

**Transcription ICANN Los Angeles  
Policy and Implementation WG  
Wednesday 15 October 2014**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

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

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page

Chuck Gomes: Okay, if we could start the recording. It's ready? Okay, very good. And do we have any remote participants yet? Okay, thank you. All right, my name is Chuck Gomes. I'm a co chair of the Policy and Implementation Working Group and this is our in-person meeting in Los Angeles on the 15th of October. Thanks for each of you who have joined us.

Now just looking around the room I don't think we have any visitors, do we?  
Am I wrong on that? Is everybody a part of the working group?

((Crosstalk))

Chuck Gomes: Oh, good. All right well for the - we don't have opportunity to meet in person very often. I think probably most of us know each other already. But instead of doing a normal roll call let's go around the room and if you're representing a particular group, or more than one group, please say that along with your name. And we'll start with Edmon over here on my right.

Edmon Chung: Thank you. Edmon Chung, dotAsia. I don't think I'm on the mailing list yet but it guess I'll send to add myself shortly.

Chuck Gomes: Thank you, Edmon. Chuck again. And, Mary, did you get that request to add Edmon to the list? Oh, Steve got it. Okay thanks, Steve.

Jonathan Frost: I'm Jonathan Frost. I'm with dotClub. And I'm in the RySG.

Wolf-Ulrich Knoben: Wolf-Ulrich Knoben with (Eco) Association and GNSO ISPCP constituency.

Anne Aikman-Scalese: Anne Aikman-Scalese with Lewis Roca Rothgerber. And I'm with the IPC.

Greg Shatan: Greg Shatan with Abelman Frayne & Schwab, also with the IPC.

J. Scott Evans: I'm J. Scott Evans from Adobe Systems. I'm president elect of the International Trademark Association and I am also a member of the Business Constituency.

Chuck Gomes: Thank you. Chuck Gomes with the Registry Stakeholder Group and also with VeriSign. And I do want to, before we move on to Michael here, who is one of our vice chairs, one of our vice chairs was unable to make it, Olevie Kouami from Africa is unable to join us today, he was trying; he wasn't able to get his travel permission to get - to get here so we're sorry that Olevie cannot be here.

And let me turn it over to Michael.

Michael Graham: Thanks, Chuck. Michael Graham with Expedia Inc. I'm presently and individual member of the IPC.

Mary Wong: Mary Wong, ICANN staff from the Policy Support Team.

Steve Chan: Steve Chan, ICANN staff.

Karen Lentz: Karen Lentz, ICANN staff from GDD.

Amy Bivins: Amy Bivins, ICANN staff from Registrar Services.

Chris Gift: And I'm Chris Gift. I'm also with ICANN staff and I'm a visitor but I'm very much on the implementation side in terms of systems and so very much want to hear what the discussions are.

Chuck Gomes: Thank you, Chris. Appreciate you joining us. It's been really good over the last several meetings to have people from - on the implementation side from ICANN staff joining us, it's really been helpful. So all right the agenda is...

Michael Graham: You have a hand up.

Chuck Gomes: Oh yes, Mary.

Mary Wong: We have had participants join the Adobe Connect room.

Chuck Gomes: Oh good.

Mary Wong: And if I may, I'll just do this alphabetically because it seems a lot easier. Some are members of the working group, I think some are new to our work or perhaps tracking it and some are obviously potential members of our working group.

We have Alice Jansen from ICANN staff; Berry Cobb who a lot of people also know who is assisting us with many aspects of our work as ICANN staff; (Maha Amasha); (Roosevelt King); and I think those are the two folks in the Adobe Connect room who are not physically here in the room today so a warm welcome to both of them.

Chuck Gomes: Thank you, Mary. And welcome to those that are participating remotely. If you would please raise your hand in Adobe if you'd like to participate; we certainly welcome your participation and I want everybody in the room to let you know that you're all welcome to participate. You can use Adobe and/or raise your hand in the room so whichever you're comfortable with in that regard.

The agenda is in Adobe there. And we're going to probably start with a little presentation to give an overview if that's needed. Now this particular presentation was given over the weekend in the GNSO sessions. And I suspect there - well let me ask, is there anybody who didn't see that presentation? I don't mind going through it but if we don't - yeah, Anne. We'll do it just for you and...

Anne Aikman-Scalese: (Unintelligible).

Chuck Gomes: Okay, all right. Thanks, Anne. Chuck speaking again. And please remember to give your name. I will try to do it to although it means I have to give my name a whole bunch of time so bear with me on that. So the - let me - and for those that are remotely participating the presentation is in the Adobe chat room or Adobe Connect room so we can - you should be able to see it as well.

So why is this particular working group important? Throughout - I mean, throughout the new gTLD implementation process I don't know how many times the issue of policy versus implementation came up. And so it was readily recognized in the community and even the Board that we needed to get some clarity on this particular topic.

Now this particular group is not a policy development process, a formal PDP but we will still be making recommendations with regard to policy and implementation when we are done. And those will be considered by the GNSO Council and then hopefully communicated to the Board with their support.

The working group was formed in July of 2013, as you can see. And you can - Mary, if you can jump to the next slide or Steve, whoever is controlling them. The progress so far, we initially developed some working group definitions of key terms. Those were vetted in a meeting like this quite some time ago and sent out for input to different groups in the GNSO and the ALAC.

We sent out requests for initial input to all of the SGs and constituencies and other SOs and ACs. And we received input from the ALAC, the Registry Stakeholder Group and the ISPCP so particular thanks to those groups. And we have considered quite a bit of that feedback already. And we'll continue to look at that as the feedback that they submitted relates to our particular topics that we're going through.

We're - we are now focusing on implementation questions in our charter and hopefully we'll get to some of those today. Our target date for an initial report is February of 2015.

So we're hoping to have at least an initial report ready for community review and comment before the Marrakesh meeting. Now that means we've got to do a lot of work but I'm optimistic in terms of the progress we've been making. And I think we've laid a really good foundation for some of the things that we will have to get more specific on in the near future.

Next slide, please. Now if you're in Adobe chat this may be a little hard to read, sorry about that. The - but one of the things we did oh within the last three months, somewhere in there, maybe two months, is consider some GNSO process options.

