

**Transcription ICANN London  
NCUC Meeting  
Tuesday 24 June 2014**

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Bill Drake: Good morning everybody I'm Bill Drake and I need to turn my microphone off.  
Okay I am Bill Drake and this is the meeting of the Noncommercial User's  
Constituency at London ICANN 50.

We are getting a little bit start - late start here because of chaos in room  
transitions with one group leaving the room and the other trying to get seated,  
but we will be getting our act together and launching now. We are meeting for  
the next 3 1/2 hours and we are very much looking forward to an interesting  
and productive conversation. We have a full agenda with a lot going on. The  
US Delegation to the ICANN meeting will be joining us in about ten minutes.

Prior to that happening why don't we start by doing a (tour de tob) of the  
people who are in the room? If people could just introduce themselves briefly  
and say who they are, their institution, etc. that would be really helpful and  
we'll start with the (EFAS) award winner, our very own living embodiment of  
the multi-stakeholder (EFAS).

Avri Doria: Thank you; I'm Avri Doria thank you.

Wendy Seltzer: Wendy Seltzer.

(Ona Eng): (Ona Eng).

Bill Drake: Could people say like where they're from and things like that so that - there are people joining us remotely and they want to know who's in the room.

(Ona Eng): (Ona Eng), (Carter University) in the UK.

Stefania Milan: Stefania Milan (Blue University), the Netherlands.

Brenden Kuerbis: Brenden Kuerbis Syracuse University, Internet Governance Project.

(Ida Kittar): (Ida Kittar), Central American Association Aeronautics and Space.

Gabrielle Guillemin: Gabrielle Guillemin Article 19.

Milton Mueller: Milton Mueller, Syracuse University, Internet Governance Project.

(Flogman Horgman): (Flogman Horgman), University of (unintelligible) in Brazil and member of the Board of the (CG IGF).

Bill Drake: Bill Drake, University of Zurich and NCUC Chair.

Mary Wong: Mary Wong, ICANN staff and former NCUC member.

Maria Farrell: You're always in our hearts Mary. And Maria Farrell, I work for Internet Communications and I am involved in the (Open Rights Group), UK.

John Laprise: John Laprise, Northwestern University, Qatar.

Anriette Esterhuysen: Anriette Esterhuysen, Association for Professor of Communication, South Africa.

Ellen Strickland: Ellen Strickland, University of Queensland and also affiliated with Internet and (unintelligible).

Roy Balleste: Roy Balleste, St. (John)'s University and member of the (unintelligible) Committee of the NCUC.

Marilia Maciel Marilia Maciel for the (unintelligible) University (unintelligible), Brazil.

Chris Marsden: Chris Marsden University of Sussex.

Larry Martinez: Larry Martinez at California State University.

Bill Drake: Lest anybody be confused we are not the Academic Constituency, although it does sometimes feel a little bit like that. Let me hand the mic - pass around the mic to the people sitting behind me for introduction.

DeeDee Halleck: DeeDee Halleck, Deep Dish Television Network.

Matt Shears: Matt Shears Center for Democracy and Technology.

(Jake Abahu): (Jake Abahu), Secretary at the Brazilian Internet Steering Committee.

Konstantinos Komaitis: Konstantinos Komaitis, Internet Society and Individual NCUC member.

Ayesha Hassan: Ayesha Hassan, Internet Society, not a member just an observer.

David Souter: David Souter, ICC Development Associate from the London School of Economics.

(Debish Baboo): (Debish Baboo), International (Defender) for (Free and Open Software), India, member.

(Neil Siemen): Thank you and (Neil Siemen) from the University of Toronto and the (Reme Corporation), thank you.

(Jacob Hurst): I'm (Jacob Hurst) from St. (Thomas) University.

(Arena Carter): I'm (Arena Carter) from (unintelligible).

(Dan Noise): (Dan Noise) from (Sern) in Switzerland.

(Sorsen): (Sorsen) for (AG International Youth).

Man: Can I - sorry.

Andrew Harris: Andrew Harris, US State Department.

Bill Drake: Yes Andrew could you - do you want to come up and join us here. So and are there more - who did we skip?

There are more seats yes, if the US - our visitors from the US Government would like to grab seats in the front here that would be great. Well where you are is fine too Larry - anywhere you are Larry is good with us.

Woman: (Unintelligible).

Bill Drake: Okay well welcome everybody and I'm sure there will be other people cycling in over the course of the next 3 1/2 hours, this always happens.

So just to briefly - we today have a visit from the US Government Delegation and then after that we will talk a bit about the Government High Level Meeting and the changing role of the governments in ICANN. We'll have a coffee break; we'll then have a visit from the Council of Europe folks who just issued a report on Human Rights in ICANN. The GAC Vice Chair (Thomas Schneider) is one of the authors of that report and he'll be joining us along with (Lee Hibbert) from the Council of Europe.

We'll then talk about ICANN accountability, IANA and the four tracks of transition and a bit about the ICANN in the larger Internet governance ecosystem and we'll close with some brief organizational matters. So we

have a very full agenda for the next 3 1/2 hours. Without further ado then let me welcome the Delegation of the United States, we're really happy that you're willing to be here with us today for the next 40 minutes or so.

We had Larry Strickling and Fiona Alexander at our meeting in Singapore and had a very vibrant discussion about the IANA transition and so on. This time we have a broader range of members of the US Delegation here with us and we can address a broader range of issues - IANA as well as the larger ICANN environment and geopolitical and other aspects as well. So there's a lot we can talk about and they're I think pretty willing to address any questions and issues people want to raise.

Could the folks from the US Government who are here at the table introduce themselves please?

Larry Strickling: Hi I'm Larry Strickling from NTIA.

Danny Sepulveda: And I'm Danny Sepulveda from the State Department.

Larry Strickling: And we also have Andrew Harris who works for (Danny) at the State Department. I think we'd like to plunge right in and hear your questions. Maybe we'll do a little stage setting of about 60 seconds for each of us.

First off obviously the IANA transition is still getting underway, we'd be very interested in your reaction to where things are at. We've seen I think improvement from ICANN in terms of showing greater willingness to hand this task over to the group that's going to be charged with coordinating the effort. But as I said yesterday we are still hoping and expecting that there will be an open and transparent process to generate a transition plan.

And one that really is generated by the community as opposed to being imposed from any other source. So we were encouraged by the fact that the community gets to name the members of the transition plan steering group.

We were pleased to see that the charter of that group will be set by that coordination group, but we still think there will be an important task for the coordination group.

In terms of how they make sure that they have a fully open and transparent process that will encourage anybody to provide input into the planning, whether or not they're a member of the coordination group. I thought you had a comment on the changing role of governments inside ICANN. I very much hope I get a question on that because quickly my view is that it shouldn't change much from the way it is now.

And we do not look with favor upon some of these ideas that somehow the governments need to be on the Board or that somehow the current consensus based approach of the GAC in terms of developing public policy advice should change in any sense, but very much interested on your views in that and to get into some commentary on that. So let me turn it over to (Danny) to talk about some of the other important things coming up this year, particularly ITU.

Danny Sepulveda: Yes thank you all very much for having us here and I really want to open it up to questions so that we give you what you need.

Just so you know my primary responsibilities will be leading the delegation to the International Telecommunications Union later this year - I lead all the delegations to that body. We will also be focusing on the IGF in a collaborative fashion and some of the other events coming up this year. But mostly I wanted to hear from you all and answer any questions you might have.

Bill Drake: Fantastic, any other introductory comments from anyone in the - okay so well then let's go right to discussion. I certainly have many things I'd like to ask you about but I imagine members do too so I'll sit back and who would like to start out?

Okay I'll start out, so here's an interesting one Larry, the other day Fadi announced the NETmundial alliance. And he has been talking for the past year off and on about a coalition or alliance or something that would be built up to sort of hand off the kind of trajectory that started with NETmundial, etc. that would sustain the - and defend the multi-stakeholder process going forward, but the details of that are rather sketchy.

I understand from talking to Fadi the other night that his idea is that certain specific governments and other actors would be reached out to form so the alliance. We have some experience with the (one net) process for example of which I'm on the steering committee where we have all gone off with a lot of energy and enthusiasm to try to do - build new arrangements that were instigated in this manner and often they have sort of not really cohered and moved forward effectively.

So I wonder if you could tell us a little bit about whether the United States government be a member of the NETmundial alliance and how do you see this effort going forward? And by the way we've been joined by (Chris) Painter also of the State Department.

Larry Strickling: So it's way too soon to tell because we suffer from the same lack of details that I think the rest of the community suffers from. We were surprised by the reveal yesterday of this.

I mean we do something within the works because the (Ilves Report) - the high level panel report refers to the desirability of looking to create alliances, but I think the scope of what it might do needs to be very clearly defined if it's going to go forward. And a better sense of what gap it's actually attempting to fill that isn't already being performed by existing organizations needs to be much more carefully described as well.

So we think there's just way too many details that are not yet understood that would prevent us from taking any position on it at this time. So we're, you know, wait and see and learn more about it mode.

Man: Okay (unintelligible)/

Danny Sepulveda:(Unintelligible) clear how it's intended to be rolled out at this point. I mean is there - will it be put out - I mean Fadi made an announcement yesterday, but will it be put out for the community to talk about how it should be structured or will it be sort of announced? And so I think we have some concerns about that, but as Larry said the details are not very clear.

Bill Drake: I'm glad to hear that you share those concerns with those of us who have been puzzled as well. Okay so that was just an opening question - others, folks. Please introduce yourself when you ask a question.

Milton Mueller: Milton Mueller for the record Syracuse University, Internet Governance Project.

So the IANA transition we're very pleased to know that ICANN was beaten into incorporating accountability into its process that went beyond just the affirmation of commitments. But if you read the comments that were submitted, there are certain ways in which they responded to those comments and there's certain ways in which they were non-responsive we thought and in particular the scoping document came in for a lot of criticism.

No less than 12 different commenters ranging from the ccNSO Council to certain business interest all rejected their scoping documents. And then in the final response ICANN simply did not address this issue, it just didn't say anything about it as far as I could tell. So I'm interpreting that as the steering group has, you know, pretty much free range to define the scope of the transition in a way that it finds appropriate within in the parameters set by the NTIA and I wonder if that - if you view that differently?

Well I'm not sure I can give you a fully satisfactory answer to your question but I - they did say that the coordination group is going to set its own charter - I guess the coordination group ought to set its own charter.

Larry Strickling: Just to add to that, I think that Milton there are two things that are being kind of (complicated) here. One is the scoping for the IANA function transition and two is the accountability reform process at ICANN.

They're two separate processes, they're interrelated and interdependent but they are separate processes. And the degree to which accountability is achieved will reinforce our comfort and I assume the comfort of this community with the IANA functions transfer the contract authority transfer. But let's keep in mind that those are two different processes and some of the things that you or others may want to see in the IANA transition discussion are actually going to be taken up and discussed within the accountability transition within the accountability reform conversation.

Milton Mueller: Well that's indeed the problem is that there - the separation never made a lot of sense to a lot of people and there's a very strong feeling, even stronger among the business community than among us that unless certain things happen with respect to accountability you can't transition, you know, functions to ICANN in certain ways.

Danny Sepulveda: Let's remember that right now the IANA functions are executed by ICANN. So you're not transitioning to ICANN the ability to execute the IANA functions, they already do that.

What you're transferring to them is - or to someone else is the ability to verify that their processes were conducted in accordance with the ICANN procedures. Separately and critically important - and they are not separate processes, they were rolled out separately. They are a - they are - I don't

know like the Holy Trinity, they're one thing but two things. Within the accountability process you have the more structural conversation within the questions of how ICANN operates and executes the IANA functions.

So again we have made very strongly the argument that these are interdependent functions, we've made that quite clear to ICANN and to (body). But they - the way people talk about these things would leave someone highly unsatisfied if they thought that the accountability questions were going to be answered in the IANA transition process.

That is to say the IANA transition proposal is one proposal, the accountability and reform proposal is a different proposal. The success of each is dependent on the other, right, but they are two different proposals.

Bill Drake: Avri.

Avri Doria: Thank you, Avri Doria - one of the other issues though is one of the points that NTIA has that wasn't mentioned is the ability to assign that contract and review that contract on a periodic basis.

In other words so yes the IANA - the IANA function contract that is awarded to ICANN, right. So part of the function that NTIA seems to me has to transfer is how to do that judgment periodically of how to award that contract. So - and that's the part that seems to be getting lost somewhere between the accountability of to whom is ICANN if they get this - to whom is ICANN accountable in terms of the renewal of the contract.

And with that issue not being on the table as it were, not being in scope for the transition discussion and yes sort of on the scope of accountability, it almost seems in danger of falling in the cracks of who decides. You know, obviously one could say that SSR at the moment requires that the contract not move. There was another two years of renewal and another two years after that, etc.

But to loose that checkpoint that is every once in awhile ICANN at the moment or whoever has the contract for the IANA function is reviewed to see if it's satisfactory for them to continue doing it. If we just transfer that responsibility to the holder of the contract we sort of lost an accountability, thank you.

Larry Strickling: Yes and I think as the group starts to work some of these will come into greater relief.

Here's my (spend) of it, but again I hesitate to make pronouncements because that's not our job any longer other than we want the community to take this on and work it. But it seems to me that certainly within the scope of the first group is an evaluation of how does ICANN perform each of these functions. We think - and from the comments we've seen it seems clear that the individual customer groups of ICANN want to have an ability to deal with those issues perhaps in subgroups of some sort, so that the folks that are directly engaged on the protocol parameters will deal with that.

But if you accept that as a logical way to proceed it would seem that in that discussion there would be on the table the question of what fun- you know, what are the functions that ICANN performs. The issue of are there appropriate performance metrics for how they perform those functions in terms of SOAs or whatever else? What are the consequences if they don't perform according to the commitments they make? That all seems to be to me absolutely part of the first works streams efforts.

And then how you aggregate that in terms of a proposal - overall proposal that gets community support will be the challenge that the coordination group has to have. So it seems to me that some of what you're asking as - if you break it down to the individual functions gets dealt with there. What I have envisioned that might be discussed in the second group are these more metaphysical questions of well what happens if the Board goes rogue and

you want to hit the reset button and how do you protect against that sort of thing.

So they're your focusing on higher level governance questions and Board structure and Board, you know, what are the rights of who selects Board members. What are the recall rights, you know, what do you do in that situation? What do you do if the Board is not following the wishes of the community, that sort of thing? And that's why it's always seemed to me logical to separate that into a different work stream from the more specific look at the individual functions.

But as (Danny) says these have got to come together. There's going to have to be in our mind before the transition is done or completed the peop- the community's going to have to have strong answers to both of those sets of questions - does that help?

Avri Doria: Sure it does but it still leaves (help) - for example it's quite easy to see that the IETF has its contract with ICANN and the IAB can decide to renew that or with six months notice cut that.

And that is the case all the way through except when it comes to the gTLDs and the ccTLDs where it would be if there is not contractual relationship anymore it would be ICANN having a contract with itself. And that - as I say I'm still not quite sure that perhaps what you're saying is that the contract is gone and it's just functions, that there is no notion of a renewable contract because that seems to get lost for the gTLDs and ccTLDs.

