

**Policy & Implementation Working Group Meeting  
TRANSCRIPTION**

**Wednesday 27 August 2014 at 1900 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 27 August 2014 at 1900 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-20140827-en.mp3>

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

Attendees:

Olevie Kouami – NPOC  
Chuck Gomes – RySG  
Greg Shatan-IPC  
J Scott Evans – BC  
Klaus Stoll-NPOC  
Amr Elsadr-NCUC  
Michael Graham – IPC  
Anne Aikman Scalese – IPC  
Alan Greenberg-ALAC  
Tom Barrett – RrSG

Apologies:

Cheryl Langdon-Orr – At-Large

ICANN staff:

Mary Wong  
Amy Bivins  
Steve Chan  
Terri Agnew

Coordinator: The recordings have now been started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the Policy and Implementation Working Group call on the 27th of August, 2014.

On the call today we have Olevie Kouami, Alan Greenberg, Anne Aikman-Scalese, Klaus Stoll, Amr Elsadr, Chuck Gomes, J. Scott Evans, Tom Barrett, Greg Shatan and Michael Graham. Joining us shortly should be Cheryl Langdon-Orr. I show no apologies for today's conference.

From staff we have Mary Wong, Amy Bivins, Steve Chan and myself, Terri Agnew. I would like to remind all participants to please state your name before speaking for transcription purposes.

Thank you very much and back over to you, Chuck.

Chuck Gomes: Thank you very much, Terri. And welcome, everyone. Just to get started, does anyone have an update for their statement of interest? Another question, is there anyone that is on the call but not in Adobe chat or in Adobe Connect, excuse me. So everyone's in Adobe so I can just look for raising of hands. Certainly if you get kicked out of Adobe and need to speak up please let us know.

All right, so everyone should have had a chance to review the latest version of the Deliverable 1 template with the added notes. I guess I shouldn't be quite so confident because the updates with the comments from the three groups that responded to our request for comments were just put in there early yesterday.

So my question is, first of all, does anybody need more time to review that latest version of the template and suggest any edits or additions or corrections? Should we wait until next week to do the approval of that? Approval meaning, of course, that we're okay with it as it stands now; that doesn't mean we can't change things later. Does anyone need more time on that? Please speak up if you'd like more time. It's okay if you do.

If not - oh, okay thanks, Amr. That's fine. So why don't we just defer until next - let's leave this item on the agenda for next week, J. Scott, if you're okay with that. And ask people and then, Mary, if you can send something out to the list that asks people to provide any comments or feedback on that before next week's meeting at which time we will close that for now understanding that everything we do is subject to improvement as we move forward. Is that okay, J. Scott?

J. Scott Evans: Sounds great.

Chuck Gomes: Okay. And, Mary, you'll send out a notice in that regard, right?

Mary Wong: Yes.

Chuck Gomes: Thank you very much. Okay, appreciate that from J. Scott and from Mary. Chuck speaking again. Okay, so let's go on to Agenda Item 3, unless anybody wants to talk about that template, that's possible just raise your hand if you'd like to, otherwise I'll go onto Agenda Item 3.

And Agenda Item 3 is pretty short. We have the letters of thanks to the ISPCP, the ALAC and the Registry Stakeholder Group went out. And gave them some sense of how we are - how we have considered - are considering and will consider their input. So that's a task that is completed.

And a letter via email also went out to the stakeholder groups and constituencies requesting their feedback on the flow charts for the two new processes that we're considering. So those have gone out and we set a deadline in terms of the feedback. And I think that was - was that September 15, Mary?

Mary Wong: Chuck, I don't recall offhand, I'm sorry, but that sounds about right.

Chuck Gomes: I think that's right. But anyway, what I would like each of you to do that represent your groups in this working group to please try and get them to meet that deadline and respond. In this case, I'm happy to say, the feedback we're asking is really quite limited. The first time we asked for feedback there was a very large number of questions and it was a huge task.

We're not really asking for a lot in terms of feedback. At a minimum we'd like them to, as you can tell by the letter, to tell us if they think we're in the right direction - going in the right direction with regard to these two possible new processes and anything else they want to tell us about that would be fine too.

So please let people know, we're not looking for a lot but it would be nice to get a general sense that we're going in the right direction at least and anything else they want to provide is welcome. So if each person would try and encourage that discussion and response by the middle of September that would be very helpful.

Any questions or comments on any of the letters that have gone out? Okay, Amr.

Amr Elsadr: Thanks, Chuck. This is Amr. I'd just like to get feedback on the charts (unintelligible) NCSG (unintelligible) Internet Governance Forum coming up but I'll still try to get them to do this before the deadline.

And then my question though is so would you like this - I'm sorry, Alan, can you hear me?

