Transcription ICANN London
NCSG Meeting
Tuesday 24 June 2014

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.
On page: http://gnso.icann.org/en/calendar/#jun
The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page

Rafik Dammak: Thank you for coming today for the Non-Commercial Stakeholder Group session. I think you had several sessions in the morning whatever it's for with NCUC or NPOC, and we'll have reports later from the different constituency.

So for - the agenda should be displayed soon. So basically we will get the reports from the constituency also from the Policy Committee regarding the discussion for the GNSO Council that will be presented by Maria.

And then also after that we'll discuss about the topics we want to talk with the Board in - at the meeting in 3:30. So - and also we have some other business that we got yesterday like regarding the joint statement with the different - with other constituency regarding the accountability.

But I guess we can start quickly with some introduction from those here in the room starting with Avri Doria.

Avri Doria: Avri Doria, an individual member of NCSG, on the GNSO Council for NCSG and on the Policy Committee.

Robin Gross: Hello. My name is Robin Gross and I am on the NCSG Executive Committee.

Maria Farrell: I'm Maria Farrell. I'm an individual member of the NCUC and I'm the Co-Chair of the NCSG Policy Committee.

(Gabrielle Kima): Hi. I'm (Gabrielle Kima), Optical Line Team. We're a member of the NCUC.

(Stefania Markott):   I'm (Stefania Markott), the Netherlands, a member of the Executive Committee of NCU.

(Amin):   (Amin), NCUC member.

(Rona Lasprink): (Rona Lasprink), an observer here and AP (Ralo) and Accessibility Task Force with At-Large.

Victoria McEvedy: Victoria McEvedy. I'm an individual member of the NCUC.

Stephanie Perrin: Stephanie Perrin. I'm an individual member of the NCUC and I'm - apologize. I'm about to rush out to another meeting but I'll be back.

Daniel Reed: I'm Dan Reed. I'm a member of the GNSO Council and I'm the NomCom appointee representing the Non-Contracted Parties House.

Larry Martinez: I'm Larry Martinez. I'm an individual member of the NCUC.

Marilia Maciel: I'm Marilia Maciel from the Center for Technology and Society of FGV Brazil, member of NCUC and CFG Policy Committee.

(Christo Hellisworth): (Christo Hellisworth). I'm a member of a NGO who is a member of NCUC. Thank you.

Lori Schulman: I'm Lori Schulman. I'm an organizational representative to NPOC and I'm on the NCSG EC.

Klaus Stoll: Okay let's try to let me get that together. So it's Klaus Stoll, a private member of NCUC. What did you call it - organization?

Lori Schulman: An organization representing...

Klaus Stoll: Yes that's what I mean. Organizational member of NPOC and something to do with the GNSO Council.

Rafik Dammak: Go ahead. Yes can - don't be shy.

(Farnica Tuffle):   I am (Farnica Tuffle).

Rafik Dammak: Do you have a mic?

(Farnica Tuffle):   I am (Farnica Tuffle). I'm a student so thanks and I teach the inter Web science at the University of Southampton.

Susie Hargreaves: I'm Susie Hargreaves. I'm from the Internet Watch Foundation and I'm just here as an observer. Thank you.

(Alafana Matelli):   (Alafana Matelli), previous member and universal server now.

Rafik Dammak: Yes we need to - yes come on. Don't be shy.

Mary Wong: I'm Mary Wong on the ICANN Staff and former Councilor for the NCSG.

(Karen Scofield-Laka):   Hi. I'm (Karen Scofield-Laka) and I'm with (iFax).

Rafik Dammak: Yes that's - I think it's not our - it's not - it's our agenda. This is NPOC.

Woman: Okay I'll do it.

Rafik Dammak: Okay anyway it's quite simple agenda. We will start with the report from constituency. So I think we can start with NPOC. Who can speak for NPOC about the meeting this morning?

Lori Schulman: This is Lori Schulman, member of NPOC representing and NPOC (OREC). We had everything this morning. I think we had the highest attendance we've had at an NPOC meeting maybe ever, which was really great to see.

We had a lot of new members. We had some interested members. We had a lot of representation from different regional ISOC chapters or societies. I'm not sure what they call themselves.

We spent I would say the majority of the session discussing outreach - organizational outreach and that there's a real need now probably more than ever before to get to the grassroots levels of NGOs, because the NGOs that are out there are - there are very large ones who are very visible within the ICANN space.

But there's so many smaller ones that are not active and we are talking about ways where we can activate a more diverse set of NGO representation, one, to get multiple views; two, to get more help; but three, ending with the accountability issues we've been discussing and the IANA transition issues we've been discussing.

And it's just more important than ever and as I said that was - probably the majority of the discussion was on how do we do outreach. And there was a definite consensus in the room that we need to do real regional outreach, and that we have to figure out ways to get to regional channels for NPOC participation, which will work well for the ample community for NCSG.

And we spent a little bit of time discussing that structure as well that NCSG is the Impala group, that NCUC accepts organizations and individuals, that - and a little bit about the history surrounding NPOC and why that was formed now more than three years ago.

We also spoke a little bit about the discussion we had on Sunday and the Policy Group on the IGO/INGO issue that's coming forth in terms of possible protection for names and what that might mean to the community at large.

And I don't mean I will - community at large. I mean the nonprofit community at large. You know, I - one of the observations that I had made is we didn't comment on the last report as NPOC, because I quite frankly felt we weren't ready to, that some of these issues given the small amount of representation we have haven't been vetted to the fullest extent, which is why I think we need a broader base of membership so that we can get consensus on issues that are important to you nonprofit organizational concerns.

Rafik Dammak: Thanks Lori. Any question? Okay so we should have a report from NCUC but the Chair is not here. Maybe any member from the Executive Committee can summarize on that. I mean, yes and if you could - yes please. Please (Stefania).

(Stefania Markott): So it will - my name is (Stefania Markott) of the Executive Committee of the NCUC. In this capacity I'll try. I would - I've not prepared an actual summary.

But just to give you a sense of what we have done today, we also had a very productive session with the room pretty full and people not knowing where to sit, which I guess is a good sign.

And we started off with a very welcome visit of the U.S. Government Delegation with whom we discussed of course the suspect NTIA and IANA function translation where we also discussed accountability and we discussed at length whether these are two separate processes or whether they should be considered jointly.

So it was I believe a constructive exchange and it was maybe nothing very new, very groundbreaking came out of that. We also had following that some

discussion concerning that issue of the Dot Wine that you are all aware of, and where we worried about using the domain name system as counting the regulation mechanism.

Then we had visit to the - of the Council of Europe and particular we discussed with Thomas Schneider I believe he's called the report on ICANN's procedures and policies in the light of human rights/fundamental freedom through democratic values.

This was a particularly productive exchange in the sense that we found quite a lot of common ground between the current position of the Council of Europe but also of these individual people that in fact Thomas was a part of the GAC, and other battles that are being fought in the past and recent past by NCUC members for including human rights reviews and mechanism in IANA workings.

So we believe this is going to go forward in terms of discussion, and we are trying to imagine what our potential space is and moment in which to take this discussion further.

We also finally expressed our - we won that mostly what was the - this issue, the story all done on yellow lines. We're very curious to hear what is going to happen that - at that level.

We would like to know more but we also expressed some - there was concerns around some concern of how civil society would be included in this for now still obscure plan. And I can say that's it.

Rafik Dammak: Thanks (Stefania). So any question to (Stefania)? Don't be shy guys. Okay so I guess you want to go to more substantive discussion. And then we will move to Maria Farrell who is the Chair of the NCSG Policy Committee, and she will have things summarized to us the meeting in Sunday.

And I guess and you also have - I think there was some of that regarding some GNSO Council motions so please.

Maria Farrell: Hi this is Maria Farrell. I'm the Co-Chair of the NCSG Policy Committee. We met on Sunday for two hours and we had an agenda that went through some process items particularly regarding the election or appointment process for Board Seat 14 and also some substantive issues, which is the - mostly the voting motions on the GNSO Council meeting coming up tomorrow.

On the first thing, Board Seat 14, we agreed that the priority for now - this is for those who haven't been following it. This is the Board seat which needs to be filled by the Non-Contracted Parties House of the GNSO.

So there - effectively the way the election works is there needs to be relative - either not quite consensus but a majority in favor of a candidate, and that majority needs to be across the Commercial Stakeholders Group and the Non-Commercial Stakeholders Group.

It's been quite a protracted process and we haven't been able to reach agreement on several candidates so far. So this group, the NCSG Policy Committee, is responsible for all of our appointments, our nominations to decision-making bodies within ICANN.

And although the NCSG Policy Committee meeting was opened and we had many people who were non-PC members, there was a very broad consensus that our priority for now really needs to be on agreeing within the Non-Contracted Parties House what is our process for agreeing and appointing Board seat occupants?

So rather than continuing to go back and forth and discussing this candidate or that candidate, what we are going to propose to the CSG is that we look for now at coming up with a process that can be mutually agreeable, and that

also hopefully contains some incentive for cooperation or harmony as I believe the CEO put it yesterday morning.

