SINGAPORE – Board with Registries Stakeholder Group
Tuesday, March 25th 2014 – 13:00 to 14:00
ICANN – Singapore, Singapore

KEITH DRAZEK: Hi, everybody. We'll give it -- this is the one-minute warning. One-minute warning.

STEVE CROCKER: Everybody's had lunch. Here we are. Welcome, everybody. This is the meeting between the ICANN board and the registry constituency -- registry stakeholder group.

                        This is part of our regular tour, interacting with different segments of the community.

                        We're here to listen, and the best use of the time is to make it real, to get into serious issues, get beyond the platitudes. Keep it polite but don't be bashful at all. Make it direct.

                        I'm looking around at some faces that I recognize that I have no fear about this. I'm sure it will be rock n' roll pretty quick.

                        So with that, let me turn things over to Keith, and take it away.

KEITH DRAZEK: Okay. Thanks very much, Steve.

                        This is Keith Drazek. I'm Keith Drazek, chair of the registry stakeholder group, and with me here at the head table are the executive committee,

or a part of the executive committee, of the registry stakeholder group, and we really appreciate this opportunity to engage with you.

So in this meeting today, we have the registry stakeholder group but also representatives of the new TLD applicant group, or the NTAG, so we feel it's incredibly important, where we are in the phases of the new gTLD program, that our NTAG members, while not full voting members of the registry stakeholder group yet, have the opportunity to engage with the board in this session.

So you've got a larger group here than possibly normal.

We have four agenda items today.

We're going to -- yeah, they're on the screen now, so we're going to flip-flop 3 and 4, and basically the first item will be a discussion of experience with the global domains division; second, financial accountability; third, protection on IGO acronyms; and fourth, Internet governance debates and implication for contracted parties.

The registries and NTAG have sort of identified leads to sort of discuss each one of these topics, so without further ado, let's just jump right into it.

The first item is experience with global domains division, and Jacob Malthouse from NTAG will lead that discussion. Thanks, Jacob.

JACOB MALTHOUSE: Thanks, Keith.

Jacob Malthouse, new gTLD applicant group chair. I'd like to acknowledge Bret Fausett of the registry group may want to weigh in on this as well.

So members of the board, ICANN leadership, thank you for this opportunity to address you on behalf of applicants.

We recognize that the board is a critical accountability mechanism for ICANN and for the new gTLD program, and with that in mind, I'd like to share a short update reflecting the views of our members.

We note that the GDD, the generic domains division, is continuing to become more responsive and open. It's a welcome development. We applaud the GDD for setting goals for London. We saw those posted yesterday, which is great, and for working towards more ongoing reporting on key issues important to applicants.

There are, however, as Steve had noted in his opening speech, some oddball issues that are causing indeterminate delays for some applicants, and so we'd ask the board to work with the GDD to identify and resolve those as soon as possible, where they exist.

We'd like to see, as well, more specific information provided to applicants about where they are in the process and when they're eligible for the next steps.

So the on-hold status, for example, is welcome but often we're hearing that applicants aren't getting a clear understanding of what remaining gates may exist for them to progress.

And so understanding, you know, where you are, why you're there, and how long you're going to be there when you're placed on hold is going to be helpful for applicants as they move forward into the contracting phase.

We all know what it's like to wait for a bus when you don't know when the next one is going to arrive, so more information is helpful.

Applicants continue to be concerned about how the name collision issue will impact them when they transition to registries, so we are working on a comment there and expect to receive that and welcome the JAS report, thought it was helpful, and there's some room there to make things more efficient.

We noticed that the Specification 13 document did come out a little close to this meeting and we had some reports that it was tough to get people's perspective and comments together, so we know that you guys are well aware of that, those kinds of issues, but just flagging it for you.

And finally, you know, the -- it may be the last thing many of us want to think about, but the current pool of applicants does represent a huge and valuable resource for consideration as we think about the next new gTLD round, so with the initial evaluations done and contention resolution getting underway, many are starting to feel that now is the time to start to take stock and, as we run up to ICANN 50, look back and also start the planning process for the future.

So thank you very much for this time.

STEVE CROCKER: Thank you. The -- essentially all of the things that you've touched on really speak to management more than they speak to the board, so let me just ask --

Well, Cherine, do you want to weigh in on any of these?

Cherine Chalaby is chair of the new gTLD program committee.

CHERINE CHALABY: Jacob and I have been corresponding recently, and in fact the NTAG is very happy with the work the NGPC is doing and you thanked us for that and we thank you for this.

I think those matters are kind of more implementation, more GDD work that needs to be addressed.

Is Akram here? It would be helpful if --

He's coming? Okay. So can we wait for Akram to come to respond to some of those specific points? I'd be grateful.

You can?

FADI CHEHADE: Yeah. Well, first of all, many thanks for the valuable direction and some of the ideas you gave us on how we can make GDD better.

We'll take them to heart. Akram is on his way and we will review them with you and ensure that, especially on areas like tell us more why things are being on hold. I appreciate that from a business standpoint,

being in the dark is not a good thing, so we will do everything we can to improve that service.

But being just inquisitive myself about the GDD division, the new division we created to serve you better, would you have a rough sense of how the GDD division is doing on a scale of 1 to 10 now?

