

**Policy & Implementation Working Group Meeting
TRANSCRIPTION**

Wednesday 5 March 2014 at 2000 UTC

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 05 March 2014 at 2000 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <http://audio.icann.org/gnso/gnso-policy-implementation-20140305-en.mp3>

On page:<http://gnso.icann.org/calendar#mar>

Attendees:

Philip Marano – IPC)
Michael Graham – IPC
Cheryl Langdon-Orr – ALAC
Alan Greenberg – ALAC
J.Scott Evans – BC
Greg Shatan – IPC
Tom Barrett – RrSG
Nic Steinbach – RrSG
Anne Aikman Scalese - IPC
Tom Barrett Encirca - RrSG
Wolf Knoblen – ISPCP
Amr Elsadr –NCUC
Chuck Gomes – RySG
Olga Cavalli – GAC
Olevie Kouami - NPOC

Apology:

Becky Burr - RySG
Chuck Gomes - RySG

ICANN staff:

Amy Bivins
Marika Konings
Mary Wong
Nathalie Peregrine

Operator: This call is now being recorded. If you have any objections, you may disconnect now.

Nathalie Peregrine: Thank you, Vince. Good morning, good afternoon, good evening, everybody. This is the Policy and Implementation Working Group call on the 6th of March, 2014. On the call today we have Olga Cavalli,, Alan Greenberg, Cheryl Langon-Orr, Chuck Gomes, Olevie Kouami, Wolf Knoblen, Greg Shatan, J. Scott Evans, Anne Aikman-Scalese, Nic Steinbach. We have apologies from Becky Burr, James Bladel, and from

staff we have Marika Konings, Mary Wong, and myself, Nathalie Peregrine. I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you ever so much, and over to you, Chuck.

Chuck Gomes: Thank you very much. Welcome, everyone. Let me ask, first of all, if there's anyone who's not in Adobe Connect. Speak up if you're not, so that I know to kind of call on you or listen -- okay, sounds like everybody is. That's good. So, I'll watch for raised hands, or agrees or disagrees or whatever in Adobe Connect.

You can see our agenda over there on the right of the Adobe screen. Does anyone have any statement of interest updates? Okay. Our main goal today, although we do need to leave a little bit of room at the end for the last couple of agenda items, but our main goal today is to do a review of the principles that the sub-team drafted and sent around about a week ago, and then they were sent again a couple days ago. I hope that everyone has had a chance to look at those. If not, we may have to go over them in a little more detail now.

So, what I'm going to do then is start right off. You can see the overarching principle is in front of us in Adobe. Is there anyone who needs me to read the overarching principle? If not, I won't. So--.

Cheryl Langon-Orr: Chuck, Cheryl here.

Chuck Gomes: Yes.

Cheryl Langon-Orr: Anne is just mentioning that she hasn't had time to read them yet, so perhaps a brief read-through might be important.

Chuck Gomes: Okay, that's what I -- that's what I wanted to know. And I will do a brief -- if I speak too quick -- type too fast, please let me know. So, the over -- first of all, a little bit of background. And Cheryl, why don't you take a minute and share why we came up with an overall principle, because you were the one in the sub-team that suggested that. Would you do that, please?

Cheryl Langon-Orr: Certainly. Thank you. It's Cheryl for the record. The sub-team felt that some -- rather than going through any repetition and to firmly ground the principles that apply specifically to policy, (and there's a comma), and implementation, (INAUDIBLE) segregated, as you'll see, as we go through the document, that some ICANN-enshrined over-arching principles need to be elucidated at the beginning of the document. And to that end, we have presented for your digestion, and hopefully approval, the following, which is slightly historical. You want to read it, Chuck?

Chuck Gomes: Well, go ahead. You read it.

Cheryl Langon-Orr: Yes. Sure, fine. I'm perfectly happy to read it. I might just have to bring it up as slightly larger on the screen, the old eyes here--.

Chuck Gomes: --I understand--.

Cheryl Langon-Orr: --The old eyes here. Okay.

Since its inception (and then, this is a quote), "ICANN has embraced the Multi-Stakeholder Model [MSN] as a framework for the development of inclusive global Internet governance policy (and that is footnoted to reference the quote to David Bollis). "Multi-Stakeholder Model" (in quotation) is an organizational framework or structure for organization governance or policymaking which aims to bring together all stakeholders affected by such governance or policymaking to cooperate and to participate in the dialogue, decision-making, and implementation of solutions to identified problems or goals (period). A 'stakeholder' (in inverted commas) refers to an individual, group, or organization that has a direct or indirect interest, or stake, in a possible outcome (that is also footnoted, following by another paragraph).

The (in inverted commas) 'ICANN Multi-Stakeholder Model' is a multi-stakeholder model composed of different Internet stakeholders from around the world organized in various supporting organizations, stakeholder groups, constituencies, and advisory committees, and utilizes a bottom-up, consensus-based policy development process open to anyone willing to participate (new paragraph).

GNSO policy development processes, and in particular the policy development process (PDP in brackets, and that is also footnoted), enshrines this concept of a robust MSM, and to that end the following principles apply, so it is setting the ground rules." Thank you.

Chuck Gomes: Thank you very much, Cheryl. You do a great job of being precise there. I appreciate that.

The -- so, let me open it up for discussion on the over-arching principles, questions, comments, anything you have right now. Our goal, while you're thinking about that, today -- or if we need more time, we'll figure out how to get the additional time at the end of today's call -- is to try and get full working group consensus of these principles, keeping in mind, just like with the definition, if we discover in our detailed work that's going to happen in the next few months that there needs to be some modification, we can certainly go back and do that. But, we wanted to have a foundation upon which we can do our -- the key work that we're tasked with doing, okay?

So, these principles are very important. We would like to, in Singapore, ask for feedback from the broader community, if they have any thoughts, again with the same understanding that they're going to be the foundation upon which we build in the work that's to follow. So, having said that, let me give it to Anne. Are you on mute, Anne?

Anne
Aikman-Scalese: I'm so sorry, Chuck. It's Anne. Yes, I was.

Chuck Gomes: I understand -- we all understand. Don't worry about it.

Anne

Aikman-Scalese:

Okay, thanks. Member of the IPC, but obviously not speaking for the IPC in this context. But, again, I've come up with a couple of questions. These are things -- you know, I apologize -- that just, they -- in the back of my mind, questions about the relationship between the multi-stakeholder model and two other what I would call governing documents just in trying to understand the governance here for policy development.

And so, one of those would be principles related to the governance of a corporation itself, where the -- there are Directors that sit on the Board of a corporation that then have certain fiduciary duties with respect to things like policy development. And so, it seems to me that there's -- there is a principle that is somehow associated with that duty of the Board of Directors that has to be thrown into the mix somewhere. So, there's a principle associated with the Board of Directors operating in the fiduciary duty interests of the corporation.

And then, the other thing that I think has to be thrown into the mix of policy development is -- well, I guess I'm growing in my understanding of what this picket fence issue is. I don't know that I understand it super-well, but it's probably somehow related to the affirmation of commitments. And it seems to be that there has to be some governing principle that's associated with both of those documents, if you will, or legal obligations that figure into this whole process of policy development, and that those are principles that apply.

Now, in the realm of things of the people on this phone, fairly recent to the ICANN process, but these are just general principles of governance that I need to raise and ask the question.

Chuck Gomes:

Thank you, Anne. This is Chuck again. Let me start with the second point, first of all, the picket fence. It does not relate to the affirmation of commitments, not -- at least not directly, but is actually contained in the registry and registrar agreements. And it's a wrap-around what can become consensus policy that, if passed by the Board, registries and registrars would be required to implement, okay?

To be very brief on that, and we could talk the whole time on this alone but we don't have that much time, registries and registrars, when they sign an agreement with ICANN, are signing an agreement with some unknown obligations, and those unknown obligations are called consensus policy. So, when the community, through its bottom-up process, develops consensus policy and then it's approved by the Board, and that comes back to your first point, then we as registries and registrars, speaking as one of those right now, are required to implement it. And so -- well, that's one of the reasons why we try to participate in the process, is so that things are -- policies are passed that are implementable and aren't too onerous on our businesses.

So, that -- then jumping ahead, and I'll let Alan jump in after me here, with regard to the fiduciary responsibility of the Board, that certainly is a principle that we have to keep in mind, but I'm not sure, speaking personally right now, that that's a principle for the GNSO, okay? Some of

our -- the principles that we will approve here, and the procedures that we will develop, going forward, will hopefully influence the Board in their fulfillment of their fiduciary responsibility, but that's their responsibility, not the GNSO.

