

**Cross Community WG discussing Recommendation 6 of the new gTLD process  
(Rec6 CDG-WG)  
TRANSCRIPTION  
Monday 13 September 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 13 September 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-cwg-20100913.mp3>

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Coordinator: Excuse me. I'd like to remind all participants this conference is being recorded. If you have any objections, you may disconnect at this time. You may begin.

Chuck Gomes: Thank you very much. This is Chuck. Welcome everyone for joining this call on the 13th of September. Let me quickly go through an agenda, then I'll have - ask Glen to do the - inform everyone who's on the call; give us the names.

So we'll start off with the roll call as I said. There's one new recommendation I'm going to quiz you on first of a different nature, okay, so bear with me on that. And then we'll go through the recommendations in order.

And then we'll try to briefly talk about any last minute changes to the report for Margie's benefit and Marika's, depending on how they're working that.

In the - so let's go ahead and do the roll call Glen?

Gisella Gruber-White: Chuck it's Gisella. I'll do that for you if you don't mind.

Chuck Gomes: Oh, that's fine. Gisella, good, thank you.

Gisella Gruber-White: Good morning, good afternoon, good evening to everyone.

On today's call we have Chuck Gomes, Bertrand de la Chapelle, Marilyn Cade, Avri Doria, Konstantos Komaitis, Stuart Lawley, Cheryl Langdon-Orr, Jon Nevett, Olivier Crepin-Leblond, Mary Wong, Alan Greenberg, Richard Tindal, Liang Wang, Evan Leibovitch, Krista Papac. From staff we have Margie Milam, Glen de Saint Gery, Marika Konings, David Olive, Liz Gasster, myself Gisella Gruber-White.

We have apologies today from Michele Neylon, Stefan Van Gelder and Mark Carvell.

But please remind everyone to state their names when speaking for transcript purposes. Over to you Chuck.

Chuck Gomes: Thank you Gisella very much.

Frank March: It's Frank March, I think you missed me of the roll call.

Chuck Gomes: What was that Frank?

Gisella Gruber-White: Okay, thanks much. My apologies. Frank March is on the call, as well.

Chuck Gomes: Okay. Good. Thank you very much for calling that to our attention Frank.

All right. The first thing I'd like to do very briefly if possible is anybody opposed to recommending that a public comment period be opened up tomorrow on this report?

If anybody has a comment on that or is opposed to it, please raise your hand. Is there anyone on the call who does not - is not in the Adobe Connect room?

Avri Doria: Hi, this is Avri. I'm away from my computer. Can I ask one question?

Chuck Gomes: Sure.

Avri Doria: Shouldn't we consider this at the end when we see if we've gotten to something that we can put out for a public comment?

Chuck Gomes: We can do that Avri. One of the reasons I put it up front is is that because we're going to be pressed for time and won't be able to have a lot of discussion one each one of the recommendations, I was going to suggest that is a participant is to submit their comments in a public comment period but we can come back to that. Thank you.

All right. Thanks Evan and Cheryl for your input on the Adobe Connect screen.

Let's go on then to the recommendation and you can see that Marika has up there the title of the recommendations and the results of the poll that we took.

Now I fully understand the short turn-around on that and that some people didn't quite get into it so what I'd like - I will give you opportunity if your view is, you know - you'd like it to be known, especially if it makes a difference in the results, then to speak up in this.

So we will do that as we go through.

And the first one - well, first of all, let me review the categories using - and we're going to be using the ones that are in the latest version of the PDP working group that is still ongoing and they are as follows - there are four of them - or five. I guess it's five. Full consensus, consensus, which means there's, you know, some minority opinion, strong support but significant

disagreement, as well, the fourth one is no consensus but both strong support and strong - and significant opposition and then divergence.

And keep in mind we won't be able to deliver this report on the 13th which for some of us that's not possible. We will - you'll be able to - you can add any minority statement that you later and maybe we can handle that through the comment period or however we decide to do that.

Going - jumping right in then, and again I apologize in advance, I'm going to push us fairly hard here so I need everyone to be brief. We're not going to have time tonight - today -- whatever it is for you -- to refine many details. It's something we can probably do.

My feeling is is that it's important to deliver the report. I talked to one board member earlier tonight and he was very encouraged that we're going to have a report up. I don't think - if there's some things we need to communicate after tonight, I don't think that that's impossible. So let's handle that as best we can without taking a lot of time on each item.

The first one may be one of the easier ones. Recommendation 1.1 is the use of the terms morality and public order and does anyone need Margie to read that recommendation?

Then we'll - this would help me going through the meeting. It's okay if you want - if you need it, let's do it. If not, we'll save time and not read it and there may be particular ones that you need read and others you don't, so just let me know. Okay?

All right. You can see on the top that the table of the results. Hopefully some of you had a chance to look at those. I did earlier. For recommendation 1, the use of the terms morality and public order, there was unanimous agreement in the poll.

Now I realize that at least one person and maybe more than one based on people I've talked to earlier tonight didn't get their results in in time to be recorded here.

So let me just do this, is there anybody on the call now who disagrees with that recommendation?

Okay. Then we have full consensus on Recommendation 1.1.

Now we probably should qualify on all of these that not everybody in the group would have been able to participate in this, so maybe a little prefatory statement, Margie, would be helpful in that regard.

So we don't want to imply that all 50 some participants participated, but for the ones that did, it's full consensus.

Going on...

Margie Milam: Chuck, it's Margie. Chuck, may I ask a question? So do you want me to describe that we took a poll and that there were 20 or whatever the number was responses in the report itself or do you want - I thought the poll was just information for this group and not really to be reflected in the report.

Chuck Gomes: I don't know. Let's take a minute or two on this. I don't know that we necessarily have to report numbers because - but in the definition of full - in the definition of the five categories, I think there should be a prefatory statement that says was determined by those who participated in our meeting on the 13th and on the list. Some people were unable to do that. Does that make sense?

Margie Milam: Yeah. Yeah, that's fine.

Chuck Gomes: Don't want to leave a false impression that all 50 some people in the group expressed their support. At the same time, I think it's reasonable to think that we probably, even if we have them, we'd have full support on this one.

Does that make sense Margie?

Margie Milam: Yes. That makes perfect sense. Thanks for clarifying that.

Chuck Gomes: Okay. Good. Evan, was your hand still up from before or did you want to jump in again?

Evan Leibovitch: No, no. That was a check mark, not a hand.

Chuck Gomes: Okay. Oh, I'm sorry. Can you tell it's late for me? Thanks Evan.

Woman: See you (unintelligible) Chuck.

Chuck Gomes: What was that?

Woman: Said (unintelligible) Chuck.

Chuck Gomes: Two, which is the change of terms and there's several there on this one, so I hope people are too confused and - but the original one that was there in terms of change in terms, 11 out of 20 people supported the concept of that.

Depending on what we do on A, B, C, D and E, we may not even have to report on that one. But we can decide that after we looked at A, B, C, D and E.

A, which was objections based using the term Objections Based on the Principals of Order (Publique), you can see that 7 people supporting it out of 20. B was public order objections using the English terms. Nobody supported that. So I think it's safe to say we can eliminate that one.

C, public interest objection, 8 out of 20 supported it, so it's low support. D was objections based on general principle of international law. Fairly strong support; 14 out of 20. And E was objections based on the general principles of order (Publique) or international law, 9 out of 20 supported that.

Let's - first of all let me ask any of those who did not get to submit their vote. If you would raise your hand and just tell us how you - which ones you would support in that, that would be helpful.

Cheryl.

Cheryl Landon-Orr: D.

Chuck Gomes: Cheryl?

Okay. Mary, go ahead.

Mary Wong: I supported A and in the alternative D.

Man: Anyone still there?

Man: I am.

Mary Wong: I think we lost...

Man: Yeah.

Cheryl Landon-Orr: Yeah - oh, yeah, I don't know whether we've lost Chuck.

Mary Wong: Maybe it was something I said.

Gisella Gruber-White: Temporarily disconnected. He's on his way back onto the call.



Man: Okay, good. So it wasn't Mary anything you said. Don't worry.

Mary Wong: Well, not this time anyway.

Cheryl Langdon-Orr: Let's continue then to...

Margie Milam: Mary, it's Margie. Can you repeat what you said? I didn't understand. You said you preferred one but if not one than the other?

Mary Wong: Yeah, I voted for A, but there was no way to indicate a second (unintelligible).

Margie Milam: Mary, I didn't - I wasn't able to hear you. There was a lot of background noise.

Mary Wong: Yeah. I said I voted for A and for D, but there wasn't a way to indicate a first and second preference on the poll. I'm not sure if we need to do that or we should.

Margie Milam: Probably just one because no one else had the choice of picking two. So...

Mary Wong: Right. No, it's just I noticed on the poll sometimes people will pick more than one which is why I did it, but if I had to put one it would be A, if that makes it easier.

Jon Nevett: Mary - this is Jon. Mary's vote is appearing now on the poll, so you can...

Chuck Gomes: Am I on. Hello? Hello?

Gisella Gruber-White: Hi Chuck.

Woman: You're on.

Gisella Gruber-White: We can hear you but you have a very bad line.

Chuck Gomes: Okay, do you want to call me again because it was fine before.

Gisella Gruber-White: Absolutely. We'll try - we'll call you again. (Kelly), if you'd be so kind as to call out to Chuck again.

Coordinator: Yes, thank you.

Gisella Gruber-White: Everyone, apologies for the bad line that Chuck is on. He's on his U.S. mobile in Vilnius.

Cheryl Landon-Orr: Okay. For people who have not polled, did not put a vote into the poll, if you are on the call or if you're in the Adobe Room, can you please indicate which of A, B, C, D or E would be your preference.

(Unintelligible) and Sebastian have added D and without reservation and Evan has said D is not his first choice but is acceptable. Is there any additional polling? We've heard from Mary. Alan, go ahead.

Alan Greenberg: Yeah, no, I wasn't trying to address that. Chuck earlier said that maybe we don't need to report the detail ones, but only the global answer to 1.2 and I think there was some misunderstanding what that question meant because everyone objected to morality and public order which implies a change.

So 11 out of 20 saying some change and everyone except one person actually suggested alternative terms. So if we're going to report the global answer, it should not just be the numbers who answered 1.2 straight, it should be a consolidation of those who answered something at 1.2.

Cheryl Landon-Orr: So perhaps in the absence of...

Man: (Unintelligible).

Cheryl Landon-Orr: Is that you Chuck?

Chuck Gomes: Yes. Thanks Cheryl for picking that up. I tried to get that - to suggest that before I was disconnected but I wasn't quick enough. So...

Cheryl Landon-Orr: You're back in control.

Chuck Gomes: What was Mary's response? (Unintelligible).

Mary Wong: A. (Unintelligible).

Chuck Gomes: A?

Mary Wong: But Chuck I also - and Cheryl, I also had a question because, you know, various people voted for more than one option so - and there's no way to indicate which would be a first preference and we can leave it the way it is because of these numbers or we could, you know, even with the time try and figure out what the preference was or is on the part of the people who voted for more than one option.

