

**Transcription ICANN Singapore
Policy and Implementation PDP WG Update to the Council meeting
Saturday 07 February 2015**

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Jonathan Robinson: So the next session is on the Policy and Implementation Working Group and it's a presentation of the initial report which will be presented to us by Chuck Gomes. Go ahead Chuck.

Chuck Gomes: Thank you Jonathan and thanks everybody for being here. We're actually at a really good milestone in the Policy and Implementation Working Group. So it's going to be really important that we get that kind of feedback not just in the session but in the public comment period on the initial recommendations report that I'll talk briefly about.

Let me first of all acknowledged Jay Scott Evans who is our co-chair, a co-chair with me in this. It's been a privilege working with Jay Scott and sharing responsibilities in that regard.

And we also have two co-vice chairs, (Olivier Kwame) and also Michael Graham who have been excellent assets. And the four of us together along with staff have teamed up to lead this effort.

Let me tell you that I'm to go very quickly through these slides because there's no way I can in 30 minutes even cover everything in the report.

So it's going to be important but if you haven't already done so that you look at the recommendations report. Let's go to the next slide please.

And all I'm going to do on this slide is just emphasize the timeframe. You can see that the discussion paper for staff was way back in January 2013 two years ago from now -- a little bit over two years.

And then if we move forward to July 2013 when the council chartered the working group and coming forward to January 2015 when we published our initial recommendations report.

And you can - I won't go any further in that except to say that our target is to publish a final report in June 2015. So that's our goal.

Next slide please. I'm just going to call your attention to items six on this slide. There have been over 40 working group meetings. Most of the time we've been meeting weekly and it's been a good steady process.

And I want to thank and compliment the members of the working group that have worked very cooperatively together throughout this whole process.

Next slide, so there are four recommendations in the initial report. And the first one has to do with the principles that we developed fairly early on in the process.

Next slide please. So it's there, never mind, sorry about that. The - in fact it looks like we jumped ahead a little bit too far. Backup please. There we go. That's the slide I wanted. Okay.

So I'm not going to go through the principles. There are quite a few of them. Note how they're organized in that bottom bullet there. There's an overarching principle that basically has to do with the multi-stakeholder bottom-up process.

And then there are principles that apply specifically to policy and - or excuse, me that apply to either policy and implementation.

There are principles that apply primary to policy and there are those that apply primarily to implementation.

What I want to say on the principles is that I strongly recommend that you go through the principles -- it's a couple pages of the report -- and study those and make sure you're in agreement with them. If you have any comments please submit those. They are critical to what we're recommending in the entire report.

So the first recommendation that the working group is proposing in this initial report is that the principles be adopted by the council, approved by council and approved by the board.

Now this is not a PDP Working Group where we're - things are its binding on anyone but we think that approval of the principles is critical so that as we go forward they will indeed be followed and guide us in dealing with policy and implementation issues.

Next slide please. Recommendation two then is one that encompasses a lot of the report because we're proposing three new processes within the GNSO.

So as you can see in the first bullet and as those of us that have been involved in the new gTLD implementation program especially there were lots of things that came up during the implementation of the new gTLDs that raised, in some cases raised policy questions, implementation questions, et cetera.

Now I want to - I'm going to go through the second bullet I'm going to read it in detail because it's really critical to what the working group is recommending.

And that is to take you back first of all you remember in new gTLDs, the question came up is this policy or is this implementation?

And if it's policy well then can staff just go ahead and implement it and so forth? Those are very controversial issues during the process and one of the reasons why this working group exists.

So let me read this one. Defining such issues as either policy or implementation was not as important as developing standardized mechanisms for addressing such issues smoothly and efficiently regardless of characterization.

And you'll see that embodied in the principles that we're recommending as well.

It's not so important that we decide whether something is policy or implementation because one of our principles is that there's a continuum from the beginning of policy development to the end of implementation where the multi-stakeholder bottom-up process doesn't stop when we finished policy development and then it's no longer multi-stakeholder and bottom-up.

