

**ICANN Brussels Meeting
Open Operations Steering Committee (OSC) Meeting
TRANSCRIPTION
Saturday 19 June 2010 at 1400 local**

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Philip Sheppard: Ladies and gentlemen we're going to start the meeting now. So please can you stop your discussions.

Thank you very much. To take a seat if you wish to observe us if you're a member of the OSC or it's working team come to the table.

This is a meeting of the OSC, the Operating Steering Committee of the GNSO, a little group overseeing three working teams as I shall go through at the moment when I describe the agenda.

But perhaps just by way of introduction so we can know who is here as members of the team, we'll do a little tour of the (tour de table). And Tim I may start with you to introduce yourself.

Tim Ruiz: Tim Ruiz, Registrars Constituency.

Ron Andruff: Ron Andruff, BC.

Steve Metalitz: Steve Metalitz from the intellectual properties (unintelligible).

(Olin): (Olin), ISPCT constituency.

Avri Doria: Avri Doria, NCS.

Philip Sheppard: (Unintelligible). Philip Sheppard chairing this group.

Olga Cavalli: Olga Cavalli. I'm a non-com appointee.

Chuck Gomes: Chuck Gomes from the Registry Stakeholder Group.

Debbie Hughes: Debbie Hughes from the NCS.

Philip Sheppard: Lovely. Thank you very much. You'll recall everybody that the purpose of this group was to make what (it) would put - to put forward various suggestions in terms of residual items to do with GNSO reform from which we have three specific working teams one of which was chaired by Mason Cole. That was the CCT, Communication and Coordination Team which completed its work by the adoption of a report back in May.

And we will hopefully at this meeting also be completing the work of the second - one of the second teams there. That's the GCOT, the GNSO Council Operations Team and getting a status report completing one item and finishing another of the third team which is the Constituency Stakeholders Group or the CSG Working Team.

The agenda, I plan to go through first is to take on board the GCOT items, then a little bit of information from staff in terms of what steps next for operating procedures.

Third item to look at the current work in front of us from the CSG Stakeholder Group. And fourthly what will then be this group's outstanding item just to get the status report on that and take some - any other business. Is everybody happy with that agenda?

Super. Hearing no nays we'll continue with that. So GNSO Operations Team, we've got the last two sections of the GNSO operating procedures manual.

That is Items 3.8 and 4 which cover two items in the operating procedures, notably absences, what to do about absences and also a crucial one in Section 4 on voting.

We've had discussion on line on the group there. There was some issues that came up of clarification. Most of those I believe were resolved online. And our ambition today is to formally approve those items.

But before I do that perhaps I'll just open for discussion to see if there's any further clarification questions from any members of the (OSD) on either 3.8 or 4? Steve?

Steve Metalitz: Yes thank you. Just a very briefly I appreciate all the work that's gone into four especially dealing with extensions. This is a complex issue and I (unintelligible) good effort made to try to - say I think there are going to continue to be problems, issues when (we have) relationships with contract with ICANN (unintelligible) pose those and also deal with those conflicts.

One topic that came up during that was whether ICANN could produce and keep current a list of all the entities which trigger either the requirement for a statement of interest or potentially could raise a conflict of interest.

(Unintelligible) quite sure where we left that discussion. I do think that would be important (if people) are going to give complete statements of interest and conscientiously follow this process.

Philip Sheppard: Ken are you able to (go into that)?

Ken Bour: How about this? There we go. Ken Bour from the ICANN policy staff.

With respect to the two sections in the SOIDOI procedures that related to the list that you just referenced Steve, the way we've handled that in the document is to footnote those two sections.

And there's a - I can pull up the language but it basically says these sections are inactive and not approved until this list materializes or pending further council action that says we can't do the list -- whatever ultimately is resolved.

And then that footnote can be removed from that section and whatever changes are made. But that's how we've handled it for now.

So the resolution that I just sent by the way to the OSC list. I'm sorry I didn't get to you earlier but I had sent it to Chuck. The provisional resolution actually makes mention of that footnote.

Chuck Gomes: And that motion is posted on the GNSO site for the meeting on the 23rd as well. So it's been there for a few days.

Steve Metalitz: Okay thank you. I appreciate that. I just wanted to mention I think having that list available will also help the counselors in conscientiously following what we're about to approve here.

Philip Sheppard: Okay thanks so much. Other questions or comments on it, 3.8 or 4? Do we have anybody online by the way? Do we have anybody dialing in online?

Okay. I shall assume silence is no then. That's fine in which case I would like to move that having discussed on list that we as the OSC formally adopt the text of 3.8 and 4 as the latest submissions to us that we can recommend those to council. All those in favor please say aye?

Man: Aye.

Chuck Gomes: Aye.

Woman: Aye.

Philip Sheppard: All those against please say no? All those wishing to abstain please say abstain? Splendid, that's passed nim-com.

And I believe that completes essentially the work of the GCOT, the Council Operations Team chaired by Ray Facet. So many thanks to him and all those who participated in that.

I think they've done a splendid job in coming up which I think we can safely say are the robust and comprehensive set of rules for the GNSO Council possibly in time we can recommend it to the UN Security Council just in case they want something longer than they've currently got.

But in the meantime I think it has been very thorough work. And also I think we've found that when you have occasional conflicts to have a set of rules to fall back upon is very useful to resolve those conflicts quickly. And I think that's essentially the intent that we have here.

So let me move on perhaps to item...

Ron Andruff: Philip?

Philip Sheppard: Yes?

Ron Andruff: I'm sorry, big your pardon. It's Ron.

Philip Sheppard: Ron.

Ron Andruff: Ron Andruff. I just wanted to if I may beg your pardon for interrupting, but I just wanted to give our as a member of that work team and Avri and also Wolf Ulrich were on that team as well as others to make a mention to - about Julie Hedlund and Ken Bour's work.

