
ICANN Transcription

GNSO Drafting Team to Further Develop Guidelines and Principles for the GNSO's Roles and Obligations as a Decisional Participant in the Empowered Community

Thursday, 26 September 2019 at 2100 UTC

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. Attendance and recordings are posted on agenda wiki page: <https://community.icann.org/x/JpECBw>

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JULIE BISLAND: Alright. Good morning, good afternoon, good evening. Welcome to the GNSO Drafting Team call on Thursday, the 26th of September 2019 at 21:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge, could you please let yourself be known now? Alright, I would like to remind all to please state your name before speaking for transcription purposes, and please keep phones and microphones on mute when not speaking to avoid background noise. With this, I will turn it over to Heather Forrest. You can begin, Heather.

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HEATHER FORREST: Thanks very much, Julie, and thanks very much to everybody for joining onto an additional call. I really appreciate it. I very much appreciate all the comments that came in over my night time. I think I posted messages at around 11:00 P.M. my time, and of course it's closer to the end of the day for, I guess, just about everybody else on the call.

We have really one task, but I am going to disappoint in a way and say that our task actually extends not only to this document but you could see Ariel also has 2.2 and 2.3 in the background too because I think we figured out this issue that we're grappling with probably also extends back there too.

Steve Del Bianco asked just before the call started how much is there actually to discuss in light of the comments? I think what I'd like to do is break down into three points just to make sure that we are in agreement on all three. Ariel still got 4.1, here which is the eligibility provision on the director removal point and remembering that this eligibility point carries across to all of the three director removal points that we are dealing with. We'll just look at 3.1. I don't think we need to look at the others. First point is individual, second point is Decisional Participant, and third point is the point that David raised which is, do we want to have a process for how if something goes to an SG/C, what to do?

First point is individual. Wolf Ulrich made the very sensible suggestion in the e-mail threads over the last 24 hours to say he was comfortable with where everything else. The logic that I tried to set out when I went through the Bylaws and just said, "Can we confirm out point on individual?" and I think it's sensible idea. So, do we all understand that individual means anyone including a

non-GNSO person? While I personally wish I could read the Bylaws that way, because I think that that makes more sense to me, I don't actually think the language of the Bylaws can be read that way.

So, I think I had earlier throughout our work made various comments about, should this just be limited to the GNSO or GNSO members? And I think what I need to say now as we wind up our work is, I think that's how it should be but I'm not convinced that I can read the Bylaws language that way. So, David says in the chat, I see that and agree with Heather's description despite also joining her and wishing it was otherwise. Yeah, bummer. And Steve too. I didn't realize stuff that I want give us that horrible task, but yeah. It's a shame we weren't holding the pen for the Bylaws.

Alright, Wolf Ulrich, what are your thoughts here? So, I've got comments in the chat from David and Steve. Are you comfortable with that articulation of individual? Wolf Ulrich, over to you please.

WOLF-ULRICH KNOBEN: Yeah. Sorry, sorry, I was just on mute. Can you hear me, yeah?

HEATHER FORREST: Yes. All good, Wolf Ulrich.

WOLF-ULRICH KNOBEN: Thanks. I'm fine with that, thank you very much. My only question was –I was thinking about couldn't be – our description of individual also with – if it's an individual within the ICANN

community that we say that way that it could be an individual outside the GNSO community asking for submitting this petition to the GNSO. I was just wondering, so that could be a kind of cross-requirement from an individual related to the GNSO asking the Decisional Participant of, for example, the ccNSO or so to submit that petition. That is what I would like to say should be excluded. This shouldn't be the case here.

The other question was then the more general question, could the individual even be an individual outside the ICANN community, which I don't know whether this is something which is going to happen. Otherwise, it would be okay. This is your description. Thank you.

HEATHER FORREST:

Thanks, Wolf Ulrich. Hi, Maxim. Welcome. Wonderful. Thanks for joining. Thanks very much. Maxim, just to catch you up since I'm not sure at what point precisely you joined, what I said at the start was I think there's really three things that we need to look at. One is the point on the individual, one is the point on Decisional Participant – I guess I wanted the point on Decisional Participant – and when the clock starts, and the third one is the idea of what happens if a petition goes to an SG/C.

