

**Policy & Implementation Working Group Meeting
TRANSCRIPTION
Wednesday 29 October 1900 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 29 October 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-20141029-en.mp3>

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

Attendees:

Cheryl Langdon-Orr – At-Large
Chuck Gomes – RySG
Alan Greenberg-ALAC
Anne Aikman-Scalese – IPC
J.Scott Evans – BC
Klaus Stoll - NPOC
Carlos Raul Guitierrez - GAC
Olevie Kouami – NPOC
Greg Shatan – IPC
Michael Graham - IPC

Apologies:

Avri Doria-NCSG
Stephanie Perrin - NCUC

ICANN staff:

Marika Konings
Mary Wong
Berry Cobb
Steve Chan
Terri Agnew

Coordinator: This call is now being recorded.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the Policy and Implementation Working Group call on the 29th of October, 2014. On the call today we have Alan Greenberg, Carlos Raul-Gutierrez, Cheryl Langdon-Orr, J. Scott Evans, Klaus Stoll, Anne Aikman-Scalese and Chuck Gomes. We have apologies from Avri Doria.

From staff we have Mary Wong, Marika Konings, Steve Chan, Berry Cobb 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, J. Scott.

J. Scott Evans: Thank you, Terri. I noticed that Chuck says in the chat that he's having some problem ringing in. If someone could check on that for us?

So good morning, good evening, good afternoon everyone. This is J. Scott Evans for the record. For those of you that were in LA I'd like to thank you for making the time to attend our meeting on Wednesday afternoon at the LA meeting.

At this point I'd like to ask if anyone has any update or changes to their - okay I'm getting an echo for myself.

Anne Aikman-Scalese: Yeah, we're all having an echo.

Alan Greenberg: Oh yeah.

Terri Agnew: And this is Terri from staff. We'll try to isolate that line.

Cheryl Langdon-Orr: J. Scott, Cheryl here.

J. Scott Evans: Yes, ma'am.

Cheryl Langdon-Orr: I just - a minor update which I haven't as yet reflected on my Statement of Interest. I have retired as a Director from the ccTLD administration of the AU space. I will make...

((Crosstalk))

J. Scott Evans: All right. Thank you. Anyone else? Okay with that I want to say thank you to everyone for all their good input that we had at the LA meeting. Marika or Mary, do we have a copy of the work plan that we reviewed in LA that we could put up into the Adobe Connect room? Everyone should have received a copy of this via email.

Coordinator: Excuse me, Miss (unintelligible) is now joining.

Marika Konings: If you give me one second, J. Scott, I'll pull up the latest version of the work plan.

J. Scott Evans: I just want to remind everyone that we've agreed to this. You received a copy of this I believe this week via email from Marika that sets out what our goals and timelines are but I just want to remind everyone that we've come to an agreement that we would try to have a draft report ready prior to the Marrakesh meeting, which I believe is in February.

So we have a lot of work to do but I - as Chuck said in our meeting in LA, I feel confident that we can meet that if we just move forward steadily and we continue to make our meetings weekly. Marika, did you have a comment?

Marika Konings: Yeah, this is Marika. This is just to note that we did have as a target date the 29th of October so today for delivery of a first draft of the manuals for the GNSO guidance process, the GNSO input process and the fast track process.

However, we're a little bit behind on that. We have the GNSO guidance process ready for distribution and our proposal is to share that with you after this meeting so you can start looking at that and providing feedback. But we'll need a little bit more time to get the other two completed as, you know, we started working on some additional projects that I think many of you are involved in - with as well but we'll do our best to get those out to you as soon as possible.

J. Scott Evans: Okay. And you notice - if you notice on our timeline that the meetings on the 5th, the 11th - I mean, I'm sorry, the 5th, the 12th and the 19th and the 26th all have us dealing with these manuals as we receive them. So we should probably process them as we receive them in the order in which we receive them and have our discussions with regards to those.

And so as soon as you receive this from staff via email you should begin to review it and understanding that when we have our next call following the receipt of the first manual that's where we're going to spend a great deal of our time is talking about that.

But you should not delay in getting feedback to the full list so that everyone has a chance to see any thoughts you may have about the work that you're reviewing and what, if any comments, concerns, suggested revisions, that you might have. I would just encourage you let's use the list as actively as possible to make sure that we're continuing to move things forward. Anne.

Anne Aikman-Scalèse: Yes, thanks, J. Scott. It's Anne. And my question is just that it seems probably a little bit of degree of interplay but among the three manuals potentially so - and, I mean, obviously we should provide comments as soon as we get the very first one but I wonder if in terms of the final version if we're going to need to delay our deadline for draft comments until a point - that it be coordinated I guess with the time when we have all three of them where they can be read together somehow.

J. Scott Evans: Well I am - I see Marika's hand is up; I'll let her speak first and then I'll - go ahead, Marika.

Marika Konings: Yeah, this is Marika. I think my personal opinion I think there, you know, on themselves standing procedures so I don't think there should be any difficulty or challenge in actually looking at those independently although indeed at the end of the day of course you want to see the whole package.

But as said, you know, we're hoping that we'll be able to get those to the - the other two to the working group quite quickly so hopefully that will give you an opportunity to already start reviewing the first one and, you know, make your notes there.