Also Rob Hoggarth, they did a phenomenal job and particularly Ken. He did a lot of heavy lifting. So we're very grateful for that and I wanted to make a public record of that. Thank you.

Philip Sheppard: Lovely. Thank you very much Ron for that. So the process of course will be that having taken that recommendation on the OSC now that goes to forward to council. They've already got a draft text pending I think for this item for their forthcoming meeting.

Once approved there that goes to a 21 day comment period and then the job is done unless we hear howls of disapproval during the comment period.

And that will then allow us to certainly do the OSC contribution to - which is to most of the GNSO operating procedure manual.

And perhaps Ken you could just talk us through now as I move to Item 2 of our agenda what you'll be doing in terms of consolidating the various works that's happened over the last year or so with the different sections of that set of procedures.

Ken Bour: Thank you Philip. Yes Ken Bour. The GNSO operating procedures that we've - a lot of groups now working to build sections of the procedures.

And not all of the groups necessarily are using chapter headings and - or fonts and other things right that will allow that to take place.

So I have volunteered and no one has said no to this proposition. So I accept it and I'm glad that we can get this done.

So what I propose to do is -- and I've already tentatively done this -- assign chapter headings to the various topics.

So priority provisionally reserve the GNSO work prioritization material to Chapter 6. I provisionally assigned the Working Group Team document to Chapter 7 and so forth and so on right?

And I have - I'm keeping track of all of that. Similarly with fonts and headings, you know, when I get a document I just completely - I don't change the content but I change the format so that it will look nice when it goes into document.

With respect to footnoting and annexes and all that kind of material I'll make sure that the GNSO operating procedures, there will be a new table of contents already been prepared.

I have a version that you all have not seen that has it in it. I think I sent it to a few, maybe to Philip just to get a general take on what it looks like. So that's the work that will be going on in the background.

The other thing that's important is I will also be taking - making sure that there are no references between the various sections that contradict each other or are redundant.

So in the working group material they referenced the SOIDOI work. Well what I will be doing is taking that material out and putting in the reference link in the GNSO procedures rather than replicating that material there and things of that type.

Once this document is all done or is in the process of being reconstructed you all will get to see it of course right? So it will go through the normal review process with the council. I'll stop there.

Philip Sheppard: (Unintelligible) thanks so much. Any questions on that from either around the table or from the floor?

So all very clear. Thank you very much.

We'll move on to Item 3. So this is the third of our working team's, the Consistency Stakeholder Group.

The CSG was given two specific tasks. The first was recommendations to enhance consistency of stakeholder groups and the second about developing a global outreach program to broaden participation in current constituencies.

We received June 1 a report covering task one which itself is divided into three sub tasks. The chair of that working team is Olga Cavalli. And as Olga is on my right I shall now defer to her to talk us through what she's (present us) with.

Olga Cavalli: Thank you very much Philip. The document that we sent at the end of May to the OSC for your revision, it's the outcome of a work that's started and if I'm not mistaken in Mexico.

We have had a very active and with diverse opinions in our group. So we took our time to reach consensus.

At the same time you can see at the end of the document there's a minority report from some of the members that wanted to express that they had some other ideas, ambition of this content.

In general the document has three main parts. Let me go through them. First one is recommendations about participation rules and operating procedures.

Then the second part is about - no, second one, recommendations for clear operating principles for each constituency to ensure that all constituencies function in a representative open and transparent and democratic manner.

And the third one is about recommendations for creating and maintaining a database for all constituency members and others not from only a part of any constituency. That is up to date and publicly accessible.

There's another part that is already approved and sent to the OSC and to the council which is develop of a toolkit of in-kind staff support and services for all constituencies.

This is one part of our work that was - that is content in this document. And as I mentioned before it has minority report at the end as included as an appendix.

It's the - supported by two members of the working team. And at the end of the document you have the members of the Working Team, some who are very, very active and some not that much. But that's the general content of the document.

I don't know if you have questions. I would like to thank very much Julie for her support all the time and also to all the members of the working team because we have been working very hard. And we had a lot of work to get consensus in some parts of the document. So I just wanted to stress that.

I also - there's another task that we are assigned about development and outreach program. We are still working on that.

Debbie Hughes is leading a (sub) working team. We have a draft document and we are planning to finish perhaps in the month from now our document to be submitted to the OSC. Maybe Debbie you want to comment about it?

Debbie Hughes: Thank you Olga.

Olga Cavalli: Sorry Debbie. You want - we want to review the document?

Philip Sheppard: Yes. I'd like to take this in order if you can hold off for a second Debbie just so we can clear up on the first report.

My question I think just in the general philosophy of this, I mean it's a set of special recommendations for stakeholder groups and constituencies.

And throughout the process although there was wording in the document of terms of, you know, should do this, and a recommendation to do that, the philosophy is still essentially a set of voluntary recommendations, guidelines if you like that have been going to consistencies and take on a good set (correct)?

Olga Cavalli: Thank you Philip. And we have lots of discussions about which words we should use. It's not should, shall and truly is nothing.

Yes, it's a recommendation. It's something that the group thinks should be followed by constituencies and stakeholder groups. That's all I can say.

Philip Sheppard: Other questions? Chuck?

Chuck Gomes: Yes. I for one in the Working Team felt we should have been more precise and not used the word should in a way that's not typically used that way.

My understanding and other members of the Work Team can correct me on this is that we really use should more like a shall then it is typically used in at least technical documentation and so forth.

But that was a difference of opinion in the group. There is a statement I think earlier -- and I don't have it in front of me here -- in the recommendations that makes it clearer what we really mean by that.

But then after that we go on and use the word should with implying more optionality I'm sure that's not a word but comments?

Philip Sheppard: Thank you. Other questions, observations? Steve?

Steve Metalitz: Yes. I did have a couple of questions and I think what's just been discussed is probably worth noting. It says the word should - should, as used in the following recommendation means an obligation to duty to take a certain course (unintelligible) should does seem to mean us.