JACOB MALTHOUSE: That's a good question. I would say that since I started as NTAG chair in January -- I've seen increasing re- -- (lost audio)-- on the GDD and accessibility of the staff to applicants. The customer service portal, very efficient, most people agree. A willingness to interact and refine issues as necessary and communicate.

So, you know, I would say -- and I might get some blowback on this, but I think, you know, 7 is a good number but we can always strive to be better, and I think the granularity of communication and not forgetting about those applicants that are caught up in sort of indeterminate delays has the opportunity to be a risk that reflects poorly on the program.

We have to really think about each applicant as being an important and useful member of this community.

FADI CHEHADE: I appreciate that very much, and you know we both strive to make it a 10, but I appreciate the sense you have of it and we will work together to make it even better. Thank you.

KEITH DRAZEK: Okay. Thank you very much, Jacob.

                       Bret, is there anything else that you'd like to add on this?

>>   (off microphone.)

KEITH DRAZEK: Okay. All right. Very good. So let me open it up and see if there's any additional comments or input or thoughts from the floor. Jonathan, did you want to add anything?

JONATHAN ROBINSON: Very briefly. It's Jonathan Robinson. I hadn't caught sight of Fadi on the end of the table so I hadn't realized that he was actually here, but I suppose I would have questioned with my own group whether this is a relevant issue for the board. I mean, these are operational issues that to the extent that the NTAG are customers of ICANN, this is a really important point that the board has the sense of the experience of the customers with the operational issues.

                       So I think we put it through that test, just so you know. It wasn't that we -- we thought we -- we're just bringing -- we're immediately escalating things. I think the sense in the group was that actually -- and to be clear as well, the GDD has made efforts to meet with the GNSO and with our group, and we've had direct discussions with them and they have been responsive, they are listening, but nevertheless there is -- there are pent-up frustrations and issues that we felt sufficient to bring to the board.

STEVE CROCKER: Yes. So Jonathan, thank you.

Right. So this is a sort of two-layer interaction.

As you said and as I said, the substantive issues really belong between NTAG and management of the division, but we also understand -- and in a positive and constructive fashion -- that the importance of this from your point of view leads to a desire to have that interaction brought in front of the board so that the board is sensitized to that, and we get it.

So thank you.

JACOB MALTHOUSE: Just one final word. I think the applicants have the sense that they rely on the board to help make sure that things don't fall through the cracks.

KEITH DRAZEK: Okay.

STEVE CROCKER: Akram is in the house.

KEITH DRAZEK: And I should note that both Akram and Cyrus and Krista and her team joined us in our morning session and we certainly appreciate their participation with us and making themselves available to engage on these issues.

But anyway, thank you, Jacob.

Any other comments or questions, thoughts, from the floor?

Okay. Let's move on then.

The next item on the agenda is financial accountability. I'm going to hand it over to Paul Diaz and Chuck Gomes.

CHUCK GOMES: Thanks, Keith, and thanks all the board members who are here with us.

For many years, community members have been asking for more budget detail earlier in the process, and for years it has not been provided, so it ends up that it's really impossible for us to provide meaningful input soon enough so that it can be considered by the board when they approve the budget.

I accept the fact that it is not going to be provided again this year, so my question is: For the fiscal year 2016 budget, will we receive budget detail down to at least the project level not later than February 2015?

And before I pause for a response to the question, I'd also like to call attention to the ATRT2 recommendations with regard to the finance issues.

Thanks.

PAUL DIAZ: It's Paul Diaz.

Just to jump in or to add to what Chuck has said, we also, for a while now, have been told that there would be analytical tools to help the community better assess -- get our heads around the spending, and those tools are still in development. We're still in yet another transition year.

And to the final point Chuck made, the board's well aware that as part of the ATRT2 process, recommendations for enhanced budget planning, a true planning cycle, as opposed to what we have now which seems to be kind of slap things together, add up all the sums and there's your budget, more planning and earlier engagement with the community are key recommendations, and we're looking to the board to keep staff moving towards this and actually delivering because we've been hearing the promises for several years now.

There are very significant sums involved, so for accountability of the organization, we really need these to become reality and not be told year after year that we're in transition.

STEVE CROCKER: This -- we agree this is important. We absolutely do, making adjustments and improving and not just in an incremental fashion but taking a fresh look at the whole process.

Let me call on -- in sequence here -- Cherine, do you want to say something, and then Fadi and Xavier?

CHERINE CHALABY: I'll say something and then -- yeah.

We do fully understand the comment you made, and I think staff as well do understand this. It's not like there's no willingness to do it earlier. And you're right in your frustration that every year we want the information earlier but it's not provided earlier. So there's been a lot of serious transition of systems, of the framework itself, of the number of objective goals, projects, et cetera, portfolios, and it is complicated but I think, you know, hopefully this is the last year where there is an excuse, if you see what I mean.

So this year, you're getting the data around about probably two months later than you wanted, and next year you want it two months earlier, so I think finance knows that, management knows that, and hopefully we will aim at and work very hard at doing that, because I think it's in everybody's interest. Not only yourself, but also us because we also need to review it and approve it and recommend it to the board.

So it's -- everybody is in -- we are all together in wanting to achieve this objective.

Xavier, do you want to add to this?

