ICANN73 | Virtual Community Forum – GNSO Council Wrap-Up Thursday, March 10, 2022 – 10:30 to 12:00 AST

NATHALIE PEREGRINE:

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With that, I'll hand the floor over to Philippe Fouquart. Please go ahead.

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PHILIPPE FOUQUART:

Thank you, Nathalie. Good morning, good afternoon, good evening, everyone. Welcome to our wrap-up session for this ICANN73 meeting. And as usual, this is meant to be informal, both in terms of wrapping up precisely, and also figuring out the next steps for us in light of the discussions that we've had during this meeting.

So we came up with the four items that you have on the screen here with the leadership and with staff's help. And we'll go through them as we move along. And as usual, we'll take as much time as we need for this.

But I'd like to open the floor and see whether there's any addition to this that people would like to see—things that we could have, should have included in this. Any of you have anything we've missed?

Okay, seeing no hands then we'll move on with the first item, Point 2, on your screen. Thank you, Thomas. It's good to see that people are listening.

And the first item is really following up with the discussions that we've had with the Board, the GAC, and ALAC to some extent on the various threads that we've undertaken on specific items such as the SSAD ODA, the ongoing ODP, and I believe the dialogue that we had yesterday with GDS—all those, let's say, post PDP work that we've undertaken.

And there is a sense, at least within leadership, and that's the discussion that there may be value in sort of stepping back from those and while still pursuing those various threads, maybe there's value in stepping back and considering whether there's sort of a higher-level

initiative that we might take in terms of PDP improvements, for example, and how we can capitalize on the experience of those three or four different tracks.

So there's a reference to PDP 4.0 here. We're not quite sure that we'd go as far as that, but just to open the discussion on this. So here's the context. So maybe I'd like to ...

Thank you, Marika. I was about to turn to you, in fact, to sort of frame, more robustly, what I've just said. Marika.

MARIKA KONINGS:

Thanks, Philippe. Hi, everyone. Yeah, so this topic is indeed something that we from the staff side have observed as well, that there are a number of conversations going on that kind of point to, specifically, indeed this area of after the GNSO Council has adopted recommendations, what happens next. We're talking to the Board about improving the engagement and potentially introducing some of the predictability and then transparency of the steps that happen then.

I've had conversations with GDS, including yesterday about potentially looking at more the implementation cycle and what might be done better in that context. We, of course, had the paper on modifying consensus policies where, again, another number of areas are identified where clarifications or changes may be beneficial. Of course, on the project list we still have sitting as well as a review of the policy and implementation recommendations, including the IRT guidelines.

So it seems that are a number of threads that kind of point to the need or desire to look at some of those areas—similar to what was done in the context of a PDP 3.0—and look at, are there any areas that are right for improvement, whether that's incremental improvements where small tweaks could be made or potentially bigger reviews that may need to take place.

I don't think we're there yet. And of course, that could potentially be a significant undertaking, but what, from the staff side, we thought might be helpful is ... And of course, if that would be welcomed by Council, if from the staff side we would pull some of those different threads together in one place in the form of a discussion paper or a background paper so that at least, as well, the bigger scope of all those different conversations is provided and also clear for those different conversations happening. And that there's a bigger picture that needs to be taken into account.

Just for the record as well, we actually didn't coin this PDP 3.1 or PDP 4.0. I think it was actually mentioned in one of the sessions and someone suggested that that might be the next step. [As said] that might be ... And I think Flip already said that as well. That might be too early to really label it like that. But as said, there are different conversations that are currently happening that are looking at potential areas for improvement. And again, if it's helpful I think staff would be happy to assist with trying to bring that together in one form.

And just to note as well, and for those of you that have been longer around, you may remember as well, actually, that policy and

implementation as well as PDP 3.0, both of those initiatives we're also preceded by the staff paper in which we try to again bring together those different areas and highlight specific areas in which further improvements could be considered, following which they would, of course, be taken on by the community as deemed appropriate.

So that was at least the staff's thinking, and I'm hoping that's helpful to share that perspective.

PHILIPPE FOUQUART:

It is, thanks. Thanks, Marika. As you said and as I said, it's early days but it's certainly worthwhile asking if only to sort of ...

I mean, as I said, we have parallel tracks to sort of step back and capitalism if not formalize the various discussions that we're having on those separate tracks. And there might be some value even for those who do not follow Council on a day-to-day basis as those around the virtual table here would. Such a paper might be useful.

I see Jeff. You have your hand up.

JEFF NEUMAN:

Yeah, thanks. So as someone who was deeply involved, as Marika knows, and PDP 2.0 and other things even before that, I think that we should just try new things before we even talk about formalizing anything and see what works. If we have the ability to be flexible, then this is the time that we try those things and we don't formalize it.

I was going through ... One of the things that I'm going to recommend for the next subject is that perhaps we do the first GNSO guidance process because that seems like it might be the only thing that's sort of applicable. And I'll hat-tip to Anne Aikman-Scalese who mentioned it.

But I was reading through it, and it's so prescriptive on every little detail that has to be done. Things that I just don't think would be necessary. You have to get constituency statements, and you have to do all of this stuff. And it makes everything so long.

So I'm going to urge us to be sort of flexible, try new things, see what works. And if we think we have to at that point, then we can document some of those. But to take a lot of time now to come up with a new process and make it so formal before we've tried new things to me just doesn't seem worthwhile at this point. But that's personal opinion. Thanks.

PHILIPPE FOUQUART:

Thank you, Jeff. And taken as such. But that's certainly welcome. I think the purpose here isn't ... There's some proportionality. I'm not sure that's the right word for this, but both in terms of timeline and in terms of how heavy-handed those changes might be, you're right that we don't want to be ...

And I haven't looked at this GNSO guidance process, I have to say, to make sure that is flexible enough. As you said in the chat, dialogue is not prohibited—quite the contrary—by the PDP. But again, it might help us to sort of approach the various threads even if, in the short term, that

doesn't lead to change in the PDP. And as long as we have the bandwidth, then I think that's also one of the questions. It could be a worthwhile exercise here.

Marika.

MARIKA KONINGS:

Thanks, Philippe. Just on the GGP, as there are also some questions in the chat about that. And definitely not opining on whether or not that needs to be used for SubPro, but just to provide some context on that.

