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**ICANN Transcription**  
**GNSO Temp Spec gTLD RD EPDP – Phase 2**  
**Thursday, 11 June 2020 at 14:00 UTC**

Note: 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.

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the GNSO ePDP Phase 2 team call taking place on the 11<sup>th</sup> of June 2020 at 14:00 UTC. In the interest of time, there will be no rollcall. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now?

Hearing no one, we have listed apologies from Matt Serlin, RrSG, Margie Milam from the BC will join the first hour with Steve DelBianco taking over for the last hour, and the replacement member for today for Matt will be Sarah Wyld for the RrSG. They will serve as their alternates for this call and any remaining days of absence.

All members and alternates will be promoted to panelists for today's meeting. Members and alternates replacing members, when using chat, please select "all panelists and attendees" in order for everyone to see your chat. Attendees will not have chat access, only view to the chat access.

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Alternates not replacing a member are required to rename their line by adding three Z's at the beginning of their name, and at the end, in parentheses, your affiliation, dash, "alternate," which means you are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click "rename."

Alternates are not allowed to engage in chat, apart from private chat, or use any other Zoom room functionalities such as raising hands, agreeing, or disagreeing. As a reminder, the alternate assignment form must be formalized by the way of the Google link. The link is available in all meeting invites toward the bottom.

Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, if you do need assistance, please e-mail the GNSO secretariat.

All documentation and information can be found on the ePDP Wiki space. Please remember to state your name before speaking. Recordings will be posted on the public Wiki space shortly after the end of the call.

As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior. Thank you. With this, I'll turn it back over to our chair, Janis Karklins. Please begin.

JANIS KARKLINS:

Thank you, Terri. Hello, everyone. Welcome to the 63<sup>rd</sup> call of the team. So, first question: agenda. The agenda was circulated. No

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comments have been received so far. May I take that this is the wish of the team, to follow the suggested agenda for today's call?

I see no objections, so we can proceed in that way. Under housekeeping issues, I wanted to brief you on the work of the small team in relation to evolutionary mechanism. So, we met two times, and more than an hour each, and continue working on the basis of initial and alternative proposals.

So, going into this exercise, I thought that we have only divergence of opinion, which would be the right mechanism to choose: the one outlined in initial proposal involving a GGP process, or, alternative, which is directly ICANN Org involvement?

So, having, during these two meetings, another crack appear, and that is on the scope of the exercise, particularly on automation, whether that is a policy issue or not. So, during the second small group meeting, the even smaller group consisting of [Mark], Brian, Amr, and Owen, they tried to iron out a divergence of opinion on the scope of exercise. But the big issue is, still, also, the method itself.

So, work is in progress. We are in, really, a rather serious deadlock because the classical situation is that half of the group supports one and the other half of the group supports the other method. There is no way to bridge this difference, at least for the moment.

Hopefully, we will find a solution during our next call, which most likely will take place on Monday. So, that is the update on where we are with the small team deliberation on Recommendation 19. I see Volker's hand up. Volker, please go ahead.

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**VOLKER GREIMANN:** Yes. I mean, ultimately, we all agree that there should be an illusionary mechanism. That is something that is entirely, 100% agreed as far as I know. The only question is what that process should look like. And even though it would be nice to have that solution packaged and ready to go once we tie up our final report in a little knot and hand it over to the GNSO Council for further review, and then the board, I don't really see the urgency, here.

I mean, the evolution, basically, means that we look at what currently exists, how it works, and then see where it needs to be tweaked, what needs to be changed, what would be possible/desirable to modify.

The way that I see that, the process, including the building of the portal and everything, will at least take a year. And then, we'll start gathering experience. So, even in the best scenario, we're looking at one-and-a-half years before the evolutionary mechanism needs to be triggered.

So, let's just set that aside for the GNSO as something that they have to consider how to build that afterward. Let's not let that delay our work and endanger the result of what we already have achieved so far.

I mean, we are all agreed. We should put in there, "There shall be a mechanism developed by the GNSO," whatever, that deals with this and this knot. And from that point onwards, we don't define that any further. Let others do that down the road. I think that's a much better use of our time and resources, as well. Thank you.

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JANIS KARKLINS: Thank you, Volker, for the suggestion. Milton, please.

MILTON MUELLER: Yes. I'm sorry, but I actually don't agree with Volker that we are all agreed on an evolutionary mechanism. It has become clear to us. We were, as MTSG originally, willing to make some movement in the direction for practical reasons, namely that there could be ongoing tweaks to the system, that we don't want to go through a policy process.

But it has become increasingly clear during the small groups and during other deliberations that the certain groups see the evolutionary mechanism as a way to change policy, particularly toward automation.

And at the same time as they are, essentially, demanding the right to undo or redo all of these hard-fought policy decisions that we've tried to come up with in this endless ePDP, and we should drop the E – at the same time as that is happening, we are not being given any concessions, any changes in our direction, on any of the issues that we care about.

So, really, we're on the verge of abandoning any support for any kind of a so-called "evolutionary mechanism." We are not interested in isolating these issues. We have to look at them all as a set of tradeoffs, and if we don't get very simple things that we're asking for, like changing "must" to "should," we're certainly not going to accept a radical change in GNSO process that would allow the entire GNSO to be, in effect, bypassed and ultimately rendered irrelevant.

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So, let's stop this game of divide and conquer. Let's understand, holistically, what we're doing here. And if you're not going to make protections and concessions that we find essential, that we can't live with, there's no reason why we're ever going to accept a very dangerous set of changes that we think are deliberately being put forward in order to undo agreements that we're making here.

And I also think we have to recognize kind of a pathological turn in the entire process, which is that we are not actually solving problems. We're not actually coming to agreements. We are putting things off by creating additional committees, additional work, additional processes that will extend endlessly into the future.

This is some kind of a game of avoidance that just has to be ended. I mean, we have to resolve issues. Some people are not going to get what they want, and it has to end. This process has to, somehow, end. We can't just have a perpetual working group that goes on for ten years, which is pretty much where we're headed, now. So, let's be realistic about what we have to do, and that is to actually come to an agreement and a bundle of compromises in which there is give and take around the table so that we can actually bring this to an end.

JANIS KARKLINS:

Thank you, Milton. I feel that you have an accumulated frustration that I do have as well. I can assure you that I do everything to bring this process to closure by June 30<sup>th</sup>, when my availability ends. So, I hope we will succeed in that.

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When it comes to bypassing, your statement that we're attempting to create a system that bypasses GNSO policy-making process, here, I disagree. This was part of the deal, to make a policy decision, but some operational adjustments will be made during the operations when we will learn some unknowns. For instance, the voting.

The idea is to find the specific issues where policy decisions proposed by this team would allow operational adjustments, whether that is on the time of response, whether that is on cases which could be automated when new information appears, whether that is a fee structure or level of fees, or that is a justification in those five points. You are familiar with them. So, there is still no agreement. We are working on them, and I hope that we will find that agreement. Next is James, followed by Alan Greenberg, please. James.

JAMES BLADEL:

Thanks, Janis. Good morning. So, just a couple of points, and I'll be brief because I'll just go back to what Volker said. I want to be very clear that registrars and, I think, contracted parties, support the idea that this PDP make recommendations on the long-term evolution.

I think the reason that GDPR and other data protection laws landed on our head like a meteor in May of 2018 is because we had 20 years of failing to evolve ICANN policy to keep track with external regulations. And we had that accumulated, two decades-worth of tech and policy debt that we had to pay all at once.

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So, that's one reason why it was so disrupted, and I think that we need to be mindful that that could happen again if we lock this stuff into ... Carve it into granite and don't allow for it to change.

I think that Volker has another good point about taking this off the critical path to our final report. The recommendation can be lightweight: "Before January 2020, the GNSO Council will convene a group to examine evolution, blah, blah, blah.

I mean, we can put a marker in this thing that locks in a commitment to have something done before the first iteration of review. That kind of takes us off the clock. But I just generally want to express that there is broad support for some kind of evolutionary mechanism.

I want to just make two other quick points. One, I think Milton is right. You can't have a PDP that swallows the bylaws. Anything that looks like it's creating material obligations for registries and registrars has to go through the GNSO. That's just the model. That's not an opinion. That's how this mechanism works.

And the second thing is that I don't want us to always assume that "evolution" means more automation, less restricted access to data, less expensive operational costs and fees to use SSAD.

It's possible this thing could evolve in a different direction, and it could become more restrictive. We don't know, and I think that's the reason why we need to have this process of continuous improvement that does stick to operational issues and kicks anything that looks like a policy over to the GNSO. So, I guess I'm agreeing with Volker's two points and agreeing in principle with



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some of the things that Milton raised, without sharing his objection to the idea in entirety. Thanks.

JANIS KARKLINS: Thank you, James. Alan Greenberg, please.

