

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)
Work Team (WT)
TRANSCRIPTION
Thursday 06 August 2009 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy Process Steering Committee Policy Development Process (PDP) Work Team (WT) meeting on Thursday 06 August 2009, at 14:00 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-ppsc-20090806.mp3>

On page:

<http://gnso.icann.org/calendar/#august>

(transcripts and recordings are found on the calendar page)

Participants on the Call:

Jeff Neuman - Registry c. - Work Team Chair
Paul Diaz - Registrar c.
James Bladel – Registrar c.
Alan Greenberg - At-Large Advisory Committee
David Maher - gTLD Registry Constituency
Sophia Bekele – Individual
Avri Doria – GNSO Chair – NCA
Tatiana Khramtsova

ICANN Staff:

Glen de Saint Géry - GNSO Secretariat
Ken Bour
Marika Konings – Policy Staff
Gisella Gruber-White

Absent apologies:

Gabriel Pineiro - Non Commercial Users Constituency
Liz Gasster – Policy Staff
Marilyn Cade
Kristina Rosette

Coordinator: The recordings have now started, thank you very much.

Gisella Gruber-White: Thank you (Natalie). Good morning, good afternoon everyone on today's PPSC PDP call August 6.

We have Jeff Neuman, Sophia Bekele, James Bladel, (Tatiana Kramtsova, Avri Doria, Paul Diaz, Alan Greenberg. From staff we have Marika

Konings, Ken Bower, Glen DeSaintgery, Gisella Gruber-White, myself. And as apologies we have Gabriel Pinero, Liz Gasster, Marilyn Cade. Can I also please just remind everyone when you do speak please to state your names for transcription purposes and for the recording purposes. Much appreciated, thank you. Over to you Jeff.

Marika Konings: Gisella, David Maher has just joined as well.

Gisella Gruber-White: David Maher has joined as well, yes.

David Maher: Thank you.

Jeff Neuman: All right, hey David.

David Maher: Hi.

Jeff Neuman: Good morning, afternoon everyone. This is the August 6 call of the PDP work team of the PPSC. Just to go over the roll again, I just want to clarify that we do not have anyone from the ISPs, the IP constituency, the business constituency, or the non-commercial constituency? Is that right? Okay just double checking.

On that note, you know, like attendance has been really low these last frankly since even before Sydney it's been pretty low in this work team. I did send a note last week to the chairs of each of the constituencies and to the non-comm appointees to the counsel to indicate exactly who has been showing up and who has not been showing up.

I have not gotten a response from any of the constituencies although James has informed me that the registrars have received it and discussed it although I will note for the record that the registrars actually have probably the best attendance of any of the constituencies on these calls since one of them is

always on these calls if not two of the three reps that have been indicated for this group.

Has anyone - well I guess I'm asking the people who actually do show up and I know that, you know, David has also shown up for the registries for most of the calls as well. So the people who haven't shown up are the people that are still not on this call. So I was going to ask the question if any of those constituencies have received the notice but I guess they're not here to ask that question.

Man: Avri is this something that you might want to show the counsel or have a discussion about?

Avri Doria: Certainly, I mean, I brought up, you know, in different contexts attendance at things and in addition to the work load and the fact that people haven't really stretched out within their constituencies yet as far as they can, we also have the issue that it is August and people - but I certainly will bring it up again.

And if you want the, you know, to put the attendance list on record earlier than when a report is filed, sure, you know, feel free. Or have, you know, someone on the counsel, attendant to the counsel, or I'll even post it for you if you wish.

And I'll certainly keep bringing it up but I don't know of any way to do more than encourage people. And at least this time I won't have to - and in fact last time I think you asked the same of me or two meetings ago and I did bring it up, admitted my hypocrisy but brought it up and encouraged people and then when I saw your attendance list I felt guilty and made sure I showed up.

Jeff Neuman: Thanks Avri. Yes on the attendance list, I actually went back to March just because I knew, you know, obviously August is usually a slow month. But if you look at the pattern I don't think there's much of a difference between April

and August although today's is particularly low. But in general from the last meeting on I think it's been a pretty consistent low attendance record.

I mean, we're going to continue to do the work, it's just - and we're going to continue to make progress. It just will be nice to get other viewpoints. And I'm afraid that once we come out with our report then we're going to start to hear from all of the people that haven't been participating and, you know, I don't want that to slow things down.

I know that for example, I know that the commercial stakeholder group and (BCIC) and the IP constituency have made arguments saying that, you know, they (unintelligible) about having people show (unintelligible).

So anyway, with that under our belt, we've asked Ken Bower to come on to help explain some of the changes at least to the bylaws (unintelligible).

Man: Jeff you're breaking up an awful lot.

Jeff Neuman: Really? Let me try getting on my headset, that might work better. Is this any better?

Man: So far.

Man: Yes.

Jeff Neuman: So far, okay. That works better. We just went to new IP phone system and sometimes it breaks up. So I've said we've asked Ken Bower to come on the call today to go through the changes that were just posted earlier this week I believe to the bylaws especially - particularly for this group with relation to Appendix A although I think Ken will cover kind of the changes throughout the entire document.

And I know Avri had a question about a threshold that was removed. So why don't I turn it over to Ken and then we could take questions to Ken or anyone on the ICANN policy staff.

Ken Bour: Thank you Jeff, Ken Bour here. I'm actually sitting in for Margie who would also - wanted to be here but she - I think she's actually traveling and she asked me if I would cover it. I've been working closely with Margie on the bylaws for many months now. Although she's the expert on NSA I think I can probably cover most of it.

What I'd like to do is to start if we could with - well let me just make this comment. This is the second round of bylaws amendments that have been posted. We just completed one on the 29th of July as I recall and that was largely the changes that were initially created by staff and then the GNSO counsel drafting team did an extensive amount of work on the language. And that, all of that in addition to a few other staff comments or changes that were recommended. That becomes the substance of Version 1 or V1.

Then sort of during and after Sydney there were a number of other sort of issues that came up and we decided that just because there were so many sort of nuances and changes and some things that legal had recommended that we would go back out again for another public comment on bylaws which we're calling V2.

Jeff has asked already about the short timeframe and indeed as you suggested, we had to tie this thing up quickly because the board meeting is the 27th of August.

And we thought we could squeeze a public comment period in recognizing there has already been one and we've tried as hard as we could to document -- and I'll cover some of this -- what was changed, where it was changed, show the old language, the new language, and everything else to try to

facilitate that process recognizing though that we are in August and everybody knows that. It's just not good timing.

The idea though is we want to get the counsel, the new counsel seated and so the general take among those of us that work on this is that we need to have those bylaws approved on the 27th of August.

There has been some discussion, and I'm not even sure, this is - there are some possibilities even if we don't go for board approval we might go for like board approval in principle which would be something along the lines that if there are some issues on the bylaws that haven't been tied down or something needs to be addressed a little bit later than 27 August, maybe there could be a motion that says the counsel is to operate, these bylaws are to be used in principle, and we'll just tie up loose ends thereafter. Something along that line is also being discussed on the legal team.

Any questions about the - about that? What I'd like to do then is just to talk a little bit about what it is we put out there for public comment and then maybe - let me pause. Okay great.

The first document I'd like to talk about is this one that's up on the Adobe Connect. It's called a sort of complete side-by-side comparison document. Some of the sections in here, not too many, will appear new to the GNSCO counsel drafting team like Section 7 that deals with nominating committee. We had written those changes months and months ago. We just didn't share all that with the counsel because the feeling at that point was we just needed to focus on Article 10.

But in this case what we wanted to do for this public comment was to put everything out on the table so everybody can see all the changes. There are no other bylaws changes related to GNSO restructurings that are not in this document that we know of at the moment unless somebody goes and buys one.

Avri Doria: This is Avri, can I ask a question?

Ken Bour: Certainly.

Avri Doria: If these changes have all been ready that long why weren't they put in last month's comment call?

