

**ICANN Costa Rica Meeting  
NCSG Meeting Part II- TRANSCRIPTION  
Tuesday 13th March 2012 at 16:30 local time**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Coordinator: This call is now being recorded.

Woman: (Unintelligible).

Robin Gross: Okay that'd be helpful. Thanks.

Alain Berranger: I've got the acting constituency chair meeting as usual. Can somebody look underneath the table for anything if you find something which answers to the name Alain Berranger. No? Okay.

Woman: (Unintelligible).

Alain Berranger: I said I've got a acting constituency chair meeting.

Robin Gross: Okay so let's get started. We want to primarily go over the issues that the GNSO Council will be voting on tomorrow and try to nail down where we want to come out on these issues and what is our agreed path forward. And then we'd like to hear from the - the NPOC proposal on the Red Cross and the Olympic Committee.

But first let's first let - go through the motions that are on the table for the Council tomorrow so we've got some understanding of how we're voting. Okay so there's a motion on the initiation of a policy development process on thick Whois. It was made by Stephane, seconded by Yoav, amended by David.

Okay. Resolve the GNSO will initiate a PDP on the issues defined in the final Whois - excuse me the final issue report on thick Whois. Resolve DT - I assume they mean drafting team - will be formed to create a charter for the working group which will be submitted to the GNSO Council for its approval. Resolve following the approval of the charter a working group will be created for the purpose of fulfilling the requirements of the PDP.

Okay so councilors, in particular, but of course we want to hear from everyone. How are we going to - you need to - thinking we ought to vote on these motions? Wendy.

Wendy Seltzer: We discussed two points so I think we are inclined to vote against this motion as it is. Why start a PDP on thick Whois when we don't want thick Whois and it applies only to one registry, namely VeriSign.

And yet we also discussed would we want to - since it takes very little to start a PDP and this is likely to pass would we want to instead amend it so it became a PDP on thick Whois everywhere as supported by the issue report rather than just thick Whois for the incumbent registries so that thick Whois - are new gTLD applicants to use thick Whois and then make that a matter of GNSO policy rather than just contractual agreements.

Robin Gross: Great, thank you for that, Wendy. Bill.

Bill Drake: Oh I sound like Konstantinos.

((Crosstalk))

Bill Drake: No I don't. You know, to be honest because this is basically - I mean, the battle is already lost to a substantial degree with the new gTLDs and so on, you know, just about VeriSign, you know, I almost at this point feel like we're voting no on the principle that we don't like thick Whois but it has almost no impact and signals nothing by doing that.

I'm more than willing to vote that way anyway but if you could think of some alternative to the amendment that made it less annoying - but I can't imagine really how even generalizing it makes that much difference.

I mean, I mean, the point is is, you know, this is going to go forward and it's not a vote on whether you like thick Whois, right? It's a vote on whether to simply harmonize at some level a set of practices. I don't know how much it matters.

Robin Gross: Wendy.

Wendy Seltzer: Well as for making it less annoying I would think that a PDP scoped to the entirety of those who are going to be implementing Whois in the future has the option of saying thick Whois is not required which is less annoying to me.

Bill Drake: What do you think the chance of that outcome are? Anyway if you wanted to put forward an amendment like that, I mean, I would certainly be fine with it. Mary is...

Robin Gross: Mary.

Mary Wong: I like Wendy's idea for a number of reasons - two reasons at least. One, I think wasn't there a point someone has said in our group - it might have been Wendy or Avri or both of them - that the requirement of thick Whois for the new registries - the new gTLD registries did not go through the GNSO process, correct? So I think that's one substantive reason.

I think the other one is probably more strategic because we could then reintroduce the motion specific to, you know, after the program launch or the application window is closed or something like that. So I'm not - you know, I like the idea in concept but I think these are some supporting reasons for it.

Bill Drake: It seems unlikely to pass. We haven't discussed it with anybody. Don't you think people would can it? And if they - I mean, that's fine. Let's do it but then if they can it do we vote no on the original then?

Wendy Seltzer: For the record that would be my plan. And since we were the ones who deferred this to this meeting I think it is appropriate that we raise a new motion changing it.

Robin Gross: Thanks, yes, I think that sounds like a good path forward. Does anyone else have any other suggestion on this particular motion?

Bill Drake: Do we need to form like a - I think we're going to have several amendments. Do we need to like sit together and do drafting later or how do you want to do this?

((Crosstalk))

Bill Drake: You want to just go off asynchronously, independently and then email each other with these things?

Wendy Seltzer: Yes, yes I think so that's probably a good way.

Bill Drake: All righty.

Wendy Seltzer: As we haven't sat together yet today.

Bill Drake: So everybody...

((Crosstalk))

Robin Gross: ...together at music night.

((Crosstalk))

Robin Gross: Okay. Rafik.

Rafik Dammak: Maybe just to summarize. So we will try to make some friendly amendment and then we will vote no or what?

Robin Gross: So if the friendly amendment is defeated and the motion stays as it's currently drafted we vote no. Okay we'll summarize this as we go. Okay great.

So let's go on to the next issue that will be voted on; the approval of a charter for the locking of a domain name subject to UDRP proceedings PDP working group. Joy, can you speak to this issue and give us some guidance please?

Joy Liddicoat: Sure, thanks. So this is the draft charter of a working group - I mean, the discussions among the drafting team have been perfectly amiable. I've had a lot of feedback from the NPOC just - basically supporting this and so that's all good.

And I've heard no objection on the list for any of it so what we are looking for is a seconder. So in the event I think Thomas - is it Thomas - indicated to me he might be interested in seconding it informally. I can't recall. But if we do need a seconder then, you know, perhaps someone can volunteer to do that.

Robin Gross: Thanks - thanks, Bill. It shows on the Website it was seconded by Carlos Aguirre.

Joy Liddicoat: Oh okay so Carlos...

((Crosstalk))

Robin Gross: That's what it says in the GNSO Website.

Joy Liddicoat: Okay. I don't now. Okay...

((Crosstalk))

Joy Liddicoat: You get to pass out.

Robin Gross: Thanks. Thank you all. Okay any other...

Joy Liddicoat: So we vote yes.

Robin Gross: So we vote yes. Thank you. So we vote yes on the UDRP proceedings PDP working group.

Okay the next motion - motion to approve cross community working group principles was made by Jonathan Robinson; seconded by Jeff Neuman. Resolve that the GNSO Council hereby approve the draft principles for cross community working groups for its own guidance and requests staff to disseminate them to the chairs of the SOs and ACs making - asking them to provide input to the GNSO Council in 60 days on both the principles themselves and the route forward for community-wide adoption or development of a related set of principles for the operation of a cross community working group.

That's seriously all one sentence?

Resolve further the GNSO - oh thanks - okay. So how are we - what are our thoughts on this one? Mary?

Mary Wong: I had a thought on the first resolve - the exceedingly brief one that you just read. I think in light - and this may or may not be moot depending on how we decide to vote. But in light of the discussion that the Council had over the weekend and the feedback and the blowback that we've been getting from ALAC and other groups of oh the Council is trying to tell - the GNSO is trying to tell everybody else what to do.

I think it's actually worded too strongly. I think - if we want to suggest anything to this motion I'll actually say something like requesting their feedback as to the way forward and how they believe these principles might apply in their community; something like that because right now it just looks like the Council is trying to tell people you've got 60 days to tell us something otherwise we're going to impose it on you.

Robin Gross: Bill, you look like you have something to say.

Bill Drake: Well, you know, I'm the one who caused trouble on this one for a while because it was back in the day of JAS when everybody was, you know, people were being very indignant in the contracted party house in particular about the ways the JAS process unfolded and how ALAC was - and the JAS itself were acting etcetera.

