

GNSO Council working Session
28 February 2009.

Mexico City

JOINT POLICY PROCESS STEERING COMMITTEE

PDP Team Introduction: Jeff NeumanCurrent GNSO PDP Overview

Goals of PDP Work Team

Detail: Current PDP & Board Recommendations

WG Team Introduction: J. Scott EvansTask Force vs. Working Group Comparison

Council Experience with WGs

Team Deliverables: WG Charter Guide & WG Model

Interim Chair: Jeff Neuman

Interim co-chair: J. Scott Evans

Presentation:

Joint Policy Development Process working group

<http://mex.icann.org/files/meetings/mexico2009/gnsso-joint-pdp-wg-28feb09-en.pdf>

>>JEFF NEUMAN: All right. We're going to get started in about a minute or two. We're just trying to figure out a couple of technical things. If everybody could move towards the front -- I guess everybody pretty much has -- and take a seat, we're going to get started in a minute.

Does this work? Yeah. Okay. That's interesting.

Okay. I guess we'll get started. We have a lot to cover in a short amount of time. So welcome, everyone. And I notice a bunch of people -- and this meeting is open, so the more people, the merrier. There's some people in this room that I know aren't on one of the two work teams, and we certainly encourage more people to join, if you want, after this morning's session and are not currently members.

For those of you who don't know me, my name is Jeff Neuman. I'm with NeuStar. I'm the chair of the PPSC, which is the Policy Process Steering Committee, and next to me is J. Scott Evans, who is the co-chair of the PPSC, and we have two working groups -- or, sorry, work teams. There's a lot of abbreviations and terms that are very similar, so we might fumble several times while trying to go over all the abbreviations. And I am the current interim chair of the policy development process work team and J. Scott is the current interim chair of the working group work team, and that's just until the individual work teams meet later on this morning and decide to elect a chair of their own.

So I'm just waiting for the -- hopefully the slides to show up. But welcome, everyone, and again, the work teams are open so if anyone wants to join that's not currently a member of the work team, you're more than welcome to.

I thought we'd go around the room pretty quickly and just introduce everyone that's here, and if you are on a work team, then just state that, which work team you're on, or if you're on the PPSC and not on a work team, then you could state that.

Eric, it looks like you had a question.

>>ERIC BRUNNER-WILLIAMS: (Speaker is off microphone).

>>JEFF NEUMAN: Oh, actually just a little on the mic. If you -- you either have to hold down the push-to-talk button or push down the push-to-talk and then push the lock button to lock it on.

>>ERIC BRUNNER-WILLIAMS: I'm giving it a try. Hey, it works.

Jeff, can you explain the difference between what's going on in this room and what's going on in the other room, for those that haven't been following the fine print?

>>JEFF NEUMAN: Okay. So in the other room, in Don Diego 4, is a meeting of the Constituency Operations Team, which is one of the work teams within the OSC, which is the operational support -- or Operational Steering Committee, I think is the abbreviation there.

So that's what's going on in Don Diego 4. So if you wanted to talk about that, then you're in the wrong room, but you're certainly welcome to stay to talk about the policy development process and working groups.

So let's go around the room. I'll start with Mike over here.

>>MICHAEL PALAGE: Mike Palage. Currently on none of the working groups; just observing.

>>NELLY PALAGE: Nelly Palage.

>>J. SCOTT EVANS: J. Scott Evans.

>>BRIAN WINTERFELDT: Brian Winterfeldt.

>>KRISTINA ROSETTE: Kristina Rosette.

>>DAVID MAHER: David Maher.

>>JORDI IPARRAGUIRRE: Jordi Iparraguirre.

>>MARTIN SUTTON: Martin Sutton.

>>PAUL DIAZ: Paul Diaz.

>>CRAIG SCHWARTZ: Craig Schwartz.

>>MARILYN CADE: Marilyn Cade.

>>WERNER STAUB: Werner Staub.

>>MATTHIEU CREDON: Matthieu Credon from .bzh.

>>GLEN de SAINT GERY: Glen de Saint Gery.

>>ERIC BRUNNER-WILLIAMS: Eric Brunner-Williams.

>>TIM RUIZ: Tim Ruiz on the PPSC steering committee and the working group work team.

>>LIZ WILLIAMS: Liz Williams. I'm on the nominating committee, so I'm the person with the red thingy that if you're looking to for materials for

the nominating committee, I'm the one you come to. I'm on the PPSC and the PDP team.

>>MIKE RODENBAUGH: Mike Rodenbaugh. I'm on the PPSC and the PDP work team.

>> ZYBNEK LOEBL: Zybnek Loebel. On PPSC.

>> WOLF-ULRICH KNOBEN:

Wolf-Ulrich Knoblen. I'm on the OSC and the PDP work team.

>>JIM BASKIN: Jim Baskin.

>>JAMES BLADEL: James Bladel on the PDP work team.

>> FAISAL: SHAH: Faisal Shah.

>> MARIKA KONINGS: Marika Konings.

>>MARGIE MILAM: Margie Milam.

>>LIZ GASSTER: Liz Gasster.

>>JEFF NEUMAN: Okay. I think we got most of the people in the room.

Is there anybody on the phone? Are we on the phone? Okay. I don't hear anyone on the phone.

Okay. So good. We got the slides up. So I think what we'll go over here is the agenda, and then just jump right into the substance.

I know a number of people in this room were on the orientation calls to just give a real general overview of the GNSO improvements process and how we got here. That was this past week, on Tuesday, and it was a great presentation put together by the ICANN policy staff and Rob. It was just a really, really good job, and I thank you guys for doing that so we don't have to cover all that introductory stuff here.

So what we're going to do right now is go over the current GNSO PDP, the goals of the PDP work team, and give a little bit of detail on the PDP and board recommendations. Then J. Scott will take over, talking about the working group team and what is a working group versus what is a task force, which we use -- or have used in the past; the council experience with working groups; and team deliverables.

With that, why don't we jump into the PDP team introduction. Go to the next slide. Actually I'll do that simultaneously.

Actually, before I do that, everyone should have -- I believe a copy has been sent out by J. Scott of this slide presentation to everyone, and it's also available on the wiki that we use for the PPSC, so there's a link off of there on the right-hand side that has this presentation as well.

So the board recommendations for improvements to revise the PDP process is to align the PDP process with the current contractual requirements in the registry and registrar agreements, and also in accordance with the bylaws; to do a periodic self-review assessment and metrics; to align with ICANN strategic operations objectives; and to emphasize the role of the GNSO Council as being a manager of the PDP process, as opposed to being a legislative body and doing all of the policy development work themselves.

The next goal is to scope, discuss, research, schedule, to make sure that when we do launch a PDP, that it's adequately researched and that we're prepared to launch into the process. As you all know, the PDP has time lines. You know, the current ones, obviously one of the complaints that has come out, and the board recommendations, is to revise the time lines. But one thing, you know, that we need to keep in mind is that there will be time lines in the new process, whatever that -- those time lines are, and in order to meet those time lines, one important goal is to make sure that we've done all of the work beforehand to be prepared to get into the substance of the policy.

And the PDP team specifically will establish a model charter, rules, and procedures. The PDP work team will then take these, as we discussed during the orientation, and recommend them to the PPSC as a -- the steering committee as a whole. The steering committee will then review it, and ultimately the goal is to get that up to the council, finally get that up to the board and approved and made part of the bylaws.

So the current GNSO PDP overview -- and if anyone has questions, let me know, if I'm going too fast. You know, I'm kind of maybe assuming a little bit too much knowledge as to the PDP. So if I am, let me know. I know some of this is pretty basic and you know it, but if you don't, don't be afraid to ask a question and we can help answer it, if we have one.

The current PDP is set forth. If you go to the ICANN bylaws, it's in Annex A. And, you know, one of the things about the bylaws is it's set. So once we come up with a new PDP process, which includes the rules of the working group, that's going to be enshrined, if you will, in the bylaws process and has to go through the official ICANN board bylaws process to change that.

