

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)
Work Team (WT)
TRANSCRIPTION
Monday 07 February 2011 at 14:30 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 Monday 07 February 2011, at 14:30 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-ppsc-pdp-20110207-en.mp3>

On page:

<http://gnso.icann.org/calendar/#feb> (transcripts and recordings are found on the calendar page) **Participants on the Call:** Jeff Neuman - Registry Stakeholder Group - Work Team Chair Alan Greenberg – ALAC Marilyn Cade – Individual James Bladel – Registrar Stakeholder Group Alex Gakuru - Non Commercial Stakeholder Group

ICANN Staff: Glen de Saint Gery Marika Konings Margie Milam

Absent apologies: Wolf-Ulrich Knochen – ISPC Tatiana Khramtsova - Registrar Stakeholder Group Avri Doria - Non Commercial Stakeholder Group

Glen de Saint G ry: Thank you. This is the 7th of February. Good morning, good afternoon, good evening everyone. It's the 7th of February PDP Work Team call. And on the call we have Alex Gakuru, Jeff Neuman, James Bladel, Alan Greenberg and Marilyn Cade. And for staff we have Margie Milam, Marika Konings and myself, Glen de Saint G ry.

And may I ask you all please to say your name when you speak for transcription purposes. Thank you very much, Jeff, over to you.

Jeff Neuman: Great, thanks Glen. This is Jeff Neuman, Chair of the PDP Work Team. And so welcome everyone to the call on February 7. And today the agenda is to spend a couple minutes talking about logistics for the San Francisco meeting, a very few minutes, and then go into - cover some of the action items that were - cover the two action items that were left off - left over from the last

meeting and then as quickly as we can to try to work our way through the rest of the document.

So we need to - to summarize we actually need to finish this up - this list up so that we can get - Marika can put out a draft hopefully by Monday of next week so that we can all review it, finalize it by the end of the week next week so that it can meet the document deadline, which, Marika, remind the document deadline date.

Marika Konings: This is Marika. Twenty-first of February.

Jeff Neuman: Twenty-first, that's two weeks. So we need to get onto that schedule, get that document out. Remember it is a - right now it's called draft final but I think we're going to call it proposed final or something of that nature to make it clear that look, you know, we've had a lot of discussion on this and we know it's a draft but the goal is that there really shouldn't be too many changes and that we've reflected the last public comment period.

So that's the goal and let's talk about some logistics. So we're working on our schedule for San Francisco. Right now the times are a little bit in flux. Olga and ICANN staff are working on the schedule. But I think what we need is we're going to need to - we're going to be presenting the final - the proposed final report to the Council. And I believe it's now scheduled for the afternoon of Saturday, that Saturday afternoon.

That's when we're presenting it to them so we need to have a meeting before that to make sure that we've got all of our ducks in a row and - where we may want to have our meeting before that to make sure we have our ducks in a row and make sure that we're presenting - everyone's good with the slides.

And also that may not be so important - I'll ask you guys - but we do need a meeting at some point during the weekend to talk about our workshop which

will be planned probably for - actually I don't know if I've seen that. Marika, do we have a time yet for that one or a proposed time?

Marika Konings: Yes, this is Marika. The request I submitted actual - Wednesday morning from 9:00 to 10:30 but it is not confirmed yet and I have no idea yet if there are any other meetings that are going to be opposite it which might mean we need to move stuff but that's the request I've put in so far.

Jeff Neuman: Right. So we need to decide whether to have - whether we need a meeting before the presentation to the Council or whether we could just present it to the Council and then not worry about a meeting before on that Saturday and just worry about a meeting on the Sunday to talk about the report and the workshop.

So I want to throw that out for a couple minutes of comment if anyone cares. Does anyone have any thoughts on that? Or you trust that Marika and I can work this out? Let me ask the question a different way, is anyone planning on not being there on the full-day for Saturday so that we need to kind of take that into consideration?

Okay, Marika, you and I will work it out.

Marika Konings: Yes, Jeff, maybe it's worth as well sending a note to the mailing list asking that same question because I know that, you know, there are a number of people that are actually not on the call today.

Jeff Neuman: Right, yes. We'll...

((Crosstalk))

Marika Konings: ...if Saturday is an issue and otherwise we need to see if we can find the time again on Sunday.

Jeff Neuman: Yes, Sunday is kind of - I'm looking at some of the things that have to happen on Sunday at the Council level and it's looking like a pretty busy day so we'll see.

Okay with that said let's go to the to action items from the last call. And there was a couple back and forth of - James has just indicated that Sunday is an all day Accountability - or Affirmation and Commitments day so that's something we need to keep in mind.

Okay so the action items from the last meeting one of them I've seen some good back-and-forth on. And it was proposed by Alan; this was one of the items that he had taken back on essentially the appeals if a - effect Council does not initiate a PDP following an issues report that's requested by an advisory committee.

So Alan has drafted language that says that the PDP Work Team recommends that if the GNSO votes to not initiate the PDP following an issues report requested by an AC the AC or its representatives should have the right to a meeting with representatives of the GNSO and in particular those voting against the PDP to discuss the rationale for the rejection and why the AC feels that reconsideration is appropriate.

Following this meeting the AC may submit a statement to the GNSO Council requesting a re-vote and giving its rationale for such re-vote. This process may be joined just once for any given issues report.

So there was some back and forth. I think at one point there was - actually let me just - Alan you've raised your hand so let me just turn it over to you.

Alan Greenberg: Thank you. I added another comment afterwards because after re-reading it I thought the sense of the discussion, but I may have gotten it wrong, was that the AC can request the vote implying that the vote had to be taken. And I suggested a modification to reflect that.

Most of the comments, I think, were really targeted at that comment and not the original text. So I guess I'd ask for clarification from any of those people on the call whether the original text was problematic or just the clarification. I don't have much, you know, vested interest in it either way but I think that may allow us to go through it quicker if we know what the objection was to. Thank you.

Jeff Neuman: Okay James.

James Bladel: Yes I would say - thanks, Jeff, this is James speaking. I would say that primarily my objection was to the added language; that the original text is okay. The only - and it's just a semantics issue - it's the word right and, you know, something about should have a right. I mean, you either have a right or you don't have a right in my opinion.

I would say should have an opportunity or should have a chance or should have the privilege or whatever we want to call it. I think that if we're providing a recommendation to Council that they should listen to the folks who originally requested the PDP without presuming that we know what the outcome of that conversation is going to be I think I'm totally okay with that.

Jeff Neuman: So just to clarify it would say something like, as I think Marika is writing at the bottom, the AC or its representative should have the opportunity to - well I would just say to meet with representatives.

James Bladel: Yes, something like that. I think - I just think the word right is problematic. Thanks.

Jeff Neuman: Okay, Alan.

Alan Greenberg: Yes, I don't actually read - although right may be a stronger word than opportunity I read them as - I take them as basically the same. And the

should I put in because this was a recommendation. The outcome of it, you know, if it ends up in policy would not be should; it would be they have or do not have the opportunity/right.

I mean, to have the - to have the opportunity to I don't think reads correctly in a bylaw or in the guidebook rules. So it's a semantic issue though and I don't think it changes the intent at all so - and - but the should I think was just there because this was being phrased as a recommendation as opposed to the outcome rule.

Jeff Neuman: All right so then - yes, I think that's right when it gets into the procedure manual it has to be definitive on way or another. So I think - I think this is fine with - let's change it to opportunity; let's let it at that, Marika.

Alan Greenberg: Sure.

Jeff Neuman: And then I think we're good on this item.

Marika Konings: Okay just - this is Marika - just one clarification because I noticed indeed that Alan proposed to add a small sentence after the word re-vote saying, "But with no requirements that the Council agrees." Should this be added as well?

Jeff Neuman: Well I think James said he was fine with this language as written.

Marika Konings: Okay.

Jeff Neuman: I'm not sure we need to complicate it.

Alan Greenberg: No.

