# Policy & Implementation Working Group Meeting
## TRANSCRIPTION
## Wednesday 25 September 2013 at 2000 UTC

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 25September 2013 at 2000 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-20130925-en.mp3

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

(transcripts and recordings are found on the calendar page)

Attendees:
Holly Raiche – ALAC
Greg Shatan – IPC
Anne Aikman Scalese - IPC
Wolf Knoben - ISPCP
Chuck Gomes – RySG
Philip Marano – IPC (for Brian Winterfeldt)
Michael Graham – IPC
Olevie Kouami – NPOC
Amr Elsadr - NCUC
Tim Ruiz – RrSG
Tom Barrett – RrSG
James Bladel – RrSG
Cheryl Langdon-Orr – ALAC
Aparna Sridhar – BC
Maureen Cubberley – Individual
Avri Doria – NCSG
Alan Greenberg – ALAC
Gideon Rop – Individual
Klaus Stoll – NPOC
J.Scott Evans – BC
Eric Brunner-Williams –
Marie-Laure Lemineur – NPOC
David Cake - NCUC


Apology:
Nic Steinbach – RrSG
Kiran Malancharuvil – IPC
Kristine Rosette – IPC
Olga Cavalli - GAC
Krista Papac

ICANN staff:
Marika Konings
Lars Hoffman
Glen de St Gery
Nathalie Peregrine

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| Nathalie Peregrine: | Vince, would you please start the recording (inaudible). Thank you ever so much. |
| Operator: | Ma'am, the recordings are connected and the conference is now being recorded. |
| Nathalie Peregrine: | Thank you ever so much, Vince. Good morning, good afternoon, good evening, everybody. This is the Policy Implementation working group call on the 25th of September, 2013. On the call today we have Gideon Rop, Michael Graham, Maureen Cubberley, Holly Raiche, Cheryl Langdon-Orr, Klaus Stoll, Tom Barrett, Avri Doria, Alan Greenberg, J. Scott Evans, Anne Aikman-Scalese, Aparna Sridhar, Eric Brunner-Williams, James Bladel, Marie-laure Lemineur, Chuck Gomes and Greg Shatan. We have apologies from Olga Cavalli, Nic Steinbach, Kristina Rosette, Krista Papac And from staff we have Marika Konings, Mary Wong, Lars Hoffmann and myself Nathalie Peregrine. I'd like to invite all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you, J. Scott. |
| J. Scott Evans: | Thank you. This is J. Scott Evans speaking for the (inaudible). I'm chairing this today. Somebody needs to mute their computer setting because (audio interference). All right. |
| | The first thing—business is if anyone has update to their Statement of Interest. |
| | Hearing none, I am now going to ask Michael Graham if he could bring us up-to-date on the sub-team meeting that was held yesterday. And I thought I saw, just quickly, Marika, a handout or an attachment at least around today on the mind mapping but I don't see it up here in the window on my Adobe Connect. We've got a lot of typing going on in chat. Michael, why don't you go ahead and—well I mean it would be nice, Marika, if we could (inaudible) for the sub-team executives to inform us what they're working (inaudible). So Michael, I'm going to turn it over to you. |
| Michael Graham: | Okay. Good morning, good afternoon, good evening. We had our first call yesterday quite early in the morning to me and (inaudible) which telephone I was using. Between that and email I think I'd finally got the communication going and we had most all of the members of the sub-group on the call, I guess, which is good. Basically what we are doing we have established that we now have a timetable, a timeline, which is going to end somewhere around November 4th. The intent being to have a draft of both a work plan and a proposed timeline that will be the basis for further discussions both in our teleconferences and in Buenos Aires in the face-to-face meeting. Of course since it was the first meeting a lot of what we did was trying to establish common ground and common purpose and I think certain things that came out of that meeting, one, recognizing the challenge that we all face—and I apologize for the dog. If you could hang on just a moment. |
| J. Scott Evans: | That happens to me with my dog every time I get on the phone with the Federal government but. |

Cheryl Langdon-Orr:   Cheryl here.  Michael didn't know he was getting workmen coming.  He just thought they might be fashionably late or perhaps not early as they may be.  So, well, (inaudible) to get Nathalie to get them to call me back so I can switch to my handset because my headset is going to pick up all the bird noises and everything else from now on too.

J. Scott Evans:   Right.

Michael Graham:   Okay, so I now have the dog and some (inaudible) here to clean the house.  Basically though we discussed the challenge that both we as a sub and the entire group faces in devising the report according to the charter where we're trying to come up with a plan and at the same time one that acknowledges and incorporates the fact that in very few instances will one size fit all.  We've established sort of a working routine.  We're going to try to meet once a week in at least hour long phone calls and also utilize emails to work on the project in order to give us some basis.  A lot of what we decided was to get a historic perspective and then a perspective from the materials that we have as the policy and implementation workgroup both to go over the charter, the public comments, the other materials that we all have received..  At the same time Marika has agreed to take a look and assist in putting together the work plan by reviewing work plans that may have been developed with other workgroups and PDPs, and once we have that that hopefully will help give us some direction in what we want to come up with and also some approaches that have been taken in other circumstances and determine which ones we might be best to apply in this circumstance.

The two projects that we have preparing for next week's call, and we don't have a doodle out yet to find out when that will be—maybe the same time as last week, if that's appropriate, but we'll check with the group—is two-fold.  One on an individual basis who reviewed the materials and see if we can develop some ideas what we believe might be appropriate in terms of a timeline for the project.  That obviously is going to be subject to the larger discussion and also subject to the final plan, with all it will entail.  We're also looking at the mind map along with the charter and trying to connect the dots.  The mind map is very useful but part of its usefulness is to see how many different strands there are and try to pull them together into a single or a few strands.

