Transcription ICANN Singapore
Discussion of Motions
Sunday 23 March 2014

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Man: (Unintelligible).

                Okay. Can we start the recording for the next session? So (David), over to you to introduce the next session.

(David):   All right. This session we're going to have some discussion about the motions that will be on the agenda for the council meeting on Wednesday. We're mostly here really trying to work out whether they're likely to be controversial and whether we are likely to have a lot of discussion.

                And also we do have a couple of things to tidy up in terms of many of them - several of the motions have council liaisons and some that are not yet attached.

                So we'll just go through the motions in order - if anyone has any - if anyone has any particular preferred order. So starting with the motion to adopt the revised GNSO operating procedures to address resubmission of a motion and working group self-assessment.

                Now this is the motion that was given to us from the SCI - the Standing Committee on Improvements. It was I understand full consensus of the SCI.

And I don't believe there's anything else we need to change about this - we need to add to this motion currently.

So I'm going to ask, does anyone feel that we need extensive discussion on this motion on Wednesday? Or should I move on to the next item on the agenda? Sounds to me like we're going to need to discuss this one on Wednesday, so we'll update council upgrading procedures.

So I think we should discuss this to that extent to understand what we - so we all understand how the procedures have changed. But I don't see it as being controversial. That being said we'll move on to the next one.

The next one is the motion on the adoption of a charter for a cross community working group to develop a framework for the use of country and territory names as top level domains. This motion made by John Berard, seconded Mikey O'Connor and (Estelda Nobler).

Now I don't think one is likely to be controversial in terms of voting for it. But Mikey, you have a comment?

Mikey O'Connor: It's very minor. I'd like to be removed from the seconder. I was seconding the wrong motion on the list. And (Asivaldo) has vastly better understanding of this than me.

(David): Yes, noted. I think we'll make that change in the agenda.

Now the other thing about this motion, again presuming no one is planning to vote against it, the motion as it stands - well I'm presuming no one is going to vote against it. Is anyone planning to vote against it? No?

But the motion as it stands does not have the - has blanks for the GNSO co-chair and GNSO council liaison.

Gabriella Schittek: And can I ask a question regarding this?

(David):   Yes, absolutely.

Gabriella Schittek: As far as I understand it seems this working group will be limited to the ISO - it's in English - that ISO - for countries and territories. So do we know if they have considered expanding this call to consider also issues that has territory names outside of this place? This is the question that I have.

(David):   Like a regional name?

Gabriella Schittek: Yes. So for instance I think that decisions are going to be also considered by GAC because the GAC communicates from (unintelligible) the recommended - I'm quoting here. I can collaborate with the GAC in refining for future rounds. They are taking guide (unintelligible) with regard to the protection of terms with national, cultural, geographic and religious significance in accordance with the 2007 principals on UTTL disk.

So in this framework and as we know the GAC will be really addressing these issues. So wouldn't this lenient of the charter mean like a loss of opportunity for our community to discuss these issues? And can we - the question is do we really want this discussion not to have it as a community when these issues are going to be addressed by the GAC at some point?

This is going to be back on us. And so that's the question - if we want to have this discussion because this will be affecting different parties of the community.

(David):   Does someone want to answer that question? Yes (John).

John Berard: This is John Berard. The motion is cast very narrowly against the charter, which address specifically the ISO 3166 names list. It also - in the Appendix C specifically limits or notes that it will not be engaging in any discussion that

would impinge upon the new gTLD program and therefore should be viewed as separate and apart from the work of the GAC.

In talking to the folks at the CCNSO, I suggested that there is a possibility of course that the fact that this is a cross community working group, thereby drawing in people who are not from the CCNSO might cause the mission to try to creep into some other areas.

And if it were to, then by policy it would have to go back to the CCNSO Council because they would be a change in the initiative. And I can't say how it would come out, but I suspect that it would be reasserted as being very limited in its scope - limited to the ISO 3166 names for countries and territories.

And the regional names and colloquial names that have caused - that have drawn attention in the new gTLD program would continue down that other track.

