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**ICANN Transcription**

**GNSO Council**

**Thursday, 09 October 2025 at 13:00 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.

The audio is also available at:

<https://icann.zoom.us/rec/play/br8yn4zNuEwDZfmoUToQBW6AM6dbQo0mXF2uBD8-uR8igCCNICgc5F5pex0psobqMuLFpoY4XNgWD-xM.kdSGWR0aB0BJtYd0>

Zoom Recording:

[https://icann.zoom.us/rec/share/QTSp5SJCxpzVh7tbn2vRhpW\\_DZmSZRCLRnLeYgEjSjEBJy-PHj\\_2N-bBgYFqoWw.R5v0X4jJ2rqj4mgS?startTime=1760014854000](https://icann.zoom.us/rec/share/QTSp5SJCxpzVh7tbn2vRhpW_DZmSZRCLRnLeYgEjSjEBJy-PHj_2N-bBgYFqoWw.R5v0X4jJ2rqj4mgS?startTime=1760014854000)

List of attendees:

Nominating Committee Appointee (NCA): – Non-Voting – Anne Aikman Scalese

Contracted Parties House

Registrar Stakeholder Group: Hong-Fu Meng, Ashley Heineman, Prudence Malinki

gTLD Registries Stakeholder Group: Nacho Amadoz, Samantha Demetriou (apologies, proxy to Jennifer Chung), Jennifer Chung

Nominating Committee Appointee (NCA): Desiree Zeljka Miloshevic Evans

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Lawrence Olawale-Roberts, Vivek Goyal, Osvaldo Novoa, Thomas Rickert, Damon Ashcraft (apologies, proxy to Susan Payne), Susan Payne

Non-Commercial Stakeholder Group (NCSG): Farzaneh Badii (tentative apologies, proxy to Bruna Martins dos Santos), Bruna Martins dos Santos, Julf Helsingius (apologies, proxy to Manju Chen), Tomslin Samme-Nlar, Peter Akinremi, Manju Chen

Nominating Committee Appointee (NCA): Paul McGrady

GNSO Council Liaisons/Observers :

Justine Chew : ALAC Liaison

Sebastien Ducos: GNSO liaison to the GAC

Antonia Chu: ccNSO observer

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Guests: none

ICANN Staff:

Mary Wong - Vice President, Strategic Policy Management (apology)  
Steve Chan – Vice President, Policy Development Support & GNSO Relations  
Julie Hedlund - Policy Development Support Director (GNSO) (apology)  
Berry Cobb - Senior Program Manager, Policy Development Support  
Caitlin Tubergen - Policy Development Support Director (GNSO)  
Saewon Lee - Policy Development Support Manager (GNSO) (apology)  
Feodora Hamza - Policy Development Support Manager (GNSO) (apology)  
John Emery - Policy Development Support Senior Specialist (GNSO)  
Terri Agnew - Policy Operations Senior Specialist (GNSO)  
Julie Bisland - Policy Operations Analyst (GNSO)  
Devan Reed – Policy Operations Coordinator (GNSO) (apology)

TERRI AGNEW: The recording has started, and this is Terri Agnew. Good morning, good afternoon, and good evening, and welcome to the extraordinary GNSO council meeting taking place on Thursday, the 9<sup>th</sup> of October, 2025. Would you please acknowledge your name when I call it. Nacho Amadoz?

NACHO AMADOZ: Present, Terri. Thank you.

TERRI AGNEW: You're welcome. Jennifer Chung?

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JENNIFER CHUNG: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. Hong-Fu Meng?

HONG-FU MENG: Present, Terri. Thank you.

TERRI AGNEW: You're welcome. Samantha Demetriou sends in her apologies. The proxy goes to Jennifer Chung. Ashley Heineman? I don't see where Ashley is on yet, but we will see if we can get her on. Prudence Malinki?

PRUDENCE MALINKI: Present. Thanks, Terri.

TERRI AGNEW: You're welcome. Desiree Miloshevic? I don't see where Desiree is on. We will see if we can get her on. Lawrence Olawale-Roberts?

LAWRENCE OLAWALE-ROBERTS: Present. Thank you.

TERRI AGNEW: You are welcome. Vivek Goyal?

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VIVEK GOYAL: Present. Thank you.

TERRI AGNEW: You are welcome. Damon Ashcraft sends in his apology, and the proxy will go to Susan Payne. Susan Payne?

SUSAN PAYNE: Present. Thanks, Terri.

TERRI AGNEW: You are welcome. Osvaldo Novoa?

OSVALDO NOVOA: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. Thomas Rickert?

THOMAS RICKERT: I'm here. Thank you.

TERRI AGNEW: Welcome. Julf Helsingius sends in his apology. The proxy goes to Manju Chen. Farzaneh Badii?

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FARZANEH BADII: Present. And Desiree has challenges connecting. She will be here soon.