Larry Strickling: So again, what I think doesn't necessarily matter here because it's up to the community to work this out, but I do not see the necessity of maintaining a single contract and giving it to somebody else to manage.

Because I think when this actually gets into discussion in the coordination group and the community starts discussing it they will probably - or they may

well, I don't want to say probably, they may well decide a different model is more appropriate, perhaps breaking it down according to the individual functions. How you solve the problem on the - at least on the gTLDs - I think on the cc's you probably have a community that can work directly on that, it will be on of the challenges the group will face.

But again I don't want to be prejudging or pushing this into any particular direction because I think that the beauty of the multi-stakeholder process is the (creativity) and the ideas that are brought into it. And every time somebody says it puts the finger on the scale it impacts the ability of the group to reach perhaps the most optimal solution - yes?

Danny Sepulveda: The underlying premise in your question is that there is this point of authority and power that lies relative to the distribution of the contract - to the awarding of the contract to ICANN.

And that that power will be (locked) and therefore what do you do if ICANN messes up the gTLD process for example? The challenge that I would pose, one is I would ask you and I think we've asked the entire community is okay what do you all propose be done there? And your underlying question is well one possible solution is that ICANN answers to itself. And then the question becomes structurally what does that mean, right?

Because the fundamental underlying of the premise is relative to how much power you actually believe the awarding of the contract grants the American government. So if you believe that the American government would seek to award the contract to ICANN because it made a gTLD decision that we didn't like, I don't know how realistic that is as a potential scenario nor how that would be received by the community, right.

So if for example the Board of ICANN decided that it did not want to award someone a gTLD relative to something that's very sensitive and GAC has decided to say to the Board, please don't do that. And they decided not to do

it and we decide, well yes you should do it, therefore we're no longer awarding you the contract the spontaneous combustion that would take place, people's heads exploding all over the world.

I think, you know, I mean to some degree I think that there is some lack of (position) and actual understanding of the relative power that the awarding of the contract (brings) to the United States. And if we continue to talk about it as if it's earthshattering power then you would want it to be replaced with earthshattering power and it isn't.

Avri Doria: The US government did in the last go-around - not because of a gTLD reason but because of a separation issue did deny the contract and say, no you did not apply for it satisfactory go back and rethink this. So there was indeed a power, it wasn't about a gTLD decision but it was about the way the function was being designed.

Man: But that's an interesting next point in this conversation because now you're trying - now you're establishing what are the parameters for the proper execution of the awarding of grant power.

And so once you decide what the proper parameters are of the execution of that power you can decide, well how else can that power be more deep? Or the things that that power protects you from be protected against? And that's ultimately the way we expect the proposal to produce. Now we could have in theory come up with our own ideas and said, ICANN this is what we want you to propose to us, right and maybe that would have solved a lot of the concerns that people raised about why didn't you come and tell us what you want us to produce?

But we determine, one, we didn't really know and two, that it was healthier and over the long-run would get significantly greater buy-in and execution capacity if it did come from the community itself. But we understand that we

are giving something up and we expect that there be a replacement for that authority in the process.

Milton Mueller: If I could just clarify here, the - yes we all want the award of the contract to be a way for an external party to basically shape policy.

Indeed that's the whole point of separating IANA functions implementations from the policymaking process. We want the IANA to be a kind of a passive receiver of directions from the policy process and you probably know, particularly among certain governments there's all kinds of proposals floating about to have little entities that will be able to veto policies coming out of ICANN or change policies coming out of ICANN.

But the point regarding structure is that in the protocol space and in the address space the actual policy process is quite separate from the implementation by IANA and in DNS it's not; they're completely mixed up and integrated. And so when you say - or when their scoping document says that you can't talk about whether this IANA implementation function could be moved or given to a different organization, what you're saying is that we can't create that same kind of accountability structure that we have with the IETF and protocols. So that's why there's been this concern about the scoping document.

Larry Strickling: So I actually don't agree with what you just said. It seems to me that part of the potential beneficial outcome of this transition might be taking the approach that is apparently worked well on the numbering side in particular and perhaps applying that model across the board. And I don't see how that interferes with the scoping document.

Yes, I think the only - and you and I talked about this at length which was - and I've used the analogy which is we're not going to build a new airplane now; we're going to start with an airplane that's flying.

But that doesn't mean that you can't be - so we're not taking up to NOVA the question of who performs this function on day one. But the question of how this is done and how the accountability is built into it I think is all there for the individual functions.

Man: The main think is that this separation is in some respects an accountability function. And so when you say accountability is over here and it just - you clarified when you said that's about the broader governance issues and about the scenarios of what, you know, they call the stress tests and so on. Yes okay I understand that but I think those issues will take five to ten years to actually sort out, whereas the IANA transition we hope would happen a little faster.

Bill Drake: Are there other questions from other participants? Here I see a number of hands going up, so that's good.

We have a very full room and I'm sorry the room is not larger for those who are standing behind me. If there are questions behind me, somebody please tap me on the shoulder because I don't have eyes in the back of my head. People in front of me who I can see - Mary - we'll jut go down, okay.

Maria Farrell: Hi I'm Maria Farrell and as a European I'm (pretty appalled) to see this behavior (France) and Portugal in the GAC this week.

And I was wondering not specifically on that case but what are your views on how - on what we the community can do to inflame and protect ICANN against, you know, the sort of claims of you need to show how independent you are to do what we want you to do and of particular governance, that's pretty much the rhetoric I think. You know, how can we as a community help to inoculate our ICANN against, you know, that kind of vulnerability to particular very, very strongly felt views like specific on this and the GAC.

Danny Sepulveda: I think continue to speak up for the multi-stakeholder process and the need for consensus policy that - which applies to the GAC just as much as it applies to the rest of it.

I mean the particular issue that has caused so much controversy, at the beginning and end there has never been consensus reached inside the GAC on the matter, yet the issue persists. And so I think to the extent the community can indicate, look if there's not consensus it's time to move on, that's helpful in terms of that particular issue. Beyond that - and this may be now (merges) into the question of what is the role of the governments in ICANN and is it structured the right way now or not? I'd be very interested in you all's thoughts just to amplify what I said at the outset.

You know, the bylaws do not give ICANN - the government a seat on the Board. It's clear that governments operate in an advisory capacity, but they do have this particular influence that when they render consensus advice on public policy matters the Board pretty - has to listen to it. And either accept it and engage in some sort of negotiation with the GAC to try to reach a resolution of those issues - to me that - while it maybe doesn't make governments' just equal shareholders with everyone else, it's not a bad way for the ICANN to operation.

And now that it, you've had - at least up until recently we had the GAC taking the discipline of trying to reach consensus advice to be presented to the Board and the Board creating a process to deal with it. That seems to have been working pretty well until we got to the current controversy over two particular TLDs. But I'd be interested in you all's reaction to that. The idea of increasing the power of the GAC and government's generally within ICANN, we don't support - we wouldn't support anything beyond what they have now.

But maybe you all's view is it needs to be paired back from what it even is now. I don't know so I'd be very interested in you all's reactions and views on that - (John).

John Laprise: Thank you, so...

Bill Drake: Say who you are?

John Laprise: Oh sorry, thank you - (John Laprise) from Northwestern University. I'm - last night at the ISOC meeting there was a discussion about how at the end of the day the NTIA is the gatekeeper for this process.

And whatever proc- whatever solution emerges from ICANN has to be approved by the NTIA. It's going to - that's the test.

Larry Strickling: And maybe the GAO and maybe the (unintelligible).

John Laprise: Yes, yes exactly, yes and all the rest - the folks at Commerce and everything. With that in mind my ques- I lost my train of thoughts.

Larry Strickling: Sorry.

John Laprise: That's okay, yes, yes all right I'm going to pass and come back.

Bill Drake: Okay so we have lost trains and flying planes with exploding heads, we've got all kinds of great things going on - (Anriette).

Anriette Esterhuysen: Thanks (for that) and good morning to everyone. My question is...

Bill Drake: And who are you?

Anriette Esterhuysen: (Anriette Esterhuysen), Association for Professor of Communication - and a little bit bigger picture question here.

And the IANA transition is part of a broader process of internationalization, more inclusion in Internet Governance and for many of us also (bolting) more

multi-stakeholder approach to Internet Governance. Considering this and looking at what happened - well what happened - look at what happened at the CSTD Working Group on Enhanced Corporation and perhaps also what's happening currently in the GAC. Also the very (mixture) ones from many developing country governments to NETmundial.

How do you feel this is really going at a very broad level? How we started up during (Wooses) with deadlock and concern that one government was dominating or playing a very dominant role in Internet Governance and policymaking, you know, followed by Europe very closely. We've moved away from that but have we really moved to a situation where developing country governments, particularly those that are prominent in terms of Internet development and Internet (juice), are they feeling included?

You know, I don't want to open (no) enhanced corporations (to date), but in a way we keep getting that (as a base) when we talk to governments at home and when we talk to them in regional cases. And so yes just what is your assessment? What is the real progress that we are making in terms of establishing inclusive multi-lateral and democratic and multi-stakeholder Internet governance?

Danny Sepulveda: I would actually ask you the same question and maybe after I'm done responding you can give your assessment.

But in the first instance I would say that over the last year since the (Wicked) we've had a couple of very successful events. So if you look at the WTPF which was a multi-stakeholder preparation process that yielded an affirmation of that process that was a victory. If you look at (Netwin Yah) when it - while you say there was mixed development country reaction there really wasn't. There was a majority of developing countries supporting the (Netwin Yah) outcome.

Countries like Mexico who put out a very strong statement of support, countries like Argentina, obviously Columbia. And not least of which is Brazil, right - I mean the shift of Brazil from where they were at the (Wicked) and even at the WTPF to where they are today is fairly dramatic. I would say that we've had an immense amount of success in Latin America. We've had less success in Africa but with that we've seen the rise of some very interesting voices in Africa that are more supportive of the multi-stakeholder system.

So if you look at Nigeria - the Minister from Nigeria, if you look at Rwanda, the Minister from Rwanda I think South Africa remains a problem and obviously our friends in India remain a challenge. Now with our friends in India to some degree it is a philosophical question about, one the role of government in markets in general and the relationship between nations to each other at different levels and who is - who reigns supreme in those conversations.

And those are actually fairly interesting conversations to have. They do carry with it a lot of weight and risk, nonetheless I would say that we're making some degree of progress and we are actually targeting both India and South Africa to see if we can make non-traditional routes of entry through civil society (actors) and industry to communicate with our colleagues at the higher levels. And to get them to communicate with their internal populations of folks who care deeply about this particular issue and are acting in it.

So the - you also mentioned well obviously the (wishes plus ten review) which again there was a multi-stakeholder preparatory process which yielded an affirmation by the community of multi-lateral government. So I don't know if any of those things would have been success - would have been possible or even (saw) possible at the (Wicked).

When we were at NETmundial and we were able to establish alliances with the other members of the high level committee to move forward a document it included people from Ghana and like I said Argentina - things that again

would not have been thought possible before. By that same token, you know, you don't - you can't rest on these things and I'm not claiming that the game is over.

It's a constant conversation and what we've been trying to do is show an (amount) of respect and proactively go out to the developing world, try to establish what the needs and questions are and see if there's mechanisms by which we can address those needs and questions. And there are many cases in which we're doing that. The size and scope of the challenge that they're presenting so the, you know, first instance it's the size and scope of the challenge of bringing another three to four billion people onto the network.

It's huge and there's no USAID program that's going to do that. So solving that problem in a non-regulatory way is extremely difficult. The second challenge is in ensuring that people feel heard without having them be - having their demands met, right. Like if I say I want something and then I don't get that something that means I wasn't heard. And that's not true but we do have to provide alternative solutions to what our legitimate problems. And I think that there are legitimate problems in the space of cyber security.

There are also legitimate problems in the space of cultural conflict on the Internet. And solving those challenges again in sort of non-centralized, non-regulatory ways and in a non-single solution for the entire world way is the challenge. And it is incumbent upon us to help lead that process, but it's incumbent upon the Internet community to come together to help solve those problems.

This is to some degree - we have - we are playing a role as a part of the Internet community - we the American government because we think that you all believe and we believe as well that the community can continue this experiment in governing itself. But so I guess in the first instance your underlying question is are we headed in the right - are the trend lines right?

And I think the trend lines are correct - are headed in the right direction and those are the points of evidence I would give.

Chris Painter: And let me just add a couple things to that. I think I agree, I think the trend lines are going in the right direction.

I'd be interested in your perception of what under developing world not supporting because I did in my sense too from NETmundial was that there was a lot of support for what came out of NETmundial on a lot of buying. And really the distinction between the OECD policymaking principles which were critically important and what came out in NETmundial is you did bring more in the global south into that club and I think that was helpful.

But I also think, you know, it's clear that there are other people on the other side of the debate and it's not a single issue. It's not just multi-stakeholder governance we're talking about, it's the range of issues from human rights securing the whole range of different issues. And countries have different positions on those issues and some are quite worried about issues around stability and regime stability and they're sympathetic to the Chinese and Russian view to this who are - both of those countries are being much more aggressive in pushing their views as well.

So, you know, I think we have to be able to make sure that we can counter that with something that is concrete. And, you know, as (Danny) mentioned one of the things I think that we need to do a lot more of - and we are, I mean I just did something for the Slavic countries and just recently down in Botswana is trying to do more capacity building on - the whole range of these issues. I mean sometimes its security, sometimes it's getting people into the governance game.

You know, we can't (stand alone) as the United States obviously, we need to partner with other organizations. The EU was doing one as other countries are - I mean I think that's a critical thing we need to do. And the other thing

quite frankly and we talked a little bit about this (unintelligible) on Friday is for a lot of the developing world countries as (Danny) said they have needs and we have to be able to address those needs. But they also want to have the business case of why this approach is going to help them, especially when they're worried about stability.

So, you know, developing a much better narrative of why this is going to actually help them economically is useful too. And so that more than just words brings them into this club because they understand what the actual benefit is at the leadership level. And then finally as (Danny) said getting there, you know, a lot of these countries don't have the tradition of having civil society and the private sector actually participate in the decision-making process, so the more we can do to encourage that is helpful.

Bill Drake: I'm mindful that our visitors have a hard stop in about six minutes and there are other people waving at me.

We have a question from a remote participant, so why don't we just quickly through a couple of questions out there and let people provide an integrated answer to whatever and then we'll let them go. Mary could you read the question from the - you're what?

Woman: (Unintelligible).

Bill Drake: You're not near a mic - pass her a mic.

Mary Wong: So we have a question from one of our remote participants for visitors and the question is to Mary I spoke to the too what is the NTIA description of multi-stakeholder?

This would help understand how the proposal meaning I guess the community proposal would meet the NTIA requirements. In other words what

exactly will you be looking for in the proposal to ascertain that it was indeed multi-stakeholder?

Bill Drake: Thank you, why don't we hold that Larry and get the other questions on the table and let you do a quick response. (Chris) did you have a quick one?