So if you recall, I don't know, three, four meetings ago or more, Avri, I think Rafik, I can't remember if anybody else raised a number of ways the problem of, you know, why there couldn't be a somewhat non uniform charters, the possibility for people to work on different elements and so on and so forth.

But, you know what, at this point I feel like we created this - we dragged this out, we created the space for ALAC people to come in. I encouraged ALAC people to come to the meeting and speak their peace about it. They did. The Council heard them.

I think everybody knows that, you know, should any cross community working groups be formed that they're going to have to negotiate the fact that the Council's tech says we'd like a uniform doesn't, you know, bind other SOs and ACs at the end of the day. So at this point I don't really see the point of fighting over this anymore. I mean, I think, you know, fine we raised the issue, we created the space. People have had their say.

If the Council wants to follow the drafting team plan, which I don't really see that it has any particular negative impact. And Jonathan was a good - was an honest broker about it. So I'm perfectly prepared to just say fine, just go with it.

Robin Gross: Okay any other thoughts on this one - the cross community working group issue? Rafik.

Rafik Dammak: I am really tempted to vote no because it (unintelligible) mess that happened and the accusation by that one - that person from the contracted party, call it, Jeff Neuman. I'm still not convinced by what's the proposal there but I will follow what NCSG members would decide given I am really tempted to vote no or at least abstain.

Bill Drake: Rafik, if it still bothers you that much we could propose an amendment to put back, you know, the (unintelligible) phrase which I insisted on at the beginning that the drafting team then took out of, you know, the uniform charter when advisable or as advisable or something like that.

If you want - if this really bothers you enough to want to propose an amendment like that certainly I'm sure we would vote for that amendment. I think - I don't know whether anybody would support it in the other houses. There were people way back when like Jaime who's no longer on the Council and others who favored that as well; if you wanted to try that.

But, I mean, to the point of just voting - I mean, why - if you want to change it why don't you propose the amendment to soften it? It's up to you but I just - that'd be my...

Robin Gross: Any other thoughts on this one? Okay. I guess, Rafik, you want to think about if you want to propose some amended language or - Mary has something to say on this, yes.

Mary Wong: I'm just wondering - and others can help me remember - I think there have been some attempts in the past that - when something was proposed that changed the substance of the motion. And I think in this case it would be actually changing the sections of the principle. That somebody said it's a new motion, they asked to defer it again.

I'm not sure that anybody is going to do that. But going to Bill's point, you know, let's just put it to bed. So that - for what it's worth.

Man: (Unintelligible).

Robin Gross: Okay. Any other thoughts on this one? All right let's get down to the big issue for - of the - for voting on tomorrow which is the motion to recommend special privileges for the Red Cross and the Olympic Committee. And I'm not going to read it because it's like four pages long.

It was made by Jeff. It says here it isn't seconded by anyone. And I know there have been - it will be seconded and there are amendments currently in the process; is that right, Konstantinos? Why don't I just kind of turn it over to you as a member of this drafting team to give us an update of where this motion is.

Konstantinos Komaitis: Yes, thanks, Robin. There is a new version that was circulated some half an hour ago basically the changes under Recommendation 2. And the Recommendation 2 current now reads, in addition - no the GAC has

proposed that the IOC and RC-RC names should be protected in multiple languages, all translations of the listed names and languages used on the Internet.

The list of protected names of the IOC and RC-RC have provided are illustrative and representative not exhaustive. The drafting team recommends that at the top level for this initial round the list of languages currently provided in Section 2.2.1.2.3 of the Applicant Guidebook are sufficient.

In addition the drafting team also notes that even in the unlikely event that a third party applies for an IOC or RC-RC term in a language that was not contained on the list the IOC or the RC-RC as applicable may still file an applicable objection as set forth in the Applicant Guidebook.

Basically the difference here is that simply because these two organizations decided not to provide a list that we are stuck basically with a list that the Board already included in the Applicant Guidebook for the other reserve names.

So this is the only change that has taken place in the motion. The rest applies as-is. Yes, Joy?

Joy Liddicoat: I'm sorry, wasn't there also a couple of changes in the preamble? Yes.

Man: (Unintelligible).

Joy Liddicoat: Yes.

Konstantinos Komaitis: Yes. There are also three whereas inserted. Whereas the GNSO is mindful that implementation of the Board's resolution is needed to be available before the end of the application window. Whereas the GNSO intends that these recommendations be solely limited to the IOC and RC-RC.

And whereas the GNSO recognizes that there might be a policy impact of the protection for the IOC RC-RC for future rounds and at the second level.

That's it. Basically those were the three whereas. And actually the last one - the potential policy implications was a great addition and it was done by Thomas. And it was something that we all accepted because there might be - at least this team recognizes that there might be potential policy implications.

And every - this goes - this is for - this was done because the GNSO - members of the GNSO better yet - feel sort of exposed through this motion and each of the floodgates that this might open.

Robin Gross: Thank you, Konstantinos. Let me try to get a sense for where the other stakeholder groups are on this issue. So NCSG is very much against this proposal as it is. And now we're starting to hear that maybe some registrars who are going to vote no. And do we have some sense on - Wendy maybe you - were you the one who was talking with the registrars or Konstantinos, were you the one talking with the registrars?

((Crosstalk))

Konstantinos Komaitis: Yes, nothing is confirmed. I - there is a rumor - there is a very strong indication - that I was even told by Mary that they normally vote in batches. But I was told that two at least registrars are not - are voting against this. Yes.

Robin Gross: Well but...

((Crosstalk))

Konstantinos Komaitis: But, I mean, right now we don't know. But this is what I was told...

((Crosstalk))

Konstantinos Komaitis: ...from one of the registrars. And I know that (Elliot) is working on something on this issue; I don't know what it is. Mary.

Mary Wong: Well, Konstantinos, I guess my question is what you were told by your source, who I shall not name for the record just in case. But is it that two registrars amongst the members are objecting to voting yes or is it that the two registrar councilors are saying they don't want to vote yes?

Because that makes a big difference since they always vote as a block. And I would be kind of surprised if on this one they break ranks. So I think it does make a difference whether it's two registrar members saying don't vote this way or two registrar councilors saying we don't want to vote this way.

Konstantinos Komaitis: At the time I was told that it was at the GNSO. But of course, you know, this is - nothing is confirmed; this is what I was told that two members of the registrar community in the GNSO would vote no - councilors - councilors.

Mary Wong: But can I - I'm trying to guess who those might be. I can collar them later. But the follow up point that I had is it still may not make any difference because the bylaws for the GNSO - this is not a PDP vote; this is a normal motion vote - a simple majority of the house.

And so I would imagine all three registries - again the registries vote as a block and this is Neuman's motion. So all three registries plus Thomas who is, you know, for this motion. That's four votes versus three in the contracted parties house.

Robin Gross: Do we have any sense when Lanre will be voting on this...

Mary Wong: Not with us. He's already voted yes as a member of the drafting team I believe or had some comments about that. So unless someone can talk to

him between today and tomorrow - but I haven't actually seen him. And also for further information whatever it was that the BC councilors may have said at the table on - over the weekend the indications - the latest indications I've gotten is that - it's probably not how they will be voting so they will probably be voting yes from the BC. And the IPCs already said they will vote yes.

Konstantinos Komaitis: Can I say something? Can we discuss then this motion without caring what other people are doing basically? I mean, this is you know, an NCSG issue so I suggest that, you know, irrespective of what everybody else will be voting for let's discuss what we do.

Robin Gross: Yes, it's just...

Konstantinos Komaitis: ...how you feel we should be voting.

Robin Gross: I was going to propose that if we believe we can defeat the motion let's defeat it. If we don't believe we can defeat the motion we want to defer it. So that's why we were - that's why we were saying, you know, how are others going to vote.

