

---

NIELS TEN OEVER:

Thank you very much, staff, and welcome, everyone, to this 8<sup>th</sup> meeting of the Cross-Community Working Group on Enhancing ICANN's Accountability Work Stream 2 Human Rights Subgroup on October 11, at 19:00 UTC.

Staff, would you please be so kind to take a roll call from the Adobe room. Would anyone who is only on the phone bridge please let themselves be known so that their names get recorded in the log?

If anyone has an update to their Statement of Interest? No? Then before we go into a discussion of the agenda, I would like to share my deep appreciation for the group and especially for the Drafting Team that has been working very hard and very constructively this week. I'd like to also appreciate all the input from all the participants who have already spent quite a lot of time here. If I look at the time at which e-mails get sent, I see people definitely do not only do this doing their day as their work.

We are trying to do something that has not been done before. There is not a model that has exactly been made for this. So we're really trying to invent something new, which means that no one also specifically knows how this should work. So together, we're really finding out how this can and should work. No one is right, no one is wrong, and everyone's opinion can help us progress. I am sure we'll be able to make a lot of progress today as well.

---

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

---

As David McAuley has already said, some of the documents might be a bit messy, which really is a testament to the work in progress. But even that messy process is something that we will discuss.

We have an agenda ahead of us with five different points. We're almost done with Point 1, unless someone would like to add or change some points on the agenda. I don't see any hands. I don't see any comments on the agenda there.

So I'd like to go forward with a short discussion (with the emphasis on short) on the Discussion of Working Methods. I completely agree with the comment by David McAuley that the current Google Doc working document is quite a messy document. I think that's testament to where we are in the process. It's a group of people thinking, deliberating, weighing positions, seeing what text is possible, seeing what text is not possible. A Google Doc is allowing us to have a discussion in the comments, but that can be quite a flurry of discussion if not followed closely.

I hope we can work through this and find better solutions, but up to now this is what we have. I am also, of course, always very happy to think of other solutions. I see Tatiana and Greg's hands are up, so they might even be able to already help us think through better solutions. Tatiana, please come in.

TATIANA TROPINA:

Thank you, Niels. I would say that, yes, the document got very messy. And even for me right now it's nearly impossible to follow all the comments also because I was the one who created the document so

---

they are all landing in my e-mail in my box. It is sometimes hard to follow. But up to now, I don't know a better tool from my experience. I don't think that wiki or anything will help right now, let alone some things like [inaudible].

What I would like to propose, and I already wrote an e-mail to the group, that some of the discussions would be much more efficient if we have a call on Skype or any meeting platform and discuss some of the things and write the minutes of these meetings or the notes and post them online so anyone could comment. I don't know if this would increase the workload, but certainly it will create the same level of transparency. But at least, it will make the comments less messy, so we could try to figure out what are the points of disagreement, why. Instead of commenting on Google Doc different times of the day, different time zones, and then sometimes it's hard to follow.

So I do propose that this group while this work is still in progress and we have a lot to do but at least we've started and we know where the points of disagreement are or where we can possibly agree, what are the hardest points of disagreement. I believe that if we have a call some time toward the end of this week or the beginning of next week, we might achieve a much better result without going through all these strings of comments.

This is just my proposal. Leave the Google Doc as a main drafting tool. Have a call. Write some notes or minutes from the call, and then work on these. I don't know if this would be welcome by other participants of the group, but it's something I do see as a way forward. Thanks.

NIELS TEN OEVER: Thank you very much for that suggestion, Tatiana. Greg, please come in.

GREG SHATAN: Thanks. I overall am a fan of Google Docs. I think this one particular instance is probably more out of control than most Google Docs, so we're certainly testing the idea out or limits of its usefulness. I think we probably also discovered a couple of management issues.

I think there probably needs to be a little bit more consideration of process in using the Google Doc. I think if minor editing changes – and unfortunately most of the changes we have in ours are not minor editing changes – minor editing changes can be accepted to clean up the document. The more things you leave in Suggestion mode, the more cluttered up it gets.

