Policy Process Steering Committee (PPSC) Policy Development Process (PDP) Work Team (WT)
TRANSCRIPTION
Thursday 18 November 2010 14:30 UTC

Note: The following is the output of transcribing from an audio recording of the Policy Process Steering Committee Policy Development Process (PDP) Work Team (WT) meeting on Thursday 18 November 2010, at 14:30 UTC Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting but should not be treated as an authoritative record. The audio is also available at:
http://audio.icann.org/gnso/gnso-ppsc-pdp-20101118-en.mp3

On page:
http://gnso.icann.org/calendar/#nov

(transcripts and recordings are found on the calendar page)

Participants on the Call:
Jeff Neuman - Registry Stakeholder Group - Work Team Chair
Alan Greenberg – ALAC
Wolf-Ulrich Knoben – ISCPC
Alex Gakuru - Non Commercial Stakeholder Group
Paul Diaz - Registrar Stakeholder Group
James Bladel – Registrar Stakeholder Group
Tatiana Khramtsova - Registrar Stakeholder Group

ICANN Staff:
Glen de Saint Gery
Marika Konings
Gisella Gruber-White
Margie Milam

Absent apologies:
Avri Doria - Non Commercial Stakeholder Group
David Maher - gTLD Registry Stakeholder Group
Tony Harris - Internet Service and Connectivity Providers Constituency

Coordinator: The call is now being recorded.

Gisella Gruber-White: Good morning, good afternoon to everyone on today's PPSC PDP call on

Thursday the 18 of November. We have Jeff Neuman, Alex Gakuru, Tatyana

Khramtsova, James Bladel, (Rose Clauden). From staff we have Marika

Konings, Glenn de Saint Géry, myself, Gisella Gruber-White. And we have

apologies from Tony Harris and from David Maher.

If I could just please remind everyone to state their names when speaking for transcript purposes. Thank you. Over to you, Jeff.

Jeff Neuman: Great. Thank you, Gisella. This is Jeff Neuman. And this is our regularly scheduled PDP work team call.

And I believe this is the final call before the Cartagena meeting if I'm correct. So what I want to do is talk about the agenda for Cartagena and then to go into more of the substantive work that we have in front of us.

So with that said the thought for Cartagena if you haven't seen the schedule -- but I'm assuming most of you have -- that we have on I believe it's - and Marika, it's Monday, correct?

Marika Konings: That's correct.

Jeff Neuman: So Monday morning in Cartagena from 7:30 to 9:00 we have a room reserved for our - for a scheduled PDP work team meeting which will be devoted to going through what we have drafted in the report that was sent out a few weeks ago or maybe it was last week -- time is flying here -- by Marika to the group and going through some outstanding issues.

The meeting is scheduled to be a breakfast meeting where some food will be provided. But please show up at a little before 7:30, the start time, so you can grab your food because I do definitely want to start at 7:30.

This is not a circumstance where I want people to come in, eat for a half hour and then start at 8:00. Our time is limited. And it'll be some good time that we have face to face to get a bunch of work done. So please show up on time in Cartagena. Actually show up a few minutes early so you can grab some food and then we can start right at the starting - scheduled starting time.

Also in Cartagena the plan is for us to prepare some slides, us being - Marika and I will send around some proposed slides to present to your individual stakeholder groups or constituencies or advisory committees during your individual meetings. And the slides will focus on the - not only the outstanding issues that we've been talking about or still need some comment on but I would like the slides to also talk about some things that even if our work team is agreed, hey by the way these are some things that we've changed or these are things that will change for you if this is adopted by the steering committee and ultimately by the council. So I think that that's kind of a focus point.

We've seen with a work team within the operational steering committee, the GCOT group, we've seen some controversy where people - even though the work team agreed at a point in time on some recommendations I don't think many stakeholder groups, constituencies and the council as a whole were really cognizant of the ramifications of some of the changes. And so we're still kind of dealing with the - we're still dealing with all that now.

And even on today's call which I was - the council call which I was not able to listen to real time I understand that there were some - there may have been a motion that was actually voted down. And I think now that creates some - even more kind of ambiguities as to where that whole - those recommendations are.

So with that said, Marika, do you have anything to add? Or does anyone have any questions on that?

(Wolf):   Jeff, it's (Wolf) speaking. I just came in. So as I understood because it's not my schedule, on Monday morning, 7:30 there will be a meeting in Cartagena. Is that correct?

Jeff Neuman: That's correct. And it's on the general ICANN calendar.

(Wolf):   Oh yeah. Okay.

Jeff Neuman: So it should be - there's a room that's - it's on the calendar. Everything is there. So hopefully you'll be - everyone will be able to make it.

If you - and if - I suppose what we haven't done is to send out -- and maybe even Marika you could do this -- is to just send out a reminder note about the meeting and just to ask if they could respond if they won't be there so we can just kind of get a sense as to who will and will not be there.

(Wolf):   Yes because, you know, just let me add in the draft agenda of the GNSO which we talked about at the council meeting it's not yet in in my draft which I have in present here. So maybe that has also to be updated again or who knows. Okay. Thank you.

Jeff Neuman: Thank you, (Wolf). Actually it's a good point. Maybe we can add that to the GNSO agenda as well.

Glenn de Saint Géry: Alan - Jeff, it's Glenn.

(Wolf):   Okay. Hi Glenn. Thanks.

Jeff Neuman: Okay, great. I...

Marika Konings: Yeah. I think the meetings that are covered there are more the council meeting or where counselors are expected. I don't think it covers yet all the GNSO working group meetings. But, you know, and I think Glenn will check whether those are going to be added.

Glenn de Saint Géry: The latest -- sorry Marika -- the latest one - I think GAC was supposed to cover that. I'll just check that right now because it's clipped there.

Jeff Neuman: Okay, so in either case if we can send out a reminder to the whole team. And also it is on the ICANN agenda. So hopefully between the ICANN agenda

and the - we - the email reminder that we'll get everyone who's supposed to come. And so just...

Glenn de Saint Géry: Hello, Jeff.

Jeff Neuman: Yes?

Glenn de Saint Géry: On the schedule that I sent out it is definitely there, 7:30 to 9:00, policy development process work team meeting and the team (unintelligible) Round 1, Level 1.

(Wolf):   Okay. Thank you.

Jeff Neuman: Great. Okay. That's great. So is there any other questions on the logistics? And again so this call today will be our last one until the Cartagena meeting which is only, what, two weeks from now. Or is it three weeks? Two weeks. Wow. Time flies.

                   So yeah, next week is a holiday in the United States. And I figured that it would be tough to get a bunch of people to attend. So given that there's so much work ahead of us and our vote, you know, I figured we would cancel the meeting next week so that people can read everything that they need to do and maybe take extra time to read the initial report that was sent out.

                   I'm sorry. I called it initial report. It's the - Marika, help me with the title. What do we call it, the proposed draft final...

Marika Konings: I think we called it draft final report. But if people prefer another title that's fine too.

Jeff Neuman: Yeah. Ultimately this report will go out to the members for public comment. So it's not by any means a final report of the PDP work team because there's so much that has changed since the last report.

Alex, you have a question?

Alex Gakuru: Yes. It's not more of a question. It's a comment.

You said you'd be reviewing what happened on the council call. Maybe as you're looking - as you are listening through you may want to find out what Stefan Van Gelder was talking about cross-community interaction or on PDP process integrity. So that might be an area you might want to listen in and sit in to the process as a comment.

Jeff Neuman: Okay. Yeah. That's - I will definitely do that. And if - so yeah, I'll listen in to that and maybe we can address it in Cartagena if we need to.

