Transcription ICANN Durban Meeting

Preparation of ATRT Meeting

Sunday 14 July 2013 at 11:30 local time

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Man: The next session will be GTLTD scheduled for from 11:30 to (unintelligible) local time.

Wolf Ulrich-Knoben: So thank you very much operator. So we have - we've scheduled lunch for 12 o'clock together with the ATRT Tool Team.

I expect they will flock quite a bit earlier than that time maybe. So let's focus on the next 20 to 25 minutes to talk about the questions the ATRT Tool Team was raising and the - and providing to us so we are prepared for that session.

At first though I remember so there have been four questions provided but after the ATRT Tool Team meeting on Friday or Saturday, Friday. And they provided a full bunch of questions, 16 questions and would like to talk about that.

My suggestion is so the questions are to the screen that they find out and focus those questions who are of interest to us specifically and that we talk about that how about what our concerns to that or what are our questions or

answers or I told the ATRT I will comment to the ATRT. That's my suggestion to do so.

Having that set I wonder if we just go through and whether some of you would like to pick up some of these questions and we talk about that.

If you look for example to the as you (Dennis) just providing the list of questions? It does. Okay.

So the first question which is for sure of interest to the GNSO is with regards to the policy development process, the effectiveness of that.

So the ATRT is seeking whether the GNSO or PDP process is effective for developing policy within ICANN's multi-stakeholder environment.

So as we have talked yesterday already about that I think we have understood that we can talk. But I wonder how we could deal with that. Is that necessary? That's, for example is those slides which ICANN provide for that should be presented to the ATRT to bring them up to the - to that level.

Jonathan Robinson: Wolf, it's Jonathan. And my understanding is that Marika has already presented those which is great so they already have that.

Wolf Ulrich-Knoben: Okay.

Jonathan Robinson: I wouldn't - I think we should still comment on this. We should make reference to the fact that they will have received that presentation.

That presentation has largely received good support and recognition from within the council.

(Jeff) is this something you want to say anything more about is or does anyone else want to say anything more about? Marika?

Marika Konings: This is Marika. Just to maybe add a bit because I spent an hour with him
                    yesterday because he had requested like staff update on the GNSO PDP.

                    So indeed I took them through the sites. We've also looked at yesterday they
                    asked some questions on, you know, what are some of the characteristics of,
                    you know, successful or less successful PDPs?

                    And they asked us what about their participation. Because one of the things I
                    spoke about is well that of course the level of participation as well determines
                    the success of PDP and how different groups are involved and how that's
                    tracked.

                    And I've also provided them some information on like the timelines as I think
                    you've all seen this documented done with the different timelines for the
                    different phases.

                    And they've also received the slides with the more detailed PDP process
                    steps.

                    So I think they have already received quite some information on that. And I
                    know as well that, you know, Avri and (Alan) are members of the ATRT and,
                    you know, very well-versed in this.

                    So I think partly on the basis level they may not need any further updates as
                    such. But looking at average they have a better sense about what they would
                    really, you know, would like to hear from the GNSO on that aspect.

Wolf Ulrich-Knoben: Yes (unintelligible). So (Avri) do you have any additional comments to
                    that?

Avri Doria: I would say that what they really probably need to hear from the GNSO is
                    what you think is important about all this, what you think is important about,

you know, they actually are going out to an outside consultant to look into the PDP.

So I think that the ATRT needs to understand your concerns with the work that the outside consultant will do and your concerns perhaps if there are concerns about the PDP itself or about the questions that are being asked.

I think the most important thing happening in this upcoming meeting with the ATRT is to make sure that they understand what concerns you both in terms of the PDP and any of the other questions that the ATRT can look into.

Wolf Ulrich-Knoben: That's for sure. I have two questions from John and then from (Jeff) please.

John Berard: This is John Berard. I would say that the number of threads over the last couple of days especially a bunch this morning and then (Xavier)'s presentation as well that there - it's important as Avri says that we understand the background of the outside experts they intend to bring in.

