GNSO Council Meeting

ICANN - San Jose, Costa Rica

14 March, 2012

>>STEPHANE VAN GELDER: Good afternoon, everybody. This is the GNSO Council public meeting. We will be starting in a couple of minutes. I would ask that all councillors at this time take your seats at the table and we will then try to start as quickly as we can.

Thank you for bearing with us, and we'll start straight away.

>>STEPHANE VAN GELDER: Okay. Welcome, everybody. My name is Stephane Van Gelder. I chair the GNSO Council. Welcome to our open council meeting here in Costa Rica.

We have a very full agenda and we are starting a little bit late, so we will get started straight away.

Our initial agenda item is a discussion with the GNSO constituency and stakeholder group chairs.

We have a tentative list of chairs that will, if they are willing to come up to the microphone and have a discussion with us. And then we'll move on to the council meeting, per se, and start off with the roll call.

Can I just say that as usual at these meetings, these are open meetings. They are open discussions.

We will have frequent open microphone periods, and please do not hesitate to come up to the microphone there in the center of the room and have your say should you want to say something. Just say your name for the record so the scribes can write that down in the transcript.

Having said that, I'm being told to say one more thing, which is that the coffee and snacks over there are for the GNSO Councillors. And I hate to be in that position, as usual, but sorry. That was instructions I got.

So with that, there was -- On the agenda, you have a list, and the first person on the list is Keith Drazek from the registries stakeholder group, and I see Keith standing up so, Keith, over to you.

>>KEITH DRAZEK: Thank you, Stephane. Again, Keith Drazek, and the alternate chair of the registries stakeholder group.

Our stakeholder group had a very productive session here, and I'd like to say that we had, I thought, a very, very good session with the ICANN board where there was quite a bit of discussion about the question that I think the board posed to many of us, which was how do you see the introduction of new gTLDs impacting our stakeholder group, the GNSO, and ICANN and the ICANN community in particular. And I thought we had a very productive discussion, a really nice dialogue with the Board on that.

And I think the question that was posed, really, is not just a -- not intended just to be a very specific thing about our stakeholder group but really more of a thought provoking or thoughtful exercise that the Board is asking us all to undertake about sort of the medium and long-term impacts of the introduction of new gTLDs and the dramatic expansion of, you know, participants in our space.

So I think that -- I hope others in the community had the same opportunity or will have the same opportunity to engage with the Board on that.

And again, I thought it was a very welcome session.

I won't go through the specific topics or details that we discussed on our agenda. I know that we're already short on time, and I know that there's quite a bit of other conversation and debate that needs to happen here today. But we went through our stakeholder group positions on the motions before the council and had some healthy debate amongst ourselves. And I know that our councillors will be in a position to sort of provide a little bit more detail on all that.

So with that, I'll just wrap up, Stephane unless there are any questions specifically of me.

>>STEPHANE VAN GELDER: Thank you, Keith.

Just to set the stage that this is a conversation that is supposed to run both ways. If council members have questions of Keith, please do not hesitate to ask them, and, Keith, the same for you, obviously.

So can I open it up for possible questions or comments?

Okay. Good. Thank you very much.

>>KEITH DRAZEK: I would just say one more thing and I think it's important for the community.

One of the obvious topics of conversation that we have had here this week and coming out of Dakar in particular was the questions about negotiations around the registry -- sorry, the Registrar Accreditation Agreement. And I wanted to commend the organizers and the participants and everyone in the audience that participated in the workshop on validation and verification that was put on -- two days ago, now, I think.

I thought it was a very positive session. I thought the panelists did a fantastic job, and the questions that came from the community and the dialogue that took place I thought was very positive. And so I would just like to commend the organizers and the participants in that.

>>STEPHANE VAN GELDER: Thank you very much.

Next in the list, I had Graham Chynoweth from the Registrar Stakeholder Group. Is Graham here?

It doesn't appear so.

In which case, we will move down to Konstantinos Komaitis from the NCUC, the Non-Commercial Users Constituency, and I see Konstantinos walking up to the mic now.

>>KONSTANTINOS KOMAITIS: Hi, Stephane. Thank you.

NCUC had a very interesting and a very fruitful discussion on policy issues, both substantive and procedural.

 We discussed what is currently before the agenda of the GNSO, issues concerning the WHOIS, the RAA, as well as the issue of the protection of the IOC and Red Cross marks.

 And we also discussed how -- we also strategized in the future what can we do as a group in order to make sure that we are involved within the ICANN process. And we also discussed about a potential event in Toronto following the San Francisco summit that was very successfully organized.

 Thanks.

 >>STEPHANE VAN GELDER: Thank you very much.

 Any questions?

 Thanks.

 Next we have Alain Berranger from the NPOC, the not-for-profit operational concerns constituency.

 Is Alain here?

 >>ALAIN BERRANGER: Hi. I am Alain Berranger, the acting chair of NPOC, as you all know, and better than me, the newest constituency in ICANN.

 We are barely getting organized. We have elections going on as we speak but we have already been very active in starting outreach to the international NGO community.

 We feel it's been underrepresented at ICANN, and that is essentially a large building block for the internationalization of ICANN, which will be better achieved from a bottom-up membership.

 So we had a very interesting -- we tried Adobe acrobat for the first time in December trying to explain the new gTLD to that part of the world which is perhaps less informed than the people here. And it our surprise we had over 250 participants signed in from all over the world. It was a bit awesome to us, but then it showed that a new constituency can attract a new audience in good numbers. We were surprised.

 And as you know, we have.

 -- we had our issues, and we still have, with the small space we occupy in the stakeholders group, but that's to be expected. We're the newcomer, and we have to play in the sandbox. And I think the discussions between our two stakeholders, two constituencies have been very positive at this meeting. We have been able to put out a joint statement to the board. The word "conflict" perhaps was a true reflection of the pre-Dakar period, and I don't think the word "conflict" exists anymore in that context.

 We have -- actually, once perceived and real conflicts are discussed to then excellent common objectives are found.

 Of course, we don't agree with everything, and particularly on the issue that you will be voting on. There's obviously not a consensus. But I won't get into it here. Nobody does at this mic.

So what I do want to say is that we have -- ICANN is complex, both technically and politically, and we're muddling through all this. But we're getting a lot of help, and some of the help we're getting is at the table I'm facing.

So thank you very much for making it easier for us to be part of that overall process to make ICANN a better institution and a more international institution.

We hope to play a big role in that.

Thank you.

>>STEPHANE VAN GELDER: Thank you, Alain. Can I ask you, as it appears that you're a test bed for new constituencies, have you been able to provide guidelines, advice, on how the process could be made simpler? I'm sure we could all benefit from that experience. The process of joining, I mean.

>>ALAIN BERRANGER: I don't know that I have enough.

-- that I have enough perspective on it.

Unfortunately, I am an experienced management consultant and I don't do management consulting anymore. But I think I've had a chance with my colleagues to have a good read on the governance structure that underlines our new constituency is born.

I think we should consider it as a work in progress, and as -- as we register our lessons learned, we will be able to share them.

And as any organization that attempts to make a change, however small or however large it is, you always bump into established entitlements. And that's human nature and that's the nature of organizations. And you just have to recognize it and work with it.

And it's a two-way street. A new constituency has to understand the subculture, and it cannot give up on the principles of its formation, but it has to also contribute to the changing of the institutional subculture.

So a work in progress.

>>STEPHANE VAN GELDER: Thank you very much.

Any other questions?

Thank you very much, Alain.

>>ALAIN BERRANGER: You're welcome. Thanks, Stephane.

>>STEPHANE VAN GELDER: Next is Marilyn Cade from the business constituency.

>>MARILYN CADE: Thank you. My name is Marilyn Cade, and I'm the chair of the business constituency.

As I said in Dakar on behalf of the business constituency, we do not report on gTLD policy issues. As the leadership of the -- my constituency has entrusted that responsibility to the capable, informed and involved councillors.

So should you have questions about gTLD policy, I'm sure that they will share that with you.

I have several other comments to make, and I welcome the opportunity to do that.

First of all, I would like to open my comments by saying that we are very pleased to be in Costa Rica, and that our members have been warmly welcomed and we have had the opportunity to interact with local Costa Rican business colleagues and to be involved with them in a number of discussions and in a social event. And I would note that with great pleasure because of the assistance we have received from our business colleagues here in Costa Rica to engage with us.

So that was a highlight for us, to have that opportunity. It is something that we continue to do. We did a similar event in Kenya. We did an event in conjunction with the IGF in Nairobi as a follow-up to ICANN going to Kenya.

I hope that that is something that others in the community will perhaps think about as they are coming to the next location or the next, and think about how to plan ahead to interact outside of ICANN with the local community.

We also had the opportunity to, in preparation for the fact we were going to be interacting with the community, we have published an update. This is not our -- one of our quarterly newsletters that I have shared with the council. It is an updated version of a fact sheet. Our newsletters have six pages, and this, as you will note, is only four.

We republished and updated the document in the middle which provides a graphic portrayal of how ICANN is organized and how the GNSO is organized, and clearly identifies the delineation of leadership between the gTLD policy functions of the council and the leadership of the stakeholder groups and constituencies.

We updated the names. I hope you will find that a useful tool. And we gave you snapshots of the board. For anyone who is new in the community, sometimes it's daunting to be able to pick the board out. This is on our Web site, and we will continue to keep this updated for it to be helpful to you.

I will say only one other thing and that is, of course, as everyone knows, the most important of any newsletter or fact sheet is the chair's column. I hope you will take the opportunity to read it.

>>STEPHANE VAN GELDER: Thank you very much, Marilyn. I commend the B.C. on the document, and thank you for passing it around.

I have perhaps more of a comment than a question, but just to explain that this part of the meeting is a work in progress. It's something that we've been -- that we started at the previous meeting, that we've discussed with the chairs of the SCs and the SGs. It's certainly something I would like to promote feedback on. It's something that may or may not be a good idea, may or may not be of interest, may or may not be comfortable for everyone involved.

So we are constantly, as a council, working to structure the agenda, to make it one that enables us to do our work, but also one that is entertaining for you guys in the room. And short of having naked dancers around, we try and introduce new agenda features that sometimes need working on.

So this is one of them. I just wanted to introduce that explanation. It's not a direct question to you, Marilyn, but you have been very helpful in conversations that we have had in structuring this.

So perhaps that was a good time to make that comment.

>>MARILYN CADE: If there are any comments or questions, I would be happy to respond.

>>STEPHANE VAN GELDER: Any comments or questions?

>>JONATHAN ROBINSON: Stephane, one brief comment. I think it's a very useful newsletter. And it's an attractive format and it's a useful digest, so I have already grasped something from it. So thank you, Marilyn.

>>MARILYN CADE: I would like to give credit of the design to the newsletter to Chris Chaplow, the vice chair of finance and operations, and to Bendetta Rossi, who is the B.C. secretariat. And to just mention one other thing. We introduced an innovation which is on the Web site, and that is called "Meet the B.C." So the insert that you have that will continue to be updated is a snapshot of our members and a brief bio and our goal is to double our membership in the next year.

Thank you.

>>STEPHANE VAN GELDER: Thank you. Jonathan and others, we will ask you to speak closer to the microphone and don't forget to mention your name the first time you speak, please.

Next we have from the IPC, the Intellectual Property Constituency, Steve Metalitz.

>>STEVE METALITZ: Thank you very much, Stephane. This is Steve Metalitz from the IPC.

We did not have any naked dancers at our meeting; however, it was still very well attended, and we think it was a very productive meeting.

I am not going to go through what we discussed, but I do want to start by thanking the ICANN staff for their support, for the logistics of the meeting and remote participation. We had quite a bit of it.

And also to thank the staff members to came, who found time in their whirlwind schedules here to brief us on issues of great importance to our constituency.

Now I do want to mention two factors that I think held down the level of our participation in this meeting, and we hope that we don't see these problems repeated for future meetings.

First, the Board in October 2009 adopted a policy that any document to be discussed at an ICANN meeting and any agendas of the activities at the ICANN meetings all had to be published at least 15 working days in advance of the meeting. And there's been a fairly high level of compliance with that policy, which was adopted by the Board, until this meeting. And I think there was an extremely low level of compliance with it at this meeting.

That actually made it very difficult for people to plan to come to Costa Rica. Most of our members don't come for the entire week, and they have very demanding jobs that just don't allow them to do that. And the LAC of a full agenda was quite a problem.

And in particular, the board had also directed in a resolution adopted in Dakar that the ICANN staff and the registrars negotiate amendments to the Registrar Accreditation Agreement, and that those amendments be posted for public comment in time for discussion at this meeting.

We have two problems. One, that did not occur, and we understand that it was an ambitious task that the Board set. People tried to meet it and they could not meet it but what was frustrating is we could not get anybody to actually say that was going to be the case until very shortly before this meeting. And then we learned there would not be amendments to discuss; there would be a status report to review. And I think -- Although I tried, it was very difficult to persuade many of our members to come many thousands of miles to hear a status report.

So I hope -- I think that these two factors, the lack of advance publication of documents and the failure to meet the Board's directive from Dakar, held down our attendance here, and we hope that they won't be repeated. If your constituencies or stakeholder groups had a similar reaction to what's happened in the run up to this meeting, I hope you will do as we have done and tell the Board and the CEO that we feel this was a failure, and in interest of accountability and transparency, I think we need to know whether that's a slogan or a reality, and their reaction to this shortfall I think will help tell us whether it is a slogan or a reality.

Thank you. I'd be glad to try to answer any questions.

>>STEPHANE VAN GELDER: Thank you, Steve. I have John.

>>JOHN BERARD: John Berard with the business constituency. I have been with Steve over the last couple of days so I know for a fact he did not think this subject up just for us.

I also recall an exchange you had on this with Rod. Can you replay that for me and for the benefit of the council?

>>STEVE METALITZ: Well, we raised this at the meeting of the Commercial Stakeholder Group with the Board, and we just had a statement on it. And after I gave a statement similar to what I just said, the CEO said this is the first he had heard of that and he would, of course, respond to us in writing.

>>STEPHANE VAN GELDER: Thank you.

Any further comments or questions?

>>JONATHAN ROBINSON: Stephane, it's Jonathan. Just a quick clarification from Steve. The fishes he had heard of the 15 day?

>>STEVE METALITZ: No. The first he had heard that the 15-day rule had not been complied with.

>>STEPHANE VAN GELDER: Any further comments?

Thank you very much, Steve.

Last on our list is Tony Holmes from the IPCs, the Internet Service Providers.

>>TONY HOLMES: Thank you, Stephane. We had a rather unique experience at our constituency meeting this time. We were joined by quite a number of local ISPs, and we managed to run the early part of our meeting in both English and Spanish, thanks to the Spanish-speaking ability of some of our ISP members.

Funnily enough one of the first items on our agenda was a visit from the NomCom, and the NomCom chair, also having the native tongue of Spanish, continued that trend and it was quite novel. We did run out of steam, unfortunately. We couldn't keep it up right up through the meeting and we are not anticipating we will be able to repeat that in Prague, either.

But in terms of issues, the only one I really wanted to raise here was that we were also energized as some other constituencies by the question that has been posed by the board. How does the implementation of the gTLD program impact our constituency. And that really resulted in quite a bit of debate. And it's an issue that we do intend to think about before the next ICANN meeting. It's going to be one of the things that we progress.

The other point I'd like to remind council of is at the last meeting when we started down this path of reintroducing these reports, we suggested it would be more appropriate if council wanted to raise any particular policy issues for the constituency, give us some advance notice and then we'll be in a position, maybe to use the time a little more fruitfully than just giving reports.

>>STEPHANE VAN GELDER: Thanks, Tony. That point is well taken. In the run up to this meeting, as I was explaining earlier on but it deserves some more explanation, we had this -- I don't know if it was you and I but I certainly had this conversation with some of the chairs with the question obviously being what is expected of us.

And my response was these are not updates or reports to me. They are conversations. They are an opportunity, but this is a personal view, for us to engage in a unique manner that we don't always have.

And my question to you guys was, is it useful for you?

So I'm still not sure we've got the right mix, I'm still not sure we have the right format, and perhaps we may look to changes that in Prague or do something completely different.

But I am not certain that the council should be in a position of asking you to cover specific points because I'd much rather, actually, this was your time than ours.

>>TONY HOLMES: I think the view of our constituency is the other way around; that we want to make this valuable to you as council. And if there were policy issues that you thought maybe something that's occurred during your discussions that you need a little bit more thought process, we have the opportunity in our constituency sessions to address that.

So I think we're coming at it from different perspectives, but thank you.

>>STEPHANE VAN GELDER: Thank you very much.

And so let's continue that discussion with all the chairs.

I would like to thank all of the chairs at this time, and we're slightly ahead of schedule, and as I know we're going to have very heavy discussions on some of these agenda items, I will skip over, if everyone is okay with that, the scheduled break and just move into the item 1 on the council agenda and reintroduce a break a little further down the road.

