

**ICANN Singapore Meeting
Potential Council Motions
TRANSCRIPTION
Saturday 18 June 2011 at 12:00 local**

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Coordinator: Excuse me this is the operator. I'd like to inform all parties this call is being recorded and if you have any objections, you may disconnect at this time.
Thank you, you may begin.

Stéphan Van Gelder: Thank you very much. Can I ask counselors to come back to the table please and I will remind everyone that the working lunch isn't now, it's at 1:00 o'clock. Yes, this means you. Marika's brought us some chocolates, counselors. So if you want to come back to the table, we've resorted to bribery to try and get you to do some work.

Okay, so this session is one that we wanted to have to hold some - just an open discussion on the starting point would be - leave my chocolate - the starting point would be the motions. We have two motions on our agenda for Wednesday, but Mary, in the agenda that you sent - and by the way, I forgot on the messages - unforgiveable, I forgot to say a big thank you to both Mary and Glen this morning for having worked so hard on the Singapore agenda.

Sit down. Thank you very much. And so, Mary on the agenda that you sent around, I think you had a couple of other topics, if memory serves, that you wanted to suggest the Council discuss during this session?

Mary Wong: Mm-hm.

Stéphan Van Gelder: Can you just remind me what those were?

Mary Wong: So the first item I had suggested that the Council consider starting a discussion, even if the outcome of the discussion is, "We don't want to talk about it," is the recent MTI letter to the ICANN Chair about (VI). And I know Adrian and I had a bit of an exchange about it, and I just thought that if other counselors wanted to at least talk about whether we want to talk about it, we might want to have it on the agenda. And the second item was the issue of developing country assistance.

And since this is something that one of the groups that we co-chartered is working on it, and it's still a live issue, it is certainly a live issue at this meeting, given what's going on this weekend. I thought we could take the advantage of us all being here face-to-face, with the community, to talk about how we as the GNSO can continue to guide that process.

Stéphan Van Gelder: Yes, I think that's - I'd love to have that discussion and clear up all of these - in between us, on the Council - have a discussion about what happened in the run-up to this meeting. And the discussions that we had around the working group that's (tasked) with providing support for developing potential - applicants from developing countries, not potential developing applicants. Sorry, my English is going. I think I'll pick this up in French now, is that okay with everyone? I'm getting tired all ready. No. I'm not going to say that - what you just said, because no one heard it, and that's probably better. So, let's start the discussion going. Bill.

William Drake: Well, just to say I would strongly support discussion on both the points that Mary just mentioned, and especially the latter one. I think that it goes beyond optics, but the optics are certainly a central concern. And I would think that this is something that we need to have a public visibility on, that clarifies exactly what the thinking has and has not been in the Council and what our process is. Because talking with other people, which really I'm finding out that - it turns out that there are people who actually don't really spend all their time following the details of the internal GNSO Council discussion processes.

It's hard to imagine, but it's true. And so they're kind of interpreting in a sort of (unintelligible) way, what our intentions are, etc., in ways that I think are not entirely helpful. So I think we really need to do this in a very - much more transparent and open way.

Stéphan Van Gelder: I agree that it's obviously an optics problem. Let me start by just running over what my understanding - or what my reaction was to some of the stuff that's been going on. And notably, you'll all remember that we had - the Council got an inter - an email - a message that was sent, telling us that there would be a meeting on Sunday, which is part of our working weekend day obviously, to prepare for a summit dealing with developing countries. And how to best involve them in the processes that are going on here at ICANN, and that's obviously - the subject matter itself, no one can disagree with it, I don't think.

So certainly any of the reactions - the personal reactions that I had to this were things that were mostly looking at - well, exclusively looking at the process. So first of all, when we got that request - and remember, in the request we were told that we would only be allowed two participants from the GNSO Council. So my initial reaction was two-fold. Where does the request come from, is it an official Board request and how are we expected to select two members in two weeks?

Asking those questions led to the answers that the request wasn't official; it was a private, personal initiative. And we also saw on a parallel track, a request for a meeting between the JAS Working Group and members of the Board and the GAC. And I don't know if it was open to anyone else, I forget. Just to - as I understand it - I'm looking at Rafik, just to make sure that I'm not saying anything that isn't true. Just to answer questions that anyone might have on the work of the JAS Group. And, so those two - that was the initial environment - and out of that came an email by one Board member, defending the very loadable principles of what I've just explained.

