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LONDON – ATLAS II Thematic Group 2: The Globalization of ICANN - Session 4

Sunday, June 22, 2014 – 15:00 to 16:30

ICANN – London, England

UNIDENTIFIED: ATLAS II, thematic group two, The globalization of ICANN, session four, Hilton room one dash two.

UNKNOWN SPEAKER: I'm [?], I'm a professor of university, professor of law, from Lebanon. I'm the head of the [?] Information Technology Association. And a member of panel [?] for cyber security. And professor of Internet law. I'm here to join, hopefully, the At Large community.

SETH REISS: I'm sorry you weren't here earlier because we had all of these legal issues that we were all accused of being lawyers, but now we have one more. But thank you for coming. So what we were told to do is find out something about, something personal about the person on your left to share with the group.

So we learned a little bit more about each person. I'm not sure if everybody did it, but why don't we start, [Jury], do you want to be the first to share? Yes, this is all going to be on the record. On the record.

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UNIDENTIFIED: Well, so, Roberto plays the saxophone very well, so maybe he will perform Tuesday on the music night, or maybe not. Yeah, right. And he lives in Vienna. Likes biking.

SETH REISS: All right. Thank you.

UNIDENTIFIED: So Mohammed has two daughters, three years and four years old. Two children, three years and four years old. In fact, I'm not, and loves going to the desert when he has some free time, and enjoying the silence and the, and the nature, and... That's it.

SETH REISS: Thank you. Mohammed? You're going to share something about an absent member?

MOHAMMED: Yeah. [?] is, he's a council member, obviously [?], and he's very politically active. I'm not sure about children and family yet, but that's...

SETH REISS: That's personal. Thank you. Can you introduce yourself? Thank you.

UNKNOWN SPEAKER: Hi. My name is [?]. I'm here as an observer. I'm from India and I work as an advisor to the National Internet Exchange of India. I'm a lawyer by training.

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SETH REISS: Lance, do you have anything personal that you learned from the person who had been on your left? Okay. So.

Okay. Well you must know something about Carlton that we don't know.

Sylvia, you don't have anything about Tijani for us?

TIJANI BEN JEMAA: So Yuri loves running and swimming, and they will get married next month. So, he's a happy man.

UNIDENTIFIED: I'm afraid I have to report that I didn't manage to get to know Mona in the roughly five minutes that I had any more than what she had already said when she introduced herself. So I'm going to have to skip.

SETH REISS: Alan, did you get any personal information from the person who had been on your left?

ALAN [LEVINE]: I did. The person who was on my left isn't in the room at the moment.

SETH REISS: That's okay.

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ALAN [LEVINE]: He's Neil [Schwartzman], and he comes from Montreal, Quebec, and he is a spam fighter, but mostly he's actually a musician, certainly an Internet activist with a great deal of knowledge. He's, there wasn't very much else that I managed to get out of him. And tell him more about the personal, right? I can tell you more about the person on my left.

[Jury] is from Finland, he is one of the very youngest members of ISOC Finland, and he's been taking the initiative, I think commend him in joining ISOC, which is an aging community in Finland. And he's been, you know, taking the initiative to join Finland, and they certainly, I think, have taken the opportunity to use him to bring more of the youth into ISOC Finland.

And that's certainly one of the challenges we have in South Africa as well. So I look forward to learning more from [Jury] as well.

SETH REISS: Thank you. [Ya-soo-chi], did you learn anything about Garth?

[YA-SOO-CHI]: Sorry. This is my first time I met him yesterday. I'm sorry, I don't know [?], expert [?]... That's it. Yeah. What? Oh, really?

SETH REISS: Something about scouts. Garth you tell us.

GARTH: Eagle Scout.

[YA-SOO-CHI]: Sorry.

UNIDENTIFIED: So I've known Seth since the Mexico City ATLAS meeting. And he's got, Seth brings a real calm presence to a room that might get needed. Maybe it's made this room too cold, I don't know. But Seth's wife is originally from [?], Germany. And they live in Hawaii.

And Seth used to drive a cab in New York City and used to teach law in Malaysia, did I get that right? All right.

SETH REISS: Thank you. And Jordi, do I have the name right? So Jordi has two daughters and a cat, and the cat has an email address, cat at cat dot cat. That last part is just a little bit exaggerated.

But anyway, thank you all for coming back. We have a little bit of time left to finish up. We're still discussing point five. I think we made considerable end roads. Instead of taking each of the five sub topics separately, I think they're interrelated, maybe we could just discuss them together.

We were talking about the footprint, the second bullet is, is communication privileging specific local communities, linguistic, geo-political? That, I think, relates a little bit to what we discussed in topic one, I think it was.

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Are users worldwide giving the same opportunities to contact ICANN? We already discussed that somewhat, in terms of location of offices, time zones, language. Is access to ICANN's facilities, physical or online, equal to all stakeholders? And the last sub topic is, are ICANN operations sufficiently shielded from local jurisdictions to survive a change of political attitude?

We haven't really discussed that last point very much, although we have somewhat in terms of the location and laws that apply. I'll just start it off with one comment. I don't find ICANN accessible, necessarily, in the sense that, if you need to reach somebody in an office, for example...

Well, I was suggesting we deal with them all together, because we only have a little time left.

Yeah, but I guess access to ICANN facilities physical and online, and this is an impression I have, I don't know if it's true, but like many Internet... Like many entities engaged in Internet commerce, they don't make themselves accessible, physically, or by telephone, that communications are substantially, if not exclusively, by email, or Internet.

