
MARRAKECH – GNSO Working Session
Monday, June 24, 2019 – 09:30 to 15:00 WET
ICANN65 | Marrakech, Morocco

UNIDENTIFIED MALE: It is Monday, June 24th 2019 in Tichka at ICANN 65 in Marrakech.
This is the GNSO working session at 9:30.

KEITH DRAZEK: Hi, everybody. If we could start taking our seats, connecting to the Zoom room, and getting ready for our working sessions. Thank you.

Okay. Good morning, everybody. I'm Keith Drazek, GNSO chair. For those who are observing today, welcome. If we could go ahead and start the recording, and we will get underway. Thank you very much.

Good morning, everybody. Welcome to the GNSO council working session of ICANN 65 here in Marrakech. I will go through the agenda here briefly, and then we will get down to business. We have quite a full agenda, and this is largely in preparation for the work that we have to do this week during our regular GNSO council meeting, as well as preparation for our meetings with the board, the GAC, and the ccNSO among others.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

The first item after the welcome and the overview of the agenda will be an update from Dennis Chang of GDD. It's the GDD update of the implementation review teams, both the EPDP phase one and other IRTs, then we'll have a brief coffee break, and we'll come back and then have a discussion around the board's resolution on the EPDP phase one recommendations, and specifically, this is the topic where the board did not accept all of the phase one recommendations in full. There were two recommendations that were accepted in part, and we as the council have an obligation now to consider next steps in our dialog with the board on the subject, and to consider the input that we've received from the EPDP team. So this will be an important discussion that needs to take place prior to our lunch meeting with the board.

Then we will have a separate session that will focus on preparation for our engagement with ccNSO, GAC, discussions around the IGO issue with the GAC and the board sessions. At 12:15, we will have a lunch meeting with the board, and just to confirm, is that meeting in this room? Yes. Nathalie, thank you very much. So we will have the lunch meeting with the board in this room.

Following the lunch meeting with the board, we will have an update on the PDP 3.0 implementation work that the council has undertaken. At 13:50, we'll have an update on the EPDP phase

two work. Following that, we will have an update from the ATRT3, and then an update finally on the CCT RT recommendations that were referred by the board in Kobe back to the council and to the PDP working groups that we manage.

So that is the agenda for today's working session. There's quite a bit to it, so let me pause and see if anybody has any questions or comments, or Any Other Business for today.

Okay. I don't see any hands, and I'm going to try to use Zoom for the queue here. So please, everybody connect to Zoom, and then we'll give that a try, see how closely I can follow it. So with that, let's move to the next slide and welcome Dennis. I'm going to hand it over to you, so thank you very much for being here to give us an update on the various implementation review team efforts. Thank you.

STEVE CHANG:

Thank you, Keith, and thank you to the GNSO council for inviting me to brief you on the policy implementation. My name is Dennis Chang. I am GDD programs director and primarily responsible for policy implementation. So we'll start with a policy implementation. We call it registration data policy.

This is known to most of you as EPDP phase one. When we received these policy recommendations for implementation, the

implementation team decided to make sure that we start off with a clear name of the policy, and as to not cause confusion, or at least minimize confusion between the EPDP work that we know will continue in parallel.

So from now on, as you hear me talk about registration data policy, you'll know that I'm talking about the EPDP phase one policy implementation.

So as all of you know, the board adopted this policy recommendation on 15 May of 2019, and as you probably have known already, it wasn't fully adopted, but there were a couple of exceptions. So we wanted to make sure that you'll know that, and of course, the implementation team has to be keenly aware of those two exceptions and we're managing them accordingly.

So first thing we did, it was immediately after that board adopted and directed us to implement the policies that we published what we call an interim registration data policy on 17 May 2019, only two days after the board adoption and resolution.

How did we do that? Well, that was because we had been working in advance with what we call here as pre-IRT, and because the board hadn't adopted the policy yet, then we could not convene an official IRT – IRT being Implementation Review Team – we created this entity called pre-IRT, and immediately had volunteers to help us, and those pre-IRT members came from the

EPDP team who were intimately familiar with the recommendations.

How did we know that we were to do that? It was because in one of the recommendations in the final report, the EPDP team had recommended that we get started before the board resolution.

So indeed, we did, with our CEO directing us to do so. And that policy that we had published on 17th of May 2019 had an effective date of 20 May 2019, only three days after.

Now, why did we do this? Typically, when we publish a policy and announce it and issue legal notices to the contracted parties, it's at least six months for the contracted parties to implement that policy that we have announced.

In this case, we had to act quickly because on 20 May 2019 we knew that the temporary specification that had been in place as the requirement for the contracted parties is expiring.

So we met that deadline to publish the 20 May 2019 date interim policy. And what did the contracted parties have to do in implementation? Well, essentially, nothing because what we had done in that interim policy is to say that the requirement for the contracted parties shall be consistent with the temp spec. So as of today, and since then, the interim policy and the requirement as specified in the temp spec are still in effect.

So, we're doing now is we're called the IRT on May 2019, this is called full IRT, we convened the IRT and we kicked it off and got started on 20 May 2019. There are 28 IRT members and 34 observers.

The IRT members came from different stakeholders, total about 11 stakeholders are represented in that IRT. Some are from the EPDP team with a background having done on the policy recommendations and others are new to the EPDP recommendations, so we have a good mix.

And more so, as IRT should be, we have a good representation of technical members who are on the backend, if you will, of implementing and having done implementations of the policies.

Currently, the implementation team, as I call it, and that consists of this IRT and also IPT, implementation team that comes from the ICANN Org, the staff members, and we are together reviewing the recommendations and developing requirements from those recommendations. It's a very detailed, comprehensive and complete work.

And at ICANN 65, we have a working session on Wednesday, 26th at 10:30 AM, and it's an open meeting, and you're all invited to join us there.

I wanted to show you this chart. This is a pictorial representation of what this policy means. It's unusual that we have these sort of stages on the policy, and registration data policy, we affectionately call reg data policy for short – we do not use acronym – and we look at this policy in four phases.

Phase zero, or stage zero, was when we were working on it in advance of the board res. Stage one is now, after the board resolution where the interim policy is in effect.

Stage two is when we are done with this policy and we publish it and issue a legal notice. Then we'll enter a stage two where the contracted parties have the option to implement the policy in full or in part, and they can still use the temp spec compliant requirement until the effective date, which is now targeted for 29 2020, and this target date was given to the implementation team by the EPDP team.

What we're doing today is trying to build an implementation plan to see if we can meet that date. We do not have that plan yet, and we all agree that we cannot predict a completion date until we're done with our analysis of the recommendation and the scope of the implementation.

So if you look at stage one, in three parts, is how we make our progress. Right now, what we're doing is building that implementation plan, and what we will do with that plan is to

publish it for public comment, a full public comment, minimum 40 days, and after we collect the comments, we will revise as necessary whatever policy language and the dates for implementation, and then finally, publish it for implementation on that day. So that is the stage one.

This is another policy. We call it thick WHOIS. On this policy came one final report, but when we were implementing it, we broke it into two because we recognized that there were two clear requirements or path to it. The first part was consistent labeling and display. That implementation has been completed, and the policy effective date for that was August 2017.

The second part, the transition from thin to thick for three top-level domains, dot-com, dot-net and dot-job, that has not been completed, and that is because we received a resolution or direction from the board to postpone the contractual enforcement of that policy. I think all of you know that was due to the GDPR impact. So that's where that is.

This is the IGO and INGO identifiers in all gTLDs. This is the protection of the IGO INGO names. This policy was also done in parts. The first part was the protection by the reserve names scheme, and that part has been completed with the effective date of August 2018.

The second part is the protections by claims notification, and that was specifically for INGOs. That has yet to be completed, and the completion date for that is 12 months from where we released the claim system specification, and we are intentionally waiting to see if there are other requirements that we may receive for implementation that has to do with notification. It takes a lot of resources and cost to build such a system, and we wanted to ensure that we optimize this opportunity by combining any requirements that we have, or we may have received, and we'll talk a little bit more about the IGO/INGO in our next slide.

And you will see this as a Red Cross names. So when the IGO/INGO policy was adopted by the board, board had adopted parts of the recommendation, and other parts, defer the decisions. There were two parts that were deferred. One was acronyms, the other was the Red Cross names, and on the Red Cross, GNSO council requested the original PDP working group to reconvene their work, and they had indeed and came back with a final report, and now it's adopted, so it's in the implementation phase.

What it is is Red Cross names – society names, as we call it – 191 of them, and all those names are now required to be reserved. So that's the implementation work that we're doing. It's interesting that 191 full names of this Red Cross org had translated or converted to DNS labels as 7045 DNS labels that we now have to add to the reserve names list.

So it's not as simple as what many have thought in the beginning, and it takes a while to ensure that we do not have any errors on these 7000 labels. And the IRT is now reviewing these labels in multi scripts now, before we prepare for public comment – and it will be issued for public comment – and we will at that time depend on the public at large to examine all of those DNS labels to give us feedback. And the target date for this implementation is to make our announcement on February 2020, for effective date of 1 August 2020.

Translation and transliteration policy implementation. IRT convened and started working 2016, and what we had realized is that this policy implementation is dependent on RDAP, and at that time, the RDAP had a working group that was led by the community, RDAP Pilot working group, and we decided with the IRT to wait for that working group to finish their work which they had, and now we are waiting for that implementation to complete, which is in August of this year. So when that is completed, then we'll resume this implementation work on this policy.

Privacy proxy. This policy is similar in that we're very cautious about making investment in our precious resource to implementation, and it's the ICANN Org's belief that perhaps we should wait on this policy implementation until the EPDP work is completed, and we wrote to the council in March, and we

received the council’s reply, and we’re reviewing that and we’ll follow up with the council as needed.