But also, it seemed to me, implying that the GNSO Council had not been working fast enough. And I think this goes back to the optics question, that you've just raised Bill. Not being working fast enough to look at the JAS Working Group's work. And, at that point, I felt it useful to remind people, if we're dealing with optics, it has to work both ways. And I think it's useful to remind people that the Council is working according to its own set of rules. That we're not at liberty to just change when it suites us.

And I don't think it's fair to portray us as having been slow to look at - specifically the issue at-hand there was the second (mouse) and report that came out, the JAS Working Group. Rafik had put out the motion, he'd been asked - there had been a request to defer it for one meeting. We considered it at the next meeting and it was approved unanimously. So I think we worked within our processes there. And that was the point I was making.

So I mean the basic thing is I do agree with you Bill, that there are optics on both sides of the issue and we probably haven't done enough of a good job -- I think that's what you're implying -- of telling people that we have nothing against the work or the issue. But on the other hand, maybe people don't understand what our processes are. Adrian.

Adrian Kinderis: Yes, I agree Stephan. I also don't know that it's necessarily just about the processes. I think it's also about what the GNSO Council represents. There's no one single voice within the GNSO Council, so it's always, you know, we're such a diverse group of stakeholders that make up the Council, all with competing interests at times. And, so there is always going to be challenges and debates had on particular topics. And that takes time. When a report can be read by one group, with one interest and then supported and proposed as a report, then of course that happens a hell of a lot quicker.

So not only is it about processes for dealing with that, I think folks need to understand the GNSO Council represents a diverse group of the community. And as such, two things; one that's going to take one to get resolutions,

however; two, when you do get resolutions, they should speak loud or louder. And that was in French, by the way - ((French Spoken)). But yes, so hopefully, you know, that's maybe what we need to be communicating to the community here. Is that, you know, we are a complex group by definition.

Man: ((French Spoken)).

Stéphan Van Gelder: So, I have Christina next.

Christina Rodriguez: This issue really gives me a headache. And I would just say at the outset that, although I agree with the sentiment that you put in your email, I can understand why some might have been concerned that having come from the Chair of the Council, howbeit in his individual Council capacity, would be imputed to the Council. I guess part of what - to me it seems as if there is kind of two other things going on here.

First, it really irritates me frankly that the Council is getting heat for this. There are counselors on that working group; there are former councilors on that working group. They are fully aware of what our working deadlines are. And if they wanted to make sure that we were in a position to consider this report by a set deadline, they should of just worked them out backwards and figured out the date by which it had to be delivered to us. So, to the extent that that wasn't done, I don't think that's necessarily - I mean, that's not a failure of the Council.

The other issue that I have is that this seems to not be the first instance in which individual Board members might be taking the opportunity to kind of foster - I don't want to - I'm not really sure how to characterize it. I don't want to sound (unintelligible) of it because it's a very important issue, but I'm just concerned that there seems to be this developing practice of Board members kind of reaching down to the policy level and saying, "This is an issue that I personally care about, so I'm going to start kind of circumventing the usual processes." It just seems to me that, if there is in fact this pattern developing,

we needed the Council to decide whether or not we have a view on it, and if so, to articulate it.

Stéphan Van Gelder: So I find it very interesting that you start off by saying that, "Perhaps the way I said what I said was a bit too strong." But then you actually make statements that are even stronger...

Christina Rodriguez: I'm not disagreeing with your sentiment...

Stéphan Van Gelder: No, I realize that.

Christina Rodriguez: ...I'm just saying that I can understand why folks might have been concerned that in your capacity as Council Chair, that that would automatically be the voice of the Council.

Stéphan Van Gelder: And I actually understood that as well, I mean, that's fine. I really agree with all of the sentiment that you just expressed. And I think that both - once again, just highlighting the fact that this isn't against the issue or for the issue - I'm not getting involved with the issue. My intent is to defend the GNSO Council as much as I can, when I feel that it is being treated unfairly. And I think what you just highlighted is true. I am fed up with the Council taking heat on this. Why should we take heat on this when we're just following our processes? I am keen to explain to people if I can, and I try to do that privately as much as I can.