TERRI AGNEW: Thank you very much. Just for the record, Farzaneh did send in tentative apologies. We're happy to see you here. And if it was needed, the proxy would go to Bruna Martins dos Santos. Peter Akinremi?

PETER AKINREMI: Here, Terri. Thank you.

TERRI AGNEW: You are welcome. Tomslin Samme-Nlar? Tomslin, are you able to unmute? I do see where Tomslin is on. It doesn't look like he's able to unmute his audio at this time. Hopefully, it's just something very quickly that can get resolved for him. Oh, I now see where Tomslin has dropped. I'm sure he will join right back as soon as possible. Manju Chen?

MANJU CHEN: Present. Thank you.

TERRI AGNEW: You're welcome. Bruna Martins dos Santos?

BRUNA MARTINS DOS SANTOS: Also present. Thanks, Terri.

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TERRI AGNEW: You are welcome. Paul McGrady? Paul, are you able to unmute?

PAUL MCGRADY: Yeah, I'm here. Can you hear me this time?

TERRI AGNEW: We can. Perfect. Thank you. Anne Aikman Scalese?

ANNE AIKMAN SCALESE: Present, Terri.

TERRI AGNEW: Sebastien Ducos?

SEBASTIEN DUCOS: Present, Terri. Justine Chew?

JUSTINE CHEW: I'm here. Thank you, Terri.

TERRI AGNEW: You are welcome. Antonia Chu?

ANTONIA CHU: I'm here. Thank you, Terri.

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TERRI AGNEW: You are welcome. Tomslin, do we have you back? I don't see if we have Tomslin back, but not a problem at all. In the meantime, though, we do have Desiree, Desiree Miloshevic.

DESIREE MILOSHEVIC: I'm here, Terri. Thank you.

TERRI AGNEW: You are welcome. All right. From the policy team supporting the GNSO, you have Steve Chan, Caitlin Tubergen, John Emery, Julie Bisland and myself, Terri Agnew. May I please remind everyone here to state your name before speaking as this call is being recorded. A reminder that we are in a Zoom webinar room. Councilors or panelists then can activate their microphones and participate in the chat once they have set their chat to everyone for all to be able to read the exchanges. A warm welcome to attendees on call, who are silent observers, meaning they do not have access to their microphones nor the chat.

As a reminder, participation in ICANN, including the session, is governed by the ICANN Expected Standards of Behavior and the ICANN Community Anti-Harassment Policy, along with the ICANN Community Participant Code of Conduct concerning statement of interest. With this, let me just check one final time if we have Tomslin back yet. We do. Okay. With this, I'll turn it back over to Tomslin Samme-Nlar, interim GNSO Chair. Please begin.

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TOMSLIN SAMME-NLAR: Thanks, Terri. And I'm present. Sorry for that. Hello, everyone. And welcome to the GNSO council extraordinary meeting on October 9, 2025. To begin, does anyone have any update to their statement of interest? All right. Let's see. No one. Given the extensive discussion on item two on the mailing list, I propose we turn item two that we initially had after voting item into a discussion item. And barring no objections, does anyone have any concern or proposed additional amendments to today's meeting agenda? Seeing no hands—thank you.

Before we jump into the [substantive] agenda, I wanted to note that the minutes of the August 14 council meeting were posted on 2<sup>nd</sup> September, 2025 and the minutes of the 18<sup>th</sup> September, 2025 meeting were posted on 2<sup>nd</sup> October, 2025.

We'll be moving on to item number two on the agenda. And I just want a quick reminder from our last meeting that this item is about the misalignment on the interpretation of certain recommendations from the IGO, INGO PDP from 2013 been implemented in the context of the SubPro implementation. I will pass the mic to Anne and Susan, who are our GNSO council liaisons to the SubPro IRT to give us a background on the item and the options before the Council.

But before I do that, I wanted to note that during the council discussion on the list, there has been a discussion about whether or not it is council's role to help resolve disagreements during implementation by helping to determine original intent of policy recommendations. We did check—leadership did check with staff on this. And the relevant language in the IRT principles and guidelines documentation states that if the GNSO council liaison makes the determination that there is



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consensus for such consideration, the liaison will inform the GNSO council accordingly, which will deliberate on the issue and then make a determination on how to proceed.

So, from leadership's perspective, we believe this text makes it clear that it is indeed within the council's remit to help reach a determination on how to proceed on this matter. However, an important factor to also consider going into this discussion is that these recommendations are from 12 years ago. So, passage of time makes it not exactly easy task for council in 2025 to determine some of those in terms of the working group's recommendation. So now, I will pass the mic on to Anne and Susan.

ANNE AIKMAN SCALESE:

Thanks so much, Tomslin. I will start, and then I'd like to just briefly go through the slides again. I know they were sent out ahead of time, but at least, this will also help our other attendees and observers. Steve and I worked together on this. We hoped that it would somewhat simplify the issues that are before council. And so, the question has been phrased as, what does it really mean, the word protection when the IGO, INGO recommendations were approved by council and by the board.

