Policy & Implementation Working Group Meeting TRANSCRIPTION Wednesday 08 April 2015 at 1900 UTC

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 08 April 2015 at 1900 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

http://audio.icann.org/gnso/gnso-policy-implementation-08apr15-en.mp3

On page: http://gnso.icann.org/calendar#apr (transcripts and recordings are found on the calendar page)

Attendees:
Cheryl Langdon-Orr – At-Large
Amr Elsadr – NCUC
Anne Aikman-Scalese – IPC
Alan Greenberg-ALAC
Greg Shatan – IPC
Chuck Gomes – RySG
Olevie Kouami – NPOC
Avri Doria - NCSG
Carlos Raul Guttierez – GAC
Michael Graham – IPC
Tom Barrett - RrSG

Apologies:
J Scott Evans – BC
Wolf-Ulrich Knoben – ISPCP
Mary Wong (Staff)

ICANN staff:
Marika Konings
Amy Bivins
Steve Chan
Berry Cobb
Terri Agnew

Coordinator: The recordings have started, speakers you may begin.

Terri Agnew: Thank you, good morning, good afternoon and good evening, this is the
                 policy implementation working group call on the 8th of April 2015. On the call
                 today we have Carlos Raul Gutierrez, Cheryl Langdon-Orr, Olevie Kouami,
                 Alan Greenberg, Chuck Gomes, Tom Barrett, (Elmer Alstair), (Ann Aikman-
                 Scalis), we show apologies from Wolf-Ulrich Knoben, (Jay Scott Evans) and
                 Mary Wong.

                 From staff we have Marika Koning, (Amy Bivens), Berry Cobb, (Steve Chen),
                 and myself, Terri Agnew. I would like to remind all participants to please state
                 your name before speaking for transcription purposes. Thank you very much
                 and back over to you Chuck.

Chuck Gomes: Thank you very much, welcome everyone to our policy and implementation
                 working group call on the 8th of April 2015. Looks like we have a good
                 turnout and we're going to jump right into the agenda, it's a fairly simple
                 agenda, we want to first of all go over the work that Avri and Cheryl and Alan,
                 I think did on one item and then we'll jump - just continue where we left off
                 last week in going through the public comments. Any questions or comments
                 on the agenda before we move ahead?

                 Okay, then let's first of all take a look at principle - it actually is public
                 comment 4.18, I think is where this came up, we don't have to show that I
                 don't think on the screen right now because it's better to have the language
                 proposed by Avri and Cheryl and I think Alan up there right now. So as I
                 understand it, in fact, I see Avri's not on, Cheryl, do you want to talk about
                 this? Or do you want me to do it?

Cheryl Langdon-Orr: I'll need to come off mute to do so, but Alan's got his hand up, he's
                 rushing to do it, okay.

Chuck Gomes: Okay, Alan, go ahead.

Alan Greenberg: No, no, I put my hand up to speak after Cheryl since I actually - although I was on the team of three, I didn't do anything, so I'll let Cheryl speak first and then I'll do what I should have done before this meeting started.

Chuck Gomes: Okay, very good. Cheryl, you're on.

Cheryl Langdon-Orr: Thank you very much, Chuck. So for the record and I suspect it's about five hours in the last seven available to the world of ICANN conference calls, that she isn't on this call just yet, she may join us shortly. But this was a homework assignment that Avri earned out of the last call, but Alan and I had stuck our nose into the conversation so we kind of got into the contributions part of it as well.

It's in two parts as you can see, there is new text - the newish part to the text is the latter part under principle which subject to what Alan is going to say is - oh and Avri's with us. Avri, I can stop pretending being you, yay. Okay, well I'll shush and the real - the real buff can now talk. Introduce the people.

((Crosstalk))

Chuck Gomes: Welcome Avri.

((Crosstalk))

Cheryl Langdon-Orr: I pass the pin to Avri.

((Crosstalk))

Cheryl Langdon-Orr: And the microphone.

((Crosstalk))

Chuck Gomes: And Avri, what I had asked Cheryl to do in your absence was just to briefly describe what's on the screen in Adobe and before we continue where we left off last week on the public comments we - I thought it would be a good idea if we address this work - this good work that you and Cheryl did it sounds like so, if you'd like to talk about it at your - you have the mike, don't worry about Alan's hand, we're going to take care of him in a minute.

Alan Greenberg: That's what a lot of people say.

((Crosstalk))

Chuck Gomes: So Avri, would you like to talk about the work that you and Cheryl did? You may be on mute if you're talking so we're not hearing anything. We're not hearing anything from Avri.

Man: Her microphone is going on and off mute though.

Cheryl Langdon-Orr: Terri, can you give Avri a hand there please?

Terri Agnew: Certainly, yes.

Cheryl Langdon-Orr: Well Alan, perhaps while we're waiting for Avri to sort out her audio issue, she's talking and off mute so Terri's going to sort that out I'm sure, she can do - Chuck, would it be worthwhile hearing from Alan while he would have contributed to the homework assignment if he had done it?

Chuck Gomes: Sure, that's a good idea. Alan go ahead.

Alan Greenberg: Thank you, to be honest, when I first saw this I was having trouble remembering why it was assigned, but I eventually did remember that it was my fault, and I had raised the issue of the possibility that there are situations where the GNSO may have a hard time addressing the public interest when it was in potential conflict or direct conflict with contracted party needs. And as

such, I think it does that but the public interest part I think got lost a little bit. It is mentioned in the third line of the principle but I think it needs to be strengthened a little bit and I would do that with adding just a word or so and say and particularly - what was it - basis to the standards of fairness notice, transparency, integrity, objectivity, predictability and in particular, not sure where it has to go - sorry - towards the end - in particular, its commitment to the global public interest.

Chuck Gomes: So after and you would say and in particular its commitment to the global public interest as outlined.

Alan Greenberg: Yes, maybe - there might be a too needed there, but yes.

Chuck Gomes: Yes, well we can take care of that part.

((Crosstalk))

Chuck Gomes: Let me - go ahead.

Alan Greenberg: On the second part I think the last sentence is somewhat gratuitous, that's just repeating the whole purpose of this whole process.

((Crosstalk))

Avri Doria: Can I be heard now?

((Crosstalk))

Chuck Gomes: Yes you can, go ahead Avri now that we can hear you, please.

((Crosstalk))

Avri Doria: Okay, sorry, the microphone I was using wasn't working for some reason. In any case, yes, all I did was add in the first one and its commitment, I don't know an in particular, its commitment adds a lot to it, but I have no objection to it, I think a principle.

The reason I added that last line is because whenever we get into these discussions in terms of the GNSO and the board has gotten involved, we've gotten into discussions with the ACs, there's sort of been a question left, you know, well, you've sent it to the board, the board has talked to the ACs, you know, and I really wanted to make sure that we were explicit about the fact that the loop terminates with the GNSO sending a resolved, you know, set of recommendations back to the board, that it's not that the board takes all this in and then comes out with, you know, it's policy recommendations or comes out with an amended policy.

So I understand everything in this and so I understand there may be a little bit of redundancy but since this part of the process, I've sort of gone beyond the GNSO to deal with the multiple issues - it needs to be, I think - stated that it comes back to the GNSO to be sent on so that's why that little bit of redundancy is there.

Chuck Gomes: Thank you Avri, Alan, go ahead.

Alan Greenberg: Yes, I can certainly live with it, I was pointing it out, but Avri's right, no matter how many times you say it, someone will say but I thought the GNSO was supposed to be making the decision, so it certainly doesn't hurt. The in particular, I think because the public interest comes sort of at the end of a very long laundry list, I think focusing on it does bring it to the head which is what the - what we're attempting to do with this - with this change, so I would certainly prefer to see that, thank you.

Chuck Gomes: Thank you Alan, this is Chuck and does anybody object to adding in particular after - between and and its commitment there? Please put a red X

in the - or raise your hand - like (Elmer) did if you do. (Elmer), please go ahead.

