
ICANN Transcription

GNSO Temp Spec gTLD RD EPDP – Phase 2

Thursday 23, May 2019 at 1400 UTC

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<https://gns0.icann.org/sites/default/files/policy/2019/audio/gns0-epdp-gtld-registration-data-specs-phase-2-23may19-en.m4a>

Zoom Recording:

<https://icann.zoom.us/recording/play/VAj5009IL0VghqKMH26CsdLFwiELsXPcZJiMjaH-dE8rCVrP5fBu6X8LqkrCIP?startTime=1558620102000>

Attendance is on the wiki page: <https://community.icann.org/x/44SGBg>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the GNSO EPDP Phase II [inaudible] taking place on the 23rd of May [inaudible]. And let us locate that line quickly. One moment. Alright, it looks like it was located. Perfect.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now?

We have listed apologies from James Bladel, Milton Mueller, and Alex Deacon. They have formally assigned Sarah Wyld, Stefan

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Filipovic, and Jen Gore as their alternate for this call and in any remaining days of absence. Alternates not replacing a member are required to rename their line by adding three Zs at the beginning of their name, and then that alternate and their affiliation at the end, which means you are automatically pushed to the end of the queue. To rename in Zoom, just hover over your name and click "Rename." Alternates are not allowed to engage in the chat apart from private chats nor use any other room functionality such as raising hand, agreeing or disagreeing. As a reminder, the alternate assignment forms must be formalized by the Google assignment form. The link is available in all meeting invite e-mails.

Statements of Interest must be kept to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, all documentation and information can be found on the EPDP wiki's place.

Please remember to state your name before speaking for recording purposes.

Recordings will be circulated on the mailing list and posted on the wiki space shortly at the end of the call. Thank you. And with this, I'll turn it back over to Janis Karklins. Please begin.

JANIS KARKLINS:

Yeah, thank you, Terri. Good morning, good afternoon, good evening, everybody. Let me start by confirming agenda. Our agenda was circulated to all of you on Tuesday, and the question is, "Is there any opposition to proposed agenda and preliminary

timetable?” I see none. I take that we can follow this agenda as proposed. Thank you very much.

Let us go to Item 3, housekeeping issues. I would like to inform the team that I had bilateral meeting with the SSAC earlier – no, it was end of last week. We had very engaging discussion that allowed me to better understand the position of members of SSAC and what are their main preoccupations. And for the moment, I do not have any further requests for bilateral meetings because I mentioned I am open to meet any group at their pleasure. So, is there any question on this update? I see none. Then let us move to the next one.

Proposed next steps in relation to board action on Phase I recommendations. We had requests from members of the team to discuss this issue last time and I suggested that we would not do it while issue was very hot. Now, it has come down slightly. The board decision and supporting information has been published. I believe that everyone had a chance to look it through. Nevertheless, if I may ask one of the board liaisons to the team maybe to speak briefly about the essence of the board decision?

CHRIS DISSPAIN:

Hi, Janis, this is Chris. I'll happily do that. And if Leon wants to add anything, I think he's on the call as well and can do so. I guess the key points that ... hi, everyone. I guess that the key points everyone would like to be briefly covered are the two bits where the board has not adopted the recommendations. They are parts of a whole recommendation, Recommendation 1 Purpose 2 and Recommendation 12. I could spend happy five minutes of

everyone's time just reading to you from the rationale and the resolutions but I'm guessing that everybody has already done that.

There is a process in place now and that process involves the board and GNSO entering into consultations. And clearly, the appropriate way for the members of the EPDP Team to deal with the issue is for them to be in communication directly with the GNSO Council, and it may well be the GNSO Council has questions for the EPDP Team to inform their consultations with the board. That said, let me just give a very brief overview of the two items that we did not adopt.

The first one was Recommendation 1 Purpose 2. The reason we didn't adopt it or set out in the rationale but, in essence, the European Commission's letter of the 17th of April states that that purpose – and I'm going to quote directly from it – “seems to describe a means of a processing activity rather than the purpose itself.”

That letter also mentions the conflation issue, that ICANN, the contracted parties must not be conflated with the interest of the third party. That was then followed up by the Commission's letter of the 3rd of May and that expanded on their view. I'm again quoting, it said, “There is a need to ensure effective and secure treatment of third party access requests.” Sorry. “The need to secure that requires ICANN and the community to develop a unified method for accessing non-public gTLD registration data.”

Our concern was that it might be that the wording of Purpose 2 was deemed being inconsistent with applicable law, and if that was the case, then that purpose would end up dropping. So our

view is that that purpose needs to be revisited, which is why we did not adopt that recommendation.

I should point out, as I'm sure everybody knows, the working group itself also referred to that recommendation as a placeholder. Our concern with adopting it even as a placeholder was that absent any changes to it, it would become policy, and if that policy was then deemed to be outside of the law then we would lose the purpose.

The second part of the recommendation that we didn't adopt is a part of Recommendation 12 which defines our [inaudible] for collection display of information in the organization field. Our concern there was that by suggesting that, there would be a right to – or an option rather – to delete the contents of a field. You could end up with losing data and perhaps, much more importantly, could end up in a situation where you would lose the identifying data as to who the registrant is. So for that reason, we didn't adopt that and asked that the Phase II of the EPDP consider the extent to which deletion as opposed to redaction. The results in loss of or changes to the name's registrant is in the public interest and consistent with ICANN's mission.

So, Janis, that's an overview or summary, if you will, of where we got to and why we did what we did. Before I hand it back to you perhaps – I was just checking with Leon and seeing if he has anything he wants to add, if that's okay with you?

LEON FELIPE SANCHEZ: Thank you very much, Chris. This is Leon. I have nothing to add to what you just said, but I would like to highlight that this, of course, triggers the process [as applied on] the ICANN Bylaws Annex A1, Section 6(b) to establish a consultation process with the GNSO Council as [inaudible] in the Bylaws. So, the next steps would be of course to undertake this process of consultation between the board and GNSO Council in order to try to address the issues that were detected on the approval process.

So, I guess if there are any questions in regard to why the board took the decision or how we can address the issues raised were detected by the board, the best channel for doing this would be to raise this questions directly to GNSO Council, as Chris has stated, and of course make this questions part of this consultation process between the board and GNSO Council. Thanks.