Chuck Gomes: Yeah, it would take too much time to do that so does it - let me try and narrow it down. If - I think Evan supported B so it wasn't totally unanimous opposition but if I heard correctly. Does anybody have any objection with eliminating Option B with the extremely low support?

Okay, I'm not - oh, I see some hands up. Alan, did you already talk or you have something else?

Alan Greenberg: No, I was commenting on your earlier statement that maybe we should only report the 1.2 answer 11 out of 20 and that I was objecting to because everyone said they don't want morality and public order so if we're going to...

Chuck Gomes: I...

Alan Greenberg: If we're not going to report the details, then we should report the sum - the union of all of the others, not 11 out of 20.

Chuck Gomes: Yeah, I understand. I did hear that Alan. Thank you.

Alan Greenberg: Okay.

Chuck Gomes: I had jumped back in while Cheryl was still leading. So...

Alan Greenberg: Okay.

Chuck Gomes: I got a connection. So let's eliminate B. Now A and C receive some support - minority support. What we could do is just leave A, C, D and E as they are with an explanation of the levels of support.

Yeah, and we could revert the order or we can put them in order by the most support down. Richard?

Richard Tindal: Yeah, I think - it's Richard. I think that works Chuck. I mean given that people perhaps didn't understand sort of preferential voting approaches to this, maybe it would be better just say that all of those had a moderate level of support, but I'm okay with either approach.

Chuck Gomes: Yeah. And now since we're going to use the term the PDP work team is working on, let me take a stab at that just to facilitate it.

I would say that 7 and 8 out of 20 would be divergence. Is that make sense? If anybody's on that work team and can help us there, that would be fine. Cheryl?

Cheryl Landon-Orr: I am on that work team and yes, it would be, but can I suggest perhaps...

Chuck Gomes: Like...

Cheryl Landon-Orr: Different approach.

Chuck Gomes: I like each one.

Cheryl Landon-Orr: Yeah. And that would be, Chuck, if we say there is consensus on the need for change on the terminology and then we just text that - several terms were discussed by the CWG and amongst those terms, and list them, A, C, D and E, greatest was - slightly greater support was being seen for D but further polling would be required for a definitive answer, something along those lines.

Chuck Gomes: That's all?

Bertrand de la Chappelle: Yeah, just the timing. I think that there is consensus on the first line as Cheryl was saying that it should be considered in year of the term. I suggested to order the items that remain according to the number of support that they received with maybe a note saying that when in the poll, people did not support something.

It could either mean that they didn't feel it was okay or that they had a strong objection and we have no way to distinguish that. So this would clearly be one of the last things that will be finalized.

At that stage of the report we should just list them in order of support and indicate that there has been variable support and that the proposal has been ranked according to the level of support. And that's all.

Chuck Gomes: Okay, I see a hand - a check mark on that one. Anybody object to that?

Okay. Let's go on to the next recommendation and that's in Category 2; the International Principles of Law. And we have a bunch of them there.

The first one, 2.1, adding other treaties as examples with unanimous support and those who were able to get their vote in. Would anybody that didn't get their vote in vote differently or not support that? Please let us know right now.

Okay, so 2.1 has a full consensus.

Two-two was to allow individual governments to file objections based on national interest. There were only 3 out of 20 that supported that recommendation. So - and Cheryl you keep me on target in terms of what definitions we should use.

Cheryl Landon-Orr: Chuck?

Chuck Gomes: But - go ahead. Cheryl.

Cheryl Landon-Orr: I'm just agreeing with you.

Chuck Gomes: Go ahead Cheryl.

Cheryl Landon-Orr: I was just saying I will do but Bertrand has his hand up now.

Chuck Gomes: Oh, okay. Bertrand, go ahead.

Bertrand de la Chappelle: Yeah, no, I just wanted to say that I put a mark in favor of this one not because I liked this formulation, but I had circulated on the list in the graph medication, another formulation for this that actually doesn't say exactly the same thing but refers to the use the community thing.

So if you don't mind, I'd be happy to recirculate it at one point because this formulation I agree it's not appropriate. So I picked it positively because I wanted this paragraph to be reopened but not to indicate real support for that formulation.

How can we do it?

Chuck Gomes: Do you want to send something to the list right now in that regard?

Bertrand de la Chappelle: Okay.

Chuck Gomes: And then once it gets around and hopefully we'll work through all of this...

Bertrand de la Chappelle: Yes.

Chuck Gomes: We can circle back to it.

Bertrand de la Chappelle: Perfect.

Chuck Gomes: Okay. Let's do that. Okay? So we'll come back to Recommendation 2.2. Let's to go Recommendation 2.3, allowing an individual government to file notification. There was very strong support of that, as you can see; 15 out of 20.

For those who didn't submit, get your vote into the poll early enough, if you would raise your hand, we'll let you do that now, if you so wish.

Mary, did you want to venture your opinion on this one or I think Evan was the other one?

Mary Wong: No, my vote went with the majority so I've got nothing to add on this one. Thanks.

Chuck Gomes: Okay. All right. So Cheryl, I think in the definitions that this would be - would that fall into the consensus category in your opinion?

Cheryl Landon-Orr: It's almost lying close to strong consensus without the paper polling, but I think it's because of what we had on the list traffic.

Chuck Gomes: So your conclusion was what?

Cheryl Landon-Orr: I was suggesting that because of the list traffic. With the vote it's consensus, but with the list traffic discussion I was thinking we could perhaps slate this as strong consensus.

Chuck Gomes: Well I think we have a choice; consensus or strong support. It's definitely not full consensus.

Cheryl Landon-Orr: No.

Chuck Gomes: Each time we have consensus, unanimous, right, and then consensus. Can you advise use consensus or strong support with significant opposition.

Cheryl Landon-Orr: The...

Chuck Gomes: I'm not...

Cheryl Landon-Orr: Towards strong - Avri you're the other one on that call. What do you think?

Avri Doria: On mute. I would say strong support.

Cheryl Landon-Orr: Yeah.

Chuck Gomes: Okay. I'm okay with that. I mean, obviously this is fairly subjective and I'd rather err on the staff side than to overstate it.

Thanks to both of you in that regard.



(Unintelligible). Olivier?

Olivier Crepin-LeBlonde: Thank you Chuck. I wanted to ask a question. In 2.3, we say governments to file a notification whilst everywhere else we say governments to file an objection. Is this wanted? Because I was a bit confused there whether do they file a notification or an objection?

Chuck Gomes: Let's see. Can somebody help me out there? Who was it that kind of suggested this particular issue? Evan?

Evan Leibovitch: Well, since I put a solution at one point that sort of had a list, I think the intention Olivier was that there be a distinction between a government being able to put something forth with the intention of having its national interest applied globally as an ICANN rejection of a string.

And the other idea being is that a national government be allowed to register its objection knowing that that may not lead to blocking of the string but at least giving proper notice both to its own constituents and to the applicant that it sees the string as being against its national interest.

I think the distinction was a subtle one but a very necessary one of whether or not the notification was an intent to block or simply a notification to the applicant and the public.

Olivier Crepin-LeBlonde: Okay, thank you. While we might need to make that sure maybe.

Evan Leibovitch: Chuck, does that address what you - is that close to what you thought was meant by that?

Chuck Gomes: Yeah. I think it is, but let me see if it helps - if it answers Olivier's question.

Olivier Crepin-LeBlonde: Yeah, thank you Chuck and thank you Evan. It was just to make sure that it's understood as such when we release the report. So we might

need to either add the words that say like file a notification and in brackets not in an objection or, I don't know, something to that extent to make sure that it's not taken as a notification as an objection.

Chuck Gomes: Now in the latest version of the draft report I didn't have time to go down and look at all the details, so let me ask Margie. And for those who didn't look at the report at all, it has a recommendation and an annex or appendix has more detail.

Question (unintelligible) write off - does that explain better in the detail?

Margie Milam: Chuck it's Margie. I don't think so. If you look at the top half of the Adobe Connect Room, that is the actual language for Annex 3. So you can see if you scroll through it what is...

Chuck Gomes: Okay. Thank you. Now, would it be helpful if Evan sent his explanation to the list or did - were you able to capture it and understand it okay?

Margie Milam: It would useful.

Chuck Gomes: Your call.

Margie Milam: Yeah, it's useful if Evan could do it if we're going to include it as additional clarification in the annex. I would need that language.

Chuck Gomes: Any objections to that?

Evan Leibovitch: All right. I'm going to try to write something in the chat window right now as we speak.

Chuck Gomes: And Evan, we want the exact words that you said, okay? Just kidding. I couldn't do it.

Evan Leibovitch: I can't remember what I said one sentence ago.

Chuck Gomes: Okay. Let's go to Recommendation 2.4. Not allow an individual government to file an objection based on national interest. Thirteen out of 20 would - supported that. Now, does anybody else want to chime in that didn't get to before? Richard?

Richard Tindal: Yeah, I did vote but maybe this is just a wording issue in this one, but I don't know how the applicant guidebook can stop anyone from submitting an objection from saying you're not allowed to but it seems to be me that this is talking more about how that objection would be treated in terms of the (unintelligible) the actual words that (unintelligible) which doesn't seem to me to be very practical.

Chuck Gomes: I think you're right on that. I don't think this is meant to say that somebody couldn't file an objection but rather if they did, you know, if it was based on national interest, that wouldn't be grounds for an objection. Did I say that right?

Richard Tindal: Yeah, that's the way that I understand it. It's more about how this standard might be adjusted rather than the mechanics to submit objections.

Chuck Gomes: Thank you. Alan?

Alan Greenberg: I guess I'm not quite sure how 2.4 is different from the opposite of 2.2. There is some additional words. Most people voted as opposites for the exception of three or four people.

Chuck Gomes: Yeah. I see your point. Does somebody see it differently? Bertrand, go ahead.

Bertrand de la Chappelle: Yeah, I think there's a fair point here. There is - in 2.2 there was this notion that we open the door for government in duly to find something in

this recommendation its framework, whereas the other one is basically saying we strongly oppose the very notion that governments should apply within the recommendation 6 framework.

So it's makes sense that people are also going no. This is the reason why I just circulated on the list a new proposal for recommendation 2.2 which has to be said national government are not finding objections based on that law through Recommendation 6.

But if they are to do something on the basis of national law, it should be in the framework of community and things like that.

So I think it goes in the direction of the discussion we've all had which basically says a national law alone cannot be a sufficient basis for global objection as we're considering for Recommendation 6.

And so there's no contradiction and we should maybe remove the two and see whether we make an extensive comments saying when there's an objection on the basis of national law it doesn't belong to this part but goes to the community.

Chuck Gomes: Yeah, I think that's very well said and that's kind of what I think we'll come to it later on using the community objection process so I believe that's correct.

Richard?

Richard Tindal: Yeah, I agree with that, too. I think we have to be clear, though, even in the current 2.2, if we in fact find that the objection raises a substantial issue that may contravene national laws, I think we have to say what happens next. I mean that seems to me what's missing from some of these.

