

**ICANN Cartagena Meeting
Role of the Council
TRANSCRIPTION
Saturday 04 December 2010 at 1030 local**

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.

Philip Sheppard: Just quickly on that and then I have some comments on the Council's role. But that - you know, I agree too that I think with the comments that Marilyn made as far as the GNSO being the SO and keeping that in mind, etc. But one thing that I would want to mention is that I think that sometimes the face-to-face meetings that we have like this at the Council that we don't take effective advantage of our face-to-face in doing Council work.

And, you know, we have a meeting every three weeks over the phone. We don't get together face-to-face every three weeks. We get together face-to-face every three or four months. So it'd be great to have an opportunity to work on Council business a little bit more face-to-face. I'm not saying it has to be closed or anything of that nature but just something I wanted to throw out there.

You know, as far as the Council's role goes, one thing that I think is important to me, and I am a Councilor but I'm also a stakeholder, a group member as well of registrars, and that is that the Council - while managing the processes should also defend the principles that I think the stakeholder groups expect to be applied based on bylaws and ICANN's mission, etc., of bottom-up consensus building activities, accountability, transparency, even to some extent predictability.

And I think at times we perhaps don't focus enough on those issues and focus more if at times, if you will, pork barrel type of activities where we're,

you know, promoting or lobbying things that are basically in the interest of our stakeholder group and not necessarily in the interest of our ICANN community as a whole. So I think we should not forget that, that we should be defending the principles that I think people who are involved in these processes expect.

And to that end, I think one of the things we're going to be talking about coming up perhaps and that is in regards to the community working groups. And there's several things that we need to consider in that regard. So hopefully we'll have a healthy attendance and conversation in that topic as well. Thanks.

Stefan Van Gelder: Thanks, and that topic is at 1:00, one to two by the way in case anyone's wondering. And just before I turn put it over to you Rosemary, can I just say if there's anybody online that wants to participate please make yourselves known and we'll accommodate that. Rosemary?

Rosemary Sinclair: Yes, I just wanted to follow up Marilyn's comment and I think this relates to my own inexperience with this whole process. The distinction between GNSO Council and GNSO, if I'm understanding right, the GNSO Council is the body for concentrating on managing policy development process but the suggestion is the GNSO, the wider organization, is the body for looking at administrative masses. And so is there - a clarification firstly for me.

Secondly though, a suggestion that we need some structure with the heads of stakeholder groups engage with GNSO, which is why I need to understand more clearly or what's the distinctions that are being drawn because I know in our non-commercial stakeholder group, our stakeholder group chair (AVERY) is not really in any way connected with what we're doing at the Council or on the GNSO.

And it's something that's troubled me for a while. And I haven't really understood how to make that structural link so that we get the communication

processes flowing smoothly and we take advantage in our case particularly of considerable expertise.

Stefan Van Gelder: Yes, that's one of - that's the point I was making that we do need some kind of way to involve or talk to the Chairs better. Really, there's no way to do so right - well, we don't need a formal way of doing so.

What I'm suggesting, for example, we have with Olga and (Chuck) - we prepare each Council meeting with a Council Leaders meeting. We could have a Council Leaders Council - Group Chairs Meetings for example. It could be an informal thing that could happen every two months or something. It's just that conversation, I think, needs to be more - what needs to happen more often but I'm not suggesting any formal ways of doing that.

Did you want to respond and then Adrian?

Rosemary Sinclair: I do. The GNSO is a supporting organization, right? It's one of many, one of several. It (unintelligible) along with advisory groups and the ASO. It is the - and the ALAC in terms of fulfilling a larger responsibility to ICANN as a whole. And so the constituency and the stakeholder groups generally provide an aggregation and a working space for parties who have particular interest to also come together and talk about larger issues having to do with governance of the organization. Governance of the organization is not the job of the GNSO Policy Council, right?

So while you guys may have discussions about the impact of the budget or the operating plan on the policy development process, I think that generally I would say within the CSG and within the BC that many of our members would want to talk about broader issues related to governance of ICANN including maybe the - many of the members of the BC submit individual comments on different public comment processes related to governance of ICANN.

I personally do not think that work belongs at the Council. And I think that you would not be able to do your job, and a critical job, of GNSO - of GTLD Policy Council or policy coordination and management should you take on the governance so to speak of the SO. The SO is composed of subunits who ought to be self-governing. And I think that's what all the constituencies and stakeholders (unintelligible). I think also it's not the job of the Council to dictate to the stakeholder groups or the constituencies how they organize. It may be the Council's job as a whole to give a request to each of those groups about how they're more effective in supporting policy work but that's perhaps just my view.

Stefan Van Gelder: Adrian, did you want to say something?