So it sounds like - you know, and it is kind of interesting that by doing it this way the Council can essentially create policy with a - with only a majority of votes as opposed to had they gone through the PDP process. But let me get Klaus and then Mary - Mary.

Mary Wong: I talk more than you, Klaus, I think you should go first.

((Crosstalk))

Mary Wong: No I appreciate it.

Klaus Stoll: To be absolutely honest I'm not so experienced as you are in these things. But I think - I (unintelligible) we vote no, refer it which would, by the way, hurt

the Red Cross and the IOC the most. No seriously they're okay with a yes or a no but they can't spend - with the refer, yes.

But the thing is I'm still waiting for somebody to explain to me what's wrong with getting away from specific names into categories. And if we could get a deal somehow, look, yes we vote yes under the conditions that in the second round a new set of rules will be applied along these lines.

((Crosstalk))

Robin Gross: Let me just sort of respond to that. It strikes me that if we do defer we can take the time to make the amendment and build the support in the community. I mean, I'm just sort of imagining...

Klaus Stoll: Yes.

Robin Gross: ...a way forward. So we've got Mary and...

Klaus Stoll: On this one I'm...

((Crosstalk))

Klaus Stoll: I'm not as experienced of these things as you are.

Robin Gross: Thanks.

Mary Wong: So, Klaus, I think that actually in the abstract that is an excellent suggestion. Just that from my limited experience here - and Robin and others have been here for longer - just because you've got someone to agree on a deal does not mean they will remember that they agreed on a deal when the time comes to deal.

So I would be very cautious about striking a deal on this one. Although I think it is something that we should be discussing how best can we achieve the objectives. And I think one of the objectives for us as a stakeholder group is to ensure that there is consideration of the NPOC proposal at some point.

Partly because, as we know, those special requests are not going to go away even if the first round is closed they're going to keep coming back for the second round. So I think that's a good opportunity to discuss the NPOC proposal.

And so I'd like to say that I don't support a deferral. I think I said this several times before. I think we should say that we would ordinarily defer but offer a proposed amendment which will probably be considered unfriendly.

And I would suggest that the proposed amendment take maybe one of two forms, I mean, one possibility would simply to say the modified reserve names proposal that has been suggested - lots of work, great stuff - really - actually a really cool idea but something to be considered for the second round.

And in that context then the NPOC proposal could also come in in terms of the criterion to be applied for requests that we know are going to come in. And the basis for that would be that allows the GNSO time to consider what would be the appropriate thing to do.

And in the meantime, as Avri has said, the IOC and the Red Cross are already protected. So that would be my first suggestion for the proposed amendment which I said before is going to go down in flames and then we can then justify we vote no on the rest of the motion.

Then I have a follow point which is somewhat different but still on the motion. I don't know what's happened to the idea to split the motion but to the extent that it is split it may be possible for us to vote no to the substantive things and

still suggest a change to the review mechanism which I think still stands at may be reviewed.

And I think all of us would want it to be shall be reviewed before the second round because then that will allow us to bring in the NPOC proposal again as well. I don't know if I made any sense.

Klaus Stoll: Just for your information on the - it puzzles me really how - how to say that frank and how corrupt some people can operate in this world. And I will give you an example what happened since we put the NPOC proposal on the list.

We received three or four emails already from people who are clearly associated with certain interests and who are basically interpreting the NPOC motion completely against legal precedence and the letter of the law so that it just happens to include the group they are representing.

And if that is the level we have to fight, I mean, boys and girls, I mean, sorry beloved, have we gone all mad?

Robin Gross: Welcome to ICANN.

Klaus Stoll: The law is the law. If somebody has the international definition of a term and then suddenly it will be changed...

((Crosstalk))

Robin Gross: I think it's also important we talk about the - one of the other reasons why we need to defer which is the principle of following the policy development process and hearing from all of the communities who will be impacted by this.

And, you know, we're out for public comment now. We're in the middle of public comment. I mean, what is going to happen with this public comment if the vote has already happened? I mean, it's a fait accompli.

So it really strikes me that a very, very unrefutable reason to defer is because we need to hear from the community. We need to close out the public comment period and then the appropriate time to have a motion and a vote on the issue. So I've got Bill and I've got Joy next. Anyone else?

Bill Drake: Just on the specific point of the public comment period it's just another one of the obnoxious procedural problems that have been associated with this entire escapade. And so at the level of principle certainly it's easy to say, you know, we should never be doing this before the period is closed.

In fact for reality how much difference is that going to make? Do you imagine that if we defer that in the time that is made by doing that that there would be a - a big upswing of fresh interventions by people that would be taking the conversation in a new direction and opening up new avenues or changing any minds or anything like that? I have to kind of wonder.

I just kind of feel like this has been going on for freaking ever. And really? We want to - I don't know.

Robin Gross: Okay let me get Joy and then I'll respond to your point.

Joy Liddicoat: Thanks, Bill. And, I mean, it is on this point that I was going to raise is what the public comment period which closes on the 23rd of March, right? And, you know, right now the resolution that's out for public comment is not the resolution that the drafting team is proposing to the GNSO Council.

So that does certainly make me more than a little uncomfortable with taking a motion - a vote on a motion on which there hasn't been any public - obviously there's no public comment because it's - it's a different version of the motion which is currently available for public comment.

Further I was thinking this, I mean, I don't know how these procedural things work in terms of a deferral but it didn't - I wondered whether a deferral until at least the end of the public comment period was possible or is it only possible until the next GNSO Council meeting? How does that actually work?

Robin Gross: That's a good question. Okay I got Milton and then Mary.

Milton Mueller: For me the only question about the deferral would be can you pick up votes on a deferral that you wouldn't get on a no? So, yes, what's the difference?

Robin Gross: So I've got - okay Wendy.

Wendy Seltzer: Just to answer that question a deferral pushes this out beyond the end of the period where it matters to anyone.

Milton Mueller: I understand a deferral would be a nice way to kill it. But if there isn't anybody that would vote for a deferral who wouldn't vote for killing it then we should just vote to kill it, right?

Robin Gross: Well we can't. We don't have the vote...

Wendy Seltzer: A single vote can defer it; it takes votes - multiple votes to kill it.

Milton Mueller: A single vote...

Wendy Seltzer: A single councilor can ask to defer.

Milton Mueller: Oh okay then it...

Robin Gross: So it's really very easy.

Milton Mueller: Why didn't you say so?

Robin Gross: Because that - everyone knows that.

Milton Mueller: I just - I just said do you pick up any votes by deferral and you didn't say we don't have to pick up any more votes because a single vote can defer.

Joy Liddicoat: All right next the question - the question is, you know, should we ask for a deferral. And I hear Mary's comment - I mean, I also, you know, I had worked to some extent as time permitted in the drafting team. And I think - I think we started out with some degree of good will and in the spirit of cooperation to try and craft something that was a workable solution to the, you know, poisoned chalice that we've been given.

And I think Recommendation 1, you know, was, you know, worked through and, you know, it's actually a workable proposal even though one might - even though I might disagree with it I think it's practically workable in that sense.

But I do have issues with Recommendations 2 and 3. And, you know, I think if I look at the - at the proposed changes that are going round within the drafting team they're basically on Recommendations 2 and Recommendations 3 in relation to saying only with the names in the Applicant Guidebook which was a major source of concern amongst EC - UC and EC - EC-UC - at least members of the drafting team and also - but no change to the may be reviewed; there's no change to the - it's still may be reviewed.

So, yes, I mean, I'm looking for guidance. I'm happy to take guidance on either a deferral or a friendly amendment (unintelligible) approach. A number of people have lobbied, you know, me at least in the last week since this - since Wendy raised the issue of deferral at the GNSO Council meeting.

