

**Consultation on Recommendation 6 Drafting Team  
TRANSCRIPTION  
Monday 22 November 2010 at 18:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Consultation on Recommendation 6 Drafting Team meeting on Monday 22 November at 18:00 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

<http://audio.icann.org/gnso/gnso-cwg-20101122-en.mp3>

**ALAC**

Evan Leibovitch – ALAC

**Commercial Stakeholder Group**

Jon Nevett – CBUC\*

**Non Commercial Stakeholder group**

Avri Doria

Robin Gross - NCSG

**Registrars Stakeholder Group**

Krista Papac

**Registries Stakeholder Group**

Chuck Gomes – GNSO Council chair\*

**Individuals**

Richard Tindal

**Staff**

Margie Milam - Senior Policy Counselor

Glen de Saint Géry – GNSO Secretariat

Gisella Gruber-White

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

Gisella Gruber-White: Thank you, good morning, good afternoon, good evening to everyone on today's call. We have Avri Doria, Krista Papac, Evan Leibovitch, Chuck Gomes, Jon Nevett, Robin Gross, from staff we have Margie Milam, Glen DeSaintgery and myself Gisella Gruber-White and I don't have any apologies recorded.

If I could just remind you to state your names when speaking for transcript purposes, thank you. Over to you, Margie.

Margie Milam: Well thank you every one for joining. I think the - I took a little bit of time and put together an agenda to get us started and hopefully we can start off by selecting a chair of the drafting group.

Does anyone want to volunteer or nominate a chair?

Chuck Gomes: Let me get while people are thinking, this is Chuck, let me just comment. I didn't volunteer for this group. I tried in my co-chairing responsibilities with the community working group to really stay back and let the group do it.

And I would like to do the same thing here to the extent that I can be helpful, I will be helpful but I think it would be very good if one of the people that volunteered would volunteer to take the leadership.

I think all that means in this case is that you'll you know kind of keep things going and provide the leadership that's needed in that regard.

Evan Leibovitch: This is Evan, I would do it in a heartbeat if I hadn't been co-opted into like three other things in the last week. I don't know what the energy constraints are beyond the call itself.

Are you just looking for people to move the call along or does it include an awful lot of inter call work?

Chuck Gomes: Well I think - you know first of all I think we're talking about maybe a couple calls and lots of work on line. So Margie correct me if you think I'm wrong, but obviously we identified last week that there are some differences of understanding.

And the task of this group is simply to try and clarify those, to prepare a draft that would provide clarification that would ultimately be approved or edited by the full working group.

So I would hope that in today's call we get a good start in terms of having mutual understanding among ourselves and then can you know design a plan to come up with a first draft and then tweak it and give it to the full working group you know maybe a week and a half from now.

Does that make sense in other's people's understanding?

Evan Leibovitch: It does. Well Chuck put it this way, this is Evan again. There's been an awful lot of discussion started within the ALAC for instance on a response to the applicant guide book and so I'm in a little bit of a quandary to what extent we can count on having anything that we do now being sort of re-put back into the DAG in short order.

Or is this going to be a longer term thing?

Chuck Gomes: Well I'm not sure I understand the question Evan, the - my understanding is that - and in the message from Margie she identified some areas where there were discrepancies or maybe I should say a gap between staff understanding of the rec six recommendations.

And what I think most of us have participated in the working group understood. So all we're really talking about here is making sure there's clear understanding between the working group and staff in terms of the recommendation.

I mean and so we shouldn't be getting into public comments and the overall draft. We have a pretty narrow focus here as I understand it, does anybody understand it differently?

Evan Leibovitch: This is Evan again and I'll just go back to the comments that I've been hearing within ALAC. The reception to the draft DAG has been so severe that there were positions that were taken within people within the working group that may not be so relevant any more.

And I'll be very specific on one particular case. The role of the independent objector was controversial in the original release, was modified in the recommendation of this working group and then however after seeing what had happened in the last version of the DAG, the ALAC basically wanted to come out and say to nuke the IO entirely.

The gap has widened rather than narrowed as a result of what's happened over the last couple of weeks.

Chuck Gomes: But that's not what the focus of this little drafting team should be. The focus on this drafting team should be to do our best to clarify what was recommended by the community working group.

To the extent that those recommendations may have changed in some people's mind, that's not our issue on this drafting team. Does that make sense?

Evan Leibovitch: yeah.

Chuck Gomes: The goal isn't to restart the community working group on this, the goal is to make sure that there's understanding between staff who are working on the implementation of the new gTLD program and what was intended by the community working group.

Evan Leibovitch: Then can I ask staff assuming that this group does what it does, is there a likelihood that there could be a response to this in time for Cartagena in terms of actual changes to the day?

Margie Milam: Evan it's Margie, I don't think I can answer that, I'm not on the implementation team and I don't know what the timeline is for responding to changes.

Evan Leibovitch: So we could do our darnedest here and it not show up at all.

Chuck Gomes: Well we shouldn't assume and I can't speak for staff either and even less so than Margie can but we shouldn't assume that some adjustments couldn't be made after Cartagena. I think we're going to be doing good and this put this drafting team to get something out maybe next week for the full community working group to review and make sure it's accurate representation of the report.

And then once the - and so we're going to be doing good to get it out in time for Cartagena because we're running into Cartagena the end of next week so you know I don't want to take leadership but I see Richard and Avri's hands up so let's let them jump in. Richard?

Richard Tindal: Yeah, thanks Chuck, this is Richard. I wanted to agree that I think our mission is to do exactly what you said, that's to reconcile our recommendations with staff understanding and interpretation of those.

And so I agree it's a pretty limited role for us I think. To take an example I'm going to mention (unintelligible) I don't think we had consensus, I think we had a divergent point of view on the independent objectives.

Or I don't think that this group is really discussing that issue again, rather discussing initially the three points that Margie raised in her email and any other points of sort of differing interpretation from what we wrote in our report.

Chuck Gomes: Thanks Richard, Avri?

Avri Doria: Yeah hi, I think I'm going to disagree just a little. I certainly agree that we're not here to reargue the conclusions of the rec six so insofar as something we

didn't have consensus on before we're not going to come here and start arguing towards consensus.

However going slightly beyond understanding on those things where the group had consensus I think that we can go beyond just making sure that they understand that consensus, but factually try to convince them of those things that we had consensus on.

So it's a little bit more than just explanatory, but it's certainly not we doing anything. But on those points where we had consensus or even full consensus I do think it's not only explaining to it - explaining it to the staff, it's arguing for it.

Chuck Gomes: And I don't have any problem with that Avri, I'm comfortable with that. I think that fits into what I intended or what I thought, I shouldn't say intended, what I thought the task was.

And I would think that I would guess that staff would welcome that as well. So no volunteers to take the leadership?

Margie Milam: Chuck it's Margie, Jon volunteered in the chat.

Chuck Gomes: Oh okay, you know how terrible I am at looking at chat, so thanks - is anybody opposed to Jon doing it?