Ken Bour: Yes, I don't know that I have a really good answer for you. It wasn't anything strategic. There was - I think the idea was to get the material that the counsel had done out for public comment.

Yes it could have been included in that one but - well none of the changes to NSA were done then, just really we're only talking about this Article 7 to be honest. That's the only one I think was actually - wasn't in there. And we could actually look at it if you want. It's pretty straight forward.

And even as we sit here there's - we are communicating with the SIC, the structural improvements committee, to work with the nominating committee to even make some additional changes potentially to the way this - the nominating committee would be populated. So that's still a bit of work in progress and could end up changing between now and the 24th of August when this closes. Anything that is recommended will get posted in the public comments so you'll be able to see it.

Basically the only change we made here to this section in Section 2 of Article 7 was to just make a name change. So registry stakeholder group and registrar stakeholder group. Everything else was pretty much kept the same.

What I - there's - I don't think we sort of need to go through all the articles or all the sections in Article 10 with respect to the PDP team. But I think there's a couple that I wanted to point out and I'm going to just scroll down here to - I want to get to Section 3, 4. Okay, this one- this is another one that I'm not

sure this was actually - that the counsel saw this originally. We didn't think there needed to be any change to this particular paragraph in Section 3.

Essentially what it deals with is the GNSO operating procedures which is another separate document. The bylaws originally, and we'll see this in a second when you scroll down, contained a lot of detail about absentee voting and quorums and vacancies and a lot of sort of administrative detail that a lot of us felt shouldn't be at the level of bylaws. It should be in counsel operating rules that is an additional document.

And so after some discussion with legal Margie and a bunch of us rewrote this Section 4 and Jeff has made an email comment on this one as well. But in essence the idea here was to give the counsel some flexibility so that it could change its rules, approve them as a counsel, put them out for 20 day public comment period, and the board's rule would be oversight and review not necessarily approval.

And the reason that was done was to not to put the board into critical path so that the counsel could make some changes and implement things it might need for bicameral voting that were missed or something like that and get them done quickly, get them approved, and operate and then the board would review and if it didn't like what it saw it could certainly ask that it be changed.

Jeff Neuman: Yes so if I can interrupt, so my comment was on that that I filed by email was you're making a presumption even before the public comment period that the rules you establish are going to be valid and there's no check and balance and frankly no reason for a public comment period.

Because if after the expiration period it's presumed to be valid and goes into effect that first of all it's going to take the board a while to act so you're going to have the rule in effect for a certain period of time before the board could even act. And then the question is whether oversight really means the right to

unilaterally not approve of a change. You get into this whole debate as to what oversight actually means.

And I just think you're basically admitting in the bylaws that a public comment period on these rules of operation is meaningless. There's no - why even have a public comment period, it doesn't make sense.

Ken Bour: I think I understand your point and you've made it articulately in the email I think. So this one I think should just go back to the legal team that's working on these and decide if that - and maybe we'll see some additional public comments on it as well.

I can just tell you that what the intent when it was written was we wanted to take the board out of the - sort of the approval of rules and procedures that a counsel should be able to do on its own if it can achieve a majority vote among the two houses, right? And so that was the idea.

Jeff Neuman: But, I mean, part of my hesitancy on this is because I'm not sure where the line is drawn between what is an operating procedure and what's in a bylaw. And until I see that definitive line or until I see exactly a definition of what needs to be in the operating - what needs to be in the bylaws versus what needs to be in the operating procedures, I'm not comfortable, you know, personally I'm not comfortable with any of this.

I'm certainly not comfortable with sending a blanket rule that anything in the operating procedures can be approved by the counsel and no role for the ICANN board on it especially given, you know, the registries and registrars are bound by consensus policies. And what may be considered by some as just a change to an operating procedure could be interpreted by others as having a significant effect on the consensus policy process.

Avri Doria: This is Avri, can I get in the queue?

Jeff Neuman: Avri, Alan, anyone else? Okay Avri?

Avri Doria: Okay, on a couple of things -- I think that it would be relatively easy for it to be changed so that it was a two step and this is only answering one of your issues, it was a two step for the approval by counsel. And that is one, that the counsel would send this and decide that it was complete and it was to be sent out to public comment and then that it had a review period or it had to respond to the public comment and then it could vote.

So using something very similar to the PDP comment period could certainly be done and that would answer the question of, you know, somehow training ourselves to actually listen to people's comments and, you know, not throw them away as we so often do.

The other part of where is the line strictly dividing what is and what isn't, I would think that is something that (a) would come out in the discussions. I don't think it will be possible for people to give an explicit definition, you know, of all the places and all the things that may or may not have a consensus policy effect. I think everyone accepts that consensus policy effect, you know, it's a bylaws issue and otherwise isn't and you're right, interpretations make the border.

But I do think that, you know, we have that bit of knowledge, the fact that there would be board oversight to look at it and say no, no, no, no, no. This one should be bylaws and roll it back. They would know what was going on one would hope as this was going on because they would see the public comment period.

And so in those cases where they thought there was a problem and something for exception based oversight to take care of, they would know that they had to get themselves in gear and we could hope that they would learn to do that. So I don't see the same problem as you do in the second instance and in the first instance the solution is relatively simple.

Jeff Neuman: Okay Alan?

Alan Greenberg: Yes I basically support what Jeff said and the first part of what Avri said. First of all on a nit or perhaps not a nit, the words used there are approved by a majority vote of each house. I think the wording we've been using in general is of both houses of both need changes. Otherwise it's sort of confusing.

On the specifics of board oversight and when it's needed, up until now in the last number of months in this group and I think in counsel in general, we have been using an expression which went something like it doesn't really matter if it's in the rules or in the bylaws because the board has to approve everything anyway.

So up until now the decision made of where things go was without regard to board approval because it was assumed it was going to happen with the exception of things in consensus policies which point to directly to the words bylaws. So I think we're going to have to be careful and go back and make sure that we didn't push something into the rules on the understanding that it was okay because the board would approve it - would have to approve it anyway in light of this new change.

Jeff Neuman: Thanks Alan, I think I agree with that point. I think that's a good one and I'm not sure how we retrench and go back. It's probably more for the restructuring group to go back and figure that one out. Does anybody else have any comments on this particular issue?

Ken Bour: This is Ken, I just want to comment that the language of each house has been - that's the language legal wants. I wrote it as both houses, and every time in all the - way in the beginning and all of them got changed to each house. So that must be more precise.

Jeff Neuman: Okay, Ken if you want to continue on.

Ken Bour: Sure. Okay we'll slide past 4 and then what - if we go down to - you'll see starting with 8, this is the stuff - again I agree, we won't be able probably to create any kind of definition about what is bylaws and what is - it's sort of an art than it is a science. But certainly by looking at the stuff that we're recommending come out of the bylaws you can get an idea of the kind of thing we're talking about.

So all these sections here that were actually duplicated in the counsel rules before are being recommended for coming out of the bylaws and so they deal with things like this first paragraph has to do with you can have a meeting by electric video screen communications and, you know, that kind of stuff, offering details. There's some absentee voting issues, what is a quorum, that kind of thing. We think all of those things should end up being in the counsel rules.

Avri Doria: This is Avri, can I ask a question? The absentee ballot is directly in fact the cause of absentee ballot unless it's been changed refers to it as being for initiation or of either a report or a PDP and election. So in this case using the does it have an effect on consensus policy, I would say that (unintelligible) to fall on the side of consensus policies, it's the clause under which it's used pertain to PDP.

Jeff Neuman: I think that's a good point Avri and actually something that is one of our next topics on Stage 2, on our Stage 2 document in talking about the voting thresholds to initiate various parts of the PDP and what type of - what does that mean, do the thresholds mean of the members present or does it mean of the total members and then you could allow absentee voting. But so I think that's a good point.