Jeff Neuman: So you're going to cross out, Marika, the right and you'll just keep it at opportunity?

Marika Konings: Yes. I don't - unfortunately I don't have the option here to do strikeouts so I've put it in brackets and made it red but I'll delete it now.

Jeff Neuman: Okay, all right; okay great. Let's go to 21 which is Recommendation 21, one work team member also suggests that the recommendation should include that a response needs to be provided to an SO/AC that submits comments. It was agreed to circulate the proposed language on the mailing list to obtain further input.

The proposed language is as follows, "Comments from ACs and SOs should receive a direct response from the working group." So, Marika, who did that language come from? Was that you or is that - someone submitted that?

Marika Konings: This is Marika. That came from Avri. She I think submitted two sentences in the chat and this was the second part that specifically related to direct response from the working group.

Jeff Neuman: That's right. Okay so what are you - James, your hand is up; is that new, old?

James Bladel: That's new and it's just a question.

Jeff Neuman: Sure.

James Bladel: I remember discussing this pretty significantly on the call. But I think the question is what constitutes a direct response? And I know it's not fair, Avri is not here, but, I mean, if a question is directly addressed in the final report or, you know, referencing the comment that it receives is that a direct response?

Or is it - does it need a separate out of band or, you know, a separate communication channel letter or, you know, something like that? So I guess that's my question is what constitutes a direct response?

Jeff Neuman: So I think from the discussion I think we went through this the last time. And I'm not - I think it was that it was okay if it was in the report as opposed to a letter.

James Bladel: I don't remember us - I don't remember us going through it so I'm sorry if we already resolved this.

Jeff Neuman: I mean, I think at one point Avri was talking about a letter but then we kind of joked back and forth that the response in a letter could just be, "Thank you; we've received your comments." But, Alan, you have a comment on this?

Alan Greenberg: Yes, I wasn't here at the last meeting; I missed it unfortunately. I think I support this but was there a discussion at that point about why ACs and SOs comments are more equal than others' comments?

Jeff Neuman: Yes.

Alan Greenberg: Okay.

((Crosstalk))

Alan Greenberg: ...okay, fine, then I'll back out.

Jeff Neuman: Yes.

James Bladel: Alan, that's a good point. This is James speaking. We discussed that quite extensively. And you're absolutely right to pick up on that. I think that that was what I remember of the last meeting and I don't remember whether or not we determined what a direct response would look like so.

Alan Greenberg: Yes, no but, you know, the rationale for my question was I do support it because I'd in fact think they are more equal; that they're a formal part of the ICANN body and therefore do, you know, have the right to demand,

essentially, you used the word right, again, a formal response. Whether it's embedded or separate doesn't really matter to me. But I just wanted if it had been discussed. Thank you.

Jeff Neuman: Yes. Okay and I - everyone else okay with the language if we just clarify that to just basically say comments from ACs and SOs should receive a direct response from the working group.

So it may not be a part of a report because you could also have a comment period that doesn't necessarily - you don't know whether it's going to be a comment period to a preliminary report, a final report, a survey, who knows what.

So you might just want to say something like this may be in the form of a - I'm trying to think - this may be in the form - I don't want to use the word response again. What does ICANN use when they do their - James, you might have a better idea?

James Bladel: Oh if you're trying to craft some language, I mean, it might be, should receive a direct response from the working group such as - or for example direct reference in the final report. I guess...

Jeff Neuman: Well I would say instead of final report say applicable report because it may be a comment...

James Bladel: Oh right.

((Crosstalk))

Jeff Neuman: ...in a preliminary...

James Bladel: Sorry, right.

Jeff Neuman: Okay. Alan.

Alan Greenberg: Yes, I mean, I was going to suggest you can put something to the affect of that, you know, such response may be embedded in other response documents or separate. But the original question I was going to ask when I put my hand up is do we want to specify that this is a substantive response as opposed to thank you for your comments?

Jeff Neuman: Yes, I think that's a good clarification. So, Marika, you want to change the word direct to substantive?

Marika Konings: Can I maybe comment as well?

Jeff Neuman: Yes please.

Alan Greenberg: Sure.

Marika Konings: Yes, this is Marika. So first of all on the direct reference in the applicable report the challenge there is that we've also said that working groups can ask for comments on anything, I mean, they could do a survey or they could do specific questions which might not appear in a report.

I mean, of course they can reference like we always do when we have public comment periods who has responded so we do note, like, these are the different groups that have responded and this was the summary so I don't know if that's efficient.

And I'm a bit worried here that we're writing in language and making it very restrictive on what working groups should or shouldn't do. And also this substantive response - it's very hard because, I mean, with working groups we do go through all the comments and sometimes it's just people say, yes, noted, thank you; we note it or we already know it.

If you make it substantive I'm wondering as well if you don't go into a dialogue at some point where an AC or SO says, well, you know, you didn't really consider that; you just said noted. We don't consider that as a substantive response; we want you to, you know, address every single point and comment that we raised.

So I'm wondering if we're writing too much into this which might restrict how working groups deal with these kind of issues. And it comes back as well, you know, more equal than others, why shouldn't this be done as well for other comments that are submitted because other organizations, even if they're not in an ICANN structure, other individuals might also spend a substantial amount of time of developing these comments and would like to see that same kind of recognition or feedback as well.

So I'm, you know, a bit concerned on the writing as it currently stands what kind of interpretation that will lead to from working groups.

((Crosstalk))

Jeff Neuman: Okay. Let me - Alan, you put a comment in the chat; do you want to just tack onto that?

Alan Greenberg: Sure. I think Marika's comment is - makes sense. And I'm happy to take - to withdraw what I said about substantive. And, you know, if an AC or SO is really unhappy with the response they can follow up at that point. Just...

Jeff Neuman: So I'm trying to...

Alan Greenberg: ...the word substantive does not really force - does not really make anything happen. And if workgroups and - want to say noted I think that may be applicable. So I'm happy to just leave it out.

Jeff Neuman: I'm trying to look for language in the affirmation of commitments that talk about what has to be done with public comment - just seeing if that helps us. I was going to ask James since you're our resident AOC expert.

James Bladel: Oh please don't use the ex-word with me here. There was something I think about - there's something about the - community participation or something like that. Let me look for it while - I don't want to hold up the group.

Jeff Neuman: Yes there may be...

((Crosstalk))

Marika Konings: ...language - I think there's language in there indeed that comments should be, you know, considered and, you know, feedback given or some kind of recognition of what has been done with those comments.

James Bladel: Yes.

Marika Konings: But again I don't think the document calls out that this should be done only for ACs or SOs; I think that talks on a general level. So I'm wondering if, you know, we're making here the distinction where we should follow the indeed AOC approach and that should be a general approach.

And I think we've done it on other recommendations as well where we're saying it's really important that working groups take the time to review the comments and for each of them as well basically indicate, you know, why they agreed or why they didn't agree or what changes they have made based on those comments.

And I think that's a practice that we've done with most working groups. Although again in some cases that just means noted. And we don't really, you know, distinguish between, you know, individual comments or comments made by ACs or SOs.

Although, you know, in certain cases we might want to invite or there are already members participating from those groups that provide additional explanation as to why a certain comment was made or what the thinking behind it was which is sometimes harder when you have individuals that are not linked to the working group or to the ICANN structure as such.

Jeff Neuman: Okay let me go to James and then Alan.

James Bladel: Okay so just real quickly there is mention in the AOC in 7 and 8 relative to how comments are influencing the policy development process. And it just says something like, you know, it runs as a private sector organization with input from the public.

I think, Marika, you're absolutely correct. And I guess, you know, this maybe is a statement directed to Alan, I've - all the working groups I've been involved in and, granted that's only been 10, this hasn't been an issue.

If someone feels that a comment is substantive regardless of where it's coming from I think that's, you know, they hold the working group to task on that and make sure that that comment is addressed either in the report or directly that we ask staff to reach out to the submitter of the comment to get some clarification.