(Elmer Alstair): Thanks Chuck, this is (Elmer), to be honest I'm having a little trouble figuring out what's the added phrase regarding the global public interest added to this principle? The way I'm reading it is that the standards we're talking about are the same, the standard set - the development and implementation of policy has to adhere to, which are the fairness notice, transparency, integrity, objectivity and predictability - as well as due process - and what we're saying is that these standards have to be consistent with ICANN's core values, particularly that of the global public interest.

So I'm not sure how the principle has actually changed with the addition of this phrase because the standards haven't changed. ICANN is committed to the global public interest and so these standards need to be consistent with that, but I don't think that's adding that - adding global public interest in this principle as is actually adds any requirement of the GNSO to consider the global public interest in development and implementation of policy from a substantive perspective, and that was my understanding when Alan first raised this and I was - that's also why I sort of questioned how that might fit in with what we're doing, so I just wanted to bring that to everyone's attention and see what folks have to say about that, thanks.

Chuck Gomes: Thank (Elmer), this is Chuck, Alan go ahead and respond.

Alan Greenberg: Oh, I thought Avri was in between us.

Chuck Gomes: She was, it went away so I assumed she.

((Crosstalk))

Chuck Gomes: Did that intentionally.

((Crosstalk))

Alan Greenberg: Okay, (Elmer)'s right, this is not a panacea and it's not going to fix the problem, but it highlights the problem or highlights the issue. I personally believe we are not going to solve the problem until we have a significant restructuring, but, you know, that's not within our mandate to recommend, so all we can do is highlight the issue.

Chuck Gomes: Thank you Alan, Avri, go ahead.

Avri Doria: Yes, thanks, yes, the reason I dropped out is because I figured since this had originally been brought up by Alan I, you know, give him certainly the chance to put it in. I think that the - it's important and I'm actually agreeing not only because it was my homework assignment but because I think it's actually important to acknowledge the global public interest within our principles.

And I think that indeed the global public interest is made up of the standards of fairness, notice, transparency, integrity, objectivity etcetera, including all of the other interests that people bring into this that have gone through the sort of policy development process mill that we go through to identify the global public interest. But since our articles of incorporation do call out that that's a goal that we're serving, I thought it was important to just put it there and it's that serving the global public interest that sort of constrains the sort of application of all those other stuff - of all those other things.

What standards of transparency? What standard of, you know, predictability and fairness? And it's those that are in the public interest and that the community at large expects as being within the global public interest. So I think it's a very important state for us to sort of include in our principles and that's kind of why I'm willing to take the homework assignment when it was being handed out.

Chuck Gomes: Thank you very much Avri, (Elmer), I have a question for you, this is Chuck speaking - are you opposed to this addition or can you live with it?

(Elmer Alstair): This is (Elmer), no I'm not opposed to it at all, I just wanted to point out what I did earlier and if that's what folks are agreeing to add to this principle, I am not at all opposed. I'm just - I just wasn't really sure how adding it actually mitigated any risk of conflicts between what may be perceived of the global public interest and what may be the interest of contracted parties which is, I believe, what started this whole discussion. So I just wanted to bring that everyone's attention, at least my question on this, but if we are proceeding with this under the understanding of what Alan said earlier and what Avri just outlined then yes, I have no objection, thanks.

Chuck Gomes: Thanks (Elmer). Alan.

Alan Greenberg: Thank you, just to belabor the point more, one of ICANN's responsibilities is to ensure the vibrancy of the industry that surrounds the domain system. Because without that, you know, it doesn't really work. I think what this principle is saying and what the articles and corporation are saying are that when a push comes to shove, public interest trumps a particular place where contracted parties, or other interested players in this game can make money, you know, we can't forget the overall requirement that we have a good, strong industry. But the public interest, you know, comes ahead of that on our priority list, this goes part way to saying that it doesn't fix any problems, it's just a reference point.

Chuck Gomes: Thank you Alan and if you'll allow me to take my chair hat off for a moment, I do object a little bit to the assumption that contracted parties are only interested in making money and are not interested in the public interest, that said, I don't want to belabor this any longer either so let's not belabor it any longer.

Alan Greenberg: Yes Chuck, I - just to be clear - I didn't say their only interest, I said where there is a conflict, which is not - does not necessarily show up on a regular basis.

Chuck Gomes: Going on to the recommendation, I have one - first of all - is anybody opposed to adding the recommendation that is proposed here at the bottom of the text that's on the screen? Okay, that said, does anybody have a suggestion as where this might fit as a recommendation in our report?

((Crosstalk))

Chuck Gomes: Go ahead Greg.

Greg Shatan: I'm sure you wish I was answering your question but I'm not. Greg Shatan for the record.

Chuck Gomes: I was hoping for that, but go ahead.

((Crosstalk))

Greg Shatan: I guess the question I have is whether this principle here is applying only to the new, you know, the three new forms of policy advice mechanism or does it also apply to the traditional PDP?

Chuck Gomes: Well let me respond first of all to that Greg, - this is Chuck - I think our principles - if I understand their purpose - were not designed to specifically relate to the three process, in fact, they were developed before we introduced the three processes.

Greg Shatan: Right.

Chuck Gomes: I think they relate to policy and implementation in general, which would of course include the PDP. So thanks Alan for the green check mark. Marika, go ahead.

Marika Koning: Yes, this is Marika, just wanted to add as well that, you know, within the current PDP, there is already a requirement to have, you know, conversation and it's done in the form of a public comment prior to the board considering the initial policy recommendations and I think that's specifically as well for that purpose, so that's, you know, those that feel that they weren't heard or, you know, haven't expressed views can do that at that point in time and that would allow as well the board at that point to say well, GNSO did you consider this and if not, you know, can you please consider it as further input to your work.

So I think it's currently already something that, you know, exists in the PDP and you have think hard because I don't think there has been any instances that I recall where, you know, actually input was received, you know, that makes the board sent it back. Although I know there are some recommendations currently under consideration that didn't receive different - different advice at the later stage in the process.

But I think in, you know, as Chuck said, my understanding is as well that, you know, these principles are generally applicable and as such in my view, would also apply to the current PDP.

Chuck Gomes: Thanks Marika, Chuck again - Greg, did you want to follow up?

Greg Shatan: Yes, I think that makes sense. In terms of the language itself I'm first wondering the advice - we talked about the advice of the advisory communities, aren't those advisory committees?

Woman: Yes, should be committees.

Greg Shatan: And.

Woman: It should be committees.

Greg Shatan: And is the advisory committees to, you know, are each - I don't think there is a kind of - there's not a mass of advisory committees, there are, you know, they're very separate, I mean, there's the GAC, there's the ALAC, SSAC and RSAC, and I don't think of them as a whole, personally. Are we saying then that any advisory committee could essentially if it disagreed with the GNSO about a decision on GTLV policy, could it essentially kind of force the board to send back a policy recommendation?

Chuck Gomes: Greg, this is Chuck, I think that's true of all of them except for the ALAC - just kidding, okay?

((Crosstalk))

Greg Shatan: Well it may be that the GACs current, you know, communiques system and the deference to the GAC essentially works to do that already. And I don't know if the RSAC or SSAC have ever really tried to send anything back because generally speaking, we don't screw things up for them.

Chuck Gomes: It's a valid point, let's let some others jump in on that. Avri go ahead.

Avri Doria: Yes hi, this is Avri, assuming I can be heard, I plugged my old mike back in again because I figured out the problem.

Chuck Gomes: You can.

Avri Doria: Okay great, I think that any of them can in fact, you know, we were talking about earlier in one of the other meetings about, you know, the ATRT having recommended that any advisory committee that sends something to the board needs to at least be acknowledged and responded to.

So it's not that the advisory committees can in any sense force the board, you know, and we don't talk about it here, but it's one of those things that if the advisory committee is coming to the board with a brand new issue that they've never brought up and why didn't it ever get brought up during the course of the PDP, the board might decide one way if the advisory committee can show that we've presented this all the way through, but we don't believe the issue was adequately tackled and so we have a problem, the board can then take that advise into account in making its decision.