I think that was it, that’s all the policy implementation report for you.

KEITH DRAZEK:

Thank you very much, Dennis. Hi, everybody, again. So this is an opportunity for us as the council during our working session to ask any questions of Dennis and ICANN Org. But while you're thinking of any questions you may have – and please put your hand up in Zoom if you have any – I think this is an important reminder that as we the GNSO council manage the policy processes, and as policies are developed by our PDP working groups, that there's a very important next phase, and that is the implementation. And the Implementation Review Teams are essentially the responsibility of ICANN Org with community input to make sure that implementation of gTLD policy or GNSO policy are implemented appropriately. So Dennis, thank you very much to you and your team. Are there any questions? Marie, I see your hand. Go right ahead.

MARIE PATTULLO:

Thanks. And thank you very much for the very high-level but very useful update. It’s really appreciated. On your last slide about

privacy proxy, we had a discussion in – where were we? Where did we meet last time? Thank you. In Japan. Thank you, [inaudible]. No earthquakes today. We had a short discussion about the possibility of passing out, separating out those parts of this that we can go forward with and not wait for the EPDP to – can I ask if there's been any progress on that? Thanks.

STEVE CHANG:

There are parts of the organization that are working on this policy implementation, and I don't have the accurate status on that, but I can find out and let you guys know. We are going to reply to your letter officially, so you will all know.

KEITH DRAZEK:

Okay. Thanks, Marie, and thanks, Dennis. On that point, on the issue of PSSAI, as you can see on the slide here, we've received a letter from ICANN Org in March, and the council replied at the end of April, so there has been an exchange just for everybody's benefit. Dennis has basically said that the council should expect a further reply or response from ICANN Org, and that's in the works. Thank you.

Maxim, go right ahead.

MAXIM ALZOBA: A question to Dennis. Do you think that the current mistakes to the reserved list for Red Cross are going to be corrected by the effective date published in the slide?

STEVE CHANG: Thank you, Maxim, and my answer is absolutely, positively yes, and if you don't mind, Maxim, do us a favor. The DNS labels that IRT is reviewing is actually available as an Excel file on the IRT Wiki page right now. So I can show you where it is, and I would really appreciate it if you can take a quick look to see if they are corrected. Our intention is yes, to correct it and take this opportunity to do so.

KEITH DRAZEK: Okay. Thank you, Dennis. Thank you, Maxim. Any other questions? Yes, Rubens. Thank you.

RUBENS KUHL: This is more of a comment than a question. I have been following the registration data IRT as council liaison, and just want to communicate to the council and to the community that I believe the pace the group is going is a very good one, so it's most likely that we'll hit targets that are currently established. So don't be fooled by Dennis here who talks lowly, but the IRT ends up setting

a very fast pace and I think everything is going to happen in scheduled time. Thanks.

KEITH DRAZEK:

Thank you, Rubens. And specifically on the EPDP phase one IRT - and I'll start using the right terminology – there is a tremendous amount of work to be done, and we all know that the phase one recommendation highlighted February 29 2020 as the target for full implementation, but I think there's also a recognition that with the amount of work that needs to get done, the complexity of that work, there's some question as to whether that date will actually be met. And in the board resolution, there is, I think, an acknowledgement that that is a target date, it's not a hard and fast deadline, but this is actually a very important bit of work that's taking place in a compressed bit of time. So, any other thoughts, questions anybody would like to get in? We're ahead of schedule at the moment, so we've got some extra time if anybody would like to weigh in on implementation work broadly.

Okay, I see no hands, so Dennis, thank you very much to you and your team. Thanks for being here with us today. Okay, thanks, everybody. We will now move to a discussion of the board resolution of the EPDP phase one. As I mentioned at the outset, the ICANN board accepted most of the recommendations that came from the EPDP phase one as approved by the GNSO council,

but there were two that were accepted in part and not in full. And that has presented us as the council with the responsibility to consider the board's nonacceptance of those partial two recommendations and to figure out how we as council, as policy process managers, need to address that.

Just as a bit of background, we reached out to the EPDP team to request their input to the substantive issues that were the subject of those two recommendations. We did receive some feedback from, I believe it was the Registry Stakeholder Group, the Registrar Stakeholder Group, and the BC if I'm not mistaken. I'm not sure if we've seen anything else since then, but there was some feedback, and that's something that we need to consider.

But I think the process before us is a dialog with the board on next steps. I see this as an opportunity for us, for this council, to take the input that we've received from the EPDP team, and to engage in a dialog with the board, and to ensure that the board fully understands and understood the rationale and the history behind the recommendations, and then for us as council to hear from the board as to their rationale and their justification and their thinking for not accepting those two recommendations in full.

The first was recommendation one purpose two, and I think the sense that we have at council and from the EPDP team, that

recommendation purpose two was placeholder language in the phase one report, and that it doesn't appear, from my assessment, that there's any concern or contention or sort of pushback coming from the EPDP team on that particular recommendation.

On the other one, which is recommendation 12, that was the subject – the board essentially identified one component of that recommendation that they didn't feel comfortable with, and that was the ability of registrars to delete data associated with the organization field where that data was not validated or verified by the registrant.

So I think there was some further discussion within the EPDP team, particularly among registrars and supported by registries where that was actually the result of consensus discussions and that the recommendation was made knowingly, and that it wasn't an oversight or a mistake, and I think that's probably the area where we need to prepare ourselves as council to engage with the board.

I'm going to pause there and see if anybody would like to get in queue on this one. Maxim, I see your hand is still up from before, I think. Thank you. Would anybody like to speak to this topic as we prepare for our engagement with the board?

Michele, I see you, and if we could use the Zoom so we're all in queue in order, that would be helpful. Thank you.

MICHELE NEYLON:

Thanks, Keith. I feel sufficiently reprimanded. I think my main question with this is one around process as opposed to substance. The substance could make for a fascinating argument, but I'm more curious as to how on earth do we even – sorry, I'm floundering here. I don't know what we're meant to do.

We've got two recommendations that they didn't accept fully, one that we think is probably fairly noncontentious, one that is more contentious, but what are our next steps? That's something I've been trying to wrap my brain around and I'm failing miserably.

KEITH DRAZEK:

Thanks, Michele. I'll give this a shot, and I'll look to Marika or others to help me as needed. We're in a bit of uncharted territory here in that this is essentially a new situation for us as council, and it's not terribly well-defined in terms of process. So we are also, I think as we've said before, setting some precedent here how we engage with the board in a situation where they don't accept a recommendation that the GNSO council approved.

We've used the term “consultation,” but it's not a formal consultation process like the board has with the GAC, for example when they don't accept advice. It's a bit more, I guess, vague than that in terms of how we move forward.

I think the next step for us is to have a discussion with the board about their decision, about our recommendation, the feedback that we've received from the EPDP team, and then I think at some point, the decision needs to be, do we as council go back to the board and ask them to reconsider their decision on that particular point?

Procedurally, again, it's unclear, I think, how that happens and what the next specific steps are, but at the end of the day, I think we as council need to decide, are we okay with the board's rationale for not accepting that component of a consensus recommendation that was approved by council, or do we decide that we feel like we need to challenge that? And I think that's really the subject for discussion at this point. Marika, can I turn to you for any further thoughts on that in terms of process, next steps and how we as council should be thinking about this?

MARIKA KONINGS:

Yes, thanks, Keith. I think you're absolutely right. I think that the bylaw provision itself, first of all foresees a discussion with the ICANN board and we've kind of interpreted it as an opportunity to

ask for clarifying questions or share with the board any clarifying comments the council may have based on the feedback that you received from the EPDP team or from your members, but then indeed, after that, it's up to the council to discuss and consider what to do next, and I think indeed, the bylaws clearly foresee at least two options, one of which is to resubmit the same recommendations and basically stand firm on what you originally recommended.

Your second option is either modify your recommendation so you also have the ability to make changes to the recommendations, and what we understand as well, that you also have the option to accept the board's non-adoption of the recommendation and not take any further action. But the expectation is that there is indeed some kind of communication at the end of that process by the council to consider.

As Keith noted though, it doesn't go into a whole lot of detail how that happens, but again, from staff interpretation, we do assume that if you're either resubmitting or modifying your recommendation, it would require a similar voting threshold as original recommendations as you are submitting PDP recommendations that have contractual implications, but again, I think the first conversation is really now with the board to have probably about clarifying questions or comments. I think the EPDP team or some of the members provided some insights into

how they got to those recommendations, so may be worth sharing that with the board and understanding if they were aware of that rationale, does that change anything in their thinking about the recommendations? And again, I think after that, it's really for the council to consider what you want to do next.

KEITH DRAZEK:

Okay. Thanks, Marika. And I've got some folks in queue, so Marika, just a follow up. In terms of next steps, we know that the PDP submitted its final report to the council. The council approved it, forwarded it to the board, the board accepted 27 of the 29, plus half of each of the ones ... what is the next step in terms of processing the board's decision? In other words, there's obviously this situation that we have today, but what would the next step be in a traditional or normal circumstance?

MARIKA KONINGS:

Well, as you said, the bylaw provision is not that prescriptive. Basically, the next step it foresees is discussion with the ICANN board, but it doesn't for example say if that's one discussion, two, or ten. It does say the discussion can be in person, via e-mail, teleconference. It's not prescribed. So I think it's really for the council to decide what you think you need, so you have an opportunity to discuss with the ICANN board today, but it doesn't mean that that is your only opportunity to discuss.

So I think after you had your conversation, it's for the council the not consider, because indeed, the next step in that is for the council to consider how to proceed. But as I said, it's not very prescriptive, so in that regard, you have an opportunity as well to create additional steps, for example you may want to have a further conversation with the EPDP team after you've spoken to the board, and then maybe talk to the board again.