Now, let's see, so we got that.  We're also going to be using the Wiki to post materials and I'm not sure, Marika, is that going to be closed to the sub-group  or is that going to be open to the working group?

Marika Konings:   This is Marika.  I think by default the Wiki's open at least (inaudible).  We can set it up in such a way that's it's going to the sub-team members that can edit or post documents there.

Michael Graham:   Okay, great.  Because what I'd like to do is during the process I think we would all be fine with anyone who views the materials that we're working on, your comments.  I think in terms of the actual work though, keeping it down to a small group, is the only way that we're going to be able to accomplish coming out with a working plan that will be the basis for

discussion. In that regard, however, leadership has communicated and the one area that we do not have a representative and we would like to put it out there if someone from one of the contracting parties would be willing to join the sub-group. We'd like to add someone in that regard just so that we have as many general perspectives as possible in working on this and also in working on the timeline. And our goal again, as I said, is by November 4th to come up with both a proposed timeline and then some proposals in regard to the work plan. Some of it will be including use of sub-groups, perhaps like ours, and seeing how this particular sub-group works in regard to the entire group I think, well, we're hoping, will give us some insight into that and how subgroups can best be used to address some particular issues without getting the entire group involved that then again could be brought back to the entire group for either a discussion or approval or change.

And so, that's where we are. I mean one call isn't a whole lot of time but I think we've got some good direction and all of the participants added their two cents which was very good.

J. Scott Evans:      Thank you, Michael, very much. I appreciate that very much. So we are looking forward to hearing what you all propose to the larger group by November 4th. In the meantime, let's turn it over to Marika to cover point 3 on our—today's agenda. Marika?

Marika Konings:    Yes, this is Marika. Just give me a second to pull up my slide. Coming up slowly. So here we go.

So this is Marika. Basically on the last meeting I think there was a request from working group members to take you through some of the basic documents and processes that basically underlie the discussions that we're having today and had formed the basis of the charter questions and issues that were passed to look at. So basically the charter already pointed out that there are a couple of documents that are required meetings or should be there's a basic understanding from where we start our conversations and that everyone should have the same knowledge in order to be able to understand the questions we're dealing with and as well—and where they come from and how they fit into the overall picture of policy development within the GNSO. (Inaudible) one part of that Annex A of the ICANN bylaws and the GNSO PDP policy development process, process manual, that those two parts really form the basis for how a PDP is currently conducted.

So one part is in the ICANN bylaws and the other part—the other document is part of the GNSO operating procedures. Then there's also the staff discussion paper that was published in January 2013 that basically was inspired by some of the debates that were going on in the community around, you know, what is policy, what's implementation, how can we create better dividing lines, what are some of the questions we would need in order to get some clarity around that.

So from a staff perspective we try to outline what we thought were some of the main issues in this discussion and also try to include some, you know, possible steps forward or approaches that could be considered in

dealing with these kind of issues.  We basically put it out for public comment as well to get some community conversation going around that and then that forms as well the basis for a session we organize in Beijing where we had different community representatives basically sharing their views on some of the questions that were outlined in the paper or drawn from that paper and then that really formed the basis as well for the GNSO Council then to decide that they wanted to start looking at some of those issues that specifically affected the GNSO and, you know, start to work on those (inaudible) to the group for some recommendation and move forward basically from there.

So first it would be helpful to actually look at the current GNSO policy development process and what I've tried to do as well is in taking it through the different steps is actually trying to highlight as well where I think at least from my perspective I think the different charter questions fit in and where as well, you know, some of the initial steps in looking at these charter questions that may come in and that's something as well that we looked at yesterday with the sub-teams is there may be some information there that the sub-team may find helpful in thinking through how to approach the charter question and what may be some of those initial, you know, fact finding efforts to be able to, you know, come to an answer to reach some of these charter questions.

So just a little bit of background on, you know, the current state of the policy development process because it was reviewed not too long ago as part of the overall GNSO review that took place and at that time Council's passed make sure that the new GNSO policy development process would incorporate the working group approach that (inaudible) already been working and using for a while but actually the rules hadn't caught up to that yet and we're still talking about task force model.  And it was also intended to make it more effective and responsive to ICANN's policy development needs and I think to a large extent what that meant was really making sure that the flexibility existed there, you know, to encourage, you know, wider community input, early participation, you know, further community engagement discussion.  So a lot of steps were built in there to really make sure that there's a lot of flexibility in there to really make sure that depending on the issue at hand the right approach can be taken but at the same time in an effective and efficient manner.

So the revised PDP was adopted by the ICANN Board in December 2011 and since then all the PDP's have been operating under those revised rules.

So basically what you see here on the screen is really from, you know, start to finish what a policy development process is.  So really going from, you know, step one, identify the issue until the end the actual implementation of the policy recommendation.  And here, as you see, I think this is where charter question one probably comes in, which basically asks to develop a set of principles that would underpin any GNSO policy implementation-related discussions, taking into account existing GNSO operating procedures.  At this point, specifically looking at, you know, GNSO working group guidelines and the PDP manual where existing principles may either exist explicitly or implicitly and those may

form a starting point for a discussion.  And then I'm also pointing here to the staff discussion paper which also outlines a number of proposed principles that may form a starting point or may provide some inspiration for the working group to look at this specific charter question.

Then diving in a little bit deeper into that, into the process.  So basically the first step of a policy development process is like the issue identification and one of the questions that is supposed to be asked or is expected to be asked is, is the issue intended to resolve in consensus policy?  Then if the answer is yes, you are required to go through a policy development process.  However, if the answer is no, the GNSO Council can decide to use another process.  And I think this is where charter question two actually comes in because at the moment there is no set other process so the GNSO Council has used ad hoc processes.  You know, we sometimes call them like non-PDP working groups or drafting teams, you know, we have the standing committees, so the different ad hoc process that the GNSO Council has used to address certain issues or questions where it was deemed that those were not intended to result in policy but there's no formal process or processes that (inaudible) pick from and the thing that has as well resulted in a certain questions or confusion because what does it mean if GNSO Council adopts recommendations through such a process?  Does it  have any standing with the Board?  Or any requirements for the Board to consider anything that doesn't come through a policy development process?  Or what are the requirements for, you know, community participation or a public input if it's a non-PDP process?

