

**Transcript GNSO Council Teleconference  
17 January 2013 at 20:00 UTC**

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<http://audio.icann.org/gnso/gnso-council-20130117-en.mp3>

on page :

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

The Adobe Chat transcript is also posted on this page and can be directly viewed at:

<http://gnso.icann.org/en/meetings/chat-transcript-council-20dec12-en.pdf>

**List of attendees:** NCA – Non Voting – Jennifer Wolfe

**Contracted Parties House**

Registrar Stakeholder Group: Mason Cole, Yoav Keren, Volker Greimann

gTLD Registries Stakeholder Group: Jeff Neuman, Jonathan Robinson, Ching Chiao

Nominating Committee Appointee (NCA): Thomas Rickert

**Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Wolf-Ulrich Knoben, Zahid Jamil, John Berard, Osvaldo Novoa, Brian Winterfeldt, Petter Rindforth

Non Commercial Stakeholder Group (NCSG): Maria Farrell, Joy Liddicoat - absent, apologies, temporary alternate Norbert Klein, Magaly Pazello, Wendy Seltzer, David Cake, Wolfgang Kleinwächter

Nominating Committee Appointee (NCA): Lanre Ajayi

**GNSO Council Liaisons/Observers:**

Alan Greenberg – ALAC Liaison

Han Chuan Lee– ccNSO Observer

**ICANN Staff**

David Olive - VP Policy Development

Rob Hoggarth - Senior Policy Director

Margie Milam - Senior Policy Counselor

Marika Konings - Senior Policy Director

Julie Hedlund – Policy Director

Barbara Roseman – Policy Director

Berry Cobb – Policy consultant

Brian Peck – Policy Director

Carlos Reyes – Policy Analyst

Lars Hoffmann – Policy Analyst

Glen de Saint Géry - GNSO Secretariat

Alexander Kulik - Systems Engineer

Coordinator: Thank you for all standing by. I would like to remind all parties the call is now being recorded, if you have any objections to please disconnect at this time.

Glen de Saint Géry: Thank you very much. Shall I do a roll call for you, Jonathan?

Jonathan Robinson: Yes, please just to welcome everyone to the Council call. And we'll crack straight on with the roll call. Thanks, Glen.

Glen de Saint Géry: Thank you. Jeff Neuman.

Jeff Neuman: Present.

Glen de Saint Géry: Ching Chiao. Jonathan Robinson.

Jonathan Robinson: Yes.

Glen de Saint Géry: Mason Cole.

Mason Cole: Here.

Glen de Saint Géry: Yoav Keren.

Yoav Keren: Here.

Glen de Saint Géry: Volker Greimann.

Volker Greimann: Present.

Glen de Saint Géry: Thomas Rickert.

Thomas Rickert: Present.

Glen de Saint Géry: Zahid Jamil.

Zahid Jamil: Present.

Glen de Saint Géry: John Berard.

John Berard: Yes, I'm here.

Glen de Saint Géry: Brian Winterfeldt.

Brian Winterfeldt: Present.

Glen de Saint Géry: Petter Rindforth.

Petter Rindforth: Present.

Glen de Saint Géry: Osvaldo Novoa.

Osvaldo Novoa: Yes.

Glen de Saint Géry: Wolf-Ulrich Knoben.

Wolf-Ulrich Knoben: Yes.

Glen de Saint Géry: Maria Farrell.

Maria Farrell: I'm here.

Glen de Saint Géry: Wendy Seltzer.

Wendy Seltzer: Yes.

Glen de Saint Géry: David Cake.

David Cake: Present.

Glen de Saint Géry: Magaly Pazello. Not yet on. Joy Liddicoat is absent and Norbert Klein, who is on the call is her temporary alternate. Norbert, you are present?

Norbert Klein: Present.

Glen de Saint Géry: Wolfgang Kleinwachter? Lanre Ajayi?

Lanre Ajayi: Present.

Glen de Saint Géry: Jennifer Wolfe.

Jennifer Wolfe: Yes, I'm on line.

Glen de Saint Géry: Alan Greenberg.

Alan Greenberg: Here.

Glen de Saint Géry: Han Chuan Lee? Not on the call yet. For staff we have David Olive, Marika Konings, Rob Hogarth, Margie Milam, Barbara Roseman, Carlos Reyes, Lance Hoffman, Alexander Kulik, our technical staff,

Berry Cobb and myself, Glen de Saint Géry. Have I left anybody off the  
- and Julie Hedlund. Sorry, I see you on, Julie.

May I just remind you please to say your names before...

Brian Peck: Glen, this is Brian Peck also, sorry.

Glen de Saint Géry: Thanks. To say your names before speaking for transcript  
purposes. Thank you very much, Jonathan, and over to you.

Jonathan Robinson: Thank you, Glen. Just to make a note that we've got a note in the  
chat that Ching is still trying to connect to the audio and as is Magaly.  
So we have a couple of councilors who are present but not yet on the  
audio.

So let's move straight into Item 1.2, which is to call for any update to  
statements of interest and also to include the opportunity for anyone to  
make any comment about a statement of interest in respect of a  
particular item on the current agenda.

Wolf-Ulrich Knoben: Yes, Jonathan, Wolf-Ulrich Knoben speaking.

Jonathan Robinson: Thank you, Wolf, go ahead.

Wolf-Ulrich Knoben: Yes, I have to disclose that I have retired from Deutsche Telecom  
end of last year and I'm now an advisor to (Digix), which is an Internet  
exchange in Germany, a public Internet exchange. And I am for them  
as a member of the ISPCP still on. Thank you. I will disclose that in a  
written form and send it to Glen.

Jonathan Robinson: Thank you, Wolf-Ulrich. I think we have also the online statements of interest so if you could update that as soon as possible via the online system for doing so that would be great.

Wolf-Ulrich Knoblen: Yes, I'm going to do so, thank you.

Jonathan Robinson: All right welcome, Ching. So we have Ching and I think we're still waiting for Magaly.

Ching Chiao: Hi there.

Jonathan Robinson: We should - I'm sorry, was there someone else wanted to speak? So Item 1.4 we note that the minutes were published from the previous meeting and were approved through no objections by the second of January.

On the pending projects list it's growing and so I hope you will have all had an opportunity to review that it has been published for some time. I'm not going to walk through it in the interest of time. I'm really going to call for any comments or questions on the pending projects list. And I know that Thomas Rickert had something to add in this item.

So I think we'll get straight on with your contribution, Thomas, and then see if there are any other comments or questions about the rise out of the pending projects list.

Thomas Rickert: Thank you, Jonathan. This is Thomas. And I'd like to give you a brief update on the work that we're currently carrying out in the PDP Working Group. I mentioned to the Council during the last call that we have sliced our work, which is to see whether any special protections

should be established for IGOs, INGOs, the IOC and the RCRC, into several areas of work.

So we're talking about questions relating to what the issue actually is that we're discussing, why additional protections should be granted, if at all. We're talking about qualification criteria for potential new protections and that includes what the - what organizations should look like or what they should have as qualifying criteria to be eligible for potential protections.

And we are talking about whether there are any additional criteria they need to fulfill to be admitted to potential new protections and also what potential new protection mechanisms could look like.

And I think it's of little surprise to the Council that there are diverging views on almost all topics that we are discussing and that this makes the whole subject most complex. And I can tell you that it's quite a challenge as the working group chair to encourage and maintain focused discussion.

We have - actually as a working tool developed a spreadsheet comprising the various working areas. And we have invited the participants of the working group to populate that spreadsheet with all the factors that they deem decisive or relevant to us finding an answer to the question that we have been tasked with.

And in that regard we have also sent out a request for input to the community. And I would like to encourage the councilors to go to their respective groups and see what the status of that response - of these responses is because up to date we have only received one or two

responses. And it would be very valuable for us to get more input on that.

We have now officially declared the fact-finding phase closed. Certainly should we receive more statements from the various GNSO groups we will certainly incorporate that feedback into our work. And we will now go through the various arguments that have been brought up and discussed and evaluate the merits of those arguments.

And then transform after having waited and after having maybe deleted some of the arguments as irrelevant from our spreadsheet we'll then put that into text format and come up with various options that can then be discussed and hopefully we will then be able to do a consensus call in the very near future.

With this I would - almost like to conclude my little intervention. But let me finish by saying that I would very much like to encourage the councilors to participate because, as I mentioned, this subject matter is utmost complex; we're even talking about the protections that are granted by certain treaties, we're discussing whether reactive or proactive mechanisms for protections are required in addition to the existing or new, I should say, RPMs that are - or have been developed within the framework of the new gTLD program.

And so your expertise is most welcome. Remember this PDP has been called a case study both by the ICANN Board as well as the GAC. And I think we should prove that we can work in a very timely and efficient manner. And with that I'd like to hand back over to you, Jonathan. Thank you.



Jonathan Robinson: Thanks, Thomas, for that very succinct and effective summary. It's undoubtedly a particularly challenging piece of work and you deserve credit already for even stepping up to the plate and taking this on. And I've witnessed firsthand some of the challenges. And, you know, I think you deserve our support.

And so I will support you in asking for any constructive input you can get from within the Council or groups where - or for councilors to encourage similar input from the groups. So thank you, Thomas.

Just looking then at other elements - I'm very conscious of the time and the full agenda and we will try and keep - I fully intend to keep within the two hours this evening. So - well, evening my time.

So I would like to now call for any other questions, comments or input on the pending projects list. It's comprehensive and we can't do it justice by skimming through it so I'd just like to call for specific questions or input if there is anything on it.

All right hearing none I'll take it as read. But it is a record and we'll talk a little bit more about an intention to track actions in addition to the work on the pending projects list. And I will encourage everyone to keep an eye on this and to look for the changes and feel free to raise questions on the list on this as well.

I've set up, as per the previous agendas, an opportunity to provide a few opening remarks. I'm going to keep it very brief this evening. The slide I've got is essentially very similar to what I've said previously. And I'd just make a couple of additional points and then move on to the substance of our meeting.