Be that as it may I did want to ask about a couple of these should statements. Most of these should statements are things that a group can do for itself.

But this one says groups should have their participation rules based on common principles of a GNSO. These rules then should be made available in English and the five UN languages.

I agree that that should be done. And (is probably) beyond the capacity of many stakeholder groups or constituencies to actually (unintelligible) voted upon and becomes (unintelligible).

Chuck Gomes: Yes I think the expectation of the Working Team was that that yes that would be a staff supported function assuming there's funding for that. And that comes down to being an implementation issue. So that was my assumption at least as one member of the Working Team.

Olga Cavalli: It's Olga. Yes Steve I agree with Chuck. and one comment about the (unintelligible). Imagine that for me not being an English speaker person it was very challenging because it's - it is very different. And I really enjoyed that discussion which I learned a lot.

Philip Sheppard: Steve on your second point I think it's something we could do a small change in the text just for clarification. And I would suggest the following wording to 11B. These rules then should avail of ICANN staff services to make them

available in English et cetera, et cetera, et cetera. And let me clarify where that's (unintelligible).

Woman: (Actually) should?

Philip Sheppard: Yes. This will then should avail of ICANN staff services to make - yes. Do you want to make any change on this definition of should you mentioned? You said - I agree. I mean...

Man: Well I...

Philip Sheppard: ...understanding of should means that these are some good ideas and we're making them the recommendations quite strongly and it's up to the constituencies and to OSG then to think well (here) we want to do that and maybe to be challenged if they don't as to why haven't you done that. I think that's where (unintelligible) I was hearing. That is discussion that's happening.

I have Avri. I think (Christina) also had her hand up earlier.

Woman: (Unintelligible).

Philip Sheppard: Okay, all right. Okay Avri first and (Maddie) you were pointing (unintelligible) okay. (Unintelligible), okay.

Avri Doria: No I had...

Philip Sheppard: Avri?

Avri Doria: What I had understood, obviously I wasn't part of this group but in terms of the should I thought that you all had taken the, sort of semi-defined meetings on should that the IETF tends to use.

The difference between a should and a must is that sometimes there are reasons for not doing it. And as so you basically it's almost as strong as a must but it's saying but of course under certain conditions. And that's why I think you documented that that has to be a documented reason for not following the should and that that - the categorization you were using.

To me those are - I wasn't on the groups. Those are definitions I've been working with for 20 years so it's course that's what (shouldn't).

But I mean I understand the difficulty. A must is there's no excuse for not doing it. A should there could be a good reason for not doing it.

The other thing I had was a question and I don't know whether it should wait until after this discussion on the status, has this document been out for review?

Philip Sheppard: Yes.

Avri Doria: And have comments and responses to the comments been folded in to either the document or a cover letter? Have the comments been reviewed by...

Philip Sheppard: Wait, wait, wait, wait.

Avri Doria: ...the Working Group? I have questions in that regard?

Philip Sheppard: Okay. When I say review I mean within the OSC only. No because that then - because as OS - the ordered OSC council public comments and then they loop back again and then it's done.

So that's - it's the beginning of that process what we're starting on. So I'll let Chuck just respond to that and then I'll get (Christina).

Chuck Gomes: Yes, just a real short clarification. On the agenda for the council meeting on Wednesday morning is a motion that opens up a public comment period on not only this but also the procedural recommendations that we just acted on.

Philip Sheppard: Thanks. (Christina)?

(Christina): I realize this is not part of the current report but is work that was previously done by this group and I don't know if there's a current update. But with regard to the toolkit I understand that staff is implementing it. And I don't know whether you all have gotten a report as to when that's expected to be available or if you haven't whether staff here can do that?

Chuck Gomes: Fair enough. (Liz) wants to comment on this but there will be an update on that in the council meeting on Wednesday. But in fact it's going to say they need a little more time.

They were hoping to have more substantiated progress by this meeting. They're going to need a little bit more time. But they will be giving a status report on that. I think it's just within a couple months more then they'll come with it. Good question.

Wolf Ulrich-Knoben: (Unintelligible) one question here in the (unintelligible) to the staff (unintelligible) you are referring to these (unintelligible) consistencies. And they don't (unintelligible) and these recommendations you as they're only referring to groups, committees, and executive committees and these things. Is it fully clear and understandable to all of us, you know, what is your relation between them two?

Olga Cavalli: Thank you Wolf. We had this long discussion about including the word Consistency Stakeholder Group. And finally we decided to use groups as a general category for consistencies and stakeholder groups. Julie please correct me if I'm wrong.

Finally we did this change in the whole document. And then you have executive committees and then working groups as a different category. Is that clear or is it not clear in the document because we had long discussions about this?

Wolf Ulrich-Knoben: The only thing I'm thinking about there is no explanation at the end of this.
So...

Philip Sheppard: No...

Olga Cavalli: Ken has (unintelligible)...

Philip Sheppard: On the beginning of 211 all stakeholder groups/constituencies hereinafter called groups (unintelligible). So that's...

Olga Cavalli: Yes it's 211...

Philip Sheppard: ...reasonably clear I think. And then groups is used...

Olga Cavalli: Yes, that was the criteria we used. It's groups or we call them groups and constituencies.

Philip Sheppard: Okay. And Ken for further clarification.

Ken Bour: Thank you. This is Ken Bour. It's not so much a clarification but another point that needs - I think needs to be attended to here.

In the context of the GNSO operating procedures where this - oh this document's not going in there. Okay, so it - one of the things I wanted to make - yes so we don't use the word groups in that - in the GNSO operating procedure.

We call them appointing organizations. So, yes I guess it will be fine as long as the document's outside of it. Sorry about that.

Philip Sheppard: Okay. Steve?

Steve Metalitz: Hi. I had three more issues that my constituency wanted discussion so (unintelligible).

Philip Sheppard: All right let me just check. Any further comments on what we've been just discussing?