Adrian Kinderis: I think two things. Number one, Rosemary brought up that she doesn't feel that (AVERY) is connected. From what I can see and the comments that (AVERY) sends to the Council I think she's extremely connected with what's going on on the Council. Maybe that's just her personality. Maybe she's a diamond in the rough but - my second point is, I think we also need to be conscious of the workload of the Chairs of each of the stakeholder groups. I know that Mason in our - in the registrar stakeholder group is incredibly busy keeping all of us - you know, herding cats if you - and in our group with such a vast number of members. So I would just stress that I think you need to consider their benefit once again.

Stefan Van Gelder: Philip and then Wolf.

Philip Sheppard: Thanks. I think it's a very timely session. And I think for me, one of the difficulties in the restructuring and the conceptual idea of the Council managing the policy process as opposed to the Council being more intimately involved in the processes process as they have been in the past is not just a change of emphasis there but the fact that the Council remains excessive elective representatives with a set of votes to cast.

And I think we need to rationalize what it is ultimately that those elections to be represented is and the function of those votes is and the importance of that in order to understand what concepts of managing the process is because the danger - if it's merely administrative body you could, you know, appoint three people and get the demand to process that's done by community stakeholders.

But there is a point about the nature of the election and the nature of this casting votes. I think for me that's the essence of it. And that's why I think it's a question we're asking ourselves now.

Stefan Van Gelder: Thanks. I have Wolf, Mary, Tim, and (Bill).

Wolf-Ulrich Knoben: Thank you. I'm a little bit surprised about the discussion on the Council with the question whether the Council is going - might go to in a direction to govern the (unintelligible). I would like to say that for me it's very clear. The Council's (unintelligible) and from our constituency and stakeholder groups, we are the long arm of the stakeholder groups on Council level.

So that's very clear. And (unintelligible) point might be sort of different. That's one point so the direction is very clear to me. That means - it's no direction towards governing the SGs from the Council point of view but as a Councilor I feel we have (unintelligible) means.

One the one hand we long to be stakeholder groups, we are representing the interests of that stakeholder group but on the other hand we have to drive the process. So that means we have to come conclusions here on the Council level, to decisions. And that means - so we need some affectability in order to fulfill that, to come into that.

So what it means is - so the understanding for myself is, okay, I have to - to really be close to what the stakeholder group is doing and discussing but on the other hand I would like to try that process. And I wouldn't like to block the

process. I would like to try to find solutions. And I expect that trust, the confidence from the stakeholder groups that they are, that I'm able to do so, to find that.

So this discussion process between Council and stakeholder groups has to be done more in the future I think so. And that should be done on that level which you were suggesting, if it means leaving this - the stakeholder group management sometimes.

Okay, that's (unintelligible) response. Thanks.

Stefan Van Gelder: Yes, I think you make a very important point. I don't feel personally that there's direction from the Council to the stakeholder groups. I think often it's the other way around. That's the way it should be because the stakeholder groups are the ones who are electing the representatives on Council.

But I also feel that once they've done that, elected representatives on Council, then there has to be some measure of trust. I agree with you there. I think that's an important point for the Councilors to be able to do their job. But bear in mind that it's up to each group to determine that and some groups may give Councilors more leeway and others may not. But in general, I think you have to expect Councilors to act with the trust of their groups. Mary?

Mary Wong: Thanks Stefan. And actually to some extent Wolf and Philip have made the point I wanted to make so let me do a brief follow up.

I think to the extent that the new Council is a managerial body, as (Jeff) said earlier, that does not make us a merely administrative body as Philip said. But I think underlying all of this is something that Tim said and that Philip said, we are elected representatives.

And so my personal view is that I do see the Councilors and possible the NomCom appointees a little bit different but the large majority of the

Councilors as elected representatives are really the bridge between an amongst the different stakeholder groups of this SO. We have votes. There will be some lobbying. There may well be that horrible word horse-trading. And when we have that flexibility and that responsibility on behalf of our stakeholder groups, I think the Council is aware that kind of discussion, that kind of exchange, should take place openly.

And if I'm wrong on this I think I would like to know that from either my fellow Councilors or from members of the community. Because then the real question would then be what is our role as elected representatives.

Stefan Van Gelder: Tim?

Tim Ruiz: Just thinking about some of Marilyn's points and I may not fully grasp all of them but the - it gets to this - back to the question about, you know, what is policy because, you know, I guess - and I'm not arguing that this is the case but I guess I could see where someone could make a case to say that, you know, the overarching framework of a constituency charter is a policy. And so the GNSO would be responsible or be involved in that.

So that just is one example. So I think it's some very good points but it's a difficult question to answer, at least for myself right now, as to what, you know - we call so many different things policy and sometimes it seems like it kind of depends on whether it fits into our own agendas or not as to what's policy or implementation issues or however you want to term it.

So I think that's a key element that needs to be resolved or at least needs to be considered, you know, in order to try to delineate where does the GNSO's responsibilities end and the individual stakeholder group responsibilities pick up.