So that's where we got to on that. The second procedural item was that we - oh and sorry. We also agreed to ask ICANN General Council for a legal opinion on what happens if the Non-Contracted Parties House fails to come up with a candidate, and does it mean that the current occupant, Bill Graham, continues as the Board Director or will the seat remain empty?

And that's pretty much what we agreed to on that item. And secondly, we talked about the appointment of a representative to the IANA Transition Coordination Committee that the ICANN Staff has proposed.

And it looks like because of the division or I guess sharing out a number of seats of that, that the Non-Commercial Stakeholders Group, i.e., all of us here, and our constituent members will be able to propose a single candidate to represent us and feedback to us on what happens on that group, the IANA Transition Coordination Committee.

So we agreed on very - about a half a dozen criteria for what that person should be. We've got about a week to put forward a person and the process is that I am to send around those criteria to our respective groups, and people can either nominate or self-nominate.

And the NCSG Policy Committee will make the decision of who we should send forward. And I should say I was supposed to send that out yesterday and unfortunately I was out of action so - and the dog ate my homework.

I'd left the list of criteria on my kitchen table. But I will send that out this evening as soon as I get home so that we can get that process moving and get - make sure our process for getting people - a person to represent us is fair and representative and all of those essential things.

Moving on to the substantive policy questions that we discussed, the NCSG PC really is our preparation vehicle for GNSO Council meetings. While the NCSG doesn't bind any of its members on how to vote normally unless there's a very particular and special agreement, it still is really, really useful for us all - for those of us who are GNSO Councilors to get a feel for the issues, how they're perceived by other people and figure out how we might vote.

Actually at this point Rafik it might be useful for the GNSO Councilors in the room to just put up their hand so people can identify who they are. I'm one. Fabulous.

And we have Dan Reed, which is great. Okay so on the - so we concentrated because we were - we had about I guess 45 minutes or so to discuss all of our policy items.

We concentrated on the issues that are - we're going to be voting on, so the motions rather than the items for information. The first one of those was the - a motion to approve a charter for policy development process on the IGO and INGO access to curative rights protection mechanisms.

So this is the issue about whether - was it the front of - basically amending the uniform dispute resolution policy and the uniform rapid suspension procedure to allow international government organizations and international non-government organizations to access and use their curative rights in those - sorry, to access and use their intellectual property rights in those curative mechanisms.

Basically it's extending the window of the UDRP and the URS to cover IGOs and INGOs. This really - this topic created a lot of discussion and yes if we - we'll probably have discussion after this.

And I think one of our experts, Kathy Kleinman, had a lot to contribute on it. This - so I think if I can kind of characterize the dilemma we had it is that as a group we tend not to wish for the sort of just constantly extending - the constant push to extend property rights and curative mechanisms with no limit.

But on the other hand, you know, we do believe in the bottom up policy development working group process. So I think if I were to characterize broadly I think the agreement on that one or the feeling is probably better than a - the sentiment rather than a formal agreement, we - there is I think a general feeling that it was worthwhile voting in favor of the charter.

However our - two of our members, Lori Schulman from NPOC and Kathy Kleinman from NCUC, volunteered to suggest some potential changes to the charter before we vote tomorrow so as to just try and accommodate our concerns. Kathy did I got - get that wrong?

Kathy Kleinman: No I just wanted to give you the update that Lori and I did work on that yesterday and we got it back to Avri with some edits per - yes.

Rafik Dammak: And Avri has circulated that to Council.

Maria Farrell: And that's already done. That is the speed of cooperation within the NCSG. Thank you everyone. So I guess with that in mind it's up to those of us on the Council now to propose those changes to the charter in the Council and see what happens at tomorrow's Council meeting. Avri sorry.

Avri Doria: So they have been proposed. I sent them to the Council at the same time that I sent them to NCSG and to the Policy Committee so - because I wanted to make sure that when we met tonight -- the Council meets tonight at 6 o'clock to discuss motions and stuff -- that they had already had them all day to discuss in their constituency meetings and their stakeholder group meetings.

That doesn't mean that you all couldn't but when I read it and I saw that these two erudite and the elite trademark knowledgeable people had come to agreement, I figured what do I have to say about it?

Kathy Kleinman: And just so everyone knows the underlying issue has to do with fair use, the balance of kind of what people are protecting versus the rights of everyone else including future organizations to use words.

And that's an issue that the Non-Commercial groups in ICANN have been working on since the founding of ICANN is intellectual property versus fair use and that kind of great tension and balance and trying to preserve it in ICANN.

Lori Schulman: What I'd like to add is Kathy and I aren't always on the same side of trademark issues in the nonprofit community. But that being said it was surprisingly easy to come to language that we both thought was fair and right, so hopefully that bodes well for the acceptance of it by the GNSO Council.

Avri Doria: I will certainly argue that point. You know, I'm not one that ever argues the trademark stuff because my opinion of trademarks is rather vile but I've made that point.

So - but the fact that the two sides of the issue could agree on these things - I haven't gotten any complaints yet from the proposed language so we'll see.

Maria Farrell: Thanks a million to both - as far as everyone on that one. So as I said the NCSG Councilors are not bound to vote in any particular direction, but I think it certainly weighs heavily on all of our staff.

You know, there is such a clear agreement across all of our - both of our groups on this issue and so that's going to give us really useful guidance tomorrow when it comes to vote.

The next item that we talked about yesterday was a motion and per the consideration and evaluation of the new gTLD program. This has been proposed by Brett Fausett in the Registry constituency, and it is effectively the starting gun to look at reviewing the whole new gTLD program and how it came about and how we could improve future I'm going to call them cycles rather than rounds I think of new gTLD applications.

And so on the whole the discussion on this was, you know, that it was generally a positive move largely because the NCSG has been responsible and in fact as the process was really, you know, as a substantive decision that came in time with the NCUC with (Aquin) have - as a group all of us managed to get the more developing country concerns reflected in the new gTLD program.

Not as much as we would've liked to but the joint applicant support group slow though it is something that I think we hope we can build on as the program is reviewed.

So I think personally I - I'm inclined to vote in favor of that one of, you know, triggering the review and getting things moving. And that's, you know, if and when it kicks off and I think it's likely to get in a vote, that's a process that can go on for I would say a year or two years.

I mean, it's going to be quite a long time. There's a lot of data to crunch but it's something we should really keep an eye on because there are many issues in looking at how the program has run so far that are dear to our heart, and also in thinking about how and if ICANN continues to accept new gTLD application how improvements can be made in the future.

That's one to watch. Then the next item was discussion of a letter which was sent to the GNSO Council by the Board of Directors and new gTLD Policy Committee.

And that was - it's - again it's on this IGO/INGO issue. This - how to summarize that discussion? I guess this - I'll just tell you the dilemma it presented to us probably enough that it's a simple thing.

Our - we - we've been sent a letter by the Board saying, "The GAC is not thrilled about how we - how that implementing a particular part of the new gTLD program to do with IGO and INGO names protections."

And so the good news I guess is that the Board wrote back to the GNSO Council and said, "Hey we don't like this. Can you look at it again?" And the bad news is the Board wrote to the GNSO Council and said, "Hey we don't like this.

Take a look at it again." So our dilemma really is - was reflected in the discussion that was, you know, is it - it's a good thing and that we haven't just been completely stumped all over in terms of the GNSO and it hasn't been unilaterally changed from the consensus policy.

But it's a bad thing for us in the NCSG because, you know, we're relatively agreed to and behind the policy that was created. So on this one where it came down to in our discussions were really that I think again we vote by conscience.

I think probably several people are going to vote for the Council to- one, to acknowledge positively the letter that's been received by the Council from the Board; and two, to say we are certainly going to look at the idea of reconvening the working group.

And then the other item really that we came on was almost a tactical consideration, which is that as Kathy Kleinman pointed out if in the previous topic we were talking about the IGO/INGO Working Group charter is agreed, that means that working group will start and we have to populate that working group.

And it's something that requires an incredible amount of expertise, which clearly we have on this group but also an incredible commitment of time. So it would be really difficult for us to staff both the new working group and also to reconvene the old working group.

So I know, you know, Klaus and I had a chat about this afterwards but I think we all - generally we had agreement that as Councilors we should say, "Okay we can, you know, we can go along with what the Council is agreeing to here," but that we should really look at sequencing these groups.

We cannot run both of them side by side. We simply don't have the manpower or indeed the womanpower to run these groups. So that's going to be our challenge tomorrow is to get the message home that, you know, this is all good and well but if you want it done well it can't necessarily be done now and we're going to have to choose.

So that is going to probably cause a bit of discussion and we'll just have to see where we go in it. The rest of the items on the GNSO Council were basically update items, so I'm going to skim over them because we didn't actually discuss them.

And then the final thing that we in fact did not discuss at the NCSG Policy Committee meeting yesterday was public comments periods outstanding. We've got quite a few of them and we need to put names against topics.

We picked up another this morning so I'll just tell you what they are and can - and try and beat the drum on the list to get some take up of volunteers to do some drafting.

So number one, as of this morning we have agreed to provide comments on the Council of Europe report on ICANN's procedures and policies on human rights, fundamental freedoms and democratic values.

