

**Cross Community WG discussing Recommendation 6 of the new gTLD process
(Rec6 CDG-WG)**

TRANSCRIPTION

Monday 23 August 2010 at 20:00 UTC

Note: The following is the output of transcribing from an audio recording of the Cross Community Working Group discussing Recommendation 6 of the new gTLD process (Rec6 CDG-WG) meeting on Monday 23 August at 2000 UTC. 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 audio is also available at:

<http://audio.icann.org/gnso/gnso-ccwg-20100823.mp3>

On page

<http://gnso.icann.org/calendar/#aug>

(transcripts and recordings are found on the calendar page)

ALAC

Cheryl Langdon Orr - ALAC chair – co-chair Rec6 CDG-WG)

Alan Greenberg - ALAC

Olivier Crépin-Leblond - ALAC

Carlton Samuels -ALAC

Evan Leibovitch – ALAC

Commercial Stakeholder Group

Marilyn Cade - CBUC

Jon Nevett - CBUC

Non Commercial Stakeholder group

Avri Doria

William Drake

Mary Wong

Robin Gross

Registrars Stakeholder Group

Stephane van Gelder - RrSG - GNSO Council vice chair- Council liaison to group

Registries Stakeholder Group

Chuck Gomes – GNSO Council chair – co chair Rec6 CDG-WG

Ken Stubbs

Nominating Committee Appointees

...

Individuals

Richard Tindal

Dirk Krischenowski
Jothan Frakes
Steve Pinkos
Stuart Lawly
Paul Stahura

GAC

Frank Marsh – GAC - New Zealand representative
Bertrand de la Chapelle – GAC - French representative

Staff

David Olive - VP Policy Development
Liz Gasster - Senior Policy Counselor, ICANN Policy Support
Marika Konings - Policy Director
Gisella Gruber-White – GNSO & At-Large Staff Support
Glen de Saint Géry – GNSO Secretariat

Apologies:

Heather Dryden - Interim GAC Chair – Canadian representative
Michele Neylon – RrSG
Caroline Greer
Sebastien Bachollet – ALAC

Coordinator: At this time the call is now being recorded. If anybody has any objections, you would disconnect at this time. Thank you. You may now continue.

Chuck Gomes: Okay. Welcome to everyone to this call, the first one of this group although there's been a great amount of discussion, very good discussion, on the list. The - Cheryl Langdon-Orr and myself are co-chairing this meeting. Heather Dryden is on holiday and will be for a couple weeks. So she won't have access I understand while she's gone.

It looks like we have a pretty good variety of participants from different organizations. Liz or Marika, I wonder if I could get you to go through the list of people identified in the Adobe Connect room and let - then we will also identify anybody who can't get into Adobe Connect so that we can identify them as well.

And if we could just find out what organizations they're from. And let me qualify that. It does not mean you're representing that organization. We would just like to know where you're from. So whether it be the GNSO, the ALAC, the GNSO, the ccNSO or just an individual, whatever that may be.

So I can call but they're probably participating in our individual capacities for the most part. That may vary by individual. But Liz, can you do that or Marika?

Liz Gasster: May we ask Glen to take the role please?

Chuck Gomes: Oh sure.

Liz Gasster: Thanks.

Chuck Gomes: That's fine.

Liz Gasster: She sounds better than I do.

Glen DeSaintgery: Sorry, was that me you asked Liz?

Liz Gasster: Yes Glen, please.

Glen DeSaintgery: Yes. Certainly with pleasure. Good morning, good afternoon, good evening everyone. On this first call we have Mary Wong, Ken Stubbs, Alan Greenberg...

Chuck Gomes: Glen. Glen.

Glen DeSaintgery: Yes. And should I tell you from where they are.

Chuck Gomes: Yes.

Glen DeSaintgery: Yes. I'm terribly Jeff.

Chuck Gomes: Yes please.

Glen DeSaintgery: Mary Wong, NCSG GNSO Council; Ken Stubbs, Registries Stakeholder Group; Alan Greenberg, ALAC; Jothan Frakes, individual; John Nevett, Commercial and Business Users Constituency; (Derek Christianofsky), individual; Olivier Crepin-Leblond, ALAC; (Stuart Lawly), individual; and I believe - do you want me to add to the affiliations, Chuck, if they are individuals?

Chuck Gomes: Sure. That would be - that would be okay. You don't need to go back over the others that...

Glen DeSaintgery: Okay. Marilyn Cade, Chair of the Business Constituency; Richard Tindal, an individual. Richard, can you please fill me in on your exact affiliation.

Richard Tindal: I'm as individual as you can get. It's just me.

Glen DeSaintgery: Robin Gross, Chair of the NTC and the Non-Commercial Stakeholder Group; (Paul Stahura), individual. Can you also fill me in more on that please (Paul) - on your affiliation? (Paul). We'll come back to him.

Frank March who is from the GAC.

(Paul Stahura): No affiliation for (Paul).

Glen DeSaintgery: No affiliation for (Paul). Thank you. Steve Pinkos who is individual. Can you also fill me in please (Paul) - please Steve?

Steve Pinkos: Yeah. On behalf of Demand Media.

Glen DeSaintgery: Demand Media. Thank you. Bill Drake from the NCSG and on the GNSO Council; Evan Leibovitch who is ALAC; Chuck Gomes who is the Chair of the GNSO; Avri Doria who is the Chair of the NCSG; Bertrand de La Chapelle who is from the GAC. And would you like to have another affiliation Bertrand?

Bertrand de La Chapelle: No really.

Glen DeSaintgery: Cheryl Langdon-Orr who is the Chair of the ALAC; Stéphane Van Gelder, Registrar Constituency who is the Vice Chair of the GNSO; and Carlton Samuels who is At Large. Is that right Carlton?

Woman: He's ALAC.

Glen DeSaintgery: ALAC. Sorry, ALAC.

Woman: And he's on leave.

Glen DeSaintgery: And we have from staff Gisella Gruber-White, Marika Konings, Liz Gasster and myself Glen DeSaintgery. Have - just let me see if anybody's joined in the mean - and David Olive. I'm terribly sorry. David Olive and have I left off anybody else?

Bertrand de La Chapelle: Glen, this is Bertrand. Just one position of course. GAC and France representative; misunderstood your question.

Glen DeSaintgery: Thank you very much Bertrand. And Frank shall I add your details too.

Frank March: You can add me as New Zealand representative if you wish.

Glen DeSaintgery: New Zealand. Thank you very much.

Frank March: Spelled M-A-R-C-H. I think you said (Marsh). March.

Glen DeSaintgery: Yes. March. Sorry, it was written Marsh on there.

Frank March: That's all right.

Glen DeSaintgery: (Unintelligible) meeting you. Thank you Chuck. Over to you.

Chuck Gomes: Thank you very much Glen and thank everyone else. Is there anyone on the call who was not into the Adobe Connect room?

Man: Yeah. I'm not - I haven't been able to get a connection this morning. Unfortunately I'm between sites. And so I'm not actually able to get onto the Internet at all where I am.

Marilyn Cade: And Chuck, it's Marilyn. I'm not but I hope it's temporary.

Chuck Gomes: Okay.

Evan Leibovitch: Chuck, this is Evan. I've - sorry. This is Evan. I've had some problems getting into Adobe Connect. I do have the ability to ping Cheryl to raise her hand on my behalf if necessary.

Chuck Gomes: Okay. All right. And for those of you who aren't in the room or if you can't raise your hand, please speak up and I'll put you down on a list. Otherwise I'll be watching the hands in the Adobe Connect room so that we can handle people in order that way, so.

All right. Well, the purpose of this call is really to look at the draft terms of reference and thank you very much to Liz Gasster who has incorporated just about all of the suggested edits into one document that's in the Adobe Connect room and hopefully those that aren't in Adobe can have the document self-loaded on your computer so you can look at it that way with the red lines and so forth.

And the goal, unless there are any objections to that, would be to go through those and discuss the various edits in order as we go through the document. As far as the status of this group, some of that is still up in the air. The GNSO Council certainly has not authorized anything particular with regard to this group because our meeting isn't until this next Thursday.