And at the same time, within SubPro, there was a reference to integrating those recommendations into the AGB for 2025. So, let's provide the next slide and we'll take a quick look at this and get through it quickly, so that we can proceed to discussion and get all the points of view.

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So, in the 2012 AGB, the category of strings ineligible for delegation was a category that provided that there would be no string similarity review. And that was associated with the fact that the names were not being placed in the top-level reserve names list and are not part of string similarity review conducted in the names for that list. So that is a very important aspect of what the majority of you in the IRT relied on with respect to the characterization of these names, because as will be shown in the next slide, Caitlin, that IGO, INGO recommendation said that these will be considered strings ineligible for delegation. And it also said, however, that there would be an exception created for the protected organizations and the protected strings so that they could get delegation of the string if they applied for it.

And so, what we've put up here in the slides, it's the language that refers to Red Cross and Red Crescent. But please note that similar recommendations—well, the same recommendations were available for IOC, IGOs, INGOs. And I think that, you guys, by this time are quite familiar with the language of these recommendations that came chronologically many, many years ago, but subsequent to the 2012 AGB.

And then, after that, we have our next slide, which is the SubPro recommendations and it's sometimes difficult to read all these recommendations together. I think that's why it's a good thing that council is taking a look at this. The working group affirms recommendation two, state strings must not be confusingly similar to an existing top-level domain or reserve name. That's a factor that enters into, I think, both options one and option two.

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And then at the end of it, it's section 22.1 SubPro notes, adopted policy recommendations from a separate working group regarding the top-level protections of international governmental organizations, international Olympic committee, and international non-governmental organizations and ICRC, which is a Red Cross movement will be integrated into the applicant guidebook.

And so, we're here today to talk about what that integration means. Does it depend heavily on the 2012 AGB, which was our first slide and which was the support for the option one majority view, or is there any different intent that's associated with these protected organizations and the protected strings? And what does that protection mean?

So, in the next slide, and I don't think we'll be getting into reading resolved clauses at this time, but we are talking about the question for council, which was so, I think, clearly framed by Steve, and I really appreciate his contributions to these slides. What does it mean to ensure that the relevant identifiers are unavailable to any party other than the relevant organization, and two, to create an exception procedure for the relevant organization should it wish to apply for its protected identifier at the top level?

So, on the first clause here, there's alignment between the staff implementation team and the IRT that the relevant identifiers, and that is no acronyms may be applied for through an exception process only by the relevant entity provided it submits appropriate documentation as detailed below, and there are details below. So, if we could have the next slide, Caitlin, please.

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The disagreement arises because of clause two about what the exception means and what the implications are of that. So, the majority view out of the IRT is what we call option one. The recommendations only require that the relevant identifiers are reserved for the relevant entity, but it is acceptable for an unrelated third party to apply for and secure a confusingly similar gTLD, which would thereby prevent the relevant organization from securing its identifier as a gTLD in the future in a later round. So, string similarity review does not apply as against third party applications based on the 2012 AGB provisions.

And then the implementation staff view, which was shared by some IRT members. That's option two, we're referring to on the right-hand side of this slide. The ability for a protected organization to secure its relevant identifier as a gTLD must be preserved allowing for a confusingly similar gTLD to be delegated would disrupt that protection since the protected string could be barred in a later round. And so, the relevant identifiers must be included in the string similarity evaluation as against third-party applications.

Now, it's worth noting that in the PDP process for IGO, INGO, the strings were referred to as strings ineligible for delegation. But the way that this has been implemented at this point in time is that those strings are now—the IGO, INGO strings are now referred to as, we've reserved names and the other names that used to be in the reserve names category are actually now blocked names. And so, there's been a little change in terminology and that also enters into council's consideration of what is the right option. What are the right categories?

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In addition, you know that during our discussions on the list, a third alternative was proposed, which essentially defers the determination to the board council has heard from the board via a letter which was linked, I think, in our agenda materials. Council has also heard from the GAC with respect to its view, I think, running in favor of option two, which submitted as GAC liaison. And so, the great thing is, we're here to talk about the intent and that we can confirm the council's role as the manager of the PDP process.

And so, I don't know whether Susan has something to add at this point, or whether we can start running the queue. So, Susan and I will defer over to you.

SUSAN PAYNE:

Thanks. Hi, everyone. It's Susan. Just a couple of, I suppose, additional kind of nuances just to flag to people. The way the IRT guidelines envisage this process working is for council liaisons, if they make an assessment that there's a consensus disagreement between the IRT community members and staff, council liaisons would refer it to council. I don't know that anything turns on this, but just for completeness, that didn't actually happen in this case, because both Anne and I were not available on the last call where this topic was discussed. And therefore, because there was a council meeting coming up imminently within days, it was actually referred to council by staff rather than by Anne or I.

