

**ICANN San Francisco Meeting
PDP
TRANSCRIPTION
Saturday 12 March 2011 at 16:30 local**

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Stephane Van Gelder: ...the day, it's freshen on the PPSC's proposed final report on the policy development process working group so that's obviously a crucial subject, topic for us.

And the good news is that because we're starting early Jeff has promised not to let this go on for more than an hour. So we can finish early. So Jeff, over to you.

Jeff Neuman: Well I think it's actually dependent on everyone here and if there's questions. You know we're in a stage right now where we're trying to get feedback. This is very important and in fact almost in every one of our calls or everyone one of our sessions including today, something comes up about something new that should be done with the PDP.

Or an idea someone has to improve the efficiency, for example this morning someone said shouldn't it be part of a working group report that ICANN compliance is contacted and has a spot to put their opinions in.

So you know little things like that which actually are big things in the big picture that makes this very important and why everyone should be paying attention to this now.

We don't want a repeat of some of the things that happened earlier on with the OCS report where things got adopted. A number of people didn't really read it and then all the sudden now it's being implemented and they have some comments.

So with that preamble the objective everyone I think knows so I'm just going to skip that slide and go to - I'm going to skip the approach and go to the high level overview.

So the way we broke down our report, the final report, same way we broke down the interim report, the preliminary report was in five stages of a PDP, that's planning and a request for an issues report.

GNSO council review of the issues report and initiation of the policy development process, the working group and areas of the working group that aren't addressed in the working group guidelines, so it's everything around the working group including creations and outputs of the working group.

The voting and implementation after a working group produces its report and how the effectiveness and compliance. Those are the five stages that we created recommendations.

There are a lot of recommendations in this report. The report is 109 pages. Now not all of them are recommendations but there's an

executive summary that contains all the recommendations that have to at least be about 20 pages or something similar to that.

The recommendations fall into a couple different buckets. There are recommendations that codify existing practices, what happens today. There are some that recommend a completely new approach.

Some actually recommend a change to the bylaws or we've recommended changes to the bylaws versus also changes to things we would put in something called the PDP procedure manual.

That's to be incorporated into the GNSO operating rules and just when you think about these things and when you're commenting on the report, the reason certain things are in the bylaws that the group discussed where that you know it's at least perceived to be harder to change the bylaws than it is to change the operating rules.

So those things that the community feels are extremely important to be engrained in stone if you will are things that we put into the - or recommend stay in the bylaws or added to the bylaws versus things that we feel like we need to be a little bit more flexible on.

And those are in the operating rules, and just a reminder the operating rules are approved by the council but they have more oversight I guess by the board where the board could if it wanted to review it and make comments and change it or things like that.

But there's no obligation for the board to actually approve it. So some of the key recommendations in the final report include for the issue

report, and I always say and a lot of people say issues report and actually in the bylaws it's issue report, singular.

But I'll always make that mistake and probably continue to. The first - one of the recommendations that we wanted to point out is there is now a standardized - there's a recommended use of a standardized request for an issue report template with some information that the working - work team thought was important should be in each request to for an issue report.

And that's in recommendation number 4. There's a publication of a preliminary issue report followed by a mandatory public comment period.

And this is something new, currently the issue report just comes out from staff and it goes straight to the council, at least under the current bylaws with no opportunity for comment.

I think there have been instances in the past where we've had the public comment but that's not really called for in the bylaws at this point.

But it is something we recommend. We also recommend you know not just having the public comment period but incorporating public comments into a final issue report to be published.

And then of course one of the themes throughout the entire work of the PDP work team was that the time frames in the bylaws are just not very reasonable or ones that anyone's been able to actually live up to so we thought we'd have something in the bylaws and operating rules

that seemed to be more implementable and provide for flexibility when needed.

The next set of recommendations on the initiation of the PDP. Amazing as it seems there's actually no requirement in the bylaws today that a charter actually be produced.

We've done it that way for every single one of our working groups in the last several years but there is actually no requirement.

So we put that in there as a recommendation. We also have said that there should be dialogue between the GNSO council and advisory committees if no PDP is initiated following an issue report by an advisory committee.

Take a step back, there are three ways that an issue report or PDP could be initiated. One of them is directly from the board which says I want a PDP initiated in which case an issue report is produced and a PDP is started without any kind of vote by the council.

The second way is for an advisory committee to request an issue report which will be generated automatically but the council at that point can decide whether or not to choose initiate a PDP.

It doesn't have to and in this case if the council decides not to initiate the PDP at that point we have recommended that there's dialogue between the council and the advisory committee.

We've also talked a public comment period on initiation of a PDP to be optional as opposed to mandatory, it is now. And the clarification of what is in scope of ICANN policy process or the GNSO.

Right now there's - there has been some disagreement or I shouldn't say disagreement, there's been an issue of what it means to launch a PDP that is in scope versus not in scope and the ramification of that, there are different voting thresholds.

It's something that is in scope, there is a lower threshold to initiate the PDP whereas if something's not considered in scope there's a higher threshold.

And you clearly find in scope meaning in scope the GNSO and not just the contracted parties which was one of the debates that had previously been going on.

As far as the working group we have now recommended that the minimum comment periods we extended to 30 days as opposed to 21, but 21 days if there is comment periods on something other than the mandatory comment period.

So let's say the working group wants to do a survey, the working group could do a survey, it doesn't have to be 30 days but should be at least 21 days.

There are - you know we've maintained the requirement that there should be both an initial and final report but of course the working group has discretion to do interim reports or something like we just did, a proposed final report.

That's not called for the bylaws, it's not mandatory but it's something a working group can do. And of course we allow for the termination of a PDP prior to the delivery of a final report, because believe it or not when we came up with certain issues like VI and others, the question has come up of well how do we end this thing without going to a final report necessarily?

So that was something that we spent some time working on. Voting implementations for the most part on this, the work team basically recommended to keep the same thresholds that were in place in the bylaws that were discussed several years ago throughout the whole restructuring process.