Chuck Gomes: Yes. I want to talk a little bit about the should, must, shall, et cetera.

Philip Sheppard: Okay.

Chuck Gomes: There was huge debate that lasted several meetings with regard to this. In fact the minority report from the two people were really basically orientated towards that.

But my - in my own opinion I think that we came to a reasonable compromise in the Working Team with regard to what things we thought really should be standardized across constituencies and which ones would - there would be a lot more flexibility for the group to customize (efforts) on these.

Like I said, there were two people that wanted everything very rigid. And I think that we made a good effort to leave plenty of flexibility for the groups that the consistencies and stakeholder groups to have flexibility where it was appropriate even though we had a couple people that disagreed with that even on some cases that I still can't figure out why. But that's another story.

And with regard to that history of stakeholder group and constituency, keep in mind that when the board made their recommendations, although it was envisioned there was no such thing as a stakeholder group.

And consequently the way their recommendations are worded it's all focused on constituencies. And so we expanded that to include stakeholder groups because of the change that was made.

Philip Sheppard: Marilyn?

Marilyn Cade: My name is Marilyn Cade and I'm the chair of the business constituency. My comment is from that perspective about that - but not - it's will of course continue to be a discussion within the BC.

I first of all want to say how much I appreciate all the work and then say that I'm very concerned about our being very careful about the difference between something that might be a standard versus a guideline versus a mandate.

And so the use of words really do matter. And those words, some of these words have meaning in other settings whether it's in the business legal setting or it's in an international, in a governmental setting or it's in the IETF.

So I think it is important to define it. But I would say we've got to be fairly aspirational as opposed to dictating.

Because the constituencies do not all look alike and they're not going to look alike. And we don't even - we can't even forecast what new smaller constituencies might emerge. So that's point number one.

Point number two, I would just say is the business constituency is hard at work in trying to make a number of significant initiatives.

We've done a membership brochure. We're doing outreach. I'll have more to say when we talk about where the responsibility for participation and growth and recruitment lies.

But I will just say that without the toolkit it is going to be impossible for small constituencies or even large constituencies to get their day job done as well as their night job of trying to write membership brochures and run a checking account, et cetera.

So as you think about the importance of the toolkit and making sure it moves forward and it provides choices, maybe even à la carte choices that each constituency can customize to its own purposes, I think you're going to find more usefulness from that approach.

Philip Sheppard: Okay thank you. Chuck, a response?

Chuck Gomes: Yes. With regard to what should be optional for constituency from stakeholder groups and what should be standard my - I encourage people in the comment period assuming that we pass this on to the council and the motion passes on Wednesday, open up to public comment period, if there are areas that are labeled should using the definition in the report or in - yes, in the report that you think shouldn't be should, comment on that.

Because if say, I think we tossed it around pretty well. And those where we really - found reason where there are significant differences from constituency to constituency or stakeholder group, we did not apply that language.

But if we missed something the most important thing that people can do is to make sure you point those out in the comment period.

Marilyn Cade: Marilyn. I just want to remind you that the group was open and they will represent the (unintelligible) of your constituency.

So I think I agree with Chuck that the best moment is now to make comments in the public comment period. And yes I agree that (both) are important. It

was a very long debate that we had about this (unintelligible) so - and very challenging for me as well.

Woman: Just clarify that comments though from observers are welcome or you would prefer that we not make comments, which would be most helpful?

Philip Sheppard: Okay. Other questions, observations on this? I've got Steve. Anybody else? And okay, Steve?

Steve Metalitz: Yes on the next one I wanted to ask a question about was Items 2.1...

Philip Sheppard: Point 2.1.2C.

Steve Metalitz: C, yes. And it says all groups must offer membership to natural persons or individuals if applicable.

Two questions, is that - what does applicable mean there good or...

Chuck Gomes: Steve, you had to be there to appreciate it. Trust me on that one.

Steve Metalitz: Words fail you.

Chuck Gomes: Remember the minority reports. They - and if you read the minority reports you'll see that they're not nearly so flexible as that even.

And in the case of for example, the registry stakeholder group, we don't have natural persons who are members. We cannot have natural persons.

So concessions and the compromise we came to was say if applicable. So let me just leave it at that.

Steve Metalitz: Okay. Well I read this to mean that you would have to accept application...

Chuck Gomes: Is that if that applies to your membership criteria, that's true. In our case it doesn't. Now and I'll just speak for ours so...

Philip Sheppard: Ken did you want to go...

Ken Bour: My comment is not on this point.

Philip Sheppard: Okay. Avri?

Avri Doria: Yes mine is, I mean basically by saying if appropriate or if applicable you've basically created (unintelligible) really means nothing at all.

I mean it's nice to have in there but you just make a rule to say it's not applicable to our group and it's not applicable.

Steve Metalitz: Well like you have.

Chuck Gomes: Yes. Maybe it should be clarified further because that certainly wasn't the intent at all. And if applicable according to your charter, and your charter has to be approved by the board, so that's really what the intent is.

So it's really not a get out of jail free card. But in some charters it's not going to be applicable.

Philip Sheppard: Steve go ahead.

Steve Metalitz: I'll just say it's unfortunate it ended up this way. Potentially I mean (it hasn't) ended since we're not at the end of (unintelligible). Well you could just say should. And that that was a contentious point and I don't really want to reopen that wound, rip the bandage off there so...

Philip Sheppard: Okay well we - I mean we've had this discussion, went into the record as well so that's...

Steve Metalitz: Okay.

Philip Sheppard: ...informative I think. Your next point.

Steve Metalitz: My next is on 212J. I think it's on (unintelligible). It says no legal or natural person -- I get that -- should be entitled to join more than one group as a voting member.

I understand the rationale for this but I just want to - this means that every group category of non-voting members possible is eligible to join more than one (too).

So my constituency has been very harshly criticized over the years (unintelligible) every constituency will have to adopt (unintelligible) could do so because (unintelligible) should be. Is that consistent with what the (unintelligible).

