

**ICANN  
Transcription  
New gTLD Subsequent Procedures WG  
Tuesday, 29 August 2017 at 03:00 UTC**

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Michelle DeSmyter: Thanks, (Kristine). Well good morning, good afternoon and good evening to all and welcome to the New gTLD Subsequent Procedures Working Group call on the 29th of August, 2017. In the interest of time there will be no roll call, we have quite a few participants online, attendance will be taken via the Adobe Connect room. So if you are only on the audio bridge today, would you please let yourself be known now? Great, thank you.

Hearing no names, I would like to remind all to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid background noise. With this I will hand the meeting back over to Avri Doria and Jeff Neuman.

Avri Doria: Okay thank you very much. This is Avri Doria. I'll be starting off the meeting so welcome to everybody. I see a note from Kavouss that my voice sounds sleepy, I apologize, I have not been asleep, it's only 11:00 pm here, so I apologize if my voice sounds sleepy.

Our agenda today is basically we'll go through the SOIs, we'll go through the work track updates, through the first four, and then a quick update on what's

happening with Work Track 5. Then we'll be doing the drafting team discussion of the predictability framework and then any other business.

Does anybody have any other business at this point? Okay, I'll ask again when we get to the end of the meeting in case any has come up.

We're here at the SOIs, before I ask about anyone else's, I have a quick one myself. I had, for the last over a year, been doing some research for Donuts, technical and some policy. That contract has ended so I'll be removing that from my SOI. Does anyone else have any statement of interest updates?

Okay, hearing none, just like to remind everyone that if something material changes in your work that has any bearing at all on the work going on in this working group, please be sure to document it in the SOI form and mention it at least one of the meetings.

With that, I'll move on to the work track updates. And I guess I'll go in numerical order again, so though someday I should go in reverse order. Work Track 1, who do we have from it, that would like to speak to that? Let me look, is it Sara? Sara, please.

Sara Bockey: Hi, there. Thank you, Avri. This is Sara Bockey for the record. Yes, for Work Track 1, next week we will be continuing our discussion on the community comment response received. We'll be covering applicant support and hopefully the communications as well. So if you have an interest in either of the topics we welcome you and hope that you will be able to attend. Is everyone able to hear me?

Jeff Neuman: I can...

((Crosstalk))

Avri Doria: I heard you, yes. I was speaking, sorry, and I'd forgotten to unmute myself. So, yes, I heard you and I'd ask did anybody have any questions for you? And if not, thank you. Okay, going onto Work Track 2, we have Robin and we have Karen, so who would like to – oh no, in Work Track 2, sorry, I got my numbers mixed up. Been away for too long. So who do we have from Work Track 2? Thank you, Michael. Please, go ahead.

Michael Hammer: Hello, Avri. Can you all hear me?

Avri Doria: Yes, I can hear you.

Michael Hammer: Oh perfect. Thank you. So for Work Track 2 coming next week on Thursday, we have, yes, Thursday the 7th we will have a meeting at whatever (unintelligible) UTC. And we will be continuing our discussion on the registrant protections. The C2, we'll be reviewing the CC2 comments that we received.

And if we have we time, we'll move on to closed generics as well but this may not come into focus until the following meeting which also – also have a very important announcement, we have – Work Track 2 will be having weekly meetings starting the beginning of September, so the 14th, if we have not yet gotten to closed generics we'll start closed generics on the 14th and continue from there. I believe after closed generics it is terms and conditions. So we very much look forward to discussing these topics with everyone in our weekly meetings from now on, starting next week. Thank you.

Avri Doria: Thank you, Michael. Does anyone have any comments or questions for Work Track 2? Okay, moving onto Work Track 3, and this time, yes, Karen, please, I see your hand. Please go ahead, Karen, I do not hear you.

Karen Day: Hi, can you hear me now?

Avri Doria: Yes, I can. Thank you.

Karen Day: Okay, it helps if you hit the mute button, sorry about that. This is Karen Day for the record. And Work Track 3 will be having its next meeting in a mere 12-hours from now. We will be picking up with our CC2 questions on objections. And after we have just a few more items to touch on with regard to the independent objector, which we have been dealing with for the last few calls, and we hope to finish the rest of the objections section of our questions this week, which will include the questions on GAC advice and dealing with GAC advice and its intersection with the objection process. So I hope to see a lot of you again in a few hours. Thanks.

Avri Doria: Thank you very much, Karen. Are there any questions or comments on Work Track 2 – I mean, Work Track 3, sorry, I'm really messing up my numbers this evening. Are there any comments on Work Track 3? Okay, then we'll move onto Work Track 4, and Cheryl, I see your hand is up, please go ahead.

Cheryl Langdon-Orr: Thank you, Avri. Cheryl Langdon-Orr for the record. And due to the lateness of the hour, Rubens isn't able to speak so I get the job for this call. At our last meeting we discussed registry services and technical questions. We will in fact be continuing that conversation on our meeting which is coming up at 1500 UTC on August the 31st. We're going to be continuing that application evaluation conversation as I just described, and we'll start moving into our non-scored questions, which include registry services, security policy, financial questions and measurable criteria.

Obviously as we always do, we would welcome anyone who would like to join us in Work Track 4 for that meeting. That's it, Avri. Thank you.

Avri Doria: Thank you very much, Cheryl. Does anyone have any comments or questions on Work Track 4? Okay, hearing none, I'll move onto a brief comment on Work Track 5, which hasn't begun yet. Invitations were sent out to the four SO/AC ccNSO, ALAC, GAC and the GNSO. We have had the

ccNSO has responded positively and appointed one of the co-leads for that, and that'll be Annebeth Lange.

And both ALAC and GNSO are working on it, and I have not yet, and as Jeff, if he has any additional comments, I have not yet gotten any comment from GAC on the proposal or on the idea as such since the invitation letter went out. So we'll be reaching out to them. There was a conversation on Work Track 5 in the GNSO Council meeting that was held I guess late last week. And there was a concern there that we maintain Work Track 5 within the framework of a PDP working group, adhering to PDP working group guidelines and such.