That's a really critical thing based in terms of the recommendations that we're putting forward.

So the working group is recommending three processes. And I'm not going to - I'm going to just very briefly talk about each one.

But if you any - in the report itself if you look at an Annex B there's a nice little chart the kind of shows all three of them together and where they fit.

Let's go to the next slide please. And this is the first one so we call it a GNSO input process. And to be consistent with good ICANN procedure we have an acronym for it and that's the GIP.

Now this one here, this is in Annex C of the report is whenever the GNSO needs to wants to provide nonbinding advice -- it's not binding on the board, it's not binding on contracted parties and so forth -- this Item 3 kind of gives

you a good context here. This would be treated, a GIP output would be treated very similar to the way public comments would be treated.

And an example, a couple of examples -- and you can think of many more -- Item 4 there gives a couple examples -- for example if the GNSO wanted to provide input on the strategic plan or the budget or recommendations from the Accountability and Transparency Review Team. I mean those are just a few examples.

Right now the GNSO does not have a process for that. We've done it in an odd hock - odd hack excuse me, ad hoc manner lots of times on different things. But the idea of this process is to facilitate situations like that. So that is described in detail in Annex C.

Next slide please. Then we have the GNSO Guidance Process or GGP. And this one could be used to provide binding by, binding advice but not result in new contractual obligations to registries and registrars for example.

If you go down to Number 4 you'll see this could be used if the board requested advice from the GNSO Council like they did on the brand registry agreement. Some of you remember that. This is an example where the guidance process could be used.

And then going to the next slide and the third new process we're recommending is an expedited PDP. Now has anybody ever heard of an expedited PDP before?

And we've talked about it for years and never done too much with it. But we are recommending an expedited PDP. And in that regard this could result in new obligations for contracted parties as you'll see in number one there.

But there are two qualifying criteria that we're recommending with regard to the expedited PDP.

You'll see in number two there it has to be - involve a narrowly defined policy issue that was previously scoped.

So it's not just some new policy development effort that we want to do quickly but rather it needs to be one that meets these two criteria.

The second criteria that number three there, notice it says specific policy issues that have been substantially scoped previously.

So we're not starting from scratch. It may have come out of a PDP, another PDP that was addressed or it could be something that could come from a GGP as a guidance process.

But it's not just anything that we want to do quickly but rather things that are pretty well-defined already and fairly narrow in scope so that it is realistic to do them quickly and not compromise the multi-stakeholder process.

So you can see for example there Number 4 if the issue was already scoped an initial report for a possible PDP that was not initiated that might be a case where an expedited PEP could apply or it could be through other projects coming out of a GGP.

So that's a very quick overview of Recommendation 2 which is that there be three new processes. And obviously that would involve some changes in the bylaws and the PDP manual and other GNSO procedure documents. And those are talked about in the report.

Going onto the next slide please, okay I mainly want to talk about the second bullet here. Section 5 of the report outlines some questions that we're requesting input on.

Now for those that aren't - haven't looked at the request for public comments we're doing that in a quite different way than public comments are normally done.

I think there is one working group in the past where some things were done like this but our - the preferred method for giving public comments is through a survey that we provided.

And the questions in Section 5 of the report are all included in that survey for our groups or individuals to provide input on.

Next slide please. The - and I think we've got a couple things out of order here. That's my fault there I think. But the last two recommendations if I can go - let me come back to the slide. Let's go forward as slide please.

Okay. This is these are a little bit out of order here. Three and four are the last two recommendations. The working group debated quite a bit whether we should make an Implementation Review Team mandatory or not on new policy.

We came to the conclusion that it should be mandatory but that there should be flexibility for the GNSO to not have one if the conditions were right. The default position is yes it's mandatory.

And the fourth recommendation is that the principles that I referred to at the beginning and that are found in Annex H of the report should be applied to Implementation Review Teams as well. And a lot of detail on implementation review teams in the report.