Now, let me stop there and let Alan talk, and then I'm going to come back to you, Anne, on that.

Anne
Aikman-Scalese: Thank you.

Alan Greenberg: Thanks, Chuck. It's Alan speaking. I don't think I'm going to say anything very different from what you were. I was going to explain what consensus policy was, that is they are policies which can immediately alter the terms of a contract. And the term "picket fence" is the way of delineating what things one can have consensus policy on. The consensus policies cannot be on any terms of the agreement, but just ones that are specifically listed as areas being subject to consensus policy, and those are deemed to be within the picket fence.

In terms of the issue of Board fiduciary responsibility, that certainly is a concern for the Board, and the Board may choose, because of issues related to that, to not approve a policy. And I guess the GNSO and its working groups have to understand they shouldn't pass on any policy which is likely to trigger very negative comments from the Board because they're wasting their time. But, it's a Board issue, not a GNSO issue. Thank you.

Chuck Gomes: Thanks, Alan. Now, let me come back to you, Anne, to see if that was helpful, if -- to see if your questions were answered.

Anne
Aikman-Scalese: Yes, it is helpful. I guess where I'm struggling a bit is that the work that we're doing here, we're looking at principles that are governing a GNSO policy development, and -- but yet part of the reason for this group being in existence is kind of the -- a bit of tension between policy recommendations of the GNSO and actually how that policy is implemented, if you will, at the Board level. And so, it seems as though -- I mean, if the document here is limited to discussing the over-arching principles of GNSO policy development recommendations, then I think -- then I understand that this has that purpose in relation to GNSO policy development. But, kind of the minute we've been talking about implementation, it seems like a couple of other governance issues enter in, and that's where I'm -- I don't -- if we recognize that up front as a group, we kind of have to mention, it seems to me, these other governance issues, because the GNSO doesn't operate in a vacuum. There are other governance principles that are involved.

Chuck Gomes: The -- I see there's some disagreement with that from Cheryl. The -- first of all, the GNSO doesn't have a governance responsibility, okay, so--.

Anne
Aikman-Scalese: --No, it has a -- sorry, policy development.

Chuck Gomes: Exactly. And in recent history, there's been a lot of confusion of what's policy and what's implementation. And so, the Board actually asked us, the GNSO, to work on this issue. Now, let me be clear that this particular working group is not a PDP working group, so this isn't -- what we recommend if it's ultimately adopted in some way would not come under the picket fence because it's not a formal PDP.

At the same time, our hope, and I think the community's hope, is that we could come up with some guidelines, and maybe in the future they become more than guidelines, that would be followed by everybody in the process, starting within the GNSO, but then also with that and the Board in the overall continuum of policy development and implementation. Now, let me turn it over to Alan.

Alan Greenberg: I'll pass. I don't think there's anything more to be said. In approving Board -- things, there are all sorts of governance issues, but I do not believe that they are a significant part of the policy development issue other than to ensure that groups do not waste their time doing things which are likely to be rejected outright. Thank you.

Chuck Gomes: Thank you, Alan. Now, Anne, question for you. This is Chuck again. Is there anything that you disagree with in the over-arching principle there, or anything that you would change at this time, keeping in mind that, after we go through this whole thing, you may want to come back and say here's a principle I think we missed? I think that's better left until we've gone through them all, especially since there are some that haven't read it yet.

Anne
Aikman-Scalese: I think I don't agree with any -- I mean, I don't disagree with anything in the over-arching principle, assuming that we are talking about GNSO policy development. Maybe where -- what I'm -- there are two things I'm trying to express, is that I don't think that the way the organization works now that GNSO is the only place where policy is developed.

Speaker: Of course not.

Anne
Aikman-Scalese: And where -- so, I don't know if this group is only charged with understanding principles only for GNSO policy development, or if it's charged with recognizing that there are other places that policy is developed, and understanding that, for example, the GAC may not operate on a bottom-up principle. They have their own special rules. The Directors operate on a obligation for fiduciary duty, and so that would be one thing.

And then, a second question I would have would be regarding implementation, because I'm not sure, under the by-laws, if GNSO actually has any implementation responsibility. And throughout the principles here, what I'm seeing is that we're talking about the policies -- the GNSO's implementation processes. And I'm not sure, under the by-laws, if GNSO actually currently has implementation processes.

Chuck Gomes: Well, within -- this is Chuck again -- with regard to the new Detail D recommendation, there were implementation guidelines that were proposed. I think much of what you're talking about, excluding -- I'll come back to the GAC and the Board -- but much of what you're talking about, we're tasked with coming up with some recommendations for so that this lack of clarity with regard to implementation hopefully will be mitigated in the future. So, I think your talk -- you're getting into things that we're going to have to delve into as we do the main part of our work.

Now, with regard to the two examples you gave, the GAC and the Board, neither one of those within the ICANN by-laws are tasked with developing policy. So, the -- another organization within ICANN that certainly is tasked with developing -- in fact, two others that are developing -- tasked with developing policy are the CCNSO and the ASO, okay? So, the three supporting organizations within ICANN are the ones that are tasked with developing policy. Now, none of those organizations can actually put their seal of approval on it when it's done. That ultimately comes back to the Board. Alan, go ahead.

Alan Greenberg: Thank you. I was just going to type in what I was going to say, but I'll say it. The by-laws are pretty clear about -- on both questions. The intro to the GNSO section says, "There shall be a policy development body known as the generic name, 'supporting organization,' which shall be responsible for developing and recommending to the ICANN Board substantive policies related to the generic top level domains." Now, it doesn't say they are the sole body, but says they are a body that is responsible for gTLD policy. So, there's a pretty clear relationship that says they are related -- they are responsible for that.

And regarding implementation, up until recently, there was no mention in the by-laws of implementation. The current, however, PDP process does have a clause at implementation, and it says specifically the GNSO council may, but is not required to -- this group may change that, may recommend changing that -- direct the creation of an implementation review team to assist in the implementation of the policy. So, the GNSO clearly does not have the responsibility for implementation, but does have by-law mandate to get involved in that process, and essentially with the intent of making sure that, when the policy that was recommended by the GNSO was implemented, that it be adhered to. Thank you.

Chuck Gomes: Thank you very much, Alan. This is Chuck again. Hopefully that made sense. Again, Anne, as we're going through all of these principles, please keep in mind the total picture -- in fact, we should all do that -- of finding out whether there are any principles that we have missed and considering those, and as well as any changes to these principles.

With that, what I'd like to do is see if there are any other -- oh -- comments, and I see one now. Amr, please.

Amr El Sadr: Thanks, Chuck. This is Amr. I was actually going to ask a question, and I'm not sure if I misunderstood what Alan just said. But, I was wondering if there should be a principle either in section A of over-arching principles

or section B sort of stipulation that gTLD policy should not take place outside of gTLD policy development process, because there's fine -- there are fine principles regarding the process how it happens, the multi-stakeholder model, bottom-up and everything, but there is no principle defining where the -- or where gTLD should or should not take place.

If I just understood what Alan said, what he was saying is that the GNSO is responsible for gTLD policy development, but it's not the sole body that is responsible. And, well, I guess I would appreciate some clarification on that, if possible. Thanks.

Chuck Gomes: Thanks, Amr. Actually, you raise a very interesting point, because as I'm thinking just personally right now, if in fact policy with regard to gTLD is developed in other forums besides the GNSO, that does create some new challenges, just like it would within the CCNSO. So, I think that's something that we should keep in mind with regard to a possible new principle that we may add, so let's capture that and talk about that later on. Alan, go ahead, please.

Alan Greenberg: Yes, thank you. The wording is not crystal-clear, but it's not that obtuse, either. It says, "There shall be a policy development body known as such-and-such, which shall be responsible for developing and recommending substantive policies." That pretty well says there is no other body, but it's not 100% clear. And there are strong opinions by some that the Board does have the right to develop policy should the GNSO prove incapable of it in an area where policy is necessary.

Chuck Gomes: Thank you, Alan. And one other thing--.

Alan Greenberg: --And certainly -- well, now, Chuck, I wasn't quite finished yet. Certainly some people have believed that. Not everyone does, of course. And therefore, it might be an outcome of this group that we say there shall be no other policy developed other than from the GNSO, and if the world freezes, then the world freezes, so be it. That's not a principle, though. That's going to be an outcome, if it is an outcome. Thank you.

Chuck Gomes: Thanks, Alan. Sorry for interrupting. And the Board has the ultimate say.

Speaker: That's right.

Chuck Gomes: Now, there -- and I think even the Board members themselves will tell you that they are not -- they don't want to develop policy. They just want to oversee the development of it and make the final decision. But, again, like Alan indicated, as we begin to do our work we're going to deal with some of these issues and hopefully come up with some agreed-to recommendations that will add the clarity that's missing right now. So, thank you, Amr, for that.