I do, I completely understand Maxim that it's late there. Maxim, do you have any concerns about interpreting the term "individual" as meaning anyone? In other words, that whether we want them to or not, the Bylaws don't allow us to define individual narrowly, which is to say individually is someone from the GNSO or some such. I

think at the moment the rest of us are on board with the idea that we have to live with the idea that “individual” is anyone at all.

STEVE DELBIANCO: Hand up.

MAXIM ALZOBA: It’s Maxim. Do you hear me?

HEATHER FORREST: Yes. Yes, I do. Steve, can I grab Maxim first, then I’ll come back to you?

STEVE DELBIANCO: Of course.

HEATHER FORREST: Cool. Alright. Maxim, over to you.

MAXIM ALZOBA: Thanks. I think since we don’t have clear definition of individual, we should hope that it’s a human being, and the thing is and why I sent e-mail right before the meeting that in situation where time is ... basically everyone ran out of time and someone signed a petition ... imagine a situation where some unknown third party sends e-mail to, for example, registry constituency or registrars, at this moment of time, actually we don’t have 24-hour secretaries

doing nothing but waiting for e-mails. So, some time it's going to be lost.

The second thing is there is no way to understand if you had no previous interactions with this person that is actually a person and not a computer program or someone pretending to be a person, which has some good background. Maybe it's a bad actor. You cannot do it. And if constituency sends it further to GNSO Council, effectively it proves that yes, it's a [inaudible] request. So, from operation to [inaudible], I don't know how to do it in such a short time. So, my thinking is it's better to add clarification that all such petitions should go to GNSO Council. Thanks.

HEATHER FORREST: Thanks, Maxim. Let's hold on the point on to whom it goes for the moment, but I understand that you're on board with the notion of individual. Steve, over to you.

STEVE DELBIANCO: Yeah, thank you. The Bylaw say "individual" with the lower case I. The Bylaw said "Decisional Participant" with the upper case D and P, which gave us the chance to define Decisional Participant a little more precisely within GNSO to be the Council. We did that a year ago.

With respect to the word individual, I've two observations. Because it's a lower case I, it's commonly understood to be anybody, and even if we did assume gymnastics to say that we could decide who an individual was for the purposes of GNSO, it's still anybody because between the NCSG and the CSG, every

human on the planet is either a user or a registrant – a user or a registrant of commercial or non-commercial domain names. I mean if you send an e-mail to a non-commercial domain name or visit a commercial website, you're qualified. You may not be a member of those constituencies, which is a whole another matter.

When we toss around the words “a member of GNSO,” remember that an individual may or may not be a member of a GNSO because the membership rules of each GNSO are somewhat different. I, for one, think it is a pointless exercise to try and claim that the individual referred to in the Bylaws must be a bona fide, good standing member of one of the SG or Cs. It's not what the Bylaws say and it's not really what we anticipated. The gatekeeper at getting things out of the Decisional Participant of GNSO are the SGs, Cs, and the Council itself. That's the gatekeeper. So, we may have a troublesome individual who decides they want to start a petition, but it will go nowhere if the structure of GNSO is not willing to support it. So I, for one, don't think we should mess with individual. I don't see the point of it.

HEATHER FORREST:

Thanks, Steve. I think that it's good logic. I note David agrees with you. What I think we ought to do here – that's good, Ariel and Julie are in the document – given that we had this lengthy discussion, one of the things that I think we don't often do all that well in ICANN is we come to agreement on a point after a great deal of discussion and we all agreed, so then we don't really flesh that agreement out or the explanation or the context out in the actual text and we're all comfortable with the use of the term individual here. I think we need to put some sort of a note to explain the

thought process that the Drafting Team went through, that we talked about the term individual, that we reflected on the work of the Bylaws in 2016, that we understand that individual should be interpreted broadly, and that means that the GNSO shouldn't restrict in any way a petition in terms of who that person is.

