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: Jeff Neuman.

>>JEFF NEUMAN: Yes.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: William Drake.

>>WILLIAM DRAKE: Yes.

>>GLEN de SAINT GERY: David Taylor.

>>DAVID TAYLOR: This is the last time I'm going to say it, Glen. Yes.

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Yes.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Yes.

>>GLEN de SAINT GERY: Mary Wong.

>>MARY WONG: Yes, please.

>>GLEN de SAINT GERY: Stephane van Gelder.

>>STEPHANE VAN GELDER: Yes.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: Yes with pleasure.

>>GLEN de SAINT GERY: John Berard.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: Passes unanimously.

>>STEPHANE VAN GELDER: Thanks very much, Glen. That's the last of our motions for today.

We will move into item 11. And we have Lyman, I believe, ready to give us an update on the WHOIS proxy privacy reveal and relay feasibility survey report.

This will probably have to be our last agenda item of the day on the regular agenda to make our 6:00 deadline, in which case I will suggest -- and we've already checked this with staff -- that the URS item be discussed in tomorrow's wrap-up. This is probably an item that needs council level discussion anyway. And you will have staff support to do that tomorrow.

I will also ask Brian -- where is he? -- if he's okay with moving the WHOIS review team final report discussion to the next meeting.

>>BRIAN WINTERFELDT: I think we'll have to continue the discussion over the list. And we've worked on it and provided an update. We are close to getting a final letter. We got additional feedback today that we're incorporating, so we can finish it on the council list.

>>STEPHANE VAN GELDER: What I meant was is it worthwhile discussing it in the wrap-up tomorrow?

>>BRIAN WINTERFELDT: I can certainly update everybody tomorrow, yes, no problem.

>>STEPHANE VAN GELDER: Let's do that. So let's move on to item 11.

>>LYMAN CHAPIN: Observing the time constraint, I'll be very brief in presenting this. Just a very quick background.

In Going back to 2011, actually going back a little further than that, April of 2011, the council approved a number of studies of various aspects of WHOIS. And the one I'm going to be talking about today is the WHOIS privacy proxy relay and reveal study. The original RFP for this study was

drafted to explore a sample of actual relay and reveal requests sent for proxy or privacy registered domain names. And I'm going to assume that everyone knows what I mean when I say that.

The intention was to collect a broad sample of relay and reveal requests from volunteers. And that original plan failed, because there were sampling uncertainties and third party dependencies that caused respondents to say that they were unable to accurately estimate the study cost or duration. And, as a result, the GNSO council decided instead to authorize what has variously been called a presurvey or feasibility survey that would sample the participants that would be necessary to provide data for a full study to find out whether or not it would make -- it would be worth conducting a full study. Obviously, if a study was going to produce a data set that was not usable for the purposes of the council, there would be no point in actually conducting the study.

So it was intended to establish feasibility. It was also intended, as much as possible, to inform the design of a full study. In other words, what are the constraints that might have to be observed in order to have a successful full study, and also to give potential participants an opportunity to come forward and identify themselves.

Conclusions of the study: The first is that a full study of proxy privacy relay and reveal would be feasible, if defined in such a way as to take into the barriers that were identified by our group as we conducted the study. In the face of those barriers, which, essentially, I'm now to constraints on the kinds of data that would be collected, we have to conclude that we would be able -- that a full study would be able to provide some but not all of the data anticipated by the council.

Oops, I was going backwards. Okay.

We did find that across the Board, all of the participants, both the originators of the relay and reveal request and those who would be expected to respond -- the proxy and privacy service providers and the people sitting behind relay requests -- would be eager to participate in a study. This was an unexpected conclusion, but all the players across the board felt that such a study would be useful. And in particular, the proxy and privacy service providers, the ones that consider themselves to be operating a legitimate service, observing the rules and the constraints of the business that they're in, thought that this would be a way to differentiate themselves from the bad actors that are sometimes invoked by critics of proxy and privacy services to tar the entire industry.

The most important issue for potential respondents was the ability to ensure the confidentiality of their customer data. And what we found was in the case of being able to track proxy and privacy reveal requests -- sorry, relay and reveal requests from beginning to end, this confidentiality requirement would essentially mean that the data set generated by the study would be intrinsically nonspecific. In other words, it would be aggregated and anonymized and it would not be the collection of specific relay and reveal request processing events and scenarios that were anticipated in the original RFP that was approved by the council.

So we've determined that it would not be possible to compile that detail data set consisting of a collection of actual relay and reveal requests, but we would be able to collect data on an aggregated and anonymized basis that would give a sense of the number of requests that have been made, the way in which the players process them, and the distribution of outcomes.

