

## **Transcription ICANN Durban Meeting**

### **BC Closed Meeting**

**Wednesday 17 July 2013 at 12:30 local time**

Coordinator: New transcript.

This will be the BC closed session going from 12:30 to 14:00 local time.

Elisa Cooper: Okay, sorry about all that. That was a (unintelligible), and thank you ICANN staff.

So I think we're ready to start the recording.

Benedetta Rossi: The recording has already been started, Elisa.

Elisa Cooper: Okay, great.

Who all is on the - is there anyone else aside from Benedetta on the line?

Gabriela Szlak: Yes. Hello. Good morning. This is (Gabby).

Elisa Cooper: Oh, hi (Gabby). How are you?

(Gabby): How are you?

Elisa Cooper: Good.

(Jason): (Unintelligible). Hi everyone.

Hello?

Elisa Cooper: Is that (Jason)? Yes, is that (Jason)?

(Jason): This is (Jason). How are you Elisa? I'm good as well.

Did you hear me?

Elisa Cooper: Can you hear me okay?

(Jason): Yes, I can hear you.

Elisa Cooper: Okay. We're having a little bit of a hard time hearing you, but if you can...

(Jason): Oh, my God.

Elisa Cooper: That's good.

So the purpose of meeting today is really to get ready to decide exactly what it is we want to discuss at the public comments. And frankly it - this is really sort of Steve's area, so I'd like to kind of turn it over to him. But, I'd like us to all think about the kind of comments or what we want to focus on in terms of public forum.

Steve Metalitz: Thanks, Elisa.

From the meetings we've had this week, I noted three areas that BC members have indicated they wanted some comments. I will just quickly read those off and then take a queue for other ideas. And I'll just write down ideas for comments and then we'll go back in and deep dive on what we would say on each item.

The three items that I have recorded that we wanted to speak about was one is to make a public comment asking for the Board to open up public comment

on ICANN's response to GAC advice. We learned that clarification yesterday in interaction with the Board. It's not commenting on GAC advice; it's commenting on ICANN's response.

And, we would ask further GAC advice coming out of this meeting, which may well be posted by the public forum tomorrow evening, as well as for the non-safeguard items which include singulars and plurals, and I state the BC's grave concern over that. Again, that could be overcome by events because singulars and plurals could be part of the GAC advice coming out tomorrow, and they insisted it not go forward. And, we would be able to comment on that.

And the other is to cite another thing we'd comment on in the non-safeguard part of the Beijing advice is the fact that the advice regarding geographical names at the top level, and I was going to note this in response to the meeting we held in this room on Tuesday.

But, some BC members have grave concern about the precedent that could be created by the denial of .amazon. That was what Fred and J. Scott had asked for as part of withdrawing their motion of having us take a strong position on that. So that's one comment.

I thought we'd do a comment on SSR concerns. I've just circulated to each of you an email at a session that Marilyn and (Jeff Rugaman) and I attended this morning on SSR.

And we also note that the Board has a resolution they're considering on Thursday afternoon on the affirmation review of new gTLD's, and that includes the work of the consumer trust, consumer choice, and competition work group where the BC was really an active participant.

So, there'd be an opportunity to probe the Board a little bit on that motion to understand whether they just want to launch the new affirmation team or are

they actually going to do something with the year-long advice document we did indicating metrics? Because, many of those metrics need to be snapshots that are taken before the new TLD expansion, as well as trending over the expansion. So at least a third of the 48 metrics we measured that we recommended are easy to do using current data, so they ought to start capturing it now. So, it would be an opportunity to start setting up metrics.

So I just noted those three, so I'd love to take a queue on other topics that you're interested in, or modifications to what I've just said.

Marilyn's first in the queue.

Marilyn Cade: Thank you. Marilyn Cade and I am going to have to leave in a few minutes because I need to be speaking at one of the upcoming sessions.

I have two points to make. One is I want - I ask that you be very sensitive and not overreaching in the use of the example on geo names. While some may have concerns, others do not or may differ with those concerns. And in order to avoid the BC looking silly and having people go to the microphone and say, "Yes. But I'm a member who doesn't have a concern," I would ask that we be very sensitive in that language and we not respond to questions since we do not have a position that is a BC position.

This is a compromise to avoid a 14-day vote, which would've meant no one speaking out on behalf of the BC would be able to go to the microphone. And, there is - if there are at least five people from the BC membership who have expressed a concern one way or the other that meets the 10% threshold, let's try to avoid throwing ourselves into a crisis. That's point number one.

There'll be plenty of people who go and make individual statements, and I'm sure that will be listened to.

The second point I wanted to make about the - about SSR is I think there would be a fair number of people making individual comments about SSR. I don't - I personally think there would be great strength if (Jeff Rugaman) was here I think. If there is ability for a reference to the SSR review team's report; that I think has a great deal of validity.

So in thinking about what the BC - and we did comment on the - the BC does have positions and comments on the SSR review, so we have existing positions that could be - you know, we're not building new ground, but I think it's incredibly important for the business constituency as users to be on the record on the SSR.

The - and finally, I think on the budget, I think we need to at least have some comments, and perhaps from (Chris) as the person who leads the budget work, about the challenges. Because even though the answer is it's all new, what we ask for is for ICANN to give us a little help in being able to deal with the particular situation that we're in in not having adequate information.

And, we ought to say something concrete about what they can do to help us with the - and so let me give a specific example.

The \$5.5 million increase in (Sally)'s budget, there's no (unintelligible). The answer is not where - you know, it's too early. It's what we're to do to deal with that is within three weeks there will be detailed comments and the community will have a public comment opportunity. Something like that.

Steve Metalitz: Yes. They'll spend that money, apologizing for all the SSR problems.