XAVIER CALVEZ: Thank you. I'll try to keep it brief.

I think the importance of the process and how it represents the multistakeholder model and the accountability and transparency I think is all embedded into the planning process. If you think about it, if we are able to nail that one down from an accountability and transparency standpoint and have a process in place that supports that, we'll have -- we'll demonstrate what transparency and accountability is about.

I think the comments that Chuck and Paul made are well understood. I think the frustration of being -- of the progress to be made, sorry, on this planning process and on the tools and therefore on being able to produce the information is well understood and is shared, at the minimum, by me.

I am frustrated as well to -- to -- wanting to make more progress and going faster in the direction that I think we all feel we want to arrive at.

To me, it's less about transition than the evolution. We put in place a management system a year and a half ago. We're in the second year of using it. We're probably not there yet and will continue using it smarter and smarter and better and better.

We are now starting to put in place a dashboard with metrics. We're going to have a second year of using that tool next year. This is another important piece to the overall planning process.

So I think there's a continuous evolution for the better that we are engaged in with the right tools. It's going to take a lot more effort and a lot more time to get to the ultimate target structure and organization that we would like.

In the meantime, what I want to be able to do outside of this year's planning process is to be able to work with a number of members of the community who are interested and have value to add to work with me on designing the next stage of 12 months process, of planning process.

Part of the challenge, to answer Chuck's question on whether or not we can provide more information at the project level by February in any year, is that there's only 12 months in a year and if we want to carry

out, as we should, a strategic update in the beginning of the year, use that strategic input into the development of an operating plan, translate that operating plan into a budget, and we do that by February, it cannot be done at the project level.

There's just something that doesn't work.

So what I would like to work with everyone on is not pushing things out, but be able to bring in the community in the earlier phase of development, so that when the numbers come out by project, it's actually the confirmation of an operating plan that has been formulated along with the community up front.

Because we will never manage to give five months of review between the community back to the board, back to the staff, back to the board again, which is what the original ATRT2 recommendation was.

The version that you may have seen is actually a later version. There was an earlier version that suggested basically five months of review after the figures were pulled out.

It's just not technically possible to produce the amount of information that Chuck was asking for that early in the year, but can we find a way to increase the participation of the community at the earlier stages of the planning process from day one is what I want to work on, because I think that's really the solution at the end of the day, and it's going to take work to just design that process.

STEVE CROCKER: Something I was expecting to hear in one of these responses is a reference to the multiyear budget planning that we're trying to shift to. You want to say something about that?

XAVIER CALVEZ: So as part of the strategic planning process, our expectation is to build an annual planning process that includes the confirmation or amendment of the strategy on an annual basis.

So we are developing a five-year strategy. And hopefully by the end of June, we will have a confirmed and approved five-year strategy. That five-year strategy is going to translate into a strategic plan over five years to achieve this strategy but with a definition of the requirements and, therefore, the resources.

So these resources measured in terms of dollars translate into a five-year set of financial statements. So it's less a multiyear budgeting than a high-level five-year resource quantification planning that's associated with the strategic plan. And then the first year of that five-year set of financials is an input into the annual budget for the first year and so on and so on.

So we will have as part of this strategic planning process a set of financials, multiyear financials, that capture and measure the resources required to deliver the strategy. And that information will be used on an annual basis as an input into the budget development.

BRUCE TONKIN: Just one sort of observation, I guess, that I'm seeing on the -- we often hear this from different parts of ICANN. I think normally a board is looking at -- firstly, you are looking at the strategic plan which everyone has input to and that translates into the year's operating plan. And then what the board's wanting to see is that the budget is sufficient to execute on the operating plan that's been agreed by the community.

Normally the line items of that budget are probably around the sort of 5 to 10% of the total cost of the company. So we would normally at a board level be looking at numbers that are in the sort of 5 to $10 million range typically. That's more sort of at a board governance level.

Separately, we have a technical level which is that the community itself receives resources at a project level, to sort of pick up on the project thing. So we have a -- ALAC, for example, might want to run a project which is an ALAC summit, and that has a particular budget. That's in the thousands, not in the millions. We have requests for maybe a meeting room for an extra day at the ICANN event, and that might be in the hundreds of dollars. Those things are certainly of interest to the individual members of the community that are working at that project level. But I think we have really got to separate those two things.

It makes no sense for Xavier to produce a project-level budget down to the thousands of dollars. You are talking about operations of over a hundred million. But, obviously, for people at the project level, they may well need to have some information from Xavier on the budget for that project and how that's managed. I think we just need to separate that out from a board governance level from a project level.

KEITH DRAZEK: Thanks very much.

I've got -- I see Chuck raising his hand. Would anybody else like to get in the queue? Cherine?

Chuck, go ahead.

CHUCK GOMES: Thanks. So what I heard, the answer to my question was no, we won't get that. So we won't be able to provide meaningful input because without detail at the project level, we can't tell whether the budget's sufficient. I don't care how much high-level information you give it, it is just that. It is high-level and so it is not transparent enough for us to give you input for the board in time for you to make your decision to approve the budget. So that's really sorry to hear. It doesn't give me much optimism for the future in terms of transparency on the budget.

STEVE CROCKER: Somebody next to you that wants to say something.

Xavier?