So it's -- although we're going to try to build in -- and one of the goals is to build in some fluidity to deal with different situations that come up, you got to recognize that once we do come up with a new policy process and it is voted on by the board, that it is pretty much set and needs to go through that whole bylaw revisions process.

The PDP is very specific, as we said, about the process, with voting thresholds, time frames that must be met, and so, you know, we need to understand that the goal is to live within those, to come up with a process that we can all live with.

The PDP process, very generally, begins in three different ways. There's three different ways a PDP can be launched.

One is with the board -- and we'll go over this in more detail on the future slides. The board can initiate a PDP; the council itself can initiate a PDP; or any of the advisory committees can raise an issue to give rise to a PDP.

And so that's important because, you know, it's the ALAC, the SSAC, any of the other advise -- the GAC can all, at this point, as part of the rules, start a PDP or launch the PDP process.

Currently, the staff prepares an issues report within 15 days following a council vote. So if the council says, you know, "We want to launch a PDP" and they meet the thresholds -- and we'll go over that later -- then they will launch -- they will ask the staff to prepare an issues report, which they currently must do within 15 days. Again, one of the things that we'll talk about in the PDP team is, is 15 days enough.

Then the council takes that issues report and votes, with certain thresholds, whether to initiate the formal PDP process.

One of the problems we have, I think, is that the term "PDP" is used in two different ways. You initially launch a PDP, which really just means asking staff to do an issues report, and then you again vote on whether to launch a PDP after you get the issues report.

So there is a kind of an issue there with terminology that I think is one of the things the PDP team will talk through and figure out if we need to come up with different terms and different rules.

Again, once a PDP is initiated -- and we'll go through this in more detail -- special rules apply as to currently whether you have a task force versus whether you have a working group of the council.

Then of course charters are -- and terms of reference are developed, constituency statements and public comments are solicited, and then there's rules on -- for preparing an initial versus final report. Again, I'm kind of going through this because I know there's future slides that deal with all of this stuff.

I'm going to kind of -- okay. We're on the next slide? Good.

So again, currently the GNSO Council votes on whether to recommend a policy change to the board, the board considers it for action upon the GNSO Council recommendation, and again there are specific rules, voting thresholds, and time frames.

And one thing we'll talk about is, there are certain things that are actually outside of our scope, within the PDP work team and even in the working group work team. There are things that have already been set for us, and even if we don't agree with them, those are kind of outside our scope. And we'll go through what those are.

Those really have to be addressed either at the council level or ultimately at the board level, because the board had already gone through the GNSO improvements process and decided some of the voting thresholds. So even if we wanted to change it, it's not really within our mandate to do so.

Again, just something we'll go over. The council, in the last couple of years, has moved away from using the current task force model in the PDP to more of a working group model, and we now also have things called "drafting teams" and "pre-PDP working teams," "design teams." These are all things that the PDP work team and the working group work team will consider, in revising those processes. And of course you've all seen -- or most of you have seen rules that have gone along with the work teams, and that's something that the working group work team will certainly analyze.

The goals of the PDP work team specifically are to generate a new PDP structure, including model and charter documents. We're having great support -- actually, lately we've had excellent support from the ICANN policy team, and actually they're the ones that drafted these slides and I want to give them a big round of applause because they've been a huge help --

[Applause]

>>J. SCOTT EVANS: They're doing a great job.

>>JEFF NEUMAN: -- and will have an important role going forward.

Again, all policies must be -- the PDP work team is going to make a recommendation to the PPSC as a whole. That will ultimately go to the council and then the council will recommend that to the board and they will have to go through their normal deliberations and pass that as part of the bylaws process.

If we could just jump to the next slide.

Okay. Now, the nitty-gritty. The fun stuff.

So the background. Why do we have a PDP process? Some of this is old hat for you. But for the new people, the -- if we can jump to the next slide.

Consensus policies are defined in the ICANN contracts with the registries and registrars, and actually currently there is a different definition of what a consensus policy is in the current registry agreements and even the proposed new TLD registry agreements that are different than what is in the RAA, the registrar accreditation agreement. That may be one thing that the council might want to talk about when they talk about the -- amending the RAA. You know, on a personal level, I don't understand why the definitions are different, and you'd hate to come into a situation -- again, this is my own personal viewpoint -- would hate to come into a situation where the policy that goes through the process meets the definition under the registry agreements, not the registrar agreements, or the other way around. It just seems like a good -- an avenue that's open for dispute, and I think that's maybe something that at some point the council might want to address.

Again, so if you look at the RAA, the registrar accreditation agreement, those talk about consensus policies, how they're adopted in Section 4.2 and 4.3, and in the registry agreements I'm not able to cite which sections because they're actually different in some of the different agreements, but they all -- at least the registry agreements that have come out since 2005, 2006, have all used that standard definition.

Again, it talks about on this slide there's a link -- it might be hard to read in the back. It's yellow. But it talks about where they are in the registry agreements.

So if we go on to the voting thresholds, which is the next slide, this is one area that these rules, I believe -- and someone could jump in and correct me if I'm wrong -- the left side is what's currently in the PDP. The right side is what's in the future PDP.

These have all been set as part -- these have all been approved by the board. These are not -- these thresholds are not something that the PDP team will revisit at this point. These have all been set and deliberated as part of the group that got -- that convened last year to come up with a compromise solution.

So in the current PDP that's being revised, to create an issues report you need 25% of the members present.

The bicameral future, you need either greater than 25% of both houses or a simple majority in one house.

And by "house," we mean either the contracted party's house or the user's house. And I might -- I don't know if that's the official name.

>>J. SCOTT EVANS: It is the user's house.

>>JEFF NEUMAN: Okay. Good. So it's -- so those -- when we refer to "houses," those are the two.

To initiate a PDP that's within scope. And by that, we mean during the PDP process, when staff creates an issues report, one of the things that they're supposed to put in the issues report is an opinion from the general counsel as to whether the issue -- some or all of the issues or none of the issues are actually within the scope of the PDP or within the scope of the consensus policy process.

So if it's within scope, then all it takes currently is greater than 33% of the council members present. In the future model -- again that's already been approved -- it would either be greater than 33% of a vote in both houses or greater than 66% of the vote in one of the two houses.

To initiate a PDP that's not within the scope -- meaning that the general counsel has come back and said that some or all of the issues are not contemplated within the scope of a PDP -- it requires currently a supermajority vote of the council members present, but in the future model it will be greater than 75% of the vote of one house plus a simple majority of the other.

>>J. SCOTT EVANS: Do note that this doesn't say on the future "present," so that's a big change that everyone needs to be aware. It's not members present; it's members.

>>JEFF NEUMAN: Correct.

>>MARILYN CADE: Jeff, are you going to take questions now or do you want or --

>>JEFF NEUMAN: Yeah. Oh, I'm sorry, Marilyn. I can't see you. Yes, absolutely.

>>MARILYN CADE: I have two questions. The threshold question has concerned me for some time, but I -- but let me ask a different question first.

In the event that the request for an issues report comes from an advisory committee, such as the board or the GAC or the ALAC, any of them, the issues report is done. But now we're at a different stage.

Am I understanding that even if an issues report is requested by a supporting organization -- sorry, by an advisory group -- we could have a situation where there is no PDP?

And to me, the PDP is a process by which one analyzes the situation, the potential policy. A PDP does not mean that it will always result in policy change.

So I'm sort of looking back and saying, you know, is -- are we going to find ourselves in a situation where an advisory group has requested an issues report and now we're voting at the GNSO policy council and the request coming from an advisory group could fail? Is that right? And then if that is right, what's their appeal?

>>JEFF NEUMAN: So I can answer the first part.

The first part, you are right that any advisory committee could raise an issues -- or have the issues report -- so we'd get past the first blocks up there -- that doesn't need a vote of the council or either house.