Again, I don't know that anything turns on it, but just for completeness. But I would say, in making that determination to refer it to staff, obviously, therefore, Anne and I didn't make an assessment that there

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was a consensus of that disagreement. But staff did make that assessment and consequently, that is why they referred it. And I don't think either Anne or I would disagree with that.

I would say, whilst there were a couple of voices who felt that they were comfortable with the path being taken by staff, the vast majority of IRT members who spoke or were engaged on the issue, didn't agree with the staff implementation view, i.e. the option two, the majority. And therefore, this is why we have the consensus and the referral to council. Felt that option one was the one that better reflected what the policy recommendations say.

And then the only other thing I wanted to flag to you is that there is, again, a little INGO PDP of 2013, refer to these strings as being placed in the category called strings ineligible for delegation. And then it references a section in the 2012 AGB, that it has to reference that section, because that was the only AGB that existed at the time. But that section, which certainly the language from that has been shared, I think, at least once on our council mailing list. And so, I'm sure everyone is very familiar with it.

But what that section says is that strings ineligible for delegation are prohibited from delegation in the initial application round. That future application rounds may differ accordingly in consideration of further policy advice. But it says these names are not being placed on the top-level reserved names list, and thus, are not part of the string similarity review conducted for names on that list. And then it talks about referring to the section that deals with that.

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But essentially, the strings listed in this section are not reserved names and accordingly are not incorporated into that review, so that string similarity review. And I think that, in an ideal world, that language, and if that language and that treatment had been the intent of the PDP, in an ideal world, they would have actually said that. But we don't always live in an ideal world. What they did do was cross-reference to a specific section of the AGB, where that language is carried. If you like, that is what we have to assist us in our interpretation.

ANNE AIKMAN SCALESE: Yeah, thanks Susan. I have one correction there. I was actually on the call where the staff insisted on raising this at the council level. And so, it's not quite true that neither one of us was on that call, but I can appreciate that that could be the impression because I think what neither one of us actually expected was that it would appear rapidly on the September agenda. But I wasn't surprised by that because I remember a pretty heated discussion between Jeff in particular and Lars about whether this needed to be raised to the council level.

And then it came onto our agenda. I'm assuming partly because leadership agreed to that. And I agree with your idea. We talked about it in September. I think we both said, "Hey, a special meeting on this would be appropriate." So, here we are. So, Susan, would you like to run the queue or would you like for me to run it? How would you like to proceed?

SUSAN PAYNE: I'm happy to run the queue if you want, Anne. Yeah.

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ANNE AIKMAN SCALESE: Okay. Perfect. Go ahead. That way we're both participating equally. And I love that about our co-liaison roles. Thank you.

SUSAN PAYNE: Okay. Perfect, we have a hand. Farzi?

FARZANEH BADI: Hi, everybody, Farzaneh Badi. First of all, we sent an email to the council about our position on this issue. Our position be non-commercial stakeholder. For us, option—so, this kind of like between options, that's like an approach that we are critical of. We don't think that option two is an actual option. And we want to stick with a narrow interpretation in the absence of policy. And also, side with the IRT majority view. To be honest, I am very surprised that staff are pushing back on this despite the majority view.

And also, despite lack of policy. And what I don't see in option two is a rationale and is a policy that is already there that they can point us to. And this issue specifically, so that they just say that the ability for a protected organization to secure its relevant identifiers, the gTLD must be present, must be preserved, allowing for a confusingly similar gTLD to delegate it would disrupt that protection. So, where's the policy that says that? Show me the policy. And we are in the territories of staff and the board making policy for us. And we are very concerned about the board's letter, and I believe that it was unprecedented.



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And they told us out of the blue that we like this option. Oh, well, then we should just say what you decide. I don't think that the board should have instructed and prejudged this issue before we actually discussed it. So, this is the NCSG position. I have my colleagues that will discuss it as well. And there are these issues there. There's a longer version of all this that we have put on the mailing list. This issue should have been resolved based on the majority of view of the IRT and based on the fact that there is no policy. And there's a reason that there is no policy. Thank you.

SUSAN PAYNE:

Thank you, Farzi. Peter?

PETER AKINREMI:

Yeah, thanks, Susan. And thanks, Anne, for leading this conversation. So, I align with what Farzi actually just said. But I wanted to just seek more clarification on this. The majority says, they're going with the policy recommendation and staff is actually pushing back on that. So, I wanted to know what actually the rationale behind this conversation. What steered this conversation, right? And for us to understand the direction that this staff is actually pushing as well because there must be something that is changing the policy recommendation. Could we get more rationale behind this conversation, so that we know, okay, what changes?

ANNE AIKMAN SCALESE:

Right. Susan, I can speak to that.

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PETER AKINREMI: Okay.

