

**Policy Process Steering Committee (PPSC) Policy Development Process work
team (PDP WT)
TRANSCRIPTION
Thursday 11 June 2009 1400 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy Process Steering Committee Working Policy Development Process (PDP) Work Team meeting on Thursday 11 June 2009 at 1400 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-20090611.mp3>

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

Participants on the Call:

Jeff Neuman - Registry c. - Work Team Chair
Paul Diaz - Registrar c. (joined after roll call)
Mike Rodenbaugh - CBUC
James Bladel – Registrar
Bertrand de la Chapelle - Government Advisory Committee
Alan Greenberg - At-Large Advisory Committee

ICANN Staff:

Liz Gasster (joined after roll call)
Margie Milam
Marika Konings
Glen de Saint Géry - GNSO Secretariat
Gisella Gruber-White

Absent apologies:

Wolf-Ulrich Knoblen - ISP
Brian Winterfeldt – IPC
Marilyn Cade – Individual
Kristina Rosette - Intellectual Property Interests Constituency
Jean-Christophe Vignes - Registrar
Zbynek Loebel - Intellectual Property constituency

Coordinator: Recording has started.

Gisella Gruber-White: Thank you (Leslie). Good afternoon everyone. This afternoon on the call we have Jeff Neuman, (James Bladel), (unintelligible).

Coordinator: Excuse me, Mike Rodenbach now joins the call.

Gisella Gruber-White: Mike Rodenbach as well now. And we have from staff Margie Milam, Marika Konings, Glen DeSaintgery and myself, Gisella Gruber-White. Thank you. And Alan Greenberg has just joined as well.

Jeff Neuman: Great welcome everyone and (unintelligible) reminder we are on Adobe Connect as well. I don't know - I see Alan just joined. Mike, I don't know if your in an area that or if your on your cell or if you in a place you can actually log on to Adobe.

Mike Rodenbach: It's in process.

Jeff Neuman: Great. So welcome. I envision this to be a fairly short call since we are meeting in just little over a week in face-to-face and we're going to have two meetings at that point.

One is of the full PDP - I'm sorry the PPSC, the Policy Process Steering Committee which is open. So if anyone that's on the PDP work team that's not on the full Steering Committee, if you want to go and attend that. That would be great.

It's really the first time in awhile, actually, since the last meeting in Mexico City that the two work teams are going to be together again just to kind of catch up on where the - all the teams are and where the working group work team as well as the PDP Work Team are and just kind of review status.

And to see what we can do to try to stimulate some more discussion and, you know, see what we can do as a group to kind of push the work along. So that will be next week that'll be on a Sunday at, I believe, Glen had sent around last night or yesterday the schedule. So

it should be on there as to where the meeting rooms are and the times on Sunday that we're going to be meeting.

Again, there's two meetings and everyone's invited to the Steering Committee Meeting as well as to the PDP Work Team Meeting that we're going to have separate and apart from the working group work team meeting.

So just to review I was - Bertrand just joined and I was - looks like Paul Diaz, have you joined the phone line as well?

Paul Diaz: Yes, Jeff, and I just logged into the Adobe as well.

Jeff Neuman: Great, thanks. So there's a summary - if you go to the Wiki page - and I'm not sure how many of you have been there in the last few weeks, but there's an update on there about some of the stuff that we've been talking about, the document that we've been working off of at least the last call and will be in this call and going forward.

Along with a summary of the contribution of Thomas Narten who last - on the last call two weeks ago I think did a really good job at presenting what the ITF does before even kind of a formal policy process or working group is formed.

And maybe even if a working group is never formed, the ITF goes through a birds-of-a-feather process and I think from the document that Thomas Narten wrote and his presentation, I think did an excellent presentation on some things that we could voluntarily recommend be done by groups that want to initiate the policy process.

You know, to kind of help them formulate the - either the issues report or going forward to formulate some of the issues, even before the counsel initiates the formal policy (from process).

Again, we talked about on the call that it's not - I don't think there's a consensus - well there's not a consensus in this group that we make a birds-of-a-feather or that type of process mandatory.

But certainly it is a good idea we decided on the last call to recommend it as kind of a best practice or as something to narrow the issues down. That I thought was pretty useful.

And a summary is on the Wiki but also on the Wiki is the latest document that we're working off of the PDP planning and the initiation document which have got some notes in it from - staff has sent some notes from the - including the stuff that were brought up on the last call.

Does anyone have any questions of the things that are posted? I'm not sure if everyone's actually read it yet.

Paul Diaz: Jeff, its Paul. Just a quick question - what you were discussing at the very beginning for the meetings in Sydney. For those of us who won't be there and with the significant time difference, you know, it's going to be very difficult to dial in.

Do you know or if staff who's on the call can explain, will these sessions be Webcast, will they be transcribed, will they be somehow posted that we can refer back to it afterwards? What are the plans for Sydney?

Glen DeSaintgery: It's Glen here.

Paul Diaz: Hey, Glen.

Glen DeSaintgery: These sessions that are in the room five and six in Sydney which includes the PPSC, PDP Team. The PPSC Discussion Group and the PPSC Work Team will all be transcribed by (the scribes) and so they will be - the transcriptions will be on the Web site say by the end of the day.

Paul Diaz: Fantastic.

Glen DeSaintgery: It usually happens. I think they get them up within about four hours or five hours of the meeting. And then what I'd do is I chop them up because they're very long transcriptions, as you can imagine, they sort of start from the beginning of the morning and they go right through. So then later on I chop them up and I put them in sections.

There will also be recordings and these will take about two days or three days to get up.

Paul Diaz: Great, thank you Glen.

Jeff Neuman: There you go.

Glen DeSaintgery: And the same will happen about the OSC meetings which will be running parallel in the room next door. But they will not have simultaneous transcriptions. They will be recorded and transcribed afterwards. But there will be a record of the meeting on MP3, plus a transcription.

Jeff Neuman: Great. Thank you, Glen. Paul, does that answer your questions?

Paul Diaz: Yes, totally Jeff. It's just you can imagine with the time - 14 hours if you guys are meeting in the am, it's like yes, right, I'm going to dial-in at, you know, 2:00 in the morning or something. So it helps to know that those things will be ready so quickly.

Jeff Neuman: Yes and I certainly understand you not wanting to dial-in for that. That's kind of early or late depending on how you look at it. Okay, any other questions before we move on?

As to what I was saying before (a number joined), I envision today's meeting to be really, really short. Just to kind of talk about logistics for the Sydney meeting and things that we want to talk about.

And maybe some ideas push the work further. You know, so and again, since we are meeting in a week there's really not that much of a need to kind of go through a lot of the substance. I think we've actually made some good progress.

So Marika, if you want to just talk a little bit about your thoughts on a (poll) and kind of pushing the discussion along.

Marika Konings: Yes, that's fine. We've been discussing when we're staff a bit like what we could do to facilitate the discussion and maybe help us all prioritize some of the issues that we're looking at.

And we saw that an idea could maybe be to do a little survey or poll by which we would use the questions or issues that we've aligned in the

document that's up on Adobe Connect and basically ask people's opinion.

Just simply yes/no questions. As well allowing for, you know, comments. So people can write further ideas in there.

And just making sure that people understand as well that this is not, you know, it wouldn't be any kind of vote or a decision. Just a way to, you know, feel the temperature of where people stand.