Chuck Gomes: We can hear you, it's not very clear. I don't know if it's just me or others but it's not very - this is Chuck - it's not real clear. But go ahead with your question and I'll see if - make sure I can get it, if I can't I'll ask for...

Amr Elsadr: All right, I'll try to speak slower if that helps. My question is would you like - at this point would you like those same charts and the request for input to be delivered to the GNSO Council as an update on the working group?

((Crosstalk))

Chuck Gomes: Thanks, Amr. By the way it's not that you're talking too fast, there's some fuzziness or something coming through in the transmission is why, it's not how fast you're talking but thanks for speaking more slowly anyway.

So let me make sure I understand the question. This is Chuck speaking again. Are you asking whether we want feedback from the Council? I didn't quite get your question.

Amr Elsadr: Chuck, this is Amr. I'm typing the question in the chat to make it easier.

Chuck Gomes: Oh okay, thank you. That's appreciated. I'm getting most of what you're saying but, as Alan said in the chat, it's coming across garbled and it looks like I'm not alone in trying to understand. So we'll take a look at what you're saying there.

In the meantime - oh and Mary's hand is up so let me turn it over to Mary and then we'll come back to what Amr just put in the chat. Mary, go ahead.

Mary Wong: Thanks, Chuck. And thanks, Amr, for the question. Marika and I had noticed that you had asked that question previously as well so we looked at the schedule for the GNSO Council and, you know, what's on the agenda for at least the next meeting.

Our suggestion would be to focus on this question of the flow charts in the chair's update to the GNSO at the LA meeting. One reason obviously is that the Council already has its agenda for the 4 September meeting and the other meeting between then and LA is the end of September.

So given that we've asked for feedback from the SGs and constituencies it seems to make scheduling sense at least to have this as part of the update in October. So that's our suggestion from the staff side.

Chuck Gomes: Any other - thank you, Mary. This is Chuck. Any other comments on that? Now, Mary, I have a - Chuck still speaking - I have a question for you. Without changing the agenda wouldn't it be okay if, for example, if Amr just mentioned that we have asked for some feedback on a couple things that has been sent to the stakeholder groups and constituencies without going into the details and to encourage everyone to make sure that it happens by the deadline.

Mary Wong: Thanks, Chuck. This is Mary, for the record. And I see that Amr's just followed up on chat - absolutely. And in fact an email update may be helpful because one of the function it could serve is to put the Council certainly on notice that there's going to be something fairly substantive that can be discussed in LA. So I think that would be a very good idea.

Chuck Gomes: Thank you, Mary. This is Chuck. And thanks, Amr, for asking - that was a great question. And hopefully you have the clarity that you need now. If not, please let us know.

Okay, all right, thank you. Now I think we are onto Agenda Item 4 which we will spend probably most if not all of our time on in the rest of the meeting today. And hopefully - for those that have trouble sometimes seeing the detail in Adobe Connect you might want to, if you don't already do it, now it looks pretty clear to me today but I find it helpful to have a printed copy that I can flip around to so if it's not on the page I'm at I can do that.

So that's one technique that I use that helps me stay on top in case I can't read things clearly in Adobe Connect or just need to flip to a different section

of the document that - maybe not be posted at the time. So anyway, that's just an idea; you can do with it what you like.

But what we're going to do is start looking at Deliverable 2 and 3 and go through it somewhat like - pretty much like the way we did it for Deliverable 1 and we're going to start that today.

But before we actually start that I'm going to ask Mary to give us a quick little overview of how Deliverable 1 and the questions there relate to Deliverables 2 and 3 and anything else that she thinks might be helpful to set the right context for this. Mary, it's all yours.

Mary Wong: Thanks, Chuck. And everyone, this is Mary. So we thought that it might be a good place and time here today to do a bit of a status check as to where the group is with its work relative to the charter and all the (task) in the charter.

And part of why we're suggesting that is because we've had a lot of documents and charts to consider. And of course with the new flow charts that's added a lot of volume as well.

So just as a reminder, the working group charter asked this working group to come up with a set of recommendations on five questions. And one of those questions was - the one that we did for Deliverable 1 and that's the one that deals with a process for developing policy instead of the PDP perhaps in the form of policy guidance.

And in that context we came up with what we're now calling the GGP and the GIP that has now been sent out to the stakeholder groups and constituencies for comment.

Where we're going now with Deliverable 2 and 3 are the next two charter questions. And both questions are on the screen here at the top of the document.

And the last charter question which we will proceed with as Deliverable - excuse me - 4 has to do with guidance on the GNSO's implementation review teams. So this is kind of where we are and where else we have to go to the rest of the charter.

Two more things that I'll say is a question was raised as to some of the sub questions that were put into Column 1 both of Deliverable 1 last week, as well as now you see here for 2 and 3.