An issues report would be created and would still, to my -- and policy staff, jump in, if you disagree, but it would still go through the same analysis by the ICANN staff as to whether it's within or outside the scope, and then it would go back to the council as to whether to issue -- or I'm sorry, whether to initiate the full PDP. And again, there's a problem with terminology that we need to clarify.

As far as the appeal mechanism, I don't have an answer for you for that. I don't know. Tim's raising his hand. I don't know if he has an answer to that or --

>>TIM RUIZ: (Speaker is off microphone).

>>JEFF NEUMAN: Oh, sorry. For people that just joined, yeah, you either have to hold down the blue button while you talk or for push the blue button and then push the red button to lock it.

>>TIM RUIZ: I'm not sure that's -- that's my understanding, I guess. I thought that when you -- when you look at the PDP process within the bylaws, that call for the issues report or who can file issues reports or request them, that was all -- that's all contained within the definition of the GNSO PDP process, and I thought that is what one of the working teams is going to be looking at. I'm not saying that won't be the end result, but I think that that's not necessarily a given until that working team has done its work. That was my understanding.

>>LIZ GASSTER: Yeah. I agree with Tim. This is Liz Gasster.

And I also agree that there would be no reason that I know of why an appeal process could not be added in the future, if that was deemed by the group to be appropriate.

So I think that it doesn't exist today, but if that notion were thought of as important, or how to construct that, that that would be fair game by the group to come up with.

>>MARILYN CADE: So I'd just like to make a following statement, if I might.

One of the things that we are continuing to hear is about the importance of early participation across the -- I think people are mistakenly using the term "constituencies" when what they really mean are the different stakeholder groups. Meaning the GAC, the ALAC, the GNSO, the ccNSO.

So the second point I would make is that increasingly in the policy that will be developed at ICANN, there is going to be a mutuality of dependency on the implications of policy developed both in the ccNSO or here, and I'm just -- you know, I've looked a lot at our proposed process and our efforts to improve it. I just think we want to probably stay attentive to the issue of how we are interacting with other affected stakeholders, and having a process for appeal would probably be better than ending up with lots of confrontations later.

>>JEFF NEUMAN: So actually, that's a good segue. I have one thing I forgot to mention. After we go through these slides, we're going to have a brainstorming session. The role of the brainstorming session is to come up not with solutions, but to come up with issues for each of the work teams

to look at. And so if we can add that to the -- or start our list with that appeal mechanism as something to add to that brainstorming list. Is there anybody else with questions before I go through some more of the slides?

I'm sorry. Liz?

>>LIZ GASSTER: One more thing. I just want to make the point, Marilyn said something about, you know, "in the proposed process," and I just want to be really clear that there is no existing proposed process. The proposed process -- I mean, I want to make sure that people realize that kind of the whole thing is fair game. You may want to use the current process as a model to examine what things should be changed or you might want to start at a much more fundamental place and work from the ground up. There's no constraints.

So for example, in addition to the appeal process that you mentioned, if there was a need to figure out a way to work with other -- to collaborate with the ccNSO or others, and that was viewed as important, then that would be a legitimate -- very legitimate, important thing to include or make a note of, and that everything is really fair game. Nothing we're doing is intended to convey in any way that there is any kind of proposal in any of our minds beyond just ideas about, you know, where failures might be.

>>JEFF NEUMAN: Yeah. The one update to that is, the thresholds are set. Some of these thresholds are set. And that's the only thing. But I think everything else, I think Liz is exactly right.

>>LIZ GASSTER: But new thresholds also could be added, and there are actually a couple of things about the thresholds -- like whether people need to be present or not -- that are actually not definite.

>>JEFF NEUMAN: Right. That's a good point.

>>LIZ GASSTER: So even there --

>>JEFF NEUMAN: Yeah. That's a good point.

>>LIZ GASSTER: -- there's room for further clarification and recommendations that could come out of this group as well as the restructuring effort.

>>JEFF NEUMAN: Right. I saw Liz over there.

>>LIZ WILLIAMS: Jeff, I just got a note from Mike O'Connor. He's on the phone, so there are people on the phone.

>>JEFF NEUMAN: Okay. Mike, can you hear us? Can you say something if you can hear us?

>>MIKE O'CONNOR: I'm here. Can you hear me?

>>JEFF NEUMAN: Great. Yes. Great.

>>MIKE O'CONNOR: Cool. It's all working. Thanks, Glen. Thanks, Liz.

>>JEFF NEUMAN: Thank you. Is there anyone else that's on the phone?

Okay. Tim, did you have another point?

>>TIM RUIZ: Just a question, I guess. You know, would it be fair game to -- for one of the teams to perhaps look at the set thresholds, and even though we -- you know, they can't change them or even the steering committee can't change them, necessarily, straight out, but make a recommendation that maybe they should be changed and as to why?

I don't suspect anything like that happening, but I'm just wondering if that's not...

>>JEFF NEUMAN: Yeah. So we probably want to talk about that individual - in the individual session, the work team, because we can get into a long conversation about that. So when we break up, after -- or we break out into two groups, then why don't we -- Tim, why don't you bring that up again in the PDP work team session.

Okay. So -- trying to remember where we were. So in the current PDP process, we are on the part that talks about approval of PDP without a supermajority. Currently, if a PDP is approved without a supermajority, there needs to be a clear statement of all the positions held by council members. And then in the future model, it's simple majority of both houses but at least one rep supports from three of the four stakeholder groups. We will go into more detail of that. That's a complicated summary. We will go into more of that a little bit later.

Approval of PDP with the supermajority means currently 66% of the members of the council present vote in favor of it. In the future model, it is greater than 75% majority in one house and a simple majority of the other house.

So we are going to break down some of this in the next slide. And some of this we talked through, so I will might go a little quicker through these. So in raising an issue for a potential PDP, currently as we said, the board, the Advisory Committees, the GNSO Council may raise the issue. As Marilyn was talking about, it is when the board are an Advisory Committee says that an issues report currently should be created, it's created. There is no vote of the council. There is no vote in the future model of the stakeholder group that was proposed. Now, again, the PDP team can discuss that, but in the current bylaws, it would require 25% of the council members that are present.

Also, in the new process the GNSO council -- we talked about this -- may raise an issue by vote of either greater than 25% vote of both houses or a simple majority of one house.

The board in the GNSO improvements process emphasized there should be more work done before launching a working group or other activity. And that's one of the things for the PDP work team to discuss exactly what that means. There should be public discussion, fact finding. Research is needed at an early stage. This may include things like workshops, RFIs, expert opinions, anything else that the PDP work team comes up with to provide more information. I know staff in the past has had a tough team where a broad issue is brought up, and it is so broad that staff really doesn't know where to start in creating the issues report. And it has really been hard on them, especially with a 15-day turnaround.

Should staff support -- and expert support be strengthened. Should raising an issue be the same? Should there be more thresholds involved with that? I have heard some people talk about -- and, again, this is not a predisposition to any idea -- but I have heard someone talk about kind of similar to other organizations that have maybe an intake committee that looks at the current work of the council and current work of all members

involved to see whether it should be put on some sort of priority list. All sorts of ideas have kind of come up. That's really what the PDP work team is supposed to look at every possible proposal. So Liz has got a question on that.

>>LIZ WILLIAMS: Jeff, would you mind giving a quick timeline for the working groups -- the two working groups as to when their work should be finished?

>>JEFF NEUMAN: That is a very good question. That is one of the first items -- milestones for the individual work teams. What the original improvements process -- or what it has evolved into, the last one is that the new structure is supposed to go in at the end of the June meeting in Sydney.

One of the things that the work teams individually will talk about is what mechanisms do we believe must be in place by that point in time and it may be that some, all or none of those things must be finished by that time.

So that's one of the things that the two individual work teams will discuss. Liz?

>>LIZ GASSTER: Just want to mention also that the board report itself urged that the work be completed in six months, which, again, I'm sure could be subject to review and further input and consideration. But that was the guideline that was provided, and I would assume based on a clock starting roughly today.

>>JEFF NEUMAN: Any other questions on that? Okay. So if we go to the next -- Good. You beat me to it.

