

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)  
Work Team (WT)  
TRANSCRIPTION  
Thursday, 22 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 22 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

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**Participants on the Call:**

Jeff Neuman - Registry Stakeholder Group - Work Team Chair  
Alan Greenberg – ALAC  
David Maher - gTLD Registry Stakeholder Group  
Paul Diaz - Registrar Stakeholder Group  
Alex Gakuru – NCSG

**ICANN Staff:**

Marika Konings  
Margie Milam  
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**Absent apologies:**

James Bladel – Registrar Stakeholder Group  
Wolf-Ulrich Knoblen- ISPCP  
Avri Doria – NCSG

Coordinator: Thank you. The recordings are started. All lines are open. Please go ahead.

Gisella Gruber-White: Thank you, (Sam). Good morning, good afternoon to everyone. On today's PDP call on Thursday the 22 of September we have Jeff Neuman, Alex Gakuru, Alan Greenberg, David Maher, Paul Diaz. From staff we have Marika Konings, Margie Milam and myself, Gisella Gruber. And apologies today noted from James Bladel, Avri Doria and Wolf Ulrich.

If I could also please just remind everyone to state their names when speaking for transcript purposes. Thank you, over to you, Jeff.

Jeff Neuman: Thank you, Gisella. Everyone, welcome to the call. I will note that our attendance is a little bit lighter than normal but I think again I think we can make some good progress. And hopefully, I'll knock on wood, this will be our last call before the Dakar meeting.

And so just to kind of go over the schedule and our activities the intent is to finalize the final report by next - we need to submit it to the Council by Wednesday the 28th in order to make the next Council meeting, October 6.

The goal is to get it on the Council agenda on October 6 with the full understanding that it could be deferred until Dakar. But we'd all really like a final resolution to all of this and send it to the Board at the Dakar meeting and would not like it to go into November which is why we want to submit for the October 6 meeting.

In order to do that we need final comments on the final report and the final public comment tool by no later than the end of this weekend, so Sunday - I was going to say close of business but technically there is no business on Sunday so by the end of your day on Sunday we'd like all comments to the final report.

To date we have not gotten any comments yet but I know everyone has been incredibly busy with a lot of stuff going on this week. With that said I think what we're going to do during this call is just go over some of the areas that Marika has flagged for us to discuss in the final report.

Although we decided directionally on almost everything in the public comment tool Marika wants us to kind of review some of the areas or should I say some of the language in those areas.

Any questions on schedule going forward? Okay seeing none, Marika, why don't you lead us to the first area in the final report which is up on Adobe?

Marika Konings: Right so if you look at the Adobe Connect - and for those not on Adobe the document is also posted on the wiki. I'll just quickly run through I think the main changes. It's fairly straightforward as the changes are highlighted and tracked changes.

So maybe the first question is I've called this the updated final report. I don't know if anyone has any other suggestions on what might be better or if a different term is required but I felt that would reflect well that this is, you know, we had already a final report but this is the updated version of that.

Jeff Neuman: Alan.

Alan Greenberg: Yes, I'm fine with the title. I have one overarching comment to make. I think we need to create a summary of the changes we're making. And whether it's in the document or simply sent to Council I don't care. But I think we sort of need to on a - probably only one page identify the substantive changes that we've made so that, you know, people who have read it before, and we like to presume most councilors have, don't have to go over it again in any detail.

So I understanding redlining gives you the same equivalent but it's 155 pages and, you know, I think a one-page summary or whatever number of pages would be useful. That's it.

Jeff Neuman: Thanks Alan. I think that's a good suggestion. Marika.

Marika Konings: Yes, this is Marika. I mean, of course some of those are already highlighted as well in the public comment review tool. So, I mean, it wouldn't be too hard actually to pull the changes that we have there in the last column out and put that in a one-page. And I think those are probably almost everything is covered in that one.

Alan Greenberg: Yes...

Marika Konings: I can, you know, check that...

((Crosstalk))

Alan Greenberg: I think there's only about three substantive changes plus the change of the percentages and adding or removing Council where necessary.

Jeff Neuman: Right.

Marika Konings: Right.

Jeff Neuman: I think that's good. And, Marika, if we could have it done by the 28th that's great but it's not required. If we could just have it for the Council meeting that would be helpful.

Because again I fully expect and in fact I may - if no one else made the motion to defer I may defer to Dakar just because I just want to make sure all the group have a chance to review it early before we vote on sending it to the Board. So, you know, the sooner we can have it the better but I don't think that summary is essential for Wednesday.

Marika Konings: Right. So this is Marika. So I'll continue on the change. In the executive summary the only changes apart from, you know, reflecting that it's an updated final report and changing the percentage to the fraction as the work team agreed.

Then moving onto the Section 2, the approach taken and proposed recommendations, there has been some language added there just to reflect that we had the public comment period on the final report and provide a link

there to the public comment review tool so just to clarify here the process and, you know, where this report stands now.

And you'll see here a couple of changes as well. We discussed a change GNSO Council to GNSO where appropriate. I checked and it's actually the GNSO Operating Rules and not GNSO Council Operating Rules as I think we refer to several times so I've updated that language.

And Recommendation 6 there is the...

Alan Greenberg: Yes, Marika?

Marika Konings: Yes, sorry.

Alan Greenberg: It's Alan. I agree the report - the manual is called the GNSO Operating Manual. Is it really though? I thought it's only a Council manual because the governance and how the individual parts of the GNSO work are documented in their own documents? I'm just curious. It's not then we can change.

Marika Konings: Yes, I think you're possibly right on that one. I don't exactly know why it was called GNSO...

