

**GNSO
Operations Steering Committee Community (OSC)
Constituency Operations Work Team
29 January 2010 at 14:00 UTC**

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On page:

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Participants present:

Michael Young – Vice chair
Victoria McEvedy – IPC
Claudio Digangi – IPC
Chuck Gomes – Registries Stakeholder Group
Debra Hughes – NCSG
Rafik Dammak – NCSG

ICANN Staff

Julie Hedlund
Glen de Saint Gery

Apologies

Olga Cavalli – NCA – Work Team Chair
Tony Harris - ISPCPC
SS Kshatriya – Individual
Zahid Jamil – CBUC

Glen de Saint Gery: Shall I do roll call for you, Michael? It's Glen.

Michael Young: That would be great, Glen. Thank you.

Glen de Saint Gery: Good morning, good afternoon, good evening everyone. On the call we have Chuck Gomes, Michael Young, who is our acting chair for today, Victoria McEvedy, Claudio Degangi, Debra Hughes and we have apologies from Olga Cavalli who is traveling. And for staff we have Julie Hedlund and Glen de Saint Gery. Thank you Michael, over to you.

Michael Young: Okay. So my understanding of the agenda that Olga suggested, we'll do a little agenda bashing to start, was that we continue progressing through the documents starting with the last couple of edits, just edits, for 1.1 and then we move to 1.2. And I apologize I have missed the last couple of calls due to conflicts. But my understanding is that the group has been walking through the documents almost like on a line-by-line basis. Is that correct?

Man: Yes.

Michael Young: Okay. So we'll continue that progress. Does anyone want to add anything to the agenda? I'm sure we can fill the hour with that work but if there's something else that people feel we need to address in a pressing fashion, we can add that and clear out a bit of time to deal with that as well.

Man: Nope.

Michael Young: Okay. I'm not hearing anything so we'll continue with the work. On 1.1 my understanding is that the group's been through the document, I've been through the document and fed back on the mailing list with one edit and I think Chuck you had an edit as well. And I think we're just down with 1.1 to looking at these last couple of suggestions. Is that correct?

Julie Hedlund: Michael, this is Julie. We didn't actually quite finish going through the document line by line.

Michael Young: Oh, okay, where do we get...

((Crosstalk))

Julie Hedlund: Others, correct me if I'm wrong but I think that we had gotten through to Section 2(i), so Section 2 membership and I think we've gotten through (i) and that's new letter (i) because we had deleted the previous (i) which is

stricken in the document on the Wiki. But I don't believe that we had begun to consider Section 3 Policy and Consensus which is the final section. Could others confirm that? Does that sound correct?

Victoria McEvedy: That's my recollection Julie.

Julie Hedlund: Thank you very much Victoria. So Michael then that would mean that we would - I would suggest that we (finalize through) Section 3 and then perhaps go back to the items that you and Chuck have suggested or we can go back to the items that you and Chuck have suggested and then start on Section 3. It's entirely up to you.

Michael Young: Well why don't we keep rolling through, finish the document and then go back to the suggested edits. I'm looking at Section 3 on the Wiki site. Is this all there is to it currently at this point?

Julie Hedlund: Yes, Michael, that's it.

Michael Young: Oh, okay. Well we should be able to go through that I would think fairly quickly. So I'm not going to obviously - it's a line or two. Does anyone have any issues, suggestions, concerns about what's stated in Section 3 Policy and Consensus?

Claudio Degangi: Michael, this is Claudio. I had a comment about the last provision there about working on the working group model for the purpose of...

((Crosstalk))

Michael Young: Okay.

Claudio Degangi: And my comment was basically that sort of we should leave it up to the groups to decide how they want to work on - or what type of consensus building mechanisms they want to include within their charters. But, you

know, maybe, you know, my view is that it would make sense for us to recommend that there is a consensus building mechanism and it should be spelled out by the groups.

I looked at it more that we should just sort of leave it up to them to decide depending upon the particulars of their groups and (well) community (file), things like that. So I looked at this provision as sort of a little too restricted.

Michael Young: Okay. I think...

Chuck Gomes: This is Chuck. I'd like in the queue.

Michael Young: ...that's actually a good point.

Chuck Gomes: Chuck would like...

((Crosstalk))

Michael Young: Yeah, go ahead. Go on. Chuck, go ahead.

Chuck Gomes: Yeah, they - now obviously we don't know what the final working group model recommendations are going to be yet. It'll be probably a few months before we know that. But what's re - you know, we have a pretty good concept of what that working group model is because we've been using it for the most part in the last several years in the GNSO, what is restrictive about it?

Claudio Degangi: Well, I guess what I see restrictive is that that is just one particular way of - or one method of building consensus. It just - I didn't understand why we're telling groups, "This is how you have to do things."

Chuck Gomes: Well, let's talk about some of the elements of that model. One of the key ones is that there's openness for participation. Is that too restrictive?

Claudio Degangi: I don't think so, no.

Chuck Gomes: Okay. And the idea is - another key element is that rather than focusing on literal voting, the effort is to try and reach, you know, a position that most people will support. Is that too restrictive?

Claudio Degangi: No.

Chuck Gomes: And I won't keep going but my point is that, you know, it doesn't seem to me that recommending that the working group model be followed. Now maybe we could say something like that the key principles of the working model be implemented as appropriate in the - in each constituency and stakeholder group. But by saying - by - I just - I'm not seeing what's restrictive about the approach that is coming forward on the working group model.