Stefan Van Gelder: Who do you think should do that?

Tim Ruiz: I think the - personally? I think that that line is sort of a policy. So it's something that the GNSO community as a whole should be involved in in trying to decide. That's one of the things that concerns me a little bit is that - when we do the different SO and AC reviews that it seems like a review is done but then we kind of get handed down this decision about what changes might need to be made.

You know, community's allowed to contribute but I don't necessarily think, for example, that everything that the BGC kind of handed out in regards to, you know, the improvements for the GNSO were necessarily all improvements or really even necessarily all things that the community as a whole agreed on or that there was consensus for. Can I suggest a better way of doing it right now, you know, no, but I think it's something we should consider at least.

Stefan Van Gelder: (Bill)?

(Bill): Thanks, part of why we were talking about having this conversation was some of the discussions that happened in Brussels and just prior to Brussels where there were differences among some of us as to what the Council members could or could not do together. I remember, for example, heated discussions around the question of whether the Council could - in putting together a review team for the purpose of diversity, vote on adding another person to the four that the stakeholder groups had put into the pot. And there was a view among some people that Council doesn't have the ability to do that and then this thing has to go back to the stakeholder groups to get cleared and then come back.

There were other discussions as well, I mean down to the question of whether we could have dinner with the Boards and talk to the Board Members without having minutes where it seemed that some people had different conceptions of whether or not - of what the relationship between Councilors, stakeholder groups, and the GNSO more generally were.

I mean there's different models of what Councilor's representational democracy and so on here involved and I think my point would be - and I, you know, you framed it in terms of trust. Trust is fine. But there's trust - buying trust is an institutional issue, which is what is the model of the relationship. If different stakeholder groups have different ways of approaching this, that's fine but we - I don't think we should then have any one stakeholder group's model being generalized to the whole Council. That would be the only problem I would have.

For example, in the non-commercial space, I think the way we view the role of our Councilors is probably more flexible than it is with some other stakeholder groups. So that when it comes, for example, to the question of proxies, when we were looking at the rules and they say, you know, that you have to have complete consensus within the appointing organization on how the person should vote, well, you know, in the NCSG we tend to take more of a view that we've elected these people.

We trust them and if we don't like the decisions they take, after having discussed with stakeholder group what the options were, etc., people can vote against them in the next election or do something else. But they're not on a leash per say. And so we get - and because NCSG is quite diverse we get very different opinions on almost every issue among the Councilors as well as stakeholder group members. So that makes it impossible for us to have a force unanimity and to have a model where the Council can only do what the stakeholder group is telling it in a very strict and directed sense each time.

So my point is, we just have to find a way to understand, I think, the diversity of models across stakeholder groups and to have a framework that's flexible enough that allows, I think, for the important thing to happen, which is that elected representatives should be able to sit together and persuade each other, interact. If we are so constrained that we have to go back and clear

every decision or every thought before we can come back and say anything then the Council's ability to actually get stuff done is, to me, quite strained.

I'm sure some people disagree with what I'm saying.

Man: Yes, I just want to remind...

Stefan Van Gelder: Sorry, it's Marilyn's (unintelligible). I'm sorry. Jumping the queue.

Marilyn Sinclair: You know, I want to urge all of us to step back and go back to the questions that have been, I think, emerging and one of those - because now we're beginning to talk about what your rights, capabilities, and responsibilities are in interacting as Councilors but unless we come to agreement about what the purpose and functions are that should be done at the GTO, the policy coordination Council level, then I think we're missing a big point. And let me just give an example.

It may be natural for the staff and Board, and I'm not talking about policy staff here, for the staff and the Board to think that they can send all questions your way to come back to an answer from them. But many of the questions that need answered are not GTLD policy questions. And the more you accept that work the more work you actually put in front of your ability to do GTLD policy. And I think that limits the effectiveness of the Council and it limits the - if I could call it, authority, influence, and contribution of the GNSO as a whole.

And once we reach an agreement the - you are elected Councilors but every one of your executives committee members is elected by the same people who elect you. They just were elected to do something else. So they have the same elected status that a Councilor does within their constituency but they have a different function. And I think it's the function we need to think a little bit about. And I would say that that functional discussion has to happen within each of the constituencies and stakeholder groups.

And they need to decide what it is that they think the function and role of the Council is because the Council is only one of the entities, a very important one, but only one of the entities. The constituencies still need to exist or stakeholder groups because there's other work that needs to be done. And I'm not - you know, I really want to be clear. I think the policy work is very important. I used to be a policy Councilor. But I don't think that the policy Councilors can take on the governance and management of the rest of the SO or the constituencies and get the policy work done.

Stefan Van Gelder: Mary, I think you want to address that. Can I just say, I also think we - we have to bear in mind in this discussion the point that (Bill) was making about being constrained and the example was that informal session that we had in Brussels with the Board. The idea behind that was to just try and help processes along by having better lines of communication.