So yeah, you can file and yes, you can consider, but at the end of the day, the important thing is well what happens. What's used with that judgment in terms of the standard? I don't think we've addressed that problem.

Chuck Gomes: Yes, and I'm sure we're not going to address it today. Jon?

Jon Nevett: Yes, thanks Chuck. I voted against all three essentially because I didn't see them as exactly contradictory as Alan mentioned but 2.2, that last sentence - I'm sorry, 2.3, the last sentence about the counter objection I found confusing and/or problematic in that whether it was exclusively the government's ability to protest objections or not.

And that counter objection is not well defined there. So I had some concerns on 2.3 on that and for that reason the other two didn't seem to work with where I was coming from. So I agree that we should try to reformulate them to some extent and come up with something that's a little clearer. Thank you.

Chuck Gomes: Jon, do you want to send us a reformulation?

Jon Nevett: Sure. Happy to do that.

Chuck Gomes: Good okay. We'll watch for that or somebody will. I'm going to stay on the Adobe connect screen so I can manage the meeting. Mary.

Mary Wong: Thanks Chuck. I was just going to agree with Jon. I'm glad he has to do the drafting and not me because I was a bit confused by that as well. Although I voted yes on 2.3, (intent of) agree with it on principle.

My other comment about 2.3, is I know examples are useful and I'm just wondering, you know, we don't really give specific examples elsewhere in the report or at least not that I've seen. I haven't read the whole thing that Margie circulated. And the fact that in a, or at least in a specific recommendation, and in this specific one, there is one specific example and given that we know

that that's going to be a potential applicant, I'm just wondering what kind of inadvertent impression am I giving either the group or the discussion if we actually have a specific example here or somewhere else when the rest of the recommendations aren't as specific?

Chuck Gomes: I think Bertrand has a comment.

Bertrand de la Chappelle: No, no. I wanted to agree with Mary. I mean any specific string in the - in such a document is not beneficial.

Chuck Gomes: Okay yes. I see. It was just a checkmark. So thank you. So any objection to deleting the - it looks like it's been deleted - deleting the example. I think that is a good suggestion. I'm going to try not to venture my opinion very often. But I slipped there.

Okay thank you. So with regard to 2.4, I would say that that's a no consensus but strong support...

Mary Wong: Yes.

Chuck Gomes: ...and significant opposition. But if we reword it and maybe what Bertrand I think has already sent to the list for 2.2, we might have that covered. So let's come back there in a minute. Let's go to 2.5 and...

((Crosstalk))

Jon Nevett: Chuck, if I may - it's Jon - just go back to 2.3. Would folks be okay if we just deleted that last sentence?

Chuck Gomes: That's interesting. So that incentive is where no consensus was reached as described below, instead of recommending specific changes, the recommendation 6 BWG offers its views and asks for the current language to

be reassessed in light of those views. So you're suggesting just deleting the consensus?

Jon Nevett: I'm sorry. I'm on 2.3.

Chuck Gomes: Oh I was looking - I thought that was the language that was on the screen. Can we put that - can we have the language for 2.3 on the scre- upper window please?

Cheryl Langdon-Orr: It is there Chuck. You've just got to look at it.

Chuck Gomes: I need to scroll. I'm sorry.

((Crosstalk))

Cheryl Langdon-Orr: Scroll down Chuck. We know it's late for you.

Chuck Gomes: Okay I'll keep going. All right. I wasn't controlling both windows. My mistake. Okay so you're - it - my apologies Jon and thanks for catching me on that. There should be a counter objection allowing governments to (protect) objections against what would be a lawful application in their jurisdiction. Is that the sentence?

Jon Nevett: Yes, that's the one that I found vague and somewhat overbroad and problematic.

Chuck Gomes: And Margie, did you want to talk to that?

Margie Milan: Actually if we delete that sentence I think it answers the question. I was trying to confirm that what you guys wanted me to do was delete the example (dock ish) but it would be deleted in the last sentence.

Chuck Gomes: I'll - anybody opposed to deleting that sentence in 2.3? Now 2.3 has 14 out of 20 so I think the correct classification for that would be no consensus but strong support...

((Crosstalk))

Chuck Gomes: ...and taking opposition.

Jon Nevett: If you look...

Chuck Gomes: Is that correct Cheryl and Avri.

Jon Nevett: It looks like a 16 out of the 20 and with the deletion I will change my vote so it's 17 out of 20.

Woman: Strong...

((Crosstalk))

Chuck Gomes: Okay. Strong support. Okay. Strong support but significant opposition.

Man: Yes.

Chuck Gomes: Okay Bertrand?

Bertrand de la Chappelle: No, actually sorry. I was - I wanted to intervene on the new formulation for 2.2 so it's premature. Sorry.

Chuck Gomes: Okay, now I need to get back down to where I was by - so recommendation - we'll come back to 2.2. in a minute and 2.4 but recommendation 2.5, principles of international law, boy it's hard to believe that we don't have full consensus on that one. Does anybody object to full consensus on 2.5? The term principles of (unintelligible) law instead of international law, whatever it



was. I had it written down. Okay, any objections to that? So full consensus on 2.5. Let's come back to 2 - yes.

Bertrand de la Chappelle: One comment. Yes, this is Bertrand. Just one comment. It's full support for the 2.5 but I would suggest you put it as 2.1 because it is the first...

Cheryl Langdon-Orr: Yes.

Bertrand de la Chappelle: ...connected to the more general.

Cheryl Langdon-Orr: Yes.

Chuck Gomes: Any problems with that? Did you get that Margie?

Margie Milan: That's been expensed.

Cheryl Langdon-Orr: Reordering.

Chuck Gomes: Okay. Now I believe that Bertrand has sent some wording for 2.2. Would you talk to that please Bertrand? And for the rest of you check your email if you can.

Bertrand de la Chappelle: Yes so the idea is to simply and basically kick national objections if ever to - out of this specific part and so it would read, should individual governments have national public interest concerns or national concerns - that could be modified - based on specific national laws, such objections should be submitted to community and national government objections procedure.

I think I picked it from a previous formulation and then in particular that Mary had provided. So I can repeat. Individual governments have national public concerns based on specific national laws, such objections should be

submitted through the community and national government objections procedure.

So as to kick it into the other element and say in other terms, national law is not a basis for that international objection.

Chuck Gomes: Richard.

Richard Tindal: Okay question for Bertrand. So how do you see the community and national government objection procedure? How do you see that varying from the community objection procedure that's in (dag) 4? What is the difference between that process and the existing community objection process? Thanks.

Bertrand de la Chappelle: I think what we discovered in the discussion with (Carol) was that the community objection procedure already covers a significant portion of what the (jack) in particular was concerned about when it dealt with local communities, cultural related strings and things like that.

I think I picked the explanation community and national government objection in another paragraph. Somebody else had contributed that on the list. And it would mean that we would address in the part dealing with communities what would be done in the case - if we want to consider it - in the case where national objections would be handled on the basis of something that touches the national framework but it is not on an international basis.

And maybe the paragraphs regarding notifications and so, could be moved to that part. But the purpose of this thing was basically to say nationally based or objections based on national law are not in the category of international principals of law by definition. So we can reiterate or reformulate the paragraph.

But the idea is to say national objections, national based objections, are not part of the international (thing). I hope it helped. It's an objective to remove

the tension with 2.2 and 2.4 having one thing that kicks the problem to the other part.

Chuck Gomes: Richard, does that help?

Richard Tindal: Yes. Can I respond quickly?

Chuck Gomes: Sure.

Richard Tindal: Yes, so yes - so I think - yes, so a national government could submit an objection on the international principles more regularly on that. They could also submit an objection based on the community standard. And I think we'll all agree on that. That's currently possible.

It seems to me that what you're suggesting, though, is a third standard of some sort, which is a national interest but that which is not currently adequately covered by the community standard? Is that correct?

Bertrand de la Chappelle: Well as a matter of fact, I was merely speaking of - that's for asking this - I was merely speaking of the formulation that would keep this version of the (Mapco) emerging principles. I think it was the Version 2, would be edited by Chuck and the recommendation then that was two, was using the expression community and national government objections so...

Richard Tindal: Okay.

Bertrand de la Chappelle: I just...

Richard Tindal: Understood. Now if Chuck I...

Chuck Gomes: Is that okay Richard?

Richard Tindal: It is but I mean I think if we're going to vote with any measure of support for this notion - and I'm not saying I vote against it - I think we owe it to ourselves as readers to define what we mean by a community...

((Crosstalk))

Richard Tindal: ...objections.

Chuck Gomes: Define what?

Bertrand de la Chappelle: National government objections.

Richard Tindal: Define the terms community and national government objections because that's not a term that exists anywhere currently.

Bertrand de la Chappelle: Yes that's true.

Chuck Gomes: Okay. How can we get that done in short order? Anybody have a suggestion there? How would you define it Richard?

Richard Tindal: Well to me this goes...

Chuck Gomes: Or...

Richard Tindal: Or not. Yes, I mean, to me this goes to the central question. We're talking about this third category of objection from national governments. The international principles don't work because it's not an international issue. It's more local. The community standard doesn't work because the string does not invoke a specific community. But nevertheless, there are some national lower principles at work.

So neither this is a part of the solution that we haven't quite worked out yet. So maybe in this report we simply say that it requires, you know, looking at.

We haven't addressed the fact that there may be some forms of national level objection which raise national law.

But we don't have a solution past that yet because community objection's not the way to go there nor is the global principles of law.

Bertrand de la Chappelle: On that one.

Chuck Gomes: Okay Bertrand wants to comment just on that and then Mary, you're next.

Bertrand de la Chappelle: Actually Richard, this is a very interesting point. What you make me think is that when we say it doesn't connect to a specific community, as a matter of fact, we could consider that if there is a national law, there has been a process at the national level for the whole national community that actually has decided of a specific law.

And therefore, if a government says this is contrary to my national law, it is actually contrary to the desire of the community if we consider that national law is the expression of the community which is the fundamental basis. So what you're pointing at is maybe an understanding of the criteria for the community, maybe it would not be called community and national government objections. You're right.

It could be community objections and we could have to discuss whether something that is contrary to the national law can be considered as a problem for the specific community which is the given nation because the law of the contrary is the will of the community which is the nation, if you see what I mean.

And I'm thinking about that here. So I have no problem removing national government objections in this thing, tweaking it to just community. And we will discuss on the community side whether it covers everything on us.

Chuck Gomes: Okay let's - I'll come to you in a second Richard. Mary.

Mary Wong: Just a follow up actually on those comments. And as a couple of (unintelligible) that is more for clarity of myself and hopefully for others as well. One is, when we talk of community and national government objections, when we say government objections do we mean that the objections are on the basis that (unintelligible) to national law?

If that what it means, then lets just (unintelligible) and include Richard's comment that the community and national government objections procedure or standards may still need to be fleshed out further but make the statement that national government objections based on the fact that the string is deemed by that government to be contrary to their national law.

So that's one suggestion. Clarify that - at Richard's comment. The second suggestion is coming back to recommendations 2.2 and 2.4, would there be objections by anybody on the call to remove the term base national public interest consent and simply retain the phrase, you know, specify by the objecting government as being contrary to national law.