So again, it's not limiting in that sense, it just prescribes the order in which things need to happen, and at the end of the day, the council will need to take a decision on how to proceed in relation to the recommendations or the parts thereof that were not adopted.

KEITH DRAZEK:

Okay. Thanks, Marika, and I'll get to the queue next, but again, just to remind everybody that we are in a sense, as council, setting some precedent here in our engagement in this type of a situation, so I think we need to be deliberate, we need to prepare ourselves, we need to take the time to make sure we get it right so the process is in place so we can refer back to it in the event we have to deal with it again in the future.

So in queue, I've got Rubens, Maxim, and Darcy. Rubens?

RUBENS KUHL:

I believe that among the options Marika mentioned, one that we could exercise quickly would be to send EPDP members from many [SGs and Cs] already commented on the matter of the board not approving that resolution. It's [content that's] already ready, so we should just forward all of them, not specifically from one or another, everything that has been posted there, and this probably could kickstart the process of this discussion because there is actual substance in those comments.

And besides substance, there is one process question that puzzles me, is how even having two board liaisons in the EPDP that this ended up happening almost as a surprise? So I know that those board liaisons do not represent the full complement of the board, but it's possible they could have [hinted to] some EPDP member that, hey, you might face some resistance there, you might want to address that, either change it or better explain why you're doing it. Thanks.

KEITH DRAZEK:

Okay. Thanks, Rubens. And I think the point about the engagement of the board liaisons is a good one, and I think that if there are board liaisons to a particular PDP working group, or a CCWG that they need to be engaged and tracking and contributing and flagging any concerns that they might see, I think in this particular case, frankly, I think this was such a

relatively small bit of the overall report that I could imagine it not raising to the level of concern of a board liaison during the many discussions around the entire report, but I think your point's still a valid one for the future. And I think your point also, the recommendation about forwarding the input that we've received from the EPDP team is a good one to establish the record. It's not, I think, a consensus position of the EPDP team, but it was a consensus recommendation of the EPDP team. So the additional clarification, I think, would be helpful. So thank you for that. Maxim and then Darcy. If anybody else would like to get in queue, please do so.

MAXIM ALZOBA:

Actually, I have a question, if council sees effective reduction of those two recommendations as a modification of the text. Because if you look into bylaws, modification is for GNSO council, not for the board. For the board, it's approval or denial.

And effectively, board in those two particular items voted for something which wasn't handled to them, because consensus was reached on the full text of these particular recommendations. So modification before voting effectively is voting for something which didn't come from the EPDP group.

So I see it as a potential breach to the bylaws because of this formality. I'm not talking that substance is bad, but the process

taken, the steps taken are quite bad in my opinion from procedural and operational point of view. Thanks.

KEITH DRAZEK:

Okay. Thanks, Maxim. To your point, I think we asked the EPDP team for feedback on the substantive issues. We as council still have responsibility, I think, for the procedural questions. So substance from the EPDP team, we as council have responsibility for process and procedure and making sure that our role and our remit is respected and that the board stays within its bylaw processes. But I guess we need to clarify whether there's agreement whether that's actually the case that they didn't follow the bylaws. My understanding is that this was provided for in the bylaws, which is why we now have this engagement, but I see your point about approval, denial, and maybe not modification, which is I guess what happened.

And if anybody from staff would like to jump in and weigh in on this particular point, feel free, and if anybody else would like to speak to it as well, go ahead and get in queue. Darcy, I've got you next, but if Marika, you'd like to respond or anybody else, or we could just go back to the queue.

MARIKA KONINGS: I just want to note that the bylaws do foresee that the board determines that some policy is not in the best interest of the community or ICANN, they have the ability to not adopt recommendations or parts thereof, is at least our interpretation.

KEITH DRAZEK: Thanks, Marika. And I guess in this particular case, that's the basis on which they've made this decision. Okay, so Darcy, you're next, and then I've got Rafik.

DARCY SOUTHWELL. Thanks, Keith. My point is somewhat similar to Maxim's. I realize it's within their mandate within the bylaws, but I think from a process perspective and respecting the council's role, this consultation might have been more helpful if it had happened before they made the decision. They've certainly done that before on other issues and come back with questions, so I think as we talk about setting precedent, it would be nice to maybe suggest to them in the future if they have questions like that.

I certainly understand why they – I don't know why, but I can understand their reaction to the word “delete,” but maybe we should have had that conversation earlier rather than now. Thanks.

KEITH DRAZEK:

Thanks, Darcy. I think that's a really good point, and I guess in this particular circumstance, we know that the board had to act within a certain timeframe because of the expiration of the temp spec, which had a limited timeframe of one year.-And so yes, could this have been identified earlier, should it have been identified earlier? Probably so. But they were also up against a hard deadline in this particular case. But I think that's a really good point that's worth sharing from our perspective, is that looking ahead, however we decide to handle this one, we'd welcome those kinds of discussions beforehand. Okay, Rafi, over to you.

RAFIK DAMMAK:

Thanks. I agree with Rubens on all the points regarding the liaison. I made it before. And my concern was – and that may be the question here for the board – when they made [the opinion in] particular about recommendation number 12, I can understand for the recommendation number – sorry if I'm mistaken – that's related to the European Commission letter. That can be argued. But for the other, I don't believe that just – how they made their thinking, was it related to the input they received during the public comment, or how they made it.

If it was something early, we should got probably heads up at earlier stage than waiting until when they approved the

recommendation, because if we recall when we had the meeting with them in Kobe, they were quite positive, and I think the indication at the time that we didn't expect any rejection and they would approve the recommendation as it is.

So this, again, probably it's [inaudible] what Darcy said and others about this engagement and raising the concern beforehand, and I think when we did the drafting of the charter, we really kind of highlighted what we are expecting in terms of the role from the liaison.

I don't want that we blame them or something like that, but maybe clarifying what we want them to do. But at the same time, I don't share for example what happened in the CCWG and CWG in terms of intervention from the board. That's maybe personal opinion. We want them just to kind of share any concern about the process or raising question, but not at the same time intervening in how the policy is making, leveraging having the liaison in the working group.

So this is maybe question is just how we can improve now looking ahead. In terms of how we deal with the dialog, I think we need to think about the timeline. I think we had expectation that probably we'll do most of the work during this ICANN meeting, but maybe we need to adjust our timeline by when we will reach closer for this.

KEITH DRAZEK:

Okay. Thanks very much, Rafik. I have Pam next in queue, and then what we'll do is take our coffee break, we're now five minutes into. We'll have the full coffee break because we're ahead of schedule, but then we'll come back and continue discussing this topic, because this is really important for our preparation for our lunch with the board today.

So Pam, over to you, then we'll take a break, and then we'll come back and continue this discussion.

PAM LITTLE:

Thank you, Keith. I want to echo what Ruben has said, which I think has been said again by a number of people, Darcy and Rafik, about the process. In fact, in light of the PDP 3.0 that we're trying to make the whole process more efficient and effective, we actually ended up having a situation like this where it's taking up a lot of the council's time and resources. We had a special council meeting just to discuss this topic and the IGO topic, and we also have taken away the EPDP phase two team's time to give us input, and the discussion is ongoing.

So I think someone has made the point about having two board liaisons to the EPDP team phase one, and two staff as well. So this

actually to me came as a surprise to the community that the board actually did what it did.

So I hope going forward we could, given that everyone seemed to be pretty much on the same page, that one of the non-adopted recommendation one purpose two is noncontroversial. So we only have one issue to deal with, which is recommendation 12. So I hope we also have some sort of timeline in mind from the council's perspective, we could get these resolved within a reasonable time frame rather than dragging this on for indefinite time, and also not to take further more time up from that EPDP team as a distraction from the ongoing important work. Thank you.

KEITH DRAZEK:

Okay. Thank you very much, Pam. So with that, we will take a 15-minute break and then we'll come back and continue discussing this topic in prep for our lunch meeting with the ICANN board. So thank you all for joining so far. 15 minutes, and we will be back here at 10:35. Thank you.

Hi, everybody. If you could please start taking your seats. Thank you.

Okay, one-minute warning. Thank you.

Alright, let's go ahead and get started please. If we could start the recording. Thank you very much. Hi everybody. Welcome back to the GNSO council working session here in Marrakech. We just took a coffee break and had been discussing the GNSO council's preparation for our engagement with the ICANN board related to its decision on the EPDP phase one recommendations.

So I'm going to give a brief summary of the conversation that we just had. We've just been joined by some councilors that had a conflict at the beginning of the session, so I just want to make sure that we're all up to speed on this topic.

I think where we stand right now is acknowledging that there were two portions or portions of two recommendations that were not accepted by the board, recommendation one purpose two and recommendation 12, is that there's a general sense or acknowledgement that the first one, recommendation one purpose two, is noncontentious, that we recognize that because the language in the phase one report was placeholder language anyway, that the board's decision and rationale on that is noncontentious, and it doesn't appear that there's a desire to go back to the board and challenge that in any way.

The second item, recommendation 12, relates to the language in the phase one report regarding the deletion of data in the organization field when that data has not been verified or

validated by the registrant. And there is some question and concern particularly raised by the contracted parties coming from the EPDP team. We as a council reached out to the EPDP team to ask for any substantive feedback on the board's decision.

We did receive some feedback, and there is some, I think, interest and desire of at least some of the EPDP team to go back to the board with further clarification of the rationale. And Rubens earlier recommended that we actually provide the input that we the council received from the EPDP team to the board as a starting point to help the substantive discussion about that particular topic moving forward.

