ICANN Transcription

EPDP Specific Curative Rights Protections IGOs

Monday, 13 September 2021 at 15:00 UTC

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TERRI AGNEW: Good morning, good afternoon, and good evening. And welcome to the EPDP Specific Curative Rights Protections IGOs Call taking place on Monday the 13th of September 2021 at 15:00 UTC.

In the interesting time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourself now? Hearing no one, we do have no apologies for today's meeting.

All members and alternative will be promoted to panelists. When using chat please select Panelists and Attendees or Everyone in order for all to see your chat. Attendees will be able to view chat only. Alternates not replacing a member are required to rename their lines by adding three Z's to the beginning of your name, and at the end in parenthesis the word "Alternate" which means you are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click Rename.

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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 Wiki membership page.

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With this I'll turn it back over to our chair, Chris Disspain. Please begin.

CHRIS DISSPAIN: Thank you, Terri. Good afternoon, good evening, good morning everybody. Welcome to the EPDP on Specific Curative Rights Protections for IGOs Call. Good to see you all here. I can also see that we have Herb Waye in the attendees room, so everybody be on their best behavior, please. Herb will doubtless know that we've been an extraordinarily well-behaved group, so nobody really needs to be told to be on their best behavior at all.

Welcome, everyone. Here we are. We're going to basically go through the document simply by picking out some of the points that have been sent in by e-mail, mostly from Alexandra. Alexandra, thank you. We'll have a look at those. And I'm going to anyone and everyone to tell me if they have anything they can't live with or any red flags, bearing in mind that this is an initial document, initial recommendations, and one that is asking for community feedback. So we're not setting anything in stone at this stage, but hopefully we can get this ready to go out the next few days so that we can look forward to some public comment.

Let's start then with the document that we've got in front of us which is purely the recommendations. That's the one we've been working on for the last couple of weeks. I've made a couple of small changes which we'll get to in a second. And if it's alright with everybody, what I propose is that we simply go through each paragraph. I won't read them. We'll just put each paragraph up on the screen.

And Alexander, if I could ask you when we get to a paragraph that you've made a comment on, if you could call that out for me that would be great. And I'm asking everyone else to tell me if there's anything they have a problem with or that they can't live with for this doc, for these draft recommendations to go out to a full public comment.

So what you should have in your screen at the moment is Recommendation 1. Does anybody want to make any comments about that one? Good. Could we scroll to a Recommendation 2, please? Anybody got anything that they want to say about Recommendation 2?

Now Recommendation 3. There's been a small change to that. Mr. McGrady, your hand is up. Go ahead, please.

PAUL MCGRADY: Hi there, Chris. Sorry about that. Can you hear me now?

CHRIS DISSPAIN: I can hear you fine.

PAUL MCGRADY: Perfect. So I think this one is … Has this one changed at all or am I just reading it for the first time? I guess my question is what happens if Council takes 3, 5, and 6? Does that mean that Recommendation 5 is not rejected just because we don't take 4? And I'm not picking on number 4. I'm just asking you a hypothetical. Is that what we mean by this? Thanks.

CHRIS DISSPAIN: I'm not sure I actually understand your question.

PAUL MCGRADY: So it's a cumulative effect of Recommendations 3, 4, 5, and 6. It's conjunctive. Right?

CHRIS DISSPAIN: Correct.

PAUL MCGRADY: And so it's all of them together. And so if the GNSO Council approves the recommendations set forth below in these recommendations—that means presumably all of them—then the EPDP recommends the original Recommendation 5 from the whatever, etc., be rejected. And so what happens if the Council doesn't take all of them? What happens if it only takes three of them? Does that mean to recommend that Recommendation 5 is not rejected?

CHRIS DISSPAIN: Well, that's up to the Council, isn't it? Let Mary explain what we're trying to achieve, and then we'll see whether that answers your question. Mary.

PAUL MCGRADY: Thanks.

MARY WONG: Thanks, Chris. And thanks, Paul. So as Chris said, Paul, that is up to the Council as manager of all the PDPs. But we do have a note in the report—which is obviously not this shortened document—where we refer to the process rule that where an EPDP or PDP team recommends that certain of their recommendations come as a package, that they're interdependent and therefore the Council should not be picking them apart.

In other words, the Council should be adopting the whole package or nothing at all. And Steve may have a better recollection than I do, but I don't believe the Council has ever unpackaged anything

that was presented to them as a package. They've had other ways of dealing with issues, in other words.

And to your original question, this recommendation hasn't changed in substance or in content, except that we've just broken down the recommendations into 3, 4, 5, and 6. It used to be 2A, 2B, and 2C.

PAUL MCGRADY: Thanks, Mary.

CHRIS DISSPAIN: [inaudible].

PAUL MCGRADY: Yeah. I'm sorry, Chris. I didn't mean to jump.

CHRIS DISSPAIN: No, you go ahead.

PAUL MCGRADY: So, Mary, that's helpful in terms of looking at them as a group, but I guess it doesn't really address the underlying question which, by saying that Recommendation 5 should be rejected [inaudible]—

CHRIS DISSPAIN: You realize that the old Recommendation 5, don't you?

PAUL MCGRADY: I understand. Yeah, absolutely. Correct. It's the one that—

CHRIS DISSPAIN: Just checking.

PAUL MCGRADY: Right. It's the one that I thought was dead, but I'm told is only mostly dead. I felt a little bit like a Princess Bride [episode].

CHRIS DISSPAIN: It's pining for the fjords.

PAUL MCGRADY: Yeah. So what happens to the all-or-nothing, Mary, is helpful. But what happens if it's nothing? Is there an implication here that we mean that Recommendation 5 should not be rejected if all of these are rejected?

CHRIS DISSPAIN: I don't think we're trying to say that, Paul. I don't think we can say it even if we wanted to try and say it because it's not in our scope to say what should happen with old Recommendation 5. What we are saying is that if you accept our recommendations 3, 4, 5 and 6, you really have to reject Recommendation 5 because it doesn't make any sense.

PAUL MCGRADY: Got it. Okay. I guess we'll wait and see how that plays out. I just would hate for somebody to push for the rejection of 3, 4, new 5,

and 6 in the hopes of reviving old 5. But I guess we'll have to see how it goes. Thanks.

CHRIS DISSPAIN: Understood. But I don't think we can stop that from happening by saying, “And whatever happens, you must kill 5,” because I think that's, as I said, [formally] not our job. But I do take your point. Well, it's a bit further down the line from this report, so we can assess that situation when we see what happens with this initial report. But thanks for raising it.

