
ICANN Transcription

GNSO Extraordinary Council Meeting with SubPro Pending Recommendations Small Team

Thursday, 04 May 2023 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:

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Zoom Recording: https://icann.zoom.us/rec/share/ix_pkVNc7rM3ukLkMBKMg_RbZcsNwl36-IGMj39aS23-EAkjUyhQTX8lucOANOJ4.K5iST3S0RRW8Na3?startTime=1683205334000

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page <http://gns0.icann.org/en/group-activities/calendar>

List of attendees:

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

Contracted Parties House

Registrar Stakeholder Group: Antonia Chu, Greg DiBiase, Theo Geurts

gTLD Registries Stakeholder Group: Nacho Amadoz, Kurt Pritz (absent), Sebastien Ducos

Nominating Committee Appointee (NCA): Desiree Zeljka Miloshevic Evan

Non-Contracted Parties House

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Commercial Stakeholder Group (CSG): Marie Pattullo, Mark Datysgeld (apologies), Osvaldo Novoa, Thomas Rickert, John McElwaine, Susan Payne

Non-Commercial Stakeholder Group (NCSG): Stephanie Perrin, Bruna Martins dos Santos (absent), Manju, Wisdom Donkor, Tomslin Samme-Nlar, Farell Folly (absent), Manju Chen

Nominating Committee Appointee (NCA): Paul McGrady

GNSO Council Liaisons/Observers :

Justine Chew : ALAC Liaison

Jeff Neuman: GNSO liaison to the GAC

Maarten Simon: ccNSO observer (absent)

Guest: Avri Doria and Becky Burr – ICANN Board

ICANN Staff:

David Olive - Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional

Marika Konings - Vice President, Policy Development Support

Mary Wong - Vice President, Strategic Policy Management

Steve Chan - Senior Director, Policy Development Support & GNSO Relations

Julie Hedlund - Policy Development Support Director (GNSO)

Berry Cobb - Senior Program Manager, Policy Development Support

Emily Barabas - Policy Development Support Senior Manager (GNSO)

Ariel Liang - Policy Development Support Senior Specialist (GNSO)

Caitlin Tubergen - Policy Development Support Director (GNSO)

Terri Agnew - Policy Operations Specialist (GNSO)

Devan Reed - Secretariat Operations Coordinator

TERRI AGNEW: Good morning, good afternoon and good evening and welcome to the GNSO Extraordinary Council meeting with SubPro pending recommendation small team taking place on Thursday the 4th of May 2023. Would you please acknowledge your name when I call it? Antonia Chu?

ANTONIA CHU: Present.

TERRI AGNEW: Nacho Amadoz? If you're speaking, we're unable to hear you.

NACHO AMADOZ: I am sorry, I had a problem with the mute button.

TERRI AGNEW: Not a problem. Thank you. Kurt Pritz? I don't see where Kurt has joined. Sebastien Ducos?

SEBASTIEN DUCOS: Present.

TERRI AGNEW: Theo Geurts?

THEO GEURTS: I'm here.

TERRI AGNEW: Greg DiBiase?

GREG DIBIASE: Present.

TERRI AGNEW: Desiree Miloshevic?

DESIREE MILOSHEVIC: Present.

TERRI AGNEW: Marie Pattullo?

MARIE PATTULLO: Here. Thanks, Terri.

TERRI AGNEW: You are welcome. Mark Datysgeld has sent his apologies.
John McElwaine?

JOHN MCELWAINE: I'm here.

TERRI AGNEW: Susan Payne?

SUSAN PAYNE: I'm present. Thanks.

TERRI AGNEW: You are welcome. Osvaldo Novoa?

OSVALDO NOVOA: Here, thank you.

TERRI AGNEW: You are welcome. Thomas Rickert? I don't see where Thomas has joined. Paul McGrady?

PAUL MCGRADY: Here.

TERRI AGNEW: Wisdom Donkor? I don't see where Wisdom has joined. Stephanie Perrin?

STEPHANIE PERRIN: Hi. Thanks, Terri.

TERRI AGNEW: You are welcome. Manju Chen?

MANJU CHEN: I'm here.

TERRI AGNEW: Farell Folly? I don't see where Farell has joined. Bruna Martins? I don't see where Bruna has joined. Tomslin Samme-Nlar?

TOMSLIN SAMME-NLAR: I'm here, thank you.

TERRI AGNEW: You are welcome. Anne Aikman-Scalese?

ANNE AIKMAN-SCALESE: Present.

TERRI AGNEW: Jeff Neuman?

JEFF NEUMAN: 100% here.

TERRI AGNEW: Justine Chew?

JUSTINE CHEW: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. And Maarten Simon? I don't see where Maarten has joined either. We do have guests. Becky Burr will be joining us a little bit later today. And Avri Doria, both from ICANN Board. In addition, our GNSO support staff, David Olive, Steve Chan, Marika Konings, Julie Hedlund, Caitlin Tubergen, Emily Barabas, Ariel Liang, Devan Reed, 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 and Councilors are panelists and can activate their microphones and participate in the chat once they have set their chats to everyone for all to be able to read the exchanges.

A warm welcome to attendees on the call who are silent observers, meaning they do not have access to their microphone nor the chat.

As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior. With this, I'll turn it back over to the GNSO chair, Sebastien Ducos. Please begin.

SEBASTIEN DUCOS: Thank you, Terri. And good morning and good afternoon and good evening to everybody. I see Thomas's hand already. Go ahead, Thomas.

THOMAS RICKERT: Hi, everyone. This is just to say that I joined a tad too late for the roll call. I'm present.

SEBASTIEN DUCOS: Yeah, we noted your presence. Thank you very much for noting it. I think that we still have a few missing and people might join a bit late. As Terri noted earlier, though, because we don't have any votes today, I'm happy to see that most Councilors are there. And everybody should be there, but we don't need to meet any quorum or anything like that. Again, there's no vote today.

This said, just to keep the agenda, and I'll try to keep my part as short as possible today. So 1.2, now that we've done a roll call, 1.2 is about updates to statements of interest. Does anybody have an update to share with us? And seeing no hands, I assume that everybody's up to date, which is great. Fantastic. Thank you very much.

Item 1.3, I hope that you've had time to look at the agenda. It's a fairly simple one. Essentially, we are going to spend the whole meeting on our Council discussion on the proposal from the SubPro small team on the triage exercise, and I will let today Paul drive most with John's help. So seeing no hand about a change, we're good. Thank you very much.

And then 1.4, note that the minutes of our last... Sorry, somebody's writing to ask me. Sorry, I can't do everything at the same time. The chat at the same time is not working. So again, if somebody needs to speak, please raise your hand.

So the minutes have been posted for our March 15th meeting, and should be also for the April 20th. At least we've reviewed them, and [inaudible] accept them, but we'll see later about... Will be posted on 7th May. So it will be posted a bit later.

There seems to be a problem with the Zoom room, and I'm not quite sure, but I'm sure that Jeff will find his answers. With this said, I wanted to personally thank... Well, on behalf of the whole Council, I guess, but thank the small team for doing the exercise that they've done so quickly. And you will see in the next two hours that there was a lot of work gone through, and you would have already had read through and glimpses and etc. But hopefully we'll be able to cover all the questions you may have in this session. So thank you very much for having done this in a very tight schedule.

I want to also thank, and I don't think Becky's yet there, but Avri, I've seen you. I want to thank especially Avri and Becky for their participation in this small team. Your input, your insight have been absolutely priceless. It helps so much when we can have, as we've said it before, these direct conversations with the Board or with Board members, with Board insight, because we don't spend weeks second guessing each other and we have answers to questions directly, and it just helps the process so much. So I want to say that.