Alan Greenberg: Okay so...

((Crosstalk))

Alan Greenberg: ...all we're doing is making it in line with the title. Okay.

Jeff Neuman: Correct.

Marika Konings: Right, yes, correct.

Alan Greenberg: Yes, I do have some other comments on the same issue later on but let's go on.

Marika Konings: Okay. So then on Recommendation 6 I've added language there that, you know, we would look at whether we should update staff manager to ICANN staff where appropriate. And I think that comes back later on in the Annex A.

Jeff Neuman: Right.

Marika Konings: And again on Recommendation 14, if we move there, Council - because it's probably the GNSO as a whole that would need to reevaluate the needs for a fast track procedure; it doesn't necessarily need to be the Council but it could also be a stakeholder group that raises that issue to a Council level.

Alan Greenberg: Yes, it's Alan. That's one of the ones I question because yes the input may come from, you know, I mean, everything the GNSO does presumably is based on deliberations of the various components. But isn't that a GNSO decision to review or not review and to take action or not to take action?

Jeff Neuman: Well we can also - just to - we can also avoid the whole issue by just saying the PDP work team recommends that the need for a fast track procedure be reevaluated and just leave it kind of ambiguous as to (oh), you know what I'm saying? We could just generically...

((Crosstalk))

Alan Greenberg: Yes, no, no, we could but I have the same issue on a number of other occurrences that when it's talking about an action the GNSO Council has to take I would have thought it should be GNSO. I don't want to make a big fuss about this to be honest because, you know, the world will unfold as it should regardless of what words we use.

But, you know, my inclination is when it's talking about something that the Council will have to act on it's the Consulate that's doing it even though it's doing it based on things the rest - that happen in the rest of the GNSO. So I - again I don't want to make a big fuss over it but, you know, that's the measure that I would have used in deciding whether the Council is used or not.

In this case I don't particularly care. Again it's going to - the world will unfold as it should regardless of the words we use.

Jeff Neuman: What do you want to do, Marika, on this one? Do you want to (genericize) it or...

Marika Konings: This is Marika. I'm - as you prefer I'm happy to put it back to GNSO Council, leave it as-is or make it more general. As Alan said I don't think it's a really big deal here. Indeed it will need to be decided by the GNSO Council whether to take action or not. But as I said the reason why I changed it here was more that I took it here as it could be broader as well that it could be, you know, a stakeholder group or constituency that brings this issue up. But either way is fine by me.

Jeff Neuman: Yes, I'm kind of in the camp of I think it's okay here to say GNSO because I think I'm on the side of Marika that I think it's going to be somewhat - it's usually going to be raised by a stakeholder or constituency.

Alan Greenberg: Okay. I'm happy with it.

Jeff Neuman: Okay.

Marika Konings: So then moving onto Recommendation 15, removal of voting; as we had discussed then that automatically removes as well the footnote that was linked to that.

Jeff Neuman: So there to add language to codify the current practice of any Council member...

Alan Greenberg: Yes, I was going to point that out.

Marika Konings: Okay, yes.

Alan Greenberg: It was true before also we just didn't notice it.

Jeff Neuman: Yes.

Marika Konings: Okay I'll delete that. The going further down, Recommendation 23, that's again a change that we agreed upon based on the review of the public comments so it adds - or changes to any new working group method - methods or groups must contain each of the mandatory elements.

Then Recommendation 29 again a change here that was following review of public comments removing the word different.

Recommendation 37 removing voting. And actually we don't have an S here behind members. That was fine here.

Jeff Neuman: Yes.

Marika Konings: Then the next one is Recommendation 40 and again language added based on review of the public comments. And here again I think it's - said GNSO and not GNSO Council. I guess it's a similar one as we discussed before.

Jeff Neuman: Alan, do you have a call on this one? I think it's fine here too.

Alan Greenberg: Yes, this is another one of the ones I flagged but, you know, as I said we're doing this in response to the registry request. I didn't think it was a big issue



to begin with and I don't think it is now either. And in any case making it more general never hurts.

Jeff Neuman: Okay.

Marika Konings: This is Marika. Moving on then to Recommendation 42, there again I removed there the Council word because I think the staff would inform the GNSO as a whole and people would be able to provide comment there. So the public comment period or through their representatives on the GNSO Council.

Same on 44. Again noting that would be the GNSO as a whole developing such guidelines even though it probably is the GNSO Council that would approve them in the end.

Then Recommendation 47 here is the change in - changing of the percentages with a fraction. And I've added there a sentence to note that we recommend the consistent use of either a percentage or fraction when referring to voting thresholds to explain why we've made that change.

And I've added a new Recommendation 48 to reflect the discussion we had on simplifying the Section 3.9 of Article 10. I think a comment as well from the Registry Stakeholder Group where we discovered as well there was basically a repetition of a certain sentence and it makes sense to delete that. And in order to keep track of that I thought it made more sense to add it as a separate recommendation so that we don't lose track of that one.

Jeff Neuman: Sounds good, okay. Any comments on that?

Marika Konings: No.

Alan Greenberg: No, I'm happy.

Jeff Neuman: Okay.

Marika Konings: So moving on then, again, the correction to the title of GNSO Operating Procedures on Page 26. And then we move into Section 3, the overarching issues. And you'll see there on Page 27 language added to reflect that this section basically reflects the discussions of the work team on the issues but that not all resolve into recommendations for a new Annex A or PDP manual.

And I've highlighted as well because I think on each of the issues where there are specific recommendations we've linked those back to those in Section 2. And you'll see here as well that for each of the issues I've tried to highlight where this issue can be found back whether it's in the bylaws or in the manual.