Margie Milam: Well Jon was also opposed to him doing it. Jon better speak up.

Jon Nevett: I'm willing to have someone else do it and if that's considered a back ended way of volunteer, you know we need to get it done and I'm happy to do it. I'm happy to have someone else do it as well.

Chuck Gomes: So any other volunteers? Any opposition to Jon taking the lead on this? Done. Welcome Jon.

Jon Nevett: Thanks Chuck I think.

Chuck Gomes: Yeah, and I understand that. It's all yours Jon, you want to take it from here?

Jon Nevett: Do you have any recommendations on how you envision going forward? I didn't have a conversation with obviously you or Margie before this.

Chuck Gomes: Yeah, well I think that I'm sure that you will - I mean it might be helpful if we identify what's really - it seems to me there's one major issue and maybe we should start off by letting Margie just quickly not reading her whole email but identify what the areas that staff has requested clarification on.

And it seems to me that one of those is a very significant one and that's the one that has gotten some attention on the list. But would that work Jon just to have Margie kind of start there and then let's see which one's the most important and deal with it first?

Jon Nevett: Sounds perfect.

Margie Milam: Okay sure, I'll explain it. I won't read the email and you guys may remember from all last Monday. Essentially I think the issue that the implementation team had with the report was really trying to understand what the role of the board was or at least intended from the working group report.

Because as we read the report or not me, but as staff read the report they thought that what the working group was saying was that every single objection was to be decided by the board, and that seems to contradict what the instructions from the board have been to staff with regard to the recent resolution that talks about the role of the board being one where it's overseeing the process but it's not actually deciding particular TLD strings.

It's a scaling issue and whatever other issue that they considered in reaching that resolution. So that's one area where I think we really would like some clarification on it, to understand you know given the board resolution that instructed staff what its role should be how should this report be interpreted?

And then you know did we misunderstand what report set?

Chuck Gomes: And were there other issues Margie?

Margie Milam: On that point or...

Chuck Gomes: No, just in your total email.

Margie Milam: Oh yeah, there's other issues. That's the main issue and so in particular the board role and also the role of experts, I think there's a difference between what the board view as the role of experts and what the working group viewed.

Because the board would like to rely on the determination of experts as opposed to having to be a decider or factor or adjudicate some sort of dispute.

So that's the first issue. The second issue I think was related to the expansion of the discrimination standard, there was a suggestion in the report to include other protected classes and from at least from what I understand the staff concern was is that they did a fair amount of research on what is you know universally protected across the world.

And they felt that expanding the criteria to include this - these additional classes made the whole criteria too broad and would bring in a lot of additional objections that were seen as problematic because they might be infringing on free speech, you know it might make the whole objection process unworkable.

So that's kind of the second area regarding questions of the staff had on this topic. And then I think the last one had to do with recommendations related to the GAC and the at large committee, ALAC to be able to bring objections and staff really from the implementation side didn't understand what criteria would be used, whether it would require a unanimous decision in that committee versus you know one member.

Is it intended to provide a veto, I think they wanted more clarification what the working group expected with respect to that recommendation if it were to be adopted.

And really when we came up with this list, it was just a list of things that we identified in reviewing the report but we - the implementation staff they believe that there's probably other areas that there's a disagreement as to what the report said and was hoping that this group, you guys could identify other areas if there were other areas.

Does that make sense?

Jon Nevett: Yeah, are there questions, let's take some time on the first issue, that's probably the meatiest, that's the role of the board and the role of experts. Avri?

Avri Doria: No, I put up my hand before you put special questions, I was going to bring up another issue that I think we had to do but I think I'll wait till later.

Jon Nevett: That's fine, why don't we go there?

Avri Doria: Okay, I think we talked a little bit when Evan was talking about ALAC's desire to eliminate the IO. What I looked at and one of the things I don't see clearly on our list is I think when we wrote a notion, when we were dealing with the notion of an IO there was transparency in it.

And all of the sudden they've produced an IO that is you know once again this secret thing right, for abuse as opposed to an open and transparent thing. So I think that there's an issue in that that needs to be explored at some point.

This is beyond ALAC's desire to eliminate it, my view is more of it's there but it needs desperate fixing. So I think that's an issue that needs to be dealt with.

Jon Nevett: So we had divergence on the issue of modifications to the role of IO in 10.1, so are you suggesting that - so it's not really a clarification of our - right?

Avri Doria: Well I think it may be, I think you know and we maybe need to go back and understand because I don't - while we had divergence on how it could be used and all that, I don't believe that we had divergence on its transparency or secrecy.

I think we all assumed transparency. Maybe I'm forgetting something.

Jon Nevett: Maybe in the subject - well we never polled on that issue.

Avri Doria: Exactly and so I know certainly that my assumption was that it was a transparent function, not that it was something that was being done in secret and I think if we went back to our conversations you know that would certainly be something that came out.

It's certainly something that needs to be talked about. I'm not trying to predicate the conclusion of it.

I think the one thing we should be aware of is that as a transparent thing there may be some benefit and some you know saving grace that keeps the

mandated ALAC request for it to be completely cancelled a little less dangerous.

So you know I'm just saying it's one of the topics I think needs to be on the table to talk about.

Jon Nevett: What other issues in addition to independent objector? I mean Robin you have one it looks like?

Robin Gross: Yes, can you hear me?

Jon Nevett: Yes.

Robin Gross: Okay yeah, I just wanted to bring up the issue of incitement plus instigation. It seemed in the staff's report that they didn't seem to try to understand that the group was actually requiring a two level - two pronged test of there has to be incitement and there has to be instigation in order for the objection to go forward.

It seemed like the staff seemed to not get that, they seemed to think that you know we just wanted incitement and we were just throwing in an extra word to be fanciful or something.

But no, actually we meant that there because we wanted to heighten the burden, make it more difficult to bring in objections. So that was intentionally in there and it just seems like you know staff thought it was an accident and it was actually there intentionally.

So we need to have some discussion about the standard of incitement plus instigation.

Jon Nevett: That's issue five. It's - that looks like Richard to your question on the chat it looks like incitement was in our 7.1 of our Recommendation 7.1.

Okay, any other - Evan?

Evan Leibovitch: One thing I guess that was very core to a lot of why I even got involved in this was the whole issue of the DRSP. And I think we have a major gap between what we envisioned to be a replacement process for what was the DRSP and what staff still believes needs to be there.

You'll notice explicitly the term DRSP never shows up once in the recommendation. And I believe at least in my personal point of view that was deliberate.

Yes there is a need to have experts but know the envisioning of the working group as I saw it was far different from the concept of the DRSP. And explicitly the letter R, the fact that the experts are not there to resolve anything, they're there to give advice.

They're there at most to say to the board do this, don't do this based on an objective analysis. And the whole point of having a group that is called a dispute resolution service provider implies that there is a third party that is actually resolving things.

And the working group in many points, in many of the recommendations had mapped out an explicitly different result to this. And to me that is the biggest single gap that we have.

Jon Nevett: Okay so that's related to the first issue that we've identified, the role of the board and the role of the experts.