Ken Bour: Okay so what I - right now what we've got - all this material has been sort of marked anyway temporarily until it's approved for deletion. I'm going to go ahead at this point and skip, I think the rest of this all deals with material, you

know, and there were some word changes to much of what the counsel did but a lot of it is not substantive.

There is another document that I want to talk about in a minute which goes through every single section and every paragraph and basically crisply says what was different between Version 1 and Version 2 and we can take a look at that document also. But the idea was to give a mapping from one version to the next. There's also a third document that was posted that's sort of a staff rationale document on some of the key changes, not all but just some of the key changes.

Let's see, so at this point I think probably what we could do is just sort of go all the way down to Annex A and this is where I suspect you'll - the reason I brought those other sections up is for precisely the reason that we've already talked about. What is and isn't - what is in the bylaws and what's not may turn out to have an implication as to Annex A. Oh I'm sorry, I've gone too far.

Okay, so what we've done is we've taken each section of Annex A, I think there are 16 of them, and basically done the same thing. We put the old bylaws language on the left, we show the strikeout, any changes in color, and the right is the - should be the clean way it would read if ultimately approved.

I don't imagine that Jeff you want to go through these one at a time with me. I'm not sure how you want to go through it but as we scroll through it, so we didn't make any changes to Section 2 for example. And then in Section 3 you can see that there was a change to clause or subparagraph C.

Jeff Neuman: I think the ones that we want to go over are probably ones not where you just changed constituency to stakeholder group but probably the ones that where you make some additional wording changes.

Ken Bour:Ken Bower: Right, and so the general idea, we - initially when we first wanted to make all these bylaws changes for the GNSO counsel restructuring, it was - the

idea we were working on is we didn't want to do anything to Annex A. We wanted to deal with all of the sort of threshold issues and voting and stuff just in the transition article, Article 20, and essentially say look, until Annex A is revised we use the following information to construct bicameral voting and then later on. Because there's a lot in Annex A that needs to be revised as you guys well know.

But legal did not like that at all. They did not want one section of the bylaws to say one thing and another section to say something else. And so Margie took the task to try to go through here and legal has been over it twice now also to try to make it as consistent as possible going forward. And if we miss something, you know, we certainly would like to have it pointed out.

Jeff Neuman: So essentially what you're looking for is us to look at it and make sure or give you our opinion that what you've changed is both necessary and consistent with what we think the new threshold or other rules are and to look for anything that might have been omitted.

Ken Bour: Yes, that's right. And in fact let me slide back up here to Section 3-11 I think it is because 3-11 is where we have the thresholds. There is a default threshold that at the top that basically says a simple majority in each house is sort of the default condition. Then you see the create issues report, initiate a PDP and all that and those thresholds. Margie, what Margie tried to do was to make sure that what's in Annex A is consistent with A through F here.

This might be a good time also to answer Avri's question about what happened to the chair threshold because you'll see that was taken out. And again there is a similar here, there is a paragraph that says the election of chair is a GNSO operating principle matter, I believe its right here.

The procedures for selecting the chair and any other officers are contained in the GNSO operating procedures. And so if there's - the 60% of each house rule which was something that came out of the working group on GNSO

counsel restructuring, that's what the work team will be writing into the draft operating procedures for election of chair.

Avri Doria: This is Avri, can I ask a question? So that means it hasn't been lost, it's just been moved?

Ken Bour:: That's correct.

Avri Doria: Okay thank you.

Jeff Neuman: Well when you say moved, do we have a draft GNSO operating procedures document?

Ken Bour: Yes well it's in the process of being drafted now. There is a team, Julie Hedlund is sort of the head, Rob and Julie are working with the GNSO operations work team I believe it's called and they have tasks. And there is actually a structure, there is actually a document that has chapter headings and topics. It was pulled over from the old one.

It's been redlined and marked up and there are sections in there that need to be drafted specifically before Seoul so that the rules around quorum, like for example the quorum rule I think that we're looking at now is a quorum is a majority in each house. So that needs to get written in because today's quorum rules are not applicable. And so and the same thing, you know, with absentee voting and extensions and all that. They're going to write all that material.

Jeff Neuman: Okay that's different from the document that came out describing a whole separate administrative body.

Ken Bour: Yes, that is different, correct.

Jeff Neuman: Okay.

Ken Bour: Okay so...

Jeff Neuman: So the comment - I'll just reiterate the comment I made on an email too to Section 7. The - which talks about, you know, this is if task forces are created. And when it goes to the public comment period, I think we might have gotten this.

Ken Bour: Yes so if we go down to 7, when I scroll this is everybody seeing it?

Jeff Neuman: Yes, yes.

Ken Bour: Okay good.

Jeff Neuman: Seven, b, c, d. I think it's just a typo that was done here. But basically this is constituency and stakeholder group statements. It said at that point if a super majority vote - what it used to say is if a super majority vote was reached the clear statement of the constituency or position on the issue need to be stated like every constituency statement should have it.

For some reason they inserted the words GNSO super majority which is not really applicable. What this paragraph is really trying to say is if the constituency or future case the stakeholder group comes with a super majority of that group, then clear statement is required.

Ken Bour: Okay.

Jeff Neuman: If there's no super majority of that stakeholder group or constituency presumably then you're supposed to put in your statement all the positions espoused by the stakeholder - it didn't mean GNSO super majority.

Ken Bour: Yes okay, that may very well be. I'm sure - that sounds right to me. I didn't do the editing on this document so I'm not 100% sure but we'll make sure that Margie and I and legal looks at that particular one. You might be right.

Jeff Neuman: Yes, because at that point there it would have been no vote by a GNSO counsel. It doesn't make sense because there has not ever been a vote by the GNSO counsel on that - there's been no work product delivered by the group to the counsel so there could be no vote.

Ken Bour: Right.

Alan Greenberg: It's Alan. However, if you replace GNSO with stakeholder group or constituency what does that mean regarding stakeholder group if you look at the stakeholder groups that are made up of multiple constituencies? Is that requiring the stakeholder group to somehow assess the overall position of the stakeholder group adding a significant level of overhead to the process? Or does it mean only if the stakeholder happens to hold a vote, then it's relevant?

Jeff Neuman: I think, I mean, the way I interpreted it is it would require the stakeholder group to assess super majority if there is a super majority of the entire stakeholder group. And if not then to indicate all the positions of all the different constituencies within the stakeholder group.

Avri Doria: It's Avri, can I ask a question?

Man: That sounds impossible on this current set of rules.

Jeff Neuman: So but let me put Avri and then Alan if you want to respond to that.

Avri Doria: Yes, the question there is for those stakeholder groups that are being forced to stay in the constituency model, you basically then be in a situation where

you were asking for two things. One, a constituency statement from all the constituencies, and then somehow a stakeholder statement.

And I think for those constituencies that have been forced, I mean, for the stakeholder groups that have been forced to retain the constituency model, you know, you can't require it of the stakeholder group. You can only require it at the constituency level.

Jeff Neuman: Just to respond to that, I think that's right and look, in the end we're the group that's charged with making recommendations to this section. I think what they're just trying to do, and Ken can jump in, is trying to have something that's there at the outset on this until we propose a new appendix and we can propose dealing with this differently. I don't think the board or anyone is empowered to make any other changes to this section other than the clarifying language.

Man: That's right. But what we're talking about right now is a very significant issue that must be addressed day one. The first time we call for what we're now calling constituency statements, you know, what does this - what does the business - the commercial stakeholder group do with three stakeholder - with three constituencies within it, how do they weight each one of them, how do they somehow assess a super majority?

Ken Bour: It's not clear to me, this is Ken. I'm not interpreting that the stakeholder group has to do anything different. The original language just said if a super majority vote was reached the clear statement of constituencies position. And all we did we add or stakeholder group.

So it's still going to be the constituencies statement of position based on a super majority but if the constituency isn't there in which case it's a stakeholder group. It's "or" so I don't think it's requiring the stakeholder groups to gather up and assess the constituencies' position.