I think, for example, on the GNSO fast track PDP you can expect that that will look very much like what is currently in the PDP, you know, minus a few parts in the beginning which we have suggested to take out.

And again, you know, the GNSO input process is a more kind of lightweight kind of process so I think at least from the three but probably the one that is, you know, the most newer or different even though there you'll see as well that we've borrowed a lot from what is in the current PDP manual as that is the kind of basis for how, you know, policy work is done in the GNSO.

And I think we've learned through experience, you know, which part of those seem to work quite well and people are familiar with those...

Anne Aikman-Scalese: Right. And is there a new date for delivery of these?

Marika Konings: As said the...

((Crosstalk))

Marika Konings: ...process we hope to share - I was planning to send out after this call and then the other two we'll hope to get to you before the next - the meeting next week.

Anne Aikman-Scalese: Okay thanks.

J. Scott Evans: Okay I see Chuck has his hand raised.

Chuck Gomes: Thanks, J. Scott. Chuck speaking. Marika, a quick question for you. Is it fair to assume that in the case of any changes we're recommending to the existing PDP manual that they will be in redline versions so we can readily see those?

Marika Konings: This is Marika. No, because it's not - basically these are new processes although some paragraphs are, you know, very similar to what is in the PDP but adapted to the manual. But it's not a, you know, complete copy and paste so it's, you know, it's hard to do a redline from that perspective.

I mean, I can do so for the fast track it probably is easier and if that is helpful, you know, I can do that as a redline and just - because I think as we've discussed I think the idea there is that we, you know, basically chop out the initial stages so, you know, that could be easily redlined but I think all the rest will basically stay the same.

You know, apart from the wording where we change probably PDP to fast track PDP. So I don't know if that is helpful or...

Chuck Gomes: This is Chuck. Yeah, that would be helpful. Thanks.

Marika Konings: Okay.

J. Scott Evans: Okay so I think everyone is now familiar with - you know you've got a copy of this, you know where we're headed in our calls beginning next week for certain with regards to the draft manual.

And we need to use the list when possible to keep - make sure conversations are going so if you miss a call you don't miss an opportunity to get your thoughts to the group so that everyone can, you know, have your valuable input as part of the discussion. So that's the end of that.

Now we need to discuss how we're going to handle the work going forward with regards to answering or addressing the questions - the charter Questions 3, 4 and 5. You know, as we - I think Marika pointed out in LA and as we have touched on in previous conversations I think it's clear that a lot of these questions are interrelated.

And so as you can see in the - if you look over to your right hand side on the Connect room you'll see that in the proposed agenda it sort of sets out the three big chunks of material, GNSO implementation review team, implementation project plan and the GNSO Council. And it asks questions or it looks each of these by bringing up points that point to some to Question 3, some to Question 5, some to 4 and 5.

And so rather than going through the questions one by one I think we're recommending that perhaps we would go by topic and then discuss those - answer the points under the topic that relate to those questions to the general thing.

So if you'll notice you have GNSO implementation review team, currently it's optional. Should this be mandatory? That answers - that relates to charter Question 5.

But the next - if you'll see a couple down what additional mechanisms, if any, should be foreseen for implementation related discussions beyond those that take place with the IRT? That goes to Question 3.

So is everyone amenable to handling these subjects in, you know, large sort of subject matter driven categories and then addressing how each of those should be dealt with with regards to 3, 4 and 5 in - at the same time.

I see that we've got Chuck and Anne's thinking that that's a good way to go. Anyone think that that's a bad way to go? Okay so I think that that's what we will - that's how we will then proceed.

I will notice, thank you, Mary and Marika and whomever else assisted that we now have black text on the background of the boxes which hopefully for those like myself who are trying out bifocal contacts for the first time, this will be an assistance. It is easier to read, at least for me. I did blow my screen up to 150%. You can do that at the bottom left of the center screen. And it will allow you to do that.

So we look here and we see that I think the boxes that we have in - I don't know we'll say orange, it looks more melon to me but in the not blue color, have the sort of the questions that we need to be asking ourselves and point to how they relate back to the charter questions.

So, you know, as we begin this do we want to begin with discussing the GNSO implementation review team since that's first on our agenda? Is everyone comfortable with that?

All right, so I'll throw out to the group that currently this is optional. Should it be mandatory that there's - that there is an implementation review team? I'll take a queue. I see Greg just joined us. Greg, what we're doing is we're taking a queue on whether a - whether a IRT should be - a GNSO implementation review team should be mandatory. I see that we have a

queue with Anne, Cheryl, Alan and Chuck. So I'll start the discussions with Anne.

Anne Aikman-Scalese: Yes thank you, J. Scott. This is more in the - it's Anne and this is more in the nature of a history question about IRTs and how they work. As I looked through all of these questions I found myself wondering why an IRT team composition would be different from the working group itself and why it was, you know, set up that - is it a smaller - is it a subset of the working group or is it anybody can join it?

It just seems that the history of the PDP process and the working group is quite valuable to the implementation process. And I wondered if an IRT is constituted differently or not and that may inform some of my thoughts on whether it should be mandatory. Thank you.