I don't know personally that we want to go – yeah, we could indeed point to the transcript of the call. I think, David, that's an excellent idea. Again, not something we really do, the idea of a more fulsome record.

The one thing I think I had to take to do is get too far down into these weeds of human being versus bot, or legal entity versus human being. I'm not convinced that we necessarily have to. I think we need to say that it's an individual. I think we can say we interpreted individual as a person but I wouldn't want to go much further than that and get technical into this point about bots.

Steve, your hand is up. Steve, old hand? New hand? I'm not sure. It looks like we lost Steve. In the meantime, David said, "I agree with Heather on the human point. If a bot was engaged, it would become apparent probably quite quickly." Yeah, as human being. Yeah. Yeah. I just to take to go into too much of that definition.

"Bylaws has individual or organization words, so it's not the same." It's true. It's true, actually. Steve is right to say that the Bylaws used the term individual with the lower case i. They don't define the term and throughout the Bylaws, individual is used in different context. And from an interpretative point of view, let's say that the Bylaws being a legal document, that is pretty significant. First of all, that's not a defined term, and secondly, that it's used in

slightly different ways throughout the document. Let's say if I would summarize my point here, I don't think we have to interpret this particular term of the Bylaws down to a very precise definition and I would prefer that we didn't stick our neck out and do so if we don't have to.

I don't see any comments that disagree with that if I look at the last few. Bylaws are just individual, yeah. Yeah. I agree. Alright.

Anyone unhappy which where we landed on individual, first of our three points? No one's screaming. Nothing in chat. Brilliant. Alright.

So, Ariel is going to take us back up to 4.1 so we can review the language there. Now, such an individual must submit his/her petition meeting the requirement below to. Now, I'm the one that initially screwed this up in suggesting this business of a dual possibility for submission. And again, on reflection of having looked at the Bylaws, I think I need to – not I think – I know I need to differentiate between what I think it should be and what the Bylaws really permits. This is the point that I found at least in your replies the most solid consensus, is I think we're all on the same page with this idea that Bylaws Annex D 3.1 says Decisional Participant, that it needs to be submitted to a Decisional Participant. And I went back in my e-mail and referenced in Article 11, which is the GNSO section to reference the definition as it were, although it's not a formally defined term that 11.2 which is GNSO shall consist of – and it talks about the stakeholder groups and constituencies.

I understood that everybody was on the same page based on your comments with this idea that we have to interpret Decisional Participant as GNSO. That being the case, we look to all the EC provisions in the Bylaws. We understand that the representative of the GNSO where the functional body of the GNSO for EC purposes is the Council, so are we all comfortable with this idea that the petition needs to go to the Decisional Participants and the Decisional Participant means GNSO Council in our case? Everybody comfortable with that one? Okay, Maxim says plus one. That's super. David, over to you.

DAVID MCAULEY:

Thank you, Heather. I am comfortable with that, but because of the language that introduces the Bylaws section, and that's the language that says, "Subject to the procedures and requirements developed by the applicable Decisional Participant," it strikes me that the GNSO, the ccNSO, any of those organizations, could come up with the procedure that says, "In order to submit it to us, first submit it to this constituency or this SG," and that's what led me to make the point that if they should do that then that delivery to what they direct, that itself would start the clock. So, I'm comfortable with that it has to go to the Decisional Participant. How the Decisional Participant chooses to receive it is sort of up to them, but when it'd delivered in accordance with this Bylaw to Decisional Participant or someone else if that's what they direct, to me the clock starts. Thanks.