Currently, the creation of the issues report currently must be prepared within 15 days. I know staff has had a tough time with that. It needs to contain currently the issues raised for consideration, who is the party that submitted the issue, how that party is affected by the issue, the support for the issue to initiate a PDP. That might be the party plus other stakeholder groups or constituencies and recommendations from staff on whether to proceed with the PDP process. That includes an opinion from general counsel on the scope of an issue. And I know one of the things we'll talk about later is, has the general counsel's office in the past provided enough guidance and what we can do to make sure that we go forward, that we do have the correct and appropriate guidance to move forward.

The board on this topic has urged consideration of more flexible timelines within the development of a staff issues report.

The flexibility to build additional time for fact finding, workshops, consultation, research consistent with ICANN's contractual obligations to the registries and registrars; include more information on the statement of the problems, scoping, history, contractual issues, terms of reference. So one thing that hasn't necessarily been in some of the issues reports, maybe some of the more recent ones but not necessarily the past ones, is even if there is a PDP, is that something that's within the scope -- even if it is within the scope of the bylaws of a PDP, is that necessarily within the scope of a consensus policy within the registry and registrar contract? You will hear the term "picket fence" raised. We will go into a little bit more of what that means to certain groups. Again, could that modify today's issues report to be several different steps, different activities?

Jumping to the next slide, it is an initiation of the PDP. If an issue is not raised by the board currently, the PDP can be initiated by a vote of the GNSO Council. There is different voting thresholds of what's in scope and what's out of scope. Currently, there is no criteria for the council that they should review to discuss the findings of the issues report. It is only a requirement to vote within 15 days, should the council be doing more.

How should the council review an issues report are topics we need to talk about. The PDP team may want to review existing concepts related to thresholds of in scope versus out of scope and consider reasonable time frames to discuss, consult with constituencies, stakeholder groups, public input and reduce the emphasis on voting. That was something that's been brought about heavily by the board and their -- and the independent evaluation of the board, the LSC report going back a number of years. That's carried through the whole GNSO improvements process.

Again, I'm going quick because I know these topics will come again at the PDP work team level. Currently, there are strict timelines for submitting constituency statements producing initial and final reports in the PDP. There is a public comment of 20 days. Is that enough time? There is an obligation to review the comments, but there is no guidelines as to what that review should entail. Does "review" mean just saying "yes, we looked at it" or does it mean kind of like what the ICANN staff did with the new gTLD process, does it mean there should be a paper that analyzes heavily the comments that were received and why the working groups either approved those changes or did not approve those changes, some more analysis.

I'm looking at Kristina, but that's one thing she has brought in a number of the working groups over a the past couple of years. I know that's one thing I know she would like to see done.

Are there better ways to elicit public comments than just a posting on the GNSO Web site? Different forms of outreach. Translations because some of these topics are really complex and complex for native English speakers and certainly that much more complex for those that English is not their native language.

More flexibility as to different activities that can go on with workshops. Consider implementation guidelines and assessing those implementation aspects. And the new PDP is going to incorporate the new working group model which J. Scott will go over.

Council deliberation. This has been -- is really -- aside from thresholds -- voting thresholds, there is really no guidance given to the council as to what their role is. The GNSO -- I'm sorry, the board in the GNSO improvements process has continually emphasized that the GNSO is not supposed to be a legislature. It is supposed to be more of the manager of the policy process. What does that mean? What does that mean when they get an issue and there are counselors that don't agree with the way the working group -- what -- how they came out substantively on an issue. What does that mean? What should the council be doing? What is their role? Should they just be sending it back or should they be able to put their own interpretation, spin, and add additional things? Those kinds of things the PDP team will talk about. So I guess that covers that.

And I know I'm going very quickly through this, but these are issues that will be discussed at length in the work teams. Final report to the board, so the staff manager is supposed to prepare the board report and the content of the board report is prescribed by the bylaws. Today the staff manager only has five days from the council vote to prepare this report for

the board. The report needs to incorporate, amongst other things, the views of the council, analysis of how constituencies might be affected and estimation of time needed for implementation of that new policy.

So one of the things the PDP team or several of the things the PDP needs to look at is to review those time frames. Is five days really enough time? It is also supposed to consider what other elements should go in this final report or changes to that current process or requirements.

Again, this is currently set forth in the bylaws as to what the final report is supposed to contain but the PDP team can recommend changes to that. There is no -- as Liz said, there is no preconceived notions as to what that final report should contain.

Should the process differ from general advice -- if it is general advice, in other words, it is a PDP that doesn't have the thresholds for a supermajority, an actual consensus policy, but if it is general advice, as the council is free to do, even if it doesn't have a supermajority, the GNSO can always recommend policies. It just has a different -- it is just considered general advice, whatever that really means.

A board vote and implementation. Currently, the board is supposed to vote as soon as feasible. Now, I don't know what that really means. I don't think there is really any kind of guidelines to that. Different scenarios outlined in the bylaws depend on the approval by the council. Does it have a supermajority? Does it have just a majority? What if the board doesn't agree with the council recommendation? The current bylaws say that there could be a vote to override the council or there could be a vote to send it back.

As appropriate, the board gives authorization or direction to staff to take all necessary steps to implement a policy once it doesn't have board approval and some of the things that the PDP team will talk about or may talk about is to consider how to revise this, if that's necessary; to consider whether mechanisms might enhance communication, dialogue with the board if there are questions.

You know, one of the things I'm always amazed at is the ICANN board doesn't sit in on the GNSO deliberations. The board just gets the report, and the board deliberates this in their closed meetings.

Okay. I will go to Avri in a sec.

The board deliberates this in the closed meeting. And you read the minutes and sometimes you wonder, Why didn't they come back to the council if they had a question or they didn't interpret this the way the policy was intended. Maybe there should be a meeting between the board and the working group or members of the working group to discuss exactly how they came to what they came to. This is just something to toss around. Avri has her hand up.

>>AVRI DORIA: Yes, just a quick comment on one of the issues that you might want to show up there, and that's the sort of GNSO recommendations, all or not, and what does the board do and how does the board handle when it supports 80% of something but has questions about other things as we see happen in, for example, gTLDs. How does that get handled? There is no guidelines anywhere that I know of for anything other than the all-or-nothing methods.

>>JEFF NEUMAN: Right. I think that's right. So we'll add that to the brainstorming list.

Jumping ahead to evaluation and review, currently there's no mechanism in place to review a policy once it's implemented. There have been some working groups as part of the policy development process have said the GNSO Council should review this in six months as they did with the AGP process. But unless it is set forth in the actual policy, there is no mechanism in the bylaws for the council or anyone else for that matter to review the success or failure of the implementation of a policy.

The board recommends that the council implement a self-assessment process for each working group to conduct at the end of a policy development process including metrics to measure the success. GNSO Council chair should present an annual report -- I guess that means to the board -- on the effectiveness of the new GNSO policies. And the new PDP should be reviewed periodically by the council which could recommend further changes. How the GNSO Council does that is also up in the air as far as is there going to be time and the resources for the council itself to do it or should the council have a standing committee to do that. That may or may not be something we could do. Liz?

>>LIZ GASSTER: I just wanted to expand on this a bit. I believe the board report actually suggests two things in the way of metrics and assessment. One is a real focus on a new policy recommendation. So once a policy recommendation has gone through the PDP process and has been approved by the board and is implemented, there is the need to assess the effectiveness of the policy in accomplishing what the issue or problem was that it was intended to address.

And then I think the other area that the board is really looking for assessment and metrics on is on the effectiveness of this new policy development process itself, so comparing it to the existing. Once we get to the point where there really is a new process that we are abiding by, we want to make sure that there is a mechanism in place to make sure that everything we thought of and including in the new way of doing things actually holds up and doesn't need further tweaking.

So I think of this assessment process as being both a sort of specific to the PDP assessment of the effectiveness of the new policy but then also looking at more holistically the new PDP process itself and providing the opportunity to go back and tweak or change things that we may have changed in this process that we may feel needs further tweaking or further improvement.

