

**ICANN
Transcription ICANN Hyderabad
Joint Meeting: ICANN Board & GNSO
Monday, 07 November 2016 at 12:30 IST**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page <http://gnso.icann.org/en/group-activities/calendar>

James Bladel: Hopefully we have all of the members of the Council and the Board have had a chance to fix a plate. And to our colleagues from the ICANN Board welcome and thank you for joining us for this joint meeting.

Shall we start off with some introductions? Of course I don't know how much of this has changed since the last time between our two groups. But if we go around the table, maybe can just do a refresh. Can we start down here?

(Aka Miram): (Aka Miram). I am the incoming Board member. Thank you.

(Litor Evala): (Litor Evala), ICANN Board.

(Carlo Angber): (Carlo Angber), incoming liaison from RSSAC to the Board.

Mason Cole: Mason Cole, GNSO liaison to the GAC.

Darcy Southwell: Darcy Southwell, GNSO Councilor for the Registrar Stakeholder Group.

Philip Corwin: Philip Corwin, Councilor for the Business Constituency.

Susan Kawaguchi: Susan Kawaguchi, BC.

Michele Neylon: Michele Neylon, Registrar Stakeholder Group Councilor.

Markus Kummer: Markus Kummer, ICANN Board.

Paul McGrady: Paul McGrady, GNSO Councilor for the IPC.

Asha Hemrajani: Asha Hemrajani, ICANN Board.

Heather Forrest: Heather Forrest, Vice Chair of the Council for the Non-Contracted Parties House.

James Bladel: Hi. James Bladel, Chair of the GNSO Council.

Steve Crocker: Steve Crocker, ICANN Board.

Bruce Tonkin: And now from the Australian part of the table, Bruce Tonkin, ICANN Board.

Donna Austin: Donna Austin, Vice Chair of the Council.

David Olive: David Olive, ICANN Organization.

Lousewies van der Laan: Lousewies van der Laan, ICANN Board.

Ron da Silva: Ron da Silva, ICANN Board.

Ed Morris: Ed Morris, the GNSO Council and CSG.

Suzanne Woolf: Suzanne Woolf, outgoing liaison from RSSAC to the ICANN Board.

Becky Burr: Becky Burr, incoming Contracted Party House Board.

Matthew Shears: Matthew Shears, NCSG.

Keith Drasek: Keith Drasek, Registry Stakeholder Group, GNSO Council.

Sarah Clayton: Sarah Clayton, NCSG.

David Cake: David Cake, NCSG Councilor.

(Martin Boltovon): (Martin Boltovon), incoming Board.

Mike Silber: Mike Silber, part of the furniture.

Carlos Gutierrez: Carlos Gutierrez, outgoing Council making room for Erika Mann; very honored.

Stefania Milan: Stefania Milan, Councilor for the Non-Commercial Stakeholder Group.

Stephanie Perrin: And Stephanie Perrin, Councilor for the Non-Commercial Stakeholder Group.

Cherine Chalaby: Cherine Chalaby, ICANN Board.

George Sadowsky: George Sadowsky, ICANN Board.

Man: (Unintelligible) (ICANN Board) for one more day.

Rubens Kuhl: Rubens Kuhl, Registries Stakeholder Group.

James Bladel: I thank you and again welcome to our Board colleagues. I think we have an agenda. And in preparation for this discussion you had sent us two questions. So if you don't mind, we'll probably start with those two items Steve and we can dive in there and we can keep this relatively informal as we go through some of our questions here.

So this is the first one that was submitted to us by the Board. We had, you know, the question of what do we, the Board and ICANN the organization, need to do to make the transition effective?

We had some discussion on this during - I hesitate to call it our weekend session because it didn't fall on a weekend this time. I think it was on a Wednesday. But we did discuss this and I don't know if we have any Councilors that would like to weigh in on this question.

I think we had tabled some discussion relative to some potential open sessions. And I think - and I don't mean to put her on the spot since she's not raising her hand but I think Donna as well had some ideas relative to potentially elevated discussions on particular topics between the Board and the GNSO and potentially the GAC. And Donna, did you want to perhaps expand upon that?

Donna Austin: Sure. Thanks James. Donna Austin. Not sure whether I'm following form here. This was in response to some questions that we were considering for the Board. And it's - in the context of managing the workload from a GNSO Council perspective, we have four PDPs that are currently active.

And we're very conscious of the fact that coming down the pike particularly as it relates to the new gTLD subsequent procedures PDP, there are going to be a number of very sensitive topics that are being discussed by the PDP Working Group but also in parallel the GAC are having some conversations.