That's an incredibly useful and important report that has been put together by Thomas Schneider who some of you will know is the Swiss GAC representative and overseen by Lee Hibbard who is a Council of Europe staffer.

And it's basically about looking at the human rights agenda and governance and how ICANN fits into that and how it reflects those principles and laws and indeed how it doesn't and making recommendations.

So it's something that is incredibly close to the hearts of those of us, and I look around the room and see people who've been doing this a lot longer than I have but who've been prosecuting the human rights agenda here at ICANN and it's wonderful to have the, you know, support and have people with some real clout and credibility joining us in that struggle.

And so I think it's definitely - and they - Lee Hibbard and Thomas Schneider, you know, made it really clear to us they want our support. They want our input and governments will be making public comments or inputs on that document.

That will not be what we agree with or what we think is important so we really need to get our side there and get it out in public. And in fact they're going to do something which is I think relatively novel, which is put it on the Council of Europe's side and open up a public comment box for it.

So we really have a fantastic incentive to offer support and also I think as we did in the meeting some really constructive and informed critique of, you know, of the application, some of those concepts within the ICANN structure.

So that's a really, really important one. There's no timeline on that one but I think the issue is going to be revisited in Los Angeles. And so, you know, if

we get something substantive up there within the next couple of months I think we can really have some impact.

And then I'm just going to go really quickly through the rest of them just to refresh people's memories really on what's current. The financial year 2015 draft operating client and budget replied that it's - the reply period deadline is the 1st of July; enhancing accountability reply period deadline 27th of June. That's Friday.

There's been a request for an extension of that deadline and I think, you know, it's something we would like very much to put something in on. It's going to be a challenge to do it on Friday so hopefully we can get an extension.

The other topics are - oh yes, the report on serving the domain name community in underserved regions. That's something that's I know close to Rafik's heart and close to my heart and we're going to try and get some comments on that. Klaus.

Thank you. Klaus has just offered support on that. That would be terrific. Thank you. Otherwise we've got - let's see, a proposed implementation of GNSO PDP recommendations on locking a domain name subject to UDRP proceedings.

That is in the reply period and that's 18th of July so hopefully we might get someone interested in responding on that. Something that's been knocking around absolutely forever, and I'm not quite sure of the status of it - it is the WHOIS requirements and national laws.

That one has kind of crept out - has a comment period deadline of 3rd of July and a reply period deadline of 1st of August. I don't quite understand the context of that or why it's coming now or how it relates to - Kathy do you have an idea?

Kathy Kleinman: That came completely out of left field. The initial comment deadline was before this meeting and we wrote to (Carol Lenz) and said, "What are you doing?

This is ridiculous. Where did this come from?" Let me tell you what it is. This is one of the - I think this is the only consensus procedure. Normally it would - we have consensus policy.

So the consensus procedure - we knew it has to do with WHOIS, one of the never ending WHOIS issues and this came up years ago. I think Milton was on the task force around the time this was - I know I was on it when this came through and this was supposed to be the beginning...

Maria Farrell: And I was chopping the task force when that came up actually.

Kathy Kleinman: There. And so this said basically that if a Registrar -- probably Registry or Registrar - probably both -- is found in active violation of their law, so if they're being brought up on some kind of charge or on some kind of regulatory notice before the court, if something's in front of them that they're actually operating illegally would the WHOIS and the data collection retention publication requirements of ICANN - and this is pre-2013 Registrar Accreditation Agreement so years and years ago.

If that happens they come to ICANN and ask for an exception. It's the stupidest procedure ever because you don't want to be in violation - active violation ever of your law.

With my other hat on as a corporate attorney you always want to be an active, you know, you always want to be a law-abiding citizen. You don't want to know that you're violating the law.

So to have to wait until you're actually summoned or tried or, you know, is awfully late in the game. So we don't know why this has been introduced now.

It's come out of left field. No one knows why. That's the few Registrars and Registries who asked for this. This seems to be ICANN operating alone. We've written to them and said, "There are way too many WHOIS things going on right now."

The Proxy Privacy Accreditation Working Group is on the way. We have the Expert Working Group's final reports, which are remarkably inconsistent and difficult to read.

And now we have this coming out so we're looking for other people to help. Is the deadline July 3 or July 30? I may have misheard.

Maria Farrell: The initial comment period deadline is July 3. The reply period is July 24, which seems incredibly soon.

Kathy Kleinman: And there was some hope that we could get data protection commissioners involved in this. But the goal I think would be to make it easier to ask for exceptions similar to what we're seeing in some of the data retention issues.

But if anyone's interested in this we could definitely use some help. I think it is something we'd be interested in.

Maria Farrell: That's terrific. Thank you Kathy. Okay and so the final - yes there's only - oh sorry, there are two more public comments periods open at the moment. One is the study to evaluate solutions for submission on display of internationalized contact data.

That is a study that was commissioned by the Staff in support of the internationalized domain name program. It is going in parallel to but also

feeding into the current policy development process on translation and transliteration of Registrant contact data, and which Amr who's one of our GNSO Councilors is very involved with.

So that - it's basically comments on the study and that was reported - sorry, that was published a few weeks ago. And then finally universal acceptance. Let Kathy speak.

Kathy Kleinman: Was wondering - do we have anybody following this issue for NCSG because this is an important one - what we're going to do, whether developing countries have to translate their data.

Who's going to pay for that? How, you know, why we're tracking Registrants from developing countries. Why they have to translate or transliterate or, I mean, these are important issues with implications for Non-Commercial organizations.

Rafik Dammak: About the internationalized bit. I think Amr is there. I think we have (Rudi) and so on. We have several members in that working group. Please Dilon who are two - both a member of the NCSG. Dilon please. Not yours but yes. D-I-L-O-N. Yes.

Maria Farrell: Yes. So we're tracking that one pretty closely. But again when the question of whether to vote for that PDP to be kicked off - to be launched came up last - I think it was September, you know, we had again this dilemma of our working group has gone through the correct processes, has come up with a charter and we as GNSO councilors are expected to say, "Okay," and, you know, approve that while at the same time we as NCSG have concerns about the issue being tabled at all.

So it is one of those kind of rolling dilemmas that we have in terms of we've gone through the process. We've come up with an answer. We didn't think the question was right so do we vote to answer the question?

So that's one that I guess we'll always continue to struggle with, and that's it. Final one is universal acceptance of TLD's draft roadmap, comment period deadline 18th of July and reply period 8th of August.

I don't know if that's on people's radar or not. I would say it's probably a lower priority too of - than some of other items. But, you know, as always if somebody's interested in the topic we'll be thrilled to help facilitate them drafting comments that we can then all look at and see if we can submit. That's basically the NCSG PC report.

Rafik Dammak: Thanks Maria for this story. It's quite exhaustive. Regarding the comments we can share with the members on the mailing list and ask if anybody want to pick up topic and draft something.

For example I will answer it for the report on the industry for underserved regions. So - and we have several volunteers. Just we need to compile all their contribution.

Okay so just checking if there is any question regarding this policy issue, if you want some clarification from Maria. Yes Mary.

Mary Wong: I just wanted to - this is Mary Wong from ICANN Staff. I just wanted to follow up on some of Maria's descriptions just so that everybody is clear with all that's going on.

I think first on the IGO issue the - as she mentioned there's two - actually two separate discussion and two separate issues. One is in relation to the PDP that this Council kicked off earlier this month to discuss curative rights protections, and that's the charter that's up for a vote tomorrow.

The other piece of this is a different action. As she mentioned it's basically reinstating the earlier PDP Working Group to deal with the specific requests from the Board's new gTLD Program Committee.

And the meeting that she mentioned this evening for that second issue is to discuss not reconvening the working group for an entirety of a PDP. But the recommendation under discussion, and there's of course no guarantee that that's what the Council will ultimately agree to adopt, is to reconvene that working group for a set period, say 45 days to deliberate on a very specific proposal about modifying an earlier recommendation.

So to the extent that that is the proposal that the Council runs with, it will not be yet another full-blown PDP so I thought that might be helpful to clarify that.

And on the WHOIS procedure conflict of national laws -- I'm probably mixing up the words there -- under the original procedure as Kathy noted it's never been invoked.

But under the original procedure that was developed after the GNSO approved the overall high-level policy there is a - in fact there is a mandatory provision that says that the procedure should be reviewed annually.

So Kathy to the extent that the question is why is it coming up now, in fact it probably should have come up before and ICANN Staff is merely trying to catch up, although the point about too many things going on is definitely well taken, and thanks. I just wanted to offer that as an explanation.

Rafik Dammak: Thanks Mary. That's quite helpful. Yes Marilia.

Marilia Maciel: Just a question about the modifications that you proposed through that charter. When you talk about the non-governmental international organizations you mentioned a list of the United Nations Department of Public Information.

And I know we're discussing - we mentioned the (ecozoc) list and what's the difference? And that process would really encompass only organizations that have been listed there, just to confirm if I understood correctly, and other organizations that are not affiliated with the UN or (ecozoc) are not included in this process.

Maria Farrell: I'm going to have to defer to either Lori or Kathy who have actually written those draft amendments.