Chris Marsden: Yes very quick - (Chris Marsden), University of Sussex. One of the great things that came out of the OECD process is the realization that not everyone has to agree.

And I think there is a maturity in the discussion that needs to happen where it's realized that it's not a (zero sum) game. I'm just wondering if - from the US governance point of view simply giving up control is there acceptance of not winning everything or is there something more tangible that we can put in place that's actually a show of good faith in terms of losing an argument?

Bill Drake: That's an interesting question too. Are there - is there anybody behind me who wanted to ask anything? We've got a whole big group yet - could someone hand her the mic please and then we'll just - you guys can just (prearrange) across the questions.

Man: Is the function to ICANN who else could possibly take it onboard?

Bill Drake: All right and is that it? So we have three questions on the table - do you want to - (John) do you remember your question?

John Laprise: No it's the same question, I remembered it.

So of the NTIA announcements NTIA recognizes that ICANN is in a unique position with respect to stakeholders in terms of coordinating.

But there's nothing in the document that says that ICANN necessarily has to be part of the outcome solution in a direct role of responsibility. So in the

actual tran- the transition ICANN doesn't actually have to play authoritative role in that, they're facilitating the discussion. Is that the actual intent of the text? I guess that's my question, how important does ICANN have to be in that process?

Bill Drake: Okay so we have multi-stakeholders and transition and winning and loosing and other fun things. Any of you folks.

Larry Strickling: Yes I'll take them because they are actually tied together even though it maybe doesn't seem that way. In terms of why we did it, I'll just take that one on first.

We felt the time was appropriate for us to make a very concrete demonstration of how we are all in on multi-stakeholder. And we felt there was no better way to do that than in basically giving to the community the ability just to chart out the transition for the US to disengage finally from its very particular role with respect to stewardship of the IANA functions. So I'm not sure what else was implied by your question but that's why we did it.

In terms of what we would be looking for as - to demonstrate that it truly was a multi-stakeholder proposal coming to us I think that's going to be an important question for this coordination group to answer. But I think at the end of the day whatever proposal is generated is going to have to be vetted as widely as possible in the community and a demonstration that there is widespread support for it beyond the coordination group.

And to that point something that is simply presented to us by ICANN that hasn't had that sort of vetting by the entire community wouldn't be acceptable. So in terms of ICANN's role certainly they're going to participate in this and again out of the starting point we expect that they will continue to perform these functions, you know, as they do today. What's being put on the table is this issue of the US role in this process which is as we've described

operationally as virtually new other than this verification function that we perform.

But it gets into these questions that we - Milton and I talked about a few minutes ago, about how you organize these relationships between the customers and the beneficiaries of these functions and the current person or entity performing them. But at the end of the day even to the extent that the IETF and the IAB can work out something that they're satisfied with we would absolutely expect that to be vetted by the entire community and be reviewed as part of the process to deliver to us the transition plan that has the full support of the community.

Bill Drake: Okay thank you very much for that Larry and Julie Zoller from State Department also joined us unfortunately didn't - sitting behind me so that I didn't (get to choose her).

According to my watch you've got about one minute left - any last things we would like to share or ask or should we let these good people go off to the next meeting?

Man: (Unintelligible).

Bill Drake: Yes why don't we hear somebody new - (Holly)?

(Holly): (A certain question you said demonstrated) (unintelligible) in terms of (unintelligible).

Larry Strickling: I would - again I don't want to do the work of a coordination group but...

(Holly): No, no.

Larry Strickling: ...this is their challenge...

(Holly): Okay.

Larry Strickling: ...but I would assume that there would be some sort of process by which to put all of these documents on public display for public review and comment.

And then the question is how will the coordination group respond to the comment it receives as part of that process? But it would seem that that ought to be a piece of this as well as there being throughout the process ongoing openness and transparency of the work of the group as they organize themselves and get about the actual discussions of this.

So I think we'd look at the quality of the process that takes place but at the end of the day I think what we'd be expecting is that the community will have an opportunity without exception to look at what - why (people) proposed and to have the ability to react to it and understand that the coordination group or whatever - however it's organized will take that into account.

Bill Drake: Thank you very much for that - (Anriette), okay you want to add a quick.

Anriette Esterhuysen: (Unintelligible).

Bill Drake: Are you good, okay go ahead.

Anriette Esterhuysen: Thanks, I think - I agree with you I think the trend lines are good. I think what - I mean specifically NETmundial.

I think you had a mix of governments who were truly onboard - the ones you mentioned being a case and point. Then you had ones who were there because they thought they needed to be there. I would count South Africa as one which officially a co-host but who really didn't participate before, during or after. And then you have governments like India who expressed explicit concern.

And I think that's all quite important and I think a large number of the governments who were there were there because they thought they needed to be there - now that's significant in itself. But what does that really mean for progress? However I do agree that the trend lines are good. I think for me to question the tactical question is - and it's really brought up by this alliance idea is ultimately I think we've got to transform the inter-governmental system. And I think it's good that people are doing the IT.

That both civil society and yourself and others are working in that space and transforming that space. But we also have to transform other inter governmental spaces.

Because I'm not sure that this parallel track, you know, the ICANN alliance and ICANN and Net Mundial -- I think it's good because it puts pressure - the parallel track of multi stakeholder processes puts pressure on the other track which is the existing international system track. But we've got to work in both spaces.

And I think that institutions like ICANN who do have power and influence have to be very careful about the tactics that they employ in - and consider whether their parallel initiatives are actually going to perhaps encourage backtracking in the inter governmental space. So that's really, you know, I think the question.

And I think then of course (unintelligible) internet multi stakeholder participation begins at home. That's very important.

And then I think the final thing is just that being heard and having your capacity bought is not going to be enough. I think there are real interests at stake here.

There are developing country governments who do feel they are not being influential. Or they are having to implement decisions that are being made by others that they are not involved in.

And capacity building is good but it's not enough. Being heard is good but it's also going to be perceived as patronizing particularly by those who do have real agendas and they are.

And sometimes those agendas are good agendas, positive in the sense of economic development and internet growth and development. And sometimes they are quite negative agendas.

Agendas around governmental control, financing the same, you know, limiting rights. So I mean that's really - so I'm not sure how helpful that is.

But I think the trend lines are good. And I don't think we're going to lose too much ground.

But when you sit through a (unintelligible) meeting or a CSED working group on enhanced cooperation meeting you wonder.

Bill Drake: That is definitely not good for the health because I've done that recently. And I'm assuming when you refer to the ICANN alliance that was a slip of the tongue and you really meant the Net Mundial alliance, right.

So (unintelligible) you guys got to go? You don't see the difference.

Chris Painter: Just don't talk to visitors next time. It sounds like form outer space.

Bill Drake: Okay. Well all right whatever the term would be we were very happy to have you and really appreciate you stopping by and providing input. And so thanks much.

Okay. The room has gone from being really hot and stuffy when we walked in to frigid. But I - is everybody basically okay or should we - do we need to tackle facility staff?

We are not frigid as a group but it is cold in the room. So there are seats now opening up if others want to come from the standing position to the sitting position.

Well then please do. I don't know if there's somebody here or not.

All right. So thoughts on the conversation we just had?

We will come back a little bit later to talk to more about the IANA transition. But so maybe we can hold that a little bit if you want.

But first on the broader points so the role of government. There was as Maria and I'm sorry I called you Mary, I was not thinking -- pointed out this very interesting intervention from France the other day saying that, you know, we needed to transform ICANN because the system is broken because they didn't get what they want and (unintelligible).

And there are other kinds of pressures being brought to bear with regard to the role of the GAC and various aspirations of governments with regard to their standing in ICANN. And Larry was asking is there a kind of civil society view on that matter among the participants.

And as you say I just wonder - I'm guessing we probably have a fairly consistent view. But I'd like to hear anybody speak to it.

Sure Maria?

Maria Farrell: Well I can say what I think the view is in one sentence which is that when the GAC speaks in consensus and with one voice it's got a certain moral authority. And when it doesn't it's basically just rent seeking.

Bill Drake: That's a rather academic framing of things. Okay. Any other public choice theorists in the room want to take up the rent seeking behavior of France?

No but do we have any - do people have these thoughts on dot vin and the - I mean this has been going on forever. And what it reveals about the ways in which governments and the non governmental actors interplay and work in the ICANN process.

And they - I mean there are - I live in Switzerland. And they are very wine obsessed.

And there is a strong view in Europe that this process has not done them justice somehow. And I'm sure that there are others that that's completely bogus and rent seeking argument.

But I'm just curious does anybody have thoughts on that particular issue that gave rise to this. Are you raising your hand Rafik? All right. Monsieur.

And everybody for the remote participants should - when you introduce yourself - I mean when you speak please say your name.

Rafik Dammak: Yes. I speak here as non-alcohol drinker. But so - well this problem of dot-vin, dot-wine -- my understanding is there is no real international protection for them.

And so ICANN is not supposed to be the place for them to do any innovation. They need to do that in another foreign space like maybe the WTU and so on.

Sol and my - okay. You know, I have problem with France in general.

But I mean they - this kind of reaction -- we didn't like your decision so we are going to leave and we are calling for assembly general with this typical solution in France to fix problems. But I mean seriously so it's something annoying in many governments.

If we - then they don't get what they want then they complain about the system. And we are - we want to talk about the process that's fair to everybody.

So they want the kind of (unintelligible) they want to get whatever they ask. So it's kind of governance question but I hope that anyway.

Bill Drake: It's actually a very interesting thing because just if people haven't been following this debate within the GAC while we've been having all the GNSO meetings the last few ICANN meetings in the GAC they've been spending days and days talking about dot-vin. And part of the issue is that it is in the WTO and it does tie into trade negotiations ongoing between the United States and Europe.

And this does then raise the question of how ICANN mechanisms interface with larger inter-governmental and international legal processings and instruments. So (Stephanie), (Anriette), David, Milton, we'll just go - (Chris), just go around.

Stephanie Perrin: Frankly I haven't engaged on this in a vain hope that it might go away. So could somebody give us the capsule summary, the two minute digest of what the arguments are?

And in hopes that we can explain why ICANN is getting deep into trade barriers and trade negotiations over these things.

Bill Drake: One of our - would one of our professorial rent seeking people like to explain the fundamentals of the issue? Or others - non-academics are welcome.  
David okay?

David Cake: So I'll start by...

Bill Drake: Who are you?

David Cake: I am David Cake, one of the GNSO counselors from electronic (unintelligible) Australia. The issue - the basic issue here is that there are some jurisdictions, there are geographical - protected geographical indicators.

To sum it up basically you can't call your fizzy wine champagne unless you are from the Champagne region and so forth. And it applies to a wide range of things but mostly wine.

There's an awful lot of very significant changes to the wine industry where countries like Australia for example would have their heads signed up to geographical names in trade negotiation have had to change the name of an awful lot of wine that they used to call other things. We did used to call our fizzy wine champagne and we now call it sparkling wine.

There are - but the U.S. in particular has not done this. And so this is an ongoing dispute.

So that's the basic of the issue. Anyone want to...

Stephanie Perrin: But how does it relate to dot-vin? That's my question.

Bill Drake: Milton will now elucidate.

Milton Mueller: Yeah I didn't volunteer to answer this because I'm not sure how - what they want from domain space. But I think what they want is for whoever gets dot-

vin or dot-wine to enforce or for the actual geographic entities to be in control of their second level domains or something like that.

I'm not sure exactly what they're asking for.

Stephanie Perrin: So basically if I'm Canadian and I get the opportunity to get a space under dot-vin. Instead of calling my product sparkling wine I can go for broke and do Canadianchampagne.vin.

Bill Drake: First of all if you pronounce it that way they won't allow you...

Stephanie Perrin: Yeah thanks. I got a regional dialect there.

David Cake: Actually my personal position is I actually agree with the Australian government position. Oddly enough which is that the geographical controls only apply to the product not the use of the name.

So for example in Australia you can't call your fizzy wine champagne. But you can call your business Champagne Distributors if you were selling actual French fizzy wine.

And that is - and so that means that the issue is really a content issue, not a, you know, registration issue. And that the - and so basically I am not - do not hold with the French position even if you - even aside from the trade point.

So even if you accept France's position on geographical indicators in general trade I don't think that actually translates to their position on the domain names. It becomes a content issue and so basically I think France is wrong.

Bill Drake: We need to be clear about one thing. It's not just France.

It's the European Union.

Man: Yes, yes.

Bill Drake: The European Commission has been very strong on this point. (Neelie Kross) has given speeches saying that the ICANN system is fundamentally broken because they didn't get what they wanted (unintelligible).

And this - and don't forget that in international trade the European Commission negotiates on behalf of the entire Europe Union. So for them it's a big deal where the jurisdictional responsibility over this issue is.

And they insist on having European (unintelligible).

And it's a big issue for a lot of other European wines for that matter (unintelligible).

Maria did you want to...

Maria Farrell: Yes.

Bill Drake: I know you have a little bit different view so.

Maria Farrell: Yes. And it's also a question really. And I - well the first question is I was reading about - I was reading (Jerome Fasa)'s analysis of dot-wine dispute.

And he seems to be arguing that the negotiation shouldn't be taking place at the ICANN level but at the next level. So that's my one question.

But then the bigger question for me because this came up with dot-book, dot-amazon, you know, isn't there a policy gap in ICANN? It seems to me that these are really - they - I mean in different cultures and there's different value assigned to generic concepts or terms that are to the privatization in other words.

Let me put it that way. To the privatization of very generic descriptors like book, like forest, like tree, like wine.

And it seems to me that ICANN is implementing a policy that would develop from one particular political social cultural business approach which is very North American. And it's develop procedures, the procedures are clear and the procedures are being followed.

So that's, you know, there's - to me there's no question about that. The way that France is engaging is to, you know, it's like a toddler, you know, throwing its toys out of the cot.

I kind of agree that there should be a debate about this. The way that France is playing it is really not particularly impressive.

But I do think there seems to be a gap in policy. You know, shouldn't ICANN be approaching this not just on a case by case basis.

But actually deepening its policy and regulatory - whatever there is that helps it deal with these issues in the way so that it doesn't come down to a dispute in the GAC. Where we either have consensus and some kind of moral authority as Maria was saying or (unintelligible) seeking.

Bill Drake: You know, we had in - at the Durbin meeting we had in fact a workshop on closed generic top level domains. And we also talked about dot-amazon.

And one of the things I think that that brought out is that in civil society there's actually quite different views on these issues as to whether or not the approach should be very much a more market based one or one that is more reflective of these kind of larger political cultural aspects. And we probably can't resolve those.

But it's good to surface them and talk about them in a coherent way. I'm pretty sure I know what you think.

And before I call on you Milton I just want to see if there's anybody behind you. Okay. So Milton your thoughts?

Milton Mueller: Well actually I want to pass off on what (Anriette) said because I don't think it's actually the fundamental problem here. I think the problem is this tendency to use the regulation of domain name allocation and assignment as a substitute for or some kind of a mirror of sector specific regulations.