In other words, both of these suggestions would be consistent and would clarify that national government objections are based on national law considerations. See, Bertrand is right that national law is based on the public interest so to some extent they, the two things together may be confusing (unintelligible).

Chuck Gomes: Thank you Mary. Now it seems to me and I (unintelligible) that 2.2 and 2.4 be replaced by the statement we're working on right now. And I'm asking that now, Mary, because I think that follows what you're saying as well. Correct me if you think I'm wrong on that. But it - the statement that Bertrand submitted and that we're trying to fix right now, is there any just - doesn't that replace 2.2 and 2.4 if we can fix it? Anybody disagree with that? Okay now with that - go ahead Mary.

Mary Wong: You know, I don't disagree that in principle and just thinking that in terms of the language, it could still give rise to the sort of concerns that Richard talked about. Are there other concerns? For example, when we say public interest concerns based on national law, it doesn't - it isn't as narrow as saying that the specific saying is contrary to national law.

It still opens some other kind of residual category of public interest. Maybe I'm just overstating this (unintelligible) concept. I would (unintelligible) to get a simple suggestion but (unintelligible).

Chuck Gomes: I think I got the gist of that. Bertrand, can you re - suggest a reformulation based on this discussion?

Bertrand de la Chappelle: Yes, actually following Mary's comment of simplification and Richard's comments for not having the national objections procedure wording, I just circulated something shorter that said - that would say - and it's really sensitive. Should an individual government have objections based on contradiction with specific national laws, such objections should be submitted through the community objections procedures, period. And I just circulated it on the list.

Chuck Gomes: Richard and Mary, you want to comment on that? Does that help?

Richard Tindal: Yes. It does I think. It's good. So I just - I guess a question for Bertrand. So let's say that the string was some highly objectionable pornographic term yet it invoked no specific group. It didn't talk about anyone. It was just an objectionable term.

Let's say a national government had laws against that but no one else did. So you're suggesting that they could invoke the community objection without using the rationale that you used earlier, that is that they have this sort of

community impact status because they've got a law that says that their community should not be subject to that.

Is that the sort of rationale? Because the community objections standard requires that the string explicitly or implicitly target a specific group. Now that group could be an entire nation of people or it could be some smaller subset. But it does require a connection between the string and that group.

Bertrand de la Chappelle: You raise a valid point. The thing is that we had discussed on the community objection, the notion that it was implicitly that the string would be explicitly or implicitly targeted at that community. But we agreed also in the discussion that that's a current formulation with that.

We also agreed in the discussion that if a government considers that there is a detriment to a community (on it's territory) and there is a strong objection by this community, even if it is not targeted intentionally at that community and in for instance, let's take again the beautiful but clearly (unintelligible) string.

The string is not targeted as a clientele for the in (unintelligible) community. It is targeted as a - to another community or the people who (hate language). However, it does have a detrimental impact on the specific community within the borders of one even country.

And so I think it is not exclusively for strings that have targeted the community. It is strings that have an impact in one way or the other to the community and the question that we have to address - and I agree it's a delicate one - but this notion that normally the national law gives the expression of the will of the community.

And so if the community - if the national community forbids something, it is the expression what they want. However, in the community objection - I'm sorry for being long - there's no guarantee that because you fight an objection, the objection will be sustained completely.



So it may be one of the cases where there is a strong national objection but whatever process that deals with the community objection says well it may be not allowed in one country, however, globally it is not so broadly refused that we have to ban it from the (root) and therefore this whole kind of back and forth process by which the government ultimately will rock, but it will have the possibility to what we call the notification.

Chuck Gomes: So one...

Bertrand de la Chappelle: Just a suggestion...

Chuck Gomes: We need to move on for a minute so let me make a suggestion that we use Bertrand's last wording but that we put a parenthetical in there that this needs more work.

Bertrand de la Chappelle: Yes.

Chuck Gomes: I don't think we can do much more then that tonight. So any objections to that approach? And that would replace 2.2 and 2.4. And that's saying...

Margie Milan: Chuck, it's Margie and...

((Crosstalk))

Chuck Gomes: Go ahead Margie.

Margie Milan: Can you repeat exactly what you want me to do to 2.2 and 2.4 because I'm a little confused.

Chuck Gomes: He emailed it right?

Bertrand de la Chappelle: Yes.

Chuck Gomes: Okay he emailed the wording that will replace both of them, okay? It's just one sentence. And then we need to add to that a parenthetical that the CWG understands that this recommendation needs more work, more detail, more definition.

((Crosstalk))

Chuck Gomes: More definition is probably good.

Man: It hasn't been discussed.

Chuck Gomes: Yes, it hasn't been dis- worked fully enough.

Jon Nevett: Are we - this is Jon. Are we going to delete national government objection in caps?

Bertrand de la Chappelle: Yes, yes. It is deleted in the last wording.

Chuck Gomes: So the answer's yes Jon.

Jon Nevett: All right. Thank you.

Chuck Gomes: Yes. So now real quickly, what kind of level of support - if you support where we're at on this, understanding that it still needs more definition would you put a check mark by your name in Adobe Connect? And if you can't do that just speak up. So in other words, we're doing a poll right now.

So it's looking - so there's no support for that at all. Okay. I'll...

Man: Chuck, I don't think everyone quite has absorbed all the words in their brain to know whether they're supporting it or not.

Chuck Gomes: Okay. All right, well let's do this because we can't spend anymore time on this one. This is one that, you know, we were unable to determine the level of support for. Okay? And it's understood that it needs more definition. Is that okay Margie?

Margie Milan: Yes, that's fine. That works for me.

Chuck Gomes: Yes okay, going on to three, a quick look procedure. The - there's just - oops, I'm having trouble with my window here. Let's get to three. There are - what is it - two - three recommendations there that have varying levels of support.

My recommendation on this particular one is that we report the results and categorize them as follows - that 10 out of 20 would probably be show strong support and significant opposition, that 18 out of 20 based on what was done before would be consensus. And the other would be - probably be no consensus but strong support and significant opposition.

Is that - any disagreement with that? Did you get those Margie?

Margie Milan: Can you repeat it again?

Chuck Gomes: So 3.1 and 3.3. would be no consensus but strong support and significant opposition, the fourth category.

Margie Milan: Okay.

Chuck Gomes: And then 3.2 would be consensus.

Margie Milan: Got it.

Chuck Gomes: And note that I didn't - did not - say full consensus. Going to four, outsourcing the dispute resolution process, Olivier go ahead. I'm sorry.

Olivier Crepin-LeBlonde: Thank you Chuck. Just one small note on 3.3. The last sentence of 3.3 reads national law would not be a valid ground for an objection. Now on 2.3 we have a similar sentence but it actually says national law by itself should not be - should not provide sufficient basis for a decision to my TLV application.

Either these two terms are not meaning the same thing, or if they are, one of them might be obsolete or too much for it.

Chuck Gomes: Doesn't the - an objection based strictly on one nation's clause is not grounds for an objection for recommendation six. Right? Should we clarify it that way? Would that help?

Olivier Crepin-LeBlonde: Well we could say...

Jon Nevett: Chuck, do you mean it's not grounds for an objection or not grounds for an objection winning?

Chuck Gomes: The latter. Thank you.

Jon Nevett: But it's not saying that. It's saying objection.

Woman: Yes.

Chuck Gomes: It should be the first one, you think? Okay I don't know.

((Crosstalk))

Chuck Gomes: Good question.

Jon Nevett: The goal -whether exports or the board...

Chuck Gomes: I'd like...

Jon Nevett: ...agrees with the objection and it's a different issue from whether they're allowed to object.

Chuck Gomes: Okay. All right. Let's go to Bertrand.

Bertrand de la Chappelle: Well actually it's a very minor suggestion but we had to debate, if you'll recall, what Frank was saying. When we use the term outsourcing there is an ambivalence. I think what we mean is fully outsourcing and I would suggest to add this word like really giving the responsibility to the RSD or whatever we call it.

Because outsourcing is ambivalent. We seem to imply that it could be advised or could take responsibility. So I just wanted to suggest that in this.

Chuck Gomes: Okay hold on a second. We're back on three Bertrand.

((Crosstalk))

Bertrand de la Chappelle: Oh I'm sorry. Oh I'm sorry.

Chuck Gomes: Yes, yes. You had me going there. We'll come back to that. Mary.

Mary Wong: Thanks Chuck. And this was going back to I think it was Olivier question. And I think I'm one of the guilty parties responsible for the language here. I think the understanding here was that 3.3, that the quick look procedure applies to the international law objections and therefore as such is - it is a national law based objection.

Then under the quick look procedure, it would not be something that falls within the international law framework and it should go somewhere else like in the community objections. Does that help? It's not so much the board decision but rather under the quick look itself, if it appears that the objection

is based on national law, then it should not go ahead except under the community objection procedure and not this one. I hope that helps.

Chuck Gomes: Does that make sense Olivier?

Olivier Crepin-LeBlonde: It does and so I think Mary provided the answer here. We should say national law by itself would not be valid ground for an objection and then that's fine.

Chuck Gomes: Okay Jon then Richard.

Jon Nevett: Yes, I'm not sure why a national law by itself wouldn't be grounds to pass the threshold of a quick look. You know, if you're talking about incitement or the other years we're using - promotion or any other word - you know, that in and of itself to me should be enough to get past the initial barrier that if a government actually takes the time to object to a string and says, you know, this violates our national law, just so you know. You might want to take a better - a closer look at this.

Why wouldn't that be sufficient to just pass the quick look and let it go to the panel of experts?

Chuck Gomes: Right. Evan. We'll come back to that Jon.

Evan Leibovitch: Well I can answer that as well with the point I was going to make. Essentially, Jon, the - if it's just one country then it's not international law, then it's not going through some of the most basic determination that we're - that we've got here.

If it's just one country and it's something that falls within their national law, then it fails almost the primary criteria. If it - you know, if it's something that a single country believes in and they don't have any other countries that are

going along with that, it - there's not point of it going on to the board of its advisors because it doesn't meet even that basic criteria.

Jon Nevett: Yes I think you guys are missing my point. I'm sorry. I was sitting on the chat. Unless you're - are you done Evan. Sorry.

Evan Leibovitch: Well I had my original point but go ahead.

Jon Nevett: Okay wh- the point that I'm making is we don't know - you don't know that if one country files an objection based on national law, you don't know if it'll ra- go to the level of an international law problem or not.

There might be, you know, 50 other counties with the same law. Just because one - only one country took the step of filing the objection, (the question) is whether that's enough to just pass the quick look. Remember the quick look - that burden should be pretty high.

If you're throwing it out on a quick look, it could be a very high burden. And if it goes to the panel and what you're saying is right that it's only one country and it's nothing else, then we'll lose.

Evan Leibovitch: But Jon, we also have and we're building in the ability for the - for a country to be able to take something to the (gak) where it would be able to find that kind of consensus. Something that makes its way through the (gak) would basically bypass this.