We did have some discussions back and forth of whether we should tinker with that, but the thought was well let's keep those, and we actually added a couple new voting thresholds, one of them being for example voting on a charter.

You know what is the threshold that's needed for that and that's discussed in the report. We talked about new procedures for delivery of recommendations to the board, this was something we heard loud and clear not just from within the work team but public comments that the report that goes to the board should actually be drafted by - or I should say should be approved by the council, can either be drafted by the council or the working group, whatever the council decides is the best approach for that.

But we should not keep the current practice of the staff drafting the report that goes to the board without it being seen by anybody else. Of

course we reserve in there, there - or we acknowledge that there's going to be situations where there may be confidential information or privileged information that would need to be delivered to the board that may not be drafted by - or I should say would not be drafted by the working group or the council.

But we have a strong statement in there saying to the extent possible everything needs to be open and transparent and only in those limited situations should there be redacted parts of a report that everyone else sees.

So we have in here something called an implementation review team that is not the same thing as the IRT, it's got the same abbreviations.

An implementation review team is a team that is set out to actually review implementation of policies in general.

And so then there's a redefinition of what a GNSO super majority vote to mean what is - what was decided a few years ago as a GNSO majority.

You'll understand more about that if you read the report. Some of these are abbreviated so I don't want to go into too much detail.

Here I think in - as far as the review in the Stage 5 of what we've recommended, I think that you know most of our recommendations here are there should be working group self assessment.

There should be assessments not just on an individual working group's activities after a PDP is done but you know we should have - we have

a recommendation in here of reviewing the whole PDP process in general which the council has already kind of acted on in creating this standing committee.

So that's one of the recommendations you'll see here which is already being implemented, at least to a certain extent.

Now there are four issues that we've kind of highlighted here because these are areas where we really need some feedback on which I think are kind of critical.

And these issues are around as somebody discussed a little earlier what actually goes in the bylaws versus what goes in the PDP manual. There are certain things that I'll say for example, the contracted parties in the work team felt very strongly about certain provisions being in the bylaws, if for nothing else other than perception.

There are certain other provisions that we all felt as a work team should be in the manual because we thought you know we're trying out something new and there needs to be some flexibility and it needs to be things that might be easier to change.

The second item is actually also pretty critical even though the situation never arose yet. But we could easily see it coming down the pike, which is the clarification of something that's currently in the bylaws, it's Section 13F and actually I'm going to go my own computer here because I don't think we have the words.

But essentially this is the part of the bylaws that talks about what the board can do after it receives the report from the PDP. The bylaws,

and I'm paraphrasing here, let the bylaws state that if there's a supermajority then the board must adopt the supermajority recommendation or GNSO unless by two-thirds vote of the board they vote to reject it for certain reasons.

And then at that point they need to send it back to the GNSO council to fix whatever the issues are. Then it goes on - states however that if there is no GNSO supermajority, the board may act basically - the board, I want to get the actual words here, let me find the actual wording here, one sec.

So I'm not paraphrasing here because this is pretty critical and I know for the contracted parties, okay it says Section 13F says in any case which the council is not able to reach GNSO supermajority vote, a majority of the board will be sufficient to act.

Nobody really knows what that provision means and at least nobody in the working group, the work team, ICANN policy staff, we kind of each have - there are different interpretations of what we believe it means.

And since the situation has never really come up, knock on wood here, we've never really had to interpret it. But one can interpret that provision as some of the contracted parties have which says that the board could act if there's only a majority but that can never be considered consensus policies under the contracts because that's not a consensus of internet stakeholders as is required in the contract that the registries and registrars have.

So what would it mean to act, it would mean that the board can always recommend it, the board could ask registries, registrars to voluntarily adopt it if they want.

It could be best practices, it could be a whole number of things. The other side of the equation and there are others from the non-contract parties that have said no, wait a minute, it says that a majority is sufficient to act.

So that that means that that could be consensus policy. So it was the subject of very heavy debate so we have asked for a staff and import into that issue.

Margie has said to us in the last couple days a step memorandum that's actually on the PDP list that talks about what staff thoughts are on that provision.

But again that's kind of staff's input into it that may or may not - and it's kind of one side of the equation and to be honest I haven't read it fully and fully digested it, so maybe I'll ask if staff wants to comment on that and we can talk about these issues.

Maybe they want to just present some of those thoughts. The next issue is on impact analysis and that was recommendation 13 and this was where the recommendation was that the PDP manual described the option to the GSNO council to request an impact analysis be conducted if appropriate or necessary prior to voting on the initiation of a PDP.

So for example - sorry, it's says such an impact analysis could include the assessment of the impact on one, the public interest, two, the security and resolutions of the GNS, three, competition consumer trust and consumer choice and four, international participation.

And then we have bracketed language in there which says as well as the impact on human rights. So some of them, there was a minority viewpoint in the work team that believed that if the GNSO council wanted it could request an impact analysis on human rights as well as the others.

Some members of the work team thought well human rights may be subsumed in public interest which is also something that can be requested for an impact analysis.

And so right now that issue is something we're trying to get feedback on to see whether that's a strong view of people in the community as to what they think the GNSO should be able to request an impact analysis on.

And then of course there's the issue of transition meaning now that we - or when we adopt a new PDP process, what do we do with the existing PDPs? Do we just automatically say okay, all existing PDPs you're now under the new rules and go fix everything so you make sure you are complying?

Do we say no, this only applied to every PDP that's approved from here on out or is there some kind of hybrid which you know the working group, it was my impression was kind of leaning towards more of the

hybrid approach which is that to the extent feasible and practical working groups should adopt these new procedures.

But if it's not practical or feasible then they should continue under the old ones and the good news about this is that most of the things we're recommending really don't affect the controversial aspects I'll say, meaning that there's no new voting threshold so it's not like something that was good under the old threshold is no longer going to be good now.

It's more practices on - even if it's before PDP it's at least this is the type of information you should have in an issue report. This is the type of outreach you can do.

These are the types of things we like to see translated. So they're really non-controversial things that are - that would really in my opinion and in others which would enhance the existing PDP, and it's not that difficult to apply to existing PDPs.