(The) three things in turn. The first on being sensitive. That was my entire intent in expressing it the way I did by saying, "some BC members have concerns about the precedent created by a denial of .amazon." So, I hope that meets the sensitivity.

And I would take your second suggestion of take no questions on that topic, and I agree completely.

On SSR, (Jeff) and I have already talked about it. He's intending to comment on the SSR, and I want you to speak to that in a moment, (Jeff).

And then (Chris), would you speak about the budget comment? And when (Jeff)'s done, you could talk about what you might say on the budget.

(Jeff)?

(Jeff Rugaman): Yes. One potential topic I thought we should at least discuss is whether we say anything on the ATRT 2, and I know I conveyed this to Elisa. But having on the call with the review team, I thought it was very painful that the IPC and the ISP's had not submitted comments, and I thought we came up with the - very well on that call that we had filed. So I applaud those who put together those comments.

And I think particularly because we did file comments (unintelligible) at least having somebody say something there. I haven't been tracking that.

Steve Metalitz: So to clarify, it would be more like pulling an excerpt or two from our written comments and making that at the mic?

(Jeff Rugaman): Or if there's something that's happened this week that's particularly timely. I just haven't been following the sessions. (Unintelligible) had a lot of meetings.

Steve Metalitz: The ATRT looks at the accountability not just to document like the charter and missions. But if you recall, the ATRT looks at whether ICANN follow the recommendations of the other three review teams, including your review team on SSR.

So one thing to tie these into a little bow is to use an ATRT comment to make sure that you evaluate whether they follow the SSR recommendations you worked a year on.

(Jeff Rugaman): Right.

Steve Metalitz: Because in the area of name commitments and so on, they're not following them.

(Jeff Rugaman): Right.

In fact, the staff told me that they had to report out to the ATRT on the progress of the - I guess the Whois and the SSR and review implementation. Yes.

Steve Metalitz: Did you think about tying those two together?

(Jeff Rugaman): Yes.

To the point about the - I share some of Marilyn's concerns about making a comment specifically about .amazon because I also - I think if you just say that there are concerns about the broader implications, you know there are also concerns about the broader implications of not taking the GAC advice frankly.

So, I wonder if you could make the broader point that - because we're - the main point we're making is that GAC advice response should be put out for public comment. If you noted that there are often broader implications with the issues that are raised, and they're also - how often is this - you know, there be options that go somewhere in between a binary accept or don't accept the advice that for those reasons it's helpful to get community input. Something like that.

And you know even if you noted that .amazon could have broader implications, I think that would be fair. But I think if you say you're concerned about one side, you kind of make it sound like we're leaning in one direction, and I think there are concerns frankly on all sides of that issue.

Steve Metalitz: Would it be better to say it this way? Some BC members have concerns about legal precedent created by accepting GAC advice on .amazon?

Marilyn Cade: You know guys, please do not mention any individual application. That...

Steve Metalitz: That was our deal with J. Scott.

Marilyn Cade: I never understood that J. Scott was asking us to name an application, and I must say...

Steve Metalitz: No, he specifically did and he confirmed it again. He said it to me right here a few days ago.

Marilyn Cade: Who?

Steve Metalitz: J. Scott.

We have (Angeleigh) and Elisa, but (Jeff), you may not have been finished yet.

Woman: I agree completely with - that there are concerns on both sides of not accepting the advice as well as accepting the advice. And I think as a lawyer, I think the legal issues are very complex and we haven't had time to completely review the different sides of the story to make a comment (unintelligible).

Steve Metalitz: And you weren't here for the BC meeting, but we aren't making a comment on it, because the maker of that motion withdrew it.

Woman: No, I was there.

Steve Metalitz: (Unintelligible).

Woman: I was there for that.

Steve Metalitz: We aren't making a comment on it at all.

Woman: Okay.

((Crosstalk))

Woman: (Unintelligible) language that you're proposing and then...

Steve Metalitz: So this is at the end?

((Crosstalk))

Woman: (Unintelligible).

Steve Metalitz: Okay. This is at the end of a long comment on asking for public comment on ICANN's response to GAC advice. Both the advice from this meeting as well as for the non-safeguard parts of the Beijing advice. We will cite two examples. The singular/plural, which we thought was incomprehensible. We critiqued that a little bit.

We only had two minutes so there was not much time.

And they said another example was that some BC members have concerns about legal precedent created by accepting GAC advice on .amazon.

Marilyn Cade: Can I just clarify that again?

In my notes I wrote down on geo names, so I would not understand the (unintelligible) an individual string.

Steve Metalitz: I'm sorry. I check with Fred Fellman and J. Scott, because that's what I do. I'm the policy coordinator. And, I checked with them yesterday because they heard Ron Andruff give a geo name, and there a geo name...

((Crosstalk))

Woman: (Unintelligible)...

Steve Metalitz: In a moment please.

I heard them give a generic geo name explanation to the Board/CSG interaction yesterday. And I said, "Was that it? Are we done?" And he said, "No. No. No. The proposal (would be) withdrawn if we mentioned Amazon specifically." So that's what they said to me then. I wish J. Scott or Fred were here, but I have an email from him this morning confirming that.

And then, we have (Sarah), and then (Gabby), and the Elisa.

(Sarah): Okay. I just wanted to raise one broader issue with - there's going to be a communiqué coming out later today, right, and so we don't even know what that's going to say or what we're going to think about it. And I want to make sure that if it has good things in it that we're there to support what the GAC says.

There are a lot of concerns that we have where we feel it's going in the right direction, and I don't want to undermine that by criticizing one little piece without - you know, if there's a split of opinion, maybe we need to make that clearer, but at least leave room so that in those two minutes we can support something good. The big issues, right?

Steve Metalitz: Understood.