But the Council is not in any way against, you know, the sentiment that we should help developing countries. I've never heard a councilor tell me otherwise. So I can give my own personal sentiment that I'm not against it. And I don't think that the Council should be - I mean, some of what I've heard is that the GNSO Council is frankly against the JAS Working Group. I don't think that's true - I've never heard a councilor tell me that was true. And at one point, I just feel that, you know, the Council's working within what it can do, within its timelines, within its constraints.

I think you are touching on another important fact that some personal initiatives coming from other groups, and even the Board, you know, we don't know how official or unofficial those are. But once you get, for example, the suggestion that summit be organized in Africa, then you have to start thinking about, "Who's going to pay for it? What resources are going to be used to organize it?" and everything, and, you know, these are questions that have to be asked. So, I mean I didn't go into all that obviously, but these are questions that we might want to ask ourselves and that are being raised here. I'm sorry for going on. Alan.

Alan Greenberg: And this does go to the GAC disposition towards, you know, the new detail being launched, and so on, so it's relevant. And to want to try and finally get off the dying sort of organized conversation about this, I think is a good idea. Whether it's being handled particularly well is another matter. But I wouldn't sort of dismiss it as just, you know, some kind of like personal interest in an individual initiative thing, when in fact I think it's responding to a lot of (unintelligible) discussions in many corners that may not be internal to this room. But that are out there and part of the community.

Stéphan Van Gelder: Thanks. I used to think the misconception there even within the Council. But I don't think anyone's attacked or dismissed - sorry - this, because it's a personal initiative. Once again, I'm actually - I would expect the Council to support its own procedures. I would not expect anyone to - with reference to what you just said earlier on, as you said, there's a feeling that the Council didn't jump up with joy and start working on the JAS. That's something that I, you know, would never get into in any discussion because that's not, in my view - it's an issue thing. It's not something, you know, the only thing that I want to look at, when I'm defending the Council in any way, is just the process (and how it works).

I'm just explaining to people the way it works. So that people don't think that we're working - we can do things that we can't (unintelligible). That's all - the

only thing that I expect to ever have to defend. But, so (unintelligible) you described that the, you know, people feel that outside this room, people feel that we haven't jumped for joy on this, and maybe we've dragged out feet. I'd say I'd go back to what Adrian was saying earlier on, we are a diverse group and some people probably feel positive towards us and others don't. But I wouldn't even go any (unintelligible), I'm not getting into that at all. So I'm just, you know, trying to make it clear (unintelligible) that I have was that I felt Council was being attacked and process. And I think that you have probably cost the Board a very useful vision of how the outside world sees the work that we're doing on this to the Council. Andre.

Andre Phillip: I think it's different. I'd like to say, first of all, I mean, you're doing a good job protecting the Council. Second, actually I would expect this - this sort of came as no surprise. I mean, if you read the early part in May. But I basically expected that, the reason is very simple, as I understand it. There's - I mean, I'm trying to get out of politics saying that Council was composing a message to the (people). I mean we spent a month writing this simple letter with four or five sentences. And we get the report, you know, we're reviewing it and from the outside, as well as the inside, from me personally, I think we're professional. I mean, it's just - I mean, it's just bad work in terms of timeline.

First of all, there was no deadlines for this letter to send out. There was no final date, you know, we have to finish the letter and send it out. Second, it was too long basically for such a simple message. And, if you were from the outside, you know, for some maybe not very experienced Board member, this looks like, you know, slowing down. And it's based on common sense, there is no politics around it. But people will attack Council, will attack you, will attack us because of this one-time (life) and the perception that the Council's trying to slow the things down.

Stéphan Van Gelder: Thank you Andre. Adrian.

Adrian Kinderis: Yes, so the (see) is coming out here Stephan and this is all really good conversation. But I think it boils down to four major issues. I think if we go to actually get something out of this conversation, we should try to bed these down and look to not repeat the things of the past.

So the four major issues as I see them are, the fact that Stephan Van Gelder, as an individual, commented back to the Board and cc'd the Chairman and whatever. So there's one discussion there and I think we should at least try to get locked in a position that says, "How do we feel about that?" and "What should be done in the future about that happening?"

Number 2 is the contents of your email, and I think that's been addressed and discussed now. And dealing directly with this issue of our team and the JAS Working Group. Number 3 as I said is going forward, how do we deal with these multi-stakeholder working groups, or joint working groups and how do we ensure that processes are followed within them, report to publish in the way that we want to. We ought to lock that down, as a result of this conversation. And number 5.