HEATHER FORREST: Thanks, David. I very much appreciate the way that you just articulated that. I think it took me until last night reviewing the language and going back to our previous recordings and indeed your articulation just now David, to me to fully understand the point that you were making. And I'm comfortable with that. Now, I think what that does is it opens the question of, should we be having such auto procedures? We need to figure out, do we want to – the options are many but we could probably boil them down – do we want to simply say here that in 4.1, which is ideally the main point of 4.1, the eligibility and how it happens, do we want to say that the petition only goes to Council? And if the petition goes to Council, we know that we're on board with these guidelines. In other words, that the GNSO Council reads these guidelines says, "We've received something, now what do we do with it?" Do we want to alternatively set up some sort of mechanism whereby we say, "Here is what happens if it goes to the SGs and Cs"? Is that something that we want to do? Now, David is saying, "I think not, other procedures will eat up days." I certainly agree with that concern. I think the GNSO will have to create a special mailbox to council and use that. A special address will alert council that this is important. That came back to the point that I raised in the very beginning which kind of got me down this whole bifurcated process of how did people know how to contact Council. Steve, over to you.

STEVE DELBIANCO: Thank you. We made some of this discussion a week ago, but I believe we should keep it the way we have it. You go to an SG/C for transmission to Council whose Decisional Participant starts the

clock or submit it directly to Council and that starts the clock. And I don't believe that we can or should try to tell the SGs and Cs what they must do if they receive the petition from an individual. Leave it to them to decide because you can't tell them what to do anyway. Just try that with NCSG. That is a fool's errand. Then let's just make sure that we have belts and suspenders here, that if an individual submits it to the BC and the BC sits on it for a week, that individual will go straight to Council. [Inaudible] with you if you're not going to support me and move this through your process. And it might not even be [now], it could just be the fact that we don't meet for a week. So, let's keep it as dual and not impose any rules that we couldn't enforce anyway against the SGs and Cs. Thank you.

HEATHER FORREST: Thanks, Steve. Wolf Ulrich, over to you.

WOLF-ULRICH KNOBEN: Yeah. Thanks, Heather and Steve. Well, I'm with Steve here. I also think the Bylaws are really clear in defining, okay, it has to be submitted to the Decisional Participant, and any of these DPs, the GNSO cannot in their own rules overrule this. So, in saying, okay, this petition has to be delivered to any of the constituencies or SGs, and then the clock starts. On the other hand, you have already I think confirmed they're fixing our timeline that at first the petition has to be submitted to the Council leadership and the leadership has to decide whether it meets certain criteria and so on. That is a point for me, when it's going to start. That's what I think about. Thank you.

HEATHER FORREST: Thanks, Wolf Ulrich. And let's just see Maxim's comment. Exactly. Oh, let's see Ariel's comment. We have a sentence about when the clock starts. It's in 4.2.1 which Ariel's highlighted. "The date when the GNSO Council receives a Petition marks the beginning of the Nominating Committee Director Removal Petition Period." Good. I wonder, do we need to do anything more with the language of 4.1 then? Are we comfortable with that paragraph, top of the page? So we understand that we're going to add a note to individual – must submit his/her petition meeting the requirements of 4.2.2 below to – I wonder, would it be helpful to revise this? Would it be helpful to revise it to say ... so drafting on the fly is always dangerous

David, let me try this and then I'm going to come to you. Such a petition must be submitted to the GNSO Council, which something like – which can occur via an SG/C or directly.

STEVE DELBIANCO: Maybe say, "Must be submitted to the GNSO Decisional Participant which is the GNSO Council."

HEATHER FORREST: Yeah. "To the GNSO, as the Decisional Participant."

STEVE DELBIANCO: You'd have to say GNSO Council.

HEATHER FORREST: Then I think we say something like, “Because the GNSO Council is a Decisional Participant.” Alright. “Such a petition must be submitted to the GNSO as a Decisional Participant to its representative body, the GNSO Council.” And we could say, full stop, this can occur via SG/C or directly. Let’s concentrate on that while we turn to David. David, over to you.

DAVID MCAULEY: Thanks, Heather. I’ll have to [inaudible] on that in a minute. But the point I want to make is I actually agreed with what Steve was saying just a few moments ago, that is that if the petition is delivered to an SG or C that doesn’t start the clock. But that would be – in my opinion at least – only so long as we don’t have a procedure or a process in place that directs or urges someone to deliver it to that SG, in other words, I was viewing it that our policy would say, “Deliver a petition to the Decisional Participant.” And if someone just wanted to go and deliver it to the Registries Stakeholder Group, that wouldn’t start the clock in my view. It would simply be something they delivered to the Registries Stakeholder Group. And when the Registries Stakeholder Group delivered it to the Council, that would start the clock in my view.