I don't even think the GAC forces things back, the GAC forces a certain kind of (unintelligible) out of the board, the board can decide as part of its deliberations that it agrees with the GAC but when - the side that agrees with the GAC instead of doing what it's done in the past sometimes, which is oh okay, we'll change the policy recommendations to match what the GAC has said, this basically sort of seems to recommend that no, at that point you're saying more talking is needed and the GNSO has to be part of that talking.

And I think that's the point - part of the point - that's getting made here, is one they have to be listened to and two if there's something that the board feels is properly unresolved, then it needs to go back to the GNSO.

Chuck Gomes: Thank you Avri, this is Chuck and before I give it to Alan, I think it's fair we're going to change communities to committees, okay, so it says advisory committees as Greg suggested, now Alan, you're up.

Alan Greenberg: Thank you, most of it has been said, you know, certainly no one can force the board to do something, but we can - all they can do is alert the board to consider it. I'll give not an example where it happened but, you know, an if scenario, the board has received a number of UDRP of a UDRP recommendation, the board has received a number of PDP results on domain transfers recently.

I don't think anyone on the board really has, with the exception perhaps of (Bruce), in depth knowledge of these issues and might appreciate the subtleties of the - of what the recommendations were saying. Therefore, to a large extent I think the board is rubber stamping those, that is the GNSO in its wisdom has made a recommendation, it's been duly considered, it's been adopted by the GNSO, unless someone can show cause, we're going to accept it.

And I think that's true for a lot of the - not the grand and glorious things like new GDLT policies, but of the mechanical things that go through the GNSO, the board is not necessarily an expert on it and all we're saying here is that if someone says hey, you better look at that in more detail because we believe an error was made. The board can take that under consideration, that's it.

Chuck Gomes: Thank you very much Alan, Chuck again, Greg, you're up.

Greg Shatan: Thanks, I think two things, I think the language here is a little stronger than that because it says the board will use existing process mechanisms to either send the issue back to the GNSO or initiate broader committee discussions, the board has no discretion to say yes advisory committee, we hear you or yes we read the public comments and we see a bunch of stuff but, you know, we think this is overall fine. And we're making a decision not to send it back to the GNSO and not to initiate broader committee discussion.

So I don't know if that's intentional and we're trying to essentially leave the board without a choice and spend several hours in various conversations about how to limit the board's runaway power. Now I'm not sure in this case whether this is one case where we do want to give them some discretion and part of this all depends on in essence who's ox is being gored. If one imagines oneself always in the seat of, you know, being concerned or unhappy with a GNSO policy recommendation, and wishing one could do more about it, and is not in the GNSO because this doesn't, you know, unless it's done by public comment, then I guess this is a good thing.

If one thinks that the GNSO policy recommendations, you know, should be given more deference and, you know, should necessarily empower the GAC, if we decide that, you know, geographic names are not superior to trademark, that the GAC can somehow, you know, send it back based on this right as opposed to something in their communiqué. I just don't know that what - to some extent I'm concerned that this kind of upsets the balance of the way the board and the GNSO and the ACs kind of deal with each other on GNSO policy recommendations.

I guess that perhaps that's the intent is to weaken the GNSO vis-à-vis the other - the rest of the community in making GTLB policy with which it's charged to do and perhaps this is an alternative way of dealing with what some people might view and which sometimes I view, depending upon what, you know, when you ask me, being kind of structural or decisional in balances or power in balances within the GNSO, which also could be solved conceivably within the GNSO but at this point you kind of say well if we can't solve the problem by changing the process mechanism, we'll change the problem - we'll solve the problem by dealing with how the result is handled by the board. And so I'm concerned that we're - that this is not a modest change, but is actually quite a significant change in overall policy making.

Chuck Gomes: Thanks Greg, Chuck again and before I go to Avri and Alan, I'd like you to be thinking about how you would change the language after we hear from them. Now I confess just to throw in a personal comment here, I didn't necessarily see this as weakening the GNSO, but if it does, I might also be opposed to that. But anyway, if you'd think about maybe any edits you think would be helpful here that would be great and we'll come back to you later. Avri, go ahead.

Avri Doria: Okay thanks, yes, as the person that wrote it, I actually see it strengthening the GNSO. First of all the sentence is written as a conditional, it doesn't say it's then but it's if the board discovers that the recommendations not in the

review reflect the board consensus, then they can do this. Now the board is for better or for worse, stuck in the position of getting, you know, being as Alan said at one point, unless we reorganize everything, of being at the point at which GNSO recommendations and AC advise come together.

Now the GNSO is doing everything possible to invite the ACs to comment at the time of the issues report, to come at the time of the reviews, and so on and so forth. And it really does do quite a bit of work to try and get that. But I don't think we get to say because you didn't speak up sooner and you're speaking up now with an issue that we didn't cover adequately because the board thinks it's still an open issue, then what I'm really concerned about from an GNSO perspective is that those are the occasions when the board says we must do something and they do something.

And what I'm really trying to say is when that happens, you know, and perhaps we want to change the reflective order consensus based on advise to something mushier, but it really is a conditional that basically the GNSO and the ACs together have not managed to do their work properly so that the recommendation that comes not only is the SOs recommendation but deals with all the other issues that the ACs have been putting or could put on the table with regard to those recommendations.

So I actually think it's a strengthening of the GNSO, not a weakening and I think that is in the fact that it's a conditional so you're right, the conditional could be softened and it could be possibly only when they discover an issue that has not been taken into proper account and that was in the wording that I thought of. And then by including the last line that says and at the end of the day, no matter what, no matter what the GAC has said, ALAC or SSAC, at the end of the day, the final recommendation has to come from the GNSO, thanks.

Chuck Gomes: Thanks Avri, and just a request and this isn't directed at Avri, but a lot of us have been taking a lot of words to say what we need to say and we've got a

long ways to go in going through these comments, so while still feeling free to make your point, try and be as brief as possible. Alan, you're turn.

Alan Greenberg: Thank you very much. I put my hand up to point out what Avri did that it's - it says if in their view, so it gives them an out. I tend to agree a little bit with Greg that we should make it really clear that the board has the discretion to accept the GNSO recommendations and if this can be construed as not doing that, it might need to be modified. However in reading it carefully, I did realize that in the second line where it says consensus based on the advice, it should be including the advice. That - the advice that they get after the fact then is not the only thing they should be basing their conclusions on.

Chuck Gomes: Could you be a little more explicit on the change you're recommending there Alan?

Alan Greenberg: Yes, reflect a broader consensus including the advice.

Chuck Gomes: Anybody have a problem with that change if - just speak up right now or raise, put an X in the - a red X in the chat - or not in the chat in the.

((Crosstalk))

Alan Greenberg: Avri is the author, put a check box so.

Avri Doria: One thing - I think it's fine - this is Avri speaking.

Chuck Gomes: Go ahead.

Avri Doria: Except that then probably the or after community should be added. So it would be including the advice of the advisory community and the public comments.

Alan Greenberg: Yes, that's fine, sure.

Chuck Gomes: Okay good, alright, fine.

((Crosstalk))

Alan Greenberg: Now it still - it still might need some tweaking to make it clear that this is a decision point of the board and not, you know, doesn't mandate they must send it back but I'm passed my stage where I can word smith on line.

((Crosstalk))

Chuck Gomes: Okay, thanks Alan, if you do come up with some wording please give it to us later. (Tom).

(Tom):   I'd like to propose an amendment to the second sentence that starts with it will use existing process mechanisms to either send the issue back to the DSO for further consideration. Instead of saying or initiate broader community discussion, I would like to say to initiate broader community discussion. So replace the word or with to.

Chuck Gomes: Any problems with that? Okay thanks (Elmer) for the okay, alright that change can be made then. Anything else (Tom)?

(Tom):   No that was it, I just wanted to make sure that we were not by the board to initiate their own discussion as opposed to asking the GNSO to do it.

Chuck Gomes: Okay, thank you (Tom). (Ann), you're turn.

