Policy Development Process (PDP)
Work Team (WT)
TRANSCRIPTION
Monday 23 May 2011 at 13:30 UTC

Note: The following is the output of transcribing from an audio recording of the Policy Development Process (PDP) Work Team (WT) meeting on Monday 23 May 2011, at 13:30 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-pdp-23may11-en.mp3

On page:

http://gnso.icann.org/calendar/#may

(transcripts and recordings are found on the calendar page)

Participants on the Call:

Jeff Neuman - Registry Stakeholder Group - Work Team Chair
Alex Gakuru - Non Commercial Stakeholder Group
Paul Diaz - Registrar Stakeholder Group
Wolf-Ulrich Knoben – ISP
Avri Doria - Non Commercial Stakeholder
Tatiana Khramtsova - Registrar Stakeholder Group

ICANN Staff:

Marika Konings
Margie Milam
Gisella Gruber-White
Glen de Saint Gery

Absent apologies:
David Maher - gTLD Registry Stakeholder Group
John Berard – Commercial and Business Users Constituency
James Bladel – Registrar Stakeholder Group
Alan Greenberg – ALAC

Coordinator: Now recording.

Glen Desaintgery: Thank you. Good morning, good afternoon everyone. This is the PDP call on Monday, 23 May.

And on the call we have Jeff Neuman, Alex Gakuru, Paul Diaz, Wolf Ulrich-Knoben. And for staff we have Marika Konings, Margie Milam, myself Glen Desaintgery and Gisella Gruber-White.

Thank you Jeff, over to you. Can I just remind everyone to say their names before speaking for transcription purposes? Thank you.

Jeff Neuman: Thank you Glen and welcome. I know it's Monday, the 23rd of May and normally our meetings on Thursday. But given our time schedule on that we want to get this report out the door before the June 9 - well eight days before the June 9 meeting of the council so that we can put this out for public comment so we're trying to get this done.

I see Avri has joined at least Adobe so I am expecting...

Avri Doria: Hi, I joined on the phone call so thank you.

Jeff Neuman: Great, thank you Avri. So the items on the right-hand side, what we're going to do today -- and it might not be that long of a call which it's hopefully a good thing -- is to really just clear up or just finish up some of the last issues that at least Marika has identified in the report, the final report that she sent out.

And then so we'll go over those issues. And then on Thursday we are going to meet at our regularly scheduled time. We're going to discuss the final report (and topics) some of the last call on the final report.

So if everyone could - and we'll send this out by email as well, if you could have all of your comments in or issues in by Wednesday, by close of business Wednesday that will give us time to create a list that we can go through on the Thursday call.

There shouldn't be too many issues but, you know, one thing that you need to review is the Public Comment Review Tool which Marika has been updating as we've gone along. And that's what really addresses what comments we've gotten from the public comment period and our response to them.

So it's important to review that because obviously those that submitted comments we'll be focusing on the responses to their comments. And we want to make sure to accurately reflect what we've been discussing these last couple months.

So with that said any questions on the timing?

Okay hearing none what I want to do is I want to go back to that issue that Marika that we discussed on the last call. Marika then sent a response or I should say a summary email with two options. And this is on the request for an issue report template.
And there were two options that Marika put on the email. We got a bunch of comments back to that.

Marika has then updated the - if you look at Adobe she's tried to update the options with the comments that she's received.

And so if you look at those you have Option A and Option B. I believe option A is supported by Wolf, Alex, James, (Alan) and Paul I guess has now put his name in for Option A.

Avri supports option B with those changes. And I think, you know, it be great if we could on this call decide on one of the options. And Marika, you've got your hand raised?

Marika Konings: Yes this is Marika. Just to note that I tried to capture indeed the different comments and suggestions that people made on the list just to note I do think I missed Alex's comment on I think he had some specific suggestion in relation to evidence or proof. But I don't know if he's still supporting including that so seeing has last email.

But one thing I did want to point out that part of the reason why we're having this discussion on the specific recommendation is that a couple of comments that were submitted as part of the public comment period, you know, basically asked the question why isn't the template mandatory or certain elements of it not mandatory?

And just to point out that, you know, of course if the Option A basically we're still saying that it should be optional, encouraged but still optional while in Option B there is a requirement for certain elements to be provided.

So just to make clear that, you know, those are the two different versions we're discussing and to note as well if indeed we're going for where most support seems to be at the moment for option a I probably need to update then the public, review tool to note as well that, you

know, the work team did discuss it but still feels that, you know, should be strongly encouraged but not mandatory to reflect that.

You know, we did consider whether it should be mandatory or not but that we, you know, decided that it shouldn't be the case.