On a process question, we had several councilors in the room this morning raise some process concerns, specifically points about it would have been good to have the board, before they made the decision, to have engaged with the council on the questions, and that basically a conversation before the decision would have been helpful.

There was some discussion about the role of the ICANN board liaisons to the group, and is this something they could have flagged earlier? I think overall, a general recognition that we as council are setting some precedent in how we engage with the board on this moving forward.

Finally, this is the next step of a dialog, or maybe the first step of a dialog with the board on this, that we're not expected to make any decisions on this this week but that in our conversation with the board over lunch, this is definitely something that we would like to engage with them on, better understand their rationale for the decisions they've made and to start to share our views to the extent that we've formed them.

So let me just pause there, see if that's an accurate summary of the discussion that we had this morning, and just – okay, I don't see any hands. Paul, go ahead.

PAUL MCGRADY:

Thank you, Keith. So for those of us who weren't here, and I hate to ask to do this, and those of us that are not in the minutia on the contracted parties' concerns, ca new just have, 10,000 feet, what those concerns are? Because I don't know. Thanks.

KEITH DRAZEK:

Thanks, Paul, and I will turn to our colleagues, in the registrars in particular, because this is, I think, primarily a registrar-facing issue related to this deletion of the data in the org field where it's not validated or verified. So if anybody would like to share the view – James, how are you, sir? Welcome.

JAMES BLADEL: Hi. Thanks, Keith. James Bladel, member of the EPDP. I just wanted to clarify, is this a councilor-only conversation, or could I weigh in on this point? Because I think I can address Paul's question.

KEITH DRAZEK: I welcome your input. Thank you.

JAMES BLADEL: Thanks. So as I mentioned, I'm member of the EPDP, and unfortunately, deserving a fair share of the credit or blame for the way that recommendation 12 landed from our conversation and our whiteboarding session in Toronto in the winter.

Essentially, the challenge for contracted parties is around the registrant org field, and I'm hoping that folks had a chance to read the contracted parties feedback. But if they haven't, the challenge is that registrants have been using this field indiscriminately and in a nonstandard way for about 20 years, and some registrars have used it very rigidly to indicate that registrant org means that the organization listing in registrant org is the registrant, and that the registrant name is the contact at that organization. Others have allowed registrants to essentially put in organizations that may or may not exist or may essentially be aspirational organizations. We see a lot of for

example if you register a domain name and then you say the organization is NewCo for example, or other types of placeholder organizations that later either don't exist or never come into existence, or maybe are defunct organizations.

So I think it was a recognition that we had this legacy problem of perhaps tens of millions of domain names with junk data in the registrant org field. Some of it is meaningful, most of it isn't. And we were, through the EPDP process, in particular in phase one, setting some new ground rules about how the registrant organization field was to be treated going forward.

So the question was, how do we go back in time and fix all those bad records? And I think what we arrived at was this idea that you would essentially opt in by confirming that the data was current and accurate, very similar to the WHOIS verification that we do today, and that if a registrant failed to confirm that that data was accurate or failed to remove it, that it would be removed on some date certain, and that would essentially be treated as an opt out.

So my concern when we saw the board decision is that they didn't quite understand that we were trying to use this as an opt in, opt out with a default opt out process, and they saw it as a sort of irrevocable change that registrars were doing, without the consent or over the objections of their customers. That's not exactly what we were going for.

So I don't know, Paul, if that's helpful, but it's really an attempt to – I think everybody understood what we needed to do going forward with registrant org, but it was this idea that we were changing the rules or in fact adopting rules for the first time, and how do we go back and clean up all of those other records?

KEITH DRAZEK:

Okay. Thanks, James. If anybody would like to get in queue, please do so. Paul, if you have any follow-up, please do so. And I'm opening up the participation queue. Is there anybody in queue? Okay, Michele. Thanks.

MICHELE NEYLON:

Thanks. Just to kind of add a little bit further flavor and color to what James was saying, when you present a normal human being with a form, be it a form to fill out on a website, people tend to kind of see each field and go, “Okay, we need to put something in there.” It's kind of a natural – “There's a field, I need to put something in there.”

And sometimes people are more clever about it, they make certain fields obligatory, other ones are not obligatory, but you see this kind of thing with domain registrations where people were given the opportunity to put something into this

organization field and they kind of felt, “Oh, I have to put something in there.”

So instead of it being something that actually existed, an actual company or organization that may have existed in the real world, people were putting in things like John Murphy Business, James Bladel Inc, because hey, I can now create this entity that doesn’t actually exist.

So there's a lot of junk data in there, and the problem is that a lot of it has no – there never was any kind of real validation or verification around it, and I was talking to some people, well, if you actually look at the policies, there's a lot of policies around the registrant, there's quite a bit of policy around the admin contact. We talk about transfer contacts, we talk about abuse contacts, registrar contacts, even reseller contacts.

There's very little -and if somebody can find me more than that kind of one entry in the actual WHOIS policy, there's nothing about the organization field. There never has been, that I'm aware of. If somebody has been around longer than me knows otherwise, please do tell me.

But it’s one of those weird things that it existed as a field, but there was no real policy around what was in there. And for the last 20-odd years, nobody was doing anything with it.

Some of us might have been doing something based on our own internal policies, but you've got a ton of weird stuff in there. So I think understanding that it isn't what people might think it could be is the problem. It's different in the ccTLD space where a lot of the data fields were much more clearly delineated and mandated. So those of us dealing with all the ccTLDs, we have totally different approach to it because our local ccTLD managers had a totally different way of actually looking at all of those data fields. So the concern I think here is – and personally, whether it's redact or delete, I don't have any really strong feelings about it, but the actual risk of just kind of leaving it open is a problem for a lot of registrars.

KEITH DRAZEK:

Okay. Thanks, Michele. And Thomas, I'll get to you next. I think to summarize a bit of what James and Michele have said is this was essentially a cleanup exercise, and the board has said it's okay to redact this old data after the opt in, opt out indication is made. and then the question is about the deletion of that data.

So it's essentially a cleanup exercise if I'm getting that right, and the board basically saw the word "Deletion" and had a reaction that said, "Wait a minute, we don't want to have the deletion of data that's irrevocable." But I think this is where there may be

some room for further discussion and clarification about what the intent was. Thomas, over to you.

THOMAS RICKERT:

Thanks very much, ECO Internet Industry Association, and I'm a member of the EPDP team. And I'd like to offer a thought for your discussion with the board that is related to but not limited to what the board has done with respect to this. I think we're all here because we're believers in the multi-stakeholder model, and ICANN's governing structure and the structure that gives ICANN credibility at the global level. And I think what the board has done is chime in on two aspects of our first report, the first of which was recommendation two if I'm not mistaken where we said we need to further work on topics related to disclosure, and whilst I do agree that there was a lot of controversy in our group on that particular point, we also agree that we would need to work on that more. So it was more or less a placeholder.

Nonetheless, the board chose to reject that part, which in my view was clearly meant as, as I said, a placeholder for further discussion or work. So whether that warranted for the board to reject that recommendation, I'm not sure. At least I think the optics of that are not ideal.

The second point was on the organization field, and it pretty much looked like the board said, "Okay, you can't do that,

because you are jeopardizing the security and stability of the DNS if users or registrant [can't] use their domain names. We have other rules in place whereby if you don't play by the policy, you're at risk of losing your domain names. So the mere fact that the GNSO council adopted recommendations coming out of EPDP or a PDP team that could ultimately lead to the loss of a domain name I think is not a good enough reason for rejecting such recommendation.

I think that is a point that would have been sufficient to point out as something that needs special attention during the implementation phase, and just to let everyone know that this recommendation did not say you're going to lose your domain name, period, but there's an escalation process leading to that potentially as a consequence. And therefore, I think it didn't look good that the board chose, without any prior interaction with our group, to reject those two recommendations which I think can clearly not be based on the board's reasons according to the bylaws for rejecting GNSO policy.

KEITH DRAZEK:

Okay. Thank you, Thomas. Just one follow-up. I didn't catch the specific part you were referring to about the potential loss of a domain name. I guess I didn't track that as part of the recommendation 12.

THOMAS RICKERT: The point the board made was that there might be instances where the organization field is the only clue that the registrar might have to make a connection between a domain name and a registrant. And I think that – I don't want to dive into this discussion too much, because typically, the registrar would look at who's the account holder to make exactly that connection, right? But even if we theoretically thought that it was a true statement to be made, that just losing the organization field would lead to the loss of one or multiple domain names, I think that's a matter to fix in the implementation, to make sure that you communicate with the account holder sufficiently to make sure that these folks, like with WHOIS reminders, by the way, to fix the registration data in order to prevent the loss of a particular domain name.

KEITH DRAZEK: Okay. Thank you, Thomas, for the clarification. Michele, your hand is up in queue. Is that an old one? Okay. James?

JAMES BLADEL: Sorry, I haven't fired up the Zoom room yet. Thomas is 100% accurate, registrars know how to reach the customers in numerous ways outside of the information that's in WHOIS, so the

idea that we would somehow – these would become orphan domain name registrations if this data field were deleted is false. We know the account that it's in, we know who owns that account. There's a whole bunch of other information, billing information, credit cards, payments and all kinds of other things associated. So that's just not a valid concern.

KEITH DRAZEK:

Okay. Thank you, James. Thank you, Thomas. Would anybody like to get in queue? Further questions or comments?

Based on this conversation, I think, again, we as a council have an obligation and an opportunity to have further conversation with the board on this particular point, and I think clearly, Thomas has pointed out that on both recommendations, the board's decision to not accept them in full basically sets – is a new scenario for us in terms of their not accepting the recommendations, and we should take that seriously. But certainly, on recommendation 12, the issue of the org field and the deletion of data, that perhaps this is an opportunity for further discussion with the board and to explain the rationale behind the recommendation, and I think that's something that we need to initiate today during our lunch meeting. So, would anybody like to get in queue before we move on?