If it's going to be someone who is comfortable in doing our corporate assignments for large companies that operate in a bit of a command and control environment I'm not sure that's the right kind of person to engage on this point for this organization. Well that would be my comment.

Wolf Ulrich-Knoben: (Jeff) please?

Jeff Neumann :   Yes and my (unintelligible) yesterday. I do want to ask the ATRT a question. Hopefully we can ask questions as well as not just give our input.

But one of my questions will be that why is solely the focus of this the PDP? To me that assumes that the only way that the GNSO makes policy is through a PDP.

And I think one of the things that certainly came out of our discussion yesterday is that the GNSO is supposed to be able to make policies to other mechanisms other than a PDP.

And so I'd like to actually see this question - it almost seems like this question is based on the assumption is the only way is through a PDP.

So I think the question actually should be whether any of the GNSO processes are effective for developing policies within the ICANN structure as opposed to just the PDP.

And then of course I have plenty of comments as an individual on these questions. But I guess my question for the rest of the council is this really the appropriate time to give individual opinions? I haven't even had the chance to discuss them with our stakeholder group yet.

So, I mean I know this is the first question out things of are we willing to identify people? I mean I would love to give, be the person to give separate - to be in front of the ATRT separately and give my thoughts or from the independent expert I should say and give some thoughts on it.

But is this really the...

Man: (Jeff) that's a really good question.

Jeff Neumann: Yes.

Jonathan Robinson: What is the scope of this discussion I mean and what is - because there's a timeline for the response to these today is - can someone remind me or ask what the timeline is? I think we - Avri?

Avri Doria: The first public comment period already went by. And in fact this question comes out of some of the comments of others.

It comes out of a strong push from some of those in GAC when they're looking at how does one participate in the PDP and is the PDP and effective multi-stakeholder process for the whole community?

The, you know, the proposal was first put on the table by (Alan). And when we went through looking for do we need an external consultant to look at an anything there was actually up hold on among the ATRT of various topics.

And this one scored higher than any of the others. And therefore it's the one that's getting that treatment.

I think obviously we're going to be meeting with the registries I guess it's Tuesday. I'm sure that any independent expert will interview lots of you individually and such.

I can honestly say and in fact you can look through the record and I was not one of those that was in favor of this use of an independent expert. But that's what the group decided. So of course I'm supporting the process going forward.

But I think the ATRT needed to hear from everyone as individuals, as part of groups, as, you know, concerned working group chair or what have you from the various perspectives on this issue.

But the PDP has become for better or for worse because of the new gTLDs and the GAC's feeling that - and the GAC has actually gotten to the point I think of realizing that they need to take part, they need to take part earlier. They can't figure out how to take part earlier because they just haven't been able to make the cultures match. And so we're looking at the PDP to see how to make that work.

Jonathan Robinson: So it's ironic really because this response that I have is that we are actively engage now in dialogue with the GAC about how to involve them.

And so in a sense the multi-stakeholder model is working because within the environment we are actively talking with the GAC and figuring out the way how to involve them.

So it's ironic that it's sort of - I suppose the two can exist and coexist in parallel. But I think we need to make the ATRT Tool Team aware whilst there may be an element of what I might say "a problem" there's also a resolution and a way. So we need to be careful we don't approach things from too many angles at the same time.

Jeff Neumann: Can I just get back to like I guess the root of my question is that we can have a discussion with the ATRT but it just needs to be clear that we're all having this as individuals.

I'm not speaking on behalf of the registries. I'm not speak getting on behalf of that council.

I will say the same things I said yesterday which clearly some people don't agree with, some people do but that's what I would say to the ATRT.

And I don't want to hear later on that oh the (Cal) found a special session with the ATRT and there's (Jeff), you know, going off on whatever he wants to go off on and then of course attributing and then tweeting about it and all sorts of stuff I get crap for later on. Excuse my language.

But so I just want to be clear. We as a counselor are we deciding that it's okay for us to express our individual opinions and that it's understood that when I give an opinion to the ATRT it's my own opinion?