Some saying, you know, quite privately, you know, that it would be great; others saying, you know, we can't possibly do that, it's going to destroy things

with the GAC. Others saying well, you know, the BC screwed us over on the outreach taskforce and all abstained and got deferrals and dah-dah-dah.

So leaving all that to one side I guess the question is right at this moment in time what does the best option? Is it to go for deferral or is it go for friendly amendment? And I did - I should also say that I started to draft some comments for a possible statement on behalf of the stakeholder group but I had got nowhere with them because I've been doing other things.

Robin Gross: Well it's - the more I think about this and hear the different views that are being expressed the more I'm thinking the way forward for tomorrow in particular is to defer and then take the time that we've got between the - when it comes up again in the next meeting to bring some discussion forward on the NPOC proposal, on the Portugal proposal and see what we can do to make this not so horrible because we know something is going to happen.

But what can we do to make this not so horrible so when it comes back up for a vote and it's got some of these other - so the community has in fact had a chance to have - put some input into this. So I've got a few people's hands up. I've got Wendy, I've got Klaus, I've got Mary. Anyone else? Okay.

Wendy Seltzer: Who will (unintelligible)? Everyone who has recommended deferral has not been sitting on Council. And we, sitting on Council, have all heard the furious allegations that we will be destroying our reputation within Council and outside if we - well that's a fair question. But still if you are recommending deferral who is going to pick that up?

Robin Gross: Klaus.

Klaus Stoll: How do you destroy your reputation you lost years ago? Okay. Just in practical terms if we go for the deferral we really have to come up with a good one. We really have to work like hell in getting that on.

And I think we can - I think there's a lot of people who are potentially interested in working with others and making these happen. And just for example with regard - and I'm changing now my hats - to Global Knowledge Partnership as the Executive Director I'm quite happy to make some resources available for that.

Robin Gross: (Unintelligible) Mary, please. Thank you for that, Klaus.

Mary Wong: Yes thank you. And I really, really strongly recommend that we consider deferral. I don't think it's a question of reputation. I think it's a question of being able to get people to cooperate when we talk about some of the things that NPOC might want to talk about.

There's no guarantee even if we defer that there's going to be that discussion whether now or for the second level. Because the second level fight is coming up and it's going to be horrible. And then it's going to be the second round fight.

So that's one observation now I'll make. I think the other observation is - and I don't know if this is going to happen and I haven't looked up the bylaws. I'm not sure that somebody is not going to come up and say well okay then let's have a special Council meeting at the end of the comment period and still that (vault) is going to pass because as we said you're not going to change how things go.

So at this point I say recommend again for deferral and I take Joy's point - I agree with it but if you look at Recommendation 1 in and of itself the likelihood that is really going to change anything for anybody at this point is really small.

And I think there is some leverage there for us with some of the other recommendations particularly the (need) to review that we might able to shift people. There's going to be a lot - there'll have to be a lot of discussions

between us and the other groups between now and tomorrow afternoon. But, as Wendy says, who is going to bell the cat and it's not going to be me.

Robin Gross: Okay so I've got Konstantinos and I've got Rafik.

Konstantinos Komaitis: Thanks, Robin. I think that this whole discussion and - well basically to answer to Mary I totally get what you're saying about the second level but this presupposes that if we vote no right now and the motion pass we're going to have people supporting us in the second level which you're not going to (having).

So it's going to be a bloodshed. I mean, the second level is going to be terrible. My problem with voting yes is Recommendation 3 which basically says that the protection extends - should extend to all future rounds.

Mary Wong: But that's why I said we wanted to - we want to amend Recommendation 3. And I think we might get some support for amending Recommendation 3.

Konstantinos Komaitis: Is it possible to sound people off on that between now and tomorrow?

Mary Wong: I think that there might have to be an email to the drafting team mailing list to ask. I mean, that's predicated on a split of the motion I think, right?

Konstantinos Komaitis: Because if we were to split the motion, I mean, your idea of splitting the motion, you're right, I mean, Recommendation 1 doesn't do anything if the motion is split. If the motion is not split then Recommendation 1 becomes extremely relevant because it applies in all future rounds. I think that Milton also wants to speak.

Robin Gross: We've got Rafik and then Milton.

Rafik Dammak: Okay. I'm still just trying to understand the strategy problems (unintelligible) Mary. So you think that we can - and then after we can have something from the other parties? Because in the three years in the GNSO I don't see any guarantee that we can - in many issue that we can get from other parties.

So we - I am just still thinking because you have two things; the matter of principle to defeat this motion and also after to defend for - as you said, for the second level. So we may lose in the two sides. So at least for the matter of principle let's defeat this motion first with deferral because we have to follow the process.

I still have that bad feeling when there was a complaint about that that we didn't follow process in the procedure and we follow it. So now we have this flow in the process that they don't want to wait for the end of the comment period. So how - why we encourage the other parties in this way? We can defer.

I understand that many are - how do you say - are afraid to piss off other. You can speak; there is...

((Crosstalk))

Mary Wong: I'm sorry, I just have to say it's not fear and it's not fear of intimidation. I really want that on the record.

Rafik Dammak: Okay but just, Mary, the problem that they have many times in the way how we are dealing it's the borderline between giving up and compromise. It's not compromise what we are doing it's just we are giving up again over again.

Joy Liddicoat: Is that an opportune - request for deferral or is that - are you saying that you would like - you would like to propose a deferral?

Rafik Dammak: You know, I get a lot of shit for many stuff but I'm just wondering because it's - look, everybody is (unintelligible) to do that. And I'm not sure; if I will do it what kind of support I will have.

Robin Gross: So I've got Milton next. Anyone else? And then Bill.

Milton Mueller: I just don't believe what I'm hearing. You've got a chance to kill something that you don't think should pass and you're not going to use it; I don't get it.

Joy Liddicoat: We're debating whether we'll use it.

Milton Mueller: Okay, we're debating whether we're going to - I mean, it's clear you don't have the votes to kill it by voting no. You're not going to get any amendments because you - the same people who are going to vote against you on the overall motion are not going to let you amend it in any way that's significant.

And you have this tool and you can use it to kill it. And what's - what again was the argument for not using it? I don't get it. It's that you're afraid that these people won't like you?

Robin Gross: Yes, what about the issue of public comment too? I mean, does anyone - do any of our councilors want to hear from the community on the motions that are on the table? I mean, is there a...

((Crosstalk))

Milton Mueller: ...public comment issue if you can kill it by deferring it why don't you do it?

Robin Gross: But here - but I'm - but this is an easy (unrefutable) reason to - to refute - to defeat it without having to say because we want to kill it. We can say we are deferring this because we have an obligation to the people who elected us, who send us here to keep them informed, to get their viewpoints, to engage them in this process.

That's a (unrefutable) reason to defer this. And every other stakeholder group uses the deferral process every time they want to kill something. I'm with Milton; I don't understand - but I guess Wendy is going to explain to us what exactly we have to gain by voting on this tomorrow.

Wendy Seltzer: Yes. We are trying to engage the GAC in GNSO policy development. We are trying to get - show the GAC that they should be going to the community and not to the board. We're trying to tell the GAC that the community has a process that works and reaches conclusions and isn't subject to petty hold ups.

And it's - I mentioned it in jest at Council because I didn't feel that I would make a deferral motion. I was trying to get Council to take deferral off the table entirely because I think it's a terrible piece of the mechanism. But I think that we have gotten too focused on voting and thresholds and not enough on consensus.

And frankly I think if we want ICANN to work we need to get back toward consensus. This issue has been driving me insane because it's been taking everything else off the table and sucking all of the air out of the room and any other bad metaphors I can pile onto it. But I don't think it's worth further weakening our ability to engage in policy making.