Alan Greenberg: Do we define those...

((Crosstalk))

Alan Greenberg: ...these in M somewhere? I presume we do but...

Marika Konings: Yes.

Alan Greenberg: Okay.

Marika Konings: Yes, they're actually defined I think in Section 2 where we do that. But...

Alan Greenberg: Yes...

Marika Konings: ...I'm happy to repeat that.

Alan Greenberg: I guess so but I didn't have the energy to look.

Marika Konings: I think we do. But I can, you know, include...

Alan Greenberg: No.

Marika Konings: ...a footnote so it's clear what it means. So then in the second one here on the timing what I've done is basically update the language to reflect where we actually have in the bylaws and manuals. Because I think on some of the issues we didn't check back on the different recommendations and it resulted in some inconsistent language so I've just basically looked back on the different items and updated that accordingly.

Alan.

Jeff Neuman: Okay.

Alan Greenberg: Yes, I don't - again it's not an issue that I really want to change necessarily. But in reading it I found the, "...for any reason," redundant. And I found the wording, "...precise rationale," just a bit of overkill. I don't remember what the history is of why we put those in but I'm just noting that. I don't feel particularly strong they need to be changed.

Jeff Neuman: Yes, I was kind of going to say - I think we can get rid of precise before rationale. And I would keep the, "...for any reason," in there...

Alan Greenberg: Yes, okay, no, no with taking out precise it becomes less important, but yes.

Jeff Neuman: The other thing in that section I think we need to say final issue report before each time we say issue report because I don't want it to be confused with preliminary or whatever we called the first one, draft or, preliminary, yes.

Marika Konings: Preliminary.

Alan Greenberg: Yes and if we're removing precise then we need to make sure it gets taken out in all occurrences.

Marika Konings: Yes. Okay I'm make sure to check that because indeed it refers back to Recommendation 15 so...

Alan Greenberg: Yes.

Marika Konings: ...and I think then it comes back again as well in the manual probably so I'll make sure to do that. So delete precise and add final to issue report. I got that.

Jeff Neuman: Okay.

Marika Konings: And - so here I think - here again the precise rationale on Page 30, the consideration of the final report, I guess there I should also take out the precise.

Jeff Neuman: Yes, yes.

Alan Greenberg: Yes.

Marika Konings: So that's Recommendation 37.

Alan Greenberg: Now we're in the section consideration of final report?

Marika Konings: Correct.

Alan Greenberg: Okay. I think that first sentence is exactly the opposite of what we in fact discussed last week. It says GNSO is strongly encouraged to consider the recommendations at the next meeting. And I think what we said is we encouraged the GNSO to not put the motion on the table if there has not been sufficient time for the stakeholder groups to really look at things.

So I'm not sure we need to encourage them not to but maybe we just need to be silent on it. But encouraging them - encouraging the GNSO to put the motion if it's been on the table for more than eight days is exactly the opposite I think of what we said we expect the GNSO to do...

((Crosstalk))

Alan Greenberg: ...in this new enlightened age.

Jeff Neuman: Yes, I think it almost sounds like we're kind of saying - it's almost like we're discouraging a deferment.

Alan Greenberg: Well no I - what we're discouraging there is that the person who's proposing the motion and the GNSO Council in general says hey we need time to digest this, you know, this is the motion we're going to be putting when we put it like we've done with a number of - with a number of statements in the recent past.

And, you know, to mull it over and consider it before we actually force the issue by calling the statement. You know, which then may trigger a deferment of course.

And last week when we had the discussion we said we expect the GNSO to, you know, to ensure or try to ensure that there is reasonable time so we're not encouraging a deferment for every single motion that ever comes to Council.

Jeff Neuman: How do we change this then? So we changed it from what it said initially...

Alan Greenberg: I mean, am I remembering this wrong?

((Crosstalk))

Jeff Neuman: No I think you're right. I think what we discussed is we want to make sure - and what the registries had said in their comments is that there's enough time for the community to consider the motion - or, yes, the motion and the final report, right, that there's enough to do that.

And the registries had proposed adding like 30 days or something which we decided not to do. But we did agree that there should be enough time for everyone to consider it. And if you're saying you're strongly encouraged you're...

((Crosstalk))

Alan Greenberg: I'm not sure I - I'm not sure I have the presence of mind to try to word smith this on the fly here. But I think what we're saying - what we were saying last time is the GNSO is encouraged to allow sufficient time for stakeholder group deliberations.

Jeff Neuman: Yes I would - I would change...

Alan Greenberg: Prior to the motion being put on the table.

Jeff Neuman: Right. And then you would say - and Paul had said, well just dropping the first sentence completely get us where we want. I think it - I don't know if fully gets us there because you do need something to say absent, you know, if there is enough time to consider and there are motions that, you know, presumably there's enough time without ever deferring it, you know, we do want to consider it at the next meeting.

Alan Greenberg: Well yes but it's a judgment call. I mean...

Jeff Neuman: Yes.

Alan Greenberg: ...some motions one doesn't need, you know, we still need the eight days because that's in the GNSO Council rules or the GNSO rules. But we don't necessarily need time for huge deliberations. So that rule is simply there saying we shouldn't be surprising councilors the day of the meeting with a new motion. Fine.

Jeff Neuman: Yes, so - yes, all I was commenting, Alan, is if you remove the first sentence...

Alan Greenberg: Yes, no, no I understand that. I'm not sure - where does the first sentence end?

Jeff Neuman: Oh it ends at - before it says, "...if the final report is forwarded to the GNSO Council within eight days - eight calendar days." So we need something to say...

Alan Greenberg: Okay.