And this is not just a problem with dot-wine. It's a problem that, you know, when the GAC was talking about how do we regulate dot-bank, what do we do with dot-health or even with the, you know, expert working group there are ways of loading functions onto the domain name allocation process that are meant to provide regulatory capacity across the whole range of things that has nothing to do with domain names themselves.

Now I keep asking people and I feel like a broken record because I think I've been saying this for 10 years. You say okay it's the same with IGOs and with the Red (Cross).

You say we have legal protection for these names. And I say okay then why does ICANN have to do anything?

If you have legal protection exercise it, use it. You know, who's going to go out and get a top level domain and spend \$500,000 to get it and then just learn that they can't use it because you have a legal protection for it?

So why does ICANN have to do anything? And then they say well it's very expensive for us to exercise that so we want ICANN to do it.

So it's all about distribution of cost, which would not surprise any institutional economist. But this is a pervasive problem. It's a slippery slope towards using the domain name system for all kinds of content regulation and so on.

Bill Drake: I just want to note that in the remote participation (Julia Powells) makes the comment, isn't it more that France has larger issues with ICANN? And it is uncomfortable with the EU's pro-U.S. position.

Anybody consider that that's an issue they want to take up. (Chris)?

(Chris Marsden): Yeah so (Chris Marsden), University of Sussex. I mean, first on that, the European Union's agreeing with France - so maybe there is a general relationship but there's no specific issue here.

And the second point is that ICANN is a very, very small part or a very, very large game here. And Bill made the point TTIP is far more important than what ICANN does with its TLD process frankly.

You know, we need to recognize and then step back and realize that what we're doing in this room and in this hotel is a very, very, very tiny part of what State Department and foreign actually think of in terms of trade. And I think it goes back to the question I asked which Larry didn't answer which was about zero sum diplomacy.

And this is very much obviously, you know, what the French are negotiating. This is a position which is being put forward as part of the TCIP negotiations.

It may look intransigent in the GAC. I'm sure they don't care.

Woman: Yeah (unintelligible).

(Chris Marsden): Right. And why should they frankly? You know, we might like them to educate themselves a little bit ore and become less zero sum.

But that's just not the way they play the game. And that's why the GAC is fundamentally a very, very difficult organization to fit within a community structure.

I've just noted that the U.K. and Chinese ministers have been vociferously agreeing with each other in a meeting this morning. So, you know, strange bedfellows are sort of thrown out.

I just have a thought which is that we should have dot-vino for Australia and dot-wino for this constituency. I think that would go very well.

Bill Drake: It's easier to pronounce than dot-vin. Carlos?

Carlos Afonso: Hi, morning. Carlos Afonso from the (unintelligible) State University. So very quickly I think we have a common history is important to distinguish between geographic names and brands and trademarks.

And I feel like in this whole discussion that we have been for almost two years now there's been a confusion because most of this contentment is being raised by the GAC. So you get this impression that governments are speaking up against ICANN.

And the problem is geographic names. But it's important to mention that you've seen a lot of the discourses and the speech that has been made that has mentioned the rights of the vineyards, of the producers and their brands and the trademarks.

So I think it's important for us -- and maybe that's a work for the academia in the (unintelligible) to tag in. It's to try to divide what is a discussion on geographic names and what is a discussion about brands, trademarks, intellectual property in this specific section of trademarks and brand?

Because I think we are mixing up two very different interests that will lead to very different discussions in ICANN. But more specifically on GAC.

And I see those two issues being pulled together. So...

Bill Drake: And just to build on that point, you know, the - when we frame it in terms of just government that is a little bit narrow. Again living where I live there's sentiment, there's public sentiment, right, that's behind what these government folks are saying.

It's not just like there's bureaucrats sitting around looking to build power. They've got pretty active constituents, they've got newspapers writing editorials about the horrors of what's going on at ICANN and how it impacts, you know, whether it's dot-amazon or it's dot-vin or whatever.

So the whole question of how the name space regulation fits into that larger political and social dimension I think is important. Carlos did you want to add something?

Carlos Afonso: Yes. (Unintelligible) Hello? Yes Carlos Afonso also from Brazil. CJI.br and (unintelligible).

About what Milton was saying regarding the fact that ICANN would have nothing to do with this dispute of domain name being geographical or a trademark or whatever. And the people affected are the agencies or organizations affected by it should do their job and resolve the disputes.

The problem is that I think like we are seeing now these disputes in legal terms can spill over to ICANN. So ICANN cannot avoid being part of the legal battle with these institutes.

So ICANN also should think about avoiding this preemptively, no? If the amazon domain name for instance, the company decides to go ahead with

legal actions, et cetera they have tremendous leverage and can involve ICANN.

So ICANN cannot say no this is a dispute which is outside of our realm. I think there is a problem there.

Bill Drake: Wendy's looking very puzzled. And when Wendy's puzzled I'm worried.

So Wendy would you like to...

Wendy Seltzer: I was - so thank you Bill. Wendy Seltzer looking puzzled as to whether I had been seen putting myself on the queue.

So thanks. And I want to suggest that we move up a level in our discussion of this issue.

That there are lots of substantive debates that I think the community largely settled in one way or another in the applicant guidebook. And our strongest role as the civil society participants in ICANN I think is supporting the procedures by which those disputes are now decided and supporting ICANN's decision on a regular procedural basis rather than going back into the details of the dispute.

Bill Drake: Wendy can I just follow-up with a question to you? We - people from the GNSO have often provided that response.

When these issues have come up they've said the community talked about this. We had multiple meetings, we went through multiple revisions of the applicant guidebook and people could have weighed in at that time.

But you have a lot of governments and other actors who say well we didn't sort of know this was going on. And we weren't really, you know, I mean we -

are we responsible to have known what's happening in the GNSO council process.

We're discovering post hoc. And so the - I guess there's a question there.

I just realistically can we just dismiss those concerns and say well the community sorted it out. Because what about the players who are not in the community, right and who feel that they're impacted by these things.

I know Avri has a strong view on this. So yes?

Avri Doria: I don't know how strong the view is but I do have a view on it. Avri Doria speaking.

Okay maybe most of my views are strong. The - I think that I do accept that the GNSO notion that we've talked about it and we've covered it.

However we also have to take into account that there are people that as you say do come in later. And if they present new arguments or new information that wasn't taken into account I think it makes a whole lot of sense for that new information and those new facts as it were to be sent back and for the council to be asked to take another look at its recommendations and see whether that new information and such do force a change in it.

But I believe that if it's - I made my argument before and you didn't listen so redo it then there's no. It was covered.

But we do have to cover - we do have to deal with additional information, new information and new opinions.

Bill Drake: Thank you. A new voice to the table, Daniel and then (unintelligible).

(Dan Reed): Yes (Dan Reed) from GNSO council. Just a philosophical and a technical observation.

You know, a lot of the issues we struggle with are the fact that they're discordant time scales for the way social consensus and evolution moves and the scale which technology moves. And that's the root of many of our challenges.

And in that spirit I might posit that some of these discussions we may look back on a few years and think how quaint they were. And I say that for the following reason.

If you think about where the explosive growth of internet use is it's predominantly mobile. We know that.

The increasing access to information is via in application use. And it's less about direct URL access.

That's going to drive a huge change about the way we think about these issues.

Bill Drake: Thank you for that. And just to tell you if you're not looking at the Adobe chat we have got a number of people talking there as well on various points.

I don't know if Mary wants to read them or not but you can aggregate them. But (Stephanie) and then back to Wendy.

Stephanie Milan Thank you. I wanted to enthusiastically agree with what Milton was saying. I had noticed in the EWG that it seems pretty evident that this is a form of farm shopping and that you can get a much cheaper resolution of your issue by complaining to ICANN -- particularly through the GAC -- and getting some sort of resolution of the issue than going to any of the normal mechanisms.

I'm personally stunned at how little progress there's been on implementation of the cybercrime treaty. And I can see why.

Because there's an outlet to come in the GAC and demand the vacuuming up of data rather than develop instruments of how it should be handled under the cybercrime treaty. So I'll stop on my soapbox on that.

But it does seem to me that ICANN - either we need different tee shirts - I cannot instead of ICANN. Because as long as ICANN can fix everything free, cheaply whatever without due process then it's going to continue that patterns.

And picking up on (unintelligible) point and I'm not sure whether this is - there is a policy vacuum. I'm very nervous about ICANN filling it.

Because these are important issues that ought to be settled. Like for instance what is a bank?

We fight about it in Canada between provinces. God help us if ICANN sorts out what a bank is so that you can get a domain name.

There's something fundamentally wrong there. And if there's a vacuum internationally the ICANN should not fill it.

I want t-shirts. Anyway the next thing I wanted to know what the room felt and how it's been debated here because I was actually talking to (Becky Burr) about her hobby horse of having an oversight court.

And I wondered if we've talked about that.

Bill Drake: Okay thank you (Stephanie). I just wanted to say on the chat we have a comment from (Javier Rodriguez) who says what is the position of the

participants in regard to the fact that today \$4 billion individual internet users have just one vote as the representative on the board.

Is this a balanced multi stakeholder model appropriate for the transition process? So another question there as to the board and how well ICANN aggregates interest of the different players.

Who was next in the line? Were you - did you want to come back or Wendy?

Wendy Seltzer: Yes so Wendy Seltzer. And again there are lots of layers to the discussion.

And at least one of the layers I'd like us to think about is sort of how we can support the things that we think that ICANN does well. And support ICANN's role in continuing to do those things by supporting processes in which overall we get a good chance to be heard.

We certainly don't always get our way in discussions in GNSO council. But if we consider would we get more of what we wanted going to an inter-governmental organization that might replace ICANN in control of some of these discussions.

Or in governmental battles if the GAC took a - had a stronger role I think the answer is no. We're actually better served by participating in the ICANN process, flawed as it may often seem from the trenches.

And so once that process has reached its conclusion we should look for ways to improve it for the next round. And we should also support that process and publicly vocally support it so that we're seen as standing with ICANN.

Bill Drake: It does raise an interesting question thought from a civil society standpoint. Because when those of us who work in other broader civil society coalitions around internet governance that deal with the U.N. type stuff there's often the perception that the chunk of civil society that's involved in ICANN is very

invested in its process and defends it in contrast to positions that people might take in other coalitions where they believe they're being more responsive to social, developmental and other kinds of concerns.

And so this is a sort of an interesting - for me an inflection point in terms of how do we think about how we interface with the larger civil society environment in debates going forward? And I think it's a difficult thing to address.

Because we - most of us would defend the kinds of processes that we've been engaged in. And yet there are those issues.

Is anybody behind me - I keep having to turn around. We can go a little bit more on this and then we can - there's a coffee break outside and then we can come back and the Council Europe will come and talk - two people from Council Europe will come and talk about their human rights proposal which I think is a quite interesting cadre of people having looked at it.

(John)?

(John Laprise): Thanks. (John Laprise) again. I want to pick up on a point that (Chris) made earlier and which I've heard echoed in different ways across the conversation.

And that is that things are getting a lot more complex really fast. And for a while we've been operating in a very tactical kind of way.

And we have to develop a better sort of strategic awareness about all these other factors that are getting entangled and involved in the issues that we're dealing with. Things are getting much more complicated.

And it seems that we're not keeping up with the game as it were. And we risk being outplayed by all the other actors in the room.

Bill Drake: Not sure the other actors are playing any better (John). I would argue we're all kind of a little bit at a loss.

But any further thoughts on this point? In response to (John)'s point or (Javier)'s question about the board or anything else, blank stares, everybody wants coffee.

So we will now have a coffee break. Normally what happens with NCUC is we end up taking so long that nobody gets a change to ever take advantage of the coffee break.

And this time we're going to actually do it. So ICANN provides coffee outside.

And we will have the Council Europe at 11:00. Why don't we try to reconvene a little bit before that and get back in place.

For the folks who are online we'll be getting started again in just a couple of minutes. Sorry for the delay.

All right then. Everyone why don't we get seated, get started so that the folks online are not sitting around wondering what the hell's happening.

So Mr. (unintelligible) that is for you. And it would be nice if you did come.

Here's a chair next to me for him. Yes. Why don't you hand those around?

That would actually facilitate the conversation. So we are next going to talk about human rights which is a topic that of course NCUC has long championed.

Not always to great effect in the GNSO and ICANN more generally. So we can pass these around.

Hand them earlier. And we have in the past for example argued for having a human rights impact assessment applicable to GNSO policies.

And of course many of the same positions we've advocated over the years on freedom of expression and privacy and so on also very much directly linked to larger human rights concerns and instruments and so on. And so it's interesting obviously in this context then that just a couple of days ago before the meeting the council of Europe forward this document - a week ago. Okay.

But we only - those of us who are not on the GAC list found out about it a couple days ago. So the Council of Europe which I'm sure everybody's familiar with put out but this report on ICANN procedures and policies in light of human rights, fundamental freedoms and democratic values.

Copies have just been handed around to the room. I don't know if there's more or it's also - will it be online at some point because it's not yet.

And so...

Woman: Robin posted it.

Bill Drake: Robin posted it. No I posted it. I emailed it to list.

Okay. Both listed. Okay fine. So hopefully people have access to it.

And it raised a number of rather interesting questions. There's certainly if you even simply scan the summary you'll see that there is mention made of some points that we felt rather strongly about including privacy in the RAA and morality and public order type concerns and so on.

And there's this rather interesting dangling bit at the back about ICANN's legal status as a public benefit corporation and the compatibility of that with

international human rights obligations and so on and so forth. So I understand that they had a discussion this morning in the GAC of this very document while we were talking with the U.S. delegation.

And that there was broad interest and support in this document except for the U.S. delegation that was there. Okay you can clarify.

I wasn't there. I'm only repeating what somebody said to me in the coffee break.

So one of the authors is (Thomas Schneider) who is the vice chair of the GAC and is the Swiss representative in the GAC.

Man: And currently a nominee for the...

Bill Drake: And currently a nominee for the - I wasn't going to say that because I didn't know if it's public. But has been nominated to be the next GAC chair starting next meeting.

And he will be here shortly I assume. IN the meanwhile we also have with us our old friend (Lee Hibbert) from the Council of Europe.

And so (Lee) until (Tom) shows why don't you do the dog and pony and maybe tell us a little bit about the conversation you had this morning with the GAC and get into the report itself. Welcome.

(Lee Hibbert): Thank you Bill. Thank you for the invitation.

(Thomas) should be here shortly. He told me he was coming.

And so he's one of the authors of the report exactly. Some context for this discussion.

And this is what was mentioned just before now in the GAC is that this is not an agreed text between member states. They haven't sat down together and gone through the report in detail and then therefore, you know, it would have been a different text.

And I think this is the first - this is an initiative by the secretariat to simply throw open a discussion regarding these issues, these human rights issues with (unintelligible) et cetera in the context of ICANN. And to have a discussion really.

And so we commissioned two experts to have a look at that and gave them some context. And they went and they prepared this report.

So that's really the beginning. So it's not an adopted position.

I think that would be a different text altogether. But it definitely is inspired by, you know, global events, Net Mundial, human rights and shared values.

