
ICANN Transcription

GNSO Council

Thursday, 19 November 2020 at 21:00 UTC

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The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

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List of attendees:

Nominating Committee Appointee (NCA): – **Non-Voting** – Olga Cavalli

Contracted Parties House

Registrar Stakeholder Group: Pam Little, Greg Dibiase, Kristian Ørmen

gTLD Registries Stakeholder Group: Maxim Alzoba, Kurt Pritz, Sebastien Ducos

Nominating Committee Appointee (NCA): Tom Dale

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Marie Pattullo, Mark Datysgeld, Philippe Fouquart, Osvaldo Novoa, John McElwaine, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Juan Manuel Rojas, Stephanie Perrin, Tatiana Tropina, Wisdom Donkor, Tomslin Samme-Nlar, Farell Folly

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Nominating Committee Appointee (NCA): Carlton Samuels

GNSO Council Liaisons/Observers :

Cheryl Langdon-Orr– ALAC Liaison

Jeff Neuman– GNSO liaison to the GAC

Maarten Simon – ccNSO observer

ICANN Staff

David Olive -Senior Vice President, Policy Development Support and Managing Manager,
ICANN Regional

Marika Konings – Senior Advisor, Special Projects (apologies)

Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Senior Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager

Ariel Liang – Policy Senior Specialist

Caitlin Tubergen – Policy Director

Nathalie Peregrine – Manager, Operations Support

Terri Agnew - Operations Support - GNSO Lead Administrator

NATHALIE PEREGRINE: Good morning, good afternoon, good evening, everybody. Welcome to the GNSO council meeting on the 19th of November 2020. Would you please acknowledge your name when I call it? Thank you ever so much. Pam Little.

PAM LITTLE: Here.

NATHALIE PEREGRINE: Maxim Alzoba.

MAXIM ALZOBA: Here.

NATHALIE PEREGRINE: Sebastien Ducos.

SEBASTIEN DUCOS: Here.

NATHALIE PEREGRINE: Kurt Pritz.

KURT PRITZ: Here.

NATHALIE PEREGRINE: Greg DiBiase.

GREG DIBIASE: Here.

NATHALIE PEREGRINE: Kristian Ørmen.

KRISTIAN ØRMEN: Yes.

NATHALIE PEREGRINE: Tom Dale.

TOM DALE: Here.

NATHALIE PEREGRINE: Marie Pattullo.

MARIE PATTULLO: Here. Thanks, Nathalie.

NATHALIE PEREGRINE: Thanks, Marie. Mark Datysgeld.

MARK DATYSGELD: Here.

NATHALIE PEREGRINE: John McElwaine.

JOHN MCELWAINE: I'm here.

NATHALIE PEREGRINE: Perfect, thank you. Flip Petillion.

FLIP PETILLION: Here.

NATHALIE PEREGRINE: Thank you. Philippe Fouquart.

PHILIPPE FOUQUART: Here.

NATHALIE PEREGRINE: Osvaldo Novoa.

OSVALDO NOVOA: Here. Thank you.

NATHALIE PEREGRINE: Thank you. Wisdom Donkor.

WISDOM DONKOR: Here.

NATHALIE PEREGRINE: Stephanie Perrin.

STEPHANIE PERRIN: Here.

NATHALIE PEREGRINE: Farell Folly.

FARELL FOLLY: Here.

NATHALIE PEREGRINE: Tomslin Samme-Nlar.

TOMSLIN SAMME-NLAR: I'm here.

NATHALIE PEREGRINE: Tatiana Tropina.

TATIANA TROPINA: Present. Thank you.

NATHALIE PEREGRINE: Thank you. Juan Manuel Rojas. Juan, I see you have unmuted your mic but don't hear you. Thank you. I'll circle back to Juan. Carlton Samuels.

CARLTON SAMUELS: Here.

NATHALIE PEREGRINE: Olga Cavalli.

OLGA CAVALLI: Here. Thank you.

NATHALIE PEREGRINE: Thank you. Jeff Neuman.

JEFF NEUMAN: Present.

NATHALIE PEREGRINE: Cheryl Langdon-Orr.

CHERYL LANGDON-ORR: Here. Thanks, Nathalie.

NATHALIE PEREGRINE: Thank you. Maarten Simon.

MAARTEN SIMON: Here.

NATHALIE PEREGRINE: Thank you very much. From staff, we have Steve Chan, Julie Hedlund, Berry Cobb, Caitlin Tubergen, Mary Wong, Emily Barabas, Ariel Liang, Terri Agnew and myself, Nathalie Peregrine. I'd like to remind you all to please remember to state your name before speaking as this call is being recorded. A reminder to councilors, we're in a Zoom webinar room. You've been promoted to panelists and you can activate your mics and participate in the chat as usual. Please remember to set your chat to "all panelists and attendees" for all to be able to read the exchanges. A warm welcome to observers on the call who can now follow the council meeting directly. Observers on this call are silent observers, they therefore do not have access to their microphones, nor to the chat option. As a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. Thanks ever so much. Philippe, it's now over to you.

PHILIPPE FOUQUART: Thank you, Nathalie. Good morning, good afternoon, good evening, everyone, and welcome to this GNSO council call of November the 19th. I'd like to welcome you and the observers to our call tonight and go to point 1.2 in the agenda. That's the updates to our statements of interest. Is there any update from councilors?

Okay, seeing no hand, we'll proceed to agenda bashing. Are there any requests for a change in the agenda? I would remind you that we have two items on the consent today, so if you want to change that, it is your time to do so. Any requests? Okay, thank you.

1.4, please note the minutes of the previous council call, and I'd like to have your concurrence that those minutes can be approved. Anyone opposed to that? And you'll see that we have several minutes on that list. Okay, seeing no hand, I think we can move on to our item two then, and that's the usual now review of our projects and action list.

All of us should now be familiar with the tools that we have at our disposal, and some of the items that we will review on the decision radar are actually on the agenda, you would have noticed that. So I think it's opportune now that we turn to Berry to give us a review of the project [list] and the action items as well, I think. Berry?

BERRY COBB: Thank you, Philippe. If we can switch over to the Action Decision Radar. So, as Philippe just mentioned—and you'll note that I sent out a summary e-mail last week highlighting most of the changes, as it relates to the Action Decision Radar, especially within the

zero- to one-month range marker, most of the items, as Philippe said, are on the agenda, so after today's meeting, most of those will be moved down to the bottom section which is the completed section. There will be one or two items that are reviewed today but probably not closed out. That will show up on the next month.

And then of course, in the one- to three-month range marker, several of those will advance forward to the zero- to one-month, and some of those will be reviewed as we go through the project list. So if we can switch over to the project list. And just really here on the summary page, I'll just highlight a few of the key changes from this cycle.

Per prior activities of the council, we've now added the accuracy scoping team within the first phase of issue identification,, and that'll be starting up very soon. The EPDP phase 2A has been added into the fourth phase of the working group. You'll recall that a call for volunteers or basically a refresh of the membership roster to the group is currently in progress and the extension for an expression of interest for a chair for that group is out, and I believe closes next Monday the 23rd.

For other working groups, the RPM working group, their health was upgraded to at risk from its prior setting of in trouble, meaning that the working group, if it hasn't completed, it's about to complete its consensus call and wrap up its particular deliberations and deliver its final report by the end of November.

We have the IGO curative rights protection mechanism project that is in phase six at the board vote. During the board meeting at the ICANN 69, they did resolve that the recommendations that

were sent to them from the GNSO council will be placed on hold pending other activities as it relates to the new group that's about to spin up about the IGO curative rights Work Track where we also have a call for volunteers and seeking a chair for that effort.

Something else to highlight here is there's a project down in the other section, which is the first one that's listed blue under the accountability program, the independent review process for the IOT. That particular team is not necessarily within the purview of the GNSO council, although there is interest on this particular project as it relates to onboarding the standing panel for IRPs, but in terms of actually maintaining a status and providing updates on the project, they're really far and few between, so for next month's version, you will see this project removed off of the projects list and any activities related to the GNSO council or the GNSO taking action will be tracked on the action items page. But I just wanted to alert you that that's why it will no longer be on this list.

A couple of last few items here is that the SCBO kicked off its first meeting this week to review through the draft fiscal year 2022 draft budget and operating plan and budget. That group will be completing its kind of first draft and make the draft of comments available for council review no later than middle of next week, and that public comment period closes on the 30th. But why this is also important is starting middle of December, that group will really ramp up in preparation for the ICANN Org operating plan and budget for fiscal year 22.