Man: Wow.

Adrian Kinderis: And number 4 rather, is the optics. And that is, I believe, trying to ensure that we promote the intentions of the GNSO Council, the processes of the GNSO Council to the community. Such that I understand there are, as I spoke a bit earlier, different opinions and so on and so forth. I think if we can get those four objectives locked-in, at least in this conversation or via email afterwards, then we've accomplished something. Otherwise, once the conversation is (gone), it's just rhetoric guys.

But we really should - this has been - some really key things have come out of this. But unless we actually try to pull something out and get it deliverable here, we're just chewing up our time and quite frankly, I think (I gave) too much.

Stéphan Van Gelder: I think that's very useful. And I think the first step might be for you to send those four points to the list, if you can, that might be useful. I have Tim next.

Tim Ruiz: Well I guess we'll - we can follow Adrian's game plan there down the line, but just a few comments in regards to some of those issues that I had. And maybe some of this has come up earlier, but I just wanted to point out, the very first thing that Stephan said in his email was, "This is my personal view." That's the way he started it. You signed that email as Stephan, not Stephan, Chairman of the Board. So, you know, I'm probably as interested as anyone in the fact that the Chair does not speak for the Council as a whole, unless that's been predetermined beforehand.

On the other hand, what we don't delve into is how can we muzzle the chairs, so that he can never speak, without feeling like we're going to attack him later, for everything you've said. So, and I know that's not the intent here, but I think that, you know, how far do we need to go for the Chair to be able to say, "This is my personal view, here's how I feel" and say, there it is. You know, he has to have a way of being able to do that. Otherwise, none of us are ever going to want to be Chair. Because, I know I would never want to be, not that that's ever going to be a problem anyway. But, you know, I don't think we can muzzle the Chair completely. So I hope we don't attempt to go down that road.

So I can understand a little bit better after hearing some of the things that have been said, you know, why there might have been some concerns with that . But I think overall, I really didn't have any problem with it and certainly agree with Stephan's attempt to try to defend the Board's processes. Just in regards to the process, I mean a lot has been said about it. And, you know, we don't pay too much attention to process, we're too slow, it takes too much time. And I think, you know, a lots been said about why that is. But I think another reason is so that we, as a Council can later defend the decisions that are made, the policies that come from us.

Because if we don't follow processes - if we don't have something we can point back to and say, "Yes, we did A, B, C and D" then how can we defend later and say, "This is a valid consensus process." And don't forget that in both of the contracts with the contracted parties, Registries and Registrars, we can challenge whether or not a policy did have consensus. And if you didn't follow the processes, it's going to be difficult to do that. And I think that could be the same in regards to the other policy, whether it's consensus or not, that's derived from not just the GNSO, but from ICANN as a whole. So I think that's a caution that should be taken - or not taken lightly.

And then the last thing is just the idea about the Board getting involved in policy work. Personally, I think it's a huge mistake. So I don't agree Alan that I'm excited that Board members are getting involved in some of these things. I think what it does is that it creates a potential conflict of interest or at least an appearance of conflict of interest, you know, that's some serious thought. Now I don't know in regards to Tim here, if later he's going to excuse himself when the Board gets down and decides to vote on the JAS Working Group recommendations. But, you know, I think there might be a case where some of us could make an argument that we think maybe he should have that he doesn't.

The same way that (Bruce Stocking) stepped aside and didn't go to vertical integration. So I think that getting involved in policy, I don't know, maybe there's some place for that to happen for Board members. But I think if they cross the line, then what they've done is they set themselves up later to create a potential appearance of conflict of interest or perhaps even a direct conflict of interest later when we go to vote on those things. So I think there's - there's a reason why our Bylaws are written the way they are.

If the Board has an issue, there's a process in the Bylaws for the Board to raise that issue with the Council. One of them isn't, "Well, we want to start a community working group, let's get the Council to approve this." So that later

we can come back to them, garner this two-thirds vote so we can claim later that all of the processes were followed, yet in reality none of it really worked.

So I just - I think that we really - we've been eking kind of down this road where we're allowing some circumvention, whether it's intentional or not, whether it's just by appearance or not, of our processes. And so I think - I don't blame Stephan for getting concerned and wanting to defend that. I certainly want to do that. And so those are my thoughts. And again, this as we move towards this discussion about you know, how the Chair can speak, I don't want it to put a muzzle on his ability to be able to defend us in that way.