Victoria McEvedy: Could I just jump in and say - I have to say surprisingly I agree with you, Chuck. Claudio I'm just wondering would it be helpful to give us some examples? Put this into practical context for us, your concern.

Claudio Degangi: Well I mean I don't have any specific examples. I'm just thinking that this working group model, you know, from my understanding was, you know, created for cross-group deliberations that take place across the entire GNSO and I just kind of thought that model was being created for a specific type of policy development and consensus that takes place within the GNSO.

And then the groups which are, you know, operating on the level beneath that, there might be different requirements that groups might have. I mean it's a different context. The structure - the groups, you're not talking about five different stakeholders coming together and working together within one group. So I just looked at the context being different in how consensus might be reached at the GNSO level and then perhaps within a smaller subset of the GNSO.

You know, I can see there being value in recommending that as guidance for the groups. I just didn't understand why we're sort of saying, "This is how you have to reach consensus. And you cannot come up with an alternative way of doing it." I just, you know, I didn't see that anywhere in the BGC report.

Victoria McEvedy: Can I just...

((Crosstalk))

Michael Young: I'm going to put myself in the queue after you Victoria, so go ahead.

Victoria McEvedy: I mean I just think we should (talk like this) and remember that we are trying to bring some commonality and simplify things. And as Chuck said, you know, it's tried and tested. It spent a long time being tested. It's still fairly flexible. And I mean I just think, you know, it would really move everybody forward this kind of recommendation in a very positive way.

So in the instance of a more precisely articulated objection I mean it seems it's a bit of a knee-jerk reaction to just say let's make everything guidance and then it's just ignored. So and I just really like to understand - I'm afraid I find your objection too vague, Claudio, from my own perspective, my own opinion, when balancing against the possible benefit of a recommendation like this. Anyway that's my comment.

Michael Young: So, it's Michael, I'm going to jump in. I have to say Claudio, I do - I feel your concern and I see where you're coming from. There - it does feel like to some degree you could be in a position where the GNSO working group model has the potential somewhere down the line of being applied I guess in a less constructive way and that's the general fear.

I think the other side of that coin and it's where I tend to lean myself more so is pretty much what I think Chuck and Victoria's getting at. I'm going to emphasize kind of a different element of the concern. If you don't put a stake

in the ground with what a working group model looks like, one way or the other and you do make it - you change the wording of this to say something like, "GNSO working group model" or similar consensus building mechanism that is well-described, you leave the opportunity that someone will create or put forward a consensus building mechanism that is bias, subjective and maybe really not a very truly a consensus building mechanism.

You leave it open for less accountability in the process whereas if there's a lot of people that will be depending on this GNSO working group model. So if that is the model and if we all focus on that, it's going to get a lot of attention, a lot of scrutiny and I seriously doubt it will go off track because I think there are too many stakeholders and interested parties in making sure it stays true to its intention.

Chuck Gomes: Now - put Chuck back in the queue please.

Michael Young: Chuck, go ahead.

Chuck Gomes: Okay. The (unintelligible) I can see the possibility where the working group model itself may have some recommendations that are specifically applicable to a policy development process for example. And so I have - I recognize what Claudio is saying in that regard.

So maybe what we could do is go back into the BGC recommendation with regard to the working group model and why they were recommending that and instead pull out the key elements of that if they're mentioned there and I don't have that in front of me so I don't know whether they are or not. And - or maybe just tweak the wording here a little bit to cover a situation like that because it is true that some of the recommendations may relate specifically to a PDP, okay, and that may not be the case in a particular deliberation in a constituency or stakeholder group.

Victoria McEvedy: I'm sorry, Chuck, could you explain that. I don't understand why - I don't understand your - I don't understand the big picture.

Chuck Gomes: Well, the working group model and I haven't looked at their latest draft on this - is anybody on this call on that team? No, okay. The - one of the primary purposes of the working group model is to provide guidelines for the actual implementation of a PDP, a policy development process.

In a constituency or stakeholder group they won't always - in fact probably more often than not they're not going to specifically be making decisions within their group about a policy development process. So it is possible some of the details of the - some of the recommendations won't be applicable because it won't be a PDP. And so...

Victoria McEvedy: I still don't understand that. I'm sorry. Why would a group - so you're talking about - forgive me, I'm just trying to understand because I think it's very important. So you're saying in a constituency or stakeholder environment there might be a particular subcommittee or something set up to deal with that group's views on PDP or some other policy, GNSO policy issue, but then do you have a particular concern why that would be different from anything else in terms of recent...

((Crosstalk))

Victoria McEvedy: ...consensus and structure (unintelligible) confidentiality perhaps.

Chuck Gomes: Let me give you a specific example. So the working group model is going to recommend procedures for reaching, you know, developing recommendations for policy, okay. Some of the actions of a constituency or stakeholder group, for example, they're going to have to elect officers. Do they need to follow the working group model when they elect officers? They're going to have to make decisions about their own charter and so forth.

Victoria McEvedy: Why is that - so why is that different to any other committee set up for any kind of other reason? Why is a policy subject, why is it so erroneous to follow some basic meeting procedure in a policy context than any other subcommittee context?

Chuck Gomes: Well some of the procedures because they're oriented toward policy development may not be applicable to other decisions that a group needs to make.

Victoria McEvedy: I still don't understand. I really don't understand the distinction between a policy (unintelligible) and anything else and - I mean...

Chuck Gomes: Well...

Victoria McEvedy: ...on some level - well, give me another kind of example then. So if it's not policy, what might it be?