It's definitely inspired by the, you know, governments have primary legal and political accountability to protect human rights, et cetera. And, you know, there's one line in the ICANN high level report which talks about the need to reconcile national governments' role in protecting human rights online without fragmenting the internet.

So the report is a first - is a kick start for discussion. And I'm really glad that you can - people are taking like that.

Clearly, you know, it's incumbent on governments in particular in cooperation with ICANN to be mindful of the rights and interests of people. And also (unintelligible) groups, you know, thinking about ROMA, LGBT, here's a reference in the report to dot-gay for example.

I think it's very important. And he looks into those questions.

Equality and nondiscrimination, you know, hate speech, freedom of expression, data protecting. These are all of fundamental importance of course.

I'm sure you agree. And that's the objective of this first step is to have - put those things on the table, have that discussion and that that was started this morning in the GAC.

The GAC in general said it was a good starting point. They welcomed it.

Many said they supported that initiative, the idea that this would be - this should be in a communique. We will see what's in the communique and that, you know, perhaps this will be taken forward to Los Angeles and there'll be a more thorough discussion.

I would like to say that there's a need to have comments. I would, you know, we invite comments from this text of course.

I'm sure there are things that people don't agree with. That's the point is to get those things out in the open.

And to have that discussion and to put those views on the table maybe in Los Angeles. But, you know, for me it's the first - in doing our job properly and I will stop there there's a need to discuss these issues.

I don't really see them discussed - you mentioned it Bill but certainly not in the GAC. I don't see much discussion in the GAC.

And it's incumbent on us to look at those issues now particularly in the light of these global events. The text is not just European.

It has a European angle but it does refer to the UDHR, the ICCPR. It does refer to, you know, quite a few judgments.

And I think that can be expanded. And obvious you've got comments and nothing things from other regions then we should have that discussion.

So and (Thomas) is here so I thank you.

Bill Drake: Thank you (Lee). Yes it - it is of course a broader set of concerns. Some of the stuff on freedom of expression one could argue is more European than perhaps applicable to other jurisdictions.

But anyway let's get into all that. We now have the co-author of the report.

Swiss are known for their lack of punctuality and so - no. (Thomas) is a very unusual Swiss in every way;

And first of all most Swiss government people do not wear bright green shirts to meetings with their colleagues. So anyway we're very happy to have our friend (Thomas) here with us.

And rock and roll.

(Thomas Schneider): Yeah thank you for this non-usual introduction and hello everybody. Just one word to what he has said.

It's not true that these things have not been discussed in the GAC. But they have not been systematically approached.

And this is I think the main point that we raised that these things are fundamental and they should have like a fundamental role placed in the structure of GAC and ICANN deliberations as a whole. So this is just what I wanted to add to what (Lee) has said. Thank you.

Bill Drake: (Thomas) it might be useful if you - because I don't think most people have read the report. I forwarded it to the - our listserv and it's Mary's put it there in the Adobe but of course people can't read it right now.

But I don't think most people will be familiar with the content of the report. So maybe if you could go through a few of the main bits that you - particularly the last part is an interesting and controversial one.

But I mean I think if you just highlight a few of the issues that are covered and the operational recommendations you've advanced for consideration that would be very helpful for the discussion.

(Thomas Schneider): Okay. I guess I suggest I start and (Lee) will complement me. You - if you go through the text tow, three key areas that we singled out this time.

There are others that would merit to get some space as well. But we didn't have the time to like do an analysis of everything that is - ICANN is doing that is somehow related that for instance the whole issue of creating new trademark rights via ICANN process is something that of course also is of interest to at least some of the people and that will merit a more thorough analysis to the other issues as well.

What we concentrated on in this report is some aspects from a freedom of expression point of view in particular and freedom of association point of view on the let's say content oriented part of the new gTLD program. And (Lee) has already mentioned dot-gay and other sensitive names to some.

But clearly related to freedom of expression ad freedom association to others. Also questions whether something like dot-sax should be regarded purely from a trademark and trademark protection point of view or whether there is a freedom of expression aspect to this too.

I think our position is quite clear on these. And then we look at the procedures in ICANN the way they are currently to discuss these things.

Another point is the question of privacy of course. And I think this is very timely also given the discussions that are going on now on the EWG and how to deal with this.

And we noted there that maybe privacy considerations have not been systematically built into the processes dealing with these things as they should have. I think this is something that for us quite obvious that this is a fact and we have to tackle this differently in the future.

And then the conclusions go a little bit broader. These are the two main that focuses where we go a little bit more into detail.

And the conclusions go a little broader mainly that the main conclusions or recommendations as a consequences of these aspects that we looked at is as I already said before there should be a more strategic, systemic approach in dealing with human rights in the GAC but also in the rest of ICANN. And we could think of having not just a security stability advisory structure but also human rights experts advisory structure.

And I fully agree with those who say. We looked at this from a mainly European angle.

This might not be the same for other regions in the world. But there are some fundamental principles that we all share and we should build on this one.

And then maybe go further in details in the regions with some cultural diversity if I may say. And there are some recommendations that we know that basically is nothing new in the text.

What we say has popped up in several spaces before. So that is nothing new.

But we tried to look at these things and from a clearly human rights oriented angle and promote that we discuss these proposals and others that we - that might come up in the future from a human rights point of view and take this into account. I will stop here and we're ready to - maybe (Lee) you want to complement or to answer further questions.

Bill Drake: (Lee) would you maybe want to just outline for people who haven't looked just the main recommendations so that - and then we can maybe dig into those in the discussion?

(Lee Hibbert): I think just I really don't want to talk very long. But it pulls together many of the things that have been discussed.

And really there are - you cannot - I think it cannot be ignored that these issues on human rights and rule of law need to be discussed more broadly in ICANN. And so now is the time after Net Mundial this is timely when you think about the European Court of Justice decision recently with regards to data attention that is also very timely.

There is an I think - personally there is an expectation now. This goes to another level in terms of accountability, particularly government accountability.

So this is where we are. So this is why it needs to be discussed.

The - there's a nice executive summary. There is our conclusions and recommendations.

The recommendations talk - I mean these - the recommendations are the experts, the authors. So, you know, in reference to the fact that human rights

could be referred to in the bylaws really embedded really in the foundations of ICANN with regard to their accountability and these sorts of issues.

It was mentioned about public interest and that's rather vague and it covers a broad spectrum of things. And so what does it really mean?

We need more clarity. Of course we've taken public interest from the point of view of what exists in terms of human rights, et cetera.

So I mean that's where we're coming from. But it includes also public interest regarding economic considerations.

I mean, you know, and it's very clear I think personally and I agree with the authors that I think the GAC comes in a bit late on some of these issues. And it makes it very difficult to address these things early in time.

I mean you need to - I mean this takes analysis. I think you agree that you can't write this in a day.

This, you know, analysis has taken some - several weeks if not several months to prepare. It's a lot of court cases to read, there's a lot of things to transpose.

Quite clearly I mean this is a transposition of many things which don't yet exist in terms of cases which should deal with these issues. So this is leaning on the caseload, trying to understand and it and interpret in a way which looks to the future.

So some of these things still haven't been decided. So but it's there to discuss.

So early engagement in the GAC I think will be a good thing to do. There's also - there was also a proposal by the Council of Europe several years ago

to - there should be perhaps an advisory body -- something separate to GAC which can be tasked early on in time to look at - maybe with other institutions, you know, international law or international human rights law to make sure early in time that's plugged in.

And there can be some independent, impartial, neutral reflections on some of the issues to avoid, you know, being too late in time. And to rely upon governments in particular to consult their - consult or not consult their colleagues back home.

So that was something else. And their caution about reviewing the legal basis I think comes from the point of view which is that, you know, this has become too important.

Expectations are too high. And, you know, what is ICANN? Where does it sit?

What's its jurisdiction? You've spoken about that yourselves.

And I think it asked the question whether we need to, you know, embed this in a more concrete structure to give it greater impartiality and to make it more international one could say. So that's...

Bill Drake: Thanks (Lee). Speaking of own views yes I mean I'm not sure how high the awareness is among GAC or everybody else that in fact human rights is something that NCUC people have been raising for quite some time. And particularly in the GNSO council.

We had for a couple years APC's human right coordinator Joy Liddicoat is one of our councilors. And she and Avri have worked on a number of texts and initiatives in the context of the GNSO.

When I was on the GNSO we used to raise these questions. and frankly got blank stares from a lot of people from the industry who just couldn't see the connection between human rights and anything the GNSO was doing.

So the need for early engagement may go beyond the GAC. I just wonder if anybody - so we have on the table several ideas.

Putting human rights into the bylaws. Trying to define public interest -- that's a tough one.

Building up -- there's a level of engagement generally around these issues. And setting some standards for assessing ICANN policies and practices.

And this rather interesting idea at the back end that - to promote human rights under international human rights law preservation of ICANN as a public benefit corporation under California law may not be the most effective approach which is presumably a rather controversial one with various parties. So I'd like to call on Avri and then (Chris) and then anybody behind me just let me know if you want to speak.

Go ahead.

Avri Doria: Thank you. Avri Doria.

Just a quick reminder, something that I bring up every time human rights and issues of ICANN process come up. One of the things that we did spend five years arguing for and finally got was the notion that all policy development processes needed to include a rights impact analysis.

Now we couldn't get the word human rights impact analysis in because that was too something or other, but we at least got a rights impact analysis in. It's not being used yet, so whether it's the GAC who as governments have the responsibility for protecting our human rights, wherever they happen to be, or

because they're governments and they signed on for that, or others, that is one vehicle that is always open and available with every issues report, draft that comes through. That is one of the open questions that people need to take advantage of.

We got that in about - I guess it was a year or two ago now, and it's rarely been used and that's why I'm becoming a broken record of whenever people ask what can we do about rights - human rights in this context? I remind people of that.

Bill Drake: Something to build on.

(Thomas)?

(Thomas Schneider): Thank you, Avri.

And I think the fact that we state that governments have some obligation doesn't mean that they're solely responsible for defending human rights. And you know for instance in the Council of Europe in this committee, where I work, quite often we have a large inclusion of business and even large inclusion of civil society institutions and NGOs, and they doing the work - the elaboration of the document. They participate as equals in the drafting, in the discussion.

In the end, it's a governmental institution, but we need as governments - we need the exchange and the input from other stakeholders as well, and everybody in that respect. (Unintelligible) of course blah-blah-blah - we need to work together with this.

I knew that you would react to that.

I don't say that Paragraph 35 is the final formulation of what these respective roles are, but there are different roles between the difference here and the

responsibilities. And we are trying - basically, one of the elements of this is to remind governments of their responsibilities, and we had long debates also about how we deal with these issues.

One of the things that brought us to the notion of the Californian (unintelligible) is how to deal with the so-called positive obligations that we have in Europe with our system, with the European courts where a citizen who thinks that his government - his state doesn't protect his rights can go to the court, sue his government, and then the court will give an answer.

And it's to some extent challenging if a private company from another country is involved in this, and that raises some questions in terms of international law, public law, and so on and so forth. And, I won't go into detail.

But, this is something that's - as a part of the package we looked at, what is actually from a human rights perspective, and I'm not talking about UN or other discussions about multilateralism versus multistakeholders. And it's just if you in practice feel that your rights have been not - have not been respected, what is the procedure? And, this current situation raises some questions that if you take this to the end, merits something. That's basically what we are trying to say. Thank you.

Bill Drake: Before we get a couple of other, I just wanted a point of clarification. Did I understand you say that you consulted with some NGO's - civil society NGO people in preparation of this?

(Thomas Schneider): Not on this text because there was no time.

Bill Drake: Okay.

(Thomas Schneider): Because so many things happened in the past few months, and we - but this is - and we also made this clear in the GAC. This is - the main goal of this is to start the debate on another level with another level of attention. And I

think also NETmundial is - has helped us to table these issues a little differently than before. And we - this is an invitation to everybody who thinks that this is fundamental. That this should be debated more thoroughly in all (unintelligible) where it's - people think that it should be debated.

That includes you and it includes the GAC. That includes also for outside ICANN and - but for this particular text, we didn't have time to do a broad consultation, but you know that if you look at the mandate of this Council of Europe, a Steering Committee that transborder Internet issues and so on and so forth are in the mandate of this group. There are text underway.

Also, the previous committee has elaborated some recommendations and declarations on the human rights-related aspects (unintelligible) in the government. So this is embedded into a bigger structure where also work is being done. But for this particular text, there was no time to have a broad consultation, otherwise, it wouldn't be here.

Bill Drake: So I would only encourage you, (Thomas), then that this is a - hopefully, a conversation to really engage with us on these things because we have a very longstanding set of commitments and interests in this area.

So we have a number of different hands up, so I'm going to try and go in the order of the folks that - so we had (Chris), Milton, Maria, (Stephanie), and (Marilia), and (Anriette).

(Chris): So I'll try and be very quick. And it's only a California corporation. I just hope we don't end up with the kind of Fee for International Olympic Congress type of governance arrangement. That would be even more unpleasant that a California corporation, with present company excepted.

On Paragraph 130 you talk about privacy and introducing specific rights for users when it comes to Whois and directory lookup, and I think that this may actually answer a question that I asked in the previous session. We asked

Larry Strickling about is there a point where the US could concede a specific point that would allow us to all go forward in good faith, recognizing that this isn't just a zero sum reality?

I think that this is one very specific aspect which really does narrow its attention. Obviously the general principal, the idea of the advisory panel - and please God let us have - you know rights to impact (unintelligible) taken more seriously.

But on this specific point, did you get the sense that GAC is willing to pursue that? I don't see privacy as just being a European right. I see it as being something which everyone - well, everyone in the world, and every government outside the US is likely to be more supportive (of that kind of thing).

(Thomas Schneider): Just to give you a quick information, we had - we'd just come from a debate in the GAC about this text, and we don't know what will be in the communiqué in the end because there are some sensitivities with regard to some aspects of the text.

But, there was a clear acknowledgement that these issues should be dealt with - people didn't have the time to read the report in detail because it came out last week. But there's a clear will to continue to discuss this further, including the concrete recommendations that are made, and we hope that at least some of them might become reality sooner or later. Thank you.

Milton Mueller: Remote people, I am Milton Mueller, Syracuse University.

So this is really a great initiative. I really appreciate that you're doing this. My - I have a kind of a bittersweet feeling about it. It's sort of like where the hell were you for the last ten years now that the new TLD program has all these horrible things in it that do not respect freedom of expression rights? Do not - the RAA has all this stuff - you know, it's like, "Okay, we finally figured out

that there is a nexus between human rights and these very arcane policies related to domain names.” That’s great, and I think that you're pursuing this in the right way. I want to offer you all kinds of support the way you're taking it into GAC and so on.

Two issues I wanted to discuss with you is - one is that I think you have unfortunately sort of inserted this document into the longstanding debate about the role of GAC and governments in ICANN and said that, you know because governments have primary responsibility for protecting rights that it’s remarkable you say that they only have this advisory capacity and that it comes at the very end.

The - there’s a couple of problems with that. Number one, obviously governments can be the main threat to human rights as well as the main protector of it. And indeed if you look at most of the junk that is anti-human rights in the current TLD programs or the Whois, it’s there because of the GAC, okay.