So the next steps, we're having a comment - public comment period is open until April 1, we're having a forum here as well, I think it's cut short by a half hour but we're having another one here on Wednesday.

And we're going to review as a work team the comments that we receive, update the report accordingly and then submit a final report to the PPSC for consideration.

I'm going to put a little footnote here, just the PPSC is the steering committee under our existing charter, we are required to submit the report to the PPSC who will then review it.

Maybe remand it back to the work team, make some changes and only then once the PPSC approves it would it go to the council. Now there's been some discussion and I actually encourage the council to engage in this discussion as to whether this added step of the PPSC in the middle is needed at this stage.

So I really strongly encourage that. I have some personal opinions that may be I'll express at a later time, but this is at least currently our mandate is to submit this to the PPSC for consideration.

So with that said I want to open it up for comments on the report, outside Marika, you have a...

Marika Konings: Yeah, just...

Jeff Neuman: Sorry, should Marika, oh sorry.

Marika Konings: I just wanted to add that we actually just today posted the translation of the executive summary and the recommendations on the comment form and the website, so for those of you interested you can find it there, and then the five - which is...

Stephane Van Gelder: Okay, thanks very much Jeff for that presentation. I already have a queue with Kristina and Avri in it, if anyone else wants to speak please just put your hand up and Kristina, and Chuck.

Kristina Rosette: I have a bunch of questions, I'll just ask a few of them and then Stephane if you could put me back at the end of the queue.

The first question has to do with recommendation 12 with regard to recommending that the council consider required work shop before PDP is initiated and I was just wondering what the rationale was for that.

With regard to recommendation 13 on the impact analysis, go ahead.

Jeff Neuman: Can I take these one at a time?

Kristina Rosette: Yeah, go ahead.

Jeff Neuman: So on that one and there are people on the work team here in this room, I know Avri's one of them, Alan, some others so feel free to jump in and answer or - but on that one the rational was much like we'll just go to our UDOP discussion today, right?

There are certain areas or times when an issue report is being drafted, for example that a workshop to air out what issues are is actually a good idea.

So you know when the domain tasting I think was another one where we actually had a workshop before the issue report was created.

It just helps guide ICANN policy staff in drafting issues reports to figure out okay, what things should we really address?

Kristina Rosette: Okay, and the next question then I'll go to the end of the queue.

Chuck Gomes: Kristina before you go on so we don't jump around too much could I ask a follow up question on number 12? So how do you see that

happening in the recommendation 12, that's a question that popped into my head.

Did you guys talk about that at all, or some thoughts?

Jeff Neuman: Sorry, just to clarify and then I'll let Alan jump in, how does the workshop happen or how does - how do we see the - requiring the council or the council requiring it?

Chuck Gomes: Kind of both, I mean how would you envision the council deciding that a work shop is needed and how would this recommendation actually be implemented?

Alan Greenberg: Part of the discussion on that one was none of us could remember a PDP which was initiated without prior workshop activity. You know when a community interest started so it seemed to be a given that that kind of thing does normally happen.

But we didn't want to lose the concept so we weren't very specific. But just the normal gestation of these ideas and issues into in our culture be associated with holding a workshop or something at a prior meeting, it just seem to happen anyway.

But we wanted to capture the important...

Chuck Gomes: No, and I think it's a good thing to capture, thanks.

Jeff Neuman: Yeah, I mean just to continue on with that, I mean much like we were talking with UDRP the council could say you know what, let's do a workshop on - let's have all the interests come together, these are the

ideas that Margie threw out for what should be in the UDRP issue reports.

So it's possible in our wrap up session for example on Thursday maybe not by motions but we could agree as a council to say let's have a workshop if I WIPO the INTA and others to participate.

Stephane Van Gelder: So Kristina do you want to...

Kristina Rosette: Well I just had a question about 13.

Stephane Van Gelder: Can you put those recommendations up Jeff on the screen as we discuss them? The slides, okay.

Marika Konings: If it's one of the - was it one that was covered in the presentations?

Kristina Rosette: It was referenced, but I don't think the wording was...

Marika Konings: I can get the whole report up, not on slides.

Stephane Van Gelder: I'm just thinking it might be helpful to have those recommendations up as we discuss them but if that's too complicated...

Marika Konings: Is it okay if I put them in Adobe Connect?

Stephane Van Gelder: Thanks, Kristina back to you.

Kristina Rosette: Sure, with regard to the recommendation 13, I guess the first question I would have is that it would seem to me that the impact analysis would

have to be limited to the issue simply because you obviously wouldn't be able to figure out what the impact would be for the PDP until after it had happened.

And that might be a useful clarification to add in there if that's right and I guess the next question is, is it the intention of the PDP WT that that impact analysis would be conducted by staff?

And if the answer to that is yes, it seems to me that some of these topics might potentially be beyond the scope of available current expertise.

So I wasn't quite sure how that would be handled.

Jeff Neuman: So I think those are good points, I think you know it came up for example on things, I know it came up from for example some registrars that said you know if you go down this path and you're examining these issues, it could have a significant impact on registrars if there were changes made it could have a significant impact on a registrar system.

For example I don't know if James wants to jump in as well on this, let me defer to James.

James Bladel: Yeah, I mean that's correct and I think that as far as the list or the categories where we have those with the exception of the human rights edition which I think is in parenthesis or in brackets, we pulled that from the affirmation of commitments so that was mirroring what I think is in one of the provisions that the affirmations commitment is looking for impact of the policy development process.

Kristina Rosette: Well I mean I'm not questioning whether or not those are the right criteria for use for the impact analysis, I'm just curious as to whether there's actually the available expertise.

This wasn't (unintelligible).

Chuck Gomes: I don't know that we can say that in advance, that there is or there isn't. I mean we may have to go outside of staff.

Stephane Van Gelder: Okay, so Avri's next.

Chuck Gomes: Before we go there, can I add some stuff to 13? Thanks. First of all what's - and I have several questions, comments on 13 on top of what Kristina said. What is public interest?