And while Jeff and I were listening on the call, we were not empowered to speak on the call but the chairs who had had a discussion with us assured them that we would be maintaining the PDP – to the PDP Working Group Guidelines, and that, you know, would be bringing back any decisions to the full working group as is the practice and the guideline.

So with that, I believe we were trusted to continue our work on Work Track 5. Hoping that we get positive responses from all of the four invited AC SOs, and we'll follow up with more reports. Kavouss, I see your hand. Heather, I see yours. But I do want to bring it just to Jeff first and see if he had anything additional to add before I went to Kavouss.

Jeff Neuman: Thanks. This is Jeff. Just what I put in chat, we have not heard anything yet from the GAC, but understand that they may be discussing it on a leadership call that they have this week.

Avri Doria: Okay. Thank you. Kavouss, please. Go ahead.

Kavouss Arasteh: Yes, yes, good time to everybody. If you have not heard from GAC, doesn't mean that we are silent, we are working on that. Internally we have about to have a leader introducing to you or to the group and we are discussing the

issue and soon you will hear from the GAC and the chair of the GAC engaging in some internal discussions with the leadership of the GAC and whether the GAC member – and we are consulting other groups internally, informally and then we come to you as soon as we have some results.

You might have some concerns, but I am not – also I do provide the concerns it has not yet fully discussed and agreed upon. But there is some concerns about the way how we have to approve the output because the geographic names and the specificity of the governments in terms of responsibilities and so on, so forth, and we don't want to be left in term of minority and majority and we have to be heard properly. And then you will hear from us formally.

This is my personal participant's view as far that concerns is (unintelligible) so we will come back to you with that. Thank you.

Avri Doria: Thank you. Thank you very much, Kavouss, for your personal report. I'm very encouraged by it. And look forward to the discussions that we will have once we have all four of the coleaders together for that so then we can start discussing the form, the format, the modalities of that work track. So thank you very much.

Heather had put a notice in saying that she could sort of amplify and follow up on the comments I made, so Heather, please, the floor is yours.

Heather Forrest: Thank you, Avri, very much. Look, I'm happy to answer any questions but I think you've done an excellent job of summarizing the discussions that Council had. And I won't in any way shape or form, purport to speak on behalf of Council and I suppose I can't necessarily speak on behalf of Council leadership either. But it's easier to try and represent the views of three people than 21.

What I want to do, Avri, is merge, perhaps your comment about Council leaderships' support for PDP working methods and so on and my question,

which I raised in the chat, which is to say that we did discuss at some length the issue of the GNSO coleader in Council leadership and then again with Jeff and Avri. And again, in the spirit of this thing as a PDP, and we want to treat it as any other PDP, while the suggestion had been raised, do we need to employ the Standing Selection Committee to select the GNSO coleader?

We said no, that was certainly not something that would be done for any other PDP; that the appointment of leaders of work tracks should happen in exactly the same way as we had in relation to other work track leader selection, so in other words, done by the PDP. And I wonder if Jeff or Avri please, could speak to how are we in terms of making progress towards having that happen?

And I raise that to say, you know, I know that other groups are probably looking to us for leadership given that this is a PDP in terms of appointing a coleader, I think it's fantastic that it's fantastic that the ccNSO did so – did so, so quickly, so efficiently and within the deadline. So how are we in terms of – I know we've not met our own deadline, but how soon can we work on having a GNSO leader in place because I think that would be very helpful. Thank you.

Avri Doria: Okay, thank you. This is Avri. And then I'll defer to – or I'll hand it over to Jeff for further comment. But since that meeting there have been a few conversations about possible leaders following the patterns that the GNSO uses, which as I say, are just guidelines, and therefore are invitations to the SOs ACs, to actually put someone forward. But we're quite happy to do the selection for the GNSO using the standard method of the cochairs working it out and then making sure that it's okay with the group. So you know, I don't know if we have more to add to it at that point.

Jeff, did you want to add anything to what I just said?

Jeff Neuman: Yes, this is Jeff. The only thing I would say is that was – the Council meeting was Thursday, and since that point in time we're going to – we haven't had a chance, Avri and I and the rest of the leadership, to talk about that selection. To date we've only had one person that was referred to us I guess at the GNSO Council has received one person that was interested but we have not generally, up until now, made it known that anyone from the GNSO that would like to be considered to forward their name.

So I think what we'll try to do, Avri and I will try to send out something this week seeing if there was anyone from the GNSO community that wanted to volunteer directly to us since we have not been referred any candidates from the GNSO Council directly.

Avri Doria: Okay thank you. Heather, I see your hand is still up. Did you want to make a further comment?

Heather Forrest: My apologies, Avri, old hand.

Avri Doria: Okay, thank you. Annebeth, please.

Annebeth Lange: Hello, everyone. Can you hear me?

Avri Doria: Yes, I can.

Annebeth Lange: Good. I would like to say that even if we – the ccNSO has appointed me, that doesn't mean that we also have some concern about the procedures. We think it's a very good move forward to have the (unintelligible) to discuss geographic names, however, we know that what will come out of this work track will be referred to the full GNSO PDP and also we have a concern that even if we give our – we work for a long time, give our advice and then in the end we will be overruled by the GNSO anyway.



So that was some of the concerns that was taken to the floor in Johannesburg, then we discussed whether it should be a working group, a cross community working group or a work track and GNSO PDP, so just be aware that this might be a problem. This is my personal view now. But I think that we really have to be aware that the other groups or the other participants, the three other parts, will not be there as a kind of an alibi to say that the other group they agree, so they just go on and overrule what we really think about it. Thank you.

Avri Doria: Okay, thank you. If I can comment before I go on to Kavouss, basically I don't think there is a practice of overruling either in GNSO working groups or in the GNSO Council, but a question of referring questions, issues and concerns back to a subgroup for responses. In terms of using this group as an alibi to basically force an issue I don't think that that can happen and even if there was at the end of all open discussion, fulsome discussions, arrival at consensus or an attempt to arrive at consensus and a failure to do so, any report would have to mention not only the prevailing consensus or support idea, but any of the other minority positions that were taken.