There’s no question about that. You know, you talk about these objections to TLDs. You talk about the accreditation process. It’s a data retention process in Whois. It’s all there not because of the bottom-up process. We had put a check on that back in 2006 and governments intervened. And between the US and the security interests within the European Commission, we got railroaded on that issue and then the FBI came along and insisted on certain things and being in the RAA, and that was the end of that.

So yes, governments should be the main protectors of human rights, but unfortunately most of the time they’re not.

So, I would like the better strategy - and in terms of how you get involved - again, I think the process - the best process is not to have this separate GAC over here in the silo talking to each other, but if indeed you - governments - or let’s just say people in government who are concerned about human rights

were involved early on in the bottom-up process, the real process, the legitimate process, then we would welcome your help.

And I think I see something like that happening around the expert working group in the Whois. That could be happening now.

Another point I want to bring up with you is you correctly, and I'm very gratified to see that you call out the vagueness of the public interest standard, and I think this is one of the huge mistakes actually coming out of NETmundial. I like their emphasis on rights. But the idea that the Internet, it should be managed in the public interest is a huge mistake. People don't understand I think the implications of it.

There is I think a fundamental incompatibility between a rights approach and a public interest approach. Public interest approach is ad hoc and says, "You know, whatever looks like is going to be the greatest good for the greatest number in this particular instance can override everything else." And so if you're talking to Keith Alexander about the NSA program, he's going to say that's in the public interest because he thinks he's stopping terrorists or doing something that would maybe stop terrorists. He's not talking about rights.

If you talk to him about rights, the whole dialog shifts and says, "Maybe what you're doing may stop a few terrorists, but it's against rights and that's a bigger value." You know, it's a completely different dialog.

So I want to highlight the way in which a rights dialog is completely opposed to a public interest standard because public interest is just you know, up for grabs and anybody can just say whatever they want to happen is in the public interest.

So enough for me.

Bill Drake: Maybe we'll take a set of questions and then you can try to keep track of the points, both of you. Want to get in on - I'm sorry, I lost track of my order. Maria, (Marilia), (Anriette). Okay. So we'll just go in that order I just said.

Maria Farrell: Yes, it's Maria Farrell. I will keep it brief because actually Milton has covered a fair bit of what I was thinking about much better than I could've.

Just briefly, the public interest is something that - you know, it's so often invoked and so rarely kind of articulated, and that's what I really - one of the things I really appreciated in this document and report, which I think is absolutely terrific.

And you know, I can't thank you guys enough for putting it together because it really articulates a lot of sort of apple hood and motherhi concepts that float around and you know, are pulled down from the stratosphere occasionally to justify one thing or another. But you know, all that is solid melts into air when you try to put a pin in one of these things. They evaporate.

And you know, we had a dialog with the CEO in the GNSO Council a couple of days ago where the CEO genuinely, and really think genuinely could not conceive of the notion that there was a public interest and a community interest that was separate from the interests of ICANN the body corporate.

And so this document is really helpful because it helps you know, put some words and some concepts around these ideas in a way that it is incredibly useful.

So you know, bully to you for doing that. Thank you very much.

And on this, I really also like the idea of having some form of human rights - I hesitate to call it watchdog, but you know analysis or some type of body that exists relatively independently, but within the structure of ICANN. And my concern is similar to Milton's on that one as well, which is you know so often

times rights limiting actions are conducted by governance, so I think - and especially in the case of, as (Thomas) was calling, positive rights. You know, that we typically look to governments to promote and supply for us.

So you know, I think that's a fabulous idea, and I think if we pursue it more it should be something that we've done with you know human rights bodies of standing that are non-governmental also to include those human rights watches, or indeed the (unintelligible), but also non-state actors.

And, we have been at this for a very long time here and it is great to have some (eyes) and people who really want to prosecute these arguments and you know with some real substance and backing behind them.

So thank you very much really is the one thing I would like to leave you with.

Bill Drake: Okay. Applehood and mother pie?

Next?

(Stephanie Paran): (Stephanie Paran). It was mother hi, Bill. I'm still wondering about - must be Irish.

Thank you very much. It's a wonderful report. I'm on the expert working group that is looking at Whois. I'm a little wistful I didn't have this in my hands for the last 14 months because there might have been little more support for me getting a few things into the report.

I'm wondering specifically do you think it's feasible to retroactively apply this to ICANN and stop some of the long-held tradition? Let me give you a specific example.

We have quite a few legitimate purposes of the Whois data that is collected from individuals right now, and those have been considered to be legitimate

purposes. As the sort of privacy person there, I'm not convinced that they are legitimate purposes. If you were to run them through a (unintelligible) regime, you would that they're not legitimate.

But good luck stopping an industry that has been built on vacuuming up the data and creating - monetizing it more or less, and doing legitimate security and all of these things.

But the point is, the human rights of the individuals involved haven't been considered, so is that asking too much to go back and reverse some of ICANN's deeply held traditions for?

Bill Drake: All right. That's...

(Stephanie Paran): And if anybody asks, just come to our privacy day on Wednesday afternoon, 3:00 to 6:00 and speak about this.

Bill Drake: Thank you for saying that.

Man: Wednesday.

((Crosstalk))

Bill Drake: NCSG is having tomorrow a three hour meeting about privacy with - we've invited some data protection people from some of the governments and the others. You'd certainly be welcome.

(Thomas Schneider): Unfortunately we do tomorrow have a - feels like 50 hours of meeting on drafting the Document 3 at the same time, so that might not be feasible, at least not for me. Maybe others who are not that actively involved in the drafting of the communiqué are actually (unintelligible) showing.

Bill Drake: Send your doppelganger.

Okay.

(Stephanie Paran): You may need to escape for awhile anyway and just come over and pop your head in.

Man: 9:00 there's a final (unintelligible), but (unintelligible)...

Bill Drake: We would provide you with some fresh air.

So that would be perhaps (unintelligible) from (Marilia)?

(Marilia): Thank you, Bill. I would like to thank you very much for this report. It's indeed a very important and timely document that may help us leverage some of the (unintelligible) inside ICANN.

I particularly like the idea that you did mention the public interests. Some spaces where the notion of public interest is more well established, others not, and it's indeed very difficult to establish here in ICANN, even the fact that you know non-commercial interest and civil society has such a minor role to play I think in the policy development process is compared to other actors.

But I think it's very good that you keep the notion of the important subject in that you anchor it in human rights. I think that it's not a concrete definition, but it's a good compass for us. When we face concrete problems, define what would be the public interest if we anchored it in human rights.

I actually have two questions. One of them is about the new TLDs. You make a link with a freedom of expression issues that I think it is important. But there is also other issues in terms of inference that registrars may have on the people that apply for domain names that were just in this reception that they are launching the .ngo TLD. And probably it will be a TLD that will provide a

certification if you are an NGO or not. And, to facilitate the fact that you receive money and so on.

So it sounds like to me like a very good idea - well intended idea, but it's a well-guided, and I don't know how it's going to influence you know the NGOs that apply in this TLD. And I read it very quickly, but I didn't see there.

And one last question is you talked about the importance to improve human rights expertise in the GAC, and the early engagement of the GAC in the process. I think the GAC should have a more close relation with the GNSO and there is the liaison that is being discussed. So maybe this liaison person would be a person with skills from human rights and take clearly the steps to introduce human rights concerns in the GNSO in the (unintelligible).

Bill Drake: Thank you.

We are obviously going to go a little late on our schedule, but that's okay. We can squeeze some of the topics that we were going to discuss later. This is a very important discussion.

Let's take a few more then let these kind gentlemen respond.

(Anriette)?

(Anriette): (Anriette) from IPC, South Africa. Yes, great that you've done this and thanks. I think it's really important. I haven't had time to read the document or pass judgment on it, but I think it's very important that this discussion - and we did do - I think we (unintelligible) a few years ago on paper that looked specifically at freedom of expression in ICANN, so it's good to see that referenced here.

And firstly, I think what I'm interested in is that you're using - that you're not - you don't seem to explicitly be using the business in human rights discourse

and debate, and I would say that that is something to use very specifically partly because we also don't want to elevate the role of the GAC in ICANN even more. And I think we're already sitting with a problem where a lot of the public interest issues seem to be resolved at GAC level when they should actually be resolved at lower or with other more distributed levels.

So I think - there is this whole discourse, and the Office of the High Commission of Human Rights has issued guidelines on business and human rights, specifically these designs for multinational and cross-border enterprises and their obligations to uphold human rights.

And I think it's quite sophisticated because that framework is also not trying to get away from the fact that governments have primary accountability for upholding individual rights.

So I think just taking this forward it would be interesting I think to pursue that.

The fact that this is post NETmundial, I think it's ideal because NETmundial has come up with principals that are human rights-based and we want all - and that's NETmundial is about. It's about all Internet governance institutions or processes doing a check and applying those principles and operationalizing that. And that's why I think the timing of this is so good.

In terms of public interests, you know Milton, I think it is - maybe they're also very different traditions.

We were really - when I say we, APC, we were really pleased about having that public interest raised, and I know it's different in this (in context), but I think the reason why we're happy with that is because we - one of our critiques of the existing multistakeholder Internet governance process, and that applies to ICANN as well, is that it's about balancing - they call the interests rather than about furthering the public interests.

And we've had to play that same critique out at a national level with telecom's regulators where telecom's regulators thinks its job is to balance interests between different operators or different industry associations rather than protecting consumer interests.

And often when you engage with them and you say to them, "Your job is actually to promote the public interests and the best interests of consumers," and it changes how they operate from that balancing interests of stakeholders. So I think there is room for that.

And the thing about public interests is it's always had to be negotiated. And I think if you have the right framework that underpins that negotiation of what the public interest is, that could actually work quite well.

So I think what the recommendation to define public interest objective in the ICANN process - I think it's a really good one. It won't be static though, and I think that that's important to recognize that it won't be static and that it would have to be - to base it probably on a case-by-case basis.

And then just in terms of rights (unintelligible), the paper still seems to be really looking at the (unintelligible) as you call rights context. So at the convention. It seems to be drawing primarily on a convention of civil and political rights.

We think that there's real room here to look at the convention on economic, social, and cultural rights. And in the case of ICANN - and we actually - at IPC, we're just starting a research project on economic, social, and cultural rights, and one of our case studies is on ICANN and .amazon, or maybe we would change that to .whine after having been here, to look at how you would approach those disputes from a cultural rights perspective.

Now that's also contentious because not all governments have signed on to the convention on economic, social, and cultural rights, but we think that it's

interesting to look at the rights work in ICANN, not just from civil and political rights, but also from other rights.

And I'd like to ask about the role of the panel. How do you see it actually operating? Does it provide advice to the Board? At what point can it influence decisions? What happens when the role - the advice of the panel conflicts with ICANN procedures and you have litigation that could emanate from that?

So it's - should the panel be getting advice on changing the policies or advice on the decision-by-decision basis? I think that's really an important question.

And then just finally, I think the issue of the right to impact assessment. I'd like to understand more about that because the fact that it's not human rights changes it fundamentally because if it's not human rights, it means it's not individual rights, and that is intellectual property rights. Would that be included in that right to impact assessment?

Would trademark rights be included in that right to impact assessment? And, how tactical is that to combine - or maybe it is quite tactical to combine all of those at one level, but tricky to operationalize.

Bill Drake: So, I think we've put enough on your table - or on your plate to chew on. Dig into those questions in any way you see fit.

(Thomas Schneider): First of all, thank you for this positive and also challenging feedback because I think this is the debate that we should have.

And a quick question. Why haven't we been there ten years before? Because we as a person haven't been there. And the Council of Europe has to do this, and this is one - you have mentioned two years ago I think a paper of about 50 or so pages on freedom of expression, freedom of association, aspects linked to gTLDs and people just not really took this as the highest priority to discuss neither in the GAC nor elsewhere.

Maybe you took this as a high priority and what happened in the last year was some individuals that made some important - interesting information public, and the reaction to all this, including NETmundial, has shifted the whole debate to an extent that it is now time to get this on a more sustainable basis because this focus might shift again to something else in a year or two years time. But we need to keep this on a stable basis and we - I don't mean just the governments.

And a quick reaction too, of course Milton, I think this is not the last time we will discuss this. Our head of delegation has yesterday said the global public interest is an aggregate of very specific interests - diverse interests and the global public interests would say it doesn't exist. You're right.

I don't think that this is necessarily a contradiction the way you set it out. And historically, I mean we were all very happy in 2009 when in the AAC the first time like a global public interest appeared in an ICANN document because at least to me that was the first time I have seen it. So it's also historically relevant.

First of all, you acknowledged that the public interests are not just private interests. And then, you need to go and develop this further.

And with regard to rights violations coming from governments and hence not trying to reduce the role of the governments in all this.

This might also be something that is linked to cultural and personal experience. But in our view, or at least in my view, governments have a clear role, but we need to make sure that these governments are the least of a stakeholder in itself, but there are democratic means on national, regional, and the international level to actually make sure that the governments do what the people want them to do. And this is of course a long debate I know.

But just you need - at some point in time, you need a clearly, legally established basis for some things. You need - at least it makes it easier to defend some rights if you have this basis. This is why in Europe we have tried to establish a system that minimizes, and my country's probably one of the most extreme that minimizes the power of those above to say, "Now the global public interest is this."

So to distill this down in a decentralized system where actually you make sure that as many people as possible have a say in defining the balance between these different rights.

But I will stop here. I could go on for hours, and I hope we will. So but this is I think - this is not a contradiction. You just need to do it right. The governments need to do that job right and then they have a very essential part in this.

And if they don't do it right, it needs others who have the chance to tell them that they don't do it right. And I think this is the checks and balances that they're looking for, but it's easier if you have a structure that is more less transparent than systematic that you actually find out what is going on. That you're actually able to criticize those who don't get it right.

And so, this is where this approach comes from. But of course, this is only part of a bigger part of that that needs to play together.

I think there's not time - I will stop here. Maybe (unintelligible)...

Bill Drake: (Unintelligible). We'll make time.

(Thomas Schneider): I think that the whole Whois debate - I mean, when I came to the GAC for the first time, I realized that for years, situations are in place that seem to be or are against the laws of a number of European countries, and the European

Commission has just continued to repeat, by the way, the Whois things against the laws - by the way, the Whois solutions are against the laws.

Okay, yes we know. Okay, next one. And then the next meeting they claim again.

And at least now there's an attempt to start from somewhere else and maybe find a solution that works. We have heard that this has not been - there have been some discussions about the dissenting opinion that I think comes from you and how that has been (shaped) and so on.

We are trying to find out if governments - how this works and whether this - whether you can actually apply this retroactively. I don't know.

A big government of this world forced our Parliament to retroactively change some laws about banking secrecy, so sometimes it is possible, but it goes beyond my knowledge.

But at least for the future, I think now we're - a big change is about to come. I think we should really get this in a balance way. I have no - we have no problem. And also, this report is not against law enforcement. We need law enforcement, but there also needs to be some checks and balances with regard to getting the right balance between legitimate law enforcement necessities and rights that might be in conflict with this.