Jeff Neuman: Anything the GAAC says it is. No, just - it's a joke. It's a good question. Again we kind of lifted this from the - we were trying to come up with a list, we lifted it from the affirmation of commitments, it seemed like the most logical place to take those.

Chuck Gomes: Yeah, I have a concern about that being in there if it's not defined because I bet we could survey the people in this room today and come up with 15 definitions of what public interest is.

And so I just raise that, we don't have to solve that right now, but I have a concern about that one. I have more comments but let's talk about that one before I go on. No comment, okay, I can go on.

Marilyn Cade: I'm happy to respond to that question Chuck, I think we're all aware that in the affirmation of commitments there is a reference to ICANN's responsibility to act in the public interest.

And you know the question of defining what that is is a broader need, but it is a baseline requirement and I think some of us on the group recognize that with the responsible is not to reflect a recognition.

Chuck Gomes: And I'm okay with recognizing that need, but until it's defined I still reiterate my concern.

Man: I think Marilyn's comment is quite accurate, we felt we could not, not mention it and given that it's already on ICANN's plate to define or at least be comfortable with we're not making it any worse.

Chuck Gomes: Well I think it would be undesirable to have it in the PDP unless its defined. And I can move on beyond that now. My next thing is this competition. We know that ICANN's not competition authority and I don't think any of us think that they should become a competition authority.

Is this a case like James said where this might go outside of ICANN for that? Certainly the GSNO isn't a competition authority, what's the thinking there?

Jeff Neuman: So again I think - and I'll just give my own personal view, you know it's one of the things in the affirmation of commitment so we did it. The question of who does the impact analysis which Kristina raised I think is a good one.

And you know as Kristina was saying if it's done by staff in consultation with subject matter experts, we added that language in there, I think that's good language to add in there.

Not saying the GNSO would do the impact analysis but you know it could be done by those with expertise. And I agree with you that ICANN is not a competition authority.

But I do think it's - competition shows up in their bylaws to promote competitions. It shows up in for example in the RSEP which is the registry services evaluation.

Does have an effect on competition? So while ICANN itself is not the competition authority it still is something that the GNSO community and ICANN look at.

Chuck Gomes: And then the next item is consumer trust, what is that?

Jeff Neuman: Well you know it's a good thing you asked that question because I think the council is eventually supposed to take on the task of defining consumer trust and consumer choice which has been a task given to us, the community by the board which at some point we will - soon we will get into that definitions exercise.

I don't have an answer for you know.

Chuck Gomes: I understand, I wasn't necessarily expecting answers now. And then the last thing is the impact on human rights, is that a part of ICANN's mandate?

Jeff Neuman: I'm going to let Avri answer that question.

Avri Doria: Thank you. First of all I think on all of these you're going to find that in the impact analysis you are also while responding to the question, responding to what you've defined, how you've defined it.

I think that's part of the growing. As for whether ICANN is responsible for human rights, I think of course the answer is yes, what organization is not responsible for maintaining those and making sure that anything ICANN does is done in such a way that takes in regard the human rights that has been accepted by pretty much everybody in this room's countries and all the laws we follow.

So I think it goes without saying that of course ICANN is responsible for making sure that its decisions adhere to human rights principles.

Jeff Neuman: So just to clarify for the transcript or for the record that's not a view of the work team, that's Avri's view and so this is something that we were talking about as a work team.

And it can be bracketed language because of that.

Chuck Gomes: And of course my overall concern here is if you request an impact analysis and you don't have clearly defined terms or terms that may or may not be within ICANN's mission, I think you're going down a path that maybe question - I'm all for impact analysis.

But if it's too subjective what would get back will vary from time to time and I think that's a problem.

Stephane Van Gelder: Is this coming back to this point?

Jeff Neuman: Chuck I think there's other people on the - certainly people in the working group who tend to agree. One of my concerns is this could be a factor or way of killing a PDP.

You know that don't - can't get the votes to formally defeat it but the impact analysis can be vague enough that no one feels comfortable in going forward.

So there are some concerns here.

Stephane Van Gelder: So I have Kristina next then Tim, then Alan and then Marilyn and then James.

Kristina Rosette: Hi, on recommendation 29, I just have a wording suggestion. Because if it's the intention in recommendation 30 that the working group itself consider and take into account public comment, I think you should actually revise recommendation 29 to say that.

So instead of saying the working group shall be responsible for reviewing and taking into consideration I think you should just say the working group shall review and take into consideration.

Just a wording suggestion to avoid any future ambiguity. And then the other question I had was in the timing on the text regarding consideration the issue report by the GNSO council.

As I think most people know there's kind of a historic practice that if a particular stakeholder group or constituency wants to defer action on a

particular motion or issue until the next meeting they just need to make the request and that's the end of it.

And I was wondering what the rationale was behind requiring that that be in writing and if having that be in writing would preclude - would that then require that the request had to be submitted before the meeting?

Because I know that in some cases we found that during the course of discussion stakeholder groups or constituencies that may have wanted to defer said okay no, my problem is solved, we can go ahead and act on it and vice versa.

And I just think to have flexibility you might want to clarify what the purpose is for that.

Chuck Gomes: Is that a recommendation number or is that somewhere else?

Jeff Neuman: It's on Page 29, it's on the...

Chuck Gomes: Thank you. And just to follow up on that last point, one of the =- and this is a procedural issue - I don't think we've ever dealt with this in the GNSO.

But if one constituency or stakeholder group requests a delay in a meeting is it possible for a different constituency or stakeholder group do it in a subsequent meeting?

I don't know what the answer is but we probably should clarify it in the procedures. Is it clarified in there?

Jeff Neuman: We said it can only be once.

Chuck Gomes: But is that once by the same constituents?

Jeff Neuman: Once total.

Chuck Gomes: Once total, okay, if that's there that's fine, I missed it.

Jeff Neuman: It says report may only be postponed for a total of one meeting even if multiple stakeholders...

Chuck Gomes: Oh, I missed - okay, I didn't see that.

Stephane Van Gelder: And that's kind of the informal rule that we've been working under anyway so it makes sense. Are you done? So Tim?