>>JEFF NEUMAN: I think that's a good point, Liz. To add to it, the PPSC, the steering committee has a whole, has certainly discussed a whole for the PPSC going forward past this new PDP development and work team development to do kind of that activity. But how they go about doing it is not something the PPSC has discussed and certainly could be discussed within the two work teams.

>>J. SCOTT EVANS: I'm going to ask at this time, we are getting pushed on time, we want to have this whiteboard session. If folks will hold their comments until we get to the whiteboard session, you can bring those up so we can pull through these slides and get to the more creative part of the day because we are pushed for time because we have a hard stop at noon because there is going to be a luncheon in here. Thanks.

>>JEFF NEUMAN: Okay. There are just two more slides in the PDP. Other issues -- I think we actually went through all of these. Actually, the one we didn't talk about is should there be a fast-track for certain policies

that exigent circumstances require that we should have a faster PDP for some reason. That's something that the PDP work team will discuss.

And, finally, I will just go to the last slide on the PDP stuff, which is some reference sources. And these all appear on the Wiki. Everyone on the work teams should have access to the Wiki. If you don't, let us know and we will certainly get that corrected so you do have access. These are the two main documents for the PDP work team to certainly pay attention to. And with that, I will turn it over to J. Scott.

>>J. SCOTT EVANS: I'm going to blow through these slides pretty quickly so that we can get to the session. So if everyone -- you have this. If you want to go back and review it later because the staff has done an excellent job, there is a lot of information here. So we can go to the next slide, please.

The board recommendation; that we adopt a working group model. For those who have been involved in this process, the GNSO has used a working group model for several issues over the last couple of years. But what they want to do is they want to put a primary focal point -- they want it to be the primary focal point for policy development. The reason is they want it to have open and broader balance and knowledgeable participation at the working group level, to bring in more points of view and more expertise.

It is going to require that you have a strong, neutral, experienced and respected chair because the chair has to make sure that the milestones are met and has to gauge when consensus has been reached.

The goal is to have open, honest and respectful consensus. We also want to have statements of interest from everyone so everyone knows where people are coming from and they have a good understanding. There is no misinterpretation of viewpoints taken.

And staff support infrastructure and funding. That's an issue.

Currently, we have a task force model and we have used a working group model, but this is a future working group model as seen by the board. The task forces had seats that were allocated. They were allocated by the GNSO. You had to represent a constituency position. There was assigned participation. There was voting emphasis where the board felt there were alliances formed and clogged the work process and made none of the timelines as set forth in the PDP. The process then became the problem because of the way it was structured.

So what the hope is by going to a working group model, it's open to any volunteer that wants to be there. So you can have broader representation. People that are interested in the topic can get into the topic and bring their knowledge and experience. You build consensus around issues towards solutions. You can explore solutions at a very dynamic level. And then you can discuss the logic and matrix behind solutions. So it is a very open system. It is very open to everyone.

It is not necessarily going to be constituency-driven at that particular level. Now, if you as a member of a working group, if that's how you're participating, you certainly can be there and be there for your constituency, but that is not a requirement that you do. You can be there as an individual. It's the broader the participation, the more the ideas that can come in.

So here's the council experience today with working groups. We've had the post-expiration domain name recovery, the fast-flux hosting, domain tasting, inter-registrar transfers and the historic and ever-present WHOIS.

These working group models have been around and they have -- I think WHOIS probably is the one that has sort of -- it has been every -- it has been a task force. It has been a working group. It has been everything. It is fantastically dynamic.

Next slide, please. So what are the team deliverables? You have a charter guide. What is the working group expected to accomplish? Why is the working group important including the relevant context? When should the working group deliver its recommendations? That's the charter guide. The working group model is how should any working group operate in conducting its affairs? Who should participate? And where should the working group perform its functions?

Now, one of the things that the working group team is going to be focusing on -- and we may need some clarification from staff, but my personal understanding is they will be setting sort of a minimum standard for working groups that because issues are dynamic and change, that some working group rules could be tweaked when a working group comes into effect as long as they meet the minimum standards that this working group team is sort of given a template. And then that can be tweaked to fit the particular issues.

So charter guide, board suggestions, these are suggestions from the boards to sort of guide the work process. Mission and scope, what are your goals, your objectives? What do you see as your success criteria, your outcomes? What are your deliverables? What's the importance, the urgency? Does this need to be a fast-track? Is it an issue that can't go through a normal process?

What are the team structures? Expertise, membership criteria, is it self-selection? What are the safeguards to prevent capture? How do you get this out? How do you announce it? How do you advise it so you do get this broad participation? And then how do you get these declarations of interest and constituency statements wrapped into this model? What are the roles and responsibilities? You have chairs, facilitator, liaisons, experts, consultants advisors, how this going to be funded and how does it fit into the ICANN budgeting process? When you have problems within a working group and within the model, how does this get resolved and how do we escalate and whom do we escalate it to? Of course, the dispositions, they want us to look at durations, milestones, time frames. Should there be a process for extensions? How are we going to do status reporting and whom to and substance and frequency of those. Project closure and then, of course, a big thing in this whole process is the self-assessment that the working groups will be doing on an ongoing basis?

Next slide. So more board suggestions on project and team formations, assembly, introductions. We need to make sure there is a diversity of interest, expertise and skills. Training requirements, translations and interpretations because is this going to be in English? Those are issues that have to be taken care of. Can working groups have subgroups or ad hoc groups that take particular points of issues and work on those and then come back to the working group as a whole?

Then, of course, there is the behaviors. What are the rules of engagement? What is attendance and participation? What is the commitment? What happens if you have someone who is not showing up to working group meetings except every tenth meeting and then are wanting to go back and

historically review everything that has been resolved by the group as a whole. That becomes very frustrating in a voluntary organization where people are giving their time freely.

What are the decision-making process within the group? How do you reach consensus? Are there quorum requirements? What are the norms going to be? Assignments and logistics, what's the working group -- what's a check -- do we give them a checklist and then they have a little template they deal with. Session planning, will we have in-person meetings? Will it be on the phone? Communications, mailing lists, collaboration tools, doing the doc versions. Right now we are using the TWiki model that Avri is very fond of. Those of us that are not as technically savvy are learning to do it. It is a very good tool, but it does take some getting used to if it is not something you have used as a tool.

Project and team closure. When does it wrap up? And when do you have a final report and self-assessment? Those are all things that have to be considered and discussed and decided upon. Next slide, please.

Here's some reference sources. For anyone new to the process or wants to drill down deeper on any of these issues, you have this. It has been posted to the list by -- I think Glen posted it as well as myself. So there are versions up there. And click through these links and you can drill down. So thank you.

>>JEFF NEUMAN: Okay. Thanks, J. Scott. Just to reiterate, the chairs of the two work teams are going to have to really coordinate with each other because you have noticed there is some overlap or there will be areas of overlap. To make sure each team is in sync with each other, I think it is important to note that the chairs will have to at least communicate with each other on a frequent basis to make sure, as I said, they are in sync.

We need to -- keep that up there. Just need to point out all the staff that's helping us on this and that's available to help the individual work teams. If they want to introduce themselves to everyone, that would be great.

>>LIZ GASSTER: I'm not sure that the OSC people are in the room right now because there is a parallel meeting going on with one of the operations steering committee work group. I believe Rob Hoggarth and Julie Hedlund are in the room next door. We will make sure they introduce themselves when we all get together.

In addition to me, Liz Gasster here Margie Milam next to me, who joined ICANN last month but who many of you know, will be working with me on the PDP team. And although it doesn't say it here, Marika Konings, to her right, will also be -- Marika and I have been staffing the PDPs in the last year or so. So we feel like we have the most recent experience from a staff perspective to offer.

And then on working groups, Ken Bour who is sitting right behind us will be the primary staff person for the working groups with additional support from me. This could change. The staff works very fluidly together and we are all working very closely. If you have an issue, feel free to come to any one of us.