Evan Leibovitch: Well actually - okay, I take it a step further because I'd expand it to the role of the DRSP which continues to be in the DAG even though the working group mapped out an alternative.

Jon Nevett: Richard.

Richard Tindal: Yeah thanks, it's Richard here. So I agree, this is really to me this is all part of issue one. And you know I don't think there was uniformity in the group on what Evan's suggesting.

I for example wouldn't go so far in terms of specificity or prescriptiveness in terms of this whole DSRP thing. But I think that's all there to discuss, what is the role of this group, what constitutes their advice and recommendations and what should the board do about it at all.

That's the key issue in front of us and I think that's all part of issue one.

Evan Leibovitch: And also to a smaller extent even who they are. I mean there were certain people, I'm not one of them but there were certain people that even disliked the way that the DRSP was chosen and the criteria on which they were chosen.

I mean that all still relates to this. But there's all these tiny little side issues that flow from it.

Richard Tindal: Yeah, and this is Richard again Jon, just quickly to me it's important that we get through our mission here which is I think to clarify what the group said where it had consensus.

I think some of the issues that are coming up here we did not have consensus on so I don't know that we're going to - that the function of this group is going to be to try and reexamine those issues.

I think it's the ones where we did have consensus, is there a different interpretation on the staff's part from what's in our minds.

Jon Nevett: Okay, Chuck?

Chuck Gomes: Yeah, I just wanted to reinforce what Richard's saying. I think we could go off and work for weeks if we start you know examining the various views of the different people in the group.

I personally think we would be most productive if we focus on those areas where there was consensus and full consensus and making sure first of all from Margie's point of view that she understands and then that we can draft a statement that will be helpful to the whole implementation team.

Evan Leibovitch: Oh absolutely. I mean we're not in disagreement, I'm fully confident that points that I was trying to make can be done based on what achieved consensus.

Jon Nevett: Okay. Yeah I don't know if would be helpful for folks for Margie maybe to talk about if we're - sounds like we're getting into the first issue, talk about the different recommendations that relate to the role of the board and the role of the DRSP or the experts.

You know I note that 4.6, the name of the process where we actually talk about the dispute resolution process did not have consensus but strong support.

And then you know 11.2 had full consensus in there we talked about the dispute resolution process for rec. I don't know if there are other recommendations that actually (unintelligible) dispute and could be helpful maybe for Margie to highlight those based on these five issues.

Maybe we color code it if the issues (unintelligible) better sense of what we actually said in the first round. Margie, I see your hand's up and then Robin.

Margie Milam: Yeah I had a hand up for a different issue. In talking to implementation staff and trying to understand where the gap was, I can share a couple things.

One of them if you don't mind me pulling up the explanatory memorandum might help explain some of the reasoning behind why the recommendation or the (unintelligible) was adopted the way it was.

With the one issue that comes to mind is DRSP, so it's kind of the first issue. But one of the problems that they seemed to have when they were trying to understand the report was that the GNSO council when it came up with a new gTLD recommendation included a recommendation that there be - that these objections be resolved through dispute resolution.

So I think that's one of the areas that they had a hard time grappling with what to do with the report when the GNSO council had recommended that these type of objections be resolved through the dispute resolution process.

And Chuck I don't know if you remember you know I wasn't really involved with the council at that time, you know the background behind that guideline or recommendation.

Chuck Gomes: Yeah, well certainly that was a recommendation and I think that staff did follow that. Now I don't recall us and Avri probably can help in this as well, but I don't recall us really getting into the semantics of what the independent experts would be at least not focusing on that, you know.

Whether we call it a dispute resolution provider or a panel of experts, I don't think that was so much of an issue or at least not one that was directly talked about in the PPP process.

The point was that there were going to be these panels that would objectively - and that was another recommendation of the GNSO - objectively make a decision with regard to whether the decision or recommendation, however that panel with regard to the complaint that was filed.

Jon Nevett: Okay, Robin?

Robin Gross: Thanks, yeah I wanted to raise another point about the independent objector and one of the things that the group, the cross community working group recommended was that there be an actual party who's willing to say I'm going to be harmed by this TLD that's going forward.

Before the independent objector can bring a complaint forward and this was something that we did because we thought as a mechanism to protect against abuse and to maintain some kind of accountability in the proceedings by having an actually party who will say yes, I'm willing to be responsible.

I'm willing to be the one to say this shouldn't go forward rather than you know just some client process. So that was something that the group, the cross community working group built into the recommendations and when the staff came out with this proposal that says we're not going to accept any of the modifications to the IO this is another one of those protections against abuse that the group worked in that is now being taken out by staff.

So I think that...

Jon Nevett: Robin, where did our group work that in, just you know because if it's a clarification point then we should...

Robin Gross: Let me find the exact rec and I'll post that.

Jon Nevett: That would be helpful. Okay, Chuck?

Chuck Gomes: Yeah, I'd just like to suggest that we stay on task. Let's focus on the first one, the biggest one and then let's go through the others and when we get to the IO let's talk about the IO.

If we keep jumping around our progress is going to be very limited.

Jon Nevett: That's a fair point, thank you. Avri on the first issue?

Avri Doria: Yeah, it was on the dispute - we're talking about the dispute resolution?  
Okay, I think it's going back to what the council - the council and this doesn't necessarily fit with perhaps everything I'm advocating at the moment, but nonetheless, the council was certainly very strongly against anything that turned out to be beauty contest lists and therefore left decisions in the board's hands.

And it was very intense on their being decision procedure. However that was not in the recommendations, that was in the implementation guidelines and the implementation guidelines are just that, they are guidelines.

So the recommendations do not say all decisions will be made by dispute resolvers, that's in the guideline. What the requirements say is that there will be a predetermined process that declares exactly so you know what you're going to go through.

In the guidelines it's more into and decisions will be made by external dispute resolution. I have it in front, so you know that's something to be careful in making that differentiation.

Because the council at the time was careful about making that differentiation, is that the requirements were the policy, the principles were the policy. The guidelines were aids that the staff was supposed to work from.

So to say that the staff followed the guidelines is completely true. To say that the guidelines are inviolable policy is not true. Thanks.

Jon Nevett: Does that mean we don't need a four month communications period? All right, next is Richard.

Richard Tindal: Thanks Jon. So I mean to issue number one, I'm sort of struggling I guess a little bit like the staff there I think to understand where we're diverged from what the applicant guidebook says.

I think we had consensus on two recommendations in section four, one says that the ultimate responsibility, ultimate resolution rests with the board and as the staff has noted that's what the guidebook says.

And then our second one was that the board can choose to have independent experts and we put them at the DRSP or we call them the glee club, I don't think it matters.

They're a group of experts who are going to give advice and then ultimately the board makes the decision so I don't - I'm not understanding the divergence within this group on 4.1 and 4.2.

They don't say to me that they can't be a group of people who make a recommendation, that's not what I voted for on that. But maybe I'm misinterpreting this.