So the conclusion, obviously, is that the results of the study, with those encumbrances, might or might not satisfy expectations. And we were particularly concerned about statistical validity and independent verifiability.

So the recommendation for a new study, obviously that would be a decision made by Council whether or not it was worthwhile to proceed with a new study, could provide this list of information. It could provide information about the current practices of proxy and privacy service providers. It could provide aggregated numbers of reveal and relay requests and aggregated data on the way in which they're managed and processed by the different participants in the system. It could provide nonspecific, meaning not attributable, not specifically identifiable, characterizations of relay and reveal requests. And it could also provide information about the relationships that currently exist among those who are making, receiving, and processing relay and reveal requests.

So the new study that we suggest as a result of having done the feasibility study could inform a PDP or other policy process as decided by the council on the handling of relay and reveal requests, the processes used by providers today, and this, of course, would require additional action by the Council.

I had these slides slightly out of order.

There we go.

There's a link to -- We provided a lot of detail on this which obviously I have had to skip over today in view of the time constraint, but we presented a Webinar in mid-August, and the recorded record of the Webinar is at this URL here. The draft report, which will very shortly be converted into a final report without changes, is available at the link that's listed on the slide.

And I'd be happy to take any questions from the Council.

>>STEPHANE VAN GELDER: Thanks very much for that report.

Does anyone have any questions?

Yeah, John.

>>JOHN BERARD: The only question I have is even though that the approach that you're now suggesting is somewhat different than what was originally intended, you do believe we can get actionable and meaningful data of the sort sought by that initial intent.

>>LYMAN CHAPIN: Yes. The principal distinction is I believe the original intent was to compile a data set that would consist of a series of actual instances of relay and reveal requests that were processed through the system so that you'd have, say, several hundred or several thousand or several hundreds of thousands of individual records, each of which would represent an instance of relay or reveal request processing. And that level of individuation we don't think is available in any practical sense from the providers of the relay and reveal services. In some cases, not because they are fundamentally or on principle unwilling to provide that information, but in many cases they simply don't track that information. And all of the people we talked to were remarkably -- well, not remarkably but understandably, perhaps, reluctant to add new instrumentation to their existing system simply to provide data to an ICANN study.

>>STEPHANE VAN GELDER: Thank you very much.

Any further questions?

In which case, thank you very much, Lyman, for that update.

So before moving on to any other business, let's move on to item 14, and -- let's just give Marika time to catch up. Just to thank the outgoing councillors, as is the custom at every annual general meeting.

We are saying good-bye to people who have served on the Council and given a lot of time and effort to the work that goes on at the Council level, and we want to thank them and welcome new councillors in.

We will be seating the new Council immediately after this meeting, so we will conclude this meeting, seat the new Council, and run the election for the new chair.

So before we can do that, let me, on behalf of the Council, thank the outgoing councillors, ask can I ask you to please give a round of applause for David Taylor.

[Applause]

>>STEPHANE VAN GELDER: Please stay standing for Carlos Aguirre.

[Applause]

>>STEPHANE VAN GELDER: Bill Drake.

[Applause]

>>STEPHANE VAN GELDER: Rafik Dammak.

[Applause]

>>STEPHANE VAN GELDER: And Mary Wong.

[Applause]

>>STEPHANE VAN GELDER: Thank you very much.

So just -- Alan, you had a -- Please sit down.

You had an AOB that you wanted to get to, but you'll have to hurry.

Go on. Yeah, please.

>>ALAN GREENBERG: I'm sorry, I thought you said hold it.

Just a very quick comment.

On Thursday, staff -- ICANN staff posted the expired registration recovery policy implementation plan for comment.

On Sunday, the ALAC celebrated the fourth anniversary of requesting the issue report.

And in a week and a half, we celebrate the first anniversary of the Board approving the recommendations.

We've got to learn to work faster.

>>STEPHANE VAN GELDER: Thank you very much, Alan.

On that positive note --

[Laughter]

>>STEPHANE VAN GELDER: -- I just wanted to also bring to your attention two people who are leaving the leadership team and who have done an excellent job serving the Council, both vice chairs, Wolf-Ulrich Knoben and Jeff Neuman.

[Applause]

>>STEPHANE VAN GELDER: And in case you're wondering why there are fireworks going on, it's because it was Jeff's 40th birthday just a few days ago and he was fortunate enough to spend it with us!

So we wanted to honor you, Jeff. Happy birthday!

[Applause]

(Singing)

>>MULTIPLE VOICES: Happy birthday dear Jeff, happy birthday to you.

[Cheers and Applause]

>>STEPHANE VAN GELDER: And with that, we can now -- Oh, sorry. David.