And that might help the group as well to see which issue probably needs further discussion and, you know, might be appropriate to focus on in Sydney benefitting from the face-to-face meeting and which issues, you know, people seem to have similar views and might be easier to deal with.

So this might be a way to actually, you know, force people to participate and share their views in a relatively easy manner.

So there two options. We could do such a survey or poll prior to the Sydney meeting. This might as well help participation of those that actually not attending, you know, like Paul for example. Or we could use the Adobe Connect and do questions on the spot.

But then we would probably focus on, you know, the different phases outlined here and go phase by phase. It wouldn't really help then nothing to prioritize because we would need that data before hand to share that with the group.

So that's something we thought of and then, you know, would like your views on whether you think that would be helpful going forward.

Jeff Neuman: Anyone have any questions or thoughts on that?

Paul Diaz: I think that's a good idea to do this poll. I think we can - and it seems like in some of the meetings we've been going back to some of the issues that we've already talked about.

If we can establish within this group that we have a consensus on at least some of the issues we can move past those and just kind of move on to the ones that we haven't either addressed or that we need to develop further.

Jeff Neuman: In silence, Mike, any thoughts on that?

Mike Rodenbach: No.

Jeff Neuman: Sorry just seeing if you're still awake. Okay and on that also some of the things if you look at all the documents are up on the Wiki that we've been talking about.

And like I said the latest planning and initiation doc has been updated with the materials that we talked about at the last several meetings. There's only a few questions in there that we really don't have - haven't really touched on.

And they include things like, you know, and going down here if you look at the documents its number 7, you know, talking about the role of

community input when such input and how to incorporate public comments.

You know, number 8 is the role of workshops. We talked about workshops in the planning phase as far as before we launched the PDP but we just - or before an initiatives report or around the time of initiative report. We just need to kind of solidify that a little bit more.

And one thing that we really haven't talked about is kind of the timing of everything. You know, how - what kind of deadlines we'd like to impose. You know, recognizing that there needs to be some flexibility.

But also needs to be to make sure that these just working groups or that these issues don't permeate forever. But also build in the fact that there's certain times where a - I don't want to call it the emergency PDP, but maybe there's a lack of - maybe there's not a better term out there. But some sort of PDP that would be maybe on a fast-track approach. I know Alan has talked about that on certain occasion.

Alan Greenberg: I think - it's Alan. I think since we're talking about a very wide range of PDPs from ones that are going to be very focused on generating some particular consensus policy where everyone agrees to begin with, we just have to go through the process to things like the new gTLDs.

I think we put guidelines in for, you know, for typical or normal. And then counsel has to decide what's appropriate in any given instance.

Jeff Neuman: Right, so you said counsel would kind of designate it as - it counsel - it would be up to counsel to designate it as okay this one qualifies for a fast-track type approach or this one should be just the normal track.

Alan Greenberg: Well, typically, the drafting team that's drafting the motion and the charter for the working group, you know, will have those kind of discussions and try to come to closure on - or at least consensus on what is a reasonable timeframe given all of the issues around this particular problem.

Jeff Neuman: Right. And then I think the last issue is kind of important as well. And has come up in a number of - I don't know if people have read the NTIA posted finally the comments that received to their notice of inquiries on ICANN.

And there were a number of comments and this is not new to anyone. Certainly a number of comments during the Institutional Confidence Review about prioritization and making sure that ICANN as a whole prioritizes the issues because there's so much to deal with.

And, you know, if one just looks at the ICANN Web site now and looks at the number of documents that have been posted in the last several weeks of the Sydney meeting.

(Unintelligible) have a similar problem or want to avoid that similar problem within the GNSO of making sure there's not too many PDPs going on at the same time or if there are just a prioritization of those.

So that's kind of a topic we have not really - aside from the fast track that we just talked about, there's not really been a discussion of should there be some sort of mechanism to prioritize these PDPs or policy issues.

Marika Konings: Jeff, this is Marika. Just what I thought was very interesting on the discussion of birds-of-a-feather is there is well like if there weren't enough people to actually do the work, it was basically identified as not being a priority.

I don't know if a similar kind of approach could be investigated in this context. And I don't know either if that's something that the working group teams may be looking at if you cannot get enough volunteers to fill a working group. Well obviously it's not a priority.

So should then be, you know, delayed or put at a later time or is there a way as you're relying on volunteers to do the work to use it as a mechanism to, you know, prioritize. I don't know - it's just a suggestion.

Mike Rodenbach: Can I comment on that for a second?

Jeff Neuman: Just to correct, I think, Marika. You said it was (unintelligible) it was actually Thomas Narten that said that.

Marika Konings: Oh, sorry, yes.

Jeff Neuman: That's okay. Yes, Mike.

Mike Rodenbach: Yes, I just - I feel like that's a little bit of circular reasoning. I mean to assume that something's not a priority just because you can't find enough volunteers. I mean, it's very difficult to find volunteers in my constituency and I know in others as well. Well pretty much all of the constituencies.

And Jeff's right. There's just so many issues going on in any given time that, you know, literally just impossible.

And once things get kicked off that are in process, you can't really just say, oh this isn't a priority and bump other things in line. So everything has to play out. So I totally support the notion that we should have some sort of planning, you know, mechanism where things are prioritized and planned out over time.

Jeff Neuman: And one of the things that the IETF does and I need to pay a lot more attention to it than I do now. But the IETF has a - they have what is called area directors and the area directors of the seven - I think seven or eight different areas, different - basically different subject matter areas.

They all get together and form the IESG and there's a number of things that has to happen before working group can be formed. That they have to get kind of the support of the area directors to that particular area and then it has to be brought up to the entire IESG.

And one of the things the IESG looks at is the number of issues that are going on within their area or in general in the IETF, and to just kind of see whether A, it's a priority that should be addressed or B, whether it's something that given the current work order is something that could be shelved for a little bit of time.

So, you know, I'm not saying that counsel necessarily must do that or that necessarily would be the counsel that does it. But to my knowledge it's not really something that the counsel - much of the

counsel at this point and time actually considered all of the other stuff that's going on.

Really it's just, kind of, an independent vote as to whether that issue merits some sort of policy process.

I haven't, you know, been reading the transcripts from the GNSO. I'm not on the GNSO counsel. But from paying attention to certain things, it doesn't seem like that kind of analysis is really done.

Mike Rodenbach: Certainly there are discussions held whether there are resources that do something and what timeframe we should do in light of that. So I think it is factored in. It's not a formal process at the counsel level.

Jeff Neuman: Okay, can you just say that - so it's factored in by...

Mike Rodenbach: Well, certainly, when there's discussions we will ask staff, you know, do you have the resources to do this? Is it reasonable to do something in a certain timeframe?

Marika Konings: Well that at the moment is not really a question of staff resources. It's really more a question of community resources because we've seen over the last couple of weeks many calls being cancelled just because there are not enough people showing up for the calls or doing work in between to actually make decisions.

Mike Rodenbach: I'm agreeing. I'm saying we are talk - factoring in but is nothing done on any formal level. And it's hard - given the complexity of the process, it's hard almost predicting are we going to have enough people for the working team?

Can we assume we will not have this because it's hard finding people for the drafting team to write the charter? I think those are two different things and I don't think we can use one as the measure for the next. I'm not sure how to do it.

Jeff Neuman: Could that be something that's done kind of in advance. So when a counselor votes in favor of or a constituency votes in favor of initiating the policy process.