So the whole notion that this would be used as an alibi to somehow force a set of decisions on the community and say that we had community buy-in, when we didn't, would be counter to the guidelines for a GNSO PDP. By opening up the GNSO PDP to the whole community, it is opened up to their ideas, and to the full inclusion of those communities in the building of the consensus or the failure to build it, and the documentation of where we're at.

So I hope that, you know, the sort of feeling that we're just using this as a smokescreen, my words, or an alibi, your words, can be set aside. We will be discussing with the four coleaders how best to use the meeting. The one thing that is not in Working Group Guidelines, is the notion of voting, though there is polling and such when it is strictly defined as not a vote. So that would be unlikely to be part of what could be accepted.

But any other procedures, processes, recruitment, inclusion that the coleaders come up with to make this a fair and open and equal discussion can certainly be included. I've got Kavouss and then Jeff. Kavouss, please.

Kavouss Arasteh: (Unintelligible) maybe I have missed something, but the duty or term of reference or responsibility of this coleader are defined somewhere or will we define? This is point 1, I just ask for clarification. I have no problem. And then the question would we have more than one coleader from GNSO? Which I don't see still, just a (unintelligible). And the third thing is just a suggestion for these coleaders that internally they may think of having a substitute in case that they may not be available for one or other reason, and we don't want to lose track and contact with the group because of non availability of a coleader for those reasons it might be happen for everybody. These are few comments that I would like to raise. Thank you.

Avri Doria: Okay thank you. I think we'll pass especially your second comment on to the coleaders when we've got the group and have them include that question in their establishment of the group. Jeff, let me pass to you both the remaining question from Kavouss and then of course to your comments, please.

Jeff Neuman: Sure. This is Jeff Neuman. I think the only thing I really wanted to add, and was hoping not to spend so much time on this subject on the call, is and Jim Prendergast almost summed it up in his comments, you know, just the status of where we are, we're still waiting for leaders to be chosen from the ALAC, the GAC and the GNSO. We'll get that underway and the first item of business will be to run a draft terms of reference by them. The goal is to make everyone as comfortable as we can within the GNSO framework for the multistakeholder model to help provide a – provide recommendations on the geographic issue – geographic names issue.

There's a lot of speculation or there can be a lot of speculation. I ask that everybody wait until we come back with a plan to go forward to get your input. So that's all I really wanted to add on this, just to – and to hopefully move

onto the next subject. I don't know if anyone still had any additional comments?

Avri Doria: Yes, thank you. This is Avri. The reason I wanted to put it up is people have had questions and so since we're doing work tracks I figured we should at least touch on it. Kavouss, please.

Kavouss Arasteh: Yes, as you remember, I was one of the supporter of this Work Track 5, the concentrations of discussion on geographic names is one area. However we need to possibly ensure equal footing for these coleaders, there should be nowhere I would say sorry, in (unintelligible) from one group to the other, they should have equal footing to address this almost sensitive issue. So I would like to be also included in the record of this meeting, have equal footing for the four representatives of – or coleaders of the full group that we have invited. Thank you.

Avri Doria: Okay thank you, Kavouss. That will be noted in the minutes here. And I mean, in the recording of the call. But, yes, I would also like to say that it is Jeff and my full intention that they be peers on an equal footing, something that, you know, is done pretty much only in the GNSO as our part of the policy where we do have the leeway to put subgroup members from different parts of the organization on an equal footing, something we'd love to see become more popular, but we can do that within the GNSO and Jeff and I have the full intention of doing so.

So with that I'd like to bring this discussion to a close unless there's a remaining burning comment? I'm sure we'll talk about this again as the process goes forward. Thank you for your comments today on it.

With that I'll close the work track updates section and move onto the new gTLD framework of predictability. And I'd like to pass the mic over to Jeff to start us on this discussion. Please, Jeff.

Jeff Neuman: Okay. Thanks, Avri. This is Jeff Neuman for the transcript. So for those of you that recall, we had started talking about this topic – well we last talked about this topic a few weeks ago at our last meeting. And in taking a step back from the discussions that happened during the meeting, there seemed to be some confusion as to what was meant and why we were drafting this predictability framework and where it came from and you know, so I thought we'd take a couple minutes to talk a little bit about the background and then go into some specific examples. And then pretty much throw out to everyone on this call to just provide input on how you think certain situations should be handled going forward if questions like this were to come up.

The whole reason we're having this predictability framework is that the community recognized in the multiple reviews that have already occurred, plus in community comment 2 and feedback from many different groups that there were a number of different issues that were not necessarily foreseen when the original GNSO policy came out in 2008.

We've addressed, as a GNSO community, we've addressed some types of issues with our consensus policy implementation framework, which was the result of the Policy and Implementation Working Group policy development process. So some policy changes and how those are to be made, will in the future get addressed through that process.

But there still may be a category of issues that may arise during the new gTLD process for which ICANN and the community may believe that there should be input on these issues by the community. And I know it sounds a little – it's very abstract, which is why I want to bring in some examples to think about – to think about how we would address these points.

So in looking back at history, when we – the GNSO community – had by consensus, approved the final GNSO policy in 2007, which was approved by the Board in 2008, it was understood by the GNSO community that ICANN

staff would take the lead on implementing the GNSO program through what was later called the Application Guidebook.

Again, there were a number of issues that either because we just didn't anticipate them or they just arose subsequent to when the GNSO policy, there were some issues that in fact ICANN staff did seek community comment on or at least parts of the community comment on, and there are other aspects in which they made unilateral decision based on their best thinking at the time.

And so what we want to do now is to come up with different frameworks on how we would resolve the issues. Obviously the work of this policy development process working group is to address most of the known – most if not all of the known issues that we've seen come out – policy issues that have come out of the 2012 round. So hopefully the number of issues going forward are not going to be as great.

The second type of issues that we may encounter are issues that arise after we, this policy development process working group, propose the new or changed policies to the Council. The Council approves them and creates an implementation review team to work with GDD staff on implementing certain issues. For issues that arise, at that point in time, that were unforeseen, we believe that the IRT along with GDD and of course where appropriate, public comment would come in to resolve those issues.