But when we have a clause or a phrase in this thing, this guideline, and we say that delivery can go via the Registries Stakeholder Group, it seems to me that when it’s delivered to the Registries Stakeholder Group, that would start the clock. I heard Wolf-Ulrich make the point that maybe we can’t do that. I respectfully disagree in this sense. To me, the introductory language in the Bylaw – and I quote it here with respect, I’m looking at the Board recall process – but the introductory language

is along these lines: “Subject to the procedures and requirements developed by the applicable Decisional Participant.” That language in my view gives each Decisional Participant an opportunity to create rules around delivery and how you do it, etc.

That’s what I see. So, to me, if in the guideline there is either leave to deliver to an SG or direction to deliver via an SG, then to me the deliver to the SG would start the clock. I recognize I may be a minority, and that’s fine. I won’t make an issue of it. I just want to state my opinion and I’ve done that now a couple of times so I’d better let it rest. Thanks very much.

HEATHER FORREST:

Thanks, Steve. I think it’s a valuable point. I wonder, I’m not convinced we’re at the right language yet to take account of ... because I think we can ... “accommodate” is the wrong word, David. I think they can incorporate your point without taking everyone off of the agreement. I wonder if the problematic sentence is the one that Ariel’s highlighted. This can occur, the one I’ve added and then that 1 and 2. Can we say something like this? “If an SG/C received the petition, that needs to be forwarded on to the GNSO Council because the clock doesn’t start until the Council receives it,” or something like that.

Again, the purpose of this document is to help Council. We’re not necessarily – although I completely appreciate that this document might be used for something else, that something else is could be a reference point for an individual who wants to submit a petition. They look at this and say, “What is it that I need to do?” They may well make their own interpretation of Annex D, but this could be

used as a reference point for them. But our job is to advise Council.

David says, "Why not say delivery via an SG must be accompanied by a copy to Council at same time?"

"Then why send to SG at all?"

Then David says, "Let the SG weigh in on it."

I'm not convinced that unless we give them the right to, an SG can weigh in. I'm comfortable with the idea of SG ...

Yeah, "Alert the members" is another thing. I think that's another thing. Let's see here. Where are we on the language?

"Such a petition must be submitted to the GNSO Council, which is the representative body of the GNSO as Decisional Participant." Are we comfortable with that first sentence? That one I feel really encapsulates where we are. Is there anyone uncomfortable with that one? Just that first sentence: "Such a petition must be submitted to the GNSO Council, which is the representative body of the GNSO as Decisional Participant."

So, David is okay with that. Steve, Maxim, Wolf-Ulrich, comfortable with first sentence? Yeah, okay. Alright. Next question.

Do we need to say anything else, or is that sentence sufficient? Are we overengineering this, in a sense of, are we not trying to do the work for the participant here or the petitioner here? I'm of the

view – I think that it's sufficient, the we can delete everything after the words "Decisional Participant."

David is saying that's sufficient. Steve, Maxim, Wolf-Ulrich, what are your thoughts? Wolf-Ulrich is happy, Maxim is happy, great. I wonder if we lost Steve.

STEVE DELBIANCO: I'm here but I'm watching the screen. When you said, "Delete everything after the word 'Decisional Participant,'" I'm very confused. I thought we were going to allow them to have the alternate paths of through a stakeholder group or directly –

HEATHER FORREST: I think, Steve, what I'm suggesting is this. I think what I'm suggesting is the path of not dictating how it happens. If we highlight that ... Ariel, are you able to highlight everything after "Decisional Participant" just so we can see visually? Yeah.