Robin Gross: Okay so I've got Klaus and Milton.

Klaus Stoll: Okay some of you know that I'm a Lutheran minister by profession. And the Lutheran minister says one thing. How about deciding on the basis of what is the best for the people we are supposed to represent? And I think that needs to be the basis of our decision. The rest is - and if we have to take the rough with the smooth then let's take it.

Milton Mueller: Okay so I understand the GAC thing. I understand that. I'm not sure I agree with it. But, yes, so the GAC throws a temper tantrum, says they have to have this, disrupts the process, is pandered to by the Board and gives us this steaming turd. And we're supposed to show that we're consensus-prone by I guess passing it just for that - just for that reason.

I mean, it doesn't strike me as convincing. I think you've convinced me that it's a harder decision than I thought it was. But I still think the right decision, as our Lutheran minister said, is to think about what's best, you know, what's the best result?

And I think the GAC would possibly interpret this as the GNSO being dysfunctional but might also understand - I think it would be more likely that the community as a whole as well as many members of the GAC such as Portugal and the European Commission would understand that this was just a bad idea and it got killed.

I say drive a stake through its heart. Build a bonfire, dance around, just kill it. If you have the power to kill it, kill it.

Robin Gross: Bill.

Bill Drake: I just want to make one small amendment to Milton's characterization. I don't think the GAC would necessarily conclude the GNSO is dysfunctional; I think they would conclude that we are dysfunctional because it would be us against everybody else.

Wendy Seltzer: They have already concluded that.

Robin Gross: I'm at a loss for understanding...

Milton Mueller: So this is double down on it, is that - that's the idea?

Woman: (Unintelligible).

Robin Gross: I'm at a loss for understanding what bad things are going to happen to us. We're already, as, Bill, you've pointed out, at the bottom of the pile here. So, I mean, come on; let's represent our stakeholder group. Let's represent the people that sent us here who's interests we're supposed to represent and do something good. Here we have an opportunity. Okay we've got Mary.

Mary Wong: I agree entirely with Wendy. And it may not sound too convincing to everybody and it probably doesn't. I mean, like, Milton, as you said, it makes the decision more difficult. And a lot of this stuff we don't actually know how people are going to perceive this.

I would disagree that it is about how we're perceived. I really think it would be a reflection on the GNSO. For example just one example that PDP discussion - the GNSO had with the GAC in Dakar that was tragic. The GAC already thinks that the GNSO is not only dysfunctional but it's incapable of doing anything.

And as Wendy says it goes beyond this issue. If it would make it more effective I would suggest that we work on a statement that we prepare that reflects all of these concerns especially the process concern, the public comment issue, the restarting of the clock issue that Avri has mentioned and not just have that at the Council meeting but read that out at the public forum and send it as a letter to the GAC and to specific members of the GAC.

Robin Gross: Milton go ahead but in the mic please?

Milton Mueller: Yes, that makes perfect sense. It's not like we don't know what we're doing when we're some idiot dysfunctional group that is just, you know, plain bureaucracy here. We know what we're doing. We are on very strong grounds both substantively and procedurally. We are right.

Robin Gross: And if I can just add to this, you know, if - they always say the best way to get a bad law changed is to enforce it. So I have not been a fan of the way deferrals are used on Council by every other stakeholder group except us.

So here's a chance to change, you know, if we think this is going to make people feel upset well great, then let's hear - we'll defer and they'll say oh we can't have deferrals anymore and then they can - the Council can finally put forth a change in this deferral process - this deferral mechanism such that it isn't used the way it is currently used.

But the idea that, you know, something bad is going to happen to the GNSO or to NCSG; we're going to be ostracized, I mean, keep hearing this. But we've already - that's where we've always been. I don't understand what negative thing is going to happen to us. We use the deferral and if they don't like it they can change the deferral process and here's their chance.

Does anyone else want to get in the queue on this issue? Milton.

Milton Mueller: Just want to say that I had a conversation with someone whose name I can't mention but who had actually been talking to the Chair of the GAC. And the Chair of the GAC thinks that the GAC is dysfunctional.

And I think that there's a lot of people in the GAC who think that the GAC is dysfunctional. And so the idea that the GAC is going to think the GNSO is dysfunctional if they vote this way...

Robin Gross: Everyone already thinks that. I mean, this isn't going to change anything. Anyone else want to get in the queue on this? Wendy.

Wendy Seltzer: Yes, I will make a strong statement about why I am refraining from seeking a deferral but I personally will not seek a deferral.

Rafik Dammak: Just to (unintelligible) clarification from Wendy; you want to seek for defer or you are refraining yourself from?

Wendy Seltzer: Thanks. I will not ask for a deferral. I will note that - I will make a statement that this was an option that I took off the table because I think it's more important for Council to be able to take action on an expeditious basis.

Robin Gross: Part of me understands why the Council is worried about the Council's reputation. But we're concerned - I think our primary concern should really be with the welfare of our stakeholder group and the rights of noncommercial users and the agendas that we're trying to put forward here.

So I think that, you know, the public comment period is still open. We've got an amended motion that nobody outside of maybe five or six people have actually seen. And this is a big deal issue. And it's going to be voted on. And the fact that we're not going to hear public comment and we're not going to intake that is in and of itself a broken process.

I mean, I would like to hear the GAC have to explain how it isn't dysfunctional for us to not have public comment before we have a vote on the issue. Yes, please and then Rafik.

(Kate Enderis): Okay you name is Wendy?

Robin Gross: Robin.

(Kate Enderis): Robin? Okay I am (Kate Enderis). And I'm a Fellowship recipient from Jamaica. I totally agree with your point because the overall aim of ICANN is to ensure stability, transparency and resiliency on - of the Internet domain system. So without public comments I don't see how is it that you are going to ensure transparency on the Internet? So I suggest that you defer and not go ahead with the voting.

Rafik Dammak: So - okay I'm trying still to understand why we need to please the GAC. I don't have any feeling for the - any governments. And okay to be nice and kind but that's not going anywhere.

And I'm just afraid that when we set this precedent that we don't respect the public comments so we don't listen to the feedback from the community that we are supposed to represent.

So what will prevent that won't happen again - again over again because those party who want to do this are not going to stop doing that in other issues that they want to go to - how to say - to - they want.

So if we don't respect the comment period that will be happen in other issues so that we should really be careful.

Robin Gross: Okay so I've got (Dramon) and then Mary and then Konstantinos.

(Dramon): Okay as much as I support your position (unintelligible) to member groups (unintelligible) input I think I would like to (unintelligible) Wendy can maybe share some of her reservations in the position she was taking (unintelligible) in certainly our position too.

Robin Gross: Mary? Okay.

Mary Wong: So a suggestion to the other members of the drafting team who are here - I think there is at least four of us here. Who wants to send a note to the drafting team right now to add to the questions to say so with this new revised motion can we all be confident that in - given the fact that the Council is expected to vote before the end of the public comment period that you will have had a chance to check with all of your stakeholders before the vote tomorrow.

I guess - yes, this is not - maybe not constructed to the final point we need to come to. But there is - the last version of the revised motion has not even been sent to the Council list or at least I think it's only been sent to the IOC...

Man: (Unintelligible).

Mary Wong: To the Council list?

Man: No, no, no...

Mary Wong: That's what I'm saying. And I'm looking at one from Jim from about 20 minutes ago which I think essentially takes Jeff's thing. And I suggest that one of us - and I can probably do this, I don't mind doing this, send a note to the drafting team to say so between 5:30 today - or whenever it was - so whatever this afternoon and tomorrow when the Council votes that we would have checked with our stakeholders.