And we - well, certainly what I'm proposing is that we find a way in the schedules of the ICANN meetings to have not bilateral meetings between the Council and the GAC and the Board and the GAC but we try to find a way to have trilateral discussions between the Board, GAC and GNSO in an attempt to at least get an understanding of what the contentious issues are and the different perspectives are and try to resolve some of those before we get to an endpoint where we have PDP recommendations that are inconsistent with GAC advice.

You know, obviously we're all feeling the heat of a certain topic at the moment. So I think looking forward one of the lessons we can potentially learn from that is to make better use of the time that we have available at these meetings. I mean we meet three times a year. We've got the people. People have traveled a long way to, you know, (knot) out some of these problems that we have.

So let's make some better use of the time and get substantive time on the schedule to enable the GAC, the Board and the Council to have some open dialog about issues that we know are already contentious. And as we go down the path of, you know, PDP recommendations and conflicting GAC advice, let's try to head that off to the extent that we can.

So I guess that's my suggestion. And I think in terms of the first (dot) point here I'm sure the Board's heard throughout the week that the scheduling for this meeting wasn't perfect. Certainly could be improved.

And I think from a Council perspective what we would like to see is we know there are a number of sessions that should be baked into the schedule and potentially, you know, not open to negotiation. So maybe a starting point is to get some common agreement on what those baked in sessions are and then work the schedule around from that perspective. So sorry it's a little bit longwinded but thanks.

James Bladel: I think Markus would like...

Markus Kummer: Thank you. Markus Kummer speaking for the record. I very much like this suggestion of having (tripod) type meeting with the Board, GAC and GNSO Council. This is I think - I would see that almost as a logical consequence of the success for IANA transition where we actually learned it works and we all sit around the same table and work together towards a solution.

Working it out in a silo and then asking the other people to comment that is asking for disaster when there are differences from the start. So let's stick together at the beginning and try to find out what the difficult points are.

James Bladel: Thank you Markus. Any other speakers on this topic? Steve.

Steve Crocker: Happy to do this. And as Markus says, this is a - this could well be useful. There's an asymmetry in my mind. The Board is not generally likely to come to these things with a point of view that it wants to press. So in terms of a, you know, if one thinks of it as negotiation or whatever, there may be substantive issues, probably would be, that the GNSO will have one point of view the GAC may have a different point of view.

But the primary point of view that I would expect the Board would have is how to get somewhere...

Man: Steve, we can't hear you from here.

Steve Crocker: I'm sorry. Thank you. I was saying that the Board is unlikely to come to the table in the same fashion that the GAC and the GNSO will. And the Board is not likely to have a point of view about substance. Be more interested in making sure that whatever does result is a quality result and that there's a process that goes forward.

So I would come to - if I were sitting in, I would come with the expectation that I'd want to learn and understand what the issues are and see where the sticking points might be and find any way to facilitate it and, as I said, learn so that we're in a good position to respond when something does come to us.

James Bladel: Mike.

Mike Silber: Thanks James. No, I think it's an excellent suggestion. I think Steve highlighted a critical issue. And that is I think as long as the expectation is clear that the role of the Board is to observe or to audit what's going on, I think that's very valuable.

Just given some of the pressures on time, it may not be the entire Board. It may be a subset of the Board. But yes, absolutely for us to engage in those discussions early so we can understand where it's happening and not wait for choke points.

But up until now there's been a temptation almost to toss the ball to the GNSO and the GAC can say you guys have an issue with each other. Go and sort it out.

And I'm not saying we should behave any differently from that but rather we need to be just watching what's happening in the interaction to make sure that the game's not being played to stalemate while we are not looking at what's going on.

So I think a valid point. I'm going to suggest that we raise that with staff as well as with the GAC Secretariat in terms of trying to find a slot within the meeting schedule for - or maybe we just go to your existing bilateral meeting. I don't know if you're thinking of a separate meeting or if we can go - crash your existing bilaterals.

James Bladel: So I have Cherine and then Donna unless Donna, did you want to respond to - yes. Do you mind Cherine? Quick - okay. Donna and then Cherine and then...

Donna Austin: Yes. Thanks James. Donna Austin. Obviously the idea is something that we need to flesh out a little bit. But I think from my perspective understanding that the Board isn't there as a decision maker but I think it's an education opportunity so to - and rather than the Board being hit with something that they're not familiar with when it gets to that choke point. So I think it's an opportunity for education. And I think the other thing from...

((Crosstalk))

Donna Austin: ...certainly from my perspective is that, you know, often there's some pressure on staff to provide the Board with information about how they perceive an issue. But I think if the Board can hear directly what the interactions are between potentially the Council and the GAC that might actually, you know, help with some of that filtering that the staff have to do. So I think there's some benefits in terms of education. Thanks.