So I know that some people were unhappy with us doing that that way and it was a last minute thing and it wasn't as organized as it could have been. But I think it's also a measure of - I mean I'm very sensitive to that argument that (Bill) was making that people do need to be able to talk together and sit down and talk at some point without being too constrained in order to get things done.

Mary and then...

Mary Wong: Very brief and actually, Marilyn, I don't disagree with you. And I do think it is a different function. And perhaps part of this discussion, what it is showing me and perhaps other people, is that each stakeholder group perhaps views the function of its Councilor as somewhat differently. And that goes back to (Bill)'s point and maybe that's some point we need to be discussing as well.

Jeff Neuman: Yes, so I want to respond to (Bill) to Stefan. You know, especially with vertical integration, that's where it erodes. I want to be very specific and I'm going to give very specific examples.

People on the Council need to understand that they're put into the Council to represent the stakeholder group and not themselves, right, or not their company. I'm not here representing (Unintelligible). Unfortunately, when you have sessions that are informal about something as contentious as vertical integration to a number of different businesses and enterprises here, the discussions that took place with Board members often involves a Councilor's own personal or company interest as opposed to the Council interest or their stakeholder group interest.

In other words, when a Board member asks - I don't want to pick on (Chuck) because he's not here but when a Board member asks a Councilor's view on vertical integration, are they really giving their stakeholder's group view or are they giving their company's view? And that's a very big distinction. If you're being put into a situation where you're being asked a question by a Board member you need to be very clear that the answer you give if it's a formal discussion is of you as a Councilor.

And I heard too many things coming out of that discussion, as informal as you want it to be, that were personal interests whether they're the interest of an individual registry, even my own members, or a registrar, that's important. That's not something the Council should be doing. And that doesn't constrain you at all. I think it's a very simple rule, one that we could start from here on forward.

If there's an ongoing working group or policy that's in the process and a Board member asks you, a Councilor, what your thoughts are on that policy topic, you pretty much should say, look, there's a working group working on it. And here's what they're doing. And if you want to know it's in their report. That's what your answer should be, especially in a capacity as a Council dinner with the Board.

Now you are always free to give your personal opinions but make it clear that it's your personal opinion because I talked to some Board members after and their opinion was, this is how the Council feels or this is how a stakeholder group feels because that one person actually who was representing them self happened to be a Council member.

You not only need to view it from your own internal perspective but how are others going to perceive your statement. And Board members don't get much interaction with a lot of people. They're pretty much hauled off into their own silos and meetings. But they're left with impressions when they talk to you that you are - you must know because you're a Councilor or you must be in.

So I want to be very specific so it was never that the Council should not have dinner with the Board. That was never the assertion. And then I was the strongest one making it. It was to be very careful of the topics you talk about and make it clear that your answer is not as a Councilor. Your answer is on behalf of your company. Or, you know, make it clear as to where you stand.

So I think this is very important and it's a distinction we all need to make because I think this discussion got into something very different. It's like a letter from - the letter from - a Chair's letter is also something that needs to be very carefully thought out.

When the GSNO Council Chair agrees to sign on with Chairs of other groups, they better make sure that their entire Council is inline with their thoughts because even it's - well, I'm just a Chair and this is just a three or four of us getting together as Chairs, the Board is going to perceive that as the community feeling that way. And so we need to consider how others take the comments that we as Councilors make or we as individuals make.

Stefan Van Gelder: Thanks (Jeff). And I have Wolf, (Bill), and Edmon.

Wolf-Ulrich Knochen: Thank you. Just a small thing to say to (Jeff). Thank you. I agree to that and I think that it's a discussion which should be deeply continued on a stakeholder group level. And I'm sure you did that. So after that meeting, if in case, you follow up for example, your stakeholder group - members of your stakeholder group didn't follow with that what you mean and this is should be done on that level.

On the other hand, I can't understand (Bill), what he was saying, that different stakeholder groups are treating their Councilors in a different way and the behavior or the habits of how to discuss on Council level and to vote in Council level in different ways.

And I would like to see that, understand that, because, you know, different groups representing the community, the GNSO community here. So I would like to keep that flexible (unintelligible). But keeping in mind, for the Councilors that we have to come to conclusions. We should come to conclusions at the end but - just discussing and doing something but come to conclusions. And to be open-minded to our - in doing that.

And that brings me to the point which is also on the agenda, what the Councilor should not do in my mind because if he, from my perspective, it could really keep that into consideration so it may help us to be more effective towards what we should do.

So from my experience I have two examples. One is product integration (unintelligible). It is that point when the Council was discussing a, to put forward the report from the working team to the board.

And I'm not of the opinion that the Council only issued let me say the kind of speaking up for this in the, in the report and just sending it to the board and saying okay, the working group isn't that (unintelligible) rather than the Council should by pack its own opinion with regards to what is the opinion with regard to that report.