Jeff Neuman: Okay then I think it needs to make clear that for stakeholder groups that have constituencies it is the constituency that's operative and not the stakeholder group in regard to this whole section.

Ken Bour: Yes, if you had seen - originally we actually had language like that. The constituency or stakeholder group without constituency, it gets really, really, really awkward language and...

Avri Doria: This is Avri, can I comment?

Ken Bour: Yes.

Avri Doria: I think that awkward language is indeed the price that has to be paid for basically having made a decision to have inconsistent rules between the two houses. And so I don't see any way that the bylaws can be legitimate if they don't take that awkward situation into account.

Jeff Neuman: And then we could always in our Annex A if this work group wants - work team wants to make other recommendations, you know, it can do that not hoping - I would love for this group to actually have some definitive recommendations not long after the new structure goes into place.

Alan Greenberg: Well what we do in the long term is different. The question is what needs to be there for Seoul.

Jeff Neuman: Right.

Gisella Gruber-White: Sorry, if you could please just say your names for transcript purposes.

Alan Greenberg: That was Alan on the last comment.

Gisella Gruber-White: Thank you.

Jeff Neuman: Okay Ken do you - so we - so that's been noted and do you want to move on? Sorry, is there any other comments on that section? No, okay then let's go on.

Ken Bour: Yes I don't know if we skipped around here or not. Again, the general idea was to simply recognize that we have stakeholder groups and constituencies now and the rest of it was basically to incorporate the thresholds into the material. And that was pretty much it, we didn't, you know, there was - do we even have task forces anymore?

Avri Doria: We can, in other words until it's removed from the bylaws I am forced - sorry, this is Avri speaking. Until it's removed from the bylaws the way it's been written, I am forced as chair to always have a decision of some sort, a vote normally although it often gets folded in with other votes to decide where there's a task force.

Because the bylaws are written you do a PDP, you decide if there's a task force, and the committee of the whole - then the committee of the whole can figure out what you do. So everything we've been doing in terms of working groups have been a modality, a method used by committee of the whole having decided not to do task force.

Ken Bour: Okay.

Avri Doria: But the way the bylaws are written post every decision to do a PDP there needs to be a visible decision that a task force was not called for. So that has to be removed from the bylaws someday if we're not going to do that anymore but until then, yes, vote on it every time.

Ken Bour: Okay.

Jeff Neuman: Can you go back one to Section 11?

Ken Bour: Sure.

Jeff Neuman: It says there - it's says if a successful vote was not - a successful GNSO vote, what does that mean?

Ken Bour: All right, let me take you down to the definitions in Section 16. A successful GNSO vote means an affirmative vote of the GNSO counsel as determined in accordance with the bylaws including without limitation a GNSO super majority vote.

Jeff Neuman: Okay then if you go back up to that section which is a board report, you're basically saying that a successful GNSO vote could be even a vote of a majority and that has implications on a PDP.

Ken Bour: Yes, I'll have to defer to Margie on that.

Jeff Neuman: Because I would not say at least for a consensus policy process if it's going to be opposed on the registries and registrars, a majority vote is not a successful GNSO vote for purposes of developing a consensus policy.

Man: Well it's successful but it has a higher board threshold.

Jeff Neuman: I'm not sure it's successful. I just don't like the word successful, I think that's kind of a connotation that it's going to be very misleading to the public because you could imagine articles coming out going GNSO successfully approves whatever and it didn't reach the threshold of a consensus policy.

Man: But it is successful if the board doesn't reject it.

Man: It's just an easier threshold for them to reject.

Jeff Neuman: No I don't think so. If the board approves a GNSO recommendation but it doesn't have a consensus, i.e. a super majority of everyone else, then it cannot be imposed on the registries.

Avri Doria: This is Avri, can I comment?

Jeff Neuman: Sure, yes.

Avri Doria: Certainly the rules we've been running under is that it is successful if it has a majority. It goes to the board differently and the board has different treatment of it. And so there's basically successful and super successful if you really want to be - super successful, super majority means that the board can only overrule it by 2/3 vote of the board. If it's only successful then the board needs to approve it. But in either case it becomes consensus policy.

Alan Greenberg: Yes it's Alan. If you stated it all in positive ways, it's - GNSO has a super majority, it only takes 1/3 of the board to ratify it. If it is not a super majority but a majority then the board - and it requires a 50% plus of the board to ratify or maybe a super majority of the board, I'm not sure.

Avri Doria: And that's been the case with the bylaws.

Jeff Neuman: I'm not sure that's true. Paul or James, David, is that the way you guys understand it? I was always assuming that a 2/3 vote, you had to have a 2/3 vote at least under the registrar agreements you had to have a 2/3 vote of the counsel in order for it to ever become considered to be a consensus policy and binding on the registries.

You could have a vote of the counsel majority and the board adopt that, but unless it had a super majority people underneath it can't be imposed. So the board can adopt it as a best practice or a recommendation but it cannot just impose it on the registries and registrars. That's not the way it works.

Paul Diaz: This is Paul. That was my understanding Jeff, I thought it was 2/3 to make it binding.

Ken Bour: Yes let me - this is Ken. I'm going to hop back into this because there was something I did want to cover and I kind of didn't check my notes carefully. Going back to Section 3 of Article 10 and I'm in paragraph 11, I want to draw your attention to a new threshold that just got added in this - this is one of the key changes that came out.

There was - folks like Margie and some others were working on the RAA documents and it was noticed that there is a provision that was just mentioned here on our call, that it takes a 2/3 vote of the counsel, in fact you see it quoted there. A 2/3 vote of the counsel to make - to create a binding consensus policy on the registrars and I believe it also applies to one registry, (.pro) maybe. So these are contract provisions. So what was done is a new threshold was written here because we don't have 2/3 of a counsel anymore, we've got a bicameral house structure and so I'll read this.

Approve a PDP recommendation imposing new obligations on certain contracting parties where an ICANN contract provision specifies that "a 2/3 vote of the counsel" demonstrates the presence of a consensus, the GNSO super majority vote threshold will have to be met or exceeded with respect to any contracting party affected by such contract provision.

Avri Doria: I believe that's a radical change from what it says now. We're going to need to get legal counsel. This is Avri. We're going to have to get legal counsel to give a ruling on what is the current existing policy versus what is the one that's being redefined here.

Ken Bour: I'm not following, this is Ken. The - this was approved by legal department and what they have said is that these GNSO super majority threshold which is 3/4 of one house and a majority in the other is defined to be equivalent to the language in contract provisions that say 2/3 majority of the counsel.

Jeff Neuman: Right, so, I think Avri is right in the sense that I think legal counsel needs to be available because they are not only changing the interpretation of at least as Avri feels a policy, but they're changing an interpretation of a contract.

Alan Greenberg: It's Alan (unintelligible).

Jeff Neuman: Yes Alan and who else wants to get in the queue? Okay Alan?

Alan Greenberg: We talked about this an awful lot on the RAA discussion and without having gone back to read the words, my impression, the impression that was left was that there is a 2/3 words in the RAA associated with changing the overall RAA but that the interpretation was although it's not clear the wording says that if there are things within the picket fence on the RAA that follows the standard GNSO consensus policy rules whatever they may be.

And yes, I would like to hear a legal opinion on whether there are two kinds of rules or we're reverting to a separate one for registrars then for registries. So I think this is going to need some discussion and understanding before we just rubber stamp it.

Jeff Neuman: I think that's - this is Jeff so Avri, I mean, I think perhaps you might want to make a request to for the restructuring committee call, you probably want to make a request to ICANN counsel to be there. You know, this is a difficult area. You know, speaking just as a registry because there is no provision in the registry agreements that define an exact number.