There are also ways to save, because it does have a history function and you can also save and move on to another version and retain all of the comments historically. You can also copy threads of comments out and perhaps consider using footnotes for some comments or comments in the text in some cases. I think there is just a need to be a little bit more creative.

I think, somewhat like democracy, Google Docs is the worst solution except for all the other ones. Wikis have their advantages too, but they're not collaborative and they don't show changes and they don't have a comment [inaudible] except on a pop page or in the history

---

listing, which are usually very short comments. So that's not a great solution, especially for a collaborative document.

I think that perhaps we just need to think about ways to manage the process. I think that's a way. I also agree that if we have meetings/calls and don't rely solely on the Google Doc for communication, that also helps because that can be used to clean up the substantive chatter that's in the sidebars as well and then you can get the document cleaned up.

So I think we have to move from version to version and then put a cumulative version that reflects every suggestion. This one just happened to go fairly quickly from empty to overfull. I don't have a better solution that doesn't involve Google Docs. Track Changes on Word documents have a lot of the same problems in terms of clutter as well, plus you're dealing with a single document that you have to trade around, so it's not collaborative in that sense so I wouldn't really go there.

So that's my two cents on dealing with this. One last other thing is to make sure that everyone is working in Suggestion mode. A couple of things that it's probably in retrospect better to bracket things you disagree with rather than cross them out even if the cross-out is just a suggestion. It keeps everything a little bit more fluid. And the other thing is that putting things in, in Edit mode, and then turning them a color is not the functional equivalent of putting them in, in Suggestion mode, especially if they end up in the same color as somebody else's suggestion. So be client about technical accuracy in using that Google Docs is also a way to avoid unnecessary confusion. Thanks.

---

NIELS TEN OEVER: Thank you very much, Greg, for those useful comments. I see Tijani's hand is up. Tijani, please come in.

TIJANI BEN JEMAA: Yes, thank you, Niels, and good afternoon, everyone. I know that Greg likes a lot Google Docs, and I expressed in one of the previous calls that Google Docs is not usable everywhere in the world. To the contrary, the wiki is very – we used it before. If you use the comment function, you will have all the comments visible to everyone. With one [inaudible] folder at the [inaudible] the calls, we decide on all the comments. If we accept them, we [inaudible] and integrate them. If we don't [inaudible] integrate. Then integrate or don't integrate them into this version, and this [inaudible] versions. [inaudible] have [inaudible] every time [inaudible] each call [inaudible].

NIELS TEN OEVER: Tijani is cutting out. That's a bit of a pity because...

TIJANI BEN JEMAA: Thank you.

NIELS TEN OEVER: Thank you very much, Tijani. We did not necessarily hear the last part of what you said, but I think we got the general gist of your point. We have been trying to work with ICANN staff to get more functionality on the

---

wikis to allow for collaborative editing. Until now, we don't have that. So I'm afraid that using the wiki for collaborative editing right now is not a functionality that is supported. I see Kavouss' hand is up. Kavouss, please come in.

KAVOUSS ARASTEH:

Yes. Thank you, everybody. I join Tijani that I am not very comfortable with Google Documents. We have had [inaudible] Work Stream 1 with [inaudible] proposals plus so many hours and so many e-mails and so many things. But I was not [inaudible] Google. I don't know what happened that all of a sudden [our focusing to] everything turned to the Google Document. I have [serious] difficulty with that, number one.

Number two, [truthfully] Niels asked me for the floor and he speaks and he speaks and he speaks [putting] words and words together but without any concrete proposal, just generalities, [several things] back and forth and so on and so forth. If you put what they said, we don't find any concrete proposal to progress the work. Somebody says that don't [discuss anything] now. Let's [discuss it next week]. Why? What is the usefulness of debate if you want to do it next week?