Anything else on the over-arching principle? Any changes? Anybody not satisfied with section A? And Alan, I assume that's your previous hand. Is that right?

Alan Greenberg: I don't have a hand up on my screen.

Chuck Gomes: Okay.

Cheryl Langon-Orr: You might have a little lag, Chuck.

Chuck Gomes: Okay, I might. Okay. All right, it's still up online. Don't know what's going on, but anyway, thanks. Okay.

Alan Greenberg: I'll put it up if you'd like.

Cheryl Langon-Orr: You are in the corner of--.

Chuck Gomes: --So, from now on, I can just ignore Alan. Is that what I'm understanding?

Cheryl Langon-Orr: No. You can try.

Alan Greenberg: You can try.

Chuck Gomes: I know he would -- yes, I can try. Good luck, huh? Okay, very good. Let's go then to section B, principles that apply to policy and implementation. So, if -- Marika, if you've got the screen, if you'd scroll down so that that is at the top of the screen, all I have my -- I have that--.

Marika: --This is Marika. I'm actually (INAUDIBLE).

Chuck Gomes: Yes, I've got the control. I forgot to check. I'm on some groups where you don't have -- I was just on a meeting this morning where I didn't have control, so I'm functioning in that -- with that misunderstanding.

All right. First of all, let's take a look at the next paragraph, and I will read through the full think with the three bullets -- or four bullets, excuse me, or more if there's some that scroll over there. Let's see, I've got a hard copy in front of me here. Yes, it's actually six bullets. I think I'm going to take one bullet at a time unless we see that we've got to see the full context better.

So, here goes. Both GNSO and policy and -- oh, great, I'm losing -- that's all right, that's why I have a hard copy. Just to let you know, I'm in a RV park, a recreational vehicle park in a motor home, and so far the connectivity's been pretty good, but we'll see what happens, okay? Okay, so both GNSO policy and implementation processes must be based on the ICANN multi-stakeholder model. Key point here is both policy and implementation should be based on the ICANN multi-stakeholder model. To ensure this, the following principles are proposed. First one - policy development processes must function in a bottom-up manner. The process must not be conducted in a top-down manner and then imposed on stakeholders (with a footnote there), although an exception may be made in emergency cases, such as where there are risks to security and stability as defined in ICANN's SSR framework. Let me stop there and see if there's any discussion, suggestions, questions with regard to that first bullet point. And I see J. Scott has his hand up. Please go ahead, J. Scott.

J. Scott Evans: Just one little note, drafting, in the chapeau paragraph, multi-stakeholder model should probably be capitalized because you've defined it in quotes above in the second paragraph.

Cheryl Langon-Orr: Good catch.

J. Scott Evans: So, you've just -- because as Alan was saying, we use the same terms many, many times in different ways. If we've defined it, we need to be editorially consistent.

Cheryl Langon-Orr: Good catch, J. Scott.

Chuck Gomes: Thank you. Thank you very much. Good catch. By the way, I suppose we ought to be consistent, too, about whether multi-stakeholder is hyphenated or not. Some cases we have it hyphenated, some cases we don't. I think the proper way, although who am I to say what's proper, that hyphenated is the correct way to do it, but I can live with either way, whichever people prefer. So, thank you. That's a good catch. And Marika, you got that, right? Is hyphenated okay, or do people think it's okay not to hyphenate it? Let's just be consistent. Okay, we'll go with hyphenated. Go ahead.

Cheryl Langon-Orr: I don't care one way or another, Chuck, as long as it's consistent.

Chuck Gomes: Thank you. Okay. J. Scott?

J. Scott Evans: And Chuck, another point, as defined in ICANN's SSR framework, you might put a footnote there and then put a link to that.

Chuck Gomes: Very good. Excellent.

Cheryl Langon-Orr: Yes, great.

Chuck Gomes: Thank you. Michael?

Michael Kernings: Well, and related to that, my quibble is using our wonderful acronyms without the full terminology appearing the first time we use it, and I wonder if we shouldn't do that as a policy for clarity's sake in this (INAUDIBLE).

Chuck Gomes: Like with SSR?

Cheryl Langon-Orr: I think -- yes.

Michael Kernings: Right.

Chuck Gomes: Yes, that's -- good suggestion. That makes sense. Go ahead, Cheryl.

Cheryl Langon-Orr: Chuck, Cheryl -- yes, sorry, Chuck, Cheryl here. I do agree with that, but I think also we should probably all agree upfront, and I'm not saying we don't pick up on these points because they're important, but we should agree upfront that this -- a whole toilet of this will go through, and it will be

brought into line with the guidelines for communiqués and documentation, and that includes the principle that Michael just outlined.

Chuck Gomes: Yes. Thank you. Okay. Greg?

Greg Shatan: It's Greg Shatan. Moving back to a previous and minor point, a quick look at the ICANN website shows that it tends to use multi-stakeholder without the hyphen, and that seems to be somewhat more prevalent elsewhere, as well. I note that it seems to be all over the line. I don't know if there's any right or wrong answer, but if we want to kind of go with what seems to prevail at least on the ICANN website, it seems to be more often multi without the hyphen.

Chuck Gomes: Anybody object to that?

Cheryl Langon-Orr: I'm easy, Chuck.

Chuck Gomes: I'm glad.

Cheryl Langon-Orr: On this point. I was just going to jump in and make sure you--.

Chuck Gomes: --Oh, rats. I wanted to generalize. Okay, Chuck again. The -- so, let's go then to the second bullet. And by the way, I thought I had, and I guess I was thinking about this, I don't know, last night or sometime, the -- I think it would be good if we organized these principles, however they end up, with an identification system that makes it really easy to refer to them so that, for example, if we make a decision to make a particular recommendation for a guideline, we can refer back to principle B1 or B2 or whatever.

So, going forward, I think instead of using bullets, we might be better off with a numbering system that makes it easy to identify what principle this is based on if, in fact, a principle applies. Any objections to that? So, we can either use numbers for the bullets, or some other -- any form of number.

Cheryl Langon-Orr: You've got a forest -- you've got a forest of green ticks here, mate, so (INAUDIBLE).

Chuck Gomes: Yes, thank you. I have to scroll down to see. I see one -- oh, wow. That's encouraging. Wow. I've got to scroll down to see all that. I wish that Adobe would do their software so that not only the raised hands go to the top, but agrees or disagrees and stuff like that, too. But, you're still going to eventually run out of viewing room, so -- thank you very much. Okay.

So, the second bullet, the development and implementation of policy must have a basis in and adhere to standards of fairness, notice, transparency, integrity, objectivity, predictability, and due process consistent with ICANN's core values. And this actually relates to a specific core value. Let's discuss that. And again, notice this refers to both development and policy implementation, as do all of these in section B. Any questions, comments, suggested changes, edits, whatever?

Cheryl Langon-Orr: Moving right along.

Chuck Gomes: Okay, moving on to the third bullet. Implementation should be regarded as an integral and continuing part of the policy process rather than an administrative follow-on and seen as a process that allows for dialogue and collaboration between those implementing policy and those affected by the implementation. Michael?

Michael Kernings: Yes, a couple of questions or suggestions. In the first line, well, moves over, where it says part of the policy process, should that be policy development process? Or I see what the difference is. Implementation actually would come after the policy development.

Cheryl Langon-Orr: Yes, and it's not capitalized for very good reasons as well, Michael. That's Cheryl making an intervention (INAUDIBLE). I apologize.

Chuck Gomes: This is Chuck. I think that -- thanks, Cheryl and Michael. I think that it would be fine to put development in there, lower-case D. Okay, did you have something else in that, Michael?

Michael Kernings: A couple -- quibble. One further in that second line where it says "and seen," I just wonder, for clarity's sake, if we shouldn't repeat "should be," so, "And should be seen as a process." I know we've got it up before that as "Should be regarded," but I sort of lost the "should be" by the time I got across the comma in terms of clarity--.

Cheryl Langon-Orr: --I'm happy with that.

Chuck Gomes: Good.

Michael Kernings: And then the last thing I had was a question at the end where we refer to those implementing the policy and those affected by the implementation. Let's see, this processing allows for dialogue and collaboration between those implementing the policy and those affected by the implementation. Should it also include those who develop the policy to keep them within that sort of circle?

Chuck Gomes: Yes, that seems fine to me. Any objections to that? You have a concern there, Cheryl?