Chuck Gomes: You know, I don't know that we specific - that we consciously intended it that way. Others may want to speak on this. Certainly using my own company as an example, you know, we - we're a member of the Intellectual Property Constituency.

We're also a member of the Registry Stakeholder Group. What this is saying we will have to choose which one we want to be a voting member in.

Steve Metalitz: And that's, our constituencies rules not a voting member at this point, so it's easy. We might change that rule. And in that case we'll still have to have some category of nonvoting member and you're - because the stakeholder - your stakeholder group will also have to have because some company might choose not to vote in yours but...

Chuck Gomes: And we do have a category in our charter for observers.

Philip Sheppard: Because if - am I right in saying that anyway above this in terms of the bylaws there is still a stipulation thereabouts the inability to refuse membership solely on basis of membership of another group? That's still there I think isn't it which is caused some fussing (unintelligible).

While that's there, I mean that too some extent trumps any recommendation we're making at this point until that's resolved.

Chuck Gomes: And bylaws I think there are probably - there will have to be additional changes in the bylaws once we implement if in fact these are - these kind of things are improved. I think it will (unintelligible) bylaws.

Keep in mind that only partial changes were made to the bylaws up to date that there's more expected.

Philip Sheppard: Yes. (Christina) and then Avri.

(Christina): I just want to make sure that I'm clear as to the meaning of this specific point. Because if so then I think I may in the public comment suggest some clarifying language.

But is J intended to say a legal or a natural person may join more than one group provided however they shall be permitted to vote in only one?

Philip Sheppard: I think that's the intent isn't it?

(Christina): Is that the intent?

Philip Sheppard: Yes.

(Christina): Okay. All right then...

Philip Sheppard: And that's good wording, so yes.

(Christina): That's not clear. All right. All right.

Philip Sheppard: Well do - oh do you want to change the wording now if we think that's all good? Avri?

Avri Doria: I was having problem getting even to where Steve was in saying that you're not entitled to join more than one as a voting member.

I did not see why there was implicit in that that therefore you had to be able to join as a nonvoting member.

In other words if there's only one class of membership voting member and you're already a voting member somewhere else then you can't join as a voting member in that one unless you give up your voting member previous.

But I see nothing that makes it implicit that just because you can't join as a voting member you have to be able to join as a nonvoting member.

Now it's up to the groups whether they're going to have non-voting members and voting members.

If you and as each group gets to decide whether it's going to have - and you can even have multiple classes, voting, nonvoting and nonspeaking, speaking.

I mean you could come up with a plethora of membership classes only one of which was voting and you'd be saying that if you're a member - a voting member anywhere else you can't be a voting member here.

If there are other classes of memberships you can join. If there aren't you can't. So unless there's another rule somewhere else that says anyone must be allowed to participate to be a member without voting then that's...

Steve Metalitz: Well...

Avri Doria: ...and I don't see that implicit here so I'm going to...

Steve Metalitz: ...I think there is another rule in the bylaws that says you cannot be excluded from membership...

Philip Sheppard: Yes.

Steve Metalitz: ...solely because you belong to another group.

Philip Sheppard: Exactly, yes.

Steve Metalitz: So you couldn't put that in the charter. You couldn't say anybody who's a voting member or a member (unintelligible) so you could be (unintelligible).

So the first thing, just a footnote that we don't have to comment on, Marilyn I've always wondered why the BC was allowed to have that condition since it seemed to go against the bylaws. But I'll leave that at that.

The - with regard to Avri's point, that's what, you know, I said earlier that I didn't think that the Working Team ever specifically said that you had to have observers. And we didn't obviously assume that it was implicit so that was kind of consistent with that so...

Philip Sheppard: Do we feel we want to make a text or clarification now or leave it to public comments?

(Christina) do you think you can draw something that will clarify that now or we can...

(Christina): Now I'm (unintelligible).

Philip Sheppard: ...what the intent is, okay.

I think - I thought the intent was - I thought as you last expressed the intent I thought that - that was - that got knobs.

Okay, yeah. I'll give you five minutes while we talk about something else. Right, other points on this. Steve?

Steve Metalitz: Yes, my last point and I really appreciate the group's indulgence, 2.2.1. This is on Page 7, 2.2.1.

I guess I have a statement to make and then a question. My statement and personal position on this which is (unintelligible) manner (unintelligible).

My question is, is this intended to be retroactive?

If this were adopted (unintelligible) someone who had already served four consecutive years being (unintelligible) constituencies can kind of build this in.

I will point out this also prohibits a type of situation many organizations have where someone may be elected vice president and serve the next four years to get through the whole - and then they become past president. It takes four years for them to get through the whole cycle. That's prohibitive (here).

Question is is this intended (unintelligible) retroactive to (unintelligible) that was (unintelligible).

Chuck Gomes: My recollection -- and we did talk about this -- we didn't talk specifically I don't think about retroactivity - retroactively.

But the idea was is that the next election cycle it would take effect, not day one when this is implemented and disrupt everything going on right now.

Olga Cavalli: And it's a good point Steve. And I think that the intention of this limitation of the consecutive years is only intended for avoiding the capturing of a certain group.

Because it happens maybe your constituency isn't as big as a lot of participation. But in my experience in developing country sometimes this basis of participation are total captured by some people.

And so as there are not many participate and it's difficult for newcomers to get into chairing or decision-making positions. That's the intention. About the other question, I cannot answer to - answering it.

Philip Sheppard: But I follow-up with that point. I mean was it indeed intended to mean any executive offices? I mean what Steve described, is that sort of natural rotation which is sometimes useful in terms of secession planning and if somebody joined right now has pleasure and moves on to vice president then becomes president whatever is actually quite useful in terms of engagement of getting somebody to do something that's not immediately burdensome but nevertheless participatory.

And if that was the case then maybe we should adjust the wording to being the same group officer. I think that's probably the intent isn't it? It's saying we don't want to have the same president for the next ten years.