Recommendation 3 should be the next on the screen, which is basically the same but split between the UDRP and the URS. But I think, Alexandra, you had a comment on that. Is that right?

ALEXANDRA EXCOFFIER: That's right. Let me find it. I think the first one was just simply to highlight it more that it applies to both the UDRP and URS. That's just a stylistic comment, but I’m trying to find my comments. Sorry. To my e-mail.

CHRIS DISSPAIN: They were in an e-mail [13:40].

ALEXANDRA EXCOFFIER: Yeah. I’m trying to find the e-mail and I just noticed that I have like 25 e-mails open.

CHRIS DISSPAIN: 13:40 your time, it would have been.

ALEXANDRA EXCOFFIER: Yeah. One second.

CHRIS DISSPAIN: No problem. But you're right. That one is a stylistic comment. So while you're hunting [we'll move on]. And I'm not saying I disagree. I'm just saying Mary can pick that up and work with that as we continue.

Recommendation 4 then, which is the one that I tinkered with. Oh, hang on. Berry, you've got a … Yeah, thanks. You were just putting in what Alex had said. Thanks, Berry. That's helpful.

Recommendation 4 is one that I fiddled about with because I thought that it was important to break down the point about the Implementation Review Team's work from the actual recommendation. But I think, Alexandra again, you said, "Suggest moving the entire 'the request shall include information regarding the applicable arbitral rules' to a footnote as we really want public comment on the main thrust of the recommendation."

ALEXANDRA EXCOFFIER: Again, this more style. It's not any substantive comment. It just seemed to me, as I was going through it, that it's a lot of information and maybe it would be better in a footnote. I found the e-mail.

CHRIS DISSPAIN: Well done. I was going to say I can send it to you if you like, but you found it. So that's good.

ALEXANDRA EXCOFFIER: I have it.

CHRIS DISSPAIN: Okay. Again, I take your point. I mean, it's not specific to a recommendation.

ALEXANDRA EXCOFFIER: No, not at all.

CHRIS DISSPAIN: It's a [inaudible] regarding. But that said, agreed. I mean I accept what you're saying again. If you don't mind, we'll leave it to Mary and the team to work through those sorts of comments so that the document at least flows to their satisfaction.

ALEXANDRA EXCOFFIER: Sure.

CHRIS DISSPAIN: You did say one thing substantively on 4(ii), I think, which is "suggest it agrees" instead of "they agree," which, again, I think is

probably just a linguistic … Yep, so Mary will pick that up as well. Thank you.

ALEXANDRA EXCOFFIER: Because it's individual. Okay. No, no. It's just that I think it's clear why. So 4(iii).

CHRIS DISSPAIN: Yeah.

ALEXANDRA EXCOFFIER: So basically, here I am under Matt's control. Suggest "agree to arbitration" should be [filed request and notice] for arbitration" to match what is in Recommendation 4 (iv). Right? It should be the same wording.

CHRIS DISSPAIN: Mary … Yes, I think I get that.

ALEXANDRA EXCOFFIER: These are really minor technical ones which is good to show that there's not much on substance left.

CHRIS DISSPAIN: Yeah. No problem. Okay, yeah. It's a very good sign.

ALEXANDRA EXCOFFIER: Yeah.

CHRIS DISSPAIN: It's a very good sign. Thank you. Yep, okay. We've picking up those ones, thank you. So, anybody got any comments on (iii) and (iv)? Okay, I don't think there any hands around, so we're doing okay on that.

Now we go to (v) which is the one where, from last week, we've played around with it to make it hopefully more obvious and clearer what it is that we are trying to do.

ALEXANDRA EXCOFFIER: Brian has something. Sorry.

CHRIS DISSPAIN: That's okay. No problem at all. Recommendation 5 is in front of us, now. Yep, it is. So Brian, go ahead, please.

BRIAN BECKHAM: Yeah. Hi, everyone. Actually I'm just picking up on the e-mail that Alex sent to the list about 20 minutes before the call. It was on (iv). It was the text about the UDRP provider receiving notice. And it was just a suggestion to delete that particular clause. And the explanation, again, in the e-mail was that that was covered in Recommendation 4 (iii). And also, just as a matter of looking at the UDRP, it's actually that this notice would be sent to the registrar because they're the entity that would be tolling the implementation of the decision, not the UDRP provider.

CHRIS DISSPAIN: Sorry, Brian. I understand the words, but what's the practical effect of what you're suggesting? [inaudible].

BRIAN BECKHAM: So basically, it doesn't quite make sense to direct that the UDRP … It's fine to copy the UDRP provider, as is often done if [inaudible]—

CHRIS DISSPAIN: Oh, I see what you mean.

BRIAN BECKHAM: Yeah. It should be directed to the registrar. And maybe it could say "with a copy to the UDRP provider" or something, but it really needs to hook into the registrar.

CHRIS DISSPAIN: Well, it needs to be correct from a process point of view. So you're right. Mary, can I rely on you? Mary, yes. Your hands up.

MARY WONG: Thanks for raising that point, Brian. And I think that really is the question here, as Chris was saying. The process point is that the request or notice should be sent to the registrar, so I think this was here in the event that it actually ends up being sent to the UDRP provider. I don't know if that's an eventuality that's possible or practical, but it's just a point that …

Are we saying that if you don't send it to the registrar, this isn't going to apply at all? If we are, then we should delete this sentence.

CHRIS DISSPAIN: Brian.

BRIAN BECKHAM: Yeah, thanks. So just to give kind of an anecdotal reaction, on the rare occasion that a UDRP case would be appealed in court, on occasion a registrant would send the notification of that to WIPO, for example, as the UDRP provider. And we, let's say—as just a matter of practicality and practice—would remind the party that this should be in fact provided to the registrar and not necessarily the UDRP provider.

So it tends to be a non-issue in practice, but I think it's worth a little clarity here just because the way it reads—and it makes a certain kind of sense—is that if the registrant makes a mistake, the UDRP provider should correct that for that party. But maybe it's best just to kind of iron it out on the front end [inaudible].

CHRIS DISSPAIN: So what are we actually suggesting that the wording should be there?

BRIAN BECKHAM: Personally, I would just delete that clause because it tees up the situation where the party sends it to the UDRP provider instead of

the registrar. And of course, I can't imagine that a UDRP provider wouldn't relay that to the registrar or wouldn't notify the registrant of the mistake. But of course, because there are some timing implications, probably it's best that we really firmly assert who should be the recipient [inaudible].