Cheryl Langon-Orr: No, I don't have a concern, but I'm unconvinced of the necessity, because in the main, those engaged with the development of policy are also those affected by it. And remember, we're specifically talking about implementation here. Anyway, I'm not going to go in a ditch over it. I'm just not grabbing it with both hands and going, "Yay, team." Sorry, Michael.

Michael Kernings: Right, no, I -- and I understand, and I think you're correct, that those who develop it should -- are also those affected. But, insofar as our principles go on to state that there should be some means by if the implementation gets off the tracks, that there'd be some ability of those within the development process of coming back and either making comment on or

helping to deal with getting implementation back on the track. I think for me, as I was reading this, that I was reading this as three groups of people. And those who have -- affected by the implementation are not necessarily those involved in the development, but I wanted to make sure that those who were participating in the development of the policy were also part of this collaboration.

Chuck Gomes: Let's go ahead and make that change. We can change it later if we need to. I don't think there's any harm in doing that, and they aren't necessarily equivalent. I think we all agree with Cheryl that they probably would be similar.

Cheryl Langon-Orr: And they're not mutually exclusive either, so that's fine.

Chuck Gomes: Right, exactly. Okay?

Michael Kernings: Perfect.

Chuck Gomes: And so, we got your three quibbles, Michael?

Michael Kernings: You got my quibs.

Chuck Gomes: Thanks. Okay. All right, let's go to Anne. Are you on mute?

Anne

Aikman-Scalese: Yes, Chuck, it's Anne again. Thank you. To my mind, this guiding principle as written is more a projection of an end result of the working group. I mean, I would agree with the guiding principle that implementation should be regarded as a process that allows for dialogue and collaboration between those implementing the policy and those affected by the implementation, but I'm actually really not comfortable with the notion that implementation is really just continuing policymaking. And I think that's one of the tasks that's been presented to this group, is to determine at what point something becomes implementation. Certainly don't want to cut off the dialogue. The dialogue needs to be there. There should be a healthy relationship between implementation and review team and staff. But, I don't think it's correct to conclude at this stage of the game and put in as an operating principle that implementation is just a further step of the policy development process. I think that's jumping to a conclusion that the working group itself has not reached.

Chuck Gomes: Well, let me -- this is Chuck -- and let me clarify that that's not what this is intended to say. It's saying the policy process -- maybe we should say the policy and implementation process. That becomes kind of redundant, I think -- the -- you will see in later principles that we actually deal with the issue -- some principles that relate to what happens if it appears that some new policy has to be -- development. The intent here as I understand it, and I'll let others correct me if I'm wrong on that, that were on the sub-team, is that there's this one full process that it should all be seen as one thing. But, that does not mean that, when you're in an implementation phase of the total process, that that's -- means that the policy development continues. That would be a problem. So, I would understand your concern there.

Now, let me turn it over to Alan, and then Amr. Alan, go ahead.

Alan Greenberg: Thank you. I first raised my hand on Michael's quibbles, so -- as you called them.

Chuck Gomes: No, he called them that. I repeated it.

Alan Greenberg: Oh, okay, fine. Sorry. Just a comment that some of this language is rather -- either confusing or convoluted, because we acknowledged as we were discussing this that those who are going to be affected by a policy are not necessarily at the table, and we make policy that affects billions of users. Clearly we don't have billions of people, or even their formal representatives, but we do have on occasion people looking out for them.

Cheryl Langon-Orr: Exactly.

Alan Greenberg: And therefore, the relationship -- the legal relationship, as it were, between these various parties is not always particularly clear. And we've tried to put language in which covers ourselves in those kind of situations, and it ends up being awkward at time. And I don't know any other way around this.

Chuck Gomes: So, Alan, this is Chuck.

Alan Greenberg: Sorry, go ahead.

Chuck Gomes: You don't have a specific suggestion for--?

Alan Greenberg: --No, no, I was just doing it as -- and form implementation. And like Cheryl, I can live with a variety of different things, but I was just giving a bit of background for those who didn't participate in that process.

In terms of the point raised by Anne, the wording does say "the policy process," not "the policy development process." And again, we were trying to write brief statements that we thought had merit and not necessarily were subject to a detailed analysis word-by-word, although we did do that several times. So, I think the statement as stands, and as elaborated later on, is reasonable. We don't have a better name -- perhaps we should -- for the overall process that involves the conception of the need for a policy through which development -- through which implementation -- I've a number of times said definitions are one of our larger problems, because we use words in different ways, and this is perhaps another example of that. But, personally, I'm happy with the words that are there. I think they're reasonably clear. Thank you.

Chuck Gomes: Thank you, Alan. Amr?

Amr El Sadr: Thanks, Chuck, this is Amr. I just also wanted to address what Anne had said just a minute ago. And -- well, to sort of point out that, at least currently as is, and I suppose this is subject to change if this working group should recommend that it would be changed, but currently according to the GNSO PDP manual, the GNSO is involved in

implementation, and I mean beyond the scope of an implementation review team. But, recommendations on gTLD policy coming out of the GNSO council and going to the Board are subject to review through a plan that should be submitted by staff -- an implementation plan submitted by ICANN staff to the GNSO, and the GNSO has the right to respond to this just in the event that it had viewed that the implementation plan is not in accordance with the recommendations made by council.

And so, there is this need for dialogue, but I know that Anne wasn't saying there shouldn't be dialogue. I know she said that dialogue was a great thing. But, the -- as is, at least, the reasons for dialogue and collaboration between those implementing policy and those affected by the implementation, there is a good reason for that. And I'm not sure if that was what Anne was referring to or not, or if it addresses why it should be present or not, but I just thought I'd point it out. Thanks.

Chuck Gomes: Thanks, Amr. Anne?

Anne

Aikman-Scalese: Yes. Yes, I disagree that the use of the term "policy process" is clear. I think it's not clear, and I think it's more confusing than useful. I think it leads one to believe that implementation and policy are the same thing, or that there's always policy involved in implementation. And again, I would suggest that that part -- that what we're trying to emphasize here is that its -- implementation should be seen as a process that allows for dialogue and collaboration between those implementing the policy and those affected by the implementation. And I take Alan's point that, well, sometimes those are representative groups as well, but I think the phrase "continuing part of a policy process" within the ICANN community is normally going to mean the policy development process, and I think it's confusing. Thank you.

Chuck Gomes: So, Anne, would it work to remove the word "policy?"

Anne

Aikman-Scalese: Maybe.

Chuck Gomes: Anybody object to that? I understand what you're getting at, so -- this is Chuck speaking, by the way -- so it would say then, as an integral and continuing part of the process rather than an administrative follow-on, and so forth.

Michael Kernings: Chuck, it's Michael, and--.

Anne

Aikman-Scalese: --I think that would improve it, yes.

Chuck Gomes: Michael, go ahead.

Michael Kernings: Yes. I'm not near my computer. I wonder if we want to go in that direction, where we now have to define process, or if we want to (INAUDIBLE) it to policy and implementation process.

Chuck Gomes: Well, this is Chuck. The problem with that, we're kind of going to go in circles here, because some of the points we're making involve both. And I'm okay with removing the word "policy." I think I can confidently say that the sub-team wasn't trying to say that now, okay, policy development already happened, but now it's okay to do some more policy development when you're in the implementation phase. That wasn't the intent at all.

The intent was, as we say right at the beginning of this section, is that both processes are involved in the multi -- are based on the multi-stakeholder model. The multi-stakeholder model doesn't go away once you start implementing. And that's what we're getting at here. There needs to be this continuing dialogue. For the GNSO, even though it may not be explicitly clear in the by-laws or in the GNSO operating procedures or whatever, that the GNSO has a specific responsibility with regard to implementation. I think it would be irresponsible for the GNSO not to be involved in that. Otherwise, we could have a situation that none of us would like, where we work hard on policy development, and then it's not implemented according to what was intended and what was approved by the GNSO council, and I don't think anybody would support that.

So, I suggest we remove the word "policy." And Michael, I think let's leave it with that rather than getting too nit-picky in terms of -- and I'm not saying that in a critical way. I think we could get wrapped around the language so much that we don't get to our main tasks. Is that okay? Any objections to that? I see some agrees on that. I don't see any disagrees. So, if it's okay, we'll go on to bullet number four, which is "whilst" -- that's not a word in my English, but I'm going to accept it because I know Cheryl's on the phone--.

Cheryl Langon-Orr: (--INAUDIBLE.)

Chuck Gomes: Sorry about that. We have to have a little humor in here. Whilst the implementation process is as such need not always function in a purely bottom-up manner, in all cases, the relevant policy development body, e.g. the chartering organization, must have the opportunity to be involved during implementation to confirm that policies are implemented as intended. Note that a lot of these points aren't necessarily mutually exclusive. They certainly overlap some. But, the sub-team feel like they were important points to document. Anne?