And then lastly, the SSC is also reconfirming its membership coming out of this particular cycle. And then finally, if we can jump over to the action items page, hopefully most of you had reviewed

through this. We've given the GNSO council action items a makeover, so to speak, for several reasons, mostly that it was difficult to track how action items were being added, worked and completed under the prior method or the prior format which we'll show you in just a second, but the idea here is that we'll start placing the action items into a Google sheet that will always be displayed here on this action items page, but we're basically viewing each individual action item almost as a transaction type of mechanism, and we're hoping that it'll increase the accountability by us all in terms of properly assigning due dates for these action items to be completed. We'll want to be able to assign individuals, both staff as well as council leadership and/or counselors to drive these to completion.

And most importantly, I think what'll be important here is that we'll be able to track better metrics around the activity and quantity of actions that are being completed here. And lastly, the good thing about this is that it carries over or makes consistent the theme of aligning these actions to our programs and/or project codes for which these are derived in the hopes of taking the entire tool suite and being able to produce better metrics in terms of all of the projects that we're tracking.

Just to note, and if you'll scroll down past this part, is where you'll see—oh, it's already been edited. All right. But if you looked at the page a few days ago, you would have noticed the older version of the action items, and again, it was helpful for tracking the action items, but unfortunately, it was really impossible to maintain completion of the actions to accountable closure or due dates, and

in particular, very much impossible to quantify the amount of actions that were being taken.

So I'll stop there and turn it back over to you, Philippe. Thanks.

PHILIPPE FOUQUART: Thank you, Berry. I'll be looking at the floor. Maxim.

MAXIM ALZOBA: I have a question about the program management tool PDF, which we don't see here, but it's basically more deep explanation of the project. And could you please switch to the program management tool PDF, to page four?

And please zoom cell 166. So my question is, why do we project 540 days there? What are those calculations based on? Thank you.

PHILIPPE FOUQUART: Berry, could you clarify that? I'm not sure I can read the row or maybe Maxim, you could be a bit more specific in the chat.

MAXIM ALZOBA: It's called execute IRT for the new gTLD subsequent procedures PDP. Basically, it's preparations for next round. And the amount of days is quite huge, I would say. So I have a question why, how we came to this conclusion.

PHILIPPE FOUQUART: Sure. Thank you. Berry, could you help us with this?

BERRY COBB: Yes. Thank you for the question, Maxim. I believe this was also raised by Jeff during the SPS breakout session. As noted, when we first demonstrated this tool, there are a few disclaimers about what constitutes, what goes in here, and the durations. And in particular, each one generally assumes the max amount of effort that may take place.

So as a loose example, we're going to be launching EPDP phase 2A based on two topics that were carried over from phase two. Within the tool, if you were to look closely enough, I've already added the possibility that it would produce consensus recommendations, that the GNSO council would consider those recommendations, and it assumes that they'll adopt them.

It further assumes that those recommendations would be considered and eventually adopted by the board, and then further assumes there's a line item or a task in there that would be the IRT that would implement those.

Now, that doesn't guarantee any of those assumptions will come to fruition, but the idea is to kind of track the highest amount of effort that may be taken by that particular effort. And the durations that are assigned to those are on best guesses on the best available information that we have at each month that we put this together.

So for example, or specifically to your question on row 166, which is the IRT for SubPro, this assumes that, first, the SubPro will

deliver its report at the end of December, which is what the project list says and the task line item in there shows until the end of December. It roughly assumes that the council will take two months to consider those recommendations, but if for some reason as a hypothetical, it took three months, the moment we catch wind that it will take three months, then this PMT tool will be updated to reflect that duration.

But then it further assumes that it will take the board at least three months to consider those recommendations and then when we get to the final phase, which is the IRT or the implementation of those, again, this duration of 540 days is a very rough guesstimate about how long that may take based on the best information.

Unlike other PDPs, the SubPro is already a four-year effort to develop its recommendations. It's a complex topic that may take a while to implement. Saying that, when the board eventually does adopt the consensus recommendations and a project plan is put together by the GDS teams that are responsible for delivery of the implementation, then we'll revise the duration of these accordingly to actuals or better information received at that time.

But the intent here, and also kind of based on past experiences of IRTs, they typically do span multiple years, and in this case, 540 days seem like an appropriate guesstimate for now. But it does not, at this point, mean that the implementation may take that long, but it's just to understand for longer-term planning purposes. Thank you.

PHILIPPE FOUQUART: Thank you, Berry. So essentially, rough estimates based on common or past practice. Thanks again. [I thought, Tatiana,] you had your hand up, but I'll turn to Kurt, seems you changed your mind. Kurt, you have the floor.

KURT PRITZ: Thank you, Philippe. Thanks, Berry, for this. So on this chart, all the lines are the same width, but some things are more important than others, and the focus of the whole ICANN community and those outside it are on this project. So I think while we want to report things in a very standard way, there are some things that should be sucked out of here and expanded upon. So I think it would be good in this case for us to publish what went into this 540 days, what the assumptions are, what the opportunities for saving time, what the risks for going over are to give the community a good idea for what the actual time frames might be and what the risks and opportunities are.

So for this, and maybe selected others, maybe not. But because this one is so important, I think it would be good to provide some page behind this page on most important projects and this is how we got to timelines that are 540 days. Thank you very much. Bye.

PHILIPPE FOUQUART: Thanks, Kurt. Berry, a follow-up to that? Maybe have some extra comment in the project list or something, something that would add some soundtrack on the figures that we've got here.

BERRY COBB:

Just to respond briefly to Kurt, this particular part of the tool is priority agnostic. As we also discussed during the SPS, that's one part of the tool, it's a tool not in the toolbox yet that denotes one project as a higher priority than another. But the intent of this tool is to try to identify everything that touches the GNSO. And in some cases, it may not necessarily just involve the GNSO council, but the idea is that, take for example a review—let's hypothetically say ATRT4 was kicking off.

That is a project that the GNSO council does not have oversight on or leads the project in any way like we do our normal PDP working groups. But the reason why it's involved in here is because the outcomes or outputs of that ATRT4 may have an impact on the GNSO or by extension to the GNSO council, but ultimately, it's in here because there are GNSO community members that will be involved and participating on that ATRT4 working group.

Again, trying to be agnostic about the priority of one project over the other. But lastly, I will say that based on some of the SPS discussions, I do have an action item to kind of document the assumptions that go into this tool and kind of some of the disclaimers about how some of the durations are made here, but it's also not originally designed to be a risk mitigation tool, at least by itself for the entire community that says, "What if we don't do this if we prioritize that?"

That's not the intent, because ultimately, where we're getting to is trying to understand what our overall capacity and the resourcing that we need to do some of this work. And the first step is identifying everything that's possible, and hopefully a tool or two in

the near future will help us get there more towards the prioritization and the resources, and perhaps start introducing some risk analysis to it about if we do one over the other. Thanks.

PHILIPPE FOUQUART: Thank you, Berry. And I would add to that, possibly put those caveats up front so that when we have figures, it's always useful—especially in an Excel spreadsheet—to have the semantics that's associated with it. We certainly need to think about that.

We're lagging behind schedule somewhat, but that's not a problem. I think it's good that we spent more time on the review of projects and action, and it's telling that all the comments are actually related to SubPro.

What I'd like to do now, seeing that there are no questions left—thank you, again, Berry—we'll move on to item three on our agenda. That's the consent agenda. we've got two items on this. I'll read the first one and defer to Pam for the second before we take a voice vote on this.

The first one is related to what we've just discussed, the Action Decision Radar, and since we discussed that on our last call, council is to approve the delay for the request for the policy status report, for the expired domain deletion policy and the expired registration recovery policy.

And for clarity, delay should be considered to mean that while the council recognizes the importance of the PSR, these consensus policies do not need to be at the top of the queue, so that's

essentially rescheduling, and your approval is requested on this. Sought, I should say.

And for point two, it's not usual that we have a motion under the consent agenda, so I would like to turn to you, Pam, if you would help go through the resolved section, please.

PAM LITTLE:

Thank you, Philippe. I'll be glad to. I've submitted the motion I believe on the 8th of November. So I won't read the whereas clause, just the resolved clause reads as follows. "The GNSO council hereby confirms that Philippe Fouquart, GNSO chair, will represent the GNSO as the decisional participant on the empowered community administration until the end of his term at ICANN 72.

Two, the GNSO representative shall act solely as directed by the GNSO council in accordance with the ICANN bylaws and other related GNSO operating procedures.

Three, the GNSO council request the GNSO secretariat to communicate this decision to the ICANN secretary which will serve as the required written certification from the GNSO chair, designating the individual who shall represent the decisional participant on the EC administration. Thank you. I'll hand it back to you, Philippe.

PHILIPPE FOUQUART:

Thank you, Pam. I think Nathalie, you can take us through the voice vote, if you would.