Now we're not going to go through those today. If you - if anyone would like to receive those in a copy that you may be able to read more, it's probably even hard to read on the screen here. But what we did, thanks to a lot of help from staff, is look not only at the PDP process, which is already defined, but

we're considering some other processes and, maybe you can go to the next slide, Mary, since I'm not going to go through the detail.

And, let's see, do I have control of that? Okay thank you. No, that's all right. I don't need control, if you just go to - is that the only slide we show on this particular presentation? I don't remember.

There are two new process options that we're considering. And what we've done is send those processes - this is the first page of the set of processes - that out to stakeholder groups and constituencies and SOs and ACs and ask for feedback. And we're not looking for real detailed feedback because all of these processes need more work.

But what we're asking the community to tell us is whether or not we think that - they think that we're on the right track with those. And they're processes that we would use that don't go through a whole PDP and may not even be necessarily policy development, because if it is policy development we need to use the PDP.

But in those we also talk about a fast track PDP which also would still have to be developed. But all we're asking for feedback on is, you know, are we on the right track here? And so far the few that have responded have been supportive. But if somebody's not it'd be very helpful for us to know before we start developing more detail into these processes. Next slide please.

Michael Graham: I think you're stuck on that one, if you go to - oh you can't see it. There's an advance down at the bottom.

Chuck Gomes: Okay well let me just look here - let me look at the screens in front of me. I don't know why I'm stuck but that's beside the point; let's just keep going. So this one's easy to read with less glare.

So this one here then is the - a GNSO guidance process to distinguish it from a full blown policy process. And again, I'm not going to go through it here. Next slide please.

And a little more detail with regard to that guidance process. Go ahead and go to the next slide. And then we also have an input process which is a little simpler. Again, if anybody would like to get copies of these that you might be able to see more readily and provide feedback please let us know.

Next slide. There are some links there that you can - that are there - there's our working group - workspace, the project info link and of course this meeting here today is there. Next slide. Okay and we're not going to go through the annexes. We have the charter there and some other things and we'll just stop at that point and I'll ask if there are any questions or comments.

Yes, Mary.

Mary Wong: Not so much about the slides or the presentation but just to note especially for those newer to our working group that all of these slides and the materials that we use will be posted to basically the same link that you used for the Adobe Connect for this meeting as with all of our other meetings. So they can download and look at the slides and charts at their leisure.

Chuck Gomes: Thank you, Mary. And not seeing any other hands raised in the Adobe or in the room. Let's go to the next slide. Oh excuse me, we finished the slides. Let's go to the next agenda item.

Which is - and so, Mary, if you can bring up the work plan. We just recently revised the work plan and we're going to go over it briefly today and essentially find out whether or not there are any suggested changes to the work plan. Obviously this work plan has been revised several times. We - it's a live document. And I'm not going to go through the work plan line by line but I do want you to see some key dates.

So as you can see, I there are a lot of working group meetings. We meet weekly for an hour. This meeting is an exception, we're meeting an hour and a half. And I've been warned that we will not go past 6:00. Okay. And that is our plan of course so - so just to let you know.

The - so we will have - we are - we have scheduled a meeting on the 29th after this meeting so you can see that. And then just moving forward notice on 11 November there's a working group deadline for comments on draft manuals.

Mary, could you talk about that one a little bit?

Mary Wong: Sure, Chuck. And this is Mary Wong from ICANN staff. The charts that you saw during the presentation that Chuck made on the GNSO guidance processes including the possibility of a fast track PDP, as you noted, Chuck, that was very heavily reviewed by the working group and we also solicited input from the various stakeholder groups and constituencies.

So the idea now is to turn that set of charts and the feedback into a set of potential manuals to guide how these would work in terms of if not rules certainly manuals, practices and so forth. And as you see here in the work plan the aim is to be able to have those for sharing before the end of the month and obviously for review and further discussion.

Chuck Gomes: So this is Chuck again. That sounds like we've got some work to do in the working group in that regard. Could you talk about what needs to be done to make that happen?

Mary Wong: This is Mary Wong again from staff. And, yes, if you look at the right hand column the task is assigned at least for the initial draft to staff so we will have homework on the way home from this meeting. And we will send those drafts to you all for your review obviously as soon as we possibly can.



Chuck Gomes: So the 11 November deadline is a deadline for staff to get us, as the working group, those documents? Is that correct? Or is that - are we going to get that on the...

Mary Wong: On the 29th or...

((Crosstalk))

Chuck Gomes: So we'll get that on the 29th and we need to have reviewed it and discussed it by the 11 of November, is that correct?

Mary Wong: That's the proposed plan.

Chuck Gomes: Understand.

J. Scott Evans: Right, just for the record, this is J. Scott Evans, co chair. A couple of things. One, we have found in the past that having some sort of manual or workbook is a way to help people who plug into this thing after things have been developed rather than having sort of an oral history for how things work, they have something they can look to and understand and read and ask questions about when they plug into the process first, PDP manual, the Working Group Guidelines that I worked on and developed. So that's one of the reasons for that.

Secondly, it is so difficult to draft by committee on telephone calls. We felt a much more efficient process would be to have staff give us a document that we could then critically analyze and look at and suggest revisions to. We thought it was a much more efficient way.

So just for the record, this is not a staff-driven process. We are trying to build in efficiencies as best we can. Our opinions and the opinions from the entire

community will be considered and developed and evolve into these documents.

We're just trying to make sure that we can stick to the timeline that we've aggressively set out for us because this is a - I think this is sort of the third time we've had to move that out. And we decided we don't want to have to do that again. And so I just want to get on the record that we're driving this process and staff is only facilitating for us.

Mary Wong: This is Mary Wong again from ICANN staff. Thank you very much, J. Scott, for saying what I was probably trying to say much more elegantly.

Chuck Gomes: Chuck again. Thanks to both of you. So for working group members note then when we get those draft manuals on or before the 29th of October, the end of this month, we need to all review them, jot down our notes and provide feedback on our list before we go into the meeting on the 12th. Okay?

So we have until the 11th to review those, provide feedback on the list and then we'll discuss them on the meeting on the 12th. So that's just kind of looking ahead. Please don't wait until the meeting on the 12th to do that. It'll make our meeting on the 12th much more effective if we've all done that.

Oh. Anne, please.

Anne Aikman-Scalese: Yes, thanks Chuck. It's Anne with IPC. And I fully concur with the idea that staff should be drafting for us. Thank you so much. We really appreciate the time saver. Could you please remind me which one of these processes - the three processes - GNSO guidance process, GNSO input process, GNSO fast track PDP - we have these wonderful graphical representations of that and that's now going to be translated into manuals and language for review.