Stephan Van Gelder: Thank you, Tim. Adrian, do you want to come back on this specific point?

Adrian Kinderis: If you don't mind, thank you. So I'm confused, Tim. We don't want to muzzle the Chair, and I'm okay with that. Yet Stephan comes out and says in his first line of his email, "This is a personal email." Right? This is from me personally. If I had have sent that email, and cc'd Peter Dengate Thrush and everybody, how would you guys have felt about that?

Tim Ruiz: I'd be perfectly okay with it. Don't tell me, Adrian, that we don't do that all the time. You're going to tell me you don't talk to Board members? I know I do. Every time we talk to Board members, do we reveal that? Do we share that with each other openly all the time?

Adrian Kinderis: Right.

Tim Ruiz: I don't think we necessarily do.

Adrian Kinderis: Okay. So, I'm just trying to - I'm not speaking one way or the other, and believe me, I am cautious over the representation. That's all I am. Outside of the content and what was said and everything, I'm completely supportive of that.

But I am just - you know, I want to get clarity for my sake, and I think once again, to try to speak to some of this deliverables is, how do we want either A, our counselor to act, or B, our chair to act, going forward? We should use this as an example and build a template, or how we want to interact in the future. Otherwise we've wasted this opportunity. So I'm just trying to get a feel for that here.

Stephan Van Gelder: All right. I would appreciate, actually, you know, getting a better feel, and I'm very - although I'm extremely supportive, obviously, of what Tim has said, I'm very also eager to get guidance, if for sure - I mean, if the Chair has - if being Chair means you never have the right to speak even when - I've always tried to be extremely transparent.

I've always, you know, sent everything that I get from the Board or anything to the Council list. I've always told you everything that I'm being asked to do as Chair, or even in my own personal capacity for the last 6 months since I've been Chair. So I've tried to be as transparent as I can. I do feel very strongly about the GNSO. I care about it, and when I feel that its processes are being attacked, I have a great deal of difficulty personally not saying anything. I feel - I care about what we're doing here.

Adrian Kinderis: My response to that, Stephan, from my point of view is, I'd like to see you respond as Chair. I voted you into this position, as, you know, did the Council.

Stephan Van Gelder: And yet you're saying that I shouldn't respond to the Chair.

Adrian Kinderis: No, no, no. No. I've never said that. All I said is in this part without understanding what had happened previously, without knowing, you know, saying, I just want everybody to agree on the way forward. So, I think going forward I'm happy to say that I voted you into this position. If you want to go forward and have a shot at the Board, or do whatever you want to do, and put you know, and put forward an opinion, I agree with Tim is we shouldn't be muzzling you to do so.

You know, when you can, I think you should be directed to try and share your view with the Council beforehand. However, if the circumstances are such that you need to respond quickly, I'm happy to back you on that. But what I think we should do is as a Council have an opinion, and if everybody subscribes to my point of view, that gives you some direction going forward. That's all I want to do. It's so that you don't, you know, upset anybody, next time that you want to say something, or you feel restricted that you can't say something, and we miss out on the opportunity.

So I'm just trying to get a level set of expectations here. So I'm happy to go whichever way the Council wants to go, but my opinion is, for what it's worth - and maybe that's up for debate - is, you say what you want to say. Where you can share that with the Council, do so. Where you can get direction from the Council, do so. But so long as you can justify the reason why you couldn't do that, then go ahead and say something.

Stephan Van Gelder: I have Jeff next.

Jeff Neuman: Thanks. I support what Stephan has did, in his capacity as - even though he said it personal capacity, I think he could have said it as Chair, because I think you were defending our actions in the GNSO. I agree with Tim completely on his position. I think that this issue, frankly, new TLDs as a whole, as a policy issue - this has thrown all of our policy development process in complete disarray.

Every process we thought we ever had has been turned upside down simply to fulfill timeline viewed by the Board or interests by different groups or individuals. This has been probably the worst case study for policy development that you could ever take. Or maybe it's the best, actually, because you could see everything that could possibly be done wrong to throw everything in disarray.