NATHALIE PEREGRINE: Thank you very much, Philippe. Would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye. Hearing no one, would all those in favor of the motion please say aye?

UNIDENTIFIED MALE: Aye.

UNIDENTIFIED FEMALE: Aye.

NATHALIE PEREGRINE: Thank you. With no abstention or objection, the motion passes. Back to you, Philippe.

PHILIPPE FOUQUART: Thank you, Nathalie, and thanks, everyone. So with this, we can move on to item four and our discussion on the council strategic planning session that we're just about to conclude, so I'll just recap, especially for the observers on the call, and as you would remember, it was customary for council to meet sometime in January, especially over the last two years. I think we did that twice. Given the current circumstances, we thought it more appropriate to have it just after the ICANN 69 virtual meeting.

We had essentially three objectives for our SPS this year, the integration of new members, their empowerment—or the

empowerment of all members for that matter—in terms of priorities and the ongoing activities within council, i.e. what's essentially ahead of us, and also as third point, consider and think about our work matters both within council and also beyond council, and that would include the SG and C leaders.

So we had two breakouts, one on the work methods and what could be improved, and the second on the project management and decision tools that we have. So, thanks again to all councilors who participated in these lively discussions.

We will have a wrap-up on next Tuesday together with the actions that we will implement. Maybe a word about the session that we had with the SG and C leadership, which I thank Flip for taking part in our SPS. And I think [inaudible] these topics were very much in sync with what we discussed during the breakout sessions, and the takeaways were essentially around the prioritization of activities and capacity building planning, I should say, and how we assess the available resources.

Second would be around the enhanced engagement with the SGs and Cs and dialog in general, not only during but also in-between ICANN virtual meetings, I should say ICANN meetings, but they're virtual, as you know. And third, improve the interplay between policy recommendations and the ensuing implementation.

So this is in a word very quickly—and for those who were not taking part, and again, thanks to councilors for taking part in this. I'll turn to Pam and Tatiana. Do you want to add anything to this recap before we go to questions and discussions?

PAM LITTLE: Philippe, thank you. I would just echo what you said and wanted to thank the SG, C chairs' participation in the brainstorming session. We did take onboard some of the suggestions or comments from them and discussed further during the breakout session.

I also wanted to thank all our new councilors and existing council members for attending all the sessions, including the breakout session, the plenary sessions so far. I know we do this in the virtual format has its own challenges and it's really hard in terms of time zones for some of you or even myself included sometimes. So great effort on the team. we've got one more wrap-up session to go, and look forward to the wrap-up session where we hopefully can synthesize what we discussed and have some action items as well to move forward and have fruitful outputs from this strategic planning session of 2020, which in a sense, timing is good because [we're on it at] the beginning of the new councilors' term or this 2020 council, so once we get this out of the way, means we'll have more time ahead of us to get some more work done. Thank you so much, Philippe.

PHILIPPE FOUQUART: Thank you, Pam, and thanks for raising that. I should have mentioned that. It's certainly not easy for all of us to take part in this. But I hope—and with the help of staff who did a tremendous job on this—we made the most of the current situation. We couldn't have met physically, possibly just after the ICANN meeting, but meeting afterwards even virtually after the ICANN 69

meeting makes it possible for us to get onboard as quickly as possible. So, thanks again.

So I'd like to turn to you now. Are there any comments on these discussions, on the SPS? Okay, no comments, so let's move on to Maxim.

MAXIM ALZOBA:

I think the short version is SPS is an extremely good idea and we should continue next year, if we're lucky. Thanks.

PHILIPPE FOUQUART:

Thank you, Maxim. Certainly endorse that. I think this is important, but more than that, that is crucial for the work of council. It's true that this year couldn't be possibly, obviously, a face-to-face meeting. And it probably makes it not as fun as a face-to-face meeting, and it's more difficult to get to know each other, but nonetheless, it's, as I said, we made the most of it, I think, and it's definitely needed. So we'll make sure that next year, whatever the situation is, the next council would reproduce this. Thanks, Maxim. Any other comment?

Okay, so let's move on to item five, and that's an update on the two ongoing PDPs. The first one is RPMs and the second one is SubPro. I believe RPMs has just concluded their consensus call earlier this month and SubPro is working on incorporating the public comments into their final report, both of which should be submitted to council in the next few weeks, hopefully. So I'll take those in the order that's mentioned in the agenda. So I'll go to

RPMs first, I think. John, would you like to take us through an update on it?

JOHN MCELWAINE:

Sure. Thanks, Philippe. The working group was chartered March 15th 2016. That's four years, eight months and four days ago. So the community owes a huge debt of gratitude to those working group members that stuck on. We had great participation all the way through to the end, and our three co-chairs, Kathy Kleiman, Brian Beckham, Phil Corwin, and J Scott Evans who started off as a co-chair. Also special thanks to Julie Hedlund, Ariel Liang and Mary Wong, and many others from the ICANN staff. The working group tried to steer this project into a ditch numerous times, and they really helped get it straight, and we could not have gotten it to this point without them.

As Philippe mentioned and we all know, we will be delivering the final report to the council on November 25th 2020, so that is great news. Just to give you a little taste of the report, the working group is going to put forward 35 recommendations. 16 of those are for new policies and procedures, nine recommend maintenance of the status quo and ten modify existing operational practice, and then there's one that discusses future data collection efforts.

What's really exciting to report is, of those 35 recommendations, 34 received full consensus, one received consensus, which is great. The one that did receive just that slightly lower rating of consensus has a minority statement on an important issue, but it's a fairly small issue.

The period for further minority statements on this one particular point will be closing tomorrow, November 20th. I won't go into details, but just to kind of break it down a little bit for folks to get a feel for where the recommendation's weighted to, there's 15 recommendations concerning the URS, so the uniform rapid suspension policy. There were four recommendations on the trademark clearinghouse, so the entity that we place trademarks into that then allow folks to take advantage of the next two programs, which is a sunrise, so there's eight recommendations concerning the sunrise policy.

Then the other thing that the trademark clearinghouse does is trademark claims notices, and there are six recommendations concerning trademark claims notices. There's going to be one recommendation to the trademark post-delegation dispute resolution policy, and then as I mentioned, one for overarching data collection.

So with that, I will turn it back over to Philippe, and I'm happy to answer any questions that councilors have at the appropriate time. Thanks.

PHILIPPE FOUQUART: Thank you, John. Any questions on RPMs and what John has just said? Okay, seeing no hands, thanks again, John, and looking forward to the final report. We'll turn to Flip now for an update on SubPro.

FLIP PETILLION:

Merci, Philippe. I am the liaison for this working group, and this one was chartered in 2016 as well. The working group submitted a project change request early this year and that committed to delivering a final report to the council no later than the end of 2020.

Over the last two, three months, a huge piece of work has been carried out under the leadership of Jeff and Cheryl, and with the great assistance of staff, in particular Steve and some others. I'm not going to start to list them all because I will forget people. And they have clearly committed to deliver and they will clearly do that.

They are meeting twice a week and there are leadership meetings as well every week. So they prepare every meeting, they discuss what the discussions are, they prepare every single next meeting. I have participated in a couple of these meetings and I have witnessed that they have been conducted smoothly and productively, and people actually have been very disciplined in sharing their views on the comments that have been produced over the draft report that was published.

So Jeff and Cheryl and the team is now actually incorporating changes. They will very soon distribute new drafts with actually red marks, with clear indications of proposed changes to the draft text so that people will then have an opportunity to share their final comments and so this can be turned into a final report submitted to the council.

But there are of course a couple of points that generate some interesting discussions. But there is definitely one thing that we should mention and we should actually submit to the attention of

the council. And if Jeff and Cheryl are available and willing to step in, I will pass the floor to them, but just to introduce this, actually, there is an issue that requires the attention from the GNSO council.

That's related to IDN. There are apparently certain outstanding IDN issues regarding variants, and some people believe that we should solve that prior to having a next round of applications for new gTLDs.

So that has some implications. This is not, I think, for the working group to make any decision, but it's clear that this has to be brought to the attention of the entire council, and it is for the council to actually address this and take action, because there is some work related to this, and EPDP even. But I pass the floor to Jeff and Cheryl to step in and complete this report, please. Thank you.

PHILIPPE FOUQUART: Thank you, Flip, for the update. So I'll turn to Jeff, then, if you would just say a bit more both on the substance of the issue, on IDN variants in the context of SubPro, but also on the process and how you might—or might not, for that matter—accommodate those comments.

JEFF NEUMAN: Thanks. Yeah, and I think Flip's given a good status of where we are in general. With this one particular issue, during a leadership call a couple days ago, we thought that this was the right time to raise the issue to council.