That's a really good step because I think some of our constituencies may not have focused too much on those graphics. But I was - can you remind me which one of these is self-initiated versus the Board comes back - by self-initiated I mean GNSO - can it be initiated within GNSO is one of these processes I think. And I can't remember which one, I'm sorry.

J. Scott Evans: I believe that's fast track PDP, right? Because one is where the Board - some group has come to the GNSO and said we want your input on an issue. So that would be the GNSO input process.

The other is where the Board has come and said we need guidance from the GNSO. It's not necessarily a PDP but they want our opinion, the GNSO's opinion on something. And so that's the guidance process.

So you have input, guidance and then all PDPs are self-generating within the GNSO. It may be that they are reacting to a question or reacting to a report they've received from outside the GNSO but they usually decide whether should be a PDP on them.

Anne Aikman-Scalèse: Okay thanks. It's Anne again. For some reason I was under the impression that we had a process short of a PDP that was a possible GNSO guidance process. Is that incorrect?

Chuck Gomes: This is Chuck. No, that is correct. In fact I just briefly mentioned it when I went through the presentation but the GNSO guidance process is the first of the new processes that we've introduced, the ones that we've asked for, hey, are we on the right track on, that particular question.

And when you get a chance if you'll look at the flow chart on that, which is a high level, it's the GNSO Council shown there, that decides to invoke that policy guidance process.

Anne Aikman-Scalese: Oh okay so that one also could be invoked by GNSO itself and it doesn't have to be an external request, in other words.

Chuck Gomes: Yes, Anne.

Anne Aikman-Scalese: Okay.

Chuck Gomes: I think that's correct. And I'll let - if Mary wants to add anything she can or the guys next to me as well. But we don't need a - we don't necessarily need Board action to do these things. This is to create new flexibility. So but keeping in mind that the detail behind these hasn't been developed even in a first cut yet.

What exactly is needed and when it applies and so forth, that's the detail that we'll have to - staff is going to do a first cut, we're going to chime in and try and do that in the next few weeks.

Now if you look - and then going ahead to the policy input process - or the GNSO input process, sorry, wrong term. The GNSO Council would also decide when to invoke that.

Now one of the GNSO constituencies or stakeholder groups could suggest that within the Council, it could come from the Board. At least right now, again, we'll put more detail to that later but it's to give another tool for making decisions as we talked about when we discuss these things further.

Go ahead, Mary.

Anne Aikman-Scalese: Thank you.

Mary Wong: And so just to follow up and perhaps for clarification for those who may not have been following as closely. I think that's absolutely right, we are talking - I think (annual) questions about the three different or related but distinct

processes. And I think one discussion point that the group had was the involvement of the ICANN Board.

And I think the point there is that depending on each process, obviously, the important point of a Board involvement is that some of those, like in the fast track PDP, it's still a PDP, but the recommendations coming out of that would be sent to the ICANN Board for their review and adoption as would have been a regular PDP whereas for the GNSO input process that may be slightly different so all those are in the charts.

And as Chuck said, maybe we need to flesh out some but it does describe the initiation process, what each does and the role of the ICANN Board particularly in terms of whether it needs to vote to adopt the recommendations or not.

Chuck Gomes: Thanks, Mary. Chuck again. And again, obviously we're doing this over many weeks so it's probably helpful, if you're like me, to take a look at those flow charts. Again, there's quite a lot of information on those. That'll make it easier than when staff comes back with the draft manuals for us to keep all these pieces in mind. Anne, go ahead.

Anne Aikman-Scalese: Yes thanks, Chuck. It's Anne again. A question again for Mary. In a preliminary look that staff has taken at these three more flexible tools, have you come across anything that looks like it require a bylaws change or is not looked at yet. Is that an issue that needs to be looked at or not?

Mary Wong: And this is Mary from ICANN staff again. I will say that I think this is the point that had been noted in an earlier working group call. But I don't believe that we as a group have looked at it extensively. Certainly I think in terms of the discussion of certain voting thresholds even within the GNSO, not even at Board level, whether those might require a change.

It may well be that as we go through the process, as we go back to looking at some of these following input, public comments and so forth, that that may be necessary. So in other words, the short answer is that that's an item point that we've noted but we haven't quite discussed it fully or made any determinations.

Anne Aikman-Scalese: Okay. If I may follow up just quickly? My question probably relates mostly to whether the drafting process by staff should look at or flag for legal department questions about bylaws so that we don't have an issue later in relation - I'm not sure at what point in time that review should occur but I just don't want to stop the work of the group if we are not aware that we need some bylaws change and we're looking at drafting and should legal be reviewing that contemporaneously with us is my question.

J. Scott Evans: This is J. Scott. I would suggest until we have at least at this level, the working group level, a draft that we believe we have consensus I think that would be wasted energy and an already over-taxed staff and us. I think what we should do is then have it and then maybe we want to present it to legal, have a call with them and say this is what we're thinking. Do you have any red flag issues here?

And then if they don't raise any we might still say when we present it to the GNSO say, we've done this, we've presented it but it still could be, once you deliberate it and look at it, that you feel, or the community feels like it requires some adjustments to bylaws or working principles of the group.

I don't think we foreclosed it but I don't think we're at the point now to do that because I don't think we know how this works enough yet in a consensus basis to do that. I want to say that - I saw Alan.

Alan Greenberg: Sorry for being late. I was in a meeting I couldn't leave. I guess I would put my stake in the ground and say there's no chance we're going to come out of this without some bylaw tweaks at least.

If we end up deciding that we want to recommend to the GNSO that they want a fast pass PDP that is capable of setting consensus policy, capital C, capital P, and we seem to be going that way at this point, that inevitably will require a bylaw change to Annex A.

If we come up with a policy guidance development process that is not consensus policy the current Annex A alludes to it and we would not have - we would not have to change Annex A but we may choose to capture it. So the bottom line is when we know exactly what we want to do I would hope that we are not, you know, the lawyers will certainly help us guide us in what wording to use. And we have a few lawyers on our own side here, Mary...