I think if I - yeah, if I understand what you're saying, Alex, it probably was about the notion of - in connection with the VI working group and kind of what happened there. And so I'll take a listen and see if we can glean any lessons out of that.

Alex Gakuru: All right.

Jeff Neuman: Okay? Marika, you have another comments?

Marika Konings: Yeah. This is Marika and in relation to Alex's point because actually there - the topic of cross-community working groups is a topic of discussion between - in the meetings that the GNSO will have with the GAC as well as the ccNSO.

And then I think the comment that Stefan and I think (Tim) made a similar comment there is that of course at this stage there is no cross-community policy development process. And so the policy development processes for now align with the different supporting organizations that have specific processes for that.

But I guess part of the discussion may be should there be in the future a kind of community-wide policy development process and if so how should that look and which topics should be covered there. But I think that's a kind of a future discussion topic.

I'm really sure whether it has direct impact on the PDP discussion now. But who knows. Maybe the GNSO PDP might be taking as a model for those kind of discussions.

So that's a bit the context in that. And I think for those that are interested in that I would recommend that you attend those meetings with the GAC and the ccNSO where the discussions will be having on, you know, the value and role of cross-community working groups.

Jeff Neuman: Okay. Thank you, Marika and Alex. I will certainly listen to that and see if we can work that into our discussions as well on - in Cartagena.

Okay. So with all that said if you recall where we left off we - Marika had sent around a draft final report. We still want comments on email to the extent that people can do that.

We're certainly going to have a - discuss it during our Cartagena session. But what we've done or Marika has done is pulled out certain areas of that draft report where we need some guidance from the work team as to which of several options we can go down.

The last time - on the last call we talked about what is Page 1 of this report that's up on the chart, that's up on the Adobe. And that was issues around the creation of an issues report. And I think right now we left off on a comment and open issue with respect to community input and how to incorporate public comments.

We have a recommendation in the report that says that we recommend modifying the timeframes, right, because I think all of us agreed and certainly the community agreed that the timeframes that are currently in the bylaws are way out of whack. And so what we decided was that we wanted to set a maximum timeframe in the bylaws that could be modified on request of ICANN staff with the agreement of the GNSO council or the issues report requester if requested by an advisory committee or the ICANN board. Or we could request that ICANN staff provide the GNSO council with an estimate of time it would take for the ICANN staff to complete the issues report taking into account the complexity of the issue and the ICANN staff workload.

So we - our recommendation created two options. And the question is: are we ready to pick one of those options? I believe that someone had suggested a kind of a myriad or hybrid of those solutions as well we talked about.

So the proposed language that if you were to take Option 1, basically setting a maximum timeframe, would be in what's in the third column of the chart. Or if you would do Option 2 it would be that's in the - labeled Option 2 in the chart. So that would be what we would put in the bylaws.

Alan Greenberg: Jeff, it's Alan. So I can find - can you tell me where you are so I can...

Jeff Neuman: Yes. Sorry. Thanks for - sorry about the confusion with the change of numbers. So glad you can make it. So just for the recording, Alan...

Alan Greenberg: I've got...

Jeff Neuman: Alan Greenberg has...

Alan Greenberg: I got up after four hours sleep several hours ago for the GNSO meeting. So I'm just a bit fuzzy.

Jeff Neuman: Yeah. No, I totally understand that. So thank you for making it...

Alan Greenberg: What item are we on?

Jeff Neuman: We are on Page 2 of the chart that's up on Adobe. And we are - so Item 7 which is the timeframe for the creation of an issues report.

Alan Greenberg: Okay.

Jeff Neuman: Marika, you have a comment?

Marika Konings: Yeah. This is Marika. You mentioned that this language will be in the bylaws. But actually the current proposal is to have that in the procedure manual.

Jeff Neuman: Thank you for that clarification. Yes. Thank you. It's an important point that this is one of the items that we thought or at least some of us thought would be more appropriate for the manual as opposed to the bylaws.

I don't want to take that as a given though. So I want to just make sure that everyone on this call is comfortable that this particular language should be one that would be in the manual as opposed to the bylaws.

So let's actually address that one first. Does everyone on this call - does anyone disagree with the notion that the timeframes should be in the manual as opposed to the bylaws? Does anyone disagree with that?

Okay. So for now, hearing no disagreement, this - we need to decide which of these two options would be in the manual.

And I know, Alan, you had your hand raised. Was it for discuss this or was it another point?

Alan Greenberg: No it was...

Jeff Neuman: Alan.

Alan Greenberg: It was to discuss this. You just changed the subject for a moment so I put it down.

Jeff Neuman: Okay, great.

Alan Greenberg: Just to note that A, rightly says the GNSO or the issues report requester. And I don't think we need GNSO there. Just issues report requester is sufficient. But B only lists the GNSO council.

Jeff Neuman: The request of the ICANN - so B is request that the ICANN staff provide the GNSO council with an estimate of time.

Alan Greenberg: The GNSO council may not be involved with this process - in this point. In both cases it should be the issues report requester.

Jeff Neuman: Yeah. I think that does make sense although Marika, you have a comment?

Marika Konings: This is Marika. I think the sentence you had mentioned GNSO council because the issues report is formally submitted to the council, not - I mean it will be submitted as well to the requesting organization. But that's not - it's the GNSO council that will consider the issues report and take a vote on it.

                   So I think that's probably the reason why we put GNSO council there. I don't know if it's a big issue to change it into requesting...

Alan Greenberg: But...

Marika Konings: Organizations.

Alan Greenberg: But in both cases the GNSO council is not involved until the issues report is - rather in the case of an other submitter, other requester the GNSO council

only gets involved once it is ready. How long it takes is a matter of negotiating.

I mean just as in A it's a matter - it's essentially a discussion, negotiation between staff and the requester. In B it is also. The only difference is that we're not putting a specific time in the rule.

Jeff Neuman: Yeah. Then maybe instead of saying issues requester in Option 2 it may be two different sentences, one that's applicable in the council is a requester and then adding a sentence later on when, you know, when the requester is an advisory committee.

Alan Greenberg: Why not use just requester in both?

Jeff Neuman: So if you did that, if you look at the language that's drafted because within 45 days after receipt of either an issue - an instruction from the board, a properly supported motion from the council or a properly supported motion from an advisory committee the staff manager will create a report. In the event the staff manager determines more time is necessary to create the issue report the staff manager may request an extension of time for completion of the issue report which must be acknowledged by the GNSO council.

Alan Greenberg: But that's wrong. The GNSO council is not involved with that process at that point.

Jeff Neuman: Yeah. I see what Alan is saying, Marika. If it's the advisory committee that goes directly to the staff that says we want an issues report sent to the council it's really the staff and the advisory committee that would talk about how long it would take. And when the GNSO council receives it what the council does with it is the business of the council or, you know, is governed by other things. So I do see Alan's point.

Is Margie on the call too? I see her on Adobe.

Marika Konings: I think Margie's trying to dial in but she's having an issue as well with the new numbers. And just...

Jeff Neuman: Okay.

Marika Konings: One point, because I do believe that, you know, what's happened in the past is even if an advisory committee has made the request it is - goes through the GNSO council. There's no vote or nothing. They cannot lock it. But I think it is formally acknowledged. And then, you know, staff starts it work because

And, you know, we haven't really discussed it. I'm realizing now how this would fit in, for example, with prioritization and council workload because in this way of course, you know, ACs could put additional work on staff which might not fit with the workload staff has based on the council work.