>>JEFF NEUMAN: Okay. Thank you. I think what we want to do now is -- and the plan for going forward is to have a brainstorming session for about a half hour or so, break for a couple minutes; at that point after the break, the PDP work team will go into Don Diego 4, which I believe is that

way (indicating), and the working group work team will actually stay in this room.

So the brainstorming session, what we wanted to do is just throw out ideas of current perceptions -- or perceptions of the current PDP process and things that could use discussion by either of the work teams.

Again, it's not really a solutioning meeting. I don't want to -- we don't really want to talk about how to solve the problem, but just to identify the problems. And I'm sure the individual work teams will continue this, but I thought it would be good, or we thought it would be good, to get as broad of a view of perceptions as possible. And we've already discussed a few. I don't know if we can get a document up there, a Word document, to capture these as we go through it.

And let me -- so I know we already talked about a few issues, right? An appeals process for -- if an advisory committee proposes an issues report but, for whatever reason, the council doesn't vote to initiate the PDP.

There was also a perception -- Marilyn, you're still here. It was outreach to other stakeholder groups, as opposed to the constituency level?

>>LIZ GASSTER: And also the other advisory committees and supporting organizations.

>>MARILYN CADE: I just want to reinforce the fact that I've seen the really confusing use of the term "constituency" in other parts of -- even in the meetings that are going on, stakeholder groups. I think we need to be careful. "Constituencies" have a special meaning within the GNSO, and so when other people -- some people are using "constituency" to mean governments or, you know, at-large, so I think we ought to be really clear about our language so we then don't get confused about it.

But I meant specifically across-stakeholder group interaction.

>>J. SCOTT EVANS: I would say that needs to go on the list. That's one of the biggest problems with this whole process is a confusion of terminology and different people holding different views of what they're saying, so that the messages get confused.

And so that is a problem I have seen over the 10 years is using fuzzy terminology, and we need to be very clear.

So I think that another thing that I think that I would throw out there is what I said earlier. I believe that the PDP that was developed and is currently in place, because it has been absolutely unrealistic with time frames, because of that, it has become its own greatest barrier to moving things forward. So that needs to really be taken into account that there needs to be a built-in fluidity.

>>JEFF NEUMAN: Okay. I see Liz, and then Tim.

>>LIZ WILLIAMS: At the bottom of one of the slides, there was a dot point that said something about the connection between ICANN's operational planning.

If we're discussing these kinds of things, I would really like to see some thought put to the strategic plan and the operational planning, so that we can ensure we have appropriate budget. It is not an open-ended task to do the policy development processing. I don't think anyone has ever done an economic cost associated with the time, expertise, involvement, and then

the commissioning of external research, for example, and Marilyn and I have worked on that on a number of occasions in different PDPs.

So whilst we're coming up with a best practice model -- and I think that's what we're trying to do -- the underpinning of it needs to be very, very firmly attached to ICANN's budgeting process somehow, so that we don't have grand expectations of marvelous new things that then can't be funded.

Now, I realize that there's plenty of staff around, but -- and there's plenty of people around, but that is not how we ought to do it. A proper project management that says "It's going to cost this, it's going to take this much time, these are the deliverables, and these are some of the metrics that we use to see whether it's good value for money in our processing."

>>JEFF NEUMAN: Okay. And before I go to Tim, I know you guys are typing this as we go along. As long as you're getting all the issues and --

>>MARGIE MILAM: Yes.

>>JEFF NEUMAN: Okay. Good. Let me know if you guys are falling behind or need something.

>>MARGIE MILAM: Yes.

>>MIKE O'CONNOR: Jeff, this is Mike. I'd like to get in the queue.

>>JEFF NEUMAN: Sure. Let me go to Tim, and then I'll go to Mike on the phone.

>>MIKE O'CONNOR: Thanks.

>>JEFF NEUMAN: So Tim?

>>TIM RUIZ: My thought was the same as Liz's. She put it much more eloquently than I would have, though, so...

>>JEFF NEUMAN: Okay. And Mike?

>>MIKE O'CONNOR: Liz inspired me to chime in as well. I think one of the things we might want to clarify is where in the process chartering is done and what exactly chartering means. That's probably one of the areas of overlap between the two committees that we'll want to be careful that we pay attention to, because a lot of what goes through a good charter then rolls up into some of the operational considerations that Liz mentioned.

>>JEFF NEUMAN: Okay. Come on, guys. I know everyone's got perceptions of the current PDP. I know people aren't thrilled.

I'll bring up one issue again, is, is there -- and it kind of relates to the strategic priorities.

Is there or should there be some sort of -- I call it "intake committee," but that may not be the right term, but a committee of the council or some other committee that looks at all of the current policy development work going on and tries to prioritize it or make recommendations on the priority to the council, to make sure that there's not too many PDPs going on at once and stretching resources really thin.

So again, it's kind of a corollary, but I know that oftentimes you get the same volunteers and, you know, we're trying -- I know we're trying to

encourage diversity, but certain stakeholder groups -- and, you know, it's not always easy to find volunteers, so maybe some sort of committee to flush out an issue and prioritize it for the council may help. Or it may not. I mean, it's an idea.

I might have to go pick on people.

>>J. SCOTT EVANS: I was about to say, I think staff has got to have something you want to throw out. You're enormously affected by this, so I mean we do expect that you will speak up and let us know, because you're affected, and it's not going to be effective if you are still negatively impacted by what's put in place.

>>JEFF NEUMAN: Liz?

>>LIZ GASSTER: Well, I guess I have a real passion, in particular, for things you covered at the beginning about sort of the preparation and work that needs to go into identifying and scoping and understanding and fleshing out an issue very early on in the process, even before staff prepares an issues report.

And, you know, I personally have prepared at least one issues report, but maybe two, in which there really was no public foundation of information with which to summarize or explain or detail a broad topic or concern.

So aside from the 15 days, there just wasn't the foundation of information.

So one thing that I'm very focused on and very supportive of the board's recommendation, to do things like a public workshop or a real public discourse -- maybe even more than one workshop -- maybe other kinds of things that people may think about so that there really is a foundation of understanding between a problem -- and really, I think even terminology-wise, moving from the idea of a problem or a concern to the point where you have an issue that you're considering for policy development -- i.e., a consensus ultimately resulting in a consensus policy -- you want to get to the point before you ever hopefully do the issues report, but certainly launch a PDP where there's much more of a community understanding about what the problem is we're trying to solve, the implications for stakeholders of all kinds, and even ideas about options for solutions.

Because to my mind, when you get to the point where you start to go into the PDP process, as so narrowly defined by what exists today, you really want to be, in my view, at the point where you're actually articulating an issue as, you know, "Does the community want to impose such and such a specific policy on contracted parties, and if so, how?" You want to be at that level of granularity. And in order to get there, I think there's a lot of preparatory work that's really needed. And whether you call that part of the PDP or call it pre-PDP, I'm less concerned about the vernacular that's used and much more concerned about really having a robust foundation to understand the problems, the implications, and the implications of various solutions earlier on in the process.

>>MARIKA KONINGS: Jeff?

>>JEFF NEUMAN: Marika and then -- let me go to Marika and then I'll go to Marilyn, Alan -- wow, there's a lot of people. I should actually write this down.

All right. Let me start with Marika, then I'll go to Alan, and then we'll go around. I see Philip.

>>MARIKA KONINGS: I just wanted to add to what Liz was saying, that currently in developing an issues report, it happens quite in a vacuum. Staff has 15 days to compile an issues report, and as Liz mentioned, often there's not that much information available. And currently there's no process either, like once the issues report is out, to discuss that, to debate that, and see whether additional information needs to be added in order for the council to take an informed decision.

So I think it's very important to look at that as well, once you have, indeed, all the preparatory work and you come up with maybe an end product, that you still have then a discussion of that end product as well and allow for a process to add further information that might come out of having that -- you know, that report out in the public.