Because they're going to have to say yes and therefore that's why the Council can vote. Because, as Joy says, this revised motion is not going out for public comment. Not that it needs to actually; it doesn't actually need to. There's no mandatory public comment for things that are not policy recommendations. And I'm going to - this is a technical process point.

But, you know, one still hopes that before the Council votes on anything that the councilors would have (unintelligible) from all the constituencies and stakeholder groups. And this is literally in a less than 24 hour thing. Don't we want to know from the rest of the Council that that's what they've done before we even decide to vote? And I'm happy to send that to the Council list now.

I also - when I asked about public comment periods and created a stink two weeks ago anyway.

Bill Drake: I'm not sure what you're trying to accomplish with that. I mean...

Mary Wong: I'm trying to give us a ground for deferral if you guys really want to do it.

Robin Gross: You're setting the ground work.

Mary Wong: Yes.

Robin Gross: Yes.

Bill Drake: Setting the ground work that's what I thought you were trying to do. So that seems like a good idea. But I - yes, that could be good.

Mary Wong: Although they could all write back and lie through their teeth and say yes, we've consulted.

Wendy Seltzer: Well our stakeholders group isn't going to be a position to have commented in the next 24 hours on this. So, you know, just because the five people in the IPC Constituency room have commented doesn't mean all - everyone else has.

Konstantinos Komaitis: I don't know - there is one point that I want to make here. This process has already set and it's setting too many bad precedents. And I cannot understand why - I understand that it has consumed a lot of time; not as much as time as it has consumed me, trust me, for many, many people.

But the point here is that we have one bad precedent after the other. So it is important on the basis that we have the - you know, we see the bottom up process becoming top down; we see the GAC lobbying the Board and the Board doing what the GAC wants.

We see the public comments not being taken on board. You know, we even had discussions within the group that, yes, let's forget all about the public comment period; we don't really care because this is on a technicality.

For me this is the important - the most important thing; it is not so much (unintelligible) recommendations and I understand that a lot of people might not share, you know, my anger with this recommendations. But when it comes to process this is a mess. And only on the process basis this needs to be deferred. Thanks.

Robin Gross: Thank you. Rafik.

Rafik Dammak: About the public comment just remembered now that for the JAS - for the final report of the JAS we made the public comment. We had comments from the Chair of the IPC complaining that the Board didn't take care of the comments about that final report and made decision before the end of public comment.

So that constituency which pushing for not waiting for the end of public comment was complaining before about the same thing.

Robin Gross: That's a very good point that the IPC has said in public comments before how dare you come up with a proposal before public comments have been taken onboard. I mean, you know, it just seems like they're rather selective in whether or not we want to hear from the community.

Does anyone else here have something to - Joy?

Joy Liddicoat: Okay so I guess, you know, what I'm hearing from across the stakeholder group and our constituency - what I'm hearing from NPOC and from NCUC is a request for deferral. That's what I'm hearing.

And I'm hearing Rafik say well if he proposes a request for deferral it wouldn't be supported. Well, you know, I for one, as your fellow GNSO councilor, yes, would support. I think if we make decisions then we should stand together.

But nonetheless I think it's fair that those councilors who for their own reasons have a particular viewpoint about the request for a deferral are able to express that viewpoint whether it's Wendy or (unintelligible). And I know Wolfgang is not here so it's impossible to know what he thinks.

But, yes, I've been elected by membership to represent the interest of the membership and what the membership is saying is that - and this seems to be a clear consensus across our stakeholder group that a deferral to be requested. Then, you know, obviously one has to be guided by that advice.

Robin Gross: Thank you, Joy. Mary.

Mary Wong: So picking up Joy's point I guess - and I appreciate that, Joy, and I think that's part of the beauty of our stakeholder group that we are not, you know, puppets of either our members or our chairs; not like some constituencies we could name so that's definitely a good thing.

I would think one way to do this I suppose is there have been very strong views expressed by a number of members and new friends to the stakeholder group and our new constituency. We probably need to think around some of that language that we might be using.

But could I then ask, you know, for purposes of that as well as for the record is this a consensus position of the policy committee? Because I think that's something that we need to be able to say if we're going to give reasons for the deferral. I think in this particular case if someone is asking for a deferral I don't think it should be just we want to defer; I think we have to have the statement and then make the request at the end of that statement.

And in that statement you can say it's rough consensus or something like that of the BC I think that's more informative for the record.

Robin Gross: Anyone...

Rafik Dammak: (Unintelligible).

Robin Gross: Yes, right, I mean, you know, I was just - Rafik just showed me the language in the Intellectual Property Constituency comment where how terribly inappropriate it was for them to do something without closing out public comments. I mean, frankly we could just read the statement from the IPC.

Klaus Stoll: So why don't you do it?

Robin Gross: I mean, this is what - this is what we do. We say as has been said by the IPC in previous comments and we read Steve Metalitz's word for word.

((Crosstalk))

Mary Wong: ...just say just...

Robin Gross: ...agree with themselves.

Mary Wong: Yes, just say this in many ways echoes statements that have been submitted dated X, Y and Z in response to a public comment period, quote, unquote. Don't even name them; they'll know who they are.

Bill Drake: I would name them.

Robin Gross: I would too because...

Bill Drake: I would name them absolutely.

((Crosstalk))

Bill Drake: Are you kidding? So who's writing this statement compiling all of the reasons for doing this? Okay, you want to take the pen on this and then circulate and

then we'll amend it and let's make it a group thing and fine. Do you still want to do what you were suggesting about outreaching?

((Crosstalk))

Klaus Stoll: Who is paying the bill for the heart attacks of the people who are representing the Red Cross and the IOC? You.

Mary Wong: And the rest of NPOC.

((Crosstalk))

Klaus Stoll: I said who is paying the bill for the heart attacks of the representatives of the IOC and - I mean, now I know why the ambulance is outside.

Mary Wong: So if this is the consensus if not unanimous position of the policy committee. I guess there's no need for me to send the tweaky email - eh - eh to the Council to say you guys sure you've consulted? I can just send that anyway since we're going to ask for a deferral.

Actually who else is listening on this call? Maybe somebody else from another group is listening in. I can send that email anyway. So just a point of clarification for those of you if I should send it and I think also the other point going back to Joy's point I think we really should make it clear that this was a difficult, difficult thing and there was not consensus amongst either the - some of the members or the policy committee and some of us may speak to that.

And I don't want that to come as a surprise to the members when it goes on the record tomorrow.

Klaus Stoll: Klaus. I just would say also for the record that the contributions are made were my contributions and not the contributions of NPOC as a whole because my acting chair at the moment was not available.

Robin Gross: Yes, no I think we're all - just sort of speak for ourselves here. Go ahead, Mary.

Mary Wong: Although I would say in this circumstance that someone needs to talk to Alain before we actually do this for obvious reasons based on...

Klaus Stoll: We will be in half an hour outside sipping a glass of white wine so I invite Robin or whoever wants to go over to the - in front of the swimming pool there is a NPOC reception and we can talk to him. Yes.

Woman: (Unintelligible).

Klaus Stoll: Everybody got invited but you had to reply because we are so cheap in NPOC that we brought the wine ourselves and didn't it buy it from - didn't buy it from the hotel so we needed to know how many people are actually coming.

Robin Gross: Did you make the wine yourselves?

Klaus Stoll: No but I know a very good family which is in (unintelligible) it's called the Family (Dome) and I recommend you to go when you come to Germany to drink our wine. And a lot of it and thank you for contributing to my pension plan.

Robin Gross: Thank you, Klaus. Joy.

Joy Liddicoat: Okay so I just want to be really clear about what happens next and what happens at the Council meeting tomorrow. So my understanding from the discussion is that a statement will be prepared. That there'll be a discussion

with Alain about the fact that the policy committee has agreed to go for - has asked GNSO councilors to propose a request for a deferral, yes?