So as part of the SubPro PDP, the topic of internationalized domain names of course is an important one and one which we've looked at extensively, but as you know on council, there is a scoping team right now that has been set up to develop a charter based on the issues that were in a previous document, and the council is then going to look to potentially launch an EPDP.

So this is a good time when we're talking about priorities to just think about the interrelationship between SubPro and this new EPDP, and for that, one of the comments that we got from both the ICANN Board and ICANN Org is that for this next round—and for subsequent rounds—ICANN really wants to emphasize the diversity of top-level domains and of course wants to make sure that we resolve as much of the outstanding internationalized domain issues as we can prior to launching it.

And with respect to variants, some of the questions that have arisen, although we provide in SubPro some recommendations, there is in the scoping document for this new IDN group also jurisdiction over some of the other issues which we may have just touched upon or which also require policy to be developed.

And both ICANN Org and the board stated in their comments to the working group that moving forward with the next round of TLD applications may have some dependency on the GNSO completing the other PDP on IDNs. And we just wanted to raise that to the attention of the council, especially now as we talk about priorities and what the council would like to work on next and where it fits.

So the bottom line basically is that at least according to comments we got from the board and Org, the council may want to place a higher priority on the IDN work than it may have previously thought to put on it, simply because ICANN has made it clear, both the board and org, that there could be some dependencies on opening or starting that next round until all of that is resolved.

So I'll note that it is on the Action Decision Radar for the next, what is it, two to three or one to three months. But it's not something that council needs to act on right this second, but it's just something to think about when thinking about future priorities that the new round or a new round could be dependent upon finishing work on IDNs. Thanks.

PHILIPPE FOUQUART: Thank you, Jeff, for the update. I'll turn to the floor. I'm sure there are many questions. Maxim.

MAXIM ALZOBA: First of all, I'd like to say that this item doesn't have full consensus, so not necessarily goes into the final report. So I believe we don't have to tie quite poisonous item of IDN variants because it's loaded with legal issues, quite serious legal issues, and it was discovered during the scoping team work. And so far, I'm not sure we want to be ones who make ten years delay between rounds into 15-year delays or maybe 13-year delays. So I object to the situation where the SubPro is tied to some other PDP. It's separate items. We shouldn't tie it. Because if we add

something poisonous to the next round preparations, we might not see it soon. Thanks.

PHILIPPE FOUQUART: Thank you, Maxim. I think regardless of the substance, that's what many people would ask in terms of qualifying the dependency, whether that's sort of a stumbling block or whether there's a way ... I haven't read the comments from Org or the Board for that matter. But whether that's a stumbling block or whether we might consider two separate tracks, if you see what I mean, non-IDN and IDNs. I think that's what most people would ask. Pam.

PAM LITTLE: Thank you, Philippe. I guess what I wanted to say is about whether to categorize this as dependency or not. I do think the topic of IDN variants is important, because that is not really new. It actually—Jeff, correct me if I'm wrong—arose since the last round, which is ten years ago, and it's kind of our responsibility, the council as well as the GNSO community that we haven't developed those policies to address this topic. But I do agree whether that is a dependency or not has yet to be determined.

But I think maybe the next step is for us to have a conversation with the scoping team on this topic that the council tasked earlier to see what is the realistic timeline for this EPDP, assuming we have a charter which I think is on our action items list to have a charter drafting team to help us draft the charter, to see, once the charter is ready—actually to see when the charter would likely to be ready and then how long it would take.

So I'm assuming that, as Maxim raised earlier when we were discussing this project management tool in terms of the period or the days allowed for estimated for implementation, maybe within that period, that this new effort, the new EPDP on IDNs could complete its work. So let's see how we can address this. And I think the concern, I believe, from the Board or the Org is legitimate.

As someone who comes from this part of the region and the goal of promoting diversity, it's not new either, it's also in the 2012 round. So it seems to be incumbent upon us if we want to set ourselves in terms of promoting diversity as one of our key goals for the next round or even future subsequent rounds, then we need to get this topic sorted. Thank you.

PHILIPPE FOUQUART: Thank you, Pam. And I think that was the sense of Jeff's comment, even leaving aside substance, I think—correct me if I'm wrong, Jeff, but the message was on the fact that given that it might be such a dependency, council in our role may want to put the IDN scoping exercise on top of the list and since we were talking about prioritization, it's certainly timely to do that.

Jeff, maybe a response to both Maxim and Pam, or a reaction, Jeff.

JEFF NEUMAN: Yeah. Thanks. I may not have done such a great job in—so I was listening to Maxim's comments. I just want to be clear, it's not the working group that believes that there's a dependency. The

working group is ... this doesn't affect our work at all. We're going to still continue and finish our recommendations and everything is on time. So it's not the working group that's saying there's a dependency. We just wanted to bring to your attention, as Philippe said, comments that were made by the board and ICANN Org about ... They are the ones that believe there's a dependency, and so that's not a working group position, and like Philippe said, if the council agrees or doesn't agree, it needs to have the discussion, number one, and number two is if it does agree that there could be that dependency, then as Philippe said, putting that higher up in the priority chain may be something it wants to do.

So hopefully, that's clear, that this is not an opinion of the working group, but more just trying to relay to you what the Board and Org has said.

PHILIPPE FOUQUART: Thank you, Jeff. And coming back to the topic that we referred to earlier, the interplay between the PDP and the implementation, I think that if that is something that is likely to come up after the approval of the final report, that is something that we need to take into account in our scheduling, our prioritization, and so we'll do that. Thank you, Jeff, for putting that to our attention. Kurt.

KURT PRITZ: The IDN variant issue at the top level has been an issue since the fast track ccTLD round in 2006 or something like that, so it's something that's been discussed since that time. And as Maxim points out, there's legal issues. There's also security issues that

have been pointed out, and DNS abuse issues. So even if we were to accelerate the timing of the launch of the PDP, I don't know whether that increases the chances of success. So my comment is premature, but when the time comes, I think we should resist to the extent we can the idea that these are coupled, because this is much more an issue for existing ccTLDs and then second, existing gTLDs as opposed to new gTLDs. Thank you.

PHILIPPE FOUQUART: Thanks, Kurt. I think that was the spirit of my comment and whether that was, what I called, a stumbling block. Thanks, Kurt. Anything else on one of these two topics? Thanks again to our liaisons, John and Flip, and I'm sure that we'll have plenty of time to thank those who worked so hard within the PDPs when the time comes to review the final reports.

So let's move on to the next topic on the agenda. That's item six, and that's the question of the review of the policy and implementation recommendations. I believe that was five years ago, a non-PDP working group was convened and produced a report on the policy and implementation recommendations as it's called, producing—oh, I'm sorry. Maxim, you already have your hand up. Before I proceed, is that on the previous point?

MAXIM ALZOBA: No. I will wait. It's on the current topic.

PHILIPPE FOUQUART: Okay. I thought that was on the previous one. I [do] want to go through the brief summary, unless you had a comment on the earlier point. So that report was essentially around the ... Well, it produced three things: a guidance process with the GNSO, an input process, the EPDP framework, and developed the IRT principles and guidelines.

And that was those deliverables and—the results of that non-PDP working group were supposed to be reviewed five years later, so that's June 2020. The discussion around the leadership team was around the prioritization of this and whether it was timely to undertake that review. I'm sorry, it's a long summary. It wasn't meant to be that long. But I'll turn to Pam before we take your question, Maxim, maybe to further elaborate on this. Pam.

PAM LITTLE: Thank you, Philippe. Hi. I think Philippe has mostly covered the background to this set of recommendations and the timing for the review is probably now, five years after the report of those recommendations.

Sao I just want to focus on the suggestion from the leadership. We discussed about this ICANN and how we can actually take a look at this set of recommendations from the final report five years ago, and thought it might be best for the small team that is looking at the Operational Design Phase concept paper to actually take a quick look at this set of recommendations, the policy and implementation recommendations, and see whether it could then recommend or come up with some sort of a proposal to the whole council as to whether this is a time to embark upon a review of the

set of recommendations and outputs that Philippe mentioned earlier or whether we should actually postpone this to sometime in the future.

And the reason for our thinking to sort of ask the small team to do this quick review of these outputs is really more focused on some of the outputs from those recommendations. As you can see, the output, the three new mechanisms for the GNSO process, if you like, and two of them have not been used today, the GNSO input process and the GNSO guidance process. The only one that has been experimented or used is the EPDP that we all know, this GDPR-triggered expedited policy development process council initiated.

The more relevant outputs are the Implementation Review Team principles and guidelines that came out of that exercise five years ago, and also the consensus policy implementation framework. These two documents touch upon policy implementation principles and framework, if you like, and it seems to me it would make sense because the Operational Design Phase basically is proposed to be a phase to be kicked off by the board after council approved policy recommendations and before the board considered those recommendations, versus the IRT, Implementation Review Team, if you like, that is something to be launched after the board approved the policy recommendations.