And that was developed as part of the policy implementation recommendations. I think after, basically, the last round of new gTLDs gTLDs where many felt that some of the ad hoc processes that were being used didn't create the kind of accountability and transparency around what they expected from ICANN processes. And that was one of the reasons why the process wasn't introduced.

And Jeff is correct. It has a lot of similarities and requirements that are similar to the PDP. But if my recollection is correct, that was partly to avoid that people would try to cut corners and say, "Oh, we're going to take this other process because it makes it a lot easier and we don't have to go through those accountability steps that are part of the PDP model that creates that accountability and transparency around how decisions are made." And that's kind of the background to do why the GGP was introduced.

But as said, I have no opinion whether or not that's also appropriate for the SubPro work, as Jeff noted as well. At the same time, of course, the

PDP provides a lot of flexibility on doing additional things or doing things in other ways. So again, I think there's an opportunity here for the Council to look at what is the best fit for the work that it has ahead of itself to see what is needed.

And one last point as well. As part of PDP 3.0, that really looked as well at incremental changes. I don't think any updates were made to the PDP manual or the procedures itself. I think it's very much focused on more of the guidance tools such as the charter documents and those kinds of aspects of the work.

And also, I think, a number of areas where indeed this kind of trial and error—let's try it out and if at some point it really comes down to practice, then we may incorporate it into the formal procedures. But if it doesn't work, that's discarded and try something else.

PHILIPPE FOUQUART:

Thanks, Marika. I would just note that there [was input] from Councilors in the chat. Feel free to raise your hand if you'd like to intervene on next. Tomslin, you're next.

TOMSLIN SAMME-NLAR:

Thanks, Philippe. I think and I note that most of the improvement suggestions that at least I have seen so far have been external towards the Council, whether it's the Board one or the modifying consensus policy one. So if the policy paper Marika suggests is going to help define the problem statement in terms of what we need, or what we think we need, to improve from a Council perspective—not the least, to at least

make the councilors understand better how all of these bits and pieces fit together better—then there is value in that paper. That was my thinking. Thanks.

PHILIPPE FOUQUART:

Thank you, Tomslin. And yes, somehow [you address] the question of timing. I think those were external [inaudible], you called them. And there's probably also a question of when we could [frame] that, possibly approach those various threads first. And then there, what we talk about here [in mind] as we move along, and then possibly out what those improvements might be.

And as I said, the purpose here is not to add extra work if indeed they, at that point, fit the purpose for all those [inaudible] that we've got. But yes, we want to do this at the right time, I think. That's what I'm hearing.

Anyone else? [inaudible]. Again, I don't want to put anyone in the chat, but some inputs from councilors in the chat. So feel free to raise your hand.

Okay. Seeing no hand, then we'll move on to the next topic, the conclusion being that we'll then approach those ...

We'll start with, as we call them, the threads that we've got at this point. And as we move along, try and identify those elements that might be incorporated in the PDP improvements later on. And maybe initiate ...

I'll ask staff to initiate a paper on this. But we'll make sure, given the inputs here, that it's timely and that it does not add any extra work for

us so that we can focus on the ongoing threads. So with this, I think we can move on to ... Any final comment on Point 2?

Okay, let's move on to #3, Additional SubPro work. So just to recap that you're all familiar with that. So there are, on this as well, two separate tracks, potentially. Although they might be somewhat related.

Yes. Thank you, Paul. I'll try and speak up [inaudible].

And the first is the feedback that we need to provide our liaison with. And that's the question set #2, I think it was called. And the text that we discussed yesterday, please have a look at the Google Doc. I think Jeff made some adjustments to that text, given the comments that were made yesterday. So that's the first item. And then maybe we'll take this one first and then move on to the second question of closed generic later on.

So on this, Jeff, you ... There might have been changing since yesterday, so would you just update us with that [inaudible] feedback to the ODP Team?

JEFF NEUMAN:

Yeah, sure. Thanks. I don't think I really changed it since when I read it last. I did put a comment in that I needed to put in the language that Kurt had said, and then realized I didn't write it down as word-for-word. So either I'll have to listen to it again or if Kurt can just go into the document. I'd love it if you can do that. It would be much easier because I think it was just changing a couple words around the phrase, despite the Board not having improved the recommendations.

And I highlighted that text, so if you could just do that. Of course, that's why I asked you in front of everyone, Kurt, because then you would do it. Thanks.

So, yes, I think ... On that, I think we're good. I don't think there's anything else. Just review that language and make sure you're okay with it.

PHILIPPE FOUQUART:

Thank you, Jeff. Yeah, I think I saw the [word comment] in the Google Document, [and that's what] I thought. But that was done online during the meeting then. So indeed, please have a look.

Could we have the pointer, the URL in the chat again? Just for people to bookmark that and have a look between now and, I think we said the end of next week since they hadn't had, as we said yesterday, the opportunity to look at the checks in the first place. Well, or they might not have. So I think we can have a deadline of end of next week, Jeff to go back to the ODP Team if that's okay.

JEFF NEUMAN:

Yeah, that's fine. I mean that that text was just put in there. It was what I was going to say, and I just ... I wrote it out for myself and then just put it in there. I thought it was okay. So, yeah, it may be a little informal if someone wants to make it more formal. I think it's okay, but happy to change anything.

PHILIPPE FOUQUART:

Sure, thank you. Thanks, Jeff. So if we could have that point sent to ...

And probably better to be sent to the list for the people to have a look at the text.

JEFF NEUMAN:

Yep. And then before closed generics, do we want to ... Because closed generics, I think, is different than some of the other issues because that was a specific Board request for a small group. It may amount to the same process, but ... Do you know what? Actually, maybe let's talk about that one first. That might make more sense. And then we can go on to the others.

PHILIPPE FOUQUART:

Yeah, let's try and kickstart that, although it's probably a bit early. There's nothing ... We talked about the letter yesterday, on with the Board. We're waiting for the framing document from staff. I don't think we've received that as of yet, unless I missed it. So we heard, I don't know, maybe Justine can repeat this. There's no record here, but we understood that there's probably a desire from other ACs—other than the GAC, I mean—to be somewhat involved in the exercise. That was your comment yesterday. But that's all we have at the moment. We're waiting for the for the paper.

Thank you, Mary. So it hasn't it hasn't been sent yet. And it may be a question for you, Mary, or anyone from staff [to timing]. Are we talking about the end of this week? A couple of weeks? What are we looking into? Yes, of the delivery of the paper.