Tim Ruiz: Question and then kind of a general comment. On recommendation 48, it's on Page 26 of the report, it says that the - that you recommend - that the working team recommends that the definition of GNSO super majority vote is redefined to include the original meaning of the GNSO supermajority.

Then it describes what I believe is the supermajority as defined under the new house structure. So when you say original I guess I was just a little bit confused, what's in there is the original.

And we're actually redefining it to the definition of the new house structure, is that correct or am I confused?

Jeff Neuman: I'm going to defer to Marika on this one.

Marika Konings: This is Marika, I think there was a- and in think (unintelligible) is not on the line but if you look for it on the report I think we actually underlined the change in the discussion because I think an issue said somewhere and/or and I think what we changed it to is and, there was some small wording that we changed that wasn't picked up in the new rules.

But it actually existed under the old structure, that was my understanding or recollection from that discussion.

Chuck Gomes: It would be really helpful if that was clarified here because I'm like Tim, I didn't understand what this recommendation says on Page 26.

Tim Ruiz: And then just in general, not about any of the specific recommendations but I think this is a pretty comprehensive set of work, and it's got five stages with 47 different recommendations and we've got 48 under other plus there's overarching issues to consider.

And then suggested modifications to the appendix A and the bylaws and perhaps to the GNSO procedure things. So I think what we should be doing also perhaps as a council and we may not have time at this particular meeting.

But even before we finally have this final report if we start thinking about and maybe discussing how we're going to as a council go through this and come to agreement on what we want to approve and what we don't.

I don't think this is a matter of we get the final report and a week later you know eight days before a meeting we put forth a motion that we accept all the recommendations.

You know I think that some discussion needs to take place and you know perhaps even breaking these down so that different groups perhaps can kind of look at these things and we can have a palatable bite sized discussion of this report.

Not to slow it down but just to make sure that we thoroughly look at it and discuss it so we don't have issues later where oh, I didn't know that was in there and you know we try to change things.

Jeff Neuman: I'm sorry, I want to go back and I want to address Tim's first, second. I want to go back to why this language exists on the supermajority, I was just looking back in my notes.

And the current bylaws have a definition of supermajority vote which doesn't comport to what we all know is supermajority. So it's basically saying you have to fix the definition that's now in the bylaws to actually be defined as we have now defined as GSNO supermajority.

So the supermajority says in the bylaws, supermajority vote means a vote of more than 66% of a member's present at a meeting of the applicable body. And we looked at that and went oops, we forgot to change that definition in the bylaws.

So that's what this means. We defined GSNO super majority in the bylaws to mean what we all intend it to mean. We intended it to mean

when we did this whole restructuring. That's' what it is, it's not creating anything new.

Stephane Van Gelder: Well is there any way that the work group actually look at the way it was presented in the report to the council or the way expected the council to have a look at the report so that we don't get into a situation on the report at this step.

Where someone puts some promotion to just at that report and we have to do that in eight days and then we find ourselves in a situation that we found ourselves in for example with some of the OC work where we feel we had our back to it.

Because people have accepted it and then they realized that there's things in there that they didn't want.

Jeff Neuman: Well let me defer to Alan.

Alan Greenberg: You may regret that. If you remember in Cartagena there was a fair amount of pressure put by council on the working group to set a timeline and to adhere to it and to set a timeline which was short.

And we have done that. Some of us felt that that was being done without appreciation for the magnitude of the work and the real amount of review that should go into it by the GNSO by the various constituency and stakeholder groups.

So I think some of us would be delighted if the GNSO instructs us to make sure the timelines allow for that kind of consideration.

Stephane Van Gelder: I don't see how that answers my question in any way. I mean I understand what you're saying, that we pushed you to work on this quickly. My question was has there been thought given in the working group to the way the council should approve this.

Jeff Neuman: So the answer is no, because this - the actual work team is submitting it to the steering committee. So there's that steering committee in the middle so we didn't really concern ourselves with how it gets to a level higher than that.

If the council does away with the steering committee for example then that's something that we will need to think about and maybe use the time that was supposed to go to the steering committee to think about a way to present it to the council.

Stephane Van Gelder: Some people think you're a bully Jeff, you know that. Not my thoughts.

Chuck Gomes: So just final clarification.

Stephane Van Gelder: Hang on Chuck sorry, I think Avri was trying to get in.

Avri Doria: I did want to comment on that one. I think it was either in this group or in the other PPSC group and I'm not sure where we also found that in the work team there was a difference of opinion on whether the work team was supposed to be instructing the council on how it would do its work and how it would handle things.

And whether that was for the council to decide. So I have a feeling that if it comes into the - in fact I can guarantee that if it comes into the PDP

work team that we tell the council how to do that, there will be at least one voice saying that's their problem, they have to figure out how they want to approach their due diligence process.

Jeff Neuman: Yeah and one thing I'll add as well just really quickly, it's one of our recommendations in the PDP work team report is that any working group take aside this work here.

But any working group should when it sends something to the council should say if there are interdependent recommendations even though the council is free to adopt as it wants, technically it's free to adopt one recommendation and not the other.

So the recommendation the work team has is that the working - any working group should recommend which of their recommendations should be adopted together and is - use a tapestry of (unintelligible) - I had to throw that in.

But so when we go back to our work as the PDP work team, we may recommend these recommendations are - should all be adopted together because of certain reasons.

Stephane Van Gelder: And when you referred to the steering committee you meant the standing committee, right?

Jeff Neuman: No, there's a steering committee. There is - the standing committee doesn't have jurisdiction over anything until after it gets adopted by the council.

Stephane Van Gelder: Which is...

Jeff Neuman: If we were to hypothetically do away with the steering committee, hypothetically...

Stephane Van Gelder: When you said hypothetically do away with the steering committee, which committee were you talking about?

Jeff Neuman: The PPSC.

Stephane Van Gelder: Okay.

Man: Just to clarify real quick Stephane, on my comment about it was it was more directed towards the council, I wasn't necessarily implying that - you know that it should be the working team or PPSC, that the council needs to give that some thought.