Anne
Aikman-Scalese: Yes, it's Anne. Thank you, Chuck. When we say -- use the phrase "implemented as intended," I'm back to my question about governance, because the Board adopts a policy, and there's the Board intention in adopting a policy. And there may be a GNSO intention in recommending a policy. I know that we're, for the moment, saying that GAC doesn't do policy, but the truth is GAC advice affects policy and is in the nature of policy advice. They have different intentions. So, I'm concerned about what is meant by "as intended," because the actual actor in adopting a policy is the Board itself.

Chuck Gomes: Well, here of course -- this is Chuck -- we're talking about as intended by the GNSO or -- and in particular the policy development working group

that made the recommendations. Would -- we talked a little bit about this in the sub-team, but would it be better -- would you be more comfortable with "are implemented as recommended"?

Anne

Aikman-Scalese: I guess what I'm struggling with is it seems, at least as it exists right now in practice, GNSO policy is not always implemented exactly as recommended. And so -- but maybe that's at the crux of the matter, is that we would prefer that it would be, but that's back to the governance issue. I'm not sure that we can always say that GNSO policy recommendations will always be implemented as intended, so how can we say that the implementation--.

Chuck Gomes: --You're right, Anne. This is Chuck. But, note what this says. It says "must have the opportunity to be involved" to confirm that they're implemented that way. Now, it still doesn't mean that they're going to end up being what we wanted. Let's take the IGO-INGO thing. We don't know what the Board's going to do with the GAC concerns there. But, the GNSO should be involved -- the GNSO should be involved to influence, and hopefully have some success, that the hard work of the working group was implemented as recommended. Alan?

Alan Greenberg: Yes, thank you. It's a really thorny issue. This group exists partly because of things that happened during implementation of the gTLD policy that have raised the issue of was something decided during implementation that was really policy or not, and how do we go about making sure we don't have problems like that. And that's an issue. But, the -- what this is trying to cover is that sometimes when we write policy recommendations, we do not do it in a sufficiently clear way as to make sure that there is no chance of misunderstanding. That perhaps shouldn't be, but it is the case. And we're trying to cover that with these implementation review teams and things like that.

And certainly, I know I had a case where ICANN staff have come back to me and my colleagues and said, "Is this what you meant? This is what we think you meant by it, and this is how we're implementing it. Does it really meet what you were trying to do, or did we misunderstand?" And this is trying to capture that scenario.

Chuck Gomes: Thank you, Alan. And this is Chuck again. Anne, as a compliment to staff, in my experience over the years with regard to policy implementation, staff's pretty good about coming back to the GNSO, maybe the working group or maybe the council or whatever it may be, if there's lack of clarity or they're not sure what's intended or what was recommended. So -- but, that's what we're talking about in this principle. So, Anne, my challenge to you is, is to see if there's any tweaks to this wording that would make you more comfortable that others in the group would also support. I suggested one change. Can you give us something?

Anne

Aikman-Scalese: Yes. Actually, Chuck, I think that we could simply end this phrase with "must have the opportunity to be involved during implementation," period.

Cheryl Langon-Orr: That's a different thing.

Anne

Aikman-Scalese: Because we cannot actually say GNSO policy must be implemented as intended, because that's -- that wouldn't actually honor the multi-stakeholder process, because there are other bodies that are part of that bottom-up process. So--.

Chuck Gomes: --And those other bodies are supposed to be involved in the development of policy.

Cheryl Langon-Orr: During the process at the right time. Sorry, Chuck, I'm just getting--.

Chuck Gomes: --No, that's okay. I did the same thing, (INAUDIBLE). Okay, let's go to Alan, and we'll come back to that.

Alan Greenberg: Yes, thank you. The wording there doesn't say "ensure that policies are implemented as intended." It says "confirm," which means the GNSO in its wisdom can say, "You're not doing it, folks. You're doing something completely different." And staff goes to the Board, and the Board says, "Make it so," and the GNSO is ignored, but that's a possible outcome.

Cheryl Langon-Orr: If that happens -- if it happens, it happens.

Alan Greenberg: That's right. So, we're not giving the GNSO veto. We're saying get them involved in the process, because intention matters in this case. Thank you.

Cheryl Langon-Orr: Hear, hear, Alan.

Anne

Aikman-Scalese: Well, I think "concern" may be the wrong word as well, but maybe I can think of a different word. What we're really saying is GNSO can promote the implementation of the policy as intended by GNSO, but they can't really ensure or confirm.

Chuck Gomes: This is Chuck. That's an interesting suggestion, actually. Does anybody object to that? So, GNSO must -- oh, go ahead, Alan.

Alan Greenberg: Yes. I was going to say I thought I already said before, but maybe I just planned to, adding "confirm intended by the GNSO" is a fine addition. I have no problem with that. And if that qualifies it and makes everyone comfortable with it, that's fine.

Chuck Gomes: So, we could -- this is Chuck again. So, could we change it like this at the end there, "must have the opportunity to be involved during implementation to promote policies being implemented as recommended," or is there another way? Alan, did you have a better way to word that, or even Anne?

Alan Greenberg: I would just add, "as intended by the GNSO," is what I suggested.

Chuck Gomes: Does that address your concern, Anne?

Anne

Aikman-Scalese: Yes, but maybe I'm not understanding the purpose of this group, because if what we're talking about are principles applicable only to the GNSO versus -- are we talking about -- I mean, there's a GAC member participating in this group, correct? There are other -- I mean, is everything really supposed to be as intended by the GNSO, or is there any recognition that that policy could be affected by advice or -- from other groups? That's -- I continue to be a little bit confused about the principles, if they're supposed to be principles that operate ICANN-wide, or only principles that we're talking about -- but, I agree with your first suggestion, Chuck, about the -- promoting implementation as intended, but would that be only as intended by GNSO, or would there be other organizations somehow involved in that?

Chuck Gomes: Well keep -- Chuck again -- keep in mind that the other organizations are advisory in the case of, for example, the ALAC and the GAC and so forth, but it's all part of a -- we're talking about gTLD policy development and implementation right here, so it does relate to the GNSO. But, that doesn't mean that the groups that advise that process, and ultimately even the Board, when they make a final decision, shouldn't also -- I mean, if I'm a Board member and there's a guideline that says that the GNSO should be involved to make sure that policies are implemented -- or to promote that policies be implemented as intended, that's a guideline.

Now, like I think Cheryl said pretty well, I mean, they can ignore that and overrule that, but at least there should be a principle that the GNSO should be involved in the process of ignoring it.

Anne

Aikman-Scalese: Yes, that's -- yes, absolutely. No, I certainly agree with that, yes.

Chuck Gomes: Let's go to Alan.

Alan Greenberg: Thank you. There are strong questions which may or may not be resolved by this group and by the Board sometime as to, for instance, whether the Board can take a GNSO recommendation, and it's quite clear they can accept it or reject it. It's clear that they can send it back to the GNSO. It is unclear whether the Board has the discretion to modify the details and then approve that. It's never been tested. There's actually a case right now on the Red Cross IGO-INGO where they may be in a position to do that. But, up until now, it's never really happened, and there's been some debate on whether the Board has the right to take a GNSO policy recommendation, modify it, and then implement it. Almost surely they are not able to do that on something that it would be deemed to be consensus policy, that is a picket fence policy. But, whether they can do it on other policy is somewhat unclear, and that is one of the subjects that may come out of this working group.

So, yes, the GAC may advise the Board to do something. The Board may or not be able to do that, and the details, as I said, are not clear right now. And that's part of what we may well be looking at. And of course,

GAC advice and ALAC advice and ALAC ideas should be fed into the policy process earlier. We'd like to think that they would be so that they don't come after the fact, after the policy is already cast in concrete. But, all of that's a work in progress at this point. All we can do right now is say, as a principle, something that is not really debatable -- that we don't want to be debatable, and that's what we attempted to put here. Thank you.

Chuck Gomes: Thanks, Alan. And just to add to that a little bit, using the example of the IGO-INGO recommendations, so if this principle were adopted as a guideline and the Board respected it, and they decided to follow GAC advice and protect acronyms, which the working group and the GNSO by unanimous approval of the GNSO did not recommend, then what this principle -- what this guideline -- principle would be is they should go back to the GNSO in that regard and not just do it. Now, again, it's up to them. They're -- obviously have the final say. They could ignore the guideline even if it was approved in the GNSO. Let's jump ahead to Greg.