I want to address something (Alan) said. He said the Council did not vote to send a milestone report to the Board. When have we ever sent preliminary reports or milestone reports to the Board? Some of us made that point very clearly. This is an unfinished product. Normally when you send something to the Board, it's for the Board to take action. This has been the - this is the craziest thing. And when I made an attempt to point that out, I was portrayed by some on the Council, by some in the groups, the (JAS) working group, as being someone who completely did not support developing economies, that I was a nasty incumbent that wanted to keep out competition, when the only point I made is that it is totally inappropriate to send a preliminary report, an unfinished report, to the Board.

We've never done it with anything else. We should never do it going forward. It's a preliminary milestone report. And people turned that around into saying that bad incumbents want to keep out competition. And maybe people were using that for their own political gain to say that. It just wasn't true.

I will say that when I sent my last comments to the Council on the motion that was before us to send that second milestone report, I was probably the most careful in any email I've ever been in my entire life, because I knew that people were going to take that email and just say, "Oh, great. There's another incumbent that doesn't want new - competition, that wants to delay new gTLDs. I mean everything has been said which totally is completely untrue.

And I rewrote - wrote and rewrote that email, and I hate to have to think about every word I use and how it's going to be interpreted by people that are not in the Council, and then sure enough after I sent it, there were some emails in the (JAS) group saying, "Who cares about the GNSO? They just want to block everything to begin with."

Another point I want to make is, Stephan is on a bunch of lists whether we like it or not, and I think it's fine, but others may not. Whether it's with the GAC, whether it's with other groups inside of ICANN, as the Chair he's put in

those positions that he is sent emails as the Chair. And we need to not muzzle him. We need to let him speak. And if we don't like what he says, then we can question it after the fact if we think that it was against the GNSO mandate, but we can not be in a position where Stephan is muzzled or the Chair is muzzled at all to speak what they believe is coming out of the GNSO.

And for us to even start a discussion, first of all I think it's completely inappropriate for anyone on the Board to come in and blame or say that the GNSO processes are too slow. That's kind of the pot calling the kettle black, right? For the Board, who, you know, is not necessarily known for moving that quickly, to talk about the GNSO not moving quick enough is just incredible.

So I support what Stephan said. I think it was right on. I think we can't muzzle him. And so to address the four points. Stephan, you're right; you said as an individual, we should never prevent Stephan from talking to the Board. Everyone here does it in different ways. The content of the email was fine, I think, and going forward, we're addressing Stephan - or I'm sorry, Adrian in the third point said, "Well, how do we deal with cross-constituency working groups going forward?"

I think we have a way of dealing with it. I think (Jonathan) is leading that sub-group and is going to come out with a great recommendation. And I think the optics - look, we're not going to be able to do anything really about the optics. People are going to take what we do for their own gain or whatever their interests are, they're going to use it that way, and we just need to concentrate and focus on the work that we need to do.

Stephan Van Gelder: Thanks, Jeff. Check's in the post. Rafik?

Rafik Dammak: (Unintelligible) So, I think that we are at the end of decision, and I will try to make a short comment. I heard many times that the Council is having heat about (JAS) working group. From my perspective, I am getting more heat - in fact, heat from the Council - GNSO Council - many times about the (JAS)

working group, and I - it's not just disappointing, but it's deceiving that many times my fellow colleagues accused me that I'm not following the process. I think we - hopefully we overcome that.

And anyway, the problem with the (JAS), I think, that why the community have such perception how the GNSO Council didn't (unintelligible) the (JAS), I think it started especially the shot issues. I think we spent more than three months. I can understand the stakeholders groups, the Council, all the groups, community, I don't know how to call them - need time to decide, but it was three months to decide about an extended shot.

So, I'm not sure how the Council can carry message about that to the community that is - it's supporting the work of one of its working groups. I heard the comment of Jeff, the last comment of Jeff. I am really sorry that he felt accused from the Jazz (unintelligible) and I just want to say that it was the person, if you - one members of the Jazz working group, and don't think that people shared that. So I am very sorry about that.

And anyway, also the comment that was made about (unintelligible) questions. And I someday took times to prepare the answers. It's not that easy for the working group to work to finish - to try to finish the report because of tight timeline, and also to try to reply to many requests at the same time. I hope that you understand that and that I get your comment as a complaint, but I want to explain to you that it's not easy to handle many issues at the same time for a working group, for people committed - for volunteers committed. It's work on such a tight timeline.