Alan Greenberg: Chuck, can I get in on this one also? It's Alan.

Chuck Gomes: I'm ge- I'm coming to you Alan. Okay backed you up then right now.

Evan Leibovitch: And - okay.

Alan Greenberg: Any given country, unless it goes to the (gak) or unless it goes to the United Nations or some other global body can only file an objection on its own behalf on its own auspices. So if you disallow every country from filing an objection based on its own laws you won't know that there are 75 countries who are trying to do that.

I mean, if the process of getting international consent and everyone to agree on something is so long that it would almost never happen, if you don't allow an individual country to object, then you'll never get multiple countries objecting.

Chuck Gomes: Alan - Bertrand.

Bertrand de la Chappelle: I think we're getting to some clarity here. Everything we're discussing is recommendation six primarily. Recommendation six, we agree more and more that it is about international principles of law of whatever...

((Crosstalk))

Bertrand de la Chappelle: ...principles of international law. Therefore, the case we're addressing here is you have two situations. If a government tries an objection saying this is contrary to my national law, period, and this is the only reason why it should not get in the loop, then it would not fly through the quick look procedure, not because it is frivolous or use it in odd terms, but because it would go to the formulation we discussed earlier, the method would be, this would be filed as a committee type of objection because it's only on the basis of that alone.

However, if a country says it is contrary to my national law, and I believe that my national law in this case, and it is an international principle that should be respected, then it could pass. And there would be the opportunity for other countries to say, well actually we do agree, and then DRSP would say, it is indeed an international law or whatever according of international principle.



You see the distinction. It helps the fact that you mentioned the international law that is the only criteria. Either you mention only the national law, you mention the national law which you believe is embodying a more general principle.

Chuck Gomes: Thank you, Bertrand. Evan?

Evan Leibovitch: Okay, I just want to go back to my original point before I was responding to Jon, which is now we're responding a bit to Bertrand and it's also about his - his term about the words frivolous or abusive, and I'm wondering if that is maybe a bit too highly charged for what we need to do here?

It's possible for an objection to be perfectly valid within the country in which it originated, but not suited for passing beyond the quick look. That doesn't make it frivolous or abusive. Abusive can be gaming the system, but I'm just wondering if these words here are appropriate or just inappropriately charged.

Chuck Gomes: Let me throw out a question here, I'm wondering if we're going to err one way or the other, it seems to me it would be better to err on letting an objection go through and then having a more thorough evaluation than throwing it out too early.

So I guess - and I'm not going to make the decision on this, because it is - you know, there is adversity of opinion on this and it's valid adversity, in my opinion. But I kind of think it would be better to let one go through to the full process, they're going to have to pay for it, you know, so rather than throw it out, when in fact there are the cases that several people have pointed out where it might be okay. Richard?

Richard Tindal: It's Richard. Yeah, well I completely agree with Chuck on this. The government goes to the length of paying for and filing an objection, I don't

think it's appropriate to be calling that frivolous or abusive. It's based on national law. It doesn't change, as several people have said, it doesn't change the ultimate standard in any way that that objection will be reviewed against.

But I don't think it would be appropriate for us is process to do with protecting national government claims as frivolous if it's purely based on their own law. I agree with Chuck. I think that needs a proper hearing.

Chuck Gomes: And by the way, I think Evan has a good point. I don't think the point is - what I don't think we're trying to say is that kind of objection would be frivolous, but that may need to be tweaked some. But, you know, I see one - I see Cheryl's hand that she agrees as well.

Let's - is there anybody that really strongly objects to that position of, you know, if and I'm not sure how to express it, but recommendation 3.3 right now, it might - again, I would say erring on the side of letting it go through is better than inappropriately eliminating it.

Does anybody strongly disagree with that? I think we - maybe what we could do in 3.3, is change it to something like this, in determining whether an objection is eliminated -

Bertrand de la Chappelle: That's the quick look portion.

Chuck Gomes: Yeah, whether it's eliminated, there should be an evaluation of the grounds that should be (unintelligible) or valid, national law, maybe we just delete the last sentence. National law would not be a valid ground for an objection, and leave it at that and we could, you know, change frivolous or abusive to is rejected, okay?

Does that work? Does it help? Should we leave it as an undecided?  
Suggestion?

Why don't we - I'm not hearing any comments. I don't think we're close enough to be in agreement on this to put anything - Margie, on this one, I think we need to classify it as it needs more work, and we didn't have time to do it now.

Margie Milan: Okay, but Chuck what is it you want me to do with 3.3? Just leave it alone and put in it needs more work? Or actually change the language of 3.3?

Chuck Gomes: I don't think we're getting enough agreement to change the language, and so it...

Evan Leibovitch: Is there anyone who wants to keep frivolous or abusive?

Chuck Gomes: What's that?

Evan Leibovitch: Is there anyone who wants to keep frivolous or abusive?

((Crosstalk))

Chuck Gomes: Cheryl?

Cheryl Langdon-Orr: I wasn't wanting to keep frivolous or abusive. I had my hand up for a question. Just leave me in the line, thanks Chuck.

Chuck Gomes: Okay, Margie?

Margie Milan: Yes, I can comment on that. I mean I just took this from other peoples' suggestions, but I think the reason frivolous or abusive is there is that's what the standard is right now.

Cheryl Langdon-Orr: It's in the language.

Evan Leibovitch: Oh.

Margie Milan: Yeah, so if you're saying you don't like that language as it applies to national interest, you have to change the standard in the applicant guide book. I think that's where that language came from.

Chuck Gomes: Yeah, and I think you're absolutely correct on that, and I don't think that we want to eliminate the terms frivolous or abusive totally, because we do want to eliminate those. We just don't want to call a national objective frivolous or abusive. Richard?

Richard Tindal: I dropped my hand. You said what I was going to say.

Chuck Gomes: Okay, all right? I'm going to let you say it. The...

Margie Milan: Well, I have a suggestion if I think I understand where you're going. Instead of saying in determining whether an objection is frivolous or abusive, you just say in determining whether an objection passes, whatever, the quick look procedure or something. So you know, you take out the word frivolous or abusive when talking about whether, you know, it survives the quick look or not survives the quick look.

Chuck Gomes: Yes, and what of the last sentence?

Margie Milan: Would not be - I don't know, I mean that's the question we're still debating. I think you have to leave that in with the comment that it needs more work.

Jon Nevett: This is just a suggestion on the chat room, if that helps the language.

Chuck Gomes: I'm just looking at it right now, so.

Interesting suggestion there, I think, that may be a helpful suggestion by Jon. Hopefully everyone can see that. Does that work?

Cheryl Langdon-Orr: It does work. Do you want me to just read it to the record for those who might be listening to the tape or transcription?

Chuck Gomes: ...okay, Cheryl.

Cheryl Langdon-Orr: Jon's proposal is as follows. In determining whether an objection passes the quick look test, there should be an evaluation of the grounds for the objection to see if they are - thank you for someone moving it while I was talking - see if they are valid.

National laws not based on international laws should not be a valid ground for an objection. And that makes a whole lot of sense to me.

Chuck Gomes: Any...okay, Evan?

Evan Leibovitch: Just to go - just to carry on with the point we make earlier. It may not be valid grounds for an objection, but it may be a valid grounds for registering a complaint without the intention to block.

Cheryl Langdon-Orr: Remember, this is just on the books, so, Evan.

Evan Leibovitch: Yes, so, okay. There may be a different process by which somebody registers an objection without an intention to block.

Chuck Gomes: Are you suggesting a change to Jon's language there?

Evan Leibovitch: No, no, no, no. No, no. This can be handled in a different place. Keep going.

Chuck Gomes: Okay, thanks. That's why I asked, I want to be clear. Make sure I didn't miss something that you're suggesting.

Any objections to that - to Jon's language? Now, the - okay, Richard?

Richard Tindal: Yeah, I think Jon's language is good, but just so we're on the same page, my understanding is that it's not up to that objection, it's not up to that national element may to sort of present the whole case why its objection is based on international law. I'm proposing that that would then - it would pass the quick look, it's not frivolous or abusive, and it would be and be reviewed just like any other objection.

If it failed to meet the standards of international principle, then it would be successful. So I'm drawing distinction here on...

((Crosstalk))

Chuck Gomes: Thank you. Anyone else? Now, in terms of - we need to do this very quickly, how many that are on the call, if you would not support this language, would you raise your hand right now?

And I'll allow a little bit of time, I don't want to rush too much, because my next conclusion is that there is - at least strong support for this language. I don't know based on this last minute exercise whether we should call it full consensus or consensus, that may be kind of unfair.

Would anybody oppose to us calling this one as reworded by Jon, strong support? I don't know, do we have any significant resistance? I guess one problem or suggestion is, there doesn't appear to be any significant opposition to this. So maybe we should call it consensus.

Man: That would be good.

((Crosstalk))

Cheryl Langdon-Orr: You think anyone objects to with getting a consensus writing?

Chuck Gomes: Yeah. So, I mean I'm a little just about calling it full consensus, because it's last minute. I suggest using it unless somebody corrects me, we call it consensus on the reworded 3.3. I'm not seeing any hands up. Let's move back to four, and I think, let's see, where were we at on this? I know Bertrand, you started to talk about four. Why don't you jump back in?

Bertrand de la Chappelle: Yeah, no it was just to mention the addition of fully outsourcing the procedure to DRSP to make sure that we're objecting to the notion of putting it completely in the hands of the DRSP as opposed to using advice. But (unintelligible).

Chuck Gomes: Okay. Now, you're suggesting that 4.1 that...

Bertrand de la Chappelle: It's just that the beginning of four in the issue description.

Chuck Gomes: Oh, I understand.

Bertrand de la Chappelle: Fully outsourcing the (unintelligible) resolution, (unintelligible).

Chuck Gomes: Ah, now challenge me if I'm wrong, and I'll get to the hands in just a second. So in other words, it seems to me that that's a fairly safe change based on what I've heard people say, but let's jump to the cue. Richard?

Richard Tindal: Yeah, so on 4.1, I think that different people have (unintelligible).

Chuck Gomes: Hold on a second, Richard. Richard, hold on a second if you would, I'll get to you for one, but let's talk first about Bertrand's suggestion in (unintelligible). Evan, did you want to talk about that?

Evan Leibovitch: I was going to talk to issue four.

Chuck Gomes: Oh, okay. Well, we're talking about issue four, we're talking about the first paragraph of issue. And Bertrand, if I understood him correctly, is - well, Bertrand let me let you make the suggestion again.

Bertrand de la Chappelle: So, I don't want to waste time on this, it says to add as the first word, fully outsourcing for the (unintelligible) resolution, instead of merely outsource. There was ambiguity about what we mean by outsourcing.

Chuck Gomes: Does anybody have any objection to adding the word fully to the beginning of that sentence.

Milton Mueller: I do.

Chuck Gomes: Explain please? I'm sorry, who was that?

Milton Mueller: That was Milton.

Chuck Gomes: Oh, Milton, please explain.

Milton Mueller: Yeah, fully outsourcing, I mean, can Bertrand explain better what he means by putting that word in there?