XAVIER CALVEZ: The question you asked is: Can we get the information in February at the project level? I think my answer to that is, I don't think it's technically possible. It doesn't mean that you're not going to get the information at the level of granularity that you would need to be able to formulate an opinion on the budget. And this is where I want to draw a distinction.

What I want that we can work on with you and others interested in the community is a process that allows to design the operating plan and budget along the way in a fashion that does not require that you have the project information that early in order to be able to have an opinion on the components of the budget and be able to formulate comments and reviews on it.

So I want to move the time and ability of providing comments to earlier in the year, in the design phase, not on the tail end. If we're trying to move the tail end from the end to the middle, we're going to have a very strange beast, if you see what I'm saying.

KEITH DRAZEK: Thank you, Xavier. So Cherine and then Mike Palage and then I think we probably need to move on to the next item.

CHERINE CHALABY: I will pass because I think everything was spoken here. So let Michael talk and move on to the next subject.

MICHAEL PALAGE: So, Fadi, yesterday I talked about institutional knowledge and looking back. And I think part of the frustration that perhaps Chuck is expressing is the way it used to be. So the first five to six years of ICANN, ICANN proposed a budget, the community approved it, and then ICANN went about recovering those fees on a variable basis.

In 2005, that went to the current what I would call tax and spend. It's per transaction. The money comes in and then it gets spent.

So that's kind of what's frustrating, is since we've made that switch -- originally we had a lot to say, the community had a lot to say in prioritizing stuff. In the current model, the money just keeps on coming in and it finds ways of getting spent. We're not challenging this. But that's part of the frustration.

And, again, I look back at this as someone, VeriSign, originally NSI, their very first contract for dot com, they were paying ICANN $100,000 a year. That same contract now costs them over $25 million a year. So when you want to ask about accountability and specificity, I think that's important.

And in the larger context about accountability, again historically, when I was on the board 2003 to 2006, the RIRs were paying about a million dollars a year and the CCs were paying about $1.6 million a year. They're still paying that approximately same amount.

The G space has gone from 3 to 4 million to over 90 million. So that is, I think, part of Chuck's frustration, which I echo.

KEITH DRAZEK: Okay. Thanks, Mike.

Anybody else want to get in the queue or respond?

One thing we discussed briefly in the registry stakeholder group prep session on a separate topic but related to financials is just a brief note to encourage the community and the board to start developing the process or discussing the process by which auction proceeds of the new gTLD program will be disbursed, considered. We don't need to discuss

or debate or dwell on that right now. But it is just the auctions are beginning, and this issue is going to become bigger and bigger sooner and sooner. We are not looking for a response necessarily but just wanted to make a note that it is something of concern to some of our members.

Okay. So let's move on then to the next item on the agenda. We're flip-flopping 3 and 4. I'm going to hand this one over to Jeff Neuman to discuss protection of IGO acronyms. Jeff?

JEFF NEUMAN: Thanks, Keith.

This was extensively discussed by the Registry Stakeholder Group so although I'm the one presenting it, it is a shared view amongst the stakeholder group. And I know you've heard some of this at the GNSO Council meeting, but I think it is incredibly important for us as contracted parties to bring this up again.

We believe right now we're at a constitutional moment. We believe that really we're at a crossroads right now. I want to address some of the process issues and then touch a little bit on the substance of the IGO PDP.

As you know, the PDP is the cornerstone of ICANN's bottom-up process. We all know it is painful, it's long, but it does work when it's given a chance.

Well, how do we get here to where we are today? People may remember -- I think it was Costa Rica. It was a few years back -- there

was a letter sent from IGO organizations. It was sent to the board, and then the board referred that to the GNSO Council asking for some advice. It also referred it to the GAC asking for some advice on that issue as well.

The GNSO quickly convened a group. And probably within record time -- this wasn't a PDP, but it was just advice -- we provided some advice to the board. This was right before the Singapore meeting where the board approved the new gTLD program. And the board said, well, we didn't really have enough time to make any changes so thanked us for the advice we gave and then said, You know what? It's never too late to address this. Why don't you do a PDP.

So that's exactly what happened here. The GNSO Council took it upon itself, the GNSO community, to do a PDP, to go through the bottom-up process, to actually come up with some policy to present to the board.

It took about two years. The GNSO finally did it. The GNSO in kind of a rare showing came up with a number of consensus-based recommendations. This doesn't happen every day, as we know. But at least with respect to the acronym issue for IGOs, it came up with consensus-based advice.

We understand that -- you know, then it got passed through the GNSO Council and eventually went to the board. We understand you have conflicting advice from the GAC, and we understand that because of that conflicting advice, you then referred the issue to the NGPC to think about it and to give some advice on what to do.

The NGPC less than a week ago sent a letter to the GNSO saying that it's proposing what it calls a compromise to the GAC and it just sent kind of a carbon copy to the GNSO to let it know what it was doing.

We understand the difficulties that the board is being placed -- we understand that if you accept the GNSO bottom-up process that it will conflict or potentially conflict with GAC advice.

We also understand that if you accept the GAC advice and reject the GNSO consensus policies, that you are going up against the bottom-up process that has been touted for -- especially these days with everything that's going on.