MARY WONG:

Thanks, Philippe. Hi, everybody. Just figured it's faster and easier to just speak up. So the paper is in the works. We are finalizing it and, obviously, based on the Board's letter we hope to have it to you and the GAC as soon as possible. I don't have a specific time frame, but we are hopeful that it should be within a week or so.

PHILIPPE FOUQUART:

Okay. Thank you, Mary. So we're looking for the end of next week, probably. Jeff.

JEFF NEUMAN:

Thanks. And that's great. I think one of the recommendations of Work Stream 2 is to have timelines put on. And so I'm glad, Mary, you needed that with the actual timeline as opposed to "as soon as possible."

I think I said it during another call earlier, maybe it was even during the pre-ICANN week. We hear in the community a lot "as soon as possible" as it's gotten to the point where it doesn't mean anything anymore because in business when we say "as soon as possible" to a client, that means like today, tomorrow, potentially the day after. When we hear it in ICANN, it just means that we'll get to it when we get to it.

So thank you, Mary, for giving the timeline. I would strongly urge that it's not just us that have timelines, but I think I would love for staff to have more concrete timelines as well. And if there are dependencies, let us know. So, thank you.

PHILIPPE FOUQUART: That

Thank you, Jeff. Steve, you're next.

STEVE CHAN:

Thanks, Philippe. This is Steve from staff. I'm glad to say that, in this case, "as soon as possible" doesn't mean actually, in fact, quite soon. So thanks for confirming that, Mary.

The part that I just wanted to cover—and I think Jeff sort of hinted at this already—is that it probably is helpful to keep the additional SubPro work that might be undertaken separate from the closed generics topic, at least for now. So towards that additional SubPro work, I'm curious if the Council thinks that something specific should be done.

So the Draft Response that is in the Google Document that Jeff prepared hints at the additional work. And so the logical next step is if that work is to be undertaken, does that mean, for instance, specifically that we actually start working on the GNSO Guidance Process Request Form, for instance? So I'm, I guess, seeking a little bit of additional clarity on potential next steps for Item 3, if we want to actually start putting pen to paper on this one. Thanks.

PHILIPPE FOUQUART:

Thank you, Steve. I'll jump to Jeff, with Justine's patience/indulgence on this. So I guess it's a follow-up. Jeff.

JEFF NEUMAN:

Yeah, thanks. And thanks, Steve. And I agree on the closed generics being different at this point since we don't have the framing paper. But for the other work I was suggesting, I would suggest, for Council consideration, use of the Guidance Process which requires, I guess, the development of a scoping paper. I think that's the term that's used for that. And I know Marika is much more familiar with it than I am, so please correct me. I think it's called a scoping document—with the applicant support.

We can start with that issue unless we want to add other ones to it. But again, I think it should follow the principles in that statement we have in there which would include the involvement of the community which includes the other advisory committees. So it should include ALAC and GAC if they want to participate.

I'm not on the Council, but I'm happy to ... Oh, I'm an observer. I'm happy to help with that scoping paper if that's something you think is a is okay.

PHILIPPE FOUQUART:

Thanks, Jeff. What I would suggest is that on this particular point and the use of the GNSO Guidance Process—and to Paul's observation, also, the chat. If you would post the proposal, the approach on the list and what it may entail—it's true that we haven't discussed it in great detail at this point—just for people to understand clearly what we're talking about here and potentially go back to their duties of the guidance. That's slightly separate from ... Well, that's not separate from the

question set, but that's something that has a life of its own, let's say. So if you ... Would you mind doing that, Jeff?

JEFF NEUMAN:

Yeah. So I'll propose text for resolution, I should say. I can't propose the resolution. But as Marika says, there is a threshold, I guess. So even before the scoping paper, you have to vote to initiate it. So I'll find out if someone knows the document deadline. I will certainly send text, and hopefully someone will make that motion. Thanks.

PHILIPPE FOUQUART:

Thank you. Thanks, Jeff. That sounds good. So with this, I think we can go back to you, Justine. Thanks for waiting.

JUSTINE CHEW:

No worries. Thank you, Philippe. You mentioned that I said something at the bilateral between GNSO Council and ALAC yesterday. So I just want to repeat it for the record here. I hear what Council members are talking about in terms of keeping closed generics separate. I am also wanting to be respectful of how GNSO Council wants to approach the issue.

But I just want to repeat what I said yesterday, which is for Council to consider involving also the ALAC in the GNSO-GAC dialogue on closed generics. And the reason for that is that I think it's an issue which should be more inclusive of other parts of the community. And of course, I have to speak for ALAC in particular.

Also, we have ... The ALAC position is very similar, not close to the GAC position. So I don't think there's going to be additional conflict if ALAC were to be involved in that conversation. And I understand that Council may want to have a look at the framing paper that staff is coming up with, but it seems to me that if we're going to be looking at doing additional SubPro work, then I actually am a bit curious as to why we need to carve out those generics from that process. Thank you for your indulgence.

PHILIPPE FOUQUART:

Thank you, Justine. So I guess you were talking—just correct me if I'm wrong—in terms of involvement the from ALAC, you're talking about the issue of the ask from the Board and the issue of closed generics, not what we were talking about on the applicant guidance support and the use of the GNSO Guidance Process and the framework that will be shared to Council within the next few days by Jeff. That's my understanding, and your point is well taken. Thank you, Justine.

Jeff, to this point?

JEFF NEUMAN:

Yeah. At least in my mind, why I think it should be separate is that the scope of the applicant support work will be limited to carrying out the recommendations that are actually within the SubPro report. So the SubPro report has a set of questions, and at least in my mind the scoping document would have, as its scope, those questions that are set forth in the SubPro Final Report.

But closed generics SubPro didn't actually make a recommendation, so I think it's probably better to keep those closed generics as a separate work item than the other topics which we can easily point to the SubPro final report and say, "Okay, SubPro asked that these questions be addressed, so let's address them." And a closed generics is completely separate because it's not guided by what SubPro said. I hope that makes sense.

PHILIPPE FOUQUART:

Thank you, Jeff. I think it does, and that's why I was sort of trying to rephrase what just said, Justine. I think you referred to the dialogue or to pull it from the letter from the Board, not on the scoping paper and the use of that GNSO Guidance Process framework. And to use your words, Jeff, to [inaudible] as nonrelated as we can.

Steve, you're next.