I mean, from my point of view the strategic focus points haven't changed and won't change for some time. In terms of internal workings within the Council I'd encourage all councilors to reach out to one another both on list and off list and keep up the good work of working as effectively as possible on some of these thorny issues we've got to tackle over the next few meetings.

I will continue with the work I'm trying to do in outreach. And again for any of those of you who have contacts within other SOs, ACs and relevant organizations I'd encourage you to assist in that as well. With respect to - and clearly this is all in line with this intention to produce as product, effective and respected a council as possible.

And regardless of your views as to whether the Council is the optimum structure or the optimum - optimally organized we have what we have at the moment and so, you know, my focus is on working as best as we can with the current structure and set up that we've got. That said there is no room for complacency and the continuous improvement will remain a focus.

We're going to meet - the Council leadership, that's myself and the two vice chairs together with Policy staff in Amsterdam because that happened to be the most convenient location for all of us ahead of ICANN's regional meeting for Registries and Registrars and we're going to take Wednesday next week to look through many of the operational and organizational issues that we have to work through both over the forthcoming months and particularly in the run-up to Beijing.

So that's really probably as much as I'll say except to say that I did highlight what I believe to be some of the challenging items and some thoughts that I hope that you manage to get an opportunity - it was quite late relative to this meeting but I did put out an email this morning my time around 10 hours ahead of this meeting so I hope that prompted at least some of you to both have the opportunity to read it and think about how we can nudge forward some of the more challenging items we've got to move forward in this meeting.

That's enough for now. In order to keep us on time I think we'll move straight into Item 4 which is the motion on the initiation of a PDP on the Inter Registrar Transfer Policy. And so without further ado I will encourage Mason, who was good enough to propose the motion. Can I just confirm that we do have that motion seconded?

Mason Cole: Yes it has been...

Jonathan Robinson: Yes we did; both John and Osvaldo stepped up to the plate on that one, than you. So, Mason, if you could proceed to read the motion and then we'll move it to the discussion.

Mason Cole: Sure. Mason Cole speaking. The motion is this: "Whereas the Inter-Registrar Transfer Policy, or IRTP, is an existing consensus policy under review by the GNSO the GNSO Transfers Working Group identified a number of issues in its review of the current policy and those issues have been grouped into suggested PDPs, sets A-E, as per the Council's resolution of 8 May 2008."

"The GNSO Council requested an issue report on IRTP Part D as its meeting on 17 October 2012. See the link. A preliminary issue report

on IRTP Part D was published on 14 November 2012 for public comment. See the link. A final issue report on IRTP part D was published on 8 January 2012. See the link."

"The final issue report recommends that the GNSO Council proceed with a policy development process limited to consideration of the issues discussed in the report and the general Council of ICANN has indicated the topic is properly within scope of the ICANN policy process and within the scope of the GNSO."

"Resolved, the GNSO will initiate a PDP on the issues defined in the final issue report on the Inter-Registrar Transfer Policy Part D and a working group will be created for the purpose of fulfilling the requirements of the PDP."

Jonathan Robinson: Thanks, Mason. Are there any comments or is there any discussion or input that anyone would like to make? So then if there is no further input I suggest we take this - this is part of - as you will be aware - an ongoing - it's a final stage of an extensive set of work and I suggest we take it straight to the vote to initiate a PDP.

You'll see from the agenda that to initiate a PDP requires an (assentive) vote of more than 1/3 of each house or more than 2/3 of one house. So let's proceed straight to the vote. Glen, if you could take the vote please.

Glen de Saint G ry: Certainly, Jonathan. John Berard.

John Berard: Yes.

Glen de Saint Géry: Wolf-Ulrich Knoblen.

Wolf-Ulrich Knoblen: Yes.

Glen de Saint Géry: Wendy Seltzer.

Wendy Seltzer: Yes.

Glen de Saint Géry: Maria Farrell.

Maria Farrell: Yes.

Glen de Saint Géry: Norbert Klein for Joy Liddicoat please.

Norbert Klein: Yes.

Glen de Saint Géry: Zahid Jamil.

Zahid Jamil: Yes.

Glen de Saint Géry: Jeff Neuman.

Jeff Neuman: Yes.

Glen de Saint Géry: Lanre Ajayi.

Lanre Ajayi: Yes.

Glen de Saint Géry: Thomas Rickert.

Thomas Rickert: Yes.

Glen de Saint Géry: Mason Cole.

Mason Cole: Yes.

Glen de Saint Géry: Brian Winterfeldt.

Brian Winterfeldt: Yes.

Glen de Saint Géry: Osvaldo Novoa.

Osvaldo Novoa: Yes.

Glen de Saint Géry: Yoav Keren.

Yoav Keren: Yes.

Glen de Saint Géry: Ching Chiao.

Ching Chiao: Yes.

Glen de Saint Géry: Jonathan Robinson.

Jonathan Robinson: Yes.

Glen de Saint Géry: Petter Rindforth.

Petter Rindforth: Yes.

Glen de Saint Géry: Wolfgang Kleinwachter.

Wolfgang Kleinwachter: Yes.

Glen de Saint Géry: Magaly Pazello.

Magaly Pazello: Yes.

Glen de Saint Géry: Volker Greimann.

Volker Greimann: Yes.

Glen de Saint Géry: David Cake.

David Cake: Yes.

Glen de Saint Géry: That is - the motion has passed unanimously, Jonathan.

Jonathan Robinson: Thank you, Glen. The next item relates to - directly to the preceding one and this essentially moves the issue on. You'll see from the preamble that it's really - that the issue is laid out fairly clearly and precisely in the issues report and therefore it was suggested that the Council adopt the charter as proposed in the issues report and in order to commence work as soon as possible.

So essentially the motion has been made to that effect and that's what we will be considering here. So, again, as it was a closely-related issue and given the origins of this on our agenda Mason has proposed the motion and, Mason, I'll ask you to proceed to read that then please.

Mason Cole: Certainly. Mason speaking again. The motion reads as follows:  
"Whereas on - date to be specified - the GNSO Council initiated a policy development process, PDP, on the Inter-Registrar Transfer Policy, IRTP, Part D and decided to create a PDP working group for the purposes of fulfilling the requirements of the PDP."

"The GNSO has reviewed the charter. Resolved, the GNSO Council approves the charter and appoints to be confirmed as the GNSO Council liaison to the IRTP Part D PDP Working Group. The GNSO Council further directs that the work of the IRTP Part D Working Group be initiated no later than 14 days after the approval of this motion."

"Until such time as the working group can select a chair and the chair can be confirmed by the GNSO Council the GNSO Council liaison shall act as interim chair."

Jonathan Robinson: Thank you, Mason. I think we can take the charter as read. So - and I would just - just to make sure that we do offer the opportunity are there any comments or discussion relating to this item?

Wolf-Ulrich Knoben: Yes, Wolf-Ulrich speaking.

Jonathan Robinson: Go ahead, Wolf-Ulrich.

Wolf-Ulrich Knoben: Thank you. Yes well I read the charter, it's very short and very brief. And the charter, just for the procedural question, is it the charter in the last paragraph says, "The working group shall follow the rules outlined in the GNSO Working Group Guidelines." That's okay - fully okay to my knowledge.



Here we have a PDP. My question was only to that - is that (unintelligible) cover all so that the working group should follow the rules which are outlined in the PDP manual because these are precisely outlining what is to be done, how they work and regarding the PDP. That's my own question. I don't have a big problem with that but is it fully clear? That's my question.

And it should be clear - made clear to the participants of that working group that there is a PDP manual and they should be familiar with that. That's my comment.

Jonathan Robinson: I guess I'll respond, Wolf-Ulrich, to say that to my mind - Marika, would you like to comment?

Marika Konings: Yeah, this is Marika. Again I think its, you know, not difficult to clarify that if you feel it's necessary to add, as well, the PDP manual. But, indeed, it's a requirement that a PDP working group operate under the rules as the PDP outlines and the PDP specifies as well in the bylaws that - to that end they also need to follow the PDP manual.

And with regard to the information provided that's actually indeed something we do in the first meeting; we always take people through, first of all, what is the Working Group Guidelines but then also outlining what are the requirements under the PDP and which steps they need to follow as part of the working group process.

Wolf-Ulrich Knoben: Thank you, Marika.

Jonathan Robinson: Thanks, Marika. So I think that covers essentially - I don't need to say any more on that. Are there any further questions or issues? Right,

well let's move to a speedy vote in order to put this - to close this item then. So, Glen, if you could take a roll call vote please?

Glen de Saint Géry: Certainly, Jonathan. Wolf-Ulrich Knoben.

Wolf-Ulrich Knoben: Yes.

Glen de Saint Géry: Jeff Neuman.

Jeff Neuman: Yes.

Glen de Saint Géry: Petter Rindforth.

Petter Rindforth: Yes.

Glen de Saint Géry: Osvaldo Novoa.

Osvaldo Novoa: Yes.

Glen de Saint Géry: Zahid Jamil.

Zahid Jamil: Yes.

Glen de Saint Géry: Mason Cole.

Mason Cole: Yes.

Glen de Saint Géry: Volker Greimann.

Volker Greimann: Yes.

Glen de Saint Géry: Wolfgang Kleinwachter.

Wolfgang Kleinwachter: Yes.

Glen de Saint Géry: Ching Chiao.

Ching Chiao: Yes.

Glen de Saint Géry: Maria Farrell.

Maria Farrell: Yes.

Glen de Saint Géry: Norbert Klein for Joy Liddicoat please.

Norbert Klein: Yes.

Glen de Saint Géry: Lanre Ajayi.

Lanre Ajayi: Yes.

Glen de Saint Géry: John Berard.

John Berard: Yes.

Glen de Saint Géry: Wendy Seltzer.

Wendy Seltzer: Yes.

Glen de Saint Géry: David Cake.

David Cake: Yes.

Glen de Saint Géry: Magaly Pazello.

Magaly Pazello: Yes.

Glen de Saint Géry: Jonathan Robinson.

Jonathan Robinson: Yes.

Glen de Saint Géry: Brian Winterfeldt.

Brian Winterfeldt: Yes.

Glen de Saint Géry: Yoav Keren.

Yoav Keren: Yes.