We will be talking about that. And it's not as if the GNSO has to authorize community groups per se. There's really no procedures for community working groups although we've done several of them. So we have some historical precedent.

But the GNSO Council will likely have something to say in terms of official GNSO participation in this. And we'll know more about that after the meeting on Thursday for the GNSO Council.

Cheryl, do you have an update in terms of ALAC participation?

Cheryl Langdon-Orr: Well we're planning on in terms of the ALAC appointing a formal liaison to act in the standardized now in the draft form capacity at our meeting later today as well as I trust as a result of today's meeting have with this call - have a final enough set of terms of reference for the ALAC to endorse those.

Chuck Gomes: Thank you very much. And Frank, do you have anything to add on behalf of the GAC in Heather's absence?

Frank March: Chuck, the only thing is that early this morning my time two comments came in. The first one's from other members of the GAC. As you know, I was basically happy with the text as it was. But Bertrand has come through with suggestions, which I think he regards as clarifying. I need to speak to those since he's on the call.

The other comment came from Suzanne Sene. I circulated the gist of that to the list about two hours ago. And it was basically a plea for the original wording from the GAC letter to go back into the first task which

I think, and Bertrand, you may be able to correct me on this because I haven't been able to confirm that but it's the deletion of all objections that could result in intractable disputes was the concern there.

But since Suzanne did not spell that out exactly. I have to go back to the original wording of the letter. Those are the two comments that come from the GAC.

Chuck Gomes: Thank you very much Frank. I appreciate that. And what I asked Frank to do in response to his email on the list was to bring those - the respective issues up as we come to them if there's not someone on the call to do that so that we can cover them in order.

Frank March: Sorry. I just seen that email. Chuck, I had to leave before I picked it up.

Chuck Gomes: Oh okay. So if you would just bring those - bring them up as we get to the various items, I would appreciate that unless someone else brings them up. Certainly Bertrand like you noted is able to bring those - his points up when we get to those areas.

We do have a lot of people on the call that that's great. To keep things moving, I would ask people to be as brief and to the point as possible so that we can do that.

I see Ken Stubbs hand up. Ken.

Ken Stubbs: Yeah Chuck. Just a real quick comment please. If you people - if the co-chairs would take a look at the notes in the chat area, sometimes there may be questions or something that come up there that would be

very easy for you to answer without going through the putting the hands up process. Thank you.

Chuck Gomes: Thank you Ken. If you do have something that you want to say for the group, I would appreciate you would raise your hand. I'll do the best to look at the chat. I find I'm not very good at that when I'm trying to manage a meeting. Cheryl can help me on that and Liz and Marika probably but I have...

((Crosstalk))

Ken Stubbs: I'm sorry. I'm was just trying to real quick...

Chuck Gomes: (Unintelligible).

Ken Stubbs: My comment was what was the last precedent that they had for this kind of a community working group and I was just trying to get an answer real quick.

Chuck Gomes: Sure Ken. Let's talk about that. We've had community working groups with - we have one going on right now with the JIG. We've had them with other things with regard to IDN and so forth. So at the same time, as I think everyone knows, there aren't - there is no such thing as a PDP in the bylaws for community working groups.

So this is something probably that we all need to work together on going forward. But there is - there are certainly lots of issues that we've dealt with in the past that go beyond just one particular supporting organization or advisory group.

So I think everybody recognizes the need for that. How to do it is about all we have to go on is what we've done in the past. And go from there. That's not a very good answer Ken but hopefully that helps a little bit.

Ken Stubbs: Thanks Chuck. I appreciate it.

Evan Leibovitch: Hey Chuck this is Evan. Sorry, I can't put my hand up. I just got a quick...

Chuck Gomes: Yeah. You're next in the queue after Cheryl, Evan.

Evan Leibovitch: No problem.

Cheryl Langdon-Orr: Thanks. In fact I had my hand up originally for Evan but being the beast I am I'm going to take advantage while I have the microphone. Thanks Chuck. Just to - a small add on to what you were saying to Ken. Of course, you know, there's nothing wrong with having the precedent set with something as clearly widely cross community as this workgroup is but it does mean that we have to remember that - to establish terms of reference and good rules of engagement to begin with is very important.

Frank may wish to follow up on this after Evan has his entered statements as well. But one of the things that we will all have to come to terms with is the very different ways that the various ICs and SOs have traditionally worked or will be working and putting out inputs into this process.

Some of us working a far more interactive dynamic list ways. Others work in a text based way. And some of us who are used to more in the

common traditional PDP processes will find this is perhaps a slightly variation on a theme model.

But from the advisory committee point of view, and again Frank please jump in here, both the GAC and the ALAC have a direct route to the Board, so we could be giving our advice either separately or jointly. But it would be maladaptive if we weren't working hand in glove certainly with the GNSO and with the wider community.

And I think it's an important precedent to be said for something as important as this is. And if it's not part of historical context for us to drag out from the past, obviously things like the ccTLD IDN Fast Track give us a small basis but not exactly what we're trying to do here.

Over to you Evan.

Evan Leibovitch: Okay. I'll keep this quick Chuck. You were asking about if there were other things to put in for ALAC. I just wanted to make sure that in the document that you sent out, the GAC statement is clear. The GNSO Recommendation 6 is also there.

There isn't anything in the documents that exist right now that actually mapped out the current ALAC thinking on this. There have been some - there have been some mentions made and I was going to suggest putting in the statement that was put in on that both from the summit in Mexico City which I think was pretty clear and really hasn't changed - the position hasn't really changed significantly since then. So I would actually suggest if possible in the opening doc that you put out if you might want to put in a reference to that as well.

Chuck Gomes: So Evan, you're suggesting that we add looking at the - and I know you can't see it in Adobe Connect but there are five references in there right now, one that was added in the last few days. You're suggesting adding a 6th reference to the document you're talking about.

Evan Leibovitch: Correct. Simply because I mean at this point the GAC statement is well known. Rec 6 is well known. The ALAC position is not.

Chuck Gomes: Okay. No. No. I'm not arguing with it. I'm just clarifying.

Evan Leibovitch: Yes.

Chuck Gomes: So Marika, do you need Evan to send you the link to that or are you okay with what he's asking?

Liz Gasster: It's Liz. I do need...

Cheryl Langdon-Orr: We'll have our staff - we'll have our staff send it to Marika. It's not a problem.

Liz Gasster: This is Liz. (Unintelligible).

Chuck Gomes: Liz, are you - you have the pen or does Marika?

Liz Gasster: It's Liz. I do.

Chuck Gomes: Okay. Thanks Liz. Sorry about that. Okay. So thank you Evan. And with regard to the different operating methods of the different organizations, let me again encourage people not to make

assumptions that because somebody - a particular organization hasn't said something that they automatically are okay with what's been said.

Heather was quite clear to Cheryl and I that for example the different methods that the GAC use that there may not be heavy participation on these calls by GAC members. I'm very happy that there are GAC members on this call. But that more of their contributions may come via the list. So just realize that we all function a little bit differently in our various organizations and respect that.

Frank March: Chuck, it's Frank. Could I just add done thing to that?

Chuck Gomes: Please do Frank.

Frank March: I think (unintelligible) realized that my role is to try to coordinate GAC responses. It is not in any way to speak on behalf of the GAC. Nobody can do that except in terms of GAC statements. So I can interpret what GAC may mean or what reactions may come from the GAC but I cannot speak on GAC's behalf. That has to be clearly understood.

Chuck Gomes: Thank you Frank. That's very good to share. And let me say on my behalf as Chair of the GNSO Council, other than what's already been approved by the Council with regard to the recommendations and so forth, I also do not have, excuse me, any authorization to speak on behalf of the GNSO.

So I'm going to try and interpret what's already been done by the GNSO appropriately but please feel free to check me on that.

Marilyn Cade: Chuck. Chuck. It's Marilyn.

Chuck Gomes: Go ahead Marilyn.

Marilyn Cade: If I might just suggest that maybe really for the record that we just verify - we just state that all parties participating on this list are participating in their individual capacity and not speaking for any group. Put that in the record and leave it until someone changes that.