JANIS KARKLIN: Thank you, Leon, and thank you, Chris, for this information. May I ask Rafik – could you shed light on intentions of GNSO Council in your capacity of the liaison to GNSO Council? Rafik?

RAFIK DAMMAK: Hello.

JANIS KARKLIN: Yes, go ahead please.

RAFIK DAMMAK: Yes. Sorry. The GNSO Council didn't have time last week during the council meeting to discuss the letter and the next action, but we scheduled it in our next itinerary meeting next week, I think for 90 minutes, to discuss the next steps and to prepare as expected by the Bylaws that we will have the consultation with the board. So we have more details and information about the next steps by next week after the council meeting.

JANIS KARKLIN: Thank you, Rafik. Now, I would like to open the floor for any questions, if there are. That said, I also think it would be maybe useful to think of in writing either Chair of GNSO Council or Rafik to inform the team after the meeting of the council, and in order to better understand what consequences the board decision may have on scope of our activities.

So, with these words, I open the floor for any comments, questions the team members may have at this moment. I see Marc. Go ahead, please, Marc.

MARC ANDERSON: Thanks, Janis. Marc Anderson. Can you hear me okay?

JANIS KARKLIN: Yes. Please go ahead.

MARC ANDERSON: Okay. Thank you. First, I guess, thank you, Chris and Rafik, for providing that background. I think that was useful and helps sort of

set the context of where we are right now. One of the things that Chris said really caught my attention. He said – I’m just going to paraphrase – that the conduit for the EPDP to communicate on this one would be through the GNSO Council, which I think is a good point. And now that we have this board action on our Phase I recommendations and triggering a consultation between the board and GNSO Council, it seems like there may be an opportunity or this may be a point in time where we want to communicate something to the GNSO Council or at least open up a dialogue with them over these two items.

I don’t know what the next steps will be and I suspect that the GNSO Council meeting that Rafik just talked about there, the GNSO Council themselves will be trying to figure out, “Okay, now that this has happened, what do we do next?” So, to the extent that the EPDP would/could provide our thoughts or opinions or any kind of information to the GNSO Council, I think that might be useful. Just my thoughts, especially reacting to what Chris said, I think he made a really good point about the EPDP communicating with the GNSO Council and we should not miss an opportunity there.

JANIS KARKLIN:

Thank you. Thank you. Anybody else? Somehow I don’t see any further requests. Now I see Margie. Margie, please go ahead.

MARGIE MILAM:

Hi, thank you. It’s Margie. Is there any action or follow up that either ICANN org or the board is taking with the European

Commission to clarify the conflation issue? Because it strikes me that the – I mean the GNSO Council certainly isn't going to be as close to this issue as we all know EPDP are, and I think we all have probably different understandings of what that letter meant. So rather than shooting in the dark as to what the next step is on Purpose 2, it would be nice to know if there's any communication underway to clarify what they meant about the conflation issue as it relates to Purpose 2.

JANIS KARKLIN: Thank you. I see Chris. Do you want to answer?

CHRIS DISSPAIN: Thanks, Janis, and thanks for the question, Margie. I'd simply refer you to the Board Rationale where we say that we've asked ICANN org to continue to evaluate the proposed purpose and to request additional guidance from the DPAs regarding legitimate report and access to registrant data.

So the answer to your question is yes in the sense that we want our org to continue its efforts to obtain clarification from the DPAs. That said, that's not in any way intended to prevent the EPDP from undertaking any of such activities should it wish to do so, but we've asked ICANN org to continue to try and clarify and elucidate. Thanks.

JANIS KARKLIN: Thank you, Chris. I see Alan. Alan, please go ahead.

ALAN GREENBERG: Thank you. Yeah. Thank you very much. I was going to ask a question very similar to what Margie said in terms of Purpose 2 and just noting that I could certainly come up with a purpose for ICANN since one of ICANN's responsibilities is ensuring the reliability and trustworthiness of the DNS. That does translate to an ICANN purpose for Purpose 2 as opposed to just a processing activity, but I was just wondering how we go forward. But I think Chris answered that. Thank you.

JANIS KARKLIN: Thank you very much. Let me talk to the Chair of the GNSO Council and see whether we could engage in some kind of process with the GNSO Council on this board decision and I will come back to you with the proposal. It seems to me that there is an appetite to talk to GNSO Council on this topic. Would that be acceptable? It seems that's the case.

Then let us move to the next item, and that is response from ICANN org on EPDP Team letter. So, we basically got response on our supplementary questions. In the meantime, the proposal to constitute the smaller group has been rejected and we're already talking about interaction with ICANN org as a team at the appropriate moment, and I think that e-mail from CEO confirms the readiness to engage with the team when we are ready and willing to do so.

Any reactions, comments on this sub-item? I see none. Let us move then to the next, to Item 4, and I hope we will be able to finalize our thinking on approach to Phase II.

MARC ANDERSON: Janis, this is Marc.

JANIS KARKLIN: Yes, Marc, please.

MARC ANDERSON: Thank you. I guess just a quick question. I think the response from ICANN org seemed favorable. I guess I read it as essentially agreeing to your points. But I guess I'm not clear on what the next step is. Is the ball in ICANN's court or is the ball in our court to come up with something and get back to ICANN org? I guess I'm not sure what the next step is, and who has the action items, and where we move from here on this.

JANIS KARKLINS: Thank you for your question. Alan?

ALAN GREENBERG: Thank you. It's an interesting question. The process that we have in the Bylaws presumes that by the time the GNSO has made its recommendations to the board, and the board has taken action, the PDP has been dissolved. The Bylaws talked purely about the GNSO presumably having to reconvene a PDP or something like

that to address the issues. This is a somewhat unusual situation that the PDP is still active when the ball has been tossed back to the GNSO. So I'm assuming the GNSO is simply going to refer it back to us as if they had reconvened a new PDP or reconvened the group to address the board issues, but that's clearly up to the GNSO at this point. So I think it's in their hands. Thank you.

JANIS KARKLINS:

Thank you, Alan. I cannot comment but I trust that you know what is in the Bylaws very specifically written on this topic. Rafik, please take note and convey this message to GNSO Council and maybe come back at one point very soon with the confirmation that we're still in existence. Thank you.