Okay. Thank you. So then let's move to the next agenda item, and this is the prep for our engagement this week with the ccNSO, the GAC, the GAC subgroup on the IGO issue, and then the session with the board. Next slide.

Okay, so on the screen in front of you, we've got the six topics that were submitted to the ICANN board for discussion. Clearly, six topics is a lot, and probably too many to conclude over a lunch discussion, but there's a lot of business before us. The first one is the IGO/INGO Curative rights protection next steps. I think you all should have seen on the council list that there was a letter sent to the GNSO council and the GAC by the board just a couple of days ago indicating that the board was not prepared to take any action at this time, but would be putting out the recommendations one through four that we forwarded to the board for a public comment period, and that they were not, at this time, prepared to engage or to call for a facilitated dialog, but that they were hopeful that the GNSO and the GAC could continue conversations and if the board was able to assist or facilitate in an informal way that they would be willing to do so.

So to that point, as I sent a note to the council list earlier today, tomorrow at 1:30 here in Marrakech, there will be an informal gathering of the GAC interested parties, including the IGOs and the GNSO council interested parties to have a dialog, essentially, on next steps for the rechartering or the chartering of a dedicated

subteam of the RPM PDP working group, and so this is an opportunity for the council interested parties to hear from the GAC as to how they would like to see that small dedicated subteam chartered, scoped, to make sure that we're encouraging the participation of IGOs at that discussion. We're not going to be discussing recommendations one through four today. That, as we've communicated to the GAC, is essentially off the table for the council. It's in the hands of the board right now, but we do want their ongoing engagement on this question of how to charter this dedicated subgroup on this topic.

So I think this is an opportunity just to exchange a brief update with the board to hear from them. I think that letter speaks for itself. I would encourage everybody to read that before the lunch meeting if you can. Let me stop there, see if there's any comments or questions on this topic.

Okay, seeing no hands, next item is what we've just discussed, this is the EPDP phase one consultation next steps. Again, this is where we will have a conversation with the board. And James, Thomas, I think you're certainly welcome, if you're in the room, to contribute there as well. If anybody else – actually, during this session, I should just note there's a standing mic if anybody would like to contribute to our discussions, feel free to do so.

Okay. Next item is the EPDP phase two ongoing work. So to the extent there's something that we need to discuss with the board, this is our opportunity to do so. I'm just going to pause and see if anybody has any topics that they'd like to raise with the board related to the EPDP phase two.

I don't see any hands, so this might be one that we see if the board has any input or thoughts for us. I'm not sure there are any specific questions that we have at this time, but if anybody has something, let me know. Michele, go ahead.

MICHELE NEYLON:

Thanks, Keith. I'm a little bit concerned about the tone that has been taken by the chair of that group. Based on what was said to us in the webinar last week, I could not speak or do anything during that webinar because I was literally at 30,000 feet somewhere between Johannesburg and Paris, and the fact that I was able to listen to it is a miracle of modern technology. Sorry, this is the reality.

The way he was talking about the pace and tempo of that working group concerns me, because in phase one, coming out of the end of phase one, we lost a number of volunteers because they just could not keep up with that pace, and [inaudible] it was just impossible.

Moving into phase two, we have two parallel tracks: we have the IRT for phase one, which obviously involves people who were involved in phase one, plus others, and we have the phase two, which already seems to have done a very good impression of a mushroom and has expanded and gone from being 90 minutes to 180 or more, and that's just the meetings that are happening with the actual group. That doesn't include all of the other stuff that's going on behind the scenes in terms of coordination between the EPDP members and their respective groups, etc.

So the concern I really have is, we had discussed previously that as council and as the representatives of the various stakeholder groups and constituencies, that we were fully supportive of phase two and engaging in it in a productive fashion, etc., but we also were very clear that the tempo and pace of phase one was just not sustainable. And yet within the space of two months, we've already seen the situation where that seems to have got a bit out of control and it does need to be pared back, because speaking on behalf of the registrars, I really don't think we can start cloning our members, and unless people are going to start paying for some kind of interesting medicines to make them not asleep anymore or something – I just don't see how they can do more than they're already doing, and I think it's a bit too much.

KEITH DRAZEK: Okay. Thanks, Michele. If anybody would like to get in queue on this, please do. Michele, I hear what you're saying, I'm not sure how that relates to our conversation with the board, because essentially, the GNSO council – we are the policy process managers, and I think if there are challenges that we are facing within a PDP, it's really our responsibility, not the board's. Okay, go ahead.

MICHELE NEYLON: Oh, sorry. I was being oblique. It is actually related to the board because it comes down to resources, because we've seen in the past that being able to have face-to-face meetings happens to help move things forward a little bit faster in some cases, but also, I think it's our duty as managers of that process to make the board aware of the kind of concerns we might have about what is going on within the PDP, but directly related, it's down to resourcing, because if the board is not going to provide the financial resources and the staff resources to allow for some of these face-to-face meetings that may help to move things forward in a slightly saner fashion, then that could be a problem.

KEITH DRAZEK: Okay. Thanks, Michele. And just to note that the council has submitted an additional budget request for two face-to-face sessions of the phase two EPDP team, one targeted for the fall

and the other maybe for early in 2020. So we have initiated that. I expect that the board will respond favorably, but from a resourcing perspective, we are going through the process that we need to do that. I understand that there is concern about pace and intensity, and the ability for people to contribute. And essentially, the timeline for deliverables is something that we need to focus on as a council for sure.

So I've got Marie, you're next in queue, and then Paul, and then I think James wants to get in.

MARIE PATTULLO:

Thanks, Keith. I'm going to start this the way that we started just about every comment about the EPDP. Anybody who's involved in that team deserves a knighthood, an Oscar, whatever award happens in your country. Bow down to the incredible work they do.

However, I will say, speaking purely for the BC, that we have a number of issues that we do want to be dealt with as rapidly as possible, that a number of things did not happen in phase one because we deliberately said we can do that in phase two. There is a commitment to doing that as quickly as we can. From our perspective, as you know, we're looking at cybersecurity, looking at some intellectual property- issues, looking at consumer protection.

So unless the BC representatives – and I'm looking at one over there, Mark – unless he tells me, “Woah, I cannot do this,” then on behalf of the BC, we very much appreciate Mark and all of his colleagues with the work they're doing, but we don't want to let this just be kicked into the long grass. We do need to keep up the momentum. Thank you.

KEITH DRAZEK: Okay. Thanks, Marie. Paul, you're next.

PAUL MCGRADY: Thanks. This is just a proof of the existence of the other minds in the galaxy moment, because what we heard this morning in our closed group was that no progress has been made, it's just talking about talking, it's not this breakneck pace that everybody seems to be thinking that it should be, and we still think it's urgent that grandma not be phished, right?

So I don't know what we can give the board on this other than we have some people who think it's moving way too fast and requiring too much resources, and it's not as urgent as everybody thinks it is and we have other groups that think it's moving too slow, and that it's super urgent.

So I just didn't want to let the moment go in silence, because I really think there is more than one view on this. Thank you.

KEITH DRAZEK:

Thanks, Paul. And Michele, I'll get you in a second. I just want to make an observation though that, look, from a council perspective, going back to the chartering of this entire EPDP, and our discussions coming out of phase two going into phase two, is there was a recognition that this is urgent work, it's important work, and that it deserves the attention and the focus of the EPDP team and the community to move this forward as expeditiously as possible.

We also recognize that the intensity of the phase one work was not sustainable. I think there was general recognition – I heard that from almost all sides, if not all sides – that it was unsustainable to do what we had to do in phase one because of that externally-imposed deadline.

So this is still urgent work, this is still important work, we have a job ahead of us, the EPDP team has been chartered. I think the question about timelines, deliverables, is all something that the EPDP team needs to continue to work on and to refine to make sure that those timelines and deliverables are reasonable and informed by fact.

And this is important, I think, that this EPDP team, in my view, is approaching a fork in the road. We've heard from Göran that he's engaged with the European Commission. There's an expectation

that he will have further guidance coming from – or maybe not guidance, but an indication coming from the data protection authorities or the data protection board or the commission about whether a uniform access model, UAM with ICANN playing a centralized role, is viable or not.

And obviously, there's policy work that needs to be done within the EPDP team to help inform that discussion. But at some point, we're going to have an indication, or we should have an indication, that a UAM with ICANN playing a centralized role in some manner is viable or not. And if it is, great, then we know what path we're on. If it turns out not to be viable from either a legal or risk-based perspective, then we will have to be figuring out what a standardized system for access and disclosure looks like.

So in terms of a deliverable, I'm concerned personally that we have this fork in the road, we have this chicken and the egg situation about the policy work versus the structure, and I am concerned about what that timeline looks like and what the deliverables might be.

But having said that, the work needs to continue, and it needs to continue with urgency, because that was what we committed to do from the beginning. So I'll stop there. Michele, you're next,

then James, I think you wanted to speak. I've got a long queue building, so go ahead, Michele.

MICHELE NEYLON:

Thanks. I was speaking about workload and the amount of time. I did not make any suggestions about whether progress was being made or not. And to be perfectly frank, that's not what I was talking about, so with all due respect to Paul, it's actually irrelevant, because if you sit in a meeting for two hours, whether progress is being made or not, you're still sitting in a meeting for two hours. And that's my concern, that if the workload on the volunteers keeps increasing, even if not much progress may be made from some people's views or not, it still means that you've got people in these meetings for hours and hours, and that's the problem I have with it.

KEITH DRAZEK:

Okay. Thanks, Michele. James, then I'm going to go to Rafik, and then to the mic.