CHRIS DISSPAIN: Yeah. I think that's fine. I mean, the system [usually] goes to the registrar. And it assumes at the beginning of Roman iv that it is going to go to the registrar. So I take your point. And Mary, take that away unless you can think of a good reason to leave that in. And I think Brian has a point about taking it out because the whole paragraph is built around the registrar receiving the information.

Okay. Thank you, Brian. And thank you, Alexandra for raising those points.

ALEXANDRA EXCOFFIER: [So, on] 5 and 6. Sorry. Go ahead. [inaudible].

CHRIS DISSPAIN: No problem. Roman (v) now. These are the new slightly changed ones that we've delineated the options. So, Alexandra, you've got a couple of comments on that, I think.

ALEXANDRA EXCOFFIER: A couple of things. The first one is just that it just seemed to be abruptly going into the options, so I proposed an introductory

sentence or a sentence which goes from the previous to the options That's all.

CHRIS DISSPAIN: Can I stop you for a second because I wanted to deal with that one particular point before we move on and I lose track. So I agree with you. And actually I had thought, Mary—even though we said it in the introduction—that we were going to call out at the point where we were putting options forward that we were seeking specific public comment on these options.

So I think we need to actually put that into the text, into the document as a sort of side note or a comment—or how you could work it out, I'm not entirely sure—that says, "This the first one of a number of places where we're putting a number of options. This particular option deals with X, and here are the options."

Mary, your hand is up.

MARY WONG: Thanks, Chris and Alexandra. This something that I think, on the staff side, we just keep talking about it and saying what would make it the clearest to call out. There are at least two or three other points in the report, including the executive summary and including the note from the team that I think is right in front of Recommendation 2 itself where we actually do call out. We talk about square brackets and options.

So one concern we had was whether it will be a bit of an overkill to just do it again before the options instead of spinning right into the options. But we can certainly do that if the group feels that it's

better to make sure people understand these are options than to have a clear read of all the recommendations.

CHRIS DISSPAIN: I think it's two things, Mary. I think it's one saying … Yes, I do think you need to call it out, but I think you can call it out actually by an introductory couple of lines that explain what area these two options are covering. So in other words, these two options cover alternatives to deal with whatever it is that they're dealing with. Sorry, my documents disappeared in front of me.

MARY WONG: We can do that, Chris.

CHRIS DISSPAIN: Do you understand what I mean?

MARY WONG: Yes.

CHRIS DISSPAIN: In other words, this deals with the different options in respect to arbitration, for example. Do you understand what I mean, Mary? Just to put something at the beginning of that as an introduction at the beginning which has the effect of a) explaining what the context of the options are, and b) calls out that we want you to comment on it without, as you've said, perhaps going too far and repeating ourselves. Okay?

MARY WONG: Yep, thanks.

CHRIS DISSPAIN: And I think that would deal with the point that Alexandra has made as well. As for the actual text itself, does anybody have any comments on the text itself? This is what we came to—

ALEXANDRA EXCOFFIER: I had one comment.

CHRIS DISSPAIN: Go ahead, Alexandra.

ALEXANDRA EXCOFFIER: And I think I made this comment also in the discussion in previous meetings. Jurisdiction over is the reason why—how shall I put it? Well, as I put it, lack of jurisdiction is a broader concept than lack of jurisdiction because of immunities. We've taken out immunities. Personally, I'm okay with leaving it as this, whatever the reason is. But basically, in the introduction we do say that it's because of immunities. Whereas the recommendations don't mention immunities anymore, and there could be a lack of jurisdiction for other reasons.

That's all I wanted to highlight at this, but as I say I'm okay with either one. Just so everybody understands that jurisdiction is a broader concept than immunities.

CHRIS DISSPAIN: [David]? Sorry, I apologize for these [connections]. Thank you. Let's see what David has to say. David, go ahead.

DAVID SATOLA: Thanks, Chris. Again, to support and build on what Alexandra's just said, the court might decline for other reasons. It is perfectly conceivable that the court retains jurisdiction but the IGO refuses to wave immunities, therefore the case goes away. So this is, I think, limiting language. I know that the proposal that we had a couple weeks ago was too wooly for the group, but as more generic statement it's probably more accurate that there are going to be …

And we can leave it in the way it is, but it's overly limiting, I think, and doesn't capture the variety of reasons why a court may decide not to proceed. Over.

CHRIS DISSPAIN: Thank you. Would it solve the problem if, instead of making reference to any of this staff around bad immunities, etc., we simply said, "In the event that the court does not hear the substantive issues"—is unable to hear or refuses to hear the substantive issues … Would that help?

Mary, did you want to say something?

MARY WONG: Yeah. Essentially, I think the staff we're chatting about what you just said, that we could clarify, basically, that the court declines to hear the merits of the case or something like that.

CHRIS DISSPAIN: That's what I'm thinking.

MARY WONG: Yeah.

CHRIS DISSPAIN: Sorry, go ahead.

MARY WONG: Alternatively, since listens Alexandra and David are very kind to say that we could leave the wording as is, we could—since we're in footnote territory anyway—add a footnote or put it somewhere in the report to say that the EPDP team understands that there may be a variety of reasons why the court may not hear the matter, but that these recommendations are not meant to point to or to limit any of those reasons. We could put that as a footnote or somewhere in the report to make it clearer.

And I see David has just put another suggestion in the chat as well.

CHRIS DISSPAIN: I'm fine with "declines to hear the case." We basically have got wording that most of us appear to be comfortable with, and I don't want us to end up redrafting it. But I am conscious of the fact that there are a number of reasons why. The key purpose of this clause is to remind everybody, in here, that we've said all along that we recognize that the losing registrant is entitled to their "day in court" and that they are entitled to try and get their "day in court" in court. And if that doesn't work, if we agree on a second option, they can go to arbitration to have their day in court.

So the key point was always that the court did not hear the merits of the case and that that is why, on that basis, the registrant could have a—without wishing to be pejorative in any way—second bite of the cherry or cake or whichever metaphor you choose to use.

Jay, go ahead.

JAY CHAPMAN: Thanks, Chris. I totally get what you're saying because, ultimately, the substance of the merits—that's the whole point. Right? That's what we're trying to get to, is the decision the merits, on the substance. So I actually like—as opposed to watering down whether if its jurisdiction or whatever it might be—I think it makes sense to add language that the court does not …

CHRIS DISSPAIN: "Declines to hear the case."