So I guess I never really seen this as a problem. I feel like we have - I think we have adequate safety valves within the working group structure to make sure that these things are chased down.

The only comments I've ever seen where someone says thank you for your comment, your concerns are noted are those comments that are submitted that re-open or re-address topics or discussions that have been covered extensively on the working group.

And I think those are the ones that usually receive the, thanks for your concern; we've received your comment type response. But, you know, I think it's a good point, you know, working groups should not be disregarding comments.

But I don't - I have never really felt that was an issue; I really think that if the, you know, I think the term we used last week was source agnostic, you know, it's a good comment is good and comes in and changes the tone or the direction of the topic and it should be addressed and if it re-opens a lot of old debates then it should just be noted. So that's just my - that's how we came down last week I think. Thanks.

Jeff Neuman: Okay so the proposal is to then take out the word - okay we have it here, "Comments from ACs or SOs should receive a response from the working group." I would break it out into two sentences, Marika. And then say, "This may include, for example..." or something like that just to break it out into two sentences.

But essentially a direct reference in the applicable report or embedded in - I think you're going to say a summary of public comments; is that what you were going to say, something like that?

Marika Konings: This is Marika. I think it was a sense that James started - embedded in other documents or other applicable documents.

Jeff Neuman: Or other responsive documentation.

Alan Greenberg: I would make it three. It's that - the two you have or a direct response.

Jeff Neuman: Okay. And I think, someone correct me if I'm wrong, embedded is within E, right? I think?

James Bladel: Yes.

Jeff Neuman: Is that right?

Alan Greenberg: I think so.

Jeff Neuman: Okay. And virtually Adobe doesn't have spell check in the chat box. Alan, do you have another comment or...

Alan Greenberg: No, I do. And again this may be reopening the general discussion. I don't quite agree with James in that the world has changed a lot in the four years that I've been involved in this and we went from the point of view where comments were generally completely ignored by working groups and there was a very strong feeling in ICANN that's why should I bother submitting comments because no one ever even reads them to now where we at least attempt to go through them with some rigor and address them.

I think the focus on ACs and SOs was because it was felt - it is now felt to be important that the GNSO not - the GNSO explicitly reach out to ACs and SOs and the implication is that whatever the ACs and SOs come back with is, you know, has to be taken into account.

So , you know, the world is changing; whether this is a pendulum swinging back and forth and we'll go back to ignoring again I'm not sure. So I think it is an issue we have to focus on here; it's not a given - I don't think we can take it as a given. I think the wording we have right now is fine.

Jeff Neuman: Okay great. Should I say your concerns are noted or would that be improper here? Come on, guys, a little laughter. I know it's...

((Crosstalk))

Alan Greenberg: ...probably okay.

Alex Gakuru: I note that was direct response to him.

Jeff Neuman: Let's jump onto Recommendation 25 which is - here we go, "The PDP work team recommends that even though a working group currently forms the basic mode of operation for a PDP there should be flexibility to accommodate different working methods if deemed appropriate by the GNSO Council or allow for a different mode of operation if so desired by the GNSO Council in the future without requiring a complete overhaul of the bylaws or GNSO operating rules."

And then Avri had submitted a comment, "Like what? The reorganization is about these working groups. I do not believe I could support this clause as it would allow for the GNSO Council to declare itself supreme and (unintelligible) committee of the whole again until there is another review and result I believe the GNSO is restricted to working group methods."

And Alan disagrees. "Perhaps need a super majority but the GNSO should have the flexibility to do what it needs to do? We are already having problems due to lack of balance in some working groups. And we should not legislate that other modes cannot be used. The (JAS) procedure manual does specify some rules for this."

So, Alan, what - do you think anything else needs to be added this? I mean, I know Avri won't sign onto it but...

Alan Greenberg: No I think the words we have there are okay. And I was surprised, to be honest, I thought I was making a radical statement when I originally suggested this and I was the one who did that.

And I was very surprised when I looked at the working group rules and they're quite specific that, you know, working groups are not the only vehicle but - with the only caveat that if we have other vehicles that we better have

good rules so we understand how they work. And I think that makes perfect sense.

Jeff Neuman: So should we put in something to maybe sort of address Avri's concerns? And I have to admit I'm a little bit, you know, on a personal non-Chair basis, I'm a little bit worried that if you use another model other than the working group model that you may be unintentionally doing something else that's not in conformance with a PDP process and especially for consensus policies, you know, for the contracted parties.

It worries that there's just complete flexibility without making a statement which I think we can- is, you know, basically saying that although we're using - although the Council may recommend another mode of operation all of the other protections of the PDP or something set aside need to be in place.

So something that - you're saying - really you're talking about a composition of a team that's working on an issue but you're not compromising any of the other elements that we've all come up with. So, Alan.

Alan Greenberg: Yes, well the working group rules do specify that there - if you come up with a different model there has to be rules. So it's not going to be done on the fly. But...

Jeff Neuman: What about something like rules at least as stringent as the rules set forth in this document or something like that?

Alan Greenberg: I hate judgment calls like that because anyone can nit-pick and say I don't agree.

Jeff Neuman: Yes.

Alan Greenberg: I mean, the example I'll give is one of the problems we've had on a number of working groups is lack of balanced representation. You know, the task force

said there shall be one from each - or N from each constituency in that world. And we don't have anything comparable here.

I can imagine coming up with a modified workgroup where there must be balanced participation plus others. You know, so we're not losing the other people can participate but we're forcing an issue of some level of balance. You know, I could imagine coming up with rules saying if votes are taken they're taken by the balanced group and not by the workgroup as a whole but all participants can enter into the discussion.

You know, I'm not suggesting any of those are good I'm just saying I can imagine coming up with modifications of the workgroup rules which address some of the failures that we've had and some of the problems that we've had. And I don't think we should be ruling them out because we haven't thought of the details yet. And...

Jeff Neuman: So Marika...

Alan Greenberg: ...it's a rather onerous thing to make a change to these procedures once we lock them in.

Jeff Neuman: So, Marika has put a paragraph in the chat. If you all want to just take a second to look through it. And, Marika, do you want to add to that or is that what you were going to say?

Alan Greenberg: Yes, this is Marika. So basically - we've basically I think foreseen what Alan is saying and what also matches what is in the GNSO working group guidelines. It's basically, look, GNSO can decide to, you know, for whatever reason to use another model than the working group model. But before it does so it needs to specify the rules and procedures that, you know, are part of that new model or hybrid or whatever form it takes.

So I think it, you know, the comments that both Avri and Alan made are covered because it's not something that just can be done like that; it needs to be specified what that means and how it would run. And at that stage of course people who come in as well saying well if you take something else you will still need to follow the PDP model so of course otherwise it's not policy.

So I think that the, you know, there are certain barriers that are built in in this language to make sure, you know, that the different views are covered and it cannot be changed just like that but there is an opportunity if there's a real reason to follow a different model that that can be done.

Jeff Neuman: So here's - so here's what concerns me. And I do remember, you know, I know James says he's more in Alan's camp - on the chat. I'm actually a little bit more in Avri's camp just because I remember what it was like when the Council appointed itself as its own committee to do everything.

And it really lacked the participation from the public. And it really was a bad working model that was really the Council acting more like a legislature. So it worries me that it says the Council can then just elect to have different procedures on its own. It does almost seem like it's - we can go back to that kind of - that kind of model.

And I don't want to get back into that model just because the Council selects another mode for conducting PDPs. I think, I mean, it makes me nervous and just remembering the way it was before. So let me go to Alan and then James.

Alan Greenberg: Yes, I mean, I don't know whether this particular rule is going to end up in the bylaws or in the operations manual but almost regardless the GNSO Council can make changes; it's just the question of what documents need to be changed.

So, you know, all of these changes are approved with a majority whether it's these rules we're writing now or some new ones. We don't typically use super majorities for that. So we're not changing the rules that the GNSO Council can make the rules we're just saying what - how onerous is it and how awkward is it to do.