And if the council's good with proceeding on that it's an assumption then I will give my thoughts and others obviously will give their thoughts. I just want to be clear up front.

Jonathan Robinson: (Jeff) I'm very happy as chair to make some remarks to that effect at the outset. I don't have any reservations about that.

We have not had the opportunity to give substantial discussions on this as a council. And in any event we may well have divergent views.

So it's probably not realistic to think there would be a council opinion forthcoming on these points. So I'm very happy to set that scene. I wonder if there any other comments around that point or not?

Jeff Neumann: From council members and actually people in the room because there's some people in the room that typically make comments that they're disappointed with certain thing that the council does or says.

So if there's anyone in the room that would love to make a comment that normally has a comment that would be fantastic so that I don't find myself getting into trouble again.

Jonathan Robinson: (Jeff) I noticed that there is this point, I'm not sure if Point 14 is coming from the council but from the ATRT or this is something we've put in - I think this is a question directly from the ATRT. But you'll notice this is certainly something we've discussed as a council.

And our position I believe as a council is that this we agreed that we would - this is something we would like to raise with the ATRT.

So, you know, I so, you know, notwithstanding your comments about how much we've decided I think yes Avri?

Avri Doria: Avri speaking again. Yes I do want to point out that by the way all of these questions are basically follow-up questions that came out of the comments we received during the first comment. And there were definitely some comments on the insufficiency of the reconsideration process. So that's why we're asking neutrally if it's sufficient.

Jonathan Robinson: Thanks for that comment. And then again for the record I mean it was something we discussed in some length and agreed as a council that it was something we'd like to put to the ATRT as an issue for consideration as to really the effectiveness and an accountability and transparency mechanism of the reconsideration process.

Jeff Neumann: And I would be happy to talk about that at least in the - in terms of what we talked about in at least at one conference call. Granted it's not a council position. I will be clear on that again. But at least I can certainly and I would certainly really would like to bring that up and talk about that one.

Jonathan Robinson: Great I - granted it's not a council position to the extent that we didn't vote on it and form a formal council position but there was - there seemed to be a reasonable support within the council to raise that point.

                 I took it as a take away and I think I'm pretty sure it was on our action list.

                 Marilyn you're in the queue. Let's hear from you.

Marilyn Cade: Thank you, Marilyn Cade. I'm struck with the number of times that the council is deciding to speak with individuals when they speak to groups that are listening to the voice of a - what is supposed to be an entity, not a collection of individuals.

                 So I have that as an ongoing question in my mind. And I'm just raising that because when you do speak to the GAC and to the board you have a role that comes from your function as counselors.

But you're not always empowered by a constituency or stakeholder group to carry the full range of messages from that group. And I realize that's a tension that we all have to acknowledge.

But I am just struck by the number of times that there are individual positions that are being expressed.

And I think it's something for the council to think about further. I'm not saying you need to do it today but I just think we need to do it.

On the issue of the reconsideration I want to make a comment about to me the risk of the council prematurely even as individuals speaking about the reconsideration process because the reconsideration process is an appeals process that affects the entire ICANN community, not just a gTLD policy issue.

So in whatever comments that individual counselors choose to make or that the council I would say that to me the stakeholder groups and constituencies then supporting organizations also have to be respected in that reconsideration just as ombudsman is a communitywide resource.

Jonathan Robinson: Thanks Marilyn. Now (Jeff) wants to respond. But I just want to be clear in my understanding of your first question or point.

Is it your view that there are a number of issues such as these where the council should ideally be forming such responses to these questions where the council should ideally be forming unified views as a council?

Marilyn Cade: It's my view that the council as a council has expertise and authority when it comes to the management of gTLD policy.

I get the rest of that would be and therefore there are many areas where the competency if I were to use an example familiar to some who are familiar with the role of the European commission in certain settings and not in others and that is that competency lies elsewhere in many other areas.

Jonathan Robinson: Thanks. (Jeff) you wanted to respond?