Thank you very much.

Woman: I want to just add - I keep telling our committee and anybody who'll listen that law enforcement includes data protection law. They are always left out.

Bill Drake: Right.

(Lee) anything you want to add?

(Lee Hibbert): Just to say that I think already that the report is doing its job properly, because the fact that you're discussing it yourselves.

And I personally think it's about discussion between you, which is the key for me (unintelligible) this report. So I think it's already started.

I would add that - yes, I mean there's some very good points. I mean, they should all be discussed further. And I think it's timely and I think there is a convergence of issues, and statements, and issues which have been put, and it's really time we have to take it to another level. And, I think that includes you as a community.

I don't know whether it'd be worth taking to GAC. I mean, the GAC would probably put something in the communiqué, and it will have it (unintelligible) after this meeting. It will go to LA I think. But, that doesn't preclude you from having a bigger discussion with other actors, and you know we should bring other experts to the table in law enforcement and data protection as well, and I see great opportunities there.

Just to respond to one or two things. I think again it's a question of leverage, (Marilia), you're right. I think this is a lever for you first of all.

The question of NGOs, and I think that there's a part in here - I like the part on community, which I think is really key. You know, designation of a gTLD should not be a mechanical action. That's the point isn't really? And whether you're talking about point systems or whatever, I mean there has to be some sort of human intervention.

You know, I mean - I find it fascinating how these things are decided, and I have my own opinions, but I mean you know when we talk about .(gay) for example, I mean public interest means you get to reflect the issue of the community. And I mean whether you call it public interest, whether you call it

human rights, I mean whether you call it discrimination, I think personally now I think the power of a gTLD is really, really powerful.

I mean maybe I'm being naive and I'm coming late to the table, Milton, but I mean you know actually buying a space and having that space really is very (unintelligible). Just look at other big companies, you know, big services which occupy the space and move. So there's elements in there regarding - and gatekeeping I would say and the idea of you know being a gatekeeper and having a judgment - (unintelligible) judgment over something, and this is where it comes in.

You know, the media for example has a role - has responsibilities. And what are the responsibilities regarding gTLD? We can't be just a mechanical economic action, quite arguably.

So there's that to think about too. So the community aspect could be developed further.

There is a reference to business and human rights, (unintelligible) a little bit in the footnotes, but you could cover that more.

The role of the panel for example - I mean, my opinion on that - that's not in the report, but my opinion would be that this - I think that there should be some neutral independent and impartial reflection. This tries to be a bit like that. If you take away the recommendations, it's very factual and it really separates the opinions from the facts I think - I hope.

And, I think that's - if you liked it, I think it's perfectly - it was quite impartial and quite - you know, it was really not being too opinionated, at least in terms of the main part of the text. I think that is a - reveals there's a need for more of that in the future.

And that means that whether - whoever's called to ask - I think - you know, whichever independent expert or whichever institution for that matter could be tasked in good time impartially, independently from (unintelligible) - I have a feeling sometimes that reports and statistics are misused for gain by certain delegations perhaps, and I wonder whether this could be sort of diffused or appeased by something much more neutral. Something respected.

I'm not saying it should be a court of law, but it just should be something which allows a point of reference in the discussions. And, I wonder whether that's something you could think about.

So I mean on that basis, I think the next steps - I mean, we - I'd like to say that I'd like to try to organize in your next IGF on the side a meeting to discuss this paper further. And I mean to - if you - I mean, I will try to get a room and invite all the people in the world who want to come, and all the different (unintelligible) and forces, and I hope you can come and help mobilize and have a good discussion.

And of course, it shouldn't really just be about the authors. It should be - or me or the Council of Europe. It should be about you know you discussing these issues. I think you would make a big difference before LA.

And maybe in LA, you can have another discussion, and then use it as a lever because - I mean, the extent of looking to - I don't know, to the authors or the GAC, or to the Council of Europe will eventually come to an end. I mean, there'll be a limited amount of leaders we can do that who have started it.

We can do another report. It can be more targeted. We can look at UDHR. We can look at those things. We can look at issues which are coming through now I mean regarding IGF protection. I mean, I think we need some - let's say some guidance from stakeholders, and not just governments maybe, on where to go next.

I mean, there aren't too many issues there, so I mean maybe you want to discuss priorities. I mean, I can certainly go back and then if you want to do something on you know a multistakeholder discussion with expertise on a particular aspect, we could look at that and help you further your reflections.

Bill Drake: Okay.

We're coming up on an hour on this, and I know you guys probably want to move along, but I want to ask just one real quick question. The paper ends with this tantalizing idea about ICANN's legal basis, and unsurprisingly our - what our Swiss co-author suggests that the legal status of the International Federation of the Red Cross and Red Crescent Societies can be source of inspiration for a new and innovative solution with regard to the legal status of ICANN.

I'm curious, and I know that you presented this to the GAC this morning, and I'm curious what kind of response you got from other governments to this idea that the legal basis of ICANN could - should be reconsidered and that this might provide one model for doing that.

(Thomas Schneider): I knew this question was coming.

Well actually, it was Fadi who used several times in the past 15 months the Red Cross as an example of something that might be inspiring ICANN in its future development in its role that was not - I've got nothing to do with the fact that I happened to be born in the country where this thing is standing.

But we didn't have time, because we needed to go to the NCUC. We didn't have to time -- no, I'm joking -- to have an extensive debate about all aspects of this, but we took notes that this - raised some attention.

And to be honest, this is not the key point here. This document is not about reviewing ICANN's legal basis. It's about thinking about how human rights can be strengthened. How the protection of these rights for individuals can be strengthened and to be open to look at all the aspects of this that are - can be optimized in order to have a better protection for human rights. That's the key objective of this document.

And we say explore innovative ways. That doesn't mean we have to copy something that already exists. But, we should think broadly on all the aspects with the focus on how to make sure that human rights - that the fundamental rights and freedoms are protected best with regard to ICANN's mandate. And then after a thorough reflection, come to whatever conclusion that these reflections will come to.

And, we just wanted to signal that let's not reduce ourselves to a narrow-minded approach, but look at everything and then set the priorities. That's the message that I would like to give to you.

Thank you.

Bill Drake:       Okay.

Well, the one thing I would like to say in conclusion, I have invited the Chair of the GAC to meet with us about four times, and I've always been told, "Oh, we already meet with civil society. We talk to the ALAC each time."

So - but we've had you here now twice, and what I would like to suggest is that you know it would be really constructive and helpful if going forward we could have more of an engagement with key participants of the GAC on these and other issues. We would very much love to have an open door, and we have a long-standing set of concerns on this - you can tell a lot of expertise on these issues.

So I hope that this is the beginning of a beautiful relationship, and we really appreciate you guys coming by and sharing - and also with the Council of Europe, which has been long a major force for promotion of human rights internationally.

We would very much welcome opportunities to take this forward, okay.

(Lee Hibbert): (Unintelligible), Bill, thank you but can I ask you to open that this document can be circulated of course if you have comments, please make comments and bring those comments back, because I think that you know there will be comments by governments, and their comments may be different to your comments; therefore - and it'd be good to have different perspectives.

And so I would really appreciate that in terms of getting those comments together and putting them on the table transparently and that - (unintelligible) better discussion.

So if I can encourage you - sorry?

Woman: (Unintelligible).

(Lee Hibbert): Well, we haven't set a timeline, but...

Woman: (Unintelligible).

Man: There is no timeline.

Woman: So what is the way of doing these comments (unintelligible)?

(Lee Hibbert): I haven't really thought...

Woman: (Unintelligible).

((Crosstalk))

(Lee Hibbert): Excellent question.

((Crosstalk))

(Lee Hibbert): No. I ask - actually, a good point.

((Crosstalk))

Man: (Unintelligible).

(Lee Hibbert): (Unintelligible) and I'll put it there and open to comments - and yes, I'll do that. I'll do that. I'll put it - I'll let you know. I'll send it to the main list (unintelligible) the GAC to. But I would really - so that'll be really great.

But I would really like to see - for you all to weigh in on this discussion in LA, and even before.

Bill Drake: If you want to do something in LA around this, I'm sure we would be interested.

(Lee Hibbert): How elated can we be?

Bill Drake: If we wanted to propose a workshop for example within the ICANN main program. The program has not started to take form, and if you put in a request early enough and you're insistent enough with the right staff, you can probably get a space reserved in the program where we could hold - because we have a three hour workshop tomorrow on privacy. We could have a workshop in Los Angeles around this range of issues.

And if we had support from you guys, that would probably end - lend it more weight, okay.

Man: (Unintelligible).

Bill Drake: Well, I tried to promote (unintelligible) GAC interaction and he's ducking the question.

(Thomas Schneider): I think the fact that we are here, we - others are not, but we are here, and I am here not for the first time, and not I know is (Peter) from Australia. You don't have to convince us. You have to convince others to do this more regularly. That's all I can say. Thank you very much.

Bill Drake: All right, folks.

Listen, I really - we went over time. I hope that's okay for you. We really appreciate you coming, and we look forward to constructive engagement going forward.

(Thomas Schneider): Okay.

Bill Drake: Okay?

(Thomas Schneider): Thank you very much.

Bill Drake: Have a good rest of the day.

Okay, (unintelligible).

All right folks. Well, we are adapting the agenda on the fly a little bit, but that's okay. I had originally thought that we would block out a chunk of time for discussions of accountability and also some of the larger Internet governance issues, but why don't we just do a little open conversation and debriefing on what we've heard today and we can blur together these points as well.

I had also mentioned - I had asked a few people to be prepared to make some lead off comments on some of these topics, so just to feed the conversation - so if we - I want to take just a little - we've got a half hour. Want to just take a few minutes for - to take stock and integrate where we are on accountability and IONA and what's happening in the next few days, and then turn to the other bits. We could do that relatively quickly.

So I had asked Avri, Milton, and (Gabrielle) - if you want to say anything, just to try to boot the conversation up. (Gabriel), we haven't heard from you today, so perhaps you know if you'd like to tell us what - we did participate in NCSG comments on IONA and accountability recently, and (Gabrielle) was very involved in the accountability ones, so maybe you'd like to...

(Gabrielle): Thanks very much, Bill.

Well essentially - I mean, I'm hoping that you know you've all been able to have a look at those comments, and that you know this reflected generally what consensus among the various people in the NTOC and NTOC in general. And what I would really like to say in relation to this is mainly is ask any of the ideas in there that you know you want to discuss further today. I'm not sure we'll have time because actually I thought we might have a bit more than just half an hour.

But I think that having attended for example, an Atlas meeting on the same issue of accountability and transparency, you know, that still a very high level question which are being asked about you know who should ICANN be accountable to? There are questions about who should be able to challenge some of these ICANN decisions?

So when we're talking about community, what does that mean? And that generally speaking, I think there's an agreement that the various accountability mechanisms that exist aren't sufficient. And so I think that two

tracks here, one which is around the existing processes and how does that -  
how can that be improved?

But at the same time, if we go for something that is more like external  
accountability, how would that interact with the existing processes? And how  
would that look like?

So for example, there's been a discussion around external multistakeholder  
accountability, but I think here we need to think about are we talking about  
you know the policy processes or is it more in relation to particular decisions?  
If we have multistakeholder body, how does it remain external? Who sits on  
it?

And I think that at some point or other if we want to come up with a concrete  
proposal, we have to address the hot questions about composition. How are  
these people selected? So I'd just like to throw this out there and be very  
happy to discuss it further.

Bill Drake: Thanks, (Gabrielle).

And I should also add by the way, I don't know if people are aware of this,  
Christina Rosette, the President of the Intellectual Property constituency, they  
have a President, we have a Chair, they have a President, has written to all  
of the other SO/AC leaders suggesting that we should have a joint initiative  
and statement on ICANN accountability. And I think - Rafik, are we going to  
take this up in the NCSG discussion today?

Rafik Dammak: Yes, indeed. And already I sent - I shared the statement with the policy  
committee, so they are aware about that.

Bill Drake: Okay.

Rafik Dammak: And I would (unintelligible), but because we need to act if we want to make the statement for Thursday.

Bill Drake: So whether we want to be part of a joint initiative with all the different parts of ICANN and trying to calibrate exactly what we would and would not want in there I think is an important thing, and we want to make sure that we - if we are going to engage, that the text is reflective of where we're coming from, and not necessarily just where others are coming from.

I'd also asked - Avri and Milton had spoken before, but certainly, you both have thoughts on these issues. So if you'd like to add any sympathizing, closing, action-oriented next steps what we should do? Things we could take up this afternoon in the NCSG or...

((Crosstalk))

Bill Drake: Accountability? IANA? As you like? What do we need as a constituency to be thinking about with regard to the discussions that are going to be happening on Thursday where we have special sessions on IANA and accountability that Avri's organized? And I think Avri, aren't you speaking on one of those panels?

Avri Doria: Yes. That's what I think is happening.

Bill Drake: So how do you...

Avri Doria: I have no idea how the panel is working, so I don't know if I'm speaking or just responding, but yes.

Bill Drake: Okay.

Well - and I'm just asking as an open question. I mean, is there anything looking forward to Thursday that we as a group want to have on our agenda or as a priority, as an intervention and so on?

Avri Doria: Yes. I have - this Avri. I do think it would be useful for us to start sort of collecting our thoughts together in little bits of writing that we can use. You know, not necessarily long papers at this point, but short paragraphs on various aspects and topics that have come up that we basically start collecting our thinking (unintelligible).

So if you're looking at actions going forward, starting to build that collection of - I wouldn't call them talking points because talking points have sort of a directive to them, but just getting some of the ideas down. Making sure that we've gotten some of the human rights pointers and the other documentary evidence for some of the same arguments we're making at hand.

So, I think that would be useful because I know I'm constantly spending time saying, "I want to say this," but then all of the sudden I realize I have to quickly do that background research to find out what it's - what my raw feeling is actually based on.

So that would be a helpful thing for us to start doing because we've got a lot of the knowledge here, but we have not set it down in a collected manner, and that would be a good thing to do.

Bill Drake: And we could use the Wiki that you provided in the same way that At Large folks do to brainstorm and sort of outsource some - if not talking points, some topics that we could be using. I think it'd be a really good idea.

Rafik, you...

Rafik Dammak: No, just a question to Avri. So for when do you want to - I mean to achieve this kind of to summarize this (unintelligible) we discussed this before the

session on Thursday that we - you want that we maybe - I'm not sure we have - we can have the (unintelligible) statement or that you think that (unintelligible) prepare a statement - that's not clear for me, and so can you clarify?

Avri Doria: Right. This is Avri again.

I have no want - I think that it would be useful certainly as a statement not for me to make. I mean, I'm going to be up there probably more on an informational on the past and where we're at, and perhaps some pointers to where we should be going.

I think it would be good to have an NCUC or NCSG statement, you know, and perhaps several, you know, to the point statements that people can make because it is not just the panelists that are going to be speaking, it is the whole community so I think that is useful. I am certainly not thinking that we should have the (WIKKI) populated with all of our wisdom by Thursday but I do think it would be useful if NCUC was able to get up there at various times and NCSG was able to get up there and talk to them, sure, and make, you know, short to the point statements that are non-duplicative but overall make a case.