(Ann Aikman-Scalis): Yes thank you, Chuck. I just want to make a quick proposal regarding the word discovers, I think the word discovers is not necessarily too easy to make an exact determination of what's happening and I would propose that it's whenever the board determines, discover is about somebody first having the thought, but I think that what we're talking about here would require a board

determination we're saying in their view, here's what the board determines, but versus, you know, discovers is less definite.

Chuck Gomes: Looks like there's about five green check marks in there for that (Ann), thank you.

(Ann Aikman-Scalis): Thank you.

Chuck Gomes: You got that right Marika. Okay, Greg, your turn.

Greg Shatan: I think the changes that have been made and the change to including and the fact that I think this is really about a broader consensus and not about a single GAC, you know, making it known that they differ with the GNSO and the determination and the fact that the board has an out in their view. I think this is acceptable, I withdraw my concerns about it.

Chuck Gomes: Thank you Greg and great discussion everyone so and good edits, now I'm going to come back to my question of where are we going to put this, but before I do that, Marika, as an action item because there are members of our working group that aren't on this call, and because we're introducing a change to a principle that's been accepted for a long time, and a new recommendation, let's - if you would please or one of your team - send out once we finish this one and after this meeting of course - the fact that we - that the people on the call today agreed to - whatever we end up agreeing to here - which we're getting close to I think, and now is the time to speak up if you have any concerns or questions, okay? Is that alright?

Again, I think we need to at this stage of our process, we need to make sure that we at least give a very clear opportunity for anyone who's not on the call for example, to weigh in and let's ask them to weigh in on this within a week, just to put a timeframe on it so before our next meeting. Marika, go ahead.

Marika Koning: This is Marika, I think we still have the open question of where this should be placed in the document.

Chuck Gomes: I agree.

Marika Koning: And we may not need to, you know, discuss it now, maybe this is an item where, you know, as we make these updates and we agree to in the document maybe staff can have a look and make a suggestion on where it seems to fit and we can then discuss it at that time. Unless of course someone already has some specific ideas on where it will go.

Chuck Gomes: I'm hoping that Avri does, this is Chuck - Avri, go ahead.

Avri Doria: Well like I recommended, my original recommendation is that it related to community and so we had a section that says GNSO and then community. And then the second thought was maybe it had to be a separate, you know, board but I think its fine in community.

Chuck Gomes: Okay, now I didn't follow what you're saying, are you answering the question about where this should go?

Avri Doria: Yes.

Chuck Gomes: Okay.

Avri Doria: Right, yes, if you look at the report at the moment, and it basically has things that are the GNSO - related to GNSO and then related to community.

Chuck Gomes: Yes.

Avri Doria: I think - I don't have it in front of me at the moment, but I did when I was reading it so I was saying it went under related to community.

Chuck Gomes: Okay, thank you, that's very helpful. And Marika, we don't need to take care
                 of it right now like you said, but if you could go ahead and let's do a red line of
                 that portion of the report maybe to show where it fits for those that aren't on
                 the call so they understand it. Anybody disagree with that placement?

                 Okay, is there anything else we need to talk about on this? Okay, this again -
                 this is Chuck speaking so thank you Avri and Cheryl for the work you did on
                 this, thank you everyone on this call for the good contributions and let's now
                 pick up where we left off last week and that is on 5.4 in the public comments
                 and we have a good representation of groups on the call and hopefully that
                 will be useful today like it was last week.

                 So yes, (Ann) go ahead.

(Ann Aikman-Scalis): Yes, thank you Chuck, I'm sorry I had a little housekeeping with respect
                 to 5.3, where we finished off with the IPC comment about early GAC
                 consultation with respect to all three processes, and I had volunteered to
                 seek input from my group and come back to how that might be - how that
                 might change our initial report.

                 So I'm posting in chats a very specific recommendation, you know, Marika
                 had pointed out earlier for example, if you look at page 46 of the initial report
                 we talk about the GIP team is encouraged to solicit input from each
                 stakeholder group and constituency in the early stages of the GIP, and
                 somewhere in there we are suggesting that - and I don't know if it's going to
                 be team leaders or chairs or whatever, but we would add a sentence in each
                 of the three processes in this regard it is recommended that the GIP team
                 leader or chair consult with the GNSO council GAC liaison regarding the best
                 way to achieve early GAC participation or consultation with respect to the
                 issues under consideration.

                 So the point being just recognizing there is a FAC liaison and trying to, you
                 know, facilitate if needed, a consultation or participation specifically with the

GAC because of the difficulties everyone has experienced in sorting out issues where the GAC comes late or there's a conflict with the GAC.

Chuck Gomes: Thanks (Ann), and my understanding - this is Chuck - am I understanding correctly that that would be inserted in each one of the processes?

(Ann Aikman-Scalis): Yes indeed.

Chuck Gomes: Okay, that's what I thought I heard and I want to make sure I confirm that. I would just suggest one edit to that if people are supportive of that, and that is that we might say GAC liaison or - I'm not sure what - or what but we don't know that there will always be a GAC liaison, okay? The GAC has changed on things like that over the years, so we might want to just be a little more flexible there, GAC liaison or similar contact or something in that regard. Does that make sense (Ann)?

(Ann Aikman-Scalis): I think it does, it's (Ann) again, in terms of if you think that the GAC liaison is going to go away.

Chuck Gomes: I don't know, but those kind of things have fluctuated over the years with the GAC.

(Ann Aikman-Scalis): Sure.

Chuck Gomes: Go ahead (Ann).

(Ann Aikman-Scalis): No, I think that more flexible language is better, thank you.

Chuck Gomes: Okay, thank you. Marika, did you want to jump in on that?

Marika Koning: Yes, this is Marika, I did want to point out that actually the GNSO liaison to the GAC is currently a pilot project and that we expect will continue next year as a pilot, but it has not been confirmed yet that it will be a permanent

feature, so I think it's a good suggestion that Chuck made and what I've done to the language is it will be something that the GNSO GAC liaison or equivalent and I guess making the assumption that there will be some kind of point of contact and that may be the secretariat or, you know, through the chairs but that may address it in those cases if the liaison no longer exists and we don't need to update this line to reflect that necessarily.

Chuck Gomes: Thanks, and you can see the green check marks there as well. Thanks Marika, Alan, you're turn.

Alan Greenberg: Yes, first just to be argumentative, I'm not sure the GNSO counsel GAC liaison is the right words, I think it's the GNSO counsel liaison to the GAC - the way it's worded now it sounds like it's the GAC liaison to the GNSO counsel, which.

Chuck Gomes: Yes, that's a good point.

((Crosstalk))

Alan Greenberg: Which is a position that doesn't technically exist anymore.

Chuck Gomes: Yes, let's make that change, I think.

Alan Greenberg: Okay, however, do we really need to be that specific, number one, and number two, is there a reason to focus on the GAC as opposed to its advisory committees?

Chuck Gomes: Well, let me respond first and then (Ann) may want to jump back in, this is Chuck, it seems to me that the IPC was addressing the fact that there is a new process to try and get GAC early involvement and so there's a specific reason and they were trying to tie that into these processes, so - at least in my first thought about this - it seems like it is tied to the GAC in this case.

Obviously we would support similar things with other advisory committees, but like for example, in the ALAC, we haven't had the same difficulty of getting early involvement like we have with the GAC. So I think we're addressing a particular issue that certainly is live right now on that. So Alan, did you want to say more on that?

Alan Greenberg: No, no I'll accept that the - we should be careful that we have - okay, I see Marika's changes now so, fine.

Chuck Gomes: Okay, you got - okay, good. (Ann), did you want to say more?

(Ann Aikman-Scalis): No, thanks, that is absolutely the point is to try to get, you know, more efficient functioning by trying to draw the GAC in so that they don't delay, thank you.

Chuck Gomes: Okay, thanks all and let's go to 5.4 and thank you for bringing that up (Ann), I appreciate that. On 5.4, it's an NCSG comment and I think we have more than one person on the call that could speak to that. Do one of you want to volunteer to talk to that comment? Comment 5.4. (Elmer), go ahead.