And you probably know this, (Sarah), but yesterday - because there's no way of meeting a day early, they already decided that .amazon is receiving consensus advice against it. That's already (unintelligible)...

((Crosstalk))

(Sarah): Right. I know - yes, I know that. But the question is what else are they going to say? There's some document coming out today? What is going to be in there?

Steve Metalitz: So (Sarah), that's exactly right. Even the comment on singular/plural may be overtaken by communiqué, and the communiqué maybe won't come out by tomorrow afternoon before our meeting so we'll be nimble about it.

But, we ought to clear up whether there's continuing to be a disagreement on what it was we agreed to yesterday. So, I'd like to really get that resolved before we use up our time.

(Gabby) and then I think Elisa, and then Marilyn.

(Gabby): Okay, thank you.

It's a little hard for me to reasonably understand exactly what you're saying from the remote, but what I have to say is that if you go and talk specifically about one application and we have to be also coming to the mic and saying something particularly that are not part of this consensus or something, because I think as a Latin American member, I think it's going to be hard for me to just not say anything.

And because when we say some BC members, everybody just hear the BC. So it's difficult for me to just not say something, and I don't think it's good to do - to have that approach in general because I don't think that it good for the multistakeholder model. I don't think this is good for the way we have to approach the (unintelligible) and - well, that's what I have to say.

I don't agree with this approach.

Thank you.

Steve Metalitz: Thanks, (Gabby).

Elisa?

Elisa Cooper: I actually don't see anything wrong in saying that there are some members that have an issue. There are some members that have an issue the other way, but I think there is nothing wrong with saying that some members are concerned about this. Because frankly, some members are.

Steve Metalitz: Marilyn?

Marilyn Cade: I understand that some members are, but there are some members who disagree with the BC appearing to take a position about a particular name. And, I understood the compromise to be - look, had we called - we called a vote yesterday and (you) didn't say anything because we'd be spending 14 days voting, and then you might be saying something.

We reached a compromise in my understanding that we were going to say that some members had concerns about geo names and about single, and would like to - so that to me is going pretty far already.

Steve Metalitz: Here's what I'll do then. I'm going to write back to J. Scott and Fred and ask them was it their understanding that the word Amazon needed to be mentioned, or can I simply go by the geo names? And, I'll confirm that.

If it was their understanding, then I'm going to honor that arrangement that we made. If they don't care, by all means the word geo names is as far as we'd go.

Marilyn Cade: Well, could you ask them if they could accept that as a compromise?

Steve Metalitz: I will propose that.

Elisa Cooper: You should just know that Fred's on his way to the airport, so I'm not sure you'll hear back from him.

Steve Metalitz: Fred wrote me this morning that, "Steve, just to verify," and he copied J. Scott, "you're planning on speaking on the issue discussed regarding geographical indicators, including Amazon, singular/plurals, and an opportunity to comment on GAC advice, right?" And then he attached his comment. He said, "I want to confirm."

So I may not be able to reach him, but maybe J. Scott.

And (Laura), is J. Scott still here?

(Laura): (Unintelligible).

((Crosstalk))

Steve Metalitz: Okay. So J. Scott's around but he may not be reachable right away?

(Jeff Rugaman) and then (Gabby).

(Jeff Rugaman): I mean obviously the other solution here is to say more and to say some members are also concerned about the broader implications of how ICANN responds to GAC advice. And, you could acknowledge a little bit that there are - we're acknowledging how complex this issue is on both side.

But, I do worry about only stating a pretty clear concern in one direction, especially - I really agree with what (Sarah) said. I - you know, we strongly encourage the GAC to weigh in, and we're not going to agree with everything they weigh in on, but we have found value in a lot of what they're doing.

And I think it is a little bit - the danger is that it could be misinterpreted as if we are only criticizing the GAC advice when there's a lot that we support both as a substantive matter and as a process matter in terms of protecting ICANN.

Steve Metalitz: Thanks, (Jeff). I think that (Gabby) and then (unintelligible).

(Gabby): Well, I also wanted to ask if someone can please explain why this is a BC concern and not just an IPC concern? And also, if the members that are concerned also have the possibility to maybe say this through the IPC and not through the BC. That's my question.

Steve Metalitz: The answer is that this was the arrangement - the deal we struck with the makers of the motion in the BC on Tuesday.

(Unintelligible)?

Woman: I was just going to suggest a possible variant on your language that may allow - in addition to sort of adding syntax, as (Jeff) suggested, one thing you may consider is saying something like geo names such as .amazon if you want to make it a little more general. I don't have strong feelings, just offering another option.

Steve Metalitz: It's a great suggestion. I put it into this.

And if you recall, there was some discussion yesterday that maybe we advise the Board to structure its response to the GAC so as not create new legal precedent. (Unintelligible)? That's even being more specific, and I feel like we haven't gone down that road yet, so I didn't want to put all that into this comment.

So (Angeleigh) and then (Sarah).

(Angeleigh): Again, I agree with adding the language as (Jeff) stated, and also to kind of have added to that. The using Amazon as an example.

Steve Metalitz: Agreed. We've already agreed that I'll do that. I'll pitch that to J. Scott and Fred to see whether they would accept leaving Amazon out. But, they were the ones with whom we made the arrangement.

(Sarah)?

(Sarah): So my bigger concern is what positive thing can we say that - you know, just to insert in here other than these other two small points? What big points can we support and make it clear that there's much in there, in the GAC advice, that we actually like and it's (unintelligible) and its consumer safeguards, and you know there are many good things in there. So what can we say in the two minutes before you make the negative comment?

Steve Metalitz: Thank you. So there were two. The first I already went through twice, which is to cite the singular/plural as a piece of GAC advice that we fully supported.