((Crosstalk))

Chuck Gomes: Okay. I mentioned an election. The - an approval of a statement of support or opposition. I mentioned the, you know, a change to the charter.

Victoria McEvedy: I'd like to be real sure...

Chuck Gomes: The awkwardness that we have right here is that we don't have the working group model in front of us because it's still in development, so...

Julie Hedlund: Chuck, this is Julie. I do have the latest version open which was published as of yesterday. So if there's a certain section you'd like me to go to or I can send all of you the link if you'd like.

Chuck Gomes: Why don't you send us the link. Well, Julie, where I'd like you to go is to the recommendation that the working group model be used. And then see if there's any supporting information in that regard.

Julie Hedlund: Let me see if I can find that. I'll look through it.

Victoria McEvedy: I mean most of the work of the constituencies to my mind and my experience is policy-related for example.

((Crosstalk))

Michael Young: Sorry, Victoria I was - I want to weigh in when you get a chance - when you finish there.

Victoria McEvedy: Yeah, sure. So I think it's actually - I think it's very important. If it's going to be a carve out, I think it's quite important that we really identify the issue and I hate to say I'm still none the wiser myself as to why it should be a carve out. It's a concern and it's been discussed before in another context.

If the concern is that these groups, you know, you don't want to drive true and open debate underground, you know, that some of the problem is about confidentiality. I don't think that really comes into this recommendation here. It might come into some of the issues we're about to discuss in the (thickened) document but I don't know if it's an issue here.

But I just want us to quite clear about what the issue is and why policy is different. And I also would just note that I think it's a line in the sand because I think it's going to be very difficult to say what's a policy-related issue and what's not. So it's potentially a very important carve out if that's where you're going. Over to you Michael.

Michael Young: Okay. So I'm going to try and really boil down the question here and see whether or not as a group we can answer it because I think everyone's put

their points of view on the table here. The question I'm hearing is whether or not we apply rigidity to the statement or not. And the concern that I'm hearing, I'm paraphrasing and rolling this up, the concern I'm hearing is that that rigidity is based on a working group model that isn't finalized as of yet and could change over time.

So we're tying a rigidity or requirement with these groups to something that is not necessarily under their control or their influence as time goes on. And I think that's the concern I'm hearing.

Chuck Gomes: That's correct.

Michael Young: Okay. So as much - I do think that that is a valid concern personally. If you tie groups and their ability to function to a model that they don't necessarily have direct influence on, particularly if they're in the middle of trying to achieve work objective, you know, even if there is a process for trying to get change or modifications done to the GNSO working group model over time, I'm sure it's going to have it's own lengthy process and consensus building to change that model.

So, you know, group is, particularly if you look at some of the stuff that's happened over the last few months, the group's been, you know, designated with a timeline that's important to the entire community then it gets awkward for them very fast. And we almost put them in a position where they either miss their objectives or they violate this rigidity that's on the table here.

So, you know, is the right thing to do given what we're facing here that a little bit of flexibility, maybe it's being in this line by saying something where applicable group shall function on GNSO working group model. I don't know. But it seems that probably the conservative thing to do is add a little bit of flexibility here to address that rigidity issue.

Victoria McEvedy: I'd like to get in the queue.

Julie Hedlund: Michael, this is Julie. I'd like to get in the queue too. I do have some language from the current working group guidelines document that would be helpful.

Michael Young: Okay. Well, why don't you go first Julie then because maybe that will help inform our conversation.

Julie Hedlund: Okay. So the document is Working Group Guidelines dated 28 January, developed by the PPSC working group team - working group work team. In the background of the working group guidelines document the document states that the working group work team, this latter group was tasked with developing a working group model which should become the focal point for policy development and enhance the policy development process by making it more inclusive and (replenitive) and ultimately more effective and efficient.

The document goes on to say, "To this end the working group work team has developed this document entitled 'Working Group Guidelines' which brings together two different elements of the working group process. On the one hand it addresses what should be considered in creating, purposing, funding, staffing and instructing/guiding a work group to accomplish the desired outcomes, the chartering process and secondly what guidance should be provided to a work group on elements such as structuring, (norming), tasking, reporting and delivering the outcomes as chartered (the working group process)." So end of quote there.

So I note for the purpose of this discussion that these are working group guidelines that have been developed as part of the working group model. So I don't know if we wanted in our reference - in our document to reference the working group model or perhaps working group guidelines which one would think be a somewhat less restrictive guide - well less restrictive recommendation as these are guidelines and not a model per se but I could be misunderstanding something here. I'm just putting that out for discussion.

Michael Young: Well, okay. Let me throw out some suggestive language in that. I didn't realize that the working group itself was really just a series of guidelines which means our statement in this document is more rigid than the actual guidelines themselves. So perhaps what we need to do is keep it in flow with the working group, the concept of guidelines which they are.

Victoria McEvedy: I'd like to get in the queue, thanks.

Michael Young: Yep, sorry Victoria. In fact I think I jumped ahead of you inadvertently. Why don't you go ahead then I'll come back to that.

Victoria McEvedy: Julie, thank you for that timely (intervention) because I think that's actually very useful. What I take from that is that the working group was really developed with policy, specifically with policy in mind. Michael, I would take a slightly different angle on where you were just going with your interpretation of the flexibility of the guidelines and that this should match them because what I would say is there's more than enough flexibility in the model itself which is as I said before.