Stephane Van Gelder: Thanks. Is this on this still?

Chuck Gomes: On 48, yes, I just want to make sure I'm clear because the way it's worded right now it says the GNSO supermajority vote is redefined to include the original meaning.

I don't think that's what you want to say, right? You want to say that the original meaning is going to be replaced by the clarification that follows, is that right? Am I correct on that?

Jeff Neuman: I'll let Marika answer that.

Marika Konings: Yeah, I looked up in the bylaws what is current there. What we basically added is the or two thirds of council members of each house

which I understood that was the original on the old structure as a supermajority. And I think people thought that that should be included as preferring to supermajority.

Chuck Gomes: Okay that's not the part I'm focusing on. I understand what I think the new definition is going to be 75% of one house or two thirds of each house, correct?

Jeff Neuman: Yeah Chuck to answer your question the answer is yes, it means to replace.

Chuck Gomes: All right, thank you. That's all.

Stephane Van Gelder: Okay, so next is Alan.

Alan Greenberg: No, I think that was a hand that I was trying to comment on some particular point.

Stephane Van Gelder: Okay, in that case we have Marilyn.

Marika Konings: My comment is really maybe going back to you know when I was on the council we did a self review of the PDP and we came up with a long list of improvements that we agreed to.

We approved those and they were never implemented and then maybe three or four years later there was a - maybe two years later there was a second effort to improve enhancements to the PDP or upgrade - update the PDP and that didn't happen.

And now we're much later and we have a relatively detailed I will say, it's a very detailed policy development process. But I guess my question to you as councilors is right now we're probably about five to six years late in actually updating the PDP.

And you're actually working with a process that is quite out of date. So the - it may be a fair question to us as the working group on how are we going to surface in the (unintelligible).

But I think it's also to me a big challenge that the council needs to maybe think about how they may be able to work together so they could better digest the complexity of this which might be a full face to face, full day face to face before the Singapore meeting or the day before the Singapore meeting or to link the web seminars or something.

But I would ask you to really think about it because I think we're so late. I don't mean just in this but historically so late in updating the PDP.

Stephane Van Gelder: Thanks. James was next.

James Bladel: Yeah, my comment was in response to a question on the floor at the time so I'll withdraw.

Stephane Van Gelder: Thanks. Avri?

Avri Doria: I just wanted to go back to the one of the questions that Jeff brought up at the beginning on whether once the PDP work team which was chartered by the PPSC has gone through the PDP comments and

updated whether it can deliver that directly and basically skip level - the PPSC to the council and say that makes perfect sense to me.

That you know they would skip the group that had chartered them and the report to the next group up. So I definitely would support that kind of - I think that's a great idea.

Stephane Van Gelder: Marika?

Marika Konings: Yeah, this is Marika just commenting on for the council to digest all this information and provide input I think you know one of the objections that Jeff already mentioned, we have another session on Wednesday. But we've also encouraged all the work team members and you know they all have the slides to take this back to their constituencies and stakeholder groups and really have this - you know like we're having now, this in depth discussion.

And raise any issues that they see at this stage so the PDP work team can actually address them and not come into a situation where the council then suddenly sees all kinds of issues and that need to be addressed and go back and forth.

I think and the work team's perspective it's really the hope that we get substantial input in this round of public comments so when it comes to you, you see that your issues have been addressed and hopefully will be smooth into adoption.

Stephane Van Gelder: Any further questions? Chuck?

Chuck Gomes: Can I continue now on the issues that haven't been covered so far that I noted? First of all on your flow chart on Page 6, the large pink box that says council vote, I think that's incorrect characterization of the voting threshold.

I think it's 33% of the council members of each house or 66% of one house, is that correct? We don't have any thresholds that are just - you know refer to the council as a whole.

Going on then to recommendation 4 if that's okay, it's - the recommendation says the use of the template is strongly encouraged but should not be mandatory.

I'm curious as to why it should not be mandatory?

Jeff Neuman: I'm going to turn that - Alan was one of the ones who brought up that comment so I'll let Alan address why the template should not be mandatory.

Alan Greenberg: I think certainly my feeling and I hope I think others too was these issues come in different forms and the group requesting it should be able to you know use whatever necessary although clearly the template will be recommended and it would be foolish to ignore it completely.

But to say it was absolutely mandatory seemed a bit strong and probably not necessary.

Jeff Neuman: And the strong part was that you know someone didn't do it on the template but provided the same information whether that would be just

a basis for the council to reject it completely because it wasn't put on the template.

So it was you know let's strongly encourage it and get it used but if the requirement information gets to where it needs to get to that's - it shouldn't be a basis for someone to say - to reject it completely.

I'll let Avri...

Avri Doria: Just one other piece, in terms of the defining the template up front it's sort of easy relatively to define a template that will work for most cases.

To define a template that will work for all cases, and therefore you would be able to make it mandatory to prohibit it would be really problematic.

And what you're probably looking for is that 80/20 rule, but for the most part you want the template to work but you acknowledged that.

Chuck Gomes: And I appreciate all those, those are all valid points. The reason I asked the question is, is you want to make sure you get complete information on an issue and a template is one way to do that.

And you can have a general box on that template to cover you know issues that you didn't think of.

And I'm not legalistic about having to have a template. You want specific information and that should be clearly defined in some way.

And you can always have another category. The main thing is so that you don't have to go back to somebody and request additional information because it was incomplete.

That's where I'm coming from.

Stephane Van Gelder: Well Alan wanted to reference his point as well.

Alan Greenberg: The issue you're raising I think is one we considered a lot and we did talk a fair amount about interactions in preparation for the issues report and you'll notice there's now a draft or an interim issues report coming out to make sure that the issues report does address the substantive issues that were being raised.

So the overall intent of your worry I think we have discussed a lot and try to make sure that we don't go all the way through to the end of an issues report and it not be addressing the organizational issue.

But we didn't feel a template was the way to answer that completely.

Stephane Van Gelder: Alex?

