

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)
Work Team (WT)
TRANSCRIPTION**

Thursday, 8 September 2011 at 13:30 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 Thursday 8 September 2011, at 13:30 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-ppsc-pdp-20110908-en.mp3>

On page:

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

(transcripts and recordings are found on the calendar page)

Participants on the Call:

Jeff Neuman - Registry Stakeholder Group - Work Team Chair
James Bladel – Registrar Stakeholder Group
Paul Diaz - Registrar Stakeholder Group
Wolf-Ulrich Knochen- ISPCP
Avri Doria – NCSG
Alan Greenberg – ALAC
Keith Medansky – IPC – for Brian Winterfeldt

ICANN Staff:

Marika Konings
Margie Milam
Glen de Saint Géry

Absent apologies:

Alex Gakuru – NCSG
David Maher - gTLD Registry Stakeholder Group
Tatiana Khramtsova - Registrar Stakeholder Group

Coordinator: Please go ahead.

Glen de Saint Géry: Thank you very much (Sandra). Good morning, good afternoon, good evening everyone. This is the PDP call on the 8th of September. And on the line we have James Bladel, Jeff Neuman, Keith Medansky who is standing in for Brian Winterfeldt, Avri Doria, Alan Greenberg and Wolf Ulrich-Knoben.

For staff we have Marika Konings and Margie Milam and myself, Glen de Saint Géry. And we have apologies from David Maher and Alex Gakuru. Is there anybody else who sent their apologies that I have perhaps missed?

May I ask you please to say your name before speaking for transcription purposes. Thank you very much and over to you Jeff and welcome back.

Jeff Neuman: Thank you Glen, thank you everyone. This is Jeff Neuman. I - it's good to be back. I was a little bit ill for a few weeks and still recovering. I do have some left over speech issues so if I'm not clear just let me know. I'm doing my best and hopefully the transcript will pick it up.

So I know you guys have made a lot of really good progress and I've been following it on email. And I'm actually going to turn over this part of the meeting back to James and Marika in a minute just so that they can kind of continue. And thank you very much, James and Marika for holding down the fort and doing such an excellent job and getting us to closure.

The plan is to be on the call for just an hour today and hopefully finish up all of the comments. And the goal would be to get the final-final

report to the Council for their early October meeting understanding it might be deferred a meeting to actually get voted on in Dakar. So that's the current plan of action.

And it seems like with most of the comments that have been received even though they've generated some discussion and comments in the review tool it seems like most of them there really aren't any changes to the report. There are a couple that have been discussed on the mailing list which may result in a few changes but it seems like hopefully the report can be produced by that time and submitted to the Council in early October.

So with that said I'm going to turn it over to James.

James Bladel: Thanks Jeff. And I think I speak for the whole group that we're really glad to have you back and hope that your recovery is going well. And anything we can do to help you get back into the swing of things just let us know.

Jeff Neuman: Thanks.

James Bladel: Okay so - and, you know, thanks for your housekeeping; I think that's a good plan. I think that where we left off - and, Marika, I'm probably going to ask you to help here as well - is that towards the bottom of Page 14.

Marika Konings: Correct.

James Bladel: Okay. So I think that the last item that we discussed was Number 38. But the question would be if this group wants to circle back to the

discussion that we had on the list that was most recently joined by Stephane regarding the definition of who is eligible to request a deferral and whether or not we may have inadvertently excluded the non-voting, NonComm - or I'm sorry, the NonComm appointees with the language that we currently have.

So do we want to tackle that now or do we want to put that on the list for the total follow up and then just move on with Number 40? Not really receiving strong feelings from the group. So let's just circle back and put that one to bed before we dive into the next one.

I think that everyone was in alignment that it was not the group's intention to exclude or create different types of councilors; that once someone was a councilor they had the ability to request a deferral. And I think that we were specifically trying to make sure that this was limited to councilors at least that was my understanding.

If everyone is okay with that I think Alan has proposed that we remove or just strike in our report - strike the word voting council member which would then be the equivalent of just saying GNSO council member which would then be inclusive of all council members. Am I correctly stating your proposed change, Alan?

Alan Greenberg: Yes I am. And there's I believe about four places in the report where it's used. I'll note - not related to this exact subject we're on but I'll note one of the occurrences does talk about voting - sorry, written request and I think that's an error unless there was an intent that I'm not aware of so that should be fixed at the same time.

James Bladel: Okay so let's maybe catch that one as well. But now, Stephane...

Alan Greenberg: Unless there was really an intent that it needs to be written in which case all of them should be changed to say that.

James Bladel: I don't know that that was the intent. But maybe we can just hang onto that for just a moment.

There was a note sent this morning by Stephane and some other folks - and I'm asking I guess did that take the discussion in a materially different direction or are we still on board with this idea that all councilors, including the homeless NCA, are eligible to raise a deferral?

Go ahead, Alan.

Alan Greenberg: Yes, all of the issues he raised were ones that had been raised before and in fact were addressed in my initial note in the thread. But I think he had only read Mike Rodenbaugh's comment and hadn't gone back to read the whole thread. I've answered him and I think Avri has also although...

James Bladel: Okay.

Alan Greenberg: ...if Avri's on the line I think you forgot a not somewhere in your first - one of your first sentences.

Avri Doria: That's quite possible.

James Bladel: Okay thanks, Alan. Jeff.