However, the question remains what happens when there are – or if there are issues that arise once the new gTLD program launches, or the next application window launches? So, as an example, after the – so the new gTLD program for 2012 actually launched a communications period in 2011. That communications period was started by the release of the final Applicant Guidebook, at least it was thought that that would be the final Applicant Guidebook at the time. And so it was thought that implementation work at that point in time was done.

However, as we all know, many issues arose both before applications were even accepted, which was in the April, May timeframe of 2012, and even after applications were accepted and in some cases after some contracts were actually signed. Now, it is for this last subset of issues that we are trying to figure out what the framework would be to resolve these unknown issues. So in other words, if we go through a set of examples there may be certain issues that arise that really only impact applicants, things like the glitch, the technical glitch that occurred with the application processing system. That primarily impacted applicants.

Issues of the change of the form of the contract, that was an issue which arose even after the applications were revealed, but prior to ICANN signing any agreements to delegate new TLDs. That's another example of the types of issues that arose that we had to consider. And of course there was the whole name collision issues which although originally brought up in 2010, wasn't really addressed and not really brought to the community attention until 2012, 2013 timeframe.

So what we found in the last process – or the last – in the 2012 round, was that there was no predictable mechanism to address any of these concerns. That resulted in a whole host of delays for applicants uncertainty for applicants as to when, if ever, their domain name applications would be evaluated, approved and/or delegated and certainly affected a number of other aspects of the program.

Now I'm looking at the comments here and I think we're still talking about the Work Track 5 issues. If I could ask – although I appreciate the comments, if I could ask that we try to get everyone to turn to the current topic? It's not that I don't want comments on this, and in fact if you want to send an email later on, on the topic of Work Track 5 that would be great, but I'd really love to see if we can move on from that just for now.

So I see Kavouss with his hand raised so, Kavouss, I'm hoping you're going to start with this subject. So, Kavouss, please.

Kavouss Arasteh: Yes, Jeff, I put something in the chat that I will (unintelligible) words, predictability and the other (unintelligible). I don't think that we could talk about the stability – stability means (unintelligible), no change at all. We don't know whether we could design something which is stable. Maybe (unintelligible) stability, that is correct, instead of a predictability, some predictability. It difficult to predict, we are not fortune teller. That we could have some predictability.

However, what we discussing here is depending on the approach we will take whether we (unintelligible) first come first serve, whether we take open window for some time, close it, go ahead for processing and then open it so (unintelligible) have their own predictability and their own stability and so on or possibly open with total first come first serve. So there are dependents on that approach as well. We should just take that into account when discussing this predictability and stability.

Once (unintelligible) nothing is stable, totally, because that – in this process that would not respond (unintelligible) and requirements that may arise depending on the time. So we should have a sort of I would say trial and error or corrections correctly (unintelligible) in order to respond to that (unintelligible). Thank you.

Jeff Neuman: Yes, thanks, Kavouss. I think the important point as you bring out is that we're never going to know, there's no way we could predict every single issue that's going to come up. If we have some sort of framework to deal with those issues that's at least a positive step into ensuring some form of predictability, reliability, and fairness as well for applicants and for the community.

And as Jim points out, there was also – sorry, Jim Prendergast put into chat there were also changes to the program as a result of GAC advice. And so

that could in the future happen as well with new GAC advice on new circumstances, you know, what are the – what's the appropriate mechanism to introduce those types of changes into the system?

So going for – sorry, Michael's got a question, "Jeff, question for clarity, predictability in our discussion is limited to the process itself and not necessarily the outcome as in the delay in some TLDs to launch/use their TLD? Correct?"

Correct, the only thing we can work on now at this point is the predictability of the process that we use in order to address issues that arise. There's – we could talk as well about a threshold of what the issues need to reach in order to result in changes, but at this point we're really just working on predictability in the process, as you say, the process itself.

So I want everyone to kind of take their minds back to 2011 and I sent this around in an email, and this was an email in my personal capacity, because there were some opinions that were in there, but I'd like to just talk about some of the issues that arose and how we would see resolving those issues if they were not previously resolved. So this is a little bit of suspension of belief here because some of these issues have actually been resolved through different mechanisms.

But I'd like to – I'd like us to think about these issues as if it was the first time it arose, and if we could go back in time, what would have been the optimal process to address this?

So the first one, and again I'm not focusing on the document at this point, I just – the document is up there because it's something we're working on, but I think if we have this discussion on specific examples it may help us with wording changes for the document.



So one of the first examples that I brought up was to imagine a scenario where there was some sort of operational flaw in the application system for which applicants are using to enter their information. And so either it's a security breach or it's just some issue where the system just is not working as it was intended or there's some glitch.

Now in 2012, the way this was handled was ICANN staff put up a page on their Website that says, "We apologize for any inconvenience this has caused, we're going to try to figure it out. Once we figure it out we'll let you know." And, you know, post status updates every week. Is this the optimal process for something like this going forward? What could have been done? What should have been done? And again I don't want to address things about the application system itself to solve that like having a better application system, but what would be a way for ICANN to resolve these types of issues?

So Maxim said there should have been an RFP initially for the system in the first place. Okay, assuming they did an RFP, assuming it was the perfect process and the perfect vendor was chosen, and an issue arose with the implementation what are your thoughts? Heather, please.

Heather Forrest: Thanks, Jeff. Heather Forrest. I think (unintelligible).

Jeff Neuman: Heather, I'm not hearing you, I'm not sure if...

((Crosstalk))

Heather Forrest:....my phone on mute, I'm so sorry.

Jeff Neuman: That's okay, you're good now.

Heather Forrest: Can you hear me now?

Jeff Neuman: Yes, great.