With this, we will then start, and I'll pass on the mic to Paul in a second to start the update on the small team's work, basically. And hopefully you've also done your part of the homework, which is to review them and started the conversation or have that conversation with your groups. But the conversation will continue for sure with all the positions that you will have on this work that will be shared today.

With this, and sorry for talking too much already, I will pass the mic on to Paul, who will share it at some point with John, but it's over for me, I think. So Paul, if you want to take this over, it's all yours.

PAUL MCGRADY:

All right. Thank you, Sebastien. Hi, everybody. I am excited to be able to talk a bit through what the small team accomplished in these last weeks since Council formed it. I think that we may have some questions along the way, and I think it is probably best to tackle those questions as they arise rather than doing something like wait for the end, which I think will be difficult and confusing.

I will do my best to monitor the chat while also monitoring the hand-raising queue while also trying to stay on task. But if you say something in chat that you want to make sure everybody hears or knows about, please do raise your hand. That kind of participation, I think, is very welcome.

And then one word about what we want to accomplish here. The small team was terrific. We had a guiding principle that the purpose of the small team was not to relitigate all the issues that

the working group went through, but rather the purpose of the small team was to understand the Board's concern and triage a path forward. And so as we go through these today, I hope that we can stick with that same general guiding principle that it's not our role to undo the work of the working group or to relitigate our pet issues, but rather stay on task of figuring out a way to respond to Board concerns.

So all that said, the deliverables today, we are hoping, and I guess, John, if any of this is stuff you're supposed to be saying instead of me, please jump, like literally jump in. But we're hoping that by the end of the call, we'll have Council alignment on the small team's proposed path forward for each of the issues, that at the end of the call, the Council will feel far more prepared for our meeting with the ICANN Board on SubPro. And that is coming up on May 22nd. Mark your calendars. Don't miss it.

We are going to walk through the small team consideration of the Board feedback and some adjustments to proposed path forward if we need to adjust those. And then following on, we expect staff and leadership will build out a draft work plan based upon what we accomplished tonight or today. I guess it's tonight for somebody. And we can get to work. And then the small team will finalize deliverables for the Board by day zero ICANN 77.

So it's all a very, very tight time frame. And we're hoping that this check-in with Council will speed up that time frame if we can all kind of get on the same page. All right. So I have decided that the best way to make sure that I am allowing people to ask questions or make comments is to pause at the end of every slide. I find

myself at the end of every slide. And I find myself with Anne's hand up. So Anne, you are our first winner. Go ahead.

ANNE AIKMAN-SCALESE: Many thanks. I feel like I've hit the jackpot, Paul. I just wanted to clarify, when we say proposed updates to earlier triage, I believe what you're referring to is that this Council meeting itself right now could result in an update to the work that the small team has done because we are receiving input from the Council and that that could modify the document. And is that correct in terms of what your slide means?

PAUL MCGRADY: Yes, Anne, that's exactly what it means. While we're hoping to not relitigate the substance of each issue, certainly, if the path forward that the small team has come up with and presented today needs to be tweaked in some way—or we're not perfect, right? There may be something we didn't think about. And so we're hoping to have that two-way conversation between the small team and the entire Council. So yes, nothing has been etched in stone.

That having been said, the small team hopes you like it because we think it's pretty good. All right. And John says that he thinks it includes updates after the meeting with the Board too. That's right. Yeah, exactly. That will be a two-way conversation with the Board, not a one-way update from us to them, take it or leave it.

Great. All right. Moving on to the next slide. So wanted to talk to you about essentially how the chart that John sent around works. And John did a good job explaining it. And I tried to add a little bit

more in a sort of last-minute email. I'm sorry about the last-minute nature of the email. I keep sending things to something called Council bounces, but that's the wrong email address. So I apologize that you guys were supposed to get that email from me like 24 hours earlier.

The chart's pretty extensive, but the columns are pretty straightforward. So we have essentially the overview of the issue in column one, and then we have the issue synopsis. And basically we're looking there at what the Board's concerns are. And you'll see something called a 28 March context. That's just the date of a meeting that we had where we had additional inputs from Avri and Becky on the issue.

And then we had deliberations, and this is sort of a history, a record keeping of our discussions. The deliberations are what they are. They're not meant to be amended or revised or anything like that. We basically wrote down what folks had said.

And then the proposed path forward is really where the meat of all this is, and probably where we'll spend most of our time today, although we can certainly go back and look at the history process that got us there. And so here we put down what it is that the working group is proposing at the end of the triage process in terms of how to respond to the Board. And so that's in this column and where we'll spend our time. Does that make sense?

Okay. Great. Well, I guess I just explained the columns. Okay. So output overview, the recommendation language, the issue synopsis, overview of the Board's concern with input from Avri and Becky, notes or the summary of the small team's deliberation and

assessments of the Board's concern, and then the tentative proposed GNSO Council action. That's the small team's input to Council on the proposed path forward based on those categories. Okay. Great. Welcome, Wisdom.

So in terms of the small team outputs and the action categories, these are the outputs that the Board marked as pending. As we all know, many of the recommendations that the Board did not have concerns about have already been passed and those will move on to implementation. What we're talking about are just the things that the Board had some concerns about.

It is a relatively small subset of the recommendations from the working group. And so keeping that in context, I think that the Board was careful about what they asked about and didn't just send everything back. So that was nice. For each of the recommendations, we were expected to recommend which proposed action by Council would be the preferred route to resolve it. And so we had several available actions. I think we really kind of called them buckets. And I like the concept of buckets.

So bucket number one was we think that the issue might be resolved by providing some additional clarifying information to the Board. And it won't be like, hey Board, you're wrong, we're right. It's going to be digging into the issue, explaining the deliberations of the working group, all the various inputs during the working group timeframe and how we ended up where we were. And hopefully with the provision of clarifying information from those items that ended up in that bucket, the Board may be able to get

comfortable with how the recommendation currently reads and adopt it and pass it on to implementation. So that's the theory.

The second bucket is just the small team and hopefully ultimately Council letting the Board know that we think that a particular issue can be resolved during the implementation process. There were some of those issues that just seemed like, okay, we see the Board's concern, but we also think that it doesn't really implicate policy so much that it can't be resolved by the IRT. And so for those handful of things, the small team is proposing putting them in that bucket and communicating that to the Board. And as we've all mentioned, we're going to have an interaction with the full Board. And so as Anne noted, some things may come out of one bucket and go into another throughout this process. So again, none of these are set in stone.

Bucket number three is the Council may modify or amend any approved recommendation. And we put it here, section 16 of the PDP manual. If you've not read it, it's fascinating. Prior to final Board action. This path is sort of proactive and we think that it might apply best to minor changes. We don't want to be in the business of upsetting working group recommendations if they don't have to be upset. And if we do this, we have to reconvene some form of the team for a subsequent consultation. It doesn't mean reopening the PDP or anything as dramatic as that, but the PDP manual does require us to check in with the working group. There'll be a public comment period and then Council approval by a super majority threshold.

So you can see that when PDP recommendations are modified, it's not a small matter. And so we try to be judicious about how

many of these issues we put into this particular bucket. I will say it is the one that gives me the most hives because I don't like the idea of modifying PDP recommendations, but some of these things, I think we have to take on some humility and say that maybe the concept is great, but it could have been worded in a way that would not have raised the issue if it had been worded differently or better. And so that's the kind of things we're talking about for this bucket.