So, Steve, if we say only "Such a petition must be submitted to the GNSO Council, which is the representative body of the GNSO as Decisional Participant," that does not stop the petitioner from sending it to an SG/C, whether it's for discussion, whether it's for anything, or they send it to the SG/C and they say, "Please, could you forward this on to the Council for me? Please, could you submit this to the Council for me?" It doesn't stop that. I'm afraid that what we're doing is we're interpreting the Bylaws on behalf of the petitioner where really our job is to advise Council. Our role takes over from the point that Council takes it on.

STEVE DELBIANCO: Two reactions to that. If we delete the highlighted language then somebody, undoubtedly, a year or two from today, we'll wonder why we missed it. Not just the 2016 round, but why did we miss the distinction between going directly to Council and going through an SG/C, or what happens if an SG/C decides not to forward it? How can we explain the rationale for this in a way that's accessible to people that want to understand it? It could be parenthetical or a note. What you're about to delete, for instance, could be turned from prescriptive language to the elimination of this group so that we felt that this language would accommodate the language that's not highlighted, would accommodate either going directly or going through an SG/C subject to the rules of that SG/C, and we don't want to dictate how that's done. The second thing is make sure that we're clear that the clock only starts when Council gets it. Other than that, I'm okay.

HEATHER FORREST: Thanks, Steve. David, over to you.

DAVID MCAULEY: Thanks, Heather. To a point, I think I just heard Steve make ... What would happen if the SG dropped the ball, what would the complaint be? It strikes me that your solution is a good one in that if it's not delivered to the Council, it's not a petition that's actionable to remove a director. So the petitioner will, at some point, realize that but if the Council can say, "Hey, nobody ever delivered a petition to us," then no clock has started and no

petition has been delivered that's actionable. It's up to the SG to move it on, and if they don't, then they'd drop the ball or they've done whatever they think is best. But I don't think that would necessarily be an issue that would be detrimental to anybody's rights in the case. It might delay things for the petitioner, and the petitioner may say, "The heck with the SG, I'm just going to send it directly to Council." But I don't see the downside there. Thank you.

HETAHER FORREST:

Thanks, David. I think where we are is the logic is very similar to our point on individual that we need to give some background and context here, and again I think David's earlier point is a good one. Link to this transcript or note this transcript and say, "By way of context, the summary of the discussion that we've had can be found here." And Ariel's got some language I think to put in a note that captures this when we say – there it is, yeah. We make it very clear the date of starting is the date the Council receives it. The only thing I would say for the note, just for absolute clarity we might say, "However, as per 4.2.1," just to refer down so we know it's internally. "4.2.1 below."

So, Steve, they're really like parenthetical note by Ariel. We think we leave that in the procedures. I think we leave it there, Steve. Yeah.

Alright, great drafting by Ariel. Ariel, could you then ... yeah, exactly. Perfect. You read my mind. Get rid of that. Let's have a look now, Ariel.

No, Steve. I don't think we want to make people go find a transcript, but what I do think we ought to do is cross reference, maybe in a footnote say, "Discussions about this point can be found at ____." And we put the URL for the meeting.

How are we with this? Comfortable? Anyone feel like we've missed the mark?

David's yes. Good. Cool. Wolf-Ulrich is a plus one. Brilliant. Steve, I know you're on board. Maxim, are you on board? Maxim might be drifting off. It's bedtime. Got it. Awesome, Maxim Thank you.

Okay, as I understand it, that handles all three of our points. The idea of individual, the idea of Decisional Participant, and the receipt by the Decisional Participant, and the third sort of catch-all what happens if it doesn't go to Council? It seems to me we've handled this. Ariel's cleaning up everything on the fly. It looks fabulous.

Now, Ariel quite rightly pointed out in response to – oh, Maxim, I'm sorry. Ariel quite rightly pointed out in response to my e-mail prior to this call, "Hey, wait a minute. We need to think about this in relation to 2.2 and 2.3." Do you remember that 2.2 and 2.3 is the petition process and the rejection action process? Ariel is going to pull up those documents, and indeed we have pretty much the same language there and same section number. Who's eligible to submit a rejection action petition to the GNSO Council? Of course, again this idea of rejection action petition, likewise, a responsibility that comes under our EC responsibilities and it deals with this idea of Decisional Participant and it's really the exact same thing all over again. I'm seeing language really in Annex D in a different

section, Section 2.2(b), this idea of the individual may submit a petition to a Decisional Participant seeking to reject the rejection action and initiate a rejection process.