Glen de Saint Géry: And Thomas Rickert.

Thomas Rickert: Yes.

Glen de Saint Géry: The motion passes unanimously, Jonathan. Thank you.

Jonathan Robinson: Yeah, a couple of - I mean, Alan has raised a question in the chat whether we need to do a roll call vote for each item. And I accept that that may not be absolutely necessary and it's something I'll give some thought to ensuring that we - that the items are marked or potentially we don't take a roll call for all items if we follow the process to do that.

It struck me that I felt a little more confident in ensuring that we were thorough by doing a roll call vote but I'll take the point on board.

Thanks, Alan.

So Marika has asked if it would be possible to identify a Council liaison for this group. If there is a volunteer willing to step forward right away that's great otherwise we will ask for one on the list.

Hearing no one at the moment, Marika, if you could ask for a volunteer on the list and we'll try and keep that open on our action list until such time as we resolve that.

So moving on then to the next item which is an item which we had on a previous agenda or two, in fact. And Rob very patiently bore with us as - bear - or bore with us as we worked through a number of other issues. And he was - accepted being at the back of the queue so I think it would be very useful to hear from Rob about this so I'll - Rob, I'm understanding you are on the call and in a position to bring us up to speed on this item.

Rob Hogarth: Yes, Jonathan. Thank you. Can you hear me okay?

Jonathan Robinson: Yes, thank you.

Rob Hogarth: Excellent. Thanks a lot. Yeah, I think the timing is good for having this discussion now. And we've tailored this mainly as a briefing but I'm open to taking any questions or points of clarification anyone has after my brief remarks.

Just by way of context most of you know that regular independent reviews of ICANN's structures and processes are hardwired into the ICANN bylaws. There is a general assumption of, you know, evolution in the community and the value of regular reviews or audits, if you will.

Now starting back at the Cartagena ICANN public meeting in December 2010 the Chair of the Board's Structural Improvements Committee announced that the Board was beginning to examine ways to regularize and improve the management of ICANN's independent review processes.

And so since Cartagena that work continued for a good 18 months or so. And late last year in Toronto the SIC Chair, Ray Plzak and staff members provided briefings to a number of community leaders, including Jonathan, about the progress in this area. And for three reasons I think, Jonathan, you thought it was a good idea to let the Council know what was going on in this regard.

First reason, of course, because the GNSO Council is going to be in the early wave of the next round of reviews. Secondly, because I've done the count and I think only about 25% of current councilors were actually substantively involved in the former review process that a number of us experienced.

And also because, frankly, the GNSO Council is one of the components of that next review cycle particularly for the GNSO. And so that's why, Jonathan, I thought it was timely for us to bring you guys up to speed with respect to what's going on.

Now you'll see on the slide deck that I have up now that I'm using, and purposefully so, the slide deck that the Chair of the SIC used in Toronto. That's mainly for consistency purposes.

But since this is a much briefer presentation that he gave to some of the community leaders I'm just going to focus on the slides that are most applicable to the Council's current situation.

Fundamentally the reason for a new framework and the interest of the Board in bringing things up to date was really to increase organizational effectiveness. Up until and through the last round I think because of the different cultures, because of the different timing, every review seemed to have a number of differences to it.

And the Board really felt that it was important to regularize it for our process standpoint, for fairness to the various communities and to maintain as much objectivity as possible. So one of the real themes here is trying to establish some real baselines and some consistency in terms of what gets reviewed during the regular review cycle.

The cycle is going to be standardized across the various reviews. I'm not going to bore all of you with the specifics of the timeline nor am I going to really focus on the review activities themselves.

What I'd like to do is just emphasize a couple of major points. The first is that in this new approach to a framework of reviews there's going to be a macro component and a micro component. The macro qualitative, if you will, component is going to be one that looks at some very general areas. I'll get into those shortly.

And that's something that's going to be focused on by members of the community who are involved in a review working group but who are outside of the structure that's being reviewed.

The other piece, the micro or quantitative review perspective, is going to be done in the traditional way that ICANN reviews have been done by an outside consultant but governed by a specific set of criteria. So on this slide you see the two-pronged approach. You've got the macro elements, the qualitative ones that will be reviewed by members of the community that look at things like mission fulfillment, the continuing purpose of the organization, structural viability, environmental responsiveness.

And then you've got the micro piece that's going to be going on at the same time by, you know, the independent reviewer. And hopefully, through a set of clear criteria that everybody in the community is familiar with, that they sort of look to over the course of the review cycle, that they are aware are going to be subject to the review.

Things like I've got on this slide, adherence to the charter, how does the particular community manage its governance, its membership processes, how it, you know, conducts elections and voting and things like how they communicate and the various forms of participation and so that's an important component.

And I'll just skip through the macro overview and give you an example. So for example an evaluative set of questions that might look to a macro criteria of the purpose of an organization would ask a number of specific questions. Just highlighting one, (unintelligible) supporting organizations initiatives remain constant with its mission and purpose.



You know, are what - is what the organization doing consistent with the charter? And so these are some of the major macro pieces that might be reviewed by the review working group.

The important thing is that the result of that review and of that structure will be some form of a report by the group or the review working group that's doing the review.

Now the micro elements, which I already touched on are - let me jump back real quick - are much more precise. And this is where the, you know, the objective elements come in. There will be questions here - and I'll flip to the next slide, let's see here - that talk - here, for an example, operational components. So they'll look at the charter, they'll look at the structure and organization of the particular entity.

They'll look at leadership and management, membership. They'll ask specific questions about the various elements to essentially give a structure to what the reviewer needs to do when they go through the process.

In previous reviews what generally took place is that the Board would hire an independent reviewer and that reviewer would essentially reinvent the wheel every time they did a review. You'd have a new party, a new company, a new set of consultants. And they would sort of make things up as they went along.

The vision of this new process is that there will be this standard template that looks at particular criteria and that the community should have some comfort in will be applied throughout the organization,

throughout the various reviews so that there's a measure of consistency.

One of the key elements of objectivity because essentially it becomes almost an audit, if you will, or a scoring system for how a community operates, will be based on various points and rating systems. This is 15 minutes of talking about how those are conducted so I won't go into great detail with you.

But in summary those various objective criteria are going to be linked to the various bylaw principles that are in the ICANN bylaws; transparency and accountability, openness, fairness, representativeness.

And a number of you who may have been involved in the previous work that was done for GNSO improvements when we talked about charter development, when we began to develop some of those areas, will be familiar with those overall principles of transparency, fairness, openness and representativeness.

Now what will be the result of that - and again remember we're still in that micro area - will be some sort of overall assessment. And that'll be up to the Board to - in terms of some of its final decisions.

But essentially what can come out of a review would be a scoring system that either says wow, the organization seems to be doing perfectly well or no, it's doing very poorly. And then have potentially a set of recommendations or suggestions for remediation on how a particular organization can be improved.

What's important to note is that from a GNSO perspective the three primary areas - there's actually going to be objective review - will be the stakeholder groups and constituencies, the various working group efforts that have been conducted over the course of the last couple of years and the structure and operations of the Council.

And so the reason for, you know, alerting all of you to this general structure and this general approach that the Board is taking, is that a lot of work has been done to already begin to identify some of the specific criteria. And we created a wiki page on the ICANN community wiki - on the confluence wiki. When you go to the wiki it's under Special Projects.

And for those of you who are interested you're welcome to go to that area, the wiki page is set up to offer comments. And you will see over the - essentially the example that we've used primarily is the work of the stakeholder groups and constituencies but the Board and staff have also been developing some draft criteria for the Council and for the working group structures.

I think probably over the course of the next two or three months the Board is going to look to solidify a lot of these templates. The objective criteria structure that we've set up is going to be, you know, applied differently in terms of different groups because the questions may vary.

But the general template, this concept of objective criteria, is one that's going to be applied across the stakeholders, the various supporting organizations and advisory committees.

So as an ask from this briefing I'd ask those of you who are interested to take a look at the wiki page. The leaders of your various constituencies and stakeholder groups have already gotten this offer from Ray Plzak, the SIC Chair, in Toronto. We haven't had a lot of comments or feedback yet.

But I'd certainly encourage you to look at that particularly if you're in a position within your constituency or stakeholder group or just, frankly, as a Council member, to see some of the areas that have been proposed for examination by the reviewer.

And so any comments or feedback that you can provide either on that wiki page or to me directly or to Ray Plzak directly, for that matter, I think would be a great utility.

The final piece, Jonathan, that I wanted to add to the presentation is that something that always gets caught up in these discussions is the concept of oh my goodness, we recall that the last independent review of the GNSO was a lot of work. We've got a lot of other things that we really need to be focusing on right now. What do you see as the timing of the review?

The timing is this year, 2013, the next review cycle needs to start for the GNSO. I think some of the original thoughts going into the Toronto meeting is that that timing would have the review process start, the cycle, you know, the first step would be to find an independent reviewer to do the micro criteria - would be early this year and generally the February timeframe.

I think based upon new circumstances that have been taking place in terms of the priorities of some of the reviews, some other reviews that may need to take place before the GNSO review it now appears as if that process won't start until later in the year.

And if you were to twist my arm I would predict - and this is not authoritative in any way - but I'd predict probably around or after the Durban meeting. And I think that would be more a sense of beginning the process of identifying the reviewer. It wouldn't be the reviewer beginning the process or the audits or anything like that.

So I think there is time for those of you who are interested to take a look at some of the criteria, maybe make some recommendations or suggestions, give feedback, you think there's too many, you think there's not enough, they're too detailed or they're not detailed enough. That sort of feedback would be very helpful.

So, Jonathan, I'll stop there and entertain any questions or observations anyone might like to make.

Jonathan Robinson: Thanks very much, Rob. Appreciate and I can see it stimulated a couple of questions. Jeff, you were first in the chat. I'm conscious that you may want to come in with a question. And so let me offer you that opportunity before moving to those that have got their hands up after you.

Jeff Neuman: Sure. Thank you. Sorry, my voice is a little shot today. Yeah, my question was when you - you showed an excerpt a couple slides back. It said something like Section 5 and there were some questions that were asked (unintelligible) an example. Is there a document that's

already been developed that has these criteria in there as to how the principles are going to be proven? And if so where is that document and how did that criteria get set?