Bertrand de la Chappelle: It's very simple, Milton. The question we had a couple minutes ago, Frank that raised a point about outsourcing, and there was a distinction between outsourcing meaning the DRSP's responsibility for always making decisions. Or outsourcing at server, which is (unintelligible) and leaving the board with the full responsibility is what we all want.

And the reason why I wanted to suggest outsourcing is that it doesn't reject the notion of having (unintelligible). But the full responsibility of the DRSP is something that (unintelligible) concern everybody would be comfortable with. It's just to make sure that we're objectively looking at the notion of putting full and entire responsibility for the DRSP.



(Unintelligible).

((Crosstalk))

Milton Mueller: Yes, I guess the problem I have, and it's very difficult to hear here, why are we still calling it the DRSP when we've got 17 people that didn't want to?

Bertrand de la Chappelle: We're coming to that.

Milton Mueller: Okay. I realize I've missed things. I'm sorry, this is a very, you know, inconvenient time here and I just - I don't understand. Presumably we're going to have a poll again about these new recommendations, if you're modifying them and - I mean I hear you talking about calling consensus on this or that, Chuck. I don't think this call, which has probably fewer people on it than any other call we've had, is in a position to do anything like that.

Cheryl Langdon-Orr: On the contrary. Cheryl here. There is...

((Crosstalk))

Cheryl Langdon-Orr: ...result in everyone listening to the numbers.

Chuck Gomes: We're getting an awful lot of background noise, so if you, I think mute your line. Let's leave the issue paragraph alone, and let's go to paragraph 4.1. And on that particular one, there was a please ignore the term DRSP, for the sake of this, there was 20 out of 20 supported that. And so, does anybody not support?

Hands are up, on floor one, Richard?

Richard Tindal: Yeah, thanks, Chuck. So, I just (unintelligible). I think some people read that point one say that (unintelligible).

Chuck Gomes: Richard?

Richard Tindal: Say it again, Chuck?

Chuck Gomes: Couldn't hear what you...

Richard Tindal: Is that better now?

Gisella Gruber-White: Chuck, sorry to disturb please, but we're going to mute Milton's line temporarily as the line is causing an echo.

Milton Mueller: I thought I had muted it, can you hear me?

Gisella Gruber-White: Yes, we can hear you, Milton.

Milton Mueller: Let's try again.

Gisella Gruber-White: Star 6 and star 6 to un-mute. Thank you for your cooperation.

Chuck Gomes: Okay, now Richard, try yours again.

Richard Tindal: Chuck no problem.

Chuck Gomes: I don't know what--we've got an echo and we can't hear you, Richard. Evan would you try to speak? We'll come back to Richard if we can.

Evan Leibovitch: Okay, I have no idea if I'm echoing - yes, I can hear my own echo. So this is really disconcerting.

I think issue four needs a rewrite, pure and simple. I think we're going at this totally backwards. I think we're trying to fit square pegs into round holes, and

this is just - I think this is just a whole mess of hurt here. Because we've agreed not to call it a DRSP and yet we're using language that infers it.

I made reference in the mailing list earlier to the concept of reengineering. Why can't we simply make item four saying that the board has as its option the ability to call experts, either contracted or otherwise, that it is free to use to help make its determination on whether or not a string is objectionable.

Why do we have to shoehorn the board into the way of getting its own expert advice? If we're agreed that we're not getting anything in DSRP, why do we need to even go into a whole lot of detail over how the board assembles its own expert opinion?

Chuck Gomes: Thank you. We'll come back to that in a minute. Let's let other people talk. Milton?

Evan Leibovitch: Might still be on mute.

Milton Mueller: Sorry, it takes me a while to get the mute off. I can't follow the discussions right now. I don't think you need to hear from me right now, okay?

Chuck Gomes: Okay, Mary Wong?

Mary Wong: Okay, Chuck. In following on (Evan's) comment, and try to reword 4.1 rather than saying there should be, saying something like board may wish to appoint. My other comment was that to the extent we retain much of the language of 4.1, the last word in 4.1, instead of adopt or reject the advice the (unintelligible), now can I just suggest taking out that last word DSRP and replacing it with the word experts? Because I think that's what Margie and I meant.

Chuck Gomes: Where would expert go?

Mary Wong: In the last word, in the last sentence of 4.1. We talk about advice, and what I had meant, and I think that's what Margie had meant as well, was that the experts that give advice are the DRSP. So that last word should read experts rather than DRSP.

Chuck Gomes: Oh, I've got you. Okay, just replace DRSP with expert. Okay. So we have two proposals on the table. One of them was a total reformulation that Evan suggested, and then the edit that you suggested. And we have - Margie, go ahead, and we'll come back to you, Richard, see if we can get you this time.

Margie Milan: Sure, actually, I think Mary Wong covered my point. I had - when I was drafting this, I contemplated changing the word, you know, DRSP with expert or expert panel. So, I think that's what I was thinking.

The other thing I wanted to know though I think from Evan's point regarding whether it's required to go with an expert or voluntary to go to an expert is an interesting distinction that we haven't clarified in the document. And I think - I just wanted to also point out that I think under the bylaws, there is already a mechanism for the board just to go to get expert advice.

So I don't know if you're considering, or we're considering, something else other than what's already in the bylaws, or you know, and if so we need to clarify that.

Evan Leibovitch: Do you want me to respond to that?

Margie Milan: Sure (unintelligible).

Evan Leibovitch: I - hey, if I had my way, recommendation section four could be totally nuked, allowing the board to essentially do the decision with whatever advice it sees fit to assemble, contract or whatever. Just as you said, you know, the provisions are already there for the board to assemble any kind of expert advice it wants to get.

If it's contracted, fine. If it's not contracted, it's fine also. And if the board says it can do it on its own, that's fine too. I'm fine with totally getting rid of four and just saying this is the board's decision, and it's capable of attracting any expertise that it wants, should it need to, to make a decision.

Why should we tie the board's hands on how it makes its decision?

Chuck Gomes: Well, we can't tie the board's hands, of course, but I understand your point. Richard? Let's try again.

Richard Tindal: Thanks, Chuck, is it clear now?

Chuck Gomes: Yeah.

Richard Tindal: Good. So, yes. So, I think one of the areas where there's perhaps some infusion of the 4.1, is I think some people in the group are interpreting the current language to say that the service provider must provide a specific recommendation after they've reviewed the objection. And some people are interpreting it as, so they just have to like weigh the pros and cons with four or five in search of the appropriate law, etcetera. But not necessarily make a specific recommendation.

So, I think it would be useful if we're going to have - on this one, I think it would be useful to differentiate between those who believe that this recommendation is required, and those who believe no, the panel should not be making a specific recommendation, which should nevertheless just be providing some sort of general statement and background guidance on what the law says.

Evan Leibovitch: Richard, why not just leave that up to the board?

Richard Tindal: I'm just saying that some - in voting, in the voting we do on the poll, I think some people, when they voted, they in their minds...

Evan Leibovitch: No, no, no. I'm asking you based on what you just said. Why not leave all of that to the board's own discretion and not put in any wording that constrains or recommends anything?

Richard Tindal: I understand. The point you made a few moments ago I don't disagree with. I'm just saying that this is what's on the (unintelligible) now. I'm just talking about existing. Let's say the board does come up with exactly what we've got in front of us here. Then we have...

((Crosstalk))

Chuck Gomes: Did you want back in, Milton? Mary Wong?

Mary Wong: Thanks, Chuck. I just wanted to reiterate an earlier comment that I made that there is a distinction between the process and actually advice hearing the dispute. I'm not against the suggestion at all, and I totally agree the sentiment that the board should be able to do what it wants.

But, you know, the AGB has all kinds of things as about when you file, when you pay, and so on and so forth. And to me, if we're going to talk about a service provider at all, we should, A, make it optional or rather say something like, if there is a (unintelligible) resolution for this provider or whatever we call it, appointed, that it should only administer the procedural aspects. I don't know if that will make it easier for Evan and others.

I'm just trying to - it seems to me that if we (unintelligible) recommendation that doesn't address the procedural issue, somebody's going to read this and say well who's going to administer - collect the forms and the fees and so forth? They're still going to try and appoint us and staff to do it. So it seems to me we do need to address that and that is to say if a DRSP or whoever

appoints, they only deal with procedures, and everything else is in the form of expert advice to the board.

Chuck Gomes: Konstantos.

Konstantos Komaitis: Thank you, Chuck. Just to respond very quickly to what Evan said, I would personally feel quite uncomfortable in giving that kind of discretion from the board concerning the sensitivity of the issue (unintelligible). I feel that we need to start a sort of streamline process where expert advice is given to the board and we know that it is expert advice is given. I would not feel very comfortable depending just on the discretion of the board and the (unintelligible). Thank you very much.

Chuck Gomes: Thank you. Bertrand?

Bertrand de la Chappelle: Well, I'm afraid that we're going full swing in the completely opposite direction that we had before, which was going too far in the previous direction. I.e. the current (unintelligible) has a tendency to seem to put the decision as far from the board as possible. And some people, and I was among them, and I'm still among them, say that the board was trying to distance itself as much as possible from difficult decisions, by outsourcing it, fully outsourcing it, to a DRSP so that they could say, okay, we followed the recommendation.

The discussions we've had have shown that we are strongly in favor of the board making the ultimate decision. However, what we're discussing now seems to be that we're trying to bring it completely in the other direction to a situation where basically the board does all the work and all the examination and if it wants, maybe it could think about composing a panel.

I see a big danger in this. Because obviously the board will not have the time nor the competence inside to deal with those issues, especially if there are

many applications in that case. So having the panel or an evaluation by competent experts, however it is formed, is probably useful.

The second thing is, it is probably dangerous to give the responsibility to the board, to choose the panel on the (unintelligible) basis. Because then there could always be the accusation, like okay, you wanted to pass this string, then you chose the panels so that it goes in one direction or the other.

So I think we are in a middle ground that basically should probably be based on the following. That there should be a mechanism that provides expert panels when there is objections on the basis or recommendation six, so that there is information about the international principles or the principles of international law.

Second, this panel will have to decide whether it does make a recommendation or not. I would personally favor the notion that making a recommendation in order not to have the wishy-washy type of thing that says on one hand, and on the other hand. But then the question is whether the board can overcome or not, and I think we have agreed that the board can overcome the recommendation.

So I think we're going too far in the other direction. I (respect what you're saying), but saying that basically because it is the ultimate decision of the board, the board should be making all the discussion, the evaluation, and decide whether it needs a panel, if so, is going too far I believe in the other direction than the one that the board is taking so far. So we should stay in the middle ground.

Chuck Gomes: Thank you, Bertrand. Jon?

Jon Nevett: Hey, Chuck. I just wanted to remind folks that this recommendation got 20 out of 20 support, so I'm not sure why we're mucking around with it. I guess I would just based on the following recommendation change the DRSP to, you



know, the expert panel. It's essentially clear the processes that there's a - some kind of administrative point, say an expert panel that gives advice to the board, and the board makes a decision, and we're done.