So with that, can I ask Glen to do a roll call, please.

>>GLEN DE SAINT GERY: Certainly, Stephane. Jeff Neuman.

>>JEFF NEUMAN: Present.

>>GLEN DE SAINT GERY: Ching Chao.

>>CHING CHAO: Present.

>>GLEN DE SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Present. >>GLEN DE SAINT GERY: Mason Cole.

>> Present.

>>GLEN DE SAINT GERY: Yoav Keren.

>> Present.

>>GLEN DE SAINT GERY: Stephane Van Gelder.

>> Present.

>>GLEN DE SAINT GERY: Thomas Rickert.

>> Present.

>>GLEN DE SAINT GERY: All members of the contracted party house are present.

Zahid Jamil.

>>ZAHID JAMIL: Present.

>>GLEN DE SAINT GERY: John Berard.

>> Present.

>>GLEN DE SAINT GERY: Brian Winterfeldt.

>> Present.

>>GLEN DE SAINT GERY: David Taylor.

>> Present.

>>GLEN DE SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Present.

>>GLEN DE SAINT GERY: Wolf Ludwig Knoben.

>>WOLF LUDWIG KNOBEN: Here.

>>GLEN DE SAINT GERY: Bill Drake.

>>BILL DRAKE: Aqui.

>>GLEN DE SAINT GERY: Wendy Selzer:

>> Here.

>>GLEN DE SAINT GERY: Mary Wong.

>> Here.

>>GLEN DE SAINT GERY: Rafik Dammak.

>> Present.

>>GLEN DE SAINT GERY: Joy Liddicoat.

>> Present.

>>GLEN DE SAINT GERY: Wolfgang Kleinwachter.

>> Present.

>>GLEN DE SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Present.

>>GLEN DE SAINT GERY: Carlos Aguirre.

>>CARLOS AGUIRRE: Present, here.

>>GLEN DE SAINT GERY: And our observer from ALAC, Alan Greenberg.

>>ALAN GREENBERG: Present.

>>GLEN DE SAINT GERY: So we have the -- all the members of the noncontracted parties house are present. We have apologies from Han Chuan Lee, the observer from the ccNSO, who is not with us.

And for the staff we have those in the audience, and on the stage Margie Milam, Marika Konings and myself.

Thank you, Stephane. Over to you.

>>STEPHANE VAN GELDER: Thank you very much. And let's not forget Liz Gasster.

Are there at this time any updates to SOIs, statement of interests? Yes, Ching.

>>CHING CHIAO: Sorry. This is Ching. I should have done this through the concurrence, the Wiki space that we have. My employer, dot Asia, recently involved in one of the gTLD applications which you saw in the group. So I thought I'd just make it clear. Thank you.

>>STEPHANE VAN GELDER: Thank you very much. Any other updates? Seeing none, are there any requests to review or amend the agenda at this time? Seeing none, I will just draw your attention to the minutes of the previous meeting and the link provided in the agenda and to the pending projects list and the ongoing projects there.

Are there any questions or comments on the pending projects list? Seeing none -- sorry, Wolf.

>>WOLF-ULRICH KNOBEN: Thank you, Stephane. Wolf-Ulrich Knoben speaking. I always like go through on the pending projects list, because it gives me an overview of what is going on there and also I'm not aware of all the details. And I think I'm -- very often. I think that the last updates were concerning support which was made in Costa Rica should then be added to that list as well. And I think also that the staff is aware of that. That's my comment. Thank you.

>>STEPHANE VAN GELDER: Thank you. So let's move on to item 2. Item 2 is our consent agenda. It's a new item that we've introduced recently to enable speedy examination of certain aspects that don't require going through a full agenda item.

It is something, once again, that is a work in progress. It's something that the SCI is looking at as well. We've asked them to look at that and to make sure that we are on the right path there. And that group is chaired by Wolf. And, for those of you who were with us during the weekend, I'll bet you know that they are looking at that.

So, on the consent agenda for this meeting, we have the approval of sending the recommendations report on IRTP B recommendation 8 to the board. This is part of ongoing register transfer. And it's a 5-part PDP. This is the second part. And one recommendation should now be sent to the board before we consider it.

Can I ask if there is anyone opposed to having this in the consent agenda? Seeing none, is there anyone opposed to us sending this to the board as suggested? Thank you. So we will consider that approved and move to consideration the thick WHOIS final issue report. This is the first motion that we will be looking at today. It's a motion that was made by me and seconded by Yoav. There has been two friendly amendments suggested. We will look at the motion and the friendly amendments in detail here.

The first one was from the IPC, suggested by David Taylor. And the second one by Wendy, I believe, came in by email earlier on today.

So I've had a chance to look at David's. Wendy, I had less time to look at yours. So we'll work through this right now in order to determine whether they are friendly. And, before doing so, perhaps I will just very quickly read the motion as it was initially.

Whereas, the GNSO Council requested an issue report on thick WHOIS in its meeting of 22nd of December 2011. There's a link provided. Whereas, a preliminary issue report on thick WHOIS was posted on 21 November 2011 for public comment. Link provided. Whereas, a final issue report on

thick WHOIS was published on February the 2nd of 2012. Link provided. Whereas, the final issue report recommends that the GNSO Council proceed with a policy development process limited to consideration of the issues discussed in this report. And the general council of ICANN has indicated the topic is probably within the scope of the ICANN policy process and within the scope of the GNSO. Therefore, be it resolved the GNSO will initiate a PDP on the issues defined in the final issue report. Link provided. Resolved, a DT drafting team will be formed to create a charter for a working group which will be submitted to the GNSO Council for its approval. Resolved, following the approval of the charter, a working group will be created for the purpose of fulfilling the requirement of the PDP. David, I ask you to read your friendly amendment, please.

>>DAVID TAYLOR: Sure, Stephane. Whereas, nothing in this motion is intended to prejudice migration to thick WHOIS through contractual means.

>>STEPHANE VAN GELDER: I will accept that as friendly. Yoav, as seconder of the motion, do you?

>>YOAV KEREN: Yes, I do.

>>STEPHANE VAN GELDER: Thank you. Wendy, can you read your friendly amendment, please.

>>WENDY SELTZER: Mine has two parts. One is to add an additional quotation from the report. Whereas, the final issue report recommends, quote, that further investigation of thick WHOIS for all gTLDs would be beneficial to the community generally as it would allow for an informed decision by the GNSO Council as to whether thick WHOIS for all gTLDs should be required or not. And, in the first resolved, I've added -- so the motion currently states, "Resolved, the GNSO will initiate a PDP on the issues defined in the final report on the thick WHOIS." The amendment adds specifically directing consideration of thin WHOIS for all gTLDs as well as thick.

>>STEPHANE VAN GELDER: Thank you, Wendy. And just to draw your attention to the fact that the motion is also on the Wiki for those of you who -- on the Adobe Connect, sorry, for those of you who are following that.

Wendy, I have a question on your amendment, just to try and understand exactly what the intent here is. The motion considers existing gTLD operators. You would like to extend this to new gTLD operators. Is that correct?

>>WENDY SELTZER: I would like to extend it, yes, in two directions. To consideration of both thick and thin as alternatives, since there has never been a policy development process or policy recommendation on whether WHOIS should be kept in thick or thin registries, and to the incumbent registries as well as the new gTLDs.

>>STEPHANE VAN GELDER: Can I ask if there are only comments or questions on the amendment, which will give me time to decide whether I consider it friendly or not? Alan.

>>ALAN GREENBERG: At-large, in response to the preliminary issue report, expressed a concern that the PDP be reasonably narrowly focused on the issue that was -- that caused their issue report to be requested. This amendment takes it even farther away from being focused and becomes, essentially, a generic WHOIS investigation, which is almost surely going to take a large amount of time and a large amount of resources, which I don't believe is the way it was imagined to begin with.

>>STEPHANE VAN GELDER: Thank you, Alan. Any further comments? Yes, Zahid.

>>ZAHID JAMIL: I would concur with what Alan said. Because my understanding would be -- we were discussing this earlier over the weekend was -- this was, number one, related to registries and limited to, basically, three registries we're dealing with right now which aren't adopting thick WHOIS at the registry level. And the second was it wasn't extending itself to new gTLDs and other things at the moment. So, I mean, this would really broaden the scope. And, therefore, I completely agree with Alan. And, you know, we need to think about that.

>>STEPHANE VAN GELDER: Thank you, Zahid. Wendy?

>>WENDY SELTZER: Thank you. I think, from the perspective of the non-commercial stakeholders, we've seen that thick WHOIS go in to the guidebook with no discussion of a policy issue. And we think that this is the appropriate time and means to address this issue.

 If, on the other hand, the motion were limited to a PDP on a single small subset of registries, we think it would not be worth council's time and considerable energy that a PDP takes to do all of that work for a very small subset of a much larger issue when we would still be requesting to come back and reopen the entire issue so that we could have policy on whether thick or thin WHOIS was appropriate to all registries. So, rather than doing the work twice, we suggest doing it once comprehensively.

>>STEPHANE VAN GELDER: Thank you, Wendy, Jonathan?

>>JONATHAN ROBINSON: Thank you, Stephane. It's Jonathan Robinson. I think it's appropriate at this point to reflect that the scope of a PDP applying to a smaller subsection of the registries was a topic of some discussion in our stakeholder group. Notwithstanding that, our decision was that we would be -- we did intend to vote in favor of the motion. But it was something that did attract some discussion. So I should reflect that.

>>STEPHANE VAN GELDER: Thank you. Bill.

>>BILL DRAKE: Just echo what Wendy was saying. We have a pronounced tendency to take big problems piecemeal and try to take little chunks because it's operationally easier or some particular interest has pressed for it. But then we end up later on having to deal with the fact that there's a whole set of larger issues that haven't been properly addressed. And we have to circle back anyway. And I think it's sensible to try to address these things in a coherent way from the start and try to work in a deductively logical way. So I think the approach that she's suggesting is consistent with that kind of model.

>>STEPHANE VAN GELDER: Thank you, Bill. Any further comments? In which case I have to admit that I have agreement with the comments made with respect to the fact that this is, perhaps, widening the scope of the initial intent. And the wording, as provided, does not seem friendly to me. So -- and the -- I would ask Yoav, if you, as seconder of the motion, are in agreement?

>>YOAV KEREN: Yeah.

>>STEPHANE VAN GELDER: Wendy.

>>WENDY SELTZER: Thank you, Stephane. In that case I'd like to call for a vote on the amendment request that you ask for a vote on amendment.

>>STEPHANE VAN GELDER: That is the procedure. If the amendment is not considered friendly, we vote on that first and then the motion. Any further comments? In which case can we please vote on the amendment. Glen? Would anyone be opposed to a voice vote?

>>GLEN de SAINT GERY: All those in favor of the amendment please say "aye."

>> Ayes.

>>GLEN de SAINT GERY: Is there anybody opposed to the amendment?

>> Yes.

>> Yes.

>> Nay.

>>STEPHANE VAN GELDER: Let's do a roll call vote. This is going to get complicated.

>>GLEN de SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Stephane van Gelder.

>>STEPHANE VAN GELDER: No.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: No.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: No.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: No.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: John Berard?

>>JOHN BERARD: No.

>>GLEN de SAINT GERY: Joy Liddicoat.

>>JOY LIDDICOAT: Yes.

>>GLEN de SAINT GERY: Zahid Jamil.

>>ZAHID JAMIL: No.

>>GLEN de SAINT GERY: Mary Wong.

>>MARY WONG: Yes.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: No.

>>GLEN de SAINT GERY: Osvaldo Novoa?

>>OSVALDO NOVOA: No.

>>GLEN de SAINT GERY: William Drake.

>>BILL DRAKE: Si.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: No.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: No.

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: No.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: No.

>>GLEN de SAINT GERY: Neuman.

>>JEFF NEUMAN: No. And let me explain. If it had only applied to existing, that would have been okay. But, since it applies to all gTLDs, the answer is no.

>>GLEN de SAINT GERY: Jonathan Robinson?

>>JONATHAN ROBINSON: No.

>>GLEN de SAINT GERY: The total vote --

You missed one.

>>STEPHANE VAN GELDER: You've missed David Taylor.

>>GLEN de SAINT GERY: Sorry. David Taylor.

>>STEPHANE VAN GELDER: I don't know how you could.

>>DAVID TAYLOR: Can I vote twice? No, no.

>>GLEN de SAINT GERY: David Taylor, you said no.

>>DAVID TAYLOR: No again, then.

>>GLEN de SAINT GERY: Yes. I did call you.

>>STEPHANE VAN GELDER: So --

>>GLEN de SAINT GERY: In the contracted party house, there are seven no votes. And that is 100% no. In the non-contracted parties house, there are 7 out of 13 no votes and 6 yes votes. So 42% of the contract parties house.

>>STEPHANE VAN GELDER: Thank you, Glen. So the amendment fails. This is a simple majority vote. We will now proceed to vote on the motion itself. Would anyone like to comment or discuss the motion before we take a vote? Jonathan?

>>JONATHAN ROBINSON: Stephane, just to reflect a couple elements of the discussion within the registry stakeholder group. I said before that we had some reservation about the limited application. There was discussion that took place. But, notwithstanding that, we intended to vote yes on the motion itself.

The other areas where there was some concern was over where this fits in in the forthcoming workload. And that's, clearly, an issue given both the new gTLD program and, in general, the extent of the workload. So, while we are prepared to support the motion, we would caution against the -- it is -- the timing of when the PDP is undertaken needs to be -- you know, set in a context of all the other work. And I guess we're also mindful of the fact that there is negotiation of the dot com agreement as well. So that's another context point.

>>STEPHANE VAN GELDER: Thank you, Jonathan. Zahid.

>>ZAHID JAMIL: Thank you. Just wanted to sort of quickly mention that it was very useful to have the clarification over the weekend that this only applies to registries, which it does. Going through the documents, it was helpful. One second. Also just wanted to acknowledge and thank the registrars for, basically, clarifying that this would not, in any way, impact any sort of contractual negotiations which was also in the motion. But it was nice to hear from them that it wouldn't prejudice that. Thank you.

>>STEPHANE VAN GELDER: Thank you, Zahid. Alan.

>>ALAN GREENBERG: Thank you. ALAC strongly supports the PDP. But, in line with my first intervention, we would really like to see a charter that would come out of the process limit the scope to ensure that this PDP focuses on the original issue and doesn't bring a lot of other ones into it. Thank you.

>>STEPHANE VAN GELDER: Any further comments? Glen, could you please do a roll call vote on the motion itself.

>>GLEN de SAINT GERY: I will do, Stephane.

Rafik Dammak.

>>RAFIK DAMMAK: Definitely no.

>>GLEN de SAINT GERY: No. Stephane van Gelder?

>>STEPHANE VAN GELDER: Yes.

>>GLEN de SAINT GERY: Joy Liddicoat?

>>JOY LIDDICOAT: No.

>>GLEN de SAINT GERY: Thomas Rickert?

>>THOMAS RICKERT: Yes.

>>GLEN de SAINT GERY: Zahid Jamil.

>>ZAHID JAMIL: Yes.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: Jeff Neuman?

>>JEFF NEUMAN: Yes.

>>GLEN de SAINT GERY: Mary Wong.

>>MARY WONG: No.

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Yes.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter?

>>WOLFGANG KLEINWACHTER: No.

>>GLEN de SAINT GERY: Brian Winterfeldt. >>BRIAN WINTERFELDT: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: Yes.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN de SAINT GERY: John Berard.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: William Drake.

>>BILL DRAKE: No.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: Yes.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN de SAINT GERY: David Taylor.

>>DAVID TAYLOR: Yes.

>>GLEN de SAINT GERY: Wendy Seltzer.

>>WENDY SELTZER: No.

>>GLEN de SAINT GERY: We have, for the contracted parties house, seven yes votes. For the non-contracted parties house, we have seven yes votes and six no votes. So that's 100% and 58.8% positive. So the motion passes.

>>STEPHANE VAN GELDER: Thank you, Glen. Threshold here is one for initiation of PDP, so it's 33% in both houses or 66% in one house.

Thank you. Let's move onto the next item on our agenda, which is in consideration of another motion that has been made on the locking of a domain name subject to a UDRP proceedings. And there's a motion there to approve the charter of the drafting team tasked with looking at that issue. The motion has been made by Joy. It has been seconded by Carlos, I believe. So, Joy, can I ask you to read the motion, please?

>>JOY LIDDICOAT: Yes, thank you, Stephane. And can I also think the cochairs of the drafting team, Michele Neylon and Konstantinos Komaitis, and also the staff, Marika, for their assistance with the drafting team's work.