And the question was that some of these sub questions were repeated across the last deliverable and this one. These questions can be found also in the charter in that the Council chose in the charter to put in a set of questions that they thought might be helpful to us in completing our work on the five charter questions. And because some of these sub questions affect more than one of the charter (tasking) questions that's why they reappear, for example, in this particular chart.

And so the other point then that I wanted to say is that once we're done with these various deliverables we're all going to get back together and review all of them. And the deliverables are numbered the way they are because of the work plan that the group agreed on way at the start. So hopefully, Chuck, I've helped rather than confused everybody. But as I said, hopefully this is a helpful status check relative to the charter.

Chuck Gomes: Thanks, Mary. I think it was very helpful. This is Chuck again. And just to point out to people if you already haven't figured that out for yourself and notice the hand-clapping from Amr so it was very good, Mary. Thanks, Amr.

And if you look at Section A of the document we're looking at right now you'll see that the questions there are identical to Section D of the Deliverable 1 questions, okay?

And then if you look - and you don't need to scroll the list on the screen so don't worry about that. But if you look at Section B in the document that we're looking at now the questions there map exactly to Section E of Deliverable 1 so that just kind of compliments what Mary was saying and so that yes they are the same questions but they also apply to what we're doing right now.

So the plan of attack, unless somebody wants to suggest a different plan of attack, is that we're going to go through Section A and Section B. Each one of them in the middle column has the notes from our work in Deliverable 1. And if you look at the very top of the screen there where it says Deliverable 2 and 3 and if you read that sentence, which I won't read out completely, there are actually two high level deliverables that we need to produce.

One of them is criteria to distinguish between policy and implementation. And the second one is to develop a framework for discussing implementation options. And so what I would like to do is for us right now to start going through the bulleted points starting with Section A there and discuss and then hopefully agree on whether we think the bulleted point fits into the category of criteria or the category of framework or it could be both. It's possible it may be both.

And eventually what will happen is we'll color code this so that when we come back and start working on developing specific criteria and also a framework we'll be able to group these things together and start taking them a few steps further in terms of actually starting to finalize what we really need to produce here.

Now first of all are there any questions in that approach or anybody that wants to modify that approach please raise your hand now. I'm not seeing any hands up or hearing anyone. Let's start off with the first bullet.

And again the question we want to answer together is whether this bullet fits into the criteria category or the framework category or both. And I'll just make

sure we're all together. I am going to read the bullet. Who is going - who is doing the considering? That is the underlying question. And this is for Questions A and B, by the way, over to the left.

So who is doing the considering? That is the underlying question. If it is considered policy GNSO Council is expected to act. If it is implementation staff is tasked to implement. The answer may be different depending on who is considering. The consequence of debate may hold up the next steps.

Now, again, we're not going to go back and to discuss what's actually the content of this. All we're going to do right now is to identify whether we think this particular bullet point from our notes from Deliverable 1 applies primarily to criteria or to the framework or both. Somebody want to speak up first?

Give you a chance to think about it. Okay, I see Michael's hand up. Sorry, I was a little slow. Michael, go ahead.

Michael Graham: That's okay. I was just going to give a quick answer. I think that's framework for the consideration.

Chuck Gomes: And, Michael, this is Chuck. Why do you think that?

Michael Graham: Well, I mean, it - well if it's it the criteria - I mean, I suppose it could be criteria but, geez, if we're talking about the criteria for making the determination that may be, frankly, different tracks according to who. But this is sort of within the framework of making that determination the first question - and it isn't really a criteria for distinguishing the two but I believe framework for making that consideration as to who is considering it.

Chuck Gomes: Okay. Somebody else want to comment on this? This is Chuck again. Okay, Anne agrees, okay. J. Scott, you're up.

J. Scott Evans: Yeah, I agree too. I mean, I think that we're going to have to some point decide. And I think that it just becomes too amorphous if it's like well the staff is doing something.

I think this is in the framework and I think we say that, you know, in our framework policy questions have to go to the Council and implementation with whatever guidance we come up with for any process that might evolved how the GNSO is going to participate in implementation is different, is treated differently and doesn't have to go through the same formal processes. So I think it's framework.

Chuck Gomes: Thank you very much, J. Scott. Chuck again. Let me throw a little curve in just to keep it fun. Is the issue of who is doing the considering - is that related to criteria? By the way, I fully agree that the middle part of this bullet is framework and I think that's well identified.

But I'm wondering whether a possible criterion will be that particular question. If who is doing the considering is a factor that may be a criterion in terms of the rest of the - where the framework comes into play. I throw that out just to see.

By the way, I think we could color this bullet more than one color. For example, if you agree with me that who is doing the considering is a related criterion we could color that one color and we color the rest of it another color for framework. Does that make any sense in terms of what I said or is it all framework? And I'm okay with that.

And Amr put in the chat - go ahead - Amr, would you like to speak to that or are you just okay with what you put in the chat?