Answering question in which court the ball is now, I think it is maybe in our court in the sense that if we want to formulate policy questions that we would wish ICANN org convey to the European Data Protection Agencies to think about which are relevant to our work, so then we should formulate those questions. I believe that sooner or later, they will pop out as we will move to substantive discussions of proposed SSAD. Does that make sense? Probably. Thank you.

Let us move to Item 4. We had rounds of discussions and I tried my best. Hadia, do you want to talk on the previous topic? Please go ahead. No? We have exchanged on proposed approach to Phase II and many comments that have been made have been incorporated in the proposal that is now in front of us. If I may ask to put the slide deck on the screen, that would be helpful.

I would not like to go through in very big details. All I want to say is that, in principle, it seems that proposed approach is acceptable. There are some points of tension, namely, how fast we should go and whether we should work in one stream or in two. Basically, we're facing a situation where one part of the team says we should not rush and work gradually in one stream and not more than one meeting per week. And there is another part of the group which says that we need to intensify our activities because this is very important priority for the community.

So what I'd like to suggest is the following. Let us try to get over the procedural discussion and get on the one page on the basis of this proposal and address the substantive issues with a high level of discipline, if I may use that term. Whereby, everyone should make an attempt to follow a proposed schedule and provide input as requested on time that we could proceed mostly and closing up questions that we're talking about and then proceed further.

With that understanding, I would like to maybe jump over to Slide 5 which would indicate initial steps and deliverables with a concrete proposal of date. That is to say to demonstrate we should strive to get to the point in our discussions specifically on the outlook of building blocks for SSAD by Marrakesh meeting that we could spend face-to-face meeting in talking specifically on the substantive issues because as you know, most of the progress can be achieved during face-to-face meetings.

With this, I would like to draw your attention to next slide on possible logical order in addressing topics that was prepared by staff. In some case, it indicates also what are those building blocks that we should talk about and get agreement on. We also

would like to probably revisit certain elements of this document. Therefore, I do not consider this proposal as static but rather as a dynamic. If we will see that our progression is not sufficiently swift, we may think of increasing the number of meetings or we could suggest any other modification as we progress. And certainly, I promise that we would provide this mid-term prospect on topics and suggested timelines for closure of issues as we go that no one is taken by surprise or would not know what is under consideration. That, of course, also will be done by the help of worksheets that we will talk about later during the discussion.

With these words, I would like to see whether we could concur with the proposal and accept this approach to Phase II and proceed to next items of more substantive nature. I see Ashley has her hand up, and then Alan. Ashley, please.

ASHELY HEINMAN:

Thank you. Yes, this is Ashley with the GAC. Overall, I think the draft approach is looking really good. But speaking specifically to the draft approach slide where you explained the decision to or at least the proposal to stick to working on one track at a time as opposed to working on them in parallel, you accurately described the situation in which part of the EPDP Group thinks we should be doing it in parallel and part of it thinks we should not.

I'm just curious as to why we can't actually do this in the reverse which is, let's attempt to work on these in parallel, see how that works and revisit if it's not working or if we find out that it doesn't work. I would think that that would be the most efficient approach to handling this rather than assuming that it's just going to be

unworkable. I understand the concerns that have been raised, but until we've actually experienced it, I just don't know that we should be jumping the gun to the conclusion that we can't do it. Thanks.

JANIS KARKLINS: Thank you, Ashley. Alan, please. Alan, please.

ALAN GREENBERG: Sorry, I forgot to unmute on Zoom. Can you hear me now?

JANIS KARKLINS: Yes, we do.

ALAN GREENBERG: Okay. I would tend to support what Ashley was saying but I understand the reluctance to commit to a dual path right now and certainly prior – given that we only have a few weeks left until we go to Marrakesh, I can certainly support the single stream until then.

But I raise my hand on a different issue. Presuming the GNSO is the new boot, the board issues back to us. Are we presuming that if they do that we will interrupt the access discussion in our discussions and address the Phase I issues that have to be fixed, corrected, ratified or whatever, that that will take precedence over the normal Work Stream work we're doing? Or have you not considered how we're going to do that if it comes back to us?

JANIS KARKLINS:

Thank you, Alan, for the question. Let me answer with an analogy. When I was climbing Matterhorn, a guide told me, "Don't anticipate. Go to the obstacle and then think how to overcome it." So let us wait the decision of GNSO Council and if issue will be reverted back to us then we will consider how to address it. For the moment, let us concentrate on our own task which is identified in Slide 4, and if we will need to do something else then we will do it. Any other comments?

Look, what I would like to suggest is the following. We will be talking at the later stage of this call on the worksheets on topics related to Priority stream 2, so maybe we could think of talking through those worksheets separately from the Thursday's traditional calls. With those members who would be willing to look at them in parallel and the ones we would conclude that that reading of those worksheets, we would revert and would bring that information to attention of the team unless all team will be participating in review on those worksheets.

So that would be kind of a compromise between working in two parallel streams at the same time. My proposal is that only those team members who are interested and willing to do would join that parallel reading, the rest would be informed and would be able to provide input as the result of this parallel activity.

I see no reaction. I assume that we may give a try starting next week. Certainly, in Marrakesh we will evaluate our progress and we'll make all necessary decisions.

With this, may I take that we can move to the next item? It seems to be the case. Let me then suggest that we address Item 5, legal

memos. I would invite Caitlin to kick-start the topic. Caitlin, please, you have the floor. Caitlin?

CAITLIN TUBERGEN:

Thank, Janis. This is Caitlin. I was just getting ready to share my screen, so apologies for the delay. During our last EPDP Team call, we noted that we would take the clarifying legal questions that we received to date and include them in a table that would assist the EPDP Team in reviewing these questions.

On the screen before you, you'll see support staff's attempt at doing that and I'd like to note a few things as we walk through the table. The first is that the deadline to send in clarifying questions to the team was this morning, and we did receive questions from the Contracted Parties as well as the Business Constituency, and all of those questions have been input into the table.

The way that we organized the table is to include on the leftmost column the topic of the memo received from Bird & Bird. So, for example, the first memo is the issue of 6(1)(b).

Then we organized in the next column the questions that we received from the EPDP members on that topic specifically.