Jeff Neuman: Yes, I agree; I don't think that Stephane's comment - until we see, you know, a year or two years down the line if it's ever abused I just don't see Stephane's comment as having to change anything. I think let's go with what our gut was and what we all agreed to on the list.

Alan Greenberg: Yes what - it's Alan. What I didn't put in the message is I was quite offended by Stephane's comment saying the homeless NCA if they can't vote they shouldn't be able to speak either. To quote what I put in my message, which you probably haven't gotten yet, that relegates the NCA's only - that the NCA's only function is to eat at free GNSO lunches. And I don't think that's the intent of the NonComm appointing them.

James Bladel: Okay. Wolf.

Wolf Ulrich-Knoben: Yes, thank you. So I think I have written also in comment. And so to my opinion it was a little bit misleading myself it was - when I read the homeless, you know, homeless is really misleading. So it's about community not home here in this case. But that's my understanding and the NCA is not community-less NCA. So in this respect - so understand I fully to support what Alan is saying.

So any NCA has some group in its background so a kind of community even if they are individuals. So - and with this understanding so I support it fully. Thanks.

James Bladel: Okay thank you Wolf. Alan can we move onto your second point...

Alan Greenberg: Yes, just to explain that - the word - the NCA was originally tentatively called the houseless NCA because they don't sit in a house they're just

on the Council but very quickly in speaking people changed that to homeless. So I believe in my note I used houseless the first time but - and then introduced homeless under that context.

((Crosstalk))

James Bladel: We don't want to say something like...

Alan Greenberg: It's a bit flippant but it is the terminology that has been used.

James Bladel: Yes well and let that be a lesson that all attempts at being clever don't go - nothing goes unpunished...

((Crosstalk))

James Bladel: Okay so let's go back to Alan's other point which is that in one of the instances - I'm sorry, what was the - I think it sounds like the consensus is that we never intended to exclude NCA appointees whether they're in a house or outside of a house - houseless. So we should strike the word voting and just limit that to GNSO council members.

The question then becomes what Alan was mentioning is in one place in the report we mention - we specifically say that the deferral requests should come in writing. Was that the intention of the group? If so we should make it consistent in all areas or was that just an artifact that we need to acknowledge that it could come in writing or it could be verbally raised during the course of a council meeting.

And I think - my understanding was it was the latter was our intention. But certainly it's possible I'm not remembering that correctly. Jeff.

Jeff Neuman: Yes, I think that might have been my mistake. I think when I was going through the report I think I might have actually put that word in being the lawyer that I am. But I don't - in rethinking about it it doesn't really make sense because usually those motions are made right on the fly at a council meeting.

So I'm going to chalk it up to my mistake and I don't think it should be written. I think we should take out that word.

James Bladel: I agree, Jeff and that also makes it consistent. Is there anyone who disagrees or opposes that change? Okay let's call this one put to bed and we can move onto Number 40.

Alan Greenberg: Yes, one other thing I think it'll be obvious to Marika when she does the editing but there's a footnote that now needs to be removed also. But I think that will fall out of the removal of voting.

James Bladel: Is that the one that defines...

Alan Greenberg: That's right; the one that rationalizes why it was done.

James Bladel: Yes. Okay so do we have all that, Marika? We're going to strike the word voting. We are going to standardize away from written requests and we're going to strike the relevant footnote that defines the rationale for this.

Marika Konings: Yes, got that.

James Bladel: Okay. Awesome, okay if we could start with Number 40 then. Marika, would you mind...

Marika Konings: Yes.

James Bladel: ...walking us through - or setting the stage for us here?

Marika Konings: Yes, no problem. This is Marika. So Recommendation 40 relates to the voting thresholds and where the (unintelligible) that it hasn't changed any of the voting thresholds apart from adding two new ones in relation to the working group charter as well as the voting threshold for the termination of a PDP.

(Unintelligible) says that there should be - there should not be any delay in determining fair voting thresholds. The fairness of the processes is directly tied to the voting thresholds and as such whether or not the voting thresholds should be revised should not wait for the next GNSO review. Instead the GNSO Council should remand this topic for further consideration by the PDP work team with a short time frame for a recommendation.

James Bladel: Okay before we open the queue, Alan, do you want to take us through your comment?

Alan Greenberg: Yes, there's one thing that I omitted and I'll say it now. You know, implicitly since we are changing - since we are recommending the change of some thresholds we did review them. Most of them our conclusion was we don't have enough real strong rationale for changing them and they were - the thresholds were debated at length

and were a compromise within the group that recommended the restructuring of the GNSO.

So we found no reason to believe that they were wrong in most of them and believe we should go with it. They were the result of significant debate. The one - one or two, I don't remember which, that we are recommending change we obviously did consider whether they're appropriate and are recommending a change.

And even that one was not really recommending a change in the intent just adding some numbers which may make it - may allow it to do closer to what was originally imagined.

James Bladel: Okay thanks Alan. I put myself in the queue. I think that I agree with you that, you know, the group spent a considerable amount of time discussing voting thresholds and that doesn't necessarily, I mean, you know, I don't know that reviewing them again by this group or by another group is necessarily going to produce a widely different outcome.

I also think that in the case of super majority we were just - if memory serves we were just aligning some of the definitions in the various places that refer to super majority and we were trying to bring that into alignment with the new structure of the GNSO Council. So I don't think we were creating new thresholds in that regard we were just getting everything, you know, synchronized.

So my opinion would be that I disagree with this recommendation that we should rework this part of the report. Jeff.