And that that statement will be drafted overnight. And then - am I clear that it's Rafik who will be making a request for submitting the statement?

Robin Gross: Is that true, Rafik? Can we count on you?

Klaus Stoll: Just make sure you got your travel reimbursement before you make it.

Rafik Dammak: Okay. Okay.

Robin Gross: Okay, Rafik said okay. And then we've got a view from Mary.

Mary Wong: Oh it's not so much a view but a question and actually more of a suggestion phrased as a question. I think that in all fairness to the work that the drafting team has done that someone talk to Jeff and tell him. I said it's...

Robin Gross: Okay Milton volunteered to talk to Jeff.

((Crosstalk))

Mary Wong: I think it would be the appropriate thing to do in this...

((Crosstalk))

Robin Gross: Okay so Milton will do that.

Joy Liddicoat: I think that's a good point as a courtesy. I mean, it was signaled albeit though Wendy may have suggested it in jest; and as no good deed goes unpunished. I don't know. But try not to be too gloat - but try not to be too gloating; try to be, you know...

((Crosstalk))

Joy Liddicoat: Yes, okay good.

Man: (Unintelligible).

Robin Gross: Okay so do we have some clarity on this? We'll draft a statement tonight - anyone who's interested. I mean, it will be very short and it will comprise some of the language from the IPC statement on the issue. Steve Metalitz can be rather articulate at times and we can just borrow his language.

Klaus.

Klaus Stoll: (Unintelligible).

Robin Gross: No I think the lunch with the Board tomorrow is just sort of informal. We don't really have a discussion agenda or specific topics. We're just supposed to, you know...

((Crosstalk))

Robin Gross: ...get to know each other.

Mary Wong: ...from giving individual Board members we chat to a heads up right, on what's going to happen.

Robin Gross: If you want to. Yes, a head's up about the love that they can expect from our friendly GAC representatives.

Mary Wong: Yes. I mean, if the blow is going to fall we might as well get it started and know the extent of the nuclear reaction we're setting off.

Robin Gross: And you can always blame me and Milton really. We're good at that.

Bill Drake: Actually I think we should say that none of us wanted to do it but Milton told us we had to.

Milton Mueller: Oh yes...

Robin Gross: Is that MM or MC?

Milton Mueller: Look, I wouldn't spread the word too widely. I think you don't want to tip your hand strategically too much you just want to make sure it gets done, right?

Robin Gross: Yes, I worry that...

((Crosstalk))

Milton Mueller: I mean, I'm worried that - I'm literally worried about the fact that Jeff or whoever is chairing the meeting might not call on you because he thinks he can...

Mary Wong: No that wouldn't happen, Milton.

Milton Mueller: You don't think so?

Mary Wong: Yes...

Robin Gross: No but I could see them trying to cook up some well, you're not allowed to defer.

Milton Mueller: But that did happen - that kind of stuff did happen when I was on the Council. I'm not lying.

Joy Liddicoat: Of course that raises another question then just in the event that for some unforeseen reason their deferral request is somehow particularly denied then

- I don't know but, you know, is there a need for a Plan B? I take it we would both know in relation...

Mary Wong: I think we should abstain because an abstention is effectively a no.

Joy Liddicoat: Okay.

Mary Wong: I mean, it achieves the same reason and continues the...

((Crosstalk))

Klaus Stoll: On what basis could they tell us no to a deferral?

Robin Gross: I don't know. I'm just imagining, I mean, you know Jeff is like - he's very dominating and I could see him pulling Stephane aside and cooking up some rationale for why in this case there's some special mechanism that a deferral should not be allowed.

And so frankly I am a little bit concerned about spreading the word to these guys too because I could see them trying to stop us. And they...

Bill Drake: I will tell you that in the Council meeting when somebody - I can't remember who - I think maybe it was Wendy - you'd mentioned the word deferral. Jeff - yes, okay. And I talked to Jeff after the - during the coffee break and he was like, man I really hope you don't do that. Oh man, that would be - he was really animated, you know. So he could - they could get kind of hyper-charged about this. I'm not sure we need to make a big courtesy call.

Konstantinos Komaitis: Can I ask something? Is there anything in the Council process that will allow the Council to reconvene and vote on this thing in five days?

Mary Wong: There is nothing to prevent it as far as I know nothing that allows it. And I think that is a loophole.

Konstantinos Komaitis: No, no, I know we want to kill it but if it comes back in five days...

Mary Wong: That was one of the fears...

((Crosstalk))

Konstantinos Komaitis: ...deferral is pointless.

Mary Wong: Yes because it would...

((Crosstalk))

Konstantinos Komaitis: ...because we're not stopping anything and we can re-defer it.

Robin Gross: But is Jeff in the position to just demand on all the councilors that they vote on this in five days? I don't think so.

((Crosstalk))

Konstantinos Komaitis: No but that's what I'm trying to say but...

((Crosstalk))

Wendy Seltzer: Sorry, we need more notice of a meeting than that.

Mary Wong: But they - and maybe I just need to go back and read the bylaws. My recollection of the bylaws don't say you can and don't say you cannot. But if I was Jeff - and maybe I shouldn't say this on the record - hi, Jeff, are you listening?

I don't see why you need - I don't see why you couldn't request the Council following tomorrow's meeting to convene on the 24th of March to vote on this. Because that's still five days before task closes.

Konstantinos Komaitis:       Okay, I mean, I have been thinking a lot about that - I'm sorry, Robin, I mean, I don't know - the recording can stop because we're way past the time here. But if there is a possibility of this coming back before the 12th of April deadline then all this discussion is pointless basically, okay?

Because if it comes back then we cannot re-defer the motion passes and that (takes). So of course we have no way of knowing that exactly. Now me participating in the group I know that the idea - the 12th of April deadline has been the driving - the drive for many, many of the decisions that have been made.

So I can easily see someone invoking the bylaws of a special case and reconvening a GNSO meeting to vote on this thing because in any case none of the normal processes have been followed here. None. I mean, there is not one single process that has been followed here.

Now you ask me where that leaves us. I don't know. But if it comes back then we'll look like idiots. I mean, you know, the idea - yes. Well - yes but - so a possible solution, I don't know, would be to write a very strong-worded statement that goes out to everybody, the GAC, the GNSO, the Board, the ICANN community telling that we wanted to be fair however we do realize that the process can be bypassed as they have been bypassed and we are voting no but it's A, B, C.

I don't know; I'm just thinking the scenario of this thing being voted on the first of April.

Milton Mueller: Even if that happens - even if your worst case scenario happens you have inflicted pain on your opponents, okay? That is absolutely what it's about. If you say we really don't like this but we're going to vote for it...

((Crosstalk))

Milton Mueller: ...who gives a shit? That makes you look like idiots. Now you don't know whether they can pull this rabbit out of their hat...

((Crosstalk))

Milton Mueller: You don't know whether they can pull the rabbit out of the hat; maybe they can so there's actually a chance that this would work. And it shows that we mean business.

Robin Gross: Right. They can't just not take our views into account, not take our views on board that three people, Jeff, Chuck and J. Scott, can get together and cook up a proposal and shove it down the throats of the entire GNSO. We're not going to let that happen without a fight. And we may very well lose but darn it we're going to fight.

Klaus Stoll: Motto: NCUC, we're on the bottom ready to fight.

Rafik Dammak: Mary is reading the bylaws, hold on.

Mary Wong: I'm reading bylaws and the GNSO Operating Principles approved 22-September, 2011 or something. The bylaws really don't say anything but the Operating Principles do say a few interesting things. Obviously the notice of a meeting - advance notice has to be posted at least seven days in advance; not an issue here, 24 of March is a while away.