Jeff Neuman: ...if it's forwarded to the Council more than eight days - or eight or more days before or immediately preceding the next GNSO Council meeting the Council should consider, you know, whatever it is we should just make that statement. Does that make sense, Marika?

But we do want the kind of judgment - not judgment, the statement that Alan made about, you know, GNSO Council is...

Alan Greenberg: I think this one is a strongly encouraged - is strongly encouraged to ensure that enough - that stakeholder groups have sufficient time to consider an issues prior to the motion being put on the table.

Jeff Neuman: Or to consider the final report and motion prior to...

Alan Greenberg: Yes, I'm sorry, this is for the final report so we can...

Jeff Neuman: Yes.

Alan Greenberg: ...it can be specific, yes.

Marika Konings: This is Marika. I'm not seeing the real problem as it is currently worded because we're just saying to consider the recommendations in the final report; we're not saying we want you to take a vote at the meeting; we're just saying we want you to consider which in...

Jeff Neuman: No I think...

Marika Konings: ...from my perspective includes a discussion or a deliberation on it or a kind of path forward on how to act on it. Because it doesn't mean just because a final report is submitted doesn't always mean that it immediately goes together with a motion. Sometimes it does happen but not always.

Jeff Neuman: I think...

Alan Greenberg: No but we're using the word consideration later in reference to the deferring so it - the implication is that it's the discussion and the vote we are deferring.

Jeff Neuman: So, I mean, I think if we added something that, like Alan has said, I think that addresses the registry concern from their comments too. It's basically - so I kind of like the way that Alan had said it, if we start it out that way to say the GNSO Council is strongly encouraged to allow sufficient time for the GNSO community to consider all recommendations within the final report prior to...

Alan Greenberg: No, consider the final report.

Jeff Neuman: To consider the final report, right. And then you could say if the final report is forwarded to the Council at least eight days prior to a GNSO Council meeting



the GNSO Council - oh, geez, I don't know. We've got to just rework that.  
Hard to do on the fly. Does that make sense, Marika?

Marika Konings: Yes that makes sense but it doesn't really make sense then anymore with the first sentence because basically what we're saying is that - because basically what it says in the operating rules at the (time) if a report is submitted and a motion is submitted eight days before a meeting it's going to be on the agenda.

Alan Greenberg: Yes...

Marika Konings: So we're mixing a little bit saying well we - if it's more than eight days we still want to encourage enough time - so I don't know if we're just mixing up things here that...

Alan Greenberg: Yes, I think...

Marika Konings: I don't really know how to fix this here so if anyone can send some wording I'm happy to include that.

Alan Greenberg: I think - yes, it's Alan. I think the problem is we added this whole section to make sure that the GNSO did not defer unreasonably the consideration of a final report from a PDP working group.

You know, we're saying that they can't postpone it for months and months; they must look at it in a timely manner. That was why we started the section along the way in our discussions, perhaps, triggered by the registry comments. We said yes but considering it too quickly is not good either.

So we're really trying to address two different and opposing things in this same - in this same edict.

Jeff Neuman: And, Alan, I...

Alan Greenberg: I think that's the problem we're having. I think it perhaps needs to be crafted from scratch understanding there are at least two different issues.

Jeff Neuman: Well and I - this is Jeff. I actually look at it a little bit differently...

Alan Greenberg: Okay.

Jeff Neuman: So, yes, so we're keeping the rule if it's within eight days - or if it's more than eight days it should be on the agenda for the next Council meeting. What we're saying that just because that's the kind of minimum or the floor we're saying that, you know, we don't want everyone to really wait until only eight days; we really want enough time for the community to consider it even though we do have that rule in there.

So I don't see it as conflicting; I see it as, you know, we're saying yes we still have this eight day rule but please, everyone, you know, give enough time; don't just rush through a final report and meet the minimum timeframe that you have to have it in by. I kind of...

Alan Greenberg: Isn't the rule that we're actually trying to formulate here - and I'm doing this on the fly so forgive me - that the GNSO must consider a motion on the final report within two Council meetings and it can then be deferred one more.

I mean, typically stakeholder group have a several-week cycle in their meetings. So I think we're saying the motion should be considered no later than the second meeting after the report is presented to Council. And then the one deferral still kicks in. I think it can't be considered at the first one but it shouldn't be considered any later than the second one - possibly deferred.

I think that's what the common sense thing that we were saying translates to when we actually start counting meetings.

Jeff Neuman: All right now you just confused me.

Alan Greenberg: Well we're saying that if the report is only presented to the GNSO within a couple of weeks, even two weeks, ahead of time it's probably not sufficient for due deliberation including from the stakeholder groups for those that direct their councilors.

So demanding that it be done at the next meeting I think is unreasonable. But deferring - but that the Council doesn't attempt to address the issue later than the second - earlier than - sorry, later than the second meeting is also unreasonable.

So it should address it within two meetings of the report being presented.

Jeff Neuman: Yes, I don't want to say it like that because that's way too confusing.

Alan Greenberg: Yes well as I said I think that's what it translates to; what the words are we say I'm not sure.

Jeff Neuman: All right so what - let's see. I'm just looking at the old way it said. We start with the old language and just added the sentence that you had talked about at the beginning of this discussion. Would that solve the issue?

Alan Greenberg: Can you say that again?

Jeff Neuman: All right so look at the deleted language.

Alan Greenberg: Yes, okay.

Jeff Neuman: Before that language - so if we inserted that language back in - and I can't remember what other issues were with that language so maybe Marika could help point it out. But if we just said that and before that - before this language that we added a sentence that started at the beginning saying the GNSO

Council is strongly encouraged to ensure that - oh what do we say - to ensure that enough time is...