JAY CHAPMAN: "Declines to hear the merits of the case."

CHRIS DISSPAIN: "Declines to hear the case" is the suggestion.

JAY CHAPMAN: Well, "declines to her the case." I mean, again, adding the qualifier of "the merits of the case" or the substance of it, I think that's valid. Thanks.

CHRIS DISSPAIN: I take your point and I think that's right. Yes, all right. Okay. I think we can get a …

Mary, do you feel comfortable that you've got enough information? I mean it seems to me that all we'd be really saying is … If we just said, "The court declines to hear the merits of the case" that would actually deal with it and you could then take out the declining jurisdiction bit. And I think that would fit in quite well with everybody's intentions. And whilst it may not be pure legal wording …

Paul, I take the point about dismissing the case. The problem is that in some in some cases the court may make an order to dismiss. They may not. They may say, "This is just outside of our jurisdiction. We can't hear it. We can't dismiss it even." I think let's stick with "declines to hear the merits of the case" for now, bearing in mind that we can come back and hone/sharpen this a little bit

later on once we've got public comment. I'm quite comfortable with that. I think it's important to get this out for comment.

Mary, have you got enough to make those changes? Everybody seems to be reasonably comfortable to do that.

MARY WONG: Yep. Thanks, Chris. Thanks, everybody.

CHRIS DISSPAIN: Super. Okay. And so just to be clear then, there's that change plus the introduction, Mary. The simple, straightforward context of these two options cover these bases. And that should keep everybody comfortable. Good. That's (v) then.

And then (vi) is, I would imagine, relatively simple.

Recommendation 5 is effectively a repeat with a couple of small changes in respect to URS. So perhaps, again, we will need to have, Mary, that introductory paragraph above Options 1 and 2 in (iii) and the change to the wording that we've just discussed in respect to hearing the merits of the case.

But does anybody have any other comments on (iii). Can you scroll up please to (iii) and (iv) since they're the … That's it, keep going. (iii) and (iv). That's it, thank you. Anyone got any comments on this one? Okay, good.

And then Recommendation 6 is the Applicable Law in Arbitration Proceedings. I know, Alexandra, you had a couple of points on that. Do you want to just briefly take us through what those were?

ALEXANDRA EXCOFFIER: Sure. So on (ii) … Could we scroll down because I don't have the text in front of me, just my comments.

CHRIS DISSPAIN: There you go.

ALEXANDRA EXCOFFIER: So instead of suggesting some broader language, I just suggest an “e.g.” because there might be other reasons why an arbitral tribunal may decide that the applicable law should not be the preferred law. So having a satisfactory cause of action is an example, I would think.

CHRIS DISSPAIN: So here's the challenge with that. So, yes, you're right, but here's the challenge. This is currently an alternative proposal which we’re seeking comment on. There is, in my view … And this is my view. Others may disagree, and I’m more than happy to accept what the group thinks. But it seems to me that if you widen it to a point where you can just object for the sake of objecting …

And again, I’m sure nobody would do that, but you understand my point. If you don't make it very specific, then you are effectively saying that there is a block that, unless the parties agree, then this will happen. Whereas, what we came to in our discussions was that there was a possibility that there would be no satisfactory cause of action. And for that reason, there ought to be a right

[which is such a] different thing. It's a much wider clause is what I'm suggesting.

ALEXANDRA EXCOFFIER: Well, when we suggested this additional clause, it was basically that it's left in the discretion of the arbitrary tribunal. Right?

CHRIS DISSPAIN: That's what we [inaudible]. Yes.

ALEXANDRA EXCOFFIER: That's the main reason for it. After public comment, whether it's accepted or not, this is another issue. But as it reads, it limits the arbitral tribunal to only decide that the law is not appropriate in case it does not present a satisfactory cause of action, which is more explanatory rather than … Well, it should be more explanatory rather than limited. That's how I saw it when I read it.

CHRIS DISSPAIN: Let's see what Paul has to say. Paul.

PAUL MCGRADY: Thanks, Chris. So you asked us to identify things that we don't think we can live with. I know this isn't a consensus call, and I also know that I'm a representative of the IPC. So what I can personally live with or not we'll know, I guess, once the IPC sees the draft report.

But with a personal hat on, this is the thing in this particular draft report that bugs me the most. The UDRP itself doesn't have a choice of law provision and has a choice of venue provision. There's nothing in the UDRP that would keep anybody from …

If the choice of venue were the registrar location or the registrant and they both happened to be Tunisia, there's nothing keeping anybody from asserting a British claim in Tunisian courts. Right. But we are building that in here. It's new. It's a big limiting factor.

And then the second option, the highlighted yellow one, sort of makes it even more narrow. And so I kind of think we're straying a bit from have the idea of having an actual day in court somewhere if we're projecting this idea into it.

And so I don't think it's worth disrupting us getting this report out, but you asked us about things we don't want to live with and I'm not comfortable with this. Thanks.

CHRIS DISSPAIN: Don't go away. I have a question for clarification. I understand exactly what you've said I respect to (ii) because that's kind of the point I was making to Alexandra. But I don't understand why you've got a problem with (i) because (i) is effectively the default. The default is the way it is now. So why is that causing you a problem?

PAUL MCGRADY: Well, it isn't the default. If we actually pull up the UDRP language, it deals with the court of proper jurisdiction to hear a claim. It

doesn't limit which countries' laws will be applied. One is bad and two is worse, but they are the same basic thing. It's a choice of law provision not a choice of venue provision.

CHRIS DISSPAIN: But you wouldn't acknowledge, presumably, that we do need to have it with an arbitration clause. We do need to have a choice of law provision. Right?

PAUL MCGRADY: Maybe.

CHRIS DISSPAIN: How else would you do it then?

PAUL MCGRADY: Well, in an arbitration usually somebody files a complaint and they bring a complaint under whatever law they want to bring a complaint under. You usually don't tell parties to arbitrations in advance what they can complain about and what they can't complain about. Right? It would be up to the arbitration panel to decide whether or not Party a or Party B has violated each other's rights under that particular law. We're just wort of tying people's hands in advance by deciding what choice of law to apply. And like I said, it's especially weird because the UDRP doesn't actually do that. We've just sort of made it up.

CHRIS DISSPAIN: No, I take that point. Let's see what Jeff has to say and then we'll come back and see if that takes us any further along. Jeff.