I don't see where 4.1 and 4.2 vary from what the staff is saying. If someone could clarify that for me?

Jon Nevett: Anyone want to clarify that for Richard?

Evan Leibovitch: Where is the rule of the DSRP in actually resolving anything? Why does that even need to be there?

Richard Tindal: You're raising a question, I'm being very specific here.

Evan Leibovitch: Well no, you're asking me in the gap we're suggesting that according to the recommendations this is what the recommendations suggest should be and I

want to know why there's a necessity to have something called the DRSP implement that?

Richard Tindal: I don't think we've made a recommendation that there would not be a DRSP though.

Evan Leibovitch: We made a recommendation for a process, the process does not involve experts doing dispute resolution.

Richard Tindal: So could you point to the recommendation that says that?

Evan Leibovitch: Sorry, I'm trying to get to it, it says what they do, it doesn't say what they don't do, okay? I mean we didn't get into a whole pile of negative things. We got into a recommendation that says this is what the experts will do.

Do you see anything in the recommendations that say that the experts will do dispute resolution? Can you find that for me?

Richard Tindal: Yeah, we're talking about 4.2, correct?

Evan Leibovitch: No, can you tell me if there's any recommendation anywhere in the document that says that the experts will perform dispute resolution?

Richard Tindal: Yeah, 4.2. Well depends what you mean by dispute resolution.

Evan Leibovitch: No, those words.

Richard Tindal: Okay I'm not...

Evan Leibovitch: Do the words dispute resolution occur anywhere in the recommendations?

Jon Nevett: Yes.

Evan Leibovitch: Sorry, I don't have it in front of me right now but I don't recall that that was done.

Jon Nevett: It's 11.2 refers to the dispute resolution process for rec six objections should be resolved sooner in the process to minimize costs.

Evan Leibovitch: Okay, but that refers to the entire process from beginning to end, not to one specific body's participation in it. There's nothing saying that there's experts engaging in dispute resolution.

Chuck Gomes: Can I jump in here Jon?

Jon Nevett: Yeah, sorry Chuck go ahead.

Chuck Gomes: That's okay, I just - I may be off, but this seems an awful lot of just semantics to me.

Evan Leibovitch: It's important semantics to a lot of people Chuck.

Chuck Gomes: I understand that, but let me finish, okay? What I'm getting at, the complaint is filed to an application that was made. Some people would automatically say that that's a dispute between the applicant and the complainant.

And the idea of the expert panel would be to try to come to some sort of a recommendation with regard to that. Let me ask you Evan, is the concern that it says resolved the dispute?

It's not the word dispute that's bothering you I don't think, is it the resolving, the resolution word that is the problem?

Evan Leibovitch: Pretty well. And here's maybe the fine line of this that really worried a lot of people is the idea that the experts are doing more of an objective research, does this contravene law?

As opposed to a dispute resolution which people think of as two people going in front of an arbitrator that judges one over the other. And we saw a very deliberate and hoped for a very deliberate movement from one to the other.

The idea that both complainant and the original applicant were going to have to pay money jointly to a dispute resolution provider, that they were going to have to pay for the provider in order to judge between them was fundamental to the problems that we had with this.

Chuck Gomes: And let me come back then and say, sorry if I cut you off, but let me come back and say when I say that I think it's a semantical issue, isn't necessarily contrary to what your concern is.

If it is just a semantical issue then I think it's an easy fix maybe for the implementation team. If - just with different words we could avoid the perception that this expert panel is doing any sort of final resolution, okay?

They're going to make a recommendation rather than resolve anything and if that solves the concern, that's not a hard fix.

Evan Leibovitch: Okay, but are you with me and am I out in left field when I'm suggesting that it's not semantic but a significant difference that the experts are expected to do an objective evaluation against international law as opposed to a subjective judgment between two parties?

We saw that as being a significant...

Chuck Gomes: I'm with you and I think Avri pointed that out in terms of what the PDP working group actually you know recommendation. So yeah, I'm with you on that.

Evan Leibovitch: Margie, how are you with that?

Margie Milam: I'm sorry, I guess I don't understand. I'm a little lost right now, I don't understand.

Evan Leibovitch: That's why we're here.

Margie Milam: What you're saying and from my conversations with the implementation staff, they very much do look at it as resolution process where there are two parties, there is an adjudication.

They look at it as a different animal.

Evan Leibovitch: Then Chuck you can see that's where our gap is, that's where our significant gap is.

Jon Nevett: Evan let me ask you a question then if you don't mind, I see a couple people have raised their hands too, so maybe this helps clarify. But would you envision - you know we had full consensus on the fact that the board shall contract with appropriate expert resources provided - to provide objective advice, right?

Evan Leibovitch: Absolutely correct.

Jon Nevett: Okay, so then the question is would you have the applicant and the objector submit something?

Evan Leibovitch: No.

Jon Nevett: Submit any argumentation, submit their rationale for why they think an objection should be held or not to the expert advisors?

Evan Leibovitch: Well I'll tell you what I envisioned and in fact in working out my own process with this I in fact designed myself a little flow chart that I think some of you have seen that essentially said an objector puts forward their documentation.

They are never touched again. So in other words they put forward their documentation and they do it once. They put it forward either to staff, the GAC or the ALAC who then perform a quick look.

If that quick look succeeds then it goes to the expert. The original documentation goes to the experts, that's it. And there's no further appearance by the applicant or by the objector.

That original documentation is all that's there. The role of the experts is to examine the documentation. Is it in line with international law, is it not in line with international law, pass that recommendation to the board.

Jon Nevett: Would the applicant have a right to respond to the objection?

Evan Leibovitch: In writing at the very beginning perhaps, but that's it. AT the time that the application is first submitted, they both get one ability to make a statement and then they are out of the process.

Jon Nevett: What's the rationale for having them out of the process?

Evan Leibovitch: First of all reduced expense, secondly reduced opportunity for gaming and thirdly overall reduced complexity. Oh by the way, we also don't have a third party having to make an ethical judgment between competing moralities.

And in fact instead replace that with an objective is this in line with international law is a very different question than is your right to have this better than my right to have that.

Jon Nevett: We've a queue building up.

Evan Leibovitch: At least am I answering your questions?

Jon Nevett: You definitely answered my question, you know from - we could talk about whether there's agreement with that rationale or not, or that's what the...

Evan Leibovitch: Again I'm just trying to go by what the working group thought they were agreeing to.

Chuck Gomes: Which working group? You're talking about the....

Evan Leibovitch: about the CWG.

Chuck Gomes: Okay.

Evan Leibovitch: The CWG said the panel of experts will do an evaluation against international law, it's not evaluating the respective rights of two advocates, it's taking an objection and says is this in line with law?

Jon Nevett: Right, they certainly - we certainly didn't say though that we wouldn't hear from the two parties throughout the process.

Evan Leibovitch: We didn't say we would. We didn't say that was a necessary part of this.

Jon Nevett: Okay let me go through the queue Evan because we've got four hands up. We've got Margie.