So I'm wondering there indeed if that should be a kind of joint negotiation because in this case for example with staff as well we really need more time because there's so many other things we're doing. And the (unintelligible) as well, you know, we don't care, we want this done. And the GNSO council has no way of saying well look, you know, there are more things we're dealing with than just this issues report. So I don't know if it should...

Jeff Neuman: So I think I...

Alan Greenberg: Given that that has only happened two times in the history of ICANN.

Jeff Neuman: So - and well, put that aside for a sec because let's assume it'll happen more. I think the GNSO has discretion at least when it comes to an advisory committee after it receives the issues report to prioritize it and to figure out whether it wants to issue a PDP on it.

Alan Greenberg: Correct.

Jeff Neuman: So I think there is room to handle that, Marika. And I do kind of agree with Alan in the sense that that will really be a negotiation with the advisory committee. And I'm sure the advisory committee will be reasonable if there is a bunch of things that staff is working on.

But I think that the bylaws - it's almost like the bylaws provide for this check and balance to make sure that there are other inputs into the GNSO policy process other than stuff that emanates just from the GNSO. And it's almost like you kind of have to deal with it.

Alan Greenberg: Remember, it's...

Jeff Neuman: And...

Alan Greenberg: It's also the board that can be requesting this.

Jeff Neuman: Right. So I do think what we should do is - and put it out for comment to the rest of the group but I do think that Alan has a point that it should say must be acknowledged by the requester.

And, you know, let's keep the GNSO council involved in the sense that they should have notice of what's going on so they shouldn't be surprised that an issues report is coming down. I do think that when a request is made by an advisory committee for an issues report certainly a courtesy message should be sent to the council that this is going on and they need to kind of fit that into their prioritization exercise.

Alan Greenberg: I mean the whole rationale for this if I understand is this allows an advisory committee to initiate some actions that the GNSO has chosen not to. So to say that they can even block it at the issues report level...

Jeff Neuman: Yeah.

Alan Greenberg: You know, defeats the purpose I think.

Jeff Neuman: I think that's right. I think that's exactly - that was going to be another point I wanted to make is that we wouldn't want to provide another block for - it has to get into the process. There already are enough blocks if the council does not choose to address it, you know, or vote a PDP - vote for a PDP. There already is that mechanism, that check and balance. But I think at this entry stage I don't think there should be another impediment to stopping it.

                  So does anybody disagree with that notion or have any other comments? Marika?

Marika Konings: This is Marika. I'm sorry. I put myself on mute instead of off mute.

                  Just a note because on the issue B it's, you know, I'm happy to change that to requester. But just to point out what it's actually talking about there is staff requesting an extension.

                  So it's not a negotiation of how much time should we spend on it as I think you suggested in your comment. This would just be if staff needs more time than the 45 days that Option B propose - Option 2 proposes just to clarify. But, you know, I...

Jeff Neuman: Yeah. I suppose...

Marika Konings: (Unintelligible).

Alan Greenberg: The requester, be it the board, the GNSO or AC could be belligerent and say deliver or else. But ultimately it is going to get done or it won't get done. And the external body doesn't have a lot of real control over that. So whether it's a negotiation or an informing, you know, I don't know if the words really matter there a lot.

Jeff Neuman: So if we change the words in Option 2 to be the requester we're still faced with the decision of which option are we going to choose. And are we ready to do that? Do we have enough information to say okay, I like Option 1 versus I like Option 2.

And if we're not ready at this point that's fine. We can - we could put that decision off until - but we should make a recommendation in the report.

So are people ready on this call to choose between Option 1 which is within 15 days of receipt of an instruction from the board, a motion from the council or a request from an advisory committee the staff manager should provide council with an estimated time for completion and then generally it shouldn't take longer than 45 days (unintelligible) that may lead to the complexity and workload so a recognition in there or to make it a little more harsh -- sorry, not harsh but more direct -- saying it must be in within 45 days unless this - but in the event that the staff manager determines more time is necessary they have to request an extension from the party that submitted the request.

Alan Greenberg: Okay. But Option 1 is - yeah, it is 45 days from the request which is 30 days after the 15-day limit, right?

Jeff Neuman: That's the way it reads now. Yes.

Alan Greenberg: So really the difference is in one case there is an expectation that if you don't come back it will be done within 45 days. In the second case there's an automatic reporting on what it's going to be - on what it's going to take. And...

Jeff Neuman: The second one...

Alan Greenberg: The only difference is it's 45 days unless there is a comment from staff. And in the first option the comment is mandatory essentially and the second one it'll only come if more than 45 days is needed.

Jeff Neuman: I actually see it a little bit differently. I see...

Alan Greenberg: Okay.

Jeff Neuman: Option 1 as being within 15 days ICANN staff needs to come back and say this is how long it's going to take us.

Alan Greenberg: Okay.

Jeff Neuman: And as a general guideline it should take 45 days. It's very general. But they can come back and say it's going to take 70 days.

           And there's no formal action taken at that point. There's no acknowledgement. It's just a given.

           So in other words if within 15 days staff comes back and says, you know what, this is complex, it's going to take us another 90 days that's what it is. There's no room for the council to do a motion or the - there's no room for the advisory committee to say no, we want it in 45 days. It's - it is what staff says it is.

           In the second...

Alan Greenberg: Oh...

Jeff Neuman: Option...

Alan Greenberg: Okay.

Jeff Neuman: Staff has to come back and has to provide the report unless there's some formal action from the one that's requesting it so the second one is much more formal.

Alan Greenberg: Okay. So you're saying the difference is the first one staff must come back within 15 days and give the estimate and whatever estimate they give is what will live, is what it would be, with no option to discuss and in the second one there is nominally an ability to discuss it.

Jeff Neuman: I mean there...

Alan Greenberg: You could do it...

Jeff Neuman: That's the way I read it, that there's - so there's a general guideline in the first one that it should be done with 45 calendar days. Staff comes back and says nope, considering all these complexities we say it's 90.

And that's pretty much it. There's no way - there's no formal process built in to kind of say from the council no, no, no, you have to do it in 20 or whatever it is.

In Option 2 the way I read it, it stays - I'm sorry, within 45 days they must supply the report unless they go to the - unless they formally request an extension from the acknowledge - from the requester.

Alan Greenberg: Okay.

Jeff Neuman: Marika and Margie, do you read it differently?

Alan Greenberg: The implication is acknowledged really means approved.

Jeff Neuman: Yeah. I mean that's the way I read it. And I can be totally wrong.

Alan Greenberg: So Marika, you're using the word request. It's not really acknowledgement. You're saying really agreement.

Jeff Neuman: Well the requester could always refuse to acknowledge. And then what do you have?

Alan Greenberg: Well.

Jeff Neuman: Marika, Margie, why don't one of you guys step in and see if...

Marika Konings: My comment is related to the first part where staff provides an estimate. I don't think - at least from my perspective I've never seen that where staff says well this is going to take three years and, you know, take it. There's no leaving it.

I saw the first option more as well where staff comes back saying well we think this will take x amount of time and whether there will be room for the council to say well, you know, this is very long, can you do it quicker. And we can say well we can do it quicker but it means that maybe that initiative needs to, you know, stop or slow down because we can't, you know, I didn't see that as a staff will say what it is and there's no room for maneuver.

So if that is what comes out of Option 1 maybe we need to clarify that because I don't think at least that was the intention at least not from my perspective.

Jeff Neuman: Okay. Thank you, Marika. And Margie.

Margie Milam: Yeah. I just wanted to clarify on a different issue because it looks like we're changing the (unintelligible) by the GNSO council to acknowledge the request. It's possible that the requester won't be able to acknowledge it at least in a timely matter, you know, given how often the requesters might meet. You know?