Just in relation to whether we tag this onto bilateral meetings, I'm not sure that's the best option. I would like to see dedicated sessions on the schedule that are trilateral discussions. Thanks.

James Bladel: Thanks Donna. Cherine, Bruce, David.

Cherine Chalaby: So I agree with the suggestion. I think it's a very good one especially if it takes place earlier on before a PDP is formed and approved so that we talk earlier on about this topic.

But as everybody said, I would not expect the Board to come in with a Board position. Individual Board members will be there to listen, understand and they may express their point of views but it would be probably individual point

of views at that stage. I just want to manage that expectation ahead of time.
Thank you.

James Bladel: Bruce.

Bruce Tonkin: Yes. Just a comment on Donna's suggestion, which I support. I think I made the same suggestion two years ago on the - when we received the policy on the IGA names and then we received the GAC advice. So I think it is important that we get the groups that have a difference of opinion together. And I do agree that it needs to be a dedicated session.

I think what's particularly important is making sure that people have got the right briefing materials before they attend those sessions. So using the IETF for example, the general principle was if you haven't read the draft, you shouldn't get up to the mic and say stuff. And that principle we could use here a lot more I think.

But the briefing materials have to be accessible because quite often I see these - a sort of discussion I think with the - might have been the registries, registrars meeting in the Board the other day and one of the members was diving into great detail about RDAP and most of the Board doesn't know what that is.

So having a conversation at that level isn't useful in a broader context for the rest of the Board. And likewise if you - I can imagine that there's some people in the GNSO and some people in the GAC that know the IG (issue back to) (Fran). But you probably got 200 people in the room from either side that don't know what you're talking about.

So I think before you set up those sessions to be really clear, here's the briefing document that's accessible. It's a few pages long that sets out the two positions. And then when you come into the room you're prepared understanding what the issues are. Because it's not just enough to schedule

a session. You've got to make sure the people are properly brief when they come in.

James Bladel: Thanks Bruce. David.

David Cake: I think it's - I mean I take the point that the Board is not going to come with a substantive proposal to this sort of, you know, that they don't have a - doesn't have a position.

But it's also important to note that this is not - this is a - just the fact that it's the Council - meeting with the GNSO Council rather than the, you know, the working group and so on implies that the Council meeting whether to discuss - this meeting would not be to discuss points of - about the policy itself or whatever it is we're working on.

This would be a meeting to untangle the process of how we deal with disagreement rather than the specifics of the disagreement. We have a whole lot of - we have the GAC - all the work we've done with the GAC, early engagement with the GNSO and the liaison and so on are all designed to identify these agreements early on and to discuss them and make sure that we've got that point.

We - this is I think the - so this would be a meeting to - just to primarily to understand how we deal with the process of disagreement and in a sort of relatively streamlined and not - and helpful way sort of by its nature. So just this does not - just want to make that point.

This would not be the GNSO coming in wanting the Board to, you know, rule on specific matters of disagreement or anything. That's not the role. The role of the Council is to manage the policy process, not to make policies, so. Hopefully we will have got - hopefully we will have - early identified points of disagreement and then work on that process is what we'll be doing here. Just trying to want to clarify.

James Bladel: Thank you David. Donna.

Donna Austin: Thanks James. Donna Austin. Just to respond to David. I guess in my mind this will be a conversation around substance, not so much on process. So it could be, and this is why we have to flesh out the idea. It could actually be that this is a conversation between the GAC and potentially those working on the PDP Working Group. But the Council is involved.

So that's, you know, we do need to understand how this works in practice and what it is we're trying to achieve. But essentially the ultimate goal here is to not get ourselves in that - into that position of GAC advice is inconsistent with PDP recommendations.

We already know that with the subsequent procedures there are a number of topics that are sensitive for the GAC and probably their thinking is very much at odds to how the discussions that are going on within PDP Working Group.

So it's a responsibility for the Council because we're trying to manage the PDP process and make sure that we do get good outcomes and finding a way to have those discussions early before we get into the situation of, you know, two years of really hard work on PDP recommendations and then GAC advice is inconsistent with that. So I guess that's my thinking on why I suggested this.

David Cake: If I can just quickly respond. Well in that case, that would be fine but we would need to be at - the meeting would need to be not with the GNSO Council but with the PDP Working Group members. And the role of the Board in that would be less clear because as said the Board should not - would not be (actually) weighing in with any opinions either way, so.

So that is something we have to think about I guess moving forward as to what we can do and what will be useful.