Alan Greenberg: That councilors and their supporting organizations or whatever the words are we use for that...

Jeff Neuman: Yes, have enough time to...

((Crosstalk))

Alan Greenberg: Yes, sufficient time for due deliberation.

Jeff Neuman: Or something like that. And then you have just the old language.

Alan Greenberg: But the next sentence reverses that. It says if it's submitted more than eight days, which is not enough time for due deliberation, you should consider it anyway.

Jeff Neuman: Well it may be enough time.

Alan Greenberg: May be but typically, you know, how many stakeholder groups can turn something around in eight days?

Jeff Neuman: Some.

Alan Greenberg: They can if the meetings happen to coincide perfectly but.

Jeff Neuman: Well the way - it's not necessarily a conflict so we're saying eight days may be enough and so you're saying notwithstanding the above, you know, the Council shall consider - unless it's deferred the Council shall consider it is what we're saying.

Alan Greenberg: Okay. But I think that is exactly the opposite of the tact that we've taken recently - certainly on PDNR and even on the IRTP one that we've said let's toss something out to start talking about it prior to actually formally considering the motion. And those are both PDPs so those are subject to the rules we're putting here.

And we said, you know, that it is goodness to talk about it for a while first because actually formally putting the motion. Shall is...

((Crosstalk))

Alan Greenberg: Shall is a pretty prescriptive verb.

Jeff Neuman: Well if you say may then it's they may not.

Alan Greenberg: Well - as I said I think we have two conflicting things. We don't want these issues to be deferred forever but we do want due consideration.

Jeff Neuman: Anyone else? Paul? David? Alex?

Alan Greenberg: If it's just me I'll leave the words; I'm just an observer on these games but...

Jeff Neuman: Okay, Paul.

Paul Diaz: Thanks Jeff. Hey, I totally understand where we've been going with this. And in truth I'm probably as confused as anybody in terms of what we're proposing to put in and what not. I mean, I do think it's a very important point to try and to make clear because you are - as Alan said we're trying to get two key thoughts addressed here, you know, the importance of flexibility and the importance of not dragging things out.

And maybe it's we're just trying to jam too much in into one statement. So, I mean, I'm sure we can word smith and Marika will work her magic and what

not. I support what Alan is trying to do. I don't think this is a, you know, arguing about angels dancing on the head of a pin; it is a very important point to make.

But because it is we're going to have to be clear. And quite honestly as I'm listening here I'm kind of getting spun around and I'm not sure if, you know, the issues that we are trying to address if we're clearly getting to them with a, you know, God, how many words are in - if we're putting back in the deleted text are we going to be able to get to what people need the key takeaway if it's a 500-word paragraph?

Alex Gakuru: Yes, Alex here. I think like Marika did - in an earlier section where she created a new section we could probably try to split the two schools of thought; maybe have one that emphasizes the previous part and then another section that does that.

Because (unintelligible) we're already having a problem understanding (unintelligible) within the work team. Then I get a feeling that it would confuse the readers more. So if maybe that would be a way to resolve to I think it might be more - it might be clearer for us and then for subsequent readers. My two cents. Thanks.

Jeff Neuman: Thanks, Alex. Marika.

Marika Konings: Yes, this is Marika. I still think that we're mixing up the motions in the final report. And I'm just wondering whether instead of consider if we put there is encouraged to discuss the recommendations within the final report. Because - in its essence the motions are controlled by what is in the GNSO Operating Procedures that they're, you know, if it's eight days it needs to be, you know, it will be on the agenda; it can be deferred.

So I'm wondering if there's just an easier way around. And, you know, I don't think it's too difficult to insert somewhere. And I don't know if we already - we

might come to that in the manual because we did discuss indeed ensuring sufficient time to consider and deliberate.

So I think that maybe I already included something in the manual on that. But I'm just wondering if, you know, to make things really simple here instead of we could just change consider to discuss to really make clear that, you know, we don't expect the Council to vote on a final report at the next meeting but that indeed if it's within - before eight days they should at least discuss it.

And if it's, you know, not within eight days they can defer to the next meeting. And then put in somewhere else the notion that there should be sufficient time to review motions and while I'm thinking about it I think we included that motion on, you know, draft motions before actually forming - put in there. I think that does come back somewhere later in the report.

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

Alan Greenberg: Well I can accept that, you know, if the information is all presented somewhere in a, you know, that's understandable. But I'm thinking about this I don't think this is that complex. I think we're making three statements and if we make them in sequence I don't think they're confusing.

Number 1, the GNSO - or GNSO Council, whatever - should allow sufficient time for stakeholder and councilor deliberations prior to a motion being put - a motion to accept the report being put on the table. That's Number 1.

Number 2, the - you know, that notwithstanding the GNSO shall or should, whichever we prefer, consider - formally consider a report no later than the second meeting after it's presented. And, third, if we need to add it at all the standard one-meeting deferral is allowed. I don't think that's confusing.

Jeff Neuman: Okay. What does everyone else think about that? I'm good to go with that.

Alex Gakuru: It's clear. I like that I think, yes.

Jeff Neuman: Marika?

Marika Konings: Yes, but I would prefer it, Alan, then circulates that language on the mailing list as there are quite a few people that we don't have on the call just to make sure that they're happy with that as well.

Alan Greenberg: Okay.

Marika Konings: Because it wouldn't need to then be changed in several parts of the report because it would be changed in this recommendation and also the manual of course.

Alan Greenberg: Okay. It's 10:09, I'll check the transcript and try to give you the words. I won't pretend I can remember them.