Heather Forrest: I have what sounded like a wonderful thing to say and I sadly said it only to myself. So my point was how do we go about appointing the party that's going to manage the thing? We need more transparency in the process in terms of that party's SLAs. I think one of the real disappointments of that glitch, aside from the glitch itself, was the fact that we had absolutely no optics into a timeline, we had no, you know, applicants were really just left waiting for an answer. And I think to the extent that we can improve that with clear transparent SLAs that the community has some input to that could be rather helpful. Thank you.

Jeff Neuman: Okay, thanks, Heather. I think that's a good comment that would certainly more transparency certainly would lead to better predictability and happiness amongst the applicants. And to be – I think as issues arose with the application system and things beyond, I think ICANN did have some more transparency. I will note that there was certainly more transparency about the security breach that happened later on than there was on the initial glitch so I think ICANN may have hopefully learned that lesson.

But let me ask the question a little bit differently, so if as a result of this flaw ICANN were to have to change the way that the application process would have to work, is this the type of issues – so let's say instead of using a homemade system, ICANN found that it now had to take a two month delay and bring in a third party new software vendor to do a new application process through a different mechanism, is this something that's purely implementation left to ICANN staff? Is this something the community does or does not care about?

And it's fine to not care about it as a community, it's fine, as long as we kind of delineate this is the type of situation we foresee being for ICANN staff to manage, this is not something that we expect the community to weigh in on. And I'm going to have different examples, some of which will be I think much

– many more people think that the community should be involved, but others may not. So I'm trying to kind of go from the whole spectrum.

So we have some comments, let's see, going back here on the chat. We would need to know – okay so more about transparency. We need to know the vendor's timeframe for fixing it. Then there's a comment from Anne saying that "The big issue here is who should determine whether an issue involves policy or not? I think the IRT should determine – I don't necessarily buy the notion that staff or some informal discussion can determine whether or not policy issues are involved. Current draft of predictability framework says staff will collaborate with community. Don't know what that means in terms of decision making."

Heather says, "@Jeff, one of the factors is the stress on the system. Having a round or window only open for a brief period of time with the definite closing day makes this more of an issue." Kavouss agrees with Greg. I must have missed Greg's comment. Sorry. Greg's comment was probably higher up. Let me go back to Greg's – "Seems like the process created by the Policy and Implementation Working Group should be applied." Okay.

Jim says, "I wouldn't say that they don't care about it, ensuring the application process is secure and fair is critical to trusting the program." Kavouss says, "If an issue came up where ICANN had to change the application process, is this purely implementation? Is it something community should weigh in on?" Fully agree with that.

Okay, so I want to, again, take us back to – I really want to just kind of go over different types of scenarios. So Anne brings up the point of the IRT and the Policy and Implementation Working Group. Now unless I'm misunderstanding, and I kind of went back and talked to some people about this, my understanding is that an IRT comes into place at the time in which issues are – either to initially address issues that we know need to be addressed for implementing a GNSO policy, prior to the Board or even after

the Board adopts the policy, or where issue come up later on where they certainly arise to a policy – or an implementation issue based out of a GNSO policy.

What I'm specifically asking about here, accepting that that process and accepting all of that is what happens if issues arise once the program is actually launched? And I do not believe that – and maybe I'm wrong so I could easily be wrong so please disagree with me if you disagree, it was my belief in reading the outcome that not all issues that arise after the program launches would be within the scope of a GNSO implementation review team, that there could be certain issues that arise, and we'll go through again some examples, that do not have to go back to the full GNSO IRT in order to get resolution or in order to provide input to ICANN to get resolution.

So going back to the chat, Heather says, "Looks like we have two different conversations here in the chat, one on policy versus implementation, the other one on the system." Anne says, "@Heather, the Policy and Implementation Working Group determined that it is not valuable to try and decide whether or not an issue is policy or implementation, it's only important to determine how the policymaker decides to treat the topic whether or not it involves policy."

Michael says, "Depends on the issue," I agree with that, Michael, and hopefully one of the things we can do is develop criteria so that we can have some more predictability as to which process we would go down depending on what the issue is. And then Heather says, "I agree with Jeff but it's not clear to me how we determine whether something goes back to the IRT or not."

Greg, please.

Greg Shatan: Yes, this is Greg Shatan for the record. I thought I'd let you give your voice a rest especially as it's using some of the time to read what other people are

writing so I figured I'd just talk. It seems to me presumptively that any issue that comes up even once the program is launched where the implementation is not working is an implementation issue and should go back to the IRT. The idea that some of these are not implementation problems and somehow trying to create yet another little slice of the process that's somehow beyond implementation to at the very least I would say it's – I find it to be kind of an extremely disfavored slice and one that should be looked at narrowly.

And if the idea is to disenfranchise certain parts of the multistakeholder community that would be involved in an IRT, that troubles me. I don't want to, you know, add to the paranoia that's already been, you know, a feature of this call, and I hate to sound like that. But at the same time, I'm not sure what this alternate method of dealing with implementation problems that occur after, you know, the ship is in the ocean, should be dealing with.

I mean, clearly you want something that's more nimble if that's the issue, if IRTs are somehow perceived as not nimble enough, but aside from that, I think you know, we need to make sure that, you know, at core we are dealing with this as part of the overall policy and implementation process, not as if there's some sort of third task that comes after implementation. Thank you.

Jeff Neuman: Yes, thanks Greg. And going back and kind of thinking about it and what you said, perhaps using the word "implementation" for both things is causing confusion. Perhaps, and I do remember suggesting this when the implementation group had started way back when, was using a separate term like execution, execution of the program. When I think of policy and implementation, that working group, it's really the implementation referred to there is implementing the GNSO policy.

The implementation of the GNSO policy for example, could be having a trusted, third party system that's transparent with transparency rules built into it to receive applications, right? That could be the GNSO policy and the

implementation of it, and the implementation could also be having an RFP to determine that vendor, etcetera.

But now that vendor has launched, that vendor has already done the work, and we find that there is an execution issue, I'll call it an execution issue, like information that shouldn't have been disclosed is being disclosed to parties that shouldn't have gotten it. Or the application system actually doesn't allow you to fill out Question 46 with free form text like it was supposed to. Okay, those are execution issues.