JAMES BLADEL:

Thanks, and I apologize to keep coming to the table. I see my other colleagues from the EPDP want to speak. I just wanted to respond to Paul and to Michele. You're both absolutely correct. You're not talking about mutually exclusive things. We're

spending too much time on these calls. We are extending the frequency and the duration of the calls, and we're not making enough progress. All of those things are true.

so I think what we need to say is we need to make better use of our time on the calls. We need to make sure that we're solving the right problems, that we're spending these hours and hours talking about the right things and not just chasing our tails and get wrapped around the axle on definitions and things that I feel like we're spending too much time on.

I don't know, Janis isn't here, I guess I would ask him for help, I'm asking the council for help, I'd ask you to ask the board for help in this in helping us break through some of these, I want to say, self-indulgent, circular conversations we continue to have, and then the assumption that if we just add another call each week or if we extend the time of our call, that we'll make more progress, I think is faulty, as we've shown. More time does not necessarily accelerate the pace of work. I want to get this done as well, I've got a day job I'd like to move on to, and certainly my superiors would like me to spend some more focus on.

But with that said, I just wanted to put a possible solution, not just to complain, but in phase one, we had the professional mediators come in. I think those were the occasions where we made the most progress. I think we kind of fast forwarded our work. And I

know they're expensive and I know that they were hard to get and hard to schedule for our face-to-face, but I would say they were expensive because they were worth it, and they really kept things moving.

So my ask, I guess, of the council and the board in your conversations is when you're talking about resources, not just face-to-face meetings but also including those facilitators, because I think they did a really good job. Thanks.

KEITH DRAZEK:

Okay. Thanks very much, James. And again, I think that's really important for the conversation we're having right now, is, again, preparation for our discussions with the board. So let's make sure that we're keeping some focus there. But this is an important conversation, broadly, for the council to consider the management of this particular PDP. So Rafik, I'm going to turn to you, and then we'll go to Thomas and Mark.

RAFIK DAMMAK:

Okay, thanks. I think several of the comments and points that were made are valid regarding the pace, the workload and so on, and I think we are seeing some symptoms like when we have in the EPDP team some of the internal deadline to get input, many groups are asking for extension, and they cannot deliver by the

deadline. So I think that what we have now, and I guess I can bring it back again to discuss with Janis at the working group leadership level and see how we can improve things and to respond to the concerns that were made already in previous calls.

With regard to the resources, I think we already made those to get the mediator, face-to-face meeting and so on, so I guess for today, we can reiterate that and ask the board to act quickly, in particular for the face-to-face since we already highlighted that we have these issues, logistical issues regarding getting people to get visa on time and so on.

KEITH DRAZEK:

Okay. Thanks, Rafik, and I'll just follow up by saying that – and I think supporting what Rafik has said – in the request for the face-to-face meetings, there was an expectation that the facilitators would be a part of that. So I expect, based on all indications that I've had in conversations with ICANN board and senior staff, is that they want this thing to succeed and they want it to move forward, and that they're prepared to support us in the way that we need to get it done.

So I think the face-to-face meetings and the facilitators are likely to be there, and we'll continue to have that conversation and reinforce that in our conversation with the board today. So yeah, I'll stop there. Thomas, thank you for your patience.

THOMAS RICKERT: Thanks very much. Most of what's been said, I fully subscribe to. Our group is not producing an awful lot of results at the moment. But I should also say that there has been an awful lot of work being put into all this.

We are currently at a critical point in our deliberations according to my assessment. We had staff propose one route towards getting results, and the group said, well, that's the wrong way to approach this. Then staff wrote another document tackling things from a different angle, and the group said, well, we can't possibly do it that way.

And then I said, okay, I have a suggestion on how we can approach this. And I was slaughtered by, I'd say, only half of the group. Right? It's very difficult to please the group, and even agree on methodology to work through the chartering questions that we have.

And the question is, why is this? And you might also ask, "Why is he bringing up these points when we're preparing for the session with the board?" And what I'd like to offer is two thoughts: proportionality and liability.

I think that the concerns by many in the group are that they are building a system that might cost a fortune to implement if things

that we're trying to address can potentially be dealt with manually in a far more efficient manner.

So maybe it would be good for the council to discuss with the board that at some point, we're going to discuss how much this is all going to cost, and is the implementation of this system – of which we don't know what it will look like – proportionate? So that's one suggestion.

The second suggestion is on liability. I think that many of us do not know what the system is ultimately going to look like, but we've experienced in phase one that when it came to who's going to be responsible for all of that, who's going to be the controller, who's going to run the risk of being fined by the authorities, everybody was shying away despite public statements that have been made about ICANN being the sole controller for this and ICANN being willing to accept some of the risk.

So I think that maybe this is a good point in time for your group to discuss with the board what share of the responsibility and the liability folks are going to take. There's also been talk about establishing, let's say, a security fund out of which if we get it wrong, penalties can be paid. All those things, I think, we need to be innovative about, because if you give comfort to the contracted parties in particular that they're not being subjected to [a rules engine,] the results of which they have to accept and

disclose data in an illegal fashion, I think would be a huge step further and people would be probably willing to work more quickly if we have a projection of what the endgame might be. Thank you.

KEITH DRAZEK:

Thank you, Thomas. Mark, you're next, and then Erika.

MARK SVANCAREK:

Regarding the schedule, I don't think it's quite as dire as Michele fears. And I think Marika can probably fact check me on this. It seemed like at the end of phase one, we were working at a crazy pace, and everyone was very tired of that. So then we took some time off, and when we came back to start phase two, there was a desire by some people to go much slower than that crazy fast pace at the end.

What we settled on was something about 50% as many work hours as had been the steady state during phase one, and then I felt that was too slow. Many other people felt that was too fast, [Janis] thought it was just right.

And then almost immediately, we've set up a whole bunch of extra side meetings that bumped us back up to where we were, the [steady] state of phase one. Then there was an outcry, and

Janis pointed out, well, these were just previously planned, and we're not going to be running at that.

So I think the steady state of phase two is going to be about 50% as many hours per week as phase one would be, which is a compromise for everybody, I guess.

Regarding Thomas' points, I think that's correct. People would like to know how much things will cost and if there's other ways to do it. Everyone is worried about their exposure to these systems, whether they're done automatically or manually, and just for my side, as Microsoft, the use of WHOIS registration data in Microsoft is increasing because now we're using it for fraud detection. So inaccurate things like the Org field being missing, wrong or redacted, that impacts somebody's fraud detection score potentially, and our use of the data for digital crimes detection and for detecting state actor malfeasants has been degraded about 80%. That's the stat I have right now.

So there is a certain amount of urgency here from our side to move this forward. I can accept the pace that we're on now. I wish it was faster, but I could settle for it. But please, let's not go any slower. Thanks.

KEITH DRAZEK: Thanks very much, Mark. Erika, over to you, then I'll make a comment, and then we need to move on to the rest of our agenda in preparation for the board and the other meetings that we have this afternoon and tomorrow.

ERIKA MANN: Thank you, Keith. I'm a bit puzzled about this discussion, because it looks like the discussion is still shaping about potential scenarios without having seen the legal background and the legal information related to such potential scenarios, which looks to me from a purely either legal or economic point of view a little bit bizarre. So I wonder, if we have the discussion – I say you, not me, because I don't want to get, because of different reasons, involved in this discussion – but I think what would be important to know from ICANN Org and from the board is how – if they have received a set of potential scenarios, what kind of ICANN Org can play – imagine they become a controller, so what would be the scenarios one would have to look into? Because there are different indicators needed to be understood.

For example, just give you one – if all the data then will be stored in the United States, the implication across the globe with regard to legal obligation in different jurisdiction would be different if the data would be stored elsewhere, or would there be

obligations for example that the data will have to be mirrored in other countries to fulfill certain obligations?

And then you would want to check what the cost factor is, would this satisfy registrars, registries, or would there be indirect implications involved for them as well?

So I wonder, if this is not a discussion you would want to have as the board and ICANN, just to give them a deadline in, let's say two weeks' time or a month, it's just something that law firms can do quickly, and just come back to you with such kind of concrete scenarios. And then it's much easier even to discuss them with the European data protection board or to discuss them with the commission, because otherwise, everything is just fictional. It's not even real.

KEITH DRAZEK:

Thanks, Erika. I think it's a really good point, and there are so many variables. Unless you know what the options are, the frameworks might be – it's very difficult to do concrete policy development and policy work, and I think that was sort of the point that I was trying to make earlier about the fork in the road, about whether we end up with a system where ICANN is able to play a centralized role, perhaps as the controller, for registration data under the bylaws for stability, security and resiliency reasons, where registries and registrars would be processors for

that data, and whether that's a viable approach or structure. And if not, then what else are we going to design and build for a standardized system?

And I think that, to me, is really important information, and we know that Göran has been engaged with the commission or individuals at the commission. There's an intention, I believe, to have conversations with the data protection board or data protection authorities to try to get some indication of what might be possible.

And I think the sooner we and the EPDP team itself get that information – I'm not calling it guidance, but get that information or some indication as to what the right path might be, then that will help the focus, to your point, on what the framework could be. So thank you for that.

So I think as a wrap-up on this particular point, I think this meeting here in Marrakech is going to be critical for getting a sense as to where the EPDP phase two is. We saw it in phase one. The phase one work progressed most significantly during the face-to-face meetings, even after weeks and months of apparent lack of progress on much of anything.

So I think we will come out of Marrakech having a much better indication as to whether the actual substantive work can begin, whether the group can basically stop, as has been described here,

sort of arguing about approach and actually getting into the substantive work and making progress.