But just delivering a report towards the board is not enough for me and the result was very surprising that the board decided without asking the Council and took the decision about vertical integration, so that was really surprising to me, so and that's really a danger for me toward the role and the awareness of the Council on board level for very important issues.

The other thing is also what I think the Council should not do is just like I pointed out, the last meeting was for me was a mess, you know because there was no results. So that's what not should happen really. So and we should really think about you know, how we could overcome such a situation. Thank you.

Stefan Van Gelder: Thanks. (Bill).

(Bill): Respond to Jeff. Two pieces of this, one is with regard to dinners, you will be on the Council, you will find out quite directly that as people were saying it's a very informal conversation, people are drinking and chatting and hanging out, and when somebody from award and a board position has ever asked me, and then usually it doesn't happen, what does NCSG think about X.

If there had been a clear consensus among members in our conversations about that I'll convey that to them but that's not really the function of the dinner. I mean I don't think that they, I don't think that the board comes to dinner with us, I might be wrong, but I don't think the board comes to dinner with us just to sort of poll where our stakeholder groups on each specific policy issue.

It's really a much more getting to know each other kind of thing, so that's part of why I think it sounds kind of funny.

On the VI thing, and this does go to the kind of differences between stakeholder groups, and I know we'll be concrete. So for example in the case

of NCSG we had (Milton) and Aubrey, I can't remember who else was in there, within our group we had a diversity of view points. We had no fixed consensus within NCSG on VI.

There were different factions of the 200 or so members that felt different things about it and (unintelligible) in our listeners' conversations and in our monthly calls and so on and so forth, and I think that some people aligned with one view that one of those two people was articulating. Some people aligned in another view.

So I think when they made representations that you know, they felt X and Y you say are you just speaking for yourself. At some level they are speaking for themselves but there are people behind them who have expressed support for that idea. But that's the most we can do in a context like NCSG given the diversity of interests, the nature of the players and so on.

It's not like a private sector stakeholder group where you've got a whole bunch of firms that are in a fixed kind of market position and are likely to be able to have bounded set of interests around something. We've got a vast diversity of interests at play.

So it simply has to be understood, different stakeholder groups are going to operate in a little bit different model. If that is difficult for you because I understand fully the desire for clarity about who the hell you speak for, then the best I could say is raise that point at the time and try to get people to be as clear as possible about it. But I don't think we can mandate some fixed set of rules that are going to be equally comfortable to each stakeholder group with regard to that kind of an issue, personally.

Stefan Van Gelder: Thanks (Bill). Can I, one of the things you said early on reminded me I should perhaps make a clarification that Jeff is on the Council now as alternate for (Caroline) and there's also (Constantine O'Sabry) but should be

here but is held back in Europe with the weather who will be acting as alternate for Rafik. Thank you. Sorry, lost my (unintelligible).

Edmon next.

Edmon Chung: Yeah just a quick comment adding on what Jeff said. It seems like, you know Jeff mentioned that we should, you know how we should present to the board but I think it's probably also equally important that the board has that perspective in mind as well.

I don't know how we can act on this but you know the board perhaps needs to be, especially you know, new board members or you know coming in from non-com or some other places they might want to, they might need to know, you know, what counselors, as in GNSO counselors, are you know represent and what their roles are before making sort of, you know creating their own perspectives about information they receive and their interactions.

Stefan Van Gelder: Thanks. I had Alan next.

Alan Greenberg: Okay. I guess I find this discussion interesting as the ALAC liaison I would suspect that somewhere above of 95% of the discussions held in Council I have not been given any direction on.

Every once in awhile there is something which, where there is direction and I'll make it clear, and the rest of the time I'm either speaking somewhere between my own, on my own behalf or what I know to be the general directions from at large and you know usually I'll try to make it clear if it's important which it is.

But it comes down to the stakeholder group or the advisory Council like, naming someone who they believe is going to speak well on their behalf, not necessarily purely as a robot echoing the words.

If you elect a loose cannon to be your representative on Council you get what you deserve. Maybe some people want that, but the bottom line is it's going to vary over the groups and it's going to vary over time. On the VI group, which probably has the largest number of counselors on it of any working group I've seen, virtually everyone said I'm speaking on my own behalf.

We had registrars presenting completely different opinions from each other. We had registries doing that. We had at large you know, several of the at large people were on the free trade and the others were on the most restrictive proposal that was there.

That's the nature of that kind of beast and if a director at a dinner says what do you think about something they should realize that all of them will prefix everything they say, this isn't the board position but, and it's got to be the same for us unless we're really speaking on behalf of, which sometimes we are.

So it's going to vary, I don't think we can have any rules and when people pick representatives they should pick them carefully.

Stefan Van Gelder: We have ten minutes to go on this. I have Jeff, Tim, (Jamie) and Olga.