And [?] like, trying to get ICANN, the travel constituency to respond can be a challenge. I don't think there is a phone number. So, just start off as part of the discussion, perhaps everybody is equally disadvantaged in terms of accessing the facilities. Do we have comments on any of the four bullet points, or in particular, accessing facilities?

Alan and then Garth.

ALAN [LEVINE]:

Hi, this is Alan [Levine]. I was thinking of the previous discussion that we had. There was this kind of understanding that ICANN is supposed to have a call center type environment for various types of customer query. And I was just trying to understand why it is that a perception that ICANN needs to have any kind of call center?

I mean, I do understand that it needs to service people in different time zones. And I don't think that there is any physical way, I mean, you were talking about some kind of physical way we can remove time zones. But I think the way that the planet works, the sun rotates, it rotates around the sun, that we are not actually going to get away from time zones.

But at the end of the day, I would rather, you know, wake up at 2:00 in the morning and talk to the person that I need to talk to, then, you know, talk to some intermediary isn't really the right person to talk to. And using to intermediary to communicate with the right person to talk to.

And, you know, in the ICANN business, from what I understand, the only real business aspect when you need to talk to somebody, in ICANN, at an operational level, is if there is a money transaction. So if you're a registry, then you get to talk to ICANN.

Registrars generally talk to registries, after they have been accredited as registrars. So there is once off-time when registrars need to communicate with ICANN at an operational level. And the beauty of

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ICANN is that they travel around the world, and they meet in different parts, interesting parts of the world, you know, three times a year.

So there is a good chance that sometimes in the next six months, they're going to be at a fairly close location, will be able to physically meet with the person, which is nice. And when you're going through a registrar accreditation process that's usually the useful one, so I think it's great that ICANN travels around the world.

Doesn't have to have offices in every place in the world. Does travel around the world. And registries maybe have a more frequent need for support directly with ICANN, but my understanding is that there is more interaction with IANA. So, you know, if we actually look down the details of the operations of ICANN, when do you have to have a telephone discussion?

When does it need to go off email? So, let's understand what are the actual business interactions that need to go, that need to have face to face, or telephonic, or email communications, if that's what we want to analyze about the globalization of ICANN. And we need to understand, when are those touch points needed?

Again, I reiterate, that if it's outreach, that's something that we signed up for. That's our job. Not ICANN's job, and I think when ICANN just intermediates me, I missed the opportunity to gauge the end user's positions on thoughts and ideas, interact with them, and understand how to represent their interests when it comes to policy making.



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SETH REISS:

Well, just while you ask the question, I quickly went to ICANN's website to try and maybe gauge this. And I immediately see it at the top. We have links for French, Spanish, Arabic, Russian, and Chinese. But if I click on any of these, the actual, the navigation at the top of the page and the bottom of the page is still in English.

So if you actually wanted to get any information in any of those languages, you still wouldn't be able to. The only thing that's translated is just an introductory page, that's in one of those five other languages. And then in terms of being able to contact the organization, there is a menu at the bottom that says, contact us, but it lists specifically, security team, PGP keys, certificate authority, registry liaison, AOC review, organizational reviews, request a speaker, and for journalists.

There is nothing in there for an Internet user.

UNIDENTIFIED:

I would say it is, because the person who comes, who approaches this, thinking that they're going to be able to get some sort of, you know, global method of contacting ICANN, is thwarted on two levels. There is nothing, they don't get very far with the language accessibility. And there is nothing inviting them to actually contact anybody in an useful way.

Those contact lists are really for industry and nobody else.

MOHAMMED:

Mohammed for the record. I just wanted to stretch Garth's point. Because if you look over to the website, I mean, it's just central, just

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central. Although ICANN pays lots of money for translating the documents, up to five UN languages, those documents are not accessible online. So basically, ICANN is wasting its money.

And so, and that lot of information is not available, it's not accessible, it's not there. So, where does it go really? So this is very, very critical. And the contacts is for the security operations, yes, and for emergencies, that's required. But I just want to remind others, that if they're involved with ccTLD operations, or registries, or operations, sometimes there is critical incidents that require immediate response.

That is required a phone number, which is you can talk to someone immediately, there is not someone, you send an email to security option. [?] might be, he is always awake to respond, but that's not what's required. I mean, so at different levels there is issues about really, conveying sending, or providing, the different information in the different languages, which is ICANN captures in reality, but they don't submit.

And also the contact for you to have, contacts really. So different regions, there is different preferences of the way of communication. In some part of the world, people prefer oral communication then writing emails to communicate. So I think that needs to be taken into consideration.

ROBERTO GAETANO:

A couple of additions to what previous people have said. I think that, this is Roberto speaking. Referring to Garth, it's, we are evaluating the

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thing globally, not just linguistically. He has mentioned that it's going to be difficult that some parts of the web are not correctly translated.

But in terms of contact points, who is penalized is a category of stakeholders, because there is no reference to those stakeholders. So I think that those are two distinct problems. One is related to the language as a barrier for the language, and the other is an obstacle for the type of stakeholder.

The combination of the two can be very disruptive, because if you are an user who doesn't speak English, then in that case, you are completely lost. And I would like to link this to some of the discussions that we have been having over year, in terms of the WHOIS.

And that, to a certain extent, links to what Mohamed was saying. We had acquire the WHOIS because in certain situations we need to have a sort of the possibility to contact a person that is responsible. And I think that we should apply the same rule to ICANN, in the sense that accessing the website, it should be extremely clear, and not having to navigate page after page after page, to find out this information.