I mean at the end of the day it's a knee-jerk reaction to always just add in "where appropriate", "where applicable" and allow everyone to continue as before. But I mean, I know I'm repeating myself but my own concern is that for example the people that we - the groups that really are, what can I say, what's a diplomatic way of putting it? The groups whose behavior needs dramatic improvement on things like basic transparency (unintelligible) in the board governance in the LECs own language, they will continue as before and ignore things to the new guidelines.

So for example by adding "where applicable" or changing "shall" to something else and taking away that rigidity, you know, the whole purpose of reform is negated. So I can't overstate that quite frankly. The IPC will continue to - excuse me, Claudio, but it's true, the IPC will continue as before and, you know, we've really wasted our effort. But anyway that's my comment.

Michael Young: So let me jump in here. Victoria, I hear what you're saying. I think the way this is worded right now though is it's worded in such a way that you have to function on the guidelines and comply with the guidelines that says that you're treating the guidelines like absolute directives the way this is worded I think.

So maybe - let me suggest a little language here and see if this comes down the middle. I'm going to suggest that we say the following, "Groups shall respect the GNSO working group guidelines for the purpose of reaching consensus versus function." And change "model" to "guidelines" because that emphasis the fact that they are not absolutes but they are guidelines.

Victoria McEvedy: Okay. I have an alternative suggestion for amendment. If it's going to be amended, I think that's far too extreme.

Michael Young: Okay.

Victoria McEvedy: That's a very dramatic amendment and I think it goes much, much, much further than is necessary. I mean if anything if you really wanted to add flexibility, which I don't agree with, you should be changing, you need only change the word "shall" to "recommended." And you can add model - with model you could also (end it) and guidelines.

Michael Young: Model and guidelines. Sorry can you - how do you use the word? Sorry...

Victoria McEvedy: Which word?

Michael Young: Read it off for me Victoria so I can hear how...

Victoria McEvedy: Okay. So instead of "Groups shall function..."

Michael Young: Yep.

Victoria McEvedy: Why don't we start with - the sentence should start, "It is recommended..."

Michael Young: It is recommended, okay.

Victoria McEvedy: "...that groups," and take out the word "shall", "function working group model and guidelines."

Michael Young: The group shall...

Victoria McEvedy: No, take out shall.

Michael Young: All right. That groups function, okay, yeah, on the GNSO working group model and guidelines. I'm okay with that. Claudio, I think that addresses your issue, doesn't it?

Claudio Degangi: Yeah. I mean it does address my issue. I mean I still don't think I sort of agree with that statement for some of the reasons we have already said, that the model isn't really isn't fleshed out. And I see that model as being developed for a specific purpose, a specific context and I see this context being different. But, you know, if that's the feeling that you all have that it's a good idea to recommend that groups look at that for guidance and I'm okay with that.

Michael Young: Okay. Is everyone else okay with an amendment along those lines?

Chuck Gomes: I think that's okay.

Michael Young: Any objection?

Victoria McEvedy: I would prefer the language to remain as it was but I can live with the amendment I suppose.

Michael Young: Okay. Well I appreciate your effort to reach consensus Victoria. That's helpful to the group and to the objective.

Julie Hedlund: Michael this is Julie. I have amended the version of the document on the Wiki and saved the change so it should now be...

((Crosstalk))

Michael Young: Well, let me refresh it, see if I can see it now.

Julie Hedlund: Changes are in all caps and strikeout where appropriate.

Michael Young: Yep. Okay. All right. So I think we've got that and any other issues on Section 3 or points of discussion?

Chuck Gomes: Yeah, just a second. I'm focusing on the language. I've got a minor point but I want to focus on this first.

Michael Young: Sure.

Chuck Gomes: I don't think we need the word "and." Why is the word "and" in there? On function on the GNSO working group model and guidelines. The working group model guidelines - it's working group model guidelines, is it not? I don't think "and" makes sense there.

Victoria McEvedy: Oh, I thought there was a model and there was guidance.

Chuck Gomes: Well, what the - I was just looking at the BGC recommendations and what they recommended is that the working group model concept be followed, okay. And what the work team has been tasked with is developing guidelines for that working group model. So the "and" doesn't make sense logically I don't think. I don't think it changes the meaning, I just...

Victoria McEvedy: I thought there were two different documents. I remember - I don't have it in front of me and I'm not looking at my screen but I thought there were two different documents.

Chuck Gomes: Well, there are two different work teams. One of them is working on the revision of the PDP itself, the policy development process that is in bylaws.

Victoria McEvedy: No, no, no, I didn't mean that. I mean for the working group model there are two separate documents. There's the model and then there's guidelines about the use of the model.

Chuck Gomes: I'm not aware of that.

((Crosstalk))

Julie Hedlund: This is Julie...

((Crosstalk))

Michael Young: Let me jump in here for a second.

Julie Hedlund: I can clarify there is only one document, the working group guidelines.

Victoria McEvedy: Right.

Michael Young: Let me jump in and ask the question, Chuck is there any harm in having the "and" in there? Or is it just...

((Crosstalk))

Chuck Gomes: Probably not. It doesn't make very much sense but it's probably not any harm.

Michael Young: Well, you know, given we have a lot of work to move through, I - if you're okay with it and you don't think it does harm I suggest we just move on.

Chuck Gomes: Okay, that's fine. The one - the minor comment, when we finalize this document let's do footnotes in a way that are standard rather than the way they're done in this document.

Julie Hedlund: Chuck, this is Julie. They don't show up as normal footnotes on the Wiki.

Chuck Gomes: Yeah and that's fine. I just wanted to make that - I said it was minor. It's just a matter of let's make sure that they, you know, when we deliver something that they show up properly.