Margie Milam: Sure, my comment was on a different issue, back to what Avri said about the guidelines that the GNSO council forwarded to the board and the discussion of having a DRSP as part of that.

One of the - and Chuck you can recognize this issue, one of the concerns we've had as staff is how do you take this community report given that it

wasn't endorsed by the GNSO council in any way and take whatever's in this report and have it trump what was endorsed by the GNSO council in the recommendation you know when they did all their implementation guidelines.

It's this weird you know - and we haven't really you know I guess from bylaws or organizational standpoint put structure around what is a community working group report and what impact does it have, and how does it slow through our policy processes.

So I just wanted to raise that issue because I heard it from implementation staff and it's one of the concerns they have when they're taking - if you take a recommendation that's in the report and it contradicts something that the GNSO council already opined on or recommended.

You know...

Chuck Gomes: Jon can I respond to that since my name was mentioned?

Jon Nevett: Absolutely, go ahead.

Chuck Gomes: I guess my question to you Margie, what in the report of the community working group contradicts what the GNSO PDP recommendations were? I left the work of the community working group thinking that we really didn't contradict anything.

And staff is thinking there are contradictions, we need to identify where those contradictions are.

Margie Milam: Sure Chuck if I may respond. It is in the difference between how you see these panels, it's exactly what Evan's raising versus what is in the applicant guide book. And from what I understand and again this is from them, that they do see it as a real you know type of arbitration where there's (frees) and there's a decision.

And the role of the resolution that dealt with the role of the board makes it clear that the board doesn't want to be making those kinds of decisions, you know having to read briefs and they want to go through the process of having someone else do it, because that is what they see the role of.

Not as an adjudicatory body that's simply you know setting up a process that's fair and you know everything is known up front.

So that's where the contradiction lies.

Chuck Gomes: I need something more specific than that. I still don't know what in - tell me what recommendation made by the GNSO and approved by the board is contradicted by what a community working group recommended?

I'm not seeing it, I heard your general comment but I need to know specifically because I still am not convinced that there is a contradiction.

Jon Nevett: If I may Chuck, in the implementation guideline passed by the GNSO, H said - and I'm looking at the report, external dispute resolution providers will give decisions on objections.

So - and then the question is one of clarification in my eyes, and whether you know our objections actually had consensus contradicts that or not.

I would take the position that they don't but some of the ones that might have been recommended that didn't have consensus might contradict that such as 4.6 and that one was process for Recommendation 6 objections should not be referred as a dispute resolution process.

Chuck Gomes: Right, yeah. But if we're looking at the consensus or the full consensus recommendations, I don't think there's a direct contradiction. I can

understand it could have been understood that way and of course that's the purpose of why we're meeting.

Jon Nevett: Let me get to Avri's point on the chat whether it's okay to contradict those or not.

Evan Leibovitch: I would also make the point, sorry it's Evan butting in but I just want to make the point that the whole reason why we have this as a community working group and not just as a PDP is that the initiative actually came from the ACs, right?

So you have ALAC and the GAC who were not part of that original process, who were not part of the development rec six. This is the first...

Chuck Gomes: Well that's their own doing, let's be careful there, okay? They were certainly invited and welcome to be a part of that process.

There were ALAC people involved.

Jon Nevett: All right, let me go in the queue because some people have been waiting very patiently. Konstantinos?

Konstantinos Komaitis: Yes, I would say on the DRSP issue, yes what do we see on the DRSP issue, on you know versus having experts, the point that I wanted to raise and actually it takes us back to what Evan is saying is that there's a huge difference that potentially can go even beyond semantics if we have a DRSP resolution provider it means that look at the UDRC.

You have certain criteria that you need to prove and then the decision of the panel is final. ICANN does not challenge it and cannot challenge it, the whole idea of this working group when we were making the recommendations to remove even any reference to the dispute resolution system is that we don't want someone making final determinations in the chairman is not the board.

So if you have a dispute resolution provider you need to have criteria and we go back to the original argument that you cannot set criteria to just one (unintelligible) in public order.

So I think that this wasn't the understanding of the group at the time, that if you have a DRSP you need to have some criteria. You cannot have some criteria with international law, so this is another reason why the dispute resolution provider should not be part of this process. Thank you.

Jon Nevett: Just one point because you came in a little late. What we decided is our charter for lack of a better term, I don't know if we had consensus on this. But was that the role of this group is to come up with any clarifications of our consensus position to the extent that in the staff report and the DAG and in the other report, whatever we called it, the explanatory memorandum you know whether any clarifications or misinterpretations of that.

Obviously we discussed the point you just made a fair amount during the discussion of the CWG and that did not achieve consensus so the question is did the staff misinterpret that or not?

And that's what we're trying to focus on because we only have a week and a half to do this apparently. Richard?

Richard Tindal: Thanks Jon, it's Richard. So I understand what Evan and Konstantinos are describing there. It's their interpretation of 4.1 and 4.2 and I understand the arguments that they're making.

I would point out that I don't think 4.1 and 4.2 are as explicit as they're saying. If they had been as explicit as what they're saying then I wouldn't have voted for them, because that's a far more specific and prescriptive thing than what I actually voted for in 4.1 and 4.2.

I think what 4.1 and 4.2 say now is pretty simple that the board can choose to appoint experts. The experts can give advice and then board can make a decision based on that advice.

They can accept it or reject it. To me that's all 4.1 and 4.2 are saying, I think it's pretty simple and that's why I voted for it. If it was to get a lot more specific and prescriptive about the how's and the why's I'm not sure we would have seen the same consensus for these two recommendations.

Jon Nevett: Okay so let me just do a time check. I thought we had an hour and a half for this call but it - you know I just looked at the note it says 60 minutes. What - are folks available to stay a little longer because we're right at 53 minutes now it looks like.

Any objections to extending a little bit then, this discussion?

Evan Leibovitch: I can go a little bit longer but I may not be able to be here for the whole 90.

Jon Nevett: Okay, so hearing no objection other than Evan maybe having to drop off a little early then we'll continue. So we talked certainly about the DRSP, if there are other comments on that we'll take them.

But we also to Richard's point on the chat, the role of the board, was there any clarification that we need to the role of the board, I guess our full consensus opinion was in 4.1 where we say the ultimate resolution of the admissibility of a TLD subject to a Recommendation 6 objection rests with the board along and may not be delegated to a third party.

Evan Leibovitch: There's another thing I think is relevant to this and I don't want to discount it. And it's the part to the recommendation that talk about the reference to international law.

In other words the validity of an objection to international law as I read these recommendations trumps everything. It trumps whether or not an applicant is advocating that they are being offended or something is being infringed.

That the one and the primary goal of the experts is to evaluate an objection against international law, not against two different parties making a dispute.

And I saw that as a significant part that I would add in this section one as being as important as anything else. It is not just that we have experts, we've also been very clear what we want these experts to do.

We want these experts to match objections against international law. We do not want them matching against comparative morality.

Richard Tindal: Which recommendation is that?