But in case you have, you need to contact ICANN for whatever reason, you need to get the possibility to have this in, without language barrier and without a barrier of other type in terms of globalization.

And the last thing is in terms of what Alan has said, and you might be surprised, but in fact, I agree with you, in the sense that although I basically think that ICANN has to enlarge the footprint and making it more accessible geographically and in all of this. I think that we have to

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be extremely careful in identifying for what purpose we do this, and what are the functions that need to be localized.

Because otherwise, if we just make a big thing, then we take the risk of investing a lot of money without having the return on investment in terms of benefit. So I have to rectify what I was saying before being a champion of enlarging the footprint of ICANN. I still think that we have to do it, but I take your point that we have to be careful in using our scarce resources to do the things that are really needed.

Not to do that just to tick something off of a box, tick off a box and say we have done it.

[MON-EL]:

No comment, but I will... Oh, again. It's [Mon-el]. Sorry, I forgot to say that I am a member of the Francophone group. Actually, I agree with the two of you, but ICANN is global in the sense that it concern all of the world. It's running the world infrastructure. And they're responsible for security, stability, whatever. So since it concerns all of the world, it has to work to reach all of the world, and to enlarge its footprint.

Be it in language, or the way it communicates, and maybe, I don't know, it could take the example of other organization like what is happening in, let's say, in the all traffic market, or whatever. So they can get closer to communities all over the world. I think it's needed.

SETH REISS:

[Ya-sushi].

[YA-SUSHI]:

Thank you. [?] that [?]. And the one thing is, as all of you know, some countries are prohibiting to access the Facebook in their countries. So sometimes the ICANN is strongly promoting to access the Facebook, Twitter, or some other things. But unfortunately, those are the target of prohibiting those countries. So in such case, we need to think of, if we think of the globalization...

If we think of the unified service of the ICANN worldwide, so that sometimes we think of how to use the social media. If not, so that we can access the Facebook, but it's not the true... If we promote the, make the promotion on the Facebook, then all of the people can access there. That's not true. So that's my...

...not only just the ICANN, but all the Facebook accessing, and also, all of the Twitter. So, the even if the ICANN is promo, makes the promotion on Facebook, those people can't access those contents.

SETH REISS:

Seth for the transcript record. I think the point being made here is that, ICANN has to be sensitive that it may be using modes of communication that doesn't, channels of communication that doesn't reach certain geographic areas. So ICANN needs to be aware of that, and perhaps take measures to compensate.

I think... Tijani and then Garth.

TIJANI BEN JEMAA:

Tijani speaking. Seth, you made the point, because at the beginning, I understand what he said. I think that all of those points we spoke about

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this morning and even yesterday. I don't think that we will add anything to continue discussing like this.

Perhaps we have to summarize what we already said, and if there is something missing we can continue.

SETH REISS:

Seth Reece for the transcript record. The concern, Tijani, expressed, is that we don't to find ourselves at the end of this session with a lot of thoughts that haven't been brought together. And so, it's important because all of us spent a lot of time and effort to come here and have a fruitful discussion.

We want to make sure that that discussion is put forth in a report that reflects the work we've done. So Garth.

GARTH:

It's Garth. I think what [Ya-sushi] said is very important, and it goes right to the question... I mean, this is sort of, prejudice this assumption that just because people in Europe and in the United States and elsewhere can access Twitter and Facebook that everybody else can too.

And I think that's a really, that's a bad assumption to make. And I also think it's not necessarily good practice for ICANN to invite people in only to send them to a different website. They should be able to do everything on ICANN.

I mean, I don't see why that should be so difficult. And I think we've mentioned this in a previous meetings, maybe a few different times, is

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that instead of translating all languages for everything, at least start with maybe a bar on the website that has 50 languages, in smaller type, that simply says, “I speak blah,” in each of the languages.

And as people come to the website, they can click on that, and then they will start to get an idea of how many visitors they have that speak these different languages. Just as a way of recording and polling that.

MOHAMMED:

Mohammed for the record. I just wanted to make sure that the discussion we had in the morning and yesterday, regarding accessibility, and ICANN not taking enough consideration, different segments of society. Because we had a lengthy discussion about that, and people’s ability to be captured at this point, because we were talking about physical facilities as well.

I’m not sure how that can be in the report, but at that point, just to be missed. Thank you.

SETH REISS:

Thank you. Seth Reiss for the transcript record. I guess what we haven’t really talked about the last sub topic and five which is, are ICANN operations sufficiently shielded from local jurisdiction? I don’t know if we need to talk about that more, but does anybody want to address that at this time? Garth?

GARTH:

I mean, I think that there may be a fight brewing. I don’t know how serious the fight is, within the US legislature. There are certain people

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in the United States who are extremely opposed to the IANA transition. I don't know how far they're going to get with that, I don't think they're going to storm into ICANN's headquarters, but that's certainly something that could happen, somewhere, at some point.

SETH REISS: So I take it we're not shielded then. Carlton.

CARLTON SAMUELS: Carlton Samuels for the record. I'm picking up on Garth's point. Yes, there are [?] in the United States, policy framework that are opposed to the transition. And I don't know if they are going to succeed or not. They can't, I wouldn't make book on it. But the same thing exists in areas where ICANN is trying to globalizing, and they're putting offices and so on inside there.