((Crosstalk))

Alan Greenberg: You know, my experience so far has been yes they may tell you how to word something and yes if you're doing something which is counter to California law they'll tell you. But I don't think we're anywhere near that part of the world. So I'm not particularly worried that that they're going to be a major delay when we get close but we're not even close right now. Well, we may be getting close but we're not there.

Mary Wong: Thank you. This is Mary from ICANN staff again. And Alan actually said maybe 60% of what I was going to say. And as I mentioned earlier, because this hasn't been discussed fully I hesitate as staff to say yes, definitely, this is what we're going to need or to do. But if you look at the charts, you know, as Alan said for the fast track PDP and potentially for the guidance process if not for the input process certain bylaw changes may be necessary.

Having said that, and, J. Scott, I think the response here is obviously we will also involve our legal colleagues at the appropriate time once the working group feels that it has comfort with its recommendations.

However, I also say that it may be that that is working group in our initial report would say because this is what we're recommending, for example, as a fast track PDP, we recognize that bylaws changes will be necessary. I would anticipate that those - the actual language of the bylaws change would not be drafted by us, it would probably be drafted by our general counsel to which obviously our recommendations would be very helpful.

I don't know that for a fact but I do believe that drafting the actual bylaws language, while we can make recommendations, I don't believe that that is something that we would do.

J. Scott Evans: I don't want to do it. I don't want to do it. I'm not...

Chuck Gomes: Alan, go ahead and then Anne after that.

Alan Greenberg: Thank you. If Marika was here she could - she has a better memory than I do. But my recollection is that we basically put together the revised - we - the volunteers with Marika, who was the staff person, put together the revised Annex A and then the lawyers went over it and suggested wording changes here and there. That's my recollection; I may be wrong.

Anne Aikman-Scalese: Yes, it's Anne again. And really my only suggestion - it was certainly not that we redraft the bylaws in this group it was simply that our timeline incorporate the - this phase of the process.

And I would hope that, you know, we would give Legal enough time if they need to review it and so that what we're putting out for public comment would have already had this step taken to say well it might require these bylaw changes and so it just would be fleshed out somewhere in our timeline to do the work. Thank you.

Chuck Gomes: Thanks, Anne. This is Chuck again. And whether or not it needs to be in the timeline, it's in our charter that we need to identify any areas where it might



involve a bylaws change. We can, at any point, of course go to the General Counsel's office and ask for some feedback in that regard.

I agree with those who have said I don't think we're at that point yet, we're probably - got a ways to go. Because there's no use spinning our wheels and going to them too early until we - we do need to give them a good sense of what we're talking about until we flush out some of those details, they probably wouldn't be able to answer our question really well.

At the same time let me suggestion that all of us, as we're going through doing what we're - the different tasks that we have to do, if you identify something that you think may, on your reading of the bylaws, may eventually need that take note of that. It may not be the right time to deal with it but later on we can come back to those things at a time that's appropriate and pull those altogether. Go ahead, Alan.

Alan Greenberg: If I may introduce just a little bit levity. I think writing the bylaws is the implementation of what we're talking about the policy for. But in fact, if you think about the process the GNSO would have to approve it then the Board would have to agree to it then there's a separate step of actually changing the bylaws because bylaws have to go to explicit public comment on their own right.

So it's not very different from a PDP that makes recommendations to effectively change the RAA, the PDP tries its best to word things with clarity but they are not necessarily the exact verbatim words that go into the RAA. And that's not different from where we're talking here about bylaws.

Chuck Gomes: Okay, thank you. Chuck again. So let's continue going through the updated work plan. And going on there are lots of working group meetings in the work plan, November and December. And then we get to the 22nd of December where we're targeting a draft initial report. So that report would be circulated at that time. That's a staff - primarily a staff action.

And keep in mind staff - the items that show staff here, they're going to be dependent on everything we've been doing in the working group to do that task. So even though they have the primary pin on that it's really - they're not off creating these things out of empty space for what they want to do they're being responsive to what we've done in the working group.

And then you can see the 12th of January is a deadline for our comments on that initial draft created by staff. So we adjusted that a little bit when the leadership team that's up here and with Olevie and staff, so that we gave a little bit of time after the holidays there. But that's a target.

Now keep in mind what I'm going to ask you when we go through the highlights of the schedule is any input you have should be given so that we can see whether, at least for now, will probably have to change it, a little bit later on hopefully not significantly, we can use this as our approved working plan as of this point in time.

So going on then to the 19 January, that's the deadline for publication of any documents that are going to be up for action or even review really, to be fair, for the Marrakesh meeting in February.

So you can see the connection of all of those points there so that we - to be able to discuss with the community in Marrakesh this initial plan, it's just initial plan okay, initial report, we need to meet that 19 January deadline. If we don't then we're a little bit limited in terms of how much we can do in Marrakesh with the community. So that's a very important date.

And so on that same date we would have to post that initial report. Now for those that may not have been in the working group meetings when we discussed this let's be clear, we're not talking about a final report or even a draft final report, it initial report. It needs to have enough meat to it so that members of the community can provide us feedback.

And so we're not to a final report yet. You'll see that there will be several other dates that followed that up, so the 11th of February, that would be in Marrakesh, an open working group meeting like we are having right here. We would present the initial report that's been out for almost a month, not quite, for - we'll go over there, get feedback there.

And then - and by the way on 19 January that actually opened up - I didn't say this - a formal public comment period, and that will close then on 13 March, okay. Then we go to some more working group meetings.

And then we get to 13 of April which is on the - I guess depending on what you're looking at there, in mine it's the third page, 13 of April, draft final report circulated to the working group. So again as staff action based on all the public comments and so forth and undoubtedly discussion with us as well on public comment that we may need to deliberate on.

They give us the draft final report on 13 April and we start reviewing it, okay, in our meetings, in between are meetings, with the goal of turning back into a final report by 4 May.

So now it's time to ask. I mean, first of all any concerns about this? Obviously we are dealing with a ton of unknowns, we all know that, but any concerns about what's laid out here that we should consider on this plan? Michael.

Michael Graham: It's Michael for the record. Just a quick question I guess for Mary and that is how does the May 4 date coordinate with Dublin dates? Do we have any ideas there in terms of that meeting?

Chuck Gomes: It's not the Dublin date...

((Crosstalk))

Chuck Gomes: Isn't Dublin in the fall?

Michael Graham: Oh, what's going to be the summer meeting then.

Anne Aikman-Scalese: It's an LAC meeting, it's a Latin American meeting that's in June.