Another bucket, and this is one that gives some people on the small team even more hives, which is just allowing the Board not to approve a recommendation and just say, go ahead, Board, and we want to stick with it and we hope you adopt it. But if you don't, you don't, or that might trigger an opportunity to submit what's called a supplemental recommendation. So if the Board rejects it, essentially, it allows Council an opportunity to try again. Or we could elect to have a non-approval recommendation stand. And then the new gTLD program would just be modified to that extent. The Board said no to something that the community wanted. And so that's that bucket.

The additional bucket is recommending starting a bylaws process. I'm not sure this is the actual name of the bucket. And we talked about the word starting versus exploring. I think the actual bucket is recommend exploring a bylaws process. I don't think that the small team right now is recommending starting a bylaws process. I think that we need to hear from the Board a bit about how all those work, how much those kinds of things, how much time they take, what are the likelihood of success of doing it. We don't want

something that will just sort of derail the entire new gTLD program. So let's scratch starting and put in exploring there.

And the next bucket is starting a policy process. That could be a GGP or a GIP or a PDP. These are, you'll see the various—I'm sorry. I think somebody is talking who is not muted. So that's one of the buckets. And then we have an "other" bucket because hopefully the small team is bringing in some humility to this process and folks on Council and maybe folks on Board might spot a better bucket that we didn't spot.

So that takes us through the buckets. We're at the end of the slide. And Anne, go ahead.

ANNE AIKMAN-SCALESE: Yeah, thanks so much. That was extremely useful, I think, for everyone on Council. And just on that topic of maintaining some humility, I think in the small team, we also discussed the fact that there are issues on this list of pending issues where SubPro working group actually deliberated during its deliberations on the concerns that were expressed by the Board. So I think we all agree that it's important to be able to make distinctions there between concerns where we had deliberations on those concerns during our working group process and other concerns that have been expressed where we may not have actually had deliberations. So I think it's important for the full Council to kind of keep that in mind as we go through each of these. Our intent is to be able to cite quote unquote chapter and verse as requested where we did deliberate on the particular concern during the working group process.

PAUL MCGRADY:

Thanks, Anne. And the chapter and verse concept is especially important on bucket A, provision of clarifying information to the Board. We think the final report was extensive. I got in trouble the other day for saying the PDP took seven years, and I was reminded it only took five. But the PDP of five years' time was extensive and intense. And a lot of things were talked about. And there's no way to capture all that in a final report. And nor could anybody reasonably expect the Board to go back and read the entire record of the PDP working group's deliberations and work. And so it is our job as a small team if something ends up in bucket A to go find that chapter and verse and say we had the same concern you did as a working group, right? And we talked about it. We talked about it over this many meetings on this many dates. And here were the different ideas that came up. And this is how we ended up with the recommendation that we are, in the hopes that that would provide some comfort to the Board that it's just not just a tricky issue, but it's a tricky issue that's been thought through. So Anne, thank you for that reminder that we've got a lot of homework to do. All right. Okay, Justine, go ahead.

JUSTINE CHEW:

Yes, thanks, Paul. Maybe it's useful to explain to the full Council here what it would mean or what Council would need to do in order to generate a supplemental recommendation and how that might differ between what it appears in bucket D, so how that differs from bucket C in terms of generating something that would modify the recommendation.

PAUL MCGRADY:

Yeah, thanks, Justine. And maybe Steve or somebody will rescue me because this is not a common thing that the Council does. But from what I understand, when the Board rejects a recommendation, the Council then has an opportunity to think through why the recommendation was rejected and come back with something that hopefully solves the problem.

But of course, some recommendations can be rejected and that might be okay. And it may not change the nature of the new gTLD program in a way that the Council thinks is material. And the Board has the right to reject recommendations. But seeing no raised hands from staff, I think that I will have to say that's probably all I know about the supplemental recommendation process. And we can certainly get two paragraphs about that out to the Council list, unless we have somebody else who's an expert on supplemental recommendations.

Marika says, "Some of you may remember EPDP phase one." No, we've blocked that out because of—"For which the Board did not adopt two recommendations. For one, the Council developed a supplemental recommendation, for the other, decided not to act." Steve, thank you for hopping in here.

STEVE CHAN:

Thanks, Paul. I guess, just to add a little bit of additional color. So the Board doesn't actually reject—and this is maybe a subtle difference. They don't actually reject the recommendation. They do not accept the recommendation. And what that then kicks off is

the development of a Board statement. And that's the explanation of why the Board is unable to accept the recommendation. And then there's a consultation with the Council to make sure that there's a clear understanding of why that non-approval occurred. And then I think as Jeff was hinting at, it's not a prescribed process about what happens next. There's not, like in section 16 of the GNSO operating procedures, a prescriptive set of three steps. It's sort of left flexible. I was going to say a different word, but flexible is a better way to describe it. There's flexibility available to the Council and the Board to potentially work through the concerns. Thanks.

PAUL MCGRADY:

Great. Thanks, Steve. All right. Any more hands? All right. Well, let's move on. So this is a summary chart. And this sort of boils down the work. And I should have said from the beginning that these slides are work that staff and I did together. The work that the small team did is the chart that John sent around. So if I got anything wrong, that's on me and not the small team.

So in the first bucket of provision of clarifying information to the Board—and just, again, I don't want to overstate this, but to remind everybody of what Anne reminded us of, which is the chapter and verse method here, these are not going to be one paragraphs about how the Board's wrong and we're right. These are going to be useful working documents that provide the history.

So we put into the first bucket the topic of whether or not applications should be assessed in rounds. We put into this bucket registry voluntary commitments and public interest

commitments. We put in here the issues around terms and conditions, application queuing, registrant protections, security and stability, name collision, limited challenge appeal mechanism, community application, and auctions.

And I do think that—and maybe as we go through the other buckets, you might see—I don't know if any of these are duplicated. I think that they are. And some of these, as we look, for example, the issue of terms and conditions, the question of, for example, that one is 18.3, which is one of the terms and conditions issues, and that is in bucket A. And we see, for example, to the right, we have 18.4, also a terms and conditions issue that is in bucket B. And so these are nuanced. These are not just entire sort of big topics put into buckets. We've tried to put them where they go.

And then on bucket B, determination that the issue can be resolved during implementation. We have a registry service provider pre-evaluation issue that came up, 6.8. Again, another question about application submissions period, and that's the 16.1 line, applicant support, everybody's favorite. And again, another issue, terms and conditions, we've already mentioned this one.

So that's sort of these outputs. I briefly saw Jeff's hand, and then it went down. But Jeff, I encourage you to raise it again and tell us what was on your mind. Go ahead.

JEFF NEUMAN:

Yeah, I mean, these summaries are kind of helpful, but for us that know all this, it may, I don't know, I would think it would help to go

through the individual topics, which I know we're planning on doing, as opposed to spending a bunch of time on these categories, because I'm just trying to think if I had not really been involved, this would be so kind of vague for me. I'd want to really see everything in the details, but that's just me. Thanks.

PAUL MCGRADY: Thanks, Jeff. I think we've got one more slide on this, and then we promised to get to some chunky stuff. But this is just, as we get to the chunky stuff, hopefully providing a conceptual way for folks to keep everything straight in the chart, because the chart is it's a significant thing. So, all right. Jeff, your hand's still up. Did you have a supplemental comment? All right. Anne, go ahead.