Jeff Neuman: Okay. Thanks Alan. All right let's move on.

Marika Konings: So this is Marika. So basically the one here, the consideration by the ICANN Board, Page 30-31 that basically reflects as well the updated language that I think now in the bylaws.

Jeff Neuman: Right.

Marika Konings: Then the next change is on Page 33. Again an addition here based on a review of the public comments. Page 34 changing...

Alan Greenberg: One second. On 33 I have a comment. And I'm trying to figure out what it is. In Item 2 just before Line 797 I think we decided that back should be removed. The implication it was originally in English and (this) probably wasn't.



Jeff Neuman: Right. See that, Marika?

Marika Konings: Please remove - yes, so I'm removing back, right?

Alan Greenberg: Yes.

Jeff Neuman: Yes.

Alan Greenberg: And I know we discussed it. Maybe we discussed it in relation to some other word somewhere but we did discuss that and someone pointed out that back didn't make sense.

Marika Konings: Okay noted that. Then onto Page 34 the changes here just reflecting the change from fractions to - or from percentages to fractions. Page 36 same thing. Oh sorry, that was Page 35. Page 36 I've removed here the Council in the sentence where it seemed appropriate. It would be the GNSO as a whole that would be looking at prioritization.

Then again another change from percentage to fraction. Then the next change there on Page 38 and those reflect again what we have discussed as part of the public comment period basically clarifying...

Alan Greenberg: Yes, I...

((Crosstalk))

Marika Konings: ...issues within to make recommendations.

Alan Greenberg: I have a comment on Lines 948-951 and I'm trying to decipher my comment. (Unintelligible) not consider. Yes, I'm not quite sure what it means, the new sentence.

Jeff Neuman: Yes, I'm not sure why it's needed. I know what it means it just means that, you know, that we - even though we're making a recommendation to the Board it's not really up to us to dictate what the Board has to do.

Alan Greenberg: Well actually...

((Crosstalk))

Alan Greenberg: Jeff, it is up to us if we're suggesting bylaw rules.

Jeff Neuman: Well right so...

Alan Greenberg: If we're talking about a bylaw - something in the bylaws that is where the Board gets its direction from.

Jeff Neuman: Yes, so I agree within the context of this paragraph, Paragraph J. I don't think that sentence is actually appropriate. I think what we're saying there is we discussed whether the Board should be able to pick and choose recommendations and most agree that the Board should only be able to adopt or reject the Council recommendations as a whole as a policy development is supposed to be done at the SO level not by the Board period.

Alan Greenberg: Yes.

Jeff Neuman: I would not...

((Crosstalk))

Jeff Neuman: ...last sentence at all.

((Crosstalk))

Marika Konings: ...was added and responds off a registry comment because they wondered why that wasn't written into the bylaws or in manual. And we discussed that maybe it would be good to clarify that although we discussed it; we didn't translate this into a recommendation because we didn't feel that we want to write this into the bylaws and that's where that sentence came from.

Alan Greenberg: I'm a little bit confused. If you go back to the interminable discussions we've had over the new gTLDs there was always a belief in the GNSO and I believe in the Board that the Board could not change recommendations from the GNSO on policy - and certainly it's true on consensus policies - that the Board can either rubber stamp, you know, ratify what the GNSO adopts or can send it back.

But it cannot unilaterally change. That's always been taken as written - carved in stone. Why are we suddenly here saying that it's not a rule?

Marika Konings: But we're not talking about changing recommendations we're just talking about whether they can, you know, take certain ones and not...

((Crosstalk))

Alan Greenberg: Well...

Marika Konings: ...others.

Alan Greenberg: ...but that's the same.

((Crosstalk))

Jeff Neuman: Yes, so I think here, Marika, I think we just take out that sentence and in the public comment tool, you know, we could say that we're not rewriting the bylaws as they apply to the Board. But our recommendation is still what it is,

right, it is that this is what the Board should do. We can't mandate anything on the Board...

((Crosstalk))

Marika Konings: Right but that's what that sentence...

Alan Greenberg: Well...

Marika Konings: ...is trying to say that we can't mandate there anything but that we say that if the GNSO Council feels very strongly about that they could include that message when they submit the report to the Board and basically highlight there I think like certain working groups do as well that these recommendations are closely interlinked and cannot be separated.

((Crosstalk))

Alan Greenberg: Yes, I think we're giving the Board more latitude than we should in this case. This is not a PDP; they can pick and choose these. And if we suggest bylaw words that says they cannot on a PDP pick and choose they can refuse to implement that. This is not a PDP. But on a PDP I think what we should be targeting at - targeting for is that what the GNSO ratifies - what the GNSO agrees to is what the Board ratifies or sends it back.

Jeff Neuman: So, Alan, so I think what we do here is we just take out the added sentences. We can make a comment in the public comment tool. But just like - and I'll create the analogy - we don't say anywhere that the GNSO Council cannot pick and choose recommendations just like we don't say that...

Alan Greenberg: Yes, okay, okay...

Jeff Neuman: ...we can't that the Board cannot.

((Crosstalk))

Jeff Neuman: And I don't want - but I don't like this sentence in here because I don't agree with the fact that it's not within our agreement to prescribe what the Board must or should do. I think that sends the wrong message.

So I think we just delete the insertion and in the public comment tool just basically say that although we would like to see this in place and understand that we don't write the bylaws that apply to the Board.

Alan Greenberg: I can live with that.

Jeff Neuman: Yes, something like that. But I don't want - in here the way it's written it basically is saying it weakens our recommendation and I don't think that's what we want to do. Margie.