And I think saying that the working group model is the only model when we already know that there are some problems, maybe they'll get fixed as we learn to use it better or maybe we need to make some tweaks. But I think it's foolish to cast in concrete the fact that it is the only model.

And since the working group rules already address it and we've approved those rules or we're close to approving those rules - I don't remember which - okay...

Jeff Neuman: Yes, we're actually...

((Crosstalk))

Jeff Neuman: Yes. Yes, so it's a public comment period. The Council has it closing on the 8th. These are the working group rules. But again this is for - especially for a PDP that may be a consensus policy again it makes me kind of nervous. But let me ask James his thoughts.

James Bladel: Well, Jeff, this is James speaking, thanks. And, you know, I guess I was solidly in Alan's camp but now that I'm reading the paragraph that Marika wrote I'm seeing that this is for a consensus policy. And therefore I think that we do need to follow some sort of - we need to have some consistent expectations on how we would arrive at consensus policy if they're going to alter a contract.

So I think I'm going to now put myself into either the middle ground or more into the Avri/Jeff camp on this. I'd like to see the Council have flexibility for

tackling issues outside of the PDP process with drafting teams and pre-PDPs and other sort of fact-finding committees and whatnot that it can do on the fly and essentially constitute and dissolve as necessary.

But when it comes to a PDP I think now you are correct, we need something that is - something that needs a little bit more of a formal process. Thanks.

Jeff Neuman: Alan.

Alan Greenberg: Well I think you're looking at it from one side of the picture only. I think it could work well against contracted parties to have the current working group model it just depends who gets the troops out for the working group.

If you have a working group - rather a PDP that is not going to look at consensus policy and the non contracted parties waive their flag more and get 100 people to the 12 that the contracted party peoples have you're going to be a disadvantage in this set of rules.

So I, you know, I think it can go both ways. And I'm not sure who's going got benefit if we change these rules. I don't think it's at all clear that it's going to go against contracted parties.

Jeff Neuman: Yes I think you certainly make a good point, Alan. And I think - so what do we have, Marika, currently in the bylaws on this or that we propose to be in the bylaws?

Marika Konings: This is Marika. I think it's only covered in the procedure manual. I'm just scrolling up in the document to see if there's anything specific in the proposed bylaws.

Jeff Neuman: So there's nothing about how this should go through the PDP?

Marika Konings: I don't think it talks there about that, you know, a working group is required or anything like that it just outlines the required steps but it doesn't talk actually about how it needs to be done; that's more outlined in the procedure manual. I'm just - I don't know if Margie has any - I'm just scrolling through so I might be missing something. I don't know if Margie has a different recollection of them.

Margie Milam: Yes, this is Margie. I don't think so; I don't think it specified the type of groups to be used. I think - the thinking behind that was if you look at the current Annex A it talks about task forces which obviously we don't, you know, use anymore.

And so following, you know, the theme of the structuring and the BGC report of allowing flexibility so that as the Council, you know, processes change you don't have to modify the bylaws; I think we left that out.

Jeff Neuman: So what page does the - in this report does the bylaws start on the proposed - Marika do you know?

Marika Konings: Page 54.

Jeff Neuman: Oh I didn't go far enough. All right so we kind of need to review that. So guys which language - so we have - Marika, the language was there; we have Avri...

We have the original language which was that even though a working group currently forms the basic mode of operation there should be flexibility to accommodate different working methods if deemed appropriate by the Council or allow for a different mode of operation if so (denoted) by the Council in the future without requiring a complete overhaul of the bylaws or GNSO operating rules. Do we need to keep this one as an open action item?

Alan Greenberg: How about if we use words in accordance with the PDP procedure manual?

Jeff Neuman: Well but the procedure manual could be basically changed...

((Crosstalk))

Alan Greenberg: Right but there are words there that talk about using other models.

Jeff Neuman: I think what needs to happen is people need to review the bylaws and make sure that all the protections they expect are in the bylaws and therefore changing the composition of a group may not - so long as you follow the bylaws - may not have a significant impact.

Alan Greenberg: Okay.

Jeff Neuman: So I think that's what people need to do. I know I need to do it on a personal level and I'm sure others do as well. So why don't I recommend that and then we'll move onto the next item.

Alan Greenberg: Okay.

Jeff Neuman: Okay. The next says, "Linking policy development with strategic planning and budgeting." This is the one we all threw up our hands the last time and said we have no idea what this really means. So we recommended that the initiation of a PDP may include consideration of how ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes.

And we suggest including, "...and how the proposed PDP is aligned with ICANN's strategic plans," to the end of the sentence. This will further - this will further prevent frivolous PDPs and unnecessary wasting of ICANN's and the community's limited resources.

So do people mind updating that, adding those words? I think that's in line with what the question was so I think that that's - does anybody object to that? Alan.

Alan Greenberg: Yes, as I read it that doesn't preclude the Council deciding to go ahead with it even if it's not aligned but they should consider it. I mean, again it's almost the same discussion as the previous one; we are not always prescient and fully understanding of how the world is unfolding.

The strategic plan may well have a hole in it and if an issue comes up the GNSO feels must - should be addressed quickly it should be addressed even if it's orthogonal to the strategic plan. So as long as we're not precluding that I have no problem saying consider it.

Marilyn Cade: Jeff, it's Marilyn. Can I - sorry I can't seem to raise my hand electronically.

Jeff Neuman: Sure. Go on.

Marilyn Cade: On this particular point I would support what Alan - what Alan just said. That I'm - all of us are - maybe we have varying degrees of understanding of how ICANN develops its strategic plan. It's not as actually - it's not very granular. And it's not at this point particularly bottom-up.

So while I don't object to including those words I think we need to understand that the strategic plan was also a three-year evolving document while the operating plan is a yearly rolling document. Because it's so high level it - that, you know, it may be appropriate to use the language that's been proposed.

But I do think we need to ensure that the Council and the stakeholder groups and SOs could - the ACs could provide redirecting guidance and then the operating plan and the budget would be the first ones that were amended but the strategic plan would probably not be easy to change because of the timing cycle.

Jeff Neuman: Yes. I think that's right. But I think the only language here really is just - well okay so, James, do you want to talk a little bit more about your proposal then?

James Bladel: I'm sorry I was multitasking. We're still talking about Recommendation 28 correct?

Jeff Neuman: Yes the strategic plan...

James Bladel: Okay. Okay well the key here - and I'm just going back to the beginning because I haven't really looked at this since submitting the comment here. But, you know, the key here is that we want to ensure that there are some boundaries or limitations of what ICANN will choose to involve itself in.

Whether that's through its defined mission or scope or the AOC or, you know, something that's, you know, aligns with what is says it would do in the budget or the strategic plan; what it said it would pursue in the coming, you know, rotating three-year period.

So I think that, you know, the key here is just to keep ICANN grounded in what it - in its established mission and not, on a PDP basis allow it to go tiling windmills. So that, you know, that was the general sentiment I think behind submitting this text.

Marilyn Cade: I have a follow up question for James then?

Jeff Neuman: Sure.

Marilyn Cade: I, you know, James, what I'm hearing is a concern about the PDP process in some way resulting in expanding ICANN's role. I frankly think it's highly unlikely given the requirement of votes that - and work that it actually takes to do a PDP.

But my comment was about supporting Alan's suggestion that if the Council - if the Council voted to initiate a PDP process even if it wasn't in line with the strategic plan that the strategic plan is a three-year rolling document and may represent certain inflexibilities.

So I could even give an example even though I didn't support the idea that ICANN should become involved in an operational cert the idea that ICANN has responsibilities in SSR is something that the business user constituency supports.

But the strategic plan might not have - until it was updated - might not appropriately reflect current events that are going on in a particular area.

James Bladel: Yes, so the strategic plan is a lagging document versus the - what we would call the situation on the ground right?

Marilyn Cade: Right, yes.

James Bladel: Yes, and I think that, you know, if the Council decides that an issue is sufficiently, you know, important and it has the votes to initiate a PDP, you know, I think that we should leave some flexibility for their discretion in that regard. But I do believe that, you know, if something is outside of the strategic plan or outside the budget it should be understood or acknowledged.