And the second was (Jeff)'s idea that as a - before I mention this some members thing, I say that the BC is appreciative - fully appreciative of all the GAC work on safeguards, and that's a positive statement, and then go on to

say some BC members have concerns about legal precedent created by accepting GAC advice on geo names.

Whether you say such as Amazon remains to be seen.

(Sarah): Well maybe the fully appreciative of safeguards sounds a little passive. Maybe you can say...

Steve Metalitz: Come up with a better one, I'm all over it.

(Sarah): Okay, I'll think.

Steve Metalitz: (Sarah) after (Angeleigh), Angie, Elisa, all right.

Angie Graves: Angie Graves here.

One thing that (Jeff) said that was maybe glossed over is the appreciation and the complexity of the issue. I really liked that he said that it could at least - should be considered to be included (unintelligible).

((Crosstalk))

Steve Metalitz: Our comment is to the Board, not to the GAC. So by saying we appreciate the complexity that the Board faces in dealing with GAC advice. I thought we were appreciation for the GAC work, not trying to (unintelligible) up to the Board and the complexity of the advice.

Angie Graves: Okay. Maybe I misunderstood about what you said, (Jeff).

(Jeff Rugaman): I think I was - some - to some extent shifting the emphasis from the legal concern to that being an example of the complexities that are - another reason why - an example of why we think this should be put out for public

comment is because the decisions can have broader implications and because they are complex.

And the point I was making which I wasn't suggesting you would articulate, but that there - I think there are sometimes gray areas between accepting the advice fully and rejecting it completely that ICANN can sort through. And, that's why getting community input would be helpful.

Steve Metalitz: Elisa?

Elisa Cooper: Yes. Maybe we can say something about the fact that we appreciate that the Board had put out the safeguards for comment, and we took that opportunity to be supportive of the safeguards, generally speaking. And, we would appreciate the opportunity to also have the opportunity to comment on the other advice, including -- fill in the blank.

You know, maybe we can do it that way. That way we're saying, "Hey. We appreciate what the Board did by giving us the opportunity to comment. We appreciate all the work the GAC did. Because in those comments, we were very - or generally supportive. We would also like that opportunity to comment with the non-safeguard advice from Beijing and the advice that's likely to come after this meeting because there are some concerns by some members," blah-blah-blah.

Steve Metalitz: Okay, I've got that. So I'll take these notes and circulate it - an email to the BC list. You can all get back to me. You've got about 30 hours until this occurs so I'll do that. I'll probably package each of these.

It's not going to be word-for-word prose, because I'm not going to go the microphone and just read something. If that's what we're going to do, I'll just send them a freaking email. So, the idea is to try to get it in in two minutes. Be spontaneous and energetic at the microphone.

Marilyn?

Marilyn Cade: Yes. My comment is about a sidebar that you and I had and a few others with Chris Despain. And that is I also think there's a sensitivity about how we ask for the opportunity to comment on further GAC advice, and I think you caught that already.

But - no. No. No. The - what Chris said as he was there standing with us then walked away was that he would - he's not - you know, we should be careful - he didn't say we should be careful, but he said he wouldn't be supportive of assuming that all GAC advice would be put out for public comment, and that's the sensitivity I was just pointing out.

Steve Metalitz: All right, let's move on to another topic. I had indicated SSR. But again, if anybody has other things that are on the BC's mind that are going to be relevant tomorrow, this is the time to bring them up.

I've continued to check back in with the agenda for the public forum, and I'll check one more time. Let me hit the refresh.

And they have not yet posted the agenda for the public forum. Ordinarily by this time Wednesday we have it and we discuss it in here. So if that gets posted, I'll circulate that along with the talking points on it.

So we have an SSR. Wanted to hear a little bit more about that. I told you that I would mention something on the affirmation review to start those metrics gathering. And then - and I might - I don't have to do that for the BC. I can do it as the lead of the consumer metrics group.

(Chris) you were thinking about something on Marilyn's suggestion with respect to challenges because of inadequate information in (Sally)'s (apology) budget.

(Chris): Yes. I've just been thinking about it for the last five - the last few minutes. To go in and simply criticize on the (unintelligible), I mean it's been done so many times, so I think I've got to think of something a little bit more creative.

There's a couple of things that just come up in a meeting just now which just might be of interest, so I'll just mention them to members. We've got another reply round and the budget is going to be confirmed I think by the Board Finance Committee on the 7th of August. There's a couple of exceptional items being added. One is \$3-1/2 million for the panels of which we'll announce by Friday or Monday. And here there's \$70,000 for - I can't remember the acronym. It's an ALAC conference.

Marilyn, can you remember the acronym for it? ASCII 2 or something?

Marilyn Cade: It's \$700,000 for the summit. It's call ATLAS II, which is why you may not have recognized.

Steve Metalitz: Did you say \$3-1/2 million for these panels? The one-year panels?

(Chris): That's correct. Yes. So I just mention it. But I think we're in the wrong business here.

There's a little thing that I was going to comment on personally is that I've noticed there's been a lot of contractor - vendor contracts awarded by ICANN in the last six months. I counted up about 50 in my head. And if you look at the RFP page on the ICANN Web site, since Toronto there's only been one RFP. So, I'm not sure...

Man: I was going to say I wonder how many working groups and review teams will benefit from a full-time secretary and two interns, which it sounded like each of these panels (was going to get).

Steve Metalitz: Did you hear that?

There's no way to comment on the \$5-1/2 million in (Sally)'s budget to suggest, or even the \$3-1/2 on the panels to suggest that how many working groups and constituencies would benefit from the same full-time secretary.