So, I guess I wouldn't spend too much time with changing the words of the recommendation that has universal support.

Chuck Gomes: Thank you, Jon. Alan.

Alan Greenberg: Yeah, we talk about the board, ICANN's board, being overloaded. The concept of the board holding hearings and calling for testimony and all this is done in front of the board is absolutely ludicrous.

There's no doubt that there has to be some sort of external panel, an organization, who will do this kind of thing, but I don't believe we need to specify the details. There is still ICANN staff who are going to work in filling in all of the details using methodology that is implemental and reasonable. I don't think we need to specify all the details at this level.

So I support what Evan is saying, not because someone doesn't need to do it, but we don't need to specify these details. Thank you.

Chuck Gomes: Okay. Margie and Mary Wong, I don't know which one of you wants to do it, could you describe the, once again, the edits you suggested to recommendation 4.1?

Mary Wong: Chuck, this is Mary Wong. I think the simplest one was if we keep the language as is, then the one edit that should be made is to replace that last and final word DRSP with the word experts. And secondly, I'm trying to find some language right now that would change the first part of recommendation 4.1 from a there should to something that the board might wish to do in accordance to the bylaws, and I'll try and send that shortly.

Chuck Gomes: Okay. All right, well we will come back to that one hopefully quickly.  
Recommendation 4.2 - there was - 17 out of 20 supported that the process for Req6 objections should be referred to - should not be referred to as a dispute resolution process. Is there anybody that didn't get a chance to voice their opinion on this one that would like to do so now?

Okay, it seems to me we have - that's kind of a borderline one. Avri and Margie can you help me if you're still on? Excuse me, Avri and Cheryl, is that a consensus or a strong support?

Avri Doria: What's the number on this one?

Chuck Gomes: It's 4.2 Avri.

Man: 18021.

Chuck Gomes: (Unintelligible).

Cheryl Langdon-Orr: You really - 17, 18. It depends if anyone who didn't vote on the poll on the call at the (unintelligible).

((Crosstalk))

Chuck Gomes: They are on the conservative side. I think that's it.

Cheryl Langdon-Orr: Yeah that's...

Chuck Gomes: Okay, so is that all right Margie? Let's go back to 4.1. Mary, did you come up with anything there?

Mary Wong: I'm sending part of what I'm drafting, and there's a final sentence that I did manage to cut and paste in.

Chuck Gomes: Okay, let's move on to 5 and then we'll come back there to that one.

Margie Milan: Sorry, it's Margie and this is for point 4.2. What did you say it was?

Chuck Gomes: For 4.2?

Margie Milan: Yes.

Chuck Gomes: Strong support.

Margie Milan: Thank you.

Chuck Gomes: 5 then we have threshold for board decisions to reject an application based on objections, and there was 20 out of 20 for recommendation 4.1. Is there anybody that would have a different position on that? So we have full consensus on that one. I'm sorry, did I...?

Man: (Unintelligible).

Chuck Gomes: How did I - what's that?

Man: Did Margie (unintelligible)?

Chuck Gomes: I'm sorry. What - my numbers. I'm looking at something incorrectly here. I think I just stated - what am I doing here? Oh, I see what I - okay. I jumped back to 4 or did I? I'm confused on my screen - what I'm seeing here. Oh, I see. All right, so I'm sorry. I went back to 4.1 because of the - I was on the wrong screen.

So the Recommendation 5 one where we're talking about thresholds, the super majority required for a vote against the advise of the whatever. There was very minimal support for that, so I would definitely say the - I'm not sure the five categories cover this. I mean there was - is that what you would call divergence? It's really not divergence; it's you know rejection.

Avri, Cheryl, can you help me on that one?

Alan Greenberg: Chuck, there's consensus on the opposite to what it says.

Chuck Gomes: Right. Exactly and it seems like we don't have a category for that is what I'm thinking Alan. For which category? Anybody? There's certainly not strong support or any higher.

Cheryl Langdon-Orr: Sorry.

Chuck Gomes: Divergence - I mean there's no...

Alan Greenberg: Milton gave us the words strong support for rejection.

Chuck Gomes: What's that Alan? I didn't hear you Alan.

Alan Greenberg: Milton on the chat had strong support for rejection.

Chuck Gomes: Yeah, I think that's correct, Milton. What I'm - I guess we can send this back to the - not this report - put this in. I think there needs to be another category in the - unless we just eliminate one like this. Should we eliminate it?

Man: (Unintelligible).

Chuck Gomes: Margie.

Margie Milan: Yeah, that would be my suggestion. Just eliminate it if there's not - you know if it doesn't even qualify for divergence (unintelligible), yeah.

Man: Or say there was strong support for a simple majority overturning.

Chuck Gomes: Okay, Bertrand.

Bertrand de la Chapelle: Well I would - sorry.

Chuck Gomes: Bertrand.

Bertrand de la Chapelle: Yeah, I would suggest keeping the two formulations. Because otherwise, the discussions by people who have not participated in the working group will not be clear enough regarding the options that have been explored. In that case, these are really two options, and I think it has to be maintained at least for this stage for the rest of the community to be able to see the two options even if there is...

Cheryl Langdon-Orr: Did we just lose Chuck?

Man: We lost somebody.

Gisella Gruber-White: Chuck is on his way back into the call.

Man: Okay, thank you.

Margie Milan: Cheryl, do you want to pick up while Chuck dials in?

Gisella Gruber-White: Cheryl is on mute.

Cheryl Langdon-Orr: I'm really trying to get off mute. Say it again, Margie.

Margie Milan: Oh Cheryl, I just wanted to know if you wanted to pick up until Chuck gets back on.

Cheryl Langdon-Orr: Sorry. Yes, I will. I was having issues with muting and the fact that I'm supposed to be moving to another meeting and checking out of this hotel room momentarily, so I was you know having trouble pushing buttons.

Okay, so at the moment, we are looking at the need to keep both Recommendations 5.1 and 5.2 in so that there is discussion and clarity on the fact that both of the issues have been discussed. Jon, do you still have your hand up? Are you speaking to this matter?

Chuck Gomes: I'm back. Sorry about that. We were disconnected. I don't know when we were disconnected here. So it seems to me on 5 we have very minimal support for it and 5.2 we have - I think it's no consensus, but strong support and a significant opposition. And if I followed Bertrand's suggestion, we would just leave those as is.

Milton. Did you want to comment Milton?

Milton Mueller: Okay, how do I sound?

Cheryl Langdon-Orr: Pretty good Milton.

Chuck Gomes: Not bad.

Milton Mueller: Okay, good. So I think the problem with 5.1 is that many of us who didn't like the idea of a DRSP making a recommendation - voted against 5.1 because it presumed that the DRSP would be making a recommendation, which had to be overturned. And we saw that as outsourcing of the decision in a way that really made the decision in the hands of the DRSP and took it out of the hands of the board and required the board to go to great lengths to overturn its decision.

What you - so I would - I'm arguing against here the view that 5.1 means that we are supporting the simple majority to kill a TLD. I think the issue is whether those kinds of clouding factors also entered into the vote on 5.2. So I would just like people to express an opinion if the board - it seems we accept the idea that the board should make the decision. Now do we want the board

to make a decision to reject a new TLD application on a Req6 objection by a super majority or not. I would like to have a very clear expression on that.

I'm going to mute myself here.

Chuck Gomes: We're dealing with that particular (unintelligible) on another item, so I'm not sure why we would do it now.

Milton Mueller: I'm having trouble muting myself. Can you still hear me?

Cheryl Langdon-Orr: Yes.

Chuck Gomes: Yes.

Milton Mueller: This phone is really clunky. You wouldn't believe it. One more try.

Gisella Gruber-White: You've muted yourself. Thank you, Milton.

Chuck Gomes: Okay. All right, so any other? Mary you are next.

Mary Wong: Thanks. Same suggestion as before for 5.1. Instead of advice on DRSP, it would be advice of experts. And I'm looking at the Emerging Principles document as well where it says, "Advice of the DRSP." I would assume that that means advice of the expert it consults.

Chuck Gomes: Is the word advice okay instead of recommendation?

Mary Wong: I've been using the words advice and expert advice. I think what I'm trying to get at here in 5.1 and also in 4.1 is that it is the experts that give advice and not the DRSP, so we should make that clear.

Chuck Gomes: Okay, are there any objections to that change?

Man: I think (unintelligible) whole thing (unintelligible).

Chuck Gomes: Yeah.

Man: I mean I'm not agreeing with (unintelligible).

Chuck Gomes: Any objections to using the expert advice instead of advice of DRSP? And that would be consistent then with what - what was it, 4.2? Go ahead Bertrand.

Bertrand de la Chapelle: Well I was a little uneasy with the modification of 4.1. I think expert is not enough. Expert panel would be probably the right balance. I think as I said before having the board decide on its own to establish a panel of experts is leaving too much responsibility without any counterbalancing, but I must confess that I'm now getting completely unable to really contribute to the discussion at this state. I mean I think it's too late.

Chuck Gomes: And I think we - well we're almost a half hour over our call. The - which makes it - and we're in a week where it's very difficult to schedule more calls for some of us. The - I think about all we can do right now is to see if there's any time. I mean it may even be unrealistic. Any time that - we obviously can't reasonably make our goal of getting the report in today, so let me request that we do a Doodle for the next few days to see if there's - boy I don't look forward - never mind. I won't make that comment.  
The - let's do a Doodle poll on the next two days and see if there's any time we can continue this discussion. I don't - unless somebody else has another suggestion and I welcome other suggestions. Bertrand.

Bertrand de la Chapelle: Yeah, actually I'm thinking that we had this very tight deadline, which was actually very good because it forced us to really nail down a certain number of topics.



The second, we haven't completely finalized some things. Not only is it not a problem, but in any case, we need to consult the different constituencies and this was the point I wanted to make at first. The only reason why we put this very tight deadline was actually a - to get for the board retreat.

I think it would be natural that there will be an interaction between the board and this group in one way or the other, and it makes sense that the recommendations that we are forwarding are actually food for further discussion because they're not completely finalized.

So I personally would have no problem seeing the document in its current state with the (cleaning) that we did today be forwarded to the board. With a clear interaction maybe with the three chairs on one conference call before the meeting of the board to explain what is the status of this document and that it is actually something that is for further discussion.

Chuck Gomes: So let me see if I understand that correctly. So are you suggesting then that we make the changes that we discussed about so far in this meeting, go ahead and submit the report with a comment at our breaking point there, probably around 4, that the group has not had time to finalize positions on the following and will provide additional feedback as possible.

And then if we did that, I would suggest that all of the places where we have a draft position that says diversity or whatever that we put a TBD - to be decided or whatever we want there. So we deliver something to the board to see where we're at and that we try in the meantime before the actual board retreat - keep in mind, we are trying to meet an 11-day advance notification to the board.

And is that correct, Bertrand? Did I get that correctly?

Bertrand de la Chapelle: Yeah, mostly - it's a work in progress. We are not finished and there was no clear - I think we have tremendously progressed. I mean

honestly. So I would see no shame in sharing this with the board. There will be board members (unintelligible) an interaction to explain what is the status and get varying feedback (unintelligible).