James Bladel: Okay. Thank you. The queue is clear. I don't know if anyone else wanted to make any other comments on this topic. Steve.

Steve Crocker: No. I - we can move on to something that's harder.

Mike Silber: Just so that we've got an action coming out of this because we do have Board support to tracking actions. Can I suggest Donna that you and one or two more people from the GNSO Council engage without planning team and at the moment I'll suggest (George) and (Rom).

And then staff can reach out to the GAC and we can actually start working on this for Copenhagen instead of looking at this as a nice idea but we get stuck in the weeds as to who, what, et cetera, and it doesn't happen. So I would suggest two small groups and then we'll engage the GAC and their planning team in doing the same thing.

James Bladel: Thanks Mike. We'll take that as an action. Just want to note that Goran was able to join us during that conversation. Goran, I don't know if you have any opening statements or remarks; if you'd like us to dive into the next topic.

Goran Marby: Please dive in.

James Bladel: Dive in. Okay. Fair enough. Okay. The next topic that we've identified is something you've probably heard quite a bit about this week. And that is the ongoing discussion regarding the differences - potentially fairly minor differences in substance but significant differences in procedure in - between the GAC advice relating to protections for IGO names and acronyms.

And the completed GNSO PDP that was submitted to the Board I believe in early 2014 as well as the ongoing PDP that addresses the question of IGOs and their ability to access curative rights like the UDRP.

I want to just have a free flowing discussion here and certainly to I believe it was perhaps Mike your point earlier about just diving into the substance or Bruce. We want to - we don't want to start from a position of assuming that everyone is fully briefed on this particular topic. It is a complex issue.

It's been going on for a very long time. I think no one on the current Council was involved when it first came through the Council. So it's outlived all of us at this stage.

And so we wanted to maybe just open the floor for questions and answers, where we are, what our status is and what we believe to be the next steps. But I think generally speaking we are attempting to pivot from the past to identifying a path forward. And that's the challenge that we have in front of us in this particular meeting.

So I don't know if anyone wants to open the discussion on this or if we have questions from perhaps members of the Board about, you know, what the heck an IGO protection topic even is. I wouldn't blame anyone. In fact I would envy anyone that wasn't following this very closely, so. We can start with Phil. Go ahead.

Philip Corwin: Thank you James. And welcome Board members. I'm again Philip Corwin, one of the BC Councilors and I'm staking my capacity as a co-Chair of the currently active working group on curative rights processes for international intergovernmental organizations.

My co-Chair who's not with us in Hyderabad is Petter Rindforth, a former Councilor and member of the Intellectual Property Constituency. I just want to note that throughout the work of our working group we have received exceptional staff support from Mary Wong and Steve Chan. And without their support, we could not have possibly made the progress we have.

I just want to bring you up to date at very high level where we are in our process, which is separate from the preventative measures, which have been a matter of inconsistent recommendations from the GNSO and GAC advice for some time.

We are nearing the end of our process. We are - actually we held a session this morning at which we unveiled and discussed the draft recommendations section of our preliminary report. We expect to put the preliminary report out for public comment by the end of the year - toward the end of December. And that will kick off the public comment process, which will end in early February.

We probably - depending on the volume of comments, we probably won't have a final report out for GNSO Council consideration by the Copenhagen meeting. We'll be close and we should have it out shortly thereafter.

I do want to say we've been - I believe when people see this preliminary report, they will see the tremendous energy and effort and the quality of the work and the fact that we've striven to base our recommendations on a firm understanding of existing law and ICANN's appropriate role in making policy recommendations.

We expected to be finished sooner but because the issue of ICANN of the recognized scope of IGO judicial immunity was a key issue for our working group, we felt the need because of our own lack of expertise in that area to engage the services of a recognized outside expert in international law.

I want to thank ICANN for providing the extremely, extremely modest four figure funding that paid for that work and that legal memo will be part of our final report.

And we did make proactive average to both IGOs and the GAC early on in our work to engage with our working group and directly provide their views with us with the response. Petter and I met with the Chair and two Vice

Chairs of the GAC at the - in Buenos Aires to let them toward the beginning of our work to let them know what our plans were and to urge engagement by GAC members.

For whatever reason GAC members chose not to engage directly with our working group. We also engaged with IGOs early on. And the response we got was because of their dissatisfaction with the recommendations of the prior PDPs. They would not engage as members.

Notwithstanding that fact, we did receive informal input from those folks throughout our work. We had a session in Helsinki in which the legal counsel of three well known IGOs engaged with our working group in their personal capacities, not as official representatives of their organizations.

So that the IGO small group proposal, which the Board conveyed to the GNSO last month. While we weren't familiar with all of what would be in it, we knew that we've known the basics for some time.