You know, for example so maybe - this is a really bad example but I'm just going to put this out here as a possible example - was the Whois studies. You know, I think a lot of folks were working towards initiating and defining some of the - some Whois studies but when it came time to actually, you know, start to launch those studies we were like oh, you know, shoot we forgot to include these in the budget and they're going to be something like \$400,000.

So, you know, I think that there's the other side of that too and it's just really a management coordination communications issue where we want to make sure that the left hand knows and understands what the right hand is doing and what kind of an impact that's going to have on the organization financially.

And, you know, we want to make sure that the strategic plan and the budget are meaningful documents. So if we can craft language that threads the needle that captures I think concerns from both sides of this point I think that would be ideal but I don't know - I think it's possible but I'm not sure how it would look.

Jeff Neuman: Alan, you have a comment on that?

Alan Greenberg: Yes, I support what James is saying. And the strategic plan is a lagging document. I know from At Large's point of view we've been tilting at windmills for several years and were delighted this year when things actually showed up in the document that we'd been talking about.

And from a GNSO point of view which has a more restricted set of tools it can use initiating a PDP on something is in fact one of the tools it has of forcing ICANN to address something which is otherwise ignored in the plan and may make it go into a plan.

So, you know, I think we need flexibility. Reminding Council that it should consider this as an issue that's fine but I don't think it should be much stronger than that. Thank you.

Jeff Neuman: James, what do you think of that?

James Bladel: Yes, I can go along with that, sure.

Jeff Neuman: Marika did you capture that?

Marika Konings: No I didn't.

((Crosstalk))

Jeff Neuman: ...multitasking. All right, Alan, do you want to repeat that?

Alan Greenberg: I'm not sure repeating - I'm just saying - well part of what I was saying is not to be captured. That the PDP process is one of the tools that GNSO has for causing the ICANN organization to focus on things which may not have been addressed in the strategic plan.

Very few of the - of the PDPs are things that are directly linked to strategic plan issues at a very, very esoteric level. So I think the words that I see there, you know, should include consideration of how it can best accommodate it. The answer may be ICANN better damn well find some money to do this because it's important.

Jeff Neuman: So the language as it states now says, "Recommends that the initiation of PDP may include consideration of how ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes.

Alan Greenberg: And the answer may be the budget - that it has to be adjusted.

Jeff Neuman: Right. Do we want to add strategic - well you can't really alter it as Alan's saying; it's hard to the strategic plan although they do it every, you know, they do report against it every year at least.

((Crosstalk))

Alan Greenberg: ...lag though to get things in that are suggested at the periphery of the organization at least so far it has been.

Jeff Neuman: I think the word - yes but I'm still thinking that this wording kind of covers it.
James and Paul - well James is on the call...

((Crosstalk))

Jeff Neuman: ...what's that?

James Bladel: Yes Paul is not here.

Jeff Neuman: Yes.

James Bladel: I'm sorry, which version are we reading off of again the...

Alan Greenberg: The original...

Jeff Neuman: On the right hand side of the screen, outstanding issues, Page 26.

((Crosstalk))

James Bladel: I'm looking at which column?

Jeff Neuman: First column.

Alan Greenberg: First column on the right.

Jeff Neuman: Where it says now - on the left. And then your column on the right is the one that indicates what you had proposed. And I'm asking how wedded are you to what you proposed or can you live with the language that's there based on what Alan was saying? And you could put and strategic planning but.

James Bladel: Just a second here.

Jeff Neuman: How about adding, and if applicable how the proposed.

James Bladel: Well, you know, I think if we're saying, you know, consideration of how ICANN's budget planning can best accommodate the PDP and its possible outcomes I think that's okay. If we can strengthen it just a tad and say and acknowledgement when the proposed - when the Council feels that a proposed PDP would fall out - is not aligned with the strategic plan or the budget.

I don't know, just something, you know, when something is really coming out of the blue - and I think that, you know, Marilyn's - this goes to Marilyn's point - we want to make sure that there's flexibility to do that if the situation, k is changing rapidly and we need that capability.

But, you know, I think it's not too onerous to ask the Council to at least acknowledge that.

Alan Greenberg: How about adding if applicable between and and how? It means a value judgment has to be made.

James Bladel: Yes, yes.

Alan Greenberg: Because some PDPs I think are just not...

((Crosstalk))

Alan Greenberg: ...they're so far away from the level at which the strategic plan is talking that it's not a relevant statement.

Jeff Neuman: James.

James Bladel: Sorry I was typing not speaking. I just said I was okay with Alan's suggestion.

Jeff Neuman: Oh okay, sorry, I was not able to - there you go. Trying to read everything at once here. Okay so let's move onto Recommendation 30; it sounds like we're good. Marika, now have you captured that?

Marika Konings: Yes I did.

Jeff Neuman: Awesome. All right Recommendation 30, "The PDP work team recommends modifying Clause 9 of Annex A..." which I know everyone here has memorized, "...of the ICANN bylaws to reflect the current practice that a summary and analysis of the public comments received is to be provided by the staff manager to the working group which will be responsible for reviewing and taking into consideration the public comments received."

And there you go. No comments to that. I'm assuming that's a good suggestion.

Marika Konings: No there is a comment; you have to scroll back up to the right hand side.

Jeff Neuman: There you go from Avri. Should add documenting the result of the consideration. So it's saying which will be responsible for reviewing and taking into consideration the public comments received. And she would add something like for reviewing and taking into consideration and documenting - no I guess - hold on; let me see how that would fit in - documenting the results.

Okay, James.

James Bladel: Yes really quickly, you know, it's a shame that Avri isn't here because I would ask her for some clarification on this comment. I think the recommendation is talking about the summarization of comments that staff will do. But then Avri's comment is pointed to more towards the actions of the working group.

So I guess I'm not - I'm not following; there's a little bit of a disconnect here at least for me.

Jeff Neuman: Yes, I mean, it seems like that relates - we do have in other recommendations I believe...

James Bladel: This is almost - it's almost a parallel to the recommendation of what the working group needs to do with comments, you know, whether it's coming from an SO or AC or just, you know, from a public - from an individual in the public whereas I think this Recommendation 30 is talking about the staff's role in summarizing the comments not really talking too much about - I think that last sentence there is telling staff not to opine on the comments; that that's the purview of the working group.

And so then to comment on what the working group should do with the comments I think belongs somewhere else. Maybe I'm reading it wrong but that was my takeaway on this.

Jeff Neuman: No I think that's a good comment. Alan.

Alan Greenberg: Yes, I think this is the generalized part of what we were talking about for ACs and SOs before. Now whether the last clause which will be responsible for reviewing and taking into consideration the public comments received belongs here or in a separate recommendation I, you know, we can separate it out obviously.

But I think Avri was modifying that clause to say they not only are responsible for taking into consideration but writing down what it is they - how it is they did this. In other words they can't just say - and fulfill their obligations; they are obliged to document at some level what they've done.

Now whether we separate it out or not is moot from my point of view. But I think her point is well taken.

Jeff Neuman: Marika.

Marika Konings: Yes, this is Marika. I think James is right here because if you look at the original - or the language as it currently stands in Provision 9 of the bylaws it basically talks about that the staff manager is responsible for reviewing documents received and adding those deemed appropriate for inclusion. And it's staff manager's reasonable discretion to pass forth the report or initial report.

So basically as the language now stands it is staff deciding what is relevant and what isn't and what should be included. So I think the intent of this recommendation is just to change the fact that it's the working group that should be responsible for that.

But, (dotting), you know, Avri's point that might fit with the next recommendation which at this moment is very general and maybe it's a specific point she wants to make looking at the procedure manual and seeing what language is currently in there that talks more about how working groups should review comments or what they should do with it.

Jeff Neuman: Well it still says in the report that the PDP recommends providing further guidance on how to conduct public comment periods and review public comments received as part of the PDP manual.