(Elmer Alstair): Thanks Chuck, this is (Elmer), yes, it - the NCSG had a pretty lengthy response I think to this question, this question is pertaining to how agreeable the respondent to the survey found the three new processes being suggested. What the NCSG did was that we thought that the suggestions for the GNSO end process were fine, but we do have some reservations regarding the two other processes.

The first one, which is common to both, is the voting threshold required by the GNSO counsel to initiate the processes - or to approve the initiation of them. And this is something that I think we discussed for just a couple of minutes on the last call of 2014 and the concern that I raised at that time was how do we ensure that these processes don't trump a traditional PDP?

If there are a number of counselors - even a minority of GNSO counselors who feel that a more exhaustive PDP is required to answer a specific question, then we should ensure that this is possible as opposed to having a low threshold of approving the initiation of a GGPO or an EPDP.

So this is the first concern.

Chuck Gomes: And (Elmer), let me stop you there just because I think it would be good if we focus on that specifically - it's a good point in my opinion, this is Chuck speaking, the - and I don't think any of us want that to happen. So if you had a - I think if I'm hearing you correctly and I'm going to ask you to respond to this - your concerned that if we have a lower threshold for one of these new processes that that could trump a PDP for example, that has a higher threshold - did I understand that correctly?

(Elmer Alstair): Yes, Chuck, this is (Elmer), you did understand that correctly. So I think what we need to do here - yes - I think what we do need to do here is make sure that that threshold is high enough so that a minority of counselors can vote against it in favor of perhaps launching a more traditional or exhaustive PDP.

Chuck Gomes: Okay, Marika wants to jump in, go ahead Marika.

Marika Koning: Yes, this is Marika, I'm wondering if this goes to the broader point that may need to be reemphasized, you know, somewhere in the report that there's a kind of hierarchy in processes, because I don't think we either want a situation where all, you know, the same subject we have, you know, a PDP, A GGP, and, you know, an EPDP going at the same time.

Because of course in theory, you could have super majority voting to initiate a GGP while, you know, for initiating a PDP it's a relatively lower voting threshold so that may happen as well so I don't know if there's a way or - and I don't know how, you know, if that's automatically being dealt with and there's an understanding of the hierarchy process or whether we indeed need

to spell out that, you know, if there's agreement to initiate a PDP on a topic that automatically excludes it, you know, from the GGP or an EPDP until that process is completed or something along those lines so you don't have a situation indeed whereby a process that's being - I think of our higher significance and all this broad implication trumped by one that's maybe seen by some as having less force or possible significance in having those even run at the same time in parallel or at least I think that's what I'm understanding (Elmer)'s comments to, you know, direct towards, if I misunderstood I'll stand happily corrected.

Chuck Gomes: (Elmer), do you want to respond directly to that? Go ahead.

(Elmer Alstair): Yes thanks Chuck, this is (Elmer), I'll try to have a go at that and also to clarify some of the reasoning using a scenario for example on why we may have this concern. Let's say an issue comes up and the counsel puts forward a motion to initiate an EPDP, what I'm looking for here is a mechanism in the process to allow for a minority of counselors to for example, object to that because they feel a scoping phase is necessary for this issue.

So the way that the - I mean, the voting threshold for initiating an EPDP, if it's low enough - if it's too low then this minority of counselors will not have the opportunity to successfully vote against the motion and for example, approve a - have the opportunity to approve a PDP, so it's more of a - depends on what comes first, I mean, there could be a discussion on the counsel regarding what the motion should be and normally that's what I think may take place and usually does. But in the event that a motion is actually submitted suggesting the initiation of an EPDP, then there needs to be a guarantee that this minority of counselors have the opportunity to successfully vote against this initiation. Does that help at all?

Chuck Gomes: Well (Elmer), let me raise a couple of issues and Alan, I'm coming to you, okay? But one of the problems and we dealt with this when we originally set up thresholds for the initiating a PDP and so forth, and quite a few people in

this group probably remember that - if you set the threshold too high then it makes it really easy - too easy - for a group, a minority to block it. So there's conflicting issues there, but let me go to Alan and then I want to come back and ask a couple of other questions that I think are pertinent to one of the points you made in the first part of your discussion of the comments. Go ahead Alan.

Alan Greenberg: Thank you very much, unless it makes sense in some instances to have multiple parallel processes on the same exact issue, or an overlap of issues, and I don't think it does but I may be missing something. Then it's reasonable for us to make a recommendation that there only be one on the same subject and should there be motions to initiate different ones, counsel must decide, you know, through normal majority voting, which to do before it can proceed with initiation of any of them.

Chuck Gomes: That's a good point Alan.

Alan Greenberg: Does that address it?

Chuck Gomes: Yes, it may but I'll let (Elmer) respond to that, but let me ask two questions and also make a comment about the way the counsel functions. And it's kind of tied into what I think Alan just said and that is first of all, you said - if I understood your comments correctly (Elmer), that the concern was one of the new processes - you weren't talking about the GIP, I understand that, in other words, either the GGP or the GIP trumping a full PDP. While I think I agree with Alan that we probably should not have two processes - we definitely should not have two processes on the same subject of PDP and a GGP at the same time that probably shouldn't happen, but understand that a GGP can't - I don't think it can really trump a PDP because the results are different.

Now the counsel's going to have to make a decision like Alan said, which one do you use, but if you want consensus policies that are imposed on contracted parties, you have to use a PDP or an EPDP, a GGP won't address

that. So I'm not sure it's a full trump but at the same time your points are well taken that we don't want these to be easy ways of avoiding the longer work.

Secondly with - and the same thing - with an EPDP, I guess it could really trump but it would have to meet very strict criteria to even qualify and not use the full PDP. So I'm not seeing as much concern about those two processes trumping a full PDP, and then my last comment before I go to Marika is this, and I think this is kind of what Alan was getting at, the council is going to look at these things and they need - they're the manager of the process and they should be examining these issues to see if it comes down to should we do a GGP or a PDP or does more research need to be done, I'm confident that the counsel as the manager of the process will discuss those before they even get to a vote and hopefully people will put forward good rationale for their positions so that the best decision is made.

And I'll stop there and I think Marika was next and then Alan again.

Marika Koning: Yes, this is Marika, just a note that I think I really like Alan's suggestion here to specify that would need to be worked out because, you know, I think hearing you refer to the possible scenarios, you know, I couldn't imagine a scenario on a certain topic where any contracted parties may not, you know, want or, you know, feel inclined to have the obligations or something and then defer a, you know, GGP that would provide more guidance on a topic while other parties may actually feel strongly that it should have, you know, there should be new contractual requirements on that.

So again there, I think on the hierarchy of things there may need to be some kind of decision saying indeed if, you know, and I don't know if we need to go that far or whether that's, you know, if that indeed happens we'll need to deal with it but indeed in that scenario where, you know, there are opposite views as well as interest involved in then how to deal with the issue and, you know, rather indeed a PDP would - if the vote inspection is met for a PDP whether

that then would automatically trump the kind of I think, the lesser process and that would create contractual obligations.

But again, maybe it's something as well I can check back with, you know, with some of my legal colleagues on how that needs to be dealt with if at all or whether that's an automatic hierarchy that may follow and but it is of course a potential scenario that could occur where there are two opposing views or ideas on how something should be dealt with and then what in that case how do you, you know, resolve that.

Chuck Gomes: And I think that's a counsel management job right there, but let's go to Alan.

Alan Greenberg: Thank you very much, it strikes me that you certainly don't - although you - Chuck you're right - counsel manages this process but you wouldn't want the decision to be made under what should be done based on who put the motion in first or even worse, who orders the council agenda and which motion gets voted on first.

Chuck Gomes: Right.

Alan Greenberg: So you do need a process by which to do it, it strikes me that maybe you don't want to decide which to do, maybe you have to order the motions for the more stringent one first. I haven't thought this through and it really does require a bit of thinking because the thresholds are quite low for approving these kind of things. But, you know.