Chuck Gomes: I think there is an exception procedure to isn't there?

Philip Sheppard: Well yes they said a group couldn't vote for it, couldn't change it, yes. Which - should we make that a recommendation to make the same as the clarification? Is that okay Olga?

Olga Cavalli: That make sense.

Philip Sheppard: (Mary)?

(Mary): Maybe I'm not familiar with the document so I hope there's a quick answer to this. My question is what's the - I realize that group officer is probably a broader category then stakeholder group executive committee member.

So my question is this 2.2.1A and 2.2.1B. But I can't find a definition of a group officer? So that's one question.

And secondly there's a specific requirement for the stakeholder group executive committee which is the same.

As someone coming to this document for the first time it's not entirely clear why that is the case.

Steve Metalitz: Second point is it wouldn't necessarily be the same because for example a group includes a constituency.

(Mary): But which is fine. I realize there's a broader group. But it just seems to be...

Philip Sheppard: But I think probably the - if you think about the stakeholder group executive committee is a defined body.

Whereas by group officer basically talking about the constituencies. Now the constituencies may talk about them in different - using different terminology because of their differences.

So I think that's why we've got what looks almost like competitive phrasing. But it's actually just trying to be more specific. I think it's a clarification.

(Mary): I guess it seems to me that with the word group as defined earlier in the document that the stakeholder group executive committee member could either be included as a group officer. So if that's the case then B could be (superfluous).

Philip Sheppard: So on that last point if you want to just delete B, does that work still for everybody? Olga is yes, I think Olga's (nodding) that. And then we change A to the same group officer to allow for the point that I was making earlier in terms of progression and planning.

Steve Metalitz: I would support that.

Philip Sheppard: Okay everybody happy with that? Avri?

Suggestions?

Have the same group officer position, okay.

Woman: (He cannot leave).

Philip Sheppard: Okay so clarification then on 221A the first phrasing now reads no person could serve as the same group officer position for more than four consecutive years force stop and 221B is deleted.

In the same yes.

Steve Metalitz: I think for conform that you probably need to change in the second sentences, the second sentence prior to serving any subsequent term officer position, president didn't serve...

Philip Sheppard: Yes (unintelligible) position (unintelligible).

Okay, thank you. So are we happy with that change? Good. And now we revert to 212J which was the discussion on legal natural persons joining more than one group as a voting member.

And I have the proposed wording clarification with the same objective as follows. Legal and natural persons should be permitted to join more than one group provided however that such persons must not be a voting member in more than one group.

It's the same intent I think and just draft better wording. Are we all happy with that? You're not happy with that. Is that because you weren't happy with the...

Woman: In this case I'm not even happy with the intent for...

Philip Sheppard: Okay well that's a separate issue. Let's clarify the intent of the wording first and then we can debate intent.

Okay everybody happy with that as a clarification to the intent? Yes, and I'll assume that's done.

Any other points?

Avri Doria: Excuse me.

Philip Sheppard: Yes.

Avri Doria: Actually are we really saying that that what was meant because what was there did not make that explicit. I mean so I guess it's really only up to you who were in the group to say that it was the intent of your working team that everyone should have a class of membership called nonvoting.

If that was the intent then that is a clarification of your intent. If that wasn't what you meant then this is new content.

Chuck Gomes: I don't think it was. I don't think that we ever consciously stated or discussed that every stakeholder group or constituency should have this category of observer status or whatever we want to call it. I don't think we ever did, did we? Anybody remember that?

Avri Doria: This would be adding. So this would be adding content.

Philip Sheppard: Okay.

Avri Doria: And so it wouldn't just be a clarification.

Philip Sheppard: No.

Olga Cavalli: I'm not - as I see it maybe other members of the group can correct me, I see it as another way of wording. I don't see it as a new but maybe I'm wrong.

Philip Sheppard: I mean to me I think this is clarified wording. But it is also not saying that every group should have either voting or nonvoting.

Now if that's a position you believe in that to my mind would be an opportunity for public comments because that's a separate issue, implication but it's a separate issue.

Avri Doria: You're saying that your clarification language doesn't make it any more implicit than this one does?

Philip Sheppard: Yes. Yes, legal and natural persons should be permitted to join more than one group provided however such persons must not be a voting member in more than one group.

Avri Doria: So that does implicitly say that there has to be the ability for them to join as nonvoting members? They shall be permitted to join as long as they're not voting.

((Crosstalk))

Man: Isn't that also a question of the (unintelligible) chartering of those tools?

Man: Yes.

Man: You know, that means if those tools don't allow or they have conditions that are of membership so then there's a category involved where you can decide on whether somebody could get a - could become a member or not. So isn't that enough for that?

Philip Sheppard: Well for me, yes. It would be a grounds for refusal of an application, yes if that's - if you only had voting categories of members. That would be an option of the group. Steve?

Steve Metalitz: The reason why I think this isn't a change is because outside of this document there's another document called the bylaws which controls it.

That document as I understand it -- I could be wrong - because you can't turn down someone from membership because they also belong to group.

If that's the case then inevitably you may have the situation and if you also have a rule that you can only vote in one group then you may have - you know, this - part of this could be clarified by inserting in the language that (unintelligible) qualify. But he has to accept every applicant (unintelligible). And they have to be - they have to meet the qualifications for membership of the group.

Man: (Unintelligible) that person if qualified...

Olga Cavalli: If qualified.

Man: ...meaning by the group.

Avri Doria: (Unintelligible). Okay first of all I actually think that we probably, whether this gets changed or not we (unintelligible). But if you change this to they can't join as a nonvoting member in some sense you've already gone against - you've also gone against the bylaw.

Because the bylaw said if it is indeed that they could join as a voting member. They weren't differentiating that you could join this way but not that way.

So I think in either case there's an issue also, throughout this whole process there's been the implication that we'll finish what's going on here and what notice what needs to be changed and amended in bylaws.