Jeff Neuman: Right. So with that said let me - I want to open it up for comments. I'll also say that I think the (but not) required in the Option 1, I think that was added by Avri. So Avri, let me ask this question first because I know you strongly support B.

Avri Doria: Yes.

Jeff Neuman: If they added at the end of Option A but not required would that solve your issues with Option A?

Avri Doria: This is Avri. It solves half of them. It solves the point of making sure that people understand it's not mandatory.

It does not solve the point where I do agree that that at a minimum name of requester, definition of the issue and identification and quantification of the problems to the extent feasible should be required. That should be mandatory.

So while I'm very, you know, convinced that no form should ever be mandatory because the world never fits one form I do think that requiring certain elements is indeed reasonable, does respond to the request and - or responds to the request halfway and also gives an indication of what should be in this form. So although of course it says so further up.

So I think that's necessary for A. I still prefer B. And I think A still should go as far as B goes in saying and if you don't use the form what at least do you need to give? Thanks.

Jeff Neuman: So okay, so when you say the elements, are you saying the elements are mandatory or the elements are (sured)?

Avri Doria: That that element of name of requester, definition of issue. I'm not sure about the identification, quantification of problems to the extent feasible. But why not should be required whether they can perform or not.

Jeff Neuman: (Alan)'s point last week was that he was afraid that making that mandatory would provide some sort of way of either staff or whoever else is judging the information coming in or - as not being deficient.

It would be kind of a way to block it to say no, we're not going to consider it until you actually - you haven't adequately defined the problem for example.

Avri Doria: I'm willing to drop that phrase from B. If that phrase is the problem in B I have no problem - I do think that that one is the questionable part of B. And but at a minimum you have to have name of requester and definition of issue.

Jeff Neuman: Right.

Avri Doria: And I think to say that is explicit. So that means that you just can't say I want a PDP on X and not send your name or, you know, so there's a minimum.

I have no problem with dropping that phrase if that phrase is what makes B unacceptable.

Jeff Neuman: So if we did in B it said something like afterwards that either by completing the template included in the PDP manual or and other form must include at a minimum the name of requester and definition of the issue and should include identification and quantification of problems to the extent feasible?

What about something like that?

Avri Doria: That's certainly fine with me as it is a toning down. I don't know about the people that still don't want any of that in there so...

Jeff Neuman: Right. So let me - well I'll check and once I get - let me see if I can get something acceptable to you and then I'll...

Avri Doria: Right. But you just did an edit on B.

Jeff Neuman: Yes.

Avri Doria: Right. Yes, no that edit on B would be fine for me.

Jeff Neuman: Marika do you got that?

Marika Konings: This is Marika. Yes, I think I did.

Jeff Neuman: That would be the first (sured) in that sentence any request for an issue for either by completing the template included in the PDP manual or in another form must include at a minimum the name of the requester and definition of the issue and should include identification and quantification of problems to the extent feasible.

So how does everyone else feel about that in the interest of trying to come to some sort of resolution on this? How does everyone else feel about B? Paul's okay with it.

Paul Diaz: Jeff this is Paul.

Jeff Neuman: Yes Paul?

Paul Diaz: I was just going to ask I think honestly they're both pretty decent formulations. The changes you've made make it easier to read. With of Avri's explanation I more fully understand the distinction she was making. So I can support B now.

I believe that within the group (Alan) was the member who had the hardest time with it.

Even with the change I would strongly suggest can we quickly post that to the list because that's probably the quickest way for him to see it and make sure that he's comfortable with it? And then you're probably going to have consensus within the group.

Jeff Neuman: Right. Okay, I think that's a good idea. And I noticed Alex had agreed with it as well.

Wolf is that - I don't know if you're...

Wolf Ulrich-Knoben: Yes Wolf speaking. So I was wondering a little bit so Avri's proposal because it seemed to me Option B for my English, you know, more, let me say more precise with regard to some items requested or required here, so like name so - and these things.

So I was wondering whether about the differences between A and B just decides these items.

So I do not have a problem with Option B in that respect.

Jeff Neuman: Okay good.

Wolf Ulrich-Knoben: Yes.

Jeff Neuman: Marika?

Marika Konings: Yes this is Marika. I just want to note as well I can get this out to the main list, you know, following this call and ask for further input.

But also to note that based on our discussions today and also on the previous call I'll need to update the template itself because we've now, you know, specified some additional criteria or elements that we might need to call out in the template so people can easily, you know, copy and paste and fill that in.

So I'll do that as well for the next draft that I should be able to get out pretty soon hopefully.

Jeff Neuman: Okay great. All right so that hopefully puts to rest to Recommendation 4.

The next item on the list is the Council Recommendation Report 5.13. And Marika is there a way you could pull that up or...

Marika Konings: Yes hold on a second. We'll get this away and bring up the report.