Julie Hedlund: Right. Yeah, this is Julie, Chuck, I'll make sure that they do. Thanks.

Michael Young: All right. Are we okay to move on guys?

Chuck Gomes: Yes.

Victoria McEvedy: Yep.

Michael Young: Okay. So I'm trying to follow this on the Wiki but it looks to me like the first suggested edits are in (e). Am I missing any other earlier ones?

((Crosstalk))

Michael Young: Section 2(e). Looking - is that correct, Julie? Have I missed any other ones?

Julie Hedlund: No, Michael, I believe that's correct. This is Julie.

Michael Young: Okay. So these were the edits I think I suggested. How do people feel about these?

Chuck Gomes: I'm just reviewing them again now.

Victoria McEvedy: Could someone read them? I'm sorry, I'm not on my screen. I'm not looking at the Wiki.

Michael Young: Sure.

Victoria McEvedy: Sorry.

Michael Young: I'll read it out for you and I'll state where the change was. Status of a new application and admission decision as far as possible shall be publicly available at the option of the applicant and an applicant shall be kept informed about it. In particular the applicant shall be advised -- the original language went like this, the applicant shall be advised of the gist of any objection to the application and be given the opportunity to reply with clarification.

The problem I had with that language is I'm not sure what gist would mean to somebody. Gist is a subjective term. Gist is interpretive. So I suggested that the language be adjusted as the following: In particular the applicant shall be advised of any objection to the application, be given the opportunity to ask clarifying questions about the objection, and be given the opportunity to reply to the objection with clarification.

Chuck Gomes: Michael, question in that regard. You know, being advised about the objection without some detail doesn't help very much. If you don't know why the objection was placed and whether "of the gist" is the right terms or not, if my application has been objected to and I don't know why it was objected to, how do I respond?

Michael Young: Right, right. So that's why I suggested, I added in the language "the applicants be given the opportunity to ask clarifying questions about the objection."

Chuck Gomes: Yeah, but asking clarifying questions and getting answers to those are two different things.

Victoria McEvedy: What - there might be a way through this. Could we just say an objection and reasons?

Chuck Gomes: That would work for me. That's what I'm getting at.

Michael Young: Okay. I still think they should also be given the opportunity to ask clarifying questions but...

Chuck Gomes: Yeah, agreed. I totally agree.

Victoria McEvedy: Oh, me too, yeah.

Chuck Gomes: Yeah. But you can't ask good clarifying questions if you don't know the reasons.

((Crosstalk))

Michael Young: So after "of any objection" we would add "in particular the applicant shall be advised of any objection and reasons for said objections to the application."

Victoria McEvedy: Well, just put "with reasons." Would that work?

Chuck Gomes: I think so.

Victoria McEvedy: Now I have to say I have one point on the whole reply clarification. I'd like to draw a distinction between the fact that they're allowed to reply and they're allowed to clarify because you can just imagine someone trying to read down the right to reply to me a right to seek clarification which (unintelligible) provide clarification.

And at the end of the day I want - it was originally to answer which - that people felt it might suggest a legal pleading, you know, like a formal court document or something. But I'd quite like to just sort of make it clear that they really do have an opportunity to respond to the substance of reasons, right, not just to ask clarifying questions or provide clarifying information because you might find somebody taking a very pedantic view on that language.

Michael Young: Okay. So why don't we take - I think that's a good point. Why don't we do something like this, Victoria, "and be given the opportunity to reply to the objection with clarification or to reply in general."

Victoria McEvedy: That works for me.

Michael Young: Everyone else okay with that?

Chuck Gomes: Yeah, I think so.

Julie Hedlund: Michael, this is Julie. So I'm not sure if I captured all of this. I know that we have taken out "of the gist." But...

Michael Young: Right.

Julie Hedlund: ..."with reasons" was that put in...

Michael Young: Yes.

Julie Hedlund: ...and where did that appear?

Michael Young: That reply is after "of any objection."

Julie Hedlund: Okay. "Of any objection with reasons"?

Michael Young: Right.

Chuck Gomes: Or would it be better to say “of any objection and the reasons for the objection”?

Michael Young: Sure. That’s fine.

Julie Hedlund: Okay. Michael, just to make sure I have it clear, may I read the amended version?

Michael Young: Absolutely.

Julie Hedlund: In particular the applicant shall be advised of any objection and the reasons for the objection to the application and be given the opportunity to reply with clarification or to reply in general.

Chuck Gomes: That didn’t cover Victoria’s suggestion did she, the reply and to provide clarification. Is that what you said Victoria?

Victoria McEvedy: Well, no, I think it does cover my issue because I was just...

Chuck Gomes: Oh, okay, okay.

Victoria McEvedy: Yeah, I think it does.

Michael Young: Yep.

Chuck Gomes: Okay. I’m fine then. I thought it maybe didn’t. So if you’re satisfied, that’s fine.

Victoria McEvedy: Yeah. Could I...

Michael Young: I think the only thing we're missing though is the opportunity for them to ask clarifying questions about the objections. So if they felt that the reasons given were inadequately expressed, then we've missed a step.

Julie Hedlund: Okay. That's what I wasn't sure if that was staying in. Then let me...

Michael Young: Yes.

Julie Hedlund: If that's staying in, let me read it one more time if you'll bear with me to make sure that I have it all.

Michael Young: Sure.

Julie Hedlund: Okay. In particular the applicant shall be advised of any objection and the reasons for the objection to the application be given, application, be given the opportunity to ask clarifying questions without the objections, and be given the opportunity to reply with clarification or to reply in general.