Bill Drake: Okay. It is hard to argue with that. We should be more organized.

I think we all probably getting tired and the air is thick and it has been a long day so we will roll this along but is there somebody behind me? Oh, fantastic, (DeeDee).

(DeeDee Halleck):Yes, I just wanted to say.

Man: Wait, wait, can we (unintelligible) please.

(DeeDee Halleck):Oh.

Bill Drake: There are remote participants (DeeDee).

(DeeDee Halleck):(DeeDee Halleck). I just thought we should all acknowledge the fact that in the spirit of human rights and co-existence with our (erstwhile) conflicted combatants of our - in our struggles here that the Queen is visiting the Belfast jail today and - with the Prince and which certainly would have been impossible a few years ago. Right this minute it is live.

Bill Drake: That is - thank you DeeDee that is interesting. I am not sure NCUC will have a position on that but I could be wrong - (Gabriella).

Woman: At least she apologized. If she doesn't apologize it doesn't mean enough.

Woman: She already went to Dublin last year and did a proper apology and that counts for a lot more.

Bill Drake: Okay, so (Gabriella) are you - and (Robin) would you want to - you haven't said a word today. This is remarkable. (Gabriella) did you want?

(Gabrielle): Just quickly. Going back to the council in Europe Report - I just wanted to flag out that I am on one of their council - one of their expert committees and so I work for them regularly so I would be happy to become the focal point if that would be useful.

Bill Drake: We definitely should leverage this engagement and again (Thomas) is very civil society friendly and very interested in having dialogue with us. He has been with us before. He has told me repeatedly he is willing to meet with us whenever so we should take advantage of that and (Lee) and the council certainly are always looking for engagement of civil society and so it is just a bandwidth question being able to engage but we should definitely do so. (Anriette).

(Anriette): Well just on that - shouldn't we do a formal NCUC response and maybe you could ask for, you know volunteers that are interested in working on that?

Bill Drake: I am totally happy to have that happen. I have - do people like the idea of trying to hold a meeting, a workshop in LA on this? Does - if so I - we can - we could - I, you know, I will write to the staff relatively soon about it and say that we have talked with the (GAC Price) Chair and others and there is an interesting (unintelligible) for this initiative? Avri.

Avri Doria: Yes, I am not sure someone wasn't being before me but one of the things on this COE statement is in this meeting (Lee) was fairly confident but they did make a point they need our support in GAC and with our GAC members because while they did get it through a first reading as it were and yes, got it accepted as something they can talk about there is a lots of pressure from US and others about parts of this that and, you know, yesterday (Lee) was not quite as comfortable with the reception in GAC as today but of course you can't say that but, you know, they are not getting a smooth reception on this. They are, you know, so we - he was quite sincere when he said we need to support them.

Bill Drake: And then on the US - I mean I understand from the discussion this morning that the US was indeed among the most reluctant about all of this. I don't know if that is only because of the last part about the US legal - about the legal status or if they had concerns about the broader - I - we didn't - are you aware with what is going on here with this (Stephanie) - I haven't talked to...

(Stephanie): I am about to get more aware but I would be - bet you big money that the data protection stuff has a lot to do with it.

Bill Drake: Fair point. Yes, (Chris).

(Chris): Just a specific point by the way, the council of Europe works, I mean this is just a (unintelligible) simply a report that is being tabled to the committee so it

doesn't have any standing on its own. It is standing is the fact that one of the co-authors is (Thomas), right, so we should be aware that the standing of the document itself - if it was written by two (unintelligible) academics it would just be, you know, largely ignored. The standing is because of (Thomas) which is why I think it actually does have some legs to it but let's not get too hung up on the idea that there is certain kind of position that will be adopted by the Council of Europe because that is certainly not the position at the moment.

Bill Drake: Sure - us nobody academics would never be confused about our status. Are there people behind, yes.

Woman: Just so we don't reinvent the wheel I remember a lot of discussion about human rights in - at (unintelligible) and (Rikke Jorgensen) wrote a really - edited a collection of essays called "Human Rights in the Global Information Society," that might be useful to revisit at this point.

Bill Drake: I highly recommend it. (Rikke) and I wrote the introduction together and it is published in the book series I edited so there you go. Turning quickly to...

Woman: (Unintelligible).

Man: And you?

Woman: (Unintelligible).

Bill Drake: Yes, the book is dated. And turning quickly to the other point that I thought originally we might spend some time on but it is - we have taken a lot of these issues previously - just on the larger Internet governance stuff and ICANN's role in it is quite clear that (Fadi) is looking to hand off - scale back some of the activities that they have initiated and he wants there to be some mechanism to take forward - the (NET 1DL) and related stuff that he catalyzed and there is this whole discussion about forming an alliance and his approach to this seems to be very selective and not terribly inclusive and

somewhat challenging to me and it is certainly something that we need to pay attention to going forward and insure that follow-up to the (NET 1DL) and the role of ICANN within that context is done in the right way. (Carlos) do you have a thought about this?

(Carlos): Yes, first of all to ask him for more information because he did three or four phrase in the representation and we are not sure what he means exactly by that, you know.

Bill Drake: I sat next to him at dinner the other night and he told me what he means but I was also (unintelligible) with all those things (unintelligible). I am not sure but I was rather astonished when he was describing how he was going to go about doing this. I said, "Well what about civil society and insuring that we don't replicate the disaster of the One Net experience, the way that was booted up was not inclusive - it was controversial and it just screwed everything up and make sure you don't do this again," and he said "Well, there is one NGO I am thinking of being part of the alliance," and he named it and I said, "Really, because they are not involved in any of the Internet Governance processes that the rest of us have spent the last decade on," and he says, "Oh," well, you know, so I mean he - he still seems to look at the hippodamus of the ecosystem and he thinks who are the players that I can talk to and he focuses on, you know, particular organizations and trying to link them together and thinks that is sufficient and I said, "You need to look at the networks that cut across all of these organizations and are inclusive and open and figure out a way to interact so that you don't boot something up that is going to be (unintelligible)," and let's say that the thinking is still jelling - (Marilia) and Maria and (Anriette).

(Marilia): I just would like to make a comment and connect that discussion with the high level report that was published. Probably I am one of the few people that you are saying that is something relevant that we should look into but I think that the (unintelligible) has been produced with a lot of resources. It has people that are important and influence behind it and we have the 2015 deadline

approaching for (unintelligible) review and there is no other document, at least that I am aware of, that tries to set concrete, you know, a way forward to implement a distributed model of Internet Governance. I am not saying it is very concrete and detailed but in the lack of something else I think that this may be a document that people will grab and try to extract something from there.

What to me is a little bit concerning because a document that has interesting ideas that we could appropriate and further develop but it lists at the end of the report a list of questions that the panelist did not have time to look into and they just throw the questions to the crowd such as for instance, how to make it balanced - how to make it inclusive - how to make sure that other people are participating and all the examples that they gave of distributed networks that are in place which would be the bottom up model they envisioned for a distributed Internet Governance eco system - it is private led. All the concrete examples are led by private companies or - so to me it is like if we don't act and this is the model they are going to follow through and I don't have clarity how this relates to the alliance but I do think that it had something to do with that.

It sounds to me a little bit like this group of experts or advisors that would influence the whole process into one. I mean I think that we should look into the document and try to extract what are the margins of that even to be prepared if it does become a document that will be further discussed. Maybe it won't but I think we should be prepared for it.

Bill Drake: Thank you (Marilia). Well I was one of the advisors on that process and (Anria) was the sole Civil Society representative and we can certainly tell you that it was well resourced and we sat around in Sunny Lands in this place owned by the (Annenbergs) ideating and throwing ideas around and there are specific points that I think will be taken forward and for example NCUC I will point out - we submitted two workshop proposals for the IGF which were in the top eight out of 240 reviewed that have been approved.

One is on the notion of a Clearing House and I know that (Fadi) is thinking that the clearing house function is something that will be folded into this alliance concept.

We were also and there was also the notion of national level having some kind of mechanism to support National Level Multi-Stakeholder Initiatives, something I think he is very interested in and I think he also thinks of that as being potentially part of the same nexus.

So there are certain things there in the documents that are just mentioned briefly which also got into Net Mundial and which could be the source of some action going forward and those are things we should engage on and I would encourage everybody to come to the NCUC workshop on the Clearing House and also the one on globalization of the AOC and so on, as well as (Robin)'s and the other ones that are here - (Anriette).

(Anriette): Yes, so just in terms of interaction with (Fadi) and that on this stuff I think it is great that you are continuing to fight the good fight of educating under that developed civil society. I sometimes feel that a relationship with the ICANN stopping these issues is a bit like - it is like we are in an abusive marriage in that you know, the worse they treat us we keep coming back for them.

You know, we were the first people to support (Fadi) when he came up with the Montevideo statement and he was standing there on his own and civil society was the only, you know, group of people actively and publicly supporting him and then when it came to the initiative that flew from it - that, you know, flowed from it we were sort of cast aside but, you know, under our sterling great leadership we are bigger and, you know, broader than just that emotional response and I guess we have to keep being there and keep providing the input and reminding him that we are there and that we have got people,, you know, in our group who have more experience and more, you know, intellectual credibility in the area of Internet Governance than

absolutely anyone else in ICAA so much though, you know, emotionally it would be very satisfying to just say, "Oh, you know, forget it we can't keep dealing with you on this and showing out to do stuff," I think we have to keep plugging away there and hopefully that approach will at some point, you know, continue to bear a little more fruit so my hat is off to you to everyone that has the patience to do that.

Bill Drake: I think it's more like Brokeback Mountain, "I can't quit you," (Anriette).

(Anriette): And what were you and Friday doing in the tent (unintelligible)?

Man: You were there - we were smoking cigars as (unintelligible).

(Anriette): I actually love Maria's analogy and - but I am going to even modify it. It is like a polygamous abuse of marriage and the why spend half the time fighting with one another and then, you know, in between being beaten up by the husband but - and I think (unintelligible) (Fadi) actually mentioned this in a blog that he wrote on one May and I only found that out when I was searching for information about the Net 1DL Alliance so that - which is interesting so he has actually raised this idea.

And in the panel I think he would have liked the panel to come up with something like this alliance as a recommendation and the panel would not because I think the panel was - well it was quite a diverse panel as (unintelligible) as any one civil society person myself, but there was also quite a lot of I think overlapping interest between some of the technical community people on the panel and Civil Society and a lot of this I think focused around the role of the IGF and I think there is a real question here and it is kind of what I raised in the discussion with the US government this morning as well, is tactically where do we put our effort. Do we put our effort into creating new bodies outside the existing inter-governmental system or something at the IGF which is partially linked to the UN but not off the UN and by creating new

initiatives that exist outside that or do we put our effort into the IGF, make the IGF more sustainable and more - have more impact.

And I think to me my fear about something like this idea of the alliance is that it is actually the inclusion of civil society does become quite (unintelligible) and I think - I fear that the same could apply to the inclusion of developing country governments. You know, I get a sense that sometimes proponents of the multi-stakeholder approach, particularly from the developed world and from business think they just need to get the centers convinced. You know, some nice dinners, some nice meetings, you know, some nice hotels and make them understand why this is the right way to do things and everything will be okay.

And I fear that there is no real delving into the fact that there are conflicts of interest, that there are concerns amongst governments and amongst all society about private sector capture in the Internet Governance community. There is also competition between governments and for power. Civil society often loses so, you know, I am not - I think we need to find out more about it. I agree we need to try and influence it but I also wonder what we should do with regard to the IGF and how much effort do we try and put into making the IGF play this role or be the victor so that is really my question.

And about the panel I will write more about the panel. I think just this - just a comment on the panel. It is really interesting (Marilia) to hear you talk about those questions at the end. The questions at the end of that report is basically what a small group of us - of panelist felt very strongly about and issues that we couldn't really - there wasn't enough time to get it into the main text of the report so - but we managed to discuss it a little bit and it got included as those kinds of questions but for many of us on the panel those questions actually is the most substantial part of the report.

Bill Drake: Thanks (Anriette). So looking to our next possible encounter - those of us who will be in Istanbul for the IGF just to point out that on Day Zero before the

IGF begins, APC, (Shatelio Fargus) Foundation, (Diplo) our plan and perhaps other actors are planning to work together to organize an event on that Monday, a follow-up that will take on strengthening the IGF and some of these other aspects.

I am editing a book that will be released then also, then we will do a release event with - a bunch of you are in it. It will follow up in dealing with some of these specific points and we will have several workshops there so we can all get together in Istanbul and try and carry this forward and then, you know, to LA from there.

I am just - in closing to say also just other points that are - if we were spending more time I would have spent more time on. But anyway we did do this outreach event on Friday with staff in the Can't Quit You category. Our first effort with staff to do an outreach event and it was reasonably successful - I think it was in this room and the room was full and we had a lot of people coming in from some other (NGL)'s were not involved. They want to continue to do that kind of stuff.

We also did a Webinar last week and so we are doing those things again probably for LA and I also mentioned here the notion of policy conferences. I said this on the NCUC list - I don't know if anybody noticed it but anyway the Singapore conference we did was regarded by staff and others I think as being quite successful. The staff then built into the budget for this next fiscal year an allocation of funding for people to organize similar conferences and they have kind of said to the community people who want to organize conferences should bring proposals.

We may want to think about in the next year is there something for one of the upcoming meetings - maybe it would better to do it at the NCSG level and do it together with (NPOC) or do it in association with (At Large) or there is lots of things one could - well I am just saying or you could just do it as NCUC but I mean it is something for you all to think a bit about and the other points

about the board election and so one we will take up in the NCSG meeting this afternoon.

Just to say also there will be an intersessional meeting that was put into the budget and then been approved so I have been - Rafik and I met for several hours with the CSG leadership the other day for dinner and talked this all through and we will probably hold a meeting in Washington, D.C. in January, similar to the intersessional meeting that was done a couple of years ago for the members of the house and on contracted house to try to communicate a little bit more effectively and work together and address some joint points.

Other things can be taken up in the future on the (unintelligible). It is 12:30 - we only have a half an hour until NCSG starts we can wrap this up - Rafik do you want to tell us what we have got keyed up for this afternoon.

Rafik Dammak: Yes, it is - it will be the Thames, not the River, but the meeting room at yes,

((Crosstalk))

(Rafik): Check the map.

Man: Near the Thames?

((Crosstalk))

Man: It is up here.

Man: (Unintelligible).

Rafik Dammak: The no, might have - so okay the (unintelligible) in 30 minutes and then after that we will have the meeting with the boards and tomorrow we will have the NCSG privacy session from 3:00 p.m. at Sovereign room.

Man: Sovereign, yes.

Bill Drake: Okay and I unfortunately will not be with you because I have to go to discharge my Atlas functions as a member of the (Urala) Board so - but I want to thank everybody for being here. I think we had a really good discussion today and hopefully we all catch up in the afternoon at the NCSG. Thanks.

END