In the next column what we attempted to do was to look at the relevance to the team's work in Phase II. So you'll notice that in that column we have input the relevant charter questions for the topic, if any and/or any remaining items from the Phase I final report that we're scheduled to discuss in Phase II.

Then in the rightmost column under EPDP questions to consider, support staff added some questions that the EPDP Team we would like you to consider as you review these questions specifically.

A couple of other things that I'd like to note is that first, some of the questions received have been reworded slightly for stylistic reasons to make sure there's a consistency in style. However, we did note after each question which group provided the question. Also, as you scroll down in the sheet, you'll notice that at the end, we have all of the originally submitted questions and the way those questions were worded and where you can find them within the table. Of course, if you believe that the rewording of the question either doesn't capture the essence or the intent of the original question, please do flag them for us and we can revert to the original wording of the question.

The other thing I'd like to note is that the purpose of the table is really to organize the questions so that the EPDP Team can prioritize these questions. I believe there's approximately 20 questions that we've already received and we want to be proper stewards of the legal budget that we have, and so there may be some questions that while would be interesting for the team to know or to receive further information on, they may not be relevant to the team's work in Phase II. They may be relevant to another Work Stream, for example, the implementation of the Phase I recommendations or a question that would be relevant to work that was done in Phase I that's no longer being discussed in Phase II. So we attempted to flag those in the rightmost column as

I noted, and so we'd like everyone to review those and provide further information in that regard.

We sent this table out yesterday, so I assume that most people haven't had a chance to review this table in detail. So if Janis would agree, I would propose that we provide until next Wednesday for team members to review the table and provide any additional information on the question that we've asked the team. But with that, I'll turn it back over to Janis and ask for any feedback from the team if there's anything we could do to make this more helpful or user-friendly.

JANIS KARKLINS: Thank you, Caitlin. I understand that after collecting inputs, you would suggest which questions then would be passed on to Legal Counsel or to Bird & Bird for answering. Am I right?

CAITLIN TUBERGEN: Yes. That's correct, Janis. Thank you.

JANIS KARKLINS: Thank you. With this, the floor is open for any comments, questions to Caitlin that members may have. I see Margie. Please go ahead, Margie.

MARGIE MILAM: Yes, hi. Thank you. I guess my question for the group is, is there a reason to not send the questions to Bird & Bird? I'm just mindful of the time and certainly where we've asked some clarifying

questions, it seems like we could get them started so that it doesn't take so long to get a response back to that. That would be my suggestion, to send over to the Legal Team to start working on it.

JANIS KARKLINS:

Thank you, Margie. I think the answer to question is now there's no specific reason but only we want to make sure that questions we're sending have not been answered yet. That's first. Second, that's relevant to our work, specifically what we have to do. That's why we're trying to regroup and get overall agreement that these are the right questions and then they will be passed on. I hope that we will get to that agreement by next meeting on 30, also taking into account that GAC has asked to extend time for submission of questions.

I see Georgios now has his hand up. Georgios, please.

GEORGIOS TSELENTIS:

Yes. Hello, everybody. This is exactly what I wanted to say and I appreciate all the work done by staff and Caitlin for providing the matrix. I also apologize that we had some wording on the questions from the European Commission side but also we didn't have the time also to discuss this on the GAC and ask. I would like to [convene] a GAC position on these questions. I would appreciate if we take advantage of this extra deadline that you gave us to submit the questions to Caitlin in between.

Now, to what was just said by Margie, I think it would be very useful to see what is the targeted size of – I mean we can ask

indefinitely the Legal Counsel for questions, but it's rather – I understood the [inaudible] that was done by the staff here to try to focus on what is the most relevant for our work in Phase II, and therefore maybe it would be also a good idea to prioritize according to our next topics that we want to see and then start to send the relevant questions to the Legal Counsel according to our schedule. That's my quick suggestion and I appreciate again the work done by the staff. We will try to send this as soon as possible. Thanks.

JANIS KARKLINS: Thank you, Georgios. One thing I can tell you, “as soon as possible” is not a satisfactory deadline. Could you make a more precise commitment?

GEORGIOS TSELENTIS: Yes. I have exactly – this was primarily a support by my colleagues in DG [Justice]. I had a commitment for today, so I was hoping that ... I have some draft questions but again, as I say, I need also to pass through the GAC. As I said, it's not the Commission's position, it's the GAC position that we would like to convey regarding the questions. So by the end of this week, tomorrow, I will try to have them passed to Caitlin.

JANIS KARKLINS: Thank you very much. We note your commitment and we keep you by your word. Thank you. I see also there is a traffic on the chat room. Volker is suggesting that questions need to be

reviewed whether they are not leading questions and that they should be right. The wrong questions will get the wrong answers.

Anybody else would like to talk on legal memos or legal questions? I see no further request for the floor. Taking into account that GAC will provide their questions with input from European Commission by end of tomorrow, we then would try to put the final version out by next Tuesday or staff will put out by next Tuesday for reviews. I would like also to encourage members of the team to provide input in between if you have something to say on the proposed table that we can conclude the issue during the next meeting. Would that be acceptable? Marika, you have your hand up. Please go ahead.

MARIKA KONINGS:

Yes, Janis. I just want to flag one thing I put in the chat as well. Of course, we're currently focusing on clarifying questions in relation to the memos that have been received. Some of those topics clearly aligned with topics that are also in Phase II. Others may belong or are currently somewhere else as Caitlin noted. But in addition to that, as part of the worksheets, we're also trying to get clarity on, are there any other legal questions that are essential to inform deliberations on the topics that are part of Phase II. So, we'd also like to encourage people in addition to reviewing this document to also make sure to do pay attention to the worksheets and start thinking about what are the essential questions that you think will help inform the EPDP Team's consideration of that topic. As Margie noted, some time we'll go into Legal Counsel coming back on any clarifying or additional questions the group may have,

so the sooner we have a clear idea of those also in light of the budget conversation, the more helpful that will be.

JANIS KARKLINS:

Thank you, Marika. With this conclusion and taking into account Marika's invitation to think about other questions that may be asked which would inform more deliberations. I would like to conclude this agenda item for today. We're expecting GAC proposals or questions by end of tomorrow. Other members of the team also are invited to provide input on the current table or new questions that we could synthesize and put the final proposal out next Tuesday.