Lori Schulman: Okay I'm just going to ask you to repeat specifically - well I just missed part of it. I heard the last part. What's the first part of the question?

Marilia Maciel: Oh it's that during the discussion we listed - when we mentioned the international organizational government organizations we mentioned that the list that would be used - it would be the list of (ecozoc), which is the list that I'm not familiar with.

But I don't know the list of the United Nations Department of Public Information. It is the correct list that is being taken into account in terms of membership of non-governmental organizations or is it the (ecozoc) list?

And if - the second part was if organizations that are not affiliated with (ecozoc) will not be included into this particular process.

Lori Schulman: That's a great detail. I will - honestly that piece of the reference I don't know the answer to. I had made the assumption that it had - it was the same list but I can actually check that right now to make sure because I think that's a very valid point.

There's several lists and just to clarify we're not necessarily wedded to that list. That list is a reference point. You know, what happens as part of the discussions in the working group once it's formed I don't know.

I feel like that's important to clarify because we did spend a lot of time talking about that list and (Lydia)'s list what something may mean or not mean.

But I think it's a good reference point to start because it at least opens the door to discussion. And as I said when I turn off the mic I will crosscheck that reference to make sure we answer your question.

Rafik Dammak: Yes go ahead.

Marilia Maciel: Just a - the follow up because as far as I know although the list from (ecozoc) is comprehensive organizations that have been very active in the UN system, it's really restrictive in terms of number of organizations.

So when I read it maybe I misread it but I didn't get the impression that it was a starting point. I got the impression that maybe this was the list and it was that list and nothing else was going to be first.

Avri Doria: Yes if I can add I guess it was the previous PDP, the one that this one is derivative of, argued many, many lists and many possible definitions and many notions of many kinds and settled on that being the list.

That doesn't mean that another PDP can't decide that they want to use more list. I think you'd find resistance to a bigger list or lists that covered more entities because that was already the general consultative list, which only had 147 names.

Most people were willing to accept that. The full list of 2000 plus names people were a little iffier about. General definitions that had an indefinite number of names were very much vetoed.

So that was the list that after months of going back and forth another group was able to settle on because I think we'd get beyond it - is it could happen.

Lori Schulman: My understanding about that was - particularly is because in order to get on the list you have to meet certain objective criteria set by the UN. And one of the enduring issues across the board, because this has come up many, many times with the new Dot NGO/Dot ONG issue, is how do you determine who is a nonprofit?

There are certain areas of the world and jurisdictions where defining yourself as a nonprofit is - it's fairly clear, whereas there are other areas - the way nonprofits are organized and operate may not be as clear.

And this lack of clarity in terms of what would constitute an NGO in terms of how we would define it within the ICANN universe has been, I mean, seriously probably been discussed for at least ten years since PIR was formed.

So I look at the - and again this could be more personal than anything else. I look at this list as a gauge more than a definitive list, and the gauge is set by the criteria that are set out by the UN.

But then that begs the question because were this list to be adopted as the list, then what it would really do is impel organizations like my own to then become consultative members to the UN, so consultative NGOs because there is a process I can apply.

But the in a way it becomes a quasi - or not even a quasi - a registration system to qualify for the Clearinghouse. Is that really what we want it to do because then you're looking at a pseudo trademark Registry for lack of a better word?

And I don't think that's what anyone wants either so it's a thorny issue. But I'm in favor of including the list because as I said I believe it opens the door to the discussion, and without it I don't know that we'd have the discussion.

Kathy Kleinman: Can I recommend that we take this on over a break by whoever wants to talk about it, because I don't know much about the history of the list but I know that INGO is actually defined as a different list?

(Matthew Shears): Sorry. (Matthew Shears), CDT. And it can take up to a year and a half to become accredited to (ecozoc). So there are some limitations in terms of the - you - your latter point about forcing people to become members.

Lori Schulman: Right. Well I'm aware of that. It is a long process but I think that's part of the reason why this list was accepted without looking at the transcript directly is because there is a process.

There are criteria so if you're on this list you're presumed legitimate versus any other means of determining who or who is not a legitimate nonprofit. But again circular argument that goes back to my whole point about how do you make an objective list of criteria that would cut, you know, cut across hundreds of jurisdictions?

Rafik Dammak: Okay so Mary want to add something and I guess we are reaching the one hour of this meeting so maybe we need to hurry up quickly this - yes.

Mary Wong: It's...

Rafik Dammak: Yes.

Mary Wong: If you just - do you want me to speak really quickly and take very little time?

Rafik Dammak: I was saying that we are reaching the one-hour of this meeting so Mary want to comment. Maybe we can get other comments but we need to hurry up this...

Mary Wong: Yes. In an attempt to sort of help any sort of offline conversations on this point, I would say that the original PDP that Avri mentioned as she noted for INGOs used the (ecozoc) list, general status consultative - a special consultative status.

For this new PDP on curative rights it was expressly picked up on the understanding that the INGOs to be privileged to this curative rights would be those that were previously indicated, meaning those on the (ecozoc) list.

What Marilia was saying was that the amendments offered by this group yesterday or earlier today refers to a different list, the DPI list which the understanding is that that's actually not only a different list, it's a much broader, longer list than the (ecozoc) list. Is that right?

Yes it's a different list, whereas the original PDP and the premise of this current PDP is simply the INGOs is the list on the (ecozoc) list, general as well as special consultative status.

Kathy Kleinman: Then I think we pointed out an ambiguity. For those of us who had never read the charter before it wasn't in there so it - I didn't see it. So you might want to modify that back. Apologies for that.

Lori Schulman: I'll change it back. I have no problem changing it back, Kathy.

Kathy Kleinman: Okay.

Woman: There's also - just complicate it even more. There's also the whole situation of non - so-called nonprofits who represent profit organizations. For example I think that the National Rifle Association is a nonprofit organization and the National Association of Broadcasters, which represents corporate broadcasting so...

Man: I think in the past we have had discussion of the issue about nonprofits that represent a coalition of profits - for profits.

Woman: Right.

Man: And they do not fit in with NCSG but you're right about the NRA probably.

Woman: Yes.

Man: Clearly. It may have a different policy position but it's a policy advocacy body much like the rest of this.

Rafik Dammak: Thank you. (Matt Portell) to the...

(Matt Portell):   Just very quickly in that whole discussion about NGO and NGOs, I think that I've got the feeling as a group as the NCSG and as NCUC and as NPOC we should concentrate on our original customers, the NGOs and the end users again and not looking for the protection of the big cat, but also concentrating a little bit more getting protection for the general run of the mill small NGOs and middle - somewhere in the world.

                 And I think we should take - get this as quickly as possible over and concentrate on that one. Thank you.

Rafik Dammak: Okay. Kathy - short comment.

Kathy Kleinman: And just to make sure we have the balance here and the flipside, this stuff is extraordinarily dangerous from the perspective of fair use and free speech. These words are the most basic words in the English language and they're - when we defined - when we created the UDRP and then the uniform rapid suspension we tied it as narrowly as we could to trademarks, because trademarks are defined.

At least you have a country, a jurisdiction, you have an international class and category of goods and services and you have a specific definition of goods and services.

When I look at the world family organization it's the most descriptive of terms and it's on the (ecozoc) list. I don't know. The - I don't know how - what's the scope?

How do they - who can you - what's the scope of the protection? What can they shut down - what you can't? I don't think we're putting the rest of the world on notice the way a trademark does that you're creating confusion.

I don't know. We're operating in new territory and it's going to create serious implications for Non-Commercial speech and for future organizations that are using basic descriptive words like use, labor, veterans, science, just to look down the (ecozoc) list. We need to be careful.

Lori Schulman: Right. But - so I just want to clarify and this is where Kathy and I diverge a little bit - not entirely. Yes there's a lot of descriptive words but I - my understanding of this whole conversation is that it's a combination of words.

Nobody's ever going to get the right to organization or women or this or that. It's how those combinations of words are used that create an identifier, and it's the identifier that we're trying to protect.

So I also caution about taking that concept of these generic words and taking it so far that it goes beyond what we're trying to achieve, which is some - in my mind some level of protection for NGOs.

Rafik Dammak: Okay. Thanks Lori. I would also ask please if you want to intervene just to ask to be in the queue so it's more easy to manage. Okay so just I think we'll get the last comment.

I think we need to move on. If you have any comments you wanted to make I think it's still - it will be still ongoing discussion. It will start with this charter and the working group and I think we have more to say from now.

But I don't think we are going to fix it today, okay. So moving to the next item which is to prepare for the meeting with the Board, I asked on the mailing list membership if - what topics they want to, you know, to discuss with the Board.

Suggested first is kind of two more like maybe IANA storage transition - maybe like ICANN accountability. I think that you suggested thread marketing house in relation I think compared - to compare to the ARS and the outreach done by the ICANN.

And also I think Marilia suggested the privacy but for this topic we need more specifics and we need someone to take the lead to explain - to brief the Board and to ask them question.

So - and also we need to discuss if we need all those four topic if we can reduce them and so on. So it's open now for discussion, and maybe for those who suggested they feel they can explain what they wanted to discuss with the Board regarding this topic starting with Kathy.