I think when you see our report, you will see that even though our recommendations are not identical to the IGO small group proposal, they nonetheless reflect the viewpoint we've always had that we wanted to help IGOs and to make sure that they had ready access to a robust curative rights process to address any abuse of their names and acronyms going on on the domain name system.

And then in some instances our recommendations are actually broader than what they've asked for though not imprecise with the way they've asked for them.

So I would conclude by asking the Board to keep (it on) until our recommendations and report are final and if the GNSO decides to approve it and convey it to the Board to look at it then. But I just - there is a difference

here between this issue of curative rights process, which is still the subject of an ongoing PDP and the prior preventative rights.

And it, you know, wouldn't - would be premature I think for the Board to take a position on this until they see the results. We intend to take any and all public comments we receive under advisement and to adjust our recommendations accordingly.

But again, I want to assure you that we've been very diligent in our work. We have reached out to both GAC members and IGOs and asked them to engage. And the work product is solid in my opinion and does provide recommendations, which will provide IGOs with great clarity and allow them access to curative rights processes without trademark registrations based on other legal principles and allows them to bring an action in a way which does not require them to concede any aspect of their jurisdictional immunity.

And I'll stop there. But I just wanted you to understand at a high level where we are in our work and what we're going to be recommending shortly. Thank you.

James Bladel: Thanks Phil. And just to highlight one point of Phil's statement and update on that ongoing work is that there's two pieces to this puzzle. It's probably more than two. But let's just say two big pieces to this puzzle.

One of them is the concluded PDP from 2014 and the other is the ongoing work that's being led by Phil and Petter. And I think the concern is that - or at least early indications are that there will also be differences that need to be reconciled from the PDP process anticipate versus the proposal or the advice coming from the GAC.

So the situation that we're in with the old PDP we're going to see a repeat of that situation again. But I have Bruce and then Steve, did you want to.

Steve Crocker: I was going to say Bruce and then (Chris).

James Bladel: Okay. Bruce, (Chris)...

Bruce Tonkin: Yes.

James Bladel: ...and Heather.

Bruce Tonkin: Thanks James. And I think one of the things that would help in framing these issues is really anchor them back to what actually is the mission of ICANN and what's our objective here because I think again often these conversations we're down in the weeds and people lose track of what are we actually trying to achieve.

And so if I could kind of summarize at least from my perspective. So we - our mission is basically about the Internet identifiers. And it also is relating to the security and stability of those identifiers and the use of them. And we also have an obligation to comply with national laws and I guess international trade is (as they are) instantiated as national law.

So if we look at that principle then look at what we're trying to achieve, I would say in this case basically what we're saying is we have a group that's concerned about the potential for confusion or misleading the public with a name or an identifier that is somehow being used to deceive or confuse the consumer.

And certainly registries, registrars have dealt with that problem. Phishing attacks is very common and most registries, registrars will take down sites that are clear phishing attacks that are encouraging people to put in personal data and being deceived.

I'm looking at one example on my screen at the moment. I've looked up who.com.au and who, W-H-O is also an identifier that's used by the World Health Organization.

And I'd invite anyone to have a look at who.com.au now. I don't think you'd be confused that who.com.au is the Who Magazine. And it's pretty obvious looking at the pages here it's about someone's wedding, someone's hair transformation. That this isn't where you get official health advice.

So our objective here is making sure that identifiers are not used to deceive people. There's absolutely nothing wrong with something like who.com.au. But if we saw that this was actually issuing official health advice and try to masquerade as the World Health Organization, you know, that would be a different scenario. So I think we just got to be clear what we're trying to solve. That nobody has exclusive access to any identifier.

With respect to laws, we obviously look at those laws. But even trademark law there's no exclusive user to a name. The trademark law basically gives you the right to use a name for a brand for a specific purpose.

I can use Microsoft if I want to name my new beach buggy and (Goodrich) doesn't have any software in it. You know, so I think we just got to keep perspective here and the perspective that's anchored these conversations.

When you get into a dispute up level a bit and say what's the mission here, what are we actually trying to solve and particularly what's within our mandate as ICANN and then sort of move on from there. It's always come back to what's our mission and what problem we're trying to solve. And then I think you can have that conversation about, you know, how do we go about this.

James Bladel: Thanks Bruce. (Chris), you're up.

(Chris): Thank you very much. Thanks Bruce as well. I agree with you. I'm slightly worried now that if Microsoft still has a listing I probably rushed off to register the trademark in whatever beach buggies are in the list.