(David):   Thank you for that reply (John). And I'd also add while I'm not very familiar with this working group myself, I'm remembering from I think Bart's answer to this - to a similar question yesterday. I think he said - noted that while it is restricted to the ISO 3166 list, it will be addressing their uses in ways other than the - to extend beyond those listed - that will be considered by the GAC.

So it will be - the GAC is really only looking at top level domains. This will continue to be using second levels and so on. So it does have - definitely has work but it will not be - infringe on the decision of the area considered by the GAC. But yes, they are planning to strictly limit it to ISO 3166 at this point.

Does that answer your question?

Gabriella Schittek:So the working group is only about second level? That's what...

(David):   I don't think it's only about second level.

Gabriella Schittek: Oh.

(David):   But it's...

Man: Because it's only about the end. It's only about the list that's ISO 3166.

Gabriella Schittek: Exactly. So that's my question. Why don't we rather have a discussion about this at the community level? That's the question if this is going to back on us at some point. Maybe I'm not understanding the answer.

My question is don't we want the community to have a discussion on these issue that for instance the (unintelligible) that came in the first round, and then all those names that are conflicting?

(David):   And I don't - I mean I don't think we have a good answer. I mean perhaps I'll take John's answer as saying perhaps we do but it's not in this motion or this working group.

John Berard: So in the spirit of full disclosure, there are incredible similarities between the guts of this charter and motion and the guts of the Drafting Team charter and motion to follow, which speak to how - would speak to a methodology for developing cross community working group initiation, procedure and output - the primary reason why I agreed to be the sponsor for it before the GNSO Council.

Because of the limited scope of this charter, it does not preclude anything that we might choose to do otherwise.

Gabriella Schittek: Thank you.

(David):   Next question with three people at the stance - (Kristen).

(Kristen):   Actually Avri, go ahead.

(David):   We'll have Avri.

Avri Doria: Thank you. Yes, thanks. I was speaking in (unintelligible). I think I'm
                 confused. In fact no, I know I'm confused. We've got this and it's giving
                 advice. I'm not exactly sure when we've got two SOs talking, what we mean
                 by advice - exactly whom that advice is being given to.

                 And since this does relate to a topic that is ongoing in gTLD in terms of
                 second level names, I'm just wondering has there been a thought to what the
                 process is for when you've gotten advice out of this? Then what is it that is
                 done with it?

                 Does this feed into a PDP? Does this feed into - what we do with this advice
                 once we've got it? And I don't - I'm not clear exactly on that at all.

(David):   John?

John Berard: It's advice to the CCNSO Council.

Avri Doria: So when you say it doesn't impinge on us, it really has absolutely nothing to
                 do with us.

John Berard: I don't know. Is that a trick question?

Avri Doria: No. It's merely symbolic of my lack of understanding and my confusion.

John Berard: The CCNSO Council is looking for advice from a cross community working
                 group on the - on creating a single policy with regard to the use of the names
                 that are in the ISO 3166 list. That's what they're looking for. It's very narrowly
                 cast.

Avri Doria: A single policy for the CCNSO?

John Berard: That's correct.

Avri Doria: Not a single policy in relation to these names.

John Berard: What...

Avri Doria: Well if there's - I mean so what happens...

John Berard: Are we having the same grapefruit? I mean...

Avri Doria: Well if we have a single policy that's the CCNSO's policy, it is that also a
                 GNSO policy?

John Berard: No.

Ari Doria: So we can have another single policy.

John Berard: Yes. But...

Marika Konings: This is Marika. I mean this work comes from the study group that was
                 initiated some time ago. And this was one of the recommendations - as I
                 understand this - is that the recommendations will go back to all the councils
                 or advisory groups that participate in this, and based on whether they adopt
                 it. That will then move up.

                 And as you say, if there are indeed specific recommendations - because
                 again I think the idea is here that this affects both CCTLDs as well as DTLDs.
                 But indeed depending upon what the outcome is, further steps may need to
                 be taken in the GNSO depending on the recommendations that may need to

go to a PDP or may need to be factored in to, you know, discussions on the new DTLD Program.