Victoria McEvedy: Perfect.

Chuck Gomes: Yeah.

Michael Young: Sounds good.

Victoria McEvedy: Could I just interject here and could someone - Claudio, you and I were supposed to cooperate on some language for 2(d)1, weren't we as homework?

Claudio Degangi: Yep.

Victoria McEvedy: And we didn't. So I'm just wondering if we can get a quick look at that. I don't know what it's currently reading. I confess I haven't looked.

Julie Hedlund: I can read it for you (unintelligible).

Victoria McEvedy: Thank you very much.

Julie Hedlund: Section 2(d)1, "Admission criteria should be predictable and objective and not arbitrary or discretionary where eligibility depends on participation in a certain sector of business then applicants shall be entitled to submit evidence of their participation in that sector." I think the language that we discussed was the predictable and objective and not arbitrary or discretionary.

Victoria McEvedy: Yes, I thought we made changes and I thought that...

Julie Hedlund: We did make changes, "predictable" and "objective", the words "predictable" and the word "objective" were added.

Victoria McEvedy: Oh, that's right. Okay, fine. I think - look, I think that's fine as it is. I don't know what Claudio thinks.

Claudio Degangi: Yeah, I'm okay. I'm okay with that.

Victoria Hedlund: Okay. All right.

Michael Young: Okay. So can we move to (f) then? Is that okay?

Victoria McEvedy: Sure.

Michael Young: Okay. Really we have a few questions I think you put in here, Chuck. Do you want to give us...

((Crosstalk))

Chuck Gomes: Sure, I'll talk to it. If you go to the second sentence there it says, "The group shall select such a neutral third party and consultation with ICANN/GNSO."
What do we mean by ICANN/GNSO?

In the community both terms are used to mean very different things. Sometimes when people say ICANN they mean the ICANN staff or board, ICANN the corporation, ICANN the community. Same with the GNSO, really. Often they mean the GNSO Council but there are GNSO constituencies and GNSO stakeholder groups and there are GNSO individual participants and so forth.

Without - if we don't - if we're not more precise here, how do you consult with whatever you're consulting with? So I just think - and I'm not sure how you want to fix it but I don't think it works to say in consultation with ICANN/GNSO.

Victoria McEvedy: I agree with that Chuck. I think an officer should be named. That is what's quite common in these sort of clauses. You know, for example if you want someone to nominate a mediator - if you want a third - if you want sort of an independent nomination for a mediator or arbitrator, whatever, it's quite common that you say the head of the regulatory organization or whatever. So I would say that it should be the chairman of the board or the chair of GNSO Council or I don't know someone like that, like it should just be an individual and an office holder.

Chuck Gomes: Well, would it work to say "in consultation with the GNSO Council"?

Victoria McEvedy: Actually I have to say now that we're thinking about that, is it really right - it's not really right to have the group consulting. They should just ask that individual - I don't think it should be the council. It shouldn't be a political decision because then you have neutrality imperiled, don't you?

Chuck Gomes: Yeah. Right, right, right.

Victoria McEvedy: But I mean and I don't really think the group should get to consult. I think the group should go and ask - this is just how it works in other contexts like I say...

Chuck Gomes: Yeah.

Victoria McEvedy: ...so both - one or other - I mean in an arbitration context, either party would go to the head of the (law) society or the head of the whatever regulatory organization was and ask - and that person would nominate an impartial third party but I don't know if we want to interfere with the consultation.

Chuck Gomes: Well, could we just delete that sentence and they have the right to appeal to a neutral third party?

Victoria McEvedy: No, you have to provide machinery or no one knows where you are. So you either have to say, you know, maybe is there an existing procedure that could be referred to and incorporated by reference but, you know, basically this is almost like an arbitration clause, you've got to provide the machinery and say what rules will govern, otherwise everybody (unintelligible), you know.

Michael Young: Yeah, should probably add an otherwise.

Chuck Gomes: Yeah, no, I understand what you're saying. You know, in the working groups, you know, there's language in the charters, that, you know, if somebody is decided to be disruptive to the working group, there are steps that are taken to deal with the issue and they're progressive. But there's not a - you know, it first of all is supposed to be appealed to the chair of the working group and then it's in our charter too I think and if there's disagreement there, then it can go to the liaison I think with the council and then up to the coun - I don't know, Julie, you may be able to help me, and then I think it goes up to the council chair or something like that. So it's a progressive step thing to allow for it but there's not neutral body that I'm aware of that we use.

Victoria McEvedy: Well, because the (unintelligible) isn't there, but I mean you could get the (unintelligible) to nominate a third party but I mean to be honest it should really have a bit more work, you know what I mean. It should go to an independent neutral under one of the neutral boards or whatever and under the neutral roles, you know, because there is provision for that for other kind of disputes but more sort of policy disputes there.

Michael Young: Do we need a little bit of research at this point on what our options are? Maybe ask Julie to do some research and see what choices we might have.

Julie Hedlund: Michael, this is Julie. We don't have a current policy for disputing an application, someone's application to join a constituency. Since there is no current - there is no current process.

Michael Young: I hear that. I'm wondering by research I mean are there other mechanisms in ICANN that could take on that because they're fulfilling similar...

((Crosstalk))

Victoria McEvedy: I know one. Actually you're right. Isn't there a remedy - isn't there a whole procedure - I remember being on the working group when it was - one working group a long time ago, but isn't there a procedure for people who apply to set up a constituency and are rejected? Isn't there a procedure for - isn't there some kind of procedure for someone who tries to do a generic (unintelligible) who gets rejected and they go (unintelligible) language.