Jeff Neuman: Yes I think this is - wow, this group is in total agreement here. Again I'm going to agree with Alan and James. I think we did actually address a few thresholds and clarified a few - we added a couple where there just weren't any thresholds where, you know, approving of a charter needed something.

So, yes, I disagree with the comment and I think we're all in agreement on this.

James Bladel: Okay and I see Paul has his hand - agreement. Alan and then Wolf.

Alan Greenberg: Yes, I actually agree with the comment from one context. And I think our recommendation is wait for the next GNSO review. Is that correct, Marika?

Marika Konings: This is Marika. Yes, that's correct.

Alan Greenberg: Okay. You know, there is one threshold - the one that actually determines majority which I believe should be changed. You know, because you can have something like 70-odd percent of the council members weighted based on their - which side of the council they're on - voting for something and it doesn't get approved because you need a majority of both houses.

But I don't feel that was within our mandate to change; it's not really directly related to a PDP. I also don't feel that that necessarily - changing that or debating it should wait for a formal GNSO review. So, you know, there are ones that are in the middle ground that maybe waiting for the review is not right; maybe it should be done more immediately. But I think it's a GNSO issue and not a PDP issue.

James Bladel: Okay thanks, Alan. I agree that this group was primarily concerned with not creating new voting thresholds (unintelligible) but just making sure that they were all in place and well defined where they encountered them. If there's something that needs to change then maybe that's a separate...

Alan Greenberg: So I would support changing our report to not say wait for the next review but say it's up to the GNSO to take action.

James Bladel: Okay. Wolf.

Alan Greenberg: I mean, everything - everything is game at a review.

Wolf Ulrich-Knoben: Yes. I could agree in part to what Alan has just said. I was just thinking about, you know, who should do and who else if not this group here. So we have - the third option is this standing committee you understand which I am - I have to chair. So - and I was just asking whether it could happen. This is just rolled over to then to that committee, this part, and whether this committee would be in a position to discuss that at all.

So I really would like - if we don't leave it as it is right now in the recommendation saying waiting for the next overall review then we should really point out that it's, as you said, is up to the GNSO to establish an appropriate group for that I would say.

So because I wonder whether, for example, the SCI would be an appropriate group at the time being for that. So we should really take care in formulating this.

Alan Greenberg: Yes, it's certainly an appropriate group to suggest the GNSO do it.

Wolf Ulrich-Knoben: Yes.

Alan Greenberg: Whether it's the group to make the recommendation or charter the new group that's a different issue.

Wolf Ulrich-Knoben: Okay.

James Bladel: Okay so do we want to formulate that as part of our response or - I mean, I'm trying to land - bring this into a soft landing on something that Marika can put into the report or the response to the comment.

So I think that we're in agreement that in this particular area the PDP group discussed this exhaustively and that in most cases we were just redefining or clarifying the definitions of voting thresholds or establishing them where they were vague or ambiguous and that the topic of whether or not these are appropriate voting thresholds should be taken up by the GNSO through other mechanisms possibly the standing committee for improvements.

Did I capture everything with that or - Alan, just tell me what I forgot.

Alan Greenberg: Yes, I was just going to point out that there were a lot of thumbs up. I'm not sure it's us to say whether it's the standing committee but I think if we change that they should be done at the next review is - should be decision of the GNSO or something like that or reviewed by the GNSO.

James Bladel: If we say for example...

((Crosstalk))

Alan Greenberg: ...whoever it wants to do it I would support that.

James Bladel: Yes. If we say for example the standing committee I think that that's...

Alan Greenberg: Good idea.

James Bladel: Yes, something like that. Okay I think that that's - we've beaten that dead horse. Marika, can you take us to Number 44?

Marika Konings: Yes I can. So Recommendation 44 relates to the GNSO Council review of the PDP working group. And in (unintelligible) notes there that basic standards could and should be adopted now as a helpful tool subject to amendments after there is more experience with the new PDP process.

This issue should not have to wait for referral to the standing committee or additional experience with the PDP process.

James Bladel: Okay so forgive me for being a little slow this morning. What is it that they are saying cannot wait?

Marika Konings: This is Marika. Basically in our recommendations we're saying in relation to the (unintelligible) assessment that we're not, you know, that currently there are no guidelines and we actually recommended the GNSO Council develop such guidelines after some experience is gained in working group self assessments. So they're saying we

shouldn't wait for doing that after a couple of working groups; it should be done now.

James Bladel: Okay. And, Alan, you said this is not a show stopping issue that would warrant more delay. I tend to agree with that. But I guess from sort of taking into the side my opinion would be that if a working group wanted to - if working groups wanted to start submitting self assessments would that be unwelcomed by the council?

Alan, go ahead.

Alan Greenberg: Yes. I don't think so. See, I mean, anyone can do a self assessment but they're winging it because there are no process rules, there are no format rules, there are no, you know, there are no rules. And they're saying this is important enough that it should be done now. And the implicit part of that - and I'm not sure it's in their actual comment which I haven't looked at recently - is that we should do it.

By saying - by us saying it's up to the - the standing committee or some other group to do it we're not saying it shouldn't be done, you know, as quickly as humanly possible we're just saying it's not our job.

And I don't see it as something that should delay the approval of the PDP rules generating standardized working group rules which will be used presumably by things other than PDPs. I think this is part of the working group rules that are part of the operating procedures.