J. Scott Evans: Okay. Marika, I'm going to let you jump into the queue there to answer Anne's question.

Marika Konings: Yeah this is Marika. And I think that these, you know, from a staff side that the thinking has evolved slightly in that regard. You know, where we initially started out with IRTs when they were introduced as a concept as part of the revised PDP which we're currently working on we basically would reach out to the original working group that developed the policy recommendations and invite those interested to join the implementation effort.

So I think it's important to point out that, you know, not everyone would have an interest in that. Also, ideally of course people have expertise or a specific input they want to provide as part of the implementation conversation as of course it takes a very different kind of approach than the policy conversations.

So I think what we at least have seen from a tactical perspective that some members that were involved in the working group would join the IRT but

definitely not all. Also as of course there is some times a bit of lag between when implementation actually kicks off, you know, people may have moved on to other projects or, you know, for many they maybe more focused on the actual policy development and may want to prefer leaving the implementation part to staff and an expert in that area.

What we have noticed, and again, and I think this is, you know, diving maybe partly into Item 4 as well because we're working on providing you with some feedback on, you know, our experience to date with IRTs and some of the lessons learned and, you know, (unintelligible) staff things.

And one of the things we've noticed as well that by limiting ourselves to the working group we may miss expertise that is needed for that particular effort. And we've seen instances, and I think for example, you know, the thick Whois implementation effort that's currently ongoing is where we see that we need specific expertise to help staff in the implementation effort that may not have been present in the actual working group.

So I think, you know, in short, ideally some working group members will join the implementation team specifically with the focus of, you know, is the implementation conformed the intent of the recommendation. But I think we have experienced as well that in many cases there may be a need for a more particular expertise to assist staff.

And I think you can also think of this in, you know, in the company setting. Some people are focused on policy and they may be the ones that, you know, support policy development but then you may want those people in that same company that have the technical expertise to actually join the implementation and provide guidance and input there.

So that is a little bit I think where we're currently at that's probably ideally it should be a mix of people that were on the working group, those that can provide technical expertise as long as the understanding is that of course any

implementation work is based on the original policy recommendations that were developed by the PDP working group.

And of course, you know, there may sometimes be a need as well to really make sure that you have some of the directly-affected parties involved in the implementation effort, you know, to make sure that you have their input and feedback on how certain things should or may need to be done to make it work effectively.

J. Scott Evans: Thank you, Marika. I'm going to move to Cheryl.

Cheryl Langdon-Orr: Thanks. Cheryl for the record. At one point I wasn't particularly keen on the mandatory approach. I've changed my mind since that. I still have some pause on the mandatory - pardon the pun - aspect of the mandatory approach. In other words I'm - I was hoping for a softening of language that went along the lines of it is a normal expectation that this will be, you know, formed unless very unusual and specific circumstances occur.

Do you know what I mean? I just wanted to - I wanted an opt out so one wasn't - there was an ability to not have one if for some ever reason providing community agreed it simply wasn't going to work. But if it's a choice of mandatory or not I'm down on the mandatory side.

J. Scott Evans: Thank you, Cheryl. Alan.

Alan Greenberg: Thank you, it's Alan speaking. A couple of comments. Marika covered pretty much everything I was going to say on the history in a super set. I'll just add one comment that these things are relatively new. We've only had a small number of them and to some extent each of them have been quite different from the other.

As Marika pointed out on the thick Whois the implementation review team is conceivably larger in terms of active people than the original PDP workgroup was or certainly equal in size and quite different.

The first IRT, which was one I chaired, was a very, very informal operation, probably too informal. So - and the thick Whois one has been very formal. My - in terms of should it be mandatory or not my thinking was very much in line with Cheryl's that my inclination is to say it's an expectation but it shouldn't be absolutely required.

I could easily live, however, with saying it's mandatory but the processes associated with it should be flexible. Now that may mean that no one volunteers for it and that's okay. You know, that's the message from the community that we didn't really need one.

And if the process is such that really staff will go off, do some design, come back and say does this look okay and the answer is yes, it shouldn't - that shouldn't take, you know, 12 monthly meetings and a meeting schedule of an hour and a half each. So as long as the processes associated with it are flexible and the GNSO essentially has a veto over being too flexible and too lax then I have no problem with it being mandatory. But I'm not sure it's really necessary. Thank you.

J. Scott Evans: Okay. Next I see we have Chuck.

Chuck Gomes: Okay thanks. And Chuck speaking. And I'm pretty much in agreement with Alan and Cheryl. I was one of those that didn't think it should be mandatory for quite a while. And I'm okay with that now but I go along with Alan that - and Cheryl too that maybe we want to modify the language a little bit.

One idea that crossed my mind, and I don't know if this works or not, but was, you know, that they - that they're mandatory but maybe minimally staffed.

And there are times when they're not as necessary as other times.
Sometimes they're a huge job.

But I think with some of our new processes if something kicks in where there are questions whether it's policy implementation and we have to go back and so forth having at least a liaison that would serve as maybe - maybe it's one person or two people that would serve that IRT function in those kind of cases there still may be value in that. And that's what I'm getting at even if it's minimally staffed. You could always beef up the staff later if you needed to. So I'm okay with that.