I just think that that might be a difficult thing to manage. It's easier when it's - the acknowledgement is obviously the council.

Jeff Neuman: So sorry. Yeah. I understand that, Margie. But I think what - in the practical effect of Option 2 will be you will all have to know pretty quickly. It's not like Option 2 we'd expect ICANN staff to wait 45 days and then say oh, we need an extension.

My guess or hope would be that staff would know it within the first week to two weeks that 45 days is not realistic and then give - then put in the request for extension which I would think would provide 30 days or so to get that acknowledgement. I think that would be enough time for any of the groups to give that acknowledgement.

Margie Milam: And if I may reply, I'm thinking of the GAC for example. The GAC only meets in a - at their meetings. I mean at the ICANN meetings. And so this might happen in between the ICANN meeting at which point there would be no acknowledgement. So that's why I'm concerned about that change.

Jeff Neuman: So I think that's a good point. I'm not sure how to address that at this point because I think we're mostly assuming the SSAC or the ALAC. But I do think that there should be some sort of a - I don't think that the GNSO Council - and I think you might have missed this before you got on.

The GNSO Council should not really be an impediment to a issues report that comes from an advisory committee. So it didn't really make sense to basically say that the GAC requests an issues report but the Council could say, "You know what, we want to give staff 180 days to do it because we really don't want to deal with it now."

I think that would be a bad outcome for the Council to have that kind of control at the outset even before an issues report is drafted. So I do think an acknowledgement from the requestor makes sense and we do have to kind of think about how that would be dealt with with the GAC and maybe asking them about it.

But making the assumption that the GNSO Council can override a request from an advisory committee doesn't seem like an optimal option from my - from I think the - from our perspective. I don't think it would be an optimal option. If anyone disagrees, let me know. Let me go to Alan and then Alex.

Alan Greenberg: Okay. I got cut off for a while so I'm not quite sure where the conversation is right now. It seems to have reverted back to whether the GNSO is in the loop or not at the beginning.

Jeff Neuman: Yeah. Let me take a minute to clarify.

Alan Greenberg: Okay.

Jeff Neuman: So Margie missed the beginning when we talked about that.

Alan Greenberg: Okay.

Jeff Neuman: But Margie brought up a very good point that getting acknowledgement from the GAC is not an easy thing if they were the ones that requested the issues report and probably would take longer than 45 days because they don't meet very often.

My comment was I think that's a very real issue. But the - and then I went into the rationale of why we decided to change that to requestor as opposed to the Council. So that's where we are. And actually - so...

Alan Greenberg: A couple of things. I really - the tone of some of - of where some of this has been going I don't like that, you know, staff can come back and say it's going to take that or the - or we're in a position where the advisory council, you know, stonewalls and refuses to answer or refused to acknowledge or refuses to discuss in good faith.

I really think that this should be worded such that the amount of time it will take is -- I'm not trying to put wording here; I'm trying to give the intent -- is essentially discussed and agreed to between the requesting body and staff.

And whether that's done prior to the issues report being initiated or half way through the process I don't think really matters. So I would like to see that we say 45 days is the norm if 45 days is what we want to use. And but this can be altered on the mutual agreement of the requestor and on staff.

And it should be a confrontational issue at this point. Any AC or the Board or the GNSO have their own staff people who can intervene. It's not as if you're tossing things over the wall back and forth. And I don't see why we need to make it, you know, something that's effectively a dispute or a confrontational issue.

Jeff Neuman: Okay. Let me go to Alex and then back to Margie.

Alex Gakuru: Okay. Alex speaking. I want to pick on maybe your last comment Jeff and maybe try to recollect our discussion on what we were trying to fix when we came up with some of these recommendations so that again it's not seen as confrontation as we are changing things for no reason at all. And it will probably help to form and justify the proposal we are putting forth.

The reason I think we - what we were trying to fix was that very situation you mentioned that an issue could be there with the Council and no resolution and stays there and doesn't move at all. So that's the problem we were trying to address.

So that we were trying to create, if I remember correctly, a mechanism that ensures that no issue can go there and get stalled and nobody knows where it's heading. I don't know whether that's what we discussed. Maybe I'll go maybe other people to contribute on that and maybe comment. Yeah. Thank you.

Jeff Neuman: Thanks Alex. Margie.

Margie Milam: Yeah. I guess I - I mean, and I apologize because I did walk into the
                    conversation late. You know, your issues seems to be that folks - the GNSO
                    Council seems to be stalling and staff seems to be stalling. And I just don't
                    see that either of those would happen. If there was a request from another
                    organization, at least from a staff perspective I assume we would be, you
                    know, trying to make sure that we do what we need to do to get it done.

                    So, you know, I think we're kind of focusing on something that's not likely to
                    happen. But, you know, it's fine if you guys go with Number 2 I guess if
                    Number 2 is the option. It would just mean that no matter what, it would have
                    to be in within 45 days if we're in that situation where we can't get
                    acknowledgement.

                    And then just the other point I wanted to raise is that remember that we're
                    talking about two different types of issue reports now. And this option doesn't
                    address which one we're talking about. Are we talking about the preliminary
                    issue report or are we talking about the final issue report that follows a public
                    comment period? Because then that 45-day period is going to be a lot more
                    difficult I guess to reach if we are unable to get acknowledgement.

Alan Greenberg: Now I'm confused.

Jeff Neuman: Remember we said Alan that the issues report should go out for public
                    comment before it's presented to the Council.

Alan Greenberg: Yes. And it may well be refined after that. So I think we're talking about the
                    time period to issue the first one. I'm assuming that the revision period will
                    take as long as it takes, you know, which isn't necessarily a long time.

Jeff Neuman: Yeah. I think that was...

Alan Greenberg: I haven't even thought of setting time for how long staff takes to integrate the responses. I...

Jeff Neuman: Yeah. I think that was my assumption as well Alan that this was really the amount of time period presented to the Council - I'm sorry, time period - I still think this through; as I'm talking I'm thinking of a bunch of things.

It should be...

((Crosstalk))

Alan Greenberg: ...from the closing of the comment period to the time the final issues report is issued, you know. But, you know, and that's probably something we should do. But that's a separate issue from what we're talking about now I believe.

Jeff Neuman: Right. So what I was thinking through was it's not the Council that's going to say okay, now this is ready for public comment. It's really - this gets done by staff, goes out for public comment, is revised and then it gets back to the Council to do whatever it's going to do...

Alan Greenberg: Right.

Jeff Neuman: ...with initiating a PDP or not. So I would say that this - we should make it clear that this is - within 45 days it should be put out for public comment I think is what we're saying, right.

Alan Greenberg: Right.

Margie Milam: Yeah. That's what I would think Jeff.

Alan Greenberg: Now we may want to set a time limit for the second pass but that's a separate discussion I think.

Jeff Neuman: Yeah. And let's not confuse the two subjects at this point. So Alan from the way you're - so does anyone have a thought as to which of these two options - assuming it's within whatever time period it is, it's going to be delivered for public comment or it's going to be put out for public comment. So put that assumption.

Also put in the assumption that the acknowledgement in Option 2 is an acknowledgement from the requestor as opposed to just the GNSO Council. With those two assumptions, does anyone have a preference for Option 1 or 2?

Alan Greenberg: Well assuming acknowledgement really means agreement - so okay. In Option 1 staff comes back and says, it's going to take four years and the requestor has no choice but to accept that. Do I understand correctly?

Jeff Neuman: Yeah. But let's be more realistic.

Alan Greenberg: No, no. I know. I'm giving an outrageous one. The staff will come back with a time and that's what it is.