STEVE CHAN:

Thanks, Philippe. Just to add an additional point for why it might make sense to keep the two streams of work separate—I guess potential streams of work is a better way to put it at this point. While not being prescriptive, the letter from the Board suggested that the process for closed generics is sort of two separate elements.

So the first, the suggested interaction between the GAC and the GNSO, and potentially the ALAC now, is about trying to agree on a framework. And then if it's possible to gain traction on that framework, then a subsequent step would be then to have that actually be turned into

policy by the GNSO which is, I think, a separate remit than providing additional guidance and clarity to existing recommendations that are contained in a SubPro report.

So hopefully that helps. Thanks.

PHILIPPE FOUQUART:

It does, thanks. Thanks, Steve. Another argument for keeping those both separate.

I'm reading that you have some difficulty hearing me. Is that still the case? If you would just let me know in the chat, that would be great.

Stephanie, you're next.

STEPHANIE PERRIN:

Thank you. I apologize if I'm being stupid this morning. Not enough coffee, I guess. But I'm not really understanding why we need this process. Why the GNSO Council is not drafting this framing document or scoping document. And why it's sort of parachuting in from outside. And that's really not a procedural question, I guess. It's more, why aren't we doing it? Why is this coming from the Board? Why is the staff writing it without input from us? Those sorts of questions. Thanks.

PHILIPPE FOUQUART:

Thanks, Stephanie. I'll let others share their views. I'll just give you mine for what it's worth. Well first, it's the ask from the Board, and it would seem to me that there were elements that they considered that would

be better approached by staff other than being explicit in the letter. That's just my reading.

And the fact that I think one of the informal reactions that they received when that idea was floated around was that there should be a robust scope and additional elements to, as I'll put it, to the equation to make sure that the discussions of the working group are not relitigated. Hence the need for a framing paper of sorts.

Now whether that ... How should I put it? Asking this from Org rather than asking us to define that framework, then I guess we would have to ask the Board for that reason. But that's just my individual perspective on this.

Stephanie, you still have your hand up. Is that a follow-up?

STEPHANIE PERRIN:

Yes, and thank you. Thank you for that explanation, Philippe. If I may, I think this touches on an issue where we were discussing PDP frailties earlier. The biggest frailty that I can see in the entire process is that when people are unhappy, all they really can do is put in dissenting reports at the end of the process. And our process for disposing of those objections is not really very thorough.

We don't document our reasons. As opposed to, in some governments when you receive comments on a legislative procedure, you actually have to cite reasons, and chapter and verse as to why you are not listening to such and such. And you have to refer back to how many times it was debated. That sort of thing.

So isn't this just another example of that? If we wonder why things are never finished, if we have to open up the argument in another forum every time, no wonder. I do understand that the closed generics were parked, but that doesn't make it a priority right now. Does it? But it does, of course, if someone can go to the Board and get them to do something.

Well if they weren't parked, what were they, Jeff? I don't know. They were not dealt with.

JEFF NEUMAN:

They were dealt with. We just couldn't get consensus. That's difference. Sorry, Philippe. I just thought I'd respond—

PHILIPPE FOUQUART:

No, that's [all right]. If you want to elaborate, that's fine, too. That's the purpose of this informal wrap-up. So please [do].

JEFF NEUMAN:

Yeah, thanks. Stephanie, they were very much dealt with. There were, God knows how many hours of discussion time on the subject. And at the end of the day, no particular proposal got consensus. And there was a disagreement as to what constituted the status quo. But I'm not sure ...

Hopefully, Stephanie, you've read the Board letter. The Board sets forth what the status quo is in terms of what the Board resolution from 2013

or—sorry—2015? 2013? I can't remember. I'm sorry. Whenever that was. The Board, just in this letter, did set forth its status quo.

The Board wants to start working on issues to see if it can get to try again with a different frame of reference, to see if there can be agreement since there was no agreement on any solution. And if we can't, we can't.

The other topics, though—just to be very clear because it was mentioned a couple days ago—the other issues were definitely not parked at all.

They were, "Hey, this is the policy recommendations we have, but we know additional work needs to be done, specifically with applicant support." It's, "We're not experts in designing applicant support programs, so here's the framework. And please have this work done later." So I just want to make sure that SubPro ...

I know, Stephanie, you may be referring to other EPDPs or PDPs, but SubPro, I can assure you, did not park any of these issues. Thanks.

PHILIPPE FOUQUART:

Thank you, Jeff. And I think the follow-up of this discussion will need to happen when we convene the group. We'll have to take that paper on board.

But as you rightly observe, Kurt, I think there's another [element] to this there. We pointed that out in those informal discussions of relitigating

some of the debates, and that's typically ... We'd would like to make sure that there's a chance of convergence to something in that effort.

I noted, Stephanie, you wanted to have a quick follow-up before I go Tomslin. So I know you [inaudible] in the queue, but I'll leave it to you. Stephanie.

STEPHANIE PERRIN:

Thanks. I'm not saying for one moment that the original PDP did not debate the issue exhaustively. It just didn't resolve it one way or the other. And my definition of parking is that it was left there without a resolution, i.e., parked.

Now Jeff says he defines parking an issue as not addressing it. Well, that's an alternative definition, but excuse me for using the wrong word. You left it unresolved and now it's a question of somebody wanting to relitigate it. Let's put it that way. Thank you.

PHILIPPE FOUQUART:

Thanks, Stephanie. Tomslin, you're next.

TOMSLIN SAMME-NLAR:

Thanks, Philippe. I just have a comment and a question. The comment I have is that we just have to be careful that this request ... And I know that we're yet to see the details of the framing document, but we have to be careful that this doesn't bypass policy development—this conversation or this engagement we're going to have with the GAC because the GAC is advisory not policy development.

But the question I had was ... It's a procedural one. Do we have any idea how we're going to, once we get the framing paper, how we're going to approach it—whether it's to review it, how we're going to review it, and next steps; whether we're going to accept or not the proposal from the Board?

So that's the other question I had because I don't have clarity on that. Thanks.

PHILIPPE FOUQUART:

Thank you, Tomslin. From a purely procedural perspective, I would expect the framing paper to offer various options to approach the question in all cases. And should this involve policy work of some sort, then it will be up to Council to decide whichever option we choose. But hopefully I'm right. I haven't read the paper, but I would expect the framing paper to elaborate on the various options. And maybe Mary can talk to that in a moment. Hopefully, I'm right.