Kathy Kleinman: I feel like I'm talking a lot here. I apologize. Okay so actually the suggested topic was Trademark Clearinghouse and URS, so let me start with the URS, uniform rapid suspension.

And if we could put both in when we talk to the Board I don't know if there's a way to modify the slide -- that would be good.

The issue on Uniform Rapid Suspension is we spent a lot of time. There was a team for a group called the STI -- Special Trademarks Initiative -- where we were kind of re-drafting and rebalancing some of the concepts of the

Trademark Clearinghouse and the Uniform Rapid Suspension and writing the final rules for the applicant guidebook.

So we spent a lot of time putting in protections for registrants. The Uniform Rapid Suspension is an ultra-fast, ultra-cheap. Fifteen years ago we thought the UDRP was ultra-fast and ultra-cheap, and now we need an ultra-faster, ultra-cheaper mechanism.

And so we have the URS. And we wrote in more requirements on complaints. We wrote in more defenses. We followed what's called the nominate defenses. I'm holding - I'm the only geek to probably bring the applicant guidebook in hard copy, so - for this meeting.

And so we wrote in a number of specific defenses. (Constantinos) - this was (Constantinos), (Wendy), (Robin) and myself - were on this kind of special team. And so it frustrates me to no end that ICANN has trained everybody in rights protection mechanisms.

How many of you guys have heard about all the training going on in rights protection mechanisms? ICANN staff seems to be out all over the place, but no one -- no one has spent a second on training anybody on the URS and how to defend yourself if you're a registrant that gets accused of - you know, if you get filed, there's nothing you can Google that shows you how to walk through some of these new procedures, how to defend yourself.

And so I think it would be fair if ICANN does both - if they train, you know, intellectual property attorneys. And trust me, their attorneys are already training each other in force. I see lots of continuing legal education courses. People are spending a lot of money to train on how to prosecute, but how do you defend?

And again it's that speech issue. When somebody goes too far into generic words, how do you defend a registration? A lot of these are going to be

English as a second language people, developing country people. As the new gTLDs reach the other billion people, how do they know what to do when they get a URS complaint and they have to file so quickly it's ridiculous?

So that's one of the things that I thought we'd talk about to the board. Does anybody object? I'll be more tactful there.

Rafik Dammak: Yes (Maria).

(Maria): Just a quick question. I mean, is that...

Rafik Dammak: (Unintelligible).

(Maria): ...something that we could/should work on creating? I hesitate to create extra work for anyone, especially you, Kathy Kleinman.

((Crosstalk))

Kathy Kleinman: ...I have to - I have to earn a living.

(Maria): Yes. No, well maybe - anyway, just something for the mix to think about in the future.

Kathy Kleinman: ICANN, it has staff that's going out - their training and rights protection mechanisms, I think they should train on defense under the same set of rules.

Rafik Dammak: So Kathy, you are volunteering for this?

Kathy Kleinman: I'll volunteer to lead the discussion (unintelligible).

Rafik Dammak: Okay, great.

Kathy Kleinman: I won't volunteer to write the answer though.

Rafik Dammak: You need to bring it the board. That's (unintelligible). Okay. Regarding the IMF Stewardship Transition, who want to volunteer for this?

Man: Who wants to volunteer to what, to talk about it now?

Rafik Dammak: I mean, we need to explain to the board and to ask them several questions.

Man: Oh yes.

Rafik Dammak: Okay.

Man: So you want people to volunteer to ask questions of the board or to pose questions that we should ask to the board or both?

Rafik Dammak: (Unintelligible). Both to agree on those topics (unintelligible) someone to get the lead. I mean, for us to brief the board and to ask some question, but other people can ask and also can agree what we want to - I mean, if we want some specific questions. Because - anyway, just to...

Man: Okay. Well I think one of the key questions would be that in the comment period, there were many comments that people said if this coordinating committee and the general community is satisfied with a solution, they don't think the ICANN board should have the authority to change or otherwise veto that solution. They should simply ratify that it is perceived by the community as a solution. And I think that's something we want to ask the board about, whether they came down on the right side of that or not.

Man: I would just add that maybe go beyond perceived as an accepted solution, but maybe followed the coordination group's charter as to its working method or it followed that the process followed the working group's charter defining its method of operation. And just so it's - there's a little more around it besides just saying we perceived the community as accepting it.

Rafik Dammak: Okay. Any further comment on this?

Man: Well I just got a notice from the people organizing the session on (unintelligible) transition on Thursday. They're sort of asking my opinion about it and I really don't like very much what they've done.

                  They've organized so that they have two people from the IATF giving background and scope. Then they have invited introductory talks; roll of communities versus the coordination group, somebody from the IATF; engaging participants outside traditional ICANN IATF and RIR participants -- you'll never guess who they chose for that -- (Heather Dryden) of the GAC; defining success criteria, (Kathy Brown) of ISOC; and then the relationship of the work on accountability and NTIA transition, (Becky Burr) question mark. Then they would have an open mic for about an hour.

                  So I've already expressed some objections to this, said that, you know, civil society is absent as usual. And they said, "Well are there any questions or parts of this program that you would like to suggest?" So I throw that open to you. But I really am - I am still trying to get them to change their invited speakers.

Rafik Dammak: Thanks. It's embarrassing (unintelligible) never change an ICANN (unintelligible). Looks like the same session in Singapore - I mean, the same configuration and that same (unintelligible). Yes ma'am?

Kathy Kleinman: This is one area where I would not say we need to learn to accept it. I think this is one area where we need to push back on how these meetings are organized. You know, I can't keep saying, "Oh we're bottom-up, we're bottom-up."

                  We had no role in the organization of this - that meeting. I mean, just - except for that email you just got, I mean, we - the community should have been the

one framing the issues, selecting the speakers from the bottom up. So I think we've got to take up this issue with the board about how these meetings are being organized by staff entirely. We have no say in this. It's not acceptable.

(Patrick): It's not staff in this case. It's (Patrick). It's some kind of trusted, you know, person that they've designated.

Kathy Kleinman: But it is staff in that they've selected this way of doing it. And is - it's all of the meetings. It's not just this one particular meeting. I mean, this is the way it was with the Trademark Clearinghouse.

I mean, when you look up there and it would be all, you know, law enforcement and trademark maximalists on the panel and we had no say in that, no organization in that. That's the way it is. Every single ICANN meeting it gets worse and worse and worse and I think we need to really begin to push back on this. I - not begin, we have been, but step it up a notch.

(John Maprese): (John Maprese). I just want to add into that. I was in the law enforcement morning session the other day and the whole U-shaped table was comprised of law enforcement from Europe and the U.S., a very - so coming from environments where law is very strong. And the solutions they were advocating, especially on the expert working group, were just - made no sense for places in the world where the law is weak or where even police organizations are weak and it was a nightmare.

Rafik Dammak: Okay. Yes Klaus? Klaus please can you speak in the mic (unintelligible) to you?

Klaus Stoll: Sorry. Klaus for the record (unintelligible) on the danger that we agree, what would you propose to do?

Kathy Kleinman: I think we should send a letter. I think we should write this up and send a letter to the board and ask that it be put on their correspondence page. And

actually I think there would be other stakeholder groups and constituencies that would agree with us and are also very frustrated by the staff manipulation of the scheduling and the organization of these meetings in order to promote the staff agenda. So I think we would find some common cause with our other stakeholder groups and constituencies on this. That's what I propose.

Klaus Stoll: Again Klaus for the record. But we also see them in about an hour, at least we should mention it.

Kathy Kleinman: Well perhaps. We already sent them our list of topics. I mean, I would certainly be up for bringing it up if others want to. I will, but...

Man: (Unintelligible).

Kathy Kleinman : Organization of meetings.

Rafik Dammak: No. I mean, if we can bring - this can be any other business, so it's no problem. If you want to bring that issue (unintelligible) topic, just we need to help to manage (unintelligible) time just for an hour. So - and if you want to go through all those topics, you can have any other business (unintelligible) get to bring this issue, so no issue there.

But regarding the meeting management, in Singapore there was this note just about (unintelligible) but all (SO) and (AC)s. There was - I mean, in (unintelligible) they start to have kind of community meetings just after the opening ceremony and it was (SO AC)s leaders to discuss - to agree on the topics.

And that time - because Singapore, they just decided that the first meeting will be only about (unintelligible) in the sense that (SO AC)s public meeting to the afternoon while the (SO) and (AC)s leaders agreed prior to that that the cross-community working group and Internet governance will take that session and we had kind of back-and-forth discussion with (David Olive)

There was a really strong disagreement at the end. They took that time slot and we couldn't change anything. So we should complain. That's what I'm trying to say.

Okay. So regarding the (unintelligible) transition, that will be (unintelligible).

Yes, you want to say something?

Man: Can you just list for me the things we've agreed? Because I've been writing some notes, but I have that we're going to talk about whether the board will accept comments on its own role regarding the ratification of results at the end of transition and that we're going express our concern about the programming of the meetings. Was there something else?

Woman: Well I proposed privacy. And I'm sorry that I proposed something that I would not be ready to lead, but I really think that it's meaningful. If we organize a workshop around privacy and we are sending a message to the community "This is an issue for us," I think that it will be meaningful that we raise this with the board - at least our main concerns about the report that has just come out that we have been discussing.