Jeff Neuman: Yes I think two things, one is, you know it's not if some topic just comes up at a dinner that spontaneously comes up I understand that, there's not much you can do. But VI was a planned topic because you do go into these dinners with planned topics of conversation, and now it may be different because there's actually a GNSO Council board formal session I think that's not an affiliated dinner.

But they were planned topics there and if I were to do something differently it was, I would have never let vertical integration be a topic, a planned topic to discuss at the dinner. I think that was a mistake and I think it's something we can learn from because it was an ongoing policy process.

And like I said if things spontaneously coming up during a drink it's going to obviously you can't do anything about that, you know, just be clear as to who you're talking on behalf of, if it's just yourself then say it.

This is actually, sorry which Wolf mentioned this, which is a separate topic which is say which is what is the role of the Council when you get a fully developed report from a working group what is the role of the Council and forwarding that onto the board.

Is it really just you know, a kind of a rubber stamp forwarding it on or does, should the Council actually have deliberations about the substance of what's in there. I think that's a very important conversation because I think the more, the larger the role the Council wants to take on in that the less of an incentive you have to others to participate in a working group.

I actually believe a little bit differently than Wolf which is I actually think the Council should make sure the process was followed, make sure it had the inputs, make sure that the report reflects all of the opinions that were expressed, make sure that you know, all the process was followed.

But I don't think at the Council level there should be horse trading or anything else on individual recommendations, I think that's why you had the working group do the work it was supposed to do and hopefully there's a strong enough chair that is able to portray things in a report as to yeah, we know this working group but 80% of the working group were registries and so you got to kind of, you got to make sure the chair did a correct balancing of the different opinions.

But at a Council level I don't think that there should be that much discussion and deliberations on the conclusions, otherwise why participate in a working group, it's just, you're just going to have, because remember you talk about elected officials, each stakeholder group in theory elect people or can elect

people to go to a working group so they could be elected officials there too as well. There too as well, sorry bad English, and I'm an English speaker. Oh thanks.

Stefan Van Gelder: Tim.

Tim Ruiz: Yeah that was my feeling as well. In regards to the report that we get back from the PDPs or at times it might be other processes but primarily the PDPs that the Council's job is not, should not take on the responsibility of adding their personal opinion, whether it's the Council the opinion or the Council (unintelligible) whatever to that report that it's management of the process, make sure that the process was followed.

That you know for example we talked earlier today about working groups where they started off all kind of hot and then it all trailed off and maybe in the end there's maybe two or three people actually active.

I think that should raise a red flag to the Council is, you know to make sure that there is some consensus here and that there was appropriate representation, etc., for the recommendations that are being made and not you know, editorializing on the recommendations themselves or making changes.

And then I think that gets to also something I think that we don't do well at in that regard. And I don't, at least from my perspective I don't see us as a Council openly discussing those kinds of things, you know, when we look at these reports you know are we, are we examining them for was there, was everyone, was the group well represented by the stakeholders in the community.

And you know what was the processes that were followed and how was consensus gauged, etc. Those are the kinds of things that I think we should be looking at, and that takes some time so we can't get a final report from a

working group one week and then it's two weeks out from our next meeting and then we have a motion and we decide to vote on it two weeks later.

I don't see how we can do that and say that we've, we filled our responsibility as a Council on managing the process. Some time needs to be given for us to discuss and evaluate that report a little bit more fully. But I think that's our job, not adding our own thoughts to the recommendations or changing them at all.

Stefan Van Gelder: So I have (Jamie), Olga, Rosemary, Alan and Christina and (Bill) as well? Yeah. And (Bill). Can I cut it off after that Marilyn? Marilyn did you want to? Okay and Marilyn and then can I ask everyone to be quite brief because we've got five minutes left. Thank you.

(Jamie): Well this is (Jamie) and first I would like to say that I agree that the Council is policy body, it's not a politics body, so and it reacts to initiative that come from the (EFG), so and it's, the work back to the (EFG) is in the form of working groups, but I would like to share with you some, a thought.

I think we have much more participation in the Council than in the work groups and this, except for the VI or the very momentous issues I think as a whole that this sometimes empties the working group representativeness.

So this is something that we should keep in mind to see if the transparency and the far reaching work of the policies make and is taking place and I think also we should keep this in mind.

And I don't think we should as the Council members bring or there is a very formal procedure and we are a voting party as representatives. But as a joke I would say that you're giving some identity problems to me, am I an individual or I am, am I only a representative and while sometimes we disagree and I personally disagree with Wolf.

But here we are representing the same group but I think the role of the Council is strictly policy making and we should not add personal opinions and only vote forward and forgive back the work to the, and see if the policy making is being kept, that's what we should do.

Stefan Van Gelder: Thanks (Jamie). Olga.

Olga Cavalli: Very briefly three of us in the Council we are NomCom (unintelligible) and it may seem easy for us, we have different backgrounds, we have different experiences for some reason we're interested in GNSO or we were selected by NomCom.