Paul, you're next. But that's a good question by the way, obviously, Tomslin.

PAUL MCGRADY:

Yes. Thanks, Philippe. Hi. Hopefully, everybody can hear me okay. Tomlin's question really is the better one. Right? Instead of looking backwards. And those perhaps who don't like the status quo set forth in the Board's letter and don't like the GAC advice, or whatever—relitigating those issues—the better question is, what do we do next when we get the Staff Paper?

And I think we don't necessarily have to decide that today because I can think of various scenarios in terms of how to wrap up what little difference there is between the GNSO policy position and the GAC advice on this. But I think Tomslin asking the question, that's the right question. So I think that's what we should do. Put on our thinking caps while we wait for that staff letter. And then once we have that, then make the decision about next steps to wrap up the work on this.

And then just to defend staff's honor, somewhat. I know there are folks that are questioning why staff's writing this paper. Why isn't the GNSO Council writing it? Is it staff-made policy? Well, I suspect the reason why staff's been asked to do this is because this not just a GNSO issue at this point because there is this GAC advice out there. Right?

And so us writing the paper really wouldn't be appropriate. It seems to me that staff writing the paper is appropriate. And staff can write whatever it wants, and not everybody has to agree with what staff says. But I think it's in the right spot. And our spot really is, "Okay, once we get that, how do we take this forward?"

So anyway, I hope it's okay if I defended staff's honor. Thanks.

PHILIPPE FOUQUART:

Thanks, Paul. And yes, I will agree. And just as Tomslin said, that's the main question put to us. No so much as to how the substance of this will be approached. But more from a procedural standpoint, for the Council to decide how that its addressed. But hopefully I'm right.

Maybe our reading of this is incorrect, but I would hope that that paper would certainly not decide on the option that is the most appropriate there, but at least shed some light on the various options on the table, procedure wise. That's what I mean.

I hope my English is good enough. Maybe it's not at this time of the day. But I'm talking about the various procedural options that are on the table for us to address the question from the Board. Not the substance [but the] procedural part of the [this].

Mary, to this? Maybe you can help. Maybe you have some elements of the paper with you, whether that's something that we can expect or whether that's something that we should not anticipate and take it our end of things. Mary.

MARY WONG:

Thank you, Philippe. And thank you Tomslin, Jeff, Paul, and others for essentially clarifying for the Council and probably saying a lot of what I was going to say on behalf of the staff. But I do think it's probably important in view of the audience that we have, including non-Council members, to make it very clear that the framing paper will not be a policy proposal or a set of policy solutions, as you've said, Philippe. It is nearly, as the Board says in its letter, a proposal for how to move forward with the dialogue. What that scope might look like, what the methodology you and the GAC might choose to adopt to pursue the dialogue to facilitate an agreed framework at the end of it.

And as Jeff said, please refer to the Board letter because the Board is also very clear that its role in this dialogue is facilitative. And it is up to the GNSO and the GAC to decide if, indeed, you believe a dialogue of any nature with any methodology is going to be a productive way to move forward on an issue where the Board is clear that it is for the community to solve and not necessarily for the Board to take action at this point unilaterally.

And secondly, as Paul has said, in view of the fact that there is standing GAC advice on this particular topic and, as Jeff has said, that the SubPro PDP did not make a specific policy recommendation. So ultimately, it is not for closing. In fact, it does presuppose that if there is a dialogue, if the dialogue does result in a sense of agreement as to what next steps might look like, those next steps will have to go through the appropriate GNSO policy process.

So I hope that's clear, Philippe. Thank you.

PHILIPPE FOUQUART:

Thank you, Mary. Yes, I think it's as clear as it can be for those of us who haven't read the paper. And as you said, it's the working method that we would be looking at in the paper, and the use of the procedural tools that we have at our disposal in our [apparatus], as it were, and not the substance, not the policy in and of itself. So thanks for that, Mary.

Kurt, you're next.

KURT PRITZ:

Hi. Yeah, my comment's kind of stale. But in answer to Stephanie's original question, I think, I've been trying to think, myself—and I'm sure we all have—about how to tailor the conversation with the GAC, or the meeting meetings with the GAC, to get to a solution in a reasonable amount of time. And it's really hard for me to do that.

So I think asking staff to take a stab at it is a good shortcut to provide us ideas. So I hope that if we don't like the suggestions of the staff, we have the intestinal fortitude to say, "No, we don't want to do it that way." And frankly, it's always hard to put guardrails on these things when we get a bunch of people in a room and they want to talk about something else. We talk about something else.

So we also have to somehow put a group to work on this that has the discipline to not exceed any framework or scoping that we provide. We're already talking about expanding the participation of this group, and I think the Board intended it to be narrowly tailored. So that's going to be a time adder, probably.

I think those two things. But when I heard about the staff providing a framework, I said, "Oh, good. Maybe somebody has some ideas." So that's my comment.

PHILIPPE FOUQUART:

Thanks, Kurt. And just further to what you just said. Yes, I think that when we get that and when we try and come up with a working method, as Mary said, I hope that everyone will bear in mind the likelihood of convergence, if any. We certainly don't want to spend the time and

energy that was spent in the working group to [inaudible] the same causes leading to the same results, get to waste people's time.

So as you said, there should be an understanding that people who take part should remain within those guardrails. And hopefully we will have that. Thanks, Kurt.

You still have your hand up. Is it a follow-up or an old hand? Thank you. Thanks, Kurt.

Anything else on this? Okay. No hands? Thank you. So we'll take that on board, and we're looking forward to that framing paper. But I'm sure the discussion we've just had is also helpful for staff to understand the expectation from Council and how we understand the approach that we're taking here and what we may expect from the paper.

With this, I think we can move on to the next item. That's #4 on the screen. And it's essentially a follow-up from the AOB item that we had very quickly yesterday, suggested by Flip. And I believe we have maybe a couple of slides just to illustrate what you mean. I think that was quite clear yesterday. But the floor is yours, Flip

FLIP PETILLION:

Thank you very much, Philippe. I didn't ask, but I very much appreciate that you've put this on the wrap-up agenda for today. I would like to share my screen for a second.

I don't know if anybody knows this, but this is my hometown. Actually, this was my hometown, and this is how it looked like somewhere during

the first World War. I'm sharing this just to show you why we got into this situation. It's actually because of neutrality. My country didn't take any position in international conflicts. And actually, I think it hadn't been in an international conflict for 99 years after we had been fighting against our northern neighbors who are our friends now.