The - and here - 3.4 of the GNSO Operating Principles, Meeting Schedules. The GNSO Chair and the GNSO Council will prepare a 12-month schedule of

meetings within 30 days following the annual meeting. That's been done, it's on our master calendar.

(Unintelligible), GNSO Council members may request changes to the schedule during the year which may be agreed upon by the Chair in consultation with the Council subject to the minimum period of notice below. And I think that's got to do with notice of motions and stuff like that.

Bill Drake: (Unintelligible).

Mary Wong: Subject to some period of notice.

Bill Drake: So, I mean, does there have to be consensus of the Council to hold another meeting?

Mary Wong: Lovely, we can have a meeting about process in order to have a meeting about a meeting. I'm just saying there is that loophole and it's going to be used, guys, or at least I would if I were them. But maybe that's why I shouldn't have said it.

Bill Drake: I think - I really enjoy the dialectical character in this process. We've been here so long that Konstantinos has started to speak the arguments against that she was making an hour ago, that's good.

There is this risk but, you know, fine, I'm fine, let's do it. Let's ask for it, let's get it done. Just write a good rationale if they wanted - wants it again fuck it, oh sorry.

Robin Gross: Okay and I just...

Bill Drake: Can we turn the mics off now? It's after 6:00 - how long does this technically go on?

((Crosstalk))

Bill Drake: Are we...

((Crosstalk))

Mary Wong: ...the operator has gone home.

Bill Drake: Okay.

Robin Gross: We're still recording and we've got the room until 6:30.

Bill Drake: Then I wish to revise the extent of my remarks and that last inoperative term.  
Are we going to be able to talk about the rest of the motions before we go?

Robin Gross: That's the last one. We...

Bill Drake: No it is not. I'm sorry...

Robin Gross: Okay which...

((Crosstalk))

Robin Gross: Which one did I miss?

Bill Drake: Well outreach we're going to have to...

Robin Gross: Wait a minute I'm looking at the page. Where did I miss this?

Bill Drake: Well because...

Robin Gross: It's not on the page - the motions for 14-March.

Bill Drake: I - well okay I'm sorry, you're right. We're not going to vote a motion. I think we have to decide what we're doing that's what I want.

Robin Gross: Okay so what do you propose for a way forward, Bill? I know you've been very involved in that issue.

((Crosstalk))

Bill Drake: ...that I'm speaking on - when I engage in this completely pointless and ridiculous conversation I like to know that I'm doing so on behalf of others too rather than just on my own view, okay? That's all. Because I spent time on this at the front end it's not a big policy issue like the other ones but it's something that's there and it'll come up and it'll be discussed.

Robin Gross: So that's a good reason to just...

Bill Drake: No - if - okay so - well it - I would want councilors to be listening to me when I'm talking about it otherwise it's kind of like not much point to it. Oh okay.

Rafik Dammak: Understanding of the discussion with...

Bill Drake: Because Wolf Ulrich - and we have a little group that was supposed to figure out a compromise.

Robin Gross: I'm sorry I can't...

((Crosstalk))

Bill Drake: I know. Could you guys sit down so we can finish? Thanks. All right. I know everybody wants to go but we have one more thing. So, look, the point is this has been going on forever just like everything else in the Council.

And without replaying the whole thing again the point is that there was this outreach taskforce charter that everybody thought was going to be approved without any problem in which CSG shot down at the 12th hour.

And basically for - they did it because they don't want to have to have any kind of coordination on outreach and they want to be able just get some money from ICANN and do their own thing.

And so then a counter proposal was put forward by them that instead of approving the outreach taskforce proposal, the whole, we would simply ask the staff to go off and do a survey of outreach activities in the GNSO community and then revisit the issue later.

And I have said no I don't support this; we don't support this because essentially, number one, what they want to do is have the - the (unintelligible) was for the outreach taskforce - people from the community would study what they're doing and coordinate and so on.

Now they're saying we'll have the staff do it, okay? And once that's been done they will then say of course well we don't need to do the next step. We don't need to have an outreach taskforce. So they're putting this forward as a way to sort of like, you know, stop the process after one step.

And then, number two, I don't think the staff should be responsible for assessing how we do outreach. As I've said to them repeatedly I don't think the staff knows our space, knows our constituency, knows what issues we would face well enough to present a proper report about how we - what we're doing now and what else we might be doing.

So I have said we should either vote on the outreach taskforce thing or just let it die and then they have to answer to the Board. But the Board wants an answer.

So I would rather the answer to the Board be that - well we would have - the word would be they would know we would have done this however CSG killed it. And I'm fine with that. As opposed to us voting CSG's half measure which allows them to get way with pretending that they didn't kill it but then hoping this dies anyway if you follow me.

So when we have the conversation if that's okay I will say that that's kind of our view unless somebody has a different view.

Robin Gross: Bill that sounds right. It's a little...

((Crosstalk))

Robin Gross: Yes, thanks a lot for that, Bill, I really appreciate your staying on top of this issue and advice on this issue. And I think that sounds like the right way forward. But I would want to hear from others as well if anyone thinks that perhaps we should go in another direction or has some other ideas? Anyone in the membership?

((Crosstalk))

Bill Drake: By the way on an unrelated manner are you reading Avri's Skype from the GAC meeting? They are accepting that the GNSO may not reach agreement. They also state that the issue includes IGO letter. So you'd better amend the motion to include protection for all the IGOs.

((Crosstalk))

Joy Liddicoat: Are you saying that they - Bill, I'm sorry is she saying that they might anticipate a deferral then?

((Crosstalk))

Bill Drake: They're anticipating that this might happen.

Robin Gross: All right so it seems like we're finding more and more reasons as we go to call for the deferral. And so I'm going to take the full responsibility to have the drafting pen on that tonight. But I want to encourage anyone who wants to work with me on that to let me know.

Avri has volunteered to help and Konstantinos has volunteered to help. And if anyone else would like...

((Crosstalk))

Robin Gross: Where?

((Crosstalk))

Robin Gross: Yes, I think before music night. I'm going to be around here. I'm going to go over to the - I'm going over to the NPOC reception and then so maybe right after that.

((Crosstalk))

Robin Gross: Yes, thank you very much, Klaus. I really appreciate your participation today.

Konstantinos Komaitis: This statement shouldn't be really long, I mean, there's no point in writing page after page it's just needs to be succinct and, you know, exactly bullet points. Well I've just sent an email to Alain so I'm hoping to hear from him. But I would really like also to grab him and ask him whether they're officially supporting it. But I hope they do.

Robin Gross: Okay does anyone else want to get in the queue on this? Bill.

Bill Drake: I just wanted to be clear, you're talking about Alain? I thought you said Elaine.  
I couldn't figure out...

((Crosstalk))

Robin Gross: I think how you spelled - isn't how you say his name Alain? Alain. Alain, okay  
I apologize. (Unintelligible) poor French.

All right so have we reached closure on this? In fact if we go over to the GAC  
meeting right now - no I was going to - never mind. I'm - never mind, never  
mind.

Bill Drake: Madame Chair? My recollection is that there was an agenda item that you put  
on there for around now that said go drinking and never look back.

Robin Gross: And I don't see any reason to change that just because we're drafting.

((Crosstalk))

Mary Wong: Sorry this is any other business. So I...

Man: Boring.

Mary Wong: ...I know. I propose that I get back to Steve Metalitz and tell him that we have  
talked about the batching proposal but we have not been able to get further  
into it. It's interesting so I think that we can continue talking about with them.  
Is that okay?

((Crosstalk))

Robin Gross: Yes, we just haven't had a chance to even read the proposal that they came  
up with a couple days ago so. All right I think that's a wrap. Thank you all, I  
really appreciate it.

Man: (Unintelligible).

END