Is it possible that is part of their yes vote they also have pre-thought about it and has solicited some volunteers at the time so that if it does pass they have the volunteers there?

Marika Konings: Well that might definitely hold them to think about whether, you know, they have the scope to do the work.

It might be indeed a way to say okay - or then constituents coming back and say well we can find any volunteers at this point and time. So maybe we need a little bit more time, you know, to either think about the issue or, you know, postpone the vote for a couple of weeks to at least finish another activity that we're currently working on. So it might help people actually think about it.

Alan Greenburg: We're certainly going to have problems with policy issues that affect only some part of the community trying to find volunteers from each constituency. And we are - to some extent we have said we must have volunteers from each constituency on working groups.

And yet there are probably going to be ones where any given problem is exceedingly low priority for some constituencies and high for others.

Mike Rodenbach: That's a good point and maybe that's the question for the working group work team is to think about whether they've talked about composition of working groups and whether - I don't even know there's going to be a requirement that a working group has to have members from each constituency.

Alan Greenburg: Yes, I mean if constituency says we don't really care about this one, they should be allowed to opt out.

Mike Rodenbach: It cannot be a requirement going forward where we can have any number of constituencies.

Alan Greenburg: Well whether constituency is now the right word or not, God knows.

Mike Rodenbach: Right.

Alan Greenburg: So, let's not get into that discussion here.

Jeff Neuman: (Unintelligible) both of you. I think, you know, it's maybe stakeholder, but that's actually a good question to see what the working group work team has been discussing about this if they have and I don't know if staff can provide some guidance, but certainly we'll ask them that question at the full meeting.

Bertrand de la Chapelle: Jeff, this is Bertrand, just one question. I don't remember if in the IETF or in the W3C the area directors or the domain managers I think it's called in the W3C if I'm not mistaken, are there staff from the

organization or are they volunteers designated? I don't remember. Do you know that?

Jeff Neuman: Well at least in the IETF, I can't speak to the W3C - and that reminds me. I don't know if we haven't had the presentation yet from Thomas Roessler (unintelligible) he just had a conflict the last couple of times. But in the IETF...

Woman: (Unintelligible) is going to participate. Sorry, Jeff. I didn't mean to interrupt. But I'm not sure we're going to have Thomas (unintelligible). I really haven't heard back from him.

Jeff Neuman: Okay. Well he'll be at - he should be at Sydney. So we'll try to nail him down at that point.

The area directors are all volunteers and there is no - there is an IETF administrative director. But he's literally just the administrator director to just - he's not there to write papers or anything. Everything is done by the "volunteers."

That said when someone "volunteers" to be an area director, that's pretty much their full-time job then. Companies realize that when they put forward someone or they support someone that is an area director, that that's close to a full-time job.

So I can tell you from, you know, our experience Jon Peterson from NeuStar was an area director and, you know, that's pretty much what he did full-time. And now he's actually on the IEB and now it's really a full-time job.

So there's very little else that NeuStar has him do just because they know that that takes up all of the time. So I don't know if the I in the ICANN world organizations - I know organizations probably can't put forth people where that's their full-time job. That's a little bit different. They kind of rely on - in the ICANN world, we rely on the staff support.

Bertrand de la Chapelle: No. It's just because the notion of area director or domain manager or whatever the name is indicates a very issue-oriented structure whereas the current process in ICANN is at the moment at least from the outside world a very structure-based and constituency-based and organizational-based rather than issue-based.

And the question of priority that was mentioned before probably comes into the picture. But I don't want to diverge. But it's just a general remark.

Jeff Neuman: Yes. Thank you. Any other questions on that?

Mike Rodenbach: I have one other issue to add whenever we get to that point that I don't think it's been discussed before.

Jeff Neuman: Okay. No, why don't you just introduce that because I was just going to go over another subject that wasn't introduced, but you go first. And I want to make sure we have everything on this list.

Mike Rodenbach: Okay. In a number of other meetings recently the issue has come up of how do changes get made to the output of a PDP afterwards. Specifically we are now regularly putting in checkpoints to say is it really working. Does it need to be tweaked? But we don't have a tweak mechanism.

The issue also has come up in the new gTLDs of, you know, assuming counsel in its wisdom two years after it published its report decides something - it got something wrong. Is there a process? What process do we need or have other than launching a whole new PDP...

Jeff Neuman: It actually has a...

Mike Rodenbach: ...to change or add something to...

Jeff Neuman: There's...

Mike Rodenbach: ...to a finished work product based on what we know now as opposed to what we knew then?

Jeff Neuman: That's a good segue into kind of one of the areas I was going to get into is that all this document is is topic A, all these 11 questions is topic A whereas there are other topics if we went back.

And we'll have to revise those documents as well because I thought that was the next thing we would get into was okay, now that there is this PDP, there is this working group and the working group work team is working on their ins and outs.

You know, one of the things to talk about is what happens when a working group's done with their work and the timelines and things are set to go down? And, you know, the last thing is okay, now that the working group has come out with their report and then it's gone up to the board and it's voted on and now it's policy.

It's for the review mechanism of A, does the policy still make sense after time or B, how has it been implemented and is there any tweaks that needs to be done to the process.

Those were kind of the other topics and I can't remember off the top of my head whether they were - which ones were B, C, D and E, et cetera. But those were the ones that we're going to have to get into as well.

Mike Rodenbach: Okay. I missed that, but nevertheless it's something I think we need to consider.

Jeff Neuman: Yes. Marika, can we revise those other topics at least a document to get them before Sydney. I know it's on the Wiki, but if we just want to put it up in a more prominent spot.

Marika Konings: You mean the other stages.

Jeff Neuman: Right.

Marika Konings: Yes.

Jeff Neuman: Topics B, C, D.

Marika Konings: Okay.

Jeff Neuman: And then, you know, so because I think we're kind of - we spent a lot of time on topic A and I think we do need to move on to the other topics. But we need to kind of get some closure at least on some of the things on topic A.

And then, you know, I think it was - the other issue that was brought that's number 10 here which was brought up, I think it was brought up by (Marylyn) -- and I'll ask her to talk a little bit more about it in Sydney -- was the kind of discussion on whether to do an economic analysis on certain issues or on all issues as to, you know, going into decision of we talked about the issues report and we talked about, you know, a drafting team prior to an issues report.

We talked about all these things. But one thing we have not yet kind of touched on is should there be some sort of analysis by staff - well, one by staff or staff to outsources on an economic analysis of the issue itself plus what it's going to take to address that issue.

I haven't really spent any time. I know (Marylyn) brought it up at one of the first meetings and it's kind of just been left there that we haven't really touched.

Mike Rodenbach: It's Mike. My only thought on that is you just wouldn't know that at the outset of PDP. You're not even supposed to necessarily know that at the outset of the PDP. That's kind of what a PDP is for to get people together and decide what that economic impact would be among other things.

Jeff Neuman: You're saying that that economic analysis, if it is done, should be more at the working group stage. It should be a tool available to them.

Mike Rodenbach: I think it's a specific - it should be a specific task of a working group, part of their output.

Alan Greenburg: It's Alan. It's that going depend on a PDP though, that there are someone can imagine that the decision to do it is based on the belief that there's an economic impact and if there isn't it's not worth going through the process. And that can be done at a prior stage prior to actually initiating the policy development part.

Jeff Neuman: So I think, you know, from the notes that are on this chart it would probably be a good idea for (Marylyn) at the face-to-face meeting to kind of just go through hopefully in a short amount of time what she meant by it.