And what we're trying to do, I think as you kind of said, was we're trying to provide a mechanism for input to ICANN staff but more – and I'll use the word you used, Greg – more nimble than going to a full IRT made up of one representative from each, you know, constituency, which may or may not be impacted by the type of issue. I think what I'm trying to see is is there a category of issues that arise that may be more considered execution for which ICANN could follow a predictable process that doesn't necessitate having to go to a full implementation review team?

So, putting that out there and now catching up back on the comments. Rubens says, "I don't think we can avoid an IRT since this is a PDP working group." Just to address that, Rubens, I'm not trying to avoid the IRT; my assumption is that the IRT has already done its work and that now we are talking about execution type issues.

Kavouss says – oh, I guess there was some background noise. Anne says, "I've commented that the IRT should be a standing to be consulted whenever an issue arises." Okay, Anne, thanks. Let me – that's a good – let me read the other comments then I'll come back to that one. Or maybe you want to address it some more, because I see your hand raised.

So Greg says that "Trying to say some of these are not implementation issues is causing confusion. Just as implementation problems raised, policy

issues, execution problems raise implementation issues.” Kavouss says, “I have difficulties with your new term, execution versus implementation.” Greg says, “Maybe we need an implementation and execution working group.”

Okay, Anne, actually I was going to – you just lowered your hand but I wanted to, yes, turn it over to you. Please, go ahead.

Anne Aikman-Scalèse: Yes, thank you, Jeff. This is Anne. Actually I’m having a few connectivity problems so I apologize about that. But I know I’ve been pretty vocal on the list about this. I think that I need to try to understand better why you think that it’s possible to isolate issues which you characterize as merely execution.

And, you know, I guess background, we all come from different backgrounds so you know, as a very active member of Policy and Implementation Working Group, I can tell you that what we did, of course, was we took several of these issues that arose in 2012 and that were, you know, sort of late breaking issues and looked at how they were resolved and you know, what was good about the resolution, what was bad about the resolution and could we somehow characterize these issues as either policy or implementation.

And I feel as though, you know, it really isn’t clear – the distinction that you’re trying to make because I think we get into the same problems even though we use the word “execution” but still whether you view it as execution or not as execution depends on which side of the controversial issue that you fall into. So I mean, we spent so much time studying all the case studies of quote unquote, you know, implementation or was it policy and determine that that is not a useful distinction. And I don’t – and that’s why we came up with all of the remedies that we came up with that essentially say well hey, you know, IRT has to determine whether they think it’s policy or implementation.

And I’m afraid we’ve fallen into the same trap here of well, you know, who really should make a determination of whether it’s execution or

implementation? And the language of the predictability framework is very troubling for me because it says that staff will, quote unquote, collaborate with the community. We don't really know what that means, how it moves decision making forward, what the actual procedure is because collaborate with the community is not a definition.

And, you know, some of the issues that you talked about as obviously examples or execution were things like, you know, changes in the registry agreement. I'm really struggling to understand you know, when you bring up certain topics why it's really clear to you that, you know, for example name collision is an execution issue. That's a policy issue. I'm sorry, I'm going on and on.

Jeff Neuman: Oh no, no.

Anne Aikman-Scalese: I'll shut up now.

Jeff Neuman: All right, thanks Anne. Anne, so a couple things on that, Anne. I posted that in my own personal capacity as my own belief but it's not as the chair and it was thrown out there to just provide one potential side of that issue. Was not – I was not expecting everyone to agree with how I characterized some of those issues. It was really just to start a process of getting people talking about it. So the fact that you don't agree with the characterization is totally fine and probably right in a lot of cases. So it was just too really get the discussion started.

But I do want to address something you had said and then also mix it was something Rubens said on the chat which I think is also pretty helpful. So Anne in your comment you talked about a standing panel whether we still call that an IRT or whatever we call that and Rubens says the type of issues you mentioned sound similar to the IANA Customer Standing Committee to me. Perhaps we can recommend something in that direction.



The new gTLD applicant group and BRG both made interesting interactions with staff during the program itself on some of these issues. So I'm going to go to Kavouss but if people could give their thoughts on what Rubens has said and Anne whether we - the reason I'm not using the term IRT is that in my mind an IRT has a definitive beginning and an end once it handles all of the issues that it is supposed to address.

So I've been using terms like standing committee or something else to help determine whether this is something that should go back to the GNSO or another mechanism of dealing with it. And I know Kavouss has an issue with using terms as execution which I will try to avoid but I'm trying to come up with ways to make a distinction between different types of issues, so Kavouss please.

Kavouss Arasteh: Yes, two comments. One I see discussions in the chat some people saying that this is an implementation issue and the other say this is a policy issue. This is something that we have in ICANN working groups many (unintelligible) and that now it is a policy the other say no it is an implementation. That is something we should really not do because there is such confusion.

The other I think as I suggested in the chat if we can we should avoid the use of executions because it's (subsidiary) or prone to the implementation. Let's amend these two terms policy and implementation of policy, execution I don't understand and that may cause some difficulty in processing the situation. So if you can avoid that it would be much better. Thank you.

Jeff Neuman: Thanks Kavouss. It's always difficult when -- because depending on how much you care about an issue or whether you believe it's policy implementation that's the way you're going to classify it. So I'm wondering, so Rubens now says -- and I know Rubens may not be in an area where he can talk -- so he's saying if the CSC doesn't have a say in preventing a matter to

be discussed in IRT then when – to discuss what is execution - we don't have to discuss what's execution what's implementation.

There it is, okay sorry Rubens. I got it. So what you're saying is if we set up a kind of new gTLD or gTLD standing panel that would assist staff or work with staff to determine whether this is an issue that needs to go back to an IRT or even to the GNSO because it could be a purely policy issue right, is that something that we can try to work on? Is setting up some sort of standing committee to assist staff when issues arise to help determine whether it needs to go back to an IRT, needs to go back to the full GNSO because it's pure policy or whether it is I don't know what word to use because it's always got people have issues or whether it's some form of execution sorry that perhaps going to some experts on that subject area may resolve the issue.