Amr Elsadr: This is Amr. Yeah, I'm okay with what I put in the chat I'm just not sure if you can hear me. While I dialed back in...

Chuck Gomes: Oh you sound a lot better.

Amr Elsadr: All right great, thanks. Yeah, I didn't initially raise my hand to answer this question because I was kind of thinking about it and the question at the beginning of the first bullet makes it a bit of a puzzle to me considering what category this bullet would fall under.

And I agree with you, I think the answer to this question might change the context of where this belongs. And so I still am having a little trouble answering the question just with the bullet the way it is with the question of who is doing the considering at the beginning. Thanks.

Chuck Gomes: Thank you, Amr. Chuck again. Mary, it's your turn.

Mary Wong: Thank you, Chuck. This is Mary. One way to look at this is to look at the origin of the action in question. So if you're looking at things that we looked at under Deliverable 1, for example, all the various requests that come to the GNSO usually via a request to the Council, then basically that determines the universe of the types of actions that you're looking at.

So in that sense, you know, the question on who is doing the considering may have a rather obvious answer. I'm not really, you know, suggesting that it's either framework or criteria, it's possible as what you and Amr are saying could be both. But it might be helpful to everyone in thinking through this to think about whether the universe of how this might even come up is already, you know, determined or limited in scope and if that would help.

Chuck Gomes: Thank you, Mary. This is Chuck again. So is there any opposition to consider - marking the question about who is doing the considering as a criteria issue and the other part of it as framework or shall we just mark the whole thing as both or just one? Again, I'm not trying to drive this discussion. Tom, please.

Tom Barrett: So my thought is that the GNSO needs to do the considering full stop, because any other answer leads down the morass that created this group in the first place. So I think if you ask who's doing the considering it's the GNSO and you make that your starting position.

And so whenever, for example, someone sends a proposal directly to ICANN and they decide what to do with it, it simply should be turned over to somebody in the GNSO to consider whether or not that proposal is policy or implementation. So the default is GNSO does the considering.

Chuck Gomes: Thank you, Tom. Chuck again. So is that a criterion that the GNSO does the considering in terms of deciding whether something - what applies? Or is that just part of the framework. And I'll see if you want to respond to that, Tom.

Tom Barrett: Yeah, I think the framework is GNSO is the body that does the considering.

Chuck Gomes: So you would classify this whole bullet as a framework item, is that right?

Tom Barrett: When you ask the question, "Who is doing the considering?" My answer is GNSO.

Chuck Gomes: I heard that.

Tom Barrett: Right and so, yeah, I think that's part of your framework. If something needs to be considered it should be done by the GNSO.

Chuck Gomes: Okay so I don't want to belabor this one too long. So is anybody opposed strongly to just categorizing this one as a framework item? I don't see anyone so let's classify it as a framework item. And I'm fine with that and I'm not seeing any objections.

Let's go the second bullet. Still referring to Questions A and B on the left there. Who should be watching over whether something is policy or

implementation once policy recommendations have been adopted? Is that a framework question or a criteria question? And you can either put it in - your answer in the chat or raise your hand, whatever you like.

And I see Michael Graham put it in there as a framework item. Does anybody disagree with Michael on that? There's an agree in there. And I'm not going to - tell me if I push ahead too quickly but at the same time I don't want to waste a lot of time just waiting. I'm not seeing - if somebody needs more time to think about it just let us know in the chat. But let's go ahead - I'm not seeing any disagreement with that so the second bullet would be a framework item.

The third bullet says, "How can consultation mechanisms be updated to also take into account input from other SO AC external parties? Ask others for input. Is the matter new policy or wait until someone declares that something is policy or implementation? That would trigger a process testing whether this is a broadly-supported view."

And we'll use the same approach so we're now on the third bulleted item on the screen. Somebody want to make a first stab at that one, framework or criterion? And the thinking time is fine so go ahead and contemplate it. Mary, go ahead.

Mary Wong: Thanks, Chuck. And, again, this is more to try to I guess frame or move the discussion along. In looking at this bullet point it seems to me that the origin of this is an assumption that this happens during generally speaking the so-called implementation phase. And I'm wondering if that's true.

I mean, it seems to me that that's how it reads. So if that's the case perhaps it's, you know, I notice J. Scott just said "framework" but I was going to say that it might be more of a criteria question on the explicit assumption that we're already in implementation when this arises. And I could be wrong on that.

Chuck Gomes: Thanks, Mary. Chuck again. And an interesting thing that J. Scott does in his statement that he thought it was framework because it considers the how. And in fact he may be giving us there a possible guideline that we can use to determine whether something is a framework issue if it has to do with the how.

Mary, though, you suggested that it might be a criterion. Let's go ahead and look at what - and Michael agreed with J. Scott. Let's see what Amr has to say here. "The input from SOs, ACs, etcetera, may be a criteria but the answer to the question on how this is done seems to more a framework to me."