Evan Leibovitch: All the reference to international law? I don't have it in front of my, but I can scroll through it, it shouldn't be too hard to find.

Chuck Gomes: Well that's consistent with the recommendations of the GNSO that - and we did that with all of the expert panels to use the term that people like better.

They were supposed to be based on principles of international law in all cases, whether that be rights protection or the Recommendation 6 issues, etcetera.

So I don't think we need to debate that. I mean that's consistent with the recommendation of the GNSO originally.

Evan Leibovitch: The reason I was raising this Chuck is to bring it in context to the conversation of the DRSP. That what is it that the experts are being asked to do, and it was my understanding as we had our conversations that the

primary role of the experts is to validate an objection against these principles of international law.

Chuck Gomes: I agree with you.

Evan Leibovitch: And we didn't include anything else, meaning we didn't include somebody's sense of offense, we didn't include - we explicitly excluded one particular - any one particular country citing its own national law in the absence of international agreement.

So we even went to some steps to explicitly say this is not about who's offended, this is not about who's toes are getting stepped on.

The one criteria that the experts are being called upon to assess is applicability to international law, not of relative advocacy.

Chuck Gomes: what has staff done in the implementation plan that goes counter to that?

Jon Nevett: Well you know what, let's hold off on that because I see that as we're talking about criteria number five, incitement and instigation and that seems to be more of a criteria type discussion.

So you know whether the DRSP or the board, let's finish this one out if we can and then move to the others quickly.

Evan Leibovitch: Yeah, well it's wrapped into the issue of what do the experts do?

Jon Nevett: I understand that, it's the criteria that the experts will evaluate an objection against. That's fine, at least I understand it that way.

Evan Leibovitch: and this is why I believe that it wasn't necessary to have a process in which you had briefs going back and forth, essentially here's the objection, is it consistent with international law, yes or no?

Jon Nevett: Right and I guess any other international law discussion in the world court for example would be fully briefed by the parties, so I guess that's the cognitive leaf I'm missing in your argument.

Evan Leibovitch: Because we're not trying to make law, we're just trying to say does it apply to the objective.

Jon Nevett: Okay, so I think we understand the positions on the DRSP and we'll figure out you know next steps with that. The second...

Chuck Gomes: Jon before you go on I had my hand up.

Jon Nevett: Okay, sorry Chuck.

Chuck Gomes: That's okay. The - Evan, I agree with you in your fundamental premise but just in evaluating principles of international law and whether they're violated in some sense, it may be helpful for there to be interaction between the parties.

So I don't think we should rule that out. That shouldn't change what the role of the expert panel does. The fact that they may need to request clarification from one of the parties doesn't change their role to evaluate principles of international law.

But it may help them do that fairly.

Evan Leibovitch: And I'm not disagreeing with that, I'm disagreeing with the principle that you have two parties coming up doing briefs and ready to do battle and having to jointly pay for somebody to balance them out against each other.

Chuck Gomes: Yeah, so we're in agreement there. I just want to - I don't think we should - the one thing I objected to was the suggestion that there shouldn't be any other interaction between the expert panel.

Evan Leibovitch: Okay, I was oversimplifying it to try and draw a very clear distinction between that and the staff idea that this was a fully judicial process.

Chuck Gomes: Okay, I think we're together now.

Jon Nevett: Okay so we've got the role of the board role, the experts, at least in this one...

Chuck Gomes: Well just one more thing on that Jon, are we -- and this was discussed on the list with regard to this -- is there agreement with the people on this call that as was expressed by some on the list in the last few days that if an objection - if a recommendation came from the expert panel to honor an objection, in other words to approve an objection, that that should require a higher threshold by the board?

And that is in this same area that we're talking about right now. I thought and I didn't participate in any of the polls, so - but I thought that that was - that there was pretty good - pretty strong, in fact a consensus agreement at least on that.

That that's the area that a stronger threshold for the board was recommended.

Jon Nevett: Yeah, I'm looking at 5.1 which says a higher threshold to the board should be required to uphold an objection but that did not get consensus.

Chuck Gomes: Oh okay, thanks Jon, I...

Jon Nevett: That's weird because the way we say it, assuming that happens the higher threshold should be at least two thirds that do get consensus.

Chuck Gomes: But we - isn't it true that we - and I'm curious, people disagree with me if my assessment is wrong, isn't it true that the community working group wasn't necessarily recommending that the board do a specific review as if they were experts themselves on every one of these complaints.

But ultimately the authority is theirs in the end. Is that a misstatement?

Jon Nevett: Richard? Not in my eyes, Richard do you...?

Richard Tindal: No, that was exactly my understanding Chuck, that there would be expert advisors, they would provide advice against the standard which is a separate issue entirely.

Whatever the standard is they would provide advice against that standard, and the board would ultimately decide whether to accept or reject that advice. And I thought that's what 4.1 and 4.2 said.

I did not interpret 4.1 and 4.2 to say that the board has to be the ones making the sort of detail expert analysis so the merits of the case.

Evan Leibovitch: I agree. This is a matter of the board may have the last yes or no but they've pushed off the details to somebody else. I don't think there was any disagreement on that.

I think the disagreement was on whether or not the experts themselves would have the ability to uphold an objection without final board approval.

Jon Nevett: Margie, is this - are you finding this helpful?

Margie Milam: Yes, except for the fact that I think the board resolution states that they are not going to be reviewing application by application. So how do we you know and that's obviously a development since the report was issued.

But in light of the fact that the board has basically said they will not be reviewing applications case by case, how do you - you know where's the compromise or where's the - you know how do you make that recommendation you know work with the board's said that they will do.

Chuck Gomes: Are you saying that the board wouldn't look at the evidence in any case?

Margie Milam: That's my understanding and again you know I...

Chuck Gomes: Oh I didn't understand that from before.

Evan Leibovitch: Margie I'm reading things slightly differently. I see that the board was presented with a scenario in which it was going to be asked to yes or no every single application.

And based on that of course the board would say they didn't want to do that. I don't think that's what we're talking about here. We're talking about a very small number of applications that have passed the quick look and in fact have gone as far as going to the experts.

And then the experts produce a report that then board can accept or reject. I don't understand the problem with that. This is a fundamental responsibility of ICANN's board.

How can they say this is not our responsibility? This is exactly what the CWG said, it is the buck stops there, not with the experts.

Margie Milam: okay, let me clarify. I agree that they said that the buck stops with the board, so whatever happens it doesn't take away board responsibility.

And I also agree that they didn't intend to approve every single application, it was a volume issue so I don't - so no, if there's some smaller amount of things that may be able to go to the board or not that I don't know.

Does that make sense?

Evan Leibovitch: I think that's another one of the gaps is that there was a perception by staff that the CWG was putting forward that every single application was going to be put forward this way.

And I think that's absolutely - I don't - is there anyone on this call that thought that was the intention? That's a major point Margie is that the intention is that if this process gets done properly and a very, very small number of applications are going to make it through the quick look to the experts and ultimately to the board.

A very small number of applications and I don't think it was considered to be too onerous to have the board have the final look on that.