So I think as well, we're currently looking at, you know, an issues report is there. There's no process of how to review it and what to do with it or to update it if necessary. So I just wanted to add that to Liz's comments.

>>JEFF NEUMAN: Okay. We have -- so I have on the list -- I have Marilyn, Alan, Philip, and Kristina. Is there anyone else? And Liz. And Eric. And Bruce.

Okay. So start with Marilyn.

>>MARILYN CADE: I really want to support everything that I've heard so far about making -- about what I would call "front-loading" the information, research, learning aspects of looking at policy development, and we talked a lot about this in the past, including the idea of starting with a very neutral, broad workshop which would be suitable to be attended by the GAC as well as by cc managers. There are lots of issues that people need to have cross-learning about. So, you know, thinking about the flexibility of how you launch a -- about how we launch a policy development process and the tools and resources that are available, which may need additional one-time expertise. It may be necessary to -- in order to really provide a well-founded, well-researched, informational session or series of sessions to draw on different experts, including some who aren't necessarily even involved in ICANN today.

Which brings me to a point that I want to -- I want to use an illustration.

I think we need to ask ourselves, "Is the end result of a PDP always and only a change or an implication for the contracted parties?"

And the reason I'm -- so I'm going to use a real analogy of where I think a policy development process could have resulted in improved action on ICANN's part, but it would not have resulted in a change in the contracted party's behavior, I don't think, and that is when we introduced -- in the first round of gTLDs when ICANN introduced gTLDs that exceeded the standard three-letter string.

And what appeared to the parties who introduced the four-letter and five-letter and above words as strings -- dot museum, dot info -- was a pretty significant failure in the resolution integrity of those strings that happened at the ISP level. A lot of the failure was because ISPs had either hard-coded or were relying on early versions of BIND. So we might have learned something through an information process, but I don't think it -- we would have necessarily been trying to create a contractual change for registries or registrars, nor even a contractual change for ISPs. We would have been doing an informational bulletin.

So one of the things I would just ask us is if, in the course of the policy development process, we might find what's needed is an informational bulletin or a request of action to the IETF to update an RFC, as opposed to necessarily a contracted change, and have we built in the flexibility to stop the PDP and to, you know, sort of turn in a different direction and say, "This is the -- a different action would be called for, not necessarily a GNSO policy directive or a contractual change"?

>>JEFF NEUMAN: So in essence, Marilyn, is ICANN itself bound by a consensus policy, kind of creating the consensus policies for ICANN. I like it, by the way. As a contracted party, I think that's a great idea.

I have Alan next and then Philip.

>>ALAN GREENBERG: Is this on? Yeah. A comment on the statements made by Liz and Marika on the need for information-gathering and things like that.

That's all true, but I think we also -- when we're framing the PDP rules, we have to factor in that it's very hard to free up resources, both ICANN staff and volunteer resources, until something is really happening. And if there are too many steps ahead of something formal happening, it's not going to happen. And so we need to build in those as steps of the PDP process, I believe.

And the other issue is to make sure that we don't end up with a process which is so long and so many steps that we can do nothing in less than three years. There are times when we really should be able to act somewhat quicker, when there is a well-defined problem, and I think the challenge is going to be to free up resources to allow us to study things within the framework of policy development, and then actually do something in a reasonable time frame.

>>JEFF NEUMAN: Okay. I think that's a good point. It's kind of striking the balance between the length of the PDP and also to address the actual issues at hand. I think that's right.

I have Philip, then Kristina.

>>PHILIP SHEPPARD: Thank you. Two comments. First, on issues report and then secondly on an earlier comment you made, Jeff, on intake committee.

On issues report, I think it might be useful to separate what was the original intent of an issues report and what has become its evolution. The original intent was to say, you know, all sorts of parties can suggest a topic for GNSO consideration and we need to have some mechanism whereby we validate that topic as being something that is in scope and that merits GNSO consideration. And that really was its only intent and therefore that was why the time scales were rather short.

What it has since become and what is the gap that we've been discussing just now has been the under- -- the subsequent understanding and information-gathering that we need in order to address that issue. And I think it is still useful to have those two ideas in mind as to -- and I think they're both necessary, but a process that is clear in terms of, you know, any -- anybody -- only perhaps any wacko coming up with an idea -- of us being able to say quite clearly, "No, not for us, let's move on," and a process whereby indeed we can have the information-gathering and understanding so that we can successfully address an issue.

Now, clearly those can't always be black-and-white, but I think having those two concepts in mind is very useful in the way that we address this in the future.

Secondly, on intake committee, one of the things I think that we must all guard against is, you know, too many different bodies in terms of, you know, too many committees, too much of a hierarchical structure slowing things down. God knows we're slow enough already.

I would have thought that given the concept of a council in the future that is more a management body and policy at the working group level, I don't see much distinction between what role we would give to an intake committee and what role we would give to the whole of council in terms of prioritization.

I think those concepts need to be considered. Let's not duplicate jobs and let's be clear as to what each body that we are creating is intended to do.

>>JEFF NEUMAN: Okay. Thanks. I have Kristina, then Liz Williams.

>>KRISTINA ROSETTE: Two points. The first, I think, really goes to trying to make sure that everyone that is participating in a particular working group or even as early as the issues report stage has access to the same baseline information, and I don't know where the best place to put this would be, but perhaps it would be as an appendix to the issues report.

But I think personally I would find it tremendously helpful to have that include an appendix of relevant references. What were the resource materials that were considered? If it was particular ICANN documents, what were they? What particular provisions? If it's third-party material that was obtained elsewhere, how do we get to it?

Because I think in many instances, having access to that additional information will allow everyone who comes to the table to participate in the working group having a much broader and frankly the same baseline set of information points, and I think if you start there, then you eliminate a lot of the time -- assuming everybody does their homework -- that's associated with kind of getting everybody to the same page. And I think in this process, if we can try and streamline it by having us start at a much higher level, I think that will be useful.

The other suggestion that I would have I think really goes more to internal ICANN coordination slash flexibility, and I'm just thinking in terms of, for example, talking about a subject that everyone knows is near and dear to me: What do we do with public comment?

Well, you know what? There's a board committee, I think, looking at issues of public participation, and I think it would be really helpful to have cross-pollination between both whatever the PDP work team may be working on versus what that group may be working on, to make sure that they don't end up going in completely divergent directions. And in fact, having somebody from the work team level may allow that group to have a better real sense of what the public comment comes in as, what the working teams usually view it as.

Similarly, working on, for example, the registration abuse policies drafting team. You know, it became clear that the folks at the SSAC are looking at this also. They extended an invitation to us to really, you know, create a liaison, and I think it would have been helpful if we had had the flexibility to say, "That's a great idea, let's go ahead and start

working together," without frankly having to go through what seemed to me to be a very formal and unnecessarily elaborate process of having to recommend to the GNSO Council and the charter, you know, "Gee, there's this invitation, the working group should act on it," blah, blah, blah. I mean, that's almost a month wasted by the time we've had the opportunity to call on that expertise.

So I think if there's a way to really internally coordinate and also perhaps have some more flexibility as to working together and across teams, I think that will really improve the process as well.

>>JEFF NEUMAN: Okay. I have Liz, Eric, and then Bruce. So we'll go to Liz.

>>LIZ WILLIAMS: I have two separate things to say. A very brief one about the five-day report at the end. The five days has to go. There is no point doing a tremendous amount of work and honoring people with involving stakeholders and then saying to someone at the other end, "Now deal with 57,000 pages of documentation in five days." A really dumb idea.

On the public comment process, I'm absolutely in agreement with Kristina, and for a different reason, though. Public comment periods go to the heart of the reputation and the integrity of the organization, and it's reputational management and it's external positioning that is so, so important when we still are dealing with ICANN's legitimacy and ICANN's position in the rest of the world and global corporate governance and whatever it happens to be.

Integrating an appropriate and sensible and robust way of soliciting and seeking and incorporating public comments is really, really important.