And maybe there's more to it that we're just not seeing. Maybe she had a different idea than the way it was captured. So we'll just kind of put that off until then.

One other item at the Sydney meeting that we'll talk about, (Marylyn) has posted something to the list I think it was this morning. She and I had talked about it. It's - one of the problems is that the work of this group is kind of spread out and it's a lot - I mean people are involved in a lot of different things.

Her idea is - and she calls it a face-to-face, but I'm not sure she necessarily means face-to-face because I don't think people would get the budgets to travel for something like this or that ICANN could give people the budget to travel for this.

But certainly to designate a half day or a full day at some point this summer to kind of just spend all day on this, you know, through kind of a Web action, just go through everything so that we can really focus and push this out.

I don't know what your thoughts are on that, if it's a good idea, bad idea. It seems like we lose a lot of continuity with the week or two weeks that go by between meetings.

Paul Diaz: I'm sorry. What's the alternative proposal?

Jeff Neuman: The proposal that (Marylyn) has made is to do a half-day or a full-day session just on this topic some point in the summer to just, you know, whether it's on a conference (unintelligible) just to kind of crank this stuff out and, you know, in order to get this stuff done. Obviously there has to be a lot of planning in advance to make sure that we can get enough attendance.

Paul Diaz: Okay. That's great. And also there's a lot of other things going on with ICANN. I personally don't think that this is a priority over any of those other things.

Alan Greenberg: My impression was since she specifically you said remote working methods only go so far, if she's really talking about face-to-face.

Jeff Neuman: Yes, yes. I think that was kind of the message in her email. She and I had talked previously about understanding that it was probably not something that really people could do face-to-face unless it was associated with an ICANN meeting.

But it was more kind of like a WebEx-type conference call. I don't think many of us could find the budget, even at larger companies like mine to find a budget to do a full-day session anywhere.

Alan Greenburg: Since we're talking about developing the process that ICANN is going to use for policy development in the gTLD area for the next ten years, it seems a little bit like false economy not to have face-to-face meetings, you know, twice a year or something if that's what it's going to take to get this right but.

(Liz): Jeff, it's (Liz).

Jeff Neuman: Yes.

(Liz): I'm sure that, you know, ICANN would help on at least the, you know, the room and the venue and the stay. You know, that could all be supported by ICANN.

Mike Rodenbach: If you think you're going to get volunteers to pay to go to something like that are not registry or registrar operators you're - well.

Alan Greenburg: Actually let me correct that Mike. Maybe - even a registry or registrar operator is - has a lot of difficulty in travel these days.

Mike Rodenbach: You're right. It's much more of a priority for you guys than it is for anybody else as far as I can tell.

((Crosstalk))

Marika Konings: I mean I would be wondering as well if people now can't even commit the time for when we first had biweekly calls. How can you commit them to travel, for some I guess half across the world because several participants (of ours are) in Europe or U.S. for a face-to-face meeting if it's not an ICANN meeting.

Bertrand de la Chapelle: If I may make a comment. The question of committing the time on the conference calls is not only a question of interest, it's also a question of overlap with other constraints that we're not completely the masters of.

I think it's an interesting element that we're facing for this working group, exactly the same kind of problem that any working group in a PDP is facing anyway which goes to the way we can structure discussions and the different stages of the discussions.

But the fact that people cannot join the conference call is not necessarily an expression of disinterest. As a matter of fact I tried to join twice ten minutes late and it was suspended because there were not enough people.

Marika Konings: I didn't mean - Bertrand. I didn't want to mean...

Bertrand de la Chapelle: No, no.

Marika Konings: ...interested. But I (unintelligible) very little discussion in between calls and I think indeed as you said, there's a need to, you know, focus the discussions in such a way that we need to get proper input and participation.

But it has been a challenge for a number of reasons, all the priorities and other stuff going on, you know, as you spoke about before. There's a real need to prioritize within ICANN.

Mike Rodenbach: But let's understand the dynamics of the face-to-face meeting are different than a call in one. If I had to commit to calling into nine or ten hours or 12 hours of meetings for seven days starting next Friday or Saturday, I wouldn't be at more than a small fraction of them because of other commitments in my life.

But I will be there since, you know, I'm travelling to Sydney. Once we commit to a two-day or a one-day face-to-face meeting even including a day of travel in each direction, a lot easier in sometimes than committing to a bunch of teleconferences where you're in your office and people know you are and you can't turn down other commitments.

Jeff Neuman: Right.

Mike Rodenbach: So it's a very different dynamic and I don't think we should use them interchangeably.

Bertrand de la Chapelle: Well as a matter of fact if I may chime in on this. I was saying that we're facing the same kind of problem that we have in general.

I wonder whether what we are pointing at is not a general a question of funding and a question of repartition of funding particularly for the distinction between groups themselves and the drafting team. Let me explain. One of the key challenges is that drafting really requires face-to-face or is greatly enhanced by face-to-face.

If for whatever process you have a working group, even a very open working group with lots of inputs - an equivalent of an open forum even, but then there's a dedicated drafting team that is relatively

limited like four people, six people, whatever that are sufficiently interested by the group to be tasked with summarizing and moving the debate one step further between two consultations like that.

Then the question becomes is this part of the general costs of the organization to cover the cost of the face-to-face meetings for those drafting teams as opposed to covering the costs of the whole meetings and interaction because that's what ICANN does already for the main meetings.

This is the purpose of the one-week meeting, bringing everybody together so that they can have face-to-face meeting. They don't cover the travel expenses, but ICANN does cover all the organization now.

When we're talking about working methods we have two elements to face. One is the general workflow that starts from the very initial birds-of-a-feather to - on the one hand, to the complete draft policy recommendation on the other hand that can take two weeks or two years or five.

And in the course of this process the distinction between the general - the small consultations within the working group that can expand to 40 people, the work of a drafting team that is necessary for efficiency reasons less than ten maximum and the general consultation with a broader topic.

I wonder whether what we're pointing at at this very moment is not a question of how to support efficiently the work of drafting teams and under which conditions.

Jeff Neuman: It could be. I mean it all depends on the issue too, right. There are some issues that are so, you know, I'm sure that the new gTLD issue got a lot more turnout even for the drafting part than maybe some of the other issues like the transfers or others that may not be on the top of everyone's priority.

Alan Greenberg: I'm not sure we've in fact used drafting teams. For the ones I've been involved with. Typically either staff has taken on the responsibility or the chair or one of the other people has taken on the responsibility of doing the drafting. And then the entire working group to the extent they participate would comment and make suggestions.

Bertrand de la Chapelle: At the same time, Alan, when there was this ID and ccTLD working group I remember that although there were a great lot of help from the staff, the group itself got into concrete modifications including in face-to-face meetings to a great extent. So, you're right. The question of drafting teams or not is important.

Alan Greenberg: Yes. I was just saying I don't - in the ones I've been involved in where there hasn't been a drafting team as such. It tends to be one person drafting and the committee as a whole commenting and modifying occasionally on the slides during the meeting, but in general no.

Jeff Neuman: Right.

Mike Rodenbach: Well the other drafting teams certainly have had more participation than that.

Alan Greenberg: Have we had drafting teams formulate the end product as opposed to using drafting teams at the start of the process?

Mike Rodenbach: I think one...

Alan Greenberg: I may just not be aware of them.