Greg Shatan: Greg Shatan. Thanks. I was going to go off on another aspect of this. I mean, I think this section we're working on now is getting as close as we've gotten, maybe somewhat sadly, to the true substance of what this group was constituted to do. We've spent a lot of time on definitions and principles, which are very important, but nonetheless really kind of getting into the meat of this issue of kind of conflicting powers and kind of range of motion that are allowed to different actors at different points in that process I think really gets to the issues.

What I was thinking about in particular in responding to you, Chuck, was about the -- kind of the relative role of the GAC in implementation oversight versus the GNSO in implementation oversight. And I go back there to a distinction, at least in my mind, between the GAC as an advisory body and the GNSO as a policy development body, and that it's - - I don't know if that's a distinction without a difference or a distinction that people would like to not make, but I think it is a distinction that's actually made in the by-laws.

And what I take away from that is that the GNSO as a policy development body should have an implementation -- a role in implementation. Now, maybe that role is that of an implementation review team, but I think here we're trying to state some fairly high-level principles, so we won't get down to, in essence, how this principle would be implemented, so to speak, whereas I don't think the GAC is entitled as an advisory body to kind of necessarily hang around and have the same kind of structural involvement in implementation, at least under the kind of governance structure that's currently in place.

Of course, after a couple of wickets and a few meetings in strange and exotic places that aren't held by ICANN, it may all change, and we may all be working for the Russians. But, I don't know. But for now, I think that the -- that there is kind of a distinction between kind of who's saying what to whom and what roles they get thereafter. Thanks.

Chuck Gomes: Thanks, Greg. And I call everybody's attention to the previous principle, where it says we should include those who are affected by the implementation. So, that would include the GAC if they're affected by the implementation. So, we're not excluding the GAC from that. But thanks, that's good. Tom?

Tom Barrett: Hi, this is Tom Barrett. And Anne's comments I think come -- make me come up with a question about whether or not we need another principle which occurs when the ICANN staff or Board accept a policy but deliberately decide to implement it than otherwise intended by the GNSO and what they're -- what types of guidelines or obligations we expect when they go in that direction.

Chuck Gomes: I think that's a legitimate question. This is Chuck. So, let's capture that one. Marika, it seems like it'd be helpful if we -- this is probably the second thing we've identified as a possible additional principle. If we can capture those so that when we've gone through all of them, we can come back and revisit those, that would be really helpful. Greg, is that your old hand, or you want to say something else?

Greg Shatan: It's actually a new hand, and I guess we'll see how this paragraph kind of develops. But, I guess some of the wording in there that I'm still a little uncomfortable with myself is having the opportunity to be involved during implementation to confirm that policies are implemented as intended. I mean, confirming almost sounds like there's kind of a need to kind of pass everything by the GNSO, that everything is somehow subject to confirmation. It may be more active than an observer status, but I'm not sure it's as active as a kind of confirmer status might imply. I mean, we're all kind of playing with words here right now, but I think the balance between implementing in real-time and yet making sure that that implementation doesn't somehow go off the track that was envisioned by the policy developers is something we really want to try to get right in how we describe it. And I'm not sure that confirming is the right way to describe it. Thanks.

Chuck Gomes: Thanks, Greg, and I think you're getting at Anne's concern, as well, an alternative word that was put there, although I'm not sure we've got it worded smoothly yet, was to put "promote." So, let's bring this right, too. Let's fix the wording of this. I think there's pretty strong agreement by most everybody on this call today that the overall principle's supported, but what -- how shall we word it, "must have the opportunity to be involved during implementation to promote the policy recommendations?" Does that work? Can somebody help me do it better than that? I don't -- I personally don't have any problem with not using the word "confirm," and I understand the concerns of both Anne and Greg. Anybody help us out there in terms of that? Does that work, "must have the opportunity to be involved during implementation to promote the policy recommendations as submitted?" Need some help here.

Greg Shatan: This is Greg again.

Chuck Gomes: Go ahead.

Greg Shatan: I'm -- my network connectivity was lost. But anyway, I was thinking maybe advise rather, even though now we're getting into GAC. Advise is such a loaded word, but maybe we can actually use words for what they mean for a change, maybe to say "to advise whether policies are being implemented as intended."

Chuck Gomes: Let me first go to Anne. Would that work for you, Anne? Anne, are you on mute?

Greg Shatan: Of course, I'll just -- while Anne is muting, I'll -- just to follow up the issue with that might be that advise doesn't give any power. Maybe promote doesn't either, but the -- and the question there is what is the power at that point to say that's not happening? Advise is still kind of a role where you can take things or leave things, so maybe there's kind of another sentence there or a clause that says, "and if it's not being implemented as intended, to blank, blank, blank," and I'm not sure what that blank is, ignite a bomb for the room.

Chuck Gomes: Thanks, Greg. Chuck again. I think Anne agreed with that change. If that's not correct, Anne, just speak out. In other words, advise and worded like Greg said. Let's go to Amr, J. Scott and Alan and see if we can wrap up this particular bullet.

Amr El Sadr: Thanks, Chuck. This is Amr. Yes, I was thinking maybe we could, instead of use advise or confirm, possibly use advocate, and then add what Alan suggested earlier, which intended by the GNSO at the end, so it reads, "during implementation to advocate that policies are implemented as intended by the GNSO." I get the sense that that is what we're trying to say here.

Chuck Gomes: Good suggestion. I'm going to go to all the people in the queue, and then we'll come back and try and nail one down. J. Scott?

J. Scott Evans: Yes, this is J. Scott Evans for the record. I don't understand why we have to say anything after "have the opportunity to be involved during implementation," because it seems to be it goes without saying that they would be advocating, confirming, or whatever that it's implemented as intended. I think, if I remember, that the whole point was that the community, or at least members of the community, have felt like when it went to the implementation phase, that there was no principle that they need to sort of do a check-in, and that the other party should be checked in and dealt with. It may be that they confirm. It may be that, once implementation's begun, that they actually adapt and change. But, the whole idea was that the consultative process would not end with the GNSO in the move to staff, and that's implementation. I thought the whole idea was that it would be more collaborative in the implementation phase. And so, I don't think you need to put anything other than that we would be involved in the implementation phase, and whatever that involvement is is what it will be.

Chuck Gomes: Thanks, J. Scott. Alan?

Alan Greenberg: Yes, I think J. Scott pretty well captured it. The GNSO does not necessarily have a veto unless this group ends up recommending it and everyone else agrees with it. The GNSO should be allowed and have the opportunity to speak. And I can accept almost any of the words which correspond to that. Thank you.

Chuck Gomes: Thanks, Alan. Amr, I think you were disagreeing with I'm assuming dropping the part after "during implementation." Am I correct on that?

Amr El Sadr: Yes, Chuck. This is Amr. I do think that we should include that part, because what we're trying to do here is set a principle on the GNSO's involvements in implementation, and I think we need to justify that with a reason why the GNSO should be involved in the same principle. Thanks.

Chuck Gomes: Thanks, Amr. And I'm going to take off my chair hat and -- or co-chair hat and say I agree with Amr and disagree with J. Scott on that, because I think -- I use the IGO-INGO example. So, the GNSO, it's easy to say that the GNSO have the opportunity to be involved, but if the Board changes something that the GNSO did, I think that advocate for -- or advise, I could really either -- I kind of like the advocate one -- advocate the policy's being implemented as intended, nails it down a little bit more specifically, indicating that, in cases where they're not -- where it's not, there's a special obligation or involvement there. But again, I'm not hard-nosed on that, so -- but let's try and reach some sort of agreement here. Alan?

Alan Greenberg: Sorry, that's an old hand.

Chuck Gomes: Okay. Michael?

Michael Kernings: My concern is, and frankly, I agree with your, Chuck, and Amr's point. However, I think at this point in the principles, I think that may be, as Anne has pointed out with some of the other provisions, reaching the conclusion rather than having a general principle guiding us. And so, I sort of favor leaving the last part of this out for now, and perhaps adding, as we have at the end of the principles, that this is a specific point on which the work group as a whole and the sub-group working in this area is asked to address.

Chuck Gomes: So -- Chuck again. Michael, are you suggesting then that we table that last part and deal with it after we've gone through the whole thing? Is that what you're suggesting, or just dropping it and doing no more with it?

Michael Kernings: Right. I was suggesting, after trying to work on the language at the end and confirm and other terms that could be used there, I think it might be better at this point to adopt J. Scott's suggestion, drop the last part, which really is conclusory, and have as a general principle that it -- there should be involvement in it. And then, as part of the work group sub-team working in this area, which would be the area of implementation, I believe, then introduce what we believe should be the role of GNSO in that process. Here we're simply stating that the GNSO should be involved in that process as a general and overriding principle.