ALAN GREENBERG: Thank you. I'll try to be brief. I see several problems, here. Number one, we seem to have different definitions of "evolution." Some people feel that evolution implies, essentially, going back to the GNSO and changing policy with the PDP. Others feel it should be far less formal for things that are not policy-related. That immediately goes into the second problem we have. There are people within our group who believe that any change in the decision-making process that is moving anything centrally into the SSAD is a policy change.

And yet, we also have those same people saying GGP would be suitable, but GGP is, by definition, not a policy process. So, we have some real, strong conflicts, even among the same people, of, just what are we talking about? What does "evolution" mean? What is a policy change?

And I thought we understood that policy changes can only be made by negotiation or a PDP, not by a non-policy process. And lastly, in regard to Volker's recommendation of, "Let the GNSO decide later," the ACs have no say in the GNSO, and that's not going to be acceptable to us.

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Or at least to the ALAC, in any case, but I suspect the other ACs, as well, because we're among those people who are not agreeing with the GGP. And simply turning it over to the GNSO and say, "Figure it out later," is not something that gives us a warm, fuzzy feeling. Thank you.

JANIS KARKLINS: Thank you, Alan. Mark SV, please, followed by Thomas.

MARK ŠVANČÁREK: Thank you. My concern about what Volker and, I think, James were suggesting is that, once we take these things out of the critical timeline, I have no confidence they'll get done, and thus just point back to ... I think it was February 29<sup>th</sup>, 2020, which is when the IRT was supposed to be done.

That date came and went without much comment. I don't know exactly when it's going to be done. Soon, I guess. So, I would imagine that this would be something akin to that, even if the hard date is attached, which has not been discussed yet.

So, that would be very concerning to me. I wouldn't have a lot of confidence in it. Alan G is right that, if we don't settle on a definition of "evolution" soon, this is just going to go back around, and round, and round.

Milton makes the point that we just keep kicking things down the road. I think he's mostly mentioning this in regard to the mechanism for evolution, but the mechanism for evolution is requested because we keep kicking things down the road.

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So, yeah, it would be great if we could settle things before this group dissolved. We all know how hard that's going to be without additional information about how the system works, legal certainty, and things like that.

So, it does appear to me that we need some sort of a mechanism. We need to make it work within the bylaws. We need to settle it here, within this ePDP. So, those would be my collections of feedbacks. Thank you.

JANIS KARKLINS: Thank you. Thomas, please.

THOMAS RICKERT: Thanks very much, Janis. Hi, everybody.

JANIS KARKLINS: Thomas, we lost you.

THOMAS RICKERT: Process in place to further evolve ... Non-starter. The—

JANIS KARKLINS: I don't hear you well, Thomas.

THOMAS RICKERT: Is this better, now?

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JANIS KARKLINS: Try. Please try.

THOMAS RICKERT: Ending the ePDP without having an evolutionary process in place is a non-starter. That is for simple legal reasons. The GDPR is all about documentation, about writing up what you've done, and also reviewing what you have documented periodically.

So, by law, we are required to further evolve the work product of this group. Therefore, I think the biggest question is to slice and dice – what is policy, and what is implementation of existing policy?

And I think that we need to have—and this, I think, can be done in very general terms—a policy recommendation in our final report to describe how we deal with the legally required evolution, and that would include new scenarios for decision-making, and all that, based on case law and other advice that we might get.

And where the border is crossed, where, actually, new policy is being developed, this is a gTLD policy and, therefore, the GNSO Council is the right place to have that done. And as much as I sympathize with Alan G's point that he wants the role of ACs to be different than in gTLD policy-making, I disagree that this is required for the ePDP. This is gTLD policy and, therefore the role of the ACs should be as with other policy development in the GNSO. Thank you.

JANIS KARKLINS: Thank you, Thomas. Again, I think that no one contested the idea that if there is a need to change anything in the policy

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recommendations or there is a need to develop policy further, that that goes to GNSO Council.

So, no one contests that. Here, the question is how to deal with the operational changes based on experience acquired during the work of the SSAD. Volker, please. Brian, then Milton, but we would need to get this conversation to close. Volker, please.

VOLKER GREIMANN: Yeah. Maybe we could close this off with this. I see Alan's concerns and I share them to a certain degree because, ultimately, what we do not want is a process that doesn't work that is just deadlocked and will not work for either side.

Contracted parties, as well as the other side, the parties interested in more and faster disclosure, are interested in the system that allows for evolution. I mean, if we figure out that certain parts just don't work for us, that law changes, the interpretation of law changes, that requires changes, that we have to make allowances to operationalize this better, then we would like to have the same mechanism in place in a way that works, that allows us to make some changes that are needed.

So, therefore, I think there is an incentive to have a workable system on both sides of the divide, here. The second part is, yes, in the standard ePDP process the advisory groups have no seat. But we could just write that in there, that they have an advisory role in the ePDP, can join in such a role, or, if needs be, even a further role.

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I don't think that should be a stumbling block just because the standard ePDP does not allow for that or does not take that into account. We can take it into account in our recommendation for how the GNSO should look at building such a process. So, I don't think that's a show-stopper. I think that's a chance to maybe even look at evolving the process entirely. Thank you.

JANIS KARKLINS: Okay. Thank you, Volker. Brian, please.

BRIAN KING: Thanks, Janis. Thanks, all, for the comments so far. I'll be brief, here. I perhaps should have objected to having this as an agenda item before the small team finished our work. I don't think I've heard anything so far that we haven't been thinking about and trying to control for and include in the mechanism that we're developing.

And as Janis mentioned at the beginning of the call, that work is ongoing and we do have an intended outcome that does not allow the mechanism to do policy things and to touch policy. And while I represent the IPC here, I work at a contracted party, and you're not messing with my contracts without going through the proper channel. So, that's important to all of us in the small team, so I'll be clear about that.

That being said, I would just like to address the importance of this mechanism for evolution. Without it, I cannot commit that you have consensus from our group, or probably many others.

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The policy recommendations that we have on the table now, without evolution are probably not good enough, and certainly do not allow for, as Thomas mentioned, the legal requirement for this thing to evolve over time and for, operationally, it to get to where we need it to get in order to expect that the final product will work. So, I just want to be very clear about that. Thanks.

JANIS KARKLINS: Thank you, Brian. Milton, please. You had the last one.

MILTON MUELLER: Yes. So, the reason that we are turning away from this so-called “evolution process” is that, in the small team, it became clear—and I think Alan reiterated those concerns—that they don’t trust the GGP to be the supervisor of what is policy and what is not, and they don’t trust that.

Why? Because it’s done by the GSNO. And why don’t they trust the GNSO to make domain name policy? That’s an interesting question that we didn’t really hear answered. The reason, I suspect, is that they know that, because the GNSO has balanced representation, that reflects the interested of commercial, as well as non-commercial, users and contracted parties, that they are perceiving themselves as outnumbered and, therefore, will be unable to play the consensus-blocking role that they have been able to play on the ePDP itself.

So, they want, in effect, an alternative policy determination mechanism. I just can’t avoid that conclusion. I would love to be able to but I can’t. That is, in fact, what you said, Alan. You want to

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have the ACs represented in the determination of whether something is a policy issue or not.

And we also had this absurd notion that we cannot end this thing unless everybody on this so-called “evolution team” agrees to end it, which means that, like everything else we’re doing, it will go on forever and the same contentious processes will just be replicated.

So, okay. If you support the idea of continuous improvement, we’re okay with that. We don’t like the word “evolution” because, again, that implies a much stronger notion of what kinds of changes will be made. Improvements, adjustments, that’s fine, but the boundary line of what is policy and what is implementation has to be drawn by the GNSO. And the GGP was, in fact ... A team that includes ACs was a big compromise on our part. But again, it’s just not enough. So, we see no reason to make any other concessions.

And if the other side can’t accept not making any more concessions, then we will withdraw our support for any kind of an updating or a mechanism, because we’ll see it as a threat to the nature of the process. Thank you.

JANIS KARKLINS:

Thank you. Listening to this conversation, of course, we see all the needles that are, we feel, on the way to the consensus on the topic. From the other side, as Brian said, I think that we’re trying to divide the skin of the bear which is still in the forest, and we still have a chance to conclude our work and, hopefully, find a way that would either suit everyone or, equally, make everyone unhappy. We will give the last try next Monday.



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Volker suggested a possible way forward if we do not have agreement. Not ideal, but still, at least we have a proposal that we may contemplate in case the smaller group will not find a way forward. Mark, if you would agree to lower your hand, or if you insist, of course, please go ahead, but I would like to move to the next agenda item.

MARK ŠVANČÁREK: I'll be quick. I just note that almost all the talking today has been people who are not in the small team. I hope I didn't set any expectations about what's in this plan, because I'm not on the small team. Things that I've heard today are not necessarily what I've been hearing from the small team. So, hardly any talk was given today by people who are on the small team, so let's give them a chance. Thanks.