And this is another picture, a couple of weeks later. That actually stops the sharing of this picture. I think I've given the message that I wanted to give.

We were in a neutrality situation. We were helpless. We were not prepared. And I do not want ICANN to be unprepared. I don't want ICANN to be helpless in a situation where, actually, there is a possibility of cyberattacks, cyber warfare, wherever it comes from. And even if it occurs now or if it may occur in the future.

So that is the reason why I think that, although I very much appreciate the reaction to the Excellency, the Deputy Prime Minister of Ukraine by the CEO of ICANN, I think there is more to say about this situation. There's more to say than the need for assuring access, the need for neutrality.

I think it is in ICANN's bylaws and ICANN has to assure accessibility, openness, security and stability, and also transparency. I think the reason why I raised this ... And by the way, this is my own initiative. I am actually taking advantage of the fact that I'm a member of the Council. But this is not an initiative that I have been able to discuss with IPC. But it is an initiative that I would very much strongly advise every councilor

to discuss with the group or constituency that she or he is representing at Council.

And the question is, should we not all go back and discuss and come back to this Council and propose that we proceed to an assessment, an evaluation of the situation? What is the possible impact on the DNS by some cyberattacks, by some cyber warfare? Whatever you call it. Let's call it elicit or illegal or non-authorized activities.

So first, an assessment. And second, if there were indeed actions to be taken, should we then not think of discussing, in all openness, a policy so that we know how this kind of behavior should actually be addressed at the level of ICANN Org; and also have the minimum of transparency that we all deserve.

And I would very much applaud actions or initiatives that the organization would already have undertaken so far, but then I would expect them to report to at least Council or to the community as a whole, frankly, because it's part of the transparency obligation. I think we all really deserve that, and I think I can stop there. I think my message is clear. And of course, I'm open to any questions that people would like to ask. But, you know, I'm a lawyer. I'm not a technician. I don't know the answers from a technical point of view, but I see the problem. And that's what I wanted to share with everybody. Thank you.

PHILIPPE FOUQUART:

Thank you, Flip. And just a couple of initial, which I should have made before we started the discussion. Obviously, your observation is—and

you mentioned it—that's a personal, individual sort of question put to Council. This hasn't been discussed with the SG/Cs. And that's somehow the purpose of raising it, this, here.

And I think if people wonder what we do, I think it would have been surprising that we do not, given the nature of the topic. But nonetheless, that remains an individual question for you, not IPC.

The other comment ... But I think it was clear in your e-mail that it is on the question you're asking. It's not so much a follow-up or questioning the answer which was clear in the CEO's response. Obviously that still stands and there's no questioning there.

But your question, of course, is about policy. And I certainly don't have an answer. But it's asked in the context of the remit of Council. Is there something that needs to be done in the remit of what Council is about in the GNSO policy making space? Is there a review to be done, whatever, and actions to be taken? I don't know in my personal capacity.

But again, it's not an all-embracing question that you're asking, but it's [inaudible]. And maybe it's totally irrelevant. I don't know. In my personal capacity, I don't know. But I think that, given the importance of those events, it's something that is worth at least asking as a question, even if the answer's, "No, there's nothing to [do there]." That, I don't know.

I just wanted to make those two initial comments before we have the discussion. So I see Theo first.

THEO GEURTS:

Thank you. So I don't have the answers also. I think an assessment would be a good start, when the war started and I saw that the Europe was thinking of sanctions, I was going like, "Okay, here we go again. Sanctions. Nothing new. We already have always been dealing with conflict. We've already been dealing with sanctions." There was nothing new. And in such a process, we look at our resellers who are our Russian resellers, who are our resellers from the Ukraine, etc.

But I quickly came to realize that when it comes in terms to access, there has been a shift now. I mean, in previous sanctions against Iran, the South Sudan, etc., there was never an ICANN registrar or ICANN registry there. And when I was looking at the situation, I was going like, "How am I'm actually going to fund these registries in Russia? How do I make sure that the registrants can keep renewing their domain names?" And those questions all also popped up for the ccTLDs there. How am I going to even fundithese?

The situation is now that I can't pay with a credit card, so I have no idea how I'm going to fund this. And I have no idea what the plans are of the respective registries there. To there's a lot of uncertainty. And I think we're also dealing with a moving target. I mean, there's still news pouring in every day. Just now we could read that Nominet suspended Russian registrars on their platform.

So there is definitely a moving target, and there are many questions unanswered. But I think, compared to the previous conflicts and sanctions, there is definitely something where we as a community and

ICANN Org need to monitor this and come up with answers. And again, I don't have them. Thanks.

PHILIPPE FOUQUART:

Thanks, Theo. Thanks for sort of highlighting the difference between this conflict and the other ones where maybe the question in and of itself wasn't worth asking. So again, the question is about policy making. It's not about anything else. It's about the Council's remit. It falls under the Council's remit. So it's not all-embracing, but I think it's worthwhile considering, even if the answer's no, again.

Thomas, you're next.

THOMAS RICKERT:

Thanks very much, Philippe. And let me say that it's difficult to discuss neutrality and talk about technical facts in the situation where we see atrocities two hours by playing away from where I live. So that's difficult.

But let me also say that, Flip, I have raised this point with the ISPCP after your e-mail came in. And they wish that we find out a little bit more about what your plans are. And thank you for your initial remarks. But I think that we maybe need to get more clarity on whether we're talking about the IANA Functions and what ICANN needs to be doing with respect to the security and stability of the DNS in that regard, or whether we're talking about the role of the GNSO or the GNSO Council for that matter when it comes gTLD policy.

And I'm not sure whether that is actually the case, i.e., it is very well possible that when our hands are tied, given that we don't have a role to play since this is not a gTLD issue. But that's maybe something that you could help shed some light on.

I also think that it's not necessarily mutually exclusive to be independent or unprepared. So I think that ICANN as an organization responsible for [the central] functions of the global and open Internet can maintain independence, but at the same time be fully prepared. So maybe that's a question that we need to ask the Org or OCTO, for that matter, to find out what the studies are that they have conducted and how they think they are or are not prepared for events such as this.

So I apologize for the background noise. I'm not in the privacy of my own office at the moment. But I hope that I could make myself heard. Thank you so much.