The way we try to deal with that in the business situation, called business community, we have a fail over plan. And what the fail over plan for ICANN, I don't know. You pick up and move to someplace else, or you find an alternate paths or channels to do the things that you normally would do, if that is happening.

But I think, to Garth's point, I don't think that we could seriously talk about shielding here without, because we don't know to the extent of which any action from any country is going to degrade ICANN's operations.



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SETH REISS: That this might also be a point where there might be political concerns, maybe more so than the IANA transition. So, any other comments about this last point please?

UNIDENTIFIED: I think one model that could be considered is, sorry. My name is [?], I think one model that could be considered is, you know, followed by the Red Cross, Red Crescent and so on, which even they aren't intergovernmental organizations set up by treaty, they still enjoy certain immunities in the jurisdiction where they are physically present.

So that sort of model is one that could be considered, because as a couple of people have pointed out, ICANN currently is an US non-profit corporation, so it is entirely subject to the laws of the United States. And if we're talking about a model where ICANN continues to remain an independent organization, the only models, at least that I'm aware of, which exist, which allow for certain levels of immunity from local jurisdiction, are the examples of ICRC and a couple of similar organizations.

CARLTON SAMUELS: It's Carlton Samuels for the record. Actually it's a little bit more complex than that, because we've had that discussion. Garth knows about this, over several moons now. In most countries where the Red Cross/Red Crescent will operate, they are circumscribed by local law.

For example, all of the Caribbean, there is a law that is called the Red Cross Act, that actually says what it is the Red Cross gets from operating in the country, and what immunities, you are the same immunities,

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what rights and responsibilities associated with their being in the country.

So, it requires an affirmative vote in the legislature to get most of that. So it's a little bit more complex than that. We have one model across the Caribbean, in the English speaking Caribbean, I can speak authoritatively in that. But in other places in the world where we've looked at it, and again Garth we've had this discussion before, there are slight differences, slight changes. So bear that in mind.

**SETH REISS:** This is Seth Reiss for the transcript record. In those jurisdictions, what stops the local legislature from changing the law after the entity is, taken home there?

**CARLTON SAMUELS:** Carlton Samuels again for the record. Nothing actually. It's all about good will. It's all about good will. The idea is that the Red Cross tends to do good work, and they engage themselves in the areas that politicians normally show up after the fact, which is to say, in disasters. So for most politicians, they see the Red Cross as a very important part of their political outreach objective.

And that is why they get some traction in the legislatures.

**SETH REISS:** This is Seth Reiss for the transcript record. If we adopted the model that was discussed in a couple of the other points where there was more than one corporate entity in more than one region, would that

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address this last issue? Because if there was a political takeover in one region, we would survive in another. Lance?

LANCE: Just a question, and maybe Carlton... The concept of branches, but I suppose the branch would still have to subscribe to local law. But, certainly a model that says, well, all right. The head office, or the headquarters are liable, but this is your operation in office in the various regions.

CARLTON SAMUELS: Carlton for the record. Yes, that is what I said I was asking, you can have a situation where you had corporate enemies in the terminal advisory, corporate headquarters in one place, and then you all operational branch, but you still would... The way I see that working is that it gives you an infrastructure that you can use for failover operations.

So I agree with you. If I were say operating in Hong Kong, and I got shot down there, then maybe I could start cooperation in Sydney. Or if I were in Geneva and I got shot there, I could move to Istanbul. So I see that infrastructure as probably a useful one if you were going to have failover operations.

SETH REISS: And I think some of the suggestions went beyond just operational, but to actual institutional headquarters in more than one country. So you would have, and I think somebody analogizes to the commercial model

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where a multi-financial corporation has different corporations in different countries to operate legally and more effectively. So [Jury]?

[JURY]:

This is [?] for the transcript. I just wanted to point out that the commercial analogy may not be the best, this from a technical perspective. I'm an engineer. So the whole domain name system is based on everyone accepting a single root for the domain name system.

And in pretty much any case where the main functions would be moved from one country to another country, the corporate analogy... A corporate might move all of its businesses, and all of its customer relationships in one place, but it's much more analogous to having a Dali Lama, so when the Dali Lama is no more welcome in Tibet and moves to another country, then the local authorities bring up another local challenging Dali Lama, and everyone has to choose which one they have to believe in.

So, that's something, or that's a point where the corporate analogies don't really work when we're dealing with what ICANN is dealing.

ALAN [LEVINE]:

This is Alan [Levine]. I'm so disappointed that we actually reduced ourselves to discussing ICANN, a corporation, and how it operates. I really feel that as At Large, and an At Large structure, you need to talk about ICANN at the multistakeholder, technical coordination, policy making level. Why are we getting involved in the many issues?

I don't believe it's an At Large discussion.

MOHAMMED:

This is Mohammed for the record. I just, I disagree with Alan. It is important we talk about this because it will affect Internet users in different jurisdictions, even oppression. I'll tell you one example, the United States as a country have trading embargos. in 13 countries. And ICANN is incorporated in the United States, in California.

ICANN is bind by those trading embargos, legally. ICANN, or the US government, Department of Commerce, they are in a good phase, did not turn down any request for changes on IANA function on the root on any of the ccTLDs on those countries.

But even individuals, At Large members, ISOC members of those countries, ICANN needs to get permissions for them to get supported. So that even affecting not just registry, it is affecting end users as well. Because someone from, let's say, Sudan, Iran, North Korea, Cuba, might not be supported to come here to this meeting because ICANN is not able to pay them, because ICANN needs to get permission from the US government Office of Foreign Sanctions to pay this 500 or 700 [?] US dollars.