JANIS KARKLINS: Small team meetings are recorded and transcribed, I believe, so you can listen and be a part of the team, also, post factum. So, thank you very much. We will update after the Monday's call.

So, let us move to the next agenda item. That is the proposed approach for viewing and addressing input received on recommendations. I will call on Marika to brief us on the proposal.

MARIKA KONINGS: Thank you very much, Janis. So, the staff support team sent out an e-mail yesterday with an update on the status of review of the input

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received on the recommendations, and everyone already had a chance to look at that.

I'm actually pleased to note that some people have already started working on the templates that we've provided. But to give you a little bit of a brief overview of how we have approached it, we basically went through all of the input that you've provided and created a template for each of the recommendations, which you see here on the screen.

As you know, there are a couple of recommendations that have been grouped together as they're closely linked. And as such, you see them all in one place. This has had the effect in the draft final report that the numbering is not necessarily in sequence anymore, so it may result in having to search a little bit to find the different numbers.

Of course, before we finalize the report, we'll update the numbering, but we kind of thought that it might be more confusing if we would start changing that now. So, basically, this is the page where we expect to go to look at the input templates and start working on the homework that's related to that. Berry, if you can maybe click on the one for recommendation number one, we can briefly look at that.

So this is, basically, the same approach we've taken for each of the recommendations. We've created a template in which, the top part, we're going to be asking you to provide your input on our proposed approach for how to address the items that were put forward.

And as you recall, groups were asked to identify "cannot live with" items and minor edits. So, in going through those, the approach

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we've taken ... And again, if you look at the table, we've identified who made the comments, what was the text that they commented on, and what was the rationale that was provided for the concern or the change that is proposed.

Very pleased, and thank you, again, for all your constructive input here. There are a lot of specific suggestions for either how to edit the text or how to reorganize recommendations, which, from a staff perspective, has resulted in, I think, a lot clearer recommendations and a more logical order and flow in the different recommendations.

So, basically, where you see green on the right-hand side in the "how addressed" column, we've basically taken the suggestions that were proposed and applied them in the proposed final report.

Of course, important to say we kind of made an assessment there that the change that was proposed would not result in "cannot live with" items for other groups. But again, the ask for you is going to be to review this and identify if we have upset the balance in some way, or the changes that were applied that we thought were non-substantive, maybe, for if certain groups do prove to be substantive.

So, that is the green items. There are also items that are labeled in an orange color. Those are the ones where we have applied changes but have made some wording changes, either as a result of changes that were recommended by others or for the flow of the recommendation itself, but we've tried to capture the intent of the comment that was made and tried to capture that in the rewriting. But as said, it isn't exactly a copy-paste of what was suggested and we've kind of explained why we made a slightly different change than was originally proposed.

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Then, we also have—and I think next on the list—red changes. I don't think there are any in this particular document, but that's where we're recommending not to make any change—oh, actually, there are a few here—either for the reason that the comment doesn't seem to be relevant because, maybe, other changes have already been made, or it's focusing on something that is actually already covered in another document.

But in a couple of places, we've also suggested it relates items that have been extensively discussed, and where it's clear there is no agreement, and no specific suggestions have been provided on a proposed path forward that would also factor in the previous conversations on that topic.

Fortunately, I think there are only a few where we did that. As said, in a number of the cases, we basically said no change is needed because, actually, the comment under concern is addressed somewhere else already in the document.

Where there is no color code applied, it usually deals with responses to questions. In a number of cases, certain questions were asked, so we've tried to respond to those. Again, in some of those responses we've made certain assumptions. And we're looking, as well, for a confirmation from the ePDP team that we have made correct assumptions. If that's not the case, please flag that accordingly.

And then, there are a couple of areas where we flag things in blue. Blue are items where a change was proposed or a question was raised but it's not exactly clear what the rationale for the change is, or where someone has suggested a change but didn't provide the

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wording. So, we're asking for groups to provide that input because that allows us, of course, to better assess what change, if any, would need to be made.

And then, last but not least, there is a set of yellow comments. Those are our comments where we need further guidance from the ePDP team in order to decide if or what change should be applied.

In some cases, this relates to items where we think that the proposed change may result in "cannot live with" items, so we want the group to kind of review and talk about whether they feel comfortable in applying the changes that are proposed.

In quite a few other cases, it relates to areas where clarification is sought and where the staff support team doesn't feel it's in a position to answer the question. So, we're basically looking for guidance from the team to be able to further clarify certain concepts or certain references in the report.

So, on the basis of that color-coding, for all the green and orange items, we've gone ahead and applied those in the draft final report so you're able to see what it looks like. And as we suggested in the e-mail, as well, we would recommend that, as you review these templates, that you do that with the draft final report next to you so you are able to see the context of the whole recommendation and see, as well, the interplay between different recommendations.

We realize that there is a lot of redline in the draft final report, but we want to reassure you, as well, not all of those are changes to text, but, in a number of cases, as well, moving around of certain parts of recommendations where it was suggested that they would

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fit better somewhere else, or where text has been deleted because it was already covered in other places. So again, that's why it's quite important to review it in context and, preferably, finalize your comments once you've seen how everything fits together.

So, the ask is—and that's the table up on the top—for groups to review this and, basically, if you disagree with how we've proposed to address certain items, and especially where the way they are proposed to be addressed is resulting in "cannot live with" items, please flag those. Make sure to include the number of the item you're referring to, and, for the priority two items, as well, make sure to include the number or the topic so it's clear to everyone what item you're talking about.

And then, like you've done for the input on the recommendations, please come forward with proposed changes or edits that factor in, as well, the original comment that was made and, of course, deliberations that have been held so far, so that, hopefully, the proposed text is something that everyone is able to sign up with.

Also, maybe for yellow items, as said, there are quite a few there where we're looking for further guidance, and there are quite a few clarifying questions from an implementation perspective. You know, what is the expectation of the group in relation to X or Y?

If there's something that you spot and you already have a response to, we would encourage you, as well, to already note that. Because, again, if there are items that we can already close off and deal with, we don't need to spend time on the call on something that may be pretty straightforward.

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So, the idea would be that you take time until Monday at close of business to go through these documents and flag the topics that have resulted in a “cannot live with” status, and to provide your rationale, and provide specific language so that, on Tuesday’s meeting ... And we’re proposing to, next week, have meetings on Tuesday, Wednesday, and Thursday to kind of start walking through the yellow items and any other items that have been flagged that warrant further conversation by the group to decide how to resolve for those.

The hope is, then, by the end of the week we have sufficient guidance to further finalize the recommendations and turn that into kind of a final report for your review. We do have, I think, a placeholder meeting in the calendar for now for the Tuesday the week after.

We know it’s not ideal because it’s also the ICANN meeting, or the virtual ICANN meeting week. So, hopefully, it’s not necessary, but, of course, part of that will depend on your constructive input and specific suggestions on how certain issues can be addressed.

So, I think that’s it in a nutshell. I’ve seen that a number of groups have already gone in and started providing comments and edits. I’ve seen, for example, on, I think, Recommendation 4, where some groups have, as well, come forward, and kind of [offset].

And I think in Recommendation 4 we had a “cannot live with” comment, I think from the Registries Stakeholder Group, where the staff support team initially assessed that that was, maybe, a “cannot live with” item for another group.

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And I think the IPC has, basically, said here, “Well, actually, for us, maybe it’s not such a big deal.” And, I think very helpfully, the Registries Stakeholder Group has actually provided part of the comment that was cut off which I think had, actually, specific wording for consideration.

So, again, maybe this is one that we can resolve in the Google Doc if people are happy with the language, there. Of course, if you see comments there or proposed language that you cannot live with, we expect you, as well, to flag that.

But again, we’re hoping that, through the Google Docs and people being constructive in looking at the text and the proposal that has been made, we’re able to, hopefully, resolve as many issues as possible through the Google Doc and only reserve time on next week’s call for those items we are really not able to get a solution for online. So, I think that’s it. I don’t know if there are any questions or comments.

JANIS KARKLINS:

Yeah. Thank you, Marika. I think Sarah is asking a question of clarification in the chatbox.

MARIKA KONINGS:

Yes. I think that specifically relates to the priority two items, and we do get to that, as well, in item six. But I’ve noticed, as well, some groups have gone in there and made some comments and suggestions, but they actually haven’t included the reference to which topic they’re talking about.



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I think—not to put you on the spot, Brian—I saw you making those edits. So, if you can maybe go back and have a look, and make sure that you identify, for each of your comments, to which topic you're referring, that will make it easier for everyone to put it in context and identify whether it's something that is an easy fix or whether it's more complicated.