But that said, as a registry I would never agree to the premise that Avri said which is that a successful GNSO counsel vote is for the majority of the counsel votes in favor of it and it goes to the board and the board approves it. That is binding consensus policy because that was not the intent of the consensus policy language in the contracts at least which was to get a consensus of the Internet community, not a majority of the counsel/the board.

That was never - when we negotiated those contracts we would have never agreed to something like that. And we don't agree with changing that contract.

Man: Yet those have been the bylaws ever since God knows when.

Jeff Neuman: No, no, no, no. Bylaws require a super majority for the consensus policy process.

Man: Not so.

Jeff Neuman: In other words it can go to the board, there's nothing preventing something from going to the board, right, but the board even if it voted unanimously in favor of a policy that had a majority support of the counsel but not super majority, the registries would never follow that policy unless they voluntarily wanted to. But the registries wouldn't follow that policy because we would say that's not a consensus policy process. Yes a majority liked it and the board like it but that's not a consensus policy.

Avri Doria: And that's the one - this is Avri again. And that's the one that I think we have to speak to the legal counsel about because just as you're sure that is the case, I'm sure that it's not. So we obviously need someone to determine that because that's obviously a critically important point.

Jeff Neuman: I agree with you Avri but and we absolutely need to talk to them. But as a registry speaking solely as legal counsel for my own registry I would say that's irrelevant to me what legal counsel for ICANN thinks.

Avri Doria: Okay yes, I mean, this may be something where the contract is sufficient ambiguous, that it's a lovely court case and, you know, we can get rich off it but (unintelligible) lawyer be an expert witness. You know, we could have a great time.

Jeff Neuman: You're point is well taken and I do agree that legal counsel - and again it's one of the reasons I made a comment for the rest of the group's sake, I made a comment saying that 20 days to comment on this was just incredibly way too short, that there are broad implications in some of these provisions.

And I feel like we're just trying to - first of all there has been no comment period, well I can't say no but in the last six months I went through, there's been no comment period in the last six months that have been less than 30 days and we're talking some of them for real trivial matters. Here we're talking about bylaw changes and we're only awarding 20 days to comment and it's so fundamental to the structure of ICANN that its accountability, it just doesn't make sense to me.

And we're doing it so that we can have enough time for the board I guess to approve it in September so that it can be in place by October at the Seoul meeting. And, you know what, I think for that the board can call a special meeting if it needs to in early October or do all those things.

I don't think we need to accommodate the board for expediency sake to try to rush this in by Seoul. I think we need to forward the appropriate comment periods or time to comment. That's my own opinion. But Ken was there anything else on - or I'm sorry, is there anyone else that has got comments on any of that?

Paul Diaz: Hey Jeff, it's Paul.

Ken Bour: Sure Paul.

Paul Diaz: A question for Ken. When you first laid this out you were talking about a potential alternate path here, an option of approval in principle, you know, whereby they would say look, we think these are the right rules but we're

going to defer etching them in stone so that there's more opportunity. Is there any sort of if you will formal process around that?

How do we ask the board at a minimum to take that approach so that everything we're discussing right now, the need for more time is fully understood by the board and hopefully granted?

Ken Bour: Yes I'm not sure I can say more - this is Ken, more about that. I just remember that during some of the discussions we had with legal around this particular (unintelligible) and some other things that if we didn't get complete resolution even on F, maybe F could be carved out some way and the rest of the bylaws could go forward and then - so I guess there's a number of different alternatives.

One might be approving them in principle so the counsel can continue to act and we can go forward in Seoul. You know, another might be to carve out something that in fact can't be resolved and just leave it out and deal with it later.

The question is going to - I guess the determination of which of those paths will be taken has to do I think with what issue it is that's being carved out and whether it in fact would stop the counsel or inhibit the counsel from being able to act in a bicameral approach or using that bicameral apparatus for voting. So, you know, this F could turn out to be significant or not depending on how the community dialog goes on it.

I'm not sure if - I didn't give you a crisp answer there. I think there's a number of different possibilities here and there's certainly nothing wrong with asking the board to consider something that wouldn't necessarily etch these in stone.

Paul Diaz: Okay and I guess then just the follow-up is for our group here, I mean, Avri is that something you take the lead on as chair of the counsel? Is it something that we do individually?

Avri Doria: Yes for me to do anything as the chair of the counsel I would need to get the counsel to decide that this was something that they wanted to do which is something certainly that I can, you know, put on the agenda for the next meeting but...

Paul Diaz: In the interest of time though should we plan to do things individually then? Because when is the next counsel meeting, it's close to the deadline isn't it?

Avri Doria: The next counsel meeting is next week.

Jeff Neuman: But there is a restructuring group meeting that hopefully will be scheduled next week. I'm assuming those meetings are open pretty much.

Avri Doria: At this point I would assume so.

Jeff Neuman: They have been anyway.

Avri Doria: Right, yes.

Jeff Neuman: And so I think as - I think you could make a request to legal counsel to be there at the restructuring.

Avri Doria: Oh certainly no, requesting legal counsel to be available for the discussions is not a problem, I can do that. What I was saying that I couldn't do -- and by the way this is Avri speaking.

What I was saying I couldn't do was on my own make the request for delays or make the request for in principle decisions, in principle decisions speaking personally would trouble me because that means in principle we have agreed

but we're leaving it up to legal staff and others to, you know, put it in when they get it right or something and so that leaves a space that concerns me a little. But that's a personal statement. As a chair I have no idea what the counsel would feel on such a proposal.

Ken Bour:: This is Ken again. I'll just sort of wrap up then. The - I just wanted to point out that there were two other documents. One of them is called Staff Recommended Amendments to Bylaws and staff should be interpreted also to mean legal.

The - and then here you'll see what has been proposed for some of the key places where there were sort of substantive changes made versus just language. And the one that we were talking about had to do with this Article 10, I'm sorry, Article 10 3-11F devoting threshold applicable to certain contract parties. So there's not much more rationale in this document than what I had talked about or we talked about and then the Annex A.

And I just want to point out one more document in case you get a chance and that has to do with...

Jeff Neuman: Actually can you - I'm sorry, can I ask a question?

Ken Bour: I can come back to it. There's another document called Notes and Comments for each amended article and section and you'll see here there's a mapping for every article. So we can look at article 10, Section 2 for example. The legend up here, that means GNSO counsel drafting team language except for changing if any to where applicable, removing and/or names which was not approved by the SIC, and remove the GNSO counsel two houses because those organizations do not have charters.

In every case we attempted to show paragraph by paragraph whether the GNSO drafting teams language was used and if not which was changed. And so this document may be helpful to you if you want to quickly go through and

see where the material - how it varied from one issue to the next. I'm sorry then Jeff, did you want me to go back to a different one?

Jeff Neuman: Yes just a minor comment but, I mean, if the people who are outsiders that read it, on the staff document describing the changes where it says Annex AP procedures, like I said it's pretty minor but it's not GNSO restructuring work team that's considering - that's undergoing an extensive evaluation, it's the Policy Process Steering Committee that is undergoing that.

Ken Bour: You mean right here?

Jeff Neuman: Annex A, page 3.

Ken Bour: Oh, oh, oh.

Jeff Neuman: Yes right there, it says staff - the first paragraph. Staff recognizes that GNSO restructuring work team, it's actually the Policy Process Steering Committee.

Ken Bour: Yes okay.

Jeff Neuman: Yes if you want it to be more explicit it's the Development Process work team of that.

Ken Bour: Right, that's right. We - the term GNSO restructuring work team was generic and it encompassed the - your team, the working group team, all of them in fact. I think the intention here wasn't to be narrow and specific but just to sort of connote that there are work teams working on these things. But yes, there's no misunderstanding at least on the staff that it's the PDP team that's working on Annex A.

Jeff Neuman: Okay, anybody else with questions on that?

Ken Bour: The last thing, this is Ken. I'll just - the last thing I wanted to just talk about was just quickly on the process, all right? So there are really only a few steps left. Assuming that the public comment form isn't extended it will end on the 24th of August.