That end user. So it's... If we go down, it's, there is implication for those issues. Operationally, the business constituency has registries and individually. So that's why it's important to debate about this.

UNKNOWN SPEAKER:

I'm [?] and I just wanted to add that this is one of the main reasons why many international organizations are debating Switzerland, because

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Switzerland is basically almost never at war with anyone. So, they can, they have no issues with embargos.

ALAN [LEVINE]: This is Alan. In response, I just want to know sir, how did ICANN pay you to come here?

UNKNOWN SPEAKER: ICANN, I mean, not pay me for this one. But I can give you the solutions. Two cases. One, for example, ISOC chapter in Sudan, where ISOC itself need to go for a process for two years to get exemption to deal financially with that chapter. This is a process that has happened, and I was involved in that, trying to support that.

For in the usual, coming from those countries, ICANN need to apply, get permission for a certain period of time, to allow them to support that individual. That could be for one year, 10, let's say I'm sitting on the ccNSO council position, which I was in that position, they need to get me an exemption for three years period if they're going to support me.

And that's the same for others as well. So I know colleagues that have, their fellowship programs, application, after it has been successful, has been turned down, or they were not able to travel in ICANN because of those restrictions. So that's a reality. That's, ICANN knows that very well. They acknowledge that.

And this is due to being liable to the jurisdiction that they incorporated in. Yeah, so this is a reality. This is something that happens.

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SETH REISS: Seth Reiss for the transcript record. I think one thing, if you are on the issuing side of this, sanction, you don't know how it impacts the other side unless somebody tells you, and that's why I was oblivious to these impacts. That's why this dialogue is so important so you can educate us in terms of, you know, how ICANN being incorporated in California impacts many things that those of us on the other side aren't away of.

Thank you. So we're now going to summarize everything we've done from yesterday until today, which is not going to be easy. Tijani, do you want to give us some guidance or suggestions in terms of...? I have to be honest, I've never done this before, in terms of being, the summarizing part. So maybe you can give us some guidance.

TIJANI BEN JEMAA: Tijani speaking. Those are not guidance. But I think Carlton and Lance took the notes so we have the material now to do our summaries, to do our draft, if you want. And I think that we agreed about the past part of the material that they take. We have to agree now about what we did this afternoon, and then I think that we have to go and draft it, because we don't have time.

We need to begin drafting.

SETH REISS: Seth Reiss for the transcript record. Just so everybody understands, we're going to be drafting the report, and the report will be turned into the ATLAS. And they will be taking that report and producing a final, final report with our contribution. So I know that Lance and Carlton will be working on the report.

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Tijani offered to assist. [Jury] I'm sorry I didn't see that. Did you want to make a comment?

[JURY]: No sorry. I just realized I had my name tag up and I turned it down because I didn't want to talk. Thank you.

SETH REISS: Thank you. So that will be the process. If anybody has... It involves a lot of work over the next few days. I think we'll be turning in the report in the middle of the week, probably. Because I think the final report is coming out Thursday. If anybody has a burning desire to assist with the drafting or the revising, you can let me know.

UNKNOWN SPEAKER: I guess we now have notes from discussion, so maybe some of the people, or the reporters, can prepare a draft and circulate it by email so everyone can make comments and...

SETH REISS: I'm sorry? Sure, please, Carlton.

CARLTON SAMUELS: Carlton for the record. We can do two things. We can always circulate the raw draft notes by mail. We can get together, me and Lance and whoever else, and draft a report, like you say, and circulate that. So you'll have the raw notes that you can look.



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And the raw notes are provided to you for revision and extension, because what we do is that we try to take notes of who is saying what. So you'll see your name, prefacing every line in the report, and if it's something that you thought that we didn't catch what you said, you can revise and extend it and send it back to us.

So that's the reason for providing the raw notes. And what we will do is that we will go ahead and create a draft report, which is our sense, listening to the distillation of all of the issues of what the report will cover. And we'll circulate that again for revision and for extension. And hopefully we'll have that done by latest tomorrow afternoon, yeah?

We will send the draft notes now to the whole group, so you'll have it. Please understand, if you find that there is anything that the raw notes did not capture that you said, it's your opportunity to revise and extend. And I use revise and extend really [?]. So, make sure you do that. Thank you.

SETH REISS:

Tijani.

TIJANI BEN JEMAA:

Tijani speaking. I think that this approach is absolutely good. And the drafting, I think the reporters were chosen because of their skill in the language, in the sentences of the ideas, etc. So, normally we would wish to have the role that you send, if there is something to collect, we'll do. In the meantime, I think that if you start drafting, you have only to correct something if there is something to correct.

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And then the first draft you do, you can circulate it and you can, or if you want, you can have some time to sit together and to... The drafting is... You are the best one to draft it.

SETH REISS:

So, maybe I would like to understand exactly what Tijani was saying. So are you suggesting we skip the first step and go ahead with a draft?

CARLTON SAMUELS:

No, it's just we run it concurrently. So we've done it before. So you can't wait until I get, hear back from you. So I start drafting because we have to put it out for you by tomorrow afternoon to have a draft. So, I will not wait for you to come back to me from the raw notes. I will start drafting, and you will send the notes, and when you send back the notes to me, there is something substantial, substantive to change, then I'll make it then.

And then [?] to kind of begin to do the report from now. We're not going to wait until you come back to us, okay?