And the council can formalize that as quickly or as slowly as it wants. I don't think it's our job to do it and I don't think it's necessary for us to do it to get the rest of it in place.

James Bladel: Okay thanks, Alan. I especially think that last sentence was key so hopefully Marika caught that for our response. It's important but it's not our job to do it and it's not on the critical path to getting this implemented.

Paul go ahead.

Paul Diaz: Thanks James. And at the risk of making a pattern I'm going to fully agree with Alan here and take that last sentence really should be quoted verbatim in the response.

James Bladel: Awesome, thank you, Paul.

((Crosstalk))

James Bladel: Avri.

Avri Doria: Yes, I guess I would agree too. The other thing I would add is that it would take a long time to do it or it could take a long time to do it. And not only do I not think we should be doing it and not only do I not think that the council should be doing it at this point and certainly delaying the PDP for it I think it might delay any group from starting to do self assessments and gaining experience from it.

Because now the instant message would be well, you know, we might as well wait until there's a template because we don't want to do it wrong; because we don't know how they want us to do it. We can always find reasons for not doing these things. So I agree that, you know, it should remain as-is essentially.

James Bladel: Thanks Avri. I put myself in the queue. And I think I'm just going to go ahead and agree with Alan. I just wanted to point out as well that, you know, we should resist a temptation to build, construct, define and proceduralize everything just because we could.

And, you know, I think that in some cases we should just make a general recommendation especially when we're creating something new that we feel has value and see what we can come up with and what the different PDP working groups come up with in the future and which ones are useful to council and which ones are not.

I don't know that it's necessary to plan all these things out in advance. I think that, you know, it's very much a bottom up process if we kind of let working groups lead the way on this.

I also think that, you know, going back to something that Jeff observed very early on in our process is working group charters were never a formal part of the process but they are now. Maybe during the next review we will see that this has become an important part of the PDP process, the closure of the PDP process and it's something that becomes a more formal part of the process.

Then we can have some more standards and guidelines. But for now I think we have to try it and see what we've got. So, Alan, and then we'll close this up.

Alan Greenberg: Yes, I had a thought triggered by what you just said. I guess I find it interesting that in an organization where we're continually harping on

bottom-up, bottom-up the GNSO seems determined to make rules that once they're made are top-down. Sorry, that's it.

James Bladel: Well, yes, and I think it's certain individuals and elements that are pursuing some certainty in the process, you know, and not willing to leave things to uncertainty. But I think uncertainty is where you also get innovation and stuff but that's a topic for beers someday.

Okay I think we have a response. Most notably, Marika, I think Alan's sentence earlier about that this may be important but it's not within the scope of this group and shouldn't be a hold up for implementing the process. Then I guess we can move onto - it doesn't have a number but it's Section 3 at the bottom of Page 15; one of the overarching issues.

Marika Konings: Right, this is Marika...

James Bladel: And I can't scroll...

Marika Konings: Do you want me to...

James Bladel: I'm sorry.

((Crosstalk))

James Bladel: Yes I can't scroll so if you could.

Marika Konings: Okay. So Section 3 the overarching issues I think it's the general comment from the Registry Stakeholder Group related to this section that says that if all the overarching issues are included in the proposed

PDP manual it should say so; if not it should be helpful to identify which ones are not included and why not.

And if I can maybe put myself first in the queue? On this - and I actually don't recall which ones are and which ones aren't but maybe we can follow a similar approach as we have done for the recommendations where we mark behind the titles of each of the overarching issues whether it's a bylaw issue or a PDP manual issue.

And I guess we can put in something there as well if it's not something that's included in neither of them but just as a discussion topic included in that section maybe that might clarify things.

James Bladel: Okay. No disagreements here and there's no queue so I think that - I think that's successful. Then we move onto the top of Page 16.

Marika Konings: Yes. The first comment there, Section 3 consideration of final issue report by the GNSO Council. And it's a comment from the Registry Stakeholder Group and I think it's one that we've seen before in relation to one of the other recommendations saying that allowing as late as eight days before a council meeting for considering a final issue report is completely unworkable. And...

James Bladel: Yes, and we've addressed this earlier on, is that correct?

Marika Konings: Right, I think we have a response in one of the previous comments so if people want to have a look, you know, I think the same applies here so we can just I guess copy and paste that here.

James Bladel: Yes, I think that for these first three if we can just make sure that our response is consistent with our earlier discussion on this. Alan, go ahead.

Alan Greenberg: Yes, I think the substance of our previous comment was that eight days is a minimum; it doesn't mean you can not allow more time and we recommend that, you know, that councilors and the council use, you know, use reasonable process. So I just don't see this as an issue given that.

James Bladel: Right.

Alan Greenberg: Our expectation is there will be more time than eight days. If we have an expectation that something is going to come to a vote. And I see us moving in that direction so I'm not particularly perturbed by it.

James Bladel: Okay thanks, Alan. So that's my understanding that pretty much covers the next three items, basically the same comment for those different actions that would occur certain timeframe prior to a council meeting.

Can we then move to the comments about the consideration of the board? I'm sorry, by the board, excuse me.

Marika Konings: Yes. This is Marika. Another comment from the Registry Stakeholder Group in relation to the consideration by the board. The recommendation does not take into account board requirements and needs. Items should be (rewarded) say the board shall consider the recommendation's report as soon as possible according to its requirements but not later than the second meeting after received instead of at the board's next meeting.