((Crosstalk))

Chuck Gomes: Yes, go ahead.

Alan Greenberg: If you decide which way to order them I'm not 100% sure which way it should be, you know, if one gets approved then the other one just disappears.

Chuck Gomes: Yes and keep in mind that we're going to come to the threshold specifically later in the comments, so we don't need to actually settle the threshold issue right now, we're going to get to those indirectly in the public comments because we asked questions about those.

Alan Greenberg: Yes, no, no - I understand that Chuck but the subtle difference is you can approve with a lower threshold then you need to still prove a standard motion. So if you have a standard motion to decide among the two, that's a 50% plus 1 threshold, unless we take specific action to make it something else.

Chuck Gomes: Right.

Alan Greenberg: Whereas if you order them and then see which one - see if the first one gets approved, that's a lower threshold. It may actually require playing through a number of scenarios and seeing which one - because Marika's right, you don't want to be in a situation where a small number of people, i.e., the contracted parties ensure that this - that we do not go through a process which will create consensus policy.

Chuck Gomes: Right, no I agree with that, yes.

Alan Greenberg: So that's something we do have to guard against, thank you.

Chuck Gomes: Thank you Alan, (Elmer), go ahead.

(Elmer Alstair): Thanks Chuck, and thanks Alan for those last few comments, I agree completely. I would like to add thought that it's not just the matter of creating consensus policy, there is also the possibility of relieving contracted parties from consensus policy that has already been created and that may be something that a minority of counselors may feel, for example a GGP is appropriate for, so for example, what happened last year with the specification 13 of the registry agreement, this was something that I personally as a GSO counsel thought that should go through a process

where previously approved consensus policy was being reopened and discussed to sort of explore whether a contracted party should be excused from certain commitments that they have in their contracts.

But the GNSO counsel sort of approached that from the perspective of okay, there is no new policy being developed although there was existing policy that was developed, so that's one scenario where I think it may be necessary to make sure that a PDP may be required, that's just an example. I'm trying to go back to some of the earlier comments as well and Chuck, you raised the issue of making, initiating these processes too difficult and perhaps setting them up so that they can be blocked by a small minority of counselors.

And this was something that at least I considered when helping to draft these comments and that really isn't the approach that I took, to be honest, I wasn't really looking at trying to avoid counselors from blocking and making it easy for counselors to block these new processes, the way I looked at it was that these processes are actually unique new tools at the GNSO's disposal and the GNSO should want to use them because it helps make the - makes the work of the GNSO a lot easier. But they should only be used when appropriate and the specifics of when it is appropriate to use these processes are very clearly spelled out in the pre-requisites for each one of them.

However, it is the counsel's subjective decision on when these pre-requisites actually are applied and that would be enforced using a council vote. So that's why I think the voting thresholds and the pre-requisites of using each one of these processes may be closely linked and need to be considered together, thanks.

Chuck Gomes: Thank you (Elmer), good points. Avri.

Avri Doria: Thanks, Avri speaking, and in this case I have to sort of apologize to my NCISG brethren because this is a point I've always remained somewhat confused on, and I think that (Elmer) touched it, in my reading of all of these

methods, they were pretty much exclusionary in the fact that when one was appropriate, the other ones weren't and so I guess I always had that assumption that they don't overlap, that they are separate methods and separate problems.

So I was never quite as disturbed by, you know, that one had a lower threshold than the other so I guess I just want to mark myself as confused. Now the bit that (Elmer) just said which is yes, perhaps they are exclusion - one excludes the other - but that doesn't mean anything because subjectively we may go a different way.

I suppose that's possible but if we keep making rules for the things that we might subjectively do I think we - part of what's bothering me now is I think we're adding complexity on complexity and it's starting - it's hitting my complexity alarms. It worries me that, you know, we're having vote to decide what kind of vote we're going to take and those things always worry me a little, thanks.

Chuck Gomes: Thanks Avri, and that's - I think that's kind of where I was coming from when I said we - the counsel as the policy management body, I think we've got to get - trust them to do a reasonable job at this without bogging them down with every little detail of what happens. Now a question for (Elmer), am I correct in this part of the NCSG comments that we need to deal with those when we talk about the thresholds or is there something we need to do beyond just the threshold issue?

(Elmer Alstair):   This is (Elmer), well part of the response to this question is regarding the threshold issue, there are other parts of the comments that move on to other.

Chuck Gomes: Right, no we're going to get to that (Elmer).

((Crosstalk))

(Elmer Alstair):   Yes, okay but.

((Crosstalk))

(Elmer Alstair):   Specifically.

Chuck Gomes: On this part specifically is it a threshold issue?

(Elmer Alstair):   Yes, yes it is.

Chuck Gomes: Okay good.

(Elmer Alstair):   At least I believe that this could be handled by raising the voting threshold to initiation of one of these processes, thanks.

((Crosstalk))

Chuck Gomes: Yes, I just - this is Chuck again - I just wanted to confirm that and so we need to - and maybe that's what we put in the recommended action - we need to with regard to this part of the comments, we need to - we need to, you know, revise this discussion, not repeat it, but at least recall it, maybe recall is a better word - to when we get to the threshold issues so that we take what we've talked about and then deal with it with regard to the thresholds that are in the recommendations right now.

So let me now turn it to - back to.

((Crosstalk))

(Elmer Alstair):   Chuck if I man?

Chuck Gomes: You may.

(Elmer Alstair):   Chuck if I can just come back to that real quick, if I recall correctly, and I probably need to take another look, the threshold issues further down in the questionnaire don't specifically address the thresholds used to initiate the processes, they are questions on thresholds of approving recommendations.

((Crosstalk))

(Elmer Alstair):   So these are two different sets of.

((Crosstalk))

Chuck Gomes: ...well taken and I haven't looked ahead.

(Elmer Alstair):   Yes, the two different sets of thresholds, yes.

Chuck Gomes: So Marika's - so our - none of our questions dealt with the thresholds to initiate, is that correct? Do you recall right off the top of your head?

Marika Koning: This is Marika, I know that we had specific questions on thresholds but I don't think it's considered all the thresholds, I think only the ones where, you know, we'd have some questions or comments around in our discussions. So I think that (Elmer) is probably right, they are not specific it doesn't come back later.

Chuck Gomes: So I can't really defer this one then and that makes sense. Thanks (Elmer) for pointing that out. The - so I guess, I mean, our thresholds right now - Marika, can you refresh all of us, especially me? What the thresholds are for initiating each of the three processes? Or I guess you're just mainly concerned about the GGP and the EPDP, correct (Elmer)?

(Elmer Alstair):   Yes, that is correct.

Chuck Gomes: Okay, so what is the threshold for initiating a GGP?

Marika Koning: This is Marika, I probably have to refresh my mind or at least confirm but if I
                    recall well, I think we suggested that it should be the same as a PDP, so it's
                    relatively low. So I mean, if I may respond to (Elmer)'s - I understand why his
                    concerns come from but maybe if they may be addressed by this notion that,
                    you know, if there are views that it should be dealt with in a different way,
                    then that should be the result first by the counsel because one of the risks is
                    by putting the thresholds so, you know, so high and that as well is one of the
                    reasons why for example a PDP is only contractual and is low and it will
                    allow, you know, people to work on the issue if they believe it's important
                    even if certain people may not have an interest in doing so.

                    So I think that's the balance in regards to this contractual, if you make it a
                    super majority vote it means that even if, you know, some people feel the
                    issue is really, really important and should be, you know, addressed they're
                    not able to because of the high voting threshold. At the end of the day the
                    accommodations do need to be adopted by a super majority so you do still
                    have that, you know, at the end of the process you will need everyone on
                    board to actually, you know, adopt the recommendations but by putting the
                    thresholds high you're basically preventing people from working on it that
                    may feel very strongly that it needs to be addressed.