So again here the charter question two specifically looks at this question or asks the working group to develop a process for developing gTLD policy and it could be in the form of policy guidance, which should also include criteria for when it would be appropriate to use such a process instead of a PDP, and I think as Mike had already alluded to as well it's something we discussed basically yesterday in the sub-team as well.  Of course the possible answer may be as well that there are different processes that could be used depending on the circumstances or that you would have, you know, one process with different kind of add-ons or things you can take out depending on what you're looking at.  So that's something that the working group will need to look at on what such a potential process could look like.  And a suggestion there will be to for example start with looking at some of the other ad hoc GNSO process that have been used in the past.  The FDI is one of such models.  The FDI and the Standing Committee (inaudible) implementation is another one and the other effort that have taken place or that are (inaudible) taking place where we're not using the PDP but we're still looking at, you know, policy-related issues.  And then also we did put as well a proposed process or starting (inaudible) process in the staff discussion paper.  So again that may also serve as a—providing some input, some inspiration to the working group as they're looking this specific charter question.

So basically ones that has to happen, so basically we're assuming here that the issue at hand it is intended to resolve in consensus policy so moves into the request for an issue report.  So basically an issue report can be requested by either the Board, an Advisory Committee or the

GNSO Council. In the case of request by the Board or an Advisory Committee it automatically proceeds to the development of a preliminary issue report, while if it's by the Council there is vote required in order to proceed to developing the preliminary issue report. So the issue report is developed by staff and the objective there is really to, you know, dig in what is the issue about. There are certain requirements in the PDP manual as well as to what elements need to covered there. It also includes a section on is the issue considered in scope of GNSO policy development or is it within agreement of the GNSO to actually look at that issue. It also includes the staff recommendation where from our perspective we can provide some feedback on whether from—whether we think it's a good idea or a bad idea or certain suggestions on how such an issue may be addressed or moved forward in the PDP. And then preliminary issue report is then put out for public comment to allow for community input and feedback, you know, have we—did we cover all the relevant information addressing the issue? You know, do people have a strong view on whether there should or shouldn't be a PDP on the issues? So again, all that information from the public comment period is then incorporated in the issue report and as well provide it to the GNSO Council in the form of a final issue report at which case the Council then needs to decide whether or not they want to proceed with a policy development process.

So the next step, as I said, you know, the final issue report has been presented and then in the case if the PDP—or if the issue report was requested by the ICANN Board it automatically moves into the next phase which is the initiation of the PDP. There's no intermediate vote required by the GNSO Council at that point. However, if it was an issue report that was requested by an Advisory Committee or by the Council, there is an intermediate vote that needs to happen before it actually moves to the next phase which is, I think we call it like the formal initiation of the policy development process. And within that then the next step is the creation of a drafting team that would develop the PDP working group charter, and once the working group charter is adopted then is the moment when the working group is formed, call for volunteers goes out and the working phase starts.

And maybe I should pause a second and tell people as well like if something's not clear or you have any questions, please feel free to raise your hand in Adobe Connect and I'm happy to stop and take questions in between the presentation.

So moving on to the next phase, the working group phase, basically again the PDP manual outlines a number of requirements that a working group needs to meet or needs to follow as it deliberates and develops its initial report. One of those is to seek the input from other ICANN Advisory Committees and supporting organizations at an early start of the process. Is the request for stakeholder group and (inaudible) statements again, as well as the early stage of the process. We then form the basis (inaudible) for the working group deliberations on the issue. Basically the initial report is also expected to include a set of proposed recommendations highlighting what input has been received and how that has been addressed. Also looking at, you know, potential impact of those

recommendations and basically it's when initial published objective is really to get community input on that and determine whether the working group is on the right track with its recommendations or not.

So based on the comments received, the working group is then tasked to review those recommendations and maybe go through those one by one and address those and—or show how they have been addressed or considered as part of the deliberations. And once that process is completed and all the issues have been addressed, the working group then moves ahead and publishes a working group final report which basically includes the compilation of all the statements, their recommendations and the level of consensus achieved for all those recommendations and also includes a statement concerning the impact of the proposed recommendations, or at least what the working group expect that will happen.

Just put some notes here as well because, you know, throughout those conversations are of course, you know, there's sometimes either specific questions on—in relation to implementation. For example, would this be possible to be implemented, if we would recommend it. Or, you know, we do as well some checking already with staff as we go through the processes to make sure that what is being developed is something that will be workable when it comes to the stage of implementation. So basically that's a bit of an ad hoc process that we use throughout the process and basically as applicable or time allows. In certain cases there may be no need to consult on a, you know, weekly basis; in other cases you do want to get the input from colleagues that eventually will be tasked with implementing those recommendations. So will we discuss with them regularly or sometimes they also for example subscribe to the mailing list so they can follow conversations directly and respond as appropriate.

It is also important to highlight here that PDP recommendations themselves really vary in detail and scope and I think that as well when we come to discussion, you know, when it's something policy and when it's something implementation that we sometimes see as well that implementation-related discussions occur when there's very little detail in the actual policy recommendations. So sometimes they can be in the form of high level principles and we've also had situations where the actual policy recommendation provided the actual language that needed to be written into the agreements or into the consensus policy, where of course there's very little room for interpretation or very few questions that would occur in those cases. So I think that's something to take into account as well as you're looking at these questions that there are different gradations of policy recommendations and, you know, maybe there needs to be a need for more consistency or maybe it's just not something that can be achievable and we just need to be able to address different situations and scenarios with whatever framework we would come up with.