Chuck Gomes: Well, you know, I'm actually thinking of situations where people were rejected for membership and the way that's been handled I think is that they've appealed to the General Counsel's office and the General Counsel's office goes back to the bylaws and decides and frankly they've been pretty benign about enforcing anything. But I'm not aware of a specific procedure.

Julie Hedlund: I can't think of an...

((Crosstalk))

Julie Hedlund: ...procedure within ICANN that currently exists, although Chuck what you've mentioned, now that you've mentioned it is I think probably as close to a procedure as we've had for dispute resolution.

Chuck Gomes: Does some sort of a neutral body need to be created within the GNSO? I'm not sure how we do that but I'm just trying to explore.

Victoria McEvedy: I don't think it would be neutral. I mean it's supposed to be...

Chuck Gomes: No, yeah, I understand. That's why I said I'm not sure how you'd do it.

Victoria McEvedy: I mean I think...

((Crosstalk))

Julie Hedlund: What about - this is Julie. What about in consultation with the ICANN General Counsel? Would that be considered a neutral third party?

Victoria McEvedy: I think so.

Michael Young: No. Really? General Counsel neutral for ICANN?

Victoria McEvedy: No, no, no, just for the referrals. I mean...

((Crosstalk))

Michael Young: Oh.

Victoria McEvedy: I guess if you need - no it's not - it's not...

((Crosstalk))

Julie Hedlund: Yeah, it's not that that's the neutral third party, it's that in consultation with ICANN General Counsel to select such a neutral party.

Michael Young: In consultation with ICANN General Counsel.

Chuck Gomes: General Counsel's office is what we'd want to say too.

Michael Young: Yeah.

Chuck Gomes: Julie...

Michael Young: I mean we can put that in there but we're kind of making it up, right? I almost feel like it's beyond - I think it's something almost that this group should be flagging but I don't know if it's out of our depths to be determining the right group.

Julie Hedlund: Well, what we can do and what we've done with recommendations in other work teams - this is Julie - is run the recommendations by the ICANN legal staff and, you know, if they think there's a problem or it's unprecedented or it's something that conflicts with the bylaws or the scope, then they can advise in that respect. So we can put this in and we can as we've done with other recommendations and other work teams, have the ICANN legal staff take a look at them.

Michael Young: Okay. I'm fine with that if everyone else is.

Chuck Gomes: So is what we're saying then the group shall select such a neutral third party in consultation with the ICANN General Counsel's office?

Victoria McEvedy: No, I don't think we're saying that. I mean I understood Julie to be saying and I think it's a good idea is that we should ask for some, just some input from the General Counsel's office about their views on an appropriate path for recommendation and...

((Crosstalk))

Chuck Gomes: Oh, so in other words not make a specific recommendation but recommend a step for resolving this?

Victoria McEvedy: No, no, no. Just now we should go and just ask them to help us with this clause, you know.

Chuck Gomes: Oh, got you, okay. Okay.

Victoria McEvedy: Because they might know what would be appropriate and they might be able to give us some suggestions or language that has been used in another context that we may not be aware of.

Chuck Gomes: So we put this in square - this sentence in square brackets for now and check with the General Counsel's office?

Victoria McEvedy: Yeah, that's what I would think would be...

((Crosstalk))

Michael Young: Yeah. And I would actually go so far as to remove ICANN/GNSO and just put, you know, a bunch of Xs in quotations and ask them who they think that should be in their opinion.

Victoria McEvedy: Yeah.

Chuck Gomes: Okay.

Michael Young: Julie, did you catch all that? Julie?

Julie Hedlund: Sorry, I was on mute.

((Crosstalk))

Michael Young: Did we lose Julie?

Julie Hedlund: No, I was on mute. Sorry. I will go ahead and - I've noted that and basically what I'm doing is putting some questions marks in curly brackets so that in consultation with question mark and what I'll do is I think I'll highlight the sentence to ICANN legal staff and ask them to look at it.

But if there's no objection I can have them look at the set of recommendations and read through them. I don't know if that's a procedure we want to take in general with these recommendations and I'm not sure it's necessary so otherwise I can have them look at, you know, just that sentence within the context.

Chuck Gomes: I think you ought to just focus on that sentence and the context and ask - if you ask General Counsel to look at too much we're not going to get a timely response and understandably.

Julie Hedlund: This is Julie. I think you're right Chuck. I'll go ahead and just - I'll give them the full thing so they can see the context but ask them to focus on that sentence.

Michael Young: That's great. Thank you.

Julie Hedlund: Sure. And I have to apologize but I have another meeting I have to chair for the (unintelligible) in four minutes. So I won't...

Michael Young: Julie, can (unintelligible) I'd like to jump to some housekeeping please and I think we've gone as far as we can with this document for today but if we - we'll circle back to it on the next meeting. I think we need to jump to some quick housekeeping.

I'm looking at the rate of progress we're making through these documents, and I think we're making really good progress and we're finding consensus and I appreciate everyone's efforts in that. But it's clear - I mean we're just finishing up 1.1 now, we've got 1.2 to go through and that's quite a long document and I'm sure there'll be lots of vibrant discussion in that one as well.

So I'm thinking that the frequency of an hour once every two weeks is at that rate it will take us horrendously long on the calendar to get our work done. So I think we have a couple options for the group. I think we can either extend the length of our meetings every two weeks or we can go to weekly meetings but I think we need to up our pace of work here. What do people think of that?