Because the bylaws as Chuck said earlier are in a complete interim mixed state. So I don't think what the bylaw says is actually germane to this particular topic at this time.

Steve Metalitz: I guess I would disagree on both those points because sure the bylaw does not say that voting membership (unintelligible).

Philip Sheppard: Participation is the word.

Steve Metalitz: Yes participation, not voting. So not (inconsistent). So I think you have to kind of work within the bylaws that you've got at the time. I would agree the bylaws could be changed and maybe (unintelligible).

Going in (unintelligible) you should assume that the bylaws that are (unintelligible).

Chuck Gomes: Well Steve if we did that we'd be stuck. Keep in mind what happened already in the procedures. The council offered in procedures that were changed.

Once we approved the recommendations then there was an implementation effort. And that implementation effort led to changes in the bylaws that ultimately the board had to approve. But so, you know, it's a - yes you understand that.

Philip Sheppard: Okay. Well then I propose that I mean having had this conversation on record we adopt that wording as clarified and let's see what comes up also in terms of public comments and how that may inform other changes that we need to do.

Because I think I mean like in all these things we have to treat this as a dynamic process I think because there are potentially areas of incompatibilities that are going to come up.

And when they do fair enough. We then look at those and address those at the time. We don't need to try to second guess absolutely everything at this point. Everybody happy with that? Avri?

Avri Doria: In terms of questions in terms of us accepting (unintelligible).

Philip Sheppard: Okay. Is everybody else happy with that in which case we will note that objection? Okay thank you.

Avri Doria: So we also made the decision that we're not operating on a consensus (unintelligible).

Philip Sheppard: By consensus you mean full anonymity?

Avri Doria: I thought the OSC worked on a full consensus basis. Perhaps I mis-remember.

Philip Sheppard: We don't normally have votes. That's the difference. I think the points well made but I don't think - what I'm saying is I don't think that resolution is that easy without seeing how any of it turns out. And I was saying let's let it play.

Avri Doria: Okay, I'm just - I'm totally interested in the way consensus seems to work that if I disagree it's still consensus but...

Chuck Gomes: What are you disagreeing with? I'm lost.

Avri Doria: I'd disagreeing with changing the wording. I think the wording that's...

Chuck Gomes: oh.

Avri Doria: ...in there is adequate and not agreeing with change of wording.

Chuck Gomes: Okay.

Philip Sheppard: Noted. Other viewpoints on this? No, in that case let me move then to formally adopt the report as we've amended so that we can recommend it to council for their forthcoming meeting. All those in favor please say aye.

Woman: Aye.

Philip Sheppard: All those against please say no. All those wishing to abstain please abstain. Good thank you. And Julie's noted the voting of that. Thank you. Yes?

Man: Yes so I would like to ask for confirmation from the OSC. I had made an assumption all along that the procedures that came out of the CSG that you just approved the forward would end up in the GNSO operating procedures.

And but I don't know that we've ever had a discussion on that point. And if so would the entire report go in there or because there's another whole section

on database recommendations that doesn't sound like it's policy procedure practice orientated.

So I guess that's my question to the OSC is there a recommendation as to whether or not any portion or all of the CSG report ends up in a chapter in the GNSO operating procedures?

Philip Sheppard: Well I need a clarification from you first I think. I thought the GNSO operating procedures were about the operation essentially of the GNSO council rather than everything to do with the GNSO.

Man: Well it - yes that's not my understanding exactly.

Philip Sheppard: I mean you've got the (BVP) bits which are going to be in there in the working group.

Man: Yes, yes it's...

Philip Sheppard: So that was different to structures of participants in those.

Man: Yes. Certainly a lot of the GCOT procedures deal with matters relating to the council and membership and abstentions, voting and all that.

But there - let...

Woman: (Unintelligible).

Man: Oh there are - we did call it the GNSO operating procedures and not the GNSO council operating procedures.

We couldn't amend the title of it I suppose. But yes, I'm just wondering at this stage of the game maybe we need to have a different discussion as to what constitutes what goes in the procedures.

Philip Sheppard: Steve and then Ron.

Steve Metalitz: Just a definition, it was GCOT so in fact it is GNSO council operating team.

Man: But not the (unintelligible).

Steve Metalitz: So in terms of the work that was done it was - it does have council in there but...

Man: Yes.

Steve Metalitz: ...but the work itself does go broader as I understand it.

Philip Sheppard: Yes. Yes so that team had council in mind whereas the team we're currently on didn't and I think didn't have the feeling that what they were doing would be enshrined in a set of operating procedures but that would be enshrined as a set of recommendations.

And that I think is a different entity. And it's important but otherwise we'd be asking them to start to their work again I think in terms of rephrasing.

Chuck Gomes: Regardless of where we come on this, come out of this, you know, it's probably okay that they become a part of the operating procedures for the GNSO. But I think we can deal with that later.

(Unintelligible) set of recommendations, I'd like to take for example the working group guidelines. If those aren't going into the bylaws where are they going to go? Are they a separate document? They could be but I think that's something we can decide later.

Philip Sheppard: But it is Steve. I mean a set of operating procedures has a very strong implication that these are your rules as to how you operate.

It becomes effectively the implementation of the charter of the body. A set of recommendations that is conditioned upon other charters is a different flavor to me. Steve?

Steve Metalitz: I was just going to say that wherever they end up I hope they will be readily accessible to stakeholder groups and constituencies because the issues are going to come up.

I mean, you know, these groups are going to revise their charters not just now but three years down the road. And it's important for them to know what we're (could) be doing with (unintelligible).

Philip Sheppard: Okay. Ken?

Ken Bour: May just one more point. The former GNSO operating procedures that are being replaced section by section had an entire Chapter 7 on task forces.

And so again I had made the assumption that the Working Group material that was being done would naturally replace that entire set that was in there on task forces.

And so I think that's another piece of evidence that says the GNSO operating procedures were not just about the council.