Marika Konings: Right so there are no specific details included there. So I don't remember exactly what is in the report so it might be worth - maybe for the next call that we actually look back at what language is there to see if that matches what Avri talks about.

That, you know, a working group is also responsible for, you know, providing people or giving the results of - the reviews of their comments back to those that have commented something that we've been doing in practice or at least

documenting how the different comments have been discussed and whether it led to any changes in the report or not.

So it might fit more with the discussion on that item. And again I don't know exactly what is in the procedure manual and now so it might be worth looking at that and seeing if that indeed accommodates the fact of, you know, having working groups responsible for reviewing and addressing comments.

But also I think Avri talks in there her next comment about maybe mentioning some of the - another good method that could be used. But again I don't know exactly what we currently have in there.

Jeff Neuman: Yes so that's Alan's comment on the next one, you're right. So why don't we group those two together and figure out - so Alan I do agree that that is - it would change; that this comment - and with you, Marika, that the comment - Recommendation 30 should speak to what the staff does.

And then Recommendation 31 should be what the work team does with the results of the public comment periods. And Alan's comment of do we want to mention the other ways that we've used the procedures manual. Yes.

Alan Greenberg: The - yes the reason I added that is right now there's a fair amount of interest in ICANN of trying to fix the public comment process; acknowledging that it's not working very well right now and looking at ways to do it. And I think a recommendation here from us may push that process along a little bit, you know, encouraging, looking at innovative ways since the traditional, you know, put a comment here is not working very well.

So I, you know, I'm not adamant about it; I was just suggesting that maybe we want to seed the discussion a little bit by saying we need to be flexible and innovative on this to make it work.

Jeff Neuman: So, Avri - I'm sorry, Marika, can you please add Avri's comment to 31? We'll just include a, you know, it says recommends providing further guidance. Instead of saying further guidance we'd say recommends that the - the PDP work team recommends that a working group documents - what does she say - documenting the results - document the result of consideration of public comments.

And then another sentence kind of like what Alan is saying - which may include...

Alan Greenberg: No my one is not documenting the comments but the form that the...

((Crosstalk))

Alan Greenberg: ...takes.

Jeff Neuman: Well don't we say that - well no that's kind of an initial - we do say that a working group - we do say in places that the working group can initiate public comment periods at its discretion. And I thought we said in there too - at least we did in the initial report - was about taking surveys or answering specific questions that the workgroup had about the specific issues either from the charter or in general.

Alan Greenberg: Then maybe we just need to incorporate that into our recommendation.

Jeff Neuman: Right.

Alan Greenberg: It sounds like we already thought of it and then forgot it.

Jeff Neuman: Marika can we take that recommendation and put it in here?

Marika Konings: Yes, this is Marika. I'll need to check back where we (copied) that. I'm quickly looking through the procedure manual but I think I see there that we actually

didn't provide much details on other mechanisms for public comment or talking about how working groups should address those. So that's an item that we might need to put a little bit more information on in the report.

I think I might check back as well with the GNSO working group guidelines because I do believe we put in somewhere there as well this notion that the working group should - are responsible for reviewing the comments and addressing them or at least indicating how they've been addressed. So I can check if there's any language maybe there.

Alan Greenberg: Yes, I would think Avri's comment doesn't belong in this sentence but in a follow-on one.

Jeff Neuman: Right.

Markia Konings: And this is Marika. I'm wondering as well, I mean I don't know if we need to specify all of that in the recommendation itself. But as said, I think it might be appropriate to elaborate on those kinds of things maybe in the procedure manual.

Indeed if we have a separate section on public comment periods, indicate there that, you know, what are the requirements or which are the mandatory ones.

And that the working group should also be - feel free to do a public comment period whenever they deem it appropriate and there might be the appropriate place to talk about, you know, the expectation that comments are (unintelligible). Held accountable so they can actually track what's been done with comments.

And maybe even link to some examples. This is how certain working groups have done it in the past. Talk about maybe other means of doing, you know, or getting input such as surveys, workshops.

Or maybe there's more language of - it's more appropriate to put it actually in the procedure manual then to try to squeeze it into a recommendation which might be seen as too limiting. Or where we might miss other things that need to be added.

So I don't know if people have time or want to suggest some language that we might want to include in the procedure manual on that issue, which (wide makes) it better.

Jeff Neuman: Okay, Alan, any comments on that, James?

Alan Greenberg: Not here.

James Bladel: No, no comments on that Jeff.

Jeff Neuman: Okay, are we ready to move on to the next one? Or Markia do you still need more guidance?

Marika Konings: Well this is Marika. I'm not clear now on are people unhappy that we leave the recommendation as is? And in the action items I request people to review what's in the procedure manual and make for suggestions to capture those points?

Or would you like me to make some suggestions? Or when I do my update, provide some additional language in the procedure manual that people then can review? What is the preferred approach?

Jeff Neuman: Well yes. I mean I think both. But I also think, you know, kind of what Alan was saying before about, you know, moving, saying a couple of things - looking back at the, the first thing you should do is look back at some of the comments you raise.

I think it's when initiating a comment period to a charter, or the, you know, the first one that you made that the council, not the council, the working group has discretion to initiate a public comment period when the group is just formed.

I think we talked there about some stuff that the council could do as far as surveys or responses to specific questions. Then our other guidance of the results are, you know, to kind of mention what Avri has in there.

And then I think your third item is what you said, which is reviewing or making suggestions on other things that we've used in the past or things that we could do for both the solicitation and consideration of public comments.

I'm hearing silence. Marika are you still there?

Marika Konings: Yes that's fine.

Jeff Neuman: Okay.

Marika Konings: Sorry. I didn't realize you were waiting for confirmation from my side but.

Jeff Neuman: All right. Yes thanks. Okay next one, this is kind of a long one. Actually I'm sorry. This one's not long. Sorry, it's the one after that's long.

PDP, this an implementation impact and feasibility. PDP work team recommends that the workgroups provide input on issues related to implementation, impact, economic, business, social, operational, etcetera.

And has feasibility including when considered appropriate. Colon, and then it goes on.

Avri says do we want add that a working group remains open though dormant during or it's such time as it's recommendations have been acted on by the board?

Marika you have a comment on that?

Marika Konings: Yes this is Marika. I think we sort of cover this in one of the previous item where we spoke about this, the implementation recommendation team where we said that either, you know, the work team remains open.

And if we can be received through that mailing list or the dormant working group or of the working group has been closed, no new call for volunteers goes out. And new group is created.

So I think the challenge is with keeping groups dormant is that people move on and, you know, might no longer be, you know, (there with) the same mail address or no longer interested in the issues.

(Unintelligible) pages from start to finish it could take very long, you know, a new GTLD for example those working groups, if we would have to go back now to those original mailing lists, half of the people might no longer be in the same jobs.

Or, you know, have the same email addresses. So I think that might pose challenges. So I think the language as it is written in one of the previous recommendations, relates to the recommendation - to the implementation review team might capture that.

In saying if it's still there, that's the group that will deal with it. If not, you know, a similar group would be constituted or a (sub) from that would address any questions that might arise.

Jeff Neuman: Okay, James.

James Bladel: Just a quick question here. And I don't know if it's directed at the original language, but probably more at Avri's comment. Why the board? Why not the council?

And I totally agree with what Markia was saying, you know, essentially with the fast flux working group being a good example where there was I want to say almost two years between that time.

If we had to reconstitute that group now it would be pretty much impossible. So I think that once a working group has submitted its recommendations to council, and the council has either, you know, adopted those or decided to move with those.

Doesn't that essentially effectively mean the end of the working group? I mean you may want to reconstitute other groups to implement those things. But the formal PDP working group to me is then concluded.

So that's just more of a question relative to Avri's comment about why the board and not the council.

Jeff Neuman: Yes and I, I'm also looking at the language thinking why shouldn't the council have the ability to create a new team if it wanted to? I mean why does it have to be the existing working group?