Rafik Dammak: Okay, so...

Man: Should that also include something about the dissent?

Rafik Dammak: Yes. So in privacy, we can talk about the expert working group report. But I think we don't have (Stephanie) here, so - and I don't know who can take the lead on this topic or want to volunteer.

(David): I think in general on this one, we would - I think (unintelligible) certainly worth talking about just the idea that ICANN on a number of issues has shown itself to have a real problem with having sufficient internal - well both internal, but

somewhat within the community, but certainly internal to ICANN - just simple privacy knowledge, and ask that perhaps they should consider getting a staff member with really significant privacy expertise or otherwise increasing their capacity to deal with privacy problems.

Rafik Dammak: Thanks (David). The question - who will take the lead on this topic?

Kathy Kleinman: Which topic, the privacy topic?

Rafik Dammak: Privacy issue.

Kathy Kleinman: I'm guessing (Stephanie) would, but she'll be here in a few minutes. She's off talking on (unintelligible) privacy now with (Jean Francois). So she'll - so put a placeholder in there. I think it'll be here.

Rafik Dammak: Okay. Okay, yes Maria?

(Maria): Is it worth our mentioning the discussion we had with (Thomas Schneider) and (Lee Hibber) this morning on the fact that we're really interested in helping organize a workshop on, you know, human rights and ICANN Los Angeles? I don't know, maybe it is, maybe it isn't?

Rafik Dammak: Yes, I think - as I said, we have this - any other business as a placeholder. So we can put as many topics you want. I just - I mean, I think it's a clear message. We want to organize this (unintelligible).

So okay, then putting privacy issue discussion on hold till (Stephanie) come back. We can go to the ICANN accountability. So we need also leader for this, maybe someone who worked on the drafting the accountability statement for (NCAG)? Gabriella?

Gabriella Schittek:Could you please repeat the question.

Rafik Dammak: Yes, don't worry. I just volunteered you for something to do. So we're discussing about ICANN accountability and we need someone to take the lead just to brief the board to explain our position and ask some questions. And since you and (unintelligible) worked on the drafting the accountability comment from - for (NCAG), I think maybe you can take the lead on this.

Gabriella Schittek: Well as the (unintelligible) drafted the comment, you know, I'd be very happy to present...

Rafik Dammak: Concisely.

Gabriella Schittek: ...concisely the key points in those comments.

Rafik Dammak: Yes, that's (unintelligible).

Gabriella Schittek: I'd be happy to do that.

Rafik Dammak: Okay.

(David): One comment on accountability generally. And I know that this has been a - accountability is something that we've brought up in multiple - you know, in previous meetings with the board. I think that while - just on this issue generally, while of course - I think it's worth mentioning that we like generally - like I think the board will get the message multiple times that we want to see accountability linked to the (unintelligible) transition.

I think that every constituency's going to tell them that. And so far they've been rejecting it that if every constituency tells them, they hopefully will have to at least answer in a more - you know, in more - answer it more helpfully than they have been so far, which is mostly with just kind shaking their heads and going, "No, we don't want to."

But I don't think it's worth laboring the point like the board - if the board gets the same message from every constituency, they don't necessarily need to get it in detail from everybody.

So - but the other thing I'd like to say about this is while the accountability process is going to be really valuable, I think it's - because it is being linked to the (unintelligible) transition, it will mostly be looking at sort of high-level accountability processes and that we still want all the less high-level internal to ICANN accountability processes to be thoroughly reviewed.

And like we want - we don't want to just be looking at accountability processes that approximate the accountability issues the sort of (NTIA) deal with. We want something with more teeth than request for reconsideration. We want all existing accountability mechanisms thoroughly reviewed and improved. So that's all right. That's my thoughts on accountability anyway.

Rafik Dammak: Okay, thanks (David). It will be - it will be quite short question from you I think.

(David):   What?

Rafik Dammak: It will be quite short question from you to the board then.

(David):   I'm happy to - I'm happy to speak on this one. I just can't speak specifically to our submission on the accountability which I'm not as familiar with.

Rafik Dammak: Also I would be really happy to hear from other because I know that other - some (NCAG) members submitted their personal - I mean, personal comments about their accountability. And I think that they can expand the issue they think about.

So maybe I think (Avery) and Robin, you submitted a comment about the accountability on your own capacity, so maybe also if you want to expand on that with the board - so (unintelligible) for you.

Woman: I have no personal need for it. And since it wasn't something that was endorsed by the NCSG, I'm not sure why I would do that in that space.

Woman: (Unintelligible) - your own personal view. I mean...

Woman: I don't think that the meeting is only for the official NCSG view but for the NCSG members to give their views. We have a diversity of views on this. So I don't - I think it's worthwhile for several people to speak on a topic and (unintelligible).

Rafik Dammak: Yes, sure. I can confirm the diversity of point of view within (NCAG).

Yes Gabriella, please.

Gabriella Schittek: Just a quick question because (unintelligible) in the actual comments themselves, but I was wondering if in the short introduction that people here would be happy for me to refer to - more specifically to having human rights being integrated in the bylaws...

Rafik Dammak: Yes.

Gabriella Schittek: ...and - as an important element as part of accountability, and maybe throwing up some questions like bearing in mind the presentations that we had this morning like the Council of Europe. Because there were some interesting proposals that I think at least (unintelligible) to reply to. For example, there was a discussion of an advisory expert panel on the human rights issues, so - and perhaps asking further questions around that.

Rafik Dammak: Yes, I think it's (unintelligible) just to make a briefing about the comment itself, but quite to expand it, asking specific questions to the board to get some answer.

And -yes, so I see someone. Yes (John)?

(John Maprese): (John Maprese) again. So I've been taking advantage of my position as a newcomer (unintelligible) ICANN and hopping through different constituencies. And I know that accountability is a theme that runs through every single meeting I've been at for any constituency.

I also want to draw everyone's attention to this morning's meeting when we had the U.S. representatives in and how often the U.S. delegation mentioned multi-stakeholder and failed to mention ICANN. Just at the end of the day, the NTIA is the gatekeeper for this process.

And regardless of what ICANN advances to the NTIA, the odds are probably better than even that there'll be some open comment period within the U.S. government for whether to accept this process or not.

And if they have this period and they have folks like us commenting that, "No, there's no transparency, there's no accountability. This is bad," the NTIA's just going to bounce it back at ICANN.

So the argument to make to ICANN is that if you don't have this accountability, you can - you'll submit a proposal to the NTIA which is doomed to failure. And I think that's one of the things that maybe we can try to get them to understand, that their lack of accountability now is going to haunt them one day if they continue on this path and submit to the NTIA.

Rafik Dammak: Thanks (John). So any further comment on this?

Oh (Linda), yes?

(Linda): Should I say something?

Rafik Dammak: (Unintelligible)...

(Linda):   Okay.

Rafik Dammak: ...open.

(Linda):   It's a good thing I swung by here just for this one hour (unintelligible) meetings which I'm going down to look for a room. I've been requested to speak at the (unintelligible) this evening and send some mail across (Lisa Radey) to ask for people's feedback, and I'm happy about the things I hear.

I plan to put privacy, surveillance even. I don't think this speech will be a good one because I'm not very happy about some things. So I - maybe I will make some people very angry after I finish speaking.

But yes, I have given rights and I have accountability and public responsibility and even social to that effect. If there is something else that really, really needs to be added to that eight-minute speech, please pop me an email before 4:00 pm. Thank you.

Man: (Unintelligible) to introduce ourselves.

(Minna):   My name is (Minna). I come from the Internet.

Rafik Dammak: Okay. Thanks (Minna).

Okay, regarding the accountability, it's not - the (unintelligible) I am going to say - not going to say, but it's not something to say to the board today or to ask them a question. But I was contacted by (Christina Rosette) who is the chair of the intellectual property constituency, and the reason is for to have a joint status between all constituency and stakeholder group within (GNSO) for - yes, joint status on ICANN accountability.

So this is under discussion within the policy committee and we hope that we agree on that and then we can make this - it will be a really strong message during the public forum to ICANN regarding the accountability issues - just for information.

Yes, (unintelligible).

Woman: So just to kind of drill down a little bit about how this is going to play out, so we've got about a day, right, to get this statement together. So what's that worth our time - by when must our own PC make its decision as to whether or not it wants to do this? And then...

Rafik Dammak: For that you need to ask the person in your left.

Woman: So today, right now, can we make that decision that it's what we want to do and...

Rafik Dammak: I think we have all (NCAG) PC member here, so yes we can.

Woman: Okay.

Woman: What are we deciding?

Woman: Whether or not we want to do a - participate in a group statement with the other stakeholder groups on ICANN accountability. I could say that I know most of the statements that I saw from the other stakeholder groups I completely agreed with.

I mean, you know, I read Steve Metalitz's comment from the intellectual property constituency on the ICANN accountability issue. I agreed with just about every single word. It was great. So I think this is an area where many of us in the - all of the stakeholder groups are saying the same thing. And so the thought was if we could get together and do a joint statement...

Rafik Dammak: Okay.