James Bladel: Alan, you're thoughts on this? You said that the comment is - implies the...

((Crosstalk))

Alan Greenberg: The comment - yes the comment says we should account of the board's needs but then says but under no conditions and doesn't give an escape clause; it must be done at the second - by the second meeting. You know, that just doesn't seem to make a lot of sense.

James Bladel: Okay Jeff is in the queue. I'll put myself behind him. Go ahead, Jeff.

Jeff Neuman: Yes, and I'm (sorry) for the registry comments and I - it was submitted a while ago. The substituted language it's instead of saying at the next meeting it's saying no later than the second meeting? I'm not sure how that gives less flexibility.

Alan Greenberg: Well because our words I think said - and I don't have them in front of me - at the next meeting but and there was an escape clause that said, you know, there may be extenuating circumstances. And...

Jeff Neuman: Wouldn't they still have the same but after - like what's after the dot, dot, dot, Marika?

Marika Konings: I'm quickly looking up the report so if you keep on discussing I might have found it in a few minutes.

Paul Diaz: Wow, we caught Marika unprepared.

James Bladel: Has never happened.

Alan Greenberg: Okay I'm not sure what it says and we'll wait for Marika. But when it says not later than an escape clause seems to be...

((Crosstalk))

Alan Greenberg: ...conflict in that case.

James Bladel: Okay can I jump in here, guys? Are we saying the difference between the wording is at the next meeting or not later than the second meeting? Is that the discussion we're having?

Jeff Neuman: I think that's it. Yes. I think the escape clause is still - or should still be there.

James Bladel: So that's like saying at least one or not more than two.

Jeff Neuman: It's instead of saying at the very next meeting the board has to consider it you're saying as soon as possible and not later than the second meeting. So if they can't consider it at the next meeting because of agenda - because the agenda has already been set or whatever they want it at the following meeting I think is the intent.

James Bladel: Well while Marika is looking that up can I ask a very newbie question here that I probably should have asked while we were actually writing this report - this recommendation - which is can this group, which is one section of one - or supporting organization - actually make that kind of a requirement on the board? Or are we getting a little too prescriptive here in what we want to see happen?

I guess what I'm saying is can we just say something like, you know, that we recommend that the board takes this up as soon as possible? You know, I think getting them dates and deadlines and times is that, I mean, are we allowed to do that?

Jeff Neuman: We can always recommend it. I mean, they have to approve it obviously and put it into their - into the bylaws. But I don't see a problem with making a recommendation whether they accept it or not is their own prerogative.

Alan Greenberg: Yes, we are making recommendations for bylaw changes but this is not a PDP; they don't have to accept everything or nothing. So...

James Bladel: So we make changes for bylaw - we're recommending bylaw changes to the GNSO bylaws not to - well I guess that's part of the overall bylaws, right?

Alan Greenberg: No - well I think this is actually part of Annex A...

James Bladel: Yes.

Alan Greenberg: ...in terms of it's describing the board action so it could well be within Annex A.

James Bladel: Okay.

Alan Greenberg: And therefore...

James Bladel: Well I'm just wondering suppose.

Alan Greenberg: ...it is within what we're changing.

James Bladel: Okay so hypothetically if I wanted to be difficult another SO or AC decides they're going to undertake the review of their processes and they have some requirements on the board that may be in conflict with this is that cool or...

Jeff Neuman: Well if it's like - if it's the ccNSO and they're recommending changes to their own PDP process they could do that. I think this is really specifically a recommendation from the GNSO on a GNSO PDP.

James Bladel: Okay, all right thanks. You know, like I said I was just confused on that. Margie and then we'll probably see if Marika has got the rest of the context here.

Margie Milam: Yes, I was just going to agree. I mean, this is the - the bylaws are all the bylaws this is just an annex to the main ICANN bylaws. By at the end of the day, you know, if the council's office or the board feels that this is too onerous they just won't adopt that part of the bylaws' recommendation.

So, I mean, I think Jeff's perspective on this is right you just put what you'd like and then, you know, it'll go through its process when it goes up to the board to see whether they're willing to live with this or think that it's too prescriptive.

James Bladel: Okay thanks. Marika, do you have...

Marika Konings: Yes, so this is Marika. So I actually found the actual language comes up in the section on the overarching issues in the timing. And I think there we've included this language but it actually is not in the PDP manual or the bylaws if I, you know, I've quickly looked for it.

So I think here the assumption we made, indeed, is that, you know, we're hoping that the board will consider it at their next meeting after receipt of the report, that we're not telling them or recommending or requiring them to do so. What we say in the bylaws itself is the board will meet to discuss GNSO Council recommendations as soon as feasible after receipt of the board report from the staff manager.

So we actually have more flexibility in the bylaws than we I think could in the section on the timeline. So what you see in the chat the first one is actually in the proposed bylaws as it currently stands. And that second language that the Registry Stakeholder Group commented on is in the table that provides an overview of the different timing steps in the PDP.

So probably we need to synchronize that. But as I understand from the (unintelligible) I think our intent was as soon as possible but we understand that we can't really, you know, tell the board what to do in this case.

James Bladel: Okay. I think it was Jeff that was asking for that context. So where do we want to go with this one, folks? Alan.

Alan Greenberg: Yes, I think the as soon as feasible. And we could add in preferably no later than the next meeting - the second meeting after. You know, let's face it, the board may well have much more important issues to

consider at any given point in time and this week's EU papers illustrate it, than a specific PDP which may well be a nit compared to the existence of the organization itself or something like that.