Jeff Neumann: Well yes, I appreciate Marilyn's comments because she said exactly what I thought she would say which is, you know, certainly consistent and was the whole reason I brought this up which I know (Marilyn) you were talking to Mikey so you didn't hear what I said but basically what I...

Marilyn Cade: Actually I did hear good parts of it.

Jeff Neumann: Okay so my point was at the time was that, you know, basically if we follow Marilyn's views then there's really no reason to have a meeting with the ATRT because we can't talk with individuals and we haven't had time to talk to our stakeholder groups on some of the questions.

So we either cancel it and pack up and go which is fine because I have other lunches I could do, be kind of rude to the people that we invited.

But on that point Marilyn there are some things that I do have registry stakeholder group at least we have discussed things like the reconsideration process and others that I could talk to. And we did talk about it as a council.

But there are other questions here like that unfortunately in this level of discussion because we jumped out the questions not too long before the session that we're going to have to - you did not answer at all or answered individuals.

And I'm fine what I said at the outset was I'm fine not speaking at all because I didn't want to get - I didn't want to hear from people afterwards that I shouldn't have said things because it was as an individual.

So that's actually when you said is exactly what I was looking for and exactly, you know, what I expected.

So again, I will throw out the question of how does the council feel we should be responding in five minutes or ten minutes when they come here to these questions?

Wolf Ulrich-Knoben: Well if I - Wolf Ulrich speaking so just a quick comment on that.

So as usually Marilyn also I understand these sessions, GNSO sessions not only (council) sessions. So when we agreed to that we have a meeting with the ATRT then we're of the opinion that it's the exception of the GNSO or the ATRT to or so the perception of the ATRT to maybe that it's a meeting as a counselor because they - some of them are not really aware of this tension.

But so the floor is open then to all GNSO participants here when we have this meeting with the ATRT too. Thank you.

Jonathan Robinson: Avri I think I saw your hand up.

Avri Doria: Just briefly from the perspective of an ATRT member I actually think we're clever enough to understand the difference between the council making a statement and saying as a council we believe versus being able to tell that it's one of the distinguished members of the community that happens to be on the council making an opinion in their own.

So obviously I can't decide for the council how you're going to speak. But I do think we're clever enough to tell the difference between one of the distinguished members of the council speaking from their supposedly

allegedly I expectedly knowledgeable position and somebody that's giving a council position. So I'm hoping that people talk.

Jonathan Robinson: Chuck you might like to comment please.

Chuck Gomes: Okay Chuck Gomes. I mean it's clear that there hasn't been enough time. In fact the 15 business day rule has not been followed with regard to these questions okay? So there's no way that the council could have come to any sort of position.

So it seems to me that and the first thing that should be said is that the council does not have a position on this and that like you said Wolf that the floor is open to anybody in the GNSO to speak and including counselors and their individual capacity.

Jonathan Robinson: So thank you very much. So I see - oh I'm sorry...

((Crosstalk))

Marilyn Cade: Yes and I think that's helpful. It's Marilyn, because I'm sort of saying that same thing as - what I'm saying (Jeff) is that I see too many times when the council when they're sitting speaking as the council end up speaking as individuals. And I'd like you to think about that for the future, not today.

For today I do think if in fact this is a GNSO community gathering that you're not sitting as a counselor. You're all here as individuals and able to speak as individuals. And I see nothing wrong with that.

But I think I was too obscure in my indication that the former question still needs examination at some other time.

I'm basically supporting what Chuck said.

Jonathan Robinson: Thanks Marilyn.

I think we can - I mean I think we're pretty clear on this. I don't think that there is - we haven't had the opportunity to form a council view on these.

We have a session where the Council is - (see that) these are GNSO working sessions over the weekend. And we can have a productive interaction on some or all of these points.

So I suggest we take a few minutes now for - to welcome members of the ATRT to the room and we can perhaps get some lunch before working through to questions.

Man: Operator the discussion is closed.

Man: Thanks.

END