Jon Nevett: Okay, so then maybe that's a clarification we would want to put in our...

Evan Leibovitch: Does anyone here disagree with me on that?

Margie Milam: It's Margie, I think where - I'll point to where the disagreement lied on the staff side. Recommendation 5.3 says that approval of the string should only require a simple majority of the board regardless of the input from the experts.

So Recommendation 5.3 was a consensus position talks about the board approving you know even if there is no objection, regardless of input.

So that's where the - at least my understanding is where the...

Evan Leibovitch: Yeah, that said they could do that, that didn't obligate them to do it on every single application. It says the board through a simple majority could just say yes, this thing goes through the objection fails and we just let it through.

And the board would have the ability to do that. We had a disagreement on whether or not there was a super majority necessary to uphold an objection.

But we were trying to make the point that the board essentially could do this if it wanted. I don't think anyone had anticipate that this would be interpreted as an obligation by the board to look at everything.

Chuck Gomes: Isn't that what they do already Margie, they basically - I mean even if they decided, made a decision to accept the recommendations of the expert panel, they would have to do that by at least a simple majority, right?

Margie Milam: That's how they've done it in the past is my understanding. Again they're looking at a volume issue and you analogize what happens say with the registrar accreditation agreement where the board sets up the process, you know essentially set up the process.

And then registrars are accredited and the board doesn't get - you know they don't approve blanket - new registrars. It's just a process that gets implemented by staff.

So I think that's where the disconnect is. But if you know you guys are right and you're - and that wasn't the correct interpretation of the working group report, I think that's a very useful clarification.

Chuck Gomes: All we have to do is get somebody to write it up.

Margie Milam: If you tell me what to write, I can write it.

Chuck Gomes: Well did this make sense? I mean are you getting the gist? I think you know nobody's disagreeing with this - what we've been saying the last - it is - are you saying it's a clarification, obviously it has for the others as well.

Margie Milam: Me? Yes, I do. This is Margie.

Chuck Gomes: Do you think you could write it up and then we could just help edit it or something?

Margie Milam: Sure.

Chuck Gomes: Does that work Jon?

Jon Nevett: That's perfect, thank you. Okay, so with the remaining time it would be great to talk about some of these others that were raised, certainly the two other ones in Margie's memo.

One being the discrimination standard you talked about, you want to highlight that one again Margie?

Margie Milam: Okay.

Jon Nevett: Put it back on the screen.

Margie Milam: Yeah, let me try that. I put it back up. This had to do with expanding the criteria to include additional protective classes.

And the ones that I think raised a concern from the staff perspective are you know disability, gender, actual or achieved sexual orientation or identity, political or other opinion.

And in the view at least that's been discussed with me is that that's adding that into the criteria makes it much broader and at least from the research

that has been done in the past, there didn't seem to be support across the board internationally for expanding the - you know for protection for all those categories.

And so if you take a look for example even political or other opinion, that might actually rule out a number of very legitimate uses for TLD strings. So that - I think that's a concern from the staff perspective.

Jon Nevett: Okay so the recommendation that we issued was that ICANN should seriously consider adding other treaties as examples, you're talking about 2.1, is that where we are?

Margie Milam: It's not the treaty, I can pull up exact one it's more the criterion.

Chuck Gomes: Jon what we did - what happened was and if you look at 7.1, the second bullet there were other categories that are added there that were not - that are not in the draft applicant guide book.

Richard Tindal: I think it's 6.1 that we're specifically talking about.

Chuck Gomes: Let me go back to that, yeah. Oh yeah, right.

Margie Milam: And 7.1.

Chuck Gomes: Yeah, it's both, yeah, it's the same wording. So the - and I'm doing this from memory so somebody help me out, Avri can probably help out if she's still on too on this one because she was one of the advocates of this, is that the actual or perceived sexual orientation or gender identity was added.

Political or other opinion was added, I don't know if there were any others. Those two specifically if my memory is correct, please check me on that were added to what's in the guidebook right now.

Margie Milam: Chuck if I may it's everything that's in the parenthesis I think is the new material when I drafted that email I tried to reflect back at what it used to say.

Jon Nevett: The disability wasn't in...

Chuck Gomes: Oh right, that's right.

Jon Nevett: Okay, any discussion on this?

Chuck Gomes: well just to help get discussion going, I'm not advocating one way or the other, but the - I thought staff's point was interesting in that I thought that we were trying to limit the number of areas where strings would be challengeable and that they're certainly right that adding these new categories would create more areas of concern.

But the question comes back to what Evan was strongly advocating in our last - in the main issue that we talked about first and that is that are there principles of international law that relate to these that could legitimately be relied on by the expert panel?

And I have no idea what the answer to that is.

Jon Nevett: Richard and then hopefully Konstantinos can weigh in because he looks like he's weighing in on the chat.

Richard Tindal: Yeah, so in reference to what Chuck just said, yeah, I think all of these things are predicated on the notion that there has to be general accepted legal principles, correct?

So I think your point is that you don't think that there are generally accepted legal principles on some of these forms of discrimination.

But if that's the case then I'll fail, on the objection on that basis would fail. So I don't know that it's harmful to put them in there, but I think as with all this action, etcetera if the expert recommendation and the subsequent decision show that there aren't generally accepted principles regarding one of these forms of discrimination then that objection is going to be unsuccessful.

Does that make sense?

Margie Milam: Chuck - or may I comment Jon? I think the problem is there's no one central thing, that this is international law and everyone agrees on it, it's a degree issue.

It's how many countries you know address it in the same or similar way and so I don't think it's as simple Richard as you may suggest.

Because there are - because these - and from what I understand staff did a fair amount of research trying to find you know the appropriate place to draw the line.

And they felt or at least their experts that they consulted felt that there just wasn't you know a universal standard for these other areas, even though it may very well be protected in the United States for example or you know other countries.

But not you know across the board to the same degree of the ones that were proposed in the applicant guidebook.

Richard Tindal: So they would basically fail but you're saying it would be quite difficult to get to that judgment, you've already done the research and you know what they're going to find already because there is no general principle of political opinion.

Is that kind of what you're saying?

Margie Milam: No, that's not what I'm saying, because if you include this for example as gender, then you have to give instructions on how it gets interpreted and that's where it falls apart. Do you apply the US standard, do you - I mean it's just makes it far less clear cut.

And you know uniform in application, at least that - I mean you can certainly bring on Amy and Kurt to talk about this, I'm certainly not the expert and that would be - but I would anticipate the objection to be if you were to expand it is that there wouldn't be a uniform set of principles to apply in - you know with these categories.

Jon Nevett: So Evan?

Evan Leibovitch: Well at least I can give you the point of view I came in with and that was the intent - the deliberate intention of having a very high bar to sustain an objection.

And that was deliberate, that the idea being is that simply being against one single country's morality would not be enough to sustain an objection. That one particular community or one particular government in the absence of any others would be offended by something, would not be sufficient to sustain an objection.