Now going back to the previous slide there another thing that was a very useful result in the working group was that the GDD Team worked very closely with us. In fact they've been involved in the working group for I don't know how - a lot of months and they've been very constructive.

But one of the things in the report that's in Annex F as you can see here is a consensus policy implementation framework that staff had developed.

And then we as a working group critiqued it, made suggestions, recommendations. And what's in the report now is the result of that process.

So it would actually be a framework that could be followed in terms of implementing details. And you can see the timeline here. I won't go through that. You can look at it in the report.

Okay skipping ahead to a couple slides to here, very good. Thank you. And this is how to provide input. I commented briefly on this and the first of all the first bullet there gives a link for the initial report you can find.

The request for comments is the second bullet there. and then and you can find all of these on the ICANN Web site on if you look under public comments and go to open comment periods you will find one on the GNSO Implementation, a Policy and Implementation Working Group Report.

The third bullet then is a template, excuse me the third bullet is the survey I referred to earlier. The deadline for responses on that is March 3. And we definitely put it after the Singapore meeting for obvious reasons.

And that will greatly facilitate the working group in terms of analyzing comments, summarizing them, et cetera. All the questions that we specifically ask in the report are contained in the survey.

Now just a comment for those that are going to respond to the survey as a group that creates a little different challenge than usual.

It's one thing if you're filling out a survey for an individual. If you're doing it as a group you obviously need to coordinate with your group to do it.

Now a PDF file of the survey has been provided and is available so that you can use that in going over it with your group.

And we've learned that from other times that surveys were used in GNSO and ICANN work.

Now there is also in Bullet 4 there you'll see there is a template for comments that you're asked to use if you just want to reply with general comments. But please use the template rather than just a free flow comment period.

Now that isn't necessary to fill the template out. If you actually complete the survey every item in the survey has a place for comments. And that would be the ideal place to put your comments when you're going through that.

Last of all then on Wednesday from 3:30 to 5:00 PM local time in the (Hollet) Room we will be having a working group session there. And we'll have more - we'll have an hour and a half there in contrast to the 30 minutes that we have right now.

Now I apologize for going through so quickly but I did that intentionally so that there was a little bit of time for questions.

Jonathan Robinson: Thanks Chuck, very efficient tour of the work and interesting outputs. So questions, complex input for Chuck and the group at this stage?

Stephanie go ahead.

Stephanie Perrin: Thanks very much. That's a great summary Chuck. And I appreciated your remarks from the mic on the previous session on the EWG Report.

I just wondered it seems very fortuitist that we've got this work done right before we have this honking big PDP process. Would you care to comment on how you think this is going to help clarify that (ginormus) task?

Chuck Gomes: Well you're absolutely right and thank you Stephanie for saying that. We do think it's fortuitous with regard to the timing.

Now how long it will take for actually the GNSO to approve it and so forth the timing may not be perfect and ultimately the board approve it.

But regardless of whether it's approved or not I think the principles and even the processes may be very useful.

Now in this case we're dealing with the PDP so the new processes would necessarily apply early on. But they may flow out of it. There may be a need for them as we go through the long PDP on the expert Working Group.

So yes I believe there it's a very opportune time and is something we've needed for quite a while.

Stephanie Perrin: If I may just have a follow-up it seems to me one of the big, big risks on this honking big one is the iterative nature of the process. I mean I can't get it into my head that that's one DDP.

So have we addressed iterative processes adequately in the other working group do you think?

Chuck Gomes: I hope so. But I would love for you to critique what we've done in our recommendations and see if we need to deal with that more.

We talk about the fact the policy development is iterative and we talk even in implementation it's iterative as well. We've seen that over and over again. So please take a look and critique it and suggest ways that we can improve that.

Jonathan Robinson: Thank you. Next is Steve.

Steve DelBianco: Thank you. Steve DelBianco with the BC. Chuck on the slide that showed how you categorize incidents as being either policy or implementation of thought occurred to me as to where something would fit in something that we've endured.