I agree with what you said. I just want to address three things. So first of all, taking what you've said, I agree with that. Just to make sure everybody knows what we're dealing with, we have GAC advice that splits into two kind of - the first piece of advice is (basically) -- I'm obvious paraphrasing here -- IGOs are special and they're entitled to some special treatment. So that's the first piece of advice.

And then we have the advice that said reserve them. And that's, you know, Bruce is talking to that and that's why the Board went back to the GAC almost immediately and said this is not going to fly. So I just wanted to say that.

Secondly, I wanted to acknowledge what Philip said and I want to be - make it very clear that the Board does have an open mind. Okay. And the third thing I wanted to say was just to acknowledge the call that took place -- and I forget (unintelligible) it wasn't that long ago -- with some people from the GNSO and the Board and GAC.

And just acknowledge that for me and I think also for Steve who is on the call that the sort of takeaway from that is that it looks likely that at some point the action from the Board is going to be required. And I think we said that at the end of the call.

I - from listening to what Philip just said, I think certainly we should not do anything at all until the second PDP has completed its - gone through - in its first process. (I will then) to encourage, you know, talking and so on and so forth.

I think for example if I could suggest that if your characterization of your recommendations - the way you characterize your recommendations I think

and if you felt willing to talk to whatever guise is appropriate to talk to the IGOs and explain them to them so that they're not just seeing them on a flat piece of paper that might be a useful thing to do. But that's entirely a matter for you.

So I think that's - I hope that sort I delivered the key point that we have an open mind and we should wait until you finished your work.

Philip Corwin: Just in terms of the IGO - Phil for the record. In terms of the IGOs being aware of our draft recommendations, they are very aware. We've been aware that even though they haven't been formal members (unintelligible) been carefully.

Everything we've done has been totally transparent and on the record. They've been monitoring the transcripts and MP3s of our work. Our draft recommendations have been circulated. (Find) out lists for both members and observers. They were unveiled at a session earlier this morning. So they are very familiar with what we're coming up with. And that's all I'll say. We've - there's no way they couldn't be aware if they have any interest in this.

(Chris): Sorry. I agree and I accept that. And perhaps I didn't put myself very clearly enough. I understand that. What I meant was you made some - you made some comments about, you know, we think they provide why the - (perhaps) I'm just saying I wonder if a chat that explains why you think that and - rather than just relying on the word itself but actually an interaction where you say we think the reason why it provides more is this. That might be helpful. That's all I'm saying. Thanks.

James Bladel: Thank you (Chris). Heather, you're up next.

Heather Forrest: Thanks James. Heather Forrest. And (Chris), thank you very much for your comments. My question is a follow up to what you've said. Other than the final or the initial report of the Curative Rights PDP, is there anything else by

way of information that the GNSO can provide to the Board in relation to this issue to help the Board in its deliberations? Thank you.

(Chris): I can't think of anything at this stage. If you were to have conversation and it would be helpful to get a sort of temperature feel of how those are going. But other than that, I can't think of anything. Thanks.

James Bladel: Thanks (Chris). And we would welcome exactly that. If you can provide anything in the interim time while the ongoing PDP is concluding. David.

David Cake: I just want - and I know this won't really be news to most of the Board. But just to - it occurred to me that part of the issue here about the 2014 concluded PDP is some unawareness I think from some people involved in just how constrained what the GNSO is able to do.

This is a completed PDP. The Council and the GNSO is not in any way entitled to negotiate about what should be in a completed PDP. We have very strict rules about under what conditions we are able - we able to go back and reopen a PDP.

Someone being really, you know, any group being really unhappy about it is not sufficient reason and very often someone is very unhappy about a PDP. We - if we would go back and revisit those things, just want to make it really clear that the GNSO is very constrained in how it can reopen and revisit those recommendations.

And putting the approach about what should be changed in a way that makes it easier for the GNSO to reconsider and reopen would be something that really has to be done. We have to be told why the PDP is flawed, what - you know, if there's a mistake we have made, what mistake we have made (fairly).

And it needs to be specific. We need to be asked. You need to be given a rationale to - a fairly decent rationale to reopen a PDP, not simply be told that no - more the results are not acceptable. So yes, just make that point.

It would be very much - very helpful if we in the reconsideration of those issues from the 2014 PDP if the GNSO is to reopen it that a full understanding of how constrained and what we are in the conditions for reopening it are understood by everybody including the GAC. Thank you.

James Bladel: Thanks David. And just to sum up, I think at our interaction with the GAC whatever day that was, we've indicated that we do have a mechanism but we are very reluctant to go down that path. We would certainly entertain that if the Board for example were to reject our PDP recommendations that are currently standing and waiting a decision.