But I think is just a first conversation between groups that face similar issues to try and understand can we come up with a framework that's from both sides, you know, receives the support? That's at least how I understood it. So this is to try and move forward to a single policy that then comes back to us and goes back to them and we all talk about it further - great.

Thanks for clearing up my confusion. Thanks.

(David):   (Kristen)?

(Kristen):   Yes. I mean the question that Gabby asked is exactly why I posed the question yesterday to Bart - to try and figure out how the two issues integrated. And as I understand it, they don't.

And I would go a step further and say that to the extent that there is any view on the council that perhaps there is an effort or there should be an effort to modify this charter, I would really strongly caution against that. This is the CCNSO Council's charter. This is their motion.

I remember the tongue lashing I got from Mikey three or four meetings ago after mucking around with working group recommendations. And I would just say that in the interests of kind of keeping the multi stakeholder model somewhat harmonious at the SO level, don't do it.

If you want to have a different motion that takes on that issue, by all means. But I wouldn't muck around with this.

(David):   Thank you.

Next?

Greg Shatan: Greg Shatan again. The first point I want to bring up is based on what I could see from what the GAC was discussing yesterday. This very subject was actually the subject of fairly extensive discussions at the GAC, and related to how each country might control the - whether their ISO 3166 tag could be used as a second level domain.

So I'm concerned, maybe concerned on behalf of the CCNSO - but concerned for us as well that we could end up with another IGO, INGO, PDP versus the GAC type of collision of policy and recommendation and advisory bodies here.

So the idea that this is - well it's narrowly cast, that's great. But the fact is that the GAC seems to be dealing with it as well at the same time as this is being formed. So I have no idea how these two streams are going to come together and whether it's going to be a mess or not. But I caution all of us that this has the capacity for trouble if my understanding of what's going on at the GAC is correct.

The second point is that apparently this working group has a meeting on Thursday, scheduled on the - but I don't know who from the GNSO is getting there. I haven't seen any call for members. So I'm wondering, you know, what process are we using to put our people into this working group which apparently is meeting in 96 hours with or without a charter?

Thank you.

(David):   Marika? Thank you Greg.

Marika Konings: Yes, this is Marika. I think that the meeting is scheduled a bit on the same (nomer) as, you know, let's just get it on the schedule. And it's more I think intended as an informal, you know, those that are interested in the topic, let's

get together and just, you know, meet each other. But a formal call for volunteers would obviously follow.

I think it follow the same as what we're doing for the cross community working groups on the framework principals. You know, that charger is on the agenda for Wednesday. And there's also a meeting on Thursday.

But again as I understand it, there's more attending. Like now that we have the opportunity and are here, let's get some people in the room that may be interested in volunteering. You know give them some more information about what it's about, of course followed then by a formal call for volunteers and formal meetings.

At least that's how I've understood it.

(David):   Right.

John Berard: My one last point would be I don't know if the name - country and territory names - means something in the CCSO, if it only means the ISO 3166 list. Or from the point of view of someone who doesn't think about things that way, country and territory names would lead me to think like (Gabby) does, that this may be about actual names of countries and territories.

So I hear the caution not to muck around with another group's charter, but I wonder whether this name could be considered misleading.

Thank you.

(David):   Thank you.

And I'd also like to partially answer your question Greg, as who from the GNSO should be going to this meeting. It's hopefully the two people that we

appoint as GNSO co-chair and council liaison which we still don't have names for - I'd like to remind the meeting.

So do we have anyone willing to volunteer for that right now? Or if not...

Gabriella Schittek: Yes. I would like to volunteer for liaison.

(David): Yes, thank you.

Gabriella Schittek: This is Gabby for the transcript.

(David): Yes.

Gabriella Schittek: Gabriella Schittek.

(David): Thank you Gabby.

And do we have anyone willing to be co-chair on this one?

Marika?

Marika Konings: Yes, this is Marika. I'm just looking at the motion. I'm not sure if it actually requires a council member to do so. I don't know if this is - recall and maybe can go to some of the stakeholder groups and constituencies because I do know that some GNSO members were very active.

For example in the study group that came before this - unless of course, you know, the council decides that it should be a council member that serves the chair. But if no one is willing to come forward, then maybe...