                    Although at the same time, I do understand as well, you know, the length
                    with, you know, if another process is being more appropriate, you know, how
                    do you address that but I said maybe, you know, Alan's suggestion of making
                    it clear in the report that if they're a different view on which process is the
                    most appropriate one, that needs to be sorted first before it even gets to a
                    vote may address that concern.

                    But I don't know if that's from your perspective.

Chuck Gomes: So (Elmer), this is Chuck, am I understanding correctly that the NCSG thinks
                    the threshold for initiating a GGP should be higher than what it is to initiate a
                    PDP? And I see that (Elmer)'s audio keeps dropping so - and he's not able to

hear as well - so all we need is technical difficulties because this is a very good discussion and an important one. Can we get a dialogue?

((Crosstalk))

Chuck Gomes: Okay, you're okay right now. You still want to dial out (Elmer)? Let's go ahead and give him a dial out, okay? Terri, do we have the dial out information for (Elmer)?

Terri Agnew: I'm - this is Terri - I'll work with him on it.

Chuck Gomes: Thank you very much, appreciate it. Okay, Greg go ahead while we're trying to resolve this.

Greg Shatan: Thanks, my screen is freezing so I can't see that my hand is up. But in any case, I guess I'm concerned about this suggestion on number of levels and I think the idea of somehow making it harder to initiate a GDP or an EPDP than it would be initiate a PDP, seems counter intuitive to me and I think that one of the concerns I have is that if you do that you kind of make it possible for issues which should be dealt with more quickly and nimbly to essentially be sent to PDP hell. And that, you know, some have joked over the years that, you know, one of the best ways to, you know, get rid of an issue is to initiate a PDP on it.

I think we've done better over the years in actually having PDPs come to resolution and I think this group is a good example of it. But it sometimes seems that you can - you make an issue almost go away by putting it into a PDP and so if the idea is to use it to side track an issue, I'm just concerned that this, you know, leaves the opportunity for gaming out there and I think it also blurs the idea that these were each intended to be fit for purpose.

And that really, you know, should be the gating factor is whether this actually meets the criteria that each of them is supposed to meet and not whether,

you know, there can be some sort of blocking function that exists for one type of process and not for another.

Chuck Gomes: Thank you Greg, and Alan, I'm going to call on you next but I want you to come up with as good a term as Greg did if you can please.

((Crosstalk))

Alan Greenberg: I can't top that one, I like the expression anything to PDP hell.

((Crosstalk))

Alan Greenberg: That has great meaning to me.

((Crosstalk))

Alan Greenberg: I think Greg just made the definitive advice or definitive comment, you really don't want to be in a position where people block the short processes to get long ones, you don't want people to be able to block the something being discussed and discussed effectively. So I think if and when you had multiple processes competing with each other and if they overlap that may be a difficult judgment call of how to fix that but if they compete directly with each other, you have to resolve that and pick one but you don't want to make it hard to initiate these things otherwise you're essentially using that vote as veto for the policy and it might come out of it, thank you.

Chuck Gomes: Thanks Alan, and thanks Greg for the comments. I wonder if this is - that our - maybe our response to this one should be to make a recommendation that leadership of the GNSO counsel is encouraged to manage the use of these processes in ways that minimize the chances of the kind of things that the NCSG is suggesting. Because I think they're important things that they're raising, I'm not sure we can solve them by voting thresholds because of some points made by others and hopefully all of you saw (Michael)'s comments in

the chat as well which were very good. If you haven't you might want to scroll back up and look at those.

And does that kind of approach to this - I definitely think we need to respond to the NCSG's comments and even by adding something in our report along the line that I just suggested so that we don't just drop it, okay? Does that work as a solution (Elmer) from your point of view and from the NCSG's?

(Elmer Alstair): Hi Chuck, this is (Elmer), I just dialed in and I'm sorry, I didn't hear anything that was being said since Marika started.

((Crosstalk))

Chuck Gomes: Sure, what I suggested was I think some good points have been made and you can scroll back up in the chat and see some there as well as points that people have made verbally, like Greg and Alan, the - it seems to me that by lowering the threshold - or excuse me - making the threshold higher, that creates some new problems.

So my suggestion was is that in our report along maybe as - before any of these specific recommendations are made or wherever the appropriate place is in the report, that it is recommended that GNSO counsel leadership in its management of policy role, remain conscious of the issues that the NCSG raises and manages the process towards a - the most productive outcome possible and my - it can be worded a lot better than I did.

But the point is to - I said (Elmer) that I don't think we should just let the NCSG comment on this alone and say well, we decided not to make any change, I think we thought to recommend that the kind of conflicts and issues that - and name them from the NCSG comments - be kept in mind when managing the overall process to an outcome that is hopefully the most productive for the public interest and the community as a whole. Is that - did that make any sense (Elmer)?

(Elmer Alstair):   Thanks Chuck, this is (Elmer), I think it makes a lot of sense, unfortunately I don't feel that it really addresses the problem and like I said, this may just come down to subjectivity of views of counselors on a certain topic.

So for example, in the example I gave was on specification 13 and using that example, the GNSO council decided that there was no new policy issues so there was no need to go through a lengthy process and just sort of address - give our recommendations directly to the ICANN board. Personally, I thought that there was an issue because although no new obligations were being created for contracted parties at the time, I think that there were existing obligations that the ICANN board was allowing certain contracted parties to sort of not have to adhere to.

Now from a substantive perspective, I was very sympathetic to what was being proposed and I would have been happy to endorse the recommendation but from a process perspective, I guess the way that some might have viewed it as the end justifies the means and I personally don't feel that is something that we should be codifying in new processes for the GNSO, thanks.

Chuck Gomes: So if I - this is Chuck again - and I'm coming to you next Marika, but if - am I understanding you to say that you think the only way to solve the problem is to raise the threshold? Or initiate the process.

(Elmer Alstair):   This is (Elmer) again, I don't know if it's the only way or not, it's the only way that I can see right now, I think the suggestion that you made would be really great if things were ideally run and there was less subjectivity and more objectivity to how that would be managed in the future by the GNSO counsel, but I'm not sure I see how that could be done, thanks.

Greg Shatan: This is Greg, can I get in the queue please?

Chuck Gomes: Yes, just a second Greg, Marika's in there and Alan and then you, okay? Go ahead Marika.

Marika Koning: Yes, this is Marika and speaking the case of, you know, spec 30 and I think it's probably, you know, specific scenario as well where if these kind of processes would have been in place the counsel would have had additional options to, you know, deal with an issue and the PDP which many consider and might see as taking a lot of time and may not have been responsive in the way that - that a different parties were looking for at that point in time.

But I just wanted to reemphasize as well something that, you know, that I said before as well, because I think the high voting threshold at the start of the process I think is seen by many as a way of, you know, even blocking having the conversation on the topic. And I think the whole idea is I think, you know, in the PDP and as well as in these other processes that they should always be an opportunity for, you know, the community to get together and, you know, work on potential recommendations to address an issue. I think the safety valve is that, you know, before these recommendations actually go up to the board they need to be adopted by a super majority vote.

So I think you do have there that, you know, safety valve in place. Even if those, you know, that at the start of the process didn't agree that it was either an issue that needed to be addressed or it wasn't the right process or, you know, feel that it really shouldn't be dealt with in such a way, the vote at the end of the day is where I think they can so express that and it's indeed, you know, you really need to have a super majority of the counsel on board with the eventual recommendations before they actually move up.

So I think that's a little bit of the way and it follows in that sense similar ways of the PDP, you know, you only need very few people to actually start it all but in order to actually get to, you know, recommendations that would create contractual obligations, you do have - you need to have almost everyone on

board before it moves up to the next level. So I think that's a little bit of the thinking behind it.

Chuck Gomes: Thanks Marika, good points. Alan and then Greg's next.

Alan Greenberg: Yes, a couple of things, first of all as Chuck pointed out and I pointed out, at some level you can't have rules for everything and when you elect a chair, you're electing a chair to cover the cases that are not covered in the rules. Otherwise it could be a computer running the meeting and - but in fact you want someone you trust because there will be cases which are not covered by rules.