Rob Hogarth: Thanks, Jeff. I've gone back to that slide which is the example section from the communication section. These criteria are outlined and an overall sort of report on what we have done to date and how we've done it is on the community wiki. So that would be my brief answer that that would be your source that you'd go to.

I think it's a legitimate question to say, gee, you know, what is the standard here? At the SIC's direction staff worked to develop a number of questions that if you look on this slide are either quantitative or yes/no type questions. And then they're tagged based up on what bylaw principle they go to.

So for example, does the organization publish a calendar containing events with the dates and times? That's a yes or a no answer. A yes I think we could all assume would be a good thing. A no might be evidence of a lack of openness on the part of a community group.

So it's a sense of trying to come up with some objective data elements. I think you make a good observation in terms of how those elements are then applied. Essentially the concept that the (six) seems to like is, as I've just added to the slide there, this concept of a rating which quantitatively would then say okay, well, you know, you know, once you add up the various elements of a particular tag, let's say openness, and you've got five yeses and three nos the assumption is that yeses are good and nos are bad.

And it's a means of flagging areas where there may be need or room for improvement by a particular structure. So for example the GNSO Council one might say does the GNSO Council timely produce minutes of its meetings or transcripts of its calls?

And an assumption there would be to satisfy transparency the answer would be yes. But if the answer is no that might flag an area that the Board or the reviewer might want to recommend to the Board is an area where the Council might need to improve its operations.

With that responsive to your question?

Jeff Neuman: I think it was responsive. I'm just - is that chart - I'm still - I'm looking on the wiki right now for the actual chart where that comes from. I'm finding it difficult to find it. Is it possible to send that to the Council?

And again I'm still not sure, because this is only an excerpt, as to whether they approve or disprove any of those points and how they're used. So, you know, I'm not, you know, does the organization have a Web or wiki, I mean, I don't know, I'm still trying to digest it so I think it's good - let's just go on to other people and I'm going to take a look at this chart.

Rob Hogarth: Great, thanks.

Jonathan Robinson: Thanks, Rob. I've got - and Jeff. I've got Yoav next in the queue.  
Fire away, Yoav.

Yoav Keren: Yeah, I'm - I want to say something that, please, no one should take this personally. But this is exactly the type of plans that brings people

to attack ICANN and say that everything takes a lot - a long time at ICANN and is getting - and is becoming very complicated.

It doesn't make any sense to me that processes like these should take - should, first of all, happen every five years, and take, I think, what - if I read the slide right, a few years before things are implemented.

This is just - I'm sure there's a better way to do this. I'm sure there's a better way to do this. Now don't get me wrong, I do think GNSO has faults. I think, for, I'll just give an example, I think our Council - the time of us as councilors should be exploited better. I think that we're not involved enough in making decisions about more in processes and - instead of matter.

But if we want to change that - and this is going to take years and years to change and people are not in those positions for that long. This is just an endless process. And I'm - I don't know, you know, who's responsible for this. I understand it's coming from the Board in some way. But I do think this should be looked at again.

And this is exactly - the thing I'm afraid of is that we keep hearing people outside of our organization calling for, you know, changing this model of down, up, of consensus and making it an up down, an (ITU) type of controlling the Internet.

And if we don't want that to happen we need to make these things much simple...

((Crosstalk))



Jonathan Robinson: You've highlighted your concerns with a complexity...

Yoav Keren: Yeah.

Jonathan Robinson: ...and time of this - have you got a specific question? I'm just keen to...

Yoav Keren: No, that's it. No, okay.

((Crosstalk))

Jonathan Robinson: Thank you. Rob, is there anything you'd like to respond to Yoav's point? I realize that was as much a statement as containing a question. But is there any comment you'd like to offer before we move on to the other councilors?

Rob Hogarth: Only that I think those were very helpful and clearly heartfelt comments. And so I definitely look forward to some of that type feedback on the wiki. That would be very helpful to hear. The only observation I would make is that the concerns that you've expressed, Yoav, are one of the reasons for this change and this new framework on the part of the Board.

Just by way of example the previous GNSO review effort started around 2007 and I think we declared victory in 2012 and so that took a full five years. I think the concept here is to stretch out the period when reviews have to happen - and the Board's already done that from three years to now five - and make it a much more consistent process across the board that applies to all SOs and ACs. Thanks.

Jonathan Robinson: Thanks. And, Rob, it's good to highlight that this is coming out of the Structural Improvements Committee of the Board. Appreciate you doing that. I've got two more in the queue and then we'll close this item, so Alan followed by Maria.

Alan Greenberg: Thank you. Two things, first a question. Rob, what's the relationship between the macro and the micro review? Are they in sequence? Are they in parallel? Is the micro contingent on the results of the macro?

Rob Hogarth: Thanks, Alan. They would take place - the concept at present is they would take place at the same time so they would take place in parallel. The work of the community group, that macro element, would be taking place at the same time. That could be different for different communities depending upon how detailed, for example, the micro criteria might be.

If I wanted to give Yoav a heart attack I'd point out that right now the objective criteria that are on the wiki are about 105. So, you know, they might not be as long for the SSAC or they might end up being different for the ASO or another group. I think it's largely going to depend as the Board moves forward with this process as to what are the unique aspects of each community.

Alan Greenberg: Yeah, two things then out of that answer. It strikes me that if the output of the macro review is very positive then that's fine; if the output is very negative then it's not clear that you can really be doing the micro review at the - in parallel if the macro review shows that the group just isn't useful or isn't doing their job. So I think maybe that is going to require just a bit of thought.

The second thing is if what the GNSO went through the last time - I won't talk about the agony - but if the end result was worthwhile and if it was a good thing to do it's not clear how a change like that could have come out of this process.

So this almost sounds like it's fine tuning and that is not necessarily going to fix structural problems that may be really embedded in the structure. Thank you.

Jonathan Robinson: Thanks, Alan. I see that we've got - Wolfgang put his hand up. I did say I'd close the queue but in the interest of ensuring that everyone has a voice let's hear from Maria and then Wolfgang and then we really must close this - we're starting to slip off the time schedule. So, Maria, let's hear from you and Wolfgang and then we'll close the queue.

Maria Farrell: Thank you, Jonathan. Actually Alan pretty much covered my question on sequencing. I would just add an observation that I really do think the intellectual rigor and what has gone into this process is impressive. And I think, you know, on the face of it it seems pretty well designed. And I'm looking forward to it kicking off.

Jonathan Robinson: Thanks, Maria. Wolfgang.

Wolfgang Kleinwachter: Yeah, just I want to make a brief comment to the previous intervention about the unfriendly environment in which ICANN is operating and the argument that this is too complex and takes too much time. I think we should be aware that we in that unfriendly environment and we should turn it around and say, you know, this is one of the strengths of the multistakeholder model that we review our own work.

I have never seen such a review of the ITU procedures or the ITU-T procedures. So we should not be here in a defensive position but we should, you know, argue that this is a very incredible tool that we review, you know, our way of work and, you know, use it a positive model which could influence all the, you know, these intergovernmental organizations because no such review takes place in intergovernmental organizations and this is one of the strengths of ICANN and not one of the weaknesses.

Jonathan Robinson: Thanks, Wolfgang. That's interesting to hear a little bit of support for this coming through from yourself and Maria. And, I mean, I take the point, systematic review is something which potentially enhances accountability.

Jeff and Yoav, I did say I would close the queue. Please make it very brief. I want to make sure you're clearly responding to points that have been made recently. If you can keep it very tight, please so we really can move on.

Jeff Neuman: Sure. I do want to agree with Wolfgang in the sense that we are unique in the types of reviews that we do and that's one of our strengths. But I want to just remind everyone on the Council, and Rob kind of pointed it out a little bit, that I will tell you between the years of 2008 and 2012 the only things we were able to do are new TLDs and review. There was very little else that was done on the Council except for those two things.

So we just need to be cognizant that the Council needs to actually move on and tackle issues that it should have been tackling for the last

few years and to make sure we don't get bogged down, you know, because we could spend all of our time on doing a review just in time for the next review.

So I think there needs to be a balance. I'm going to review this chart, like I said, and see if this strikes the right balance. But we just need to be cognizant of that.

Jonathan Robinson: Yoav, super brief please. Thanks, Jeff.

Yoav Keren: Very brief. I totally agree with Wolfgang that this is one of our strengths. We should use that. But I'm just saying we should find a way to do it much quicker and much easier, that's it.

Jonathan Robinson: Thanks, Yoav. I mean, my sense from Ray is that this is an attempt to do things systematically, thoroughly and efficiently and in a uniform way. So I think he's got process efficiency in mind. I must be wearing - my personal viewpoint I do agree with some of the speakers who have talked about this being one of the strengths.

But frankly one of the things I've also heard recently is thank goodness the Council is able to focus on - in quotes, some of the real work, some of the policy work, some of the substantive issues.

And for me on a person level that is the challenge of my period as chair is to take advantage of this opportunity that we're not midway through any kind of review cycle right at the minute and to try and make some progress on some of the critical issues. Which brings us to some extent neatly onto the next agenda item.

Maria, your hand is still up. I think that's from previously. Give you a nudge on that.

Maria Farrell: Oh, sorry about that.

Jonathan Robinson: Thanks. So the next item is Item 7 which is an update and discussion on our work in response to the letter we received from, as a Council, from Fadi, relating to the work that was done on the so-called Strawman Proposal.

It - we have previously - and, you know, I'm conscious that in part we have been - this has breached the Holiday season and the New Year so I realize we all need to be - make sure we're back up to speed. We have a little time on this, as you will have seen from my briefing note. But I am also conscious that some, on the Council, feel we should be moving fast and responding and being - both responding and being seen to be responsive.

So I think there's a few issues to cover here and that is in and around the content of our letter to date. And is there - what are the prospects for us producing something which has a form of consensus to it in responding to Fadi or are we going to struggle to do that?