And again, of course, the same applies to the items in the different templates for the recommendations. We have numbered each of the items, so make sure to reference the number that you're talking about so we're all clear on which item you are referring to.

This one, maybe, Berry, is not a good example, because I think there was only one bad item. At least it was easy to spot but, again, make sure to include the number and the reference of the item you're commenting on.

JANIS KARKLINS:

Okay. Thank you, Marika. So, in absence of further questions, we will move to the next agenda item. I will only say that you should be assured that there is no attempt to slip anything under the rug. So, if there will be objections, and if the staff assessment is not, maybe, fully accurate, we will discuss every issue until we will have everyone feeling that their words have been heard.

So, with this, let us move to the next agenda item, which is Recommendation 2. If I may ask, maybe, Marika, flag which topic that we need to discuss.

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MARIKA KONINGS: Yeah. Thanks, Janis. So, we thought it would be helpful to, maybe, indeed, do a test run through one of the recommendations. This one seemed to make the most sense as it is a recommendation. The language was received pretty late in the process, so it's also an opportunity to better understand what was proposed and how it's intended to work in practice.

And again, it's probably the result of not having had the opportunity to have a conversation around the proposed language, that there are a number of clarifying questions that have been put forward, here.

We did share these, of course, with the GAC team, as they held the pen on that recommendation. And of course, the hope is that we're able to get some clarifications on these so that either the staff support team or the GAC team—and I think they can indicate what they prefer—can make some updates to those recommendations.

So, the first one here ... And of course, all the groups that have provided input also have representatives on the call, so if they want to speak to their questions they are, of course, more than welcome to do so, as well.

So, the first question that was flagged here under “cannot live with” items is from the ICANN Org liaisons who know that, upon review of the recommendation, ICANN Org is unsure how to implement or enforce this recommendation as it's unclear what requirements are expected of governments, ICANN Org, or the central gateway manager. So, we've noted here that the ask for the group is to provide further clarity on the expectations for implementation and enforcement.

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JANIS KARKLINS: Okay. Thank you, Marika. So, probably, since the GAC representatives were the penholders on this recommendation, please be prepared, maybe, to answer all those questions first, and then, of course, others who would like to chip in in the conversation. So, any further guidance on how to enforce the recommendation? Chris, please.

CHRIS LEWIS-EVANS: Yeah. Thank you, Janis. I think, maybe, it would be good to hear from ICANN Org, here, what's not clear, and just get a little bit of an overview from them before we can answer, maybe. It might enable us to give a clearer answer for them. Thank you.

JANIS KARKLINS: Thank you, Chris. Okay. I recall the side conversations we had in Los Angeles on this topic. So, the basic idea was that each government, or each country or territory, would organize an accreditation system within that country or territory and would inform, either through the GAC or directly, the ICANN Org, or central gateway manager, or other web accreditation authority, and would liaise in performing the accreditation and providing all necessary information.

So, there would be a direct link between the national accreditation authority and the SSAC accreditation authority. So, the content suggests that that would be the direct link. Of course, there will be 100, whatever, 90-plus national accreditation authorities, but that's life.

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Any other interventions? Would that be sufficient for ICANN Org liaisons? Marc Anderson, please. Sorry, Eleeza, you started to speak. Please, go ahead.

ELEEZA AGOPIAN: I'm sorry. I didn't raise my hand. I can let Marc go, if you prefer, first.

JANIS KARKLINS: Okay. Marc Anderson, please.

MARC ANDERSON: Thanks, Janis. I was actually going to ask to hear from ICANN Org a little bit. It's a pretty broad comment saying, "Unsure how to implement this." So, yeah. I mean, I guess I was hoping to hear a little bit more from Eleeza, or anybody from ICANN Org, really, on what exactly they're unsure about, and maybe a little bit more from them on what clarity we could provide to help clear that up.

JANIS KARKLINS: Okay. Thank you, Marc.

MARC ANDERSON: Yes. Please, go ahead, Eleeza.

JANIS KARKLINS: Eleeza, now it's your shot.

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ELEEZA AGOPIAN:

Apologies for that. I couldn't find my raise hand button. Sure, I'm happy to try to clarify. I think, in reading the recommendation and looking at the revisions that have occurred since, we're left wondering how we would enforce any of these requirements on governments.

Would we be in a position to have to de-accredit a government, how that would work? Would it be possible? As well as looking at some of the requirements from Recommendation 1. I think it's 1.3 that's referenced, trying to figure out how to apply those to government bodies as well. Seems like it may be challenging. I'd have to go back and look through those specifically. It looks like you're scrolling up to there, as well.

So, I think that was where we were kind of struggling to understand how it would work. As well, in Rec 2, there were very few "musts." There are a lot of "shoulds," I think, which kind of left us wondering what exactly the requirements were for the government accreditation authorities and how those would be enforced.

So, I think if you look down at some of the other comments and clarification question we have further down in the review template, we raise some of those issues in there, as well.

JANIS KARKLINS:

Okay. Thank you. So, maybe Chris, in principle, a question of enforcement and suspension or, let's say, sanctions if something goes not according to the book?

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CHRIS LEWIS-EVANS: I think we've said that governmental entities will be under the same de-accreditation as other users. We've said in Recommendation 1 that there will be a scaled response. It's not a straight de-accreditation.

So, as governments, we're used to complying with the laws that we create. If we partake in any systems, we're more than used to also trying to comply with the rules of that system.

So, I think, if entities under a government's accreditation agency were to misuse this, then that's certainly something that would warrant de-accreditation of a single entity. And then, if it's a lot broader than that, I think it's a discussion the same as we've, I think, had.

We've got other accreditation bodies. It causes massive problems for the systems, but sometimes it has to be done, or they need to be passed over to the data protection authorities to report data breaches. So, that's some of the thoughts around that, I think.

JANIS KARKLINS: Okay. Thank you. So, with these explanations, do we have sufficient clarity and guidance for implementation? Stephanie, followed by Eleeza.

STEPHANIE PERRIN: Thank you. I'm just wondering ... I agree with what Chris just said, but do we need guidance on when to pass any de-accredited party over to data protection authorities for breach under the laws? I suspect that we do. And I don't believe, unless I've been asleep at

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the switch, here, we've discussed when we should invoke the legal regime and pass people over. Thank you.

JANIS KARKLINS: Thank you, Stephanie. Eleeza?

ELEEZA AGOPIAN: Yes, thank you. So, if I understood Chris correctly, is it the central gateway manager that is making that decision, or that recommendation? I guess the question we have is whether that could be made clearer in the language that's within the policy so that the roles and responsibilities for the implementation of this recommendation are made clear. Thanks.

JANIS KARKLINS: Thank you. I think that, since this is about accreditation, that would be a responsibility of accreditation authority, which is also ICANN Org in [current constellation]. Chris, could you confirm that?

CHRIS LEWIS-EVANS: Yes, most certainly. And obviously, the central gateway manager, if it was to notice through some form of logs, could report those to that. And then, to answer Stephanie's question., no, I don't think we do have that. However, this comes onto a little bit of Thomas's question, really. It has not really been decided which jurisdiction the central gateway manager or any of the accreditation bodies would come under.

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So, therefore, really, they should be held to account to the data protection laws in that country. And obviously, if we're assuming Belgian action on this for ICANN, then under GDPR they have 72 hours to report any data breach. So, I think following local law is an obvious requirement, and I don't think we need to add anything in this policy for that. Thank you.

JANIS KARKLINS:

Thank you. I think we need to focus more on the topic that we're discussed, and that is accreditation of public authorities, the topic "authorities." That's if a data breach will occur, that would not fall exactly under accreditation but that would fall under other policy aspects. Thomas, please.

THOMAS RICKERT:

Yeah. Just following up on Chris's response to my question. Thank you, Chris, for that. I have a hard time understanding how involving the data protection authority could help in certain cases. We're creating a policy whereby registration data containing personal data is covered at the global level.

And where, let's say, one country's authorities abuse the system to exfiltrate data from the SSAD to do rogue things with them, that might not be European data subject's data. And therefore, I question whether the Belgium EPA, who could be the appropriate body for the SSAD, could even take action if no European data subject's data is compromised.



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So, I think that, for this type of activity, we are pretty much on our own, and I think we need to find the de-accreditation mechanisms within the SSAD system or within the ICANN ecosystem.

JANIS KARKLINS: Thank you, Thomas. There is a de-accreditation policy in ICANN in the SSAD, and I think that the Recommendation 2 refers to Recommendation 1, and if there will be ever a need to de-accredit a public authority, it will be followed by the process which is defined in Recommendation 1. So, can we move onto the next one? Marika?

MARIKA KONINGS: Yeah. As you know, there are a couple of green items in here. You see on the left-hand side there are some changes we have already applied in response to comments that were provided. But of course, we especially hope that the GAC team will have a look at those and make sure that they haven't resulted in "cannot live with" items.