Chuck Gomes: Okay, I see a hand up. Milton.

Milton Mueller: Yes, I would support Bertrand's proposal, but only if for the rest of the recommendations we simply report the poll results and classify them as appropriate according to you know - in some cases, it's pretty obvious we have almost complete consensus or strong support for things and in other cases, we don't.

In other words, we have the initial poll results and we can forward this report with those without rediscussing them even though we can tell them that we didn't get through as much as we wanted to.

Chuck Gomes: Well it's an interesting idea, Milton. I think its worth some consideration. Now are you suggesting that we actually show the numbers like 4 out of 20 or 12 out of 20 or - I'm not objecting to that. I'm just clarifying.

Go ahead, Cheryl.

Cheryl Langdon-Orr: Margie had her hand up first.

Chuck Gomes: Okay Margie, you are first.

Margie Milan: Sure. Yeah, I do have a problem with that recommendation in that - oh shoot. Can you guys hear me okay? Did I kick off?

Chuck Gomes: Go ahead.

Margie Milan: Oh, okay. Sorry. I thought I was being cut off.

Anyway, because I sent out the report and I've really gotten no substantive comment on the content. And I really do feel uncomfortable with issuing a report that the group hasn't really fully considered despite you know - I mean obviously we've done a lot of work and we've worked on the recommendations, but there's a lot of other stuff on the report that hasn't really gotten the attention of this group yet. So I do feel a bit uncomfortable with just releasing something today that is just basically my work and not you know reflecting the views of the group.

Chuck Gomes: What if we gave 24 hours for people to comment on the - not the recommendations, just the other parts of the report. I did find a couple things today. And if we had time today, I was naively hoping that we might, I was going to bring those up at the end of this call. The - I certainly could submit my comments relatively easy on that. Cheryl.

Cheryl Langdon-Orr: Thanks. Thanks, Chuck, and I'm hoping Frank will come in and support on this as well.

I think going online, which is why I put my hand up for the - I can pick a number, but you know the close of asserting somewhere in the world today. Perhaps the majority of you are. It would be a good idea.

And then at that point, I'm happy to continue with a line in the sand that says, "Substantive discussion and text development has gone up until this point, which is somewhere around 4. Beyond that, you will find indicative poll results and work of the CWG continues on this matter." Perhaps a small pre-explanatory note from the three co-chairs or the cover note. We say, "Here is a place holder with considerable work done and more to follow," and we put it in on the 11th day - 11-day advance on that basis.

Any additional work that we do get done, you know they know it's coming. It's got a place in the agenda. And honestly, do we really think they are going to read every single word before it's ready to come up on the agenda anyway?

Chuck Gomes: So Cheryl let me make sure I'm clear on what you are suggesting. It sounds like you are suggesting essentially Milton's suggestion with the explanatory note from the co-chairs. Is that right?

Cheryl Langdon-Orr: Correct.

Chuck Gomes: Okay. Margie has a concern about some general elements of the report, excluding the recommendations. How do you think we are to deal with that?

Cheryl Langdon-Orr: I understand Margie's concern. And what I'm saying is with the opportunity for the rest of the work group - you've indicated you've got information to bring in. For the rest of the work group to put in whether they are on this call or not further comments on any part knowing that we are going to be making the discussed text changes up until and including 4, we will be reporting poll results only for the rest, and people have been encouraged to put their commentary in by close of somewhere in the world. Light as possible in the world today should alleviate some of Margie's concerns because the opportunity for input has been done. And yeah, we are of course you know working at ridiculously short schedules.

Chuck Gomes: Okay, so if I understand, I'm sorry. I somehow disconnected myself from the Adobe Connect, so I will look at Bertrand's screen to see if anybody's hands come up. Thanks, Bertrand.

The - so go ahead. Now to submit it with the 11-day advance, it means today.

Cheryl Langdon-Orr: Yes, that's right.

Chuck Gomes: Okay, so you, and (Heather), and I would have to draft a message right now, okay.

Cheryl Langdon-Orr: Yeah, it's a placeholder. It's a placeholder. The term snapshot is being used in the boardroom and I think that's fine.

Chuck Gomes: Okay.

Cheryl Langdon-Orr: "Dear (Diane), please pass this onto the board. It is a current snapshot of the slightly more substantive and completed document that will be in your hands prior to the board retreat."

Chuck Gomes: Okay, thank you. And by the way, Margie, just to respond to your thing. Actually, I did go through the latest changes in your document. I think it's not in bad shape.

Margie Milan: Good.

Chuck Gomes: The things I was going to comment on were fairly easy, so I don't think there's a huge risk in doing what both Milton and Cheryl are advocating, but let's go to Jon.

Jon Nevett: Yeah, I guess I would say the same thing that we should send a snapshot with the 11-day window, but we still probably have another week, or 8, or 9 days that we could finalize a good initial report and I think we should work towards that. I think we have made some progress on this call for example on getting more consensus. When you had 12, 13 with a little word change here or there, we got it up to 17 or 18. Perhaps we should continue that work over the next week and then get a cleaner report to them at least three days prior to the retreat.

Cheryl Langdon-Orr: Yes.

Chuck Gomes: Thank you, Jon. Margie.

Margie Milan: Yeah, the one thing though is you know there's a lot of things you've asked for today and that's going to take me hours. And I know it doesn't sound like a lot on the call, but it takes me a while to think about it, get it right, and you

know make sure I'm consistent throughout. So you know even just doing what we've done today is going to take some time. I don't know if I will be able to get it done today. I mean I will try, but I don't know.

Chuck Gomes: I think all we can ask Margie is to make the best effort within reason that you can. And if we are a few hours or so late, we're a few hours or so late. I don't think anybody is going to jump up and scream. I actually think from what I'm hearing from the board members I talk to is that they are quite pleased with the work that's going on, and I find it very hard to believe that they won't have some tolerance in that regard. Alan.

Alan Greenberg: Yeah, I will follow on to what you just said. Let's be realistic. All board members are not going to read all 300 or 400 pages that they get tomorrow morning.

Cheryl Langdon-Orr: Exactly.

Alan Greenberg: They asked for this; they want a reasoned response from this group. So that when they finally publish the Applicant Guidebook, there aren't a whole bunch of objections from the GAC and from a lot of other people. So they not only want an answer, but they want an answer, which is going to be acceptable. If they are not willing to give us some leeway and read something in the last couple of days or have some modifications to it prior to the discussion, then we're dealing with the wrong people. They are the ones that want this answer.

Chuck Gomes: Yeah.

Alan Greenberg: And they need it right because they can't afford to have it wrong. Thank you.

Chuck Gomes: So Alan you are supporting going ahead as we're talking about and if it means we can't get it out tomorrow, that's okay.

Alan Greenberg: I'm saying if we can send something out tomorrow, let's get it out to them. If (Diane) has to send a separate mailing for this four days later, then so be it. And if we send something out now and we want to modify it a week later, I think all of that is reasonable.

Chuck Gomes: Thank you.

Alan Greenberg: If anyone wants to reject it because we're late, I don't care.

Chuck Gomes: Thanks, Alan. Any strong objections to that? Then let's do that and let's also - I would like to do a Doodle poll for the rest of the week. Try and - there's a lot of us that are going to be tied up in meetings the rest of the week, but maybe we can find some time keeping that in mind that might work. And if that doesn't, we'll have to go to early next week and deal with that. So let's take that approach.

Thanks again. You know I know this is - if any of you are as tired as I am, it's been difficult, but it's still been productive as several of you pointed out. So I thank you for that. Margie.

Margie Milan: Chuck, yeah sorry to interrupt. So what did we agree that it could go out tomorrow? Is that what we're saying? I'm just trying to make sure I understood what our last agreement was.

Chuck Gomes: Yeah, let's get it out tomorrow - if possible, tomorrow.

Cheryl Langdon-Orr: Margie, Cheryl here.

Margie Milan: Yes.

Cheryl Langdon-Orr: Do all the changes you can (route) by tomorrow done and send it by tomorrow. What I would suggest is that on behalf of (Heather), Frank, Chuck, and myself, you pin a small, "Dear (Diane), the following has happened.

Meeting has instructed me to the following. They want to run their comments to the close of today, therefore, please put a placeholder for the snapshot report that will be forthcoming on the morrow." Recognizing that it will be not quite the 11 days, but you now blah, blah, blah.

Margie Milan: Yeah, I'll do it.

Alan Greenberg: I also think a caveat that it may change a week from now.

Cheryl Langdon-Orr: Well that will be in our covenant, yes.

Alan Greenberg: Yeah.

Margie Milan: Okay, yeah that makes sense. I can do that.

Chuck Gomes: Okay. Hey, thanks.

Cheryl Langdon-Orr: I just don't want this to explode. You know we've just got to do the best we can.

Margie Milan: Okay.

Chuck Gomes: Thank you, Cheryl, for that good suggestion. Thank you, Margie, for your work. Thank you everyone for hanging in there for so long and with all your patience. Let's see what happens on the Doodle poll and we will try and pick this up so that the - before the board retreat actually happens, we will maybe be able to add a little bit more.

One question. Are we going to follow Milton's suggestion and show the results of the poll? I'm assuming we are. Does anybody object to that?

Cheryl Langdon-Orr: I think it's a good idea particularly for the bits that we haven't fully discussed and flushed out yet.



Chuck Gomes: Yeah and the one thing Margie - and hopefully you caught this before. But in the places where you have in parentheses the level of consensus, let's put all those TBDs just so there's no confusion in that regard for the ones that are remaining including the areas of support.

Jon Nevett: Chuck, one more comment if I may. It's Jon.

Chuck Gomes: Go ahead, Jon.

Jon Nevett: If we changed any of the language of some of the recommendations and we could do a quick poll to get more accurate reporting, I would support that like we did with the - one of the ones that just came out.

Cheryl Langdon-Orr: Yes.

Chuck Gomes: I'm not sure I understand what you are suggesting Jon.

Jon Nevett: I'm saying if we change the language of any of the recommendations, we should do a further Doodle poll or whatever we're calling it like we did with (dot 2) so that we could have accurate reporting of the level of support.

Chuck Gomes: How much - you know if people can turn it around quickly, that probably works. The - is that doable Margie and Marika?

Margie Milan: I will have to ask Marika because she's been doing it. Marika.

Marika Konings: This is Marika. It doesn't take too long to set up, but we need the referenced language basically.

Chuck Gomes: And I think Margie you have that, right?

Margie Milan: Yeah, it will take me a bit of time, but I mean like by early tomorrow morning I could have it out.

Chuck Gomes: Okay and so we may be first of the day on Wednesday I think before we actually get it delivered, but I think we can live with that, so let's go that route, okay? Any other questions. Thanks.

Margie Milan: All right, thank you.

Chuck Gomes: And I will talk to you again I'm sure.

Mary Wong: Bye.

Woman: Thanks.

Chuck Gomes: Bye.

Woman: Thanks.

END