So as council chair, I'm calling on everybody that's involved to try to get to that phase and make the most of your time here in Marrakech face-to-face during the EPDP phase two sessions.

With that, let's move on. We have other items to discuss, both with regard to the board and other meetings. The next item is IDNS. We have, as everybody knows, from the Kobe resolutions from the board, an obligation to consider the IDN variants at the top level issue, to coordinate with the ccNSO to make sure the policies that we develop and the policies they develop are consistent to the extent possible, and then there's also the further consideration of the IDN guidelines 4.0 and how those two interact. So I think there's an expectation from the board that we will be moving forward on this issue. We have an obligation within council to figure out how to do that, and we're going to be discussing that further this week.

So I don't know that there's anything more specific that we need to address with the board today, but if anybody would like to raise anything, please put your hand up.

Okay. I don't see anything. I'm happy to lead that discussion with the help of anybody that would like to volunteer. Next item on the agenda for the board is the new gTLD subsequent procedures

PDP. And I see Cheryl is here as co-chair of that group, as well as our liaison from ALAC. So, any topics that folks would like to discuss about subsequent procedures.

I think we saw, as everybody I hope saw that we got a letter from Cyrus basically indicating that ICANN Org is starting to look at how it can start to position itself and do some pre-work in preparation for the next round of new gTLDs once the policy work is done. So again, that's a possible topic for discussion with the board today if anybody would like to raise that. Any comments, questions or thoughts about how we would like to discuss subsequent procedures? Okay, no hands.

Last item on the agenda, review recommendations prioritization and budgeting. I'm going to ask for some help on this one, because I don't recall where this came from. Was this a topic that the board submitted to us, or that we submitted to the board? Anyone? Tatiana?

TATIANA TROPINA:

Hi. I was also curious as to what this means, because this review recommendations prioritization and budgeting seems to be on the table kind of a year ago, so are there any updates? Because I believe from my perspective for example, it would be much more interesting to discuss the ongoing reviews, how they overlap and whatever to this multi-stakeholder model process. This would be

an interesting angle, but I don't know how open everyone would be to ask any questions from this angle.

Apparently, we have moved to item number six. I'm going to ask this question in my personal capacity, but maybe we want to reshape it on the council level. Just a suggestion. But I'm not sure we even get there in an hour.

KEITH DRAZEK: Yeah. Thanks, Tatiana. Yeah, I'm not sure we'll get through all of this either, but again, I'm not sure – can somebody help me understand where this one came from? Yes, Carlos, thank you.

CARLOS GUTIERREZ: Is this related to Brian Cote's presentation during our last call for this exercise related to the five-year strategic plan? That's my assumption.

KEITH DRAZEK: Yeah, good question. I don't know. And it may be. Marika. Thank you.

MARIKA KONINGS: Yeah, thanks, Keith. I think this last item comes from the conversation that happened last ICANN meeting following the consideration of the CCT review recommendations, where I think

the board kind of asked a question as well to the community in relation to how to prioritize recommendations coming out of reviews, and also make sure that appropriate budgeting is done, because many of these have an implication on ICANN's budget.

I don't recall if this was a specific item that the board requests to discuss or it followed from that, but I'm assuming that that was the kind of trigger to add it here and continue that conversation on how to improve that process going forward.

KEITH DRAZEK:

Okay. Thanks, Marika, and that makes sense in terms of the prefix there of review recommendations. So yeah, to that point, the CCT RT recommendations, some of those have been referred to the council for consideration, and it does have implications for prioritization and budgeting. So that makes sense, I think.

Okay. Michele. Thank you.

MICHELE NEYLON:

Sorry. Did we ever get a response to the query that was raised by both myself and Maxim in relation to the Brian Cute project where we asked specifically about the costs and we got a non-answer and were told that we would get an answer, but I don't recall seeing an answer.

KEITH DRAZEK: Thanks, Michele. I don't recall, but I see Marie's hand. Mary?

MARY WONG: Thanks for the question, Michele. You are correct, you haven't gotten a full answer. That is coming, because of the preparation that Brian was making for his session this week. And in fact, that particular question that the council asked about timeline, priorities, resources and so forth, is actually something that he plans to address. So two things, one that a response is forthcoming, and two, please come to the session.

I'm sorry, for everyone's information – I shouldn't have assumed that you knew – this is one of the cross-community high-interest topic sessions. There is going to be one that Brian will lead, it is on the topic of the evolution of the multi-stakeholder model of governance.

KEITH DRAZEK: Okay. Thank you.

TATIANA TROPINA: Thank you very much, but [seriously,] I would like to make this suggestion because we seem to be all kind of heading into this overlap between this multi-stakeholder model. Is it possible to

ask the board this question? Because I don't see anything here, but I believe that community is actually discussing this. And honestly, high-interest topic session is not really the place to ask those kind of questions to the board, because apparently, it's not Brian Cote who has to answer them.

KEITH DRAZEK:

Okay. Thanks, Tatiana. So I think a question to the board or to Göran as far as ICANN Org is concerned about the cost of that effort, broadly, I think is perfectly appropriate. If it's going to be addressed during a session, that's great. So I have no objection to asking that question of either ICANN Org or ICANN board, but I do think that asking Brian that question during the webinar was probably not the appropriate place to do that. I think that's a question for ICANN Org in my opinion. Mary, go ahead.

MARY WONG:

If I may, I would suggest that you ask that question to the board, to Cherine, and of course, Göran will be there as well, and one of them may choose to respond, or both.

KEITH DRAZEK:

Thanks, Mary. Okay, so that's the discussion topics for the lunch session with the board. Before we wrap up on that, I'll just note that the board, I believe, is going to be arriving just before 12:15,

which is when we're scheduled to meet with them. So I'd just ask everyone to straighten up around you, clean up, make space for the board members. If you're not a councilor, please take a step back from the table at the appropriate time. So just make sure we tidy up our space and make space for the board. Next slide.

Okay. So next slide is prep for the discussion with the GAC. We have two topics on the agenda with the GAC. One is the EPDP phase two, and the second is the topic of the legislative tracker, and this goes back to the question that we've raised with ICANN as recently as Kobe, and where we had some contributions during one of our recent council meetings, and the discussion of how can the community and ICANN Org work together to identify potential regulations and legislation internationally that may be impacting our policy development work and implementation or existing contracts.

So this is an opportunity, I think, there was some question about, is there a role for the GAC to play in that as members and representatives of their national governments to participate with the ICANN community and org more broadly to try to develop a system and a process for identifying potential conflicts of regulation with ICANN consensus policies, at least as it relates to the GNSO?

So those are the topics. Please, Martin.

MARTIN SILVA VALENT: Thank you, Keith. I know this is specifically on the GAC scenario, but I also think it's important for the gTLD tracker topic to have a more holistic approach and just have one big law firm, one big NGO with legal activism and the GAC activity. Just as a normal input to have them regular update [inaudible] ICANN staff. When you set that alliance up, I think it should give a sort of regular – not to be so blind. If we have three actors in each country, once that's set up, it's a good way to always have some feedback.

KEITH DRAZEK: Okay. Thank you. Tatiana?

TATIANA TROPINA: Thank you. I think on this slide, the item number two actually reflects the essence of the discussion about legislative track and approach. We talked on the last call who is actually responsible, ICANN Org or community? And some of us were favoring the option that ICANN Org should be responsible. And I believe if we provide input, if GAC provides input, you know, for the governments, anything going on on their level is important, and this legislative tracker is going to go all over the place with 100-something countries if there would be real input. And there would

be absolutely no way to actually prioritize and see what is relevant for ICANN.

So I believe that we really have to leave it to the ICANN Org to track legislative developments and supply them, maybe with some explanations why they got there, but if GAC and us and any parts of the community are going to actually channel this, this is going nowhere. This is just my opinion. Thank you.

KEITH DRAZEK:

Okay. Thanks, Tatiana. I think there are some different views on that, and I think your concerns are good though. I think your concerns are well-founded in that. I think to have multiple and 100 different inputs presents a challenge in terms of prioritization, but I also think that we shouldn't look at this as one entity's responsibility. I think there's an opportunity for input and for engagement and for discussion.

I don't think we as the GNSO community and the GNSO council want to defer and basically hand off responsibility for assessing impacts on gTLD policy to Org alone. I think we want to have some engagement there. How that engagement evolves and whether the GAC plays a role there, I think, is an open question.

But anyway, Tatiana, you wanted to respond. Go ahead.

TATIANA TROPINA: Yes, Keith. I totally agree with your concerns, and basically, for example I would love to contribute, but I think there should be a final ultimate stop who is actually responsible. I'm not saying that ICANN Org should be fully responsible, but they should be maybe those who prioritize and pick up – and we all agree that even if we aren't happy with the result, they would be the ones supplying the final result. That's what I was going to say.

KEITH DRAZEK: Thanks, Tatiana. I think that's a really good point. One of the discussions that I've heard people refer to – and Göran specifically recently – is the idea that in order to have a community engagement with ICANN Org and the ICANN board, and perhaps with GAC, is to possibly look at the CCWG IG, or the CC EG IG, whatever, that's now chartered only by ALAC. The ccNSO and GNSO have decided not to charter it, so it's sort of floating out there, if I can use that term. And I think there may be an opportunity – this is Göran's suggestion, I think we're likely to hear this further this week – to look at that group, possibly recharter that group, and have that be the locust or the opportunity for community, Org, board, to come together and have conversations about this topic.

So I've thought about that, and I actually think there may be some value in considering that, because right now, the group in my

view is a bit aimless. And if we could use that group or something like it to achieve this coordination or engagement function, I think it's worth considering. Tatiana, go ahead.