Avri says if we decide to use execution we will obviously need to define it. I suggest we try to base our just discrimination between the two based on the analysis done by the GNSO and published as a report. Kavouss says, yes Kavouss. I'm assuming that's too Avri. Avri then says and as Anne said it determined that the two were never completely disentangled though at the beginning of a project it was mostly policy and at the end it was mostly implementation.

And Greg says, "How would the standing committee differ from the IRT?" And that's a good question Greg. And I think, well again I see an IRT as a creation of something from the GNSO itself in order to resolve certain issues that are presented to it, it completes its work and then end its work as an IRT. I don't think there is a concept of a standing IRT.

The other thing is that potentially if you were to set up a standing a customer standing type committee it may be comprised of other members of the community other than GNSO constituencies and volunteers. In other words it could be for example perhaps there's a data protection person that's on the customer standing committee or whatever we want to call it or perhaps

there's some other experts that could be permanent members of the standing committee that would provide a different type of assistance than a - out of the GNSO community.

So that Rubens says, "Greg usually less members with roles representing different parties. In IANA they are gTLD registries, non-registries, GNSOs, ccTLDs, IRRs protocols." Kavouss says, "Jeff as you suggested we need to give a hand to ICANN staff in those circumstances." I - Kavouss I agree with that notion. And actually staff has asked us or told us on several occasions even (Trang) has said in the comments that or in some of her interventions in previous calls that staff was really left to handle these issues on their own and that sometimes they did want to consult with experts or other community members but didn't have a mechanism to do that. And they I think they're looking for us to recommend a mechanism by which they could do that.  
Greg...

Avri Doria: Greg has his hand up.

Jeff Neuman: Greg, yes sorry.

Greg Shatan: Thanks, Greg Shatan for the record. I think turning this into, I'm very concerned about the turn of this conversation. As a member of the IANA Cross Community Working Group I was part of the group that created the Customer Standing Committee, spent quite a bit of time on less than some but more than most. It was really created for a very specific reason that IANA is viewed as a real technical aspect of ICANNs overall remit where the customers concerns those who deal directly with the IANA function really have a kind of premium position in terms of how they – how it operates. And that there for that particular purpose the idea of a customer weighted group made sense.

Backfilling that into the policy and implementation and post implementation process I think is a bad idea. And I think it gets us away from multi-

stakeholder governance and toward being a self-regulatory body by which I mean those who are involved in the, you know, basically those who are the customers start to become the regulators of the organization as a - and those who are not the customers go do macramé or something.

And think that is antithetical to the process and counter to the overall direction things have been going in for quite some time that clearly leaving staff to their own devices especially when they don't want to be is also something we've been getting away from but trying to keep it in the hands of the so-called customers to me seems like a troubling development. Hopefully this is a - obviously we're just talking about possibilities, and hypotheticals and theories here at the moment about the way things should go.

An IRT, you know, tends to be a balanced organization the CSC is by definition an imbalanced organization. We've created one imbalanced organization for one particular case. I think the general case demands continuing with balanced organizations if there are ways to make an ERT more nimble than an IRT we can look into them but I think this is heading down a road that we should reconsider and return from. Thank you.

Jeff Neuman: Yes, thanks Greg. Steve has his hand raised and then I'll jump in. Steve?

Steve Chan: Thanks Jeff, this is Steve Chan from staff. And I just want to touch on the point that (Trang) just raised in the chat. And so there's - we're looking at a couple components. One of the things that she just raised is the time component. I think that can probably get drawn out better in some (unintelligible).

So I think one of the takeaways we can take from this meeting is that distinction between the different phases of work can be illustrated with probably a relatively simple graphic that shows the policy development phase which is where we are now versus the consensus policy implementation framework elements and then the things that we're trying to distinguish now

which could be that word that Jeff's trying not to use execution or what the other word (Trang) just used operations based. So I think hopefully some of this confusion can be alleviated with a relatively simple graphic that staff can develop a draft of after this call. Thanks.

Jeff Neuman: Yes, thanks Steve. I think a graphic would be really good. And so we'll have that up definitely for the next well I think we should send it around and then get some discussion on email if we could. I would hate to have to wait until the next call to get some good discussion because I think we've had some good discussion.

Greg, if I could turn the question on to you then. In the email I sent a few weeks ago I used an example of what if ICANN wants to and they actually did this change the criteria used for pre-delegation testing sorry not the criteria change the actual mechanism by which they tested which had an impact on pre-delegation testing.

So for example I think midway through they had already done a bunch of PDTs post delegation, sorry Pre-Delegation Testing and - on IDNs, Internationalized Domain Names using a specific set of language or without using a specific set of language tables. And then midway through it decided that a better way to do that would be by the use of certain language tables.

Again still achieving the same policy, still achieving and measuring the same criteria used by the GNSO but changing the way in which they themselves had total discretion over deciding the initial testing that they just wanted to change it. Something like that could be very technical but could disproportionately impact obviously those that are seeking to be delegated. It may and in this case had no impact on the policy really didn't have an impact on implementation of the policy because implementation was you need to devise a reliable testing mechanism in order to ensure that the registry meets those criteria but really involved an operational issue. So to turn that back

around to you Greg, would it be your recommendation that, that would still have to go back to a GNSO, IRT as the only way to handle that issue?

Greg Shatan: This is Greg Shatan. I guess one question I have is how was the original Post Delegation Testing protocol developed and did the IRT participate in it at that time if there was an IRT or would it have if there wasn't one because if they participated in it the first time around it should go back to them the second time? And if the effect is one that creates a kind of difference in implementation and that has enough then I think as opposed to it just being kind of some kind of a wash then you - I think it goes back to an IRT. There's obviously some judgment about whether something is near execution. But I think in a sense the answer is it's kind of near execution and merely operational when nobody gives a shit. And if somebody cares about the difference between one or the other and feels that it has, you know, creates a different outcome then I think at the very least you have is an implementation issue at that point. Thanks.