I want to go back to what Marika said though - nice job, Marika, on your description and answer to Anne's question. But we really do, in implementation review teams, especially in more complex ones, need a different kind of expertise and person participating rather than the people that would spend the time on policy development.

And Marika said that. Sometimes we need the technical operational expertise of those who are going to have to implement it and they have insights in terms of operations. At the same time those kind of people probably would never even consider participating in a policy development effort. So it's very important that it - in terms of what Marika said.

And my last point, to disagree with Alan, they're really not all that new. The first one I recall was for the original Internet registrar transfer policy. And the implementation team was largely registrars because they had the insight that was needed to make sure it was implemented in a way that would really work. I think the term may be new but we used them clear back as far as 2004 as I recall. Thanks.

J. Scott Evans: Thank you, Chuck. Greg.

Greg Shatan: Hi, it's Greg Shatan. Sorry to be a little bit late but, you know, I definitely - well I always quail at the word "mandatory." I think in this case it is appropriate for it to be mandatory and I guess, you know, minimally staffed. I'm kind of debating whether that should be - internally at least - minimally staffed or sufficiently staffed. I suppose that if there's at least a liaison they can call on additional folks to kind of join the IRT if an issue comes up.

But it's probably better to have it staffed sufficiently to deal with the likely issues that would come up in implementation rather than just to have a liaison. It's kind of like a tool; it's better to have it and not need it than to need it and not have it available on a timely basis.

There's not much that the IRT needs to do or that needs to be run through the IRT then that's fine. But if there's an issue of implementation that needs to be reviewed and the team isn't really, you know, fully there to meet it there are going to, you know, at least some delays. So I guess I would come down somewhat against the idea of minimal staffing and at least try to have sufficient staffing even if it's just kind of like a sleeper cell that's ready to be used. Thanks.

J. Scott Evans: Okay, Alan.

Alan Greenberg: Thank you. First, I presume we're using the staffing but on the volunteer side. The review - the review part of IRT is reviewed by the community since staff is actually doing the implementation itself and I presume ICANN will put whatever staff members into it to do the job. So I presume we're talking about on the implementation.

I guess I would - it's pretty hard to get - to volunteer people to do things they don't see any - have any interest in doing. And implementations can take a year or more and just because someone volunteers one day doesn't even mean they're going to be in the job a lot later.

So I, again, would opt for flexibility here. I don't mind the concept of it, you know, there should be one person who stands up and says yeah, I'll watch over it in case there are any questions and call others in. So I guess I opt for the flexibility in terms of how many people make an IRT. Thank you.

J. Scott Evans: I didn't see whose hand went up first, Marika or Anne, so I'm going to go to Anne this time and then we'll go back to Marika.

Anne Aikman-Scalese: Okay thank you, J. Scott. It's Anne. I think based on all of this discussion I would personally be leaning toward mandatory. And I wanted to make two points about that again, with flexibility as has been mentioned.

But it is the job of staff to develop an implementation plan and it does strike me that there could be elements of the implementation plan that it would be wise for the IRT to review and comment on with a knowledge of, you know, the community constituents and whatnot. So having some IRT input on the implementation plan seems a good idea even if they totally disband after that.

And the other thing that I would mention - I think it's raised by some of the comments that Chuck made is, you know, he has mentioned that we do have these new guidance processes in place. And I think it may not be, you know, crystal clear as to whether the sequence of events in relation to going to IRT for guidance, and this is, you know, from the point of staff potentially - go to IRT for guidance, go to the Board for guidance, and then when does IRT come back to GNSO to potentially invoke some of the new guidance processes.

If there's somebody on IRT who doesn't agree with implementation will they then proceed to try to invoke one of our guidance processes? And this is just a reference to what I was mentioning earlier about the interplay of the processes that we're recommending.

I think that we need to develop some guidelines for IRT in relation to all of that or else make a choice that they all exist independently and are independent, you know, remedies if you will. Thank you.

J. Scott Evans: Thank you, Anne. Marika.

Marika Konings: Yeah, this is Marika. And I think partly building on, you know, what Anne started pointing out because I think that partly takes us into the second question that's under the same bullet and was triggered by people referring to the fact that, you know, an IRT could be one person but indeed it comes to the question what are the processes around an IRT operating as an implementation review team, you know, what is the mechanism for them indeed to bring issues back to the GNSO Council.

Does that work in the same way as, you know, PDP working groups where there's a kind of, you know, consensus mechanism if there's consensus at the IRT level that an issues does need to be referred back or that the implementation is not confirmed that the policy recommendations is that, you know, the triggering mechanisms.

But how would that be managed, indeed, if you have one person because you put then a lot of control in one person to go back saying well I talked to myself and I have consensus that, you know, I think this is a big issue and, you know, I want the Council to look at this or invoke this or the other process.

So even though I think, you know, I think this is a really good conversation but I think in the end maybe many of these questions are linked and as we move into some of the other questions we may need to go back and reflect back on what we initially thought or initially said does that still work as well looking at, you know, some of the elements that we may be defining.

In relation to indeed mandatory or not, you know, maybe one option to look at it is saying that the, you know, the assumption is that there is always an implementation review team informed after the Council adopts - or after the Board adopts the policy recommendations unless there are specific circumstances that, you know, do not warrant the formation of an IRT.