With this, I would like to move to the next item and that is proposed working definitions for the purpose of EPDP. If I may ask to put the document on the screen. Part of our conversation about the way to proceed in Phase II was to see whether we could draft a list of working definitions that when we're using certain terms, we all understand those terms in the same way. That said, we are not striving to provide legal definitions rather than a common understanding. In this respect, we circulated a proposal which, by no means, is exhaustive but here we tried to reflect those most important working definitions or terms that we would like to see being on the same page, namely: Access, Disclosure, Unified Access Model, a System for Standardized Access/ Disclosure, Accreditation, Authentication, Controller, Data Retention, Data Deletion/Destruction, and also asking whether there are any other terms that need to be put on this list which are important for our work and need to be interpreted in identical way.

So, I now would like to open the floor for any reaction to this proposal and any proposal to which other terms should be put on the table. I see Volker. Volker, please go ahead.

VOLKER GREIMANN: I just noticed we've already scrolled by that, but basically when we're talking about the Unified Access Model, we are already presuming that the Technical Study Group Model will be defining the basis for our model. I think that's a bit presumptuous as we should first – before we define what the model means – define what we mean by “access” or “disclosure” or how different parts of the puzzle fit together before we can even determine whether the model that the Technical Study Group has developed is fit for that purpose or not. I think that goes already beyond the first step. The definition should be very neutral going forward so that we do not presume any outcomes. Thank you.

JANIS KARKLINS: Yeah, thank you, Volker. I think that its certain intention is just to provide common understanding. And nothing is agreed at this stage, so we're working. Unified Access Model is frequently referred as a sort of model which was suggested or came out from Technical Study Group.

Based on the tracker, we have introduced another term which is a System for Standardized Access/Disclosure, in other words, SSAD, which basically is a standard or the term is meant to be describing the standard which is built from different building blocks that we may want to think about and develop, and then see

whether that system for standardized approach may be transferred in this Unified Access Model as suggested by the Technical Study Group or this should be implemented in a different way. On top of it, there is, as far as I understand, uncertainty whether this Unified Access Model as suggested by the Technical Study Group or as a result of the work of the Technical Study Group is workable and feasible from the perspective of contracting parties, whether that diminish liability and all that.

The attempt of this list is just to provide terminology and explanation of terms that we would use by having the similar understanding of those terms, nothing more than that.

I see three further requests for the floor – Chris, Alan, and Hadia. Chris from the GAC please.

CHRIS LEWIS-EVANS:

Chris from the GAC here. Just to cover off what Marika has put on the chat, and Volker, I think this document is a really good start for us in terms of agreed terms. But I think it might be worth highlighting somewhere that they are working definitions or where they have been agreed by the group, because as we're going through this process, we'll certainly get to a point where hopefully we're happy of the meaning of some of these words and how they apply to this process.

And on that, I think within the GAC we started to have discussions around some of these definitions but I wouldn't say we're at the

point where we've got a full agreement on those, but we will certainly work on that in the next week or so. That's it. Thank you.

JANIS KARKLINS: Yeah, thank you, Chris. The notion of working definitions [isn't] mentioned in the title of this document. So these are working definitions and these are not legal definitions, and the only purpose is to be on the same page in understanding when we're using a term, what we mean by that. Alan, please.

ALAN GREENBERG: Thank you very much. I would suggest under the System for Standardized Access/Disclosure we remove the term "third party." The reason is that one of the major entities that will be requesting data that is not public is ICANN itself. ICANN is not a third party but I'm presuming that the same super's infrastructure we build for handling access disclosure requests will also be used by ICANN Compliance and perhaps other parts of ICANN to access data, so removing third party allows whatever the mechanism we're building to be the single mechanism that is used for all such requests as opposed to having to build a completely parallel one to do the same thing. Thank you.

JANIS KARKLINS: Thank you, Alan. Hadia, please. Hadia, your hand was up.

HADIA ELMINIAWI:

Thank you, Janis. Generally speaking, I think that the working definitions capture the essence of our work correctly. To Volker's comment, actually, I don't believe that we were influenced by the Technical Study Group's work. Actually, to me, what the Technical Study Group did is that it made it clear to us that a technical solution is feasible and possible. Full stop. But actually, I believe what actually directed us was mainly the charter of the group which required us to come with a system that allows lawful access of third parties with legitimate interest. Also, we can see that the terms are repeatedly also used by the European Commission whether in their comments on the report or in their correspondence with ICANN, where they continuously reference access to non-public data and how they urge ICANN and the community to come up a Unified Access Model that applies to all registries and registrars and provides a stable and predictable and workable method.

There were some comments with regards to centralized and decentralized system. Again, I think it is important for us first to define our system and come up with the characteristics of the model that we are looking for, and then look at the how, the implementation. So it does make perfect sense to right now focus on the system itself on the characteristics of the system, on the modalities of the system, defining the system, and then look into the how. Thank you.

JANIS KARKLINS:

Let me stress once again, this exercise is not about shaping the outcome of our discussion at the end. This is just the attempt to provide list of terms that when we are using those terms that we

understand those terms in a similar manner. Nothing more than that. And then by using in a unified way, the terms we would get to substantive discussion on what system we're talking about, what we're trying to develop, and that's all. This is not about outcome, this is about just terminology.

So I have Mark, Alan, and Sarah, in that order. Mark, please.

MARK SVANCAREK:

I would like to introduce an additional term to our definition. This would be "authorization." We already have "accreditation," which is the assignment of privileges to certain parties. Then we have "authentication," which is the verification that the person is actually who they say they are. Finally, we need "authorization," which is the process of delivering the privileges that are assigned to the person who has just been authenticated. So we really need to have that third term "authorization" added to "accreditation" and "authentication." I could put it into the Google Doc, but I wanted to introduce it verbally here first. Thanks.

JANIS KARKLINS:

Thank you, Mark. Noted.

ALAN WOODS:

[Inaudible] changing. I think the best thing would be to put into it some sort of a Google Doc so we can just move on [inaudible] and we can all come to some sort of an agreement we think [best worked] in the past where we can just throw into a document and see what we can come up with and [inaudible] in that because I

think we're wasting a lot of time. That being said, it was so much triggered by Alan. I'm sorry, Alan. I've missed these, these back and forth. Just to say I think ICANN [inaudible]. ICANN is the controller here. You don't need to get disclosure of data. Let's not rewrite [inaudible] as well.