Mike Rodenbach: Well, I mean certainly for example in the (fast flux) group, I mean we would (design) - we would - we had drafting teams doing various sections of the report.

Alan Greenberg: Okay. Probably another quick question for the working group work team to see if they thought about that. I'm not - like I said I've been a little disconnected from what they've done. It'll be good in Sydney to kind of catch up and see what issues they've talked about and whether they've addressed this at all.

Jeff Neuman: Is there anyone else who wants to - (Liz) or Marika or Margie, can you just give us an update on where the Board is and what our now timeline is expected to be as to try and finalize this process?

Mike Rodenbach: I'm sorry. Before you move to that Jeff, can we just talk about this planning initiation document just a bit further?

Jeff Neuman: Yes, absolutely. Sure.

Mike Rodenbach: I'd just like to understand where we're at with the process with this document actually. What are we in the working group supposed to be doing with this? Do we have a deadline for comments? What?

Jeff Neuman: So, at this point this planning initiation doc and I'll let Marika jump in too if she has any - is really more just kind of our notes.

What's going to happen is that we're taking this document and a lot of the questions that have posted in, we'll do a poll. That Marika was talking about to try to see if we have consensus on those issues. So this document is just more of a tool for us to use as opposed to kind of a...

Mike Rodenbach: Okay, you know, the issue is that, you know, there is comments on here that were made on calls that, you know, I was not on for example and there's certainly some comments on here that I don't agree with but I guess I'll have a chance to express that doing a poll or later, that's fine.

Jeff Neuman: Actually you have a chance - I mean this document is a fluid document that if you have comments on, certainly bring them up and we'll add the comments in there even before a poll. So it'd be just good to get - this is supposed to have all of our notes on all of the issues.

Mike Rodenbach: Okay. I mean the one big one that keeps sticking out in my mind, I know is one of Bertrand's proposals, I believe, was that the staff - and I know he's on the call so I'd love to hear him explain this a little bit if you don't mind indulging a little more time on that.

But I believe he recommends that the staff make a preliminary recommendation about whether or not an issues report should issue or whether or not a PDP should issue? I can't play with this document through Adobe Connect but I know it's down there around in the middle somewhere.

Jeff Neuman: No, I think it's 4B, I think is the area.

Mike Rodenbach: There you go, yes and the staff's recommendation on whether policy is needed, general counsel comments. To me, that is a very, very bad idea because it directly puts staff in a non-neutral role in my view.

Woman: You know, the issues report asks staff to do that anyway.

Mike Rodenbach: That's currently in the bylaws.

Woman: And the counsel thinks nothing of disregarding the staff's opinion, so...

Mike Rodenbach: Well that's not true, I mean, the counsel does think a lot about disregarding the staff's opinion and it creates awkwardness that doesn't need to be there. I mean in my view, it's the counsel's role to be making those determinations, not staff.

Woman: Well ultimately it is the counsel's role. Staff makes - provides advice based on staff input and the counsel does decide. So that's just a current means and it's open to change but that is the case today.

Mike Rodenbach: I understand that...

Bertrand de la Chapelle: May I chime in because it's a very valid point and I'd like to explain as it's my comments that I recorded here.

Actually what is on the document at the moment was a sort of rewriting on the fly during a previous call of a paper that I had circulated but apparently I'm not sure that a lot of people had seen it. But three or

four calls ago, I tried to summarize in a sort of draft revise bylaws the first few articles that we had discussed.

And as has been said right now, the fact that currently in the bylaws, the process says the staff produces a recommendation on whether it should be continued or not.

What I was suggesting and it may not be reflected extremely precisely in the notes here and we can clarify it later, is that fundamentally we are addressing in the initiation phase the moment it starts and the moment it closes.

The moment it starts, the discussion led to the notion that it would be good to have something incredibly short, very simple, that is described here as a light issues brief three or so pages with the issue, the identity of the party and the main dimensions of the issue.

Actually the proposed issue raised for consideration and the identity of the party submitting the issue and the reasons involved for doing it is taken verbatim from the current bylaws.

But the current bylaws propose only one issue report that is basically at the end of this initiation phase that lumps together what I describe here as the light issues brief and the staff recommendation on whether it is necessary to continue with the general counsel's comments and the degree of support and so on.

My suggestion here was to distinguish the two, make a first very brief document that is the starting point, the main addition being the bullet that says the main dimensions of the issues because what is missing

in many cases today and it can be the purpose of a birds-of-a-feather for instance.

And this is where I raise the issue first, is to provide the dimensions of an issue, not getting into big depth but in order to highlight who are the impacted parties, what are the potential consequences, what is the challenge, whether everybody has a common understanding of what the starting point is.

And then at the end of this initiation phase, whatever the length, a document comes out that is currently written by the staff. And therefore it says staff recommendation but I fully agree with the notion that it is not the staff that is making the recommendation, it should be the outcome of the initial work that is embedded in a staff document.

What we're touching here is a very, very delicate issue that has to be addressed of how much the support of the staff is actually to record the agreement reached within the group, adding the general counsel comments and the degree of support and so on. Or whether the group is basically giving input to the staff that basically makes the recommendation on its own afterwards.

And the additional point was in between those opening and closing documents, that can be and should be briefed both of them, there is a possibility for the board to - not the board, sorry, the counsel to add suggestions that, sorry, would request additional studies in the course of this initiation phase.

Because I think it was Alan who raised this issue earlier in the discussion that in many cases we don't know what the duration of the

initiation phase is. It shouldn't be fixed because it has to remain flexible but it must be managed so that we know when there is a need for additional info even at that stage or not.

So I can resend to the list the exercise that I tried about, I don't know, about two months ago or so because the way it's formulated in here may lead to a wrong assumption and thanks for raising the question. I hope it's clearer.

Jeff Neuman: It is and we'll update that. Marika is taking notes and so we'll update documents to reflect what you just said and the stuff that was in your paper. Mike, does that help you?

Mike Rodenbach: It does help clarify just to let you know. This is a big point for me and we need to just be really careful with terms like staff recommendation on whether policy is needed. It's just to me, it's a clearly inappropriate decision for staff to be making really at any point in the process.

Alan Greenberg: It's Alan, I have a comment also.

Jeff Neuman: Okay, Alan.

Alan Greenberg: I tend to agree with Mike. As things have evolved and I think how counsel makes its decisions changes over time but at the moment, it is moderately easy to get a PDP initiated if it supports exactly the words that are in the staff recommendation.

And it's becoming immensely difficult to initiate a PDP if it goes against that especially if there are some groups within counsel who are opposed to seeing PDP.

Mike Rodenbach: Can you elaborate on that, just like give an example?

Alan Greenberg: Well I'll give you an example of the Post Expiration Domain Name Recovery one that is just being initiated and the motion and the charter for the work group are basically - are verbatim out of the issues report on what staff is recommending doing. And it has been and I think would have been exceedingly difficult to stray from that and get it approved.

Mike Rodenbach: I'll give you another example...

Alan Greenberg: So it ends up being having the weight of law, even though it's far from that.

Mike Rodenbach: Yes, in a way, I mean I agree with that to a certain extent. But for example, with the (fast flux) working group where a majority of the counsel did disagree with the staff recommendation but, you know, I can't tell you how many times the issues continue to be raised after that during the working group.

You know, we're constantly reminded about how this wasn't the staff's recommendation and it's totally wrong. It caused a big waste of time in the working group.

(Liz): Actually, it's (Liz), if I can get in the queue.