And then many of those comments in the Google Doc are totally not useful. The [second page] from the Work Stream 1. I do not [inaudible] anybody, but none of them giving any real [proposal]. We look to all of us to help you to go [further]. Hello?

NIELS TEN OEVER:

Yes, Kavouss, thank you very much for that support.

---

KAVOUSS ARASTEH: Yeah, I'm sorry because I was disconnected, but that is what I want to say. No Google [platform], please. Let us have a standard [either] wiki or [inaudible] document and request [inaudible] to kindly propose a concrete suggestion for the way forward but not talking about generalities, not talking about philosophy. Thank you.

NIELS TEN OEVER: Thank you very much, Kavouss. I think in that line, we should continue to some real concrete work that has been worked on. Of course, I've been sending you all the documents or proposals that have been proposed, and I will ensure that I will keep sending you everything so you don't need to use Google Docs if you're not comfortable with that.

Let's go to Agenda point 3, and Analysis and Discussion of the Proposed Definition of Applicable Law, a proposed definition that has been made by David McAuley. David, would you like to provide some context to the work you've been doing and the definition you've been giving us?

DAVID MCAULEY: Yes. Thank you, Niels. I'm happy to. As I recall, during last week's call, I made a point about Applicable Law. I forget exactly what it was now, but Niels at the end or thereafter you asked if I would take a stab at writing something down to describe my understanding of Applicable Law, and that's what prompted me to come up with that e-mail that was a little bit longer than it perhaps needed to be. So that's what then led to me trying to boil it down to something shorter today.



---

But I did try and take a stab at what my understanding of Applicable Law was as it's used in the Bylaw, in the Core Values. I would simply say that it's my belief – and I understand maybe not everybody will agree with this – but it's my belief that Applicable Law is discernable when there is a question on the floor. But when there's not a question on the floor, it's a large body and it's not easily – I think it would defy codification. But I do believe it's a real concept. It's a real thing that applies, and that's why the Bylaw uses it twice.

That's really where I was coming from. Thanks, Niels.

NIELS TEN OEVER:

Thank you very much, David, for this explanation and thank you very much for drafting this and being so proactive about this. This is exactly the spirit that we need.

Now I'm looking forward to opinions about this text. How do we feel this as an explanation of Applicable Law? I see Kavouss' hand is up. I see Nigel is typing. So, Kavouss, please come in.

KAVOUSS ARASTEH:

Yes. David, thank you very much. This is a good [text]. I suggest that we take this text, put it on the [inaudible] and comment for additions, amendments, changes, improvements, and so on and so forth. This is a, let us say, working definition for [acceptance], and we invite everybody to comment on that through the form of [inaudible] in redlines and so on and so forth. [It starts on something.] Thank you.

---

NIELS TEN OEVER: Kavouss, I'm very sorry, but the reception was extremely bad, so I'm not sure if I completely heard what you said. Or actually, I'm pretty sure I did not hear.

KAVOUSS ARASTEH: I said thank you very much, David. This is a good start. I suggest that we take it as an element, that we work on that, amend that, change that, improve that, with redline and with revision marks. That is what I said. I hope this time you have heard me. Thank you.

NIELS TEN OEVER: We have heard you, Kavouss. Thank you very much. Indeed, this is a first reading, so we're go ahead but we'll still leave it open for discussion. I see a queue is forming. Nigel, please come in.

NIGEL ROBERTS: Okay. Let me see. I'm trying to do this on Adobe for a change. Can I just take a confirmation as to whether or not the audio is acceptable?

NIELS TEN OEVER: The [Confluence] is very acceptable, swimmingly.

NIGEL ROBERTS: Okay, great. Thank you. This is the first time I've ever used the microphone on the laptop in about I don't know how many decades of revolving ICANN working groups.