JANIS KARKLINS: Sorry, Alan. I hear you very poorly.

ALAN WOODS: Oh, sorry.

JANIS KARKLINS: I do not know why. I got the sense of your intervention but the quality of sound is not totally good.

ALAN WOODS: Apologies for that.

JANIS KARKLINS: Can you fix it? Can you fix that somehow?

ALAN WOODS: [Inaudible] here so it's probably best not to [inaudible].

JANIS KARKLINS: Thank you. Sarah, please.

SARAH WYLD:

Hello. Thank you. This is Sarah. I just want to focus on something we've been talking about in the chat. I think we really need to move this to a Google Doc or some kind of shared document where we can all put suggested changes. It is basically impossible to track suggestions in this kind of a conversation, and so I think for us to be effective here, the next step really just needs to be sitting down with the definitions and proposing changes. Thank you.

JANIS KARKLINS:

Thank you very much, Sarah. I think that you concluded where you said what I wanted to say in conclusion, unless someone else wants to speak on the topic. As Tara suggested, maybe the next step would be to do necessary edits by all those who want to do those edits in Google Docs. I will ask Secretariat to put the document up as soon as feasible. I cannot say in the next 15 minutes but after this call.

So please provide your input. Maybe if we are attempting to conclude this conversation next Thursday then maybe by Monday evening, if I would suggest as a target – not the deadline but target – to provide any comments on Google Docs on this list. Please feel free to add anything you want to add. Then on Tuesday we will review with the staff and we'll put forward a proposal which then we would attempt to confirm during the next call. So, Marika is correcting me – by Tuesday because Monday apparently is a holiday in the United States. By Tuesday then.

Thank you. Would that be acceptable? I see Alan is seeking the floor. Alan, please.

ALAN GREENBERG: Yeah, just quickly. You said “edits.” I would suggest since people may have competing positions, edits sort of leave the last person speaking gets their way. I would suggest people put comments at this point and then staff try to resolve them.

JANIS KARKLINS: Thank you. We will do that. With the last, Alan’s correction, we then move to the next agenda item and that is Item 7 on worksheets. Here I would like to ask Marika to kick-start the discussion. Marika.

MARIKA KONINGS: Yes, thank you, Janis. Give me one second to pull up my screen. We’re first talking about the worksheet for the System for Standardized Access/Disclosure (SSAD). Let me just share the draft. This draft hasn’t been shared yet with the group as it’s really still a work in progress. I’m looking forward to hearing your input on the proposed logical order for addressing a topic as you saw in the slide. That’s one specific action item for everyone to look at. But I’m assuming for now that that is an order that aligns with the expectations from the group.

First of all, the order in which it needs to be addressed as well as the topics that are expected to be considered as part of the conversation. Our proposal is then to capture that all in the

worksheet and what you see on the screen is, first of all, kind of the standard parts that you've also seen in the other worksheets. We're trying to list all the charter questions that are related to this topic and the Phase I recommendations that are related to this and also a number of questions from the Annex to the Temporary Specification. And what we've also added in already is some policy questions that were flagged in the TSG report. Of course, this does not mean yet that the group has made a determination on whether the TSG Model is the one to pursue, but obviously there are some questions in there that will likely apply to any model that is chosen. So we thought it would be helpful to already include them here.

The expected deliverable is hopefully clear as well. Standardized model for lawful disclosure/ access of non-public registration data, of course with the details to be worked out and agreed. As you can see, there's already a pretty long list of required reading materials and we would really like to encourage everyone to start on that to make sure everyone comes to the table with the same knowledge and appreciation of all the work that has already taken place in this area and all the expertise that already exist in some of the other efforts that have been undertaken that may serve as a starting point for the group's consideration. As said, the list is quite long. And of course, if there's something missing there, please let us know as well.

There may be briefings that the group may welcome at some point, one of the ones we've listed here, for example, RDAP is one of those where the group may have further questions or would like to get a better understanding.

There are some dependencies I think that came from previous conversations we've had where the group or some indicated that the Data Protection Agreement may be a prerequisite for much of the work in Phase II. Again, that may be something we'll look at and see how that helps inform the conversations.

But then where we really need your input and guidance is on the proposed timing and approach for looking at these topics. As you saw in the previous ... in the slide deck, we have put together a proposed logical order. Again, this is really based on staff just looking at the different topics that have been identified and trying to think through what would make the most logical sense when it comes to order of looking at these items.

Then our thinking is that for each of these items – and for now, I'll skip over the definitions and terminology as we already discussed that in the previous item as well as legal questions. We already touched upon that as well. But there are some questions that are here that came from previous conversations so we definitely want you to look at those and see if those are still relevant and/or whether there are additional questions that should be considered. But now I would really like the group to focus on the kind of approach for mapping out how to tackle the different topics that we've identified, and again leaving aside maybe the order, for example, looking at the first one, defining user groups, criteria and purposes/ legal basis per user group. So what we first tried to do is define what from a staff perspective again we think is the objective of tackling that topic. And again, this is really just the starting point for you to weigh in on and making sure that

everyone is clear on and agrees on what the objective is of tackling that topic.

What are some of the materials that should be reviewed before discussing the topic? Again, here we for now have [FTDC] but I think there is some work that was done in the context of UAM that looked at user groups. I think the EWG may have done similar work. Again, we would look to you as well based on your expertise to point us to documents that may help kick-start this conversation or provide a starting point for the group to do its work.

Then very importantly as well, we want to make sure that we link all these topics with the charter questions and/or Phase I recommendations and/or TSG policy questions, so that by the end we are really able to cross-reference that the group is covering all the topics that it's expected to deal with as part of the charter. Again, staff will make suggestions here but if you believe we've missed something or there are other relevant topics, we really would like to encourage you to point that out and add that.

Then we would also look at are there any efforts in EPDP Phase I implementation that are relevant. As you know, there is a recommendation – I think it's Recommendation 18, if I'm not mistaken – that recommends some implementation work when it comes to format of request, a timeline. So again, it's important to keep an eye on that and see how that may cross-relate to the work that the group is doing.