I think there are - one of the things that struck me on revisiting the draft that Mason had put, obviously, some considerable effort into initially producing, was that I don't think - and I'll appreciate some input on this - that we respond to the second of Fadi's questions, which is on this limited preventative registrations proposal that's in there. So that is something we need to think about because that is a second part of the question.

So if we can start to open the discussion around a couple of key points really. It's, you know, the initial public comment on this has closed although there will be a response period. It's clearly been a very active public comment. I did send you that digest from Domain Insight and whilst that may not be a completely objective summary it does give a pretty good perspective on what's gone on.

If you haven't had the opportunity to wade through the substantial public comments on this issue it's - and so there's issues of timing, of substance, of our opportunity to create consensus and the completeness of our response, which is dealing with the limited preventative registrations mechanism that's proposed as well as the other components of the Strawman.

Because Fadi essentially asked us two questions: One is response to the Strawman proposal and, two, response to the limited preventative registrations. And he makes that in the context of a previous staff request for the Council to consider whether or not it would like to do anything around defensive registrations.

So that's my preamble. If you could try and address your remarks to making progress on this and think about the timing and so on it would be great to get some input. I think it's very useful getting the oral input we get on these calls but we're clearly going to have to make some progress offline as well. And currently Mason holds the pen as far as our response is concerned.

So I've got John's hand up in the chat and so over to you, John.

John Berard: Thank you, Jonathan. My feeling is that the position - the public position of the Business Constituency and the Intellectual Property Constituency is stated well enough and is probably etched in fairly - fairly strong stone. And so I suspect that consensus is not something that we're going to be able to drive.

And so I think I would just suggest that on this issue that Fadi is going to have to cast his ear to the comments of the individual constituencies and, where they exist, the stakeholder groups and filter it in that way.

I'm not suggesting that we shouldn't discuss this but I don't come to this with any false hope that we're going to be able to drive enough of a consensus to deliver a letter that would be meaningful to the extent that the comments of the individual constituencies and stakeholder groups would be.

Jonathan Robinson: Thanks, John. Are you going so far as to suggest, though, that we - that we don't respond or that we water down our response to such an extent that it's substantially less than is currently drafted now or are you suggesting that we continue with the current draft but make it clear that there is - I guess fairly obviously but substantial or significant dissent on portions - from portions of the Council?

John Berard: I don't think that any - I don't - I do not think that we can use Mason's initial draft as a framework for a letter that we could reach consensus on sending. And so I do think we should respond to Fadi.

I think we should let him know that we are of a single mind that the individual input from our constituencies and stakeholder groups are the



dominant points of view on that and allow him, as the CEO, to use his ear to focus what - how it can be implemented or ignored.

Jonathan Robinson: Thanks, John. I'd like to leave it - leave others the opportunity to either respond to that or come in with comments of their own. So my queue has Wolf-Ulrich next followed by Jeff and Mason.

Wolf-Ulrich Knoblen: Yes, thank you, Jonathan. Wolf-Ulrich speaking. I tend to, let me say, not fully to agree but to - in part to agree to what John was saying. So let me just outline the position the ISPs had. And the ISPs have also expressed their position and their comments on the public comment list.

So right now what does it mean with regards to what I and Osvaldo as well would, for example, like to contribute to an answer of the Council, it is - it shall be definitely - have also these points which have been covered during the public comment period from the ISP's point of view.

And I guess that there is - that might be similar with others as well in the Council. So I'd like also to find out what the Council really could do in answering in a different way as the constituencies and stakeholder groups have done so far rather than just to combine all that together and put it forward then to Fadi.

Well I really have this problem; from my point of view, from the ISP's point of view, I could not argue in a different way. Thank you.

Jonathan Robinson: Thank you, Wolf-Ulrich. Jeff.

Jeff Neuman: Yeah, and I'm not going to vote - or not vote, we're not voting, but I don't agree with actually any of the viewpoints that have been expressed and I'll tell you why. I think we need to make it clear, whether it's in Mason's letter or another letter, but we need to make it clear that we are the policymaking body, the GNSO is the policymaking organization and the Council oversees the policy development process for ICANN; it's not the ICANN Board.

And for us to send any kind of message that the ICANN Board should be the arbiter of this and that we should just basically say rely on our stakeholder groups is just encouraging ways around the policy development process. It's basically admitting that the Council itself and the GNSO community is unable to develop policy. And I think that's the wrong message.

I think - and many may not agree on both sides with this but I think we should be sending a letter to the - to Fadi saying thank you, we've now got public comments; the GNSO shall start its own process on this to determine what, if any, policy should be set. I don't think we should just be referring this to the Board because, again, it just completely circumvents the GNSO Council, it circumvents the GNSO as a policymaking body.

And I would encourage everyone to look beyond the specific proposals that are being made for the Strawman and look at the bigger picture because I think it would be just a travesty to the GNSO to just send this on without doing any activities.

Jonathan Robinson: Thanks, Jeff. Mason.

Mason Cole: Thanks, Jonathan. Mason speaking. I agree with Jeff. I think that Fadi asked the GNSO Council for advice; he didn't ask for - he didn't ask for individual stakeholder group on this. I agree with Jeff, there's a role for the GNSO to be preserved here and we shouldn't pass the opportunity to take it.

And if the communication to Fadi is that no consensus exists then that's the communication. If the communication is we've hashed it out as a Council and we found consensus then that should be the communication.

As the one holding the pen on the letter, at least, you know, until - if and until we decide to make a change there, I would be happy to work with the - those who disagree with the content of the current draft of the letter to make sure their points of view are reflected even if it indicates that there's no consensus at the Council level - and so fairly.

You know, perhaps that's a - the right way to go about it or if not the current draft could be given to Fadi with the clear reflection that it doesn't represent full consensus of the Council. But I'm open to some form of communication to Fadi that fulfills his request.

Jonathan Robinson: Had to work through the queue and this is obviously stirred up a lot of responses. And I think it's very important to hear this because this is critical both as an issue and how we respond and act as a Council so let's hear from everyone. I think I've got Zahid next.

Zahid Jamil: Thanks, Jonathan. I would tend to be slightly different in my view than John, for instance. And I also agree with Wolf and some of the other aspects. I also agree with Mason that we do have to do something.

This can't be a situation where we just don't respond or don't do something; we need to actually be seen to be doing something about this.

But let me say this, that the discussion seems to have moved where all these different things - and I'm glad, Jonathan, you mentioned there were two different items altogether, the Strawman and the LPR, which are totally separate.

And we need to look at them, you know, separately and I think we need to look at them substantively. Instead the discussion seems to have gone from, you know, basically to the issue of - instead of looking at substance we're looking at, you know, is this a policy grab? Is it a political issue?

And what I'd sort of hark back to is in the last call Alan made a point saying well, you know, it is going to be the new way the GNSO is going to work where we do need to have these abilities or we can go outside just the Council, for instance, and try and, you know, try and fix certain problems for each consensus, bring it back to Council obviously, which is exactly what's happening here, and try to come to some sort of a solution.

Now having said all that I'd like to make a suggestion and I think I want to sort of reach out to Mason and agree with him that, you know, maybe throwing this out to an informal or some sort of working group, which can work together with Mason on not just the letter that he has, I mean, I'm quite happy to sort of use that as a starting point.

You know, obviously we have variants on various issues with respect to the letter. But we're happy to work with him. I'm happy to step forward and do that. I know others are. And try and see if we could go through, you know, item by item because I think what's happening is we're conflating everything, putting it together saying all of this is policy.

Where I think that it would be helpful for us to sort of look at each individual suggestion in those documents, in the Strawman as well as the (unintelligible) and see, you know, is it a policy issue? Is it not a policy issue? To what extent is it implementation? To what extent is it possible that this could be implemented and whether we can try and reach consensus.

Now I know that we've discussed previously we've been through this process before but that's how these things work. I guess we got to come back. And instead of not doing anything I'm in favor of actually sitting down, getting a group together and trying to actually work this problem, not just deciding that there needs to be response which is negative but actually working on each one of these issues substantively, giving a fair hearing amongst all the parties.

Not just a sort of automatic response of saying just because this is a political issue and we seem to feel that there was a power grab we're just going to say no and say this is none of your business; this is the GNSO's preserve.

And last point on the political issue at least. There have been several thing - and I mentioned this last one - the (PDDRP) is a policy that was developed; it's part of the new gTLDs. It never ever came to the GNSO

Council. It's part of the new gTLD process yet no one's had an issue with that.

So, you know, those - there are possibilities I think to come to some sort of a consensus - well a consensus at least we can agree on certain aspects. So I'd go to reach out and say, Mason, I'm happy to work with you on that. I don't know if others are. Let's try and see if we can form some sort of a working group and try to come up with some solutions here. Thanks.

Jonathan Robinson: Thanks, Zahid. We've got a long queue. This is a perfect opportunity to air some opinions in a way that may not be easy to do off - you know, offline and on the email. But we're definitely going to have to take this offline to produce some form of more substantial response that may not take up the air time and offer it over to Brian.

Brian Winterfeldt: Thank you. I just wanted to state that I am also happy to work on that. Obviously I think it's publicly stated and - including on the last Council call - what the IP position is. And I think that there are also, you know, a number of parts of Mason's letter that the IPC would love the opportunity to talk about in more detail.

And I also agree with Zahid that I think going through and kind of point by point and really breaking out sort of, you know, where there's a difference and if we can find common ground on at least some things that we can all agree are implementation I think that would be a very constructive process. So I won't go into detail.

And I'm happy to kind of take it off list or make it part of some sort of team of folks who are going to work on this but I'm happy to do that for the IPC and to work with Mason.

Jonathan Robinson: Thanks, Brian. Thomas.

Thomas Rickert: Thanks, Jonathan. I would like to comment briefly on the issue of defensive registrations. And I know that I'm now at the risk of John Berard chatting again that this is more an Item 9 discussion. But I think that both subjects are very closely linked.

There has been public comment that says that the implementation recommendation team came up with solutions and proposals and that that was regarded implementation.

Now looking at the recommendations of the (IRT) or more specifically the ideas that have actually gone into the Applicant Guidebook those measures are curative or reactive. So if you look at the URS, for example, that reacts to registrations that have already been made, looking at defensive registrations, that is a proactive measure that prevents third parties from registering certain strings.