Chuck Gomes: That sounds like a good idea Marilyn. And in fact, if somebody - if one of the leaders of any of the organizations does have authority to make a statement on behalf of their organization, clarify that when you do that. Otherwise we will assume individual contribution.

Any other comments in that regard? Okay.

(Paul Stahura): I think Stéphane Van Gelder has his hand raised.

Chuck Gomes: Well I probably should call on him then. Stéphane, go ahead.

Stéphane Van Gelder: Thanks Chuck. Yeah. I just wanted to - thanks there (Paul) for helping out there. I just wanted to come back to one of the things that Cheryl was saying. I think it's important - Chuck touched on this at the beginning of the call. I think it's important to state the full - as far as the GNSO is concerned, this group is a bit of an anomaly so far.

It's been put together very quickly in an obvious real desire to get cross community communication going. But as Chuck mentioned, there has not been any discussion within the GNSO, any real discussion on this group. We have a GNSO Council meeting on Thursday so that will probably take place there.

And the GNSO I think would want to - would want everyone to be very careful with any attempt at looking at Recommendation 6 and trying to modify that in any way. And certainly before the GNSO has had a chance to discuss this group's existence, I think it would be - I think the group needs to be wary of going in that direction.

Marilyn Cade: Chuck, it's Marilyn. Can I make a clarifying comment please?

Chuck Gomes: Okay.

Marilyn Cade: I'd like to clarify that I think Stéphane is referencing the GNSO Council, not the GNSO. The GNSO is the sum part of the constituencies and the stakeholder groups and I fully expect the comments from the GNSO Council. But when we say GNSO, the broader term, so can I just clarify that Stéphane you were actually referring to the GNSO Council.

Stéphane Van Gelder: That's correct Marilyn.

Marilyn Cade: Thank you.

Chuck Gomes: Thank you Marilyn. Thank you Stéphane. Liz.

Liz Gasster: Thanks Chuck. I just want to ask whether you think that the terms of reference should be modified to capture Marilyn's point about the individual membership. And I had previously in response to a question on the list from Michele inserted under group membership and leadership the phrase including individuals and you could see that if you scroll down to Page 3.

But we could change that language to say, you know, including or leave that language and then say every participant will be acting in an individual capacity unless otherwise stated. If that capture - I just want to make sure we don't lose Marilyn's thought if people are expecting it to get inserted into the document.

Chuck Gomes: Thank you very much Liz. That sounds like a good idea to me. Is there anyone on the call who would object to that?

Cheryl Langdon-Orr: Quite the contrary Chuck. I had my hand up to say that that would be a very good idea and what's scary Liz is you're actually channeling my thoughts. I'm highly impressed.

While I have the floor however though, just back to Stéphane's comments. I don't think that work put towards this - these terms of references and our conversations and the list activity so far is in any way, shape or form going to be wasted because even if the GNSO Council decides to withdraw their interest or activity in this workgroup, I'm fairly confident that the advisory committee to the Board will continue.

Chuck Gomes: Thank you Cheryl. Now I don't have to call on you. So I appreciate that. Not seeing any other hands or hearing anyone else nor did I hear any objections, so Liz your suggestion is accepted.

Right now let's take a look at the reference documents. There were - there are four reference documents there. There were, excuse me, there were four. And one additional reference was added as a Number

5, which is the ICANN Articles of Incorporation. I think that came from Bertrand.

Man: Yes.

Chuck Gomes: And anybody object to that being added as a reference? And does anyone object to adding a 6th document as suggested by Evan? Okay. Thank you very much.

Going on to the name of the group, there haven't been - there hasn't been any discussion in that. Unless anybody has a issue on that right now, we'll move right past that.

Liz Gasster: And Chuck, it's Liz. I'm capturing all of - everyone's edits. I'm not doing it real time in Adobe Connect but I am doing it as we speak and I'll send around an update that reflects this after the call.

Chuck Gomes: Thank you very much Liz. Excuse my voice. The - going on to the purpose of the working group, there have been some edits there. The word primary was deleted. A phrase at the end of that first paragraph was added that says while protecting internationally recognized freedom of expression rights. Just stopping at that paragraph, any concerns or suggestions with regard to that paragraph?

Hearing none and seeing no hands, going on to the next paragraph, note that after Recommendation 6 was nor to revisit other established recommendations was added. And going on in that paragraph after the GAC, simply added the At Large Advisory Committee without affecting...

Liz Gasster: If I could just explain this edit Chuck because...

Chuck Gomes: Yeah.

Liz Gasster: ...there were actually three proposals just this first phrase. Originally the language said preserving. And it said with the objective of preserving. Then one or two people suggested to change it to with the objective of maximizing. And then a couple of people suggested alternatively to say without affecting. So there are actually, although it's difficult to see here, three potential options that have been proposed for this phrase.

Chuck Gomes: So those three options - would you repeat those three options Liz please?

Liz Gasster: Sure. Sorry it doesn't come out very well in the red lines. But the first way it could be phrased - the way it was originally was with the objective of preserving and then of course we have to get to this next phrase. But then the other - Option B is with the objective of maximizing. And the third option is without affecting. And then the phrase that follows.

((Crosstalk))

Chuck Gomes: ...resolvability. Correct?

Liz Gasster: Well we got then several edits for the next part because - what it originally said was the stability and integrity of universal - stability, integrity and universal resolvability at the DNS.

But as you can see there, we also had a recommendation from Bertrand to add the additional phrase, the objectivity of the evaluation process as noted in Principle 1, established rights - or sorry. That was I think (Milton)'s suggestion. Sorry. Established rights as noted in Principle G and the stability and integrity and universal resolvability at the DNS.

And you'll see quite a bit of comment also about the phrase universal resolvability. So there are actually several things to discuss in this paragraph.

Chuck Gomes: And before I call on Ken who has his hand up, Marilyn, could you share the comment that's in - on the screen but some of them don't see it. You probably don't either.

Marilyn Cade: Yeah.

Chuck Gomes: The one - your suggestion there.

Marilyn Cade: Yes. Thank you. I think we all suffer from being insiders. And in one place is the word Principle 1. In another place we use the word recommendation. That may all be very clear to you as an insider. But actually we should just - when we say Principle 1, we need to note what we're referencing. Because when you read, you know, references, we don't want people to have to go back and look in a reference to see what Principle 1.

So my point was just when you reference Principle 1 or later you reference recommendation, what is the document that's tagged to?

Chuck Gomes: So in those cases I believe the document is the new gTLD report - final report. Correct/

Marilyn Cade: I think that's right but, you know, the term - so we could put that in a footnote. We could - but we use the word principle, then we use the word recommendation. If we go back over to the previous paragraph, we say the purpose is not to revisit intended aim of Recommendation 6 nor to recommend other - to other established recommendations. I have no - I'm assuming we mean in the DAG but actually that's because we're insiders that we assume that. So my...

Chuck Gomes: Yeah. I thought actually the DAG itself I don't - well; the DAG of course references the final report of the GNSO. But it's actually I believe in all of those cases -- somebody correct me if I'm wrong -- a final report of the - that was approved by a super majority by the GNSO Council and sent to the Board and later approved by the Board.

Marilyn Cade: You're probably...

Stéphane Van Gelder: Chuck, this is Stéphane.

Marilyn Cade: Yeah. Yeah.

Stéphane Van Gelder: Yeah.

Chuck Gomes: (Yes Stéphane).

Stéphane Van Gelder: That is correct. You're referencing - when you're talking about either the principles or the recommendations, you're referencing the GNSO's final report which came out in August 2007.

Marilyn Cade: So all I'm asking for is just say that because there's also an Item 4 GAC principles.

Chuck Gomes: Yes. Thank you Marilyn. I think the point's well taken. Liz, you have that, right?

Liz Gasster: Yes I do.

Chuck Gomes: And just for those, and Ken I'm coming to you right away here. For those that aren't familiar with the final report approved by the Council, it basically had three categories of items. One of them was principles, one of them was recommendations and one of them was implementation guidelines. So that's just for those who may not be familiar with that.

Ken please. Ken Stubbs, you're on.

Ken Stubbs: I apologize Chuck. I couldn't tell whether you're calling me. First of all, I want to reinforce what Marilyn said to be extremely important especially in the terms of reference area that we be very specific because this is going to get looked at by a lot of people who are not familiar with all the abbreviations and all the references.