Michael Graham: Oh okay.

J. Scott Evans: It's just been removed from the schedule I think so we don't know. It was I think Ecuador was originally listed and now it says TBD.

Anne Aikman-Scalese: To be decided.

J. Scott Evans: So.

Michael Graham: So the final report then, I guess my question would be then that is not produced for comment, we simply do the initial report for public comments.

Chuck Gomes: This is Chuck. The...

Michael Graham: Oh, there is a first draft on 13 April.

Chuck Gomes: Right. Now that - you raise a good question so let's look at that. So notice working group reviews it the first and so that GNSO Council will likely put the final report that we send them out for public comments. Now that's not shown on our schedule. Am I correct on that, Mary?

Mary Wong: Chuck, Michael, if I may? Mary from ICANN staff again. Under the current version of the PDP manual, and I'm sure J. Scott will correct me if I get it wrong because he was one of the folks most heavily involved with that. The initial report has to be sent out for public comment because at that point it is an initial report.

And the working group has to take on board whatever public comment is received, review it and incorporate it as appropriate into the final report. And that's the report that said to the Council. That final report, there's no mandatory requirement to send it out for public comment. That's not to say it couldn't be but that's the distinction between the initial and the final; it's mandatory for the initial.

Chuck Gomes: Thank you Mary. Chuck again. And I'm going to come to you in just a second, Alan. I want to say something you've heard me say before, and you'll hear me say again, and these guys will probably say it too.

And that is that to facilitate this whole process it's really important that all of us who represent groups of stakeholders that we keep the information flow going especially with regard to critical issues where we want to make sure the stakeholders that we represent are on board with what we're doing in the working group so that when we get to this point hopefully there are very few surprises really good buy-in, even though it may not have been a formal comment period or whatever.

So again, I'll repeat that, let each of us representing groups - and we're all smart enough that we can tell when there's things - well I wonder if my group really is going to support this? Find that out as early as you can in the process and see if any tweaks need to be made. Alan, you're up.

Alan Greenberg: Thank you. Alan Greenberg. Mary is right but remember this is not a PDP therefore the world is at our disposal. However, I would guess that if we made substantial changes because of the first public comment on the draft report, we might choose to send out the almost final report for public comment.

You know, if there was things that's changed enough that we didn't feel comfortable that we had really understood it or we introduce new things that had never been seen before because people in the public comment pointed out huge holes in what we did, we would likely send that out.

If we sent it out for public comment and there weren't many, weren't much, there weren't many comments of any substance that GNSO Council might choose not to send it out. On the other hand, if we didn't send it out for public comment at that go around almost certainly the Council would. We're not under really tight time constraints here.

And if we're going to go forward and recommend something to the Board whether the Board will also send it out for public comment, which they're mandated to on a PDP but not necessarily on this, you know, there so many ifs, buts and ands. But I think from my point of view I would not feel comfortable issuing a final report that we had made substantial changes to that have never been seen by people outside this group.

And on the other hand, if we did tweaks and fixed the spelling and corrections but there weren't substantive things I would not want to waste them and have doing it. So I think it's going to be a judgment call at the time.

J. Scott Evans: This is J. Scott. I agree with Alan on that. But also the one thing that I strove very hard to do with the Working Group Guidelines, and I would suggest we do, is if we get a lot of public comments that we put out a document that addresses the public comment why we took some on Board, why we didn't - we specifically talk to that because that's the one thing that frustrates everyone in this process is they feel like dump in input and they get no explanation for why.

And sometimes it's a very valid explanation for why it wasn't taken on board or they felt like it was handled in another area. So I would say even if we didn't do huge substantive changes, and some of them are substantive changes that have been or re-organization, I would like us to at least put out a little document, not in the final report but separate, that just said we look at public comments, we considered them, here's what we took on board, here are some we didn't take on board and here's why.

Alan Greenberg: I think that's been pretty well been business as usual. Alan Greenberg. We don't necessarily publish it to the final report but I think we pretty well always have a pointer to that in the last year or two anyway so.

Chuck Gomes: Thanks to both of you on those comments. This is Chuck again. And a very extensive working group, the Expert Working Group on Domain Registration Identification Services, whatever they call it - they don't call it Whois anymore - did a great job of responding to public comments. And they set a real good example.

So I fully endorse what the both of you are saying in terms of responding. And J. Scott, you said it very well. We want to give feedback if we don't accept something as well as if we do and they can see how we did it and that will be part of our task to do a good job there.

So is there any - any concerns with the updated work plan as it's drafted now again understanding that there will probably be tweaks to it as we go forward. Any concerns or questions including those who are online? And questions if you still have questions.

So for, Mary, if we could send out a message that the - at the in-person meeting there was support for the work plan as we see it and that we would give until the end of the week for the rest of the working group to provide any input or concerns. Otherwise we will assume this is our current version of the work plan, okay? Go ahead.

Mary Wong: Just to clarify, by end of the week you mean this week or next week? Next week since we're not having a meeting.

Chuck Gomes: That's fine. This is Chuck again. The only reason I hesitated is because this has been out there a little bit already so - but that's fine, I think that's fine. Welcome Marika.

Marika Konings: Thank you very much and my apologies, I couldn't be in two places at the same time but I know you are in very good hands.

Chuck Gomes: Well Chuck again. I think that should be added to your job description. Thanks. Okay so I think we're done with that agenda item and so we can now go to the continued discussion on the implementation process that the GD team developed and that we provided feedback on. And both Karen and Amy who are with us in the room today were of great help in that.

Now I don't know that we need to go through any particular detail on this. Again it's hard to read on the screen so anybody who needs to find a copy this is on our working group wiki, right?

Marika Konings: Yeah, this is Marika. And an easier way maybe if you're on the schedule you go to the meeting where the entry for this meeting, there you find the agenda and the link to the agenda and this document and all the other documents that we've discussed today are posted there.

Chuck Gomes: So you can take a look at that. This will probably be a live document and we'll fix it. But I think that staff did a very good job of - and in particular the GDD staff of incorporating the thoughts, and we had good discussions on those.

Let me just path and see if there are any questions or comments on this right now. We did spend time in several previous working group meetings going through this. Is there anything that we needed to go through further on this? Marika, go ahead.