Margie Milam: Yes, I just wanted to clarify because I think what Alan said about the Board voting on the GNSO recommendations is just not true. I think the bylaws the way they're written say that the Board has to - if it disagrees it has to disagree by a super majority if the GNSO Council adopted it by a super majority but there was never in the prior bylaws a requirement that the Board has to adopt them as-is.

I just wanted to clarify that because it sounded like, unless I misunderstood what Alan was saying...

Alan Greenberg: No, no, I certainly didn't mean it meant they had to adopt them but I thought that they had to either adopt them or reject them on whole - in whole.

Margie Milam: No I'm not aware of a rule that says that.

((Crosstalk))

Margie Milam: And you've got to remember too that you've got the - at some point there's the advice process, right, so the GAC and the SSAC and, you know, At Large, whoever wants to, you know, provide advice to the Board, you know, there's that plays into as well.

So as far as I know I'm not aware of any rule that requires it to be all or nothing or even that requires the Board to adopt it. You know, certainly there's different voting thresholds depending upon the vote within the GNSO Council.

Alan Greenberg: Yes, but that implies that the Board could adopt a consensus policy which is different from what the GNSO adopted. And I would have thought that the registries would have a problem with that. I don't want to speak on behalf of David but I would have thought that violates the whole concept that it must be a bottom-up process. If the Board can unilaterally change...

Margie Milam: But a specific procedure - but there is a specific procedure in place if the Board decides to deviate and they have to give reasons and have to have a dialogue with the GNSO Council...

Alan Greenberg: Okay.

Margie Milam: So there is different steps involved there should they decide that it's not in the interest - I think there's certain language if it's not in the interest of...

Alan Greenberg: Okay.

Margie Milam: ...I don't know exactly what it says but there's a...

Alan Greenberg: Does deviate mean pick and choose in addition to changing the actual content?

Margie Milam: I would think so, yes.

Alan Greenberg: Okay, all right.

Margie Milam: I think there's a possibility of doing that. And that's also possible at the GNSO Council level as well as we've already, you know, kind of seen...

Alan Greenberg: Yes.

Margie Milam: ...and I don't think we changed that in this report.

Alan Greenberg: Okay. I'll withdraw.

Jeff Neuman: Yes, okay. So - and I would also think that if they picked and - if they pick and chose certain ones they are - and they don't say we're going to look at the others later - I think they're implicitly rejecting the others. And if they are rejecting the others then they have to follow all of the mandated procedures.

Alan Greenberg: Okay.

Jeff Neuman: Okay so where are we now? So on that one, Marika, I think we're just going to delete that added language.

Marika Konings: Okay and I'll update it then as well in the public comment review tool.

Jeff Neuman: Right. Okay.

Marika Konings: So then...

Jeff Neuman: Yes on - yes.

Marika Konings: Yes, so this is Marika. We're moving on Page 39 I think here on Point B there is a clarification as well that, you know, it's not specifically included in the new Annex A.

These updated as well as a result of the reviewed public comments. And then we move into the new Annex A they already changed on Page 41 that's the language we discussed last week on, you know, the Board providing a mechanism by which the GNSO Council can consult with the Board once they've requested an issue report.

Jeff Neuman: Isn't it kind of almost the reverse? The Board should provide a mechanism by which it consults with the Council as opposed to providing a mechanism by which the GNSO Council can consult with the Board?

Alan Greenberg: What line number are we on?

Marika Konings: Ten forty-three.

Jeff Neuman: Yes. I think what we said was that the Board should either somehow either - I'm trying to remember the exact language but provide a liaison or it should appoint someone or a liaison to discuss...

Marika Konings: No I think Avri was quite firm that she wanted it to be a mechanism and not specify. I mean, I'm flexible on the it consults but I think the idea was this would only be used if the GNSO council feels the need to discuss it further. If it's right clear the request and maybe it was discussed before there is really need to have such a mechanism.

I thought it was more the other way around that if the Council feels that well, you know, we have too much work and we don't really understand what you're asking for that's the point where the Council wants to have a discussion with the Board.

Alan Greenberg: Yes, I think...

Marika Konings: ...but maybe I misunderstood.



Alan Greenberg: I think what's there is exactly what we decided because remember we said this isn't prior to the event because the Board may on the fly make a motion to do this. And - but therefore the onus is on the Board to set up a mechanism by which the GNSO Council can ask questions, get clarifications, whatever.

Jeff Neuman: All right, I'll...

Alan Greenberg: But I think this accurately reflects what we said.

Jeff Neuman: Okay never mind. I'll withdraw then. Okay...

Marika Konings: Yes, so moving on then to Page 42 here an update as well as a result of the public comment period so it's a change PDP manual to bylaws. And here is where we've changed the staff manager to ICANN staff. I think we discussed it as well that, you know, opinion in the issue report is just, you know, not just a one person opinion but usually, you know...

((Crosstalk))

Alan Greenberg: Language left over from a different era.

Marika Konings: Right.

Jeff Neuman: Yes.

Marika Konings: So moving on then Page 44 language added again as a result of the public comments.

((Crosstalk))

Jeff Neuman: Sorry, Paul, you have a question? Paul?

Paul Diaz: No, sorry, Jeff.

Jeff Neuman: That's okay. Okay. Okay, go on.

Marika Konings: Right then another change there changing the percentage to the fraction. Same on Page 46. And then we move into the PDP manual so Page 47, again an occasion where I've removed Council because I think it's the GNSO as a whole that provides advice in the event of a vote. And also at the top.

Then moving on again just some updates to reflect as well on Page 50 for example updating as well that has already been changed in the proposed annex.