And the other document, the consensus policy implementation framework, actually sets out a lot of implementation principles and also roles and responsibilities of various actors in the process, in the implementation.

So it seems to me the small team that's reviewing the concept paper proposed by ICANN on this Operational Design Phase would also benefit from taking a look at this CPIF and the IRT principles and guidelines. So that was the thinking behind the council leadership suggestion, and I will stop there to see whether there's any reaction from the small team or from councilors. And I see Maxim already has his hand up, so perhaps I could now turn to Maxim. Thank you.

MAXIM ALZOBA:

I think we need to see item six and seven of our agenda together, because following simple logic, before, basically, the policy implementation document recommendation in very basic logic, it's just approval of all the paperwork around GNSO functioning. And it's a result of GNSO review, potentially. And GNSO review has to wait for ATRT3 results to be implemented.

So we have a chain of things, because what good does it, like approval of the current set of documents which couple of those never used, EPDP only one started and it's not finished yet, and also, potentially, we might face changes to those documents because of GNSO 3 review which could be itself delayed by ATRT3.

So I suggest we look at it from the just project management perspective, what has to precede what? Thanks.

PAM LITTLE:

Thank you, Maxim. Philippe, would you like me to manage the queue?

PHILIPPE FOUQUART: Please do, Pam. Thanks.

PAM LITTLE: Thank you, Philippe. Okay, so I just want to respond to Maxim quickly. Yes, I agree with you. It's not only a matter of timing. And also, the other thing is substance of the two outputs I mentioned earlier, which is the consensus policy implementation framework and the IRT, and IRT principles and guidelines.

I do believe these have been used, by the way, apart from the EPDP. These were the documents that the small team on recommendation 7 have referred to in our attempt to resolve the so-called impasse on recommendation 7 coming from the EPDP phase one. So they were actually, to me, quite useful documents, but they sort of govern different phases of the implementation, if you like. It's after the IRT is formed.

But I just feel the Operational Design Phase, although we haven't really come to that yet, it's under AOB, maybe this is also a good time. It's designed to cover different phase, but to me, they are certain concepts that could potentially overlap or could ... So I just feel it would be good for our small team to not only look at the timing issue, whether to launch this review, but also to look at the substance of those two documents I mentioned earlier in the review exercise of this proposed Operational Design Phase.

So that is the purpose, and I would love to hear from the small team members as well as councilors to see whether this suggestion makes sense. Obviously, if not, then it'll be back to the

whole council or for another small team to make a determination and suggestion as to whether to launch a review at this time or some other recommendation.

I now have Kurt. Over to you.

KURT PRITZ:

Thanks, Pam. I think that it's a related set of issues but a different and broader set of issues, and that members of the council that didn't participate in the Operational Design Phase review which is fairly narrow would want to participate in implementation review principles and guidelines and consensus policy implementation framework, those sorts of things. So I would pause for a second, see who wants to participate in this discussion to determine the timing of the launch of this. I think it might be a reconstituted group, and I don't think it would take more than a few days to get the team that looks at this problem rightsized. Thank you.

PAM LITTLE:

Thank you, Kurt. And I agree, we can easily do that to refresh the core and maybe change the composition. But as you said, they are related, they are not completely separate, and I think it would also leverage the small team that is looking at the ODP, whether knowledge or experience you've already gathered from that, so just really try to make it more efficient, if you like. Tatiana, you have the floor.

TATIANA TROPINA: Thank you, Pam. Well, first of all, agree with what Kurt said. I also want to note that I personally believe that we do not need to launch the full review of all this to look at this yet again and see where we can have some improvements. And of course, this can be done, [weaved into] the overarching discussion of the Operational Design Phase, because right now, we are going further than this paper and are going to look at the PDP process to see where some pieces and bits are going to fit.

So I do believe that we don't need to have this full review to actually improve something that we want to improve. Thank you.

PAM LITTLE: Thank you, Tatiana. Exactly. one of the deliverables from the small team who is going to consider this, apart from saying it's now, probably would be ideally come up with a reasoning why it's now crucial or necessary to launch this review right now. Thanks. Greg, you're next.

GREG DIBIASE: I was going to say this makes sense, the idea makes sense, and like touching upon what Maxim says, that there's other things that are related, like the GNSO review, I think that even adds to the strength of the argument that this should be addressed by the small team or continue the small team's work, because that small team could continue on to address other related issues. So it seems like there's enough in this kind of sphere to keep this small team going and any expertise that is built within that small team, I

think [it would help it be] more efficient or at least more knowledgeable.

PAM LITTLE:

Thanks, Greg. Sounds like that small team is going to be a standing small team and with the scope expanding. But yeah, I think that's a good point, and maybe as we discussed in our strategic planning session, maybe there will be times or occasions that small team need to be more structured and also be representative of the council. So we certainly should look at the composition of the small team if there is agreement to move this work to the small team. Jeff.

JEFF NEUMAN:

Thanks. Just one thing I wanted to ... it's funny, Pam, you mentioned this becoming a standing committee, because as a result of GNSO review number two—and I know this goes back about ten years—there was a creation of a non-PDP group called the PPSC, which essentially were the ones that designed PDP 2.0.

The reason I bring that up is because that review and the PDP 2.0 called for a standing committee to be created to look at issues as they arose, whether it was policy or implementation, although we didn't call it implementation at the time. That standing committee did exist, and I forgot the name of it and maybe Mary or someone else that was around back then can remember the exact name of it.

I don't remember why that was ... There was a committee for a while. I don't remember why it was unconstituted or whatever the word is. There we go, standing committee on improvements. Thanks, Berry. I suppose rather than start a completely new review or just try to push this into the small committee, that we maybe take a step back, think about reconstituting that standing committee on improvements which was supposedly one of the things that came out of GNSO review number two, and may take a much more strategic approach than just kind of passing it off on the small group. Thanks.

PAM LITTLE:

Thank you, Jeff. Thank you for giving us that additional background. Yeah, so I think maybe we should sort of just be mindful in terms of time. I think there is agreement to just refer this item to the small team that is reviewing the ODP, and in terms of other arrangement, maybe we can discuss during our strategic planning session wrap up how to—really it's a continuous improvement process and it seems to make sense to have some sort of standing small team or whatever we're going to call it to just deal with those issues on an ad hoc basis or as the need arises.

So with that, I'm going to hand it back to Philippe.

PHILIPPE FOUQUART:

Thank you, Pam. That's also what I'm hearing with the understanding that that small team really is open and we'll have

that discussion about beefing it up, as it were. But that certainly is something we can see during the wrap-up.

So with this, thanks for the discussion. I'd like to move on to our next item. That's item seven, on the GNSO 3 review under which—and the question stems from a letter from the ICANN Board chair relative to the review that's meant to happen by June 2021. And the letter inquires about that review and also the potential dependencies with ATRT3, and we'll need to discuss how we respond to the letter, and also how we engage with the SGs and Cs to make sure we're on sync.

So I'll turn to Tatiana to help us go through this.

TATIANA TROPINA:

Thank you, Philippe. Yes, so Philippe already summed it up, just a bit of elaboration here. As you see on the agenda, we have this letter in front of us sent by the ICANN Board on 12th of October, and from this letter, we know that the GNSO review should start if we follow the normal timeline for the reviews in June 2021, which leaves really a few weeks to really start with preparing it if we are to go ahead with this.

However, the board notices that there are a lot of uncertainties and interdependencies with the ATRT3 review team report. And I'm going to quote here the transmittal letter to the board for the ATRT3 report, "Strongly suggest that the ICANN Board implement a moratorium on launching any new organizational and specific reviews until it has made a decision on this recommendation."

So, what we have to do right now—and I'm going to open the floor for discussion, so please do raise your hands—we need to decide first of all how do we reply to this board letter, because if we are to launch this review, we don't have enough time. However, we have to bear in mind these uncertainties and interdependencies highlighted in the board letter and we also have to be mindful of the fact that ATRT3 strongly suggested to put this moratorium. So I will pause here and open the floor for discussion. Osvaldo, please go ahead.

OSVALDO NOVOA:

Thank you. I think we should consider also first the ATRT3 also recommended a holistic review of the whole ICANN, and also, in the NomCom review, there was a recommendation for a holistic review. So perhaps we should consider if before proceeding with the GNSO review, isn't it necessary to have a complete view of ICANN? Actually, it has changed a lot since the beginning. And perhaps we should recommend also a holistic review of the whole ICANN to see if ICANN as it is right now, its organization, even the GNSO in particular, are adequate to the actual conditions. Thank you.