Jeff Neuman: Do you know what page that's on?

Marika Konings: I'm going there now. Hold on.

Starting on Page 59 going into Page 60.

Jeff Neuman: Okay, that's preparation of the board report. And to that's - so what it says now is that the PDP recommendations contained in the following report are approved by the council.

The council may designate a person or group responsible for drafting a recommendations report to the board. Oops, I scrolled too far.

Okay, if feasible the recommendations report to the board should be submitted to the board within 21 days following adoption of the final report.

And the comment that staff is saying is that they wonder if that's too quick. It says the report needs to be submitted within 21 days.

Elsewhere in the proposed bylaws the recommendation report is to be approved by the GNSO council.

We're not sure how this can be done in 21 days to address this.

We would propose changing approved by be written at the direction of the GNSO council.

So Margie?

Margie Milam: Yes, yes, this is Margie. I just wanted to clarify. I wrote those comments.

When I started to think of the timeline we've got a date when the GNSO council approves it. And then we're supposed - according to the way the report's written you're supposed to designate, you know, someone's supposed to write the report.

And the GNSO's council's supposed to approve it. Yet the report has to go to the board in 21 days. And I just didn't see how that timeline worked.

So I made this suggestion at the direction of. There's obviously other ways you could address this issue. But I did think that that was something we needed to focus on if (unintelligible) at all, you know, think about how the timeline would work.

Jeff Neuman: Yes so just walk us through. So I'm just reading this again here.

Margie Milam: Okay. So the timeline as I see it is the council approves the report and
                  then we have a set date, 21 days the board report has to go to the
                  board.

Jeff Neuman: Right.

Margie Milam: But between that date that the council approved the report, you know,
                  the recommendations essentially, and the board receives it someone
                  has to write the report and get it back to the council for approval.

                  And so I just didn't see how that could work in 21 days. And so either
                  we change the date or you make it a little less, you know, formal where
                  the council doesn't have to approve the board report.

                  You know, I was just try to find ways of accommodating, you know, the
                  intent. But that's really the issue is that three weeks seems too short
                  for the council to say okay, so and so write the report and we have to
                  approve it before it goes to the board.

Jeff Neuman: So it doesn't in this paragraph say that it has to be approved by the
                  council? Let's see wait.

Margie Milam: It doesn't there but I believe it's somewhere else. As I read the whole
                  report, maybe Marika, I don't know if you know where it is but...

Marika Konings: Yes this is Marika. I think it's in Section 7 of the actual Annex A. I'm
                  scrolling back up there now but if I - if you read the note you'll see it in
                  there. So I'm trying to pull it up.

So there we initially said indeed approved by. And I think the suggestion that Margie made is that it should read - if you look - that's at Page 43 - 44, sorry, not - if the PDP recommendations contained in the final report are approved by the GNSO council a recommendations report shall be approved by the GNSO council with delivery to the ICANN Board within 21 days following adoption of the final report.

So the suggestion would be to change approved by to shall be written at the direction of the GNSO council.

Jeff Neuman: So the Recommendations Report is the report that goes through to the board?

Marika Konings: Correct.

Jeff Neuman: Okay that's an interesting name since the - may be just going back and rethinking about that name since the recommendations report.

The board, the final report here should have recommendations in it. And it makes it sound like the board report should be something different.

I mean the board report should be obviously a summary and it should have the recommendations in it.

Anyway let me go to - I want to think about that for a sec too. Avri?

Avri Doria: Yes two issues. The simple one is - no perhaps not the simple one, 21 days especially with you guys having just moved your meetings to 4.2

weeks may be difficult to pull off. Twenty-one days you submit your old meeting schedule.

But the other thing is I think you have a report from a working group but then as the managers in the process that the council takes it vote, has results, that vote result serves as the recommendation to the board of the disposition of the report.

So for example you guys could report this thing went through. You know, it did everything right and there's strong support from all the constituencies stakeholder groups in - as represented in the council. And we recommend to the board, et cetera.

It could be, you know, the group went well. However there's mixed view in the council. There is not a super majority for it. However here's the report with our comments.

It could also go through as this report doesn't work, was not done properly. Well then you send it back.

The work was done properly. However we failed to get even a majority for the report. And this is to inform the board of the work done.

In a sense the working group is making recommendations and then the council either endorses, accepts or rejects. But I still think you're passing it on to the board, just the recommendation is different and the comments attached to it are different.

But I don't think you say well we either recommend it or we bury it.

So, you know, I think that there is a council recommendation at the end of a PDP. And it might be we did the work, we think it's rubbish and we're informing you of that. Thanks.

Jeff Neuman: Okay, I think that makes sense to me. That does make sense to me. Margie?