---

As you probably remember, I was quite vocal and overruled in the adoption of this particular term of [art] in the Bylaw. But I regret to say that I believed that any court that was charged with construing the Bylaws would look at this and say it was the intention of the Bylaw drafter to exclude all international law and law that applies only to state actors by the Bylaw.

So my [submission] is actually quite [inaudible]. It doesn't actually [hurt] us too much. My submission to start with is that Applicable Law, there are no human rights laws applicable to ICANN because – as mirrors something that's going on in the Jurisdiction Working Group – ICANN is not subject to public law, as we use the term in the U.K. I believe that you don't use this term in the U.S. in the same way. Public law is the law that applies [just] to government actors, to state actors. So human rights law does not apply to ICANN in any way, shape, or form unless – as we come back to the Ruggie Principles or the concept of something like the Ruggie Principles – unless we voluntarily adopt those particular aspects of them that seem most relevant and useful to our work. I have a list of about four of them. Other people may have a much wider list. So that's my position on that.

NIELS TEN OEVER:

Thank you very much for that point, Nigel. I see Tatiana is responding in the chat. Perhaps you might also want to do that in the queue. I see a queue forming as well. Greg, please come in.

---

GREG SHATAN:

Thanks. I think this is a very good definition of Applicable Law at a high level and generic context. I think that it's something that I would like to try to make more concrete if we could. While I think I agree with the last sentence that it "eludes cataloging," I think it can be made a little bit more clear how it would apply in this context or overall context as to what laws would apply.

Secondly, I agree with Tatiana rather than Nigel that while there are international laws that apply only to the actions of states, there are laws that apply to the actions of entities and individuals that basically bring down the treaties and laws of the states to make them applicable to and govern the actions of entities and individuals.

I circulated some weeks ago a chart which I commandeered, which essentially showed some concordance, if you will, between the U.S. Constitutional rights which apply only to the U.S. government and the states (in spite of Ted Cruz' belief that somehow it applied to ICANN until October 1) but shows where these can be essentially found in laws that do apply to private actors. There are plenty of civil rights and antidiscrimination laws, for instance, at the federal and state level that are essentially human rights laws. So there's no lack of those.

And, in essence, if we really do want to understand – and maybe it's out of scope of this group and maybe it's not – but it would be a good piece of work to understand under the current regime and jurisdictions that we're talking about which laws that are human rights laws or that can be seen as concordant to the human rights treaty actually do apply.

---

In the end, to get real clarity around what this Bylaw means, that is necessary work. It may come only if there is a dispute about which laws are applicable and which are not, but it would also not be a bad idea to consider getting into it now as well. I don't think it would be Herculean. Perhaps it would be semi-Herculean. Thanks.

NIELS TEN OEVER: Thank you very much, Greg. I see Jorge's hand is up. Jorge, please come in.

JORGE CANCIO: Hello. Good evening. Do you hear me okay?

NIELS TEN OEVER: Yes, we hear you very well. Great to hear you. Welcome, Jorge.

JORGE CANCIO: Hello, everybody. I was listening to David McAuley's explanation and, first of all, I would like to thank him for coming up with this definition. I'm of the opinion that this is possibly a good basis. However, I have some concern with what Nigel explained before that Applicable Law would mean that without any voluntary commitment, there is no real effect for ICANN. So I would like to have more clarity on that because as I understand the human rights core value, it is really meant to make a commitment to respect human rights.

---

So Applicable Law in my view shouldn't be construed in a way that it empties the meaning of this human rights commitment. I think that, as David put in his definition, the specific meaning of Applicable Law will change with every case and with every situation. It would be probably a waste of time to try to come up with all possible scenarios of what that Applicable Law could mean in different jurisdictions which could be of relevance to ICANN.

Finally, as I think I already mentioned last call, I think that it would be good to compare the words of the definition we are developing with what is the opinion from ICANN legal. Because in the end, Applicable Law is something we can find in the Bylaws and in other important documents applicable to ICANN, and they probably have an idea on how they construe this concept. So their opinion, I think, would be quite useful, at least to know it and to consider it during our work. Thank you.