TATIANA TROPINA:

Thank you, Osvaldo. Maxim, you have the floor.

MAXIM ALZOBA:

I think I raised these items when we discussed the previous item six, and I deeply think that those items are tied and that the GNSO3 review basically has to take into account ATRT3

recommendations. And I think that moratorium on reviews is a good idea.

TATIANA TROPINA: Thank you, Maxim. Indeed, you did raise it and you did express your opinion quite strongly during the previous agenda item. Thank you. Stephanie, you're next.

STEPHANIE PERRIN: Thanks very much. This is kind of a picky point to raise, but it's come up in the past when letters seeking feedback on comments on a given idea were not posted in the usual call for comments place. I think whether we write or whatever, however we respond to this thing, I think that ICANN should have some kind of consistency in its call for comments approach. We should not have to be looking all over the website to find out about things. Thank you.

TATIANA TROPINA: Thank you very much, Stephanie. I've put myself into the queue as well, so if I may express my opinion not as the vice chair who is leading this item but as the NCSG councilor, I do believe that we have to wait of the results of the ATRT3 review and we have to take the strong suggestion to impose moratorium seriously. Marie, please go ahead.

MARIE PATTULLO: Thank you, Tatiana. To me, this is a logical thing to suggest, and I mean the delay, putting on pause the review is logical. All of the work that went into the ATRT, and indeed I can expand that, all of the work that goes into any reviews, needs to, I think, actually see fruition. It needs to be implemented, to turn up in practicality.

And I find that we've got a lot of things that we need to work through that were suggested by ATRT3, and to me, it simply makes sense that we do that, we ensure that that happens, because otherwise, I can foresee it being, if you like, a number of parallel reviews but no actual resolution in practicality. So I would say that, yes, putting on pause, putting it on the backburner for the time being, to me, is logical. Thank you.

TATIANA TROPINA: Thank you very much, Marie. Pam, please go ahead.

PAM LITTLE: Thank you, Tatiana. Just based on what I heard, there seems to be agreement to not launch this review that is going to be due soon, so I'm just thinking procedurally, and I'm not sure how it should work out, but to me, GNSO council is only part of the GNSO. We've still got other bodies within the GNSO. So obviously, this'll be a decision by the GNSO as a whole. But council seems to have a rough agreement based on what I heard that we don't launch this review.

So, is it possible for us to actually form that position and then have that conveyed to the GNSO community? I'm envisioning there would be some sort of discussion within the GNSO, not just at the

council level but at least if we can arrive at a position, then our chair or the council leadership when we discuss with the board, the GNSO community, SG, C chairs, I presume there'll be some sort of coordination, then we have that position to take to that discussion. Thanks.

TATIANA TROPINA:

Thank you very much, Pam. Yes, indeed, that was my next question, how do we proceed, because the board letter suggests to have the meeting between GNSO council and stakeholder group and constituency leaders and organizational effectiveness committee of the ICANN Board about this. So I believe that indeed, we do have to convey the council position, but of course, we have to see what stakeholder groups and constituencies are going to have to say on this.

I don't know how to proceed procedurally. Do we have to arrive to any conclusions right now? because we have two minutes for this agenda item left. But I would suggest that based on what you said, the way to go would be to put this agreement which we reached here and I didn't hear any objection to continue with the GNSO 3 review indeed. So to put this in writing, to send it to the constituencies and stakeholder groups leaders, to inform board that we indeed, as only the council, arrived to this conclusion for now, and set up the meeting. Please, Philippe, Pam or ICANN staff, tell me what's wrong with this proposal here. Thank you.

PHILIPPE FOUQUART: Thank you, Tatiana. Coming back to the call we had during the SPS with the SGs and C leaders, and the need for engagement—and it's just a question of form rather than substance, but I think there was a need precisely for strengthened dialog especially between meetings, and as opposed to doing this in written form, I would suggest that we use that dialog to put this on the table and discuss the need—or lack thereof—for that review with the SG and C leaders. I think that would be relevant as a point of discussion in that spirit. Tatiana.

TATIANA TROPINA: Thank you. I see that John's hand is up, so John, go ahead and then I will wrap up this item. Thank you.

PHILIPPE FOUQUART: John.

JOHN MCELWAINE: I was just looking at the bylaws, and one thing I think, if we're sort of coalescing around the concept that some delay might be a good idea, obviously, a review is mandated no less frequently than every five years, but then it does say based on feasibility as determined by the board. So in terms of communicating stuff to other leaders and taking in input as to why we think it's delayed, we should be focusing on justifying its feasibility right now, I guess, just to make sure that we're not getting off topic to what the board wants. Thanks.

TATIANA TROPINA: Thank you, John. So Philippe, I will just wrap up this and hand it over to you by agreeing with the way you suggested to proceed with, and yeah, John, I think that we should take this onboard and we should justify the feasibility of this delay, or rather, justify the lack of feasibility of carrying out this review. Thank you. Philippe, back to you.

PHILIPPE FOUQUART: Thanks, Tatiana. Exactly, lack thereof. So thanks, and we'll take that onward for future discussions with our SG and C leader colleagues. So with this, I would like to move on to the next item on our agenda, and that's our continued discussion on the ... We used to call that the impasse, I think, on recommendation 7 from EPDP phase one on the thick WHOIS transition policy.

As you would recall, we discussed a draft motion during the last call on this, and we had a report from our liaison, Sebastien, in September. We indeed discussed that draft motion during our last call that considered forming a scoping team, so I'll turn to Pam for an update on this point. Pam.

PAM LITTLE: Thank you, Philippe. I don't have much update from our last October meeting, but just for the benefit of new councilors, because this would be relatively new to you, I just want to give you a very high-level background of this topic. It sort of goes like this. The recommendation 7 from EPDP phase one final report, if implemented, will mean registrars would not be ... I'll backtrack. Which means registry would decide whether they would want the

registrar to send thick WHOIS, which traditionally means containing registrar contact information to them. So the registry can decide whether they want that information or not.

So it makes it optional, in other words, under recommendation 7. But there is an existing consensus policy called thick WHOIS transition policy in relation to .com and .net, which is still operating under thick WHOIS policies, means [these two] TLDs or registry operators don't require the registrar to send thick WHOIS. There is a policy in place and there's a transition plan, but enforcement of that policy was actually deferred pending EPDP outcome.

So when it comes to the IRT, the Implementation Review Team, there are different interpretations or views on how recommendation 7 should be implemented. So that's the impasse that the board wrote to the council about. And there was a small team formed to see how we can address this impasse or help the Implementation Review Team move forward on the implementation of this recommendation.

Because it is quite challenging as a topic and there are also different views within that council small team, there is a draft motion there. I would just ask our new councilors, please take a look at that draft motion in its current form. It is still my intention to submit that motion for the council to consider and vote on in our December meeting.

So that is still the plan unless something else changes that plan. But that draft motion sets out a detailed chronology of how we got to where we are, and hopefully give you enough background information when it's time for you to vote on this motion.

With that, I will pause, and I see John's hand up. Can I hand it over to John, Philippe?

PHILIPPE FOUQUART: Yes, please do.

PAM LITTLE: Okay. Thank you. John, over to you.

JOHN MCELWAINE: Thanks, Pam. So Pam and I have been working on this. As she knows, we initially ... as she described too to everyone, initially tried to solve the impasse and that turned out not to be possible. There's just different interpretations that me and others had, and clearly, IRT had, which is what came to this impasse. We had one side wanting to interpret it that it could allow Thick WHOIS data elements to be transferred still, and others that thought that it would just be optional, which would basically find that thick WHOIS would be essentially overturned, those elements would not transfer.

What I've been focused on is trying to put forth a simple motion, and then apply a process or a rule to rationally communicate the GNSO's basis for instruction to the IRT, because the problem that we have right now is, and where I think the entire small team is, we are fine with assuming that the interpretation of recommendation 7 was, at least for the purpose of this, to overturn existing consensus policy, that is thick WHOIS, but then I think our role as GNSO council is how do we communicate that to the IRT?

And that's where Pam and I and others on the small team were really, I think, still working on some draft language or need to have some rationale in there.

So I'm curious to get others' take on it, but when you have two policies, one that conflicts now with the other, how are we going to resolve that conflict? And the reason why how we resolve that is important is because that's what we need to communicate to the IRT.

For instance, do we communicate that they implement recommendation 7 as written? The problem that I see with that, and then creating an EPDP to look at thick WHOIS, is that'll be the shortest lived EPDP ever, because thick WHOIS is dead under that interpretation. So then I guess it's just an EPDP to meet one day and decide that thick WHOIS is no longer, and then wrap up.