Alex Gakuru: Yes, I'm a member of the work team, maybe one of the other reason why we allowed template plus other information would be to give the work teams or work groups more flexibility so that we don't define in advance and we don't know all the issues that may come in future issues.

And so we didn't want to constraint them and so it could be template plus extra info but attempted to constrain them. Thank you.

Stephane Van Gelder: Jeff can I just ask - I submitted some comments to this, I think I was only one to comment so far, I didn't want to go through the comments because they're printed.

But I just wanted to know if the group had considered them all?

Jeff Neuman: Well we got those after we - I mean we have those comments, we got them after we posted this report so yeah, we will. We have not yet had a session to discuss.

I think we did discuss some of them actually to think about it, but nothing formal, just we talked about them on our last call.

Stephane Van Gelder: So is it useful to go through them again here or not?

Jeff Neuman: It's up to you really if you think any are crucial that require input for others, it's all up to you.

Stephane Van Gelder: Chuck, did you...?

Chuck Gomes: This is a general one, and in some cases the report indicates that a particular recommendation would be implemented in the manual. And other cases in the bylaws.

I think it would be helpful if you indicated in each case whether it was a manual issue or a bylaws issue just for implementation purposes, so that's just a general recommendation.

Rolling on to recommendation 19, I think there's just a threshold definition issue there. The last sentence says may be adopted by a majority vote of the GNSO council, that just needs to be fixed, the majority of each house on that.

On 21 I have probably a more controversial and substantial thought.

Jeff Neuman: Sorry, just for the last one, I think majority of the council is defined as the majority of each house in the bylaws.

Chuck Gomes: and my recommendation would be that you actually specify what that means so that somebody that's not familiar with that wouldn't misread it.

Stephane Van Gelder: Perhaps if I could just on the fly, I had a recommendation on this just for change because you use the ICANN bylaws at the beginning and bylaws after and you're not referencing the same bylaws. Perhaps you want to make that clearly in the sentient use of the word bylaws.

Chuck Gomes: Okay, on 21 I - first of all I think it's very important that you included you know comments from ACs and SOs should receive a response from the working group, whether it's the working group or GNSO it doesn't matter so much.

But I think that follow up communication is very important and something we haven't done a very good job on. But on a totally different point, in this particular recommendation, two issues that we're still grappling with come into play.

One of them is community working groups and one of them is you know involvement of the GAAC processes. And I know they're really hard problems to solve and it's going to take quite a bit of work.

But until such time that we do that work I ask the question should we include something here with regard to those community working groups and input from the GAAC until such time that we develop those challenging issues that we have to deal with.

And I just throw that out to the working group to consider and certainly you can respond.

Jeff Neuman: So we actually did talk about community working groups and I think the conclusion was that we're - this report is really with relation to PDPs and that a community working group would not be created under a PDP.

That wouldn't apply so in other words I think I said it right, PDPs are not for community working groups.

Chuck Gomes: But a community working group could provide feedback into a PDP.

Jeff Neuman: Like anyone else, sure. I mean but it's still a GNSO working group that would consider that as opposed to a cross working group.

Stephane Van Gelder: Tim has a comment and then Margie.

Tim Ruiz: I was just going to make the same comment, I guess I'm still not clear on your response Jeff. That regardless of my concerns about PDP

working groups I think that there are situations where they could be formed to provide feedback into a PDP process for some reason.

You know that the PDP working group might need some input or feedback that needs to be gathered from the broader community in some fashion and so community working group might be formed to provide feedback to the PDP working group to use or consider in its deliberations or work.

I think that's what Chuck was kind of referring to too, so I don't if anything needs to be done to allow for that.

But I think that's a possibility.

Stephane Van Gelder: Margie?

Margie Milam: Similar comment to Tim's, Jeff are you focusing on - when you say PDP are you really focusing on consensus policy because you remember the outcomes of the PDP can be more than a consensus policy.

And so maybe that's the distinction that Tim is thinking of you know if it's something that's not meant to create a consensus policy is a cross community working group objectionable?

Jeff Neuman: Well I think it's not consensus policy, it's the effect of - I mean I don't think the bylaws at this point in time envision anything, go back a step.

No I was not just continuing consensus policy, I was thinking the outcome of a PDP if it's by GNSO super majority but it all talks about GNSO PDP and in the end you have to have a GNSO vote.

You have to have a GNSO supermajority really is kind of outside the scope of a cross working group. It doesn't fit in. Any PDP out of the GNSO has to be just the GNSO. If we wanted to create some other process or outside of this and we discussed this with the CCNSO and others, to create a community working group PDP, that's something completely outside this scope.

I'm probably not saying that clearly but that's not envisioned here. Because how do you take a GNSO supermajority vote and apply that to a community working group?

I mean ultimately in the end it comes back to the GNSO.

Stephane Van Gelder: So I have Avri next.

Jeff Neuman: Can I clarify? In - when the GNSO - when there's a charter, this charter could call for representatives from other groups to participate in the working group.

That doesn't make it a cross working group. Definitionally and legally speaking but when the GNSO - if the GNSO says I want a group on this issue and we're going to invite people, experts from other groups in, that's not the same thing as saying a cross working group definitionally and legally.

Avri Doria: I think in the first part here I'm agreeing with Jeff is that if there's a PDP then it is the GNSO that is chartering the work of that PDP.

I think it makes sense though and another thing that perhaps that if there is a cross community working group on a similar topic that feeds in then it probably makes sense to give that group the same regard that you would give an AC or an SO to look at it, do due diligence and respond.

For example you could have something where a group like the JIG which is looking at particular issues in IDN strings could make a recommendation to a larger PDP group that you would want to give consideration to.

So I think that consideration makes sense, but I think you're still right, you won't have a cross constituency working group as the working group of a PDP.

Stephane Van Gelder: Alan?

Alan Greenberg: No, I think it's largely being clarified but I'll note that we accept comments from random people at the end of an email address using a pseudonym, we will also accept comments from a formal cross constituency working group or whatever.

So I don't think - this whole section is on soliciting input and getting involvement and I don't think there's any restriction even though we only list the formal bodies that exist within ICANN, ACs and SOs.