Philip Sheppard: Okay. But that's about what council - the only difference I see here is that the recommendations are conditional upon a set of unknowns which are the current charters of the groups we're talking about.

So I think that's - it's just that section we need to bear in mind. I'm not sure it's - I think it's a good question but not necessarily one we need to answer in full resolution right now. Other points on the same issue? Avri?

Avri Doria: Not on the same issue.

Philip Sheppard: Okay.

Avri Doria: I want to make a point of order on in general.

Philip Sheppard: Okay. And on that because that's resolved Avri?

Avri Doria: My point of order is going back to the OSC charter basically because unless otherwise determined by the OSC members than one would assume that would mean in advance.

City decisions will be made using a full consensus of the members who process. So it's explicitly stated here that we do things on full consensus of the (unintelligible) but basically I like to say that our vote and determination by priority vote on the previous was in disregard of our process.

Also the decision to change the recommendation was in disregard of our process. And if that first change hadn't made then there would have been full consensus on the document.

So twice there was a disregard of our full consensus. If we had stayed with the language they suggested we might have had full consensus. But a vote is not - since we didn't determine in advance that we would be voting on this issue as opposed to full consensus I would make a point of order that we did something not completely kosher.

Philip Sheppard: (Unintelligible) so defining a full consensus is unanimity. Chuck do you have any observation on a recent intent of voting of this group?

Chuck Gomes: Yes, well I wish I did. The, you know, I'm trying to remember back why on earth did we say full consensus? We know how hard that is to get.

Woman: (Unintelligible).

Chuck Gomes: I'm not sure we did or not. You may have. But it's - that's apples to me a little bit because how many times in this world of the GNSO are we able to reach full consensus?

So that said, you know, Avri's right, that we have a point of order here. And Avri do you have a suggestion in terms of - is there some modification to the language that you would live with that others may live with?

Avri Doria: Yes well I don't know. The first part yes, I can live with the language that was submitted by the team. What I can't live with is the new language.

Chuck Gomes: And it's precisely as possible...

Avri Doria: Because I believe it adds content. I believe that - I understand that the bylaws are what the bylaws are.

I believe it adds that this team is adding content of an implication on another membership type that was not in the recommendation that was passed.

Olga Cavalli: Avri do you have another suggested language that may not add content but consider the concern of other participants?

Avri Doria: I don't - I mean a simpler languages is no legal or natural person should be a voting member of more than one constituency or stakeholder group.

Chuck Gomes: Is that adding content? Because I don't...

Avri Doria: No.

Chuck Gomes: ...think we said that.

Avri Doria: I believe it's what this one actually says, that you can only be a voting member of one. It doesn't say that you can't be another kind of member, but nor does it.

And so this one left it. We could argue over its ambiguity but they left it alone. By the rephrasing actually added...

Philip Sheppard: Make that suggestion again and let me ask the OSC if they're happy with that compromise wording. It seemed to be okay to me because what we're trying to do actually is clarify, not add content here. Say it again.

Avri Doria: So no legal or natural person should be a voting member of more than one stakeholder group or constituency.

Man: Fine. I think that's basically what it...

Avri Doria: Right. I think the other one added more content, that's...

((Crosstalk))

Man: And I don't think it's a sin to add content but I hear what you're saying.

Philip Sheppard: Okay. So the proposal here is that 212J is re-amended after objection. Two, no legal or natural person could be a voting member of more than one group or staff.

Any objection to that voting order procedure or otherwise?

Good. Thank you very much. Then we take that as adopted. So the point of order and I can move on to Item 4 which is Olga or Debbie let us know their state of play with part two of the CSG which is the global outreach program foreign participation in current constituencies.

Man: Mr. Chairman...

Philip Sheppard: Yes.

Man: ...we have a point of personal privilege. And I'm sorry I'll miss this report but I'm hearing (unintelligible) in another room so...

Philip Sheppard: (Unintelligible) Okay. Thanks guys. Oh yes we are indeed due to finish so we will finish up for sure because Debbie's always concise and clear. Off you go.

Debbie Hughes: I certainly am. And this previous discussion has been very instructive as we begin this next part of the task.

As we understood it, this subgroup is really trying to do two things based on what we understand to be the recommendations that came from the Board Governance Committee's Working Group.

One is to develop and implement a targeted outreach program to deploy the formation of a new constituency group.

This outreach program shall be designed to reach all current members of the ICANN community and potential members particularly in the areas where English is not widely spoken and should include the ideas and participation of existing constituencies. Staff should provide periodic progress reports.

And the second part of that report spoke to working with constituencies to develop global outreach programs aimed at increasing participation in consistencies and the GNSO policy process.

So what we've done is taken a stab at taking all of that into two bullet points in two parts of our work, and the first being developing an outreach strategy.

And then the second point being what are the ways that we can develop the programs, outreach programs aimed at increasing participation?

And so we've begun that process. We've begun talking about how do you identify the members that we should be targeting and trying to encourage to participate.

And then related to the second point what are some of the programs and tools that ICANN can create or that we could suggest that could be implemented to assist with public participation?

So that's where we are. We're hoping to have a document for this committee to review sometime in July. And thank you so much.

Philip Sheppard: Thank you Debbie very much. Now last thing, when you say sometime in July I had 1st of July written down.

Could you perhaps replay (them over sites)? I'm not pushing the 1st of July. I mean let's be realistic, but I just like to know when?

Debbie Hughes: We are - thank you. We are aiming for the beginning of July. So July 1. And if we get into the latter parts of June and it's not looking optimistic we will be sure to let this group know that we may respectfully request an extension which I'm thinking we may need to do. But we have our meeting tomorrow and we'll see how far we get.

Philip Sheppard: Okay that's fine.

Debbie Hughes: Thank you.

Philip Sheppard: Thank you very much. Any questions? No. Then I call this meeting of the OSC closed. And thank you very much for participants. And can we please stop the recording?

END