Secondly, I'd like to go back now if it's all right with you to the edits and so forth. And there's a comment opposite the - some various edits that says LG1. I'm not exactly sure what that means. But the comments that are made in there I think I would very much like to support the concept that we really do not have universal resolvability in the DNS today.

And we have to acknowledge the fact that politics has significant bearing on some of this. So I think we have to acknowledge this in the term of reference. Just my personal feeling again. Thank you.

So Ken, just to clarify then, it sounds like a point I could make from what you said is that preserving universal resolvability might not be the right way to say it because in some cases there is not. Is that correct.

Ken Stubbs: Yeah. I think we have to acknowledge. Either that or we have to more clearly define what we're referring to as universal resolvability. You know.

Chuck Gomes: Yeah.

Ken Stubbs: I just don't want somebody coming along saying that we're pushing and agenda that's inconsistent with the approach that the members of - let's say the members of the GAC have towards resolvability, you know, and the right of each country to act in what it considers to be its best interest in terms of managing resolvability. I guess that's the point I'm trying to make. And if I'm off base, somebody slap me down here. Thank you.

Chuck Gomes: No Ken. Good input. Thank you. Avri.

Avri Doria: Yeah. Thanks (unintelligible). I think I want to sort of endorse what Ken has said and perhaps go a little bit further. I think the notion that there is universal resolvability is very arguable at this point whether is or there isn't. I think many of us would argue that that ship has long since sailed.

And also I mean - and when we try to insist on it, it's not just countries, it's companies, it's families. I mean the ability to make a decision that you want to make some part of the network un-resolvable in some area that is within your control is as much a right as being on that network.

And so for us to sort of say we are going to try and enforce some notion, some standard of universal resolvability and elevate, it's almost as if it was one of our bylaws like stability or security is I think a very dangerous thing for us to do.

And I mean I would prefer that we didn't have that notion in this document at all. But if we do have that notion in this document, basically I would suggest the wording that I proposed which was with affecting.

So that those of us that think there is no such right of it, that we agree with that it doesn't affect it and, you know, those that perhaps think that as opposed to spending a lot of time arguing over whether there is, there isn't, there should be, there shouldn't be because I really don't think that is the purpose or the right - this group is not the right place to discuss whether universal resolvability is a goal for ICANN. Thanks.

Chuck Gomes: So Avri, if I could ask a favor, would you complete the thought without affecting - how would you word the whole thought there in this paragraph.

Avri Doria: Okay. I mean I would personally end it without affecting the objectivity of evaluation process and established rights as noted in (unintelligible) 4G and the stability and security of the DNS. So would be what I would

do but I understand that we're responding to the GAC letter and if we have to include the words universal resolvability in the terms of reference of this, let's just not treat it like bylaws and let's just not treat it like something that is known and agreed upon.

Chuck Gomes: Thank you very much. Bertrand.

Bertrand de La Chapelle: Well, thank you Chuck. I'd like to follow up on what Avri has said because I think she does have a point. And I don't think anybody - and I don't want to speak on behalf of the GAC, but my understanding is that indeed universal resolvability whatever we put behind this is clearly not established today in the bylaws or in the documents or in anything as a principal of the same level of clarity as the stability and security of DNS.

At the same time what I understand from the discussion within the GAC is that is it a very core element of the angle and the analysis or the objectives that the GAC wants to keep in mind in terms of aiming for as much in universal resolvability as possible.

So I think without getting into the debate at that stage in order to put it in the right place, maybe it would be possible to formulate this by putting it higher in the paragraph that would say to development implementation guidelines that will address the concerns expressed by the Governmental Advisory Committee comma including regarding universal - or the objective of universal resolvability comma and the GAC and the ALAC.

And then the rest could be either without affecting or preserving because then there is no problem. But it is true that it is not appropriate

to put universal responsibility I believe as being in a recommendation of sort because the reality is that it is not.

So moving it up would clearly attribute it to the GAC as a concern and an objective and avoid probably what Avri was saying would be upheld.

Chuck Gomes: Thank you Bertrand. Avri, you want to react to that? Does that sound like something that's okay?

Avri Doria: I'm not quite sure I understand exactly how the paragraph would read. I think moving it out of that sentence is indeed a good idea. I'm not sure how the rest of it would read though. I didn't quite mentally parse it correctly but thanks.

Bertrand de La Chapelle: You want me to repeat?

Chuck Gomes: (Unintelligible). No, go ahead Bertrand.

Bertrand de La Chapelle: Yeah. So if you would look at the end of the first - of the first page, I read the whole paragraph for this. The purpose is not to revisit the intended aim of Recommendation 6 nor to revisit other established recommendations but rather to develop implementation guidelines that will address the concerns expressed by the Governmental Advisory Committee.

And here you would insert a member between commas that says including the objective of universal resolvability comma and then you continue and the ALAC and the At Large Advisory Committee comma without affecting the objectivity of the evaluation process Principle 1

established by Principle G and the stability and integrity of the DNS period.

And universal resolvability would be removed from that very part and moved upward as a specific concern of the GAC or specific objective for the GAC.

Chuck Gomes: That help Avri?

Avri Doria: Almost, yes. Can I speak again on it...

Chuck Gomes: Yes.

Avri Doria: ...or are those (unintelligible).

Chuck Gomes: Yes. You...

Avri Doria: Okay. I think that that can work. I think something like perhaps not the principle because again, you know, what principal - you know, getting back to Marilyn's thing so it might be their principal for universal resolvability.

And if we're doing a - getting your primary concern bracketed beside the Government Advisory Committee, I would also wonder whether - you know, and I would just ask this question of ALAC whether they would have - and the ALAC Advisory Committee and whether they have a similar principle that they need to have in there as a parallel construction for the thing. But in general I think it's a good idea.
Thanks.

Chuck Gomes: Bertrand, any further response?

Bertrand de La Chapelle: Yes, just one precision. I purpose, and once again I cannot speak for the whole GAC, but I purposefully did not use the term principle of universal resolvability. I used - I suggested the objective of universal resolvability.

Chuck Gomes: That better Avri?

Avri Doria: Yeah. Am I still on? Yes.

Cheryl Langdon-Orr: Yes you are.

Chuck Gomes: Keep in mind, once Liz pulls all this together that we'll have a chance to tweak it a little bit more. But hopefully we can get the main gist of where we're at and where we have at least some rough consensus on the call today. And let me...

Liz Gasster: And Bertrand, it's Liz. Would you keep the parenthetical then and move it up to the GAC phrase?

Bertrand de La Chapelle: Yeah.

Liz Gasster: Yeah. Okay. Thanks. Got you.

Bertrand de La Chapelle: I can send you the specific formulation if you want.

Liz Gasster: Yeah. I think I've got it. But thanks. Great.

Chuck Gomes: Thank you very much for that good exchange. Now I'm going to make this comment once and we won't have to keep doing it. The plan is to follow through on Marilyn's recommendation and identify the document either in a footnote or whatever. Let's not worry about the exact wording to do that in this conversation today. But let's assume that that will happen in the next version. Okay.

Ken, is your hand - oh, your hand's down now. Okay.

Bertrand, is your hand still up?

Bertrand de La Chapelle: No. No. Sorry. I have to take it out.

Chuck Gomes: Okay. Thanks no problem. I'll just ask to make sure. The - does anyone have any objections to this understanding that we're all going to get to see it in writing after this meeting? Okay. And for those - again, let me encourage those from your different groups to pass this language off to other people if you think others may have concern so that we get as large a buy in as possible and address peoples' concerns.

I think then we can go on to the next paragraph, the working group task. And there's an intro paragraph there where it says the overall objective of Rec 6 Community Working Group is to develop recommendations for an effective objections procedure that both recognizes the relevance of national laws including laws protecting freedom of expression and effectively address the national, cultural, geographic, religious and/or linguistic sensitivities to the extent possible period. Let's stop right there. Any concerns about that wording? Okay.

Then the specific tasks are - and notice that Task 1 was crossed off because it was suggested by some that that be deleted. But I believe Frank that that was a concern by someone in the GAC. Is that correct?