And I want to tell you that it's quite challenging because many of you already have an idea of each of the issues that the Council is going to work on but we have to make out minds and see from our experience and from what we have to read and understand from the Council how to vote and what to say and what to proceed.

So we are kind of independent in (unintelligible) but it takes a lot of common reading and we are three members, two of us have vote and one is a non-voting one, and (Terry's) not here with us and (Carlos) couldn't make it today and (Andre) and myself. Thank you.

Stefan Van Gelder: Thank you Olga. Rosemary.

Rosemary Sinclair: Thanks Stefan. It's issues and I was going right back to the beginning of this discussion. It's the role of the Council is to focus on GTLD policy and coordination and then GNSO as a whole is looking at governance and management then I'm just thinking this through, then perhaps some of the issues that we're dealing with, some PDP and travel and toolkits and so on belong with the GNSO as a whole.

If they do then what's the decision-making process to say that's our GNSO policy on travel say for our stakeholder groups. So it's, you know we may need to have that discussion if we're clear that Council is focusing on GTLD policy matters and GNSO as a whole body is looking at our own governance and stakeholder management issues.

My second issue goes to this question about in regard to transparency and consensus. If there's no role for GNSO Council to review decisions in any way then we would need assurance when reports come back to Council that consensus has been achieved across stakeholder groups before those recommendations come to Council.

Stefan Van Gelder: Thank you. Alan. And please make it very brief.

Alan Greenberg: Rosemary started talking about some of those things but I think our position may be a little bit different. Council is the only real vehicle linking together the stakeholder, the various stakeholder groups, and it's the only vehicle that can act as an intermediary between the stakeholder groups, the constituencies and the rest of ICANN.

So Council does exist, so there is not, and I don't think we want to build another body to do travel policy or something like that. And increasingly unlike the situation when the new structure of Council was proposed AC's and SO's are being asked for opinions from the board, from other organizations on an increasing basis and we don't seem to have a real way to do it.

The AC's, it's interesting the questions that are asked of the AC's and not of Council's they're asked of BSO's, but the counselors are the only vehicles there that can speak on behalf of, and somehow we have to be more nimble and be able to respond to these kind of things. I don't know what the mechanism is but we've got to do a better job than we've done to date.

Stefan Van Gelder: Thanks. Christina.

Christina Rodriguez: Two points, first I agree that we need to have some kind of mechanism that we've all agreed upon for assessing the working group reports when they get to us, and I'm just curious Jeff, is that something that your group is working on?

Jeff Neuman: I think that's, speaking on the steering committee, yeah it's between the two teams, the working group work team and the PDP work team, yes.

So I agree with what Rosemary said that there needs to be a definite indication to Council as to, to whether or what type of consensus was reached in the working group, yes.

Christina Rodriguez: Okay. I was thinking more along the lines of kind of coming from the points that Tim had noted and actually some that I had raised in Brussels when we talked about the (RAP) group, namely, you know, how many people actually participated, you know of the people who actually participated how many of them actually voted on the reports just to get a sense of, you know how broad that consensus is, who participated and how broad the participation was and the like.

And if that's not something that is going to be coming out of that group then I think it's probably something that Council or someone somewhere needs to be working on to try and have kind of a standard yardstick.

Jeff Neuman: Yeah and most of the reports that I've seen to date have all the attendance and have everything, all the stats that are in there. It's kind of hard to make a subjective determination as to well if someone doesn't show up for the call that doesn't necessarily mean they're not following the lists and making their opinions known. So it's kind of a subjective determination but yes.

Christina Rodriguez: Okay. And then the second point, which is kind of off point, but I don't know that we're going to have another opportunity to raise it and I just want to throw it out there for people to consider, it seems to me that in the time that I've been on the Council we've become increasingly more polarized.

And there seems to be a lot less substantive communication among us both before motions are developed and proposed and while discussions are ongoing and frankly I think that that is having a negative impact on the quality of what we're generating. And I think we should think very hard about what opportunities, what mechanisms, what can we put in place that makes that kind of cross informal communication a lot easier.

In other words, you know I shouldn't have to say well gee I need to talk to (Mary) about something so let me see if I can track down her phone number and then I'm going to have to make a long distance call that I'm going to have to pay for.

And you know, maybe there needs to some kind of standing number that's available to the Council for people to say I'd like to use this to have a call to talk about this particular motion and what my concerns are, you know at this point I have particular concerns or want to talk about what the NCSG perspective is or what the registry stakeholder group is, you know but of course anybody who wants to you know on Council who wants to participate is welcome to join.

So that we just have an opportunity to actually talk to each other because I think it seems as if by the time we actually get to the point that we're voting on motions in many cases there's a lot of misunderstanding that have become firmly enough entrenched that it's difficult to overcome.