NIELS TEN OEVER:

Thank you, Jorge. I think what we see now is different ideas. First, there was the comment from Kavouss which was echoed by others that this seems really a good start to work on. So let's not [repeat] that. This is a very good text that we can build on, so I'll definitely invite comments on this text this week on the mailing list. Subsequently, I think it would be good if we indeed get also an opinion of this of ICANN legal to see if this is in line with their understanding.

With this, I will slowly try to move to ending up the discussion on this first reading of this text, but I definitely would not want to skip the

---

people in the queue. I see Nigel. Is that an old hand or a new hand?  
That's an old hand? Great. Kavouss, please come in.

KAVOUSS ARASTEH:

Yes. May I take the discussion to the direction that, yes, this is something that we have. Let's work on that. [inaudible] discussion I understood what Nigel said, if I understood it correctly. I understood in addition to what Jorge said [inaudible] that Applicable Law means [in practice] that we exclude all international law. I don't know whether that is the view of everybody or this is the understanding of Nigel, but it is not the [key] question I raise.

My question is that I [heard that the people say] that Applicable Law is voluntary but not obligatory or mandatory. Could we have some discussion in relation to Applicable Law, whatever definition we come, the second step or another dimension of that at least it would be a voluntary basis or an obligatory or mandatory basis. We build up on that perhaps to come to something.

Then the issue of [Nigel says] whether it implicitly excludes any international law and just refers to law that is applicable in the area that ICANN is operating: California, Singapore, Turkey, China, [inaudible]. Most of them 95% is California, but the others are also. The example that you had someone else [inaudible]. My question is that discussing this voluntary, optional, or mandatory application of that. Thank you.

---

NIELS TEN OEVER:

Thank you very much, Kavous. I think the text on the screen is already making some statements or having a [inaudible] on that. So I would like to move this discussion, this first reading, now to the list because I also want to give our eyes some chance to have a glance over the work done by the other parts of the Drafting Team.

There I would like to ask ICANN staff to pull up the Word document that we sent around. I'd like to ask Jorge, Greg, Tatiana, and Matthew to guide us through the different parts of the document. What has been done is that the structure [is what's introduce in the text] as we discussed last week, which was largely based on Ruggie. The structure has been kept, but another approach has been sought. Let's see what a different [view the people] in the Drafting Team are, where we're getting at.

I propose that we do this segment by segment, we keep it rather short, and we treat it a bit like a cheese or wine or whiskey tasting where we do not go into wordsmithing but we see what's going on, we see what the discussion and the arguments are within the group so they can inform our work in the coming week or weeks. I hope that's acceptable.

And herewith, I would like to invite the members of the Drafting Team to commence. Whoever wants to go first – Tatiana, Greg, Matthew? Greg's hand is up. Greg, please come in.

GREG SHATAN:

Thanks. I'll just begin very generally and perhaps somewhat gingerly because this is still very much a work in progress and to some extent the maxim that those who like constitutions and sausages shouldn't watch



---

either of them being made. This document is essentially a sausage factory at the moment, so looking at any part of it as if it is a finished product for the plate I think will only create indigestion and probably not aid the work of the group overmuch.

But with that introduction, I would also say that unfortunately when you change a Google Doc into a Word doc and then turn it into a PDF, you keep the colors of things but not the names. So just so you know, the pink is me, the turquoise is Jorge, the yellow is Tatiana, and the remaining color which I think is the purple is Matthew. I hope that's helpful in trying to see who said what. Maybe one day we can work out a way to get the names in there. Perhaps another issue of management is perhaps to begin the comment with our name so that when it converts over, it's in the box.