SETH REISS:

First of all I want to thank all the hard work that Lance and Carlton will be doing, because I think they'll end up with the bulk of the work, and we all benefit from that. So we appreciate it. And Tijani, I'm glad you understand the process and will be assisting to.

And I guess it's up to all of us to be responsive. So, you know, keep in mind that if we don't pay attention and give Carlton feedback quickly, he won't be able to take our feedback that may come later on. So I

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encourage everybody to do that. So let's go ahead and summarize this last point five. Lance, do you want to summarize your notes on that?

LANCE:

Question five, operational matters. And the first point of discussion was whether ICANN's footprint, global footprint, covers the global Internet community on equal footing. There seems to be agreement that the global footprint does cover, but there is still work to be done, and there are issues that need to be addressed.

There was discussions about opening, ICANN opening offices in other geographic areas, especially those that are unrepresented. A concern was raised that the cost of that, or the opening of offices is an expensive exercise, and some thought should be given to, and Alan I hope I got this correctly, the expansion of the virtual world to help with this process.

Okay. So you want to go.

Okay.

Okay. That's there as well.

TIJANI BEN JEMAA:

Yes, if I understood well, Roberto, and I will not speak on his behalf, but I thought he said I do want to expand the footprint of ICANN, but not only to expand it. We have to expand it and knowing why we are doing so. So, he's thinking about the functions.

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LANCE: Right. So in support of that, there is a need to define a strategy for opening the offices...

ROBERTO GAETANO: It's just, in fact, I don't think that, you know, it's better to provide a result that where we all agree, and when we put the issue, instead of trying to give an answer to the problem, that we don't have consensus on, that's my approach.

So I think that definitely there is an issue about expanding the footprint of ICANN. There is also an issue about not doing this just for the purpose of doing it. And right now, I don't think that if we have, right now, to say, oh these are the things that we need to do. We just have no time to flesh it out and there is no consensus to...

We cannot make a bullet point list of things for which the footprint has to be, the functions for which the footprint, it would be worth it to extend the footprint. So I think that we can say there is a general issue, and we can give the recommendation that we do this carefully and not just for doing that.

ALAN [LEVINE]: I think it's a question of putting the cart before the horse. I take that, Mohammed's point about being able to put, pay monies to embargoed countries of the US. I was given an opportunity to question that, but that is the only point that I've heard as a reason to expand the footprint of ICANN, that's a valid reason.

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I don't understand why they couldn't pay our of Brussels. I'm sure there aren't embargos to pay from the Brussels office to any of these 13 countries. I don't know why they couldn't make a plan out of there. I think we need to get to the bottom of that story as to how that can be done.

But that's really the first problem or first reason why, a valid reason why I believe that we need to expand the footprint of ICANN. And before we can agree to expand the footprint of ICANN, I think we need to have real valid reasons, and understand why it needs to be done.

We can't say it needs to be done, and as long as it's done with real reasons, it must be done. We must first understand what your reasons are before we can all agree that it must be done.

MOHAMMED:

Mohammed for the record. I think, as we did yesterday, we're trying to raise the issues, when we were discussing the bylaws and that it conflicts with national laws. And we carefully said that ICANN need to investigate this in the light of those issues. The same here applies, those issues are not for a long time, it's not just the issues of the trade embargos, the issue is also about being liable to a single government jurisdiction.

How ITU, the whole issue about Internet governance is actually emerging from this principle of you, ICANN is not global enough to be treated as, and have a global mandate. And for the legacy reasons, that's the situation now. So it's, I mean, they should have, countries under embargo, it's very clear to ICANN there is no solution to that,

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even try to use any of their other offices because they incorporated in the US.

They didn't cooperate in Istanbul or they don't... And it's the US incorporated entity and they have to abide by the law there. I think it's important that we list the issues, because I think that's the discussion here. The options, those are options or recommendations from our side, we heard options about being incorporated in a jurisdiction that, let's say globally known to be, like Geneva.

Geneva is a good example. We mentioned yesterday, that why, I think it's all the international organization, government, non-government, they're based in Geneva, because it's a country that has a track record of being neutral. There is no issues, political issues. So those are the considerations that we need to list to, at least need to be considered to ICANN, and that's why this is important.

We should not forget that there is lots of issues coming from this. This set of, let's say options, and we need to list them. I don't think why we should shy from that, why shouldn't, and carefully... I mean, those options, ICANN needs to consider them. ICANN will do their research for deep analysis of the impact, implication of those. They're not going to just follow our recommendation blindly.

So I think we need to not shy from those. Those are critical issues. They've been there for a long time. People didn't talk about it, from bylaws changes, if required, if they review that to the level of incorporation. Because what we're seeing, what Roberto is saying that, ICANN is one to be converted to an international [?] organization and functions.

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But does not resolve the main issue, even after IANA transition, even the discussion in the morning. So, and basically there are issues, global issues that need to be handled. I'm not sure how that could be resolved. I'm not sure really. But issues I think need to be put on the surface. We cannot as a community longer just defend the model without stating what the issues, they need to be clear, yeah?

ROBERTO GAETANO:

Okay. I think that, it's very difficult to say that we have consensus on something. The fact that we do not have consensus on a fully detailed solution, doesn't mean that we cannot say in the report that we can, that we have discussed this, and that we believe that this matter has been investigated.

The reason why I'm saying this is that while I think that I will not be able to convince you about a list of five or six reasons why the footprint has to be enlarged, I also, I would also disagree on the fact that we don't mention at all the extension of the footprint, because I will not agree on the fact that there is no problem.