Margie Milam: Sure. This is Margie. I was trying to - I was looking at the Recommendation Report as something different.

And I thought the genesis of that was that if you look at the - for example the staff reports that are written regarding a particular policy recommendation, I thought that under this new PDP that the thought was that those kinds of reports should - are more appropriately written, you know, by the council or by I guess the drafting team or work group that gets put together when the PDP is underway.

So I saw the report as much more than that, you know, but what of Avri says is probably correct in the sense that if you leave the drafting of that report to the workgroup and it becomes part of the final report, then the report from the council only really points out differences I guess, you know, as to why something was not adopted or, you know if there's some tweaks to the recommendations themselves.

So a lot of the work can be done. I guess my point is a lot of the work can be done early on. And what happens at the council vote is something that just really explains why the full recommendation wasn't approved if it was or some cursory statement that the full recommendation was approved.

Jeff Neuman: Given the current dynamics of the council now it's my guess that the council will want to approve the report.

It could just be the environment now but it's definitely something where I don't think this council wants anything to go to the board without at least having to put an eye on it and to make sure that it's consistent with what has been decided.

So I'm not sure written at the direction of the GNSO council is going to be - it's going to be okay. And just - if anyone disagrees with me let me know.

But even recently what's been going on on the list I'm not sure we're going to be comfortable with and written at that direction of the GNSO council as opposed to approve.

But then if that means that we have to change the timeframe then we have to change the timeframe. Marika?

Marika Konings: Yes this is Marika. As I was going to suggest indeed if people don't feel comfortable changing it to, you know, the direction of then the only option is to change the timing.

And maybe there we can - I think we have said in other circumstances where, you know, maybe we have to indeed say 30 days looking at the new schedule but just basically saying like, you know, preferably o, you know, by 30 days unless there's a reason not to do so and build in some margin.

But I agree there I think we have to be, you know, if writing these reports is going to be very controversial than even 30 days is not going to be enough.

But there again I, you know, you know, I would see these reports as well. And instead of just forwarding the final report I guess what the council would, you know, would maybe want to do is just take out those recommendations as those are the specific items the board would ask upon and maybe, you know, provide some further information on indeed, you know, how these were adopted or by whichever support level they were adopted and have the rest of the report as a kind of background information as to, you know, how the working group actually did that work.

I don't know if - what kind of further information the council would provide in those cases where just adapting recommendation.

I guess the only time where you might need more time and more explanation or rationale it's where, you know, there's either disagreement in the council or different levels of support or where the council has decided to make changes to recommendations of a working group, you know, without maybe giving them back or something like that.

Jeff Neuman: Okay, thanks Marika. And let's - 30 days sounds you're right, it could be very quick but I think we need to kind of put - I think 30 days is something we should probably put in there instead of the 21 and keep it at approved. Alex?

Alex Gakuru: Yes. I was also suggesting rather than changing previous recommendation we had already made on these reports because of what you described as current dynamics, I think it's better to reconcile Margie's problem of the day by just increasing the days and moving on so that we count - the current dynamics could change in the future and we find all the problems which you are addressing on the other end result on other sections of the report recurring.

So I was also suggesting we increase the dates from 21 to a number that Margie is comfortable with. Thank you.

Jeff Neuman: Okay. So thanks Alex. And Margie would you be comfortable with 30 and I know that's kind of a 0 pushing it but would you be comfortable with something like that?

Margie Milam: No. Actually I think that's still too short. My suggestion, I don't mind putting in 30 days as a, you know, as long as there's some ability to extend the date.

You know how we do it with the - I'm thinking about with the issue report where it says 45 days but whatever can be extended with this, you know, some sort of language like that.

Because, you know, just think of the timing. You've got the - well actually you know, staff's not writing it. It's - somebody's writing it.

You've got the council meeting. And then, you know, and then you've got - and the next council meeting that may be a month away or may not be a month away.

And I just, you know, I hate having in the bylaws a fixed date unless - especially when it's, you know, something related to an enforceable consensus policy unless it's really a date that can be met, you know, fairly regular that, you know, that it'd be unusual if it wasn't met.

And so that's would be my suggestion is to have it be 30 days but have some clause that allows the day to be extended at the council's, you know, approval or suggestion or something like that so that it gives leeway where appropriate?

Jeff Neuman: So I think I hear what you're saying Margie and let's all - I'll throw it out to the group.

My issue is that this whole notion of a recommendations report really came out of the concept of, you know, the staff itself issuing separate board reports to the board above and beyond the final report.

That was never anything that was in the original Bylaws and it was just kind of created by staff, now maybe out of necessity. I'm not saying whether it is necessity or not.