JEFF NEUMAN: Yeah. I'm not as concerned as Paul is because I think, at the end of the day, while Paul is technically correct that parties can argue for a different set of law to apply, in general when you bring a court case in a certain jurisdiction—absent extraordinary circumstances or some other statute that dictates what law applies—generally the law of that jurisdiction does apply.

So I believe that this is important, again, because if you look at this in the context of what we're trying to do here—and it all relates back to taking out the mutual jurisdiction—what we're trying to do essentially is balance both sides of the equation. Right? So, you remove the mutual jurisdiction clause. Fine. Then you do need to try to make the other side whole in the sense of being able to select or have a choice in the law that's used.

So, yes, Paul's technically correct. You can argue for a different law. But there are very rare cases, especially in this area of law, where courts do not apply their own jurisdictional laws.

CHRIS DISSPAIN: Thanks, Jeff. Thank you. And I think the exchange between the two of you and Paul's note in the chat kind of deals with it, which is let's leave it the way it is. Of course it's open for anyone to raise it afterwards.

And Paul, is that an old hand or a new hand? That's and old hand I guess. Cool. Let's leave it. Let's get it out. And as we've said, we'll see what people say and we can consider that. And we know that it's going to get raised again. I don't have a problem with that at all.

Brian, please go ahead.

BRIAN BECKHAM: Yeah. Thanks, Chris. Thanks, everyone. I just put it into the chat. I don't know if it's what Paul and Jeff were alluding to because I appreciate that this is not the UDRP. But at the UDRP, of course, the panel is allowed to base the decision on … The text says "any rules and principles of law that it deems applicable." It strikes me.

I mean, I appreciate that we're at the 11th hour here, but given the comments and concerns that have been raised, it seems that it may be worth ironing this out a little bit. I think people probably wouldn't disagree with the first sentence of 6 (i) that the parties could agree. I mean, if the parties agree, then who would want to stand in the way of that? And of course, this goes back to the issue that we raised some time ago which was that there has been identified a number of jurisdictions where there may not be a cause of action.

And so I'm wondering if we might want to slightly adjust this to say that if the parties agree, then that's fine. The parties can agree and we shouldn't stand in the way. But if the parties don't agree, then I think the gist of what people are asking for here is that they ought to be able to inform the arbitration panel of any rules or

principles of law—to borrow from the UDRP language—that they might find appropriate to their dispute. I think that may be what Jeff and Paul we're getting at, but I don't want to speak for them.

CHRIS DISSPAIN: But all that does is effectively put it back into the hands of the arbitrators to decide. And I'm not saying that that's necessarily a bad thing, but I do know that there are people on this call who are concerned about that. Which is why it is an option and a possible additional step rather than us having reached an agreement.

So unless there really is an appetite to rehash this right now, I propose that we leave it as it is. But if anybody really does want to get into it … Nope? Okay.

Then let's leave it and let's know that we're going to come back to it at a point if we have a situation where … We'll see what comments we get.

Brian, sorry. Is that your hand again?

BRIAN BECKHAM: Yeah. Sorry for a new hand. And it's just that the comment that I made in the chat is that, Jeff, I perfectly understand, but people are commenting on something that we haven't agreed on here. So we're asking for half- baked comments.

So I'm just curious why, if we don't agree here—and, I mean, this language has been here for a while. Yeah, Jay, there are other places where we see some members have suggested this and

other members have suggested that and there are Option 1 for consideration, Option 2 for consideration.

The only point I'm trying to suggest here is that the text that's on screen here loses some of that nuance—and maybe, Mary, that's the solution—that there are some different views on how best to unpack that. So I'm just wondering if it might not be better for the public commenter to know that A, B, and C had been considered, for example.

CHRIS DISSPAIN: Well, yes. But I had understood that that was the point of the highlighted text. And maybe it's just not clear that we are considering that. But nonetheless, I take your point.

Susan, go ahead.

SUSAN ANTHONY: A point of clarification. When this initial report is put out for public comment, will we be posing a specific series of questions. "We would like your response on the following …" as I have seen done in some requests for public comments?

CHRIS DISSPAIN: Well I think that the idea of [pulling] out those options is what that effectively does, Susan. But Mary, go ahead.

MARY WONG: Thanks, Chris. Thanks, Susan. I think Berry was going to speak to this a little bit later in the call, but a quick response is that we're not planning to use a targeted form along those lines, Susan. But we do plan in making the announcement to call out those sections and those specific questions that we particularly want comment on.

And with respect to (i) one here, as suggested in the chat, we may just want to square bracket it as well. But I just want to let everybody know that at this stage, I take Brian's point that if there's no agreement we shouldn't be putting something for public comment. But the group, obviously, will look at the comments and you can always change your mind in terms of what turns out to be a better solution. So I just want to remind everybody where we are at this point.

CHRIS DISSPAIN: Which is the whole point about public comment. I'm comfortable to say—and Mary, I know you can deal with this easily enough. If at the end of the first sentence—"Any arbitration will be conducted in accordance with the law as mutually agreed to by the parties"—we could then have the rest of it split out as in, "The following things are under consideration or are still being discussed, and that agreement has been reached …" And you can then say the rest of (i) and (ii), if you like, as the bracketed text.

I don't see why that should be a problem for anybody, bearing in mind that we're all acknowledging that that needs more work to be done. So I think that's the solution to that, Mary. And if I can rely on you to get that sorted out in the document.

Jeff, go ahead.

JEFF NEUMAN: So where there's bracketed text, then wouldn't there need to be another option. In other words, it says “Any arbitration will be conducted in accordance with the law as mutually agreed to by the parties.” Cool. What happens when they don't agree? And so one option is what's in there now. What's the other option? Right? So [if it’s] bracketed [inaudible].

CHRIS DISSPAIN: (ii) is the other option.

JEFF NEUMAN: No, because that’s different. That’s not where they can't agree. That's if the two jurisdictions above do not have a cause of action there. So using that law doesn't really make sense.

CHRIS DISSPAIN: Okay. Well, in that case, then we’d go back to where were previously, which is fine. The two choices would be either a) it's the relevant registrar’s principal office or respondent’s residence or where the respondent was resident, or b) it's the choice of the arbitrator.

JEFF NEUMAN: Yeah.

CHRIS DISSPAIN: [Those are] the only two choices.

JEFF NEUMAN: So I think then that's where … So you put both options in there as bracketed options.