So, item seven is a clarifying question from ICANN Org in relation to the eligible government entity definition. The team has asked to clarify whether eligible government entities also include the accreditation for intergovernmental organizations, or IGOs.

JANIS KARKLINS: Thank you, Marika. The simple common sense would suggest that, yes, because IGOs, also, are public entities, the question is they are ex-territorial, and who will be doing accreditation even for all UN entities who potentially may be interested in doing this? Though,

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from the other side, I think that there may be very few who would need to use SSAD. But let me ask Chris. His hand is up. Please, Chris.

CHRIS LEWIS-EVANS: Yeah. So, we had a very brief discussion on this, and it's quite a difficult question, as you just tried to cover there, Janis. But our feeling is, yes, and maybe where the IGO is headquartered would fall under that country to actually do the accreditation side. However, that's an ongoing discussion – maybe one that could be fleshed out a little bit on how that would work on implementation. Thank you.

JANIS KARKLINS: Thank you, Chris. I think that this is logical because there is so-called host-country agreement where a government signs with international organization and there would be full justification if ... In the policy would be a recommendation that, in case of accreditation of IGO, that would be the government who is hosting IGO who would do the accreditation for that specific IGO. Milton, are you in agreement?

MILTON MUELLER: Not quite. I mean, it seems to me that we're refusing to fully accept the global nature of ICANN's DNS governance regime and that, ultimately, we have to be establishing rules for the abuse of accredited status, and it has to be ICANN Org that implements and enforces those rules and not the local authority.

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This is a global mechanism. This is a globalized policy. I don't understand how 194 different jurisdictions are going to be determining, in each individual case—which they have a clear conflict of interest—whether they have broken the rules regarding accreditation or not. Am I missing something here?

JANIS KARKLINS: No, we're establishing rules that national accreditation authorities will follow, and they will be interacting with a central accreditation authority, and the central accreditation authority will be monitoring the accreditation in national countries.

But simply to separate that, inside the country, accreditation would be done by a national authority which knows much better than ICANN who is the public policy body in that jurisdiction and who are not.

MILTON MUELLER: I understand that and I accept that. Yes, definitely. But I thought we were talking about the withdrawal of accreditation?

JANIS KARKLINS: No, we're talking about who will do accreditation of intergovernmental organizations. This is what we're talking about.

MILTON MUELLER: All right. Sure.

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JANIS KARKLINS:                   Okay. Stephanie, please.

STEPHANIE PERRIN:           Thanks. I just want to ... And I've brought this up before, but just a reminder that ICANN has given considerable funding, and support, and participation of board members to the Internet jurisdiction project that [inaudible] is organizing for several years.

And these problems have surfaced and have been thought out and put into their documents, and we haven't solved them. I'm talking about de-accreditation of rogue authorities. And by "rogue," I mean governments that have in their constitutions the power to seek data anonymously without anything that qualifies as a warrant, or any other kind of inter-jurisdictional mechanism.

So, could we please summarize this and bring in some guidance? Because de-accreditation of entities is a pretty big issue in the SSAD, and we can't just dock this fundamental problem of how we deal with governments that need to be de-certified or de-accredited. Thank you.

JANIS KARKLINS:                   Thank you, Stephanie. So, I think at this time ... I mean, we can, of course, always ask Bertrand to provide guidance, but somehow I'm doubtful that we will get any guidance in time. So, we could think of putting the task or question for implementation team to work out details of de-accreditation of government authorities, together with the relevant think tanks specialized in Internet and jurisdiction topics, something like that. Marc Anderson, please.

MARC ANDERSON: Thanks, Janis. Looking at the column from ICANN Org, it's a little bit more involved than just the yellow column on the right, which asks if either governmental organizations can be covered by government accreditation.

And the question from Org also notes that an IGO could actually serve as the accreditation authority for a national government, but then also asks, "May it be accredited as an accreditation authority for its members?"

So, these are all, I think, good questions, but it's a little bit more than just what we've talked about so far and just what we're seeing over in the yellow column. I don't have the answers to all of these, but I just wanted to note we don't seem to be exactly addressing the question that came from ICANN Org. I don't know. I can put Eleeza on the spot again. What's your take of this discussion? Does this help clarify from your perspective?

JANIS KARKLINS: Thank you, Marc. Before Eleeza will respond whether that is enough or not, let me tell you I'm accredited to two dozen UN agencies here in Geneva, and believe me, none of them—none of them—will ever ask accreditation to use SSAD because the nature of their activities is such that they simply will not need to do it.

I can think of Europol, INTERPOL, these two organizations, who potentially may want to get access to the private registration data, not others. So, the question is more theoretical.

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And indeed, as you, Marc, mention, some of IGOs potentially may serve as sub-contractors to provide identity notification. So, WIPO is one of them that comes naturally in mind for intellectual property community. So, I think we're a little bit trying to over-engineer, here, the question of IGOs. Eleeza.

ELEEZA AGOPIAN:

Thanks, Janis. So, the question, Marc kind of hit the nail on the head on where we were coming from. We were trying to understand—and Janis, you just said it, as well—would an INTERPOL or Europol be able to use this recommendation to gain accreditation for its members or its agents?

Similarly, WIPO is an example this group has discussed, and we've discussed, as well. They could serve as an identity provider, certainly, but could they also serve as an accreditation authority? It wasn't clear to us from reading this recommendation whether that is possible, or if it's explicitly prohibited, or whether their role is envisioned elsewhere in the policy.

I mean, I think we would want to see what the expectation is of the group, and certainly what the policy language says. But right now, it's not really spelled out in the policy, so that's where the question came from. It's to understand what the group's intent was. Thanks.

JANIS KARKLINS:

Thank you. So, I think since we're talking exclusively about accreditation of public authorities, let's focus in this recommendation on accreditation. Most likely, if no one objects, we should put additional sentence in that there should ...

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Intergovernmental organization will seek accreditation. That should be done by the host country accreditation authority.

But when it comes to whether ICANN can use IGOs as subcontractors for certain functions, that is entirely up to ICANN to decide and agree with the IGO. IGO may refuse, or can agree if there is sufficient ... There is a contract repayment and they can do the function. So, that is a contractual negotiation. Chris, your hand is up.

CHRIS LEWIS-EVANS: Yeah, thank you. Agree with your thoughts on inserting the language there. We just need to have a think about where that needs to go, exactly. And to Eleeza's point, I think, as Janis has also said, there are many, many IGOs.

I think for accreditation of all bodies, I think we've said that, realistically, you can't have someone acting as an accreditation entity and accreditation authority at the same time. You can't mark your own homework. So, I think for those IGOs that do require access, then they would have to go through another accreditation authority to gain that access.

JANIS KARKLINS: Every IGO has a very good relationship with their host country. So, they work hand-in-hand. They work on different topics, and this would be just one of them. So, let me suggest that we add a line and clarify that IGO accreditation, should they seek accreditation for this use of SSAD, should be done by a national accreditation authority in the country they reside. So, any objections? Daniel?

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DANIEL HALLORAN: Thank you. I'm not 100% sure if we're talking about accreditation as an accreditation authority or accreditation of users. So, I'm trying to distinguish if, let's say, an employee of WIPO wants to become an accredited user of SSAD, are they eligible just to come to ICANN, or an identity provider, and say, "Hi, I want to be an accredited user," or ...?

This Rec 2, I think we're talking about, could WIPO itself come to ICANN answer say, "Hey, Rec 2 here says eligible governmental entities that need access to data can become an accreditation authority. We want to be an accreditation authority and [our leads are now looking to the team.]" Should we say yes or no to WIPO, or to INTERPOL, or whatever other IGO? We should tell them to go to the government of Switzerland, or the government of their host country to ...?

JANIS KARKLINS: No, if they will seek accreditation to be able to use SSAD then they will go to Swiss authorities and will get accreditation. If a random WIPO employee would like to access SSAD, he will go through the accreditation process for any individual who wants to use SSAD as an individual.

And again, with a good knowledge of how international organizations work, you will have, maybe, organizations like INTERPOL, EUROPOL, who will seek accreditation as organizations.



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And then, under that accreditation, their staff will use SSAD on behalf of the IGO. But otherwise, they will not even seek accreditation because, normally, these international organizations will not use SSAD. Daniel, please?

DANIEL HALLORAN: Thank you. Sorry. So, are we saying that, if you're a governmental entity, you must use this Rec 2 accreditation and you can't go through the regular accreditation? Let's say you're a law enforcement agency or governmental agency somewhere. You have to go through your national authority, you can't come to ...? Let's say if ICANN sets up its own accreditation provider through the gateway itself or something. Gov entities are ineligible, or ...? I'm a little confused on that, now.