I just have a fear that if we count 45 days or we make it any longer, it is that you are just now extending out the process from what it has actually been approved by the Council. There could be a need to actually want to push it forward.

And then to wait 45 days to actually create a new report on top of the final report just to send it to the Board when they are probably going to then put it out for public comment. I mean it seems to me like you are

just taking something and making it impossible to get from beginning to end without huge amounts of talkative delay.

So I'm kind of in a little bit of a quandary here, because there was really - there should have never been a need for anything other than the Final Report going to the Board. But staff then decided to do Board Reports; again probably a good idea since some of them are so dense.

It seems like if we could solve the problem at the Working Group stage and have them draft it. And you have Council only lay upon or maybe staff that assists Council just put on top of it the - anything that comes out of that final vote. Seems to me that 30 days should be enough time, but let me go back to Margie on that. And then I'll go to Avri.

Marge Milam: Again this - I don't even think staff is writing this, right? Or what - I guess I thought that the idea was based upon everything you said, Jeff, that, you know, the staff would say - I mean, sorry, that the GNSO Council was picking a Counselor to write it.

I don't know. I guess it is really a question of who is really intended to be writing this report. So it is not a staff-driven delay if you will. And I am just, you know, worried about, you know, you've got eight days before GNSO Council Meeting, you have to have everything in.

I don't - I mean I am trying to define a way where, you know, I don't - I agree. I don't want delays. And it is not necessarily a staff delay at all. But I am just trying to be realistic here in trying to make it so that the Bylaws can be complied with as opposed to having a risk that it cannot be complied with.

So anyway maybe the date could be tied to not when the GNSO Council has approved - have to approve it, but once the GNSO Council has approved the report, when it has to go to the Board. So in other words, you know, it could be a lot sooner than that I suppose depending upon the schedule of the GNSO Council days. But at least, you know, try to manage the dates better.

Jeff Neuman: Okay, Avri?

Avri Doria: Yes a couple of points. Thanks, this is Avri.

First I think that there is no way we can decide that just because the Council is going to write its own report that the staff won't also be writing a report. They may be writing a report for the Board on legal considerations and adoption of the recommendation, et cetera.

So I think the notion that the Council is going to write a report and that that will obviate the ICANN staff need to submit its own report is probably a non-starter. I think we can make a lot of arguments about the transparency of said report from the staff.

But I think to say that the Council is going to write a report and therefore staff won't is going a step further than we could go. I mean we could say it. But I don't think it means anything.

I think that the suggestion of using the kind of language that we have used before that says, you know, the report - the Recommendation Report should be submitted in time for the next Council Meeting unless a request for an extension, with rationale, is submitted instead, or some words like, that makes sense.

So I think you can back off 21, 30 days and say just in time for the next Council Meeting. And so as the timing of Council Meetings changes, as the Council changes its - how much time in advance they need to see text before they can act on it, you basically say that that Recommendation Report needs to be available to Council to review.

Then, of course, Council being Council it may say one week was not enough for us to review. We push this off another meeting instead of, you know, the things that can happen in Council just that contribute to Council not making a decision at the first opportunity are innumerable.

So I think that it makes sense if we are going put anything in the Bylaws that say that Recommendation Report should be ready in time for the next Council Meeting unless there are, et cetera, and then the right phrasing for extenuating circumstances that are, you know. And then you basically submit a Motion to the Council saying this report is - the Council approves this report being delayed until and something like that.

So I'm pretty much, I think, agreeing with Margie at least in principle; I don't know if in precision. And I think to say that we are going to stop staff from sending, you know, reports of their concerns, their issues, warnings, whatever that they see is not realistic.

I think we have to see those reports. But that is a different issue entirely. Thanks.

Jeff Neuman: Okay Marika?

Marika Konings: Yes this is Marika. I think if you look at Section 1 that require elements of a policy development process, I think there you will see in Item G that this recommendations and final report are, you know, the Recommendation Report is a required step in the PDP. So it is highly unlikely that staff would even submit a staff report to the Board before recommendations were actually submitted, which, you know, according to which is currently outlaid is part of that Recommendations Report.

So I mean the likely sequence would be, you know, the staff writes a report but only submits that once the recommendations actually reach the level of the Board. And I think, you know, to Avri's point, indeed, nothing prevents the staff, and I think it is actually not, you know, and staff has not invented those reports. But they were actually requested by the Board themselves.

And maybe over time, you know, the Board might direct something look, we get two reports. We think that is too much, you know. We want a consolidation or just a - receive a Recommendations Report, for example.

So I think the concern of that, you know, staff might be submitting separate reports. And the Board will just act, you know, not having seen the Council Report I think is moot if you look at the current sequence.

On the language of the days, you know, I share Margie's concern. If we build this too much in stone I think we are, you know, going to end up in a situation, again, where we constantly have to, you know, break the rules because the timing isn't realistic.