Jeff Neuman: Okay, thanks Greg. So part of that I want to kind of question and then see if there's any other input. You said it's merely execution if no one gives a -- I'm not going to repeat the language -- if no one cares. But I would turn back to you and say but applicants care because they and backend registry service providers care because they designed their system in order to meet a certain set of requirements that the PDP provider came out with initially, you know, it designed its system. So, you know, maybe, you know, the Intellectual Property Constituency, the Business Constituency, the Non-Commercial Stakeholder Group, the ALAC maybe those groups don't care because (unintelligible) involved policy but I could tell you that applicants do care and did care a lot when those changes.

And that's what I'm trying to address is that. And I'll assume for your example because you threw it back to me no the IRT did not have let's say, the IRT did not determine the exact testing procedures that would be used. That was something that was in the guidebook determined by ICANN staff or even it

wasn't in the guidebook it was released as subsequent notes actually it wasn't in the guidebook it was released as subsequent notes by the testing provider.

I'll go back to you Greg. I know we're kind of long on this subject but as Rubens says, "the applicants care, the registries care, the registry service providers care, the rest of the community maybe not so much." But that's what I'm looking for is a way to resolve those issues. Back to Greg I think your hand is back up and then Avri.

Greg Shatan: Yes, just briefly I think if you met my test because people cared. But the whole point of multi-stakeholder governance is not only to put the governance in the hands of only the people who kind of are closest to the issue and who care about it, you know, for business purposes. If that's all this was then this would be a different type of organization.

And the whole point of policy development and obviously the applicants care about it more than anybody else in the sense about the whole process both of policy, and the implementation, and the execution, and the operation and the whole thing. That's not the test. I think problems arise when only those who are kind of – have a vested interest in the outcome run the decision-making process for that outcome. And I think the essence of multi-stakeholder governance in its fullest iteration is to make sure that, that doesn't happen. Thanks.

Jeff Neuman: Okay, thanks Greg. So your review if I could just summarize would be if anyone cares about an issue then it should automatically go back to a GNSO IRT or if IRT is not the model because an IRT usually has a concrete beginning, middle and end maybe it's an IRT like standing committee or something that basically goes back to an IRT if it's - if anyone cares about an issue. I'll go to Avri.

Avri Doria: Thank you, Avri speaking. I wanted to one of the things that Greg said was, was there an IRT at the time of the AGB? And I think Greg was also in the group that created the notion of IRT and very much that the whole process that created the IRT and the new mechanisms within the GNSO came as a result of many of the issues that had been seen with the implementation and operationalization of policy in that.

I guess I wonder indeed whether an IRT has a specific and/or whether the end of the first application period is indeed a sufficient determinative end for it. I don't think it was that specific in its definition of the time limit on an IRT. So I think we do need to go back to that documentation and see what was assumed but I think that a long standing IRT may not be incompatible with the guidelines. But we should confirm that.

I did have one question going back to this document. And that's sort of a question I wanted to ask and receive a certain amount of wordsmithing in the chat as we've been talking on whether it's okay to start accepting some of these recommended changes here though then of course they can be changed further. But the document we're starting to get a little heavy in the changes and it would be nice I think to take it to a clean copy and then start working further on more of the wordsmithing. And at this point we have six minutes left.

Jeff Neuman: Yes, thanks Avri. At this point I'm still just looking at the chat to see there's a kind of a philosophical discussion going on, on the chat on, you know, what is multi-stakeholder-ism and what does it actually mean? That's probably not a subject that all of us will ever completely agree on but there's certainly are some people that strongly view that issues any issues that arise should always go back to an IRT.

And let's see Kavouss says, "I have difficulty that the multi-stakeholder model being involved in the implementation process. (Trang) says -- and then I'll go to Kavouss who has his hand raised -- but (Trang) says, "the discussion



around taking things back to IRTs imply that implementation needs to be changed or modified when in fact I think the example about PDT testing specifications is operational evolution. From that perspective I like Jeff's suggested of a standing panel." Maxim says, "ICANN staff implements. And they do not allow us to interfere directly." I'm going to go to Kavouss. I know there's some more comments but Kavouss you have your hand raised.

Kavouss Arasteh: (Unintelligible) I think I have some difficulty with the idea that we need (unintelligible) constituents that are separations of responsibility. Policy is some sort of (unintelligible) and implementation is the sort of execution. Multi-stakeholder should not be involved in implementation because it's difficult to be involved. How is it resolved? Is it resolved it go back to the policy (unintelligible) yes I have no problem. If the policy is not implementable then we go back to multi-stakeholders. But the multi-stakeholder puts his hands in the implementation it's just (unintelligible) responsibility. I don't think that we should put this (unintelligible). So I have some disagreement with that, thank you.

Jeff Neuman: Thanks Kavouss. I think - so it seems at least with the people that have spoken up there are certain people that – there are some people that believe that there are certain functions that do not necessarily have to involve the full multi-stakeholder IRT others believe that no everything should involve the full IRT. It's - we're going to – one of action items we're going to do is come up with a graphic that hopefully may make the distinction a little bit clear.

So recognizing that there will always be a gray line and hopefully if we created a default position if we did have this type of committee standing panel standing IRT whatever we call it that we could entrust them to help us determine which side the issue lies on and how to be resolved rather than going back as a default to the IRT - to an IRT for everything.

As (Trang) has said ICANN staff is looking for certain feedback on certain issues that may not justify going back to a full IRT. This delegation tested

may be one of those examples. Again it's going to be hard to delineate a line but I'd rather try to delineate a line and provide a predictable process as to how we do that than to not address it at all. So I know we have two minutes left. I'm going to turn it back to Avri for any other business. I think this call has been good but I definitely want to take this to the mailing list to see if we can get some more comments. So thank you everyone, Avri back to you.

Avri Doria: Thank you Jeff. And yes that's what I was also going to recommend is that this very good conversation be continued on the list. At this point I'd like to ask if there is any other business that has occurred to anyone during the meeting that they would like to bring up in this last minute? I see no one's hand but my own and therefore I thank you all for your time for this meeting and hope to see you all discussing these issues on the list in the coming hours, days and weeks. Thanks a lot, meeting is adjourned.

END