Marika Konings: Yeah, this is Marika. I think our access know is now maybe just to go through those questions and identify whether there are other questions we should be looking at. You know, should these questions be rephrased? And then I think talk about how we go about trying to find answers for these questions. Do we just, you know, go one by one and start brainstorming and on the basis of



that we start, you know, identifying maybe some principles or processes that may go around that or how to go about that.

And, you know, for example looking at the list of issues that we already identified or the questions, think one of the ones we also picked up as staff is possibly, you know, one we may want to add is what happens if after a policy has been implemented there is a realization that, you know, even though the policy principles or the policy recommendations are fine or probably no need to change that but the actual implementation is not working as we had foreseen.

A concrete example therefore example is - I always get this wrong - the Whois procedure for conflicts with local law, where I think, you know, the process we're trying to use there is say look we believe and, you know, of course it's up to the GNSO Council to decide whether policy recommendations - or the policy principles are no longer valid and they should be changed because that's, you know, fully within the remit of the Council. But from the feedback we've received it seems that the procedure as it was implemented, is not having the effects or the desired outcomes that were initially foreseen.

So we're trying indeed like a kind of process we're dealing with that by forming and implementation advisory group to work with staff which then would come back to the Council to confirm that, you know, a possible alternative implementation of the policy recommendations is indeed confirm the intent that was originally foreseen.

I think for now we're trying at least that process out but that may be as well a formal question we should be adding there because is that something that would need to be spelled out as well? Like what would be the process for triggering that? You know, I think in this case, you know, we triggered it by feedback we received, input we received and we had a public comment forum.

And then said well it looks like most people agree that it's indeed the way currently is written is not really working as was originally foreseen. So how do we go about changing that? So I think that's one other question that we at least identified that we may want to add to the list but there may be others.

Chuck Gomes: Thank you, Marika. Now, Steve, did you capture that well enough that we can - it'll go into our notes or do you have any - you need more clarity on that? Are the one capturing? You're okay - you got what she said is what I'm asking.

((Crosstalk))

Chuck Gomes: You got it. Okay very good. just wanted to make sure. Now a question for you, Marika, is - and this is Chuck speaking again. Do you think the question should be inserted as a question on this chart?

Marika Konings: Well and indeed again I think it's a question we should be asking ourselves because I think now at least the chart is, you know, initiatives at the implementation effective date. And it's like, you know, the last orange - I think it's the, you know, support phase so basically when it's, you know, being implemented.

We actually don't have a box what happens after implementation. And a good question is do we see that indeed as part of our remit or is that a real separate question where for example, something we've been trying to do and institutionalize it but in the GNSO is what should we be doing about reviewing our policies.

And I know there's so much work going on that we haven't really gotten there yet. I know we've reviewed the IRTP but for some of the other policies working groups are supposed to, you know, provide some guidance as to when they believe is the appropriate moment to start reviewing.

So maybe that is something that we can just park and say look, as part of our conversations where, you know, we believe our remit actually ended at, you know, implementation effective date or whatever we do note that there's also this question. But that may be something that you need to consider as part of regular reviews of policies. And again there's no strong view either way.

Alan Greenberg: It's Alan Greenberg. This is really a subject that's come up many times before. And I think the process we're talking about here ends at implementation. The question is how do we restart it if something shows up later? And that's no different than many of the PDPs we've done recently, say every two years or every year whatever we should review them and see if they're effective.

You know, we put in place policy in all, you know, with our best intent but afterwards we need to know that it really fix the problem or not. And, you know, we've talked about fast track PDPs, one of the processes here may address that. You know, if the fix is a tweak it may not even warrant that kind of process which may be too heavy weight for it.

If we end up discovering that what we implemented was the right and the actual right answer isn't obvious it's going to need something a bit more heavyweight to look at. But I don't think that alters this chart; this one finishes and is finished. But we need a way of real opening without starting the process from an issue report if, you know, if it's really a continuation. So uncomfortable with where this sits.

Chuck Gomes: Thanks Alan. And let's not lose this question though and see where it fits in the total picture with regard to what we end up recommending. Go ahead Marika.

Marika Konings: Yeah, this is Marika. Just a clarifying question, so if your view is that it's not for this working group to address that specific question but it is something that - okay.

Alan Greenberg: No, it is for this working group but not on this chart. I think when, you know, right now we have a PDP, we have guidance, you know, at two different levels of threshold, we have input. When we come somewhere near where we think we're finished we then start - and need to start asking ourselves some questions. It doesn't cover the kind of scenario you are raising here?

You know, have we addressed - have we given the GNSO and ICANN enough tools to address that kind of problem effectively? If when looking at it we find that we don't have something lightweight enough or we don't have something rigorous enough and we need yet another option, can we modify one of these, you know, with and if and, you know, to a bypass it or add an extra stage or do we need to invent yet another kind of process?

And I really don't think you want to try that until you're really comfortable with what you have and then do a clean look at it and review. Because really we don't want to do this again for a while.

So I don't think we can say it's not part of our job, it's some future - it somewhere group in the future, but we may well be missing something at this point and be willing to accept it and that would change - go back to the timeline and say oops, we need another few months to come up with something in between. And if so so be it.

Chuck Gomes: Thank you Alan. And I want to welcome Avri Doria to our group. I'm sure she had a conflict just like Marika had. You were in the same one. Now, Avri, the question we have for you is how come Marika was able to get here faster than you? You don't have to answer that. I can relate to that.

Man: (Unintelligible).

Anne Aikman-Scalese: Just again really minor comment, this time as well as in the last meeting that these charts with the white type are extremely difficult to read. And I think when you see how they're projected up on the screen the white type - we just can't - I don't want are working group to have its output...

Marika Konings: I'm very happy to report that I have a new laptop so I can go back in and hopefully fix that now. And if you tell me what colors work well that may help me to - the blue white is fine?

((Crosstalk))

Marika Konings: Black white?

J. Scott Evans: Put all the text...

Chuck Gomes: Just in black.

Marika Konings: Oh text in black. Okay.

J. Scott Evans: You can use the color coding...

Marika Konings: Right.

J. Scott Evans: ...to indicate that there are different things - that we're thinking about things differently but the black text.

Marika Konings: Okay I can do that.

Avri Doria: But you might have to make the color lighter for some of the black to show.

Marika Konings: All right, we'll do that for the next iteration.

Avri Doria: I've had to do that so often. First you do the pretty pictures and then you make it readable.