Jeff Neuman: Yes, (Liz). Yes.

Bertrand de la Chapelle: And Bertrand as well.

(Liz): I want to go back to Bertrand's idea because one thing - there are several things that I really, really like about it but one thing that I think is that we're struggling a little bit is that, you know, all issues are not even similar in scope and complexity.

And I think what we're trying to do is come up with some apples to apples sort of standard, if you will, for approaching issues that, you know, we're using these examples that are very good ones actually. And you put (fast flux) and the Post Expiration Domain Name Recovery kind of together just for comparative purposes, you know, one issue that's quite broad and complex and one issue that while complex, is much narrower.

What I like about Bertrand's issue and I think it's - or idea that's somewhat what we were trying to get at with this template where the initiator or requester of an issues report comes with more information than they might be required to do today that fills some of that initial gap is because they aren't all treated equally.

And it strikes me that it is appropriate to have both the flexibility to treat these issues differently, a narrowly presented issue versus a broadly presented issue and that the steps appropriate to that have to be different. It's the same element as this economic comment that could be very appropriate and useful in some instances and really unnecessary in others.

So to me, the essential ingredient that I would love to capture is this notion that at the outset, there could be issues where you can't even take it to the next step without that initial daily gathering, whether it's provided by the initiator or developed by a small working group before a PDP is initiated. Or whether it's done by staff or some combination of the above.

There is a gap in the current process to assess and scope issues that are much more complex.

And so that's point number 1. I think point number 2 is that there really, to me, is an almost internal inconsistency here about staff's role. And I think, you know, trying to be objective about it and take a step back, the reality is that there are times in this process where staff is asked to be quite substantive writing the issues report.

If it isn't just a, you know, regurgitation of what's in contracts today or something like that, like the (fast flux) report, is not a neutral task in the sense that it requires, you know, judgments and opinions and research to be gathered and analyzed in some way.

It's a very substantive and extensive task. It's - I venture to say, the purpose of it is for us not necessarily to be I mean neutral in the presentation of the information but comprehensive in the gathering and presentation.

So I think what I would ask the group to do is talk a little more together about what they really see staff's role as appropriate here because it's very difficult even in the current situation to know what's appropriate.

And there are, I think, internal inconsistencies in the role of the staff today in the PDP.

So without taking a position on what I think staff ought to do, I would just ask the group to spend a little more time really thinking about what we're supposed to do here especially in the absence of community participation or information which is often the case. There is only so much that we get.

Jeff Neuman: Bertrand, I think you're next.

Bertrand de la Chapelle: Yes, thanks (Liz). For the first point, is the expression staff recommendation is as I said and I was checking on the bylaws at the moment, if you want to look at Annex A2E, the sentence is, "A recommendation from the staff manager as to whether the counsel should initiate the PDP for this issue ("staff recommendation")."

So the wording is exactly that and I think we are putting fingers on what (Liz) qualifies as some ambiguity regarding the staff's role. One.

Second point, on that element, I think it is that we shouldn't be confusing different roles for the staff and all of them are in important and necessary. But it brings very big misunderstanding between the different actors when the roles are confused.

I see at least three roles. One is providing expert input on some issues, either at the beginning or in the course of the policy process. Staff is requested to bring information, to gather documents, to order studies from external actors and bring that information back.

The second thing is a more neutral support work that is basically not only administrative in organizing meetings and so on. Taking minutes, recordings and so on but also helping, for instance, the draft team finalize documents or do translations but fundamentally recording the progress of work and saying this is where we're at, that's the next version of the document and help draft it, for instance. This is a relatively neutral role.

There is a third role for the staff in specific conditions that are either decision making or directly making recommendations to the board or implementing actively a specific policy.

I think at least those three dimensions must be absolutely clarified. And the discussion we just had regarding the expression staff recommendation needs probably to be clarified when we discuss the initial PDP, for instance, in cases where there might be a disagreement between the staff and what the working group is suggesting, either as (co-op) or as recommendation and so on.

It's not a problem if there's a discrepancy between both but it is important that something that comes from the staff as a reporting from a group is not changed because the staff has a very different opinion, for instance. So it's important that we keep in mind those three different functions.

The next point in the same idea is that we have this problem with the one size fits all and we've been saying it over and over again that we are applying the same policy development process to very different types of issues like, for instance, new gTLD policy or handling (fast flux).

But we don't pay enough attention to the fact that we are not only applying the same process, but we are also not exploiting the possibility of a typology of outcomes.

In particular, if you do the new gTLD process, the outcome is a very comprehensive policy framework. It's a general (overarching) mechanism that will guide the functioning of the organization for many years. You can have something that is more operational, more concrete, that is very constraining and can be enforceable.

There has been a process, the decision has been there is no, for instance, grace period anymore, there is a need to verify that this no grace period is implemented everywhere and it's a decision. You can have something, third category, that is the equivalent of what we have in European (union) that is a directive.

It can be a sort - it's a little bit, although it's more enforceable, the equivalent of the picket fence, if this is the real word, system for the registered agreements like consensus policies that are implemented in the contractual agreements. So it's something that is adopted generally but that will be implemented by other actors.

And then in a lighter mode, the fourth category, which is general guidelines. The outcome of a PDP could be general guidelines about how to behave in certain situations or things to care about or even information about unimportant issues, like it can be for (IPD6) adoption for instance.

I think if we keep in mind, and I close with this, this notion of the diversity of staff role and clarification of this role between decision making, support of the work and expert input, and if we try to identify the typology of outcomes between general policy frameworks, implemental rules, directives and guidelines, whatever the names, we probably will simplify part of our work.

Jeff Neuman: Okay, Paul?

Paul Diaz: Thanks, Jeff. I just want to - Bertrand's actually made some points and very, very eloquently - would like to add that, you know, in identifying, you identified three things staff does.

I would either tease out or add a fourth and say that, you know, I think in the issues report, some of staff's role is also something of perhaps a gatekeeper concept, you know, that making sure that the request of the PDP is broadly within scope is a very important issue.

You know, otherwise - and what relates to the last thing Bertrand was saying, there is often with the launching of the PDP, there is a community expectation that there's going to be some result, most often some sort of consensus policy.

It won't always be the case and, you know, I think if we as being suggested here as we have in our current contract, there is a value in staff doing the initial report and giving some sense of, you know, what is the scope.

Is the issue under review within scope otherwise we wind up, you know, either not setting expectations or, you know, having a conflict

with the expectations of significant parts of the ICANN community in terms of what comes out at the process in the end.

Jeff Neuman: Okay. Thanks, Paul. I think that point actually has been raised - it was raised at the initial meeting. I think it's been raised a couple of times. I think that is probably an additional foresight and added onto Bertrand's list of roles.

Mike, do you have any thoughts on that as far as - I understand the language of it you had an issue within the section was where the policy is needed and I think that's a lot different than what the current bylaws say which is just is within scope.

And the counsel could ignore that but what about - I mean how are you as far as would you be okay with - are you okay with staff indicating whether they believe it's within scope of either of ICANN's mission as a whole or scope within for a consensus policy?

Mike Rodenbach: No because you don't know what the consensus policy or there could be other solutions such as best practices (suggested) contractual changes, whatever. You don't know what those recommendations are going to be until the working group is - has gotten into its work.

And so for staff to be prejudging that in my opinion is a very bad idea and has been - caused unnecessary delay and consternation on the counsel in several instances in the past.