You see, I can tell you, just quickly, two or three things. First of all, there is an issue of perception. Perception of the local communities that always, we hear this, ICANN is an US organization, it's based, blah, blah, blah. There is an issue... I agree that we can communicate by email, that the technology and all, what you want, but direct communication by a phone call is still, in some parts of the world, prevailing element.

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And for having this, you need to have two things. You need to have somebody answering the phone on the other side, at a reasonable cost for the caller, in a time zone that suits the time zone in the caller, and not in the middle of the night. You cannot oblige people to call at midnight because they are making their call to California, and also to have the possibility of answering, of having a reply within a reasonable time in the language of the caller.

That can be done from California, but you need to accumulate there a series of skills of languages and so on. So, there are many of these things. I don't think we are not having a, in my opinion, a workshop specifically on extending the footprint. We can discuss a couple of days on this, and then come to a conclusion.

At this point in time, I agree with you that it is not something where we have consensus on. We cannot make a blank statement, ICANN needs to have a presence in at least three countries, for every region, and so on. We are not there, but I think that there is the general feeling that at least that we need to evaluate this.

And evaluate what will be the benefit of extending the footprint, and what will be the cost of extending the footprint. And identify in which cases this could be beneficial. At the end of this exercise, we might end up with a result that there is no benefit. But at least I would like to try to convince you that we can achieve a consensus on the fact that we need to recommend to investigate the issue.



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LANCE: Stop for a second. What we have done, is that we have actually taken as much as we can, from the records of the participants in the room. So I think we are at the point really making concrete suggestions in terms of the way forward. So, what I've heard so far is the need for ICANN's open regional offices, [?] strategy because ICANN can't open in every location.

The possibility of ICANN relocating to some neutral location, there was coming out of the notes earlier, there was some conversation about the possibility of the ATLAS taking on some of the responsibilities in local jurisdictions. There was some discussion about that, because there was some talk about that was not necessarily the ALSs function.

And ICANN be sensitive that social media is sometimes blocked by governments, and ICANN ensuring that translations are available in a timely manner. Those are some of the things that came out of the discussion today. Now, I don't know whether that is what we're going to encounter in the report, or we want to cherry pick from this and come to a position.

SETH REISS: I thought I heard you suggesting what the report would look like, and I think Lance is looking for some guidance. Is that right Lance?

LANCE: Yeah, to some extent.

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SETH REISS: And I think that's right, because we want to provide you that guidance so that you do your job well. Roberto, you want to give some feedback?

ROBERTO GAETANO: Yes, I think as a general rule, I would say we have spent, we are spending nine hours in this, and there are some ideas that came out. And some ideas we have consensus and that can be clearly shown as a consensus, and some ideas we don't have consensus. I think that it will be a pity if we don't put them in the report, making it clear that there is no consensus.

So I would rather leave more things there, with a clear marking that there is no consensus, but the issue has been raised, rather than saying, "There is no consensus, we delete that from the final report."

SETH REISS: So as I understand the suggestion, and Alan we'll get to you, as you're writing the report, we will mention, mention everything, as you just presented it. But only those points where most or all people seem to agree, will you characterize it as consensus. And so, I think, as you're doing this, and we're giving you feedback, hopefully those things will become clear.

It isn't always clear when there is consensus, but sometimes it will be fairly clear.

ROBERTO GAETANO: Just one thing I'm adding. I think we have reported yesterday, in the notes that you wrote, we have reported what Alan has said in terms of,

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we don't really need a legal framework because we are, our bylaws, we are above the national laws. Honestly, I don't think that there is a consensus on what you have said. But I agree on the fact that that has to be in the report, because it is one opinion that has been stated.

The same way, I would like to push the idea that we talk about the footprint, the enlargement of the footprint, even if there is no consensus because that is something that came out from the discussion. I think that we are not a deciding body, and it will be a waste of resources if one idea comes up and just because there is no consensus, it is abandoned.

SETH REISS:

Thank you. So Tijani, and Mohammed, and then Alan.

TIJANI BEN JEMAA:

Tijani speaking. There is three levels of consensus. There is first, no consensus; second, rough consensus; and finally, full consensus. There is also, if there is consensus, it is not a full consensus, we can add to that a minority opinion. So that the report reflects everything was done in the group.

So I think that we do have to use our color cards to have a straw poll, if you want, and to know what is the consensus. Do we have full consensus? Do we have rough consensus?

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MOHAMMED: Mohammed for the record. I second Tijani's point. I feel like in the room there is some sort of a consensus. You want it to be measured, happy with that.

ALAN [LEVINE]: Thanks. I agree with everybody's points here. I think before we start voting on what is consensus, full consensus, we have to have stuff in writing. And so I don't want to go there. But right now, with regards, we are above the law, I love the way that Carlton separated ICANN corporation from ICANN the global multistakeholder technical coordination policy entity.

When I'm talking about we're above the law, it's on the latter not the former. So I think it's very important that we document those. That it has been acknowledged. But I'd really like to make a practical suggestion here.

One thing that I've heard is that there seems to be a perception that a telephone number to call, a local telephone number to call may be helpful. And I think that there is acknowledgment that an ALS, we have a commitment to do outreach. You know, there is the old saying, when you point at somebody, we're pointing at ICANN here, we are suggesting to point at ICANN to create somebody to call at a local time, that can speak the local language in an understandable fashion.