Stephan Van Gelder: Thanks. Rafik, are you done?

Rafik Dammak: Thank you for remind. I wanted to comment to you different. When you talked about the summit, I really felt offended when you said that you are going to pay for that, because it will be in Africa. I want that people in the community to understand that the whole ecosystem of (unintelligible) exist because there

are registrants. So let's not have talk as registrar or just we are paying the ICANN budget, and let's focus that we need to include people from developing countries in the ICANN process if we want really this ICANN to be really internationalized.

Stephan Van Gelder: Just to clarify, I never said that. I asked two questions: who's going to pay for it and what resources were going to be used. I never said that I was going to pay for it, because it was in Africa. I mean, that's just a total mischaracterization.

Rafik Dammak: No, no. The question can be understood like that. That's my interpretation.

Stephan Van Gelder: Okay. One of the things I should have said, though, coming back to your earlier point, is that you have done an extraordinary job on this working group, and that's something that I omitted saying earlier, and I should have said.

And I know, as Jeff mentioned, I'm on a lot of lists. I'm also on some of the lists that talk about this group, and I know the strain and the stress that working on that group has meant for you personally. So I think once again, process-wise, the Council has to support the people that it puts on these groups. And you've probably felt I think at times that you've not had enough support from the Council. I do think you've been doing an extraordinary job in difficult circumstances, and perhaps there's not enough GNSO representation on the group.

Then, saying that, we will touch on another issue that's a totally different one that we'll probably have another conversation, which is the fact that we're just so overloaded that some people probably don't - you know, we've no longer got any time to work on everything. But I just wanted to say that - to thank you for the work that you've done on the Jazz working group and are continuing to do. Alan, and then Mary.

Alan Greenberg: Okay, I know I'm between you and lunch, so I'll be quick. On two issues, number one: Jeff's comments. And I'll disagree slightly with Rafik. There was more than one person who was attacking Jeff, and a number of other people, pretty personally. I and a number of other people publicly and privately tried to change that. That doesn't help matters any. All of that is notwithstanding. The Council could have acted differently over the various timelines.

Yes, Council has not normally interim reports, but we did this time. Processes can be changed when the situation warrants it. So how this first milestone report was handled, how the charter - many charter iterations - were handled set the stage which resulted in the final product here. I think we have to take it all into context.

Regarding Tim's comment on the team or someone else having to recuse themselves if the (JAS) issues ever come to the Board, and comparing that to Bruce having to recuse himself on gTLDs or something, I just think this is a misrepresentation.

Tim Ruiz: Well, I - my point is, Alan, is I don't know that (Katim) doesn't represent a group that hopes to get funding reduced in that application. You know, I don't know that.

Alan Greenberg: If I may finish, the conflict of interest guidelines are pretty clear. We're talking about judiciary interests. And if indeed, (Katim) or anyone else on the Board is ever going to put on a hat related to asking for support, yes. That better be made clear.

But I would hate to be in a position - and we've had the same discussion before about GNSO counselors working on working groups and then voting on the product that the working group, so it's almost the same thing. If we ever get to the point where we say, if you have a particular interest and knowledge in a subject, but no fiduciary interest, you better not be part of the decision-making process, I don't want a board where all the people who have

any knowledge or interest aren't allowed to discuss something. I think those are the people who we want to hear from and be involved in the process.

So I think we need to be very careful when we talk about conflicts of interest. What kind are we talking about? I agree with you, Tim, that if someone has - is going to have an interest in that thing financially, or even non-financially but in a personal sense, that's a different interest, different from having a personal interest in it. Thank you.

Tim Ruiz: You know, just so I can respond to that. You know, the difference with the Council and the Board is when it goes to the Board, it's done. So the Board has a fiduciary responsibility both legally that we don't have, and they also make the final decision before a policy goes into place, so if that ever comes back to us as being our rule, then I would agree with you.

But I think until that happens, you know, the Board has a different responsibility for, you know, optics as we keep saying, that we don't necessarily have.

And you know, as far as the working group stuff is concerned, you know all the problems we have with that is because we don't have any kind of process or description in place for community working groups. We're winging it. We're winging it all the way. So you know, do we do interim reports or not? Well, you know, we do in this case because somehow this isn't a normal, typical - this is one of our typical policy processes, right?