(Chris): Well \$5-1/2 million is still is a relevant (unintelligible), because (Freddy) got quite (uppity) didn't he yesterday in our CHG meeting saying, "What do you not want? You have 160 items and you (won't get less than 1000 at a time)." And we didn't really get a chance to replay back, but there was - there is an item there at \$5-1/2 million which hasn't been explained.

And I understand (Sally) is going to explain it, but I'm wondering now what the mechanism for that is or (all of it just get forgotten). So that's one threat we could go in on.

And the other fact I was thinking of is the call that we keep making for a finance group meeting, perhaps at the weekend half the day with the finance team. But more importantly, as Marilyn was just saying that we keep making for a finance group meeting. Perhaps we can have a day with the finance team but more importantly as (Merlin) was just saying - and (Bruce) did say give us a better proposal with people like (Sally), (David), (Olief), the decision makers there in the room so it doesn't get kicked around like a can as it always happens.

Steve Metalitz: So I've written down so far - with respect these - and (Chris) you'll work with me in the next couple of hours to circulate talking points to the membership but it was inadequate information, the proposed budget, the need for a half day meeting with the finance team where the decision makers are present, a comment on the 3.5 million on the five panels, and a (unintelligible) suggestion that - wouldn't we all love to have a full time secretariat in our constituency.

And then I didn't quite get what you were going to say about the 5.5 million on (Sally)'s budget.

(Chris): Well, it still hasn't been explained what that budget item is for. We've got the 5.5 million there. It's one item, it's one line, we don't know what it says.

Steve Metalitz: Can you clarify? Marilyn said it was a 5.5 million increase, not just a 5.5 million total.

(Chris): Well, it wasn't there last year so it's an increase.

Steve Metalitz: Okay. So in the queue we have Ayesha and Marilyn.

Ayesha Hassan: Thanks, two points. Was any information given at all about the allocation for the panel? Any - do they plan to - because of the secretariat support or is - any detail at all given? And then I have one other point.

(Chris): The only detail that was given in response to a question was that five panels would form five projects in the (ATAS) system. So each would have their own budgets but it's (envelope) item, 3.5 million estimate envelop to get Board approval.

Steve Metalitz: It's probably travel, (Victor).

(Chris): Yes, I think there is - am I right in saying the only case - anything above 1 million needs a specific Board approval and expenditure of above 1 million needs specific Board approval. So probably...

Steve Metalitz: Do we know whether the chairs of these five panels are paid or unpaid? They're paid, that 3.5 million goes pretty quickly.

(Chris): I don't know.

Steve Metalitz: Could you ask? (Unintelligible), that'd be one of the questions.

Marilyn Cade: We did ask. There are siphons planned. It's unclear - it was not in - Marilyn speaking. (Unintelligible) does not have that level of detail. Maybe I'll just go on to add a couple of other things.

There's not a lot of detail, Ayesha to your point, but there was no discussion about the composition. This was only - it was shown as an extraordinary budget item.

My suggestion would be let's - and I'm happy to work with (Chris) on a couple of bullets on this, since there is going - the budget approval got delayed, which is good because they had intended to approve the budget at the beginning of the meeting.

We have been successful in bidding an extension and another public comment period on certain items.

And I think perhaps what we should do - and (Chris)'s comments and work with IPC and others to have them support, I know that the registries would, that the - all of these items should be included in the public comment period.

Steve Metalitz: Thanks, Marilyn. Back to Ayesha?

Ayesha Hassan: Thanks. A couple things reflecting on the CSG meeting with the board yesterday and then in light of our approach to comments in the public forum, thought it might be just useful to put out a couple of observations, things that I've heard from other people as well.

Somehow the dynamic yesterday - I think put (Fadhi) and the board on defensive and a - a defensive posture. And so I guess I would like us to think a little bit about - and that's not a bad thing, it's just a fact. We saw that dynamic.

So when we're going into the public forum you've got this wave of energy happening from the leadership. And there are clear cautionary messages and explanations that we're seeking.

I guess it would be helpful in this regard for us to think through what do we want. You know, by making these comments are we just asking for information or are we in some way trying to have some other impact?

And then also trying to see how we phrase this so that we're seen as constructive contributors and not interpreted as obstacles or complainers. Thanks.

Steve Metalitz:: Thanks, Ayesha. To my recall (Fadhi) became most defensive when we began to critique the - I guess it was the labs and the LinkedIn page. Is that correct? Is that what you recall? Okay.

Ayesha Hassan: Yes, but if we're going to question and the strategic panel - these panels are clearly part of something that he sees as a very productive step in informing the strategic plan and process - and what have you.

So I guess - it's sort of more a how do you really communicate with people when you know that that is something that they really want to do? How are you best going to get through to them? If it's put in one way it can just lead to kind of a reaction that's negative. If it's put in another way it can be taken as, okay, I embrace that, this is good.

Steve Metalitz:: Well, you're entirely right. And from what I'm hearing from members who's speaking and there isn't a complete neutrality about asking questions for more information. There's an implication that - of a little bit of incredibility of the size of the budgetary increases.

And I don't know whether (Chris) wants to - we don't have a voting position on that. We haven't looked at her \$5.5 million budget. We don't know enough about it to take a position.

So (Chris), what I should - suggesting is to try to maintain neutrality and be - in asking the questions. But you are making one constructive recommendation so far, which is a finance team meeting for half a day with decision makers.

And I guess the other suggestions you have - because they may answer some of your questions but for the most part you make a suggestion to say, please, describe the details. And (Sally) (unintelligible)'s \$5.5 million budget increase, that's a request, not a question for immediate answer.

(Chris): Yes, I agree with Ayesha and we'll - we need to be positive and think of what we want out of it and it's actually Marilyn's idea for this and it's probably the one that we could make something happen - most positively if that does happen at the next meeting then we've achieved something because we have been asking for a while.