The point here is the same, individual submitting a petition. What that petition is about, I'm not convinced it's material. In view of what we see here is anyone uncomfortable with taking what we have done by way of explanatory notes, I guess, is where we are in 3.1 and making that consistent here in 2.2, 2.3. Does that make sense to everyone, given that we're in the same Annex to the Bylaws, given that we're dealing with the same sort of thing? Does anyone object to that?

In other words, Ariel will go back. Steve says, "Good." The point here being, Ariel goes back and just double-checks this document and see that it's consistent. David, please.

DAVID MCAULEY:

Hi, Heather. Like Wolf-Ulrich and Steve, I'm okay with it but I inevitably will go back and just look at the Bylaws. I haven't done it. I mean, Ariel brought the point up and I should've done it, but I hadn't looked at the Bylaw provision and I'd like to do that. So I think, yes, this makes great conceptual sense but maybe tomorrow or early next week, I may just go take a look at the Bylaw just to satisfy myself. So that's all I'm saying. Thank you.

HEATHER FORREST:

Thanks, David. I fully appreciate that. It wasn't really until I sat down with Annex D last night in a very dedicated way when it started to come together for me. I see here Steve is okay. Wolf-

Ulrich is okay. Maxim, I'm sorry to put you on the spot when it's late, but we're entertaining you to keep you awake. Are you comfortable at least with the logic here? Leaving aside, I think it's a good idea that we just go back and sanity check 2.2 of the Bylaws, but are you comfortable with this idea of doing the same in 2.2 as we've done in 3.1? Does that make sense? Yes? Cool. Alright, great.

Ariel, what I would then suggest, if you're willing, is because you're the eagle eyes that caught this from the start – and Ariel has actually been catching things all along the way quietly in the background – when it comes time for our final review, what you will actually see, the final step in our work plan that we've added is this idea of giving up the documents and going back and doing another look. What you will get in some cases from Ariel is a clean version and a redline. And the redline is actually going to be changes that have been made since we looked at that document and since we signed it off because Ariel has found things that were inconsistent with later documents. So, Ariel is the one that gets the gold star on all of this for having a practically photographic memory on where we dealt with something before. That is what I think will be important in our final review. It's not only that you look at it for sense, but that you have that redline in the background and that you can see what's been changed to ensure consistency with various things.

Ariel, you're highlighting here in 4.2.1, "Constituent identified in Section 4.1 of the Guideline." Is there something we need to do?

ARIEL LIANG:

Actually, I just realized something that's different for 2.3/2.2 is that the petition period is different. For 3.1, the petition period starts when the petition is received by the Council, but then for this particular one, the petition period starts when the Rejection Action Board Notification is issued. So it's slightly different and I just want to make sure that we actually make the revision, not just to Section 4.1 but also 4.2.1 as well, and I want to double-check the timetable. So, that's how our revision makes sense and it's in accordance with the Bylaws.

HEATHER FORREST:

Ariel, you're a genius. That's cool. And you're getting clapping hands from David. David has even gotten Zoom to make clapping hands for you, Ariel.

My thinking on this, even though the petition period starts at a different point, even though the trigger to start is slightly different, I'm inclined to keep consistency where we can across the documents unless there's a good logic. So even though, in principle, we could say in this document, because it's not the case that the time starts when Council received something, that gives us the opening to say, "Then it can be submitted in any which way." I'm not convinced that that's helpful from anyone's point of view. So I'm inclined to say let's go back and look as David has suggested and as Ariel is really provoking us to do here. Let's go back and look at Bylaws 2.2, but to the extent that we're all comfortable with the idea of this thing going to Council here in 2.2, I think that's how we ought to run it. Does that make sense to everyone? No one is screaming, which is great.

Ariel says, "It is mainly 2.2(b) that we want to double-check."
Thanks, Ariel. We'll do that.