But the board is guided very clearly by certain bylaws. And the bylaws say that when a PDP with consensus -- consensus recommendations through a PDP get presented to the board, the board has two options. It either accepts the recommendations and then it gets implemented or it rejects the recommendations with an affirmative -- or by 2/3 vote with an affirmative finding that the recommendations that are presented to -- that were presented to the board are not in the best interest of ICANN or the ICANN community.

That's not what happened here. Instead, the board on its own developed policy. It didn't accept. It didn't reject. It developed policy. But there is no room in the ICANN bylaws for the board to do this with respect to a PDP. And, in fact, it is interesting to note the discussion this morning that the board had with the ALAC -- we saw the transcript -- and, in fact, it was emphasized on many occasions that it was not the job of the board to develop policy but that's exactly what happened here.

With this, quote, compromise, it creates a presumption that this is the way that the board is leaning, which is a policy statement. In fact, the GNSO did discuss something very similar in substance to what the board had proposed and the GNSO working group specifically affirmatively rejected it.

In fact, the GNSO group found that it was not in the public interest to have the acronyms of the IGOs in the trademark clearinghouse available for sunrise giving them first opportunity to get these names because of issues like dot eco, for example -- sorry, not dot eco, but ECO, E-C-O, the abbreviation for the Economic Cooperative Organization should not have the first right to get every single eco dot TLD in every top-level domain. In fact, one could think about eco.green shouldn't go to the Economic Cooperative Organization but probably should go to an environmental-based organization.

So on the substance, again, just to say, this was addressed by the GNSO community. It was specifically rejected. The PDP made these findings.

One other interesting process note is that this issue was referred to the NGPC which to us was a little -- we didn't know why that happened since the PDP was actually geared not only to new gTLDs but also existing TLDs. And we don't think the NGPC has jurisdiction, at least according to the charter, to look at issues involving existing TLDs.

And, in fact, if the recommendations are adopted or the compromise adopted, it would impact contracted parties. It would work to amend the contracts that exist.

There is -- you know, what should have happened, and I think what still can happen -- I really believe that we ought -- again, we understand the difficulties that the board is in. We would propose that this compromise be taken off the table. And I know there's been discussions with the GAC, but it should be taken off the table.

And I think the board's role here, if the board is inclined to -- sorry, is going to reject the recommendations and it does make that finding by -- with a 2/3 vote that it is not in the best interest of the public interest, then I think the role of the board is to actually facilitate dialogue between the GNSO and the GAC. It is not the role of the board or the staff to come up with a compromise. Let us do that within the process. Let us get together with the GAC. It would be -- I know it would be a first, but let us get together with the GAC and work it out, if we can.

We don't need the help of -- this reminds me of the case with the vertical integration where when the board comes out with a policy position it becomes the default. So, in fact, if we got together with the GAC and this proposal -- this compromised proposal is still on the table, at least to a presumption that that would be adopted and very little incentive if the GAC actually likes the proposal to engage in constructive dialogue with the GNSO to develop a solution.

And when asked, well, would you rather have these recommendations rejected by the board than try to work out some compromise, my answer definitively is absolutely yes. That is the job of the board under the bylaws, to accept or to reject. I know it's difficult, but that's the job to do.

So, again, the recommendation is for the board to within the bylaws meet, accept or reject, make the findings it has to; if it rejects, to then facilitate dialogue between the GNSO and the GAC so we can do this in a truly bottom-up process. We can respect the PDP, and we can go out to the world and say this actually works. Thanks.

KEITH DRAZEK: Okay. Thanks, Jeff.

Who would like to get in the queue?

STEVE CROCKER: Let me -- speak to this.

BRUCE TONKIN: Yeah, thanks, Jeff. I think we certainly heard you in the board -- maybe not you personally, but we certainly heard it from a member of the GNSO Council earlier this week. And we've heard again from you today. So let's just say that we take on board your comments, and we'll try and get a response to you in Thursday in terms of how we'll take those comments into account.

KEITH DRAZEK: Okay. I have got a queue. I have get Bret, Mike Palage and Chuck, Jordyn.

BRET FAUSETT: I think it is important that the board understand that the process here is as important to us as the substance. And one of the reasons that we wanted to address this issue specifically in light of the lively dialogue we had on this at the council meeting on Sunday is because we think procedure wasn't followed here and we detect a lack of understanding at the board level that process wasn't followed.

It seems to us that the board thinks it is doing the right thing and doesn't appreciate the important process point here.

So I think it's important that -- you know, I've always thought that ICANN needed a parliamentarian, someone to tell you that you shall accept this report and you should try to do it within two meetings. And if you can't follow that, we need to do something. We need to have a motion that talks about why we're delaying it. We need some response to this motion because the language in the PDP section of the bylaws is "shall accept."

So someone should have alerted ICANN at the board level -- and this would be a parliamentary role -- that this was before it, on a two-meeting cycle, and it needed to address it in that time frame. So I would like to have -- when you come back to us on Thursday, I would like to see some appreciation of the process point. And if you think I'm wrong, then I would be interested in hearing why that is.

BRUCE TONKIN: We are very much aware of the process point that both you and Jeff and others have raised. Give us a chance to meet internally or meet amongst ourselves and then respond back to you on Thursday.

KEITH DRAZEK: Thanks, Bruce. I do have a couple other folks in the queue. Mike.