(David): You're quite right. The co-chair is not required to be a council member. And I would ask all of us to go back to our stakeholder groups and insure that we have at least - that we have a co-chair for this.

(John McCade):   I'd like to volunteer.

(David):   You'd like to volunteer. Thank you. And your name is?

(John McCade):   (John McCade) - Got Who's Who Registry and new gTLD.

(David):   Thank you.

(John McCade):   You're welcome.

(David):   So I think that probably concludes everything we have to talk about on that motion. Does anyone have any further questions to talk about on that motion? Yes?

(John McCade):   Yes, I do. My name is (John McCade), Got Who's Who Your Registry - New York, Monte Carlo, Hong Kong. And I think that I read last Friday - I'm sure you're all aware - that the US government has announced that they are spinning off the ownership of ICANN to ICANN.

And their one sort of things was that they didn't want any other government group to take a controlling stake or a great deal of control. And having just gone through this whole new gTLD process, I can say that if we want to see slow become glacial, then we'll end up with a united nations running the show.

So I really think that the, you know, my comment about this is that - and I think (Avri) - I think it's (Avri) - her remark about is what the CCGSO comes up with going to come back and be held on the GNSO is very relevant because this is going to be the opportunity now for the game to change and for the CC groups to start having more influence on the generic groups.

And I think that's a really sensitive time. And people have to be really aware of that because there's actually no reason that the two should be inter - or one should be subsidiary to the other. And I think that's a really important thing. I think it's a really important thing to give a lot of attention to this now.

So that's my comment.

(David): Thank you.

Mikey.

Mikey O'Connor: I don't know the gentleman's name because I've never met him. But I do want to caution the council to put a relatively inexperienced chair into a joint CCNSO GNSO working group like that. I'd like to leave that one at least open for further discussion.

(David): I should be seconding - I should be Mikey's comments. I was thinking maybe John was feeding his (unintelligible). But I'm actually seconding...

Mikey: Come with me. Come with me.

You'll pay for that.

(David): Yes. I think we'll just recognize that we have a volunteer. And that we can decide - make the final decision on Wednesday.

So unless we have any further comments on that, I'll move on to motion three - motion for approval of a charter for a cross community working group to develop a finalized framework of operating principals of future cross community working groups - so the cross community working group, cross community working group charter.

This motion made by John Berard, seconded by Mikey O'Connor. Again I don't think anyone is planning to vote against this. If you are, please let us know. But we currently are lacking a council liaison. Do we have any comments on this and/or anyone willing to jump forward? Avri.

Avri Doria: Thank you. I do have one quick question. I'd be willing to play liaison on it. But the quick question I have is, once this is voted in - and assuming it's voted in by the CCNSO also - now how far does it have to go?

Does it go to all the SOs and ACs? And then would this be applied to changing the ad hoc cross community working group on Internet governance to follow this pattern? Or would that be considered as preexisting and not applying?

(David): I think John got in slightly ahead - John then Mikey.

John Berard: John Berard - Avri, the intention here is to rectify a wrong which is the proliferation of cross community working groups without a methodology. As we heard from (Olivier) on Friday, methodology is mandatory for cross community working groups.

As we heard that the - in the earlier panel today - the formation, the work and the output of all cross community working groups could benefit from such a methodology. Whether it is retroactively applied, I - that is not the intent. The intent of this effort is to insure that it is prospectively applied.

If an existing cross community working group wanted to adopt some, all of the practices, policies and procedures, certainly wouldn't object to it. In fact if we do our job well they will be - they might be interested in doing just that.

But this is an attempt to go forward with the development of a plan that would enable us to more quickly organize, more quickly engage and more

effectively deliver an output that would be meaningful for all of the participating SOs and ACs.

(David):   Thank you John.

Mikey - no, Mikey does believe that John has said it. So do we have any other comments on this?

No we have at least now one - Avri, you said you would possibly be the council liaison?

Avri Doria: I obviously care a lot about the topic. And I've made a real pain in the whatever of myself with the ad hoc cross community working group because I do care. So it is something that I'm willing to do, but no means slighted if someone else does it instead.