Chuck Gomes: So, I -- thanks, Michael. I see both disagreement and agreement with that in Adobe. Amr, go ahead.

Amr El Sadr: Thanks, Chuck. This is Amr. Yes, the reason why I disagree with that is because I think the opportunity for the GNSO to specifically be involved in implementation for the reason of advocating its recommendations -- its policy recommendations -- is a principle we should adopt, and we shouldn't table that later on for the working group to consider whether we feel the GNSO should be allowed to advocate its policy recommendations or not. I think this is part of the principle that we should adopt at this point, and then hash out the details on how this is done later on. But, I do think it is important to include it as a principle. Thanks.

Chuck Gomes: Thanks, Amr. Okay. Would -- again, I'm assuming that everyone is still in Adobe Connect. Would you please click on an agree if you think -- if you would like to delete the "to confirm that policies are implemented as intended?" So, I see -- and I'll have to scroll -- I'm scrolling up and down, so bear with me. So, looks like there's four, five -- is that right, five -- five agree. Well, that's certainly not -- and then there's a bunch of -- one, two, three -- okay, so we don't have even a rough consensus one way or the other I think. And since there's 15 people, apparently there's a lot of undecided.

All right. Chair decision time, right? Let's put the "to confirm that policies are implemented as intended" in brackets, and with that indicating that there is not clear consensus in the working group at this time for having that or not. I mean, it's X'd, okay? And then, we'll have to visit that later, okay? Anybody object to that approach? Because I think we need to get a little bit further before our call -- our time is just about up anyway. I was hoping to at least get the next two bullets.

Let's very quickly go to the next bullet, and we've got, "In cases where new or additional policy issues are introduced during an implementation process, these issues should be communicated to the relevant policy development body, e.g. the charting organization, prior to the completion of the implementation process." And the -- note the brackets here, that this will be a point further deliberate whether working group -- any working group recommendations in this regard will eventually need to be reflected in the final version of this principle. Any discussion or comments, disagreement, edits to that bullet? Okay, Michael?

Michael Kernings: Yes, I just have a question. I was not involved in the sub-team discussion of this, so my question is, if there was a particular reason why the language, "prior to the completion of the implementation process" was put in here rather than something along the lines of "when those issues are identified," is that just leaving it open so that then the work group, as I see here, has been asked to move on this further would have -- just know that it's prior to that, and then they could set what they want in terms of the specifics of when it should be done, or when we would suggest it be done?

Chuck Gomes: Thanks. I'll come back to that suggestion specifically, but let me go to Alan.

Alan Greenberg: I think it was -- I won't swear, but I think it was put there because we were trying to make sure that the policy is not signed, sealed, delivered, implemented, announced to the world, registries and registrars implemented, and then the GNSO is now, "Oh, by the way, did you notice this puts the obligation to notify the GNSO prior while there's still an opportunity to change something?" I think that was the intent.

Chuck Gomes: Thanks, Alan. This is Chuck. And I see agreement from Cheryl and Greg. So, Michael, could you live with "prior?" I didn't have a lot of problem--.

Michael Kernings: --Right, (inaudible)--.

Chuck Gomes: --I didn't have a lot of problem with the way you said it, "when," but sometimes they may not jump on it right away when it happens. Would you agree that it certainly needs to happen prior to completion?

Michael Kernings: Right. I would go ahead and accept. I was just wondering why that was put in there, but then I recognized--.

Chuck Gomes: --Okay--.

Michael Kernings: --in this, too, that the other problem is that this is asking the party that's making those changes to identify to the others that the changes are being made. And as we all know, many of us, in making those changes, may not actually identify it as a policy change. So, I'm sure that when this is reviewed as part of the larger work that we're doing, there'll be some provisions made for that, as well. So, yes, I think this is fine. "Prior to completion" does give that signal.

Chuck Gomes: Thanks, Michael. Anne?

Anne

Aikman-Scalese: Okay, unmute. Thank you, Chuck. This is Anne, and I just had a question. I agree with the principle of prior notice. I'm just trying to understand a little bit how it would work. Let's say we take the example where the Board adopts a policy that is not necessarily consistent with GNSO recommendations, then the notice of that might come effectively through Board action. Or what would happen -- when we say new or additional policy issues, if the Board acts not exactly in compliance with what's recommended by the GNSO, is that a new or additional policy issue, and how -- this is more of a practical question, I guess, of identifying what is a new or additional policy issue if it results from Board action.

Chuck Gomes: Thanks, Anne. Alan, I'll let you respond first.

Alan Greenberg: In my mind, the whole concept -- and I've said this several times in this meeting -- the whole concept of what the Board is allowed to do to alter GNSO recommendations is unclear, and certainly nothing that we are in a position to put as principle today, because it's uncharted water, and I don't think we can simply say, yes, everyone agrees to this.

So, we are talking about -- and we agonized over the words that were used here, over the words associated with how do we discover whether there is policy involved, how do we recognize it. But, the intent here was, if during the implementation process something comes up, and someone slaps their head and says, "My God, this is policy, why didn't those buggers who wrote the recommendation think about this, we better go back to them now and ask them what they intend." So, it was very much intended to be things that are discovered unwrapped as having policy implications during the implementation. It was not referring to a change the Board explicitly and consciously makes during the acceptance of the policy. Thank you.

Anne

Aikman-Scalese: Chuck, it's Anne. Could I just raise something that's very relevant to what Alan was just saying?

Chuck Gomes: Sure.

Anne

Aikman-Scalese: Had a recollection here that one of the things that -- in a letter that Jeff had written to the Board was, "Hey, if you guys are going to adopt a policy that's different from what we recommended, you should come back to us." And that is why I raise a distinction about this question of action of the Board versus implementation I suppose once the Board action has been taken. There may be an actual need to distinguish here between new or additional policy that arises at the Board level versus new or additional policy that arises at the implementation level. I'm not sure that we can blend those two things together, and that's part of the reason that I raised it.

And then, the only other thing that I wanted to say is that the last bullet point is repetitive of the third bullet point, and unfortunately I have to take a conference call. Thank you.

Chuck Gomes: Thanks, Anne, for all your contributions today.

Anne

Aikman-Scalese: Bye. Okay.

Chuck Gomes: So, okay. Very quickly, because we're out of time, so do we need to capture that last point she made, is do we need a separate principle for a Board decision to make policy that goes against the GNSO recommendations?

Alan Greenberg: Chuck, this is Alan. I don't think so. This says "during implementation." Implementation is by definition after Board approval.

Chuck Gomes: That's true. Anybody not comfortable with leaving it then as it is?

Greg Shatan: Well, I think Alan--.

Chuck Gomes: --I see a bunch of hands. Greg, go ahead.

Greg Shatan: This is Greg. I agree with Alan, but I also agree with Anne that the concept -- the concept of the Board making a change in the policy recommendation before it passes it is a kind of a whole separate issue from whether an implementation issue arises -- or an issue arises in implementation that implicates policy, and we can't blend the two.

On the other hand, I don't think the Board, per se, gets into implementation. Maybe I'm wrong about that, but I think that's -- as Alan said, this is during implementation, which means that the Board has, in essence, gotten out of the way. The staff, of course, is still very much involved, but not the Board, unless the Board is also doing its own implementation review as well. But, I think the issue of Board changing a PDP recommendation is kind of a whole separate area that, if we pollute it in here, it's just going to muck us up. Thanks.

Chuck Gomes: Okay. Very quickly, Amr?

Amr El Sadr: Thanks, Chuck, I'll be quick. This is Amr. I think it's a good principle, and I can think of one example where it might be applicable, and I assume there might be more of those in the future. But, one is, when you have multiple PDPs possibly on -- sort of that might have common areas, and the exact one I can think of is the post-expert working group on registration, data services, that put the PDP following that expert working group. And then, you have right now the translation and transliteration of complex information PDP working group. And just working in internationalized registration data services expert working group as well with a PDP following of that, and you might have several policies coming out of several PDPs or several policy recommendations which might affect each other.

And so, in implementing these different policy recommendations, there might be a need to sort of go back and take a look at some of the -- some old ones that are already being implemented, then say, wait a minute, we better talk to these folks and let them know that there's a new PDP that's going to affect an older one, and we might need to talk a little bit more about that. Thanks.

Chuck Gomes: Thanks, Amr. Alan, one minute.

Alan Greenberg: Old hand.

Chuck Gomes: Okay, thanks. All right. Now, I had really hoped to wrap this part up, this part B, but we didn't quite achieve that, but we've got to wrap it up. So, we're going to -- is there anybody that objects to the next to last bullet there, then? Should we discuss that more? Can we assume that that's okay, recognizing that we still may need to come back to this case that Anne brought up and that Greg talked about, that in cases where the Board makes a change to a policy, should they come back to the GNSO in that case? We don't have time to talk about that now.