ANNE AIKMAN SCALESE: Again, on the call where staff insisted on raising this to the council level, and again, there were some voices on the IRT who certainly, I was going to say, question option one. So, the staff support for this, I think, depends on the fact that these are now names that can actually be delegated into the root. And that because of the principle that says that we do not want confusingly similar strings in the root, that it would be appropriate implementation of policy to compare these reserved named strings to other strings that potentially come into the root because the overarching principle is to avoid confusingly similar strings in the root.

And now, it's worth also saying that string similarity review is quite narrow in scope. So, the staff example that was given in their briefing paper was a very narrow example because string similarity review is quite narrow. And so, I think staff was relying in terms of their justification for taking the view that this is the more appropriate consistent implementation, that the overarching principle of not having visually confusingly similar strings delegated into the root. Does that make sense, Peter?

PETER AKINREMI: Thanks, Anne, for that.

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ANNE AIKMAN SCALESE:           Okay.

SUSAN PAYNE:                   Lovely. Thank you. Jennifer?

JENNIFER CHUNG:               Thanks, Susan. Just checking, I can be heard?

SUSAN PAYNE:                   Yes, you're good.

JENNIFER CHUNG:               Thanks. The registries have talked about this quite extensively during our own calls and there is discussion within our own lists as well about this. And the short answer is, for council, the question is not what option we think we like, that's not what it is. The question in front of us is, which one is consistent with the policy? And I guess, the answer has to be option one because option one is the only one that is faithfully looking at the policy that already has happened. I think this is all the way back in the IGO, INGO PDP. They did contemplate this. They decided that it was exact match. And with that, this means it's not part of the string similarity review. And this matches exactly what Anne has gone through in the slides here.

Now, when we look at this and we look at, okay, well, the arguments that staff and others have put forward for option two is because "this describes something that needs to be—the names being protected

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because this is the most comprehensive form of protection.” I don't refute that, but that does not say what the policy has been determined by the PDP. It doesn't say how it is done this way.

In fact, this is actually new policy because the interpretation of how it is, is completely different. It's actually the opposite of what the PDP intended. So, what the IRT members have said overwhelmingly on the two calls—I actually went back to listen to both calls. This is what it is that has been said. And it's very interesting the way that option two is presented to us in kind of a—at least in terms of the council mailing list or how this discussion has kind of progressed in the mailing list, it was a little conflated in the sense that this is not to interpretation of the actual policy. In fact, one of them is the interpretation of the policy. The other one is new policy.

So, I don't think this is a fair question to ask of council at all at this point. And I also agree with what NCSG has also concluded. This is not something that council should be looking at at this point in time. In fact, with the board letter that has been sent to us right before council call, I think this is something a path forward can be if we're looking at this after this discussion, something that Thomas also proposed on the mailing list. We can respond to this board letter. We don't have to do this vote right now.

In fact, I'd like to know a little bit more about what the timeline is and why we're pressed so hard on this to make the decision, because somehow this has to be resolved in a way that needs to be done right before Dublin.

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SUSAN PAYNE: Thanks, Jen. Lawrence?

LAWRENCE OLAWALE-ROBERTS: Thank you. So, I guess, Jennifer's question will be answered subsequently. I wouldn't make an attempt at that, but I know that we have very tight timelines to get the applicant guidebook out in time for the next rounds. But for the subject at hand, for me, this should be pretty straightforward, but that appears not to be the case. And I do not have my constituency's decision on this yet. So, these are purely ideas jumping in my head.

I believe that there is a reason why we had certain names reserved in the first instance, and that's to offer some kind of protection such that only the organizations that somewhat have identifiers in this regard can register these names at the top level. And looking at both options, it appears to me that option two is practically the option that is closest to what was intended of the 2012 round, where not only did we have names reserved, but in such a way that they couldn't be registered except by organizations that were identified that used these identifiers on a day-to-day basis.

I see option two trying to ensure that similar—not exact, but similar domains that could be delegated. And I believe that definitely there is some possibility in this regard. Looking through those names, pick the World Health Organization who, for instance, we know of organizations who run directories. Who is WHO? Referencing persons or individuals with greater achievements. So, if we eventually have a who is WHO

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based on practice, on real-day practice, wouldn't that be a blocker for the World Health Organization in the future?

And option one would help preserve that kind of instance. What will help with that is option two. Except if we are saying that the reserved names are no longer necessary and we just need to show that space open for whoever comes first. If that were the direction that this policy intended, then I'm sure option one would be the best way to go. But my reading of the initial policy, prior to the 2012 round and going into the next round in 2026, if we were to justifiably protect certain names, the IGOs particularly, we should be looking at option two. That's all for me, thank you.

SUSAN PAYNE: Thanks, Lawrence. Bruna?