The motion reads whereas, on 15 December 2011, the GNSO Council initiated a policy development process on the locking of a domain name subject to UDRP proceedings and decided to create a PDP working group for the purposes of fulfilling the requirements of the PDP. Whereas, following a call for volunteers, a drafting team was formed and its members have developed a charter for consideration by the GNSO Council, whereas, the GNSO Council has reviewed the charter submitted by the drafting team. Resolved, the GNSO Council approves the charter and appoints [to be confirmed] as the GNSO Council liaison to the locking of a domain name subject to UDRP proceedings, PDP working group.

The GNSO Council further directs that the work of the locking of a domain name subject to UDRP proceedings PDP working group be initiated no later than 14 days after the approval of this motion. Until such time as the working group can select a chair and that chair can be confirmed by the GNSO Council, the GNSO Council liaison shall act as interim chair.

>>STEPHANE VAN GELDER: Thank you, Joy. May I ask if there are comments or questions? David Taylor?

>>DAVID TAYLOR: Thanks, Stephane. It was just some suggestions for the PDP working group, because they're expected to make recommendations to the GNSO Council, obviously, to address the issues with the locking of a domain name such as the UDRP proceedings. So I would strongly suggest that the working group looks at the impact of proxy scenarios, because that's maybe 25% of cases. And also the relationship and role of UDRP providers and their communications vis-a-vis locking obligations. And also I'd suggest that they do reach out to the various providers.

>>STEPHANE VAN GELDER: Thanks, David. Zahid, just before I go to you, may I just -- I did say this earlier but maybe perhaps didn't make it clear during consideration of the last motion when I call for comments, that includes the room after the councillors.

So, if you do want to make comments, please make your way to the microphone. Zahid.

>>ZAHID JAMIL: Thank you. I just wanted to share that, especially yesterday, one of the questions that arose is there is also this issue that people who legitimately have rights to domain names suddenly find that, when the UDRP is initiated, they're unable to make changes to their domain names. So it's hoped that, when the working group looks into this, also considers maybe those aspects as well. Just wanted to share that. I have no amendments. I just wanted to make that point. Thanks.

>>STEPHANE VAN GELDER: Any further comments. Yoav?

>>YOAV KEREN: Just a statement of locking of the domain name doesn't mean that you can't make some changes. So it really depends what changes we're talking about.

>>STEPHANE VAN GELDER: Yeah. Zahid.

>>ZAHID JAMIL: If you read the charter, it actually says you can't make changes to any of the data that is there. And that's one of the questions that's specifically mentioned in the charter. It can flip either way. That's why I'm making that point.

>>STEPHANE VAN GELDER: Any further comments? In which case, I'll move to a vote on this, please. Okay. Marika is usefully reminding me that in the motion there is a to be confirmed item on the group liaison to the council. Is anyone willing to volunteer for that role? Joy?

>>JOY LIDDICOAT: No good deed goes unpunished, obviously. For the 14-day period, yes.

>>STEPHANE VAN GELDER: Thank you very much. So can that be inserted in the motion? Zahid, do you want to -- no. Okay.

Glen, could you do a roll call, please.

>>GLEN de SAINT GERY: I'll do that, Stephane. Joy Liddicoat?

>>JOY LIDDICOAT: Yes.

>>GLEN de SAINT GERY: Jonathan Robinson?

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: Jeff Neuman.

>>JEFF NEUMAN: Yes.

>>GLEN de SAINT GERY: Lanre Ajayi.

>>LANRE AJAYI: Yes.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Yes.

>>GLEN de SAINT GERY: David Taylor.

>>DAVID TAYLOR: Yes.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: Thomas Rickert.

>>THOMAS RICKERT: Yes.

>>GLEN se SAINT GERY: Stephane van Gelder.

>>STEPHANE van GELDER: Yes.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CIAO: Yes.

>>GLEN de SAINT GERY: Mary Wong.

>>MARY WONG: Yes.

>>GLEN de SAINT GERY: Bill Drake.

>>BILL DRAKE: Yes.

>>GLEN de SAINT GERY: Zahid Jamil.

>>ZAHID JAMIL: Yes.

>>GLEN de SAINT GERY: Yes.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: John Berard.

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: Yes.

>>GLEN de SAINT GERY: The motion passes unanimously, Stephane.

>>STEPHANE VAN GELDER: Thank you very much.

Let's move on to the next agenda item which is item 5, another motion that we are interesting today on approval of the work of the cross-community working group drafting team.

And this is a motion that was deferred. Perhaps, Jonathan, I can ask you to read the motion. And, if you want to provide context, do so as well.

>>JONATHAN ROBINSON: Thank you, Stephane.

It's certainly worth making a of couple remarks on the context. I wonder -- we had some slides, yes. It may be worth just picking out a couple of key points on the slides to put it in context.

So I am not going to systematically go through this presentation. This was something which we used for the GNSO Council working session over the weekend. But it's available. And for anyone who would like to go through it in a little more detail, it's just worth making a few remarks to set this in context.

So, really, the GNSO Council was, obviously, aware of increased use of so-called cross-community working groups and the perceived importance of these and so began to think about whether they may require special rules or guidance.

And, in order to deal with this, at least within the GNSO Council and to begin to think about it in a more systematic way rather than -- it was coming up as a discussion point at various times. And it's

probably no secret that that was really the final point at which we end up discussing. Quite a lot of that was in connection with the JAS working group. But I don't really want to go down that particular route. But the most important point was we were -- looking back and looking forward, this was going to be something which the council needed to pay attention to and needed to have a slightly more systematic way of thinking about it, and, hence, the establishment of the working group drafting team.

So our objective, really, was -- the principle objective was to develop a GNSO agreed perspective as a departure point, really, for interacting with the broader community in order to make sure that we had a GNSO agreed perspective that was the basis on which we could effectively work with the broader community on the understanding of and the role and function of CWGs.

And the work we completed in getting to this point was obviously a charter for the working group, running a workshop in Dakar, and a commitment to producing the draft principles by the end of last year, which we duly did, and then bringing that to the council for a motion in January. For various reasons, logistical reasons more than anything, there were two deferrals. And that's why we find ourselves with a motion on the table today.

So, really, the key points of the principles were to cover the scope and operation of the CWGs. And I won't go through all of the detail, although I had prepared this. And all of the information is available online and in line with -- it should be available to anyone who would like to dig into this in a little more detail. In fact, we offer it out to the community as our thoughts without intending in anyway to dictate at this point the way in which the community develops further thinking on CWGs.

So, really, what we've done is gone through and reviewed and developed these principles. And that brings us to now where we have the motion on the table and offer it up as a GNSO agreed perspective and something which we would hope that will be at least a basis on which the GNSO view can be input into the broader community. And we -- it's the expectation and understanding that there will be further work done on this. Because there's no doubt that, as the ICANN's -- that the broader community function evolves and the way in which the CWGs are going to be an effective tool for work within the community on an ongoing basis and there's work to be done.

So I hope those remarks -- I realize it was a bit of a whistle stop tour through things. But this has been work that's been ongoing for quite some time, and that brings us to the motion on the table today.

>>STEPHANE VAN GELDER: Thank you very much, Jonathan. John.

>>JOHN BERARD: Yeah, Jonathan, refresh my recollection. The two deferrals were due to circumstances and not substance, yes?

>>JONATHAN ROBINSON: Thank you very much. That's exactly correct.

>>STEPHANE VAN GELDER: Any further questions or comments including questions from the room? Seeing none, Glen, could you do a roll call vote on this, please?

>>GLEN de SAINT GERY: Certainly, Stephane. Mary Wong?

>>MARY WONG: Yes.

>>GLEN de SAINT GERY: Brian Winterfeldt.

>>BRIAN WINTERFELDT: Yes.

>>GLEN de SAINT GERY: Wolf-Ulrich Knoben.

>>WOLF-ULRICH KNOBEN: Yes.

>>GLEN de SAINT GERY: Thomas Rickert. >>THOMAS RICKERT: Yes.

>>WENDY SELTZER: Yes.

>>GLEN de SAINT GERY: Ching Chiao.

>>CHING CHIAO: Yes.

>>GLEN de SAINT GERY: Jonathan Robinson.

>>JONATHAN ROBINSON: Yes.

>>GLEN de SAINT GERY: Joy Liddicoat.

>>JOY LIDDICOAT: Yes.

>>GLEN de SAINT GERY: Rafik Dammak.

>>RAFIK DAMMAK: I'm abstaining.

>>GLEN de SAINT GERY: Pardon? Abstain.

>>RAFIK DAMMAK: Yes.

>>GLEN de SAINT GERY: Can you give your reason for abstention, please?

>>RAFIK DAMMAK: It's not against -- how say, the CWG itself. But I don't -- I think that is not -- what is proposed doesn't much expectation and isn't resolving an existing --

>>GLEN de SAINT GERY: John Berard?

>>JOHN BERARD: Yes.

>>GLEN de SAINT GERY: Wolfgang Kleinwachter.

>>WOLFGANG KLEINWACHTER: Yes.

>>GLEN de SAINT GERY: David Taylor?

>>DAVID TAYLOR: Yes.

>>GLEN de SAINT GERY: Zahid Jamil.

>>ZAHID JAMIL: Yes.

>>GLEN de SAINT GERY: Mason Cole.

>>MASON COLE: Yes.

>>GLEN de SAINT GERY: Osvaldo Novoa.

>>OSVALDO NOVOA: Yes.

>>GLEN de SAINT GERY: Stephane van Gelder.

>>STEPHANE VAN GELDER: Yes.

>>GLEN de SAINT GERY: William Drake.

>>WILLIAM DRAKE: Yes.

>>GLEN de SAINT GERY: Jeff Neuman?

>>JEFF NEUMAN: Yes.

>>GLEN de SAINT GERY: Yoav Keren.

>>YOAV KEREN: Yes.

>>GLEN de SAINT GERY: We have in the contracted parties house 100% and in the non-contracted parties house 12 votes in favor. That's 92.3%. So the motion passes. Thank you, Stephane.

>>STEPHANE VAN GELDER: Thank you very much, Glen.

Next on the agenda we have an item which has caused some discussion among us. And I'm sure there's a fair amount of anticipation on it. It's the item on Red Cross and Olympic Committee names. Because I'm taking lessons in suspense management, I think I'll call a break now and ask you all to come back in 15 minutes.

(Break.)

>>STEPHANE VAN GELDER: Okay. It's been about 15 minutes. Can I ask GNSO Councillors to take your seats on the stage and we'll start again.

Thank you.

>>STEPHANE VAN GELDER: Okay. Welcome back.

So we will start again.

We are up to item 6 on our GNSO Council agenda for today.

This item is on Red Cross and Olympic Committee names.

A drafting team has been working on a set of recommendations to determine how to handle the possible protection of these names under the new gTLD program.

A motion is before us. It was made by Jeff Neuman, seconded by Zahid Jamil. And before going any further, I will ask Jeff to read the motion, and I have also been asked that if you can, after you have spoken, please turn off your microphone. Don't forget to do that.

Thank you.

>>JEFF NEUMAN: Okay. You want the whole entire motion read? Yes?

Just to clarify.

Yes. Okay.

>>STEPHANE VAN GELDER: Yeah. It's not that long, is it?

>>JEFF NEUMAN: All right. This is the motion to recommend to the Board a solution to protect certain Red Cross/Red Crescent RCRC and International Olympic Committee names, IOC, names at the top level in new gTLDs.

Whereas the Board resolution 2011.06.20.01 authorized the President and CEO to implement the new gTLD program which includes incorporation of text concerning protection for specific requested Red Cross and IOC names for the top level only during the initial application round, until the GNSO and GAC develop policy advice based on the global public interest.

Whereas the IOC/RC drafting team established by the GNSO Council has considered a number of different options with respect to protections of both the IOC and the RCRC terms at the top level and has proposed a solution to modify the ICANN staff's implementation of the Board's resolution as reflected in the Applicant Guidebook dated January 12th, 2012.

Whereas, the IOC/RC drafting team has collaborated with the Governmental Advisory Committee, (GAC) during its deliberations in an attempt to identify a solution that addresses GAC concerns.

Whereas, this proposed solution was posted for public comment on March 2nd, 2012, on an expedited basis as a matter of urgency in order to enable the Board to consider its adoption for the first round of new gTLD applications, which is scheduled to close on April 12th, 2012.

Here is three new whereas clauses we put in.

Whereas, the GNSO is mindful that implementation of the Board's resolution is needed to be available before the end of the application window.

Whereas, the GNSO intends that these recommendations be solely limited to the IOC and RCRC.

Whereas, the GNSO recognizes that there might be a policy impact of the protection for the IOC/RCRC for future rounds and at the second level.

And, whereas, therefore, the IOC/RC drafting team recommends that the GNSO Council adopt this proposed solution as a recommendation for Board consideration and adoption at its meeting in Costa Rica for the application period for the first round of new gTLD applications.

Now, therefore, be it resolved that the GNSO Council adopts the IOC/RC drafting team's three recommendations as described in its proposal for the protection of the IOC and RCRC names at the top level as provided in, and there's a link.

Namely, recommendation 1, treat the terms set forth in section 2.2.1.2.3 as modified reserved names, meaning the modified reserved names are available as gTLD strings to the International Olympic Committee, International Red Cross and Red Crescent movement, and the respective components as applicable.

B), applied for gTLD strings, other than those applied for by the IOC or the RCRC, are reviewed during the string similarity review to determine whether they are similar to these modified reserved names. An application for a gTLD string that is identified as confusingly similar to a modified reserved name will not pass this initial review.

C), if an application fails to pass initial string similarity review, 1, and the applied for TLD identically matches any of the modified reserved names (e.g., Olympic or .RedCross), it cannot be registered by anyone other than the IOC or the RCRC as applicable.

Subpart 2, if the applied for TLD is not identical to any of the modified reserved names but fails initial string similarity review with one of the modified reserved names, the applicant may attempt to override the string similarity failure by, 1, seeking a letter of non-objection from the IOC or the RCRC as applicable, or, 2, if it cannot obtain a letter of nonobjection, the applicant must, a), claim to have a legitimate interest in the string and demonstrate the basis for this claim, and, b), explain why it believes that the new TLD is not confusingly similar to one of the protected strings and makes evident that it does not refer to any of the IOC, RCRC or Olympic or Red Cross or Red Crescent activity. 3, a determination in favor of the applicant under the above provision 2.2 above would not preclude the IOC, RCRC or other interested parties from bringing a legal rights objection or otherwise contesting the determination.

4, the existence of a TLD that has received a letter of nonobjection by the IOC or RCRC pursuant to 2.1 or has been approved pursuant to 2.2, shall not shall not preclude the IOC or RCRC from obtaining one of the applicable modified reserved names in any round of the new gTLD applications.

Recommendation 2. Protect the IOC/RCRC terms in multiple languages.

The GAC has proposed that the IOC and RCRC names should be protected in multiple languages, all translations of the listed names in languages used on the Internet. The lists of protected names that the IOC and RCRC have provided are illustrative and representative, not exhaustive.

The drafting team recommends that at the top level for this initial round, the list of names and languages currently provided in section 2.2.3 of the Applicant Guidebook are sufficient.

In addition, the drafting team also notes that even in the unlikely event that a third party applies for an IOC or RCRC term in a language that was not contained on a list, the IOC or RCRC, as applicable, may still file an applicable objection as set forth in the Applicant Guidebook.

Recommendation 3. Protection should apply for all future rounds but may be reviewed after the first round. In its proposal, the GAC has recommended that the protections for the IOC and RCRC

should not just apply during the first round of new gTLDS but should be a permanent protection afforded for all subsequent rounds.

Although the drafting team has not spent a lot of time discussing this subject, it does agree with the notion that it is making this recommendation as one intended to apply in all future rounds, but also recognizes that permanently granting protection to the IOC and the RCRC may have policy implications that may require more work and consultation so that protections may be reviewed.

Resolved that the GNSO submits this proposed solution for the Board consideration and adoption at its March 16th, 2012 meeting in Costa Rica as a recommended solution to implement Board resolution 2011.06.20.01 for implementation in the first round of new gTLD applications.

That wasn't that long.

>>STEPHANE VAN GELDER: Thank you, Jeff. That was my ploy to put everyone to sleep and avoid discussion. I don't know if that's going to work.

Let's open it up for comments. And I see Rafik first, Rafik, Zahid, Jeff, Mason, is that Lanre, Thomas, Yoav, Mary, Bill -- Why don't we just do the whole council? Joy, David, and anyone in the room, obviously. Alan. Joy, I've got you.

>> May I point out we have ten minutes for this item, according to the schedule.

>> By the way, I already raised my hand in the Adobe.

>>STEPHANE VAN GELDER: Good for you.

So Rafik first.

>>RAFIK DAMMAK: Thanks, Mr. Chairman.

I would like to make a request.

I would like to defer this motion. And for that, I want also to read the statement on behalf of the NCSG.

>>STEPHANE VAN GELDER: Please go ahead.

>>RAFIK DAMMAK: Thanks.