But going past process to –

[audio cuts off]

[audio resumes]

LEE HIBBARD:

... I want to really echo what Matthew has said, which is that I think we shouldn't get too overwhelmed by Ruggie, but the Ruggie Principles – at least from my perspective – are really at the baseline the inspiration for the work that's being done with ICANN. ICANN is an entity, and I think there's a reasonable expectation ICANN should seek to avoid doing any harm to human rights in its activities or through its business

---

relationships. So Ruggie is, for me, a starting point but it shouldn't be the only point. Maybe there are other points of departure.

I really think that maybe it's just a question of interpretation. I agree not implementation but interpretation. If that's what we're doing now on this call and in future calls, I think we really must be informed by some of the work and some of the commentaries in the UN Guiding Principles. There is a responsibility that we shouldn't undermine states' abilities to meet their own human rights obligations because it effectively states we're the frontline and this is a shared responsibility. We have a shared responsibility to make this work both through states and non-state actors, and that includes ICANN.

I want to conclude by saying that the Council of Europe, which is where I work, is about to release a new expertise, a substantive analysis of [inaudible] top-level domains and what are the human rights implications in that respect. And there are human rights implications. It's not trying to really change drastically what's happening with ICANN, but I think we're all on the same page. We're on the right track, like you've said. But I do think there's a need to perhaps tweak things. We need to be mindful of certain human rights issues and then maybe tweak the machinery and the policies and procedures. So really [inaudible] start with Ruggie as inspiration, as orientation, not spilling into implementation, I think we're on the right track. Thank you very much.

NIELS TEN OEVER:

Thank you very much, Lee. Jorge, please come in. Lead us.

JORGE CANCIO: Hello? Do you hear me okay?

NIELS TEN OEVER: Yes, sublimely.

JORGE CANCIO: Hello. Thank you for giving me the floor again. I wouldn't dare to lead anybody, least this diverse group. But I want also to share some general comments that add up to the comments from Greg and Matthew and Lee.

The first comment I would say that I agree with Matthew that Ruggie Principles can provide some guidance, but that [inaudible] they are probably not at the same level as the Framework of Interpretation. So some parts of them may be useful. Some other parts may be useful for implementation.

The second point is that in fact this small group composed by four people has been doing a really intensive brainstorming the last three or four days, including the week and the weekend. In the course of this brainstorming, I intend to be very positive and optimistic with it. I think that if you take a step back from the document [inaudible], you will at a higher level identify a lot of issues where I think there is common ground. Maybe we don't have common agreement on the specific wording on how to say things, but there is a common understanding on a number of topics. I would like to mention a few, and I hope that Greg, Matthew, and Tatiana may agree.

---

---

First of them is the Mission, the importance of the Mission as a core boundary for anything we do with this Framework of Interpretation.

The second aspect is that we are talking about a core value which is subject to the balancing test of core values. So this gives a lot of flexibility to this commitment. There is also the recognition I think when [inaudible] the UNGPs one by one. We recognize that some of them are more implementation. Some of them are more on a principle level and more interesting for interpretation of the elements we have in the Bylaws human rights core value.

And lastly and with all the caveats and the reservations we saw before, we have this very valuable contribution from David McAuley on the concept of Applicable Law.

So these are really a number of issues which are not negligible where, with some good faith and good spirits, we might end up with at least a minimum common ground.

I have [seen], and I guess my fellow small group members may agree, that there is some tension or some disagreements on what the scope of the concept of [inaudible] is and where it conflicts with the exclusion of enforcement. I think that if we identify this problem and we really focus on its specifics, we may find some agreement on the boundaries on the exact limits we want to establish in the Framework of Interpretation.

Another probably problematic aspect, otherwise I think there was some traction also in the small group on the scope of the international human rights. What are the recognized instruments? There we also have a

---

general principle for not cherry-picking human rights, but we may have to disagree on what that [means] specifically.

That is my assessment of the situation. I hope that I haven't gone very far apart from the opinion of my fellow group members. I think that the [positions] have been spelled out. Everyone has repeatedly stated his or her position. I have also done that. I think that we now need a process for understanding why we have these positions. And only with this shared understanding we may see where the common ground lies and where we may find solutions.