Steve Metalitz:: Marilyn, I think you're still in the queue. I have (Jeff) and then Zahid. When it comes to what we think of the budget I've already put into my blog, it's not for the BC, it's just my personal one, where I was questioning the mission leap of ICANN. And the panels I cited as an example. Marilyn?

Marilyn Cade: So I think actually we can - that we can open with a positive statement and that is we can acknowledge that the - we are going to get today to submitted (SO AC) request, we're going to get the details today by email.

And that is premature in the sense the board does not approved it but yesterday if you remember (Cherie) proposed that that be shared with us even though it wasn't approved by the Board. So I think we can say positive things. And there's a couple of others that I think we can say as well.

But I think we can also note and - and I think (Cherie) was quite surprised about how (Fadhi) reacted because the board has been telling (Cherie) - has been telling (Fadhi) that's he's out of sync with the community. And nobody's saying stop, right.

They're saying, slow down and let the community absorb things and give you comments so that then they can adapt and adopt. And we (unintelligible) think through how we convey - because that was what I was trying to say and after - I made the comment for the CSG yesterday, actually both the ICs and IPC were actually harsher than - I think we can say some positive things.

And then ask concretely if we don't - if (Sally)'s budget details have not been published ask when those can be published and ask for the opportunity to provide feedback or something of that nature.

Steve Metalitz:: Thanks, Marilyn, good idea. You got that, (Chris)? Great. I think I have Zahid and (Jeff), whoever's first. I'll go with (Jeff) first.

(Jeff Rugaman): Yes, building on these comments, I also - coming into the discussion yesterday for me was cold, you know, on the issues. I think another questions that comes up is well, what - you know, if we're somewhat being critical of what they are spending the money on what would we like them to be focused more on, right?

So it's not just necessarily being positive about what they're doing but what - focus more on what we want them to do rather than criticizing things that we may question.

Steve Metalitz: (SO AC) support?

(Jeff Rugaman): Right, so we might say, you know, we think the community should have input into how ICANN is prioritizing its funding. You're launching a lot of new

initiatives and things that we also are feeling the strain of participation and, you know, we think that there should be priority given to supporting the internal operations.

That'd be an example of, you know, kind of - not just criticizing them but kind of making it a prioritization discussion and we're kind of asserting a positive position that we think more attention should be paid in the area of supporting the work that we're all doing, right.

Steve Metalitz: (Jeff), that's curious - different frame of mind and when you first said it about 35 minutes ago, when you said, boy, what we could do with that 3.5 million for secretariat support. So it looks like you're taking Ayesha's queue on...

(Jeff Rugaman): Well, I mean I meant it - it was funny, when you said it back I'm like, well, that - you could either use it as a flip comment as, like, you know, where you're going on in a bad direction or you can make it a more serious comment about, you know, do we really - that money could be really used to support what we're all doing, yes.

Steve Metalitz: Zahid?

Zahid Jamil: Yes, basically latching on to what (Jeff) said and some of it was said by (Jeff) already. I think - first of all, I think it's important we come up with a positive statement of some sort.

I generally like to see positive (unintelligible) at the end so you actually end on a positive note as opposed to sort of - you end on a critical note. But that, you know, I'll leave that to you, (Steve), how you want to frame it.

But I think - it would be helpful to just be factual also and to present to them what our members, etc., are considering and in the context of, look, you know, we see this strategic panel, we see that there's a budget allocation of this amount to it.

And it's a question of - you know, many members have been asking about the PDP working groups and the workings, etc., wouldn't they also actually - and the work will be prioritized using this budget support for that kind of work, which would actually help us and get away from the discussions of is the PDP or the GNSO broken.

So maybe, you know, putting it that way, it's a factual comment. This is what we - can you tell us how you allocated this funding and leave it at that.

Steve Metalitz: And if we suggest that priority should be for ACS (unintelligible) support that implies either - that 3.5 million maybe should have gone for this. It's too late now, it's been allocated. Or that similar expenditures would be appropriate for the priority of the (ACNS) and support.

Zahid Jamil: I absolutely agree because we don't want to be in a situation where funding is driving some efforts outside the community control that are taking the place in these panels which are not necessarily community driven or under that governance structure. And instead we have what's actually bottom up, not getting enough of the resource.

Steve Metalitz: Well said, okay. Andy Mack?

Andy Mack: Thanks, (Steve). In the continued desire to add to our positive messaging, we are in Africa and there is a lot of interest in and a lot of salivating of Africa that is going on. I think it would be smart for us to try to mention that in some way.

I also think that - you know, in the context of the budgets that we're looking for we can talk about the fact that a little bit more budget allows us to do more outreach, to include more people who are nontraditional players and that we're eager to do that. So let's make sure some of our budget is kind of directed in that way. Just a suggestion.

Steve Metalitz: Ayesha? Thanks, Andy.

Ayesha Hassan: Thanks, Ayesha Hassan. I think the second part of what you said, (Steve), that we should convey that we think similar funds should be allocated to the (SO AC)s, I think setting it up as an either/or at this point - you should have given it to us - yes, I'm good with that.

Steve Metalitz: Yes, I wrote similar support for SO and AC secretariat functions and outreach should be a priority too.

All right, we're coming up on an hour and if there's no other pressing items that are apparent right now - I'll check one more time on the website to see if they've posted the agenda and they have not. So I'll get back to all of you when the agenda comes out. Marilyn?

Marilyn Cade: I don't know that we reached agreement on this yesterday - sorry, earlier. But we did talk about the call for returning to at least one open board meeting. And on the one hand that's not a policy position.

In the past we have said publicly that we - and we did support in the ATRT one comment, the need for the board to be more transparent, engage with the community.