So, Amr, do you think it's both or are you leaning towards what J. Scott suggested as it's a framework issue?

Amr Elsadr: This is Amr. Yeah, I agree with J. Scott because from what I can tell the bullet is more about the how than it is about the actual criteria. So I would also say that this is framework. Thanks.

Chuck Gomes: Thank you very much, Amr. Chuck again. Does anyone disagree with the third bullet being a framework item? Okay. Moving right along - and what we'll do after this meeting, for those that are on the call, is we'll ask Mary to send out a message with the table identifying what we identified each one as and see if anybody else has any input in that regard before our next meeting.

Going to the fourth bullet, and could we scroll to - I guess that bullet is fully showing so I guess that's okay, never mind. I don't - no need to scroll yet. Okay so the fourth bullet says, "Triggering mechanism that can be proactive or reactive needs to be in place and a response mechanism needs to be in place." Who wants to take the first stab at this one?

J. Scott Evans: Chuck, I see Alan's hand is up.

Chuck Gomes: Oh, thank you. I was looking at the chat instead of up there. Alan, your turn.

Alan Greenberg: Thank you. I'm going to have to leave in a little while, by the way. If I recall where this one came from, and I may have been one of the ones to do some of the yelling and screaming on it, it was really an issue of how do we recognize when something is wandering into policy, you know, out of the forest of implementation and back into policy.

And so we put these words in to say we need to be able to recognize it. But I'm not convinced that we're going to be able to come up with any sort of formulaic way of doing that other than people being alert and waving flags.

Chuck Gomes: Okay. But back to our question, Alan, Chuck speaking...

Alan Greenberg: Yeah.

Chuck Gomes: Do you see this bullet as a framework issue or a criteria issue?

Alan Greenberg: I don't know.

Chuck Gomes: Okay. That's a fair answer. Does it - if we go back to - this is Chuck still speaking - if we go back to using J. Scott's helpful suggestion there if it has to do with the how it may be a framework issue. Does that apply here? And I haven't looked at Michael so let me jump over to the chat now.

Interesting point, Michael, hopefully everybody else is reading that and assuming everyone can since I think everyone's in the Adobe. So it may be that the - I think what you're saying, Michael, and I'd like you to comment on this if you would, please, that we should draft the framework first and then that will lead into developing the criteria. Is that what you're saying, Michael? Would you comment on that, please?

Michael Graham: Yes. Michael for the record. Just as we're going through this I think, you know, some of these are important in establishing going back to the first one where we say who's considering and then we really come into the consideration and the comments that really it should be GNSO that's considering which sort of limits down things.

So whereas first I was thinking well now we've got two chains of criteria according to who's considering it, and then within the framework definition actually we were deciding, well it's the GNSO.

So it just seems to me as we're going through this in terms of understanding who's going to be doing it and how they're going to be doing it might be a way of establishing sort of a general ground then going through the criteria that we think would be appropriate and then going back and as part of that criteria-developing process considering, you know, maybe there's some change that we have to make with the framework.

Obviously the two of them as we're talking, are interrelated. But I was just trying to find a way once we get through this process that we're involved in now of the best way of handling it in the next step. So I guess, one, I'm getting ahead of myself but I wanted to make that comment because too many of my observations to myself will float away by the end of the day of our discussion.

Chuck Gomes: Thank you, Michael. Chuck again. Mary, it's your turn.

Mary Wong: Thanks, Chuck. And thank you, Michael. Just so, you know, playing off of what Michael's suggesting, it may be that in going through these bullet points the way that we're doing and having, you know, like a tentative or preliminary classification as we're doing now will be helpful when we come back at the end and hopefully this will be a relatively quick exercise.

And then to see if in our preliminary categorization we actually have the elements or outlines of a framework. And if we don't what's missing, and look at what that framework then looks like, before going into the criteria that Michael suggesting. I don't think I'm suggesting anything different. I'm, I think, following on from that to try and suggest how we can do it and the timing of it.

And, in that regard, you know, my original comment was about the bullet points themselves. And it goes back to what Tom was saying earlier and what I was trying to say. I think when I look back at the charter questions, 3 and 4, and it's on the top of this document here, the framework part talks about a framework for implementation related discussions.

And what Alan said was well, you know, this question of the triggering mechanism when does that come up? When I look at the left hand side column this really derived from our earlier discussion of what lessons can be learned from past experience and my recollection is the triggering discussion and even the consultation discussion from the earlier bullet point emerge from this lessons learned discussion.

In other words that there were prior experiences where, as part of implementation, there were things that could be described by policy at least by some and therefore we needed better consultation, therefore we need a triggering mechanism; we don't have one.

So that's two separate comments; the first on how to pick up on Michael's point and the second in terms of classifying this particular bullet point.  
Thanks, Chuck.