NCSG finds it's impossible to bypass ICANN's bottom-up policy development process in this way at the time when the multistakeholder process on the Internet are being challenged, and this proposal is both questionable on the merits and contrary to ICANN's processes.

Therefore, the NCSG has no option at this stage but to defer the vote at least until the public comment period is closed.

Here are the reasons for our deferral.

One of the most parts of the ICANN process is the public comment period which allows public engagement and permits those affected by policies to explain their views.

Public comments constitute a quintessential part of the ICANN ecosystem. How can ICANN depend on public comments when they make a decision before all have been received?

The council should not hold a vote in something as important as the (indiscernible) creation of new form of reserved names, especially ones that singles out some international organization for special consideration while injuring others without full comment.

The critical importance of public comments was recognized by our colleague, Mr. Steve Metalitz, chair of the IPC, in a recent comment. Mr. Metalitz said in trying to make the decision before the public comment period has closed, ICANN has failed to fulfill its pledge in the Affirmation of Commitments to employ the specific consultation procedures that provide detailed explanation of the basis for decision, including how comments have influenced the development of policy consideration, and to continue the access and improve the processes by which ICANN's receives public input, including adequate explanation of decision taken and the rationale thereof.

We could not agree more with this statement with our fellow stakeholder groups, the IPC.

The community should take the necessary time to hear all the views on this issuing and examine other proposals such as those from Portugal earlier this week as well as the proposal from the not-for-profit operation constituency that are intended to create more fair and less arbitrary standard for reserved names. The NCSG policy committee believes that is a critical policy issue and needs the full guidance of the public comments before it can properly decide how to vote and thus requests deferral on this vote.

Thanks.

>>STEPHANE VAN GELDER: Thank you, Rafik. So we have the practice of honoring such requests, and we will obviously do so in this case.

And as Chair, obviously --

>>JEFF NEUMAN: Can I have a point of order?

>>STEPHANE VAN GELDER: Can I just finish my sentence?

>>JEFF NEUMAN: Yes, but I would like to raise a point of order after that.

>>STEPHANE VAN GELDER: As chair, I have unusual position, obviously, so I have no position on what you just said.

I would just note that the deferral request is intended to give people time to consider motions. The statement that you have just read is a statement against the motion itself. I think as a procedural point, it may be interesting for the council as we continue to work on these deferrals -- I am not talking about this specific instance, for us to try to look at this procedure in more detail. Because it's not written in our bylaws, and it really is difficult for me, as chair, to know how to work on these things. And when we have cases like this, obviously I will certainly shy away from doing anything out of the ordinary but it does put me in a difficult position as chair.

So perhaps the council can help me in looking at that in the future so that we can put that in our procedures.

Thank you very much, Rafik.

Jeff, you have a point of order? And then I will go to the queue.

>>JEFF NEUMAN: Yes. While the deferral is a courtesy that we have extended, there is no -- nothing in the bylaws or rules of operation that specifically allows for it. That being the case, I would ask that we call for a vote of the council to see if we would like to override the deferral, which I think should be added to the rules of operation. And since we're not dealing with an existing rule that's documented, I think we should call for a vote of the council to see whether the council would like to override that.

>>STEPHANE VAN GELDER: Well, my own personal view is we have always honored deferrals, and I don't see why we shouldn't today. And at times, deferrals have not been popular with some parties, and they probably wouldn't have wanted to have some, and that hasn't been reason enough for us not to honor them.

I would find it very difficult to have a vote to reject something that we have always allowed everybody else to have.

Jeff, can I ask if you would allow this, that as we consider your point, I start the discussion, hear some other views, and then go back to your suggestion. Would that be palatable?

>>JEFF NEUMAN: Absolutely, yes.

And just keep -- That wasn't my spot on the queue, so just when you get back to me.

>>STEPHANE VAN GELDER: I have you in the queue. You are number 57.

[Laughter]

>>STEPHANE VAN GELDER: So Zahid.

>>ZAHID JAMIL: Thank you.

So I might be as long as the statement was just now, but let me give it a shot.

First of all, I think that maybe changing our precedent or our custom to basically honor this sort of deferral may be problematic; however, I must agree with you that the usual reason given for such deferrals is because somebody needs time to consider it. Obviously, the statement made earlier means that it's not a question of considering it amongst the constituency. It's a question of having a position on it.

It is really disappointing that this has happened and I must say I was one of the first people who was greatly concerned by the list we recently saw that came from the RCRC. However, as the negotiations over the weekend have taken place, I must say I was one who got a lot of confidence if the way the negotiations in the working group were moving ahead. I also found there was a great spirit of compromise on all sides, eggs specially the affected sides which is the IOC and the RCRC.

Now, I come from a developing country and I come from a country where we have seen great calamities in the last few years, such as the earthquake and the floods that hit Pakistan. And it is a

shame that we will be looking at a position in the new gTLD process where it's possible that the protections that, such as organizations who get money through donations, especially like the Red Cross, and who are not-for-profit where there is a huge issue of cybercrime and phishing and spamming and all these sort of things, it may become an obstacle.

So the harm that is caused the users and donors is paramount in my mind because eventually it does impact people like me in countries like where I come from where there are such devastating impacts of national calamities. The money that these people are giving to these organizations may be going someplace else.

So having said that, I just want to say that from a practical perspective, two, three, operational points.

One, this is the first time we have had a working group, if I am not mistaken, with the GAC. And I'm disappointed to see that we haven't -- we don't have the GAC here. They don't have any notice of this deferral. They don't know what's going on. And I know from at least one GAC member from South Asia who says, well, in his words, "Isn't this a violation of natural justice principle that at least we should have been told this was goings to happen?

I don't know; I don't want to comment on the merits of that statement, but I can tell you that the GAC would not be happy with this.

Let's also remember that the second level is a really deep, main issue here that we are going to have to deal with going forward with the new gTLD process.

But I also wanted to say, leaving this discussion aside, and I don't know what's going to happen with the vote to override the deferral but let me just say this. If that doesn't happen, for instance, I would be in support of the chair -- and this is a request I am making -- to have an expedited meeting of the Council as soon as is possible under the bylaws and definitely before the 1st of April. Because we have a practical problem. The deadline of the 1st of April for the new gTLD process is going to close. And we should not let this deferral in fact become a de facto denial of this protection to the users and to the applicant.

So I would strongly request the chair to try to have a meeting as soon as possible. I know the public comment period is about to close, but let's have a meeting before the 1st, and at least the council would have done whatever it can do to send something or, depending on how the vote goes, to the Board and then the Board can decide what to do. But it should be before the 1st of April.

Thank you for the time you have given me.

>>STEPHANE VAN GELDER: Thank you, Zahid.

Jeff.

>>JEFF NEUMAN: Thank you, Stephane.

The GAC sent us this proposal in September.

We worked as a drafting team incredibly hard and I think incredibly well.

As Zahid said, this is the very first time that the GAC has participated in close collaboration with a working group. We responded to a GAC request. For us to not be able to vote today is a failure. It's a failure of the system under the guise of claiming you want more public comment.

It's a convenient excuse, but in the end, it's a failure. And nothing more, nothing less.

This is a slap in the face to the governments that have asked us to decide.

You have already, as shown in your statement, you already know how you are going to vote. It's clear the vote is going to be no. So why don't you stand behind your vote and vote now and vote no. That is what you really should be doing.

And I want everyone to remember today, which is March 14th, 2012, because this is the day that everyone is going to remember as the downfall of the current GNSO Council as we know it and the policy process as we know it.

Mark my words. It will happen.

The GAC has asked us to act, and we have failed to do so.

And I concur with Zahid that if we can't override this and we have to go to another meeting, the rules of operation provide for a 14-day notice period for a meeting. So today is the 14th. I ask for a meeting on March 28th where everyone come prepared to vote; that we prepare the Board for the motion, and prepare them to act.

This, to me, is what we need to do, and it's irresponsible for us to do otherwise.

>>STEPHANE VAN GELDER: Mason is next.

>>MASON COLE: Thank you, Stephane.

I just have a brief statement to read from the registrar stakeholder group.

Although the registrar stakeholder group intends to vote in favor of this motion, we recognize the effort to protect the marks of the IOC and the Red Cross originated with the Board. The request from the Board to alter the bottom-up policy developed by the GNSO Council with regard to the new gTLD program constitutes, in our view, a circumvention of the bottom-up policy development process that is at the core of both the GNSO and of ICANN.

The GNSO Council should expect the bottom-up PDP to be honored and adhered to by the community in the future.

Thank you.

>>STEPHANE VAN GELDER: Thank you, Mason. I have Lanre next.

>>LANRE AJAYI: Thank you. I think a major challenge the motion seems to be having is the perception that it is giving more protection to Red Cross and IOC.

I have a different understanding of the motion. I don't really think it's giving more protection but, rather, modifying the staff's implementation of the Board's direction.

The Board, with the present implementation, the IOC and Red Cross are not able to apply at this first round. And I think that should not be the case.

If the motion gives opportunity to IOC and Red Cross to apply in the first round, just like every other string that is not even protected, why should that be a problem?

If the motion is give an opportunity for the IOC and Red Cross strings to undergo string similarity review, just like any other strings that are not even protected, why should that be a problem?

So my suggestion is that if we are able to solve some of the issues around the due process and all the rest, some suggestions that we made, so those issues around due process, I think the motion should be supported.

Thank you.

>>STEPHANE VAN GELDER: Thank you. Thomas.

>>THOMAS RICKERT: Thank you, Stephane. Being a member of the drafting team, first of all I would like to applaud the GAC, IOC and RCRC on their effective collaboration.

What might appear as a minor issue since the protection is already given for the IOC and RCRC in the current version of the guidebook, this kicked off a debate about a variety of issues. I would like to highlight a few points that may help to put this discussion into perspective.

Remember, the Board authorized the president and CEO to implement, in bold characters, the new gTLD program. It also made resolution that the two organizations named above should get special protection. Staff amended the AGB to reflect this.

As Lanre said, this implementation was flawed. In the light of this, we are now dealing with and talking about an implementation detail.

The work needs to be finished before the end of the application window. I think this is a matter of urgency that we are all aware of.

As a councillor, I now have to make the choice between allowing a flawed implementation to remain in the AGB or to fix it.

I consider it one of my duties as a councillor to do what I can to make the AGB as good and transparent as possible. It's the only way for ICANN to live up to everybody's expectation to be inclusive at the global level.

Having said that, I do see policy implications for the second round and for the second level since there is no decision on this already.

To ensure that this has been taken care of and that the due process is followed, I will submit a motion requesting the initiation of a PDP on this subject in time before the next GNSO Council meeting.

By doing so, we can ensure that the policy implications are taken care of and our processes are followed.

May I remind you that this project is considered by the GAC as the first opportunity for a new collaborative approach. We should not make that fail and get our work done in time.

Now, what does that mean for the councillors? The answer may be yes or no. I prefer it to be yes for the reasons I just mentioned.

Now, I've heard, and we now have it on the table, that there is a request for deferral. The matter has been discussed over months in great detail. There were numerous telephone conferences, hundreds of e-mails, face-to-face meetings and thus there was sufficient time for consideration of the matter. In my view, there is no reason for deferral.

We have been talking about setting bad precedents a lot in the context of this discussion. I think it would be an extremely bad precedent if a request for deferral was instrumentalized as part of a delay tactic.

Thank you.

>>STEPHANE VAN GELDER: Thomas, I'm not clear what you said about the motion part. Can you say that again? Because you said you were -- you wanted to introduce a motion....

>>THOMAS RICKERT: On time before the next GNSO Council meeting.

Not now.

>>STEPHANE VAN GELDER: Okay. Thank you.

>>THOMAS RICKERT: Just so everybody knows we're not going to leave this twisting in the wind. But, you know, PDP request is going to be kicked off.

>>STEPHANE VAN GELDER: Thank you very much.

Yoav.

>>YOAV KEREN: As Mason already said, the main view that (indiscernible) and the registrars was the process, this has been done.

At the same time, in the past couple of days, we have been receiving maybe assurances, different members of the GAC, that this is a very unique case and that we're not going to see other requests following.

That for me personally and for others in our stakeholder group was enough in order to decide voting in favor of this motion.

Saying that, I think that -- I must say that I really agree with what Jeff just said. I think it will be very wrong for us as a GNSO Council -- now, it doesn't matter where -- for which stakeholder group you are coming, not to vote.

Whatever we would vote, whether we are in favor or not, whatever the results are, we should vote because as I see it, the use -- this is -- as you said, Stephane, this is a custom. This is not in our bylaws. And using a custom in order to practically make something just -- be I don't want to say a

harsh word but kill the motion, okay? That's practically what's going to happen because if we don't vote now it doesn't mean anything, if we don't vote before the application period ends.

So I really urge Rafik to ask not to defer to take that away. Or maybe we should vote on this as Jeff asked. I don't think that this is -- as Stephane stressed, this deferral is used for people to get more information. There was enough time. Clearly, in the past few days everyone had discussions very, very thorough discussions on it. So I think we should try and have our vote today and show the community that the GNSO can act. I joined the GNSO just recently. And I've been involved in this community for about 11 years. One of the things that bothered me a lot is that things here just took too long. It's about time that, when we need to act, we act. Otherwise, our entire structure is going to fail. All of us that sit on this table need to understand that. It's a very important point that we are in time.

>>STEPHANE VAN GELDER: Thank you, Yoav. Mary.

>>MARY WONG: Thank you, chair. I'd like to explain a couple of things. I think, first of all, this was a very difficult discussion and decision within the NCSG. Our lists are open. Some of you have seen some of the postings, and there were some very strong views.

The request to defer was not a unanimous decision of the policy council. But in our charter we operate through consensus, and there was consensus.

On the view that we are doing this in an attempt to delay until things are moot, I don't know that I can persuade all of you that that is not true. But I'm going to try.

I would urge you to read our statement and the reasons we gave. One is the process reason about respecting our own rules for public comment.

The other -- and here's where the time question comes in again. There was a proposal prosed by our newest constituency, the NPOC, that suggests considering generic criteria that would apply to perhaps more than two international organizations. And it may then be that, by the end of that discussion process, we come back to where we are, that the IOC and the Red Cross are indeed in a special category. I have not seen in the last two days anything to indicate that adequate discussion of this suggestion was undertaken by the community. And so, on the delay point and on the timing, I do think that the requests for deferral was made on a principle basis and not as a tactic.

Then, in response to my colleague Zahid's comments, I think one response -- and there may be others by people at the mic -- might be that, in fact, the two organizations are already protected. They are so well-protected that some of the fears and dangers that you outline could not possibly occur in the first round. And on the point that the GAC is not going to be happy with us, I think that then is an opportunity for us to engage in dialogue with the GAC. I think we could not do worse than subvert our own processes in order to do what the GAC wants us to do.

>>STEPHANE VAN GELDER: Thank you, Mary. Now, we have some people standing. And they've been standing for a while. So I will ask -- Bill, you are in the queue. But, if you are so willing, I will go to some of the people standing so that they don't have to stand for too long. And then I will continue the queue. Is that okay? So Avri.

>>AVRI DORIA: Avri Doria. Thank you, Stephane. A couple points I wanted to make. First, I wanted to reiterate that I do not believe that this deferral request is made contrary to the motion. It's specifically about the motion. How can people vote on a motion? How can they understand how to vote on a motion, if they haven't seen the public comments, if they don't know what the public actually thinks about that? You say you've been talking for a long time, and you have. Among yourselves. It is just now time for the rest of the community to start participating in that conversation. Many of the issues, obviously, need further discussion. Things have come in, things have come up over the last three days. I know that my mind has been opened to various aspects of this that I didn't know. I expect that, if they are forced to vote today -- and I really do hope that you don't do that -- that you would get abstentions as opposed to nos for the most part because they do not know how to vote. I think it's very good that several of the council members said that this is not about protection. It isn't about protection. It's about having gotten, perhaps, more than what you asked for when you asked for special protection and wanting a modification on that special protection that gives you an exemption from the protection that you asked for.

I think, in terms of the IOC, the special clauses that you put in there -- and perhaps the Red Cross. I don't know -- the special clauses that you put in there about how to handle similarity, how do we know that that's not a licensing agreement? How do we know that some when somebody applies for something, it's not? Is there any discussion on that,? Has that been documented. I think there's some real problems on that. I think the that changes that you're asking be made to the applicant guidebook, at this point with only four weeks left, are so substantial. Because who knows who can now apply for it that wasn't even considering applying for it? But, if you're not asking for the board to restart the clock on the application period, how can you make such a substantive change to an applicant guidebook? This is really a very large change. Because, if I'm someone who has a name that is possibly similar, you know, I couldn't have applied for it before. Now I can consider it. And, to make such a change at such a late -- you know, we've seen discussions of the little town of Olympia in Greece. How can you not have allowed them to apply by making such a late change?