Staff would have a day or two, and of course we're supposed to normally have all of our board papers and recommendations in two weeks before board meetings but in this case it's going to have to be just a day or two. So on the 25th, 26th staff will take all the public comments, summarize, analyze them, and write up a sort of position paper there and then the idea was to get board approval on the 27th. It's very, very ambitious. So I just wanted to wrap that up as to what the next steps were.

Avri Doria: This is Avri, can I ask something?

Jeff Neuman: Yes.

Avri Doria: This is just to endorse or, I mean, to answer the question of that Paul put forward. I think yes, while anything else is going on we should all be sending in as detailed, you know, issues, discussions to the comment as we can. So at least, you know, all of it is there for it to be paid attention to, you know. Otherwise it's lost.

Marika Konings: This is Marika, can I add something?

Jeff Neuman: Sure.

Marika Konings: Yes, no just to add, of course this working team could decide as well if they see any issues that they feel as the working team they would like to comment on even though I recognize the deadline of course is very short there might be an opportunity as well to submit something collectively.

Jeff Neuman: Okay, any other comments or questions for Ken?

Alan Greenberg: It's Alan, not for Ken but in reference to the discussion of super majority and stuff, (unintelligible) but take a look at Section 13 point F of Annex A and you'll see why Avri and I think that the existing rule of 50% is there.

Jeff Neuman: Sorry, so let me...

Alan Greenberg: 13 point F, Frank.

Jeff Neuman: 13F, okay I'll look at that.

Alan Greenberg: A very short sentence and actually easy to parse.

Jeff Neuman: What does it say?

Alan Greenberg: It says in any case in which the counsel is not able to reach super majority a majority vote of the board will be sufficient to act.

Jeff Neuman: Correct, it's still an action by the counsel but it doesn't...

Avri Doria: No by the board.

Jeff Neuman: What's that?

Avri Doria: The board to act.

Alan Greenberg: In the case that the counsel does not reach super majority a majority of the board will be sufficient to act.

Jeff Neuman: Yes but that's us, the registries it just means the board can take an action. It doesn't mean it's binding. Nothing is preventing the board from acting.

Alan Greenberg: But Section 13 is acting on consensus policies.

Jeff Neuman: Correct. The board can act but it does not mean that it's binding on - in other words...

Avri Doria: I think (unintelligible) a judge and a jury.

Jeff Neuman: Well, I mean, I'll just - when - and I was on that task force that drafted that initial Appendix A and the discussions that took place there was that we didn't want to say that the board couldn't take an action or that the board was hamstrung but it was that was not saying the same thing as that was binding on the registries. All right? So anyway, history.

Alan Greenberg: Okay, sorry -- or future.

Jeff Neuman: Right, and good thing this PDP group is not addressing thresholds. Anyway, so is there any other questions on these new developments for Ken? I see Ken has turned to Section 13. Is there - or someone has put on - James has got a comment as well.

James Bladel: Hi Jeff, thanks, this is James. And I'm just still a little behind on this so I'm trying to take this all in. But is it correct, is it a correct announcement to say that we have two questions at hand. One is the mapping of the 2/3 majority into the new structure and then the second question being if it fails to meet that and the board whether that then becomes a voluntary or a binding policy? I'm trying to understand here if there is actually multiple issues mangled together there.

Alan Greenberg: It's Alan. I think we only have one. The mapping of super majority to the new bicameral rules has been pretty well accepted I think.

Jeff Neuman: Well I think there's actually - I think to be - there are - two issues in the sense of that the registrar credit agreements do have a 2/3 number in there and so it's trying to figure out how the new structure will map to or how you

accommodate when one document, a contract says 2/3 and how that's interpreted when you have a completely different counsel structure and the number 2/3 just won't necessarily work for that.

James Bladel: The other component of that what you're discussing with the counsel and the board majority threshold is really something that exists in the structure today.

Jeff Neuman: The other issue is a difference of interpretation I guess between what does exist today in the sense of in the registry agreements says consensus policy process follows the process set forth in the bylaws. And the bylaws Annex A specifies that if there is a super majority vote then the board needs a certain threshold to overturn that.

But it says that if there's not a super majority vote it needs a majority vote to "act." And I guess there is a difference of interpretation of what the word act means from what I am saying versus what Alan and Avri are saying.

James Bladel: Okay but that interpretation is in - and this is James again. That interpretation exists in the language today.

Jeff Neuman: Yes.

Avri Doria: Yes.

James Bladel: Okay, so that's really not a - what do I want to say here? That's really not necessarily byproduct of the restructuring.

Avri Doria: This is Avri, can I comment?

Jeff Neuman: Sure.

Avri Doria: I think one has to be careful that we can certainly agree that perhaps the current language is ambiguous but we need to make sure that the new

language doesn't disambiguate that in a way that makes the case one way or another. If it is ambiguous then it must remain ambiguous. If it's not then we have to go through a fair amount of work to see which way we disambiguate it.

Jeff Neuman: Well I would amend that saying if it's ambiguous then we as a policy process PDP work team shouldn't make it clear but we the community in the whole sense could take something on to make it clear. (Unintelligible) separate process.

Alan Greenberg: Jeff in the long term yes but in this pass where we're trying to make it work for Seoul I don't think we want to tackle this disambiguation of...

Jeff Neuman: Yes I think it may have to be in some sense because if you're changing - yes maybe you're right, yes. But either way I think legal counsel needs to be brought in to explain why they are making this recommendation to the new bylaws.

Alan Greenberg: They may have opened Pandora's Box and we can't close it at this point.

Jeff Neuman: Right, okay.

Alan Greenberg: A comment to Ken, we had the discussion earlier on the issue of constituency or stakeholder group in regard to one particular section. As I was flipping through the Annex A this same distinction has to be made in one or two other sections so it should be made high enough up that it applies to all of them.

Ken Bour: Yes, like I said we - when we first started with this the language was extremely arduous and, you know, as Avri points out maybe it's a byproduct of the decisions we've made. But we were trying to just simplify it a bit and not make it so clumsy and clunky to read. But if that makes it imprecise then we may have to go back to the way it was.

Alan Greenberg: And similarly I think you're going to find some comments on the nominating committee one where you tried to make it simple but have given the existing constituencies a significant benefit over any emerging new ones and it's not clear the community will accept that.

Ken Bour: There is another - this is Ken. On Article 7 Section 2 there is another proposal being - working through the SIC now that we just literally sent yesterday or it's going to go out today that looks at a different way of - in other words what we were trying to do long term is to assign all of the nominating committee slots to the stakeholder group, not to constituencies and for precisely the reason that you just articulated.

Alan Greenberg: Unfortunately you have the same sort of thing, short term, long term. Immediately in the bylaws we just wanted to just fix the language and leave everything else alone while a process gets worked through to determine if we want to actually change it to be a stakeholder group function and not a constituency.

Man: I would suggest then that needs to be addressed somewhere because someone looking at forming a new stakeholder group would look at this and again one of these issues of why should I bother.

Ken Bour: Yes and what we were thinking is that we would put a public comment out as soon as those discussions are held, we would add something to the public comment that says here is something new to chew on. We just - there is so many things to do we haven't been able to get them all done at the same time.

Jeff Neuman: So if I interpret that, so what you're saying is instead of saying that the registry constituency would get one and the registrar constituencies would get one you would basically say the stakeholder group - no I'm sorry, never mind. You would say...

Ken Bower: That is what they're saying now.

Jeff Neuman: Well put aside - well I'm trying to assess the long term. So the long term you would say the commercial stakeholder group would get four instead of saying that the business constituency within would get two or something like that?

Ken Bower: Yes but the language reads something like the four seats or delegates would come from the commercial stakeholder group and then underneath representing, you know, business users, intellectual property interests. Not that one from each is necessary but that the nominating committee is asking the stakeholder group to please make sure these concepts are included in those representatives.