Chuck Gomes: Thanks Avri. Okay, so we can move to the other parts of I think the same agenda item.

J. Scott Evans: Marika had her hand up.

Chuck Gomes: What's that?

J. Scott Evans: Marika had her hand up.

Chuck Gomes: Oh okay. Go ahead.

Marika Konings: Well I thought you were maybe already moving on so my proposal would be maybe that, you know, we can maybe put those questions - and I think last time we listed them so maybe we can just list the questions again, put them out to the group and thing look indeed, as well maybe by next Friday let us know if you think there are more questions that need to be added or tweaks to these specific questions.

And otherwise we assume that will start working on the basis of the specific questions keeping in mind indeed the process or the flow or the relationship between the different tracks.

Chuck Gomes: Thanks Marika. Now that brings me to a question I was going to - an additional question on this that I was going to ask you and that is now the questions that are on the chart is it fair to assume that those same questions are in Deliverables 3 and 4 that we're going to go through individually? Is there a good map there or do we need to consider some of these questions separate from what we're going to talk about for Deliverables 3 and 4?

Marika Konings: Well so this is Marika. So I think an issue we had foreseen to address the charter questions, you know, separately but I think as we started our conversations I think on Deliverable - I think we called 2 and 3 but it was actually charter questions 4 or 5 - I don't remember exactly but it was to charter questions.

I think we realized as well that there so closely interlinked with, you know, the implementation review team question. So going through that exercise indeed the idea is, and I think for each of these questions I've highlighted to which specific charter question they relate.

So the idea is that all these questions should capture what we're expected to answer under the remaining three charter questions. So the question for the group is, you know, look at those questions and if there are some specific questions missing or if you believe that by answering these we still haven't, you know, answered or addressed the specific charter question, you know, point that out as well because I think what we're trying to do is talking around all these issues I think will give us the answers for Charter Questions 3, 4 and 5.

Chuck Gomes: Okay this is Chuck again. So let me clarify what I was asking. We have some questions on this implementation chart. Are those duplicated in our Deliverables 2, 3 chart questions or do we need to consider them separately?

Now I understand how they're all going to blend together, I'm just - I guess maybe a simple way to put it is can we go straight into our Deliverables 2, 3 chart and answer the questions there and those will cover the ones on the chart? No.

Marika Konings: To a certain extent. Because I think if we go through the questions on the deliverables chart we'll, I think any circumvented way, we'll also get to answering these. But my suggestion would be because I think most of the questions that are on there we already went through as well...

Chuck Gomes: Right.

Marika Konings: ...as part of our Charter Question 1. So my suggestion would actually be that we maybe move straight here and then we can still been circle back and say okay, looking at the other questions that we pulled out his there's still something that we need to consider further or did we actually capture it by kind of rephrasing those questions because I think at the end of the day the idea was like those questions would lead us to answers for these specific items or at least that's how I pictured it or saw it.

Chuck Gomes: Thank you. So if I understand you correctly, and then I'll go to Anne. So what you are recommendation is - and I'm going to ask all of you to support or not that suggestion. It sounds fine to me. To actually go through the questions that are on the chart, discuss those and come up with responses before we actually go back to the questions in Deliverables 2 and 3 and we may find that we are to have those - we've covered those. Am I hearing correctly?

Marika Konings: Well I think the suggestion is is to actually move away from the deliverables approach and just focus on those and then actually see whether we've answered our charter questions. Because I know we first broke it up and we thought we would do them sequentially but I think we've realized that actually you can't really separate 2 and 3 and 4 I believe.

So I think it's kind of saying okay we're kind of resetting and I think as well also trying to do the work plan and to say look, let's just focus on here and if people agree of course that by focusing on these questions we'll get their answers to the charter questions. We may not need to go back to the questions we had initially identified that we thought we needed as a basis for, you know, getting to our eventual answers.

Chuck Gomes: Thank you. Chuck again. Anne, you had your hand up before, and then Alan. Okay.



Anne Aikman-Scalese: Thank you, it's Anne with IPC. My question about the chart in terms of the implementation review team functions and all the questions that we need to answer there is are there points of comparison where we can identify the staff implementation framework and somehow correlate it to these phases and questions that are on this chart? Should we be considering that implementation framework that we've commented on in relation to answering some of these implementation questions?

Chuck Gomes: I don't think I understand your question.

Marika Konings: I think I do.

Chuck Gomes: Okay go ahead Marika.

Marika Konings: Or at least I think - this is Marika - I think I may understand. But I think that is specifically the right orange box that basically talks about, you know, that one of the questions is to determine is how when the IRT is involved and how consultations with staff take place a specific guidance is needed in that respect related to each of those phases.

So I think that's a bit of thinking. So I think we may first try to define at a general level how does interaction between the implementation review team and staff take place, what is the kind of, you know, relationship? How does the IRT operate itself? And think then after we have may be defined that the question is is that different for each phase or is there, you know, certain steps that staff is expected to take in each of these phases in interfacing with the IRT?

And I think the document itself I think already, if I'm not mistaken, I think outlines for the different steps where we currently foresee this interfacing. But I think once we, you know, built on some of those questions, you know, there may be feedback well, you know, we actually missed there an aspect where

we believe the IRT should be involved and you currently have and foreseen that.

So I think the idea is at the end of the bright orange box, and as well some of the other ones we circle back basically to the framework and make sure that it aligns. Because I think - I've referred before to like the puzzle idea so I think we're now trying to figure out some of the other pieces of the puzzle. And in the end we need to go back to make sure that the whole puzzle fits together.

And that may mean certain tweaks to the implementation framework depending on indeed what comes out of our, you know, responses or our discussions on some of those other items.

Anne Aikman-Scalese: It's Anne again. And thanks - yeah just to follow up. It does seem that there's a strong correlation, Marika, between, for example, the box on this chart that says, you know, planning phase and there's a point in the implementation framework that says where staff is to come up with a plan for implementation. And so that there would be points on this chart where the implementation framework could, you know, identify those things in your staff draft potentially so that we could be - it would be clear to all of us.

Marika Konings: Yeah and this is Marika. And as said I think it already does. I think it goes through each step of what we foresee in each of those phases and I think identifies where we currently foresee where the IRT would be involved. And again, you know, we can come back to that and if you believe that, you know, we've missed certain areas where it should be...