BRUNA MARTINS DOS SANTOS: Thanks, Susan. Hi, everyone. Now, just to add that I agree with the points posed by both Jennifer and Farzaneh. And I do believe that this is far more like—this starts with a procedural issue that is considerably serious when we look at this option two in that sense, because it does innovate in terms of the scope and what the suggestion is in the general sense. And I do feel that if we keep reopening discussions in this way, it's really, in the longer run, it means that no GNSO policy will ever be closed or we're opening way too much precedent here in terms of, not only just reanalyzing the issue, but also, adopting an option that does not really relate to the initial goal in that sense.

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So, just to be supportive of the points posed by Farzaneh, we also support, as she said, we support option one as the only correct implementation path. It's consistent with existing GNSO policy and ensures that it identifies our reserved solely for corresponding entities in that sense.

And last but not least, I would just like to also reinforce the point from Jennifer. I do understand the AGB needs to be finalized or I mean, there's a goal of finalizing it by doubling, but it does seem a bit rushed to try to have the whole council picking one or two options within two weeks prior to the meeting without allowing for a proper time for us to settle down in terms of discussions and actually agreeing on what's the way forward, so just that. Thanks a lot, Susan.

SUSAN PAYNE:

Thank you, Bruna. And then, if you'll bear with me, I put myself in the queue to just speak on behalf of the IPC. Damon is not here otherwise, I think, probably. It would have been Damon who would speak given that Anne and I are both sort of the council liaisons to this PDP. We had a fairly large amount of engagement on this issue on our mailing list from the IPC. It's not possible to say that there's unanimity on the perspectives, but I do feel that there is more of a consensus behind option one than there is behind option two. And I think that is largely based on this appearing to IPC members to be the most procedurally correct course in order to minimize sort of policy rewriting during implementation.

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As you'd probably imagine, this is to some extent a kind of issue of brand protection and I think IPC members generally would be in favor of wider protection if it were available, as you would imagine. But nevertheless, when we read the policy recommendations and the background and kind of context in which those recommendations were made, it seems to us that option one is closer to what the policy envisages than option two is, which, as I say, requires much more of the kind of policy rewriting during implementation. And obviously, that's not something that is appropriate to do in an IRT and it's not appropriate for council to make a policy up on the fly, because it's kind of expedient or because people are calling for it now, 12 years after the event.

I wouldn't say we've got unanimity. There could be more views expressed before we get to a vote, but certainly, at the present time, the support was for option one as being much more clearly the sort of minimization of policy rewriting. Then I'm putting my hand down when I can work out how to do it, but in the meantime, Paul.

PAUL MCGRADY:

Yeah. Hi, everybody. Boy, I hate to be the spoiler of a good time, but I want to de-ICANN-ize what option one means. Option one means that entities who thought they had protection against applications for strings that match exactly will be forced to apply for their names or else they will be unable to end up in contention sets and resolve problems with applications that are confusingly similar to them, which now we all know means ICANN auction and no ability to work that out in a private way.



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There are some on the list that are saying, oh, well, there's no policy against them applying later for their exact match. If something confusingly similar comes in, that's just inaccurate. We have confusing similarity of prior delegated strings against new applications, so that's just inaccurate. With regard to the mechanisms to interfere with an application while also not being an applicant, the prior rights thing from the last round was quite anemic. Everybody knows the history of that, that's not terrific. And we would be inviting a bunch of GAC advice and disruption to the next round.

And so, just so we know, option one means forcing all these organizations off the bench and forcing them to apply to maintain the maximum rights that they can bring to bear in our ecosystem. And then forcing them ultimately into an ICANN auction, where they will have to pay to protect their rights. To me, if that was the original intent of the policy, then the people were—well, I don't have to reach the motivations. I just think that that is a perversion of the idea of protections of IGOs and NGOs because it's the opposite of protecting them.

So, to the extent that the policy is that we're forcing them off the bench and into our application process, which I don't think that's what the policy is. And by the way, I think there's plenty of policy from the Paris round, which was very high level that could support option two. But if that is option one, then—if option one, we all believe is the policy or at least enough of us to believe that to be the policy, then I think the board should find a mechanism to reject whatever part of that policy is that results in having this perverted outcome because this is the opposite of protecting these.

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And so, I don't think that the people who put together what now appears to be option one back when they were building the IGO, NGO policies and everything else met to have this outcome. And if they did, they did. So, in any event, I think we need to send this back to the board. I think option three does that. And we just say, listen, here's a big mess. We have heard different views on the council. There's not anonymity. I think Lawrence and I are probably the two voices for not option one. Maybe that's not enough. Maybe there are other people on the call who also think not option one that would be willing to put it in the chat or speak up.

But in any event, it would be good to send it back to the board and say, basically, council shouldn't be in the position of picking which one that we like best. And if the staff believes that option two does not require a new policy or violate current policy, then the board is free to implement based upon the staff's recommendation.