But you know it's clearly it's a GNSO group running under GNSO rules because it's PDP.

Stephane Van Gelder: Chuck.

Chuck Gomes: Thanks Stephane. On recommendation 28 talks about preliminary issue report and initial report. And maybe I just shouldn't read it carefully but I'm not clear, is a comment period required, are you recommending that a comment period is required for both the preliminary issue report and an issue report or just one?

Jeff Neuman: Just the preliminary.

Chuck Gomes: Just the preliminary, so that is correct, okay. All right, thank you. Going to recommendation 31, this is a little more complicated thought, sorry about that.

But you know today throughout the day we've dealt with implementation issues several times and there's even been questions about what's implementation and what's policy and so forth.

But the question I ask on recommendation 31 is should the GNSO have approval rights for implementation plans? And I'm not necessarily advocating one way or the other on this.

But as something I don't think we've ever really asked and discussed, certainly historically have been quite a few cases where actually a GNSO implementation team's been formed and provided some recommendations and so forth.

But one of the things we've never really asked and answered I think is what role should the GNSO have on ultimate implementation plans if any?

And again I'm not advocating an answer but I think it's an important question for us to deal with.

Stephane Van Gelder: Do you have any answer Jeff?

Jeff Neuman: So we certainly discussed this and from my recollection and others can jump in, we're not saying that - we're just saying that working groups provide input onto it, not that they're making the final call on it or even that the council makes the final call on that.

But I think too many times a number of things, you know if I go back to a discussion in past PDPs the group, the working group has come out with this report with these recommendations.

And then all the sudden staff takes that, comes up with implementation details and calls everything it wants implementation and the working group kind of scratches its head going wait a minute, that's not - that's more than implementation, that's policy.

So to kind of fend that off it was to the extent possible and to the extent the working group has it in their charter to suggest or provide input into what it believes should be in the implementation.

Chuck Gomes: And a follow up to that, what - even if it is implementation the question could be asked, does it properly implement the policy that was recommended?

Jeff Neuman: And that's one of the things we recommend as far as one of the reviews after the fact in our Stage 5 I guess it is to look at that very issue.

Alan had a comment on that, and Marika did too.

Alan Greenberg: Chuck I think you hit on one of our main reasons for putting it in right now. This is another one of those cases where reports are tossed over the wall.

And there was a feeling that at least in some cases the ICANN staff charged with implementing something didn't quite understand the intent or took something too literally when it wasn't meant that way.

So we wanted people who were involved in writing the policy recommendation to actually be doing sanity checks that this is indeed what we were talking about before it's cast and copied.

Marika Konings: This is Marika, I do actually recall that the work team did discuss this issue of whether maybe GNSO council should indeed vote on an implementation plan or you know have representatives involved. I think the work team identified a number of issues with such an approach.

For example like those that weren't happy to start with, with the outcome of a PDP might use that to say oh well this wasn't what we meant.

And so the work group did consider it, I don't think it's obvious from the notes here and maybe the initial report reflects some of that

discussion. So - but I think we didn't follow as a road we wanted to go down to at this stage.

Chuck Gomes: Thanks for the feedback. Like I said I wasn't advocating that necessarily but it was an issue - and I appreciate the feedback of what the group considered.

I think this is my last one Stephane, I know you're relieved, this is just a little - I didn't see this. This is just a simple edit on recommendation 37, again it refers to a supermajority vote.

Again my personal recommendation is that many of us know what that means but a new reader might not so I would suggest that we specify what that means in the recommendation. Thank you.

Stephane Van Gelder: Thank you Chuck. And Marika?

Marika Konings: This is Marika, if I could just encourage everyone that has made comments to submit those as well to the public comment forum. I've taken notes and I'll relate us back as well to the work team but if we have those on the record, the work team can as well review those and you know provide responses or show how they've addressed the comments in the report, it would be really appreciated.

Stephane Van Gelder: Any further comments? Alan.

Alan Greenberg: Just a clarification, Chuck I think mentioned earlier the place where we mentioned - talk about a supermajority being 75 of one house, 50 of another or two thirds of both houses.

And that was in fact a conscious discussion we had that when we were thinking about it, the current definition of supermajority, 75 and 50 we suddenly realized that if indeed two thirds of both houses could agree to something it could possibly not meet the supermajority rule under that one.

That is if you know 70% of both houses thought something was a good idea it would have passed under the previous council rules.

It still pass emotionally but it wouldn't be the 75% criteria and so we felt that the supermajority should be augmented to add the other variant in.

Chuck Gomes: And I think that was a good addition.

Avri Doria: Just I have one concern with listing the definitions of what supermajority whatever means, is that those get linked to the bylaws, those can be changed sort of independently so that the meaning could be changed of supermajority at some point.

Do you want to have to go change the PDP rules to do it or do you want to just basically have the what supermajority is and what majority is defined in bylaws and then the PDP manual or document you know just refers to it.

So I think that's part of the concern there also.

Chuck Gomes: And my personal preference is as I stated but I understand the concern.

Stephane Van Gelder: Alex.

Alex Gakuru: Thank you, Alex. I just want to echo what Marika just said in saying that the work team indeed does consider every question written and other comments submitted from the various work teams and so as Alan said earlier if we get comments to the work team we are going to consider each and every one of them.

So that in a final report that will submit, in fact we do have documented conversations on how we dealt with each that was raised, then how we tackled it as a group.

So I think that is something I can say from the group we have taken very seriously. Thank you.

Jeff Neuman: I'll do a closing.

Stephane Van Gelder: With pleasure.

Jeff Neuman: I just want to thank you know it's been a small group that's worked on this, very hard over the last couple years meeting once if not twice a week many times and many of them are at this table, Alex, Alan, James, Paul Diaz is not at the table but Alan, Avri and of course ICANN staff.

I mean it's been a lot of work, I know it's a long report, it's hard to go through but each one of these were thoroughly discussed and I'm proud of the team and the work product that's come out I think is well done.

Stephane Van Gelder: And I'm proud of our chair.

END