And I can think, for example, of situations where maybe there's already another IRT in existence that is closely linked to, you know, whatever the policy or recommendation is and it makes much more sense to actually feed that into that IRT. In that case it may be silly to actually form a separate IRT if there's already one there.

So again I think agreeing with what some people have said, you know, maybe there should be some flexibility. You know, the assumption is that there will always be one unless there are exceptional circumstances, you know, still being a Council decision if there shouldn't be a need to have an IRT formed.

J. Scott Evans: Okay. This is J. Scott. My opinion is I like the - it is assumed that there will be an IRT, you know, that will solicit volunteers for an IRT. And I personally think the current practice of soliciting people who are on the policy working group that developed the policy and reaching out to any other experts that might assist in the implementation to form this team is a good practice and one that should continue.

I like having the flexibility of saying it's not needed here if in fact it's not because you don't waste resources on something that's superfluous. But that's - again this is J. Scott for the record. Alan.

Alan Greenberg: I'll just give two extreme examples which perhaps indicate that we shouldn't say it's mandatory as such. The PDP known as PDP 05 on contractual conditions was never really implemented as such. It was guidance to the Board and staff. And, you know, there was no implementation explicitly.

And the new gTLD policy pretty much all of ICANN acted as a four-year implementation review team. So I mean, those are two examples at opposite ends of the extreme where you want to be - you want to make sure you have lots of flexibility. Thank you.

J. Scott Evans: That was Alan. Anyone else have - so are we comfortable at this point in saying that we have consensus with the assumption language that it is assumed that an IRT will be formed and then we would articulate the current practice of reaching to the policy team with the flexibility of reaching out to additional expertise that would be required in order to assist the implementation. And I see Anne's hand.

Anne Aikman-Scalese: Yes, thanks, J. Scott. It's Anne. And it's just a question whether we want to be a little more precise because I'm, by myself, wondering at what point and who determines that there will be no IRT because it may be easy for us to agree on examples here or cite historical examples but that may not always be the case going forward.

And I think one of the really good, you know, benefits of this group working together is to develop really clear guidelines so that, for example, if there's no IRT, you know, it would be determined, you know, by some kind of measure that there's not going to be an IRT or no need for an IRT at Council. But I'm just not sure how to address it.

J. Scott Evans: Okay. Marika.

Marika Konings: Yeah, this is Marika. The way it currently works is that when the Council adopts policy recommendations that resolution includes a provision that specifically says upon adoption by the ICANN Board of these policy recommendations an implementation review team will be formed and, you know, the Secretariat is hereby authorized to issue a call for volunteers when that happens.

So I would envision that, you know, as we provide more detail around this in the PDP manual it basically would state similarly that, you know, the GNSO Council would form an IRT on that, you know, (unintelligible) reasons why it may not need to do so or doesn't believe there's a need so and that would also then be in the resolution adopting the policy recommendation.

So basically there it would prescribe if the Council would decide that there's no need for an IRT it would start out and presumably include the reasons for why it believes there doesn't need to be an IRT.

But similarly I think it would keep the provision of saying because as well there's no real need or - and again that's another point we may want to discuss but in principle, you know, the kickoff point for formation of an IRT is when the Board adopts policy recommendations because before that time there was of course no guarantee that there is an implementation so of course if, you know, the Board turns down the policy recommendation there will be no implementation path.

So that's currently the triggering point and that's why it's written in that way. And I presume it would continue in a similar manner.

J. Scott Evans: Okay. Well do we have consensus that we would look at language that sort of embodies that what we've just talked about and then we can look at whether we're - and we're being clear enough or whether, you know, there are better ways of saying this but it's - I think I hear consensus that we don't want to necessarily make it absolutely mandatory.

It's like there's a presumption there should be one but if there's good and reasonable cause for why there shouldn't be as long as that's explained to the community then, you know, we wouldn't necessarily have one and we'd follow the current practice that we've been following. So that's the guidance I would give as we put together and we start looking at the manual, okay?

So the next question is how is the IRT expected to operate? What is the decision making methodology? And I will take a queue. Marika.

Marika Konings: Yeah, this is Marika. This is maybe just to share a bit on - and I think that's where some people have struggled as well I think in IRTs because of course moving from the GNSO PDP working group where everything is described in quite some detail on how they're expected to operate, you know, what is their decision making methodology on the IRT side currently there is nothing in place.

And again I think part of the challenge is also that it - and I think as Alan already referred to that as well it's kind of a reverse role where in, you know, of course in the policy development side it's, you know, the working group that is the driver and staff is there supporting or maybe in some cases, you know, consulting or providing input while on the implementation side it's the other way around where it's, you know, staff driving the effort and the IRT is this consolatory body that, you know, provides guidance and input to that process.

So I think the question is indeed how to find a model that, you know, it is clear for the IRT on how to operate but at the same time recognize that of course the role is very different from what the role is in the policy development sphere.

So I just want to, you know, provide a feedback that, you know, currently there is no specific guidance provided. The reference in the PDP manual is quite general.