So, anyways, I won't jump in and do a repeat and repeat and repeat of this. If the policy were clear, if there was a clear, unambiguous collection or a statement somewhere that supported option one and I was convinced that that was in fact the policy and that this is actually why everybody intended this outcome to be, I'd be the first one saying, let's stick with the policy. But I think there is arguments on both sides that option one doesn't violate policy, although I don't like that outcome, I don't think that that's what the policy drafters meant. But folks can argue that and I would accept that argument as a straight-faced argument, although it makes me sad.

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I think there's arguments that option two makes sense and could work and doesn't violate known policy, and doesn't require a new policy. And people have made that argument with a straight face and I can accept that and it makes me less sad. But I think the best thing for us to do is just to say in a situation where there's plausible arguments on both sides, board do what you think is best. And then the board can decide whether or not they want to come down with a decision that forces these entities into the application round when they probably don't want to be, because they thought that they were going to be getting some protection from the community.

So, I'll leave it there. I won't do a bunch of interventions, but that's kind of where I'm landing. I'll go back through and read the chat. I saw I was creating some—I was prompting some chats. I'll go back through and read the chats. Thanks, everybody.

SUSAN PAYNE:

Paul. Desiree?

DESIREE MILOSHEVIC:

Thanks, Susan. And just what I think in where we are. I feel that we are not—option one is closest to the policy. There are issues. Spoke about and, and others raised, so I do feel we need to have more urgent work done. And the question is whether to send [inaudible]. That GNSO votes and says option two and the GAC says one. We better try and do something now, whether it's within a small team with the board or some other way. But I think we need to do a better job here than just go and be equally unhappy with option one and option two. Thank you.

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SUSAN PAYNE: Thank you. I'm afraid it looks as though I thought it was just me who was not hearing you, Desiree. But it sounds as though it was actually everyone, so that it was a problem at your end rather than mine, I'm afraid. I got a sense that what you were saying was that at the moment we're not really there. We've got some people feeling one way, some people feeling another, but more to the point, shouldn't we be trying to find a solution? I think that's what you were saying, but if you want—

DESIREE MILOSHEVIC: Yeah, thank you.

SUSAN PAYNE: You can put something in the chat, then please do.

DESIREE MILOSHEVIC: Okay, I'll do that for the sake of time, but I think you've got the gist that we need to do some work. And I was mentioning a small team and board liaisons, and I was mentioning not just sending it back to the board, but trying to perceive what another solution could be. Thank you.

SUSAN PAYNE: Yeah. Okay, thanks. So, I've got Thomas and Anne's got her hand up and I'm getting messages saying we need to wrap this discussion up because

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we don't have much more time left. So, I think those are the last hands in the queue. So, Thomas and then Anne.

THOMAS RICKERT:

Yeah. Thanks so much, Susan, and hi, everybody. I mean, you have probably read the suggestion that I sent to the list and this should not be categorized as being evasive and not take a decision. But I think what we should remind ourselves of is that the original AGB from the 2012 round added much more color to the very lightweight policy recommendations that came out of the 2008 set of recommendations. So, an awful lot was left to implementation.

We now sort of treat this like it was policy that was carved in stone, but actually what the PDP did at the time was make reference to an implementation. And it was regarded by, I guess, pretty much everyone as an implementation of the 2008 recommendations. So, we now have a different world. The GNSO has looked at the—old AGB has made revisions to the AGB, has created new and different buckets of names that should be protected and how this protection should take place.

And I think that therefore, we need to see the intention of protecting the names in the context of this new world. And judging from the discussion that we saw on the list and that we heard today, there are folks who say that one or the other is trespassing into the realm of policymaking, particularly with respect to option two. But the same could be true for option one, which is also not exactly as it was in the context of the 2012 round. So, I think, we can be accused by choosing of making policy on the fly in the GNSO council meeting if you think that

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through. And I think had the board thought that we had trespassed into the realm of policy, they would probably have triggered for a PDP to start because that's an option for them to take as well.

So, the board seems to be of the opinion that both options in front of us are options that vary in implementation because we don't have an exact match of how we treat with these names in this new world. And that's why I think it is a good option for council not to run the risk of making policy, but instead of treating this as implementation, as we accepted in the 2012 round with the hundreds of pages of AGB that actually came out of a few lines of policy recommendations in 2008. And if we acted differently, then we would probably need to answer the question, why we're not chiming in on other ways where the new AGB specifies orders or otherwise modifies what we saw in 2012.

So, I think this is not only a pragmatic approach. I would be reluctant to accept the criticism that it's evasive, but I think that this is the right way for council at this stage to play this back to the board and say, it's your prerogative to deal with this. And as I suggested in my letter, we would still reserve the option of stepping in if we see that something's going materially wrong. Thank you.

SUSAN PAYNE:

Anne?