MICHAEL PALAGE: Bruce, I respect the difficult situation that the board finds itself in. What I would like to do is help explain where this problem originally began.   Again, keeping on my theme of respecting institutional knowledge.

Back in 2006 after I stepped off from the ICANN board, I went and participated in a working group, reserved name working group. This is the following statement that I made in that final report: Unlike other reservations that are based upon long-standing or well-established principles, ICANN and IANA staff have sought to continue a reservation of a compilation of strings in which they have been unable to provide any documentation regarding the legal authority of such reservation.

For ICANN and IANA to continue reserving these names where similarly situated parties, in this case, sovereign national governments with country names, IGOs and nationally recognized trademark holders are not provided equal protection appear to be in clear violation of the bylaw provision cited above.

So what happened is once ICANN decided to protect WHOIS, AFNIC and these other names at the top level, the trademark owners such as the Red Cross and the IOC said, "ICANN is seeking special protection, I want that." And the reason the IGOs are doing it is because they did it.

The whole source of this problem is because ICANN asked for special protection. That is the source of the problem.

If ICANN would have merely said, "I am going to rely upon the same rights and mechanisms that Coca-Cola and Pepsi are going to have to do if someone tries to register dot ICANN or dot GNSO," I think we would not find ourselves in this situation. And, again, this is 2007. It's there in black and white. Thank you.

KEITH DRAZEK: Okay. Thanks, Mike. We're running short on time. The ICANN board has indicated that they're planning to come back to us with further -- a further response on this. So I want to quickly get to Chuck and then Jordyn and then let's wrap up. Thank you.

CHUCK GOMES: Thanks. As a member of the working group that met two hours a week for over a year and plus the previous work that happened in that, I'm trusting that the Board will look at the work we did. We got a detailed opinion by the general counsel's office in terms of whether there were international legal rights with regard to IGO names and with regard to acronyms. There was no case for it. Nor has the GAC provided us a case for it. And it's important to know that this is not a case of getting GAC input too late. This is a case that there was no case. And as Jeff pointed out, that the public interest seemed to favor not doing this and giving any organizations with those acronyms the opportunity to do that. So I also -- and in conclusion -- would request that if you reject it, that you tell us where we went wrong. Thanks.

JORDYN BUCHANAN: Two big points. First, building off what Chuck just said, you know, I sympathize with both the Board and the staff in recent months in that you're often put in a hard position where we haven't had really clear policy guidance, and, you know, as the new gTLD program in particular has rolled out, we've had to sort of improvise sometimes in order to continue to make progress and to satisfy the competing demands of the different parts of the community. And so I think though we face a very different situation here where the policy process has worked. You asked -- you know, we looked to the GNSO to develop policy on this point, they did it, and we need the Board to work in its supervisory role here and not actually sort of micromanage the details of the policy development process or the policy. So I think it's very important to distinguish like we're looking for you to do something different and we'd like to see that be ICANN's role ongoing where the community does a better job of creating policy and you guys do a better job of helping us, you know, in a supervisory role as opposed to a detailed, substantive role. That's my first point.

And the second point I want to make related to this is, it's so important that we get the consensus policy process right. Because every time I've talked to a lawyer about these contracts that you ask contracted parties to get into, they get to the part in the contract that says, "ICANN can change this contract unilaterally through its consensus policy process" and the lawyers freak out and they say "oh, my God, we cannot possibly sign this contract" and I spend hours and hours and hours talking about how the consensus policy process works, there's checks and balances, it's really important, and we're able to participate and make sure that

we'll be able to influence that process and make sure that it's done safely. And so if the consensus policy process doesn't work the way that it's outlined in the bylaws, then it makes it impossible for us to convince our own organizations that these contracts are an effective way of managing our relationship with ICANN. So I just want to emphasize how critical the procedure is here in terms of being able to get new players that aren't just the same old registries and registrars into this space.

KEITH DRAZEK: Thanks very much, Jordyn. Anybody else want to get in the queue on this before we move on to the fourth item? Any response? Any Board members want to jump in? Yeah, please, Jonathan. Go ahead.

JONATHAN ROBINSON: Jonathan. Just one quick comment. You made a reference to rareness, and I think your rareness was with reference to consensus rather than the ability to develop policy. So I just want to be clear when you talked about -- it wasn't 100% clear from the way you referred to it. So the -- the levels of consensus around a policy was the rare bit rather than the development of the policy. Thanks.

KEITH DRAZEK: Okay. Thanks, everybody. And we certainly look forward to the Board's response on this as soon as reasonably possible.

The next item and the last item on our agenda is a discussion around the ongoing Internet governance debates, the multistakeholder model,

and implications for contracted parties. And with that we're going to hand it over to Sarah Falvey.

SARAH FALVEY: Thanks so much. So this is obviously just unfolding so hopefully this won't be as contentious as the other ones. We want to obviously come here and say we support the multistakeholder model, we're all contracted parties with ICANN, all of our organizations spend a considerable amount of time, resources, efforts, participating in the process, advocating for it, you know, in our own organizations. But, you know, there's a lot that's going on in this space, and I think we feel like we're a bit out of the loop in terms of the discussion. There was -- you know, there was a lot of stuff that's been going on around Internet governance before the IANA announcement. There was what was going on in the Brazil meeting, NETmundial, the Board resolution, and we totally understand that as an organization ICANN needs to worry about its solvency as well as, you know, supporting the multistakeholder model. But that's really important, and ICANN can't just be stagnate and wait for the community to help figure out where it needs to go, if there is a solvency issue.