So I think the question is here, you know, should that be more specific, you know, as, you know, I think we've also noted there is a great deal of flexibility should there be some kind of minimum standards or elements around that

that may be expanded upon depending on the nature of an IRT or what are indeed the best ways of dealing with that.

J. Scott Evans: Chuck.

Chuck Gomes: Thanks J. Scott. Chuck speaking. The - this is the area where Alan's point about flexibility is really critical because not only is the IRT different than a policy development process but each one is very different depending on the issues.

So I don't think we can be very precise in defining how each IRT functions. But I think it would be helpful if there were some guidelines, some general guidelines that were produced with the expectations like, you know, it's still a multistakeholder process even in implementation, a principle that we already have in there.

And - but whatever is produced has to be really flexible because as we've seen and those that have been implemented there are huge variations. And the variations were fine. They were - they were done as a result of the actual needs on the given situation. Thanks.

J. Scott Evans: Alan.

Alan Greenberg: Thank you. I support what Chuck said but I'll introduce a wrinkle into it. One day there may be an IRT where some of the members say staff is doing it exactly as we, the PDP, intended and others say, no, they aren't. How do you resolve that?

I don't think rules we write right now are likely going to be able to do that so maybe we need some escape hatch. And I don't know whether it's to go back to Council and have Council convene one of the new policy development processes we're inventing to clarify what it meant. We probably want to cover the situation but not with any rigidity. Thank you.

J. Scott Evans: Michael.

Michael Graham: Yeah, and I think I'm trying - I'm struggling along those same lines as both Chuck and Alan and trying to think of what we can provide that would be useful. I suppose the worst case scenario is that we could provide a guidebook and possible procedures that would be longer than the applicant's guidebook.

Rather than that what I'm starting to think of and sort of put out there for consideration is whether we - in passing this along and in developing this - outline the types of considerations and concerns that we at this point would anticipate IRTs might possibly cover without providing specifics as to how they would do that.

And perhaps consider at what point should those actual means and rules within which they are working might be developed, whether it's by the IRT itself, by the PDP, as part of that, how that might come about. But certainly guidance in terms of these are the sort of things that we would expect the IRTs generally to be looking at governed of course by the particular type of implementation and policy that is concerned and not go much further than that.

J. Scott Evans: Okay. Thank you, Michael. Marika, I see your hand is still up, is that a new hand?

Marika Konings: Yeah.

J. Scott Evans: Okay. Going to call on you and then we'll go to Anne.

Marika Konings: All right thanks. So this is Marika. So one thing I've been thinking about and also in I think in recent IRTs or I think it's only the last one actually where we actually had the Council appoint a Council liaison to the effort, which is a

standard practice for PDP working groups to provide the kind of link to the Council, you know, should the working group have questions or should the Council have questions that there's a kind of mechanism to do so.

So one thing I was thinking about whether it would make sense taking into the account the need for flexibility but at the same time the need to have something or someone in place to take a kind of leadership role should issues emerge.

So the question is, you know, could the Council liaison serve that function so that you basically, you know, require that if there is an IRT that the Council would designate a Council liaison to that effort that, in most circumstances, would just, you know, follow along the conversations and if the Council has questions on the status of the effort that person is able to report back.

But should there be a situation whereby indeed there is a sense that, you know, some people believe it should be referred back; others don't agree that then maybe the Council liaison takes kind of the role of the chair for that effort leaning I think in that case on, you know, GNSO Working Group Guidelines trying to assess, you know, do we have a consensus within the IRT that this needs to be referred back.

And then be that kind of mechanism or channel to say, hey, you know, we've consulted; there is something that needs to be addressed and I'm the kind of, you know, the head person that is then dealing with that which allows for that flexibility because you don't need to formalize the chair. And in most instances presumably, you know, things would progress in a, you know, without any need for escalation.

But you still do have that mechanism in place that should there be a need for escalation or any kind of assessment within the IRT, you know, is there indeed consensus or is it just one person that has a specific agenda and was trying to derail implementation that there is this one authority that could say,

look, you know, this is what I'm following and this is, you know, the guidance ICANN provided to this group and the authority I've been given to the Council to take a lead at that. Could that be an option to explore?

J. Scott Evans: I'm going to let Anne go and then we'll come back to your question, Marika.

Anne Aikman-Scalese: Thank you, J. Scott. It's Anne. Just one quick follow to Marika. On an IRT we definitely don't have a chair of the IRT, we just have everybody working together and no formal - there's no chair of an IRT, there's just the liaison, as you described?

Marika Konings: This is Marika. Yes, that's correct. And even the liaison I think we only had our first liaison to the thick Whois IRT; I think for previous efforts we didn't even have a liaison. And as said because the model is very different, I mean, it's, you know, staff that chairs the meetings and drives the meetings, prepares the agenda, you know, prepares the materials.

And the IRT is there in a consultative mechanism so there's much less need as well to have a chair. But again...

((Crosstalk))

Anne Aikman-Scalese: Okay and then the main comment I actually wanted to make was that it think that Alan is dead on when he says that it's very possible that the IRT would be then - when an issue arises be making a recommendation to GNSO to either invoke an input process or even a fast track PDP. I think that the IRT is in a good position in consultation with staff to, you know, make a recommendation in that regard and that there again, there could be that link between the IRT's job and these further guidance processes that we're putting in place.