CHRIS DISSPAIN: Fine. No problem. Yeah, I can do that. Okay. So Mary, again, you'll need to make those options. But we know how to do that now, so that should be easy enough to achieve. Mary?

MARY WONG: I think so.

CHRIS DISSPAIN: Super. And then finally, we come to a (iii) which is the bit about arbitration and the non-exhaustive general principles. Anyone got any comments about that? Good.

Brian?

ALEXANDRA EXCOFFIER: Go ahead, Brian.

CHRIS DISSPAIN: Sorry, Alexandra. Brian.

BRIAN BECKHAM: Yeah. I think Alex may have been jumping in to say that in her e-mail, the suggestion was to add at (iii)(d) to add something to the effect—and this is, again, to match the language of the UDRP in this respect—"in the discretion of the arbitral panel."

And then one further suggestion from me would be to change the word "should" to "may." And then I think we agreed on a prior call to put that final sentence under (d) into brackets are somehow call it out that this was something that was kind of, let's say, an open discussion point amongst the group here.

CHRIS DISSPAIN: Well, it's not an open discussion point as such. It is, I think, a point of disagreement. I think we have established that there was significant pushback from a number of people about the concept that the arbitrators would decide. What we did agree was that the additional text, which is the highlighted text, would be an option. At least that was my understanding.

Jeff.

JEFF NEUMAN: Yeah. I think what we were deciding was whether there's a more general way to state the more complete case. But I would say that it's been an important part since the very beginning that this was not at the arbitrator's discretion. But this was to give the registrant the ability to "have its day in court" even though it's before an

arbitration, which includes providing additional evidence, calling witnesses, cross-examination, and all that other stuff.

And I think what the disagreement was about was whether we should be that specific and call out things like cross-examination or just be more general and leave it to the IRT to put in the much more specific.

But I don't believe we ever discussed making it a “may” or that we discussed that it should be decided by the arbitrator.

CHRIS DISSPAIN: Well, I think those two things came up in conversation, in our discussions, several weeks ago when we originally discussed this point, Jeff. But last week what we were talking about it, I’m fairly sure, is the point about— which I think Alexandra covered in her e-mail—Recommendation 6 (iii)(d). As agreed on our last call, the second sentence should be in brackets as an option.

So that, I think, is where we got to last week, and that's what we agreed. So in essence, what's missing from here is the point that it is something for people to comment on. Some members of the EPDP believe that we should call this out. Others believe it should be left to the panel. That was, as I understood it, where we got to last week. And, indeed, that is what Alexandra’s e-mail seems to indicate—[her] #13.

Brian, go ahead.

BRIAN BECKHAM: Yeah, thanks. I'm just kind of reacting to Jeff and Chris. And I see Jay's comment in the chat. I'm wondering, and I appreciate that there's a little bit of an art to pulling this off at a drafting and visual presentation level. But just kind of using theme that we've landed on here a couple times today, it seems to me that there's agreement on the first sentence of (d) and then we could …

However, it looks—whatever words we use—we could use the brackets. And some members suggest that the IRT would consider questions such as the discretion or authority of the arbitration panel, the ability to call witnesses, etc. And we just say in brackets that these are things that we're kicking around and want to hear from people on.

CHRIS DISSPAIN: I think that's certainly the intention, and I believe that's what others are suggesting. Jeff.

JEFF NEUMAN: Not really, Chris. I think it's a matter for this policy group to determine what is and what's not at the arbitrator's discretion, at least at the high level.

And what I was starting to write in the chat is that it seems like we're now watering down every single protection that we're trying to put in for registrants, like the law issue. And now [not like] the ability to cross-examine and call witnesses. If you keep adding these up, this is now starting to become what I foresee as a big problem.

We can bracket what it means to present the case in complete manner. That's fine. But changing it to having an IRT discuss what authority the arbitrator should have in whether it accepts witnesses and other things? That's a step too far, in my opinion.

CHRIS DISSPAIN: So, Jeff, thank you. Jay, I can see your hand is up. And Brian, I've seen your note in the chat. Let me say where I thought we'd gotten to.

Brian, I acknowledge that no one's objecting to the first sentence. However, the second sentence, or something very similar to the second sentence … It's my understanding that that has been a fundamental point all along. I mean, we can go back and look at the transcripts if that's helpful.

But numerous times it has been said, and not just by one person, that by agreeing to the stepping away from mutual jurisdiction and various other things and agreeing that arbitration is a suitable mechanism, it must be abundantly clear that whoever is providing the services of an arbitrator must do so in a manner that allows the registrant to effectively have their day in court.

It's my understanding that a number of the matters that have been agreed to—when I say "agreed to", I know we haven't had a consensus call—but have been agreed to in the sense that they're in this document—and I'm thinking specifically of Recommendation 1 and the beginning of Recommendation 2 about mutual jurisdiction—have been done so on the basis that

there is a clear understanding of that the arbitration will allow these things to occur.

And so I do think that it could be characterized, as Jeff has just characterized it, as another step in watering down the protections that we all agreed we needed to keep in place so that registrants are likely to be accepting of these recommendations. So I think it is important to remember that this all does hang together. And if we're expecting people to accept a give here, then there needs to be a give somewhere else.

Jay, go ahead, please.

JAY CHAPMAN: Thanks, Chris. I appreciate your comments on that. I 100% agree. I'm just generally curious. I mean, given that we are so close here. We had been talking about these before. What is it that—Brian and some other folks—what are the fears with things like additional written submissions, calling witnesses, hearings? I mean, if we're going to dive into this—and I guess we don't have to now—but I'd love to have on the record what the fears are of having …

Basically, the idea here has been that if we're going to have an arbitration-type process, we want to have it as close to a court proceeding as possible. So I'm just trying to understand what are the fears and the objections and the things that aren't agreed to in this second sentence? What is so disagreeable about just putting that out for public comment, one? But two, just I guess from just a higher …

I'm just not sure where the where the fear and the concerns are. Thanks.

CHRIS DISSPAIN: Thank you, Jay. Alexandra, go ahead, please.

ALEXANDRA EXCOFFIER: Well, to answer Jay, I think it's time and money, basically. But a court would be able to have discretion as to, for example, how many witnesses to call, whether witnesses are appropriate. Some witnesses may or may not be appropriate. For example, things like that. A court generally has discretion. But Jeff will disagree with me. And so the arbitral tribunal normally has a discretion on things like that.