(David):   But having at least one volunteer, then we're not going to be left wanting on Wednesday so we can leave the final decision until then.

Are there any further comments on the cross community working group cross community working group? I just wanted to say that again.

Yes. Right. That being - we'll move on to the last of our four motions - motion for approval of the charter of the GAC GNSO Consultation Group on the GAC early engagement in GNSO policy development processes. Moved by Mike O'Connor and seconded by (Anna).

And again we are lacking a council liaison name next to this one. But otherwise I'm expecting this to be uncontroversial. And unless anyone - again if anyone plans to vote against it please let us know briefly. But I'm expecting it's pretty straight forward.

Do we have any comments on this one and/or volunteers to liaison? Mikey.

Mikey O'Connor: I'm the drafter of this one. And I have a favor to ask of Marika. Can we get the links to the charter and the Wiki in there? Do you know? It's just - it would just be nice for people as they're following along to be able to actually dive into the charter. That would be fantastic.

I'd also highlighted the liaison one. I would cheerfully step forward. But like Avri, if others want to step forward, that too. And then I think the one thing that we probably want to let you know is that we're doing this in collaboration with the GAC. And if there's a remote possibility that it may make sense for me to pull this motion just to keep the timing stepping along together.

So I'll just let you know - in fact it's mostly to say if I pull it, it's not a real big deal. It's just keeping things in sync.

(David):   Yes, thank you.

And Greg, that was you?

Greg Shatan: Yes.

This is (unintelligible). I would be interested in working with Mikey. I don't know that we need to have this one person, but I'd be interested in working as say as one of the liaisons to this consultation group also.

(David):   Thank you. And (unintelligible) also.

Man: Same here.

(David):   So many people willing. I guess we'll be discussing this group further in the GAC GNSO session. And there is also as Jonathan mentioned in the formal get together of that group this evening.

Mikey.

Mikey O'Connor:	I've got a quick question for Jonathan. I'm going to give him a little bit of a heads up here. What's the status of the membership with that group? Are we at a stage where we can add new members? I mean this group's been running for a while. And I just want to check, and Jonathan is the GNSO co-chair of that group.

What's your sense in terms of introducing new members a la Bret now? Any thoughts on that? This is the motion to affirm the charter for the GAC GNSO...

(David):	I'm sorry. I'm looking at - that's why I was shaking my head. I saw that the motion three on the screen in front of me is the agreement for a charter for a cross community working group. I'm sorry. That's why I wasn't correlating with what you were saying.

That's a good question. I'm not expecting that we do add more members. I know we've got a bit of momentum behind us, and I haven't seen or had suggestion of a need for new members.

One of the sort of interesting dynamics there I suppose is that we normally set it up with a kind of 50/50 split between GAC and GNSO Council participation. So it's set up - it's running. You know my sense is that it's sort of it ain't broke, don't fix it. And I haven't got any indication that there's a problem or a need for more.

But, you know...

Mikey O'Connor:	This is Mikey again for the transcript. Let me just clarify that this charter is unusual in that normally we bring charters to the council before we launch the working group. In this particular case we launched the working group and wrote a charter as our first deliverable.

And so this working group's actually been running for - it's not a working group - consultation...

(David): It's a consultative group, not a working group.

Mikey O'Connor: And so this isn't the usual sequence of events. And that's part of the reason I sort of wanted to circle back to my chair.

(David): That's a really good point Mikey. I mean A, it is not a working group, and specifically it's not a working group. And in many ways it's an unusual beast. And we've kind of cobbled together, you know, it's a set of processes that have some deference to the way in which we work in working groups.

But we've sort of molded it as we go along because there is no precedent for working with the GAC. The GAC has completely different working methods to the GNSO. And so I don't like the use of the word ad hoc. It sounds like we haven't given it a lot of thought.

We have and we've tried to get it right. But it doesn't conform to a preset and currently understood structure. With that said, we seem to be managing okay within the framework that we're working within.

Mikey O'Connor: Well then I'm confused. Just to clarify, we had a motion here that had a blank in it that needed people's names to go in it. And I offered my name and (Claus) offered his name to go in the blank. But do we already have names in here? Is there really not a blank? Do we have - is there only an identified subset of people who can be plugged in here?