Domain testing, (fast flux) being the two prime ones in my mind right now but no, it's just completely unnecessary. It's not staff's role to be judging what is staff's role.

Paul Diaz: Let me just - how about if I rephrase it. So maybe it's not the beginning of the process, but is there value - do you find any value and this open to everyone on the call of staff at some point in the process saying, you know, maybe it's afterwards saying look, what you've come up with us interesting, maybe good best practice, but is not really within the scope of what we can mandate a registry or registrar to do through a consensus policy.

Is there anywhere in the process where that should be?

Marika Konings: Jeff, could I add in the queue?

((Crosstalk))

Mike Rodenbach: That's something that should be brought I suppose at the outset for sure but obviously if enough people on the counsel think it's within scope to kick off the process then that should be the determination for the time being until the working group gets going and issues get flushed out.

Jeff Neuman: Okay so - Marika, seemed like she was first in the queue?

Marika Konings: Yes I just wanted to clarify because on the scope discussion, the only thing that happens in the issues report is an evaluation whether it's in scope or ICANN's mission and GNSO policy making. So related to a gTLD.

Staff doesn't make a recommendation at that stage whether the issue could be suitable for consensus policies or anything like that. And I

don't think at least staff has never (said) that they would have that power, that possibility and I think, you know, indeed as Mike said that determination is made at the end of the process where you define what the group comes out with.

And rather than then at that stage falls within the picket fence and can be a consensus policy. And I just wanted to clarify as well the (fast flux) recommendation, that had nothing to do with - well there was a part where the general counsel said well if consensus policies will be developed in this area, you know, its not clear which areas might fall under that.

But staff's recommendation was that more research needs to be done and data gathering to really understand the issue and that's why staff recommended to wait with initiating the PDP.

Jeff Neuman: Right so I'll just - historically it was - the people that wrote this and the bylaw provisions and it's been interrupted in different ways. But when the people that were writing it, I was actually one of them on the initial.

Again, that doesn't necessarily affect how it is in the future so I don't want to judge that. But initially when those provisions were created and I think (Reed) actually is the one who wrote this provision. It was intended - it was thought of that this was - at least the intent was to apply whether it falls within the definition of consensus policy.

Now it's been interrupted by, you know, John Jeffrey and counsel wasn't around back then. So they've kind of interrupted it in a different way than I think if you'd ask the registers and registrars how they initially had thought of it and what the way it was drafted. It was

supposed to be for determining whether it was in the scope of a consensus policy.

If it hasn't evolved that way and that is what it is. I know some registries and registrars have actually made that point that they would like to see that but, you know, that's completely open for discussion. So I can't remember who was next in the queue because (unintelligible). Okay Alan, thanks.

Alan Greenberg: A couple of things. Certainly in the one that's on the table right now the (unintelligible) staff did make the recommendations as to what types of outcomes might come out of this whether its consensus policy or best practices or things like that.

And as I said, for better or worse those very light recommendations do take on close to the word of law. So I think we have to recognize that. The - in reference to your comment on what was meant within scope, I can fully understand that the original drafting meant within scope of consensus policies.

But I think in today's reality one has to recognize that if you find a problem it's not necessarily going to be fixed by consensus policy. And counsel, I think, needs the latitude of coming up with solutions which are made which may not be binding until the board acts or until a contract is renegotiated or until who knows what happens.

But it should certainly be within counsel's scope to come up with what they believe is a reasonable solution to what is perceived a real problem.

Jeff Neuman: Sure.

Alan Greenberg: Regardless of what that mechanism is. It's not theirs to enforce but, you know, we're spending an awful lot of time on doing this and we shouldn't restrain what the outcome is - if it's an outcome which makes sense.

Jeff Neuman: Yes, let me ask a follow up to that kind of just to get your thoughts. Would it help counsel to know though when they're ultimately at the end, when they're ultimately deciding as to whether they should approve whatever policy?

Do you think at some point they should know that this is the type of thing that can be imposed on a registry or registrar. And I'll go back to the registrar accreditation agreement - whatever maybe that wasn't a form of policy practice, I'm not sure what that was.

But I will note that counselors were very upset when they found out - they were under the perception and in fact I was too and I'm not a counselor, that once the counsel had approved these things that that could be imposed on the registrars.

And then counsel was upset to learn probably two days before their votes that no it would have to be voluntarily adopted or it would only apply upon the renewal of these agreements.

Alan Greenberg: At ten minutes before the vote for many.

Jeff Neuman: Right. So obviously that's not a good workable solution either. So at some point do you think - and what that point is I want to hear from

everyone. But the people think it's a good idea that counsel knows going in when they're voting ultimately on this issue that they know how that issue's going to - could be implemented or may not be implemented.

Alan Greenberg: How could it not be a good thing? That they make a decision with the sole understanding of what they're deciding?

Jeff Neuman: Yes I think that...

Mike Rodenbach: The problem is that you don't know that until you're through the process.

Alan Greenberg: No but he's asking at the end when you're voting.

Mike Rodenbach: Okay, of course at the end when you're voting. I mean because that should clearly be in the working group's recommendations.

Jeff Neuman: So let me touch on that a little bit Mike. So it should be in the working groups' recommendation.

Mike Rodenbach: Right, the working group how their recommendation should be implemented or could be implemented if counsel and the board agreed.

Jeff Neuman: I'm sorry so when the working group is determining that shouldn't they know in advance of their outcome or while they're developing their recommendations that this is something that can or cannot be imposed as a consensus policy.

Or this can only be of a best practice or this can only be whatever it is. Shouldn't there be at some point some input from staff at the time - I can just envision a process that...

Mike Rodenbach: It doesn't need to come from staff.

Jeff Neuman: What's that?

Mike Rodenbach: It doesn't need to come from the staff. It can come from the registry or registrar or the rest of the working group. But yes, absolutely. The answer to your question is yes. At some point those issues do need to be raised in the working group so the working group knows, you know, whether they're coping against windmills or not.

Jeff Neuman: Right, exactly. So I'm just trying to think of - so I think that was probably - that was the intent of drafters of the current bylaws was to make sure the working group knew at some point and I guess here's it's coded in at the outset.

But that may be not be appropriate as you're pointing out, as Alan is pointing out that it may not be appropriate because how do you know what the outcome's going to be.

But I don't hear opposition to the fact that at some point through the working group's process they should be made aware of opinions from certainly - I'm sure the contractor party would raise it.

But at some point if the contractor party raises it, at some point there need to be a staff analysis as to the validity of the contracted parties'

assessment and it would certainly be helpful for the working group to know that. And so the question is at what point or do we just leave it.

Mike Rodenbach: Why does it have to be a staff assessment for that issue? That issue - why - staff does not make that decision in my opinion.

Jeff Neuman: I think we're talking about nomenclature. It is certainly staff's responsibility to tell us whether they think it is within scope. I mean if we're going to end up having a legal battle between registrars and ICANN, ICANN has to be willing to put their legal money up for that court battle if it comes down to it.

So there's has to be some belief. That doesn't mean counsel has to agree and it doesn't mean that opinion gets - doesn't get revised as time goes on.

Alan Greenberg: In my mind the issues report puts a stake in the ground of what staff including legal counsel believes is the case at the time. You know...

((Crosstalk))

Alan Greenberg: I mean opinions change or might change.

Jeff Neuman: So I'm just trying to understand, are you saying that you think it's - understanding that it changes and Mike is clearly saying that he doesn't want to see anything from staff or on scope prior to the counsel initiating its process and...