And then, the last bullet, Anne made the point that -- before she jumped off that it duplicates -- it certainly does duplicate, but it also does talk

about continuous dialogue and communication, which isn't stated up above. Now, whether it's really literally continuous or maybe it's just ongoing, but that's going to have to be talked about next time.

Two things we need to talk about - next meeting. Our next meeting is on -- is scheduled on the 19th. It's -- the time of it will be when I'm at the airport getting ready to start my trip to Singapore. I might be able to, from the airport, chair at least part of it. We were hoping that we could reschedule it for next week. That is now -- now would conflict with a finance meeting that some of us will be in -- try to be involved in.

So, if we do it on the 19th at our regular time, I would need somebody to back me up. In fact, maybe lead the working group then. J. Scott, are you still on?

Cheryl Langon-Orr: He had to leave, I think, Chuck.

Chuck Gomes: Okay. All right. So--.

Cheryl Langon-Orr: --Or was that Michael?

Chuck Gomes: Michael, are you still on?

Michael Kernings: Yes, I'm still on.

Chuck Gomes: Could you -- if we do it on the -- well, let me ask, first of all, how many people are going to have problems if we have a meeting on the 19th? Our problem is is we -- I think we made it close to halfway through these principles, but we really need to go through all of them before the meeting in Singapore, because it'd be very nice to talk about the principles with the community in Singapore. Is there anybody that -- who -- yes, put in the Adobe if you can do a meeting on the 19th, or if you can't, disagree. Just put an X, please. Like I said, I can do part. Okay, so Alan can't. Now, we could try and schedule a meeting at a different time next week. Should we do a Doodle poll to do that? Is that a better solution? I see Cheryl can make it, Michael can make it.

Speaker: Marika has her hand up.

Chuck Gomes: Go ahead, Marika.

Speaker: Yes, Chuck, this is Marika. Maybe checking with the people on the call, would otherwise an hour later than currently, taking into account that the US is actually changing I think to a Daylight Saving, so would be now 2100 UTC, so will be right after the finance call. Would that work? Because I think for the other days, it may be challenging as there are a couple of webinars scheduled throughout the next week and for a lot of working group calls, as well. So, if we could confirm maybe a time now, that probably would be the best option to consider, noting that, of course, we'll get it out to the list as soon as possible so others can plan for that, as well. So, it would be 2100 UTC. Would that be an option?

Chuck Gomes: Anybody think that's not an option?

Marika: And (inaudible) that for people in the US, your time is changing. So, I think it's actually at the same time as we're having the call for you today apart for those that are not in US, it will be one hour later, if I'm getting that right.

Chuck Gomes: So, Greg, is your hand up to talk about this?

Greg Shatan: That's a dead hand.

Chuck Gomes: Okay, a dead hand. I hope that Greg isn't dead, so--.

Michael Kernings: --Marika, finance call scheduled to be one hour?

Chuck Gomes: It is, I think. The previous one was scheduled to be an hour, so I think that's--.

Marika: --Yes, and this is Marika. The calendar info that I received is for one hour.

Chuck Gomes: Yes. So, all right. Let's try that. Let's go ahead and do that. Now, I won't be able to participate at all unless my flight is delayed quite a bit, but I don't have to participate. I'm okay as long as someone else will lead it.

Cheryl Langon-Orr: --Yes, hang on, Chuck. Chuck? We're now talking next week, not the 19th. Are you on a plane next week as well, are you, dear?

Chuck Gomes: Well, that was the other option, that I -- let's see.

Cheryl Langon-Orr: We're all now agreeing to an hour later next week, so not the 19th. That's next week.

Chuck Gomes: Oh, next week. My mistake. I thought we were talking about an hour later on the 13th.

Cheryl Langon-Orr: No, my darling man, immediately after the finance call is next week. So, unless you're on a plane an awful lot, you should be fine. Would you care to check your diary, Chuck?

Chuck Gomes: Okay, that's what I misunderstood. So, we're talking about the 13th, okay -- yes, that works. I'm okay there.

Marika: It's 12, starts at 12.

Alan Greenberg: Sorry, Chuck, you said -- the 13th is a Thursday.

Cheryl Langon-Orr: It's the 12th. He's just coming to visit me. It'll be the 13th for me. Chuck, you're more than welcome to join me at 2100 UTC on a Thursday if you like. But, if you're in the States, it'll be on a Wednesday.

Chuck Gomes: The finance call is on the 13th, correct? That's what I have on -- okay. I'm missing something there. Sorry about that. But, you're talking about--

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Marika: --No, this is Marika. The finance call is on the 12th. The invitation I got is Wednesday, 12th of March at 2000 UTC. That's what I have on my calendar.

Chuck Gomes: Oh. See, I was looking at -- see, I get the meeting request directly from Xavier and his team, and so I was looking at the old one, apparently, rather than the new one. The new one is on the 12th.

Marika: Yes. Yes.

Chuck Gomes: And I'm okay there. I'm okay there, too. Okay, thank you. Sorry about that.

Marika: So, we're confirmed for 12th of March at 2000 UTC, correct?

Chuck Gomes: Yes.

Marika: Okay.

Cheryl Langon-Orr: 2100 UTC.

Marika: Yes. Yes.

Cheryl Langon-Orr: Fine. Okay.

Chuck Gomes: All right. And then, for -- we also -- so at that meeting, then, we -- well, we still need to -- very briefly, and I'm sorry for going over so much, talk about Singapore, because we need to get some documents out there. I don't think it pays to get the principles document out there until that next meeting, and we'll just have to live with that, I think. Have the definitions been posted for Singapore, Marika? We talk about that on our leadership call? Marika, are you there?

Mary Wong: Hey, Chuck, this is Mary. Can you hear me?

Chuck Gomes: Yes, I can.

Mary Wong: Yes. So, Marika and I had talked about this, and because these documents aren't intended to go out for public comment, the thought was that, as soon as the schedule is out online for the meeting, we would link to them for the session for this particular meeting. So that way, the community can have an early look and a very easy reference to the schedule, as well. Would that work?

Chuck Gomes: Yes, I think that works, but I would also like to suggest that, once we have the documents ready, we have a definitions already, the principles one, that we send it to the GNSO council and ask for distribution to the respective constituencies and stakeholder group, because not everybody will really look at the meeting agenda and pick up on that.

Mary Wong: Yes, I think we can do that.

Chuck Gomes: Is that all right?

Mary Wong: Yes. It's just that the concern was just sending documents piecemeal. So, if we have both documents and we send it through the council, that's probably easier.

Chuck Gomes: That's fine. And then, we should have a leadership call on the -- I assume then on the 10th at our regular time, I think, is that right, so that we can talk about the agenda for the meeting in Singapore. Is that okay?

Michael Kernings: This is Michael. That'd be okay with me to get it done. Otherwise, it's St. Patrick's Day.

Chuck Gomes: Yes. Let's try it, because I think we do need one more leadership team before Singapore. We could do it the following week, as well, on the 17th. Marika and Mary, why don't we do a Doodle Poll for the 10th or the 17th for a leadership call? We don't necessarily have to have it before the meeting on the 12th, the working group meeting on the 12th. But, I think we do need to have it before the Singapore meeting. That all right?

Mary Wong: Sure, Chuck. Yes, we might just do it by e-mail amongst the chairs, so that will be easier, because I think the 17th is--.

Chuck Gomes: --That's okay, too. Yes, there's just a few of us, so that's fine. All right. My apologies for going over, but we -- again, I'm impressed with the quality of the contributions. So, I am relatively optimistic that we should be able to wrap up the principles next week. But, I would like to ask, for those that are still on the call, if you haven't already read them, please read them before we have that call on the 12th. Thanks. And meeting adjourned.

Michael Kernings: Great. Thanks, Chuck.

Amr El Sadr: Thanks, Chuck. Thanks, everybody. Bye-bye.

Mary Wong: Thanks, everybody.

Speakers: (INAUDIBLE.)

Nathalie Peregrine: Thank you very much. You may now stop the recordings.

Operator: Thank you.

END

Oliver Kovali, Alan Greenberg, Cheryl Langon-Orr, Chuck Gomes, Olevie Kouami, Wolfe Kanervin, Greg Shatan, J. Scott Evans, Anne Aikman-Scalese, Nick Steinbau. We have apologies from Becky Burns, James Goddell, and from staff we have Michael Kernings, Mary Wong, and myself, Nathalie Peregrine.