It's also important to know that, you know, final reports sometimes also include implementation guidance or already identifies specific questions that the working group expects—expect that need to be addressed as part of the implementation process. We recently had a PDP for example

on the Inter-Registrar Transfer Policy where working group deliberate in certain aspects and realize that those were really implementation-related questions and they didn't really feel equipped to answer those, you know, unless it would add a lot of time as well to their work so they basically identify those as specific questions to be considered or discussed as part of implementation process. So again, I think there sometimes a balance needs to be found as well and to when something is being prompted in saying, you know, "It's too complicated for us to deal with" or when you're really saying "Well we don't have the expertise here. We think it's better suited for a staff-led effort in trying to get that expertise on board and come up with a solution that would fit the policy recommendation."

One of the revisions or the improvements of the revised PDP is also this concept of Implementation Review Teams. So the final report the working group itself may recommend whether it thinks it will be a good idea to create an Implementation Review Team or not and I said I think based on recent experience I think all the PDP and working groups have actually done so where we have formed Implementation Review Teams. But as we'll see in a couple of slides down that's also one of the questions where in a PDP manual currently there's very little detail on how such an Implementation Review Team should work, how it should be composed, you know, what is required as one of the questions the working group is also asked to look at, you know, should there be more detail, or again, it may not be a one-size-fits-all so how can you ensure that flexibility while still at the same time provide, you know, transparency and predictability to the community or members participating in such efforts.

So then looking at once the final report has been submitted to the GNSO Council, the Council will deliberate on whether or not to adopt those recommendations. I'd said at that point the Council will also direct whether an Implementation Review Team needs to be formed. At the moment the Board adopts the recommendation and—we're just assuming here that everything goes well so that the GNSO Council adopts the recommendations and then they basically move on to the Board for their consideration.

So basically when the Board votes on it, and again, I don't think it's of particular interest here in going through the scenarios where, you know, a case where the Board may disagree with the Council in what process in place there but it is outlined out here so that you can review that at your leisure. I think the main thing here to note is that once the Board adopts the recommendation basically the resolution will typically direct ICANN CEO to develop and complete an implementation plan and continue communication with the community on such work.

So from that we'll then move into what we call implementation to implementation stage. So then it's basically moving from, you know, community-led effort to more staff (cross talking)...

Speaker:            (Inaudible)

Marika Konings:    Process. Someone want to speak up or?

Okay. So basically then it moves into the implementation phase. So...

Speaker:  (Inaudible)

Marika Konings:  Hello? Someone wants to speak up? Or someone needs to mute their phone?

All right, I'm just going to continue. So basically, I think here there are three charter questions that relate specifically to this phase of the process. So one is like a framework for implementation-related discussions associated with GNSO policy recommendations. And there's a question on criteria to be used to determine when it actually should be addressed by a policy process and when it should be considered implementation. And also the question on further guidance on how GNSO Implementation Review Teams as defined in the PDP manual are expected to function and operate. I think here, you know, obvious starting point for looking at these questions is looking at the PDP manual. What is currently there in relation to implementation or what can be derived from that that may form the basis for some of these questions.

Reviewing some of the recent Implementation Review Teams. I said we've had a couple already. I think they've been used in varying degrees and I think it's just fair to say as well that for staff it's a really new concept so we're trying as well to, you know, find our way in how to make those work best and think as well it's partly managing the expectations where we go from a working group that has been meeting on a weekly basis to an Implementation Review Team that typically meets less regular because as the implementation moves forward there are more ad hoc subs where staff may need to consult or where feedback may be needed because there's—of course there's also a phase where (inaudible) needs to get their head around. You know, what is it actually, what those policy recommendation are intended to do and what needs to be put in place to make that happen. And I said, we've also put forward a proposed process (inaudible) discussion paper looking at some of these questions. So again, it may be worth for the working group looking at that to see what can be derived or what can serve as a starting point for that as well in the process.

So I thought it would maybe be helpful as well to provide you some perspectives from our side in relation to the implementation process. I just want to take a note here as well, you know, this is not looking at the experience that we had with the new gTLD-related implementation process that had taken on quite some different forms and shape and it's probably not that typical an example or what we're looking at when we're talking about a PDP process. So as I said before, like throughout the PDP itself, you know, the staff that is likely tasked with the implementation is kept abreast and requested to provide input if and when appropriate on implementation-related issues. So really there as a policy staff typically serve as a channel of communication? We have the regular calls with different colleagues and different departments where we typically just run through the different efforts we're supporting and, you know, basically saying "Look, this is what we're looking at," and then basically see if there are any issues or questions. In certain cases

working groups will come up as well with some specific questions that they want to have addressed, and again, do we serve as a communication channel and try to get feedback as soon as possible on those so that that information can already be fed in throughout the process as the working group deliberates and hopefully that helps as well in formulating the policy recommendations and make sure that if something comes out that is actually implemented by the end of the day.

And so what we do when the Board approves the recommendation? We form an internal implementation team which basically consists of members of the different teams that are effective—affected or will be involved in the actual implementation of the policy recommendation. So typically that will involve someone from the Registry or Registry—Registry or Registrar teams depending on whether the recommendation are directed and someone from our legal team and someone from the compliance team. So first step is basically just to walk through all the recommendations and really try to, you know, convey what the intent or the thoughts behind some of those recommendations are and be able to identify as well if there are any questions that come up through that process that either can those be addressed through, you know, providing some further feedback, and again, there the policy staff person supporting the working group typically takes a lead role in that trying to convey what the working group discussed which if they choose they can insert a recommendation.