Chuck Gomes: Thank you, Mary. Chuck again. So to try and maybe point this in a particular direction, I don't see anything in Bullet 4 that really would provide any criteria. At the same time I think the triggering mechanism and a response mechanism could be part of a framework. So if I can kind of take the chair's

prerogative to keep this thing moving, would anybody object to calling this one a framework item? Alan.

Alan Greenberg: Yeah, no, I'm not objecting. The problem with - and if you go back to the original discussions with this, we were identifying a problem that is when we're wandering along and implementing how do we pull ourselves back and realize that there's a policy discussion? And we put this comment in essentially as a reminder that we need to find the way to do it but there may not be a specific way. It may simply be that we need to be conscious of the issue.

And from that perspective I guess it goes into the framework. But I'm not sure it's a real step. It's one of those, you know, almost caveats that needs to be - we need to be aware of as we're going through the process as opposed to a particular aspect of the process, you know, that occurs at a certain time. So I'm not sure it fits into the model we're using but I guess it fits within the framework somehow.

Chuck Gomes: Thank you, Alan. And not seeing any objections let's - and, by the way, your points are well taken. And we shouldn't look at this as too rigid an exercise just because we put it in a framework box doesn't restrict us in terms of what we're going to do going forward. So for right now we'll do that.

And we may find that this exercise doesn't produce very much. If we end up with everything in framework we may find that this particular exercise isn't particularly useful. That may be unfortunate but if nothing else it's getting our thinking mechanisms going on this in terms of moving forward. So for now we'll put that one on framework.

And now let's scroll to the next - there's one more bullet for Questions A and B. If we can move that one up to the top in the Adobe.

J. Scott Evans: I think - Chuck, this is J. Scott. I think you can do that yourself.

Chuck Gomes: Oh thank you. I'm sorry. I see I'm using this - there we go, I got it. Okay and I actually was able to do it so that I could keep Questions A and B still on the screen as well. So that one is in current environment IRTs have been given responsibility by GNSO Council to assess whether policy recommendations are implemented as intended and flagged to the GNSO Council when this does not happen. However, further processes may need to be defined around that - be defined around that happens. It seems like a word missing there but I think we have the gist of it there.

So is this another framework item? Are there any possibilities of some criteria in that? This is really - implementation review teams is something of course we're going to get in a future deliverable when we talk about that more specifically. But is this part of the - is this really a point that's with regard to a possible framework?

I see Amr and Mary are typing, let's see what we get. Seems more an observation - I guess that's not specifically related to my question.

J. Scott Evans: No, no, I think she is and I agree with her. This is J. Scott, Chuck. I think what I see her saying and what I understand is this sort of is like a summary of where we end up because we don't have a process and we don't have any criteria and this is sort of the reality of what's going on today. This is the current state of play.

Chuck Gomes: Oh okay, yeah...

((Crosstalk))

J. Scott Evans: But I'm not so sure it's necessarily...

Chuck Gomes: Yeah.

J. Scott Evans: ...weighs in one way or the other, I just think it's saying...

Chuck Gomes: Yeah.

J. Scott Evans: ...where we are today this is how it's been working.

Chuck Gomes: Good point. And thanks...

((Crosstalk))

J. Scott Evans: And I think Amr's hand is up.

Chuck Gomes: Yeah and I am calling on Amr next.

Amr Elsadr: Thanks Chuck and J. Scott. Yeah, I think I agree with what Mary and J. Scott are saying. And I think this could become framework when these further processes are defined and criteria are established within the processes to help an IRT determine whether something is policy or implementation. But I would still say that this is more framework than it is criteria but it's not quite there just yet I think. Thanks.

Chuck Gomes: Thanks, Amr. Chuck again. So let's go on to - so that'll be a - fit into neither for right now but it is a comment that we'll keep in mind as we go forward. Going then to Question C, which is, "Under what circumstances, if any, may the GNSO Council make recommendations or state positions to the Board on matters of policy and implementation as a representative of the GNSO as a whole?"

And then the first bullet for that one, and there are four, is, "All circumstances, except if it concerns new contractual requirements that would require a PDP."

So what would you classify this one? Framework? Criteria? J. Scott.

J. Scott Evans: Criteria.

Chuck Gomes: You mean we really got a criterion one maybe?

J. Scott Evans: Yeah, because it looks like...

((Crosstalk))

J. Scott Evans: ...you know, what are the circumstances so what is the, you know, that looks like a threshold criteria question.

Chuck Gomes: Yeah, I think you're right. Anybody disagree with that? This is Chuck.

Michael Graham: Chuck, it's Michael. I would agree in terms of the answer to this sort of question which it remains, to me, is the one that creates criteria. I don't know if this is criteria itself but it's certainly the question that leads to criteria rather than framework.