((Crosstalk))

Anne Aikman-Scalese: No I was just suggesting you could plug them into this chart, wasn't suggesting you missed any.

Chuck Gomes: Let's go to Alan because he raised his hand a while ago.

Alan Greenberg: Okay, I'm responding to what Marika said before about - and I'll paraphrase not getting hung up on the deliverables. I would go one step further and say don't get hung up on the charter questions. All of that was drafted at a time before we started our work. I don't think any of us quite envisioned the direction that we would - that we took. And I think we are going in an exceedingly sane direction that may help that GNSO and ICANN address some of these complex issues.

If we didn't get the questions right because we so misunderstood what the problems were I don't think that matters a lot. We may have to explain that but I don't think it matters. The real question is are we addressing the issues that got us into this mess so we won't do it again? And if that means one of the charter questions was really stupid because it's irrelevant based on what we're recommending then we say so and the one.

Chuck Gomes: Thank you Alan. So now we're coming up close to the end of our meeting and I want to make sure we have a clear understanding of what we're going to do next in our next meeting. Am I correct then, and if I'm not correct please let me know, that what we need to focus on are those questions in the orange boxes on this chart? Okay, everybody understand that?

So in our next meeting, which was it on the 29th, is that right? I don't have the work plan in front of me, 29th, okay thank you. So in our next meeting then we'll start off, I assume - I don't know if there is a particular order but if we go the top orange box on the left, what role does the Board play and so one - I don't need to read the whole question. And we will begin discussing these and developing responses to these questions. Go ahead Marika.

Marika Konings: Yeah this is Marika. I think there may be a particular order in which we may address those because, you know, the way the Board get involved depends first on how that GNSO Council gets involved when the IRT brings something.

So I think it's actually more - I think where - at least from my perspective I think where the starting point is is the IRT so basically how, you know, how should they function? What mechanisms should they have to bring issues back to the Council? Because that then will determine how should the Council deal with those? And I think that then determines, you know, what should the Board role, if any, be - or at least.

But again I think, you know, the starting point would be to put all these questions and maybe I can propose a suggested order at least from my perspective and then open it up for the group to provide...

((Crosstalk))

J. Scott Evans: That was going to be my suggestion is that you give us a suggested priority of workflow to work through questions that we get that out hopefully in the next few days so that we can put a deadline of next Friday as well for anyone who might have differing thoughts. And then so that when we hit the 29th we're ready to go.

Chuck Gomes: This is Chuck. That sounds very good to me. And let me go to Michael and then Edmon. Okay.

Michael Graham: Yeah, just a quick comment, in answering those questions once we have it - and I suppose we can remind this as well when they go out, I think we need to keep in mind that we've already worked through a set of principles based on experience that should inform our answers.

And to the extent that we can draw those connections in coming up with those answers I think it'll be very useful. And if it doesn't cut down on discussion going off the rail it will give us a focus and we can return to those points.

Chuck Gomes: Thank you very much Michael. Edmon and then Marika.

Edmon Chung: Edmon Chung. Sorry for coming in fresh on this, just to clarification questions. Whether you have time to address this. I can't quite relate the top four boxes and the bottom. Do they flow? And that's one.

The other one is the IRT is that expected to be a standing team or is it per PDP that would create - okay, the second one I know. The first one seems a bit confusing at this point.

Marika Konings: Yeah, this is Marika. And, you know, to be honest on the IRT we haven't even considered a standing one and maybe that is something. But I think the current practice is that the IRT is formed from the PDP working group that developed the policy recommendations as, you know, they are the experts on what was the intent and the background. And there may be some others that need to be added to that makes specifically focused on, you know, may be technical or implementation aspects.

But, I mean, we haven't really gone down that path but I think that's the least of thinking. And indeed it may be a bit confusing because, you know, it looks like a flowchart but basically the top part outlines the kind of flow of what currently happens. So ICANN Board adopts, ICANN staff then does an internal handover between policy and the services team.

We didn't put forward like a proposed implementation project plan which goes to the IRT and that's where then the IRT interfaces. So that's the kind of high-level process flow, sort of speak. But then what is underneath that is that kind of detail what happens between the last two boxes.

Edmon Chung: So they could exist in different pages, right?

Marika Konings: Yes.

Edmon Chung: Now that's clearer, okay.

Chuck Gomes: Thank you, Edmon. And I want to thank everybody for your participation today. I think we now have agreement - or close to agreement, give some people that aren't here a chance to chime in on the work plan. And we know - we have an action item that will prepare us for are next meeting.

And I will give it back to Marika.

Marika Konings: Yeah, this is Marika. I was actually still in the queue but to respond to Michael's point because one of the things that we still have outstanding from a staff perspective as well is to provide you with the kind of, you know, best practices or dos and don'ts from what we've seen in relation to IRTs that others existed so far. So that may indeed provide some kind of input on, you know, standing practices or what we've seen works or what doesn't work.

So that's something we hope to have as well ready then by 29th I think we said? Yeah.

Chuck Gomes: Sounds good to me. Thanks. This is Chuck. And I want to just reinforce what Michael said because one of the reasons I'm optimistic about all the work we have in front of us is because of that foundation we've laid with regard to the principles. That doesn't mean that there's still not a lot to do but if we keep those in mind it'll really help us. Anne, please.

Anne Aikman-Scalese: I just wanted to get a clarification on what we're calling the fast track PDP and what the difference is between that the current GNSO process called expedited PDP. And maybe we don't have time to talk about it but if you could just clarify the difference.

Marika Konings: This is Marika. We currently don't have an expedited PDP so the idea is that the fast track PDP would provide an expedited mechanism to do policy development in a specific set of circumstances.

Anne Aikman-Scalese: So what we used for the IOC stuff, what was that? A regular PDP that we hurried up?

Marika Konings: Yeah, exactly. Exactly. If followed exactly the PDP but you decided to meet, you know, two hours and I think people were referring to it as expedited but that was basically because you had a very intense meeting schedule.

Anne Aikman-Scalese: Oh thank you. Thank you.

Chuck Gomes: Okay are there any other questions or comments before we adjourn the meeting? I want to say thanks again to those who are online. I hope you were able to follow it sufficiently. Please send us an email if we can answer any other questions. To all of you here I hope the rest of the meetings go well for you. And I hope everyone has a safe trip home when you're done with your obligations this week. Thank you very much.

END