ANNE AIKMAN-SCALESE: Yeah, thanks. I think these charts are extremely helpful, and particularly, I think they're really helpful to the Board, and can be helpful also to the Council and the small team as well, because what you can see from the charts, which I know you guys, I'm sure, just took the final chart that the small team in full had reviewed, and then developed these buckets. What you can see from the buckets that you've put together, I think I'm seeing that there are no references to C and D in these buckets. Is that correct?

PAUL MCGRADY: That's right, Anne. Right now, there are no references to C and D, but those were paths that were kicked around. And some of these things, as you asked at the very beginning, is this a two-way

conversation with Council and the small team, and will it be a two-way conversation with Council and the Board that might result in things being moved from one bucket to another? Yes. And so, if something comes out of these buckets and goes into the other ones, we wanted to let the Council know on this call what those other buckets might be. Even if they're empty, they're still buckets. They're still paths.

ANNE AIKMAN-SCALESE: Right. And I guess what I would say on that is that I think that in my participation in the small team, I kind of went into it in the first place looking at it as a sorting exercise based on, okay, if we directly address the Board's concern and say that the Council must take action on it, what bucket does it go in in terms of, does it require policy work or is it implementation?

Whereas I think where the small team as a whole ended up was essentially more insistent on saying, here is why you, the Board, should actually accept each of the recommendations made by SubPro. And so, we're coming back with asking for more dialogue, doing more clarification, and really suggesting to the Board, look, we don't really think that your concern should result in any modifications that really require a further policy process. That's kind of the general tenor of where the small team came out in terms of the next step in the dialogues.

So, I just wanted to kind of summarize that generally, that there's no C or D suggested here, and I think there's no GIP or further policy process that's suggested here. And in this regard, I think these charts are extremely helpful, and I'd really like to thank you

and staff for having taken the time to put these together. Very much appreciate it.

PAUL MCGRADY: Thank you, Anne. Yeah, I agree with all that. So, Jeff, I see your hand again. Go ahead.

JEFF NEUMAN: Yeah, to hopefully less scare people that see this chart on the bylaw process, even though there's, I don't know how many recommendations there, we're really talking about one change to the bylaws, not one for each of those topics and each of the recommendations. And maybe perhaps when we go through this, we could talk about this in a group and say this one change to the bylaws that the small team talked about could resolve all 15 of these or however many there are. And so I would strongly encourage us to take this block as one item together.

PAUL MCGRADY: Okay. Thanks, Jeff. If councilors would like to adopt that as their individual choice, that's fine. I don't want to preclude people from viewing that a different way. For example, I don't know that registry voluntary commitments is the same issue as how we handle GAC consensus advice and early warnings. But again, everybody can look at this work through their own lens. Anne, go ahead. And then I think if we can, I'd like to actually go through these briefly and then we'll move on to the next slide.

ANNE AIKMAN-SCALESE: Yeah. Just very quickly in this category of topic 30, GAC consensus advice and GAC early warning, I must have been asleep when the small team—I don't think I missed any small team meetings, but I must have been asleep when we said let's recommend starting a bylaw process on GAC consensus advice and GAC early warning. Is that what the small team said?

PAUL MCGRADY: Yeah. Thanks, Anne. So, we're not recommending starting one. We are recommending exploring that as an option. Some of the bylaws provisions that the GAC consensus advice were based upon didn't survive the Obama administration transition. And so we need clarity around if GAC consensus advice and early warnings are going to be issued, what is their bylaws basis? And so, it's really a bylaws issue. It's not an issue with regard to the particular recommendations or even the new gTLD program. It's, do we have what we need for the GAC in the bylaws for the GAC to do their job?

And so, it may be that—and again, we're not saying we don't. We're saying we need to explore that topic with the Board and it may be that the Board i— that that's it. Jeff says I've got it wrong. So, Jeff, if you can go ahead and correct me, then we can move on.

JEFF NEUMAN: Yeah. That's why this chart's a little bit confusing. That's more for why it's in G, not for bylaws. It's in E. All of these are in E for the exact same reason. It is to what extent can the Board put things

and enforce things in contracts that may relate to things outside of its mission?

So, what 30 is referring to here is that if in response to GAC consensus advice or GAC early warnings, an applicant makes changes to its application to agree to, let's say, registry voluntary commitments, then to what extent can ICANN put that into the contracts and enforce that? Is that consistent with its mission? That's why this part of the chart's a little bit confusing.

It is really the one change we're looking at in the bylaws that the small team was looking at was putting something into the bylaws that essentially states that ICANN can enforce its contracts, even if there are things in its contracts that may itself fall outside of ICANN's mission. That's the one thing that applies to all four of those elements. Thanks.

PAUL MCGRADY:

Thanks, Jeff. I appreciate the clarification. Yes, there is the issue of if the GAC issues consensus advice, what next? And how can an applicant resolve that particular issue? And if it is through a registry voluntary commitment or a public interest commitment, then we have to have the appropriate bylaws frame in place because the public interest commitments, there was some grandfathering of those. The registry voluntary commitment is a new concept. And yeah, so there is an interaction between how the GAC does its job and how an applicant might want to resolve that issue. Anne, I see your hand. I'm a little afraid we're getting stuck on this particular slide, but if we can go ahead.

ANNE AIKMAN-SCALESE: Just very quickly, I think Jeff's correct. Susan's correct in the chat. And I don't think topic 30 is about RVCs. And I think it's confusing. And I don't think that topic 30 belongs in this chart. I mean, I have to follow up more, but I haven't seen the charts before, but it strikes me topic 30 may not belong in E. Thanks.

PAUL MCGRADY: Okay. Thanks, Anne. This is one of these things where we rolled the dice and we said, well, will a summary of these things be helpful or not? I think they have been helpful for the most part. Again, a chart can't capture all the detail. And yes, there is nuance here, which Anne and Jeff have brought out. But yes, it is about all the above. When the GAC issues consensus advice, what next? How does that get resolved? And is it through a contractual provision? And if so, can ICANN compliance enforce that? So that's the issue which we're trying to capture. For those who think it should have been in a different spot, sorry about that. We're just trying to do our best to summarize a week's worth of work.

All right. So I think we've talked the green chart to death. The other things on dialogue between Council and the Board, there was a terms and conditions issue. And again, the GAC consensus advice and GAC early warnings are part of that dialogue process as well. So let us move on.

It's time for Council discussion and next steps. I know that Jeff has mentioned that he thinks we should go through the chart line by line. I don't think there's enough to take a huge deep dive. If I can

have the next slide, please, on those. But the chart did go out and everybody was asked to look through it and to be ready to discuss it. So if there are Councilors that have had a chance to go through that chart and have questions about particular issues, I'll do my best to answer the questions. We have the small team with us and we can do a bit of that. I see John's hands up. John, go ahead.

JOHN MCELWAINE:

Thanks, Paul. Personally, great work for the small team. This is really, really useful. Thank you. With respect to issues falling in bucket A and bucket B, let's say we provide the information to the Board that it's already been discussed or it can be remedied in implementation, and that is not the case or the Board does not believe that's the case.

What are the options that the small team sees receiving back from the Board from providing that information, if that makes sense? Like, do we foresee that it's going to be like, no, we're not convinced or, yes, we are convinced? I mean, is it binary or is there a possibility that this is going to sort of spin off into a big chunk of work? Does that make sense?

PAUL MCGRADY:

Yeah. Thanks, John. So I anticipate through this process that some of these issues will be resolved, right? The Board will say, thank you for the information. That gives us comfort. We can go ahead and vote yes on these. Other things are thanks for engaging in the dialogue with us and we have comfort. We can go

ahead and vote yes on these. I hope that our work results in a lot of those and that the issues are resolved.