Mike Rodenbach: Hold on. That's not exactly what I'm saying. Staff certainly can point out that, you know, say an issue is being raised may impact upon the

picket fence or whatever and lay out the contractual provision. But my view is that staff needs to be purely objective in what they're doing always and not making recommendations one way or another.

Jeff Neuman: Okay.

Bertrand de la Chapelle: Jeff, this is Bertrand. May I chime in?

Jeff Neuman: Sure.

Bertrand de la Chapelle: Yes well actually it's a direct continuation of the current discussion. Exactly like I was suggesting, the typology of outcomes and I think the right typology from the discussion is basically between guidelines/best practices non-binding but recommendations.

Consensus policies that are binding in a specific framework. Actual decisions that can be out of the consensus policy framework but that are implants of both and policy framework in general.

In the same way, we're talking about staff without making the distinctions that I was hinting at earlier. Actually if you make the distinction and I'm grateful for Mike for this gatekeeper addition. What we see is that the staff today is structured in a way that could be organized slightly differently if we were separating the functions more clearly.

Namely there's one part that is expertise. Like a sort of bank of resources for people who know issues that can deal - go from security to anything else that is - either technical or economic. The second

function is the secretariat. It's a neutral function that provides policy support in the conduction of the policy processes.

The third role is operational. When a policy has been adopted there are measures to be taken and there are things on a daily basis like the (INF) function for instance today that works within the framework of a general rule that the staff is doing on a daily basis.

And the fourth function is what we're discussing right now which is the sort of definition of scope, gatekeeper, capacity to determine or to give advice on whether something should be the subject of a consensus policy, should be a decision, should be a broader policy framework and that sort of thing.

As a matter of fact this function with the expertise and with the policy support and part of the operational role looks a little bit like brought together under the general denomination of staff.

The reality is that this last function which is providing a discrimination on the type of outcome that is needed whether something is in scope or not is a specific function that is for the moment as I understand accomplished by the legal counsel.

But this function - this legal function is different from the role of legal counsel regarding the organization in general when it is representing the organization to the external world or helping drafting contracts or that sort of thing. It's the international - the internal, sorry, constitutional court of the organization.

It is the one that says this is not this process or this should be in this framework or it is within GNSO mandate or you have consulted this or that.

This is a very important function and it's important that we avoid labeling staff in general because in some cases we want staff to make an explicit recommendation if it is the role that we want at that stage and in other cases the neutrality is the key functioning.

So if we could try to identify the different roles of staff and how maybe in the future it will translate into a better organization or structure, maybe this is an element that are supposedly not discussing but is inherent to the PDP reform process.

And as a concluding remark, this leads to a general remark that we are currently studying many different processes for reform of ICANN in general and this PDP reform and work group reform is one element of it.

What is really at stake is the general institutional evolution of the organization and I strongly believe that in the wake of all those processes there will be a need to incorporate this in a general revision of the bylaws. But that goes beyond what I just wanted to highlight this distinction of functions for staff.

And the last one of the gatekeeper and scoping the competencies is a function that is provided but that should also be a neutral one in terms of enabling jurisprudence internally. I hope I'm clear.

Jeff Neuman: Yes I think that it is. So hopefully Marika, you're capturing all this and can document what we just talked about then hopefully we'll be able to come up with some language that we all agree on that has the flexibility that reflects what Mike and Alan and Bertrand have been - and Paul have been pointing out.

Marika Konings: (I've captured most) but can I still encourage people as well to review the document as a whole and, you know, point out any inconsistencies or any things that we might have missed to make sure that we're not only adding things but we're all working from the right basis.

Jeff Neuman: All right, anybody else have any other comments?

Alan Greenberg: Only that I have to leave in a few minutes. I don't what the intent is when this call goes on to.

Jeff Neuman: No I was going to wrap it up actually unless anyone else had any comments on this document. With that said...

Bertrand de la Chapelle: Jeff, if I may make just one suggestion. I think the document, as we said, the current document is basically recording the various elements and the various inputs.

The general outcome of our work is in one way or the other either a rescission of the current Annex A or a - something that will not be explicitly put in the bylaws but that will be the working methods of the GNSO somehow.

Could we start working on sort of concise revision of the appropriate parts of the bylaws because the issues report is the part that we've

been working on and it actually takes in the bylaws three main paragraphs, I think, that can probably, on the basis of our discussion, be summarized or shortened and made more coherent and compact.

I can re-send the first attempt I did as a basis for further discussion. But I think the outcome would be on the basis of what we discussed to try to see whether we can find a simple formulation for the relevant part of the bylaws that we're changing.

Jeff Neuman: Well, I think part of that though is that we need to decide which of this stuff we want reflected in the bylaws versus the other document, whatever that's called.

And I think of what we were talking about really relates to - or some of what we've been talking about relates to best practices or recommendations as opposed to bylaw changes.

But, you know, if you want to submit something or re-submit it again, we'll be happy to look at it, but I - we just - we kept trying to - I think initially, when we had the first two meetings, we were trying to work off those bylaws, and it kind of was a little bit distracting.

Marika Konings: Jeff, can I get in the queue?

Jeff Neuman: Sure. Marika, if you want to just jump in there.

Marika Konings: Yes, no, I just wanted to add, because I think Bertrand you weren't on the last call, so what we tried to do in this document is indeed work a bit that way, so.

And if you look at the Adobe Connect, basically the idea would be to address the different issues or some specific concerns and questions that have been raised and capture, indeed, you know, what a discussion of the group was and as well try to capture what the ideas were and from there work to a proposed solution.

And then indeed determine whether a bylaw change would be required for that, or whether it would be more appropriate to put this in either the rules of procedure or, you know, create some kind of guidelines for, you know, how to initiate a PDP. Or, you know, which steps you might consider in, you know, developing a - during a working group process for example.

So that's bit a - what we tried to do is document to facilitate that discussion, moving towards discussing the actual solution and seeing whether it requires - or what bylaw changes that might require, so if that helps.

Jeff Neuman: Bertrand, does that help you?

Bertrand de la Chapelle: Yes, I think the two are connected. Honestly, the goal of the - I agree with the notion that there probably should be things in the bylaws and things outside, but here again we are in a strange situation in ICANN where we have the framework of the bylaws and basically policies.

We have very few or maybe I'm not - although, no I'm saying something wrong because there is the accountability framework and that sort of thing. But we need to know how strong the enforceability of the - of whatever policy process documents will be if it is not in the

bylaws. I'm personally very much in favor of as light bylaws as possible.

Bylaws are like institutions, they should be incredibly concise and if there is an internal working methods document, maybe this can be validated by the GNSO counsel as its operational procedures for instance.

I think it's a very good approach. But trying to get to the formulation starting from the current bylaws, and seeing whether they are changes that can be made that are coherent with what we've been discussing, even if we put some of the things in another document that would be for instance adopted by the counsel as it's operational procedures, would I think be good to help us focus and particularly when we do that in Sydney for instance.

Jeff Neuman: Okay. Are there any other questions, comments? All right, I thank everyone and I look forward to seeing everyone that's going to make it in Sydney in just a little over a week.

Alan Greenberg: Okay.

Jeff Neuman: Thank you everyone.

Alan Greenberg: Bye.

Mike Rodenbach: Thanks Jeff.

Bertrand de la Chapelle: Bye, bye.

END