Jeff Neuman: Yeah. That there's no real - I mean that's what it is. Okay.

Alan Greenberg: Okay. The reality is regardless of what is said at that point, if the other - if the requestor thinks it's totally outrageous, they are going to enter - to into a discussion on how can we change the request to make it more reasonable or something like that.

So I think the two merge to the same thing and I'd like to keep the words, you know, such that it's a cooperative venture, not a confrontational one. So I guess I would prefer something like Option 2 but with somewhat different wording than acknowledged.

Jeff Neuman: What would that wording be?

Alan Greenberg: Well...

Jeff Neuman: I mean you could say that it'd generally take 45 days. If it would take a longer time period - again, this is not the actual words. If it would take a longer time period, then staff should enter into discussions with the requestor to balance the needs for addressing the issue versus time it takes to get this done.

Alan Greenberg: Something like that. I'm not quite alert enough to come up with a coherent sentence right now. But yes. It probably can be done even simpler than that. But I think that should be the intent.

Jeff Neuman: Okay. Margie.

Alan Greenberg: And certainly that's what happened in the last few that I've seen requested both by ALAC and by the GNSO.

Jeff Neuman: Okay. Margie.

Margie Milam: Yes. I agree with Alan. I mean I think that some of the language is fine. I just wouldn't want to use the word agreed because I don't know how, you know, again, you know, thinking back to the GAC. How are they going to agree on anything? But something, you know, along the lines of Alan suggested probably would work.

Jeff Neuman: Does anyone have any thoughts on that? So if we went back, kind of changed a little bit of Option 2 to be more of a discussion as opposed to some sort of formal agreement or acknowledgement. Is it sound like people are agreeing towards Option 2?

Alan Greenberg: Even the GAC, the Chair has some level of discretion. So it's not clear it couldn't be agreed upon. But I think we can come up with some words, which

are wishy-washy enough to show the intent without locking people into a formal negotiation and, you know, formal signing agreements.

Jeff Neuman: So why don't we then - and I know people aren't speaking up. But I always find that when you take a proposed recommendation, people are more likely to comment on it. Why don't we for the next - why don't we change around Option 2 to reflect the discussions that would take place as opposed to acknowledgement or agreement by the requestor?

And then why don't we take that as our proposed option or recommended option, put that out to the group and, you know. Again, I think that's more likely to generate comments from people as opposed to saying, well you can have Option 1 or 2. Which one do you want?

So not, you know. And again, this is not a personal preference. I'm not expressing my personal preference. But I think because Alan's being very vocal on it and Alex has also weighed in that why don't we put that as our recommended approach and leave - put that into the report for now?

Alan Greenberg: Okay.

Jeff Neuman: So I'm trying to push this forward a little bit and hopefully, you know, again if we put in a recommendation that people absolutely hate, I think they're more likely to comment on it.

Alan Greenberg: Well in that case, pick Option A.

Jeff Neuman: That's true.

Alan Greenberg: That makes more work for us to do.

Jeff Neuman: Yeah. I'm hoping people don't hate it. Okay. So then the next question is on resources and prioritization, which is on Page 2 of the chart and top of Page

3. So it's Recommendation 15. And we in our initial report said we are considering the notion of having a fast track that would allow for a more timely PDP in cases where such urgent action is deemed to be necessary while at the same time ensuring broad participation and avoiding gaming.

The PDP Work Team hopes to receive further input. And we got some further input. And we kind of said as a work team that we recognize the value of having - and the comments that we got recognized the value of having this fast track. But the comments were very broad and did not really suggest any kind of mechanisms or a concrete procedure.

So staff has put together some options for us to consider. One of those options is that we recognize the need and importance for this but also acknowledge that there are challenges in developing it. And we request ICANN staff develop a proposal for next (unintelligible) PDP for community consideration that takes into account certain principles that we all talked about in this group. And there are five - or four principles and maybe we want to add something else.

So the Option 2 is - again I'm paraphrasing because everyone can read. The GNSO Council may conduct a PDP on an expedited basis if it reasonably determines that immediate temporary establishment of a specification or policy on the issue is necessary to maintain the operation of stability of registrar services, registry services, DNS, Internet and the proposed specification or policy as is now we tell it as feasible to achieve those objectives.

Now I will say Option 2 mirrors what's currently in the registry agreement. Help me out Margie. Is there a defined term for registrar services and is that in the registrar agreement? The accreditation agreement?

Margie Milam: Not that I'm aware of. I'd have to take a quick look.

Jeff Neuman: So if we went with Option 2 we would have to define what registrar services are, which I'm thinking is not going to be an easy task. And probably as a - I'll take my Chair hat off now, put on my contracted parties hat. I think Option 2 is very - I'm not sure contracted parties will be happy with Option 2. They're okay with giving that discretion to the Board.

I would think that contracted parties would have a big issue with giving that kind of discretion to the Council because seemingly that would be a way for the Council to decide something by consensus on a temporary basis and the Board if they were to approve that would basically get around the whole thing in the contract of temporary specs and all of the restrictions implicit. Because if it gets through the Council, the Board would call it a full consensus policy and therefore it would no longer be considered a temporary one under the contract that the registries and registrars have.

And sorry if that might seem a little convoluted. But it does have legal ramifications and would give the Board an avenue to say, you know what, we really want something done. If we do it through temporary there's always restrictions we have on it.

So we're going to make - we're going to make the staff do an issues report. We're going to make the GNSO do it on an expedited basis. And we're going to get around - and then once it's done, we're going to call it a full consensus policy and we've not gotten around all the limitations that are in our contracts for temporary specs or for temporary policies.

So that's not my Chair hat. That's my contracted parties hat. Let me go to Alan, then to James and then Marika.

Alan Greenberg: Okay. I think I agree although I'm not as worried about the, you know, the legal issues. But the concept - right now the Board has the ability to make a decision immediately if they think something's urgent. They certainly could go to the GNSO and say strike a work team to advise us exactly what to do and

report back within a month as the Board likes to do so that we can take some immediate action.

That process is already there or could be already there to use - to say Council can with an expedited PDP can take - set temporary action implies. They will then have to follow it up with a long term PDP to take permanent action. And that sounds an awful lot like a make work activity, which won't be fast enough to do things quickly but will increase the amount of work regardless of how you do this. So I really don't like that one.

I'll confuse the issue a little bit by reminding the group that the Board has now added a whole new issue that is subject to consensus policy. And that's vertical integration issues, which can include all sorts of hairy things including contractual terms.

And in fact that, you know, if we suddenly find harm being done because of vertical integration, that one may well be an urgent one. Although how one comes to consensus on it is not 100% clear...

Jeff Neuman: Right.

Alan Greenberg: ...on the remedy. But it has complicated our PDPs by a fair amount.

Jeff Neuman: Okay.

((Crosstalk))

Alan Greenberg: ...PDP into the process.

Jeff Neuman: Right. I think we're going to put that aside for now but I think that's a good point. Let me go to James and then I'll go to Marika and Margie.

James Bladel: Hi Jeff. James speaking. Thanks. And I just wanted to weigh in here because I think it's the most appropriate place. But - and don't presume that what I'm about to say is going to make any sense. Because I'm not sure it fits with Option 1 or Option 2.

But I think the - well, let me just say I'm against the idea of creating a whole new flavor of PDP be it expedited, temporary, whatever we want to call it for a lot of the same reasons that you are. But also because I believe we're not solving the root problem which is the PDPs are unwieldy in urgent situations where they, you know, they need something to happen quickly.