I think from my personal view, much of it relates to technology, but it also relates to being willing to say, "Public comments are important in this organization, and they need to be seen to be, and they need to find their way into the documentation."

There's lots of ideas of how to do it, but I agree with Kristina, but for different reasons, mostly about integrity and reputational harm; that if ICANN doesn't do it properly, then there is a downside to that.

>>JEFF NEUMAN: Okay. Actually, I see Bruce leaving, but -- okay.

We have Eric I think is next.

>>ERIC BRUNNER-WILLIAMS: Thank you, Jeff. I've got 25 words.

We need one or more mechanisms to report failure -- e.g., process failure -- from a delegated work group to the body that delegated the task.

>>JEFF NEUMAN: So you're saying if there's a breakdown within a working group, that there's some sort of mechanism to report that back, and options --

>>OPERATOR: [inaudible] now joins.

>>JEFF NEUMAN: Okay.

-- and options of what to do once that failure is reported.

>>ERIC BRUNNER-WILLIAMS: What we do after we find out that there was failure is up to us, of course, but if we never find out because the

faction that won reports a rosy outcome and we never hear that there was a faction fight, let alone what the position of the faction that lost was, we didn't get information that we should have gotten. So we have to hear failure.

>>JEFF NEUMAN: Okay. Is there anyone else that wants to throw out a comment in the brainstorm? Oh, I got -- okay.

>>MARGIE MILAM: With respect to public comments, it would be useful to build in a process where you seek comments from other people that aren't even familiar with the ICANN process and aren't looking -- they may not know that there's this public comment period. A lot of these issues cover, you know, industries and people who just don't follow ICANN at all, and so there might be a way to reach out to organizations for the specific expertise that's needed for the particular PDP.

>>JEFF NEUMAN: Okay. And I remember one thing I brought out -- and then I'll go to Thomas -- is, you know, is everyone happy with the way the general counsel's office responds to what's within scope or out of scope of a PDP? Do we think there could be some improvement in that? Maybe some recommendations?

I'm seeing some nodding, so I'd put that as an issue of a perception, certainly, that people have of not getting clear guidance, necessarily, from the general counsel's office.

Thomas?

>>MIKE O'CONNOR: Jeff, this is Mike. I'd like to get in the queue.

>>JEFF NEUMAN: Okay. I got Thomas, and then I got Mike.

>> THOMAS ROESSLER: Hello? Okay. So I heard Margie say focus on processes which deal with the people that are in the community.

The IETF is currently have fun with the Free Software Foundation, and what's happening there is that there is a public comment process called "Last Call." It is really geared toward comment from within the community, and suddenly they have to deal with people from outside the community being told to "Go there, comment."

You better be prepared for the outside comment in the first place. I think that's incredibly important. I think it's a huge mistake to start building something that looks like a public comment process and is mostly geared toward the community itself. I would be very careful with that kind of thing. It blows up.

>>JEFF NEUMAN: Okay. I have Mike on the phone.

>>MIKE O'CONNOR: Thanks, Jeff. Listening to Philip and Liz and a few other comments, one more thing for the bullet list would be to perhaps consider describing this as a portfolio management problem. How big is the backlog of the portfolio? Which are the high-priority things that need to go through the portfolio quickly? What's the status of various issues working their way through?

Marilyn's point about whether or not the stuff extends beyond the scope of GNSO contracted parties, et cetera, et cetera.

So I think just getting the portfolio management bullet up on the list would suffice for me.

>>JEFF NEUMAN: Okay. Is there any other comments? Liz. Okay.

>>LIZ GASSTER: I wanted to follow up on Philip's comment about sort of the role of the issues report, kind of an historical perspective on the role of the issues report, you know, needing a mechanism to sort of validate a topic as being within GNSO policymaking.

And one of the things that I've observed in that is that, you know, topics come in different flavors, and issues come in different flavors, and in some of the issues that I've worked on since I've been here, it's been much clearer that there's a narrow issue relevant to consensus policymaking. And one example of that, I think, that we've just been working on recently is the question of post-expiration domain name recovery.

You know, it's -- people, I'm sure, have different views about it. There are, you know, lots of issues there. But it's a narrower issue overall, as compared with something like fast flux hosting, where it's a much more complicated -- I would call it a topic or a subject area or a potential problem and not a specific policy issue. There are so many dimensions to fast flux, some of which might be in the remit of ICANN consensus policymaking. Others may not be in the remit of ICANN consensus policymaking. And it's the increasing frequency of broader, more complex topics that arguably might be in GNSO consensus policymaking, but not entirely, that make the process of the issues report much more difficult.

So I think Philip hit on something important that may result in some way to sort of differentiate narrower, more clear issues from broader subject matter topics that might be -- need to be approached in different ways.

>>JEFF NEUMAN: Okay. Marika?

>>MARIKA KONINGS: I just want to go back to something that was mentioned as well in the presentation, the need for translation, and I think it's important as well for the team to consider what impact that will have, for example, on the public comment period.

Do we need to wait until a report has been translated into all different languages before we start a public comment period? Do you start a different public comment period for different languages? Do you accept comments in other languages? How do you translate back again to the working group? What impact does that have on the overall time line of a PDP?

I think it's important to consider those issues because I think we've dealt with translation at the moment as a bit of an ad hoc manner and the last PDPs we've done, we've, for example, translated executive summaries of issues reports, but I think it's important as well to see, is there a real need for those. Are those really reviewed and used to provide public comments? You know, are executive summaries enough or is there a real need to translate the whole report?

And for example, with fast flux, we're looking at a report of I think 122 pages, which takes a substantial amount of time to actually get that translated.

>>JEFF NEUMAN: That's a good point.

Okay. I'll go to Bertrand and then I'm going to cut it off and then we'll -- so let me go to Bertrand.

So you have to hit the blue button and either hold it down or push the red button to lock it.

Okay. Now this works. Thank you. Sorry for having joined a little bit late. I was in another meeting. One point to support the distinction that Philip was making between -- among the issues report between what is agenda setting and background information, the different stages. The first one is whether you launch something, and there is a minimum amount of documentation of certification to say, yes, this issue is valuable enough that we get into a process to elaborate something. And the issues report, per se, is once the process is starting, it is the amount of background information that is required at a given stage. And there can be several issue papers or background papers as we progress in a PDP. That's the first distinction.

The second distinction regards public comments. Likewise, there are different stages in the policy development processes depending on the degree of elaboration of the document that is being discussed.

At the very final stage, there is this equivalent of a final call, which is almost a call for validation. It is not bearing comment. Is there a satisfaction within the community on the work that has been done to move, for instance, the document to the board or to the council once it's been done in a working group or from the council to the board, are we ready to move to the next step. The other types of comments we should distinguish between the request for input and the request for comments.

The distinction is as follows: A request for input is at a given stage. There is a question that a drafting group is trying to address. The group has worked and there is one point that is difficult to handle. And the request for input is then to put the question, not a full text but a question, to the community and saying "This is where we're at. We need additional input on how to handle this specific problem."

The request for comment is different. It is more about, "This is the current stage of the document. Where do you see that there are still problems? Are you satisfied with the general outlook?" and so on. Making this distinction, we can request for input on specific questions that frame the question and request for comments which is more general about do you support the current status as probably interesting to take into account.

>>JEFF NEUMAN: Okay. Thank you, everyone. We got a real good list and actually -- for Liz and Margie, I have been taking notes, too. I will send you my notes and we will just combine them.

What I would say now is why don't we take 15 minutes, so actually -- you want to do 11:00? Until 11:00. The working group work team will stay in this room. The PDP work team will go to Don Diego 4.

>>J. SCOTT EVANS: One request for those that are staying in the room, push up this way because it will be a much smaller group so we can -- the interaction will be a little easier than folks all the way down at the other end of the room. Thanks.

Presentation:

Joint Policy Development Process working group

<http://mex.icann.org/files/meetings/mexico2009/gnso-joint-pdp-wg-28feb09-en.pdf>