And to me it is important that when responding to Fadi that the Council is consistent in its decision making. And if - I'd like to offer a little bit of history here because when we started discussing the IOC and RCRC subject the Council felt that discussing potential new protection mechanisms, which also offer proactive protections that that was a subject matter that required a PDP. Thanks.

Jonathan Robinson: Thanks, Thomas. Volker.

Volker Greimann: Yes, I would just like to add my voice to the group of people that have said that we should at least try to communicate a common GNSO opinion even if we do not reach full consensus on that.

Because if the Strawman proposal is in a way an attempt to circumvent the GNSO by calling everything in it implementation, which I do not agree, even if we later find that most of it is implementation we should still look at it and defend our rights to make policy where it is policy.

Jonathan Robinson: Maria. Thanks, Volker.

Maria Farrell: Hi, Jonathan. Just coming back to something that Zahid mentioned, this is an example of, I guess, off road policy making or alternative to the GNSO Council and the GNSO proper as a policy maker. I would just like to, you know, raise the point that we do not want to create incentives for people to go outside of the Council, off road, in non inclusive and secretive processes.

And that I think the result that we're seeing now and that we're trying to work through as a Council as constructively as we can is a perfect example of just how divisive and how destructive those types of off road processes can be. And the last thing I would like to do in our response is to help to create perverse incentives for that sort of activity to be, you know, held again in the future.

In terms of what I think we can constructively and concretely achieve, I mean, clearly there's not consensus about the draft letter that we have at the moment. But I think it's quite possible to use that as the basis for creating perhaps the majority and minority report.



We can clearly identify some common ground. And I think it will be useful to do that. However I think it's really important to identify - I mean, to articulate what the majority view along with the minority view because I think it gives a very clear and correct response to Fadi about what is the view of the GNSO Council on these.

I think Fadi has asked for a full response; not the response that it's politics for us to give. And I think a comprehensive response of majority view, minority view and identified common ground is what is required.

Jonathan Robinson: Thanks, Maria. That's clearly expressed. Alan.

Alan Greenberg: Thank you. I guess I disagree to some extent. First of all at least one part of the Strawman was in the Strawman described as policy and as requiring policy action from the GNSO and is asking how the GNSO would like to proceed with this.

I recall a week or so ago, I think it was Volker but I'm not 100% sure, talked about the current discussions between Registrars and ICANN staff on proxy and privacy providers as creating a Strawman which would then fit - feed into a PDP.

And in other words, you know, let's try to get some ideas on the table so we're not starting from scratch in a PDP with a blank page and I few these kind of things as the same way. There is one item in Fadi's Strawman which is defined as policy; another one which they said it's implementation, most people seem to feel is policy anyway.

And I would have thought part of the reaction of the GNSO is how do we get a PDP going or some other policy discussion going to, as the GNSO, decide is this indeed something we want to do? Do we need to tweak it? Are we going to reject it a whole - out of hand?

But to actually do some policy work on the issues which the GNSO believes are policy not just toss the whole thing away and say let's start from scratch using something else. So, I mean, I would have liked to see something more productive coming out of this on the areas where most people admit it is GNSO realm. You don't have to fight for it. Let's do something about it. Thank you.

Jonathan Robinson: Thanks, Alan. I'm going to close the queue after Volker. We're having repeat contributions. And I'm not saying the content is repetitive but the contributors are. And we've got clearly limited time. So I've got Jeff, Zahid and Volker and then I'm going to try and wrap it up.

Jeff Neuman: Yeah, thanks. I want to just echo a point that actually Mason made part of it on the chat too. We need to be careful because the GNSO Council is not a policymaking body itself. It has to - the GNSO Council is the manager of the policy process.

So if we were to get together and write a letter it shouldn't be the Council coming up with some negotiated point of view that is to, you know, say what we should do; it should be really representatives of the community.

But I also want to say that I'm happy to - what I think what the GNSO Council should do, as I think someone mentioned before, is to basically construct a letter to say, hey, this is something that is - we can agree

or a majority of us agree is implementation. And that's something that doesn't have to go through a GNSO process.

Or, you know, this is something that's clearly policy and that needs to go through the GNSO. And we'll, you know, as a proactive measure we'll commit to getting a working group underway to actually examine that issue. And I see that John Berard said that's a limited - I forgot what it stands for - the (LPR) is our preventative registration to our policy.

But, I mean, it would be nice to know - and I'll put the question out to the IPC because they've said that everything is, by definition, implementation. And I know that - I'm not sure if the Non Commercial said everything was clearly policy. I think there were a couple things that they said there weren't.

But if we can get to the table and put those views aside and actually come up and have an intelligent conversation as to what we think should be within the GNSO realm and everybody's willing to work together I think that would be a constructive output to provide to Fadi so I think we should do that.

I do want to mention just to clear up for Zahid. He said no one had an issue with the (PDDRP) as going through the policy process. Zahid, I would strongly encourage you to go back to the records to actually review that because...

Zahid Jamil: Because you did.

Jeff Neuman: ...as one that was kicking and screaming the whole time that was something that was clearly, I felt and the Registries felt, was policy; just no one listened to us. So anyway I just wanted to clear that up.  
Thanks.

Jonathan Robinson: Zahid. Thanks, Jeff. Zahid and then Volker and then we're going to close this particular discussion.

Zahid Jamil: Thank you. Thank you. A couple of quick points. First of all I do think that, you know, it helps outside people trying to basically look at issues try to come to some sort of - as long as they come back to the GNSO, as long as they don't try to impose something on the GNSO that the GNSO hasn't had input it I think it's - it helps because of the amount of work, as Jeff said earlier, for instance, you know, we've only done so many things within the last five years.

So if we can have other people, more hands on deck, the better it is. So I would just sort of support that. But I appreciate the point that, you know, the GNSO should not be bypassed, that is for sure.

And so in this situation we don't have the situation that existed with many of the new gTLD processes where the GNSO was actually, in fact, bypassed. Hello? Sorry.

Alan Greenberg: We're still here.

((Crosstalk))

Zahid Jamil: Okay, sorry, sorry, okay. And we don't have that situation where the GNSO was bypassed. Instead what we have is a situation where

something was worked on, it's a suggestion. Nobody's going to impose that on anyone. Instead what's happened is that input from the GNSO is being requested.

We have the ability, as the guys who work in policy, to look at this right now and come up with a response. So I would rather focus on the issue and on the substance and less on the process and the jurisdiction. You know, get working at it and try to work it.

And I've seen what Mason wrote on the chat. I know, I don't want to create this into a negotiating process and a tool, Mason, I completely agree. But what we do need to do is not just work on well what should the letter be. And we all agree, first of all, the letter should be in the negative and then work on it. That won't bring us together.

But what we - I think what we need to do is work on the substance. Look at each item, you know, like Brian said and others, and think about how we feel about that, try to negotiate that out to that extent and see where we can come to that. And that would be the role of the GNSO.

As we were saying, well we don't want anybody else to dictate to us. Do we have the opportunity now in some sort of a formal working group, etcetera, to come together with that and say look, if this is not policy implementation, this is what we think about it. If this is purely policy and it's just too much then fine, let's see if we can try to work on a fast track PDP for instance.

But I do think that we need to take that opportunity and do that. Just my few points and I look forward to hopefully working with whoever it is

that's, you know, Mason, hopefully as holding the pen on this thing and us getting together and trying to actually work the substance. Thank you.

Jonathan Robinson: Thanks, Zahid. Volker, it looks like you've got the last word on this before I try and wrap it up.

Volker Greimann: Okay, I fully agree that we should get into the substance of the matter and start a PDP on all of the subjects that have been suggested in the Strawman. I think the stronger reaction that was created mostly by ICANN staff coming out and calling most of the issues in the Strawman implementation, which was supported by some members of the community.

And that would have been a circumvention of the GNSO which would not be acceptable to me at least and I think a couple of others as well. Basically working on the subject is what we want to do. Working on the topics is what we're supposed to do.

Jonathan Robinson: Thanks, Volker. I'm going to try and wrap this up and then move on to the next items on our agenda. I mean, first of all I want to commend councilors on the constructive tone of the discussion. I think I detect a genuine attempt to work together in spite of some differences on both, clearly, the substance as well as the mechanics.

But what I've picked up is that - and I should say that this wasn't really covered now but from a previous conversation there was the desire to - from our previous discussion - to at least acknowledge the good faith attempt that was made to try and engage even though some - by Fadi -

even though some in our community had significant reservations about the way in which it actually transpired.

In any event the councilors, what I've heard this evening is that there seems to be on balance a view to formulate a substantive response that has the foundation in it, an emphasis on the role of the GNSO and the GNSO Council but doesn't stop at that point. It does try to make a good faith and genuine attempt to answer some of the questions posed by Fadi and within the Strawman either by providing input in the letter or indicating how the GNSO might respond to those through the development of appropriate policy.

So I think we can make progress. We've got - we do have a window of time. I haven't heard any objections to Mason continuing to hold the pen. And I've heard plenty of volunteers willing to work.

So now that we are fully into the New Year and not sitting in the Holiday season I'd encourage people to sign up and work within this group of councilors to - let's try and drive towards a more substantial and thorough response that genuinely reflects well on all of that and on the Council and the role of the Council. So thanks again for that input, it's useful.

I don't know whether the next item, which is our response to the GAC letter, is any easier or whether there are any more challenging issues that we'll face here. We have our own, as you'll note from my round robin email from earlier today, we have - we've effectively set our own deadline on this.

I know there was some encouragement at the last call in particular from Jeff and perhaps others to commit to a mid-January deadline. I deliberately wanted to keep a little bit of flexibility in there in case we had the opportunity to talk either to individual GAC members or to the...

END

ICANN

Moderator: Gisella Gruber-White

January 17, 2013

2:00 pm CT

Jonathan Robinson: for the last call in particular from Jeff and (Patrick) to commit to a mid January deadline. I deliberately wanted to keep a little bit of flexibility in there in case we had the opportunity to talk either to individual GAC members or to the leadership of the GAC. From my point of view that hasn't happened at this stage and I do think we have to now respond to our own deadline which is to get something back to the GAC by no later than the end of the month.