And that I think is a fact of life, the GNSO has gone through periods where the chair should have, you know, it was deemed the chair should have no discretion whatsoever and I think that ends up in a ridiculous situation sometimes. So that's point number one, the second thing is - almost afraid I've lost my train of thought - but you don't want to be in a situation as Marika said where discussions are blocked. And you're in danger of doing that as soon as you start raising thresholds. It would be interesting to see overall how many PDPs have there been proposed that were not approved or for that matter, how may PDPs had recommendations which counsel didn't support.

A lot of these things are almost for the visual optics of it and the decisions get made the way the council wants to vote and the exact numbers don't really - don't typically count, thank you.

Chuck Gomes: Thanks Alan, Greg, you're up.

Greg Shatan: Yes, maybe nothing that hasn't already been said before but I think that it seems like an ability to use kind of procedure to block substance, now that's something we, you know, try to avoid. Procedure to get out of the way of substance, as much as possible. And trying to create a system where, you know, things can get bumped to PDP not because the PDP is the right thing

for them but because somehow it's easier to initiate a PDP, you know, this doesn't seem right to me and I think the issue of spec 13 to me gets back - it has - it gets back to some of the fundamental issues that started this working group off in the first place which is what is policy and what is implementation?

And whether a change in the registry agreement is a policy change, and a change in contents is policy or not and also gets the issue of, you know, voting and the sense that if enough people thought that spec 13 was a policy problem and a change in consensus policy, and then it would have - the vote would have been different. So to some extent there seems to be, it's not really an attempt to re-litigate the issue because the issue is done but to try to, you know, avoid the situation that where, you know, something just didn't come out the way a particular group wished that it had.

And the problem with trying to do that is that the next time around you may be on the other side of the issue and then, you know, you wished that you hadn't put in the rule that's in place that you just did because now all of a sudden you're hoist by your own petard so I think rules that are kind of as fair as possible and get the substance are always better.

(Ann Aikman-Scalis): Chuck, it's (Ann), if I could jump in really quickly here. I got kicked out of Adobe.

Chuck Gomes: Go ahead.

Man: Me too.

Chuck Gomes: Go ahead (Ann).

(Ann Aikman-Scalis): I'm sorry - I can't even get back on to my server, no server available, I wanted to suggest a possible approach, I think Marika's point is well taken that anything that came out of a GGP or a GIP if there were recommendations that they would have to be by a super majority is where we

are on that but I wanted to suggest that a possible outcome of a GGP is that the team determines that contractual obligations are either potentially added or decreased in the registry agreement and that this group could consider, you know, with respect to (Elmer)'s expressed concerns that if a GGP that's gone forward as a result of a simple majority vote determines that there are, you know, contractual obligations that are either additionally imposed or even, you know, decreased that those should be referred to an EPDP or a PDP. And would the group be willing to consider that in order to address (Elmer)'s concerns?

Chuck Gomes: Good point (Ann), this is Chuck, and of course a GGP could even recommend that a PDP be considered or an EDP, PDP - EPDP if it meets the strict criteria so that's - Alan is that an old hand?

Alan Greenberg: No, that's a new hand.

Chuck Gomes: Go ahead.

Alan Greenberg: Three things quickly, number one as you pointed out, the spec 13 issue came before counsel and we didn't have these processes, that's part of the reason we're going through this. So presumably we will be on better grounds if that kind of thing came up again. Number two, the spec 13 issue did not alter existing contracts, it was not a capital C capital P kind of consensus process, it was altering what would be allowed to be put into new contracts. And that's quite different. And indeed it was something, the whole spec 13 only came out of the whole implementation of the new GTLD process.

So it was not altering contracts. And lastly, a PDP by definition has to be applicable to all registries and widely applicable - not 100% clear that spec 13 issue would have fallen - would have made that cut even if it was altering, you know, even if it was altering existing contracts or would have if it had succeeded so on a whole bunch of grounds, the spec 13 is an interesting

example, but it doesn't really apply to - much to the discussion we're having right here, thank you.

Chuck Gomes: Thanks Alan, (Elmer), you're turn. And we're getting notice that we're at the 90 minute mark, very close so.

(Elmer Alstair):   Yes, thanks Chuck, this is (Elmer), first I thought that (Ann)'s approach was kind of a novel - I'd be very interested in exploring that further. Maybe we could do that on list or next week, on next week's call. But I also wanted to highlight that I disagree with what Alan just said and I certainly think that I might have led Greg to misunderstand my earlier points, it's not an issue of whether a certain actor likes or dislikes a certain policy, it's more about the GNSO counsel's role in managing the process.

So when I used that example I was very cognizant of the fact that from a substantive policy perspective, I'm very much in favor of spec 13 as a policy, but as a GNSO counselor who's responsible for managing the process, I did believe that a process should have been undertaken to address the situation which brings me to my disagreement with Alan, I think the spec 13 did relieve contracted parties from obligations in their contracts, so.

And if I recall correctly those were specific to the code of conduct in the registry agreement as well as some other parts and other specifications but there was part of the contracts that was - that certain registries were being - were allowed to sort of not fulfill some of the obligations so this is where I'm coming from, from a process management perspective. I think that something needs to be done here but like I said, I think (Ann)'s suggestion is interesting, thanks.

Chuck Gomes: Thank you (Elmer), and Marika, could I - I'm going to ask you do - so let me ask that and then you can respond to that as well as what you wanted to comment on, but for - if you could put some bracketed text in the recommendation column, not right now, but after this call that includes two

things, number one assuming there's no objections to the type of recommendation - it's not a formal recommendation but encouraging the counsel leadership to take these things under consideration like I suggested, okay?

And also some language to the effect of what (Ann) recommended, again this will be bracketed so that when we come back next time we can - we can tweak it or agree on that text and now I'll turn it to you Marika.

Marika Koning: Yes, this is Marika, I actually posted in the chat and I wanted to point out that the initial report specifically states that one of the possible outcomes of a GGP can be recommendations on future guidance or policy development process activities.

So at least from my perspective I think that's already something that is completely foreseen as, you know, it is possible to go into the GGP even though, you know, in the outset people believe there's no desire there or need to change or require new contractual obligation. It may be through the process that if it comes clear that it, you know, what is needed and as such a recommendation could be that a PDP or an EPDP should be initiated. So I think that's already something that is specifically as part of the current process.

Chuck Gomes: So that's a good way to word it in the inter response here so that's very good. Now we're out of time, we're probably a little bit over time right now on our 90 minutes. We didn't even get through one new thing and (Elmer), we're going to need you to pick up where you left off on the NCSG comments here. I'm hoping that as we move forward a lot of these comments - because some of them - a lot of them are similar as you go forward in the comments that we won't have to spend as much time on them.

Now in terms of our schedule, we had targeted finishing reviewing the public comments today. Obviously we didn't succeed, but I think we - Marika and I

and Olevie talked about this in the chair's prep call before this call and we think that we're okay, you know, going a couple more weeks on the comments and still getting out a final report by the first part of May when we need to get it to the counsel. So - but if we go at the pace we're going at today, we won't be able to do that.

Now it's better to get it right than to rush and meet our goal of presenting something to the counsel in Buenos Aires so I fully believe that, at the same time I would still like us to try and keep moving forward and if at possible, without compromising, because this discussion we're having is really important, okay? Without - we don't want to compromise on our report, we want to make sure that we're - we have strong agreement if not full consensus in what we put forward so I think we probably better - we scheduled 90 minutes we've gone over that by about almost five minutes already.

I think that we will have to pick up here next time, certainly do some, you know, any discussion on the list on this would be helpful next week in our meeting we're going to need to make a decision on this issue, okay? In terms of what we do and then go through the rest of the NCSG comments and then of course continue with comments after that. Any questions or comments or anything else we need to take care of on this call? Okay, again, very healthy discussion and thanks to all of you for contributing to that, we will meet again next week.

Meeting adjourned.

END