They should be available for questions for the council. But I think James you're right on the board as well. So it sounds like not everybody here agrees with Avri's comment, Alan.

Alan Greenberg: Well I think the comment is wrong in one sense that if you look at what happens, the involvement with the working group in terms - or a quasi work group in terms of implementation actually happens after the board has acted.

But staff in general doesn't start implementing things until the board has been yes, it's is what ICANN is going to do. So the timing that she mentions I think is wrong also.

Jeff Neuman: So do people just think then the comments, I mean the language should just remain as is?

Alan Greenberg: I thought we had some works somewhere else.

Jeff Neuman: Yes well that's, I'm sorry, that's what Marika was saying that we do have language from other parts that we can just bring into here as well.

So I think once we do that, it's seems like everybody agrees that we don't need to update it as Avri has suggested.

Alan Greenberg: Yes.

Jeff Neuman: Okay. That sounds good. Recommendation 39, the PDP work team recommends to provide addition, oh this is a real long one.

This is on picking and choosing specific recommendations from within a report. We had recommended that the working group should indicate in its report which recommendation should be taken together.

And it's basic, the, well let me read this part. (PT) work teams, working groups should be encouraged to indicate which, if any, recommendations are interdependent so the GNSO council could take into account as part of their deliberations.

And then we express our concern that the council has been picking and choosing or modifying recommendations. But recognize that it's council's prerogative.

Avri questions why it's the council's prerogative. It shouldn't be the council's prerogative. And that we should make sure that the process has been open, fair and complete.

And then to pass it on with a vote, there has to - there has also been discussion of the GNSO council adding an addendum to the recommendations giving any advice or opinions.

But the idea of them having to what amounts a line item veto on recommendations is unacceptable. So we spent a lot of time talking about this several months ago.

And it went, just to remind us of the discussion, it went back and forth. There are some that agree with Avri. There are some that agree look, it's ultimately the council.

But I think that the end we basically put the onus on the working group to basically say look, these need to be considered together.

I'm not sure anything else is really feasible at this point. But I mean does anyone think that we should basically say with absolute prohibition on the council picking and choosing recommendations? Alan.

Alan Greenberg: Yes, I'm one of the ones who support the ability of the council to do that at some level. If you - it comes down to really a discussion council had at (indefinitely) at it's last meeting of is it legitimate to take a motion with several parts and break the parts out for voting individually on them?

And I personally think it is. I think it's important to identify things for which there is consensus and things that which there is not. In the case of a PDP, the board may reject the recommendation from council because it feels that council shouldn't have only picked parts of them.

But I think if a work group produces a result and the GNSO can't agree wholeheartedly on half of the items and not on the other ones. And the work group has not identified them as being linked, you know, linked at birth.

And they have to maintain that linkage. I think it's a reasonable action of council to do part and not the rest. That's my opinion. So I support a recommendation saying that as you point out, we've been divided on this.

Jeff Neuman: So let me go to Margie, well I don't know which one was first, Margie or Marika. So I'll let you guys decide which one. And then James has yielded the floor to you guys.

Markia Konings: Margie go ahead.

Margie Milam: Yes, I mean this issue I've been grappling with over the last few months. I don't really know what, personally what the right answer is, whether that he could pick or choose recommendations.

I do think there's a possibility though that a working group's recommendation, the working group might feel that their recommendations are linked. In other words that maybe we, you know, maybe one of the approaches could be that the working group, if they feel they're linked, would say so in the report.

And maybe it could be a situation where the GNSO council wouldn't be allowed to pick or choose. But if they were silent about it then, you know, then there's more flexibility there.

It's just a though. I don't, you know, I can see it issued on both sides as to, you know, whether you have to take all the recommendations or just part of them. Maybe some of them are, you know, are more important or urgent than others.

You know, and I just think it would be useful just to clarify, at least from this working group, what it thinks is the right answer.

Jeff Neuman: Well I think, and Alan has pointed out with this last one on the RAP group, there were what 12 recommendations for future work. And, you know, I know that wasn't a PDP working group.

But assuming it was, if there are that many recommendations and a lot of work generated out of those recommendations, then at some point the council may need to prioritize those.

And may need to pick and choose even if the working group says well these are all tied. And that did happen, so Markia.

Marika Konings: Yes this is Marika. There's more to the last part of this recommendation. And just wondering if there's anything that we could make stronger there or provide some examples? Because what I've seen in certain cases where our recommendations come up from a working group, even those with unanimous consensus are turned down or rejected by the council without any real opportunity to put a working group to action, defend or explain their recommendation.

Or have an opportunity to say well, we do still think it's important. Would you accept it with X, Y that changes. And I'm wondering if, you know, it's sometimes hard because before certain recommendations get to the council it takes time.

The work group might not even want to look at it anymore. But I'm wondering if there should be a kind of process where more feedback is as well provided from the council level.

And I think maybe even given back to the working group before it's even voted upon and say well, you know, this recommendation is not going to pass as it currently is because we think for X, Y and that reasons.

And allow a working group an opportunity to say okay, in that case, you know, we see your point of view. And we agreed to modify it like this. Or say well no, we don't agree.

And we still want to put it forward and, you know, (unintelligible) can vote it down. But just wondering if that's another item that should be considered.

Jeff Neuman: Let me go to James and then Alan.

James Bladel: Thanks Jeff, James speaking. I think I'm supporting what's Margie's idea. And I think it's somewhat aligned with what Alan was saying. I support the idea that the council should be able to, that the responsibility is on the working group to notify council when recommendations are interdependent.

And also, I think the flip side of that would be when recommendations are in conflict with on another. Suppose that you have a working group that's divided right down the middle on two mutually exclusive recommendations.

And so that's essentially highlighting a choice. Of course the choice could be neither I supposed. But so I think that, you know, we probably should impress upon council somehow that, you know, breaking up a package of recommendations that the working group has identified as interdependent is not only strongly discouraged.

But we may even need something formal there to prevent that from happening. One possible approach would be, and I think that this has been done in the past, which would be the working group working in conjunction with their council liaison to actually draft the motion that will be brought up before the council.

So essentially not just left to the wind. I think that some of the earlier working groups I was participated in were responsible for drafting, at least putting together some rough language on what the council motion would look like. In the last couple of working groups that seems to have gone away.

So, and maybe I'm mis-remembering it. Maybe it only happened once. But I just wanted to put that out there as one possible way that the working group could communicate to council the way it feels that the different recommendations are organized.

Jeff Neuman: So we already have that definitely in there, that concept covered that the working group may, at it's discretion, or I'm sorry, working groups should be encouraged to indicate which, if any, recommendations are interdependent.

You did use a little bit stronger language in something you said. Or do you think that that's it? I mean it's basically an encouragement. But ultimately the council can choose.

Or would you say the council should be prohibited? I mean are you being that strong?

James Bladel: I would use discouraged rather than prohibited.

Jeff Neuman: So you're saying then the council is discouraged from, or the PDP, yes, that the council should be discouraged from...

James Bladel: Separating recommendations or itemizing recommendations that the - that PDP working groups has identified as interdependent.

Jeff Neuman: Yes, I think that that's a good sentence. Marika you got that?

Marika Konings: Yes.

Jeff Neuman: Okay, Margie your hand's up. Is that new, old?

Margie Milam: Sorry that's old.

Jeff Neuman: Oh okay, Alan.

Alan Greenberg: Yes I like where we're going. I guess I'll put my stake in the ground. I think Avri's state - original statement, and it's a recurrent theme of some people that the council is purely there to verify that the process has been followed.

If that was the case we wouldn't need council with representation from contracted parties and non-contracted parties. We, you know, we'd need a good old judge who can read the rules and say did you follow them.

Ultimately council has the ability to trash the whole PDP. So council is making value judgements on the substance. And I think it's foolish to say that, you know, especially in the kind of case where - that James identified of, you know, a working group which is very divided.