CHRIS DISSPAIN: Thank you, Alexandra. Perhaps I struggle to think of a situation where a court would prevent a case from being presented in the way that a party wanted to present it, unless they were operating outside of the rules of jurisprudence.

But Jeff, go ahead.

JEFF NEUMAN: Sorry. Alexandra's right in the sense that, yes, a court can make determinations as to whether certain witnesses are relevant/not relevant. But at the end of the day, the court does not have the discretion to say, "We're not allowing any witnesses, and we're not

allowing a hearing, and we're not allowing cross examination of any witnesses."

So I don't mind when an IRT gets together and discusses the discretion of an arbitrator to rule on the relevancy of witnesses and all that kind of stuff. That's fine. But what I strongly believe is that there are certain fundamental rights to present the case that a registrant should have—or both parties should have, for that matter. And that needs to be reflected in the policy.

And one only needs to look at ICANN's IRP rules to understand that the IRP does have language that says that it's up to the panel discretion. And you will notice that almost without fail, ICANN always argues that there should never be witnesses that are called. It loses a lot of the time on that motion, but it makes that case every single time.

CHRIS DISSPAIN: Thanks, Jeff.

JEFF NEUMAN: Thanks.

CHRIS DISSPAIN: David, I'll come to you in one second. I think the distinction that I would make as a lawyer is that the court can decide that the evidence is not persuasive or that it's not going to take a particular person's evidence into account, but they won't prevent it from being from given. And they'll certainly consider it.

David, go ahead. And then I want to bring this to a close. Otherwise, we're going to run out of time. David, carry on.

DAVID SATOLA: Thank you, Chris. I think it was Jay—or maybe it was Jeff—who said that the idea is to get the arbitration as close as possible to what would happen in court. And I understand that. And I understand that that's been the position throughout. I would just like to remind the group that for the IGOs, at least my position has been that what we wanted in the beginning, nearly 12 years ago now, was preventative rights. We had to give that up. We didn't really have a choice in that. So what we want these curative rights to be is as close to preventative rights for us.

And so there's an inherent tension, I think, between those two positions. And I'm not saying one is right and one is wrong, but that's where the tension, I think, is. And so if we can go back to what Chris was saying about the give and take, I think that would be important. Personally, there are aspects of some of the details that we're talking about here that may or may not be appropriate to put in something like this that might take some of the discretion away from the parties or the arbitral tribunal.

And I don't want to get into those, but I think that while I am sympathetic to and understand what Jay and Jeff have said about getting this as close as possible to a court-like proceeding, I just want to go on the record again as saying that we did give up our preventative rights, and our position is that we want to have this as close to that as possible. Therein lies the tension. Thank you.

CHRIS DISSPAIN: Thank you, David. Jay, I'll give you a brief moment.

JAY CHAPMAN: Thanks, Chris. And I'm sorry to swing back to this, but I was actually wanting to talk about the chart for a minute. So if I'm in the way of that and we can swing back to that real quick, I'm happy to do that.

CHRIS DISSPAIN: Well let's do that now.

JAY CHAPMAN: Okay. So just looking at the chart—and thanks for pulling that up—I'm just kind of confused a little bit on the chart as to, in the bottom right corner where it says "Registrant seeks to enforce in national court" we've got this arrow that goes back up and under "IGO appeals" to "IGO prevails." And then we've got this V that comes down from "IGO appeals" to "IGO loses/case closed."

I'm just a little bit confused about what's going on there. Is it that "IGO appeals" and there should be a separate arrow towards "IGO loses" if the registrant seeks to enforce? Should there be an arrow from there if the IGO loses? Should there be other places where, if the IGO decides not to further appeal, we should have arrows to "IGO loses"? I'm just trying to make sure we've got the full picture.

And again, forgive me for bringing this up now. I've been meaning to. I always thought we would get to a point where we're actually

talking about the chart, and it just never really happened. And it wasn't something that was really fit for going through an e-mail. I actually needed to kind of point to it while were discussing. So thanks.

CHRIS DISSPAIN: Thanks, Jay. I'm not certain that we, at this stage, even really—given the way that we've managed to build the recommendations—that we actually need the chart this stage. And it may actually be more troubling or more confusing than just putting it in the recommendations themselves. And I've just looked at what you've explained, and I can't answer that question.

JAY CHAPMAN: That's why [inaudible] I suppose. I'm sorry.

CHRIS DISSPAIN: I get it. So let's just put that to one side for a second. Let's go back to the end of the document. Here's where we are, folks. Let me start by saying I have no issue with this taking as long as it takes, but we are currently at a point where we are already outside of a time frame. We are forced into a situation where, if we go out for public comment as a precedent or tradition—or an unwritten rule, if you prefer—closing public comment during ICANN meetings is just not done.

So where we are now is that we are, in effect, going to be delayed. If we get this out of public comment in the near future, it's going to be significantly post the ICANN meeting before the public

comment closes. And it's then going to be significantly past the end of the year before we can make any progress because we'll need to consider the public comments and then we'll have to have a series of meetings. And there will be holidays and high days.

So we really need to make a decision here about what it is we intend to do next. I had hoped, and I still do hope that we can actually agree that this document is ready to go out that within …

Excuse me a minute. Can you hear me?

TERRI AGNEW: Yes. We can, Chris.

CHRIS DISSPAIN: Sorry about that, guys. Collapse of headset. That within a day or so we'd be in a position to send it out. But if not, then we've got some major timing issues. So Berry, thanks for posting that in the chat.

Paul, do you want to say something?

PAUL MCGRADY: Thanks, Chris. It kind of makes me laugh. The headset feel off, and in the domain press tomorrow will be "Chris Disspain throws headset in frustration." But I know that not what happened.

CHRIS DISSPAIN: Absolutely. I was so angry that my headset exploded. Go ahead.

PAUL MCGRADY: I think this has been a good call. I think we've identified some things. We need to make sure it's clear that we're talking about alternative clauses and areas where there's not complete alignment on the working group. But I don't think we're anywhere near saying that we're not going to get this out on time. I just think there are some tweaks that staff will make to the document that will resolve a bunch of this. It's 99.9% ready to go, and so the idea of this slipping into thanksgiving in North America and into the Christmas holidays just sounds terrible to me.

I would much rather us just see what the final changes our staff's recommending and maybe even everybody just giving sort of a thumbs up on the list if we can be that informal. Thanks.