But that being said, we do feel like we haven't been a part of the discussion, that our voices aren't heard. And we also feel like we're particularly potentially impacted because we are contracted parties with ICANN. And so we have this contractual relationship with the organization, and so needing -- we need to be a part of this discussion. We need to make sure that our voices are heard as ICANN thinks about what it's going to do in the next phase. And I think our group in

particular feels like we've really been left out of the discussion up until this point. So I'm not sure if there's -- I know that you guys are unveiling a process to deal with IANA. This is not just IANA. This is sort of the broader discussion around sort of Internet governance and globalization of ICANN. But obviously IANA is a piece of it. And so as you develop these processes or as you think forward what you're going to do for ICANN as the organization, we just want to make sure that we're obviously a part of this discussion.

KEITH DRAZEK: Thanks, Sarah.   Anybody else want to jump in?   Any response, any feedback, thoughts? Yeah, Bruce, go ahead.

BRUCE TONKIN: I'll just respond very generically that we agree. You do need to be a part -- as we've been saying to every other group here actually today. But there's sort of three layers we're working on. There's the transition of the stewardship of the IANA function from the U.S. government to some other party, and we -- certainly everyone is welcome and, of course, contracted parties as much as anyone else should input into that process. Secondly, there's how to improve the globalization of ICANN as a body, how to improve the accountability of ICANN as a body. Absolutely contracted parties should be participating in that. And then the third issue is, how do you deal with some of the broaden content issues on the Internet?   What's the right way to contribute in that forum? And absolutely, you know, we should participate in the IGF and all the other events that deal with that issue. I don't think anyone is saying you shouldn't be involved. But particularly with respect to the

things directly under our control, which is the ICANN process and the globalization of ICANN, and definitely we're inviting you to be involved in that. And with respect to facilitating discussions on the IANA stewardship, likewise, as a facilitator, we would certainly invite you to any such discussions.

SARAH FALVEY: And just to give an example, I know that, you know, Fadi, you go back and forth on whether or not NETmundial is -- and the Brazil meeting is an ICANN effort or it's not. I think that, you know, for all intents and purposes it's viewed as an ICANN thing. It's -- ICANN is going to be a huge part of the discussion in Brazil. We all know it's going to be huge. If you look at all of the submissions, it will be a discussion. And I think it would have made sense to possibly reserve spots for all -- for every stakeholder chair to participate in that meeting or something like -- to have a meaningful way for our community and everyone else's community within ICANN to meaningfully participate in the Brazil meeting, because a lot of what will be discussed there will impact us. And so that's, I think, an example of where we participate in this forum and then when this forum is sort of -- becomes a part of another forum, we don't feel like our roles sort of translate. And so I think maybe spending time thinking about how we could have had representatives from each of the communities in Brazil, you know, spots allocated to them to represent their community in that discussion, something like that I think would have gone a long way. That's just an example, I think, of how we can work together a little bit better.

FADI CHEHADE: Thank you, Sarah. You know that your involvement and the involvement of the community in the Internet governance fora, besides the IANA and ICANN spheres that were outlined well by Bruce, is very, very important and is very welcome. But frankly, precisely, if we did reserve spots for you, then it would strengthen the concept that ICANN is controlling the meeting. So we can't reserve spots for anybody. We don't make these decisions. ICANN is not running the Secretariat. They have a Secretariat, they have received hundreds of people saying we'd like to attend. We hope you did. And it's a process that is not in our hands. I mean, this is an independent conference run by them. Are we supporting them when they ask us for support? Yes. But we're not running it. And they're very careful to make sure we're not running it. They have multiple committees that are in place. These committees include many of you actually. Many people here are on these committees. So, I mean, frankly I -- I do not want to feed onto the idea that ICANN is controlling or building this conference.

Now on to the substance of your point, which is good, and that is, we can control so much of a multistakeholder conference. People will come up and want to talk about whatever is important to them. The subject of ICANN and IANA will come up at the conference. We cannot stop it from coming up. If it dominates the conference, then we would have lost a huge opportunity to show that multistakeholder Internet governance has a track that is working, especially prior to Busan. The IGF is too late next year before Busan. It's a month before Busan. Most of the submissions by countries on how they wish the IGF to take over Internet governance will happen by June/July. So the last chance we have of a global meeting where we can show the world that there is a

multistakeholder Internet governance path is NETmundial. The more we talk about only ICANN and IANA, the less oxygen there is to address the bigger issues that, believe me, the 54 votes in Africa care about. They don't care so much about who's going to watch the IAB on how we insert protocol parameters in a table. They have bigger issues. And they have been screaming about these issues since the WCIT, and as a global community we have not answered them. The chance we have to start showing them we understand the global Internet governance issues and we'll answer them is NETmundial.