So I would support what Avri said. If we can have something I suggested as well and that you have something like if possible within 30 days or if possible, you know, before the next Council Meeting; noting again that, you know, if somebody asks for a delay means that it automatically gets, you know, transmitted to the next meeting. So there is - definitely there is already this built-in possibility of having further delay than whatever timeframe we were going to set here.

Jeff Neuman: So I want to - so the current proposal on the table is by the next Council Meeting to extend, yes, so just by the next Council Meeting. The question I have, Marika, though and to jump off something Avri as well said. Yes it is not meant to be - we understand that there is going to be a Board Report from the - by the staff.

But it was really meant to only touch on those legal issues or other issues. It was not supposed to be another summary of - right now from the few Board Reports there have been actually made public, it seems like there is a lot of effort in the report going over the summary of the issues and the outcome of the vote, the procedural posture of it.

And actually yes. It was supposed to be that this Recommendations Report is supposed to substitute for those items. What it is not supposed to substitute for are things like legal advice or maybe a staffing issue or a resource issue or whatever else it is that is unique from ICANN's staff that needs to be sent separately.

But it was supposed to be essentially that the working - essentially what it is supposed to be is the Executive Summary of the, hopefully, of the Working Group Report. And then that's, you know, that is what is

supposed to be in the Recommendation Report. Or it is not supposed to be staff rewriting another summary of the report.

And I think so...

((Crosstalk))

Marika Konings: ...a comment on that, because I think at this stage I mean the Board provides you with a template of the information they want to receive. So I think that is not for us to say oh we're not going to provide it anymore, because the GNSO Council will provide it to you.

So I think in that, you know, once we go into this process the Board at some point might say, okay you know, we are already getting this information from a separate source or we don't need staff to provide that information. We only want the legal analysis or, you know, whatever. But I think at this stage it is not for us to say oh well, we are not going to provide that information anymore.

I do want to caution against the thinking that...

Jeff Neuman: But...

Marika Konings: ...Executive Summary might serve that purpose, because I think if you submit the Executive Summary to the Board, I think they will say oh, what do we - that is not the information they want.

If you look at the Board Reports and the information they are looking for, that is something different than what Working Groups provide to the Council; because the working - the Executive Summary provides

as well while we have public comments. And we review this. And we talk about that. And this was the process.

I think when the time - when the Council looks at it, they just want to know, you know, what are the recommendations? What is the impact? And, you know, how did the Council view those? And, you know, where - which level of agreement were they adopted?

So I think it does require some work after the Working Group is done for the Council, or whoever the Council appoints, to do that work to get that report in the shape that the Board likes to see it in; because otherwise I think you will do get the situation where the Board will say, you know, we appreciate the Council Report. But it is not useful for us in the way we want to review information and act on it.

Jeff Neuman: Have you shared with this group what that template looks like?

Marika Konings: I think the template is the recent work papers you have seen. I don't know if - I know they have been working on a new one. You know, Margie I don't know if you know. But I think it is the - it follows different headings that you have seen in those work papers that have been published as far as I am aware.

Jeff Neuman: Well why don't we then put that in here, because you keep saying it is what the Board wants to see. But then why don't we put that in here? Why don't we say the Recommendations Report should include all of these items so that the Working Group can do it themselves as opposed to staff. I mean we just haven't seen it.

So - and Avri is X-ing it out. I am not sure why. So let me (unintelligible)...

Avri Doria: Okay let me - I will explain why.

Jeff Neuman: Yes, Avri?

Avri Doria: Okay we are talking again about things that have a certain relative permanence of, obviously, bylaws change more frequently than people change their hats in ICANN. I have heard that before.

                But bylaws and operating procedures are supposed to be fairly stable things. Each Board might have variations on the template and in the information that it requires from staff. That relationship is incredibly flexible.

                And so any new Board can say, you know, in addition to all this good stuff, we really need to know the phase of the moon when the various decisions were made. I am being preposterous.

                But there are bits of information that one Board could require that a previous one hadn't. And so to presuppose the format of a report between staff and the Board and try and solidify that again in Council procedures doesn't make sense to me.

                As, again, I reiterate these reports should be published and transparent for us all to see before the Board acts on them. But other than that to try and lock it down to any particular content because that is today's content, again doesn't seem to me to be a reasonable approach. Thanks.

Jeff Neuman: Couldn't you just address that by saying that staff should, you know, when the Board makes it known what information they want they should - staff should communicate that to the Working Group or to the Council? As opposed to being inflexible on format just putting in a communication tool so it shouldn't be a surprise to the community as to what information the Board is seeking.