So I don't think we can bind them. And at most we could put in a preferably using the words the Registry Stakeholder Group suggested. I'm happy with the as soon as feasible...

James Bladel: Okay.

Alan Greenberg: ...with or without that extra criteria.

James Bladel: Jeff. David's not here so we're going to ask you to stand in for the registries. Where do you think we should land on this? Sorry to put you on the spot.

Jeff Neuman: No, no, no. I think with Alan's language I think that's right. I'm fine with the preferably language in there. So I'm good with that. I think that addresses the comment. It gives it some more flexibility but also indicates our preference.

James Bladel: Okay. Okay I think we've got that then. And can we then move to translations? Marika.

Marika Konings: Yes, it is Marika. So I'll make sure as well that those two sections are synchronized that they say the same thing and indeed following on what we just discussed.

So Section 3 the overarching issues related to the PDP document translation and there's a comment from the Registry Stakeholder

Group. They recommend changing the recommendation to public comments should be received in other languages where feasible and when that occurs these comments should also be translated back into English.

James Bladel: Okay. And I see Alan says that he agrees here. And I think that - I'm going to put myself in the queue. The only thing I would have an issue here with is the word back because if they were never in English then they wouldn't be translated back into English. Didn't catch that the first time I read through the report. But...

Alan Greenberg: Good point.

James Bladel: So, Margie, go ahead.

Margie Milam: Yes, with regard to translation the only concern that I have is the timing of it. So usually, you know, public comments it takes time to summarize them and if you're waiting for a translation then, you know, it just adds time to the process.

James Bladel: Agreed. Okay now we got a queue. But I don't know that this - I mean, I don't think that Margie is wrong but I don't think that that's covered in this particular comment, is that correct?

Margie Milam: Yes, I think that's right.

James Bladel: Okay. So that may very well be an issue but I'm just trying to keep it just on the topic of this particular comment. So Alan, Avri, go ahead.

Alan Greenberg: Yes, I mean, what we have there says you can submit your comments in any language you want; we'll ignore them if they're not in English because we can't presume that the staff or the people on the working group can read that language.

So either we don't allow other languages for the comments or we translate them so they can be understood. I don't think really - we really have a choice between the two. I mean, we can decide not to accept it; there's optics of that of course. But if we accept them we have to actually read them.

James Bladel: Okay. And I think, you know, again let's try and keep this to the scope of the actual comments. Avri.

Avri Doria: Yes, I'm agreeing that they - it was Margie's comment that made me realize that I was kind of passive on this. And then all of a sudden how can a synopsis of that be done if they're not translated. But I agree with you about the word back. Thank you.

James Bladel: Okay thanks. Okay and then now we get into another big one about voting thresholds. And it looks like we have about 15 minutes left. So if we can charge through these next couple I think we'll be nearing the end.

Marika Konings: So this is Marika. So the next one relates to the Section 3, the voting thresholds. And then just I think to refresh everyone's memory this section basically goes through the different voting thresholds that are in the PDP and basically I think analyze for each of them whether we think there should be changes or why we agree or disagree with it as it stands.

The Registry Stakeholder Group says that the organization of this section is confusing and could be clearer if all items related to a vote of council would be grouped together under one heading.

And the last sentence of 5c; it should be sufficient to say the GNSO super majority vote threshold will have to meet or exceed - have to be met or exceeded as the clause with respect to any contracting party affected by such contractual provisions seems to be irrelevant.

Regarding the board vote the GNSO recommended board voting thresholds should be consistent with those in the bylaws. In relation to Item 6b it is recommended to change the timing to at least 30 days for the council to review the board's statement.

James Bladel: Okay so let's see if we can unpack this one a little bit here.

Marika Konings: Would you like me to pull up the report itself in the window next to it so it can be - easier to look at the items?

James Bladel: Well, hang on just one second. Before we do that it looks like the Item 6b is a different topic. I mean, most of this is talking about voting thresholds but then Item 6b discusses timing for a council to review a board statement. So is it possible we can draw a circle around that and treat that as a separate issue or extract it from this comment?
(Unintelligible).

Alan Greenberg: I suspect it was mentioned in the same section which is why they mentioned it there but it sounds like we have to discuss it separately.

James Bladel: Okay. And then the idea that there should be some sort of a chart or table indicating all of the areas where a council vote would be, you know, essentially put it all in one place or centralized. I think that's not a bad idea. The question would be what kind of delay does that introduce in preparing something like that? I think that would be something that would...

Alan Greenberg: I...

James Bladel: ...we would want to ask Marika and Margie if that's something that...

((Crosstalk))

Alan Greenberg: James, I would think if there's going to be significant delay in extracting the information and putting it in a table that that proves the Registry comment is correct.

James Bladel: Right, right. Then it's confusing folks who wrote the thing. So I think, yes, that's a good point. Okay so then there's this big chunk in the middle here beginning with in the last sentence of 5c. So can you take us through that one, Marika? You were talking about 5c.

Marika Konings: Five c - let me just see if - because are they referring what is - yes, let me just see. What it currently says is - I think that's language quote from the bylaws. Approve a PDP recommendation imposing new obligations on certain contracting parties where an ICANN contract provision specifies that a 2/3 vote of the council demonstrates the presence of a consensus.