And so I think creating a second variant of a PDP is concerning to me. Now having said that, I have - in the context of some of the other PDPs that I'm working on, I'm kind of fleshing out this idea of a - I don't know what we want to call it, you know, real time PDP or something that happens very, very quickly, you know, where you could turn around from charter to initial comment in something like 30 days.

And I think that, you know, if we can continue to examine or explore or recommend that, you know, that the GNSO explore ways to shorten the timeframes while still maintaining, you know, the principles of participation and public feedback and take a look at those things that are introducing delays in the process and look at ways of abbreviating those. You know, I think we can get what we want out of a fast track process without, you know, creating a black swan.

Jeff Neuman: Yeah. So I think if we look - and I think those are good issue. I think if we look at Option 1 it will at least give staff an opportunity to go back, think about this based on the principles that we've come up with and then put something out for comment so that we could see - we can kind of see James if this addresses all of your concerns. It'll be a report from them.

We're pushing off the issue to see if there's really a way that staff could propose this that keeps in all of the protections of the regular PDP which is kind of why, you know, as the Chair, it seems like Option 1 makes the most sense because there are or could be a lot of hidden issues that I don't think will come out until staff really does this kind of proposal. So...

James Bladel: Jeff, can I follow up real quickly?

Jeff Neuman: Sure.

James Bladel: Yeah. And, you know, my basic - the basic thrust of my point is that there's a lot of activities going on in a lot of PDPs I'm involved in. But if you, you know, were more deadline driven I think all of the members of the PDP could probably cut, you know, I hate to say 80-20 but you could probably cut 80% of the time out of a PDP to move that along a little bit faster.

And, you know, I don't know if that translates into an average length of PDP being, you know, something like 18 months and then compressing that down to a three to six month type timeframe. And I think that that's probably as fast as you can go while still maintaining all of the necessary and prescribed milestones without inventing a whole new process. Did I get disconnected? Hey Jeff (unintelligible).

Jeff Neuman: No. I hit mute. No, I was talking into - obviously nobody could hear me. So I think those are some good points. I think though that the timeframes that are in the manual or the bylaws however we decide to put them in are still - would still set long deadlines that may not be quick enough for some to get some sort of emergency or a policy in place.

I think we may in the end come out with the same conclusion that you have. But Option 1 really would only be let's have staff go back, create a proposal, put it out for public comment and see if any of those concerns that you may have are alleviated.

Whereas Option 2 is much more prescriptive and say yes, we are having it and it's very vague as to what the criteria would be. And it did seem like there was a consensus at least within this group or a - certainly a strong opinion of the group that they see some value of a shorter PDP but nobody really knew or could think past the abstract of there may be some issues that we need to decide quicker than others.

It is possible thought that you're right. That if people stick to deadlines then, you know, then it would be fairly short. I think the reality is that I'm not sure people do stick to deadlines. And maybe ultimately that's the recommendation. But I think putting staff into give a proposal may help clarify those issues.

James Bladel: We're going to turn this over to staff then or...

Jeff Neuman: Well, no, no, no, no, no. We're just turning it over to staff to develop a proposal, put it out for comment.

James Bladel: Okay. Okay.

Jeff Neuman: And let me just stress also that they - that may mean that it's not this group that considers the fast track PDP or the - it may be a separate group. But that may be fine too. Right. It may be a different work team or a different working group that considers that. Let met just to Marika and Margie who have been waiting very patiently, so. And then I'll go back to Alan. Marika.

Marika Konings: Yes. So (unintelligible) on first point on staff develop the proposal. Indeed the idea would be once this report is finalized that one of the recommendations is that staff, you know, take this further.

You know, take the input that the group has made or the principles they have offline and you develop a proposal, think about it, maybe have some more

community discussions and come back and then go through, you know, the formal process of either, you know, another work team or having the PPSC if still alive at that stage or a standing committee or whatever is in place to look at it.

But I just wanted to clarify that on the second item or the Option 2 that is proposed there, I think the idea behind there was that it was listening to the work team where I think most identified that in an expedited PDP would only work if there would be consensus or, you know, general support for a certain approach and to move fast on item that is seen as emergency or urgency situation.

So what Option 2 does is basically says look, the Council at that stage can identify how that process should look. And depending on the issue that's at stake, it can define, you know, either by super majority or unanimous means how such a process would look taking into account that it would mean that everyone needs to be on the same page and needs to be in agreement as to what the process is and what is being addressed and as well the outcome of that process.

So it builds in kind of safeguards to make sure that indeed, you know, contracted parties cannot be caught off guard or cannot be used as a loophole to, you know, impose consensus policy, you know, to go beyond the normal PDP process. This would be a way, you know, only if you address those issues where there's really agreement that this is urgent, needs to be done quick and everyone's on the same page as to how it should be done and how it needs to be addressed. So just to clarify that.

Jeff Neuman: Okay. And then let me go to Margie.

Margie Milam: Sure. This is Margie. I was going to say a lot of what Marika said. But just to give you background on this language. And I did look back at the RAA. And

the RAA does have this language. And registrar services is defined in the RAA as well as registry services.

So what was envisioned in this section was really taking that language that exists in the RAA and trying to, you know, morph it a little bit to fit the situation. I mean, and that's kind of to help you understand the background of how we came up with this proposal.

Jeff Neuman: Okay. Thanks Margie. Let me - I will - not sure why Avri's being so silent so I will raise her point at least from the chat. Avri's point is that she doesn't necessarily agree with the notion that there needs to be a track that - and there was a good comment where she says, I'm kind of abbreviating, that, "If there was a fast track why would anyone ever choose the slow track," which I think would - I think it's a good point.

So Option 1 starts with the premise that the PDP work team recognizes the need and importance for an expedited procedure. I think what Avri is saying, and if Avri wants to please weigh in, I think what Avri is saying is that the work team does not necessarily recognize the need for it. That they've gotten - some people may feel like there's a need for it but it's not yet a settled question - okay. Avri's raised her hand so let me go to Avri.

Avri Doria: Yeah. Can you hear me?

Jeff Neuman: Yes.

Avri Doria: (Unintelligible). Yeah and now that I've been called on, there may be consensus, you know, ICANN consensus in this group for an expedited process. I was just saying I was not part of that consensus. I don't agree - I don't see a need for an expedited. Either it's going to be easy enough to do that should always be done or it's going to be impossible to do in that you're going to have to do a pre-PDP to make sure everybody already agrees with

everything so you can do it. And then I really don't see the purpose of it either because then you might as well do a regular PDP and do it quickly.

If nobody has any disagreement, a PDP is quick to do. It's not a slow thing to do. It's only the fact that people disagree and then make it difficult for people that disagree with them to come to agreement that ever makes one take a long time. And that may be something similar to what's already been said. So that's why I didn't think I needed to say it but I'm just - I'm certainly not part of a consensus that says we need an expedited. I think we need to figure out how to expedite all PDPs and I think that's already been said.

You know, but I don't think we need a new special process and I don't think we need to ask staff on top of all the other tasks we keep giving them to do to go and create yet another PDP process. But if we really think we need a PDP process that's expedited, we should be the ones that are creating it because we're the ones that are creating the PDP process. Thank you.

Jeff Neuman: So then let's see - let's - so - I'm just going to wait for the beeps to stop. Okay. So I could - well on the call that we originally talked about this (before we leave) when discussing the comments, it seems like there was a consensus but now I'm hearing there's not which is fine.

So we can then at this point I want to go back to the comment that we received and so I'm going to ask an action item for Marika and Margie to help me look through the comments again on this point as to whether - how people in the community what their comments were. I am certainly willing to go back and say there's not consensus on this and then redo it here. Nothing is final so even though we may have talked about it during one meeting that it seemed like there was consensus, it wasn't final.