CHRIS DISSPAIN: Okay. Thank you, Paul. And thank you for being constructed about it. I wasn't seeking to try put pressure on everybody, but really to explain that one day here and there rolls things way out into the into the distance.

So what I think we could try to do is as follows. I'm going to suggest that we let Mary and Steve and Berry beaver away on this document and on the wraparound, which I've had a look at over the last couple of days and I, frankly, can't see any issues with. But I understand others may have issues. But it looks to me that this is obviously the crux of it, and everything else is merely, as I've said, a wraparound.

Why don't we do this? Why don't we say that we will get this out redone …

Sorry, Alexandra. Do you want to say something before I make my suggestion?

ALEXANDRA EXCOFFIER: Just that I mentioned Footnote 8 also in my comments. And also, on the wraparound text which I received at 1:00 in the morning on Friday. I haven't had a chance to go through everything, but I did look at some of the tracked changes. And I do have an issue with one of the … I noted bottom of page 14. I do have an issue. I could send it through after the call.

CHRIS DISSPAIN: Yes, please. That would be great.

ALEXANDRA EXCOFFIER: But as far as Footnote 8 is concerned, which is a new footnote here to the recommendations. Just to explain, basically the Footnote 8 says that the registrant can ask for arbitration at any time during the judicial process. Which, actually, is fine with me, except that it doesn't match the text of the recommendations which only allows the rehearing by arbitration at the conclusion of the process. So the text doesn't match the footnote.

CHRIS DISSPAIN: Let me just have a look. Why can't I see Footnote 8? Because I'm looking at the wrong page, that's why. "If approved and

implemented, Option 2 will preserve the registrant's ability to agree to binding arbitration."

ALEXANDRA EXCOFFIER: "Throughout the duration of any judicial proceedings." Which is fine for me, that option. It can be at any time, but that's not what the recommendation says. It says once the court decides.

CHRIS DISSPAIN: Okay. I agree that that needs to be picked up and looked at. So let's put that on the list.

So here's what I'm going to suggest. I know Mary's off the call now, but if Mary and Berry and Steve can get this out to us within 24 hours—so, a one-day turnaround—we could perhaps have a …

Berry, yes.

BERRY COBB: Thank you, Chris. Partially speaking for Mary since she had to drop, she's enduring to return the next version as we discussed today on the call by the end of business today to get it out onto the list.

CHRIS DISSPAIN: Cool.

BERRY COBB: So you'll have some time through tomorrow for any last-minute—or mostly, as Mr. Paul McGrady stated, that thumbs up for what we have for the report now. But in essence, by noon tomorrow we need to start the process to launch the public comments so that it can get posted onto the new platform and those kinds of things.

CHRIS DISSPAIN: Okay, noon. Which time zone, Berry?

BERRY COBB: Eastern time. So about 16:00 UTC.

CHRIS DISSPAIN: Super, thank you. Okay, let's do that then. Let the team work on what it is that they've picked up from this call today. There will be a number of things that people won't necessarily love. But, again, unless it's a serious redline and a "can't live with"—bearing in mind that this is not a final report, there is going to be plenty of opportunity—let's get it out by close today.

My undertaking is that I will look at it, depending on what time it comes in—either later tonight or, worst case for me, first thing tomorrow morning UK time which is the same time for Europe but before a lot of many in the States wake up, obviously. I'll get any comments that I have out to the list so that we can aim to meet the deadline.

If we don't, that's fine. We'll live with it. We'll call another meeting and we'll put in a request for whatever it's called with the Council

and we'll carry on working. But for now, let us let the team do their job and see what comes out of it tomorrow.

Brian, I think the answer to your question in the chat—if you can go down to the last page on the document, please, Berry—is that there is disagreement about putting the second sentence in brackets. What I think would be in brackets is whether that is something that should be left to the IRT to work out or whether we want to put it in as a specific recommendation. But I believe that the suggestion that it should be left to the arbitrators is not going to get agreement. That's my understanding. If anyone thinks my understanding wrong, please tell me. That's where I think we've got.

BRIAN BECKHAM: Yeah. Thanks, Chris. And to answer questions that came up earlier, there's no objection in principle to this. It's a slightly procedural matter where, again, we agreed on some issues to stick to high-level principles. And this drills down to specificity that might tie the hands of the arbitral panel. It's not clear to me why we've agreed to bracket text and flag that it's an open discussion within the working group for some subjects but not for this. But I leave that to your discretion as chair.

CHRIS DISSPAIN: Well, no, to be clear it would be bracketed because the discussion was about whether it should be left to the Implementation Review Team or not. That was my understanding of where we got to two weeks ago and, last week, having had the discussion last week

about the principle of saying it at all; and having reached an understanding that the general feeling of the group was that it wasn't necessary for … Sorry, it should be part of the of the process rather than leaving it to the arbitrator to decide.

But look, let's look at the rehash document. And if this is a sticking point, then so be it. We will know that tomorrow and we'll pull back from getting the document out for comment.

I think we've picked everything up. I do appreciate that we are trying to meet a time frame here. And I'm not particularly comfortable myself, but that's the way it is if we're going to meet it. If we're not going to meet it, then I'm fine that we don't meet it. So I don't want anyone to feel that there is any forcing mechanism going on here because there isn't. And if we want to pull back from it, we can.

My preference, however, if we can do it would be to get it out. And as I've said, we all know that many things will occur. There'll be public comment and we'll be able to revisit this once we've had an opportunity to consider the public comments.

I know that Mary and Berry and Steve … Because Mary has sent me a note saying that they've got enough to work with, and I'd very much like them to go away and get on with that.

Does anybody have anything else that they want to say at this stage? Okay. So may I ask then, may I please impose upon you to look for this document, expected before close [of play] today, I guess West Coast time. And I know that for many of us, that will be tomorrow morning to deal with it as a first cab off the rank, first

job tomorrow morning in whatever time zone you're in and get any comments out to the list, bearing in mind that they really should be substantive and important red-flag comments only.

If you do have language, grammar, spelling, and other comments—and I have no doubt I will have—could you please just send those to the Mary and Steve and Berry and me, and we will make sure that those are dealt with as long as they're not making changes to the context of the document.

With that, I'd like to say thank you all, and I hope that we'll be able to sign off on the list tomorrow on this. And if not, we'll be convening again pretty soon. Thank you all. Let's close the meeting.

TERRI AGNEW: Thank you, everyone. Once again the meeting has been adjourned. I will stop recordings and disconnect all remaining lines. Stay well.

[END OF TRANSCRIPT]