Man: Since the whole - this is not our domain but since the whole rationale for rejecting some of the stakeholder group charters and changing them was to make it attractive to new constituencies, this is sort of a slap in the face the way it's worded right now and even what you're proposing. So someone needs to think about it.

Ken Bower: It just wasn't on the front burner until we got all the other things done and it's now at least getting on a burner.

Jeff Neuman: Okay is there any other questions for Ken or for anyone or comments on the restructuring - I'm sorry, on the new bylaws, proposed bylaws? Okay then with that said I think we can actually move on to the next item which is - and I don't know who's got control of the Adobe. Who's got - does anyone have the latest Stage 2 document?

Woman: Yes, I'll pull that up.

Jeff Neuman: Great. So I will also note that there is a draft that I've seen which I'm going through now of the Stage 1 and where we have come out on that. I'm just going through it now, just going checking with my notes and stuff and that will

come out within the next week so that we can all comment on the Stage 1 stuff.

Right now Stage 2 for Avri and others who may not have been on the last call is we're talking about - the items we're talking about in this group are really proposal review and voting thresholds. Not that we're changing any voting thresholds but providing other definition around some of the things that are indicated. I think what's in red now up on the screen are the things that we discussed in the - on the last call if I'm reading that correctly.

So this has been up on the Wiki for a few days now to review. I think what I want to do is go to the first question that we haven't addressed yet which I think is question 3.

We've done some of these, like we've done 4, we did it kind of out of order, it just happened to come up and I think we've also done some of 5 or some other ones. But we haven't tackled this one and it kind of relates to something that Avri was talking about earlier or asked the question about and actually what was taken out of the bylaws.

Here it says should be approved voting thresholds apply to the entire genus of counsel or just the members present. So the voting thresholds now, the new proposed ones just say if there is - for example if there is a majority of one house or a majority of each house, but it doesn't say it has to be a majority of those present.

I think the discussion that we had is there is an absentee voting or absentee ballot process that I guess will be incorporated in the operating rules now is the recommendation. So the question is do we really - do we need to address this at all or is this implicit in the rules of absentee voting.

Avri Doria: This is Avri, can I comment?

Jeff Neuman: Sure.

Avri Doria: I think that since it is specifically directed to PDP and elections I think that it does supersede the rule that says of those present because it is of all counsel. But you have to have a quorum to start the vote is certainly the rule under which I've been behaving is that I can't call a vote unless there is a quorum but that - but if it's a PDP or an election everyone that wants to vote can.

So because there's no - the reason for the quorum is that there's no guarantee that anyone will actually do an absentee ballot. They are given two days on the average or as little as one or as little as seven depending on the situation. But there's nothing that forces them to actually submit a vote.

Jeff Neuman: Well but that presumes a couple of things. It presumes - so let's say the rule is, you know, that there's - I should probably point to a specific example. But in the bylaws it states for example, you know, one of the thresholds are - I'm going to just turn to one, that something requires a majority of each house, right?

If something requires a majority of each house does that mean that the house has to then have a formal meeting in which a vote is taken or can the - or is it sufficient for by absentee or by other means that a majority of the counsel reps from that house indicate their affirmative vote? Because you're presuming Avri there has to be a "meeting" of the house.

Avri Doria: No, what was - this is Avri again. What was said in most of the discussions on the houses is that the house, except in the matter of electing a Vice Chair, is an analytical structure that exists for counting votes but that it doesn't have any existence and meetings and bylaws and charters of its own, that it is a counting method except in the issue of electing a Vice Chair.

Alan Greenberg: Or now getting rid of a non-comm appointee.

Avri Doria: Oh okay, that's right. So yes it is acquiring...

Alan Greenberg: That was Alan.

Avri Doria: So probably within a couple of years you ought to have a full charter instead of bylaws. But certainly the principle that it was being done under is that houses are purely for counting.

Jeff Neuman: Okay so let me just try to take it through a practical example. So you now have a counsel meeting and let's say you're the chair of the new bicameral counsel. They...

Avri Doria: (Unintelligible) at the most.

Jeff Neuman: They meet and now you need to decide, the counsel needs to decide whether to approve or to raise an issue. Well I'm trying to think of one that requires 50% of each house. Let's pretend approve a PDP and let's say it requires a majority of each house, just making this up. You would basically - what if an entire house doesn't show up?

Alan Greenberg: Then you don't have quorum.

Avri Doria: Then I don't have quorum. Quorum means in that situation, the way reading the rules as I do now obviously, you know, I could get corrected from having misunderstood them. But the way I read the rules now I would check to see if there was a quorum, a majority of each house present before initiating the vote but the vote would stay open for the extra two days to give those who are absent a chance to vote.

Alan Greenberg: Yes quorum ensures that there is a reasonable number of people there to discuss.

Jeff Neuman: Right.

Avri Doria: It also assumes that there is a reasonable number of people there to close the vote if no one vote absentee. And as it has to be a defined complete process. Once a vote is opened it has to have a definite termination rule.

Jeff Neuman: Right but there is the absentee vote allowed.

Avri Doria: Right, right, so that just extends it. But the fact that there was quorum means that there was enough people there to also close the vote successfully.

Jeff Neuman: Okay so are you saying that you don't think we need to address it because it's implicitly addressed because of the fact that (a) you have to have quorum, and (b) if there is a quorum and there is a vote taken, there is a few days allowed for absentee voting anyway so you don't need to say the words present, you just need to say of those...

Avri Doria: Of those voting.

Jeff Neuman: Voting.

Alan Greenberg: Do counsel rules allow for quorum to continue if people leave?

Avri Doria: Yes quorum is established at the beginning of the meeting.

Alan Greenberg: Okay.

Avri Doria: You can't take attendance every time you go to do something.

Jeff Neuman: So just again to summarize then, we don't really - as a PDP work team we probably don't need to address this? I just want to make sure that at least to people on this call that they feel comfortable with that notion. Does anyone not feel comfortable with that notion?

Okay I think we can then move on to - we've talked about 4 and everyone can read the notes on that. There was actually pretty significant notes on this one. You can see it goes on a few pages.

Five is probably something I'd like to start on the next call because it's actually kind of an in-depth question and probably one that requires substantial thought and discussion. But everything we're talking about is in a normal case scenario. But in the end, you know, do we need something different for, you know, do we need an expedited process and I think that's part of a probably longer term or a longer discussion.

I kind of want to skip that one for now and probably go to number 6 which is hopefully a shorter one is how to involve advice from other agencies, SOs, and obtain consistent input from the board. Marika can you remember what this was really about?

Marika Konings: I think this was as we were talking about proposal review and initiation for PDP. I interpret that as meaning should ACs or SOs or the board be invited to share their views on whether GNSO counsel should initiate a PDP or not. So I think that's probably slightly leaning maybe as well to the issues paper and, you know, where people might voice an opinion on whether they think, you know, staff got it right or not.

So I think that's what I thought this question was really to but I might be wrong here and, you know, would invite anyone who actually raised that point to provide their input.

Alan Greenberg: Marika it's Alan. On the issuance of an issues report, is there a standard public comment at that point?

Marika Konings: No, currently there is not or at least there's no requirement in the bylaws.

Alan Greenberg: There's no current requirement that there even be time for other people to comment.

Marika Konings: No.

Alan Greenberg: In fact there's probably - if you follow the current bylaws there isn't time.

Marika Konings: No, no.

Jeff Neuman: Well I think if I remember correctly in Stage 1 I think we already addressed that.

Marika Konings: We've spoken about indeed having a...

Jeff Neuman: It should be.

Marika Konings: Yes we've spoken about having a public comment period at that point in time maybe to allow for others to either, you know, address whether there's information missing or whether to raise some, you know, correctional...

Alan Greenberg: Yes I think we talked about a draft issues report and an opportunity for it to be revised before it's finalized.