We would also consider going back to that if we had a very clear and compelling failure in the rationale or information that was considered by the PDP originally that resulted in I guess faulty recommendations.

If we could be, you know, demonstrated that there was compelling missed on the part of the PDP, then certainly that would be another occasion for the GNSO Council to reconvene that group or as much of it that could be and take up this issue again.

But absent to one of those triggers, we are constrained in what we can do, as David indicated. So but thanks for raising that David. Cherine, I think you wanted to go next and then Donna.

Cherine Chalaby: Thank you. I wanted to go back to Phil. You said something about you wanted to make sure the Board keeps an open mind and (Chris) has responded to that and I fully agree with (Chris) on that.

And I just wanted to, excuse me, dig deeper and see is there a concern that the Board was not going to keep an open mind or we were going to jump to conclusion. Just make sure that we've addressed your concern fully.

Philip Corwin: I don't, excuse me. Speaking just for myself, I didn't have a huge concern but I just wanted to make the point that this is an open PDP. We're getting toward the conclusion of the process.

And my understanding of the process under the bylaws is that the proper way to handle the CRP part of this IGO issue, which is separate from the predecessor preventative protections for it, is to let us conclude the process, deliver a final report and recommendations to the full Council.

Next spring let Council accept or reject it. And if it accepts it, convey it to the Board and then the GAC if it's unhappy, what it can provide whatever consistent or inconsistent advice. And that is - under the bylaws that's the proper way to handle the curative rights process portion of this IGO issue.

So I didn't have a huge concern but I just thought it was good to say, you know, it'd be premature for the Board to take a position for or against our potential recommendations before we complete the bylaws process.

Cherine Chalaby: Okay. I understand now. Thank you.

James Bladel: Thanks Phil and Cherine. Next up is Donna and then Rubens and then we're probably getting close to the point where we should move on. Donna.

Donna Austin: Thanks James. Donna Austin. (Chris), I just wanted to respond to something that you suggested in relation to the Curative Rights PDP. And maybe Phil this is something we should consider.

The Curative Rights PDP is close to producing an initial report. And there'll be a comment period on that. Perhaps it might be a good idea if at the time that

that initial report is published that we try to provide a briefing to the GAC on that initial report so that they can be well informed in providing comments to the comment period. So I think that's something we should consider and indeed offer to the GAC.

Philip Corwin: Yes. I'd be happy to be - add such a briefing. I'm sure that - I don't want to commit but I'm pretty sure Petter would be willing if whatever the format. And in fact during our working group session this morning, I had mentioned to staff that we should make sure that when we issue our preliminary report around late next month that we should make sure it's conveyed to the GAC and the IGO small group so they're aware.

They probably would be aware but to make absolutely sure they're aware that it's out there and that the comment period is just opened and that we welcome their input and that we're going to give full credence to whatever - doesn't mean we'll accept and change the report based on their comments but we're going to take them under full advisement.

And anything - if they point out a mistake we've made in interpreting the law or a problem we haven't identified that needs to still be addressed, we'll make further changes before the final report is issued.

Donna Austin: Thanks Phil. And just - I know we're talking about IGO protections at the moment but one of the other challenges for the Council in terms of the two outstanding recommendations from the PDP is that it's - this IGO issue is to some extent joined at the hip to the Red Cross issue. And we just wanted to be sure that that's not - that we don't forget about the Red Cross issue because we focus so much on the IGO protection. So it is on our radar as well.

James Bladel: Thanks. Bruce, is that a follow up to Donna or - okay. Go ahead.

Bruce Tonkin: It's a pretty quick follow up. But I think one of - my understanding is one of the things that's unique in the Red Cross is there's unique national laws that (are like) protecting Red Cross that we can anchor against. And again, I think if we come back to the principle, which are where there's a national law, we identify the national laws that are involved and then we move from there.

So I think it's actually a different case. Well actually a specific case. But there is actually national law there and I think it's worth reflecting on that.

James Bladel: Thanks Bruce. I have Rubens and then Keith. Oh Keith, you want to - okay. So Rubens, you get the last word.

Rubens Kuhl: Rubens Kuhl, Registries Stakeholder Group. From the letter that we got from the Board, one of the proposals was - of the small group was to allow IGOs to file the (split) resolution on domains containing their acronym.

I'd like to point out that this could lead - for instance make the United Nations, which is UN, file a (UDRP) on (fun.com). And that would be no fun at all. So that's something that we have PDPs for. This is a detail that won't be overlooking the PDP. What would be the consequences? And that's the problem of doing small group activities that fail to address this type of overlook. So that's what I like to point out.

James Bladel: Thanks Rubens. (Chris), you had a...