Woman: ...on a few key points, that it would be very powerful.

Rafik Dammak: Thanks. It's historical moment that you are agreeing on something with Steve Metalitz, but things happen. Since we have all 15 members, just if they agree with that so I can send back to (Christina) that we want to joint these efforts. So no objection? No objection.

Yes (Avery)?

(Avery): One note of caution. Okay, we can possibly agree on a letter with IPC, but be careful because their notions of what accountability means and our notions of what accountability mean are probably diametrically opposed. And so just to - just be careful who we're lying down with.

Rafik Dammak: Yes, but I think (Avery) we will agree on some high-level principles. So we'll be...

(Avery): (Unintelligible) caution.

Rafik Dammak: Well (Avery) advise about caution, that's also something worth...

Man: I think we have our long spoon for - that you use when - but, I mean, I think - we actually - we do agree with a lot of on this with like straight out, I think we all agree that, you know, there's been one successful request for reconsideration ever and that is probably an indication of a big problem.

(Avery): Yes, I believe we all agree that accountability is not what it should be. But I don't believe we will agree that easily on what accountability means.

Rafik Dammak: So (Avery) I understand for your concern. We just say we want to join and we will see at the end what letter we will end up with. So okay, so I will reply back to (Christina) to say that we agree on that.

Okay. Maybe now - I think we don't have any further - just one - further comment on the ICANN accountability, but I think that you want to add something? No, (Kathy) - okay. Okay, so there is no further comment on the accountability.

We can move to the privacy. We have (Stephanie) here. Where is (Stephanie)? So (Stephanie), (unintelligible) the proposal that we discussed about privacy issue, but I think I know that you will be happy to volunteer to talk about this - to take the lead about this topic.

(Stephanie Paren):   I apologize for being late. (Stephanie Paren) for the record. It's a busy time. So I believe that what - the plan for this discussion was to talk about the basic privacy issues that we had on the horizon, right, and figure out how we were going to staff them. So - right?

Rafik Dammak: (Stephanie) I think you will get like 15 minute to brief and to ask the board, so maybe if you can focus on specific topic regarding privacy issues.

(Stephanie Paren):   Oh. So you want a privacy issue to discuss for the board?

Rafik Dammak: Yes.

(Stephanie Paren):   One?

Rafik Dammak: Unless you can (unintelligible).

(Stephanie Paren):   And who's going to do the talking?

Rafik Dammak: (Unintelligible).

(Stephanie Paren): Indeed? What time?

Wendy Seltzer: So (Stephanie) I think you have - Wendy Seltzer here - I think while you were out of the room you were volunteered -- if you accept the volunteering -- to lead discussions of privacy issues with the board. So at your discretion, some important privacy issues that you think the board might like to hear?

(Stephanie Paren): Well having been up till 3:15 drafting my latest dissent on the EWG report and being about to hunker down and try and boil that down to a couple of pages, I think it's very difficult for me to think of other issues than the EWG report, although I am also gratified to see the Council of Europe report which we really need to give our full support to and provide comments and post and, you know, yadda, yadda, yadda. (Avery)?

(Avery): I think that if you're available for that 3:30 meeting, for you to give a talk on - so make sure that the board has heard your...

(Stephanie Paren): Side of the story.

(Avery): ...side of the story. That would be an excellent use of our time with the board on privacy issue to - so that would be my thought, is we don't have to come up with something. You've got an issue, you've been boiling it and cooking it and purifying it for a while. That would be a great thing to present to them. That would be my thought.

(Stephanie Paren): I would be delighted to do that. I would just like to say that I'm one of these people who actually likes to be liked. I don't know where that fits on the Myers-Briggs scale. That's a funny thing for somebody who's been fighting for privacy for (unintelligible) say because popularity has not been - you know, been mine.

But I am feeling distinctly unloved right now, and talking to the board in those terms would definitely ice the cupcake. So just keep that in mind. Somebody's going to have to give me a hug when I have to meet the EWG after. You know? Okay?

Rafik Dammak: Okay (Stephanie). We will (unintelligible)...

(Stephanie Paren): Perfect.

((Crosstalk))

Rafik Dammak: ...free hug...

(Stephanie Paren): Perfect, thank you

Rafik Dammak: ...for (Stephanie) later. Okay.

(Stephanie Paren): Okay.

Rafik Dammak: Okay, yes (Stephanie).

(Stephanie Paren): Okay. So would you like to hear...

Woman: (Unintelligible) cheers for (Stephanie). She's really put up with an awful lot (unintelligible).

Rafik Dammak: Okay. So...

(Stephanie Paren): Thank you.

Man: ...we have a cue. (Stephanie) sorry, (Kathy) wants to comment on that (unintelligible).

Kathy Kleinman: Yes, I wanted to do the same thing Maria's doing but with a little more background. (Stephanie) was new to ICANN and 16 months ago volunteered to be part of the expert working group. She is one of the key drafters of the data protection law of Canada.

And it - data protection's something we have very little expertise on in ICANN, especially the - sorry (Mary) but, you know, we're mostly run by American attorneys and we don't have data protection expertise. And ICANN needs it because that's where the problems are coming from with the (HUIS) and privacy as well as some of the free speech issues that we do have in the U.S.

And (Stephanie) has worked day and night, night and day for 16 months, the only data protection advocate on the expert working group, which has many, many representatives in the intellectual property constituency.

Woman: (Unintelligible) a round of applause.

Kathy Kleinman: Thank you very much.

(Avery): And if I could add something to put - ally to something that was said, I forget who said it yesterday, but when people were talking about, you know, their having been a lone person, and "Oh no, no, there was lots of support from everyone else" while she was arguing privacy, from the few conversations I had with you along the way I never had the impression that they were all coming to assistance all the time. So just whenever we hear that, that she wasn't alone, I have trouble believing that.

(Stephanie Paren): I have to say in defense of the committee, we've probably moved further in that report to get privacy in. So I think the feeling was "Hey, we've made a lot of concessions." That's why I'm not full loved right now.

We have in there the secure anonymous credentials for people at risk. There's going to be a lot of work for us to help implement that. We need

teams to work on that. We have the basic transformation of the repository from a wide open thing on the (HUIS) -- available through (Port 43) -- to a central repository that has a wall around it except for the - some few data elements that are publically available.

What my dissent is about briefly in a nutshell is there's still language in there that is confusing. When I see "public" and "published," I think that's public, right? And apparently it isn't. It's behind the gate. It's only accessible to accredited users. Okay?

I want the language changed because I think a casual reader is going to see "public" and think public, right? And my experience in working groups at ICANN tells me if you don't get the charter right and the original document that goes into the group correctly worded, you're going to be in trouble. So that's sort of thing number one.

And thing number two is there is a consent to - a consent to use your contact data for all permissible purposes. And I have explained as the data protection person there that that (unintelligible) I checked it - that that normally can basically eviscerate your data protection rights except in jurisdictions such as Europe where Article 29 has opined vociferously and frequently on exactly what you have to have when you consent your way out of things.

Nevertheless, we still all find - click on contract agreements, and that's kind of the model that leaps to mind when you see this. And of course that's all permissible purposes, including whether I want to be pestered about my domain name being sold or, you know, law enforcement purposes which - where you might normally expect a warrant or a subpoena. And - but, I mean, there's about 16 of them. So - and that should be an articulated consent so that you consent for some but not for others.

And it's not clear that that is a free consent. So if my data protection law would prevent my data from going into a directory -- my personal data -- does

this gut the data protection? But we have in there words that say that we will actually try to enforce data protection legislation, which is unusual for ICANN.

And what else have we got? So those are - you know, there's some key movement forward. It's just that we have to make sure that it is implementable based on the words in the text, in my view.

And I may be being - I may be coming from a government environment where the words really mattered to an environment where maybe the words are used more loosely. I mean, I'm unaccustomed to a document of this length where there aren't definitions. And there aren't definitions, so it's really hard to be precise when you don't have definitions, right? So - but those are my views.

And so that's more or less what the dissent is about. And you'd think it would be easier than it is. It's up on my blog now at least and I'll be delighted to put the next blog up soon as I get through the day. So if you would like me to talk about that to the board and stay away from process - except that I did get it in not two minutes from the deadline, but three in fact, which is really good.

Rafik Dammak: Okay. Okay.

(Stephanie Paren):   I was late.

Rafik Dammak: Okay, thanks (Stephanie). So - and hopefully you will do this concisely with the board. Yes.

Wendy Seltzer: Thanks. Wendy Seltzer. A couple of additional points in that discussion. I - we heard when (Faudi) announced the report in his opening that the (GNSO) council is definitely to be a part of the review process.

And so one of our goals I think should be to get the council to focus first on the privacy protections before going into the data collection and to discuss

with the board how they can support council's work in taking the time necessary to get privacy right this time rather than just sweeping up extra data and then figuring it out afterwards or never.

Similarly there's mentioned very briefly of a risk analysis on all of the data collection elements, that risk analysis is explicitly noted as not yet completed. The report recommends that it should be completed, and I think it would be very helpful for us to say no additional work should go forward until the risk analysis has been done and an appropriate privacy policy has been developed.