Jeff Neuman: Right so at this stage where the issues report is already done, it's already been submitted to counsel, counsel is considering whether to initiate the formal PDP and the work group and we're also talking at this stage, once they wrote to formal working group, you know, how the charter process works and approval of the charter. So that's what Stage 2 is.

So the question is at that point, is there a need to consider advice from other ACs or SOs at the point where now that they have already decided to formal working group and now we're talking about charter issues.

Marika Konings: No I think this is the initiation of the PDP. I didn't interpret it at the charter level, this was more the question when the counsel received the issues report if at that point any ACs or SOs should be invited to say well, you know, we would really like to see a PDP for these and these reasons or others would say well we don't think there should be a PDP because, you know, you didn't get the issue right or we don't think, you know, there's any time or resources needed to address this issue.

Because it is another problem for example. It's more a question - I don't think it's related to the charter issue because I think we're beyond the initiation of a PDP question.

Alan Greenberg: So if you follow - it's Alan. If you follow what we were talking about there would be an opportunity for them to comment on the draft as it were issues report. But since that's where issues could change substantially before it's finalized, the question is there a need for them to have another period before counsel decides to initiate or not.

Marika Konings: Yes, this is Marika. I guess, you know, it could be - if we go down that road and we have the common period you might either say well we already have the comments there and that should be reflected. Because normally, you know, we would hope that with the new processes in place with more discussion and the more information gathering, hopefully an issues report would have all the information and public comments would be limited and the changes might not be substantial.

But you could also ask the comment period on the issues report is normally related more to, you know, additional information or factual corrections and this could be a question just on the initiation of a PDP. But it could for example be used with a combined effort.

If you have a comment period you could specifically ask as well like well please review the issues report and note if there's anything substantial

missing or if there are any errors and also state whether you think a PDP should be initiated or not. I mean, it should be...

Man: So you're saying we could have done during Stage 1.

Marika Konings: You could make - if you would require a public comment period at that stage. If you wanted to make that, you know, incorporate that in the bylaws as a requirement, you could, you know, I guess then also add that question there instead of having another public comment period or a specific request that goes out to ACs or SOs asking them to submit their opinion. But I guess, you know, either way is possible.

Man: If I remember correctly that huge list of comments that Jeff rolled over were talking about at the phase after the issues report and before counsel votes.

Marika Konings: No, the ones you mean related to question 5, those are all related to the charter.

Man: Right, which is...

Marika Konings: That's all, I'm just crawling up, that's related to the question where in the process is charting done.

Man: Right which is why this question 6 could be either - the question I have is, and I noticed that for the - I just noticed it in rereading the bylaws. ACs are allowed to designate, I mean, obviously all ACs are allowed to designate a person to serve as an observer or liaison to the counsel.

Alan Greenberg: In the old bylaws they were - only two were - ones were bylaw mandated. The GAK and the ALAK. The other advisory committees were not included in that list. I think the proposed bylaws are more general.

Man: Right so don't they have input by virtue of having someone be a liaison? They could obviously talk at a counsel meeting.

Alan Greenberg: If those liaison positions were filled, yes.

Man: Right, if they're filled. But I mean, I'm seeing that does allow them to - the fact that they don't fill them, that's their decision but they do have the right to do that and they do have another input mechanism by virtue of having that liaison position.

Avri Doria: This is Avri, can I comment?

Man: Sure.

Avri Doria: One thing, on people like the GAC, they actually can't - even though they can petition to have a liaison they can't because one GAC member cannot speak for other GAC members and so therefore where they have someone monitoring the mailing list, they really don't have a liaison.

And the other thing, I would tend to think that it is a courtesy that we sometimes remember to do, in other words making sure that if the liaison wasn't there or if the liaison wasn't active to send an email to the GAK or perhaps to others saying hey, we're doing this. Comments?

So I guess I would think that it would not be a bad courtesy to institutionalize something like as part of some point of the process an invitation is sent out with a date deadline and, you know, it's purely informative invitational, and if they don't submit well fine. But I think it's a good courtesy to build into the system.

Jeff Neuman: Yes I think it should be built in at some point but is it the right - should it be at the forming of the issue stage as opposed to whether the GNSO should form a working group really?

Avri Doria: I would think at the beginning.

Jeff Neuman: Right, so I think at this stage I'm not sure - does anyone on this call at least think at this stage where the issue report is already done, it's been presented to the counsel, and the counsel is now gearing up to vote on whether to form a working group or alternatively afterwards, after the counsel votes to do a working group, whether there should be in put on some sort of charter.

Alan Greenberg: It's Alan. I think that the courtesy call should be between the time the issues report is receive and the time counsel votes to initiate a PDP or whatever the wording, appropriate wording is. Now that's a 15 day period today which we don't need, the planned revisions have a significantly longer. I see no reason not to ask for input.

Jeff Neuman: So sorry, can you just repeat? So the plan revisions have a longer period for...

Alan Greenberg: Currently we have a 15 day period in which counsel must vote on whether to initiate a PDP or not. Everyone understands that's completely unrealistic. It usually takes months. And I see no reason not in whatever the new process is to add a courtesy call to the SOs, ACs, and board.

Jeff Neuman: Okay Marika do you want to note that in the...

Alan Greenberg: If anyone disagrees I would like to hear it.

Avri Doria: Sounds reasonable to me, this is Avri.

Jeff Neuman: Okay. It is getting toward the hour and a half mark which is the end of the call. Before we end the call I do want to talk about the next meeting. The next meeting was tentatively scheduled - was supposed to be two weeks from now

but the registries and registrars are actually getting together in Toronto and so I know that a number of attendees won't be able to be present.

I guess the call could still go on without the registry/registrar reps including myself or we could just make it for three weeks from today rather than doing the two weeks from today. Does anyone have any thoughts on that?

Alan Greenberg: Not to say you should make a decision but I am available two weeks from today, I will not be available three weeks from today. I don't think my voice is that crucial however.

Marika Konings: And this is Marika. Just to note, if we don't have any registry and registrar reps I'm not sure - it might be Alan, me, and Avri talking.

Avri Doria: Not a good idea.

Jeff Neuman: Well the other thing I was thinking about is, you know, in a few days we'll make sure and probably this is on me that the draft for the - or all of it's on me, that the draft is out for Stage 1 because ICANN staff has actually done a version and I just wanted to look it over before it went out just to make sure it's the same as what I have in my notes. For that to go out pretty soon and that would give extra time for people to comment on that draft.

Alan Greenberg: Yes, if that's the sole content of that meeting and the draft goes out soon then that's fine with me. It gives me an opportunity to do it ahead of time.

Jeff Neuman: Right.

Alan Greenberg: If there's anything else that will be discussed I'd like significant notice. I'll be unavailable that whole week.

Jeff Neuman: So what I'd like to do to make up for lost time too is then to do one the 27th and then again on the 3rd and actually we're not getting too far away from Seoul.

Marika Konings: I think there is a counsel call on the 3rd. I don't recall.

Glen DeSaintgery:Yes.

Marika Konings: Avri do you know or Glen what time it is?

Glen DeSaintgery:Yes. At 20 UTC.

Marika Konings: Okay, so it wouldn't conflict.

Jeff Neuman: Okay, so it wouldn't conflict. Let's tentatively plan then for the 27th and then the 3rd and on the 27th we'll talk about whether to do the, you know, just every week or from the 3rd then go to the 17th and do it two weeks at that point. Because we are getting closer and closer to Seoul, actually, believe it or not. Anybody else have any thoughts or any last comments? All right well thank everyone for coming and Avri I'll send you a revised attendance list including today's.

Avri Doria: Okay and if you want me to pass that on to the counsel, indicate that in the note so I can just then forward it on.

Jeff Neuman: Yes I will because I haven't gotten any response from the chairs.

Avri Doria: Okay, sure, but just, you know, give me the permission to forward it on in the note.

Jeff Neuman: Okay, I will do so. Thank you everyone.

END