So I'm seeing an agreement from James and Paul on whether there's a need. So why don't we take this to the email and look at the comments that we got, revisit this issue because if it is like Avri and James believe, then we can just

get rid of each of these options or put some other wording in here saying that we considered it, we got the comments and here's our thoughts. So I don't want to presume consensus on this at this point.

So Alan, do you have a comment?

Alan Greenberg: Yeah, just a quick one. I think I'm one of the ones or maybe the one who pushed this to begin with. And listening to what people are saying, I'm tending to agree that if an issue was urgent but very controversial, it's not clear that we can fast pass anything. And the board - if it's truly urgent, the board has the ability to act.

One of the main motives, I suggested this, was the PDP process is already rather onerous and is going to - likely to be more onerous as a result of what we're doing here. And for the slam-dunk ones, the ones where there is general agreement, it's an owned risk process to undertake to do something relatively small and I'm afraid that we will not undertake it just because the process is so complex and requires so much resources. And we will end up not setting policy where we should even if there's agreement.

And I suspect we can fix a lot of this by saying for the issue - for the things that are in the policy manual, and I'm not talking about what we end up putting in the bylaws, that if we give Council the discretion to alter those rules with a supermajority, we may well - you know, they can eliminate certain steps or whatever, then we may achieve the purpose that we were trying to get to without having to work out all the details and propose a second PDP process.

Jeff Neuman: Okay. So I think what I want to do on this is, Marika, let's keep this as an open issue. Let's gather the comments again that we received from the public on this or through public comment and let's put this on a future agenda item maybe even in Cartagena. It's just a complex topic and one that we just need to keep working through to figure out what the group wants to do.

So Alan's got one viewpoint. It sounds like James and Avri are of a little bit different viewpoint although they may be closer than we think. So let's just keep that as an open item. Anyone disagree with that.

Man: Nope.

Jeff Neuman: So if we then jump ahead to recommendations so it's now jumping ahead to Page 5 on this chart. The next issue is Recommendation 29 which is talking about modifying the bylaws to change the duration of the public comment on the initial report from 20 to a minimum of 30 calendar days. This same minimum should apply for the public comment period on the initial report while other public comment periods that a working group GNSO Council opt to have as part of the PDP should have a minimum duration of 21 days.

These minimum durations should be included in the ICANN bylaws while further guidance on recommended duration for example taking into account overlap with ICANN meetings, should be included in the Policy Development Procedure Manual.

Following public comments the suggestion was made to change the absolute minimum to 21 days and it seems reasonable though to allow a minimum of 30 days on the issues report and initial report with 21 as a minimum for other public comment periods a working group may choose to initiate. Does that sound like a workable solution?

So as we suggested approach that we have if we choose to do it will be to require a public comment period for a minimum of 30 days for the issue report and initial report while a minimum of 21 days for other public comment periods that the working group may choose. Right, because we have the discretion for working groups to have public comment periods at any point in time. There's only two mandatory public comment periods and the rest are just, you know, up to the working group.

Alan Greenberg: In line with what I said just before, are these things that are going to be in the bylaws or the manual at this point?

Jeff Neuman: Well the proposal here would be that the bylaws would have the minimum for the initial and the issues report. And the manual would probably have the minimum for the other public comment periods I would think. So let - but let me - Marika has got her hand raised so I could be totally wrong.

Marika Konings: This is Marika. The draft as it currently stands has both the minimums in the bylaws but then provides additional guidance in the rules of procedure basically talking about that, you know, you might want to extend it when it cuts across an ICANN meeting. So basically it mentions in the bylaws that a minimum every issue report, initial report should be posted for public comment on the ICANN Web site for a minimum of 30 days.

Working groups and Council are encouraged to by not required to post any other interim or draft report or issue raised within the PDP for public comment. Any public comment period on items other than the issue report and the initial report shall be for a minimum of 21 days.

And (unintelligible) but if we, you know, we might need to remove that because we have sentence there as well that says, "These minimum periods may be reduced as allowed by the Council expedited procedures," you know, provided that those are created if we have something in place there.

Jeff Neuman: So just to clarify what Marika is reading, Marika is reading the draft final report that they put together that you all have in your email from last week - beginning of last week or maybe even the week before. So that's what she's reading from. Again, we can change any of that. Those are just suggestions.

It sounds like looking at Paul's comments, Paul Diaz, has said that he would like to see these in the bylaws. Let me just clarify. Paul, are you saying both the - there's two different comment periods we're talking about. One...

Paul Diaz: Jeff, I'll save you - I want to see it the way you laid out. That the issues report and the initial report are bylaws and that the other thing can be in the guide book. But the two required ones should be in the bylaws if we're going to change it to 30 days I believe.

Jeff Neuman: Okay. Does anyone disagree with that approach? Or anyone agree? Does anyone think that the bylaws shouldn't have anything about timing? Is everyone still out there? How about let's try by show of a checkmark, do people agree with the proposal that the 30-day comment period for the initial and issues reports should be in the bylaws and the 30-day - I'm sorry, the recommended 21-day minimum for other time periods be in the manual?

I'm seeing lots of checkmarks, so great. That's fantastic. So let's do that. Alan's got his hand raised.

Alan Greenberg: No, no. I was trying to raise a checkmark.

Jeff Neuman: Great.

Alan Greenberg: My checkmark presumes that since we haven't come up with any expedited procedures, when we do that might change these also. But, yes, so...

Avri Doria: Hi.

Alan Greenberg: ...for the non-expedited one I think it's fine.

Avri Doria: Hi. I fell off the Internet so I don' have a checkmark up. And I don't really care. I think it doesn't need to be in the bylaws but I don't really care.

Man: Yeah. I'm in the same position.

Jeff Neuman: Okay but by saying you don't really care you...

Avri Doria: I'm acquiescing.

Jeff Neuman: Okay.

Avri Doria: I didn't put up a red X either even though I'm not on the Internet so I can't.

Jeff Neuman: Okay. Thank you for clarifying. So it seems like there's some strong opinions in favor and some - a couple, "Sure we can live with it." So to me that's a consensus on that point. And so great. Let's move on.

                    So we had a recommendation here for agreement of the Council in Recommendation 41, the PDP work team has discussed whether the voting thresholds might need to be reviewed by has not allowed yet a possible recommendation in relation to the issue and hopes to receive further input.

                    I'm actually - does this come up later, Marika, in the overall issues? Overarching? Yeah. I'm going to push this one off and get to the next one because it's going to come up later.

Alan Greenberg: Just for clarification, Jeff, if I remember correctly the only voting threshold that we were talking about changing was an alternative one to one of the current ones.

Jeff Neuman: I'll say in addition - instead of alternative I would say an additional one.

Alan Greenberg: Okay. Maybe I'm misremembering. Okay. If it's going to come up again, let's just go on.

Jeff Neuman: Yeah, yeah. Okay. So the next one is the Recommendation 42, which is a board vote. Our recommendation was that the provisions in the bylaws remain unchanged with respect to the board vote noting that a clarification is required to the current Provision 13-F to clarify what it means for the board to act.

And 13-F, in any case in which the Council - here's what it says, "In any case in which the Council is not able to reach GNSO supermajority vote, a majority vote of the board will be sufficient to act. In addition an explanation needs to be added in the Policy Development and Procedure Manual to clarify that all recommendations, even ones that don't recommend new or changes to consensus policies, should be communicated to the board," which isn't clear by the current bylaws.

The comments that we've gotten is that - we did not get any comments that seek to clarify 13-F. So we put together some clarification language anyway to see if this makes sense to people which is, if the GNSO Council is recommending a consensus policy as defined within the ICANN contract, the board can only approve consensus policy that was approved by the required GNSO voting threshold.