Woman: Would it help to have two people presenting the privacy issues? (Stephanie) would that help you if Wendy - to do it together? Just a thought...

Rafik Dammak: Okay.

Woman: ...for the big picture and details?

(Stephanie Paren): I think that would be great just in case I start yawning because of, you know...

Rafik Dammak: I will stop you...

(Stephanie Paren): You will?

Rafik Dammak: ...(Stephanie). No...

(Stephanie Paren): Okay, good.

Rafik Dammak: Okay. Well yes, you need some authority sometimes. Okay, (Avery) and Robin.

(Avery):   Two things. One, it was just the notion of somebody kicks off the discussion and then others go in.

The other thing, you had mentioned while you were talking about the ambiguity of words. When it comes time to implementing things and that people are extremely lawyerly or philosophical in their precision of what the words meant - so, you know, your impression that the words count is very - the ambiguity is intentional so that people can argue what they want. You had just mentioned that as a question, so I wanted to give it an answer.

(Stephanie Paren):   Thank you. That constant refrain of "No, you're not crazy" would be most welcome.

Rafik Dammak: Okay. Robin?

Robin Gross: Thanks. Yes, I just wanted to make sure that our members here understand that this is a - our meeting with the board is an opportunity for all of us to speak with the board. So we have to pick one person to sort of kick off the discussion and get things going. But really it's wonderful when many of us speak up and say things to the board.

So I just want people to understand it's not like we're just going to have one or two persons doing all the talking for (NCSG) on a topic. It's just about kicking it off and everyone who feels strongly about an issue or has something to say about an issue should chime in, please. I think that's what the board needs to see, is a robust, diverse discussion coming from us.

Rafik Dammak: Yes Robin, and the idea is just - I mean, the leader will do the briefing - concise the briefing to the board to ask some questions. And we expect everybody to participate. We need to ask the board and to - and hopefully we get some answers and some reactions.

And I see Cintra. Yes Cintra?

Cintra Sooknanan: Thank you Rafik. I'd just like to raise the issue with regard to NomCom and NPOC's non-presence on that -- current NomCom (unintelligible). (Unintelligible) and (Avery) really spoke out at previous public forums to help really bring this issue home to the board.

The last correspondence we've had from the board was the setup of a special working group which would deal with NomCom issues. We think that it's too slow and it doesn't really assist us in finding an immediate solution.

Rafik Dammak: Okay, thanks Cintra. I think we had also this topic in Singapore meeting and (unintelligible) asked the questions to the board. So you can ask I think at the end and what - I can't advise really to ask a specific question what the next action from the board. Otherwise, I mean, I'm - you will get kind of fuzzy response. So you have a specific question to them about the next option, so...

Cintra Sooknanan: I think of something.

Rafik Dammak: Okay, so...

Cintra Sooknanan: Thank you.

Rafik Dammak: ...we will have the topics at the end. We'll go kind of any other business and you can ask them. Okay, so we have four - yes, 13 minutes before - remaining of this meeting, so maybe it's time just for (unintelligible) to summarize what we agreed so we will have (unintelligible) topic.

For the (IMF Stewardship Transition) that will be the leader - leading or discuss and do whatever we can call it, will be (Mitten).

(Mitten):   What's that?

Rafik Dammak: For the IMF Stewardship transition.

(Mitten):   Okay.

Rafik Dammak: For the ICANN accountability, it will be Gabriella. For the Trademark Clearinghouse or URS, it will be Kathy. And for privacy it will be Stephanie and Wendy.

Yes Wendy?

Wendy Seltzer: Timing-wise, I'm not sure I can be there to present. I will try to be in the room to join the discussion, but don't list me as a proposed presenter. Thanks.

Rafik Dammak: Okay, you will be our surprise maybe then.

Okay, and kind of any other business? I think we will talk maybe about organizational issue for the meetings, and how about the Council of Europe paper and ICANN human rights and also the NomCom issues for NPOC representative there?

For any other business I think, Maria can you speak about those?

Maria Farrell: So for any other business, the one thing I suggested was talking about the Council of Europe, but I think Gabriella's going to talk...

Rafik Dammak: Sorry, Gabriella...

((Crosstalk))

Maria Farrell: I think it was going to come up.

Rafik Dammak: Yes. She will talk about the paper I think - the Council of Europe paper within the accountability, but just maybe talk about the workshop?

Maria Farrell: Okay.

Rafik Dammak: And for the organizational issue for meeting, that will be Robin. Okay, good. Think we are done with this part. You have ten minutes or maybe kind of - discuss about next step or any other business.

So maybe just (unintelligible) for information, tomorrow there will be an NCIG privacy session from 3:00 pm to 6:00 pm, Sovereign Room if I'm not misspelling it. So you are all invited to join and attend the session. So we'll - and it will be about - introduction about historical HUIS issues and then talking about the expert working group and so on. We will have some data protection people, privacy activists. Okay? So...

Woman: Rafik is that a decent-sized room?

Rafik Dammak: I heard it's up to 60 people in the same shape here, U-shape. So I guess yes.

Woman: Oh it is? Oh good.

Rafik Dammak: So the concern will be as to have enough attendance there.

Woman: Okay.

Woman: Yes (unintelligible).

(Farna Cartcastle):   Hi, (Farna Cartcastle) here. I was just wanting to maybe highlight something that - I don't know if it might be relevant, but I thought about it just at this minute. The data protection law has a big issue with public interest, and that's really linked with that EU Council's report that was just talked about recently. So that might be a link that people might want to think about because public interest comes a lot in data protection.

And they say that, you know - for example in data protection law UK 1998, there is always this issue that they say, "Okay, data protection will go away if public interest comes in." So again that would be the same question of what is public interest and what's the global public interest. Thank you.

Rafik Dammak: (Stephanie) want to comment on this or have any comments on this?

(Stephanie Paren):   It depends on which law you're talking whether the public interest is clearly defined as overriding. I mean, in the Canadian law there's some discussion about public interest in emergencies.

So for instance when there's a tsunami in Thailand and people say they can't release the names of the missing people because of privacy, there are overriding provisions to let you do that. So - but they're pretty narrow in our legislation and I believe they're narrow in many laws.

It's a bit of a - I don't know whether I'd want to go there with the board because they don't understand the basics, let alone the finer points. You know? And I don't mean that in a disparaging way. None of them are data protection commissioners, you know? So it's a really arcane thing.

But you know what would be a really nice thing to propose -- she said on three hours sleep -- we need some kind of ICANN to support information about data protection because you will search in vain on the ICANN site for sort of basic primers about the background - you know, a collection of papers on "Okay, this is a directory similar to these other directories. This is how data protection regimes have ruled on directories. This is how Supreme Courts have ruled on directories," she said, having a nice, fresh newly-minted Supreme Court decision in Canada that we're rather proud of.

You know, that would be useful because frankly one of the problems in the discourse here is not the lack of goodwill -- although, you know, one might question in some quarters whether there's goodwill -- but just general

ignorance. You can't even embark on a conversation because this is just alien to people. You know, if it isn't a "Click 'I Agree,'" they don't understand it. So just saying, that might be something we could put out, right?

Rafik Dammak: (Stephanie) you are asking me - ask me questions? I hope not.

(Stephanie Paren): Yes, I'm not going to (unintelligible).

Rafik Dammak: Okay. Okay. So, I mean, I can - any other business, if you have any questions, any further comment that you want to add? So - time.

Oh, yes please.

(Gerna Lasprink): Hi, (Gerna Lasprink). This is totally different from what we've discussed, but I just thought I'd mention the at-large accessibility taskforce in regard to accessibility for people with disability, including Web sites, ICANN processes, policies and so forth.

I'll be presenting at the CCNSO meeting this afternoon on with accessibility, and this is an opportunity to raise awareness among ccTLDs that there could be a public interest responsibility to share the information on improving access for everyone including people with disabilities when registrants apply for new domains.

So anyone who's interested in that topic, I'm happy to discuss it further. There's an accessibility working group list, or please come along to the CCNSO meeting. Thanks.

Rafik Dammak: Thank you. I think it's important to talk about accessibility. It's something overlooked I think.

Okay, I guess many people want to leave and we have just five minutes left. If there is nothing on the table, I think - yes Kathy?

Kathy Kleinman: (Unintelligible) when's that meeting?

Rafik Dammak: It's at 4:30 and I will ask a native speaker to spell...

Kath Kleinman: (Unintelligible).

Rafik Dammak: Three-thirty. Sorry, 3:30. I don't know - 3:30.

Woman: And right now.

Rafik Dammak: Hmm?

Woman: And right now.

Rafik Dammak: And right now.

((Crosstalk))

Man: It's (Sandringham).

((Crosstalk))

Rafik Dammak: Sorry, I avoided to pronounce it. I was not sure about the...

Man: Level 3, west wing, (Sandringham).

Rafik Dammak: Wow, we get Google Map voice. Okay, thanks.

                    So I think we covered everything. So we will meet in 30 minutes in - for the meeting with the board. Thank you everybody for joining today. I hope that you enjoyed the discussion about...

((Crosstalk))

Rafik Dammak: ...GNSO policy. Sorry. So see you soon.

END