However, the Board is the Board and they have the ability to act independently and do what they want to do. And so some of the suspended recommendations may come back from the Board and they may say okay, we're still not comfortable, not good enough. And from that, things may be moved from one bucket to the next bucket. We may have to activate some of the empty buckets to do guidance input processes or guidance processes.

Again, it depends on how the Board reacts to it, right? So I don't have any preconceived notions on how the Board will react to each of these. But I'm hopeful that our work will dispatch some of these and leave the small team with a smaller universe of work to be worried about. All right, John, your hand went back up. Do you want to react to that? And then we'll hear from Jeff again.

JOHN MCELWAINE:

A quick follow up, because I wasn't part of the small team, and these are some really in-depth issues here. Is there any rationale, like for instance, that the small team has documented where it is, we believe if we provide the Board this information, that will show that it can be moved from pending to an approved recommendation? Is there any level of that detail that can be shared?

PAUL MCGRADY:

In terms of specific recommendations that we think will prove persuasive if we do it that way? We can dig into specific issues.

And maybe Avri's on the line, maybe we can get some inputs from her on that. But we came up with these by listening to Avri and Becky, and talking through the issues, why the Board did what the Board did. And we didn't put them in these buckets, sort of without digging into the issues and believing that we may be able to resolve them by providing more information, not just reiterating what's in the final report, but arming the Board with what they need to get comfortable.

But in terms of making a predetermination of whether or not the Board will get comfortable, that's impossible to know.

JOHN MCELWAINE:

And Paul, no, I'm sorry, that was a poorly phrased question. I'm privy to future slides, and I know that there is some work that's going to be done in terms of research, etc., that's going to be provided to the Board about prior deliberations and discussions, etc. I was just wondering if there's a list of that that the small team came up with that is shared—and very well could be in the document that has been provided, but that's what I was getting at, only that at a high level.

PAUL MCGRADY:

Yeah, so john, I'm sorry, and I don't mean to keep ignoring Jeff, whose hand was up first, we promise to get back to you. But john, that's what we tried to do by putting them into the buckets, that those are the ones that we thought would be resolved that way. Are I want to give you what you're asking for, though. Are you asking for more detail beyond that?

JOHN MCELWAINE: We can move on.

PAUL MCGRADY: Okay. All right. Thanks, john. All right, Jeff, go ahead. And then we have Avri. And then we have Stephanie.

JEFF NEUMAN: Yeah, I just wanted to try to help make this less ambiguous for people. So like, I'll give you an example. So for the clarification, right, there was a place in the recommendations where we said that the registry services pre evaluation process, the fee should be determined by the IRT in conjunction with ICANN Org or with ICANN Org in conjunction with the IRT. The Board came back and said, well, that's not really the role of the IRT. And so it's not the IRT that sets the fees, it's ICANN Org.

The clarification that the small team discussed, which has roots in the discussions that SubPro took was not that the IRT would be setting the fee or approving the fee. But rather, if you look back at the work, not just the recommendations, you'll see that SubPro talked about IRT helping ICANN Org figure out the elements that would go into the formula for which ICANN would then determine the fees. So much like the regular fees for applications are historical cost plus reserve plus evaluation fees, whatever, the IRT, what was meant by the SubPro working group was that this group, the IRT would talk about the different elements to consider.

So we're hoping that by providing the clarification to the Board saying that was never on our intent that the IRT itself set the fees, that the Board would say, okay, subject to your clarification, we're okay and can approve the recommendation going forward. There were some recommendations like that, where the ICANN Board interpreted one way, which was not the way it was intended. And so maybe a word was missing, or maybe it could be clarified to ease the Board's concern.

Then the question is to the Board, can you adopt that, approve the recommendation subject to the clarification given by the Council, or do you really need the Council to go back and issue a supplemental recommendation that contains that new wording, which would take a lot longer? Our hope obviously is for the former, not the latter, that the Board could take our clarifications that the Council gives them and say, yes, okay, with that clarification, we're going to approve the recommendation. So I'm just trying to make it a little bit less ambiguous. That's one example of the fees for the pre-evaluation process.

There's a few other examples that are very similar to that, where we think the Board interpreted in a way that was clearly not meant by the SubPro working group. And we found places within either the initial reports or the responses to comments or other places within the deliberations that provide the backup for us. Thanks.

PAUL MCGRADY:

Yeah. Thank you, Jeff. That's a good, useful example. And I'm reading the chat. John, I think, was asking, do we have the chapter and verse yet? I think the answer to that is no. Some of

these ideas and some of the things like Jeff was talking about might be captured in the deliberations, but we are not at the chapter and verse stage yet. All right. We have Avri and then Stephanie. And then I'm going to try to walk through this next slide. But Avri, thank you for being here. And thank you for your participation on the small team. You and Becky were both just super wonderful. And you've given us so much of your time. And now we've asked for more. Thanks. Go ahead.

AVRI DORIA:

Thank you. And want to thank you for having included us in the small team in the way you have and giving us the time to speak. In terms of making the Board comfort—I think to sort of describe where we are, some of the times we look at these and we can see multiple interpretations and multiple paths to the implementation and need to be very careful with making a decision that may go contrary to someone's interpretation of the words and therefore land us in an accountability measure down the road.

And so part of the reason for looking for clarifications is to make sure that when something is approved, it is approved in a definitive enough manner so that it can be implemented and, okay, you can always open up a door on an accountability measure, but not one that we could see up front. So that's one kind of clarification that's being looked for where something written can actually help. And we can say, yes, we went with this interpretation in approving because we got a clarification that said that.

The other kinds of things that are clarifications is if a recommendation says as if, or for example, or is that giving us an explicit mention of something that must be mentioned and must be done, or is it giving us an example of something that this is kind of what it's like, but there are other things and not necessarily this? Is it an inter alia that says including, but not only, or is it saying here's some examples so you know what we mean. So that kind of clarification is also useful and important, and it being written again guards against the what happens post implementation when someone decides that this is a matter for an accountability measure. So that's one of the kinds of considerations. I just wanted to bring that in. Thanks.

PAUL MCGRADY:

Avri, thank you. That's really helpful. Essentially the sort of the U.S. notion is the congressional record, right? We need clarifications sometimes around the congressional record. How did these recommendations come to being and how can we give the Board more comfort that they were thought through and how can we clarify them short of a formal process? And Anne says risk management is the dominant theme. And I think that that's a rational thing for a Board to be worried about is risk management. Thanks, Avri. All right, we have Stephanie. And then I've been reminded that this slide is actually John McElwain's slide. So John, get ready. Stephanie, go ahead.

STEPHANIE PERRIN:

Thanks very much. First of all, great work, everybody. And apologies for me not being at most of the meetings. You probably

got along faster without me. I don't want to hold us up on this whole issue of the Board clarification and not what Avri was speaking about, but the bylaw amendments.

I understand that it's mentioned there, but you're not actually looking for bylaws. It's one of those areas we'd all like to see a little less, this is not a word, nebulosity coming from the GAC. But on the other hand, I think the Board's reaction to GAC advice falls in the realm of diplomacy. So I am hoping that you're not planning on drafting some mechanism to constrain the ability of the Board to manage GAC advice in the way that it sees fit at the time, given the structure of the Board, blah, blah, blah.

Because as much as I, like most of us, find GAC advice frustrating at times, there's the brakes. That's reality. You're dealing with a situation where there has to be some freedom on both sides here. And I wouldn't want to constrain the ability of the Board to respond. I wouldn't have said that during any of the fights we had over data protection, because it was very provoking to have things roll backwards after GAC advice. However, I'm uncomfortable with any other thought. Thanks. Just wanted to put that on the record.