So we're meeting with the organizers to voice that point. If you want to join me for that meeting, please do. It's going to happen in the next two days. To tell them look, we're giving them an input. We don't control the meeting, they do. We're telling them, please, as much as possible, if we need to set up a separate public consultation track on the U.S. detransition while we're in Brazil, we'll do that so we can get everybody's input there. But let's give oxygen to this conference so that it can produce something that the world could look at and say hey, there is actually a multistakeholder track for Internet governance. To be honest, that's the hope we have, that this conference emerges this way. And you know that Google, you, the input of your community is immensely important to the success of NETmundial. So I welcome it, and I welcome your involvement at every level. Thank you, Sarah.

KEITH DRAZEK: Okay. Thank you, Fadi. So we have -- I have two people in the queue, Erika and Gonzalo, and then down to Becky, and then I think we need to

wrap up. It's just after the top of the hour. So over to you, Erika. Thank you.

ERIKA MANN: The Brazil summit, I think we can use this in a quite intelligent way because there's so much confusion in the moment in the public and with governments about Internet governance, the big picture of Internet governance, and the smaller picture which affects ICANN and globalization. So having you there and actually raising whenever the discussion comes up and you see the confusion happening, I think it is good that you relate back to your business because what I experience all the time, that governments have quite well understand how they think the Internet works and they see some of the big players which are exploring with business opportunity the Internet world.   But they haven't seen you so much and they haven't understood your business model so much. So I think having you there can actually help in getting, you know, the record straight, talking about Internet governance and certain topics which relate more to IGF and to other strings and talking about ICANN and ICANN globalization.

So I think it would be extremely important to have you, you know, as a reality check there and using the opportunity in Brazil to explain actually the importance of your business.

GONZALO NAVARRO: Thank you. Yesterday we had the meeting -- we assisted the meeting of the cross-community working group on Internet governance. One of the conclusions of that particular meeting is that NETmundial is just one

of many meetings that we are going to have in the future. Although it's a really important one, as Fadi said, for the reasons that he mentioned it.

What is important is to see these events in context -- I mean, this is an ongoing process. So to have the opportunity to share with you and to have you participate in that meetings is crucial. If we are going to represent and present what is -- what is the multistakeholder approach to the rest of the community, to have the voice of you, the community, participants of the multistakeholder, is the most important thing for us.

In that regard, the message that you are going to present to NETmundial through the cross-community working group is important to find the way to engage that community in this process and in events to come is one of the most important priorities that we need to address in the future. So your comments are welcome, and we understand what you're saying and I sincerely hope that you understand the reasons that Fadi has put on the table regarding the NETmundial meeting in particular and the meetings in the future. Thank you.

KEITH DRAZEK: Thank you, Gonzalo. And Becky, you have the last word before we wrap up.

BECKY BURR: Okay. So I'm not going to talk about the same thing, Fadi, I promise. I'm -- I agree with you, it would be a mistake if a lot of time in Brazil was spent talking about the IANA transition. But with respect to the IANA transition and to the extent that there are future meetings, I would ask

you to think about the following things. The IETF and RIRs who are direct consumers of IANA functions are at the table themselves in this IANA transition discussion. The other direct consumers of those services are registries and they don't have -- the registries, CCs and Gs. They don't have the same kind of place at the table. So to the extent that you're hearing frustration here, the registries at ICANN are placed in a materially different position than IETF and RIR with respect to these negotiations.

STEVE CROCKER: I don't see that. I don't understand that.

FADI CHEHADE: I want to clarify. Did you mean the NETmundial table? No, you meant the USG transition table.

STEVE CROCKER: Yeah, I don't see that. Fadi made a pretty clear presentation laying out each of those groups and the relationship. What is it you're looking at that suggests that the RIR -- that the ccTLDs and the gTLDs are not at the table in the discussion of the IANA stewardship transition?

BECKY BURR: To the extent that you're talking about globalization of IANA at these international meetings, we're intermediated by ICANN. That's not a terrible thing. I'm just saying it's a different position that needs to be addressed. Or needs to be kept in mind.

RAY PLZAK: I agree 100% with what Becky is saying. The people that are engaged in IANA transactions are all registries. The RIR is a regional Internet registry. Okay. What she's saying is that we don't have the equivalent showing up there from the names world.

>>   Showing up where?

RAY PLZAK: At the table -- sitting at the table.

>>   Which table?

RAY PLZAK: Well, for example, the other day. The point is that the registries probably should be engaged in a much better manner in which they are being engaged right now in this discussion, okay?

FADI CHEHADE: So help us --

RAY PLZAK: So I don't know what the correct terminology you want to use is, but I think they are underrepresented in this and that they're making a very valid point.

FADI CHEHADE: So Keith, if I could, so I definitely don't want you underrepresented, so let's figure out how. Please give us very specific suggestions. That would be helpful, whether it's additional consultations we should do, whether if NTAG or if various groups have meetings we should go meet with them and get specific -- whatever it is that we need to do to ensure that you are directly affecting these outcomes as you should be, please tell us. It is not our intent in any way, shape, or form to, let's say, favor some group over another. You can rest assured of that.

KEITH DRAZEK: Okay, thank you very much, Fadi. And thanks to the Board for the excellent discussion. I see the registrars, our customers, over there and we've eaten 10 minutes out of their time with you, so we're going to move on. Thank you very much to the ICANN Board for this time with the registries.

FADI CHEHADE: Thank you.

[END OF TRANSCRIPTION]