PHILIPPE FOUQUART:

Yes, you did. Thanks, Thomas. And thanks for broadening the question a bit. I appreciate that this is Council, but maybe the question will also [inaudible] what you alluded to was not on the policy.

Flip, is that a follow-up to an answer to Thomas? I'll give you the floor, and then we'll get to Jeff in due time. Flip.

FLIP PETILLION:

Thank you very much, Philippe. I do have difficulties in hearing you.

PHILIPPE FOUQUART:

Sorry about that.

FLIP PETILLION:

I do think I understood what you wanted to say. Actually, I very much appreciate the reactions, and I think all reactions show that we need some clarity because it will help guide the expectations that are there in the community.

Just look at the letter that was actually addressed to the ICANN Organization. The letter was addressed with the understanding that ICANN could undertake something on the ccTLD level. And that was simply based on the lack of knowledge or understanding, I think, of the technical framework.

But the reactions that I hear now and that I hear offline show that we all actually would like to have some more clarity about what is the impact, technically speaking. And that will probably give us the answer whether that really enters into the remit of Council on the policy level.

And it is not my ambition to achieve more than that, but if we can achieve that assessment and the clarity, then we can take it to the next step.

PHILIPPE FOUQUART:

Thank you. Thank you, flip. And I hope you can hear me, by the way. I'm sorry about the audio.

Yes, at some point I'm sure the SG/Cs will need to understand what potential actions would be suggested of Council and try and be

concrete other than, say, the legitimate intent of trying—I don't know how to phrase that—trying to help the situation there. And [I know] this seems so futile, but anyway ... [For us this way], I mean.

I think at some point, yes, to your observation, flip, that will need to translate into potential items that could be reviewed in terms of actions moving forward.

Jeff, you've been waiting. Sorry about that. You're next.

JEFF NEUMAN:

That's quite all right. I guess one thing I want to state is that ... And I know this a very difficult issue and it's a matter of conscience, and so all of this is personal reaction. But we have to remember that not everything that ICANN does as an organization impacts the security and stability of the DNS. I think the answer that ICANN gave was the right one from the technical PTI IANA perspective.

I also think the answer ICANN gave was also a cop-out because there are plenty of things that ICANN does that would not impact the security and stability of the DNS and that they could do if the community wanted it to do so.

Currently it provides benefits to lots of people around the world, whether that's in terms of funding to attend meetings, whether that's in terms of hiring contractors, whether that's in terms of where ICANN decides to put its offices. All of these things have zero impact, for the most part, on the security and stability of the DNS.

So I do think—and I've expressed this several times, so this is not new—but I do think that it's one thing to be neutral with respect to technical operations of the Internet. It's a very different thing to say that what we do, any of us here do, as far as making policies or attending ICANN meetings ... Whether ICANN has a meeting or not, it's not going to impact the security and stability of the DNS. Whether ICANN funds a lot of people or no one, it's not going to affect the security and stability of the DNS.

So I'm not telling anyone what ICANN should or shouldn't do. I just think that it is a much more difficult question and it's too tied up with ICANN's very quick responses. "Well, we can't do anything because we're responsible for the security and stability of the DNS." Which is true for IANA/PTI, but not true for ICANN as an organization.

There are other considerations. I'm not saying that there aren't. There's credibility. There's acceptance. Globally is all of that. But for ICANN to be so quick as to just have an answer of, "We can't do anything because of securities and stability on the Internet" is not, I think, a well thought out, well-reasoned approach for ICANN as a whole. Thanks.

PHILIPPE FOUQUART:

Thank you, Jeff. And as you said, appreciating that this is really sensitive. In all fairness I could, for what it's worth in my personal capacity, agree with most of what you said. In all fairness, I think the letter actually addresses the question, if you see what I mean. The question was really specific, hence the answer. So the answer in and of

itself doesn't really surprise me, and I don't think it comes as a surprise to anyone.

But indeed, there might be other avenues that the community might consider. And I think that's what you're saying. Yes, I think you're right. That doesn't end the story. Exactly. Thank you, Jeff.

Maxim, you're next.

MAXIM ALZOBA:

Just for avoidance of doubt, so you may know, under my SOI at ICANN, you can see that I also represent registrars, a couple of them. And for the last few weeks, registrars are under the constant cyberattacks. Local registrars here. Local infrastructure related to government, and not, is under the constant attacks. And what you do not see in the news is that the same actors were attacking RIPE which is a European RIR, one of the networks of the European Union infrastructure. And you don't hear that then the news.

But we will stop talking about the news. I really suggest you talk about the outcome of our SPS session where I marked geopolitical things as a real danger to separation of Internet, and also the inflation which you can check via London Stock Exchange for materials.

So the current situation is not easy and it will continue somehow, but I'm not sure that ICANN bylaws are favorable to the separation of the Internet into the [bits]. And also, I would like to remind you that all those ccTLDs and also TLDs owned by the local legal bodies are recognized as a state infrastructure.

And in the current world, states of large scale do not like the interference with their infrastructure. And it's not easy, too. So the solution made by GNSO should be more strongly weighted against the consequences. And also, nothing bad in discussing. So I thank you.

PHILIPPE FOUQUART:

Thank you, Maxim. And that's the whole purpose of this, essentially, this informal discussion. [inaudible]

And I think that was Flip's intent, to raise their awareness on the topic, if that was even possible, and offer this as an area were SG/Cs may consider potential actions, noting what you said about the local players there. But it's certainly a question worthwhile asking, both on the policy side of things and also from the GNSO's perspective beyond policy. And thanks, Thomas, for making that distinction. I think that's also ...

Now from this onwards, I think we will need to consider, be more tangible and pragmatic in terms of what we may expect. I don't know how we can approach this, but I think that's where they should go from now.

But anyway, appreciating the time, and I want to make sure that we have some open mic within the next 10 minutes or so. I'll go to Desiree [and anyone else in the queue]. Desiree.

DESIREE MILOSHEVIC:

Thank you, Philippe. And also, I'd like to thank Flip for adding this item to the agenda. I think it's important to discuss, although we had many

discussions at the ICANN meeting about this issue. And I would also like to note that the Country Code Names Supporting Organization has issued a statemen—we have probably seen that—on neutrality of the ccNSO.