Ariel, what would you like to do in terms of the mechanics here? Do you want to have a look at 2.2/2.3? You said you wanted to double-check and just make sure ... Do you want to do that? And then maybe circulate to us as a standalone e-mail the link to the 2.2/2.3 document with the note just from the call. Actually, maybe you can go into the action items for the call. Ariel, what do think? What's the best way to follow up from here on these points?

ARIEL LIANG: I can handle that. I'll circulate the revised document with the Drafting Team.

HEATHER FORREST: Super. Thank you. Julie will put it in the action items as well. I think that's great, Julie. Thank you very much.

Alright then, Ariel, can we trouble you if we [take] back to 3.1? Because that really is our final work step now. The discussion that we've had in relation to 3.1, we need to carry them over into 3.2 and 3.3. Are you happy to do that for us, Ariel?

What I would suggest is we clean up the document, insofar as it respects these points so that when we have our next call, which would be our regularly scheduled call, that we are simply dealing with the stuff that hasn't been dealt with today in that final call on 3.1, 2, and 3. Does that make sense to you, Ariel? Have we given

you too much to do? I suspect the answer to the last question is yes.

ARIEL LIANG:

Yes. No on too much to do. This is really not too much. I already planned to [clean out] 3.2 and 3.3. And I just want to note that also in the motion template, we also referenced who can submit the petition and start up the petition period. We can make sure the language is consistent with what we put in these guideline sections.

HEATHER FORREST:

Great. Thank you, Ariel. As I put in the chat for the record, mea culpa on the motion templates. I'm the one that initially made the changes to this and made them flow through. We'd probably also in view of that, Ariel, we need to check the motion templates in 2.2 as well because I suspect that probably would've gotten on that line of thinking sometime ago.

Okay, huge progress today. I very much appreciate everyone's willingness to get on the extraordinary call. I think it was necessary. I think having it encapsulated in a call like this means that we've given the Council a pretty good encapsulated reference. If they ever did need to go back, it's a pretty good call to go back to. What that means is we have a call ... our next call would be on 3.1, 2, and 3. Remember that we've really spent the bulk of our time in the two calls up to now on this stuff on 3.1, which is the NomCom Director Removal. We've talked a bit about 3.2 but not very much. That's the SG/C Director Removal. I think

we're going to probably have to focus our time in 3.2, in the trigger on 3.2 and the trigger in 3.3. The rest of the languages is about the same, it's just the triggering action at the start. It means our next call is again going to require a bit of a push because I know each of these documents is like 25 pages long or so. It may be – fingers crossed – not but it may be that we need one more extra call if we're not able to get through both 3.2 and 3.3 on the next call. But let's see how we go. I think largely, that's going to depend. Now I'm going to sound like a university professor here, but it's going to depend on how much work we each do in advance for the next call. If we can each do our homework on 3.2 and 3.3, not to mention review the edits of 3.1, we might make it through okay without needing an extra call and still stay on timeline. And of course, we're only a few days away from October, which means we're very soon on ICANN meeting countdown.

Questions? Comments? Concerns from anyone? I think it's super useful. The comments, David, that you made. And thank you very much. I completely understood your point and I appreciate that they would [inaudible] coherently made. And, Steve, you keep us back on 2016 and what happened then. I find it very ironic that we all wish we could go back and tinker with Annex D.

Maxim, thanks for your points. Thanks for joining despite the late hour. Very much appreciate it. Wolf-Ulrich, you really zeroed us in on individual, which I think was super helpful.

Everyone sounds happy from chat. That's brilliant. Lat call for comments, questions, concerns on this stuff? Super. Alright. Excellent. Thank you very much, Julie B., for running the backend for us.

Ariel, for your amazing work in the document, and Julie H. for action items. We'll look forward to that stuff, do our homework and we'll meet again in one week's time. Thanks very much, everyone. Have a fantastic weekend.

TERRI AGNEW: Thank you, everyone. Once again, the meeting has been adjourned. Please remember to disconnect all remaining lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]