And as part of that process there are sometimes there's a lot of questions that are identified already that will need to go back to the Implementation Review Team, where it's not clear what was intended or whether multiple approaches could be pursued and actually implementing that recommendation. So that's something that's done as part of that process. And as part of that we'll then as well develop the next step in order to develop an implementation plan.

With that Implementation Review Team consultations which will take place as well with a team if and when appropriate. They typically involve questions on clarifying questions, did you mean this or did you mean that but also, you know, the testing, this is the way we can implement this policy recommendation. Does that need the expected outcome of the working group or is there something that is still missing. There may also be community consultations and public comment that's deemed appropriate that, you know, policy recommendations come in different shapes and flavors and in certain cases where indeed it's a copy/paste situation there may not be a need for a public comment period or community consultation, but in other cases where for example for the implementation process certain questions have been identified that had been worked through with the Implementation Review Team they still may need checking with the community to really make sure that that still is part of the same understanding of what was intended by the policy recommendations. And once that all has been completed the final implementation plan will be posted and an announcement of the effective date will be communicated to the affected party.

And just to note as well in the community consultations in certain cases may involve as well consultations directly with the affected parties, as well talking about, you know, timeframes and where time may be needed and as well some clarifying questions or understanding how complicated or how easy something may be to implement or not.

So here I thought it would may be helpful as well to actually identify some questions or issues from our perspective on, you know, that may come up in this debate and we see as important issues that would need to be considered or addressed. So basically one of the questions is and we sometimes struggle with, like what happens if issues arise that are considered policy and who actually makes that determination? Indeed is it whenever staff has a doubt does that make it immediately a policy or implementation question and should be put out to the community or is it the Implementation Review Team that plans that? Is it the GNSO Council that plans it? There's currently no set process for it and seeing in certain cases, you know, we will come back because it's obvious that we're dealing with policy-related issues. In a lot of cases it may not be so clear or it may be in the eye of the beholder who have had conversations as well. Like if you don't like something you'll say "It's policy," and if you really think it's a great idea you'll say "It's implementation." And again, having a framework there would really be helpful as well from our perspective.

The PDP manual does provide some guidance because it does provide the option that if the proposed implementation is considered inconsistent with the GNSO Council recommendation the GNSO Council may notify the Board and request the board review the proposed implementation. So that option does exist under the current PDP manual.

As already noted, how can we assure flexibility in any implementation-related framework? As, you know, a one-size-fits-all may not be appropriate here and I think you do want to make sure as well that staff does have the flexibility in getting work done and not necessarily being restrained by a very overly complex process which in certain cases may not be necessary at all where something can be done relatively quickly and is not deemed controversial or are complicated. So I think that's something to be considered as well. And I said, you know, it comes back to the third point as well, like first of all implementation is execution of policy recommendations. How can we make sure it works efficiently and effectively while also respecting that of course we're operating in a multi-stakeholder environment?

So now briefly maybe I should pause another second here. I see there's a lot of conversation going on in chat but I haven't been able to keep up with that but if there are any questions people want to ask on the PDP and the processes I outlined so far, please feel free to raise your hand.

If not, then the next part is looking briefly at the staff—I see Anne raised her hand. Anne, go ahead.

Anne Aikman-Scalese: Yes, thank you, Marika. I am just curious about in terms of the Implementation Review Team, how is it decided whether or not an IRT is

needed and who's going to be on it?  There's been a bit of discussion in the chat but I'm particularly interested to know how the whole IRT process came about and how it determined the constitution of the IRT?

Marika Konings:     So this is Marika.  So the way it has happened to date is basically that working groups as part of the report already identifying whether they believe that an Implementation Review Team is needed because I think at least in the recent PDP that all of those they recommended that and that it was also included as part of the motion, so then the Council basically decides that an Implementation Review Team is needed and direct staff to form one once the recommendations are adopted.  First of all the Council is even if the working group would say "We don't think an Implementation Review Team is needed.  We don't want one," the Council can still decide that they would want one and basically one day adopt the recommendations but the normal stuff will be that then at that point they also identify that once the Board adopts those recommendations the Implementation Review Team should be formed.

Cheryl Langdon-Orr:  (Inaudible)

Anne Aikman-Scalese:  (Inaudible) a follow-up question.

Marika Konings:     Let me first maybe finish (inaudible) because I think there was another question in there who is (inaudible) so let me just answer that and then I'll get to your follow-up if that's okay.

Anne Aikman-Scalese:  Yes.

Marika Konings:     So basically the PDP manual doesn't really prescribe how such a team should look.  What we—or how we've taken it and I think how it has worked so far is that that call for volunteers goes out to the working group that was involved in developing the policy recommendations.  Because the idea behind it is of course that the Implementation Review Team is really supposed to focus on implementing the policy recommendations that were developed.  It's not intended to reopen discussions or come up with new policy recommendations.  So, you know, part of the balance to be found is that if you get a lot of new people into that process they may not have the background of all the working group, you know, deliberations that went before it to get to those recommendations and, you know, maybe start rehashing certain conversations that were already had.  So the focus so far I think has really been on those members that were involved in developing those policy recommendations and those are also the ones involved in the IRT.  Although I think have instances as well where certain groups may have designated someone else from their stakeholder group or constituency to be involved perhaps under the understanding that, you know, that they have reviewed and understand the materials that went into developing those policy recommendations so to make sure that they come in with the same knowledge and understanding of the recommendations as others in that group.

Anne Aikman-Scalese:  Okay.  Then the second question I had, just to understand it on a practical level, was the Trademark Clearinghouse Implementation Group an IRT or was it some other type of implementation group?

Marika Konings:       This is Marika.  I think that was another kind.  I mean they were called I think IRT as well but it wasn't in the PDP context.  I think that was a completely different group that was formed in a different kind of context.  So I don't think it serves as a model for what the Implementation Review Team is viewed as within the PDP manual.  Although, you know, it may serve as, you know, maybe as something that the working group may want to look at as there may be some information or expertise that can be derived from that but that group wasn't constituted as an Implementation Review Team as conceived within the PDP manual, as far as I understand.