Whether it's someone to call and send a message or whatever. Three fingers point back at you. Why don't you point, one goes forward, three comes back. Now I personally volunteer my ALS, my telephone number

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of our ALS to put on the ICANN website, should any end users have any kind of need for answering questions, or support, or anything.

And a feedback mechanism back to ICANN as to how affected I was as an ALS, in answering their ICANN question. And I challenge you all as ALSs, you've been funded by ICANN, who agreed to do ICANN outreach in exchange...

And I can tell you, as an ISOC chapter, I've got way more support from ICANN than I ever got from ISOC global. I'm a much better friend of ICANN than I am of ISOC global. Much. And I want to help ICANN. And I challenge you all, please. I want to put my number on ICANN's website for any South African that wants any information about ICANN. I guarantee I'll be able to give them a very great fashion.

I want them to be able to get feedback on that. Because I know that's what ICANN is asking about us as ALSs. So let's go back to them with a really good practical suggestion, that if they want to know how good we're working, tell the users, on their website, to contact us and ask us. And we can gauge also, we get in touch with our users as well at the same time.

CARLTON SAMUELS:

It's Carlton for the record. Thank you. What I wanted to say is that maybe before we decide on the consensus and the voting, we have a draft. Let me tell you what the approach has been, we've used it before in 2009, and it's the kind of practice that we have in writing reports in this nature.

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We will always layout the argument against the questions that we have. And when there are interesting observations we make, we will flag them so that people have a sense to do it. We will never decide, in the report, unless you all agree what is consensus or not. That's not our job. Our job is to report as concisely as possible, the discussions and then we give it to you, and you decide what it is that we've got to label.

So we don't label. We simply report, and it's this group that then does the labeling. So rest assured we are not going to say there was consensus here, we're not going to do that. We're simply going to marshal the arguments as best as we can remember then, and summarize then, and then present it to all of us as a group to decide what the consensus is.

You can do [?], we don't have an issue with that. People can always [?], make a notation and we can decide that.

UNKNOWN SPEAKER:

Thank you, it's [?]. Well, I'm fine with this, but I actually wanted to point out that the question we are being asked is not whether ICANN footprint should be expanded, actually we're being asked whether ICANN's put forth this governing in the global Internet community on equal footing.

And I guess there is full consensus that it's not. Then of course, there is agreement on whether, I mean, the way to solve that is to opening more offices or maybe do something else. But at least on the fact that, ICANN is not governing the [?] global Internet community on equal footing, there is full consensus. And maybe you can recommend also

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some, that [?] brought the issue, so the reason [?] as fast as possible [?] parts of the Internet community are not were covered, because there is a lot of impressions...

I mean, if you ask different constituencies, each and every constituency will say, "I'm not being covered well and ICANN is doing more for the others than they're doing for me." So there needs to be some process to gain an objective evaluation of which are the weak points in terms of geographical coverage and stakeholders coverage, and whatever.

So a part from this, I'm fine. I think it would be easier if we get the draft, people to draft this organization, or whatever. And then maybe we can propose consensus points and see [?] whether someone agrees or disagrees, and we have consensus.

SETH REISS:

Silvia, if I am correct, we're almost out of time. Is that right? I'm not miscalculating am I? No, no, no. I mean in terms of the end of this session.

I think we wrap up in the next few minutes or am I an hour off?

I mean, I think we're coming to a good conclusion right now because it sounds to me like we have a plan. And we're being supported by a reporters, our reporters who are going give us all of their notes for feedback. They're also going to give us the opportunity to label consensus, rough consensus, minority reports.

But if there is... And I would like to point out that this outline, these bullet points, are primarily Cheryl's, and I think she did a wonderful job

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on them, but they're not meant to be limiting. As you can see from number six, which we haven't talked about all yet, we're entitled to expand upon the bullet points and offer solutions.

So we're not going to be outside our jurisdiction if we talk about a few extra things. Any other comments at this point? I think Lance pretty much summarized what we talked about in number five. Anybody have questions, comments, concerns, or does anybody want to raise anything else at all?

Because number six suggests that we can raise new points, and we only have a little time to do that. Garth?

GARTH:

Maybe we could ask just a really simple question, just to get a rough consensus of how people feel about ICANN living up to its, I don't know, mandate to be globally accessible. Whether or not people feel that that's the case based on what we've discussed so far.

I mean, for example I would say, no, no they're not.

SETH REISS:

Anybody else want to raise a card, green or red?

This is just a very simple rough consensus. Is ICANN living up to its mandate to be a globally accessible organization?

Half way?

Yes, Roberto.



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ROBERTO GAETANO: For me, if I had cards, I would give the red card, but I would qualify this with an acknowledgement that indeed, in the 15 years, there has been progress. I don't like just to make... So ICANN has done a lot of progress, but it's not enough.

SETH REISS: Let me rephrase the question. Should ICANN take steps to improve its globalization efforts?

Full consensus.

Anything else? Let me take this opportunity to thank everybody for their effort. It's been a long two days. I appreciate everybody's time, effort, everybody stayed focus. Nobody played too much with email. Special thanks to Roberto, our expert, who stayed with us the entire time. We really appreciate you taking the time with us and offer your expertise.

Special thanks to Carlton and Lance for the work they're about to do, the work they've done, and the fact that they will be doing a lot more work than the rest of us here after.

And special thanks to Silvia for reporting for us. So thank you all, and hope you enjoyed the sessions. And of course Cheryl, in case she's listening.

**[END OF TRANSCRIPTION]**