>>DAVID OLIVE: May I be recognized?

>>STEPHANE VAN GELDER: Absolutely. I'm sorry.

>>DAVID OLIVE: My name is David Olive. I am vice president of policy development support, and on behalf of the staff, we have some going-away gifts for the councillors as well as our esteemed chair, Stephane. We also would like to note that this is another anniversary, the tenth anniversary of the GNSO. And for all of those who might have been in Amsterdam, we invite to you stand up so we can celebrate the tenth year.

[Applause]

>>DAVID OLIVE: And before it melts, I'd like to wish happy birthday to Jeff, and thank you very much for this opportunity to present gifts to you, which I'll come up and do so right now.

>>STEPHANE VAN GELDER: Thank you very much, David.

So before I close the meeting, any other comments? Any other business?

Jeff.

>>JEFF NEUMAN: Actually, maybe I'll yield to David first.

>>DAVID TAYLOR: Okay. Yeah. Jeff yielded to me on his 40th. He is getting old.

 Yes, Stephane, on behalf. Council we had like to thank you for having guided us these last few years through these troubled waters. You have done very, very well but the problem is you can't really drive so we're giving you a few presents from the Council members, so I'll start with one.

 [Applause]

 >>STEPHANE VAN GELDER: It's Christmas.

 >>DAVID TAYLOR: And staff.

 >>STEPHANE VAN GELDER: I'm overwhelmed. I don't know what to do.

 >>STEPHANE VAN GELDER: Jonathan has given me a present wrapped in Council motions.

 [Laughter]

 >>STEPHANE VAN GELDER: I have a Porsche.

 [Laughter]

 >>STEPHANE VAN GELDER: Do you really want me to open all these now?

 >>MULTIPLE VOICES: Yes!

 >>STEPHANE VAN GELDER: A Toronto bus.

 I may need some help, Glen.

 A Mustang or a Ford, I don't know.

 An ancient Ferrari. You might have understood by now that I'm a bit into cars.

 [Laughter]

 >>STEPHANE VAN GELDER: Lamborghini.

 David, where's the real one?

 Le Mans 24-hour car.

 And I own none of these cars.

 Cars2 car.

 I don't know what this is.

[Laughter]

>>STEPHANE VAN GELDER: A French winner's car.

An NSX. I think I've gotten everything right so far.

A USB stick. Or is that a thermometer?

[Laughter]

>>STEPHANE VAN GELDER: A Carrera GT.

A Porsche, another one. You can't have too many Porsches, that's right.

And another French winner's car. I'm overwhelmed. Thank you.

[Applause]

>>STEPHANE VAN GELDER: Let me just say thank you very much. I am very, very deeply touched. It's been an amazing four years on the Council. I've enjoyed working with you all immensely. I hope you haven't found me too difficult.

I want to wish both Thomas and Jonathan the best of luck, both in the coming election and all of you staying on the Council or joining the Council the best of luck.

I just want to ask you to always feel proud in what you're doing, stick up for the Council. I found it to be a great institution, a great reflection of the multistakeholder bottom-up process and model that I found fascinating since I first arrived at ICANN. And perhaps I can just say a couple of words just for -- to thank staff for the amazing, truly amazing support that they have provided me, the Council, the leadership teams I've served on or been part of. Really, thank you very much to all of you.

And, Glen, especially, it's going to be very difficult not being -- I was going to say pestered, but that's not the word.

[Laughter]

>>STEPHANE VAN GELDER: So, Glen, you have been amazing. I personally have never had such an enjoyable working relationship with anybody in my whole life. So thank you very much.

[Applause]

>>STEPHANE VAN GELDER: And with that, this meeting is officially over, and I'm on holiday!

Bye!

So we'll reconvene immediately. Don't leave.

We'll reconvene immediately, I'll ask the outgoing councillors please to step down, and I will ask the incoming councillors please to join us here on the stage. Volker Greimann for the registrars.

[Applause]

>>STEPHANE VAN GELDER: Petter Rindforth for the IPC.

[Applause]

>>STEPHANE VAN GELDER: Next we have Maria Farrell for the NCSG.

[Applause]

>>STEPHANE VAN GELDER: Welcome, Maria.

Magaly Pazello for the NCSG.

Welcome, Magaly.

And David Cake for the NCSG. Welcome, David.

[Applause]

>>STEPHANE VAN GELDER: And Jennifer Wolfe unfortunately had to leave. She had a plane leaving and she was unable to stay with us. She will be joining the Council as the nonvoting NomCom appointee for this coming term.

So can I ask councillors to sit, please, take their seats. Just give me two seconds to get my garage, and we will proceed with the one-item agenda that we have for today.