Updating on Page 52 to reflect as well the recommendations on the removal of voting and the (revision) requests. Then some further updates on percentage versus fraction. Let me see if there's anything else substantial here. Most of the things here reflect basically the changes we've made on - in previous recommendations.

So I think that's it for the bulk of the report. Then you'll see as well that in - I've created a new Annex C where it's the idea to include the public comment review tool once we've finalized that. It's included there together with the other - other annexes.

And I've also created a new annex that includes the recommendations as requested by the Registry Stakeholder Group. And I think that's basically it when it comes to the changes in the report.

Jeff Neuman: Okay.

Alan Greenberg: Marika, you're including the final review tool in here also right?

Marika Konings: Yes, correct.

Alan Greenberg: Yes, okay.

Marika Konings: I've already created I think Annex C I believe...

Alan Greenberg: Yes, I realize I'm going over the PDNR report yesterday that the final review - or final review tool didn't get included in the report so I just wanted to make sure it is here.

Marika Konings: Yes, it was included as a link. I actually checked on that because...

Alan Greenberg: Yes, no, no...

((Crosstalk))

Marika Konings: ...in that report - yes, so here because we've included the other ones I'll include it here as well. And I've just included a placeholder but once we have that finalized ideas on Page 131.

Alan Greenberg: The problem is including links to wikis is when we change the wiki next time the links will all be dead and we will change the wiki...

Marika Konings: Yes.

Alan Greenberg: ...again one day. I fought yesterday for an hour looking for some documents that are still pointed to in the social text wiki and...

Marika Konings: Yes.

Jeff Neuman: Okay so...

Marika Konings: I hope we're not changing any time soon though.

Alan Greenberg: Yes, well...

Jeff Neuman: Just to also ask the charts are still correct? We should look at those on Pages 5 and 6 or 6 and 7; I can't remember which. Yes 6 and 7. On page 6 at least in Adobe there's this kind of Number 129 on the (unintelligible) there but I don't see it in the Word version.

Marika Konings: Yes, that's the line number. I don't know why - there's probably an enter there or something. I think it's the line number that comes up there.

Jeff Neuman: Oh, oh, I got you, okay.

Marika Konings: Because then on the second page, on Page 7, you'll see as well 130, 131. I think that's just the line number.

Jeff Neuman: Got you, okay.

Marika Konings: Oh yes, I see the thing here to change is actually the percentage to fractions. I haven't done that there.

Jeff Neuman: Okay. All right so everyone is reminded to get their comments in no later than Sunday. I'm just thinking of whether I have to call another consensus call then as well. I think I do.

Alan Greenberg: Yes, I think we should.

((Crosstalk))

Jeff Neuman: So on - I know it's a short turnaround but if we're asking for everything to be in by Sunday if I do it as soon as - if I do it first thing on Monday if we can get all of the responses in by close of business your time, wherever your time is, on Tuesday that would be great.

Marika Konings: Yes, so Jeff, what I can do so basically based on what comes in by Sunday evening I can probably update the report so that you have a - like the final version to send out with the consensus call when you wake up on Monday your time.

Jeff Neuman: Great, then I'll send that out. And then hopefully everyone, knock on wood, will respond by Tuesday. I'll be bugging everyone too.

Alan Greenberg: Marika, will the redline be this redline augmented or a redline of this one clean?

Marika Konings: I'm not really clear what you mean?

Alan Greenberg: Will we be able to readily see what changes you've made as a result of today's call?

Marika Konings: Yes I'm planning to do that today and hopefully get that out...

Alan Greenberg: Okay.

Marika Konings: ...later this evening. And then...

Alan Greenberg: Okay.

Marika Konings: ...I can send that together with an email telling everyone, you know, please send in your comments by Sunday end of your day. The only thing is if you can send me suggested language, you know, for that specific section if you can do that...

Alan Greenberg: Yes, I'm running out now but I'll do it sometime later in my day.

Jeff Neuman: Marika, how much of - how much of a pain would it be to do two redlines or to somehow do a - for those that have not read the report is to basically do a redline from the original final report and then for Alan and a couple others that have read it to do a redline for - of just what was changed on this call?

Alan Greenberg: Do whatever is reasonable for the majority in that case.

Marika Konings: So you want me to create two different versions?

Alan Greenberg: No.

Marika Konings: And in such a short timeframe. That's quite a pace. Taking into account...

((Crosstalk))

Marika Konings: ...there's a Council call today as well.

Alan Greenberg: Actually, Marika, if you do it under a different user name - if you can do that - I think then Word allows you to select changes by some people only. I'm not sure though. Don't worry about me; pretend everyone - you can - just do whatever is the right way for everyone else and I'll...

Jeff Neuman: Well I think in the end...

Alan Greenberg: ...work it out.

Jeff Neuman: In the end we're going to have to have a redline compared to the final - the proposed final report. So let's just keep it that...

Alan Greenberg: I agree so let's just keep it that way.

Jeff Neuman: Got that Marika?

Marika Konings: Yes. That shouldn't be a problem.

Jeff Neuman: Okay. All right good. Anyone else with any comments?

Alan Greenberg: No, I've got to run so thank you and I'll look - I'll get something to the list later today.

Jeff Neuman: Thank you for our last - hopefully last call, everyone. Thank you very much.

Alan Greenberg: Bye-bye. Thanks Jeff.

Marika Konings: Bye.

Alan Greenberg: Thanks, Marika.

Jeff Neuman: Bye.

Marika Konings: Bye.

Gisella Gruber-White: Thanks, (Sam).

Coordinator: Thanks. Have a nice afternoon.

Gisella Gruber-White: Okay, you too. Bye.

END