Frank March: You know, unfortunately Suzanne, she sent through - didn't specific exactly which wording she was concerned about having changed. And all I can do is go back to the deletion of - actually to the - it's very difficult. The only thing that's been deleted from there is morality and public order. And I think we've probably covered that issue. The GAC in fact has argued that out of existence.

So to be clear - to be unclear Chuck, I'm not entirely clear what it is that Suzanne was concerned about in there. That to me reads well. I don't Bertrand if you have anything to add.

Bertrand de La Chapelle: Yeah.

Frank March: You saw Suzanne's comment just as I did.

Chuck Gomes: Go ahead Bertrand.

Bertrand de La Chapelle: Yeah. Actually I just had a discussion on a separate topic this afternoon with Suzanne and I'm able to give some highlights. One, her major concern was that as the use of the term internationally agreed principles of morality and public order was what is causing problems.

She was a little bit concerned that this formulation as the Task Number 1 seemed to imply that we were not trying to reconsider or find a better

formulation. And so she wanted somehow to make sure that we are not completely stuck by the current wording of the resolution - of the Recommendation 6.

But in the course of the discussion, she agreed that basically this didn't - this was not intended to mean that we should spend time in the group trying to reword the Recommendation 6 because we need to be looking forward and not backwards.

What she wanted to make sure is that in our corrective understanding and in the document of the term of reference themselves, it is clear that the problem that we have had was the use of the term universally agreed principles of morality and public order which is what is making things if not implementable.

So without rewriting the Recommendation 6, she wanted to make sure that if this first task is not put in the document, we do understand that what we're trying to do is maybe to take a slightly different angle which was the reason for instance why the GAC has used the term sensitive strings or - and so on.

But that's the basic understanding. So after our discussion, my understanding, and she will have to confirm of course, is that there is no problem if this line is suppressed provided that we do agree or that we do understand that we need to find an angle that is better than the expression morality and public order, which was the origin of the problem. I hope I'm clear.

Chuck Gomes: That was very good and very helpful I think Bertrand. I think then that in my opinion at least it's fair to assume then that the concern that

Suzanne was expressing could be dealt with regard to how the international standards of morality and public order come into the dispute resolution procedures in what was Task 2 not set Task 1.

Bertrand de La Chapelle: Yeah.

Chuck Gomes: So I think that's a fair assumption but I'll ask you and Frank to confirm that with Suzanne and see if that works.

Frank March: Yes. It's got to be very clear that the problem is there are no internationally agreed standards for morality and public order. That's the critical issue here. There are no international standards. And so anything which reflects that there might be or that it's a reference point for somebody to work to is inappropriate.

Chuck Gomes: All right. Let me ask a question Frank if I can there. And I know this was raised I think by (Milton) in some of the list discussion. But - or another person. But are there international standards or norms with regard to any of these issues that come into play with regards to this topic?

Frank March: No there aren't.

Chuck Gomes: Okay. That was a...

Frank March: That's...

((Crosstalk))

Cheryl Langdon-Orr: That's a clear answer.

Chuck Gomes: Okay. All right. I don't have any further question. He answered my question.

Bertrand de La Chapelle: Chuck, this is Bertrand.

Chuck Gomes: Yeah, go ahead.

Bertrand de La Chapelle: Yeah. Just to chime in specifically what I understood in the discussion with Suzanne is that she clearly didn't mean or want to mean that the group should devote time to rewriting Recommendation 6, which I think was a concern by some members of the group.

So the idea is that we have a problem with the words morality and public order as such which actually the GAC never used in its principles. And part of the work of the group will be to find the appropriate formulation and angle but not to devote time to trying to reword a recommendation that has come from the GNSO and that should not be the main subject.

As a matter of fact, the beginning of the document is already using the implementation of Recommendation 6 and procedures for addressing culturally objectionable sensitive strings I think is sufficient in my understanding of my discussion with her for Suzanne.

Chuck Gomes: Thank you. Alan.

Alan Greenberg: Yeah. Can we fix the problem here of saying that the replacing these terms of one of the possible ways of getting around it but not - should not be our focus is change the term from recommend to consider.

Chuck Gomes: Where at Alan?

Alan Greenberg: In Number 1.

Chuck Gomes: Oh. In other words keep Number - the original Number 1.

Alan Greenberg: I'm not sure it should be the first item but keep that sentence. But instead of recommend, which is a definitive statement saying we must do this consider. Which says if we can come up with some neat words that keeps Recommendation 6 but uses words that are acceptable to all, fine. That's one solution. But I may not be the only solution.

Marilyn Cade: I'm sorry. I'm - it Marilyn. Tell me where you are?

Chuck Gomes: He's back on the Recommendation 1 Marilyn that was crossed out.

Marilyn Cade: Oh, sorry. Okay. Sorry.

Chuck Gomes: Okay.

Alan Greenberg: The focus on the disagreement with it seemed to be that we should not focus on that. And...

Chuck Gomes: Yeah.

Man: Yes.

Chuck Gomes: It's easy for to relate to what you're saying Alan because when I worked on helping draft just the first cut of this - these terms of

reference for consideration by the group, I was kind of hoping the same thing that you're saying.

I can tell you though that there has been, and you've seen it I think, reaction in the Council and by some staff that that may not be a doable task.

Alan Greenberg: I understand but I was really asking the question of Bertrand and/or Frank, does that possibly address Suzanne's concern while still keeping it as a possibility? I was not - I'm not particularly advocating. I'm just suggesting.

Chuck Gomes: Thank you.

Stéphane Van Gelder: Chuck, this is Stéphane. Can I just react to that please?

Chuck Gomes: Go ahead.

Stéphane Van Gelder: Thank you. I think the solution proposed by Frank and Bertrand was actually quite elegant. And was a way to avoid any kind of issue with any possible intent to revisit Recommendation 6. If you put Object 1 or Item 1 back in with any wording, and I'm surprised that Alan as a GNSO Council member would even suggest that, then I think was are going to be going against what the GNSO Council at this stage might find acceptable.

I think - I want to thank both Bertrand and Frank for making such an elegant suggestion. And I think that is imminently workable.

Chuck Gomes: Thank you Stéphane. Avri.

Avri Doria: Yeah. Hi. I guess I'm uncomfortable with sensitivity-oriented language. In one place we already have an objection procedure on things that are - cause cultural harm to a particular cultural group. And I - bringing this Recommendation 6 in close to that strikes me as a problem.

The other thing is once we start getting into the notion of sensitivity, we start to really have problems with, you know, basically the freedom of expression principles in this statement because sensitivity is such a subjective thing and such.

Now we may say that there is no morality and public order defined internationally but there certainly are certain illegalities and certain criminal things that have been defined. And perhaps putting ourselves in that instead of cultural sensitivity may be a way to better understand the morality and public order that its' things that have been either by one region or globally used in some set of laws declared illegal.

And but to go beyond that to sensitivities again brings us in direct conflict to anything that would be freedom of expression. Thanks.

Chuck Gomes: Thank you Avri. Now if I'm understanding you correctly, it sounds like you're actually jumping ahead and that's okay to how we may look at the dispute process itself to see if we can improve that. Are you suggesting anything specific with regard to the terms of reference here? And if so...

Avri Doria: Yeah. I was - what I was suggesting was including words like based - to include notions like based on cultural sensitivity. And maybe I misunderstood what was being - the solution that was being propered.

But I thought that there was - thus involved in the solution was - were the words cultural sensitivity and such. If that wasn't the case and I misunderstood that, then forgive my comment. I'll come back with it later.

Chuck Gomes: Well...

Avri Doria: But anything that mentions cultural sensitivity as that presents a problem.

Chuck Gomes: So let's go up to the intro paragraph Avri because that's where the word is used.

Avri Doria: Okay.

Chuck Gomes: So if you look at the intro paragraph there, you see it effectively addresses strings that raise national, cultural, geographic, religious or linguistic sensitivities, et cetera.

Avri Doria: Right. And I guess that's wrong because that was not Recommendation 6 that did that one was it?

Chuck Gomes: I think that's language that comes, and correct me those of you from the GAC, but I think that's language...

((Crosstalk))

Avri Doria: I see.