Anne Aikman-Scalese:  Okay.  And just one last practical question regarding that process.  Was that implementation team—when was that disbanded, if you will?  It's a timing question related to when they concluded that their work was done and was that in fact actually prior to the full implementation of the program, if you will.

J. Scott Evans:      This is J. Scott.  A couple of things on this because I served on the IRT (audio interference) first.  But in regards to your first question, there was no PDP as we have it now because that was the very meeting, Marika, where the working group that developed the PDP the working group guidelines were constituted, that was Mexico (cross talking)...

Speaker:             Can barely hear.

J. Scott Evans:      I said...

Speaker:             Yes, J. Scott, you have to speak up.

J. Scott Evans:      Well I'm having trouble with my line and, you know, I've got to tell you I don't know who picked AT&T (ph) but we have not had this much trouble in the past.  I'm not necessarily happy with this.  Can you hear me now?

Speaker:             Yes.

J. Scott Evans:      Okay.  I said I'm perhaps the best person to speak to this because I was on the IRT.  First, the PDP process that we have today was not in existence in March of 2009 because the groups that came up with what we operate under now were only constituted at that very meeting, so we had the working group guidelines at the time, but we had no PDP process like we do now.  I would argue that the IRT is similar to what we have now and the fact that it was a team put together to guide staff with regards to implementation detail.

                     As to your second question, Anne, when did this end?  We were told to deliver a report by May 29th, 2009, which we did.  We were then asked to take that report and come to the SIFTI (ph) meeting in June of 2009 and deliver that to the community, which we did.  At the end of that time while it was never explicitly stated, I think the majority of us felt that our work was done.

Anne Aikman-Scalese: Oh I'm sorry, J. Scott, my question related to the Trademark Clearinghouse Implementation team that worked in 2012.

J. Scott Evans: Then I would have to look to Marika, but it seems to me since that—this policy was in effect at the time that is probably one that was under the current PDP but I'll let her speak to that.

Marika Konings: Yes, and this is Marika. I don't think that was formed as an Implementation Review Team. I think there were some consultations and conversations that were held but I don't think that was ever conceived as a formal Implementation Review Team, at least as I am aware.

Anne Aikman-Scalese: I know it has the word 'implementation' in the title of the group and I guess, you know, and I'm probably projecting a little bit a thought that perhaps that group was disbanded too early, I'm not sure.

Marika Konings: Well, at least it wasn't a group that was formed under the direction of the Council. I think it's, you know, basically the Implementation Review Teams were talking about here and that in the charter questions, those are the ones that are formed under the direction of the GNSO Council when the policy recommendations are adopted. And I think here we're looking at a very different—and yes, maybe implementation was in the title but it didn't relate to any of the, you know, concepts that are explained in the PDP manual.

Anne Aikman-Scalese: Right, in this formal...

J. Scott Evans: Okay, at this point, Anne, I'm going to ask (cross talking)...

Anne Aikman-Scalese: Method of (cross talking) implementation functions...

J. Scott Evans: Anne, J. Scott. I'm going to invoke Chair's prerogative here, we're getting bogged down. If you have any further questions you can direct them to the list but I'd like for Marika to go ahead and finish her presentation. Thank you.

Marika Konings: J. Scott, there's also people that had their hand up. Do you quickly want to go through them or (cross talking)?

J. Scott Evans: Yes, please. Yes, please.

Marika Konings: I think Chuck had his hand up but he dropped his hand but Chuck was just...

Chuck Gomes: It's real brief. Welcome to the reason we're having this working group.

Marika Konings: Alan?

Alan Greenberg: Yes, I just want to comment on something J. Scott—the comment J. Scott made about in 2009 we didn't have the PDP as we know it today. That's not quite accurate. We didn't have all the structure around it that we have today and we didn't have the rewritten rules. We were using working groups already although we didn't have a formal set of guidelines for

exactly how working groups should work but they had been mandated prior to that by the GNSO reorganization so we weren't that far away from where we are today. Thank you.

Marika Konings: Thanks, Alan. So moving along to the next part is looking at the staff discussion paper and community input that was received subsequently. So as I said before basically the reason why we wrote the staff paper was really following on the increased community focus on discussion on, you know, what is policy and what is implementation. It was largely inspired by what was happening in the new gTLD program. I think at the same time there was also the realization of looking forward and looking ahead some of the questions that could arise and that may be important to take them head-on and identify what we're actually dealing with and how we can potentially address those.

You know, as I said, you know, the PDP manual and Annex A are very detailed and prescriptive as to what needs to happen as part of the policy development part of the process but there's very little guidance on how implementation should be conducted and that's the question I think that this working group is looking at as well. Like should more guidance be included there to avoid some of those questions perhaps or at least there's a clear community expectation of what's going to happen or how certain questions may be addressed or who is involved or how it's done. And I said, you know, there's currently no real clear process or predictability on how to manage implementation-related questions and I said, you know, we've tried different approaches and different models to have them used. You know, some people really like it, others don't, so again having a kind of predictability or framework in place so everyone knows what they can expect may help addressing some of those questions because I think as we recognized in the paper it may not be— we may not be able to draw a very clear, you know, (inaudible) between what is policy and what is implementation but we have a framework in dealing with those questions that may already address some of the issues hopefully.

So the discussion paper itself basically outlines a draft framework that tries to identify a number of steps, criterias and principles that may be helpful in filling out that framework and providing guidance when it comes to policy and implementation-related questions. It identifies a number of questions that, you know, from our perspective should be addressed or considered in this conversation and we also included some like short term improvements that may be considered in dealing with some of those issues. But the overall focus is really on developing a clear overall process and identifying as well clear roles and responsibilities for all the stakeholders involved in such a process.