(David): The blanks are for liaison. Yes. I mean I think it's been formulated with that blank. But my expectation is that one or more of the existing members should act as a liaison. That's the way I would have seen it. But if somebody sees that differently, it's just that we haven't confirmed.

And in fact reasonably it could just as easy - currently in effect I think I, the chair, have been acting as liaison. So...

Mikey O'Connor: Well maybe we ought to just put your name in here.

(David): I mean and hopefully that - I mean I guess that question of whether or not it would even be desirable to add people to that group at this stage can be settled by Wednesday. So we'll have some clarity on that.

Mikey O'Connor: Thanks (David). I was just going to suggest the same because we haven't really discussed adding new members to this consultative group with our GAC counterparts either. And we would need to get their input because this is a consultative group. It's not a typical GNSO working group.

The working group guidelines don't apply in terms of membership. And the charter that we are voting to approve here doesn't include any specifications on membership either. So perhaps we should postpone any decisions or discussions on adding members until we have this discussion with the GAC.

(David): For the record and for the avoidance of doubt, I am more than willing to act as the liaison. So provided there are no objections or concerns about that, I will do so and put myself forward to do so.

Mikey O'Connor: Okay.

(David): Thank you. Do we have any further discussion on this one? Or can we move on to our last motion?

Yes, the last motion - motion five - motion to close the joint IDN working group and next steps for certain IDN related issues - moved by Jonathan Robinson, seconded by Volker Greimann.

So this is the one motion to close the jig - it having delivered its final report some time ago - and launch a project to facilitate universal acceptance and so on. This one we don't need any liaisons or anything like that. It's complete as it stands.

Avri.

Avri Doria: As a group that was opened just as I was leaving the GNSO last time I think closing it and actually doing that is a really fine idea. It was a good group and it did good stuff. But I definitely think it's time so I think it's wonderful.

(David): Mikey.

Mikey O'Connor: I'm not sure that this is the right spot for it, but Ching - is Ching gone? Rats. When Ching was introducing this we talked a little bit about having (Edmond) service as a liaison to several kinds of groups. I'm not sure that it's appropriate to tack it onto this motion, but I wanted to keep it in the queue.

So I'm sort of hoping Ching will come back - oh Marika's there. Marika?

Marika Konings: Yes, this is Marika. From star side we're actually checking internally to see exactly what the status of the panels is - if it's even appropriate or possible to do so. So we hope to come back to you because I think this was put to the wrap up discussion.

So we hope by that time to be able to provide you some feedback on - at least from staff perspective - on where that project stands or how that could happen or should happen or indeed it is appropriate at this stage to be able to provide that feedback to the council so you can then actually discuss what the next steps would be. That's our proposal.

(David): Mary?

Mary Wong: Adding on to that, because the jig was formed and identified three issues. And that specific issue was just one of the three. But one specific output of one issue of the three. That may be something to bear in mind. And we did work on this motion with our counterparts in the CC and SO as well.

(David):   Mikey.

Mikey O'Connor: The reason I'm bringing this up now is because we have an amendable motion on the table, and so one opportunity would be to amend this motion. But it would have to be based on the work that you all are doing right now. Do you have a sense as to whether that's going to be doable between now and the meeting?

Marika Konings: This is Marika. I think it may require some more discussion because we may come back and say yes, it's possible. But I think for the council it would then be a good idea to actually discuss okay, what would be the mandate for this person? What do we actually expect this person to do? How will that work?

                 So I'm not really sure if we can, you know, do that quickly. And again it just depends on the feedback we get because the feedback may be as well like well, these are our panels with a very specific focus and require very specific technical skills.   So it wouldn't be appropriate at this stage to have a policy liaison. But however, you know, these are the next steps and this is where council feedback or input would be appropriate.

                 So I think it may be rushed if we try to squeeze it in here because I think it does require some further discussion, not only from our side to get clear on what is possible but probably also from the council on what such a role would actually entail and what the mandate would be for such a function.

(David):   Okay. So we - I guess moving forward we thought it - we're unlikely it seems unlikely to have an amendment on that decided. So we'll probably - that one will just go through (uncontroversially) I guess.