So I think the board defined a new class of reserved names. That is problematic. To have the GNSO Council now, without any policy discussion, without a complete public review, decide to not only endorse that new class of reserve names but actually amplify the policies related to that new class of reserve names is extremely problematic.

I do want to agree with one thing Jeff said. If you go ahead with this now, if you go ahead with abrogating the listening to the public and talking about their views, to quickly vote, you, indeed, will bring about what you're afraid you will bring about. Thank you.

[Applause]

>>STEPHANE VAN GELDER: Thank you, Avri, I'll go one councillor, one from the floor. Bill was next.

>>BILL DRAKE: Well, this conversation has gotten so interesting, it's hard to decide which angle to pick at. Let me start by responding to a couple things colleagues have said.

On the notion of overturning a deferral request, Jeff, I find that absolutely astonishing. In my time on the council there have been so many deferrals in cases where I wouldn't have wanted there to have been a deferral but it was simply accepted that this is what colleagues accept is settable

amongst us all, so I just never pressed the point. I never would have imagined that I could say, well, I don't like this. This annoys me. So I'm going to demand that we get a vote together and try and penalize, perhaps, a minority group that's standing alone for some principle, in their mind. That's, to me, a strange practice. And if that's how we're going to go about conducting ourselves, this is, indeed, the end of the council, as you say. I hope that we don't do that. I hope we stick to the kinds of collegiality and bottom-up principles and ways of operating that we always have.

Secondly, with regard to what Zahid said, I mean, I do not believe it is the case that the Red Cross is not going to be able to save lives because of this deferral. And I -- I, again, would hope that the rhetoric not get so far beyond the reality of what we're actually talking about here.

We made very clear in our statement what our concerns were. Okay? The text for this thing has been evolving and evolving. People have had many different versions. Maybe the people who have been interior to the process all know what every little iteration and change is about. But I can tell you that, in the broader community that we interact with, I don't think you could find that a lot of people in the NCSG have been able to make sense of each turn and twist of the text. But I can tell you that they've been consistent in the discussions on our list serve of their basic view of what was going on here is and that has not been favorable in any way, shape, or form. We do have an obligation to have a proper public comment period. That's an integral part of the process. If we have obligations under the AoC for accountability and transparency, we're supposed to take on board community inputs. To say, oh, this is just irrelevant now, it's inconvenient, just get it out of the way and do so with a kind of level of -- I don't want to say demagoguery, but a level of discourse that sort of implies that public comment is just a screening for delaying rhetoric, public comment is a really valuable important thing. And there has not been a completed public comment period here. Sorry. And Steve Metalitz in his comments for the IPC made precisely that point, which we repeated and agreed with in our text.

The last thing, as Mary pointed out, we have a new constituency in NCSG that is still trying to get its head around what all this stuff is. And they have come out with a very interesting proposal which resonates in some ways with what some governments and the GAC have proposed for taking a broader look at these things. But they haven't had a chance to go back to their people and really take a second look now and say there's the final text. Here's where we are.

So we've been given a lot of noise or harassment, I think almost, about whether NPOC was getting a proper right to voice its concerns. So we're saying, people from NCSG, that, yes, we want our colleagues in NPOC to have a full chance to reflect on these things. They haven't yet. So we're not playing games. We're simply saying this has to be done in the proper way that gives everybody a chance, just like the people who have been inside to the process, to get their views on the table and have those considered. I think that's what the ICANN model is supposed to be about.

>>STEPHANE VAN GELDER: Thanks, Bill. You said two things which I must comment on.

Sorry, one thing and maybe two comments.

I think, you know, as a registry representative, I have no -- registrar -- sorry. Try not to get that wrong again.

>>CHUCK GOMES: You haven't paid your dues yet for the registries.

>>STEPHANE VAN GELDER: It's called a slip of the tongue, guys.

>> Identity crisis.

>>STEPHANE VAN GELDER: So I have no control over the vote, and you've heard in a statement how the registrars plan to vote. As chair, however, I have control over one thing, and that is the fairness of our processes. And I do agree with you that something that we've always allowed in the past for everyone else should not be overruled here in this instance. So I do not understand or agree with a call for a vote to overturn the request for a deferral we've always honored for every other issue that we've had. As chair, if that is the only choice or determination that I'm able to make, I would make that that's unfair -- I would determine that it's unfair to ask for a special case in this deferral just because some of us may not like the deferral itself. I agree with that as a process issue.

One of the things I can also do as chair is allow this discussion to continue. At times, when there's been deferral requests at the start of a motion, we have stopped discussion on that motion. I have chosen this time to continue -- and I will continue the discussion, as you can see. There's a queue of councillors and a queue of community members that want to continue discussing this. I am hopeful that this is a discussion and that some of us, if we are able to convince each other, may evolve that discussion and may evolve those positions.

So I just want to make that clear. I don't -- the only thing that I really want to do as chair is to make sure that we remain fair in our processes and don't have special cases when there are results that we don't like.

Can I go to Chuck?

>>CHUCK GOMES: Sure. This is Chuck Gomes. I was the registry stakeholder group representing on the drafting team, but I'm speaking here in my personal capacity. A couple general observations, first of all.

This is the most interesting council meeting we've had in a long time.

Secondly, regardless of the points of disagreement, I think people, especially those of us out here, should notice that this has been a very professional, very healthy discussion.

Regardless of what side you might be on the argument -- and so I compliment that I think it shows the maturity of the GNSO Council and some -- and so we need to appreciate that. Now, to the point. I am not going to give counter points for the various things that are said. You guys are doing that just fine.

But I have a question for the NCSG and then a general comment with regard to Rafik's statement that he read. The question is, in your statement, Rafik -- and then Bill referred to it later in comments -- the, you said that you wanted to wait until the end of the comment period. And, as you know, the structure of comment periods right now, according to procedures, is 21 days comments and 21 days reply, which, obviously, would put us way beyond. 21 days is an issue in itself. But 42 days would put us way beyond the end of the application window.

So my question is -- and I'll let Stephane decide how he wants to handle that -- is, when you said that, that you wanted to wait until the end of the comment period, do you mean all 42 days? Or

would it be acceptable to do it with the 21-day comment in this case? And I don't necessarily expect the NCSG without consultation to answer that. But I do have that question. Because that could affect a possible solution to the issue. Because I personally believe that it is a time-sensitive issue because of the close of the application period. That's my belief.

 Secondly, a comment. And this is with regard to what Rafik said about the Brazil comments from the GAC that the drafting team did, actually -- they didn't necessarily talk about his. But, if I understand the Brazil rep's comments and what Wolfgang has been bringing up in the GNSO -- he even did it over weekend -- the suggestion was to use more generic language rather than identifying two specific organizations. I, for one, support that. And I think that is a reasonable way to go. And I brought that up in the drafting team. What we decided in the drafting team this week is, because of the time sensitivity, it would be difficult to draft that language, our opinion, in the short time that we had but that, when we come back, if the motion eventually passes, and review this -- and I'm sure it will be reviewed -- after the first round, I would personally advocate for that kind of approach where you define the criteria that the Red Cross and the IOC met. And the GAC outlined that pretty well. That is a better way to go. I agree with you on that. It was a time issue why the drafting team didn't try do to that, because that meeting occurred on Monday. So my comment on that. So I just throw those things out. I hope they're helpful in terms of reaching a resolution. Again, I'm pleased with the dialogue that's going on.

 [Applause]

 >>STEPHANE VAN GELDER: Thank you, Chuck. Joy?

 >>JOY LIDDICOAT: Thank you, Stephane. And I just want to begin my comments by saying that I have gone on the record thanking the chair and the others on the drafting team in which I participated for this spirit of cooperation that has been amongst the drafting team members. I think that there are aspects of the motion that's come before the council, again, I've been on record as saying -- which I think are workable. But I have -- we have also indicated that there have been ongoing negotiations right up until literally last night with amended motions. And so that's -- that's to, I suppose, demonstrate the willingness of drafting team members to work very, very hard -- and we have worked hard -- to respond to the GAC request and the spirit with which -- well, perhaps in the spirit with which there (indiscernible) have been changes. But, certainly, within the spirit of what we feel our responsibility was. So I think that's the first point I wish to make.

 I wish to say also that this request for deferral, as Mary has outlined, has not been taken lightly. It is one that was subject to a vigorous discussion within the NCSG. And I thank our NCSG for the vigorousness of that discussion. We're holding public office, and we need to be accountable and transparent for our actions.

 I have actually gone to the public comments and read all of them. There are 15 at least. Some are opposed in principle to the motion. Others make specific comments on the detail of the motion.

 I feel, in light of the fact that the public comment period remains open and that comments continue to come in, that there is a strong element of due process here. And while the motion -- while the request for deferral may be painful for other reasons; nonetheless, violating some of those fundamental principles causes more significant concern for me.

In relation to Zahid's comments about the operational ability of the Red Cross function, in New Zealand, too, we've had major earthquakes, significant disasters with major loss of life that Red Cross has participated in. I don't consider -- I don't accept, although I'm open to more discussion, the argument that failure to make this decision will affect their ability to do so in the good work that they're doing.

I listened carefully to the discussion that the GNSO Council had with the GAC on Sunday. I was particularly concerned by the statements from Portugal raising the question of discrimination in this case for the protection of two names only. And my understanding is that I think the GAC would support an open PDP in relation to the second round in, certainly, the second level.

But I think we need to be aware, of course, that there are divergent views among GAC members. And that, while I understand that Jeff and others feel very strongly about this, and -- I would also say that I feel strongly that we must honor the public comment period. And I do not regard this as a failure. I think the GNSO Council has been extremely responsive. And I think we need to be willing to stand by our processes. Having said that, if there are sensible suggestions for a way forward that will deal with the concerns, then, obviously, as council members, we should be open to listening to what those might be.

  >>STEPHANE VAN GELDER: Thank you. Can I ask, in the interest of time, that we make sure that we don't make comments that are redundant with what's been said already. Just make comments that add something new to the discussion, if possible. Thank you. Milton.

  >>MILTON MUELLER: Great. Let me try to edit my comments in line with those comments. Actually, I'd like to just begin by congratulating Rafik for what I think is a very courageous stance. We know how invested certain people who are in the drafting team are and how frustrating it is. I've been on the council. I've watched these processes. I know firsthand how frustrating it is to have these kinds of hiccups. But I think the more important issue is the frustration of the larger process by the way the GAC has intervened and by the way we were given this.

And so I'd like to also congratulate Mason and the registrars for their statement which made it clear that this is a process violation, that this is messing up the GNSO process. I can't understand how they get from that statement to the decision to vote for it. But that's something they have to live with.

I think it makes it clear that the NCSG is not only one involved with this, that is fundamentally disturbed with this process. And, essentially, deferral is the only rational choice, even knowing that, yes, you may succeed in getting a vote two weeks from now or three weeks from now and you may ram this thing through. But what other way is there to stop the madness and at least allow the public comment period to be completed? And, in that respect, I'd like to address specifically the comments that Councillor Rickert made that we've all discussed this enough, that we've endlessly debated the issues and, therefore, there's no reason for deferral.

My understanding is that I received the final drafting team report yesterday. Okay? And that it was amended over the weekend, that a list of 250 languages was submitted and withdrawn. My understanding is that, in the GAC meeting, Portugal indicated that the GAC does not really, as a whole, support this request. The European Commission said, you know, this kind of happened while we weren't paying attention. There is debate within the GAC about whether this will be a precedent

or not a precedent for other organizations. The GAC doesn't even know what it wants on this. So the idea that we have to go along with them and break our process doesn't hold any water with me.

Finally, I'd like to address Zahid's comments, his somewhat emotional comments about floods in Pakistan and the role of the Red Cross. My understanding is that, if this proposal does not pass at all, much less be deferred, that none of the Red Cross names can be used at the top level.

In other words, you're proposing to actually weaken the protection that currently exists by allowing exceptions to it, allowing the Red Cross to license exceptions to it. Whereas, under the current proposal, if nothing happens, no Red Cross names can be registered at the top level. So, please, let's not pretend that this in some way threatens the status of the Red Cross. This is yet another request for special consideration by the Red Cross and the IOC to actually loosen up the protection they asked for the first time in order to allow themselves to license possible other users.

So, again, let's deal with the case on the merits. I think I was very happy to hear the chair say that he was not going to allow a vote to change the rules. And I think you should -- the other councillors outside the NCSG should understand that in some ways we are willing to take the heat for doing the right thing here and -- despite the fact that so many of you weren't. Thank you.

[Applause]

>>STEPHANE VAN GELDER: Thank you. So I will add to my previous requests for no redundancy, not saying -- when I say that, it doesn't mean, by the way, that you were redundant, the last person who spoke. But can you also be concise, please, David.

>>DAVID TAYLOR: I'll try to, Stephane. In two words, I'm uncomfortable and frustrated. I'm uncomfortable with the way this request for a deferral has been made and how it's been used to effectively defeat a motion rather than defer it. And, as we say in England, "That's just not cricket." If we defer, we, as the GNSO Council, have failed to act and respond appropriately to the GAC or what we perceive the GAC is asking us on the time sensitive and crucial matter which we got here because of process.

I'm also uncomfortable with the position we're put in as a council today if we do not allow the deferral. Basically, we're damned if we do and we're damned if we don't.

I'm frustrated with the waste of the community's time that will result. I'm mindful of the potential harm that this causes the Red Cross and IOC as a result of the deadline passing. So, on my side of the IPC, we certainly fully support Zahid with their view of having an expedited meeting, if we can.

Two more points: With regard to the NCU statement that was just read out and which I hadn't heard before, I would like to point out that Steve Metalitz's comments have been taken out of context. And, secondly, I think we need to not lose the focus here. We are seeking to avoid abuse. That's the main goal of this whole process. It may be ensuring donors and citizens are not defrauded. It may be other things. But that's what our common goal is. So we are now in a difficult position as a council. And, as I said, we're damned if we do and we're damned if we don't.

>>STEPHANE VAN GELDER: Ken.

>>KEN STUBBS: Yes. My name is Ken Stubbs. And I don't know whether I'd call it a fortune or a misfortune. But I chaired the council through very turbulent times, including the original introduction of TLDs. As I look at what's happened today, you guys have a learning experience here.

Number one, you need to hard code the process. He should not be put in a position where he has the opportunity to make a decision to defer or not. That needs to be put into the process, number one.

Number two, no offense taken -- please don't be offended. Your -- to the average person -- and I use that -- your motion for deferral implied the reason being that you were not happy with it. It took elaboration by members of your constituency and your representatives. You guys should have done more homework, gotten together on that, and elaborated in your motion more specifically. That's the point I'm making here. There was more homework that needed to be done before that motion was done. Take it for what it's worth, Bill. But the point I'm making is -- and number 2 -- is this process needs to be coded in. Because, in my opinion, no one should be allowed a deferral because they don't like it. It has to have clear value for a request. And I think that can be put into an operational process as part of the council operations so that there are clear basis and grounds for it that are elaborated in the motion. And, if the motion doesn't stand on its own two feet, then the motion should be refused on that basis. That's my two cents worth. Thanks.

>>STEPHANE VAN GELDER: Thanks, Ken. Alan. I meant Alan, councillor, Alan.

>>ALAN GREENBERG: I didn't think my turn was ever going to come up. I'm personally in an interesting position. I was on the drafting team. I was -- my position was that, although I disagreed strongly with the board action and in line with the registrar statement, the abrogation of the bottom-up process, I felt that, if something is going to be in the guidebook, it should be coherent and go along with the other terms in the guidebook. And, just for the record, that was under the full knowledge and support of the ALAC executive committee. That being said, ALAC, too, feels very strongly that this whole process should never have come about, that we should have done this using the bottom-up multistakeholder model and not unilateral action from the top. Given that that action has been taken, ALAC is happy to see no action at this point from council. My personal position sitting on council, I prefer to have seen that happen as a result of a vote, not deferral. But so be it. But ALAC has drafted a rather extensive statement commenting on both the substance and the process. And they're meeting in parallel with this meeting and probably will be voting on it today. And that will be distributed when it's -- when and if it's available. Thank you.

>>STEPHANE VAN GELDER: Thank you, Alain.

>>STEPHANE VAN GELDER: Thank you.

>>ALAIN BERRANGER: Thank you. This comment is one of clarification because the NPOC proposal was mentioned and many of you may not have seen the NPOC proposal.

First of all, the inclusion of a reference to the NPOC proposal cannot be interpreted in the spirit of my discussions of the last 24 hours by anyone as a reason for deferral.

The statement that was raid, actually, under NCSG labeling is actually the NCSG policy committee where only one NPOC member's personal opinion did not represent an official NPOC position. But no surprise there.

The second statement or clarification that I want to make is that the NPOC proposal actually has two parts. Part A, approve the IOC/RC protection, and Part B, use the criteria of international legal personality to develop a generic solution.

So those are the two clarifications I wanted to make.