I'm certainly happy to make that comment in my individual capacity but I just wanted to mention that we did talk about that yesterday.

Steve Metalitz: Elisa?

Elisa Cooper: So actually on the agenda for this meeting it shows the board meeting that's occurring immediately following the forum as being open or public.

Marilyn Cade: So obviously there's something wrong with my language. They are open. They are public board meetings, right. The board meets in front of us and

announces the decisions they've taken and reads resolutions and thanks the host. And they're an hour long.

But that's not the board meetings I remember when the board actually meets for three to four hours and has substantive discussions in public. So maybe my choice of words - I apologize, Elisa, but I am...

Steve Metalitz: Yesterday you used the term real board meetings, right? You said the real board meetings don't happen in front of us and I think it's better to describe it more explicitly.

So the substantive portion of board debate and deliberation and voting at least - what'd we say, every other meeting or something like that would be public? So that's a request. It's not a BC position that I feel wouldn't warrant a voting or anything like that.

But we need to articulate it into something - there's consensus that we would want to say such a thing. Is there consensus in the room that that is a smart thing for the BC to ask for? Show of hands, you think it's a smart thing for the BC to ask for, please? I only see one hand. So I would think that's not a consensus, Marilyn, sorry.

Marilyn Cade: I think I noted that.

Steve Metalitz: I'll do it again. Show of hands for positive support for the BC making a request that at least every other board meeting where there's substantive deliberations and votes be opened to the public. Show of hands? Excuse me...

Marilyn Cade: When you say open to the public...

Steve Metalitz: You say it then and then we'll...

Marilyn Cade: The board meetings that we used to have - the board interacted with each other in front of the community and undertook substantive discussions. Today we have a one-hour board meeting at the end of the public forum.

There's no opportunity for the board to digest comments that are made in the public forum. And the only topics that come up are precooked resolutions that have already been made and thanking the host. That's not a board meeting that is actually engaging with the public. It's...

Steve Metalitz: (Unintelligible) discuss this Marilyn. It's not clear that there's general support for - that's the statement so far. What was the request you were going to add to the end of that?

Marilyn Cade: Well, my personal request would be that the board understand that the community values the opportunity to see them engage in substantive discussions and that at least one meeting per year be undertaken - but that's my individual view.

Steve Metalitz: You would make that point articulately and you have the experience and credibility to make that point. And I - obviously you make it in your - on your own. But are you asking whether the BC should make that point instead of you? I'm trying to really understand this.

Marilyn Cade: I was noting that we talked about it yesterday and asking what the view of the members was.

Steve Metalitz: All right, let's get some more views from members. We have (Jeff), Elisa, and Ayesha.

(Jeff Rugaman): Yes, I think the issue of the open board meetings has come up and it seems like it's one of those areas where if you think about it as, you know, you're a nonprofit company meeting then you don't expect everything to be public. But if you're debating policy decisions we'd like it to be public.

And Marilyn, I was going to suggest that this might be a good thing to wrap into a broader set of discussions about also the board documenting its decision which I think, for example, on the GAC advice I think it's - what we've been asking for five years, right.

So I'm just - you know, to some extent I'm a little sympathetic to the idea that, you know, boards want to meet and discuss things and not have everything be public. And if we just have that issue in isolation it might be easy to dismiss it.

But if we wrap it into a - you know, we're talking about when you're making policy decisions there should be transparent discussions, there should be documented decision making, you know, blah, blah, blah.

And you know, I - at least for me, I don't care as much if they're meeting behind closed doors about other board matters about, you know, organizational issues, you know.

Steve Metalitz: So (Jeff), you bring up a great thing to complement them on, documenting the rationale for decision. And you close by saying you don't necessarily think it's a good idea to ask them to open a meeting a year.

(Jeff Rugaman): Well, maybe I would be more specific about they should have a public forum where we can, you know, see their discussion of the policy issues - would be a good complement to documenting the discussions.

Steve Metalitz: But seeing the discussions of the policy issues is what Marilyn's asking for, at least once a year when they're discussing items and debating that we would want to be in the room watching or on the phone listening. I think that's what she's asking.

(Jeff Rugaman): Okay.

Ayesha Hassan: I think what (Jeff) just said makes a lot of sense. I think - you know, part of my hesitation just comes from the fact that on the agenda it already says that the board is meeting publicly.

So I'm just concerned that we use the right language to describe what it is or if we can go back in time to say when the board met in 2010 or, you know, something specific because I'm afraid if we just say we are asking for public board meetings they're going to say, we already do public board meetings.

Steve Metalitz: Thank you. Ayesha?

Ayesha Hassan: Well, first of all, I think that the direction that - and level of detail that (Jeff) was proposing is going in the right direction. I think we need to be specific about what we're asking for and then also maybe helping them to hear why this is being asked for, how that will help the community, how it will help the community understand the board's - and board member's perspectives on things.

At the same time, I don't know - I mean we're the ones in the room here so I don't know if there are other people out there in the BC who would not want us to say this at all.

So I think it's whether - what we're saying here, if you think it's based on our existing positioning on certain things, you know, then I think the question of whether Marilyn does it through her individual capacity or not, hopefully what we're all saying would inform her individual influence.

If it's a BC position I would say, again - I would think it's helpful to be positive and explanatory as to why and how it will help things and why we - why we're asking for this.

And the last point I was going to make is - I mean I think we're all aware that part of the reason we don't see certain things is because of the US litigation system and the legal constraints. I think there are probably legal issues about certain things being talked about in public.

I don't know that but - I mean I think certain boards do keep things behind doors. So when we're asking for things I just want to be informed as to whether we're asking for something that is realistic or not.

Steve Metalitz: Yes, great comment. Marilyn, I would invite you to decide whether it's something you would want the BC to make - and if you did, just like (Chris) and I are going to circulate drafts for the whole membership to see over the next few hours.