JANIS KARKLINS: Chris, can you answer the question?

CHRIS LEWIS-EVANS: Yeah, sure. Daniel, I think we were asked specifically to make this recommendation because ICANN said it couldn't verify who was a law enforcement agency within the different countries, and that's really ... This recommendation is to try and provide ICANN with the ability to know that an entity is of a governmental base and have the authority as a law enforcement or civil law enforcement under the government's statute.

So, that's the whole reason for this slightly different accreditation process, to provide that assurance that a law enforcement agency

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is actually a law enforcement agency. So, to answer your question, no.

I would suggest that if you were to set up your own then you would come back to that law enforcement agency and say, “We really can’t say that you are a law enforcement agency with the correct legal basis to make these requests,” whereas, obviously, a governmental accreditation authority would be able to say that.

JANIS KARKLINS: Okay. Thank you for the clarification. Hadia?

HADIA ELMINIAWI: Yeah. I basically also would see the clarification with regard to that point. So, if a public authority entity within a certain country decides to be accredited not through its own national accreditation entity, that won’t be possible. That’s my understanding, but I know—

JANIS KARKLINS: Yes.

HADIA ELMINIAWI: Yeah. Thank you.

JANIS KARKLINS: So, I think we should move on. Otherwise, we’re spending too much time on rather simple questions. So, Daniel, your hand is up. Please, go ahead.

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DANIEL HALLORAN: Thanks. So, I think that's a pretty big change to, basically, Rec 1, which would say any entity that is a governmental entity may not be accredited under Rec 1. They must go through Rec 2 is what I'm hearing. Whoever is an identity provider would have to have a process to read that out and say, "You're ineligible for accreditation." Okay. Thanks.

JANIS KARKLINS: No. They are eligible, but accreditation of public authorities.

DANIEL HALLORAN: But they're ineligible under Rec 1, we'd have to say. Let's say the U.S. Federal Trade Commission comes to ICANN and says, "We want to be accredited as a user of SSAD." We would say, "Sorry, you have to go to your governmental national authority."

JANIS KARKLINS: yes, and they will happily do that.

DANIEL HALLORAN: Okay. Thanks.

JANIS KARKLINS: Thank you. So, Marika, the next question.

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MARIKA KONINGS: Yeah. Thanks, Janis. I think we actually already covered the next question, and maybe giving the ICANN Org liaisons a second to look at that. It's question 11, I believe, we're on. [Not eight, Berry]. I think that's for them to review whether that question has already been addressed. And if not, we can come back to it.

Because this asks, basically, I think, the same questions of whether governmental entities are restricted to accreditation under two. I think that question has been answered. I don't know if that second part is still needing clarification.

And does the ePDP intend for this accreditation to be limited only to government entities? As bullet three implies that governmental entities can grant [pass] to a non-governmental entity. So, it's maybe a slightly separate question. So, I don't know if Chris can maybe clarify that one, or I don't know if the Org liaisons want to explain it a little bit further.

JANIS KARKLINS: So, Chris?

CHRIS LEWIS-EVANS: Yeah, thank you. Sorry. Just finding the mute button. I don't understand how three implies non-governmental entities, so I'm just trying to reread it. So, maybe, if someone could help me out with how that is implied? Thank you.

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JANIS KARKLINS: No, I think, here, we may face a situation in the country. For instance, that in some countries consumer protection authority may not be seen as a governmental but independent – non-governmental, but still performing a public function.

And I think that, again, the logic would suggest that the national accreditation authority will determine within the jurisdiction which government agencies, law enforcement agencies, but also organizations performing public interest, may get accredited through the national mechanism.

And then, of course, will be carrying full responsibility for accrediting those organizations. All other non-governmental organizations will go through the normal accreditation process in Recommendation 1. Would that answer the question, Eleeza, or Daniel, or we're off the target? Eleeza, please, your hand is up, and then Daniel.

ELEEZA AGOPIAN: I'll let Dan go ahead.

JANIS KARKLINS: Dan, please.

DANIEL HALLORAN: Yeah. Thank you. Marika pointed to an example in the text that talks about a consumer rights organization being accredited under Rec 2. So, there are—and you were also saying it—entities that aren't governmental entities, but doing something law enforcement-

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related, or for law enforcement, or for some other government agency.

And the question was, basically, can governments only accredit their own entities and employees, or could they also accredit other related organizations within their government? I don't know if we have it here, but we have a general question, too, which is, are they limited to only entities within their own national borders, or can they start accrediting entities outside of their borders if they are working with them somehow or feel like accrediting them? Thanks.

JANIS KARKLINS:

Yeah. No, thank you, Dan. I think national ... What's the difference? The national authorities exercise their power within the national boundary, so the answer is only national public authorities could be accredited by this national authority.

And when it comes to organizations who perform public interest but are independent, that would also fall under accreditation by a national authority, as I see, Stephanie, you certainly agree with me.

STEPHANIE PERRIN:

Yes. I think it can get quite complex. In parliamentary democracies, you have independent institutions that are set up by parliament that are not government agencies. They are not part of the government.

So, the Danish Human Rights Institute, for instance, I think is an example. The easy examples are consumer protection organizations. The harder ones are industry bodies that have been

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somehow—and not always in a formal way—delegated the authority for certain things.

So, I'm worried in particular about who has the authority in different regimes to do anti-phishing. It's pretty slack here in Canada, so I suspect it's a lot slacker in some other countries, because, normally, we like procedure.

So, those are questions that need to be unpacked, I think, rather carefully. Maybe not now. Hopefully not now, because it will take us weeks, but certainly in the implementation phase. Thank you.

JANIS KARKLINS:

Thank you, Stephanie. We don't have weeks. We have just 15 days remaining. So, most likely, again, some of the issues should be, maybe, dealt in implementation phase. Maybe asking each national authority to draft a list of potential organizations that would fall under their authority for accreditation for using SSAD, and then communicate that to central accreditation authority, ICANN Org. And everyone else would go to accreditation through ICANN Org process, as described in Recommendation 1. So, let us move to the next item, then. Marika.

MARIKA KONINGS:

Thanks, Janis. Yes. The next item is item four, and it asks a clarifying question about section five, which states, "Additionally, the requirement shall be listed and made available to eligible government entity."

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The question is, what requirement is it referring to? Is that those listed in 1.3? Where would these requirements be listed and made available to eligible government entities? And it's unclear how this requirement would be enforced, or by whom. Could a team provide further clarity on these points?

JANIS KARKLINS: Thank you. Chris, please.

CHRIS LEWIS-EVANS: Yeah. Thank you, Janis. So, yeah. So, this is just around detailing the safeguards, and I think the safeguards appear in one of the other questions from ICANN Org, as well. So, yeah. Obviously, every governmental agency that does this will have to abide by the policy set around it and the de-accreditation, and the safeguards, and everything else.

So, it's just ensuring that this is made clear to those government entities, that they have to follow these, and sign-off on things like that are always difficult for governmental entities. So, it's just making it clear, here, that they do have to sign-off on these items to participate.

JANIS KARKLINS: Okay. Thank you. ICANN Org, is it clear, or you have further questions? Daniel?



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DANIEL HALLORAN: Thank you. I think it's clear from the earlier discussion that the intent is ... There are a bunch of requirements, governmental entities would be expected to comply with all this stuff, and if they don't, ICANN's only remedy would be to just revoke the accreditation of that entire government's accreditation authority. Because we can't go make governments do anything. They don't have contracts with us and they claim sovereignty. Thanks.

JANIS KARKLINS: Yes. But you have a GAC and you can go through the GAC, as well. And again, most likely, these are very hypothetical situations. It may occur, but very unlikely. Next one, please.

MARIKA KONINGS: Yeah. Thanks, Janis. The next question also relates to the same section, or the first part, and that's part of 05. The question is, can the team clarify whether the "would" that is used here is a "should" or a "must"? So, that's, "The accreditation would be provided by an approved accreditation authority." Does the use of "approved" here mean one that has been designated by a government? And finally, is the reference to an intergovernmental agency meant to be an intergovernmental organization/IGO?

JANIS KARKLINS: Okay, thank you. Chris, please. Your comment?

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CHRIS LEWIS-EVANS: Yeah. Thank you. So, “accreditation should,” and obviously that would be an approved accreditation authority by ICANN. So, obviously, we try to wrap-up here that the country will nominate that and ICANN will approve it, as within the guidelines, whether they can use it. So, that’s fine. So, yeah, I’m happy for that to be a “should” or a “must.” Sorry. The second part, I just can’t see it at the moment. Where was the other reference to agency?

MARIKA KONINGS: It’s in that same sentence, at the end: “Or delegated to an intergovernmental agency.”

CHRIS LEWIS-EVANS: Yeah. Organization. Sorry. Thank you.