PAUL MCGRADY:

Thanks, Stephanie. First of all, I love the word nebulosity. And whenever I use it, I will attribute it to you, because I think that is a great word. Secondly, yeah, I think I caused some undue alarm when I said that that particular exploring bylaws had to do with GAC advice and things that had not survived the Obama transition. That topic is not about constraining the GAC so much as it is about how do we let poor applicants resolve things with the

GAC so that they can move forward if they find themselves up against some unhappy GAC advice related to their application. And then specifically, is it through the new concept of the registry voluntary commitment or the old concept of the PIC? PICs seemed to be adopted fairly without controversy in the last round. But the Board has raised the issue about whether or not that remains obviously the same since we have our new bylaws. And so that's what we're trying to get at. So Stephanie, I hope that is helpful. Any other questions before we hand over to John for a couple of slides? All right. So hopefully the nebulousity that I caused, I've been able to claw back. All right, John, go ahead.

JOHN MCELWAINE:

Thanks, Paul. I think I got the assignment on these next few slides, which are what are we going to do next, all leading up to day zero at ICANN in D.C. was because I was making the point in a leadership call that Paul was joined that we need to show up on day zero ready to discuss a path forward, not with a bunch of questions. So these next few slides are to kind of discuss what's going to happen next and really get people up to speed and prepared with respect to a pretty aggressive time frame that we have.

So as you'll recall, during the intro, and I put this into the chat, you're going to hear it from Paul, you're going to hear it from me. There are a number of steps that we're going to need to be completed in a very short period of time. And as a reminder, those steps are the Council needs to align on the proposed paths forward that are suggested by the small team. We then after meeting with the Board need to align on the path forward with the

Board. And then basically, we're going to need to then have an idea that staff is going to help us with to put together a work plan to finish up any of those steps necessary to get this subsequent procedure launched.

So as you heard, and I was asking some questions to accomplish that alignment with the Board, Council leadership is suggesting that additional work be done to help the Board prepare for the dialogue with the Council. And we've also heard the phrase chapter and verse. Thanks, Anne, for mentioning that, which is those links to the past Council statements, SubPro rationale and other reference points.

I know the small team has been very, very involved throughout the entire SubPro process. And they have ideas where it's specific references, but also ideas where information can be dug up and provided that will help maybe bridge some of the gaps that we see. The idea to do that is to provide that in advance of the dialogue with the Board, even though it may be in a draft format. So we need to get to work on that immediately.

Obviously, that type of work is going to be lengthy. And so we think that the best step is for—the leadership is recommending that staff take that first cut, do that research, dig up the statements, dig up the rationale and all the other reference points that Jeff I know has memorized, but maybe not can point to the exact day four years ago in a SubPro meeting where it was discussed. So we're going to find all that information and start circulating it in advance of the dialogue with the Board.

So with respect to it, although it says category, really scratch out category, and as Paul has coined, put bucket. With respect to the bucket of providing such clarifying information to the Board, on the basis of the small team discussion, the staff is going to, as I said, develop a first draft of that information. So this is one of the next steps that's going to go on with the aim of sharing that draft information in advance of the meeting with the Board.

One of the reasons why I asked my question is about whether we had like a list of that was just to try to get a head start. As many of you on the call are trying, like me, to get up to speed on some pretty complex issues, it's going to be very important for us as Councilors to be looking at those emails, and really reading through the chart that the small team put together and that I circulated, which is really important that we get up to speed on all that.

And then based upon the feedback from the Board meeting, we're going to then need to determine what is what is going to be the next step with respect to the clarifying information that has been provided. As Paul said, it may convince them, it may then move this into another bucket. So it might be that there'll need to be further discussions with the Board, it may be that we need to do some sort of policy work or supplemental policy work.

So with respect to bucket B, determination of issues that can be resolved during implementation, right now, if you look through the chart, there's really good feedback and capturing of that rationale. So that information has been provided. And it's something that we're going to be waiting to hear back from the Board on when we have that dialogue on May 22. Go ahead and move the next slide.

We also heard that we are going to discuss exploring—not starting but exploring starting a bylaw process. And I hope it's clear that at least in my mind, this mainly is a bylaw process to deal with the issue of the bylaws saying that ICANN cannot regulate content, when some of the PICS and voluntary commitments may say that a registry operator must do certain things with respect to the use and operation of the second level top level domains, which could implicate, say, could implicate some sort of content regulation. So that type of discussion needs to go on. We're going to have that in our May 22 meeting.

The other bucket was having a dialogue between the Council and the Board. You know, this is obviously going—it's been a listed number of topics, and will be part of a further to-do list that comes out of the May 22nd meeting.

So like Paul, I'll pause to see if there's any—Jeff, your hand is up. Over to you.

JEFF NEUMAN:

So, what is the role then of the small team going forward? Did I miss that? Is there a role for the small team?

JOHN MCELWAINE:

Yes, there is. That is in a couple slides. But that is—not to give away one of the slides. That's something that we will be discussing. So let's put a pin in that and we'll get to it later. All right, we can move on to the next slide.

So timelines. Starting today, staff is going to start working on putting together that clarifying information and circulating that. Again, it's going to be in a draft format for any of us to supplement or comment on. And that looks like it's going to go through May 10.

In between that time—but I would actually say today, and May 22nd, which is our Board meeting, can be incumbent upon Councilors to get up to speed, familiarize yourself with the small team's work product, familiarize yourself with the information that staff is providing, and discuss it with your constituencies. There, we need to be well prepared to go into the meeting with the Board on May 22nd.

Then, as you heard that we will—after the meeting, the small team is going to reconvene and take that feedback, both from the Board and hopefully from Councilors at that meeting and determine whether they need to make any revisions to the triage actions. And then we're going to start working on a proposed timeline. Because that timeline is what we need to finish up by the June 15th ICANN meeting, ICANN 77.

We're going to have a scheduled special meeting on the 5th or 6th of June, for the small team to brief the Council on proposed updates to the triage document. If they decide upon any. I think what is crucial here—again, why I think I've got the assignment for the slide, come to that meeting with your questions. What we don't want to have happen is folks show up at ICANN 77 days zero and have questions that we don't know the answer to that impact their support of the timeline we're developing.

So it's really, I think, going to be important that we have looked everything over. And if you do have questions concerning an action, the timing of an action, how long your preferred action may take, let's have all those questions ready as soon as we can, but no later than that meeting. And then, as people have seen via Council calendar invites, we're going to have a day zero Sunday meeting to confirm any remaining actions, discuss any next steps, and then start working on or confirm the timeline for completion of this work. Anne, I see of your hand up.

ANNE AIKMAN-SCALESE: Yeah, thanks, John. Is the May 22 meeting the full Board and not just the subsequent procedures Board caucus? Do we know that for sure?

JOHN MCELWAINE: I don't know. But I see Avri's got her hand up. So Avri, over to you if you know the answer.

AVRI DORIA: Yeah, I've got it listed in my calendar as Board and Council, not SubPro caucus and Council. So I expect it's the full.

ANNE AIKMAN-SCALESE: Great. Well, quick follow up, then, if I may. Will the caucus have the ability to review materials prior to May 22nd? And based on John's slides, can we get chapter and verse to the caucus in time

for them to have a thorough understanding of it before that full Board meeting with the GNSO?