Marika Konings: It is actually in the report. I will post it in the Chat Now. We do have it in the Manual covered. I will post that language in the Chat so people can see that.

Jeff Neuman: All right, so it is posted in the Manual now the information that the Board wants?

Monika Konings: No we basically say Statute and Form GNSO Council from time to time of the format requested by the Board.

Jeff Neuman: Okay so then that does seem to then - then that information should be known. And then it should be, you know, for the Council even the Working Group to figure out that information.

And, you know, again the whole point was to try to lessen the time it takes, provide the Board the information it needs and then not have something that is written by staff as opposed to the group that is the quote so-called experts on the issue and to, you know, that helps with accountability and transparency.

And, of course, legal issues and others that are confidential should be done by staff and communicated directly to the Board. But everything

else should be kind of done in an open and transparent way. And it shouldn't be seen as a surprise.

And I will still note that most of the Board Reports for the issues that have gone up to the Board are still not public. And that has been a problem for a number of stakeholders.

So let me go - I don't remember who was first, Marika or Margie but somebody go.

Marika Konings: Margie was first.

Jeff Neuman: Okay Margie.

Margie Milam: Yes just like another thing that maybe you guys should consider is that the timing of when something goes to the Board and how long it has been since the Working Group, you know, wrote the report, because, you know, sometimes it takes the Council a while to get to a particular issue. Think about the RAP, for example.

And so if the RAP Group had been a PDP and written a report, a Final Report on something, you know, and then, you know, a year or two later the Council acts upon it there might - just that, you know, there might have been changed circumstances and stuff.

So I - the - my only point being that, you know, because of the, you know, changing circumstances, change in time, you know, the reports might need to be more substantial that get, you know, written once that Council approves something.

And then again even when the Council approves something like, say, the new gTLD Program and the Board acts upon it, it might be a year or so later depending upon, you know, what the issues and what has happened. And so, hence, that is, you know, one of the areas where a lot of the staff report work comes in then to kind of address changing circumstances and things that just, you know, just occurred.

Jeff Neuman: Okay so this was a - this - so if we just send - I think we still have it as approved by the Council. And I think the recommendation was to make it 30 days. I think that is what it - was the recommendation. And if we could put that in.

Alex, do you have a comment?

Alex Gakuru: Yes, just a brief comment. Alex here.

I think as a principle, along to what Marika has just posted to the Chat, I am not really comfortable with the post going all over the place. But so long as they are transparent, you know. They are accessible. They are available rather than put more constraint of what can go to who from when, but so long as there is that transparency.

I think to me I will be fairly comfortable without having too much constraints even on the format so that the circumstances, the issues, the source I think it is better (right) for the accountabilities than having a report which cannot go somewhere because some clause prevents the information flow within their institution.

So as a principle generally that I am happier with the flexibility of reports going, but so long as they are available - freely available and transparent the principle is upheld. Thank you.

Jeff Neuman: Thanks Alex. I think that is important. I mean the transparency - the reason this is such an issue with so many - such a passionate issue for so many stakeholders is that it hasn't been transparent. It hasn't been open.

If there are changed circumstances, really that should be something that Council then is made aware of so that they can address changed circumstances as opposed to just, I think -- or the community can address the changed circumstances -- as opposed to just the staff giving its opinion as to what should happen.

I think that that is kind of key; the openness, transparency and an ability to respond to it if the Council or Community disagrees with what the assessment is. Marika?

Marika Konings: Yes this is Marika. I just want to point out as well in 5.13 you basically said - it basically says there that the GNSO Council may designate a person or group responsible for drafting a Recommendations Report to the Board. So there - I think there is flexibility for who is going to draft that report. But like Margie said I just want to caution you to the fact that if you look at - by the time Working Groups submit their Final Report to the Council in the current time, they are done.

You know, they really are - they spend two years on getting this report to the Council. And they are not very likely to take on another task of - which might even be, you know, after a couple of months of time

before the Council has time to review the report and act on it to actually go and write a Board Report. In reality it will probably then staff who is writing it.

And I don't think many people in the Working Group will still have the energy, or even the focus, because they have already been doing other things in the meantime, to look at that.

So I think at that stage I think it is much more likely or realistic that, you know, someone within the Council would actually take it on to write such a report to reflect the Council's views and discussion; because I think in the end of the day that is what you want to have in the Board Report because presumably, you know, you act on the recommendations itself. And any, you know, concerns or notes you have in regard to that is what you want to communicate to the Board.

So I think it is currently written there there is flexibility on how this gets done. And I guess, you know, practice will probably demonstrate how it will actually happen. So I just want to clarify then how we are going to write it.

So we are now saying 30 days. Are we going to add if possible or, you know, a request needs to be submitted if it is not possible to do it within 30 days? Or what kind of language does the group want to include with regards to when the report needs to be submitted?