And I would add that we were wordsmithing until late in the morning and this is said in the full spirit of the joint statement that we made to the board yesterday.

So thank you for allowing me this clarification.

>>STEPHANE VAN GELDER: Thank you very much. Wolf-Ulrich.

>>WOLF-ULRICH KNOBEN: Thank you, Stephane.

I would make comment just briefly on the promise. I am fully in favor in keeping our rules even if they are not written in stone. But I have to add, on the other hand, we should be very careful to avoid any kind of misuse of such rules.

So I wouldn't say it is strongly misuse in that case, but there is something suspicious about that; that if you look back, you had time enough, there was time enough over the weekend to discuss that. Everybody knows that. And I wonder whether a new opening of that discussion will bring us to a different point, especially the NCSG who is asking for deferral. I wonder if there could be made a statement from the NCSG side, whether there could be -- whether they see a chance at all to -- to find a way to agree to a motion in favor -- in the kind of favor we had in this time.

Thank you very much.

He.

>>STEPHANE VAN GELDER: J. Scott.

>>J. SCOTT EVANS: I am J. Scott Evans from Yahoo!. I am also on the Board of Directors and the Executive Committee from the International Trademark Association and former IPC President, and I was on the drafting team.

I have two comments. One, I don't think public comments were required for this at all much it's an implementation detail. I think Jeff deferred to one of our members to have public comment as a compromise. And I think you've made a huge mistake by saying that every implementation detail that this organization takes to implement something is going to require 42 day process. I think it's a huge mistake and I think you are setting a terrible precedent.

Next, this is like the third thing that I have dedicated, probably, if I was being paid my hourly rate, about 50 to $65,000 of my time that a small cadre of people have derailed over process arguments. And I'm on the Nominating Committee now and it's very difficult to go out and recruit business people and executives to give time, the time you have to give to this process while they're on the

GNSO or the ccNSO or on the Board of Directors, to know that all of your good work, your good time is wasted.

So the message you're sending today to the people I'm trying to recruit is, you know what? You're better if you just stay home. You're just better if you stay home and do your day job.

Thank you.

>>STEPHANE VAN GELDER: Thanks.

Rafik.

>>RAFIK DAMMAK: Thanks, Stephane.

I just wanted to make some clarification. I heard many time that it is the first time for GNSO to work with GAC. In fact, it's not, because for the JAS Working Group, we worked with some GAC members, why the GNSO Council didn't act in time to mark the expectation of the GAC on this supporting applicant from developing country.

And just to respond quickly to Zahid. Zahid, I am from country, small country, which has to manage half a million of refugees, and I am living in country which had one of the biggest disaster last year, so I understand about the Red Cross work, but it's not the matter of our discussion.

Thank you.

>>STEPHANE VAN GELDER: Klaus.

>>KLAUS STOLL: Hello. My name is Klaus Stoll. I am an NPOC member and I am speaking here on behalf of myself, nobody else. I want to make that absolutely clear.

And I was in yesterday the NCSG policy meeting, and I spoke there for myself and my opinion. And I'm standing to it, and if you want to know what I said, please go to the transcripts of the tapes.

There was one NPOC number, Alain Berranger talk about, that was me. I just want to make that absolutely clear.

So, second point. I cannot talk about procedure and if procedure has been upheld or not. That's your role. I don't want to comment on that.

I also want to say that I was part in the NPOC drafting committee for NPOC proposal. And I want to come to the substance of the proposal.

The substance of the proposal is very simple; that we are saying there is something wrong when two organizations are named. It gets (indiscernible) where we are talking especially a specific group of organizations.

And what our proposal is trying to do, to move from that specific naming of organization to the protection of a group. And what we are trying to do is not to protect every NGO, everything that's running around. Really, in my own opinion, it should be the U.N. plus nine or ten organization, and that's it.

So, now let's come to the situation here.

I think there are about 100, 150 (indiscernible) in that room, and it's clearly understood that there is time pressure and that there is a need for -- to solve a problem.

I can't understand that we don't find a solution now which basically says let's guarantee or our highest intention is to get a generic solution for the second round because of the time restraints and because of all that happens, we might let a proposal go through for the first round as it is.

I know it's a dirty compromise. I don't like it. But I think it's the best way to live with it.

That still -- and that's the last part of my comment, is very simply that doesn't answer the operational part of your concerns and of the statement. And as I said, this is not for me to comment on.

Thank you very much.

>>STEPHANE VAN GELDER: Thanks.

I'll close the queue on the floor after Marilyn, and I'll go through all the councillors that have requested to speak.

Next is Zahid.

>>ZAHID JAMIL: Thank you.

I just want to agree with the last comment made from the floor, the last comment he made, which is the first level, it's an emergency situation. We have a deadline. We have an immovable object which is the April 1st deadline, and we have an unstoppable force, it seems, which is our policy, sort of, public comment period.

Now, it's a great compromise to say for the TLD level or the first level, we have to have this sort of not necessarily perfect but something that can go through and be useful. And all the concerns that are being talked about can be taken care of at the second level. So let the perfect not be the enemy of the good. And that would be -- And I totally agree with what you said.

Also a couple of clarifications because my name came up quite a lot in many of the comments. First of all, Milton, it wasn't 250 languages. It was maybe not even 50. Probably less than that.

Second, I didn't say that the IOC and the RCRC won't be able to save lives. That's not what I said. I said that there is a threat of fraud, and I am talking about theft. I am talking about, number one, the question of user confusion, and the second being that of being fraudulent. And that's what we are trying to do when we try to build this protection.

And if anybody says well, they will be able to do what they can do. Don't worry about it. The RCRC will be just fine and they will be on their merry way, well, then why are they here? Why have they applied pressure? They are not a profit organization. They are people who are experts at what they do and they know what they are talking about, I would have imagined. They are not a big corporation trying to get a free pass or an exception. So I would take an objection to that sort of a characterization of them.

Secondly, the issues in the NPO, I understand there is a proposal in principle, I am concerned why that wasn't made in the working group sessions in the last few days. And that's why it is such a shock and challenge to all of us saying why didn't you bring this up in the working group? And now we are hearing you want a deferral. That seems a little odd and I think we have heard from many people what they feel about it.

The other issue is a more strategic aspect, a more ICANN general issue. We have been asked to do something, by at least the Board as well as the GAC. We are basically saying guess what? We are thumbing them in the nose and saying, sorry, we won't be able to get it to you, and we are giving an excuse of policy. Because remember, there is the public comment period I talked about and the deadline. And we have to be practical.

The practicality is the deadline is not going to get moved so all this is academic, then, at the end of the day. And that's the issue.

And what else the most strategic aspect? If this is not able to work and people say remember the 14th of March? Here is the issue. When the IGF takes place, I would love to hear all the people there about what they think about the functioning or lack of functioning of the ICANN system.

So it's ours to lose. That's the issue here.

Now, what are the solutions? Having said all that, what are the solutions? One was the PDP that was mentioned. I think that, again, that's not going to be finished in time so it's a good solution but it doesn't mean the time limit, it doesn't meet that, you know, immovable object that we're faced it. But there is an expedited meeting process David mentioned and I mentioned earlier and we can do that. We can satisfy the request of the NCSG that, look, you need to have a public comment period? Then let's have it and see how you vote after that. Let's have a meeting just before the 1st of April. If that's the only solution, let's do it quickly and I think let's get on with the work we need to do instead of looking like an organization that cannot function and be open to a lot of criticism from a lot of people.

Thank you.

>>STEPHANE VAN GELDER: So I have -- Once we have done Marilyn --

[Laughter]

>>MARILYN CADE: Whoa!

>>STEPHANE VAN GELDER: Poor choice of words.

>>MARILYN CADE: Promises, promises.

>>STEPHANE VAN GELDER: Poor choice of words. I apologize. Put that down to me being French.

I then have (listing names.) I would cut it off at Joy, then. And Bill? I will cut off Bill, then, instead of Joy.

Marilyn.

>>MARILYN CADE: Thanks. My name is Marilyn Cade.

I guess the truth is I am rarely done.

I was a councillor for a number of years. Some of you know that; some don't. And I'd like to recollect my experience of having these kind of impasses and divides and tensions from those days, and to offer you a thought from how I am seeing this from here.

I think, in fact, -- I made a statement earlier that the business constituency believes that it is our counselors who should be carrying the positions. I've heard a few people refer to the interaction between the GNSO Council and the GAC as the GNSO.

I think we're trying to avoid it being an interaction between the GNSO and the GAC, because individual interactions with the governments around these topics I think are -- you have asked us to delegate to you, to elect you and to delegate to you the ability to make informed, practical, sustainable gTLD policy. That is what, as I read and I have gone and read the charters of more than my own constituency to see if I understand what your responsibilities are. I think I do.

Here is the problem I see. It is true that our policy development process is not perfect yet. It is true that many activities that are influenced by the policy that you pass, which is high level, turns into implementation details.

I would say as an observer it feels to me and looks to me like some of you feel uncomfortable with what the line is about what gets moved into implementation and what you retain as policy guidance.

I respect that you may be uncomfortable with that, but my suggestion to you is to work very hard to find a short-term solution to this problem, approve the ability of these two entities in the framework of they have unique legal protection. Establish a timeline. Maybe it's three years during which time you do a thorough PDP and you evaluate it.

But you are both managers and leaders, not just subjects of a policy development process. This is in a gray area.

You have the ability to show some flexibility. And you have the ability to do it in a way that sets the stage for you continuing to maintain the leadership with the GAC on policy that shows you can work to solve the tough problems. Because they're not over. This one is not a big one compared to where we're going.

And I, as the chair of a constituency, would prefer not to be negotiating with the GAC as my full constituency on gTLD policy issues.

Don't put me in that position.

Every one of these constituencies, I would say, wants you to have that role. But that means you have got to be effective. And that means you may have to make some compromises to get small steps so you can own the larger responsibility.

So one other thought as a councillor. Under the leadership of a very capable chair, we had the ability to suspend a topic, go on and complete and then resume the meeting at a later time.

It's just a thought.

>>STEPHANE VAN GELDER: One that I've had for the last hour. Yoav was next.

>>YOAV KEREN: Yes, Stephane, I wanted to address what you said earlier about fairness.

I totally agree with what you said that we should be fair to each other and in our practices. But at the same time, I think it is unfair to use a deferral motion to defeat another motion, to defeat that motion.

And this is what is being done here.

So it's clear that there is a timing issue; that if the motion is not voted on today, then it's defeated; and that the people are -- that are asking for the deferral are against it.

They have a very firm view on this. They don't need time to decide.

So these are practices that are being used, and that's -- that's not good.

I have nothing else to say.

And --

>>STEPHANE VAN GELDER: Let me --

>>YOAV KEREN: Yeah, I have a question for you.

>>STEPHANE VAN GELDER: Well, let me answer your first question.

>>YOAV KEREN: Okay.

>>STEPHANE VAN GELDER: That's your opinion.

>>YOAV KEREN: Yeah, that's my own personal opinion.

>>STEPHANE VAN GELDER: And my job is not to deal in opinions. I am not allowed to have an opinion on the issue but I am allowed to have an opinion on the fairness of the process. And I have determined that it's not fair to reject a deferral one time because we don't like it and it's accepted another time.

I would not like it if a motion that was made by my group was deferred and -- sorry.

I would not like it if my group asked for a deferral, and that is with overruled because some other group didn't like it.

That is the only point on which I see my capacity as chair as being able to make a decision in this regard.

And as you have seen, we have, all of us had an extensive chance to have our say.

I will ask at the end of the process if Rafik has changed his mind, so he is prepared for that question.

But I will not -- Because in my own personal -- you know, my own personal opinion is very clear, I don't think it's fair to have double standards. That's all.

>>YOAV KEREN: Okay. So I appreciate that. And my follow-up question was, or maybe a part of it, was there any other case similar to this on the council that you remember, that there was a deferral that actually -- had a the meaning of that was defeating the motion?

>>STEPHANE VAN GELDER: You are asking me?

>>YOAV KEREN: Yes.

>>STEPHANE VAN GELDER: Not as far as I know. I am ready to be corrected if that was the case. I don't have the full history of the council going before Marilyn's birthday.

[Laughter]

>>YOAV KEREN: So, again, just my own opinion, we'll probably need to think about it. We need to maybe think about how we deal with deferrals in the future.

>>STEPHANE VAN GELDER: I absolutely agree. I did ask for that earlier on, and I am asking for all of your help in dealing that.

I don't want to be in this position again. But while I'm being put in that position, I feel comfortable enough to be able to determine a leadership decision, if you will, on this specific issue.

Mary.

>>MARY WONG: Thank you, Chair. And I'd like to make a couple of points of clarification and try and deal with a couple of the questions that have been asked.

I think the first clarification I would like to make, that it is not Rafik's statement, although Rafik read it out on behalf of the stakeholder group. It is the stakeholder group statement.

Secondly, I guess, some of the comments that I have heard remember what Thomas Narten said at the meeting that the Board had with the NCSG. If I like it, it's implementation. If I don't like it, it's policy. And we seem to have veered between the two in this discussion.

There also seems to be an assumption that the ultimate vote from all of the NCSG councillors will be no to this motion, which is predicated on an assumption that the motion will not change at the end of the public comment period. I'm not saying it will; I'm not saying it won't. But we have seen the draft change for the last 48 hours. We have also seen new information come in over the weekend, and a question was asked as to whether the NPOC proposal, why was that not put in earlier.

As a new constituency trying to follow the process, they have a drafting team. I don't think it's a fair question to ask, but the fact is that it was sent in a couple of days ago, and some of the confusion around what that means and the need for clarification I think in itself testifies to the lack of discussion among this community of what that means and we are also trying to second guess what the GAC is saying.

So even more, it seems to strengthen the argument that more time is needed; not to defeat the motion. You don't know how we're going to vote.

And finally, I'd like to try to respond to Chuck's question. The truth is that my group has spent so long discussing the motion, the various options to deal with the motion. If you look at our mailing list, there are some people who feel some of the recommendations are more egregious than others.

We have not had time to consider the actual question of what the public comment period means. Is it 23rd of March or is it 14th of April?

So I have not had the opportunity to consult with the rest of my council members, much less the whole stakeholder group. But I hear, and I think we all hear some of the questions. I have said before that I don't think I have any hope of persuading some of you that it is not a delaying tactic.

But I would like to propose that you allow us the opportunity to go back to our stakeholder group to discuss the timing issue. And it may well be that we would come back and ask the council to waive the 14-day meeting requirement.

Again, I'm not saying we will, but I am asking that indulgence.

>>STEPHANE VAN GELDER: We've had, I think, an hour's discussion on this. I have five people left in the queue.

I am going to ask for a five-minute recess. I would like, first of all, to have the opportunity to discuss with the two vice chairs, and perhaps you would all like to have the opportunity to talk amongst yourselves about this before we come back and finish the queue. I will honor the queue. So Jeff, Jonathan, Carlos, Joy and Bill in the queue.

Five minutes, please.

(Five-minute break)

>>STEPHANE VAN GELDER: I'd like to restart the meeting, please.

Right. So we're back. I have five people in the queue. But NCSG wished to what? Read a statement? Make a -- make a comment that may change the world.

>>MARY WONG: Well, we hope will change at least some part of this little echo chamber world we know as ICANN land. So in the break, the NCSG leadership team, including the policy council, met. And this is in response to Chuck's question and the concern that some of our colleagues have expressed that we are doing this really just to kill the motion because voting on it after the 14th of April would be totally irrelevant. As we've said before, that was not our intent.

So, in the spirit of living up to our intent, which, like I said, was not that but which we documented earlier and in order to move the discussion forward, we think that there would be a sufficient period of public comment simply by looking at the initial public comment period without the reply period,

meaning that we think there's a sufficient period would have elapsed for public comment if the public comment period were taken just to be the 23rd of March as the final closing date. We say this, however, with a request, which I hesitate to place as a condition. But we would really like a commitment from the council and from the drafting team on this. That, between then and the convening of whatever special council meeting and whenever that is, that the drafting team take a look at all the public comments, in particular, the proposals submitted by the NPOC and commit to reviewing the draft motion with a possible view to reediting or revising it as appropriate.

 >>STEPHANE VAN GELDER: Thanks, Mary. I'd like to ask you one more thing. There's a request for us to have an expedited meeting. The bylaws state that we should give 14 days' advance notice. Is that something that you'd be willing to waive?

 >>MARY WONG: 14 days, as Jeff said earlier, would bring us to 28th of March. Are you asking if we'd be amenable to having a meeting before the 28th of March?

 >>STEPHANE VAN GELDER: So the answer is yes?

 >>MARY WONG: I think that the answer would be, if the drafting team believes or whoever would be working on this, that whatever the period is, that it's sufficient for them to have considered all the public comments that were submitted.

 >>STEPHANE VAN GELDER: Okay. Jeff?