So the concept there is that, yeah, the board could act if there's only a majority but the board's actions do not mean for purposes of the ICANN contracts that it's a consensus policy. That's the implication.

Alan Greenberg: If that's the implication, it's not clear enough.

Jeff Neuman: Okay. Margie, is that - am I correct in the implication first before we talk about making it clearer?

Margie Milam: Yeah. I think that's the implication. I guess the question is, can the board approve it and not have it be deemed a consensus policy? So, you know, maybe that's where it's kind of not so clear.

Jeff Neuman: Well then the question is, if the board approves it, what does that really mean?

Margie Milam: Well the board can approve a lot of things that may or may not be consensus policies. And so...

Jeff Neuman: (Well, right).

Margie Milam: ...it could be a practice. It could be something else, you know. But...

Jeff Neuman: But it could be a practice, right, because the contracted parties could ignore it, right?

Margie Milam: Yeah. Essentially what that's saying is that it wouldn't be deemed a consensus policy under the contracts.

Jeff Neuman: Right. Which essentially - yeah. Which means that as a contracted -- I'll take off my chair hat here -- as a contracted party I could just say, "Well it's great that the board feels that way. My board feels otherwise and there you go."

Margie Milam: Right. Or it might be something that the contracted parties want. So it could, you know, in spite of the fact it didn't pass in the appropriate threshold, they might just adopt it or agree to it.

Jeff Neuman: So that's the implication. Obviously, Alan doesn't feel that that's clear enough. Maybe we can work on some of the language or maybe, Alan, you can think about it and make some suggestions. Alex has got a question and then I'll go to Alan.

Alan Greenberg: Well just let me say what was not clear. You say the appropriate - the required GNSO threshold. I'm not sure if you're talking about the supermajority threshold or the passing but not getting a supermajority

threshold. There's two different thresholds the GNSO can approve it with. And I wasn't sure which one you were talking about there was the lack of clarity.

Jeff Neuman: Well I think the reason may be, the lack of clarity, is that there's a lot of things that could come out of the Council and if it's not something that's for a consensus policy, a majority may be enough to send it to the board. So I see what you're saying. I'm getting a little tied up too. And that's why I think the language...

Alan Greenberg: I'll continue when you come to me in the speaker order.

Jeff Neuman: Okay.

Alex Gakuru: Yes. Alex speaking. I'm wondering whether they want act or not meant to give a board an override somehow. And I'm going to think about the VI as a recent example to see whether maybe that was not a (one) deliberative (unintelligible) when they went to consensus unavailable to determine it which cannot be used in different ways like disbanding a certain work group which has been working, et cetera. I'm just wondering about what acts which you are trying to define here. Maybe that was initial reason why that (voted). Thanks.

Jeff Neuman: Yeah. But I think - but VI is a little bit different in that it's not a consensus policy. In other words, it's not binding on the existing registries meaning that just because the board decided to do something with respect to new TLDs, nothing that the board decided with respect to new TLDs is binding in any way on the existing.

Alex Gakuru: Okay. Okay.

Jeff Neuman: Right. So the board can always act on these issues but let's take it out of this context and put it into something like, I don't know, take domain tasting for example.

If that had not resulted in a supermajority vote, the board could've approved it but then the contracted parties could've said, "Yeah, that's great that the board approve it but that's not a consensus so we're not going to change what we're doing." And that was - I mean I'm not optimal. A lot of the community would've been upset but that would be the practical effect. Right. That's why there's such a high threshold in the contracts. Margie.

Margie Milam: Yeah. I just wanted to clarify that I - that Alan's suggestion as (unintelligible) we're talking about probably makes sense. That, you know, by the required, you know, supermajority, GNSO supermajority, which is the defined term in the bylaws.

Jeff Neuman: Okay. That's good. So Alan with that clarification, what - do you have a general comment on that provision?

Alan Greenberg: Yeah. Well I'd like to go back to basics of how I interpret the current bylaws which are clearly vague and not well worded. Right now count - am I'm talking about things which are eligible for consensus policy, capital C. Right now Council can approve something with a supermajority in which case it only takes a third of the board to approve it because it takes two-thirds to defeat. So if Council gets a supermajority, all it needs is a third of the board to agree and it is a consensus policy. I'm assuming someone will yell if I got wrong.

The way I act - I read the word "the board can act." Now if the board acts to reject it and not make it a consensus policy, they didn't have to do anything to do that. Just let the status quo lie and nothing is done. So I read the words assuming they had meaning when they were written is if the GNSO only approves it by a majority, not a supermajority, then it takes a majority of the

board, a larger threshold than in the previous case, to make it a consensus policy.

Now your board might not agree but that is the way I had read the words. And I think we need to know what the intent is before we can unilaterally change them, you know. So I'd like to have an understanding from the ICANN Legal Counsel what they think the current words mean.

Then we can change it to something which is clear and have a different meaning or we can say, "If the Council only approves by a majority, then it takes a supermajority of the board to make it a consensus policy or nothing the board does can make it a consensus policy." But I think we need to start off with understanding, what does Council think and the board think the current words mean because it's not clear to me.

Jeff Neuman: So I have - and I don't know Margie if Council will answer that question. I certainly have no objection to asking them or seeing if we can get their input. I will tell you that regardless -- and so I'll take my chair hat off -- regardless of what the ICANN Council says, it's almost irrelevant to the contracted parties.

In other words, if -- again, I'll put on my Neustar hat -- if ICANN Council comes back and says, "You know what, Alan, that's exactly what we meant," then I as Neustar would say, "I don't care what you meant because we meant something totally different and your meaning doesn't override our meaning and can't force things into our contract." (That said there's) we'd have to arbitrate.

So let's get Council opinion because maybe it is the same as the contracted parties' view but let's also ask the contracted parties for their view. If they're the same, great; if they're different, we're back to square one.

Alan Greenberg: Well I agree with that but the whole point is there's no point in us making it clear if later on down the road it's going to get rejected absolutely by one side

or the other. And it's a lot easier for the ICANN Board to reject it than from each contracted party. But I think we should at least know what we're dealing with before we enter this quagmire.

Jeff Neuman: So Alex agrees with that. Margie, you think we can forward that to the Council?

Margie Milam: Sure. We'll certainly forward it. I don't know what kind of response we'll get but we'll explain the issue and explain what we're trying to clarify and see if we can get some guidance.

Jeff Neuman: Yeah. And I would do it in such a way that was very objective. Just ask a question, "What is meant by that," without kind of advocated kind of either side to see what their gut reaction is.

Margie Milam: Okay.

Jeff Neuman: Okay. So we're getting to the end of the hour and I know James has already dropped off. So I think we will end it here. We have - we've made some good progress. We only have a few more pages of this chart and we'll pick up the chart and draft report in Cartagena.

So Marika, do you want to add a last comment?

Marika Konings: Yeah. This is Marika. I kind of just encourage everyone to review the draft report, you know, we're looking now at the issues that are really outstanding where we didn't reach agreement but there are other items where we made an assumption based on a discussion. So I'd really like everyone to review the report and indicate if there are any other areas where people feel that, you know, the recommendations aren't updated as (working the staff) and they don't look like the discussions we've had based on the public comment discussions so that we can take that (all through) to Cartagena and have a discussion there.

Jeff Neuman: I agree with that. So let's (unintelligible). Bye.

Man: Thanks Jeff.

Man: All right. Bye everybody.

Man: Bye all.

Man: Thanks all.

Man: Thanks.

                          END