And that brings us to the end of this discussion of all the motions for Wednesday.

And I guess it's time to close this session and go to lunch.

So we can stop the recording now. And just to remind everyone...

Man: Last minute?

(James): Yes, just a question - if you would indulge a new counselor on the matter of process here. You know previous session we were kind of maybe some might think a little too harsh on (Cyrus) regarding the RAA data retention waiver, and noted that the language of the RAA specifically allows ICANN to suspend enforcement of that.

And one thought dovetailing with the idea that this body - this structure - could probably take a more active, lean forward role into some of these issues, would the council be interested in entertaining some sort of a motion on that?

Now I recognize that we're past our own self-imposed deadlines on these issues. But I'm thinking that in the desire to maybe take a leadership role on this issue and maybe step out in front a little bit, maybe perhaps we could put together some language that would task staff to investigate what it would take to suspend enforcement of that particular thing until these legal issues are worked out. And I'd be willing to draft that.

But, you know, I guess I'm looking around the room here to say, is that appropriate? Is that something or it one of these things where, you know, hey new guy, that's very nice - now sit down and shut up.

(David):   (James), my take on it is - before you respond (Thomas) - I think there's a couple of some process points. Clearly we can't put a formal motion. We've missed the deadline and we don't have a mechanism by which we can introduce. In fact that's something that we're looking at - whether a motion can be introduced later. That's not an option from a process point of view.

With that said, the agenda we have is a draft agenda at this point. We can modify the agenda up to a reasonable period prior to the meeting. And in any event, I plan to review and just check that that agenda makes sense based on the weekend discussion. So it's possible something could be on the agenda but not in the form of a formal motion just to give you a sense of what the options are.

(Thomas).

(Thomas):   Just two quick points, first being that in the standing committee on improvements we're currently working on maybe making such last minute motions possible. But at the moment we don't have a procedure for that.

The second point is that I would very much like to support the notion of the council, maybe not by form of - in the form of a motion, but giving a strong signal to the board maybe instructing the CEO to instruct staff to waive compliance action on the basis of nonfulfillment of the data retention specification.

Man: Just a (unintelligible). We...

(David):   Go head.

Man: We could have - maybe write a letter to the board instead of a motion? And we can do that. We can decide on that.

(David): So the question is really twofold - responding into the past to the substance. So I'm noticing we're hearing really from some registrars and (Thomas) I guess. But it would be good to get some more general input.

But the second is, if we have something on the agenda, you know, the outcomes could be various including a letter.

John.

John Berard: Thank you Jonathan - John Berard. I would encourage us to engage the community in a conversation about this on Wednesday with the ultimate objective being to help inform a letter that we would send in that regard.

And I would nominate Maria, who was impassioned on this subject, and James, who though new seems quite old at this particular subject, to instigate the conversation and that each of us should let people in the hallway know that this is something that we intend.

Worst case we just have Maria and James lead the conversation that then leads to a more informed letter that we might send on this regard. I mean the conflict between an ICANN policy and national law is a strategic matter that will expand far beyond just this particular point.

And it would be great if we could as a community begin to have a conversation about what we do when what we want is in conflict.

(David): Thanks John.

So I'm very conscious of time. I know Mikey wants to speak. So what I've heard is that proposal for a discussion item on the agenda for Wednesday. I'm not hearing any objections to that.

We haven't presupposed the outcome, although it's suggested that one particular outcome might be a letter.

Mikey.

Mikey O'Connor: I'm objecting. I think that this is a very narrow topic that was just brought. It was a strong advocacy. Hat's off to all of you. But I'm very uncomfortable with the direction that you're taking this.

You know this is the kind of thing that we criticize other people for doing. We're shooting from the hip. I mean clearly the registrars have a strong position and, you know, I can't say that I disagree with it. But I'm very uncomfortable from a process standpoint that we have all these mechanisms to do an orderly agenda.

And then two or three days before the meeting we get basically an advocacy position put on there. I mean I won't throw my body on the tracks. But I would point out that it's not consistent with the way we've been talking to other groups.