AVRI DORIA:

Depends on how much—I mean, we're constantly going through this. After almost every meeting that we've had with the small team, the SubPro caucus has met and we've discussed it, we've looked at your charts, we followed along as closely as we can. So for me to declare that we would have full understanding, etc. That would be silly of me. But to say that we will have worked it and have spent time on it and had informational calls with—The SubPro caucus calls are also open to the rest of the Board, much as GNSO meetings are open. So there'll be a deep level of understanding. Will we be in a position where everybody is certain that they know everything and are ready to vote on things? That's not what we're anticipating. But there'll certainly be a strong level of understanding. And most issues will have been discussed. We've been going through things, as I said, at our weekly meetings, we spent several hours on it at our workshop. We're constantly talking about this stuff.

ANNE AIKMAN-SCALESE: Perfect. I guess, John, I don't see in the timeline, a date by which we get chapter and verse to the Board. Or do I?

JOHN MCELWAINE:

I don't think that there is a specific date, although it shouldn't be too far after the May 10 timeframe that you see up there. Since I don't know the scope and the specific pinpoints that you all as a

small team may have been provided to staff. But suffice it to say it's going to be a work in progress. But it will be delivered in advance of the May 22 meeting. But I don't know if we have a specific time and date picked out. But it should be in advance.

ANNE AIKMAN-SCALESE: Yeah, I'm sorry, just really quickly, it occurs to me that the SubPro caucus of the Board probably will want to look at that stuff in time for that May 22 meeting, but that was the only reason I raised it. Thanks.

JOHN MCELWAINE: It's a great point. It's a point that I think only the small team and staff know the answer to. So again, I think we will have that date worked out with more specificity sometime between that 4th and 10th timeframes. Steve, you're going to save me. Thanks.

STEVE CHAN: I don't know about that. Thanks, John. And it might help give the Councilors comfort. The intention is to get the staff working—myself and Marika and Julie, we would start working on capturing that chapter and verse, which Jeff has helpfully committed to help [inaudible] in the documentation that he prepared. We will start working on that today. So the intention is to try to turn that around as quickly as possible. I don't want to overpromise, because once you get the details, it might actually be a little bit more difficult than expected. But our intention is to turn that around as quickly as possible, make sure it gets to the small team, again, as quickly as possible. And then ideally, we actually beat that 10 May deadline.

And then actually share that the provision of additional information to the Board as soon as possible. So to give you comfort, we will start working on it as of today, since there didn't seem to be objections from the Council to have staff take that first cut. Thanks.

JOHN MCELWAINE: Thanks, Steve. Desiree, over to you.

DESIREE MILOSHEVIC: Thank you. Just to commend the small team for doing a great job, first of all, and point of clarification and recommendation as well. Could we expect to see the update of the current document after May 10, before the meeting with the ICANN Board? And the second thing which I'd like to recommend is in the SubPro small team input form, once we have agreed on this useful bucket, whether we could in the document as well, put the notion where they belong. Thank you.

JOHN MCELWAINE: So I'm not going to commit the small team to that. But I see Paul has his hand up. So Paul, maybe you might have a thought on updates to the document. Seems reasonable to drop it in as long as it's not too lengthy. But over to you, Paul.

PAUL MCGRADY: Thanks, John. Yeah, a couple of things. I don't think that there will be a substantive update to the document prior to that May 22

meeting. I think there may be some after we get Board feedback during that May 22 meeting. And so that's probably the next time that we'll see a substantive update.

As far as the buckets, Desiree, I think that's a great idea. I know in the chat you said they could be color coded. And we have the buckets color coded in the slides. So why not adopt that? I think that's a great idea and might help people keep track and maybe even use the two slides, one of which caused a lot of consternation. But why not use those two slides as a bit of a legend for that document? And so I think that that's a good suggestion.

In terms of the level of chapter and verse, there's been some chat about that in the chat. And it's not that we're asking staff to recreate the entire record. But there are on some of these where we may have to go beyond the rationale in the final report because the rationale in the final report was consensus. But that consensus rationale—I'm using the word consensus. As soon as I said it, Jeff's hand went up.

And so maybe it's not ICANN capital C consensus. But there is a sense that that was the work product of the team. But that work product of the team may not capture how many different points of view were brought to the table on that particular issue. And one or more of those particular points of view maybe that didn't make it ultimately into the final report may be what's triggering the Board's yellow light on this particular topic. And so bringing forward the different points of view and indicating that they were discussed and how they were resolved and how we ended up with what we ended up in the final report.

Some of these, not all, some of these topics are going to need that level of treatment. And so we're not going to create the Encyclopedia Britannica. It's going to be surgery, I think, going back into the record and bringing forward the relevant stuff. So I don't want to have everybody disappointed when they don't have a 10,000-page document to look at next. I don't think that's the level that we're looking at for staff. So anyways, thank you, John.

JOHN MCELWAINE: Thanks, Paul. Jeff, over to you.

JEFF NEUMAN: Yeah, I was just going to give an example of that. Sorry, Paul, did not mean to imply anything with that my hand went up when you said consensus. Just timing. Yeah, so one example is I went back and I made a statement during the small team that something was addressed by SubPro. And I ended up going back and finding it in a spreadsheet we had done in response to comments that we received. And so it was on that spreadsheet that we had mentioned the point that we were clarifying in here.

So it is kind of deep cuts. It's things that—because we only had so much room in the rationale to put things. Also, there's some references to the initial and preliminary or sorry, I forget if it's initial or preliminary, whatever we called it, report, because that's where we went into a lot of the history of the issue and why things were being discussed in certain ways. But it was too much detail for the final report.

So there are a bunch of documents out there. I've worked with staff for a couple of the questions already that I just remembered where they might have been. So yeah, there are going to be some deep cuts in there, but nothing that's recreated or there's no new documents, I don't believe, that are going to be created. It's just references to things that were actually said when they were said or done, and maybe a citation to it. That's it. Thanks.

JOHN MCELWAINE: Paul, over to you.

PAUL MCGRADY: Thanks, John. Yeah, just to supplement something that Jeff said. In my head, these are one pagers on each topic, so the Board can digest them. But those one pagers contain references that Jeff was talking about, right? And so it's basically a map to the issue of how it was discussed. So thank you for that, Jeff. I think that's super helpful.

JOHN MCELWAINE: Thanks for those comments, Paul. Anne, over to you.

ANNE AIKMAN-SCALESE: Great, thank you. Regarding this topic of explore starting a bylaws process—and I do see that Becky's on the call right now. I think there's a wide variety of opinions within the community about how long it takes to amend the bylaws. And I had the feeling from some of our small team deliberations in which Becky and Avri

participated, that there was some thought that certain bylaws amendments might not take a long time. I just wonder if Becky could comment on that.

BECKY BURR:

I'm happy to comment on that. I mean, the bylaws processes, particularly for fundamental bylaws, is pretty laid out. I think if the community was motivated, that things could move relatively quickly and wouldn't impede progress on this. I think the concern in particular about the one bylaw change that has been discussed by the Board, is that the language in the bylaws regarding enforcement of contractual provisions and furtherance of ICANN's mission, some people may argue there is room to argue that that does not enable the Board or enable Org to enforce RVCs that implicate content or anything out of ICANN's mission.

I think other people would make a very different argument. And the question is given the importance of PICs and RVCs in the program, going for a bylaws amendment and not getting it sends a very clear signal about the enforceability. And therefore, we need to really understand what the prospects for getting that kind of a bylaws amendment through.

It would be very helpful and remove one source of dispute if we were able to get it. But if we're not able to get it, well, what I think is the worst possible outcome is to go for it and not get it. So I think that, Anne, is the hesitation that you've been hearing me express.