JANIS KARKLINS: So, Chris, you are saying that, “Or delegated to intergovernmental organization,” not agency?

CHRIS LEWIS-EVANS: Yes, please.

JANIS KARKLINS: Okay. Daniel, please?

DANIEL HALLORAN: Thank you. We just weren’t sure what it meant that the authority may be delegated to an intergovernmental-whatever –

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organization, authority, agency. What authority would be delegated? How would that work? Thanks.

CHRIS LEWIS-EVANS: So, I think the thought here is you, obviously, have a number of different sizes countries, and what we didn't want to rule out is that ... And I'll just use INTERPOL. Maybe not best use. Maybe UN might be better ... Might decide that, for countries of a certain size, they will act as the accreditation authority, and if a country wants to allow them to do that, or give them the ability to do that, we just didn't want to rule that one out.

JANIS KARKLINS: Okay. Thank you. So, no further hands up. It's clear. Next one, Marika? Daniel?

DANIEL HALLORAN: Yes, I'm sorry.

JANIS KARKLINS: Sorry, Daniel. Daniel.

DANIEL HALLORAN: I'm sorry. It's morning for me, still, and it's not sinking in. I don't know what it ... So, this means that, say, African Union comes to mind. Maybe a government in Africa could recognize the African Union to be their authority. Is that what we're talking about?

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JANIS KARKLINS: Again, I think this is something and ... Sorry. I'm answering this question. Intergovernmental agencies, they have very specific mandates. So, they cannot be asked to do things that fall or go outside their mandate.

So, for instance, in the case of INTERPOL, there might be a regional group who would say, "Look, I think for our country's law enforcement, it may be better to do it by intergovernmental organization," but I would say that, in majority cases, or absolute majority cases, that will be a designated national authority agency or ministry who will be doing this accreditation job. Probably, the one who is either dealing with ICANN or the minister of interior who is in charge of law enforcement, which will be predominant user of SSAD.

So, again, maybe we could think of putting some sentence, that further clarification, within how the system would work in a national government at the national level – should be fine-tuned during the implementation phase.

And it may also, equally, happen that the accreditation procedures will vary from country to country. The most important thing is that ICANN is comfortable and fully aware that this is the way how accreditation is happening and that that follows the principles that are in the [polls]. So, with this, Marika, what is next?

MARIKA KONINGS: Yeah. Thanks, Janis. Next is item 16. [I'm listening] from the staff side, we also had the same question. If you see, on the data access,

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there are a couple of bullets. It's not exactly clear where those belong, if they are a part of the data access point, if these are guidance for governmental agencies, or are these intended to be a requirement?

So, it would be helpful if we can have some clarification on where this belongs so we can make that more specific and, of course, if these are requirements, make clear that these are our "must" items that need to be followed.

JANIS KARKLINS: Thank you. Chris.

CHRIS LEWIS-EVANS: Yeah. So, I think this is a little bit of a leftover from how we tried to split them again. I think a couple of them, rereading them, could be moved as a bit more implementation advice. I think one of the last ones, I think three and four, where we put in "impact onto the contracted parties" ... Which one was that?

So, I think that could be moved somewhere else. One, two, three. Yeah, that's point five. Sorry. So, that could go somewhere else, or made clear here, because it does put some impact onto the contracted parties.

Quite where we'd fit, I'd probably, maybe, look at Marika or staff. They probably know better than me where that might naturally sit. But then, some of the others can go implementation. So I think, maybe, it would be best for me to take that away now, rather than

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trying to make it up on the fly about what needs to stay and what needs to move to where.

JANIS KARKLINS: Okay. So then, Chris, let's hear your homework, together with staff, to go through, once again, and provide all the necessary clarifications and move things around if that's needed. Okay. And then, staff will contact you for this task. And the last one, Marika?

MARIKA KONINGS: Yeah. Thanks, Janis. I think part of this question was also linked to the bullets underneath, and where they fit. It's also a question what data access means or is intended to require or provide guidance on. That's the last bullet, item D.

There is also, yeah, again, the suggestion if it can be made clear who must do what. I think it also relates to—and again, maybe we've already covered it—we'll look at whether it can be made more specific, whether it will be expected. Is that a requirement or not?

And it refers, as well, to safeguards as set by the policies. And the question, here, to what safeguards is that referring? Is it intended to be the policies are outlined in the combined Recs 10, 13, and 14? That's the terms of use.

So, maybe we can take that as an action item, if we're looking at where these items belong, to maybe see if we can, also, further clarify what may be the best approach in those.

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JANIS KARKLINS:

Yes, okay. So, let's do it, then, this way, and please work together with Chris and other GAC folks, now. And when we have all the clarification questions, make sure that we have the recommendation that we can all approve.

Let us now move very quickly to the last two items, which is more for information on priority two issues. Marika. So, we have 17 minutes for two remaining items. Please, go ahead.

MARIKA KONINGS:

Thanks, Janis. As everyone knows, I can talk really, really fast, so I have no problems fitting that into 17 minutes, but I'll try not to go too fast. So, the priority two items' "Analysis and Proposed Path Forward" document was shared with the group yesterday.

As you hopefully all recall, at the start of the ePDP team's work, the group separated items into a priority one bucket, SSAD as having the highest priority of being completed in a timely manner, and priority two items that were still important but not a dependency for the SSAD recommendations to be completed.

And as you know, we have tried to address them where possible in the course of deliberations, which resulted in the addendum that was published for public comment. We have produced discussion tables, which many of you provided input on.

And based on the input that was provided there, we developed, with the leadership team, this analysis and a proposed path forward. And as said, it basically takes this underlying notion or agreement that the group reached early on that, SSAD, that's the priority and that needs to be delivered upon. If priority two items can be part of

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that package, that's great, but if that delays the delivery of the final report, those items will need to be set aside and dealt with in another way.

So, we went through the input that was provided and draw some conclusions at a very high level on those. I can just, maybe, briefly go through those, for privacy proxy providers, and the input there followed very much the input that was also ... The groups that provided input on that followed, as well, the comments that were made, and by the group's affiliation.

But at the same time, there does not seem to be disagreement concerning the recommendation itself. There were some suggestions of, maybe, elaborating and adding some other requirement into that, and I think there was some resistance to that. Quite a few comments, of course, focus, as well, on the implementation of privacy proxy, which is a separate implementation effort that is ongoing, and the importance of restarting that.

So, on the basis of that, the leadership team is proposing that the recommendation as modified—there were some minor edits that were suggested that no one objected to—would be included in the SSAD final report.

The input that everyone provided on restarting the PPSAI IRT would be shared with ICANN Org, as well as the GNSO Council, for its consideration, but without any kind of ePDP team recommendation, but just as an FYI.



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And then, a question to the ICANN Org liaisons to make sure that, if or when the PPSAI IRT is restarted, they also consider the question of correlation of other domain names registered by the same privacy proxy service customer. That was one of the asks that some groups put forward.

And of course, if, at that point, further policy development is necessary on that question, the IRT has a pass to refer that back to the GNSO Council.

On legal versus natural, I think, there, again, strong disagreement persists, both on whether the ePDP team should further consider this topic, and whether or not a requirement should be recommended.

As a result, the proposal is to not include any kind of conclusion or recommendation on this topic in the final report. I think, as you all know, there's still a study that's being carried out, and of course, the team hasn't received the results yet or had an opportunity to analyze those. So, as a result, the ePDP team would then need to consult with the GNSO Council concerning expected next steps and timing of dealing with this topic.

City field redaction. Based on the input that was provided, there is support for comments that were made to change the recommendation, here, from "must" to "may." So that's, "The redaction may be applied to city field," instead of "must," which is the current Phase 1 recommendation. So, the proposal here is to include the recommendation as modified in the SSAD final report.

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In relation to data retention, we kind of observed that there seems to be some confusion around the link between the purpose for which data is retained and potential subsequent processing, which may be for other compatible purposes.

At least from our perspective, we've tried to write the recommendation in a clear manner that makes clear that the data is retained for the purpose of TDRP, because that's specific linkage. It can be tied to that policy but this should not preclude requestors from requesting disclosure of this retained data for other purposes.

But of course, it's up to contracted parties to determine whether the disclosure of that retained data for other purposes is legitimate, following the processes as outlined in the report.

And again, if that's an acceptable outcome or analysis, the recommendation as modified—because, again, there was some clarifying language that everyone supported that provided input—that will be suggested to be added, as part of the implementation note would be included in the final report.

In relation to the OCTO purpose, there was support for the conclusion that was reached and there was an edit that was proposed that, also, no one objected to. So, the proposal is, here, to include this conclusion as modified in the SSAD final report.

And to make clear, as well, this is just a conclusion to kind of wrap-up among all of the charter questions, but it's not a policy recommendation. In relation to feasibility of you need context to have a uniform and anonymized e-mail address, there was no

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agreement on any of the proposed edits, nor agreement on whether or not this topic should be further considered.