It's very hard to see but I would like to encourage you to actually look at this, in the document that said this is all on the Wiki and as well what I sent out last week. Because in this we're trying to outline the broad steps of this framework, you know, what are the questions that need to be asked or how can we go through this process? And again looking at the one strand, looking at the implementation-related questions, what you see there in orange you'll see three big boxes there. What we try to do there

for example is look at, you know, some of you may know that in the (inaudible) guidelines there's actually a process incorporated in there on how to deal with potential change that need to be made as part of the implementation. So we actually looked at them said "Okay, well maybe that can serve as a model for dealing indeed with implementation-related questions." We need to (inaudible) implementation but you still feel that there should be a community consultation involved, you can't just, you know, staff make a decision and that's it. No, that we are aware that there are certain discussions that need to be had but we are clear at the same time that, you know, we're dealing with implementation-related issues. So that's the process that we developed on the basis of that that you may have want to have a look and see if it provides some useful information or a basic framework for looking at this question.

And it also tackles like how can you actually, you know, once you're in that implementation process, like what needs to happen for you to actually make a determination that you need to go back to your policy process, to the policy development process? What triggers that or how does that jump happen where you need to go back to the formal process ? And again, there you look at the two questions as, you know, are we recommending consensus policies or changes to existing consensus policies? Well in that case you will need to go through the policy development process. Or are we looking at something else? Are we looking at, you know, policy guidance where we realize that it's a policy-related question and not purely implementation? Is there another mechanism of addressing that? And I think there we have some very basic suggestions but again that's I think one of the tasks or one of the main questions that the working group will be looking at, what kind of process or how should that look? And again, is it—are there various processes that could be explored that when the Council gets to a certain question that basically looks at the different processes it has available, assesses, you know, what is the priority or the urgency or, you know, how broad of a community issue is it and then can decide which of those processes are most appropriate to follow. But again it's very clear from the outset what each process will entail, who is involved in what stage and what will happen.

So basically as I'd said, we put it out for public comment and we got quite some feedback ,10 different contributions and mainly from GNSO participants, which again I think demonstrates, and we've seen this as well, of course in the interest of this working group, that it's an issue that is of main interest to the GNSO. I think again, probably inspired by what's been happening in the new gTLD program and some of the conversations that have happened there. I think most of the contributions really recognize the importance of the topic and all appreciated that the staff paper is trying to, you know, flag some of those issues and basically starting off a discussion on this. The most comments emphasize as well that, you know, any framework should be forward looking, you know, that to look back at the past what happened but let's look ahead, it should be predictable, make sure to clarify the role of the different stakeholder groups and base it on principles such as fairness, (inaudible) and due process.

So focus on making sure that the importance is given to considering implementation-related issues or questions as part of the policy development process itself. And several also suggested to review existing mechanisms and practices to see if there would be possible models that could be discerned from that. And overall there was really broad support actually to continue the dialogue and there's some suggestions included as well on how to move forward on that.

And so following that, and so okay then maybe now the next step is to have a cross-community session on this and really try to engage all the different ASOs and ACs in this conversation and really see if we can determine like what would be the next step, what needs to happen to move this to the next level of, you know, from discussion to an actual consideration and action. So we organized a session in Beijing that I think was quite well attended and really had some really good discussion. I said, we did invite all the different ASOs and ACs to participate but to, you know, due to various reasons we didn't get everyone there. We did have participation from the ASDAC (ph) and the ALAC and (inaudible) all the GNSO stakeholder groups and the constituencies participated in that meeting. Again, I think it may be helpful for the working group to look at that as well. That actually was recorded and transcribed. I also took some notes and I'm happy to share those as well with the group if you think that will be helpful.

And basically one of the outcomes or the key take-aways I think from that session was that the Council decided to form a drafting team to develop a charter focusing on the GNSO-related aspects of the discussion because as you'll see in the staff discussion paper there are also other questions that are being identified that are more on different levels. For example, the questions relating to—you know, for example what should happen if the Board gets different pieces of advice from different groups, you know, should there be a process in place that, you know, brings those groups together as a kind of conciliation activity. So those are questions that, you know, probably should be considered or addressed at some point but as those are not GNSO-specific, those weren't included as part of this work. So this group—the charter came out of that effort really focused on the GNSO-specific questions or aspects of the discussion and I think that's why you're all here today.

And here is just listed all the further reading, all the documents that I've referred to. I've also listed here that the GNSO PDP opportunities for streamlining and improvement. We had a brief conversation about that last week. I look back at it and, you know, there are a couple of things there that look at how can we streamline the current process or make more use of the opportunities that exist within the current framework to, for example, have additional conversations or make use of face-to-face time but I don't think any of those specifically relate to what the working group is looking at or are addressing but if you feel differently feel free to have a look and again if you think there's anything in there that may be useful to consider here that is of course your prerogative.