If you felt like you wanted to do that we'd have an opportunity for any BC members on the list to either confirm or object to it. I guess if four or five objected we wouldn't do it as a BC but would hope you would do as an individual because I think you make a really valid point.

Man: You know, it could fit into the ATRT.

Steve Metalitz: Two minute comments.

Man: You're dead.

Ayesha Hassan: You've done these in two minutes. You're watching the clock. You cannot get very much into two minutes. Be very careful.

Marilyn Cade: Yes, but he did go back.

Steve Metalitz: Back in the line, right. Would you - let's explore that a minute. The ATRT, number one or two, presumably there would be a piece of the agenda where we could discuss that.

Now they haven't done a report yet. They're simply asking questions so we'd have to be the open portion of the public forum. I doubt they'll put an agenda item in there for that.

But there'd be an opportunity to comment on ATRT 2 and suggest that they do that. Is that what you're suggesting?

Man: I was just commenting that I thought these comments that we were talking about, about more transparency and decision making and documenting decisions, kind of fits within the ATRT. If they put it on the agenda that - you raise a good point, they may not even do that.

Marilyn Cade: But there is an open mic at the end and ATRT - and I think it's related to ATRT because one of the agreed topics in ATRT, which we did comment on, was the need for increased accountability and transparency, etc.

Steve Metalitz: You know, interesting, these probably - comment advising ATRT 2 as part of its mandate to see whether the recommendations from ATRT 1 have been followed is to cite that particular recommendation from ATRT 1 and then give it an example of the lack of open board meetings where we can observe deliberations on policy.

And then you suggest that you would encourage the ATRT to investigate whether that recommendation has been followed and then explain why it's a good idea. And there might be a way to tie it in. I think that (Jeff)'s making, Marilyn, a suggestion to you.

Marilyn Cade: Well, actually I was going to ask - I mean if it's related to ATRT - if I do a little drafting and send it to (Jeff) is that perhaps - be better to have (Jeff) - even if it going back to the microphone twice - very much in that related topic. And (Jeff) might make the comment if it's agreed to be made.

Steve Metalitz: We'll leave that - look for list items to come from all of us. We're at one hour. Are there any other comments or questions? If you - (Jeff) could make a summary of his SSR comment and then I think we have a - (Marie) has a comment too.

(Jeff Rugaman): So I think what we heard this morning is SSAC reports on the name confusion and the - a discussion about the internal certification issue.

I think the concern - or maybe the pointed question we want to ask is while it was clear that they made recommendations that range from delaying the delegation of certain - potentially conflicting streams to identifying consumer and end user issues that would result from this.

And so we need a clear handoff from the SSAC to a group that is going to manage what comes next and how ICANN is going to deal with this issue.

And follow through with a - what seems to be an urgent issue of figuring out what this is - what -which of the recommendations are going to be adopted and who's going to be responsible if they don't delay for making sure that the consumer issues and user issues are addressed.

And I know (Amy) was raising even a 911 issue with certain IP that got the SSAC's attention. And I think she'll certainly reiterate that tomorrow.

I think to your excellent point was - and then the other issue, I did just want to mention that there also was the SSAC on interdisciplinary issues about the new domain name program too and say that this touches on a number of points that we made in the SSR review about making sure that there is a clear linkage of what SSAC is doing into ICANN and follow through on that.

As well as we had called for a more comprehensive review of the SSR implications and the new domain name programs.

And so we want to - so the question would be, you know, we'd like to see clear next steps on the follow through and the decision making and the implementation of this SSAC guidance which the SSAC has clearly said it's advisory only and that they are not the party to be responsible for that implementation step. So who is and how is that going to happen?

Steve Metalitz: I think that's a great comment. On the SSR topic, I've sent to each of you the intervention I made for the BC this morning. I could - there was no board members in the room at all. It was a very tiny crowd.

And I'll circulate that and if no one has an objection I could make that point to the board, one I circulated earlier. No need for me to read it out right now.

(Jeff Rugaman): Because I think we should be complementary of the excellent work that the SSAC is doing. And what we're trying to do is make sure that that's fully integrated into the ICANN process.

Steve Metalitz: Yes, and also asking for it - well, that's worth something but if the GAC advice tomorrow includes it even better, even better. (Marie)?

(Marie): Thanks, (Steve). It's a short information point with apologies, you know, I was at the trademark clearing house session as to why I wasn't here. I understand you've been discussing your statements including (geographical comments) - I have a couple comments.

The GAC at this exact moment is discussing that issue. I've got it on live feed. So I know this is an obvious thing to say but I assume that we'll be able to check that feed to make sure your comments fit with whatever the GAC decides to do today.

Steve Metalitz: Yes, circulate the transcript when you cut and paste from the feed, please. And we - I understand. And it's likely that - they're not in the communiqué drafting session right now, are they?

(Marie) I've just got it on freeze. I haven't read it.

I just keep picking out words.

Steve Metalitz: They had a plannery this morning and then a communiqué drafting session this afternoon.

(Marie): The last (unintelligible) - the last words I picked out was still wine. Now unless they're having a very interesting communiqué I think they're still on geographic.

Steve Metalitz: Is this a joint session between them and the (unintelligible)? So thank you. Circulate that transcript and yet the communiqué will more than likely be out before tomorrow's public forum, it's late in the day. If it's out before during the public forum we'll - before you arrived here we were discussing how we would try to pivot off from what's in there.

All right, no further comments, thanks everyone, enjoy the gala tonight. I'll be in Council trying to support (John) and Zahid this afternoon. And it's probably going to be lively with respect to two motions but I don't think there's a lot that you would be missing if you skipped the Council today.

END