So what I really think we need to do is try to come up with the right way to instruct the IRT as to how this conflict should be handled during their implementation. And so some of that could be us thinking about when there are conflicts between two policies, how are those resolved? For instance, should there be at least a presumption that we'll interpret two policies not to conflict? A presumption that we should try to harmonize them.

If that can't be done, then maybe we fall back to whether the specific policy should prevail over the general policy. And then maybe another fallback would say, well, the later one will prevail, the more recent in time will prevail over the older one. I do think that we need to come up with some way to rationally decide this issue and then communicate it to the IRT.

And that's one last little piece that this small team needs to work on, and I'd be happy to get any other input from other councilors with thoughts about how we are going forward, not just in this situation but how should we deal with a situation where one EPDP ends subsequent procedures with a recommendation that overturns a previous one. That's it. Thanks.

PAM LITTLE:

Thank you, John. I completely agree with you that that rationale and reasoning is what we are struggling to find in this process. But we can also hope that in our future, we're learning from a future process or effort to set some parameters or even, as you said, kind of a baseline, if you like, or template where if a later policy recommendation conflicts with the existing policy, then the rule should be ... There should be some sort of agreed understanding or assumption or presumption, is the later policy recommendation controls or prevails to the extent there is a conflict.

If we have something like that in place, then we probably wouldn't be where we are in this kind of a dilemma right now. So hopefully John and I and the small team can continue to put our thinking hat on and come up with a motion that everyone can support in the December meeting. Maxim, your hand is up. Please go ahead.

MAXIM ALZOBA:

I just want to underline that whatever ICANN or GNSO invents, the law prevails it always. And also, if some policy contradicts the law, the policy is void, not the law. And the situation that thick WHOIS policy is basically not following the law, it's the

consequence of the law, not the EPDP, which itself is a consequence of the law being taken into account. So we do not need to conflate what caused what. It's not EPDP caused thick WHOIS to be not a good policy. It's the GDPR. Thanks.

PAM LITTLE: Thank you, Maxim. Stephanie, just please try to be brief, we are pressed for time. Thank you.

STEPHANIE PERRIN: Just in terms of making a recommendation for a motion, I would add that subsequent to this recommendation 7 coming from the EPDP, we have new legal precedent that makes the Bird & Bird memo problematic. I'm talking about Schrems II. And you should be able to add a requirement for legal review subsequent to precedent being set as a sufficient reason to strike a short EPDP to solve this problem. Thank you.

PAM LITTLE: Thank you for sharing that, Stephanie. Yes, John and I are aware of Schrems II and its potential implications or impact on this. Thank you. So I'll draw a line, conclude that item and hand it back to Philippe.

PHILIPPE FOUQUART: Thank you, Pam, and thanks to the team as well on this. Just a question on the procedure and our work method. To your comment, Pam, and to John's, I think, I believe the small team

was convened before the seating of the new councilors. Would that be relevant to ask to any incoming councilors whether they would like to join that small team? Pam, could you remind me at least when we convened that small team and whether that would be relevant to have such a call?

PAM LITTLE:

Thank you, Philippe. Yes, I think that was convened shortly after the September meeting. We had three meetings. I'm open to calling for new members to join the small team, but providing the new members can come up to speed fairly quickly. People like Stephanie obviously have huge background and being involved in the EPDP team are more than welcome. It's just we're probably very much done with the motion. It's just a matter of coming up with compelling reasoning, as John alluded to earlier. So, happy to open up the call for new members to join, but I suspect the work would be quite limited to what we just discussed earlier. Thanks.

PHILIPPE FOUQUART:

Okay. Thanks, Pam. So we'll do that and people will bear in mind that this is a small team by definition. Olga, you have your hand up.

OLGA CAVALLI:

Thank you, Philippe. I had volunteered myself for being the liaison for the EPDP new phase. So if I can join the small team at least just to catch up with what they're doing, that would be okay for me. Thank you.

PHILIPPE FOUQUART: Duly noted. Thank you, Olga. Sebastien.

SEBASTIEN DUCOS: Yeah, just a quick question. What do I go back to the IRT with? That they'll have to wait another month for us to have a decision for them?

PHILIPPE FOUQUART: Thanks, Sebastien. Hopefully that's not going to be a month. You can probably ... and by the time that—the vote will definitely be on our next call, so that's next month, you're right. But hopefully, the converging point will happen before that and you can at least informally convey some feedback to them before that. I hope I'm not jumping ahead or being overly optimistic. And if the team's not ready, then that will have to wait until our vote, but I hope you can do that before our next call. Thanks, Sebastien.

SEBASTIEN DUCOS: Thank you.

PHILIPPE FOUQUART: So with this, we'll close item eight and move on to nine, the AOB. And it's the update on the work of the small team on the Operational Design Phase, the ODP. And I don't want to put you on the spot, Kurt, but you sent the summary of the discussions within that small team and a possible response to Org on the

proposal. Would you like to help us to go through that response and the inner workings of the small team?

KURT PRITZ:

Sure. Thanks, Philippe. We have a small team. The e-mail I sent around identified each one of the members. We went through a methodology for reviewing the draft concept paper for the ODP. That was to read the ODP carefully and see if we understood it top to bottom, so we flowcharted it out and identified gaps or ambiguities or questions we had, and created a list of questions that ICANN might be able to use to flesh out the concept paper a bit to make it clear, not just for us but for everybody. So those questions were formulated as a way to be helpful and not with an agenda or certain goals in mind.

And then we went around the table and each spoke our piece about what we thought about the concept paper and how it could be improved or what we agreed with, the sections we agreed with, and found ourselves in fairly remarkable alignment. So what was sent to you in the e-mail was a draft response we could send to ICANN. I understand from Philippe, and I think I was in the room at the time too, ICANN asked for fairly rapid turnaround on a response, so the GNSO council could offer like an in process response, "This is where we are on the review, this isn't our last word but this is what we think so far." And that's what that draft that was sent around was meant to be.

If you guys want—I don't know who's read it and what the path forward is from here for us saying let's send this or mull it over for a while. If you want, it'll probably take five minutes to go through a

brief slide deck that outlines what's in that paper, or we can leave it until later.

So Philippe, I'll leave it to you to manage the procedural part of this.

PHILIPPE FOUQUART: Thanks, Kurt. Look, we have nine minutes and we can use them the most efficiently as we can. If that's technically feasible to show those slides that have been discussed within the small team. Would that be easy for us, to show those slides?

KURT PRITZ: If I'm allowed to share my screen.

PHILIPPE FOUQUART: So that our councilors could be updated on the thinking behind the text. And while we're doing this—and to Kurt's observation—yes, I think it would be good for council to provide a timely response to Org on this. So certainly encourage those who wouldn't have read the text to do so. So Kurt, I'll go back to you for the review of those slides.

KURT PRITZ: Okay. Here you go. So the contents of this report are an introduction, a management summary that gets to the bottom line, and some specific topics that discuss transparency, being able to use the process for more than just a board review, making the procedure more flexible and discretionary, and thinking about

some of the risks involved that should be taken into account as we go.

So in the introduction, we said that we see this as an effort to improve transparency and consistency. It's something ICANN already does, no doubt, inform the board of operational concerns. So this makes that more transparent, so we like that. And as I said, we reviewed the procedure and identified some areas of clarification. So we created a list of questions that we hope ICANN finds helpful and not as finding fault or anything with the report. It's a first draft that will evolve over time.

Our big messages are these, that PDPs are like snowflakes, so they're all different and they all require different types of operational analysis. This version of the draft appears to be overengineered, and these are bullets that are fleshed out more gently in the text. But we recognize that the text reflects flexibility in how this will be implemented, but we think flexibility of this process should be the hallmark of it rather than one procedure that can be deviated from in certain circumstances.

So we recommend that there be sort of a framework for providing operational analysis rather than one procedure every TLD will require a different amount of analysis and some will require the formation of separate groups to do it, some will require an ICANN staff member to build a spreadsheet, and some will require somebody to stand up in front of the board for half an hour and talk.

So we like the idea of a framework with options rather than one procedure. And then certain circumstances, elements of an

operational analysis such as feasibility study or something like that might be requested by a PDP working group or IRT. So Pam, just shout out, but I want to try to go through all of this unless I'm failing in some way to be understood.

PAM LITTLE: No, nothing urgent. Thanks. Go on.

KURT PRITZ: Okay, so for now, we think here's a sense of urgency because SubPro and EPDP are staring the board right in the face and so the board needs to do what it needs to do but do it in a transparent way. And then this, we see as a long-term procedure, so take the time for getting it correct.

So there's four sets of considerations. One is transparency. When we talk about improving or increasing transparency or transparency is not clear in the published procedure, we are after our rightsized amount of transparency. So not one that will delay the process or slow the process.