The final comment would be that, apart from the opinion from ICANN legal on the concept of Applicable Law, I think that we will start probably to [need] or to benefit from expert views or expert opinions, be it from ICANN legal or from outside sources on some of the concepts we find in the Bylaw core value and also in the interpretations we are trying to use to give meaning to that human rights core value.

With this, thank you, all. That's all for the moment.

NIELS TEN OEVER:

Thank you very much, Jorge. Before heading back to Greg because we are in our last five minutes, I wanted to quickly summarize our to-dos. That is, one, each other is open to comment on the Applicable Law section this week on the list where we also ask ICANN legal for their understanding of Applicable Law and then, secondly, whether our interpretation is in line with theirs. So that's a concrete to-do for ICANN staff to pass this on to ICANN legal.

---

And we have a Drafting Team going forward with further refining this work. Of course, the Drafting Team is open for new members, especially people who think that have concrete suggestions on how things could go forward. But frankly, everyone is very welcome to join and pitch in. I have to say that the work is very hard but very fair discussions and good discussions and good work going on there. So everyone is very much invited to join.

Now I'll give over back to Greg who will hopefully also offer his reflections on more content and positions within the text.

GREG SHATAN:

Thanks. I'm not sure that I will. I did want to respond. I think that we've always used the term cherry-picking to refer to picking amongst human rights within a document and not the idea of picking human rights documents one versus the other. It has been one of our mandates is actually to choose which documents are the ones we refer to, so that can hardly be cherry-picking.

I think one of the issues that came up is fundamentally a lack of clarity of the mission of this group, which has not been helped by the fact that the last meeting which was a full week ago still does not have the transcript posted on the page of the supposedly helpful wiki. I know I should listen to the recording for an hour. Sorry, I didn't. But I was hopeful that we would have a document to work from, and a transcript would be a heck of a lot faster. Because I think there really was a disconnect, and I think there continues to be a disconnect.

---

But regardless of whether there was a disconnect or is not, and I'm very mindful of Brett Schaefer's comments in the chat with which I tend to agree. I think that we need to in the next round of discussions on this document put discussions of the applicability or not of the UN Guiding Principles to one side and discuss other aspects, methods, etc., texts, whatever they may be of interpreting the Bylaw or else we are stuck in a Groundhog Day situation.

We'll obviously always end up returning to Ruggie, but if we can't get past it and can't talk about anything besides it – and frankly 90% of the time was spent pushing back against another version of applying Ruggie top to bottom – I found that frustrating and unhelpful. I think that there's already a second column that is just Ruggie all day. I think that can't be the only aspect of this.

I've put in some of my interpretations, some attempts to start a discussion of interpretation, and they were labeled mere opinion and the suggestion was that they should be rejected as such. I think that if we rejected all opinions in the development of policy and the development of what we did, we would get nothing done at all. So I do hope that we will have a fruitful time.

Clearly, nobody is flushing Ruggie down the toilet just because it's put aside. I mean, God forbid we talk about some other way of interpreting this Bylaw because that can't be the only way of doing it. Because if it is the only way of doing it, we're never going to have a Framework of Interpretation and we're never going to have a live Bylaw. And that is the last thing I want because that would have wasted a lot more than just a few days of a sub-subgroup. Thank you.

NIELS TEN OEVER:

Thank you, all, very much. I see that there are still quite some ideas from Avri, from Brett, in the chat. I would really like to invite people to take this energy, write an e-mail, send it to the list to help us inform the discussion. I really hope that there are also people who now feel motivated to join the Drafting Team, so please let me know. In the meantime, we'll be working with the Drafting Team to come up with a text for next week.

So thank you very much for your attention, participation, and all your views this week. I'm greatly looking forward to see you all again next week. Bye.

**[END OF TRANSCRIPTION]**