But to go back to what Flip has said is that there could be more information flow about consideration of the technical community as to what actions seem appropriate. And if they're not appropriate, they will not cause the nuclear action solution. And so I think this information flow is being provided and it comes in bits and pieces through the news to various parts of the technical community discussing what's appropriate and what's not.

But I think the overall concern is whether the technical operators and the technical community which ICANN is part of is actually following state sanctions or not, and who's deciding. So I think these are very huge and big governance issues, and as a GNSO I don't think we have a right answer right now about this. But we need to bear in mind that some assessment in terms of security and impact and any additional information is probably useful.

I'm not suggesting we do that work, but I think it's worth raising this at some of our meetings, what is to be done in terms of maybe fully answering some of the questions that have not been fully answered. Thank you.

PHILIPPE FOUQUART:

Thank you, Desiree. And we'll use that as a conclusion. And thanks, Flip, for raising this, an individual's suggestion for SG/Cs to consider, for councilors to take away with them and come back as they see fit. Obviously, it's difficult to go further than this at this point, and any action that would need to be taken, either by Council or as SG/Cs individually, will need to figure out later on as informal as it can be. I think that's as far as we can go at this point.

Jeff, I see that you have your hand up. Last word on this.

JEFF NEUMAN:

Yeah, thanks. There are some other things we can do. And I'll make a concrete suggestion. I would like to propose that the GNSO consider asking ICANN to give travel support for the next ICANN meeting to any of our GNSO Ukrainian participants who ... I don't know if any of them are going to be able to come with everything going on, but I certainly think as a show of support, we can ask for Ukrainian participants to be given funding to participate in GNSO activities for ICANN74.

PHILIPPE FOUQUART:

Thank you, Jeff. And that's also, as one of the potential non-policy related actions that ICANN could take. Along those that have been taken already, that's certainly something that the SG/Cs can suggest between now and the next, hopefully, face-to-face meeting that we will have. Thanks, Jeff.

So with this, mindful of time, we had an Item 5 on the agenda with a with a question. I think that's just a reminder of the Policy Status Report. Am I correct?

I'm tempted to go back to the list for this and go directly to our open mic for the seven minutes that we have. I noted that there were [maybe a couple] questions already in the chat. So let's do this. We'll take the UDRP Policy Status Report to the list.

And let's go to a AOB now and open mic for the next six minutes. I'd like to turn to ... I think there were a couple of questions in the chat already. Anyone from staff who would be willing to rip them out? Yes, Julie. Hi, if you would.

JULIE HEDLUND:

Hello. This is Julie Hedlund from staff. I have two questions from Kathy Kleiman that were posted in the chat room. The first question is, "For members of the community active in the original PDP, can staff explain what the 'framing document' is and will include?"

The second question is, "There is extensive history on closed generics that should be shared. How do we know if it will be included?" End of question.

PHILIPPE FOUQUART:

Thank you, Julie. [And I assume] that Kathy's question was put to the chat maybe before we had some initial elements. So can I turn to ...

Mary, I'm sorry I'm putting you on the spot on this. But in addition to what you just said, the fact that it's not going to be a proposal for a policy; it's more describing the options for work methods that both the GNSO and the GAC together could use, the tools that we have at our disposal. All of this is expected to end up in the framing paper.

In addition to this, anything you'd like to add, Mary, to Kathy's questions?

MARY WONG:

hi, Philippe. Thank you. And I actually think that, hopefully, some of the question, or all of it, was answered in the discussion that we had earlier. And thank you for summarizing that. I don't have anything to add except to emphasize what I said, that the Board sees its role is facilitative. That the framing paper will not be proposing policy solutions. That is not the role of either the Board or the purpose of the dialogue. And any agreed outcomes from the dialogue will have to go through the appropriate GNSO policy process. Thank you.

PHILIPPE FOUQUART:

Thank you, Mary. As to the substance in the second question, I would expect that the actual work would take on board the conclusions of working group. I don't see how that wouldn't be at least the starting point somehow. I'm not saying that a constant, but that's certainly an input.

Julie, was that the only question, or the only two questions I should say, in the chat?

JULIE HEDLUND: Those are the only ones that I had noted. If anybody knows of any that

I've missed, please let me know.

PHILIPPE FOUQUART: Okay, thank you. Thanks, Julie. Any other question from the observers.

It's probably easier in face-to-face. Hopefully next time we will have

that opportunity, eventually. Okay, seeing no more requests.

Oh, I see Lori. Hi, Lori.

LORI SCHULMAN: Hi. Are you? I want to thank you for the meeting today, and particularly

for the discussion about where do we go in times of conflict. I think it's

important, and appreciate the Council having this discussion because

it's, as everyone pointed out, not easy.

I'm going to shift a little bit to the UDRP PSR. The IPC fully intends to

respond to the comment period, as does my own association, INTA. But

I do want to express a concern, and this goes toward prioritization.

We're in the midst of Accuracy Scoping. We've got the EPDP IRT.

We have an enormous amount of Council work going on at the moment,

and I really would like to see the UDRP work paused, quite frankly.

We're having ... And I'm going to be honest about it. The Accuracy

Scoping is very work intensive, as people know. There's a lot of

homework. There's a lot of issues being addressed.

And I feel, yet, here's another issue that we have to kind of spin our head around toward when there's so much on our plate. And I would like the Council to give very serious consideration, once this comment period is closed, to consider pausing any future work.

PHILIPPE FOUQUART:

Thank you, Lori. I guess that didn't qualify as a question, but as an ask. And that's well taken moving forward. And even more so in light of the discussion we just had on the work that will need to be undertaken on closed generics and all the things that we [inaudible] and non-policy work that we have on our plate moving forward.

Not making an answer to your question or comment, sorry, but I want to put that into the equation. Thank you. Thanks for this. And I'm sure that the IPC and others may want to raise that at Council in due time, that issue of pausing UDRP work at that point. Thanks, Lori.

We're now at the top of the hour. Any other questions? Okay.

Well, thanks again, everyone. And hopefully next time, the next wrapup will be face to face, fingers crossed. But until then, hope you're all well and we'll speak to you very soon. Have a nice rest of your day, everyone. It's bye for now.

MAXIM ALZOBA:

Bye-bye.

NATHALIE PEREGRINE:

Thank you all for joining. This concludes today's GNSO Council Wrapup Session. Stay safe and healthy, everybody. Take care. Goodbye. [inaudible], you may now stop the recording. Thank you.

[END OF TRANSCRIPTION]