The GNSO super majority vote threshold will have to be met or exceeded with respect to any contracting party affected by such contract provisions.

Alan Greenberg: I think they're right.

James Bladel: Okay. Go ahead, Margie.

Margie Milam: Yes, this language was - this provides a background. This language was meant to address for example the registrar accreditation agreement and then there may be one registry agreement where it doesn't use the word super majority; I think it uses 2/3 vote - 2/3 of the council.

And because that's inconsistent now with the new voting threshold the reason that bylaw's language was there was to clarify that in the contracts where they're talking about that what they really mean is the GNSO super majority, you know, how it's defined now.

So it sounds redundant but if you look at how the registrar accreditation agreement is drafted it's clearing up the ambiguity there.

James Bladel: Okay thanks. Yes, I remember there were several places where we needed to assert the new term super majority as opposed to something that was specific - specific math or fractional term.

Margie Milam: Right because 2/3 is, you know, since we've got the two houses 2/3 of the whole council that number is going to be different than what we're defining as super majority under the bylaws now. And so that was the reason why that was kind of called out as a separate item.

James Bladel: Okay. Alan, you want to chime in on this one?

Alan Greenberg: Yes, the comment - the original statement in our report is essentially saying that a super majority shall be deemed to be equivalent to 2/3 where 2/3 shows up in contracted party agreements. I don't think anyone is arguing with that; I think what they're saying is the last clause which - sorry - it says with respect to any contracted party is redundant with the first part of the same sentence.

I mean, the sentence starts off with approve a PDP recommendation imposing new obligations on certain contracted parties. So...

James Bladel: So you think that's a...

((Crosstalk))

Alan Greenberg: I think the last clause is redundant because it's already said. That's the way I read the statement now and I think the way I read the Registry comment.

James Bladel: Well I think the Registry comment - I don't want to read too much into it. Jeff, maybe can you shed some light? What is the Registry concern with...

Jeff Neuman: I think Alan...

James Bladel: ...this middle part here?

Jeff Neuman: You know, I think Alan's right. It's just - it's kind of a redundancy in there.

James Bladel: Okay.

Jeff Neuman: I don't - it was not meant to suggest anything more substantive than that.

James Bladel: Okay. Okay so I put myself in the queue just to kind of close off the discussion and see if Jeff wanted to chime in. And I think that we have his thoughts on that now. So it sounds like the first chunk of this comment would be addressed if we could at least investigate whether or not there's a way to quickly put together a table of all the voting threshold requirements that we have scattered throughout the report.

The second bit we have identified that that second part is redundant. We're including that discussion because we needed to clarify the difference between 2/3 and super majority.

And then the third party is really a separate comment about 30 days for the - of council to review a board statement. An what is our current timeline, Marika, that we have in our current recommendations?

Marika Konings: This is Marika...

James Bladel: Something less than 30 days?

Marika Konings: I've posted on the right hand side the actual 6b and our comment there. And I think there we actually don't - we don't say anything we're just saying that the GNSO Council - that there might be - a certain

timeframe should be included when the board is required. But I don't think we actually wrote anything in the bylaws itself.

James Bladel: Okay. So is the registry then pointing out - the registry comment is pointing out that we've left the blank here with X days. Is there any objection to...

Alan Greenberg: And they're setting a lower bound that it shouldn't be less than 30 days so they're reiterating their eight-day comment...

James Bladel: Yes.

Alan Greenberg: ...in a different form here.

Jeff Neuman: Correct.

((Crosstalk))

Jeff Neuman: Yes.

James Bladel: I'm sorry, who was that?

Alan Greenberg: That...

Jeff Neuman: This is Jeff.

Alan Greenberg: Alan said it and Jeff agreed.

Jeff Neuman: Yes.

James Bladel: Okay.

Jeff Neuman: That's what the registries are saying. Again I'm not, you know, I'm not going to say I necessarily agree with that; I think I agree with the way this group came out. But that is another way of them making that comment that they were making about the eight days.

James Bladel: Okay.

Alan Greenberg: It's Alan. It's curious though - did we not put any maximum time limit under which this has to be done or did we leave this one open ended?

James Bladel: Well hang on a second, guys. I'm reading this now and I think we're maybe talking about two different things. The 6b is discussing how much time the board has to submit a statement to the GNSO Council and then the comment seems to be talking about how much time the council has to review the statement.

Marika Konings: Yes and this is Marika; if I can maybe comment? I think in the original - the current bylaws it says that the council needs to do that within 20 days. But how it looks in our proposed wording is now saying the council shall review the board's statement for discussion with the board as soon as feasible after the council's receipt of the board statement.

James Bladel: Okay well I prefer the language that we currently have. I think it allows for flexibility and discretion. And I think it is possibly presumptive of this group to start handing deadlines on interactions between the board and the council. I see some thumbs up so I think okay.

Okay Marika is that a new hand?

Marika Konings: Sorry, no, but just one comment I maybe should make is I think maybe that's why there's some confusion over this section because I think the section basically, you know, regroups in the discussion we had on this and I think we went in two different directions. But it doesn't really match what we actually did in the end in the bylaws.

So maybe we need to just, you know, synchronize those two sections to make sure that it's clear what we've done and, you know, what came out of our discussions. Or maybe just move that section to the annex and only take those parts where we've actually made changes to it.

I'm happy to have a look at it and see how that section can be better organized and make sure that it synchronizes where we have made changes or, you know, added more flexibility or not.