I mean, the IRT might, you know, it's true, there may be people on the IRT who think it requires a fast track PDP; there may be people on the IRT who

think no, it really doesn't require a PDP at all. But that's the type of issue that we deal with in the implementation realm on an ongoing basis.

And I think it would be a mistake to sort of leave the IRT out of that. I think it would be good if they were involved in that kind of, you know, recommendation or determination.

J. Scott Evans: Thank you, Anne. With regard to Marika's proposal, and I say Cheryl's hand - I think it was Cheryl's hand go up or an acknowledgement she liked the idea. But...

Cheryl Langdon-Orr: It was an agree.

J. Scott Evans: ...to use the appointment of the liaison and then pull the conflict section out of the Working Group Guidelines that describes how conflict is resolved and use that as a mechanism for resolving these types of things so that in the - there is this type of conflict while there's no chair the liaison steps in, it's escalated to them. They are sort of the person that determines that.

And I think that even has - Cheryl, if I'm not correct - an appeal mechanism that's set in.

Cheryl Langdon-Orr: It does indeed. Cheryl for the record.

J. Scott Evans: So it would be a way for even if you didn't like that determination you could go up one more level so - and that's already kind of baked into the DNA and it would just be moving it from one mechanism to another mechanism in a slightly altered form. I'm going to call on Chuck. I see we have a lot of agreement with that.

Chuck Gomes: Thanks J. Scott. This is Chuck. The - I don't have it right in front of me, I was scrambling to see if I could find it real quick. But it seems to me that our guidance process, one of the new processes that we're introducing, might be

a good vehicle to deal with this for the IRT. And I don't remember whether it specifically mentions the IRT team. It seems like it did.

But we may want to just take a look and see if it can - if it needs any modifications to deal with the issues that we're talking about. I'm in full agreement that we need processes for that and we may have a vehicle already.

Looks like Marika may have a quick answer there.

J. Scott Evans: Okay, Marika.

Marika Konings: Yeah this is Marika. It's probably more of a question because I'm trying to understand what Chuck is exactly referring to. Do you mean that the IRT could, you know, decide to refer something back to the GNSO Council and the GNSO Council then could invoke the guidance process to, you know, provide specific guidance to the IRT and staff on an issue? Is that what you're referring to?

Or were you thinking of the IRT...

Chuck Gomes: Possibly. Yeah.

Marika Konings: Because at least the way it's currently written is that, you know, the guidance process isn't invoked by the GNSO Council, that's really the remit of the Council to take that kind of action. And I think at least, you know, how the manual is currently written as well anything that the IRT thinks is an issue or problem is always referred back to the Council. The IRT itself doesn't have any kind of, you know, decision making ability itself at its stage.

((Crosstalk))

Marika Konings: So that may be something to think or consider.

Chuck Gomes: Yeah, this is Chuck. So maybe if we establish some guidelines that we provide the option for them to ask the Council to consider a guidance process on the question.

Marika Konings: Yeah and this is Marika. I think that would definitely be an option. And I think again, you know, the IRT could also come back to the Council and say, you know, we recommend that you actually, you know, initiate a policy development process on this issue because it's something completely new that was identified.

But indeed I think having that option of - or the (unintelligible) available to the Council, you know, could, similarly to GNSO working groups making recommendations to the Council on, you know, starting a PDP or doing something else, an IRT could then similarly recommend certain actions to the Council.

J. Scott Evans: Okay. All right. Maybe this bleeds into the next question then. What additional mechanisms, if any, should be foreseen for implementation related discussions beyond those that take place with the IRT. So I guess for me - this is J. Scott for the record - I'm a little confused as to what that question is asking. Marika.

Marika Konings: Yeah, this is Marika. And maybe I can shed a little bit of light there. I think the real question is, you know, what consultations need to take place beyond the implementation review team? You know, assuming that currently the implementation review team would be built up of, you know, PDP working group members, potentially additional experts. Is there also a need for additional consultations with the broader community?

And I think there it's important to point out that I think current practice is that, you know, staff works with the implementation review team, you know, first of all on the project plan, then on, you know, the implementation of that plan

and, you know, at the end stage of that specific, you know, consensus policy language comes out of that.

And staff will then put that out for public comments as a kind of last call to the broader community to say, hey, you know, this is what we've come up with based on, you know, the policy recommendations we got from the GNSO Council and the Board. You know, are there any kind of last concerns or issues or questions that we haven't addressed?

So I think that's indeed informally what already happens. You know, one of the question is should that be a kind of mandatory step? And again, you know, personally looking at the flexibility option I think it is already standard practice in certain cases where something is, you know, very straightforward. You know, do you want to have another round where it may not be needed? So that may be something to think of.

But there's - is there anything that needs to be done beyond that. And I'm also thinking of, you know, what we've always said like, you know, the implementation should be multistakeholder. Is this, you know, having an IRT, is that sufficient or does there need to be broader consultations with, you know, broader communities on certain issues.

And I think that that is kind of where this question is aiming at. Isn't IRT, you know, public comment forum which currently happens. Is it sufficient? Or should there be more or again is that the kind of flexibility we're looking for if we look at, you know, the new gTLD program, you know, consultations of course much broader than just GNSO specifically.