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|  | And I think that basically wraps up all I wanted to share today and if there are any questions or anything you think I should further clarify or provide more details on, I'm happy to do so. |
| J. Scott Evans: | All right, Marika. It looks like we have questions from Anne and Alan. |
| Anne Aikman-Scalese: | No, I'll defer to Alan. |
| J. Scott Evans: | Or was he clapping, I can't tell. |
| Alan Greenberg: | That was a hand I left up from before, so... |
| J. Scott Evans: | Okay. |
| Alan Greenberg: | You don't have to defer. |
| Anne Aikman-Scalese: | J. Scott, I see your hand is up. I will defer to you. |
| J. Scott Evans: | Time lowered (ph), so go ahead. |
| Anne Aikman-Scalese: | Now that Marika has made it through her presentation, I really do have questions, J. Scott, with respect to that alternate method of an implementation review that was the Trademark Clearinghouse. My questions are, how was it constituted? And was it something from the Board asking for volunteers? If it was not a GNSO body, how was it constituted and who determined when it should begin and when it should end? |
| Marika Konings: | This is Marika. I can't really answer that. As I said, it wasn't a GNSO initiated or requested process and I wasn't directly involved in that. I don't know if anyone else here on the call was a participant there and has (inaudible) to share on that. But I said it wasn't an Implementation Review Team as under the PDP manual. There was no GNSO involvement or direction on that, so I'm not sure how relevant or how directly it links to the questions we're looking at here. Or at least I don't have an answer to that specific question, but maybe someone else does. |
| J. Scott Evans: | Okay, I'm going to go to Alan now, but it seems to me, Anne, that the better question would be is to ask who's heading up that implementation at ICANN and ask them those questions because it doesn't appear to be something that was done under the PDP so it's not necessarily relevant to the discussion today. Alan? |
| Alan Greenberg: | Yes, I'm—just for clarification, are we talking about the Implementation Review Team, the IRT, or something else with the word implementation in it? |
| J. Scott Evans: | I think what Anne is talking about is there was a group put together to provide input with regards to the implementation of the Trademark Clearinghouse and her questions have to do, how is that group constituted? Who picked who was on that group? Who decided when they began the work and the work ended? And I think Marika's answer is, she doesn't know because it wasn't a PDP designated... |

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| Alan Greenberg: | I can... |
| J. Scott Evans: | Group under the policy. |
| Alan Greenberg: | I can address that a little bit. |
| J. Scott Evans: | Okay. |
| Alan Greenberg: | My recommendation, however, since we're using PDP terminology, is to avoid that subject like the plague because it was—a kind word is 'botched' in how it was done and generated a huge amount of ill will and it is not an example that we want to follow on. It was constituted as a group of registrars and registrees and then the intellectual property people who were also involved in it and then other groups were added as they complained or as they found out about it and resulted—ultimately resulted in what is known as the Strawman proposal. And again, best left as not an example to try to follow. One can go into more detail but probably this is just not the right place or the time for it. |
| J. Scott Evans: | All right. So with that, does anyone have any more questions about Marika's presentation?<br><br>If not, I think we need to decide what our next steps are going to be and when our next meeting's going to be. And first of all I think the first thing to conquer would be when's our next meeting's going to be because we are now off our schedule and next week, Marika, if I'm not correct, you all, the ICANN staff, has internal meetings that are going to make you virtually unavailable. Is that not correct? |
| Marika Konings: | Yes, this is Marika. That's correct. I do believe that we discussed it at the last meeting, or at least with the Chair, that we would basically stick with our original schedule, so that now we have indeed a little bit of a bigger gap which probably will as well give some time to the sub-team to do their work and have something more to present at the next meeting and basically reconvene and then it will be in three weeks, I guess. (Inaudible) |
| J. Scott Evans: | I see that Tom Barrett has raised his hand. Tom? Tom? |
| Cheryl Langdon-Orr: | He's probably gone. |
| J. Scott Evans: | Well I mean he's raised his hand, so. |
| Speaker: | He did, yes. |
| J. Scott Evans: | If we can't hear them for some reason, Tom, you could always type into the chat box and we can read your question to the group. |
| Speaker: | He did. |
| J. Scott Evans: | Okay, what process is required to update the process Marika described? |

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| Marika Konings: | This is Marika. If you're talking about revising the PDP manual or Annex A, basically that requires recommendations from this group that would need to go to the GNSO Council. I think (inaudible) any changes to the operating procedures or the bylaws there's a requirements for, you know, public comment and there's also Board oversight over those, but that those were the GNSO Council would need to adopt those changes for them to come into effect. I think—and the—I think change to the bylaws do need one approval as well but the operating procedures themselves are within the GNSO unit to change. |
| J. Scott Evans: | Thank you. Do we have the hard dates for when that next meeting would be? Marika, is that going to be the 17th? |
| Marika Konings: | This is Marika. You had originally set it as 16th of October. |
| J. Scott Evans: | Okay, so (cross talking) |
| Marika Konings: | Was our original schedule. |
| J. Scott Evans: | Okay. And our next steps I would believe would be to hear hopefully an updated report on where we are with regards to the sub-teams' planning in getting us to sort of an outline of what we're going to tackle. In the meantime, I think everyone needs—it'd be about three weeks to read all the materials that were the beginning of this presentation. Marika, will this presentation—can you send this to the group via email? |
| Marika Konings: | Yes, definitely. |
| J. Scott Evans: | All right. Does anyone else have any questions or concerns or something they would like to see us cover in our next meeting? |
| | Just waiting because there are a lot of people typing and I want to make sure that there's nothing coming through on the chat in relation to that question. |
| | Okay, it looks like we're good. So I know we've slotted an hour and a half but we've taken an hour and five minutes, or actually, since we started it four after the hour, an hour and one minute is the actual presentation. I'm going to call this meeting to a close and I want to thank everyone for their time, especially Marika and Michael and Michael's sub-team, for all their hard work over the last week or so in putting all of this together and we will reconvene on October 16th. Now Marika, that be back at our original time which was 1900 UTC? |
| Marika Konings: | Yes, that's correct. |
| J. Scott Evans: | And I'm sure Nathalie will send us an invitation so that we can get that on our calendars. In the meantime, everyone, please, please, please review the materials that I see. You can also find them on the Wiki page. So let's—so that we all make sure that we're starting with the baseline of information that will assist us. In the meantime, we will see you then. Everyone have a pleasant three weeks. We will talk to you soon. Bye. |

Speaker:              Bye.

Marika Konings:       Thanks.

Nathalie Peregrine:   Thank you, Vince.  You may now stop the recordings.

**END**