ANNE AIKMAN SCALESE:

Yes. Thank you, Thomas. As NomCom non-voting, my main role here was simply to agree that an issue that is raised in this context is

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appropriately addressed by council. But I will have to say, from a personal point of view that I don't necessarily agree that the 2012 AGB constitutes policy. So, I tend to agree with what Thomas has said. And we are, at the IRT level, under a bit of a time crunch because everyone wants the next round to go forward smoothly. And I think, while it's quite important for council to make its mark, and I would do that with a vote, I would actually encourage council to conduct that vote according to our procedures that provide for a vote in electronic form if noticed by leadership in seven days.

And I am of course saying that without regard to the outcome of that vote, council needs to go on record. And in this regard, with respect to option three, Jen has raised in the chat that option three should be amended to delete the reference to the board's exercise of its fiduciary duty. Both Lawrence and I are going to consider that deletion as friendly, and it can be deleted from option three. And so, my question at this point, I know our agenda said that we would either address this through an electronic vote under our procedures in 4.10, or that we would address it by voting in Dublin.

And I think that Dublin, if we think that there's going to be more discussion that's going to result in a different outcome or a fourth solution as Desiree has potentially suggested, then I think that that is one different path. But actually, I think what's needed now is clarity in our instructions to the IRT. And so, honestly, I would favor a vote being put out in the electronic form and to be noticed by leadership with a seven-day notice and more time to discuss it may not result in different points of view based on what I'm hearing.

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If the staff will please, in the motion, delete the reference to the board's exercise of its fiduciary duty, because I consider it likely that they would be reciting that anyway. They have that obligation in everything they do. It's not that they have a fiduciary duty for some things that they do and no fiduciary duty for other things that they do. The board's obligation to act in fiduciary manners is constant. So, I mean, I'd like to know if other councilors feel that a vote is appropriate.

TOMSLIN SAMME-NLAR: I'll just jump in. I had my hand up, but to support what she is saying, in terms of way forward, because you'll notice we have only two minutes left for today's meeting. So, I was hoping that we would agree on how we're moving forward with this item. If we're going with the board on the mailing list or how other councilors think we should move forward with this.

ANNE AIKMAN SCALESE: Tomslin, if I may, I'm seeing a comment from Jennifer in the chat saying that option three would need to be reworded and that Nacho's supporting the idea of a rewording or amendment to option three. I don't know what that rewording would be, but I think for me and for Lawrence, taking a look at that is certainly not out of the question if that rewording is agreed on the list.

The issue that I had with Thomas's letter was that it said that, when both policy options are available, that it's not council's role to provide input on that. I personally believe the council very definitely has a role to when there's a disagreement at the IRT level, and that that is



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confirmed by Tomslin, as you mentioned at the beginning that our operating procedures provide for council to weigh in on this. And so, I guess, we would need to consider a rewording on the list. And I think if Lawrence will confirm that we're open to that, then I guess, we should do that.

TOMSLIN SAMME-NLAR: Thanks. And I see Lawrence confirming that. I would quickly let Justine speak. I know we're at hour, but Justine.

JUSTINE CHEW: Thank you so much, Tomslin. This is Justine. Very quickly, I just want to note that we did receive a note from Brian Beckham from the INGO group, the very group whose positions that we are being forced to, to make a decision on, or council is being forced to make a decision on. So, I think it's right that we also look at input from that group because of the fact that they are being impacted on. I also want to quickly say that the ALAC, we don't have a vote per se, but we would like to encourage council to consider option two as a possibility.

And we would certainly be supportive of option three to let the board decide on the ultimate—that the board make the ultimate decision. Thank you. And I'm happy to send through a statement that the ALAC has instructed me to provide to the mailing list. Thank you.

TOMSLIN SAMME-NLAR: Thank you, Justine. Thank you so much. And, Susan, I see confirmation that we will continue reviewing the options on the mailing list and

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potentially have a vote on the mailing list as well if we meet the 10-day deadline. If not, then, I also wanted to mention that I think our meeting is before the board meetings. So, if we have to push it, then maybe we could vote before the board meeting, but hopefully, we are able to close this on the mailing list.

We are two minutes past the allocated time for our meeting. We're unable to go to item number three. I think, Steve, correct me if I'm wrong, we'd have to bring this in our meeting in Dublin.

STEVE CHAN:

Hi, Tomslin. This is Steve. I was actually just trying to brainstorm where it might make sense and perhaps there's room during the GNSO's working sessions on Sunday. I think there might be space there.

TOMSLIN SAMME-NLAR:

Okay. Thanks, Steve. All right. Since we are three minutes past the hour, I think we should close the meeting. We have a way forward with the IGO, INGO items. We will continue that conversation and that voting on the list. Thank you, everyone, and hope you have a great day.

TERRI AGNEW:

Thank you, everyone. The meeting has been adjourned. I will stop recording and disconnect all remaining lines. Take care.

**[END OF TRANSCRIPTION]**