Cheryl Langdon-Orr: And I think if I may, remember Chuck to include the possibility of the edit which is red lined to the extent possible after that.

((Crosstalk))

Cheryl Langdon-Orr: That's a very important set of words.

Chuck Gomes: Does that qualification help Avri?

Bertrand de La Chapelle: Chuck.

Avri Doria: Well, I mean to some extent it does because that word means it may not be possible to do it at all. So yes. I guess it does. But - okay. I'll come back to this. I just...

Bertrand de La Chapelle: Chuck.

Chuck Gomes: Yeah. Bertrand.

Bertrand de La Chapelle: Yeah. This is Bertrand. Just to come back to two points that were raised. The first one is I think I understand the concern if anything regarding the first line recommend alternative terms and so on is put as the first item. So in any case this series of bullet points should start with the second one, review the dispute resolutions, da, da, da.

However, I think there was a good suggestion with the word consider and I sent on the chat a proposal for what about as a second item before deliver a report with recommendations. It could be considered possible alternative formulations to universal principles of morality and

public order. Because universal principles of morality and public order is not in Resolution 6. It's only in the DAG.

The problem the GAC has is the notion of universal principles or whatever the exact DAG formulation is. It's not to revisit the wording of the resolution itself - the recommendation itself. So if we put in the second bullet consider possible alternatives to international principles of morality and public order, this is something that we will probably - will have to do because that's the element that we're discussing.

And by not putting it in the first place, it shows that we're reviewing the existing mechanisms. And in this course we might try to find alternative formulation if possible. But through the DAG, not (through the) recommendation.

Chuck Gomes: Right. And I think you just said something that's really critical in my opinion. That is is that we would be considering alternatives in the DAG language...

Bertrand de La Chapelle: Yes.

Chuck Gomes: ...not in the recommendation. And I think that needs to be clear.

Cheryl Langdon-Orr: Yeah.

Chuck Gomes: Now is anybody opposed to adding that as a second task along those lines?

Stéphane Van Gelder: Chuck, this is Stéphane. I agree that it needs to be clear. If you're referencing something, then please indicate what it is you're

referencing. And if it's a GAC principle then it needs to be in there. I actually agree. If it's done that way, then I don't think it really does give rise to any problems with Recommendation 6.

Chuck Gomes: Thank you Stéphane. Does anybody object to that approach? Okay. So let's try that. Liz, are you okay with the direction there.

Liz Gasster: Right. So let me just review quickly. We're going to switch the order of one and two and we're going to revise the language of what is now two to say consider instead of recommend and to insert international principles of the - for morality and public order.

((Crosstalk))

Liz Gasster: ...I don't know - oh and in the draft applicant guidebook. But...

((Crosstalk))

Chuck Gomes: That last part's critical.

Liz Gasster: Okay.

Chuck Gomes: Now I'm not sure we're replacing any language of morality and public order at this stage though.

Liz Gasster: Oh.

Chuck Gomes: Restate what you would put there please.

Liz Gasster: Okay. Before I do, are we going to use the trend standards or (perm).

Marilyn Cade: I'd like to speak on that if I might.

Chuck Gomes: Go ahead Marilyn.

Marilyn Cade: (And guys), the use of the word standards has a lot of implications and I guess I'll recognize that Avri's on the phone and knows this as well as I do. Standards imply - you know, we're talking about terms and if we say - if we say standards, we're going to get into a debate about whose standards are they, (are) they approved standards, are the voluntary standards? Terms I think is a more neutral term. More neutral word.

Chuck Gomes: Does anybody object to the use of the word terms?

Evan Leibovitch: This is Evan. I think it just points out the real difficulty of dealing with this in the first place because of the lack of standards. I mean what we're talking about terms can change - I mean we know they change from country to country but they can change from, you know, from province to province, state to state and year to year. I mean this is at the heart of some of the difficulties with this. There are...

Chuck Gomes: I understand that Evan. But for right now we're just trying to define the terms of reference. You're actually getting into the discussion of what, you know...

Cheryl Langdon-Orr: Yeah.

Chuck Gomes: ...the difficulty we're going to have when we go down that path. Understand that. But are you okay with the language that was just

proposed? In fact would you - have you - do you want to repeat what we -what - where we're at right now on that?

Liz Gasster: Yeah. I also made one slight grammatical suggestion here. It would say consider a possible alternative to the term quote international principles of morality and public order unquote in the draft applicant guidebook as appropriate.

Chuck Gomes: So Evan, first to you...

Man: Yeah.

Chuck Gomes: ...as far as a term of reference, is that okay?

Evan Leibovitch: I am - we're not going to get very far if we don't so I guess there's not much choice.

Chuck Gomes: Okay. Thanks. Appreciate your cooperation.

Man: Okay. (I'm just good).

Chuck Gomes: Okay. Does anybody object to that?

Mary Wong: Chuck, this is Mary. Can I speak?

Man: (Unintelligible).

Chuck Gomes: Yes you may Mary.

Mary Wong: Yeah. I'm just wondering - and just this whole discussion has really proven how difficult this process is going to be. Is there anything wrong with simply not having a separate (sub reference) for this and say in what is now the specific Task Number 1 to say review the terminology and dispute resolution procedures related to Recommendation 6?

Chuck Gomes: Interesting idea. Somebody want to - now some people - I see some hands that have been up for a while. Bertrand and Alan, are you still wanting in the queue?

Bertrand de La Chapelle: No.

Alan Greenberg: No, I'm sorry. I'll take it down.

Chuck Gomes: What about Mary - what about Mary's suggestion?

Mary Wong: And Chuck if I can explain it, it has something to do with the comment I put in the chat box earlier. And the way I read Recommendation 6 is as pretty open ended.

It doesn't presume to suggest that there are standards for morality and public order. Simply that if there are such standards that the strings not contravene them. And so to the extent Rec 6 is fairly bland and open ended, I would prefer to keep terms of reference in the (unintelligible).

Chuck Gomes: Thank you Mary. Now what is a - my Adobe Connect expertise is - what's a check mark. Oh, you're agreeing. Is that right Avri? Is that what the check mark means?

Cheryl Langdon-Orr: That's what it means. Agree.

Chuck Gomes: Thank you.

Cheryl Langdon-Orr: Yeah.

Chuck Gomes: That's the first time I've encountered it, sorry.

Avri Doria: You could - but yes.

Chuck Gomes: Thank you Avri. That's a nice system - nice way of doing that. I appreciate that. So does anybody disagree with Mary's suggestion? In other words, not having a Task 2 that Liz was formulating. But instead just change Task 1 to review the terminology and the dispute resolution procedures, et cetera. Anybody object to that. I'm seeing lots of agreement. Not a whole lot but there's three people that agree, four, good. Okay.

I'm not hearing anybody objecting to it. So Liz are you - have you got that?

Liz Gasster: Yes I do. Review the terminology and the dispute resolution procedures related to Recommendation 6, blah, blah, blah. Right.

Chuck Gomes: And that specifically references the guidebook so that's very good.

Man: It is good.

Stéphane Van Gelder: And there's no Item 1 then.

Chuck Gomes: What was that Stéphane?

Stéphane Van Gelder: There's no Item 1.

Cheryl Langdon-Orr: That is Item 1 now.

Stéphane Van Gelder: That now becomes Item 1. Just making sure Liz got that.

((Crosstalk))

Chuck Gomes: Now we have an Item 2, deliver a report with any recommendations to the ICANN Board.

Cheryl Langdon-Orr: Well that's fair and reasonable.

Chuck Gomes: Okay. Going on to - not seeing hands or any objections to that, let's go on to key assumptions. The following assumptions should guide the work of the Rec 6 (unintelligible) WG. There were no comments on the first three items. Does anybody want to make any comments in that regard now?

Going on them to Item 4, there's some changes there. There is no internationally agreed definition of morality and public order nor of national, cultural, geographic, religious and linguistics sensitivities which I think is - was Frank's answer to the question that I asked earlier. So that there aren't any. Anybody have any problems with that language there or suggestions? I see a hand. Avri.

Avri Doria: My hand was up just for the other one. I was just being slow.

Chuck Gomes: Oh. That's all right. Go ahead.