Then we're also trying to map specific next steps. Again, it's a starting point staff is making suggestions here what we believe

would be immediate next steps. And then as well, we hope for those steps to be able to associate a target deadline.

As said, there is of course some more word maybe in this category but this is just to give you an idea of what that would look like. Then our approach or suggestion would be to do the same for each of the topics. But again, we will really rely on the group here to review this and make sure we've covered all the relevant information. But we're hoping in this way, we'll be able to clearly map what is expected to be discussed under each topic that is identified which will also then hopefully allow all groups to prepare accordingly and even ahead of time to think through what is coming and what needs to be done in order to get to a place where everyone is informed and able to have that conversation. And also hopefully, have clear deadlines by which we expect to wrap up conversations or by which we may want to move on to a next topic. I think that's something that the group may want to consider as well. Maybe a certain timeframe is set aside for certain topics but if we can't come to an agreement or more time is needed, it may be worth moving to something fresh and kind of circle back to make sure the group keeps the pace going and hopefully is able to make progress.

That is what we wanted to share with you. So we're really looking here for feedback. As said, first of all, do we have all the topics listed? Does the order make sense to you? Because, again, that will really help inform us for the building out the worksheet and our hope is then to post that as well sooner rather than later, similar to what we've done for the other ones so you can start adding your

comments and your suggestions. I think that's all I have for now. Janis, I'll hand it back to you.

JANIS KARKLINS: Yes. Thank you very much, Marika. Any questions or reactions to Marika's presentation?

I understand that this worksheet of Priority 1 would really serve as a map for us to address topics or the building blocks of the system and that this would be the main document that we would be working on and also we would document with whatever agreement we will reach on any of those issues that Marika outlined as a suggestion, including now you see those building blocks in the logical order.

We should attempt to finalize the outline of this worksheet in the coming few, two to three weeks that we could really dwell on the topics during the Marrakesh meeting. Would this be a common understanding? I see Marc Anderson. Marc, please go ahead.

MARC ANDERSON: Thanks, Janis. I want to make sure I understand what I'm looking at. So the document being displayed in Zoom right now is a new one that wasn't previously shared?

JANIS KARKLINS: Yes. Your understanding is correct.

MARC ANDERSON: Okay. Then I guess a follow up, just a request that when this is shared, if we could have it in Google Doc format. When I was reviewing the existing worksheets, I found reviewing them in Google Doc was easier. And sort of related to that, one of the worksheets was PDF, all the others were Google Docs. So it's my request that we have those in Google Doc format.

JANIS KARKLINS: Yes. You have seen the proposed worksheets on topics that are left over from Phase I, and this is a new one. And of course, we are not expecting an immediate reaction. This was introduction and we hope that reaction will follow by next call. Marika, your hand is up.

MARIKA KONINGS: Yes. Thanks, Janis. I just want to clarify there is indeed still one PDF on that wiki page which is really old version of this worksheet. I think we completely overhauled it, but that was basically when we originally started the conversation and I think that was even before Janis joined us. So we still have it there as kind of a record, but ignore that for now. Focus on the Google Docs. Not seeing any kind of immediate concerns about the way we're approaching this, my proposal would be that staff fills it out for all the areas that we identified here as best as we can because obviously in some of these areas, you'll have much greater knowledge and expertise with regards to work that may have already been done or relevant readings that need to be considered. Then as soon as we have that, we'll post that as a Google Doc so you can similarly do the other ones and start

providing your input, and again make sure that we have a complete picture as possible for each of these topics.

JANIS KARKLINS:

Thank you, Marika. Any further comments? In absence, I would then like to invite members of the team to familiarize with this worksheet which is available in Google Doc format and provide any comments/input you may wish. Secretariat will continue working on the documents and we will review it again next week when you will have more time to look at it.

In absence of further requests for the floor, let me move to the next agenda item and that is worksheets from Work Stream 2 or now it's just to call Priority 2. Marika, again, please. You have the floor.

MARIKA KONINGS:

Yes. Thank you very much, Janis. What you see on the screen here is the wiki page we've created that provides you with links to all the Google Docs that we've posted for now I think we're referring to the Priority 2 items. All of those are posted. Some of you have already started reviewing those. We'd really like to encourage everyone, and again we really need your input here. Some of these, there's quite a bit of information available. The worksheets are probably are ready and in a good stage to document what the objective is, what are some of the materials, what are some of the expected next steps. But some of the other ones, there's less information available, so we really need you to review these. And also making sure that everyone agrees on what

expecting next steps are so we can actually start moving forward with some of those. Because again, especially in the Priority 2 items, there are a number of items that are dependent on something else happening or input being received from someone else. So those are maybe things that we don't need to spend calls on but we maybe can kick off through Google Doc or we map out questions.

I want to say thank you because I know some of you have already started your review. We had initially said – that was yesterday or prior to the meeting – for everyone to review this. So, Janis, we may want to discuss and putting in a firm/hard deadline by which all the groups should have reviewed this so we can, to a certain degree, consider this final at least from the perspective of scope and next steps so we can concretely start integrating those as well in the work plan and show what is expected to happen next.

JANIS KARKLINS:

Thank you, Marika. Now when I see the list, I would like to ask you to harmonize the titles on the screen, on the front page with the titles and terms that you are using in the document itself. Once you will put, for instance, the worksheet for Priority 1, so we're talking about System for Standardized Access and Disclosure, and so on.

I see Marc who's asking for the floor. But before I'm giving the floor to Marc, I would like to say that those worksheets would be the topic of our conversation that we agreed to attempt in parallel with the working on Priority 1 and we will start next week with the reviewing two or three worksheets that is now visible on the

screen. With these words, I would like to invite Marc Anderson to take the floor.

MARC ANDERSON:

Thank, Janis. Just reacting to one of the things Marika said. I understand the desire to get these to a finished state but I think for them to be truly useful, they have to be living documents that evolve as we discuss these topics and as we deliberate on them and move towards recommendations. So really, I think the due date for each of these to review needs to be before the meeting where we discuss the topics. I think we have to be willing and ready to update them as we add content, as we deliberate on them, and also as we learn what works and doesn't work.