Personally I think we've got a fairly good draft and from what I heard on the last meeting there would seem to be a reasonable -- I'm searching for the word -- coherence of response from the councilors to that. So really what I would like to do is encourage certainly off list us to develop a redline version or just start to work towards the final version of the draft that Jeff made and I will ask for any comments on that approach and whether there was any significant deviations from both the timing and remember some of the principles we had in there where we were going to put some history, pin some history to that and we were given a link to that history by (Barry) I think from memory.

So can I ask for any questions, any comments or inputs on this? And I see I've got Thomas's hand up first of all.

Thomas Rickert: Thanks Jonathan and it is particularly that point that you just referred to with the link provided by (Barry) to the history that I want to comment on and offer to provide more input should the council accept that offer.

As you know I'm chairing the IGO, INGO, IOC, RCRC PDP working group and we've been working on the subject matter for a couple of months now. And I think that I could now provide much more detailed information to a draft letter explaining the complexity of the issue and the reasons why the council was well advised to initiate a PDP because that was I think the overarching question raised by the GAC, namely why is the council is initiating the PDP at all.

And I think that I might have some good arguments reflecting the controversial discussions on the working group that could help explain to the GAC why we were going through with this exercise.

Jonathan Robinson: Thanks Thomas, I appreciate you sticking your neck out to or putting yourself forward to potentially assist with this.

Thomas Rickert: Jonathan sorry the question was whether does the council at this stage want me to provide more information. We had some debate over that on the list and that point the council - I guess the majority of you of the council was that would leave it with the link provided by (Barry) because that is as objective as can be. And so again my question is...

Jonathan Robinson: I understand the question.

Thomas Rickert: ...if you would like my advice on that.

Jonathan Robinson: Yes thank you. I mean I certainly I got the impression from our discussions on this that there was a balance of support in favor of putting whatever we wrote we some form of appended history, the question is whether we put more detail into that or whether that's - I guess that's your question whether now with the experience you have whether we add to it. I cannot think too clearly how that either be fitted into the body of the letter or into the history appendix but maybe someone else can help me out but Alan, Jeff then Wolfgang in the queue.

Alan Greenberg: Thank you. I really don't see this letter as being all that difficult, maybe I'm na ve. In the absence of the board making a decision on what all new gTLD should do or what all new gTLDs should do, the registries are not going to divine law by themselves and figure out what it means to them. They need guidance, they need instructions on which to work and therefore the GNSO is the only place it's going to come from and

the PDP is the only process to do that especially if we're looking at all gTLDs not just new ones.

So the existence of law does not necessarily provide guidance to a corporation in any particular country. And in addition to that our experience in this area says that it's not a black and white thing. There may be ifs, buts and ands and there may be exceptions, they need to be considered. So that's why we're doing it.

It's interesting to note for those not on Thomas's working group that one of the first thing the working group did is ask ICANN counsel are there any laws in place that you know of that prohibit a registry from registering the names that we're talking about. And we expected a quick answer to come back. ICANN counsel has been working with external counsel apparently for the last several months and they don't have an answer yet. It's not a clear question. Thank you.

Jonathan Robinson: Thanks Alan. Jeff and then Wolfgang.

Jeff Neuman: I'll first comment on Thomas. I think adding some more history is okay and some context certainly to the appendix. I wouldn't make the letter any longer than it already is. We just find that especially governments and others they just don't have the patience to read through a lot of that stuff. They need a short, quick and easy letter so I'm happy and we're all happy to take edits to that letter but I think we should make it part of an appendix if anyone wants to look further into it.

On what Alan said on the first comment that registries need guidance and the GNSO is the one to it, I'm not sure that that's correct. I don't think the GNSO is the one that advises registries as to what is

compliant with law. I think actually each individual registry it's up to them because it's up to their each individual jurisdiction.

It's not a surprise that ICANN counsel is taking a long time to determine what is in fact the laws because they know the political ramifications of what they say and so they're going to take as long as possible to come out with an answer and in the end are going to come out with something pretty convoluted because of the political ramifications of saying that something is or is not compliant with law.

Because remember if ICANN does come out and say that registries are required to do something under the law, that would be a change to what each of the current registries believe is the law. And to date no one has challenged that; no one has successfully challenged that. So my guess is you're not going to get a very good answer from ICANN and you won't get one very quickly. So I do think the letter should be short, the letter should say what it does say now, I'm happy to take some minutes but I firmly believe we should keep it short.

Jonathan Robinson: Thanks Jeff. Wolfgang?

Wolfgang Kleinwachter: Yes if you read the letter from the GAC then after all the discussions we had in the working group you come to the conclusion that the GAC sees this as a simple question, just recognize (unintelligible) treaty, you get a protection. They do not understand the complexity. In my discussion I had with various GAC members is that 80% of the GAC members have more or less not really considered investigation and it's in particular the United States government which wants to have this special protection mechanism.

So I think it would make absolute sense in my eyes to respond to the GAC letter and to say wait a minute, this is much more complex. It's not so simple as you think and we cannot rubber stamp what you want from us. So that means we have to go through the various dimensions of the issue. It's very, very complex and we invite according to your principle come to Toronto in early engagement to engage in our discussions so that you understand also the complexity. It's not so simple as you express it in your letter.

I think if Thomas could say this on two pages, not to overstretch the reading capacity of a governmental bill this would be perfect. But the main message of the letter we'll write to the GAC is it's very complex. Thank you.

Jeff Neuman: Hey Jonathan this is Jeff can I just state just to reply real quickly to Wolfgang that that's what the draft letter that we sent around, that Neustar sent around in December says if you want to read that. I mean that's what Jonathan's asking for comments on. So if you want to look at that that message that it's complex and there are exceptions, that's what it says.

Jonathan Robinson: Thanks Jeff. I think that's helpful. Volker you can close the conversation. It looks like you get to have the last word again apart from me with the chair's privilege. So let's hear from you Volker then I'm going to make a couple of remarks and we'll move onto the next area.

Volker Greimann: Yes I just wanted to say that I support the letter that we have composed because just like what Jeff said it's a complex matter and we should make sure that the GAC finally understands that we do not

want to deprive the IOC and the Red Cross of protections that they need but on the other hand we also do not want to go overboard by providing blanket protection that would go beyond everything that is necessary and goes into the realm of depriving legitimate owners, legitimate users of potentially interesting domain names that they would have a right to register even if we granted protections.

Jonathan Robinson: Thanks Volker. What I think I hear here is something which seems to be so consistent and so I'm encouraged by that. What I think I hear is that we have a letter initially drafted by Jeff that needs some perhaps minor edits and tweaks but in principle that is something we are generally behind. I have we believe an agreement that there should be a link or some form of appendix which described the history of this particular issue so anyone digging into it can go a little bit further. And we have a volunteer - Thomas has volunteered to provide what I'm starting to see in my mind's eye as a letter from the chair of the INGO, from the working group that Thomas is currently chairing.

And I think the succinct letter that Jeff describes with the two appendices to me seems like a comprehensive and well thought up response. So that's the shape I'm seeing. I hope that's consistent with what other councilors are seeing and I would encourage you and...

Man: I was wondering if I could speak to James?

Jonathan Robinson: I think you're on the wrong call. Do we have someone on a call?  
We have a crossed line here.

All right I'm not sure if anyone else heard that intervention but it sounds to me like we've come to a conclusion on this as far as we can on this

call so thank you again. That was also another constructive conversation and it seems like we have moved that onto the level where we should be able to produce the output in the time we set and something which we can get behind and be pleased with.

I suggested a change in the order here. I think to make sure we cover this I'm going to bring item up the agenda from item nine and I think we are going to have to scratch item eleven from this particular call and move that onto the list. So just to help you we've got 20 minutes to go and I'd like to deal with item ten which is to just make sure everyone's clear on where we're at with this GNSO endorsement of the ATRT 2 and the call for applicants and the GNSO endorsement of those applicants.

I think you will have seen that Wolf-Ulrich kindly put around a summary to the council and Wolf-Ulrich if you could be brief and to the point in describing where we are and what action we need to take place and then we'll hear if there's any comment or input on that. Thanks.

Wolf-Ulrich Knoben: Yes thank you Jonathan. Well as you have seen at the beginning of this week there was a closure of the application round for the ATRT 2 and there have been filed - almost all of the GNSOs have filed applications for that. And on the GNSO part there have been eight applications filed so I have disclosed this list, this is a list of applications to our e-mail list as well so that you can see where those applicants come from, what is their background and where they are originally coming from and to which stakeholder group or constituency they are affiliated to.

So now what is the process now that was outlined several times? So the electors for the ATRT are (Steve Cochran) and Heather Dryden. They are expecting by the end of this month, I think the 28th of January, the announcement of the nomination come from the GNSO side and from the different SGs, stakeholder groups, and they are expecting the announcement.

So right since we have this internal process in the GNSO so we have communicated internally from the - so Jonathan did so, communicated to SG leaders to file, to nominate their nominees and to send it to the council so that the council could have a role on this which is described in the procedures, meaning the council should provide whether the recommended nominations fulfill the criteria in terms of regional diversity and gender diversity and then there's a specific process if that is the case or if not about that.

So what we are going to do now is Jonathan again treated the leaders of the stakeholder groups in order to hurry up a little bit in nominating the nominees from their respective stakeholder groups so that we can do something. So up till now to my knowledge I have not seen any nomination from any stakeholder group up till now and I can also say from my specific stakeholder groups and affiliates in that discussion about because from my stakeholder group we have two applications.

So right now what we have done Jonathan I think we have suggested a potential meeting of the council, it's just a call about this one item on the 21st or 23rd of January waiting for the nominations from the stakeholder group and send to the site about what we shall do about that.



Technically speaking if you look at the list of applications, GNSO applications, and you mirror to that to the gender and government diversity criteria which I have set here so you can easily see that it might be a big problem to fulfill those criteria at the end. But it leaves still discussion on that and also if the list doesn't allow to fulfill the criteria then it is as it is at the end so we cannot discuss about it then we have these applications and we have to put them forward.