Avri Doria: Okay. Since - and this is a question. Since we've started changing our language to talk about the draft applicant guidebook references as opposed to the Recommendation 6, is it better to say that DAG paragraph whatever or the DAG resolution for response to Recommendation 6 is what's raising the public policy issue at this point and not the Recommendation 6 itself which has been around for years and for...

Chuck Gomes: Okay. Cheryl.

Cheryl Langdon-Orr: I just needed to point out at that point in the conversation to Avri that since 2007, ALAC's views have been quite specifically in Recommendation 6 language. So we might be unwrapping a little bit of a big ball of (ore) if we do that.

Avri Doria: Okay. Because I thought your objection had been largely against the DAG. But okay. That's fine. Then I'll forget my remark.

Man: Okay.

Chuck Gomes: Thank you.

Cheryl Langdon-Orr: We've been objecting (pre- DAGing).

Chuck Gomes: Okay. Going on then to Item 5.

Bertrand de La Chapelle: Chuck, Chuck.

Chuck Gomes: Okay. Bertrand.

Bertrand de La Chapelle: This is Bertrand. Sorry, I should have raised my hand. Just on Key Assumption Number 2...

Chuck Gomes: Yes.

Chuck Gomes: ...instead of will satisfy, could we replace it by may satisfy all stakeholders because maybe we can find a solution that satisfies all stakeholders.

Chuck Gomes: Anybody object to that? That seems like a straightforward and useful change. In other words, don't be too pessimistic. Okay. Got that Liz?

Liz Gasster: Yes.

Chuck Gomes: Anything else on one through four? Going to five. ICANN should conduct its activities in conformity with relevant principles of international law and applicable international conventions period. Any comments or questions on that?

Avri Doria: Which one we on? Four?

Chuck Gomes: Five.

Avri Doria: Five. Okay.

Chuck Gomes: If you have something on four, we can go back there. Okay. (Stuart).

(Stuart Lawly): Yeah. Item 5 is really superfluous. I mean it goes without saying that ICANN needs to follow its Articles of Incorporation. I really think it's just superfluous. They must.

Chuck Gomes: So is there a problem stating it?

Avri Doria: Yeah.

(Stuart Lawly): I guess not.

Chuck Gomes: Who said yes.

Avri Doria: I - Avri put a red check there.

Chuck Gomes: Avri.

Avri Doria: Yeah. The problem I have with deleting it has nothing to do with, you know, obeying. It's applicable international conventions to say that ICANN's going to adhere to application international conventions seems to me a good thing to (unintelligible).

Chuck Gomes: So you're supportive of that statement being in there.

Avri Doria: Yeah.

Chuck Gomes: Okay. Good. All right. Thank you. I just want to clarify. Bertrand.

Bertrand de La Chapelle: Yeah. Just to explain the comment on the side. I suggested - I think it's very useful that Robin suggested to put a line in there. I just suggest that it's better to take an exact quote of the Articles of

Incorporation and that's the only reason why I changed it. But I think it's worth having it here.

Chuck Gomes: Thank you. Any other thoughts on five?

Marilyn Cade: I have only one. It's Marilyn.

Chuck Gomes: Go ahead Marilyn.

Marilyn Cade: So can I just verify because I didn't get a chance to look this up. So we're saying that this phrase is drawn directly from the bylaws?

Bertrand de La Chapelle: Yeah. Article 5, 4.

Marilyn Cade: So we are taking...

Man: (Unintelligible).

Marilyn Cade: I will just (unintelligible) we are taking a particular bylaw in seclusion that - is the point in ICANN needs to abide by its bylaws. I guess the only thing I'm focusing on is are - I don't want to get in a rat hole of discussion and debate about what the relevant principles of international law are and what the applicable international conventions are.

Chuck Gomes: So do - understand that concern. Do you think then that that creates a problem with this assumption?

Marilyn Cade: Well, if - the point is that ICANN should adhere the requirements of its bylaws. I don't know if we would single out a single article.

Chuck Gomes: It seems to me, and this is just my own personal opinion, that there are some people on the list that have felt like this - there was some value in citing this particular one related to the sub - but that's just my own reading of some comments I saw.

Marilyn Cade: I read them and there may be. I just am asking if they're - you know, I don't want us - I don't want us to find ourselves in a situation that we're singling out one element in a bylaw and ignoring other relevant bylaw principles.

Chuck Gomes: Well, let me go a little different - it's kind of connected so bear with me on this. My concern with that Number 5 is the use of ICANN. What is ICANN? Is it really ICANN that we mean there that should conduct its business? Obviously the Board has to follow its bylaws. Okay. But is this the - is there a better term than ICANN there? Certainly this working group should do that, right? I don't know if it's just that.

Marilyn Cade: But Chuck.

Chuck Gomes: Any thoughts on that.

Marilyn Cade: Well, but Chuck we are providing - we're trying to provide advice to ICANN. So this is an assumption that's going to guide our work.

Chuck Gomes: Right. So I - Marilyn, do you have a specific change that you would suggest for consideration by others on this one?

Marilyn Cade: I think I'm going to have to look at the bylaws as a whole to say - when I saw it added, I wasn't - you know, I'm not so much objecting to the

concept as wondering if we are leaving some balance out by not referencing the bylaws as a whole.

Chuck Gomes: Okay. So would you look at that after this call and if you have a specific suggestion just send it to the list?

Marilyn Cade: Sure.

Chuck Gomes: That sounds good. Any other - I see some hands up. Liz.

Liz Gasster: I just had a suggestion to see whether this would accomplish what Marilyn wanted. I'd just throw it out there if it's helpful which is to say - instead of saying ICANN should conduct its activities to say something like the new policy should be implemented in conformity with.

Marilyn Cade: Ah.

Liz Gasster: Or should be consistent with.

Marilyn Cade: Liz, thank you. I will take a look at that.

Chuck Gomes: Okay. And then you'll send a suggestion to the list. Okay.

Marilyn Cade: I will.

Chuck Gomes: All right. Did you have something else Marilyn?

Marilyn Cade: No.

Chuck Gomes: Okay. Robin.

Robin Gross: Yeah. Thanks. I wanted to talk about why I inserted the language about ICANN recognizing or respecting internationally recognized legal principles. And that's because, you know, ICANN holds itself out as an international governance organization. We are charged with the global public interest here.

So I think that puts a certain burden on us in making policy recommendations that we're going to follow principles, values of international law. Show respect for those kinds of values and we're not going to contradict them. We're going to try to draft policies that are in as confirming - as much conformance as possible with existing international laws and principles.

So I think that that's an important thing for ICANN as a global public interest organization when it's charged with international governance to recognize that there are these international legal principles out there. And we don't necessarily have to get into all of them because where we get into a lot of arguments.

But to say that there are these internationally recognized legal principles out there and that ICANN's going to write policies that are in conformance with those principles. So that's why I think it was important to be there. Now look, I understand Bertrand's addition here and I actually I'm okay with it largely. I prefer the original language but I could live with the compromises he - that he suggested.

Chuck Gomes: Thank you Robin. Avri.

Avri Doria: Yeah. I want to comment I think on Marilyn's issue about mentioning just one of the bylaws as opposed to all of them. And I'd like to use as an example the fact that we are forever and always mentioning the mantra of stability and security in what we're doing.

And, you know, those are in the bylaws. They're very important words to what ICANN does and we mention them over and over and over again without also listing the rest of the bylaws. And I think in this particular case, I think that this part of the bylaws is especially important to bring out in this discussion.

So I don't think that when people mention stability and security they are saying - and because we've only mentioned stability and security the rest of them don't count. And I think in the same way because we're bringing this one out to the forefront does not in any way say that the rest of them don't count. Thanks.

Chuck Gomes: Thanks Avri. Bertrand.

Bertrand de La Chapelle: Yeah. I wanted to confirm as I said in the chat that it is indeed the Articles of Incorporation, not the bylaws. So it is right to remind. And I follow Robin's rationale. And the reason why I believe it is important to have this here is because when we're discussing the general thread of what is now called morality and public order objections in the DAG, there are parts of the formulations that I believe will be not causing any problem because the GAC understands the references to international principles that have been mentioned.