Man: Jonathan, can I just - really quickly I guess I'm then confused about what these weekend sessions are for, if not to shake loose...

(David): Avri and (Hugh) responding. And then I've got Bret as well. So...

Avri Doria: Yes. I'm very much in favor of process. But I think that when we do have these face to face meetings and we do have a weekend meeting and there is an issue that reaches importance, we're not going to make a decision necessarily on this in that meeting.

But certainly to bring the topic to open discussion seems an incredibly reasonable thing to do, and to let process stop a discussion does not - is something that makes me extremely uncomfortable.

Thank you.

(David): So I've often been reminded of process in my position as chair. I'm not sure, and clearly it's the harm. I mean we're ahead of constituency day. We're in the weekend sessions.

Bret.

Bret Fausett: I'm very sympathetic to the view that we have a process here. But I think that this is an issue where we have overwhelming support. I would say that if we took it to a vote their action might be unanimous support, and that when we speak unanimously - when we speak with one voice - that the notice period should be less important if not of zero importance.

(David): But to be clear, we have a process with respect to motions. We're not going to overturn that process. This is not a motion. There is no motion on the table. We are not so convincing any process in that respect.

But we are also - there is nothing as far as I'm aware of - and somebody correct me if I'm not - that stops us modifying our draft agenda ahead of the meeting, republishing that draft agenda, and in particular to be reasonable ahead of constituency day.

I think where I'd be more uncomfortable is if we were publishing this - publishing a modified agenda after Tuesday. But as a result of the weekend sessions, it feels like - it feels reasonable. So that's where I'm...

Man: Can I just ask this to Mikey - the clarification, are you objecting to this being a - on the agenda at all for discussion? Or that we are taking some action resulting of that discussion?

Mikey O'Connor: I'm concerned about log rolling which is an American - I'm concerned about log rolling which is an American political term where all of a sudden there's this instant flash of momentum. Everybody jumps on board the boat and says yes, this is what we need to do.

I'm all for nimble. I'm all for responsive to emerging needs. To a certain extent this is an issue that I think needs more thought than just firing it off on the weekend, running it through the constituencies in an incredibly busy week.

I'm not - as I said I'm not going to throw my body on the tracks on this. But I could see this becoming a habit that gets in our way sometimes.

(David): Is that just though I think - I mean it may appear from the council point of view that this has sort of come out of nowhere. This has certainly been an issue that we have been - that several constituencies have had very strong opinions about for some time and discussed it quite at length.

Christina Rodriguez: Setting aside for now the issue of whether or not there will or will not be a motion, I think if there is a desire to have any meaningful discussion of this topic on constituency day, it would be incredibly helpful if James would post to the council list so that counselors can then distribute kind of a one paragraph as to what the issue is, what the concern is and what the action is that you would at least want the council to consider at whatever time it considers it.

I don't think it would be very helpful or productive if we try and guess as to what it is that you want. So if you could do that I think that would be great.

(David): Thanks Christina. That's a helpful intervention. So assuming that happens - I mean (James), I assume you're willing to do so.

(James): I'm happy to do that - happy to do that. It's good advice.

(David): Yes. And let's continue on the discussion on lists. I mean is there anything more that anyone would like to say about this? I mean I want to be crystal clear. To my mind there is no chance of this being a motion put in front of the council as a motion of Wednesday. It simply is not going to happen in that way.

As I've indicated, receptive to it being a discussion item providing it's put on place in a reasonable way and there isn't strong objection, noting of course Mikey's objection. Mikey, go ahead.

Mikey O'Connor: I'm fine with the discussion. You know I couldn't agree more. I'm uncomfortable with actions resulting from it. Letters, motions, blah, blah, blah - that's a little fast for my comfort. I'm fine putting it on the agenda to discuss.

(David): Let's note that and move ahead with that in mind.

All right everyone. It's - we are tight for time. It's 12:23. We have our meeting with the board at 13:00. There's some lunch outside. Please, you know, take a break. Enjoy the lunch. And be ready to be seated promptly I would suggest at five ahead of the hour.

Thanks a lot.

The meeting at 1:00 is in this room.

END