Jeff Neuman: Or what if you say sort of shall be submitted you have should be submitted and then you kind of just leave it at that? You know, that's a possibility too. But let's go to Avri.

Avri Doria: Yes I really suggest - I think the should is a good - I think should be submitted in time for consideration at the next Council Meeting and not worry about how often they have Council Meetings or how long before something. So I would suggest, you know, should be submitted in time for consideration at the next Council Meeting. And perhaps that is simple enough and open enough. Thanks.

Jeff Neuman: Okay how does everyone feel about that proposal? Margie agrees. Alex, all, good - let's see no disagreement. Marika can you put that in?

Marika Konings: Yes, will do.

Jeff Neuman: Okay so the - I am going to skip the flowchart for a second. The Board Transition, or sorry, the Board Vote and Transition Section we are still waiting for ICANN Legal to give us some suggested language to convey our view. So hopefully we will get those very shortly. Hopefully they know about the deadline. And so then we can get that.

                The Public Comment Review Tool we already talked about, just to review that. Make sure it reflects what we - our discussions were. And make sure you are comfortable, because again the public is going to be - people who submitted comments are going to be looking at that.

                So with that then we need to update the flowcharts. And we got a couple comments on the flowcharts. So first we need to update it to make sure it is still correct.

                Secondly we need to - there were comments - there was that suggested that it would be helpful to include a chart in different subsections of the PDP Manual. And Marika has put in a comment

saying it would be helpful but would maybe suggest to develop those once the overall PDP has been approved to avoid duplication of work.

So any thoughts on that? Marika do you want to go over it a little bit more?

Marika Konings: Yes this is Marika. And just a note as well, because I think, you know, the duplication relates to if there are any further changes in, you know, any of this because, you know, the Council needs to consider it. There might be another Public Comment period. The Board needs to consider it.

So I think there are, you know, probably several improvements we can make to the Manual to, you know, make it more visual or go through the different steps. But I am not sure what it is worth the time and investment to do that now. But maybe it is something we, you know, specifically mention that as part of the final PDP Manual we foresee that there are certain graphics or flowcharts that, you know, clearly outline the process and the different steps.

And also to note, you know, I have been doing these with OmniGraffle. And I am definitely not a graphics expert. So I think someone with, you know, professional experience in that could probably do a much better job at making it look really nice and then really suitable for a manual that will hopefully stay in existence for many, many years.

Jeff Neuman: I think that makes sense. But I think the first - we could still do some of the - we could still revise it at least to the main charts to reflect any changes that have been since the last time.

Marika Konings: Yes, yes so that will be the idea...

Jeff Neuman: I think there was...

Marika Konings: ...to look at that following our discussion now, you know, any final changes and to update the one that is in the Executive Summary. And, of course if, you know, I can copy and paste that one in the Manual. But I agree.

And I think we had some more detailed ones in the early stages to show the different steps. But it would take quite some time to update those and make changes. And especially if there are going to be further changes down the road possibly, I am not sure whether it is worth investing that time now instead of doing it right in one go at the end of the process.

Jeff Neuman: Okay, any other comments on that? So I think we have a bunch of homework before the next call.

We need to review the - well Marika is going to put out the options again. I don't know if you have done that already. Put out the - what we decided on between Option A and B on Recommendation Four.

We all need to read the full, Final Report including the Public Comment Review Tool and post any issues we have to it by Wednesday so that by Thursday we can put a wrap to this and send it to the Council.

Any questions? Marika anything else we need to go over?

Marika Konings: This is Marika. No not that I am aware. But I think I will do instead of putting the language separately to the mailing list I am hoping to make those changes that we have discussed now and on the previous call and update a draft that I will then circulate and just highlight that that is an item that, you know, people should pay specific attention to.

Jeff Neuman: I think with that one it was Recommendation Four, because Alan is not on the call. If there is a way you could just call it out in an email even if it is with the Final Report. Just put it in an email.

Marika Konings: Okay yes.

Jeff Neuman: Just for Alan's sake and others that aren't on this call.

Marika Konings: Will do.

Jeff Neuman: Okay so we are meeting again Thursday, regular time. And hopefully we will be at a - be done for this until the Singapore meeting. And then - and the Council hopefully will vote on it in July. And we will see or it may come back to us. So we are not quite there yet.

Okay?

Avri Doria: (Unintelligible) have a very long tail on anything we do.

Jeff Neuman: Sure but at least we are at the tail now.

Avri Doria: Yes.

Jeff Neuman: All right, thank you everyone.

Man: Thanks Jeff.

Jeff Neuman: Bye-bye.

Woman: Thanks.

Jeff Neuman: Okay bye.

END