In the new gTLD program one of the implementation steps decided upon by staff and printed in the guidebook was this notion of using independent reviewers and giving them instructions (unintelligible) from policy and then their decisions come back.

In your matrix does that end up being a policy question because of the way the independent experts read the policy or does that become an implementation problem in the sense that the use of independent experts who didn't understand what the hell we were doing here at ICANN created the problem? Where does that fit in?

Chuck Gomes: Well and I wish I had time to go through the principles in detail but I'm going to encourage you to look at the principles...

Steve DelBianco: I will.

Chuck Gomes: ...and even the process of themselves.

You'll see that one of the things we recommend is that regardless of whether something is policy or implementation or whether we can even decide it needs to come back in every case to the policy development body, in this case the GNSO.

And it's not up to staff to decide whether something is policy or implementation. That is less significant than the fact that if there's any doubt at all it needs to come back to the policy development body and get the input from in this case the GNSO.

Steve DelBianco: Got it. And the input might just say look you didn't follow the policy, do it over.

Chuck Gomes: Yes.

Steve DelBianco: Got it.

Chuck Gomes: Yes and of course we do a lot of talking about whether the intent of the policy was followed and so forth.

Again we have a very limited time here to talk about it but look at it and make sure we've done it adequately and if not please submit a comment.

Jonathan Robinson: Edmund?

Edmund Chung: Edmund (unintelligible). I think it looks like a great framework. I just have a couple kind of - trying to get through my mind. I'm sorry I haven't read the report yet.

So in terms of the GGP do I understand it correct how does the - how is that formed? Is the working group, you know, is it formed by a working group or to the council or how is such a let's say a statement or a letter or some form of a document that then can get sent to the board? How is it formed?

And do I understand it correctly for example we've - you have the brand example there but there are many things through the new gTLD process including IDNs, reserve names, you know, a bunch of things.

Would they fit into that and how would that - how do you envision in the future that being made perhaps part of a GGP?

Chuck Gomes: Well first of all if they actually involve policy development with requirements on contracted parties it needs to go through a PDP or if it's something that's been previously sculpt and is fairly narrow it could be (annex) for that PDP. So the GGP would not apply okay?

(GDP) though can provide binding advice on the board. So if it's not in the PDP category including the expedited version then a GGP could work if you want binding advice on the board.

So in that case the - and then this may be going further than what you're really asking. The board if the GNSO Council approved the recommendations of a GGP with at least 2/3 support supermajority the board to overrule that and not implement it would be - would require the same thing. So it's a very similar to a PDP in that regard.

Now with regard to composition the report goes into that issue as well as thresholds for the council to approve a GGP thresholds to approve the recommendations, et cetera. A lot of detail and now in terms of composition may be Marika can help me out there okay?

Marika Koenigs: This is Marika. To a large extent it follows the same, you know, approach as the PDP is also a requirement.

We talk about a GGP team. So I think it's really up to the council to determine is that an open working group, is that a number of council members that do it?

But basically the process is very similar. You need to, you know, there's a requirement to reach out to stakeholder groups, constituencies to ask for input.

There needs to be a preliminary recommendations report that's posted for public comment. So it's, you know, I think people shouldn't mistake that this is, you know, one week and people get this out.

This is a very robust process partly as well to ensure that, you know, whatever is put forward to the board represents, you know, GNSO consensus in the view in the form of, you know, supermajority votes following a rigorous process.

But it follows the same steps but I think it has a bit more flexibility on how would that team look because that could be, you know, a couple of council members or a small committee that work would work through that but it still

has those elements in place of certain requirements for outreach opportunity for community input.

Edmund Chung: So can I follow-up on two things? One is if that's the case then is this - does the working group envision creating a more fleshed out format or is this something that will be kind of on a case by case basis and depending on the issue, you know, how this is formed? This is number one.