So again does that need to be codified, written in or it's just an assumption that there is the flexibility that staff together with the IRT could determine or even with Council input.

J. Scott Evans: Okay. I'm going to take Anne and then Michael.

Anne Aikman-Scalese: Yes. Thank you, J. Scott. It's Anne. I think Marika's pointing out this question whether IRT should be able to consult the broader community. Mary has pointed out in the chat that normally an IRT goes back to the chartering group, which I assume she means goes back to the working group when they have questions.

We're creating a couple of new processes that we believe would streamline things that would happen at the GNSO Council level. So I think some of the work that we need to do is to try to determine, you know, what might be the guidelines for IRT in terms of using all four of those resources; when it's appropriate to go back to the chartered working group, when it's appropriate to just ask GNSO do they want to use one of the new procedures that we - or to recommend one of those procedures that we have been working on and when it may or may not be appropriate to go out to the community at large.

And, you know, I'm all in favor of flexibility, that's for sure, but I think we have to kind of let the IRT know what tools are and are not available as it's part of our job to, in some cases, you know, in the implementation phase the issue has become that the Board needs quick answers and the community needs quick answers. And some of these mechanisms may be better than others for getting those.

J. Scott Evans: Okay.

Anne Aikman-Scalese: Thank you.

J. Scott Evans: Thanks, Anne. I'm going to call on Michael and then Chuck and then I'm going to close the queue because we're at the end of our hour. So, Michael.

Marika Konings: I'm still in the queue as well.

J. Scott Evans: Oh I'm sorry, Marika, I didn't see. Okay, Michael.

Michael Graham: Yeah, just really quick. I think this is something that is going to take some time and some proposals and some back and forth because my approach going along with the theme of flexibility is sort of a directed flexibility of giving examples at this point whether or not those are incorporated as part of, you know, the definition of the guidebook for implementation review teams.

But I think at this point maybe to put some of those up there for lack of a better term, as straw men, and to consider them things like the public comment or, you know, direct action and just go through those and decide which ones we believe would be appropriate to suggest as means for the IRT to do what it's supposed to do and perhaps more clearly define what it is we think that IRT is supposed to do when they're usually there.

J. Scott Evans: Okay. Thank you, Michael. Chuck.

Chuck Gomes: Thanks. To Anne's point, I think it is important for an IRT to have the option of being able to get feedback from the different stakeholder groups and constituencies and that's why in the chat, quite a while ago, I suggested the idea of appointing a liaison for each stakeholder group and constituency in the GNSO that may not be - have to be active in the IRT itself but when called upon could seek input from the various communities. Thanks.

J. Scott Evans: Thank you. All right, Marika.

Marika Konings: Yeah this is Marika. Just to note I think Chuck's point is very valid and it's something I think we've seen on PDP working group sides where there may be a need to have representative (unintelligible) consultations from stakeholder groups and constituencies involved.

But I just want to clarify that the point I was trying to make is I don't think that's necessarily or the broader consultations I was referring to are not necessarily invoked by the IRT but I think more is guidance from staff. As

said, you know, staff is the driver of this process so one part of consultation is with the IRT.

And I think the question is in addition to the IRT should staff be doing more, you know, beyond the public comment forum that is held in ensuring that, you know, broad input is received on the implementation proposal or plan.

So at least that was from my perspective more the question, not, you know, as said, you know, an IRT is more guidance body to staff where staff is driving the process. So what else beyond consultations with the IRT should be there or actually the IRT should be the body and maybe it needs to be made more clear to other groups that may have an interest in the implementation issues.

And I'm thinking, for example, of the GAC or other groups that may not typically participate in policy development because at least to just make clear that they also have an opportunity to join those efforts as long as they understand what, you know, the boundaries are and the focus of such a group is.

J. Scott Evans: Okay. Well with that I'm going to draw this to a close. This is J. Scott for the record. And say that there is some chance that I may not be with you all next week because I'm participating in a continuing legal education seminar. I might be free for lunch and be able to do it but I don't know.

And then the week following the 12th I am at the INTA Board meeting all day from 9:00 until 4:00 in the afternoon so I will not be able to participate. But Chuck will be running those meetings. And so in the meantime we should be looking for ourselves to get the manuals for the processes that we looked at.

And I would ask that you all look at those manuals through the filters of these questions as well as we proceed on. And with that I'm going to ask you to draw the recording to a close, thank everyone for their time and I'm sure we'll

be speaking or least Chuck and you all will be speaking next Wednesday, same time.

There is a time change so watch the invitation carefully because the times are changing, we're in that awkward period where some times have changed, some have not changed so pay particular attention to the invitation to look at the time - the start time for the call because it may be somewhat different than it is today. Okay?

Alan Greenberg: Thank you, J. Scott.

Anne Aikman-Scalese: Thank you, J. Scott.

((Crosstalk))

Cheryl Langdon-Orr: Thanks, J. Bye.

Michael Graham: Thanks.

Carlos Raul-Gutierrez: Thank you, bye.

Terri Agnew: (Lou), if you can please stop the recordings.

END