So I guess that's some feedback I want to provide. I think I've had a chance to look through these. I think they provide an excellent starting point for the most part, but I do think for these to be really useful, they're not the type of documents that we can say, "Okay, everybody review by Tuesday of next week and then we're done," and we never go back to change them again. They really need to evolve as we go through the process of the PDP.

JANIS KARKLINS:

Thank you, Marc. I confirm that your understanding is absolutely correct. They will be using those worksheets as a basis for our conversation and will reflect in them the outcome of our conversation, and they will be living documents until we will draw a conclusion. The recommendations will be formulated. Then those documents will become static. But until then, they will be

living documents and we will refer to them every time and we will address the topic which is reflected in each of those documents.

Any other request for the floor? In absence, I would like then to encourage members of the team to look at those worksheets. Let me suggest first two, we would attempt to review next week during the call specifically dedicated to Priority 2, and if I may suggest Friday, 2:00 P.M. UTC. This call should not be considered as a full team call, but everyone who wants to participate are welcome to participate in this call. Unless there is a violent objection for Friday, 2:00 P.M. UTC – this is the time when I can be on the call – but if not, then we will reschedule. But then that will be a week after, not on Friday.

With this, I would like to go to next item of our agenda. Actually, that is not Any Other Business. I discovered that we omitted one important topic that we should at least start talking about, and that is call for input on Phase II topics from other groups, ACs and SOs. And if I may ask Marika to put on the screen the proposed document which is input template – SO's, AC's, SG's input template dated 22nd of May.

MARIKA KONINGS: Yes. If you give me one second, my Word is not that cooperating.

JANIS KARKLINS: Yeah. Based on the proposals that were made on the last call that we should engage with the other ACs and SOs in a timely manner, Secretariat has produced a template which also contains

questions that we would seek SOs/ACs to provide input to, questions that are related to our work.

The document was circulated prior to this meeting. I believe that not everyone could have a chance to look them through, but if by any chance the members have looked them through, that would be now a time to make any preliminary comments. So the objective would be to formulate those questions by next Thursday that we could send out that call for input to the ACs/SOs with the timeline of 21 days as required by rule, which then mean that we would have those inputs back prior Marrakesh meeting and we could talk through them during our face-to-face meeting. So, that's the plan.

Now floor is open for any comments at this stage. I see none. Please don't hesitate. In absence of any comments at this stage, I would simply like to ask team members to review the document by next Tuesday and provide any input/comments, additional questions that we should ask other ACs/SOs with the aim of concluding the formulation of this call for input during the next call that we could send them out soon after. Would that be acceptable?

Marc, please. You have the floor.

MARC ANDERSON:

Thank, Janis. I haven't had a chance to look at this document at all yet. I know it had been previously sent out. I'm not sure Tuesday is enough time to be able to review and provide feedback

on this document, especially considering all the other action items we have. So, I think we need a little more time than Tuesday.

JANIS KARKLINS:

Thursday would be fine? Marika tells me that initially the feedback with us by Wednesday. Please make an effort. This work needs to be done and if you could, again, it's not really very difficult. It is fully related to the overall work that we're doing here. These questions should be on our mind at least. Yeah, they should be on our mind and that wouldn't be so difficult to see whether the suggested questions are good enough or if there's something else, please add.

With this, and in absence of further request for the floor, let me turn to another topic on our agenda, Any Other Business, and that is the following. During the last call, if I'm not mistaken, that was contracting parties who asked a question whether we would have any briefings of experts on topics related to our activities, as it was the case during the first phase, namely when Becky was invited to talk about privacy and data protection.

So I would like to see whether I could make a proposal. I was approached by Steve Crocker who is working with a group of people. They're working on the framework on WHOIS, which in my view is very much linked to our work but is broader than we're looking at issues in Phase II. And I would like to see whether you would be in agreement to receive a briefing from Steve Crocker on behalf of the group of experts on their work which would inform our own discussion and maybe stimulate our own thinking.

So, that is my proposal. I can, of course, circulate that in writing, giving you slightly more details. I'm not suggesting that this briefing would be on Thursday as a part of our traditional call. That would be additional call of about 60 to 75 minutes, specifically devoted to the briefing and conversation with Steve Crocker. So please think about it and let me know if that would be agreeable. I see some people are cheering that proposal, some are still in reflection. Please think about it and we will come back to it during the next call.

Is there anyone else wishing to speak under Any Other Business? Now, if I may ask then Secretariat to recap, reconfirm action items that we agreed during this call.

CAITLIN TUBERGEN:

Hi, Janis. I'll review the action items that I captured today. The first action is for Janis to reach out to the Chair of the GNSO Council and ask if the EPDP Team can engage with the council with respect to the board resolution. And after which, Janis will refer back to the EPDP Team with the proposal.

Second action is for Rafik as the GNSO Council Liaison to seek clarification from the GNSO Council regarding the Bylaw-triggered consultation process, following non-adoption of parts of certain recommendations.

Third action is for the GAC to provide any legal clarifying questions for incorporation into the Legal Questions table by the end of tomorrow, Friday, May 24. Support staff will then update the table and provide it to the team.

EPDP Team members are requested to provide comments on the Legal table with respect to the relevance of questions for Phase II and prioritization of the questions by Wednesday, May 29th. Support staff will convert the Working Definitions list into a Google Doc and distribute it to the team as soon as possible, and then the team can propose any comments by Tuesday, May 28th.

EPDP Team members to familiarize themselves with the System for Standardized Access/Disclosure worksheet and provide any input on the document to be reviewed during the next call. We ask the EPDP members, continue to review the worksheets and anyone interested may participate in an additional call to review the worksheet regarding Priority 2 items, a date to be agreed upon.

Then team members to please review and provide input on the early input template by Wednesday, May 29th to aim to conclude the template during the next EPDP Team call.

Thanks, Janis. That's all I have for today's action [items].

JANIS KARKLINS:

Thank you very much, Caitlin, for capturing those action items. With this, in absence of further request for the floor, I would like to draw conclusion to this meeting.

So, thank you very much for active participation. And if I may ask team members to roll up sleeves and try to contribute to all the action items as much as you can that we can swiftly proceed in our work. So, thank you very much, and I wish all of you either

good night or good rest of the day. This meeting stands adjourned.

ANDREA GLANDON: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]