The other two number two is given that this is not like a, you know, a fairly short process at least not super short it what is the envision or how does the group envision that, you know, the initiation of which until the end of which and how the board should do or not do certain things in during the process that a GGP is ongoing?

Marika Koenigs: Yes and this is Marika. And I would recommend that you review the reports. And what we have done indeed is actually similar how the PDP looks at PDP manual what the group has also worked that out in detail for the GDP.

So it specifically outlines, you know, what's needed. It needs a request from the, you know, to come to the council from a councilmember that's outlined here. What is the scope of the effort? How should the GGP team look?

So basically it's part of that. It suggests that you be an open working group. It should be a committee of the whole or there are several forms.

So basically it's the council that would decide what form that would take. But it's, you know, a very standardized process in that way. Although the elements could change but it's always a council decision and needs to be defined upfront as part of the scoping document which is what the council would vote on to initiate GGP.

Chuck Gomes: And Edmund I - Chuck again. I can't emphasize enough the importance of all of you and your groups submitting feedback on this because as you can see we've been working on it for a year and a half.

But, you know, when you're close to something you miss things. So we really need the input from the community to see places where we might have missed things, places where we could improve it and make it better. And that would really help us then as we move towards a final report.

Edmund Chung: Thank you, one final question from myself. Actually it's a question for clarification. The survey takes place right parallel to the public comments.

Does the survey also count as a public comment? If we respond to the survey will that be taking into account with the public comments? Is it a replacement? Is - what's the intent of having these two processes in parallel?

Chuck Gomes: I can give a very short answer on that one. Yes, if you complete the survey you have responded to the public comments.

And in fact that's the way we would prefer you do it because it will be very easy for us to make sure we're getting the answers to the questions we've asked. And it'll make very easy to collate results, to compare statements and so forth.

And the survey at the very beginning there, there are three I think it's three or four questions one of which is are you responding as an individual or as a group? And if it's a group you'll identify your group.

So you can respond as an individual or a group. But absolutely if you respond to the survey you will have responded to the public comment period.

Edmund Chung: Thank you. And the second question would be first of all thank you for all the new acronyms that we have to learn now.

These new processes when you say that they would be initiated by the GNSO does that mean the council, the working groups of the GNSO that

have for - prepared work or where would this be situated? I'm sure the report says so but your presentation did not so I just wanted...

Chuck Gomes: Another great question but I have one for you first. What's GIP stand for?

Edmund Chung: That's the GNSO...

Chuck Gomes: I was of course giving you a bad time. Its input process, GNSO input process, but I couldn't help but do that.

The GNSO as the GNSO council as the management of policy development processes we assumed would be the manager of these processes as well.

Volker Greimann: Thank you. Any further questions from the panel? So I would like to close this now.

Jonathan Robinson: Thanks. Just before we close the session so Steve you're capturing - what I would like is if you could capture both the action items and items for the wrap-up session in to different sort of groups.

It feels to me like it's useful to have an action item here on both counselors to potentially fill in the survey and second of all to remind their respective groups of the requirements to or the, you know, what would be desirable to provide input into this process. So if you could capture both of those. Thank you.

Chuck yes.

Chuck Gomes: There we go. In closing first of all two things, number one, would those who have participated in the Policy and Implementation Working Group raise your hands and just look around? And you can see we have several people here.

And there's been a lot more participating than that but thanks a lot to all of you. And what I wanted to say with regard to what you just said Jonathan in

the case of the Registry Stakeholder Group what we've done because this is responding to a survey is a little bit more complicated for a group.

So what we've done we've formed the small team that is developing recommended responses. And then we're going to take those recommended responses back to the full Registry Stakeholder Group and get their buy-in or not and before we actually submit the responses.

Thanks again for the time. I appreciate it and remember we have the meeting on Wednesday afternoon if you want more information. And of course please read the report and respond.

Jonathan Robinson: Thank you Chuck and the rest of the group that worked on this -- nice work. Thanks a lot.

Can we close the recording there and give me an indication one ready to go with the next session? Good to go.