Chuck Gomes: Right. Thanks, Michael. I think you said that well. And these don't necessarily have to have clearly-stated criteria in them but thanks for expressing it that way, I think that's helpful. Anybody disagree with the criterion category for this one?

Okay, moving right along, "The Council is composed of representatives of stakeholder groups and constituencies unless these oppose the Council is able to speak on behalf of the Council." How about that one? Tom.

J. Scott Evans: Well...

Tom Barrett: Yeah, I actually was going back to the first bullet...

Chuck Gomes: That's okay.

((Crosstalk))

Tom Barrett: So I just had a - a question about the qualifier there. Who decides if new contractual requirements require a PDP or do all new contractual requirements require a PDP?

Chuck Gomes: I - this is Chuck speaking. I think the answer to that is no at least they haven't historically. There are certain topics that are eligible for PDPs, there are some that aren't. So that in itself answer your question so certainly all new contractual requirements don't require a PDP.

But certainly any that would fall into the list of what is called the picket fence would require a PDP I believe. Now let me stop talking and first of all...

J. Scott Evans: Well...

Chuck Gomes: ...let me go back to Tom. Go ahead, Tom.

Tom Barrett: Yeah. So that assumes then that this issue comes up after someone has determined that a PDP is required due to a new contractual requirement.

Chuck Gomes: Okay. I think that's right. Chuck speaking again. Let's jump over to Alan. Alan, please jump in.

Alan Greenberg: Yeah, the situation is not clear. Anything could be negotiated between the parties but the catch is for things like registry contracts where there's already a number of existing registries a PDP is required to change the existing contracts without having to have bilateral negotiations. And only if it's within the picket fence areas are contracted parties bound by those changes.

In theory, if you look at something like the RAA the RAA in this last revision, changed all sorts of things that are, you know, that were within the picket fence. And, you know, but that was done essentially as a bilateral negotiation

and therefore the PDP is bypassed in that sense. The PDP is required if you're trying to change something within the picket fence unilaterally without the involvement of some of the contracted - some of the people who hold the contracts. So it's a bit messy.

And, Chuck, if you go back to the PDP that was labeled PDP-06 or 05, I don't remember which, the contractual revisions contract, the PDP did talk about things which were not within the picket fence, they weren't necessarily binding on the Board but that doesn't restrict a PDP from happening.

Chuck Gomes: Right. Thanks, Alan. Good points. Greg, you're up.

Greg Shatan: Hi, it's Greg Shatan. I think this whole, you know, contractual obligation, contractual requirements thing kind of got in here kind of as - to some extent as a legacy of Jeff Neuman's attempt to create a definition of policy versus implementation. But I don't think it was ever really fleshed out at that time.

So, you know, I think that - the whole idea here of, you know, picket fence aside that, you know, the contractual obligation somehow, you know, creates, you know, are a signifier of policy versus implementation. It is probably, you know, awkward and not, you know, something that would be a rule.

I've never liked or maybe even completely understood that type of definition or linkage that was made, you know, at that time probably about, you know, Durban or so. And, you know, just caution us all I think to, you know, be wary of kind of looking at that as a starting point rather than something that, you know, we really need to kick the tires on. Thanks.

Chuck Gomes: Thanks, Greg. Chuck again. And I think Mary makes a very good and helpful comment in the chat where she - and she's right too, in my assessment. "Consensus policies require a PDP but not all contractual requirements concern gTLD policy so those wouldn't require a PDP." And she corrected - gTLD consensus policies - in her next entry there.

So on this one I think we probably ought to make a note that I don't think this is worded accurately here on that first bullet under Question C based on the input from both Alan and Mary there. So we probably ought to try and fix the wording on this so it's more accurate.

Regardless of that though, I come back to I think this is still I think a criterion issue rather than a framework issue. Is there any disagreement on that? Not seeing any. And, Mary, will you fix that as best you can see fit and we can just redline it so people can see the changes that were made in the wording of that? And thanks, Tom, for the question you raised.

Let's move - go back then to the second bullet under Question C. Does anybody have a thought in terms of where that fits? "Council is composed of representatives of stakeholder groups and constituencies unless those opposed then the Council is able to speak on behalf of the Council."

Forget too much for now whether that is an accurate statement and let's focus on the question. Is that a criterion, a framework or maybe just kind of a state of play thing like we decided on the earlier one? Amr, you're first.

Amr Elsadr: Thanks, Chuck. This is Amr. And I actually wanted to track back for just a second to the first bullet under Question C because I think I kind of agree with the first comment that it should probably be a criteria, possibly lead to criteria. And the way I read this is that if this is a new contractual requirement that would require a PDP then it is, by definition, a gTLD consensus policy. It is not a contractual requirement that falls outside of that scope but within that scope.