Saying were (manned) to get back to that same working group, I don't think necessarily is going to be a productive thing. And ultimately council has to make decisions on the substance. And it does it whether it does it by voting down the whole thing or voting for the whole thing or on parts.

And as long as it has that right, it is not simply looking at process. And therefore I think it's foolish to try to segment to two or reduce its authority. So I like the kind of words we're doing.

If things are linked together, council should have an awful good reason for de-linking them. But if they're not explicitly linked, then I think it's fair game for council to say yes, we're doing some and not the other, whether it's a priority issue or a value judgment on the content. Thank you.

Jeff Neuman: Okay thanks Alan. And I think using words like discouraged, I mean this is probably of all the places in the report, this and making sure that staff reports or reports to the board are made public or private is the strongest language we use in the entire, in all of our recommendations.

So I think you got to approach adding the words discouraged I think is good. Obviously Avri may have a minority statement on that. But I think, at least the way we're discussing it now, it seems like we're heading in the same direction.

Alan Greenberg: Yes, I'd be interested in having you take off your chairs hat and give your opinion.

Jeff Neuman: I, I'll take off my chairs hat, fine. And I agree with you Alan. I do think that there needs to be some discretion. It should be discouraged. But, you know, for issues of resources, for issues of getting certain work done, and others I think that the council should have, it shouldn't make new policy.

It shouldn't, you know, it shouldn't amend the report. But it should be able to pick and choose based on a wide variety of different factors.

Alan Greenberg: Thank you.

Jeff Neuman: So thank you for asking for my opinion.

Alan Greenberg: Well I thought you were going to come to support Avri actually. So I was interested in hearing it.

Jeff Neuman: No, no. I think that's just too dramatic. If it comes to the point of amending things, then that's when I have a problem.

Alan Greenberg: Okay.

Jeff Neuman: But if it's just picking and choosing and a discouragement from it, then I think it's fine. Okay translation, another item we spent a lot of time talking about.

The comment from Paul, James, starting on Line 1076, the report should know that ICANN should not default to pay translation as this will incur more time and costs.

Rather, multi lingual volunteers should be sought for translation to key documents. We offer suggestive language at Line 1114. Let me go to that in the report.

So what do people think of this? If you to - so that's Page...

Marika Konings: This is Marika. The line numbers probably don't match. There's something off.

Jeff Neuman: Oh yes.

Marika Konings: So you need to go to the actual numbers. I'm looking it up.

Jeff Neuman: So that's translation...

Marika Konings: So that starts on Page 41.

Jeff Neuman: Wow.

Marika Konings: And the words added are the bottom of Page 43, going into 44.

Jeff Neuman: Okay yes. So it say ICANN should not default to paid translation as this will incur more costs. Rather, (unintelligible) involved here should be sought for non-governing translation to key documents, important PDP, I think there's some grammar missing there.

Important PDP should buy ICANN into the five languages. I think we're missing a couple words. Anyway Alan, thoughts.

Alan Greenberg: Yes. This is an issue that at large has pushed for heavily. So people in at large have pushed for heavily for as long as I've been on the ALAC.

And it's not one I supported because volunteers don't always meet their commitments. And volunteers aren't always as good as they say they are.

And it's very hard to take volunteers, you know, a volunteer who doesn't do a very good job and reject them. You know, it's a hard thing for ICANN to do of picking and choosing volunteers for quality or ability to meet the demand.

And that was confirmed in the discussion we had with the ICANN translation people at our last meeting. And they said there are costs. And they're non-trivial costs of trying to manage our volunteer workforce like that, especially one that is likely to be physically distributed and not always manageable.

And so although ICANN is looking at using volunteers in certain things, to do it in documents where there are timelines and implications of the quality not being up to speed is a very onerous thing.

So I would get some input from the translation people on this before we went forward with something in this level of document to suggest we use volunteers.

((Crosstalk))

Alan Greenberg: Concept, but I think the implementation is far more, requires far more understanding than I think we have so.

Jeff Neuman: I think, well just one of the concerns I have about volunteers as well. And maybe James can address it is I mean how much do we really trust, someone's got to review it anyway, but James.

James Bladel: Hi Jeff. So Paul and I felt pretty strongly we were both aligned on this. You know, I'm fortunate enough to be bilingual in that I speak both English and American.

So I think this simplifies my (unintelligible) in ICANN. No, I mean in all seriousness, one of the things that's always impressed me about ICANN is that there are folks that are doing just as much work and doing a very good job in a volunteer capacity as I am.

But they're doing it in a second language. And I try to always keep that in the back of my mind. And what challenges that presents for some folks. And I guess, you know, my point here is that I, you know, when off the cuff, it's like yes, of course ICANN should translate everything.

Of course, you know, on the surface it seems like just such a no-brainer. But I think what got me was a bit of a sticker shock. And I think Alan used the word non-trivial to refer to the translation expenses. And I would say very non-, non-, non-trivial. It is very expensive.

Alan Greenberg: I was referring to the cost of managing volunteers. But yes, okay. I think this is even less trivial.

James Bladel: Yes so, you know, I think very significant budgetary changes would have to be considered in order to fund the idea of translation to, you know, to make everyone happy.

And that's the other thing is we're never going to make everyone happy. There's always going to be someone that has, that feels that there's a

community that's cut off because of certain language or a certain dialect is not offered them. And that's just human nature.

So, you know, I think the idea here was that we have so many very proficient individuals that are, you know, very eloquent in English, even though it is not their primary language.

So the thought here is that yes, we could solicit volunteers to help alleviate those costs. And we should be looking for that at every opportunity. And to address Alan's concerns, they should be in groups, you know, so that we wouldn't have just one person being the Spanish or French or Italian translator that we would have as many folks as possible working as a group to translate that.

And that, you know, would I think introduce some check and balances that would improve the quality of the translation. But I think that when we get to a point where we don't have volunteers to translate, then I've got to turn the question around. And say well how important is this translation for the community when no one is willing to step up and at least translate an executive summary of a report?

Is it really that important that we do this? Or is it sufficient to have it just exclusively in English? So I think that's the other side of that question is if no one is willing to make an investment of a few hours work, then perhaps it's not necessary to do that work to begin with. Thanks.

Jeff Neuman: So, you know, one thought that I have, well actually get me go to Alex, Alex.

Alex Gakuru: Yes quick comment. I'm just wondering as you think about volunteers and you think of how much we want to save on trivial costs. We also need to consider what incentives might be there for them to be volunteers and translate.

It is all nice to try and save all the cost from ICANN. But then there must be a formal division for them to be in those groups and continue translating on behalf of the community because a need is there to translate. So I want to throw that back to us to think that there must be some sort of incentive.

Thank you.

Jeff Neuman: Okay, I think because we're kind of running out of, we've already run out of time. I think let's put this on the list.

You know, one of the thoughts I had too was that when a working group spends so much time working on the exact words of a recommendation. To leave it to volunteers that don't do translations or a living, especially for a PDP that might have packed something like consensus policies, it's something we need to think about.

And so anyway, let's put this issue on email. And let's see what we, what kind of reaction we get. And I think we made good progress. And we have to commit to finishing this up on Thursday.

So with that commitment, anybody else with, Alan do you have a comment?

Alan Greenberg: Yes I have one very short comment on the translation. I'd be certainly happy with adding a statement somewhere saying ICANN should consider the use of volunteers where appropriate. But I don't think it should be any stronger than that.

Jeff Neuman: Okay. Why don't Marika you put that on the email and let's see if people agree with that and are fine with that before starting another discussion?

Okay, I will see everyone or talk to everyone on Thursday. And if anyone, I'll be at the next conference. So it will be on the West Coast. If anyone's there and wants to find a joy place to do this, let me know. It will be kind of early, but anyway. All right guys, anything else?

Alan Greenberg: Thanks Jeff. Have safe travels everybody who's going there.

Jeff Neuman: Thanks. I will talk to you all on Thursday.

Man: Bye everybody, bye Jeff.

Jeff Neuman: Bye.

Marika Konings: Bye.

END