What was problematic and is problematic for the GAC is one of the elements of the list of things that can be referenced and particularly the expression general principles and morality and public order.

So this is intended to say that it is an assumption that has - and is interesting to reiterate that the formulation of the Articles of Incorporation bring ICANN and its activities including the new gTLD program to take into account relevant principles of international law and applicable international conventions because this is one of the only things that could be international principles.

Not of morality and public order but general principles of international law and applicable international conventions is something that ICANN has voluntarily decided to put in its Article of Incorporation. And that was very well discussed at length as (Stuart) well knows in the independent review panel.

Chuck Gomes: Thank you Bertrand. Now let's move on from that point. We're just about out of time - our scheduled time. We don't have too far to go. So what I'd like to do in our last couple minutes - going on (unintelligible) rules of engagement and what's left.

Does anybody have - are there any - if you could just identify what - if you disagree with any of the edits that have been made, I just want to kind of quick survey how many more issues are going to require quite a bit of discussion or whether some of the changes are okay.

So if you would raise your hand if you have any concerns about the remaining part of the document. I just want to get a quick view on that. I'll give you a chance to glance through it.

And a lot of the edits seem to be pretty straightforward in my personal opinion. I'm not trying to do this - and all the appendix is of course if references from the DAG.

Marilyn Cade: Chuck.

Chuck Gomes: Is it fair to assume that nobody objects to the remaining edits in the document?

Marilyn Cade: Chuck, it's Marilyn. I...

Chuck Gomes: Marilyn.

Marilyn Cade: ...don't object but I have a question.

Chuck Gomes: Yes please.

Marilyn Cade: Under the group membership and leadership given the earlier discussion about individuals, is that insert now in need of, you know, sort of clarification that all parties are - unless they otherwise state are acting as individuals?

Chuck Gomes: I'm not sure what you're asking.

Marilyn Cade: Under group membership and leadership, the Recommendation 6, blah, blah, blah will be open to volunteers from all ICANN supporting organizations and advisory committees who are willing to constructively contribute to the tasks of the group comma including individuals.

((Crosstalk))

Chuck Gomes: Yeah. So - go ahead. Liz.

Liz Gasster: Well I would suggest inserting that or leaving that but also I added the next statement is participants will engage in their individual capacities unless otherwise stated.

Marilyn Cade: Great. That was - I just wanted to be sure that was - I'm happy with leaving that. I just wanted to be sure that phrase...

Cheryl Langdon-Orr: LinkedIn. Yeah.

Marilyn Cade: Thank you.

Cheryl Langdon-Orr: Yeah. LinkedIn good.

Chuck Gomes: Stéphane.

Liz Gasster: What's the term Cheryl?

Cheryl Langdon-Orr: No. No. I was just saying link those two in. I wasn't giving you a term. Sorry Liz.

Liz Gasster: Okay. Yeah.

Chuck Gomes: Stéphane.

Stéphane Van Gelder: Yeah. Thanks Chuck. Cheryl, I just wanted to ask a question I just heard to make sure I understand what's been said. Because the last sentence of that part of the document says that each of the organizations will provide an official liaison. So it...

Cheryl Langdon-Orr: Right.

Stéphane Van Gelder: So it sounds like we're saying - am I correct in assuming this? We're saying that everyone is acting as an individual but there is official SO and AC participation be it only through liaisons and making sure that the SOs and ACs are aware of what's going on. But on one on the group speaks in any official capacity. Is that what you're saying?

((Crosstalk))

Stéphane Van Gelder: Sorry. You both spoke at the same time. I didn't understand.

Marilyn Cade: Go ahead Cheryl.

Cheryl Langdon-Orr: I said unless they are stating they are speaking on behalf of the AC or the SO.

Stéphane Van Gelder: Right. Thank you very much.

Chuck Gomes: Anything else?

Cheryl Langdon-Orr: But the liaison would be tasked with that liaison role.

Chuck Gomes: Okay. We're out of time. But I've got two hands up there I think. Alan and then Richard. Alan, go ahead.

Alan Greenberg: Yeah. I just wanted to add one clarification to that. I am presuming that a liaison may be speaking in their own right when they're not putting on their liaison hat. I don't think we want to preclude that.

Chuck Gomes: I would agree with that.

Cheryl Langdon-Orr: Oh, sorry, yes.

Alan Greenberg: Yeah.

Cheryl Langdon-Orr: Of course.

Alan Greenberg: Okay.

Chuck Gomes: Richard.

Richard Tindal: Yeah. Just a second point I just want to make being that there are some people on the group like myself who aren't from any of the groups. We are purely individuals. So there needs to be some way in the membership to encompass that as well.

Chuck Gomes: Yeah. And Liz, feel free to fix that language. That was a mistake. I responded I think on the list that it was intended to be open. So I think Liz you're perfectly able to fix that so it's clear, that's it's not restricted that people from SOs and ACs.

Liz Gasster: Yeah. I think it's already stated if you look at the document in Adobe Connect...

Chuck Gomes: Okay.

Liz Gasster: ...that part is fixed. What isn't fixed yet is Marilyn's additions...

Chuck Gomes: Yeah.

Liz Gasster: ...which I've captured in separately and we'll send around after the call.

Chuck Gomes: So Liz then you will send around a link to a revised version of this with the edits. Please everyone let's get as much done on the list as possible to see whether we're okay with these things. Marilyn's going to send some other language on that Item 5.

Marilyn Cade: Maybe. It may be that I don't have other language but...

Chuck Gomes: You may say it's all wonderful.

Liz Gasster: Well I'm assuming that the people on the call were comfortable with the edits and the edits are still reflected in tracked changes in the preceding document that I can accept these. I'll send you a clean copy shortly with these - everything added that we've discussed. And people should feel free then to make any track changes on that version of things that still need to be updated.

Chuck Gomes: And is this - is this time okay for next week? Assuming another doodle.

Cheryl Langdon-Orr: I can't - unless there's objections, we doodled and it was the most popular on the doodle, so.

Chuck Gomes: So let's go ahead and plan a call for the same time next week. Not sure what my status will be in that regard but I will let you know after I get (directions from Council).

Cheryl Langdon-Orr: I had my hand up Chuck. Cheryl here for very good reason because I know my status will be in Beijing.

Chuck Gomes: Okay.

Cheryl Langdon-Orr: So I'm not sure.

Chuck Gomes: Is it okay Cheryl...

Cheryl Langdon-Orr: So we'll just have to work around that.

Chuck Gomes: Yeah. And I'll - we can coordinate. I'm going to be in Japan. I leave for Japan tomorrow so the rest of this...

Cheryl Langdon-Orr: Well we'll be in almost the same time zone. That's really convenient.

Chuck Gomes: No. I'll be back by next Monday. So be we can - we'll communicate. And Frank, do you have anything else to add as Heather's stand in on this effort today?

Frank March: Not at all, Chuck. I think it's gone extremely well.

Chuck Gomes: Good. Well again, please encourage and Bertrand, do the same thing, encourage the GAC participants to chime in if they have concerns of where we're at. I want to compliment everyone on this group and on

this call today for what I thought was a very productive time. And I think we're pretty close to having something that the majority of us can live with and then hopefully do some constructive work in the weeks ahead.

Thank you very much. And again, please participate in the list.

Avri Doria: Bye bye.

Chuck Gomes: Bye.

Cheryl Langdon-Orr: Thanks everybody.

Man: Bye now.

Man: Bye.

Glen DeSaintgery: (Sean).

Coordinator: Yes ma'am.

Glen DeSaintgery: Hi. Thank you very much. I think you can put off the recording.

Coordinator: Absolutely.

Gisella Gruber-White: Thanks (Sean). Thanks Glen for doing that.

Coordinator: Have a good evening ladies.

Glen DeSaintgery: Thank you so much and thanks for getting it done - Gisella, was I correct, that they're going to have the same call next week?

Gisella Gruber-White: Yes. Same time, same place.

Glen DeSaintgery: Yeah.

Gisella Gruber-White: So yeah. I'll be able to get this asked and answered when we send out the recording which will be done tomorrow by the time...

Glen DeSaintgery: Okay then.

END