(Chris): Yes. Just to say that that's not my understanding of what it says. And if it did say that, then it shouldn't. It's - that would - that's crazy. I mean that doesn't make any sense at all. And I don't think anybody intended for that to be the case including I suspect the IGOs. So if it says that, then I apologize. It shouldn't say that.

James Bladel: Thanks (Chris). Okay. So just drawing a line under this if I can editorialize like for members of the Board and for members of the audience or those

participating. If this is your first exposure to the IGO issue, welcome to the party. It gets worse from here.

The key here is that this is really little and less necessarily about the IGOs and the IGO acronyms and there are broader issues here at stake. It's kind of why you see such a diverse and often contentious group like the GNSO speaking with essentially one voice, which is that this is the community policy development process running up against a very, very specific proposal coming from governments and IGOs.

And from my personal perspective, when I see - I think the more specific and the more detailed the advice we get, the more likely we are going to run into these issues that need to be reconciled somehow and we don't necessarily have a very clean way to do that.

So it's important that when you hear this from us, when you hear this from the GAC, when you hear this from IGOs in the hallways, if they manage to kind of have one-on-one conversations with folks, when you read this in communiques, this is really the broader issue that we're trying to hammer out is this reconciliation between very specific advice and very specific PDPs. And what do we do when they miss?

So that's what brings us here today. But as I mentioned at the outset, we are trying to be mindful of how we got here but also try to find a path forward. I mean continuing to rehash the timeline and the chronology is - I think that's not really getting us - that's not really bearing fruit anymore, so.

And we'd be happy to help provide any other information if there's anything missing or anything that could assist your decision-making. Does anyone else from the Board or the GNSO have any other topics? I think we go until 1:30. Is that correct?

Man: (Yes).

James Bladel: Okay. So we've got two minutes.

Man: (Two minutes, yes). (Rinalia).

(Rinalia): Thank you James. (Rinalia) speaking. I just wanted to know what the progress is with regard to the implementation plan for the GNSO review recommendations. Is that on track? Can we expect that to - can we expect to receive it in December?

James Bladel: So I believe the Councilor who is on point for that is not here. But the last status update I heard was that it was on track. And I know that when we get closer to the delivery date, we will probably have an update. But latest information is all systems go. Steve, did you have any other thoughts? Bruce, Goran? Anyone?

Bruce Tonkin: My only comment would be I noticed you've identified some of the areas we're having difficulties. But what would be a sort of - where are your top three policy projects that you're applying a lot of resources to just so the Board has a sense of what are the big policy development activities on in the GNSO at the moment.

James Bladel: So did you skip my presentation on Saturday Bruce?

Bruce Tonkin: Oh, I think I was sitting next to you.

James Bladel: Yes. That's true. You were. You're sitting right next to me. I remember that. So we could run down but basically we have ten policy development work streams in various stages of the PDP lifecycle.

We have four including the one that Phil provide a fairly comprehensive update. We have three others that are under way now including a review of all rights protection mechanisms. We have a review of the registration data's

system RDS, which is fancy way of saying Whois. And we have the subsequent rounds - subsequent topics for the subsequent rounds of new gTLDs.

Those are consuming a significant amount of community bandwidth. And we are expected because of the way those PDPs are structure and because of the breadth of their scope that they will be ongoing for some time if not a number of years to address those issues.

So I would say those issues. (Rinalia) mentioned the GNSO review and the implementation plan that we're developing there. And then we have a number of other issues relative to internal housekeeping particularly our own bylaws as how we will become permanent participants in the empowered community.

Man: Just a small detail. I think Whois is a sloppy way of saying registration data service.

James Bladel: Well, you know, old habits die hard. That brings us to our time. And I wanted to note for those of you who maybe saw the reception last night that this is the last time we'll see Bruce, one of our GNSO appointed Board members. And we certainly thank you for your service. You are nine years of service on the ICANN Board.

We note that, you know, you've - on all of the important issues over the last near decade you've been front and center. And we certainly appreciate you donating your time and your sweat and your expertise to the entire community. And so thank you for that.

Steve Crocker: I want to add - excuse me. I want to add something. Bruce is used to this. This is already - going to be a few more I suspect. As James said, Bruce has been on the Board for nine years. And we'd keep him for another nine if we could.

I think we also owe you a big round of applause for sending us one of the best Board members that we've ever had. So thank you on behalf of the Board for coughing up one of the very best of you and one of the best that I've ever had the pleasure to work with. And so you set a high bar. Becky looks pretty good too but time will tell. Thanks.

James Bladel: Thank you. And thanks everyone for attending. Hope you enjoyed the session and I guess we can stop the recording.

END