And I think the intention of bringing in international law was you know the idea of having things like the UN declaration of human rights as having defined you know these are things that we consider to be you know inalienable and part of this.

So there are some things that are there, and if they're not there and widely agreed upon, okay, then they're not necessarily part of our criteria.

Jon Nevett: So you would agree then the experts would look at this and see if there's you know...

Evan Leibovitch: They would see what applicable treaties are out there.

Jon Nevett: Right, so the question that staff's raising in this note is that research suggesting that these additional classes are widely recognized around the world.

I don't think we need to reach that answer, the question is if there is today or in a year from now, maybe there will be, who knows?

Evan Leibovitch: See to me this is the primary goal of the experts.

Jon Nevett: So does that help, clarification of that point Margie?

Margie Milam: I can't answer that. I don't think it does for me personally but again I need to defer to Amy and Kurt on it, because they're the ones that did this research and came to this conclusion.

I don't - you know not them personally but they had the research conducted. So I think that's something I may have to follow up with them.

Evan Leibovitch: But Margie there's also a fundamental issue here that you know staff gets driven by policy as opposed to drives policy. If there's research to be done along these lines shouldn't it be in accordance with what the community would like to do?

As opposed to coming out with the research to come up with some other goal and then saying to the community this is what it is?

It's a very different question, but as you're saying you know this - as you're raising that question, that's my answer to it.

Jon Nevett: Okay. All right, Richard?

Richard Tindal: Dropped on.

Jon Nevett: Okay. So anything else on the discrimination standard or the...

Chuck Gomes: Well I guess my only question Jon is where do we go from here? Is there any written clarification we need to define here? Should we like for example make a statement like Richard made that okay, if there's not principles of international law that apply then the objection's going to fail.

But then Margie you know pointed out some concerns that she understood from staff so I'm just trying to get clarity in terms of where we go with this particular one in terms of providing clarification?

Jon Nevett: Okay any - I see Margie and Evan's hands up. Margie?

Margie Milam: Sure, the other point was I don't think we've really discussed is okay, I mean especially coming from the US perspective, I understand gender, disability, sexual orientation, all that you know makes sense.

But what about other opinion? You know political or other opinion, setting aside whether we'll find a standard and you know all those other ones, that one seemed a bit overly broad.

And I wouldn't even know how to set up a standard for that, or not - you know anyway that was wanted to raise. And the Robin to address your concern, I believe that link there provides more information on the research that was conducted.

And I can certainly check with Amy and Kurt if there's anything else.

Jon Nevett: But what I think you're hearing Margie though is that this group shouldn't have to come up with some research. The fact is that if there is any kind of body of international law that would apply, then it would apply to these additional criteria.

And if there's not then it's not an issue. I think that's what Richard was saying.

Evan Leibovitch: And I'd like to take that one step further in saying that that to me is the primary and overarching rule of the experts, not for us to define what specific treaties to look at.

But to go to the experts and the experts will on a case by case and over time say these are what is applicable. Laws are going to change, new treaties could be made, other things could be done.

We can't anticipate everything today that's going to exist two years from now and we can't keep changing this policy. The intention is to give the experts a very specific realm of saying here's what you're allowed to examine.

But within that realm look at what's changed, look at what's new, look at what is being done on a dynamic basis. But still keep it to specific issues of international law.

We can create - we can limit the bounds while at the same time recognizing that we don't have to give a detailed list of everything that's in those bounds.

Jon Nevett: Okay. All right, we've got just a couple minutes, Richard?

Richard Tindal: Yeah, I just wanted to quickly remind everyone what the staff had said on that particular one. We are including those additional classifications, we are increasing the ability of a string to be successfully objected to.

Just wanted to remind everyone of the outcome of us heading down this path.

Evan Leibovitch: I disagree with that interpretation.

Richard Tindal: There's a particular class, if it was limited to only the forms of discrimination that are in the DAG, other forms of discrimination would not be grounds for rejecting.

Konstantinos Komaitis: Yes, but - sorry this is Konstantinos, but at the same time we cannot really save our backs on the fact that there might actually be discrimination on the basis of we're afraid that more objections will be raised.

The point - the only point that I would like to make is that because I always hear us always setting to generally accepted principles of international law there are no such thing.

Basically international law parades on the basis of historical fact. The treaties that we have now address issues that happened years and years ago and the international community decided to address.

And Evan's point is right on spot, we cannot foresee what will happen in three years time and that is fit part of the whole idea of the expert. So you know international law and the way this is actually operates on a case by case basis, in most of the cases apart from those ones that are so obvious that treaties have been drafted and have been made.

Because we have to remember that a treaty takes ten years to draft, so it is impossible to have treaties to cover every single issue.

Jon Nevett: Okay, so sounds like we're losing some people, there's no one in the queue right now so I know that there's the third issue in the letter that ICANN or Margie put together that the talking points related to the GAC and ALAC objections.

And then we have the independent objection, objector issue and then the incitement and instigation issue. So we have three more issues, we're obviously not going to get to them in the next five minutes.

So the question is could we get this group together for another discussion in the next two days to finish these? We've gone through two of probably the meatiest one, this one we just - we have three more.

Chuck Gomes: If I can fit it in I'll certainly cooperate with that Jon. I would like to make a suggestion with regard to the meatiest one though and that is that we go ahead and proceed and try and get something out to the list this week.

And if Margie will draft that and we can take a quick look at that on the list and get it out to the community working group list for their review and not wait till we get the others done.

Does that make sense?

Jon Nevett: I think that's great. And Margie maybe could draft the first one and then I think Richard probably had the best or at least what sounded like a coherent start of a statement on the second one.

So maybe Richard would you be willing to pull a statement together on that?

Richard Tindal: Yeah, I'll take a first cut.

Jon Nevett: Okay, so let's circulate to this small group first, we can comment on that and then we can bring it out to the larger group at the same time is Gisella on the call, or Margie if you could coordinate with Gisella or Glen to both in the next two days hopefully before the Thanksgiving in the US because it looks like there are a fair amount of Americans on here.

That would be helpful.

Margie Milam: Sure, and Gisella I think you're on, right? Gisella or Glen? I think we should go around to...

Glen DeSaintgery:Hi Margie.

Gisella Gruber-White: Gisella, I'm on the call, I'll send out the doodle for Tuesday or Wednesday.

Jon Nevett: Tuesday or Wednesday, that would be great.

Chuck Gomes: Is it realistic to get the - for Margie and Richard to get out their suggested wording on the first two by - as early as possible tomorrow and for this group then to respond so that we could get it out to the - get something out to the community working group by Wednesday?

Margie Milam: From my perspective yes.

Jon Nevett: Richard?

Richard Tindal: Yeah.

Jon Nevett: Okay, great. So we'll look for the doodle, we'll look for the statement from Margie and the statement from Richard and we'll be back in touch hopefully in the next couple days.

Richard Tindal: Thank you.

Chuck Gomes: Thanks Jon and Margie.

Margie Milam: Bye bye.

Evan Leibovitch: Bye now.

END