Victoria McEvedy: We should do both.

Michael Young: Sorry, Victoria?

Victoria McEvedy: I agree, Michael. I think we should do both.

Michael Young: Okay. So we could extend it. Why don't we take a middle line? We could try for 90-minute meetings weekly for a bit until we get through the - let's see what our pace is like and we'll see how fast we're getting through these documents.

Victoria McEvedy: I would just say we made incredible progress last week with the two-hour meeting because we got through almost the whole of that document. So I appreciate this has been extended but...

Michael Young: Yeah. I also think it's easier to frankly since - when you're going through these documents not to have two-week breaks in between your thinking because you stay a little fresher on it. So if everyone - what's people's availability? Can we schedule at least for the next few weeks a weekly meeting at 9 o'clock and try and push it to 90 minutes?

Chuck Gomes: Well, I...

((Crosstalk))

Chuck Gomes: ...often have a conflict in the hour and it will be a bigger conflict if it's that. But you guys don't necessarily have to have me on every call. I can try and chime in afterwards.

Julie Hedlund: And Michael this is...

Michael Young: Chuck, what if we started a half-hour earlier?

Julie Hedlund: Michael, this is Julie. I should say that I have a standing meeting now with the (Essec) Executive Committee at 10 o'clock Eastern Time now each Friday. So while (Rob) could step in for me my preference would be if we could start earlier then I can be sure that if we did a 90-minute call that I could be on for the whole call.

Chuck Gomes: My preference isn't for starting...

Michael Young: Okay.

Chuck Gomes: ...earlier but that's because I'm already starting at 6 in the morning. Would it make sense to do a Doodle for maybe finding another time that works?

Michael Young: Yeah, why don't...

Julie Hedlund: This is Julie. Chuck, we can try that but as you know we have now something like 18 different teams. So finding a time that doesn't conflict with another team is really pretty tough.

Victoria McEvedy: Yeah, and this timeslot I'm sorry to say I mean it does work for everybody on the whole. So I think if we can we should stick with it.

Julie Hedlund: I mean, this is Julie, I can go for - we can do them as two-hour meetings or 90-minute meetings, what I'll need to do is (Rob) will just have to step in for me.

Michael Young: Well, but Chuck also has a conflict at the 10 o'clock point as well frequently. So Chuck what do you think? I mean really that leaves more you with the issue of having to start earlier, is that...

Chuck Gomes: How often are we meeting?

Michael Young: Well, weekly for probably I would say three or four weeks and then we can probably back it off I would say, given the (piece) I've seen today.

Chuck Gomes: Go ahead and do it earlier.

Michael Young: Okay. I apologize for that. I know it's awkward.

Chuck Gomes: Awkward isn't the word I would choose.

Michael Young: Agonizing.

Chuck Gomes: That's fine Michael.

Julie Hedlund: Michael, this is Julie. I do have to go off but I've noted then that for the next four weeks say the meetings will be scheduled from 8:30 to 10 o'clock Eastern Time, we'll do the conversions of course.

Chuck Gomes: Why don't you go ahead and start them at - did you say 8:30?

Julie Hedlund: Yeah, I did.

Chuck Gomes: Why don't you start them at 8 and it'll be even worse for me but that at least avoids my other conflict.

Julie Hedlund: Okay. All right. So 8 to 10 Eastern Time. And Victoria, you know, obviously we'll make conversions for you and others (unintelligible) for the next several weeks on a weekly basis.

Michael Young: Okay.

Victoria McEvedy: So that's two-hour meetings instead of 1-1/2?

Chuck Gomes: Yeah, but...

Michael Young: Right.

Victoria McEvedy: Okay, thanks.

Chuck Gomes: ...can we go 90 minutes instead of two hours?

Julie Hedlund: We can.

Michael Young: And end at 9:30. Sorry, yeah?

Julie Hedlund: If we - oh, start at 8 and go to 9:30?

Chuck Gomes: Yeah. My regular conflict starts at 9:30.

Julie Hedlund: Oh, okay. Well, that works for me. What about others?

Victoria McEvedy: Okay for me.

Michael Young: It's fine for me.

Julie Hedlund: So Glen then it would be 8 o'clock to 9:30.

Glen de Saint Gery: Yes, 8 o'clock Eastern Time.

Julie Hedlund: Right.

Chuck Gomes: Not quite as bad as 3 o'clock in the morning Glen.

Glen de Saint Gery: Oh, but it's too bad for you Chuck, I know.

Julie Hedlund: I'm really sorry folks, I have to leave. But I'll follow up with ICANN Legal. All the changes we made today are reflected on the Wiki so we're set there and I'll follow up with some notes.

Chuck Gomes: By the way...

Michael Young: I think we're done anyway.

Chuck Gomes: ...we should check with what's her name who's also on the West Coast. Why am I blank?

Glen de Saint Gery: Krista Papac. Krista Papac. Krista Papac.

Julie Hedlund: Oh, Krista.

Chuck Gomes: Yep, yep. So it's not just me.

Julie Hedlund: That's right. Well I'll put out the proposed time and I'll ask members to indicate if they have a problem with it.

Chuck Gomes: Great. Better go Julie.

Julie Hedlund: Yep. Bye everyone.

Victoria McEvedy: Thank you.

Chuck Gomes: Thanks Michael and everyone else.

Claudio Degangi: Thank you.

Michael Young: Thank you.

Glen de Saint Gery: Thank you.

Man: Bye.

END