So we've recommended certain transparency measures such as ensuring that the policy recommendations are not changed by an operational analysis and that all reporting is public so that the board and community receive information simultaneously, and that the DFG or whatever is doing the analysis is narrowly scoped, so not empowered to create solutions or workarounds, just to describe operational impacts.

Our second of four areas were when appropriate, to move the process upstream. So there's some historical precedent for this. It's fairly rare, so we don't see it as a constant thing, but since we're taking the effort to write this procedure, I think we should make operational analysis available that's deemed appropriate [up until the process in the working group level and the IRT and so on.] And at the end, early information might be a lever for actually improving or streamlining the PDP rather than retarding it.

I talked quite a bit about making it flexible and discretionary, but this chapter of the report says another process should be deployed only when necessary. [Risks in overengineering] and delay, and so we like the idea of a framework with appropriate transparency mechanisms in place. And also, it calls for the formation of a DFG, but we rely and expect ICANN staff to be able to provide levels of operational analysis where they have the expertise. As long as it's done in a transparent way, we don't have to call on the community to undertake this role.

And finally, there are some risks that should be considered but aren't major. And that is that there's a risk that if not properly implemented, ICANN or other parties participating in the DFG and not participating in the PDP might end up altering the PDP conclusion, so the thumb on the scale. We think the document goes to great lengths to say that won't happen, but the process or procedure itself must, I think, should ensure that.

And we think despite the principle that this will not extend timelines as written, the flowchart indicates it's likely to. And it's also likely to place an additional burden on the community. So

that's it in 30 seconds or less. I'll turn it back over to Philippe or take any questions you have.

PHILIPPE FOUQUART: Thanks, Kurt. I think we have some time for a quick question from Pam. You have the floor.

PAM LITTLE: Thank you, Philippe. Kurt, I just want to thank you and the small team for the work. It's very comprehensive and much appreciated. I support the comment, and I think we should really provide that to ICANN Org as soon as possible. My only question is about the comment related to the idea of moving it upstream to be flexible to kick off the process at a later stage of a PDP, and if that is the scenario or the case, then how this community feedback group would operate versus the PDP working group that is still in flight? And we're kind of duplicating structure. So that is just one point or concern I have. Otherwise, I think it's in good shape, good form, ready to go Org. and I'm sure ICANN Org would then, based on feedback from the community, come up with a second iteration, a next version, if you like. I don't think ... This is just a draft first version for community input and there'll be other opportunity to provide further feedback. Thank you. And can I also suggest, maybe Philippe, can we just extend five minutes to allow the discussion of other AOB, please?

PHILIPPE FOUQUART: Sure. I hope our fellow councilors wouldn't mind extending the call for five minutes if there's Any Other Business or questions. Just to

close on this, I think you've had the readout from Kurt. Please have a look at the document that Kurt circulated on the list. I think by mid-next week—you had it all, it's all on the slides. More or less, I've read it already. But please have a look and comment on the list by the middle of next week, by the wrap-up session, if you would, so that we can provide our comments as early as possible. I think that would be best.

Any other Any Other Business that you'd like to discuss? Stephanie.

STEPHANIE PERRIN: I think it's worth noting to people that the chat is not working properly. People are typing things, other people are not seeing what they're typing, staff are having difficulties. So I don't know how we fix the transcript, but I just copied some of what I saw. We may have to put together the record if it isn't fixed. Thank you.

PHILIPPE FOUQUART: Thank you, Stephanie. It's not just me then, because I was having trouble following this. I hope we can fix it afterwards. Maxim.

MAXIM ALZOBA: From technical perspective, I would suggest all of us copy and paste contents of the chat. There is a chance we see different items. So we might combine and it will help. Thanks.

PHILIPPE FOUQUART: Thank you, Maxim. That's a good idea. Okay, so with this, if there's no other questions to raise during the AOB, I would suggest that we adjourn the meeting. So I would just thank you for your attention. Thanks again for taking part. Our next meeting is, I believe that's next Tuesday. Pam.

PAM LITTLE: Sorry, Philippe. I think there might be some misunderstanding. There's AOB to cover, 9.2 and 9.3. Should we cover those two items very briefly?

PHILIPPE FOUQUART: Oh, I'm sorry. I had an earlier version. Yes, so next step for 2A. Indeed. EOI. Do you want to cover that, Pam? My apologies.

PAM LITTLE: I'll just kick it off, Philippe, if you wouldn't mind. So 9.2 is about the call for the EPDP phase 2A chair. And just so everyone is on the same page, I believe so far we've received no applications even after the extension, and the extension deadline is 23rd of November. So my question here is for the council to consider in the event there's no one coming forward, what do we do in terms of the chair position?

So I have some idea in mind, including maybe get an outside consultant or mediator to chair this short effort, or hopefully relatively short period. I think we are envisaging three months to have something concrete and then decide what to do then.

And I am just as reluctant as some of you may have about getting a paid outside consultant or mediator to chair our EPDP or PDP effort and the precedent that this may set and impact on the tradition of volunteer and all that. But I feel this is an exceptional case in that the two topics we had tasked the EPDP phase 2A to work on have been actually discussed at length, and I believe there was no consensus, that's why some members of the community want to continue to deliberate these two topics based on the study done by ICANN and maybe some other new information.

So this is not an entirely new topic, and it's really sort of a bit of a trying to maybe have a different method or break deadlock that was before. So it seems to me a mediator or an outsider is not entirely inappropriate, and maybe even more appropriate in this scenario. So I'm open to that idea as a plan B if we don't find any volunteer to chair this effort.

PHILIPPE FOUQUART: Thank you, Pam. So yes, it's certainly relevant for councilors to have that in mind, the likelihood of potentially not having someone to chair that EPDP, but also on the other hand—and you've put it rightly, the potential precedent that that might set in terms of hiring the chair for that role, bearing in mind that this is a somewhat special case—

NATHALIE PEREGRINE: Philippe, sorry to interrupt. You're coming across very faintly.

PHILIPPE FOUQUART: Is that better?

NATHALIE PEREGRINE: Much better, thank you.

PHILIPPE FOUQUART: Sorry. So yes, it would be necessary to have the feedback of our constituencies on that prospect, that idea, since this might be setting a precedent, as I said. Maxim.

MAXIM ALZOBA: I think the outside person unbiased is a good idea in this particular situation. Also, it's a good indicator how stretched are the resources of community. We are not able to find a chair. Thanks.

PHILIPPE FOUQUART: Thank you, Maxim. It would be an indication indeed. And we definitely need to find a pragmatic solution to this in the event that there wouldn't be a chair. So with this, unless there are other hands, we are now running eight minutes over, but we'll take point three, next steps for the nomination of the mentor of the fellowship program and selection committee member. I'm going to turn to staff who's going to take this.

EMILY BARABAS: Hi Philippe.

PHILIPPE FOUQUART: Emily, thank you.

EMILY BARABAS: Sorry, I can't put my hand up but I'm happy to speak to this. So ICANN Org has requested, as it has the last two years, that the GNSO as well as the other SOs and ACs nominate a fellowship program mentor and someone on the selection committee, which is those who select the fellows each year.

For the previous two years, Heather Forrest has served. She stepped into that role as she was winding down as GNSO chair, first on an interim basis and then council decided that they were very happy for her to stay on and she offered to do so as well. And she's again offered to do that if the council would like.

For the fellowship program mentor position, the previous two years, the SSC has made a selection for the council to confirm, and the SSC is available if council would like them to do so again. Thank you.

PHILIPPE FOUQUART: Thank you, Emily. So, I think—and that's my understanding, that this will be—correct me if I'm wrong—submitted potentially on the consent agenda of the next meeting. Am I correct? We're not asking for the concurrence of council at this point but just to inform the councilors for the next call. Am I correct, Emily?

EMILY BARABAS: Hi Philippe. I think the item here is for if council is comfortable with the SSC taking this process and doing the selection program mentor position. That's just a matter of if there are any objections, and it can be a different process, but otherwise it's just by nonobjection and we can take it to the mailing list for follow-up in terms of Heather's selection for the selection committee.

PHILIPPE FOUQUART: Right. Thank you, Emily. So unless there are objections, we'll take that onboard and confer on the list and thank Heather in particular for agreeing, taking that role.

So I think we're now done with the AOB, and my apologies for missing those two points. I was looking at an earlier version of the agenda. So with this, I'd like to thank you again for taking part, and we'll talk again next week on Tuesday for the wrap up. And unless there are any last comments, I will wish you a very good morning, afternoon and evening. Speak to you next week. Thank you.

NATHALIE PEREGRINE: Thank you all for joining. This concludes today's council meeting. Have an excellent rest of your days and evenings. Take care, everyone.

[END OF TRANSCRIPTION]