So I don't think there's anything really wrong with the wording of this bullet. I may be wrong but the way I see it it's fine and it may not be a criteria but it's a broad criteria that needs to be perhaps better defined. Thanks.

Chuck Gomes: So, Amr, this is Chuck. Are you saying that you think that all new contractual requirements would require a PDP?

Amr Elsadr: No, I'm saying all new gTLD consensus policies require a PDP. Anything - any new contractual requirements based...

Chuck Gomes: Okay.

Amr Elsadr: ...on gTLD consensus policies. And that's what I think is being singled out in this bullet so not saying that all new contractual requirements need a PDP but they're saying all new contractual requirements that would require a PDP and those are limited to gTLD consensus policies.

Chuck Gomes: So it sounds to me that you're saying the wording could be made more clear here.

Amr Elsadr: Yeah, possibly. But I don't think it's necessarily bad wording but I guess it could be made clear, yeah thanks.

Chuck Gomes: Okay, all right. So, Mary, I would like to see if you can fix it - I think several of us have read it a little bit differently. Than in itself probably indicates that some fixing of the wording might be helpful on this. Greg, your turn.

Greg Shatan: Hi, it's Greg Shatan again. I think this is still concerning me and I think that to some extent this test may itself have arisen out of a results-oriented analysis in trying to state that certain parts of the straw man for trademark rights protection were creating new contractual obligations and therefore had to be dealt with as policy rather than implementation.

There were those who disagreed with that and still disagree with that analysis. I think it would help to be much more clear about this including, you know, some specific examples especially to make sure that we're not falling into a kind of results-oriented analysis of this point.

And, you know, it's one thing when you're talking about contractual obligations are we actually talking about, you know, renegotiating contracts, you know, or what, you know, and that certain, you know, deciding what is in fact, you know, a quote unquote contractual obligation and whether or not in fact it is creating new policy or whether it is in fact implementation to my mind is far from an open and shut question. And I'm very concerned about using this as a litmus test. Thank you.

Chuck Gomes: Thanks, Greg. And we're out of time so I'm going to have to wrap this up quickly. But let's not get too hung up on the exact wording right now other than to make sure that we're clear on what we're saying there and that we're accurate when we actually get to developing criteria I think is when we're going to have really get down to the nitty-gritty of what you're talking about.

Now, Alan, be very brief because we're over time.

Alan Greenberg: Very brief.

((Crosstalk))

Alan Greenberg: I think the phrase "new contractual requirements that would require a PDP" is a very long convoluted phrase that means capital Consensus Policies.

Chuck Gomes: I think you're right. Thanks for that. Now, I'm going to ask a - I want us to evaluate what we just did in most of this meeting right here. Is this particular approach of going through these do you think it is useful, should we continue this the next opportunity we get which may be the meeting after the next one, or should we approach this a different way?

And we don't have time really to discuss it but if you think that this exercise that we went through today on just five bullet points is useful to continue if you do would you click an Agree in the Adobe Connect room there? Okay. A

couple people do. Anne disagrees. Another agree. Okay so mixed, okay and that's okay. I don't think it's terribly clear to me either.

What I'd like to ask you to do, because we're out of time, is in our email list if you don't think this was useful suggest some ways that you think would be more effective and productive for us in going through these bulleted items.

So certainly those that disagreed even those that didn't say one way or the other or you thought that it was useful, if you can think of some ways that we could improve our methodology here in terms of going through these, please put that on the list in the next week or so so that when we do resume going through these we can do it hopefully more effectively.

And with that I want to just turn it over to Mary in conclusion because our meeting next week will have a very different agenda. And we're all going to receive something in the next day or so that we need to review before that meeting. So, Mary, would you briefly give us an overview of that?

Mary Wong: Sure. Thank you, Chuck. And I notice that my colleague, Amy, is on the call and Amy will be involved with the call next week. In some ways timing-wise this is jumping ahead of our work just a little bit because it does look ahead to the next charter question.

But essentially what we did was work with our colleagues in the Global Domains Division, Amy particularly, and asked them to help with coming up with an implementation framework to at least implement consensus policies which could be shared with this group that would help to frame our discussions for when we come to talk about implementation and specifically IRTs.

So in terms of scheduling it seemed helpful to get that to you before we actually jump into that deliverable and that will be a discussion and presentation by Amy and perhaps others next week. Chuck.

Chuck Gomes: Thank you very much, Mary. This is Chuck. Anybody have a question on that? Okay so please find time to review the materials in advance, that'll facilitate the session next week that J. Scott will be chairing.

And with that, since we're over time I am going to adjourn the meeting.  
Thanks, everybody.

Michael Graham: Thanks, Chuck.

Mary Wong: Thank you, Chuck. Thanks, everybody.

J. Scott Evans: Thank you, all.

Terri Agnew: Once again that does conclude today's teleconference. Please disconnect all remaining lines and thank you very much for joining

END