The leadership does conclude that there was very little time for the ePDP team to consider each topic in great detail. There was, of course, legal advice received and considered.

The recommendation itself does not change, although the proposed recommendation that was originally in the addendum does not change any existing requirements or create any kind of new obligations.

And as a result, it's proposed that it's not included in the SSAD final report at this point so that there's an opportunity to consult with the GNSO Council concerning expected next steps and timing, which would potentially allow for further consideration of this question and some of the input that was provided on it.

On accuracy, probably not surprising. There's still strong disagreement persisting, and as you all know, the council already directed the ePDP team to not further consider this topic. So, as such, the conclusion, as was included in the addendum, would be included in the SSAD final report, as it's basically a description of the current state of play.

And again, it's not a policy recommendation but just a status update in relation to that topic. And then, in relation to purpose two, based on the input provided, there seems to be agreement not to open the previous reached compromise on this topic. And as such, a recommendation is made to include the recommendation as-is in the SSAD final report.

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So again, what you have here is the opportunity for your groups to provide input on those proposed next steps and the path forward. But again, here, it's important that it's understood that, if there is not sufficient support for the proposed path forward, the topic will not be included in the SSAD final report. There is no time to further consider or make significant or substantive changes and have further deliberations.

There really needs to be a consultation with the GNSO Council to see if and how those priority two topics that remain are expected to be addressed. And again, very pleased to see that a number of you have already provided input on those.

I think this was the one where it is important that some specificity is provided on which topics people are referring to, because it's not necessarily clear. And of course, we'll have a look. I think there are some suggestions for, maybe, minor edits, and we can have a look at those.

And again, groups can, of course, respond, as well, if they believe whatever is suggested is not minor. And based on that, a leadership team can kind of make a final determination on how to deal with these items.

JANIS KARKLINS:

Okay. Thank you, Marika. Amr, your hand is up.

AMR ELSADR:

Thanks, Janis. Thanks for that overview, Marika. I was just wondering, in preparing this analysis, did you only look at the input

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provided by the groups represented on this time, or did you look at individual comments that were also submitted? I ask because I submitted an individual comment, while the NCSG didn't submit one, and it provided input on some of those recommendations, obviously, that you covered, which I don't necessarily feel were reflected in your analysis. Thank you.

JANIS KARKLINS: Thank you. Let me take Steve's comment, and then you, Marika.

MARIKA KONINGS: Okay.

JANIS KARKLINS: Steve, please go ahead.

STEVE DELBIANCO: Thanks, Janis. Marika, it's a question. Because last night, as the BC was going through our homework on this particular document, it wasn't clear to us whether the boxed text was to be included or just the staff suggestion for path forward.

So, earlier, you said, where there was a lack of support, that nothing would be included in the final report. Would that mean that there's not even a stub or marker, or would that include the boxed text? Tell us what shows up in the final report if it were determined that a particular item lacked consensus. Thank you.

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JANIS KARKLINS:                   Okay. Thank you. Marika, please.

MARIKA KONINGS:               Yeah. Thanks, Janis. To first, maybe, respond to Amr's question. The analysis is concerning the input that was provided on the discussion tables. So, in the discussion tables, we kind of summarize the input that was provided and suggestions that were made by groups, as well as individuals, and we basically asked the different groups to kind of react to those to see if there's support for what was suggested or not.

And so, the analysis, basically, summarizes the responses to that, and said, in certain instances, everyone agreed to a certain edit, so we took that as agreement to make that change. And where there was agreement and disagreement, we didn't feel there was sufficient support to suggest that change. So, we've taken a very conservative approach.

And similarly, where other approaches or additions were suggested that weren't broadly supported by others, again, in our analysis, we concluded that there was not sufficient support for going in a different direction. So, the analysis didn't focus on the comments that were provided but on the input that was provided by ePDP team members on those comments. I hope that makes sense.

And to Steve's question, I think we've tried to be specific on whether or not something would be included in, basically, the next steps or the proposed path forward. So, to be very clear, for item A, the privacy proxy, what's in the box will be included, of course without the strike-through. On legal/natural, nothing would be included

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because there's just no agreement, not even on the conclusion. So, there would be no reference whatsoever in the final report.

City field redaction, the box text, minus the redline or the strike-through. Data retention, what's in the box. OCTO, also, what's the language that's in the box with the addition. Feasibility, nothing would be included in relation to that. Again, it's kind of understood there is no agreement, there is no recommendation at this point. So again, it's far little time to address that issue.

For accuracy, we would include the conclusion because it's kind of understood that that issue, at least from an ePDP team perspective, is no longer in the hands of the ePDP team. So, it's just to reflect that that's the instruction the group has received and that it's now with the GNSO Council to further address that issue.

And for purpose two, the recommendation as in the box would be included. So, I hope that clarifies things. And of course, again, there will be a final draft of the report where we will include this and you'll see what it will look like.

JANIS KARKLINS:

Okay. Thank you. We have three minutes remaining and we still need to go through one agenda item on final report. I would, maybe, seek your indulgence to extend the time of the meeting for another ten minutes or so. Alan Greenberg, your hand is up.

ALAN GREENBERG:

Thank you. I presume at some point we're going to see a timeline of when we expect to see draft final reports and things. I'd like to

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also have included in that timeline the deadline for submitting any minority statements. Thank you.

JANIS KARKLINS: Thank you. So, since no further requests for the floor, we can now go to the final report preparation. Next item. Marika, please.

MARIKA KONINGS: Yeah. Thanks, Janis. So, a draft final report is already available for your review and can be found on the same Wiki page as the review templates are posted. So, please already have a look at that. And of course, if you see anything in there, flag it. Minor edits, you can send us directly. And then, of course, you have the template to provide for any input on the recommendations.

As I explained earlier, the production of the final report is originally slated for by the end of next week, but that does presume or assume that we would finish our review of the recommendation and are able to address any outstanding issues.

So, it depends a little bit on that. We had originally, as well, foreseen that, then, there would be a freeze of a week, which would allow kind of a final read and, for any minor issues, to fix those. I think we still need to discuss what the timeline is for any minority statements. So, we can, I think, discuss that with the leadership team, and hopefully provide guidance on that pretty soon.

The only thing I just wanted to mention on the final report, of course, the focus is now on the review of the recommendations and any



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changes there. But of course, there are some other parts in the report that we've updated, as well.

Hopefully, most of those are pretty straightforward. It's kind of covering the public comment period that took place, changing initial to final, those kinds of more editorial changes.

But there are a couple of items, and I think it's mainly in section three, Berry, if you can go there, where we do hope to get some guidance from the group in relation to your expectations.

For example, if you go to, I think, 3.1, there are a number of graphics we originally produced to try and help readers of the initial report to understand the flow of the process. Is that something the group still thinks is helpful? If so, these need to be updated. If not, we'll just remove them.

We also had a summary or a high-level expected benefits of SSAD. Is that something that can stay in there, or does that need to be updated or changed? Similarly, we have a section on name, roles, and responsibilities. Is it helpful to keep that there? And of course, if so, we'll make sure to cross-reference that with the recommendations to make sure that they are consistent.

And again, I don't think we have time to go in detail now, but if you have any views on that, share those with us. Because again, as we're preparing for a final version for your review, it would be good if we have guidance on what your expectation is in relation to those aspects of the final report. I think that's all I have.

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JANIS KARKLINS: Okay. Thank you.

LAUREEN KAPIN: Janis, this is Laureen from the phone. I had a quick question.

JANIS KARKLINS: Yes, please.

LAUREEN KAPIN: I was aware, of course, that the study on natural versus legal had been delayed, but I had thought that it was going to be released already. And now, I'm hearing some vagueness about when it's going to be released. I would ask for a specific time certain about when that now very late study will be in our hands.

JANIS KARKLINS: So, I will ask staff to find out and communicate that on the list. Or maybe Eleeza knows already. Eleeza, by any chance?

ELEEZA AGOPIAN: Hi, Janis. No, I'm afraid I don't, but I will certainly follow up on that and get back to the team on the list.

JANIS KARKLINS: Okay, thank you. That would be useful. Okay. So, thank you very much. That brings us to the end of the call. We just passed two minutes of the scheduled time. Thank you very much, all, for

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participation. I will ask, also, to provide a timeline of our further activities as soon as possible to be communicated to the team.

With that, thank you very much. Next meeting is on Tuesday and the small team will meet on evolutionary mechanism on Monday at 2 PM UTC, as usual. Thank you very much, and have a good rest of the day. This meeting is adjourned.

TERRI AGNEW:

Thank you, everyone. Once again, the meeting has been adjourned. Please remember to disconnect all remaining lines and stay well.

**[END OF TRANSCRIPTION]**