ANNE AIKMAN-SCALESE: Yeah, thanks, Becky. I just thought the full Council should hear it. Thank you.

JOHN MCELWAINE: Yes, thanks for those comments. All right. Any other questions concerning timelines or really any other issues people want to raise? Because the next slide is really the last one. Right. Seeing none. All right, moving on to the next slide.

Next steps, as Jeff has already asked about for the small team. We do as a Council need to be thinking of, do we need to update the small team assignment, particularly after the meeting with the Board and we're determining the path forward? That will need to go on. But in doing so, we also need to, as a Council, take a step back to see whether we need to look at the composition. Do we need to keep it as is? Do we need to move it to a more representative model or some other model of composition? Paul, your hand is up. Over to you.

PAUL MCGRADY: Thanks, John. And I know this is a Council decision, not a Paul decision, but I will just give an advertisement for this small team, if I can. I think it's functioned very well. I think we had good participation in the small team. I think people showed up prepared. They did the work. They wanted to be there and participate. And I think that we should keep the small team intact, but welcome anybody else that wasn't prepared to join at the beginning, who are prepared to join now. There's still plenty of work to do and new voices and fresh ideas on how to get that next step work done

would be super welcome. I would hate for us to get bogged down in trying to reformat the small team now, especially as we have so much work to do so quickly between now and ICANN Eve, which I've changed the name from day zero to ICANN Eve. And so for what it's worth, I think that we should stay in the same canoe, but pull out to the dock and ask if anybody else wants to join the fun.

JOHN MCELWAINE: Thanks, Paul, for that feedback. That is great to hear and I think aligns with what most of us would be thinking. Any other comments on—Anne, I see you have your hand up. So over to you.

ANNE AIKMAN-SCALESE: Yes, thanks, John. Thank you, Paul. In terms of small team assignments, there's been a bit of confusion in the small team itself about the GAC's March 23 letter. I think that I've been advocating the small team address that since there's overlap between the Board's pending issues, comments where they cite to GAC concerns and the diplomatic process that Stephanie referred to earlier. I think it is time for the small team to schedule a meeting to take a look at that letter. And I think that the minutes of the April 20 meeting of GNSO Council seem to confirm that, but there's been a little bit of confusion about it. So it'd be best if the Council would settle that.

JOHN MCELWAINE: Thanks, Anne. Jeff, you have your hand up. Over to you.

JEFF NEUMAN:

Yeah, on that subject, I think it's good that Anne raised it. I think the full Council should think about what to do about that. I wanted to provide some context on that letter. I recently as the GNSO liaison to the GAC had a meeting with the GAC point of contact. I sent my notes to the leadership team, and also the small team.

The GAC point of contact wanted to give me some more context on the letter. And what he was saying was that it's not that the GAC wanted a response on any of those topics in a letter format or anything like that. What the GAC wanted to do was to become part of the conversation.

So rather than us talking just with the Board, then the Board talking just with the GAC, and then the Board doing whatever it's going to do, and then come back to us to work things out if that's the way it decides things, that potentially we could save time by having discussions between the Council and the GAC or the leadership teams of the Council and the GAC or topic leads, I think is what the GAC point of contact was saying, to talk through the issues to make sure that there's no misunderstandings about positions.

And so the point of the letter was not that we look substantively at those issues to see what we can change or anything like that, but really just to have to sit down with the GAC and have substantive conversations about the topics so that we each understand where we are all coming from. And sure, if there are areas of agreement, to kind of emphasize those, if there are areas of disagreement,

then potentially having a trilateral with the Board to figure out how we move forward on those.

So I just want to make it clear that responding to the letter doesn't actually mean responding to the substance of the letter per se, but rather it's asking for a dialogue. Thanks.

JOHN MCELWAINE: Thanks for that clarification, Jeff. Paul, over to you.

PAUL MCGRADY: Thanks, John. Jeff, that's all useful stuff. I will say that as I look at everything that the small team has to accomplish between now and ICANN Eve, I'm not sure how we pull that off. And so I'm hoping that maybe coming out of this, that this will be a topic that Council leadership and Jeff as the liaison can discuss amongst yourselves and figure out how best Jeff can liaise with the GAC on this topic and what support he may need to convey some of that stuff.

Obviously, I'm not in a position to prescribe anything. And if you tell us the small team needs to do this instead, we'll figure out a way to do it. But for the sake of my teammates, I want to be realistic about how that would work.

And I do think that if there is to be those kinds of discussions, obviously, the handy dandy color coded chart might prove helpful, and that's a public document. But there may be interested team members who have points of view that they could support that work in some way. I don't know. But for what it's worth, I'm not

trying to weasel out of another job, but I do want to meet the deadlines that you guys have given us. Thanks.

JOHN MCELWAINE: Great point, Paul. Anne, over to you.

ANNE AIKMAN-SCALESE: Yeah, taking into account, of course, what Paul has said, the thing is the small team didn't meet this week, and there's no meeting scheduled for early next week. Normally, we meet on Monday and Tuesday. Given that there's overlap between the issues raised by the GAC in its March 23rd letter, and the pending issues which the Board has specified and which in some cases cite to GAC concerns inside and GAC issues, and there is overlap there, it strikes me that there should be coordination and that the small team could afford to have a meeting to at least discuss those GAC issues and be able to provide that input to leadership depending on how leadership wants to handle the letter.

I think the small team should be talking about that GAC letter and providing input to leadership on the request for a dialogue. And we don't have a meeting early next week. And we could have.

JOHN MCELWAINE: So far be it from me to ask the small team to have a special meeting. But if that's something that the small team is willing to do, feels like they have the time to do that's useful, leadership hasn't discussed the impact on the GAC letter, at least that I can recall,

and this particular work that is the work of the small team and the Council in meeting with the Board.

And so we really need to, as a Council, as leadership, and then as a Council, take a step back and see at what time does it make sense in this process to address the issues raised in the GAC letter. So let's let us take that up. But again, if the small team also wants to provide some thoughts and advice on that, that'd be great to have.

All right. Any other issues? Because I think this is the last slide. Sebastien, you have any parting words you'd like to provide?

SEBASTIEN DUCOS:

Well, I certainly didn't prepare a speech. But I mean, it's been an intense hour and 45 minutes. I hope that the Councilors that weren't directly on the small team found it useful. And thank you, again, for all that work. Thank you, Avri and Becky, for having been so useful. We've said it and said it again, but I will not say it enough. Thank you very much to staff. And I'm thinking in particular, Steve, who has been preparing this and tasked with a lot of stuff and will continue working on this.

And so, again, very strong encouragement to go and discuss that with your SGs and Cs. Have all the questions aired out. Have all the points of view that you can collect ahead of time. As John said, let's not surprise ourselves on day zero or Christmas Eve or whatever you called it, John, Paul, I mean—ICANN Eve, you called it. Exactly, let's not surprise ourselves with last-minute discovery. Let's have all our ducks fully in a row well before that.

We will have plenty of work to do that day anyway. So don't worry, you won't be bored. And that's that.

With this, unless Paul or anybody else wanted to add anything, I think that we're done. I see no hands from Paul, from John or anybody else. So, thank you very much, everyone. And looking forward to getting this over the line in the next month, or in the next few weeks. Thank you very much.

TERRI AGNEW: Thank you, everyone. Once again, the meeting has been adjourned. I will stop the recordings and disconnect all remaining lines. Stay well.

[END OF TRANSCRIPTION]