 >>JEFF NEUMAN: Thank you for that, Mary. It's, obviously -- I can't speak for the drafting team. I can only speak as one member of the drafting team. And I think, certainly, I will be reviewing all the comments, and I'm assuming that the drafting team will. But we'll have to convene the drafting team to get a commitment back to you. I can't commit during this meeting. But, certainly, I'm sure they have an interest in doing so.

 I just want to make a couple comments.   You know, it's interesting listening to the back and forth and how things are spun. And some of the spin is on some of the decisions I've made as the chair of the drafting team.

 J. Scott was absolutely correct. The drafting team -- most of the members of the drafting team actually didn't feel like a public comment period was necessary. Because our role, really, was just to provide advice to the council as to how we thought the council should respond to the GAC.

 So there were some NCSG members that made very persuasive comments during one of the meetings that said, look, we really need to hear from others on it. And, even if it's an expedited public comment period, and everyone on the drafting team actually agreed that a 12-day public comment period would be sufficient, it turns out, however, that staff on its own decided to -- I shouldn't say on its own, that's not fair. Staff changed the end date of the comment period to be in line with what normally goes on with comment periods. And so that was something we had no control over, even though the drafting team asked for an expedited public comment period. So it would have been done before this meeting had started. So, you know, that's just something I wanted to get on the record.

In addition, I've heard more and more that, look, we need more time because the motion keeps changing. Well, the motion keeps changing because of NCSG requests to change the motion. So I'm almost in a pickle there. There's requests from the NCSG to change the motion, and then they're complaining that there's not enough time to consider the motion. So I think that just needs to be brought out.

Finally, I want to offer support for what Ken Stubbs had said at the mic. He said that, you know, we really need to figure out this whole deferral issue. And I agree with that. So I'd like to make a request to the chair, Stephane, like to make a request to the chair -- hold on. I'll wait. That's okay. I'm going to make a request that this motion on what constitutes a deferral, when it's authorized, what it takes to overturn, I'd like to make a request that that issue go immediately to the SCI group for its consideration. So I'm hoping that the councillors will support that.

I do feel like I need to clear up a couple misconceptions that were generated out of the GAC/GNSO Council meeting on Saturday -- on Sunday? Sunday.

Yes, there were a couple statements from a couple governments on what their personal views were on the IOC and RC recommendations. But it's very, very important for everyone to understand there was a GAC consensus statement in support of the protections for the IOC and the RCRC, and only the IOC and the RCRC. That was reiterated a couple times. Yes, there may be a couple that disagreed with that. But you cannot take the statements of the couple that disagreed to override the consensus. It's just like this council. We may come to a decision as a council, even by a consensus. But there may be one or two individuals that disagree. And no one should take the statements of those one or two individuals as speaking for the council.

And the last point is, at every opportunity, the drafting team was encouraged to go back to their stakeholders groups and get comments. And they did. In fact, the NCSG was probably the best at it, because they took it back to their council. I followed their mailing lists. And there were a ton of comments on it. And, actually, those comments were reflected in the work that the drafting team did. It modified a lot of what we did. And it was extremely valuable. And I congratulate them on their ability to get us comments so quickly. So there were comments submitted. And so just wanted to, basically, clear that up and say that the drafting team, I think, did an excellent job. I would be very happy to have the meeting as expeditiously as possible right after the public comment period ends. And I'd hope that we can answer the GAC's request for a decision. Thanks.

>>STEPHANE VAN GELDER: Thanks, Jeff. Let me just read through the queue again. Jonathan, Carlos, Joy and Bill. I will cut it off there. We've had a lot of discussion on this. Apart from Liz, obviously. I can't cut off Liz. But we've had a lot of discussion on this. And I would like to bring this to a close. Jonathan.

>>JONATHAN ROBINSON: Thank you, Stephane, I'll be as brief and to the point as possible. Due process is clearly vital. We've heard some very good arguments today about process. Having heard them, I'll be clear I'm personally not in favor of a deferral today. I think any arguments that we have heard about due process, whether it's for the public comment or the deferral, are potentially undermined if and when they're made at the same time as arguments against the motion. And that, for me, has been a significant concern. If we do defer, we really must have an expedited meeting as soon as we possibly can. And, in particular, we need to be very mindful of the fact that, even if we

do have that expedited meeting and vote in favor of the motion, it may be that the board may well not have time to act on that. And that's a significant concern that I don't think has come up so far in our discussions.

>>STEPHANE VAN GELDER: Thanks, Jonathan. I will give this item another five minutes. Carlos, if you want to take up all that time, no one else will speak. But I will cut it off there. Carlos.

>>CARLOS DIONISIO AGUIRRE: Thank you, Stephane. I have many considerations. But in order to make -- to do short my comments, I only express one of them. When I was in the law school, my professors teach me the sources of law.

When we -- when we haven't rules to regulate some situation, we need to appeal the custom and the uses.

And, in this particular case, we have no rule because the bylaws and the operating principles not regulate this situation.

So we need to apply the uses, the customs. The customs in the GNSO is to honor the deferral motions. Thank you.

>>STEPHANE VAN GELDER: Thank you, Carlos. Joy.

>>JOY LIDDICOAT: Thank you, Stephane. And I want to thank all the councillors for their spirited contributions. I just need to respond to a couple points that have been made, which I think need to go on the record as being incorrect. The first is in relation to whether Zahid's point about whether concerns were raised about in the drafting team.

Let me be very clear that NCSG members participated in the drafting team in the spirit of cooperation and have raised suggestions constructively and asked for a motion, some of which have been taken on board and some of which have not.

And I want to make it clear -- and I've been on record that I think the first recommendation in the motion is a workable motion. But the motion stands and a single motion and not as a split one.

Secondly, we've also made it clear that recommendation went too far in terms of implementation. And, to add to Jeff's point, the proposal does not keep change because the NCSG kept requesting it to change. It kept changing, because the Red Cross and the IOC couldn't come up with a list of names they wanted protected. And we received 196 languages listed. And, Zahid, you sat on that meeting and said, in my language, this word is not protected under national law. So I just want to be clear that this has been a robust discussion where all participants have had different views. And it's a total mischaracterization to say that NCSG has been disruptive in that process.

I think the third thing is to say that we were -- you know, I don't actually get paid something like $65,000 that you might get, Jeff. That's not even my annual salary. But it would be true to say that we've worked very, very hard to accommodate finding the motion, working with our group, and that we actually received the final motion last night very, very late. I don't think it's unreasonable to request a deferral to the end of the public comment period. I think that, in the spirit of cooperation, it should take place. And we would be willing to accommodate council processes in order for that to happen.

>>STEPHANE VAN GELDER: Thank you. Bill, you have the last word.

>>BILL DRAKE: But I'm unlikely to get applause. That's very unfortunate. I think should stop with Joy. Oh, thank you. Somebody. My mother's here, ah. One of the themes that emerged which happens in these circumstances is this whole kind of notion of, if we don't do this, this shows that the council is fundamentally broken and dysfunctional. And I have to say that, as a narrative, I find that interesting that it gets trotted out in a situation where -- and I don't want to sound like you were playing the victim -- but where we ask for a deferral about something. But, in fact, in my three and a half years on the council, most of the deferrals and most of the disagreement have not been about NCSG at all but rather it's been disagreements between the private sector players here who actually control the process. And so whether it's been the JAS working group or vertical integration or outreach or whatever else, lots of things drag on for long times. Lots of things don't get decided, and it's not because of NCSG.

So, if suddenly the burden of the dysfunction of GNSO falls entirely on NCSG because we've asked to have a deferral of one vote and we've said even that we only want it deferred for part of the time that one could, that strikes me as just a little bit one-sided. And I think we should be a little bit fairer and recognize that all parties here can avail themselves of the same tools and for the same reasons. And it's legitimate.

Secondly, on the question of, if there's going to be a broader assessment of deferrals, I think that would be great. And, if that's the case, I would suggest that it should be retrospective and we should look at all the instances in which parties have used deferrals, including for strategic purposes.

That would be very good. Because I'm sure that we won't come up very much in that story. It will be really interesting to have a look at it.

Finally, the third point on GAC, we're being told all the time now we must do this because of the GAC. We have this new partnership with the GAC. We have to please the GAC.

You know, it has been pointed out that, actually, within the GAC there are several countries that have been lobbied very heavily about this who have pushed this issue. There are other governments that don't care. And then there are other governments who are just confused and don't really know what the thing is.

So, if we're doing this because, you know, of a fear of a uniform GAC disgruntlement with the GNSO, frankly, the GAC has plenty of internal dynamics. And I don't know how uniform that is. And, more importantly, when one thinks of the larger trajectory of GAC GNSO council interaction and all the kinds of views that have been expressed in my time here by people on the council about the difficulty of working with the GAC and how slow they are sometimes, et cetera, et cetera, the notion that somehow now there's this really high standard of performance that's been established by the GAC that we're going to have to suddenly meet, is just really astonishing, quite frankly.

I mean, I just -- I don't know where it possibly could have come from that they are this model of unbelievable organizational efficiency, and we're a bunch of lunatics and idiots if we simply allow the bottom-up democratic process that we tout all the time to actually function and let people have a public comment period to weigh in on a decision. It strikes me as rather odd.

So I don't -- personally, I don't take that GAC argument very seriously. Thank you.

 >>STEPHANE VAN GELDER: Thank you.

Liz, do you have a -- something to add?

 >>LIZ GASSTER: I do. Very quickly. I'm Liz Gasster, senior policy counselor on the ICANN policy staff. I'd like to just make a couple clarifications about what was said about the staff and the duration of the public comment period. I think at no time did staff say that we could conduct a public comment period for 12 days. The decision to post the public comment period for 21 days is not a discretionary decision that staff has. It's something that was set by the board in the Affirmation of Commitments, and I just want to clarify that. Thank you.

 >>STEPHANE VAN GELDER: Thank you, Liz. So let me turn to NCSG and ask if there's any change of mind on your request for a deferral.

 >> No.

 >>STEPHANE VAN GELDER: Thank you. We will honor that request and move to item 7. And this is -- God, I wouldn't like to be giving this report now, Mikey. But good luck to you. On the fake renewal notice drafting team.

 >>MIKEY O'CONNOR: Shall I just do it from the microphone?

 >>ZAHID JAMIL: Stephane, a point of order. There was a question from two or three folks who commented that we should ask for an expedited meeting. And what I understand Wendy said was we would have a meeting on the 23rd. Is that still in play? I don't know what the status of that is.

 >>STEPHANE VAN GELDER: As I said, Zahid, we'll now work on what dates we can fit in a new meeting. I will push those dates to the council list. I requested earlier on if there would be a possibility to waive the 14-day period. So give us a chance to work through that technicality, and we'll get back to you as soon as we can. Thank you. I'm sorry. I'm going to have to rush all the remaining reports. We're obviously way over time. So, Mikey, I may have to put you under some time pressure. I'm sorry.

 >>MIKEY O'CONNOR: No worries, Stephane. I'm Mikey O'Connor. I'm the chair of the drafting team of this thing. And I think I can get it done in under time. I think I have 10 minutes. And it's pretty straightforward.

 You can sort of -- this is a do-it-yourself kit. You can make mentally whatever joke you like about a hard act to follow or blah, blah, blah.

 This was a very small, narrowly cast project. The council requested a -- that a drafting team go out and, essentially, ask the registrars, okay, about this fake renewal notice thing, is it smoke or is there fire?

 And we went out, and we constructed a questionnaire we took it to the registrars. We came back with the answer, yes, there's fire. I'm going to skip a bunch of stuff about the survey.

We kind of exceeded our scope because we were such a frisky team. So we came up with a bunch of ideas. And then, right at the end, we realized that, you know, we were really just chartered to ask the question is there smoke or is there fire. And we probably should have stopped there. But we went ahead and wrote down our suggestions. I'm going to spin through those very quickly.

And then our punchline is there's enough here to go -- to go out to the community. To sort of preview one of our conclusions, we don't think there's enough here for a PDP. We've got other ideas. Let me touch on those really quick, and then I think we're done.

One idea we had is maybe there's just a small section to be added to the RAA that, basically, changes some business practices. Another is to tack it on to another one of the 92,000 IRTP studies that are scheduled to end in 2050.

There's another one to maybe add it on to the PDP on the RAA. Another totally non-controversial process.

We could push it off to the at-large advisory committee and sort of encourage that maybe this is an issue of education and awareness for end users. We thought about taking it out to -- not the federal trace commission -- but the trade commission. That's my typo. Sorry about that. Maybe it is the federal trace commission. Maybe there's just a legal basis here.

Way down at the bottom of the list are our least two favorite ideas. But we didn't make it -- you know, we're not chartered to make recommendations. We're really not even chartered to come up with these ideas. We're not real keen on the idea of a PDP. We think that's sort of a giant baseball bat to hit a mosquito. And, at the same time, this is a real issue. You know. And, in fact, just this conversation, just this agenda item has already generated a pretty interesting conversation on the BC list. Because, of course, the business community does deal with these things in their corporate context all the time. And we flushed out, much thanks to Sarah Deutsch, a really interesting list of documentation that we can add to the pile.

So the only recommendation we have is to take this out to a broader group than this small drafting team. We were really chartered to do a very narrow thing. We did a little bit more than you asked us to.

But we feel like there's enough to go talk to the community about it. How did I do? Short enough?

>>STEPHANE VAN GELDER: That's great. Thank you. Zahid.

>>ZAHID JAMIL: Thank you. First of all, thank you, Mikey. I had a chance to look at it pretty quickly. But I thought it was an excellent report, especially the survey. So thank you for your and the working group's efforts. I think it was excellent.

Also, I just wanted to ask two very quick questions. One: There are situations where losing registrars -- I've been informed this -- that they continue to send renewal notices. So, when I look at the survey, it talks about where are you getting these notices from? And I think it's pretty sort of detailed question to ask, and it might be sort of deep down in the weeds. But losing registrars and sending notices, even though they should know that they've lost the domain and it's been

transferred. So was that considered, and did you come up with any metrics. Number one. Second question --

>>MIKEY O'CONNOR: Because I, too, sat through that conversation, let me answer these one at a time. Or I may not remember it.

Just to clarify, this is really a very narrowly focused problem. There is a very small number of what I'll call bad actors who are sending these out. We weren't really addressing anything along those lines. And I'm sure that the registrars weren't thinking of that when they answered the poll.

>>ZAHID JAMIL: Very quick, second question is did you think about the possible solutions along the lines of, analogous to say, the accreditation proxy services we're discussing in the RAA sort of context, maybe accreditation of resellers, for instance, even if that's possible. So I thought I'd ask whether that was considered or discussed?

>>MIKEY O'CONNOR: Yes. Although, again -- I have to be careful to say we were not tasked to do any of this stuff. So I think I want to leave it sort of at that sketchy set of recommendations and say there was, you know, smoke/fire? Fire. Some things to do. But sort of back to you all for what that should be. Our suggestion would be, before you make a decision, you might want to ask a broader group of people than, basically, six guys that drink beer together a lot on a lot of these working groups. And so -- there you go.

>>STEPHANE VAN GELDER: Thank you very much. Any further questions for Mikey? Yep, Mary.

>>MARY WONG: Just a really minor question. Maybe it's because we're all so hung up on process here, one of the recommendations -- one of them was to add a section on best practices to the amended RAA that comes out. Another was, to the extent we're doing a PDP, to have that addressed in sort of the broader PDP on the RAA, not a separate PDP for this.

My question is whether that's presumed -- that was a presumption -- sorry. I can't even be lucid any more -- was that the council -- sorry, the council had been asked by the board to do an issue report on the RAA. And so I think the assumption, based on those who read our bylaws, was that we will do a PDP. And you're nodding. So I'm assuming that was the assumption that the team made going in.

So, if we don't -- and we -- the reason I ask is because, over the weekend, I think we asked the board rather pointedly, did you really mean for us to do a PDP? And I don't know about everybody else, but I didn't get the sense of a very clear answer of yes. So I guess my second question is --

>>MIKEY O'CONNOR: Wait. We've got the Mikey brain dead rule. That's all. Just in terms of the first question that you asked -- I just got to answer them while I remember them.

The recommendation that we had there was made in the following context. You know, the -- this was probably about a month ago that we were doing all this. The status of that RAA PDP was pretty uncertain. So we sort of said, you know, if there's an opportunity and if it's acceptable to all the folks, this might be a minor item to add to that. But we were not in any way trying to second guess whether or not there would be one of those PDPs.

>>MARY WONG: Thanks, Mikey. I wasn't suggesting -- and I know you and the team wouldn't do that. But just as a clarification before we go forward. Thank you.

>>MIKEY O'CONNOR: You bet.

>>STEPHANE van GELDER: Thanks. Any further questions? Mikey, can I ask you to stay there and do the DSSA. That way we won't have to make you wait.

>>MIKEY O'CONNOR: Oh, thank you very much. Do we -- it's coming. Shall I just hang loose for a minute while it appears? Let me do the background stuff, because I know this pretty well.