And in some cases it may be just a clear misunderstanding about things that could have been done more easily, just given the example of the most recent meeting, which I missed and I was listening to the recording and I got through

the recording and I'm like I can't even believe that they voted against the DOI motion.

This seems to me that it's something that everybody agreed on substantively needed to be dealt with and if there had been an opportunity to communicate ahead of time about what people's issues were this would be done.

Stefan Van Gelder: Thanks. We're over time now so please keep it very brief (Bill) and Marilyn.

(Bill): Briefly. Christina I certainly agree with you that more communication is necessary and would help a great deal. I disagree with you and we've disagreed about this before as to how polarized and divided things are. I don't personally find Council to be (unintelligible) of stress and dissension that you do, and I'm not sure how to bridge those differences in perspectives.

Christina Rodriguez: It's more, it's relative. I'm saying it's relative. It's more so than it used to be.

(Bill): Well people have different perspectives on some important issues and I think that's natural.

I'm having a real problem with what (Tim's) saying because the notion that you know when a report comes through we should all just zip it and shouldn't air our personal opinions and so on, that doesn't work at least for us.

I mean you know maybe it's true it should be the case ideally that in every working group and there should be ample representation from each stakeholder group that would've been in constant communication with all their peers and then hence everything that would've come out in the report would've had the complete consensus and buy in of everybody before it even came to Council.

But the reality it isn't going to work that way a lot of times. And in a lot of cases, you know, when the final report does come out the text is something that when we look at it from the perspective of our stakeholder group of somebody else does somebody has issues with it, and if they have issues with it then expressing what those issues are is not some sort of extraneous or illegitimate activities.

So it's a way of explaining this is why I would have trouble voting for this, my stakeholder group wouldn't support it and I seek X, Y, Z changes, and I think that that's reasonable.

It's like when legislation comes from a congressional committee up to the full house to be voted on, you know it eventually you know, you have different layers and that's (unintelligible) and working group, I guess I don't think that's for us to do I think for us to note then back to the working group and say here's why this isn't going forward at this particular point and let them have a chance to re-look at it.

But because if it's not going to work then we need to think of another process because for example if we're going to go to that route then we're eventually going to sneak into where why use working groups at all, maybe the Council can just decide everything.

You know we'll have discussion, we'll take a vote and we're done. It'd save a whole lot of time but I don't think that's really the point and a lot of times the way the Council would vote isn't necessarily what we find comes back out of these working groups. So let's send it back but I don't think we should make the changes and send it forward.

Stefan Van Gelder: Guys can I cut that short because we're way over time. Can I just before handing it over to you Marilyn just say that I'm, it's been an extremely interesting conversation that some of the points that I get I've written down.

First of all we maybe we ought to decide whether we want to have a session like this again at the next meeting. I think it's been very useful and I think absolutely we may want to have a look at scheduling another one.

I also would like to get some sense of direction on whether the Council thinks it's a good idea to have some kind of informal process to talk to the group chairs. And I'd also like to have some input on (Christina's) idea of having a standing, some kind of standing number for informal group calls. So perhaps that discussion can be taken to the list.

Marilyn please conclude.

Marilyn Cade: I, you know I just want to say that one of the things I was looking for, and I think we finally begin to get there is a discussion among yourselves, and I think this has to go back to the stakeholder groups and the constituencies, but a discussion among yourselves about whether you're, you actually are satisfied with the proposed approach to working groups.

Whether you're finding that they are balanced, representative, effective, that they have sufficient input at the beginning in terms of fact-based information, that people can make decisions.

But the second thing I would ask you to think about and think hard about this is you know at one point we fought very hard as a larger community to limit the board's ability to make policy. In fact we wrote in a limitation that the board could only make policy in exigent circumstances and that within X number of days they had to come back to the community.

You had a situation on VI where you know I think you have to ask yourself, because I'm asking myself, do we actually have a failure of a different kind, and that is that the board usurped your role and instead of sending it back again and saying dear GTLD, GNSO Council you know go back to the

drawing board we're going to give you another chance. Instead they made policy.

So I will just say to Tim and to others about you know, I don't think you can rubber stamp a report. I think you have to, that's your job as managers and governors of the policy process to add value.

I don't think you can take it away but you need to ask yourself what's the exigent circumstance in which you would put a temporary policy recommendation in place and send it back. And I don't hear that, you know I think that's a discussion you guys have got to have.

Stefan Van Gelder: Thanks Marilyn and thanks everybody. Sorry to run over. The next session starts at 12:00, the toolkit discussion that will be chaired by Olga and after that we'll have a working lunch on the (Rec 6) motion. Thanks very much.

I forgot to tell you that all counselors please see Glen for your badges and t-shirts. Don't forget to thank Glen.

Man: (Unintelligible).

Stefan Van Gelder: I, yes technology. This is what happens with good technology. It gets copied.

END