And you know, the same with some of the issues and I feel really bad for Rafik and several members of that working group, because I think they take a lot of heat, or feel like they're taking a lot of heat when it's not really directed at them at all. It's just directed at frustration over this whole community working group thing.

And I know there's maybe a few others. For myself, I feel sort of like I was pressured into, you know, getting involved in that and improving it at the Council level for optics' sake before we actually resolved some of the issues surrounding those community working groups. So we really need to get to resolving that at the Council level, and then hopefully within the community as a whole, so we don't keep getting into this situation. And those who truly are volunteers - because some of us is, let's face it, better compensated than others for getting involved in this work.

So it's really sad when some who truly are volunteers are involved heavily, and then they get - you know, it's like, well, why did I waste my time? Or I'm spinning my wheels. We don't want that to happen, so we really need to get this community working group issue resolved.

Stephan Van Gelder: Thank you. And I have Mary and I think we should probably cut the queue after you, Mary. It's ten past already. I'm sure people are hungry.

Mary Wong: Thanks, Stephan. I'd like to move us away from this discussion on process, politics, and historical excavation, not that it's not been a good conversation, but it's something you might want to continue in the wrap-up meeting, because I think that we all agreed, and several people have stated today that the work of the (JAS) working group is an important issue, that we all support that work, and that we feel the need to continue to support that group.

So given that that is the consensus of the Council, and given that we know developing country assistance is an issue of interest to obviously the GAC and the Board themselves, not necessarily just individually for Board members, but through Peter, in his communications with us officially, they have said that support is a Board interest in the issue. I would like to suggest that we as a Council send a message to the (JAS) working group simply to that effect - that it is an important issue, that we support your work, we continue to support it.

It may or may not do anything, but I do think if at all we at least agree on this and make that statement, because then some of the objects and some of the issues that (Bill) has highlighted to us, they may not go away, but they may at least be seen to be addressed by us to some extent.

Stephan Van Gelder: Thanks, Mary. As this discussion is drawing to a close, can I ask you to take that suggestion, just like I asked Adrian earlier, to the list and - so that we can pick that suggestion up from there. Thank you very much, all of you, for this discussion. So lunch is served just behind you over there, but we - that room - those two doors lead to a room that we can use to have lunch in. Oh, it's out - it's in there.

Okay. So we can have lunch in there, and we are supposed now to be having a working lunch to discuss our meeting with the Board. That is later on today. So perhaps we can break for a few minutes just to give people time to have lunch and...

(Jonathan): Before we close, just - we have three topics in this session, and I just want to make sure that we close on each of them. Now one was the Board resolutions, one was the NTIA letter, and one was this one that we spent significant time on. Just, how do we close on each of those - on the other two?

Stephan Van Gelder: The three topics was actually the Council resolutions, the NTIA letter, and the one - and as you've noticed, we discussed one and not the other two. So on the Council motions themselves, is - if there is further discussion on it, I would like to break for lunch because lunch has been served for us.

(Jonathan): Yes, I'm not suggesting we don't break. Just make sure we either close the session with knowing that two of the topics weren't covered, or...

Stephan Van Gelder: As we are having a working lunch to discuss what we're going to do with the Board, if we want to - if we feel we want to discuss the motions, then

perhaps we can combine the two, and the other point that you mentioned as well, Jonathan. So perhaps - would that be suitable?

(Jonathan): That's fine. I just wanted to make sure we closed knowing what's still left on the table.

Tim Ruiz: And for clarity, is the working lunch in here or in there?

Stephan Van Gelder: The work - the actual eating goes on in there, but I suggest that we just, you know, take ten minutes, have a bite to eat, then come back in here with our plates and continue to work.

((Crosstalk))

Stephan Van Gelder: Was that clear, or did that sound French to you?

Tim Ruiz: Well, you said we were allowed to eat in there for ten minutes, then have to finish eating in here.

Stephan Van Gelder: No, sorry.

Tim Ruiz: Why don't we just come back?

Stephan Van Gelder: I wasn't clear. Go in there for ten minutes just to have time to take the food that you want, and then come back in here. Thanks.

Tim Ruiz: Okay, thank you for the clarity.

Stephan Van Gelder: Operator, this session is now ended.

Adrian Kinderis: Were you directing us as chair, there, Stephan?

END