>>STEPHANE VAN GELDER: Hang on. Mason has a --

>>MASON COLE: I'm sorry, do you mind if I ask Mikey one more question about the fake renewal notice?

Mikey, did the team -- I haven't had a chance to look at the report thoroughly yet, but did the team go through and evaluate nonregistrars as well in terms of fake renewal notice?

>>MIKEY O'CONNOR: The evidence that we were looking at, which has been supplemented already without even a request by CIRA's stuff which I haven't even looked at yet, all pointed to a reseller of one registrar. That's how narrow this is.

This is not like a broad issue that spread across a number of contracted parties.

The stuff we were looking at is one registrar, and then a bunch of obfuscation as to who they are.

And so -- Does that clarify it for you?

>>MASON COLE: Yep. I bet I can guess which one it is.

>>MIKEY O'CONNOR: Yeah. I can name them but it's not really polite in this context.

>>STEPHANE VAN GELDER: Thanks, John.

>>JOHN BERARD: Mikey, now you have thoroughly confused me. You said you looked to whether there was smoke, fire, you saw fire, but you keep describing this as a very narrow, narrow, narrow thing. What is the reason it was ablaze?

>>MIKEY O'CONNOR: The reason is because there is a lot of it. It's one actor but it's a prolific actor. And they launched these against all domains, all registrars, you name it.

It's one of these things where -- and so our -- in our report, we say, well, our favorite idea is just put a little clause in the contract that says don't misrepresent yourself as the existing registrar, and allow that -- you know, this is one of those Compliance Team doesn't have the tools that they need in order to go nuke the bad guy kind of thing.

And so we were not chartered to come up with that answer, but it sort of fell out of our conversation as this looks pretty obvious to us, as a pretty speedy solution.

And one of the things that came out of that, because it's such a narrow thing, we certainly don't want to do a PDP on this. You know, the whole one-year long issue report, engine, et cetera.

And so we got into that conversation because we were a pretty effective team. And then at the end of that went, wait, we weren't chartered to come up with that. We were just chartered to go out and ask the question.

 >>STEPHANE VAN GELDER: Okay.

 >>MIKEY O'CONNOR: Ready to role?

 >>STEPHANE VAN GELDER: DSSA, as short as the other one, please. Mikey O'Connor as short as the other one.

 I will skip all that kind of stuff. I just want to remind everybody that DSSA, this is a test, stands for DNS Security Stability and Advisory Working Group. It's the cross-constituency working group that was formed about a year ago to take a look at the threats to the DNS in an ICANN context. And one of the things that -- and this is the charter on the wall.

 We have done a bunch of stuff, and I am going to skip through a whole a lot of stuff.

 I will do an advertisement. We are having a meeting tomorrow at 11:00. And so if you are interested in this kind of stuff, if this sort of security, stability, reliability kind of thing is your bag, please come to our meeting. We are going to go through this in a bit more detail and we are also going to dig into some real work on this.

 So I will just flip the slides through here because I do have a question for you.

 I have got a kind of emerging consensus, because I have button holed a lot of you throughout the meeting but I want to put it out for you to think about.

 The three things we have really done since Dakar, and I think much of this is sort of legacy process that is going to be useful for ICANN for years to come, is we have developed at least a first pass at a way to handle confidential information.

 This kind of project puts registrars and registries in a very difficult position unless we can promise that their secret information is not going to make it out into the world. Because we're asking -- we may be asking them to reveal vulnerabilities to their infrastructure.

 So this last chunk is a protocol to handle that. Again, we have lots of documentation.

 The second thing is that we selected a methodology. And I'm not going to beat that to death either in ten minutes. And, you know, we're digging into the analysis.

 So I am skipping a bit, but again, if you all want to hear more about this, you can circle me back to it in the questions.

 We have picked a pretty standard methodology to structure the work and develop a bunch of language, which is really helpful in our conversation.

 Method stuff. I am going to skip that.

 This is the 70,000-foot view or 35,000-meter view of where we're at, and I'm going to preview the choice that I want to put to you.

We are at a fork in the road with this project. We can either go pretty fast and be done, or at least close to done, by Prague, or we can go pretty deep, which will probably take us two or three years. And both of those are quite useful. It's kind of a choice. And I'll circle back to that in a minute.

I want to give you the big conclusions.

What we have evolved our thinking to is that there are really three threat events. A zone, all the way from the root zone, down to a very small ccTLD does not resolve, it's incorrect, or its security is compromised.

The paragraph above it is pretty nuanced so I will just let you read it, but basically it's saying if you live in a zone, no matter how big or small, and your zone goes dark, the impact to you, if you are a registrant or a business that uses that zone, is profound. But the impact on the DNS, which is really our charter, doesn't -- is minimal at that level.

If you have the root go down, the impact on the DNS and the world is profound, and that's what we're focusing on.

So that's just a -- There's many weeks of discussion behind that.

This is just a standard list of the kind of damage that would happen because, realistically, if the root went down, there would be a lot of damage.

This is a preview of what we're going to do. I think we can do this by Prague, but we won't do it real deep. And I commented at the WHOIS RT team, meaning public meeting, a couple of days ago, you know, one really positive way to do this, because this is the first time this kind of analysis has ever been done is maybe what we ought to do is really blast through it fast, get a first cut done by Prague. It will be rough, but we'll at least have tested the whole methodology.

And then we can identify the parts that need to be revisited.

The worry that I have about the deep approach, which is two to three years, is that we might get two years in and discover that the methodology is wrong and that we have wasted two years. So I am going to lobby you that what we are planning to do is go pretty fast, get done by Prague. It's a rough cut, and we'll leave lots of pointers behind that say here are the things that we're thinking we should go deeper on. But we really want to get a first pass through this to sort of beta test it. And I have played that story to the SSAC and the ccNSO and so on. And I'm getting pretty much nods that that's the right approach. But if you are feeling uncomfortable with that approach, I really want to hear about it fairly soon.

I think that's it.

There you go.

Oh, I got done so fast that I lost Stephane.

So I could sing or I could just run the questions.

Anybody got questions?

Mary, go ahead.

>>MARY WONG: Mikey, this is not so much a question but to follow up on your last comment.

I think somehow I was added to the DSSA list as an observer possibly because when the work started I was council vice chair. And this is not my area of expertise, far from it, at all. But I just wanted to let the rest of the council that the group, with Mikey, has done an amazing amount of work. The methodology he described, he doesn't even begin to go into all the -- I can't remember how many alternatives were there? And all the discussions that went in.

So from my perspective, what you're recommending to do, the blast-through by Prague and use it as kind of a test bed, given what the group has done to date, I am very comfortable with that.

>>MIKEY O'CONNOR: Thanks, Mary. I had forgotten that you were on that list. That list doesn't arrival V.I., but it's a pretty intense list, no doubt about that. Thanks for hanging in there.

>>STEPHANE VAN GELDER: Thanks. I have Wendy next.

>>WENDY SELTZER: Thanks, Mikey, and thanks for the thorough description of process as well as substance of what you're working on.

I think your first alternative of doing a quick pass first sounds like a good one, both for your group and one that I would like for us to learn from as we, as council, are thinking about how we can build rapid processes to respond to requests that we get. And so I'm hopeful that your methodologies will be helpful to us in that task.

>>MIKEY O'CONNOR: This methodology is sort of a hammer looking for a nail. I'm not sure it would have helped in the last discussion, but thanks a lot.

>>STEPHANE VAN GELDER: Thanks. I have Alan next.

>>ALAN GREENBERG: Since you're saying you can have something useful in less than three months or we can wait three years and get something which may or may not turn out to be useful, I think it's a no brainer.

>>MIKEY O'CONNOR: Aren't I a great sales guy? Let's see. This is chocolate ice cream and this is getting hit on the head with a hammer. What do you want?

Clearly, the hammer. Go for it. Okay.

>>STEPHANE VAN GELDER: Any further comments?

Mikey, thank you very much.

So in the interest of time, there's ten minutes left in this meeting, and obviously we will have to forfeit a number of the agenda items. I have asked that we go to the next community update or update by a community member. And that is an update by Steve DelBianco and the consumer trust working group. And we will end our meeting there and postpone the other items to a further meeting. Thank you, Steve.

>>STEVE DELBIANCO: Thanks, Stephane. And the urgency of this is that public comment period closes April 17th. There's a reply comment to follow that. But again, this is imperative to get this done this year. And there's a lot of steps in the flow. This is a GNSO chartered working group.

Rosemary is the chair. She is not here today so I am going to walk you through these slides and be done by 6:00.

This all stems from a Board resolution which actually got started with the Affirmation of Commitments. You know that in the affirmation, it calls for a review, 9.3, that will look to the extent at the extent to which the new gTLD introduction has promoted competition, consumer trust and consumer choice.

There's other things that that review has to look at, but like all the rest of the reviews, it will be chartered, put together, it will take a year, year and a half to get its work done.

In the Cartagena meeting, Bruce Tonkin introduced a resolution that passed the Board unanimously, and that resolution called upon the ACs and SOs, including GNSO, to come back and define and set measures and three-year targets for competition, consumer trust, and consumer choice. This is an effort to try to get ICANN to set definitions for things it would later have to measure, to try to come up with metrics for those things and three-year targets. This was an opportunity so that the review team when they begin their work will be able to look back and say did the new gTLD expansion achieve its goals and meet its promises.

The working group then set out with a charter that you guys approved earlier this year, and we were going to prepare draft advice. That's been posted for comment. The draft advice and all the comments that come in are going to be turned back over to GNSO Council, to ccNSO, to ALAC and of course we are going to share them with the GAC in hopes that each of those ACs/SOs would endorse, modify or otherwise push that advice up to the board. That would be the idea there. In gray was an aspiration of our working group which was to try to provide guidance for ICANN so that management would get the advice now through the community, through the Board that management would set up to both measure and monitor and actually try to achieve some of the measures and targets that are put together here. That would be a new concept for ICANN, and we're doing our best to move that ahead.

Finally, let me say that we understand that the chartered working group that you chartered, it can't limit the scope and limit the activities of what the review team eventually does. The review teams are baked into our constitution. When they do what they do a year after the new names are in the root, we hope they'll use this advice and the metrics and the measures here, but we cannot bind them to do that.

So the efforts of it so far. We had consensus on our definitions and targets. We had close consensus but not exact quite on proposed metrics.

Within council, Jonathan Robinson was a big help on the working group, Carlos was on the working group, Wendy as well and John Berard.

As I said, comments are posted, translations are up.

So let me talk to you about the four -- the three definitions and calm of the metrics. Consumer trust was the first one, so we had to define consumer. We said that a consumer are actual and potential consumers and registrants. It's not contract parties, it's not anybody else. It's users and registrants, whether they be professional registrants or casual registrants.

So with that definition in mind we said there are three elements to consumer trust. It's the confidence that registrants and users have in the consistency of name resolutions. It's the degree of confidence among registrants and users that a TLD registry operator is fulfilling the proposed purpose for their TLD. And, finally, that the operators are complying with ICANN policies and applicable national laws.

I will give you an example of a few of the things we came up with for that and there are 40 specific metrics in our advice. Please do take a look at it because each one of them has a source, an indication of how difficult it might be to gather and then report it, as well as a three-year target exactly as the board requested of us.

This is just a bullet list of a few of them to get your attention, but to comment on our metrics and targets you really have to dive into the advice. And the advice is only ten pages long so it's easy to digest.

We looked at uptime. That's no surprise at all to the registries and registrars up there. We have a survey in there not unlike the survey done by the WHOIS Review Team. There's keeping track of both complaints and adverse decisions that come out of URS, UDRP, and the new gTLD space. Looked at law enforcement complaints to invite them to tell us whether they believe violations of national law are occurring. Look at taking down phishing, fraud and complaint instances. And each of those would be measured against what? Measured against priority activity in the prior year? It might be targets based on similar activity in the legacy gTLDs; right? The 20 gTLDs that exist today, we call them legacy, and when you compare at the new gTLD space, you might compare it to the legacy TLDs to see if it's doing better or worse.

I will jump into the definition of the second time which is consumer choice. Again, the definition of consumers doesn't change, but consumer choice has two elements. It's the range of options available to registrants and users for the domain name scripts and languages they can use, and it's choice is defined -- we said that for consumers and registrants, for TLDs they had to have choices as to the proposed purpose and integrity of the domain name registrants.

And the notion there is if a dot bank TLD were proposed in the new round, dot bank might promise that it would restrict registrants to be only chartered financial institutions. Well, that promise would be relied upon by banks that then purchased registrations in that domain. It would also be relied upon by consumers or users. If they got a search or an e-mail they might recognize the dot bank as a higher integrity TLD. That promise has to be kept. We said that in consumer trust, but here the notion is you want to have more and more choices like that. You don't want to just have a domain name space where a registrant like a bank wouldn't be able to choose from alternatives like com where they might live today.

Some of these samples that we came up with under consumer choice. Choice won't be very meaningful if registrants and users can't figure out the proposed purpose of a TLD. So things have to

be accessible and readable and understandable. And we took a look at different registry Web sites to make sure their terms are easy for folks to understand. It's obvious to be able to measure the IDN scripts and languages, and one of the most controversial aspects we have is choosing registrars and registries that are subject to different national law, so that a registrant might choose a very protective of privacy regime versus another one. And finally, we don't think it's an exercise of choice if a registrant jumps into a new TLD and does so for defensive purposes. How do you figure defensive purposes out? Well, that's the million dollar question.

We have taken a stab at it because our charter said we were supposed to, so we have laid out what we think are some metrics and three-year targets for indicators that what we think get at the notion of whether a registration was defensive or was it a choice to get new traffic and new meaning to my domain by entering one of these new TLDs.

Geographic diversity is also a consideration.

Okay, finally, wrap it up, the proposed definition for competition turns away from the users and registrants and instead looks at the supply side. The supply side, registrars, registries, and registry operators.

So we said competition is the quantity. Diversity and potential for rivalry among TLDs, registry operators, and registrars.

So finally the list of metrics in there. We talked about growth, obviously the need to be more TLDs and more gTLDs and suppliers than we have today. And we tried to be bold to suggest a 2X increase in number of TLDs or 10X in the number of gTLDs are goals that we set.

We did say that market share for new entrants in the gTLD space should be 20% by the third year. So the registrations in the new gTLD space, we think one out of five ought to be held by a new entrant. What's a new entrant? A new entrant is a back-end registry operator or a TLD operator who wasn't in the space in 2011.

We also asked for gathering data from staff on pricing but we didn't set any targets for pricing.

Next steps, you probably know about this, but the timeline is somewhat useful. Hopefully we'll finish our work when the comment period ends and get it into your hands so that you and the other three ACSOs can advance it to the board, the board will adopt these metrics and measures and hopefully staff would then begin to track this by January of 2013 when the new TLDs are in the root. The affirmation review would occur in 2014 probably into 2015, and have an opportunity to check on the measures.

That was nine minutes. Stephane, any questions?

>>STEPHANE VAN GELDER: That was fantastic. Can I just ask Zahid for a very quick question, and then perhaps we can take the rest off-line.

>>ZAHID JAMIL: Thank you, Stephane. It was interesting to see about the defensive registration criteria, to see whether that was competition, et cetera, or not. But my question relates to another thing I saw in the slide. It talked about under the heading of consumer choice the proposed purpose and integrity. And I'm thinking this is very useful and interesting. The only trouble I see is that we

currently have a system where an applicant under question number 28 says, well, these are all the commitments I'm giving. Any commitment within the application. But none of that goes into the registry agreement. And I'm thinking how would, then, under this metric of consumer choice, there exists the comfort that consumers are looking for, as you have said, of proposed purpose, integrity, if that representation doesn't go into the registry agreement?

>>STEVE DELBIANCO: Zahid, one of the innovations that Wendy brought to us is that the registries, if they have a proposed promise on integrity or a promise for fighting abuse, they have got to display it on their Web site. If it isn't readable on the Web site, no one will ever see what it is.

So the part of choice here is that they have to be clearly displayed and readable or people won't exercise choice.

As to whether it's enforceable, you are really back on the consumer trust definition. The consumer trust definition looked to the fact as to whether they are complying with the promises they made. And I do understand your point, that some of the promises they made don't make their way to the registry agreement. So ICANN can't enforce them.

And I think I understand that point.

>>STEPHANE VAN GELDER: I am going to cut it off there. I think it's been a long day and I would like to keep on time if possible. Especially I am mindful of the event immediately following and the requirement that some people would want to get their buses.

I want to thank the Council once again and echo some of the words said earlier on about the maturity of our discussions. Even though some people may not be happy with the result, I think there was both cohesiveness, maturity and a great deal of respect and it's a great pleasure for me to serve as chair of a council that's like that.

Thank you all, and I will see you tomorrow for the wrap up.

Thank you very much.

[Applause]