James Bladel: Okay. Okay and I see we have about five minutes as a number of folks have asked that we conclude this call within 60 minutes so it doesn't look like we're going to get through the entire next page. So can we move onto the next one?

Marika Konings: Yes and this is Marika again. The Section 3 of the overarching issues related to the PDP working conclusion; the comment from the Registry Stakeholder Group recommendation to number instead of bulleting the different items in this section.

Regarding the second bullet on Page 38 to ensure flexibility a proposed change to a certain timeframe should be included, example given the board shall within X days submit the board's statement to the

GNSO Council with guidance on how to cure the identified deficiencies with an option to extend if necessary.

There are actually quite a lot of items. Do you want to take them one by one or discuss the whole...

James Bladel: Well I think...

Marika Konings: I think actually this though we've already covered.

James Bladel: Yes, I think we can agree I think - and Alan already has that numbers as opposed to bullets will probably be helpful for us. Okay so let's dive into the first one here.

Marika Konings: But I think the first one we already basically addressed because we actually discovered that we haven't set a specific timing but what we have said as soon as possible.

James Bladel: Okay. So that was the comment immediately preceding this one. Okay. And so the next bullet says - on Page 38 - as late as eight days before a council meeting considering a board statement is too short. We've already discussed that one as well.

A fourth bullet suggesting that the board considering separating recommendations but should discuss this with the council beforehand. Did we - that sounds familiar; we had something up earlier. But I think it was directed at the council and not the board or maybe I'm misremembering that. Did we already cover this one? I don't hear anything.

Okay, Alan.

Alan Greenberg: Yes, I - the wording that is suggested is rather curious. It said if the board is considering separating the recommendations they should talk to the GNSO Council beforehand. If you think of the dynamics of a board discussion that's going to come up during the board discussion. So...

James Bladel: Yes.

Alan Greenberg: ...they can't adjourn the board meeting temporarily to go discuss with the GNSO.

Jeff Neuman: Yes, I think the intent...

Alan Greenberg: So I think it's a nice thought but I don't think it works in reality.

Jeff Neuman: I think, Alan, I think the intent was before the board actually rejects something or actually takes final action it should consult with the GNSO. So, yes, you're right if it comes up in a discussion that's one thing; it's not really feasible.

But if the board is going to take action and actually has a motion which usually they're drafted beforehand by, you know, by legal - if they're actually contemplating taking action that would formally separate it, approve some and not the others, that's the kind of thing that before they do that they should discuss with the council.

So it's not meant to stop any kind of discussion it's meant to stop some sort of action.

James Bladel: Okay. Let's jump to Avri and then Marika.

Avri Doria: Okay thanks. This is Avri. I guess I disagree. I think that once the GNSO sends something to the board it's for them to act on. I think that if they separate the action then the part that they're rejecting gets sent back to the GNSO following the appropriate rules and then it activates that procedure for the rest.

I do not see it appropriate to basically tell the board, you know, what they should do while considering the motion whether they separate it or not. That would be like saying that before the council considers separating a motion it must tell the working group that it will do it and such. And I don't know that we're doing that either. Maybe we are but I don't think so.

So I would not support such a change. Thank you.

James Bladel: Okay, Marika.

Marika Konings: Yes, this is Marika. I mean, I think partly this comes back the comment made before. I think this section is maybe confusing because it's actually highlighting some of our comments and statements. But these are not recommendations that have been translated into language into either the bylaws or the manual.

I think this another case where, you know, when the council submits its report to the board it might add a sentence that looks like this but it's probably not something that belongs into the manual or the - because

the manual is only for the GNSO Council not the board and the bylaws neither.

So it's maybe a bit of a moot point I think at any point when the GNSO Council submits its board report it can add a sentence saying, you know, please if, you know, you disagree with any of these recommendations or are considering separating them talk to us.

I think in the same way that working groups tend to do that as well when they submit their report or write into the report saying these are one package, you know, they shouldn't be separated. But in the end of the day it's, you know, up to the council to, you know, consider them as they please.

So I just wanted to clarify that that this currently isn't written in in any way or form in the manual or the bylaws it's just a comment that's made in the report - the content of the report.

James Bladel: Okay thanks, Marika. You know, I can tell that this is already going to take us into a little bit further discussion so perhaps can we put a bookmark here and pick this up on our next call because I know a lot of folks want...

Alan Greenberg: You're presuming we're going to remember what we want to say.

James Bladel: Well, you know, the list is open 24/7 so...

Alan Greenberg: Sure.

James Bladel: I just, you know, my agenda is to make sure that we don't reopen the material of these discussions that we just make sure that we're keeping it focused on what the commenter is suggesting. And I think, you know, with Jeff and David not here makes it a little difficult to discern their intent.

But anyway hopefully next week we'll have Jeff up to full speed and we can take it from there.

Alan Greenberg: Okay.

James Bladel: Okay thanks everyone.

Avri Doria: Okay bye all.

Paul Diaz: Thank you, James.

Alan Greenberg: Thanks, James.

Alan Greenberg: Bye, bye.

Wolf Ulrich-Knoben: Thanks, bye.

Marika Konings: Bye.

Glen de Saint Géry: Thank you very much, (Saba).

Coordinator: Thank you, is the call finished?

Glen de Saint Géry: Yes the call is finished. Have a great evening.

Coordinator: And you too.

Glen de Saint G ry: Thank you.

Coordinator: Thanks.

END