So right now that is the status. I would like to encourage everybody of you the council members to refer to your stakeholder groups and discuss internally your nominations as soon as possible to forward them here to Jonathan so that we can have a discussion and my suggestion would be we put a discussion on the list about that. So that's the status at the time being.

Jonathan Robinson: Just to make absolutely clear we have the list of GNSO applicants, of applicants arriving in the GNSO for this team. We urgently need stakeholder group endorsements. The council has a really limited role in taking these stakeholder group endorsements and this is a previously GNSO agreed procedure and we will pass those endorsements onto the selectors as they are provided for us by the stakeholder groups.

The stakeholder groups are encouraged to provide a primary endorsement in addition to one or two other candidates they support. And in doing so that will provide the council with the opportunity to fulfill it's very limited role which is to ensure gender and geographic diversity. And we as a council have the opportunity to add up to two more as I understand the process GNSO-endorsed applicants to the up to four endorsed by the stakeholder groups.

And if we do that we will only do that on two grounds: one, that in order to meet the gender and regional diversity requirements; and two, conditional on those newly added candidates, those up to plus two additional candidates receiving 60% vote from both sides of the house. So in order to undertake that process we almost certainly need to have a meeting if we can't clearly resolve on list and I think the process requires us to have a meeting which is why we've put it on the 21st.

There are some real time pressures with regard to the regional meeting in Amsterdam and with regard to the non-contracted staff meeting which I believe is taking place in a later week afterwards so after Amsterdam so that's the following week after next. And so with all of those constraints we have set up this meeting on the 21st of 1500 UTC so please keep an eye on the list.

This is a critical item that we should be able to deal with relatively simply but it almost certainly will need two things: one, us to be at the council meeting; and two, your stakeholder groups to come forward with their primary endorsed candidate plus one or two additional candidates. So that's it on this item. Councilors please reach out and try and get those endorsements to the council as soon as possible. It is now becoming urgent.

Right we have ten minutes remaining so let's move onto item nine which is what I described in my e-mail earlier as a meta theme. It's this whole issue of policy versus implementation. Let me just make sure that there are - I'm sorry I'm just going to check if there's any questions. I wasn't closely monitoring. There are no questions so we'll move onto item nine which is the policy versus implementation.

And I know Marika is going to say a few words because staff has made a substantial effort to kick this off by the staff paper and then hopefully within this meeting we'll have an opportunity to begin to discuss both the substance and the likely processes that might come out of this about how this topic is developed within the council, the GNSO and in fact the broader community. So over to you Marika.

Marika Konings: Thanks Jonathan. This is Marika. I haven't prepared any slides but I thought it might be helpful just to put up the paper itself. It's relatively short so I hope everyone had an opportunity to look at it or maybe just glance through it.

And based on the comments that were made before referring to item nine bringing all the magical answers to the questions that were discussed in relation to this, the trademark clearinghouse I think has to disappoint all of you because the focus of the paper is really not about trying to find the magic answers or the black and white answers to what is policy and what is implementation.

I think as several of you have already commented it really depends on how you see the proposal. If you agree with it you're likely to consider the implementation and if you think it's a bad idea it's easy to say that it's policy and it needs to follow a different path.

So in fact the paper is really trying to provide some points for some discussion. It says set out a set of principles and a draft framework which we actually hope may serve as a kind of starting point for the broader community to look at some of the questions that have arisen out of the discussions mainly I think as a result of some of the

discussions coming out of the implementation of the new gTLD program.

So in doing so what we did is we first tried to identify and set up of proposed principles and we tried to ensure that there would be a common understanding or appreciation of some of the basics. And then from that we developed a framework that you can find in the annex to the paper and maybe if we just have a look at that briefly just to explain to you a little bit the thinking about that.

And again maybe I need to set out as well although I think a lot of it applies to what we're doing in the GNSO, the discussions we've had but the idea is really that this framework may serve broader purposes and really applicable to broader parts of the community and we want to make sure as well other parts of the community that can provide input. Because I think from our perspective at least when it comes to implementation-related discussion it's not necessarily only the supporting organization that has developed the policy that has a say or view on how the implementation should be done but also other parts of the organization that may have very valid views or points they want to communicate and share.

So looking briefly at the framework itself, of the draft framework itself basically I think is outlined in the paper, the assumption here is the starting point would be the proposal relates to the outset to implementation. I think the outset while we're looking at implementation-related discussion so basically that will be the idea, our message really clear and that the proposed action would result in new requirements on contracted parties which of course for that there is the PDP.

So the idea will be then and you can see that on the top part that there may be variations in the proposed changes. There may be basic changes that are really considered administrative or errors or clarifications. Then you have a set that made changes that are more substantial that may require public consultation and the other changes maybe suggested by the board.

This framework itself or this outline is something that we actually tried to adapt from what is currently is the applicant guidebook. And again it's here for discussion and modification or starting from scratch I think as the community decides but it's really trying to come up with a kind of framework and path of guidance about how to deal with these questions.

Of course you still have here as well already determinations that will need to be made, who decides or how do you decide whether something is just a clarification or whether it's actually a bigger change. And again there may be additional paths that need to be decided and need to be developed to make sure that there are clear processes in place and clear expectations on what can be expected in these types of discussions.

And then you'll see as well like when you follow the public consultation and path there's also then this kind of back door that says well it becomes really clear it's part of public consultation and again there are certain steps that may need to be defined there. For example if there is a majority, a super majority or kind of position from an AC a supporting organization that says this is really policy and should go back, is that the turning point, is it two or three groups saying that, how do you

evaluate that, who evaluates it? So there are all kind so nuances here that need to be further discussed and reflected upon.

And then the idea is that you have this second track basically which is really the policy track. And I think the one there, the obvious one the PDP. And we know how the PDP works. The PDP is a requirement for creating new contractual obligations specifically. So I think that part is where we have a clear set of defined principles and a clear path of what needs to be done in that context.

I think where the big question mark lies is the second part on the policy guidance and I think that's where some are eluding to it already in the discussions we had on the trademark clearinghouse, can we bring a group together actually looking at this. It's not a PDP but something more formal or something more organized to make sure checks and balances are in place that would provide like a formal view of a certain group.

So basically the idea is there that such a process would be used for instances where indeed it's not merely considered implementation change, at the same time it's neither considered as requiring or creating new obligation or contract of parties and having to go through a (unintelligible) very rigid and long process.

So the question here is is there a way to create a separate policy guidance process and as you all know the council has used ad hoc processes in the past, some of which have been considered very successful although maybe less successful. But none of those had any kind of formal processes. I think as a result of that as well and it comes back in the paper as well that when once the GNSO forms its opinion

or sends its views, there's no formal process either for example for the board to consider that. Again I think this is an element where I really would like GNSO and as well all the community to think about that.

So going across the table what we did then is based on the framework and some of our findings we identified a number of questions which we think may serve as good starting points for the community to look at that. And again some other groups may come back and say well certain parts we don't really feel are valid to us, others may say we see ourselves really fitting here in this framework and this is what we're going to focus on. But we're hoping that coming together we may come up with a kind of framework that may be applicable in various scenarios and provide us space and a clear path forward on some of these issues.

And then in addition to the questions we also actually outlined a couple of suggestions or ideas for possibly short-term improvements. I think one of them I just alluded to might be a way for SOs and IACs to actually identify which processes they use to develop policy guidance. And certain groups already have very clear processes in place like the (unintelligible) or something like other groups can learn from that or copy or should that be a standard process which is followed by different groups.

Another suggestion there is maybe there should be a requirement as well when ICANN staff puts out proposals for implementation-related changes that they provide a rationale as to why did they consider it implementation and that could be accompanied by for example a standard template of questions.

I think one thing as well and I think certain improvements have already been made in the GNSO PDP for example where there is a lot more focus on implementation details. We have an implementation review teams that are usually created. But again maybe as well to really enforce or enhance this notion that as much detail as possible needs to be provided in policy recommendations. That may solve some of the issues already.

Again ask SOs and ACs to identify which processes that they've developed or developing on what they consider something policy or implementation and I think one part as well is maybe looking at the ICANN board, how or when do they request policy guidance and how to deal as well with policy that is received from groups that have been requested to provide input.

I think though what we really tried to do is really point to some areas where we think a lot of work could be done or undertaken to clarify some of these areas, and again maybe not providing the magical answers but hopefully providing a kind of path forward and some clear steps that can be taken and bring more clarity and transparency into this process. I think we just tried to kick off the discussion.

So maybe just wrapping up because I know we're getting out time, from our perspective what we would like to suggest as the next step and we said already before is try to have a follow-up discussion on this (unintelligible) trying to encourage different groups to put forward a couple of volunteers that can work a little program for that session and they can try to see how it goes from there. And of course it's up to the GNSO to decide how you would like to take this particular issue forward and hopefully we can work together on that.



Jonathan Robinson: Thanks Marika. It's obviously been some comprehensive work and that's a thorough attempt to produce substantial input into this whole discussion.

It's clear we've hit the top of the hour now and I'm keen to ensure that we do stick to time. We had a long meeting last time with good reason and with forewarning but in general as a principle I like to stick to time.

So we'll pick this up on the list. We may well put it as an agenda item on our next meeting as well but let's in the meantime we'll look forward to this being a theme that we work with going forward.

I'll just call for any other business because that's the next item on the agenda just to close off if there is anything that we haven't covered so far. Hearing none I think we can bring this meeting to a close.

Thank you everyone. It's been a constructive meeting. I understand some will have difficulties with the 21st. We'll pick this up on list and to the extent that you can arrange proxies that will be very helpful because this ATRT issue is something we have to deal with. So please keep an eye on the list and let's do what we can do complete the item successfully.

Thanks again to everyone for your contributions and for a constructive meeting.

Man: Thank you.

Man: Bye-bye.

Man: Thank you Jonathan and thank you all.

Man: Thanks (David).

Man: Thank you see you next month.

Man: Thank you.

Woman: Thank you.

Coordinator: Thank you. This does conclude today's conference. You may disconnect at this time.

Woman: Thank you so much.

END