TATIANA TROPINA:

Yeah, sorry. It's too much of me. I think that currently, and as it was, this group is unable to really track those legislative developments. I think that it should be rechartered, revamped, and populated then with some of our representatives to really do the hard work. Because this tracking would be hard work.

But I believe that maybe, yeah, this is a good idea. So making ICANN Org being responsible or community being all over the place, we all can channel input, but this CCWG should be rechartered in this case, because it's not a vehicle for this right now.

KEITH DRAZEK:

Thanks, Tatiana, and I think that's exactly the idea, is it would be a rechartering with more specific and targeted focus. But again, that's just an idea that started to be floated. So let me pause there. Any further topics or discussion points for the GAC? We have a separate session with the GAC with the subgroup of interested parties on the IGO curative rights issue. We'll talk about that next, but this is for just the joint session broadly with

council and GAC. Tatiana, that's an old hand in Zoom, I think. Anyone else? Going once, going twice. Alright, let's move on.

Okay, so as I sent in my e-mail earlier today – if you haven't had a chance to read it – the interested parties from the GAC – it's probably going to be like five or six people, including some of the IGOs – and interested members of the GNSO council – and we've invited Heather Forrest to participate in that meeting as well, and Susan Kawaguchi, who have participated in the history of this, and Heather's an expert in the field, to have an informal dialog to focus on how we as the council could most appropriately charter a dedicated subteam under the auspices or the umbrella of the RPM PDP working group.

Recall that when we approved recommendations one through four and referred recommendation five, we agreed, and in our motion basically said, that we would undertake a chartering of a subgroup within the RPM group to tackle this issue moving forward.

So the intention – and the meeting is Tuesday at 1:30. Anybody is welcome to attend, but it's going to be an informal discussion focused on only looking ahead about how to appropriately charter that subgroup to ensure that we have maximum participation from the IGOs, that we have expertise in the field contributing, and that it does so in a way that doesn't interfere

with either phase one or phase two of the RPM PDP's work. In other words, it's going to be a separate function. So we want to get the input from the GAC to make sure that we try to get this thing done as most appropriately as possible.

So that's a separate discussion. It's optional, not everybody needs to be there, but you're welcome to participate if you'd like to come. So, any questions, comments, thoughts, concerns? Marie. Thank you.

MARIE PATTULLO:

It's really about putting my colleagues from the IPC on the spot. Paul, Mr. McGrady, did I understand correctly that you had already offered that you would be involved in this chartering of the group? She says, looking hopeful.

PAUL MCGRADY:

Yeah, I'm going to be at the meeting, and I think it makes sense that if we are also looking at the phase two charter, if we're going to do a subteam, we need to bake that in and we need to talk about what that looks like in terms of the findings and the reports and all of that, because if the idea is that we'll do the subteam and we'll report it out at the same time that everything else is being reported out in phase two, then what's the purpose of the subteam? If we are going to have a subteam with shorter

deliverable times, then we need to talk about what those times are and what that process looks like.

It's sort of like doing a PDP within a PDP, I think, so it's interesting and fun, different, but we definitely are going to have to build a framework around it.

But the first thing to do is to do what Keith and the leadership have set up, which is talk to the people who aren't happy with the outputs about what it is they're actually seeking, and then try to convince them to actually participate this time around, because it's hard to get people's views if they don't show up. Thanks.

KEITH DRAZEK:

Yeah. Thanks, Marie, and thanks, Paul. I think that's exactly right, and this is all in the context of we forwarded recommendations one through four, we referred recommendation five, the board has sent a letter back just the last couple of days to the GNSO council and the GAC basically saying, "Thank you, we're going to put this out for public comment, we're not going to engage in a facilitated dialog. We would encourage you to continue talking."

So I think we have an opportunity here to really gather information and to try to make sure that we can scope this subteam narrowly as possible but in order to deliver an outcome that is acceptable to the IGOs and that falls within our process

and procedures. I think that's the goal. Marie, I see your hand up again.

MARIE PATTULLO:

Thank you, Keith, and thank you, Paul. Completely agree with the specificity, the expertise, the knowledge, and although this has fallen within the RPM working group, to an extent, recommendation five isn't an RPM. It's about international jurisdiction and access to justice. So it's not specific to – what I'm saying is what I know that we need to have here is lawyers, and IGOs who actually deal with access to justice for IGOs, if that makes sense to you. So it's not just about the domain name issue, it's much more specific than that. I hope that makes sense, Paul.

PAUL MCGRADY:

Thanks. Not to get into minutia around a table where people probably don't care all that much about this particular issue in terms of the minutia, but yeah, recommendation five is about justice and access and all that, but recommendation five came out sideways, and what it turned into was a proposed modification to the UDRP, and so that's why it's getting stuffed in the phase two. That makes sense. But I take your point that we shouldn't lose the narrative about how do we fix the issue. And modifying the UDRP may not be that thing. It may be its own policy, it may be who knows what. Right?

So we don't have to – we're not just going to look at recommendation five, we're going to look at what recommendation five was meant to solve, which it didn't solve. But that's why it's being stuffed in where it's being stuffed.

KEITH DRAZEK:

Great. Thanks, all. Okay, I think that's enough on that subject unless anybody has anything else, let's move on. Okay, next item is the prep for our joint ccNSO-GNSO council meeting. We have a few different items here, joint activities, progress on the auction proceeds CCWG, approval of the full slate of the CSC, and procedures pertaining to the special IANA functions review. So I think the first one – Erika, I'm not sure if there's anything in particular that you'd like to speak to as it relates to the CCWG auction proceeds, but obviously, this is somewhere where we and the ccNSO are both participating.

The approval of the full slate of the CSC, we, as I noted in the list, have decided to agree to reappoint James Ganon and that once the final slate is consolidated by ICANN Org, we as the council will need to go through the process of working with the ccNSO to certify or ratify the final slate. And then the IANA functions review, I think that's the one where the ccNSO is going through a bylaw change request, because it was unable to find a non-ccNSO ccTLD manager, so probably looking for an update from the ccNSO on

that in terms of timing and expectations, because that's obviously been delayed.

And then hot topics, how to structure joint policy development efforts, and this is both confusing similarity and variant – that's IDN TLD variant management. That's in part at least the second portion part of the board resolution from Kobe that we need to deal with about working with the ccNSO to ensure our policies are consistent, and then discussion about the multi-stakeholder model evolution effort, the Brian Cote show. Are there any mutual concerns that we can identify at this time? And it may be premature to do that, but worth having the conversation. So very quickly, that's the overview of our joint ccNSO-GNSO council meeting. Any thoughts, any comments, any questions or concerns? Erika, thank you.

ERIKA MANN:

Thank you so much, Keith. Just to understand, do you want me to give a quick insight into the remaining problems which we face or may face with regard to the auction proceeds just to focus on these few points?

KEITH DRAZEK: Yeah, thanks, Erika. I think that makes sense, and I guess I understand one of the challenges of this group right now is a relative lack of participation, and –

ERIKA MANN: I think you will hear this again and again, but personally – that’s my very personal opinion – I believe it’s a nonissue, and I think we should stop talking about this. I know that staff is concerned about it, and I understand why staff is concerned, but if you continue over such a long period of time on issues, you can't expect a high participation. Let’s be frank, this kind of work should be done in maximum a year, and then you can expect that people are busy and have work to do.

Now, I think as long as we have a good reference back to the SO and ACs, and GNSO is clear what we want to achieve until when, I'm worried less about the participation. I agree with staff that we don’t want to face the situation that everybody comes in at the end when we finalized our work and suddenly raises concern. So I believe we have to be clear in the GNSO and the SO and ACs, that is we are not going to allow this to happen. As long as they're okay with this, I believe we are fine.

So it’s really a management issue.

KEITH DRAZEK: Okay. Thanks, Erika. That's really helpful. So yes, I think if we can focus on the substance of the matter in terms of the open points that need to be resolved to be able to move it forward, that'll be very helpful. So thank you. Okay, any other thoughts about the ccNSO meeting? Okay. Let's move on.

Let me pause. We have just over 20 minutes, I think, before our meeting with the board, and so any other discussion, any other topics, we'll take a break before we meet with the board, but I just want to take five minutes to see if there's any other discussion, any other thoughts, anything anybody would like to talk about. In particular, preparing for the board. Barry.

BARRY COBB: Just as a recollection, the last time you guys met with the ccNSO council, there was an action item about the five-year strategic plan. Within the SCBO, we recommended about setting up a joint session between SCBO and SOPC. Is that worthy of asking them if they're interested in? Just a 30-second blip, yes or no?

KEITH DRAZEK: Thanks, Barry. Thanks for the reminder. And yes, I think it is worth mentioning. I'd forgotten about that, and I think that's worth adding to the agenda. So thanks. Okay, anything else, anyone else? Alright, let's take a break. The ICANN board will start joining

us shortly, so take your break and then let's come back and be prepared to start sharply at 12:15. Go ahead, Marika.

MARIKA KONINGS: I think council members can already go ahead and have their lunch if they want to so they may be done by the time the board gets in and can speak more freely. [Terri] will be manning the queue.

KEITH DRAZEK: Hi, everybody. This is our one-minute warning. If everybody could please take your seats and wrap up your conversations. Thank you. One minute.

Alright. Welcome, everybody. So if I could ask for the agenda items to be put on the screen. Thank you. If I could have the recording started, please. Thank you. Alright, thanks, everybody. Hello. I'm Keith Drazek, GNSO chair. I'd like to take this opportunity to welcome the members of the ICANN board to our joint session over lunch here at ICANN 65 in Marrakech. We have six topics on our agenda, and we may get to all of them, we may not, but we'll do our best.

So I will kick things off, but Cherine, I ask if there's any opening remarks you'd like to say, but I do want to note that we as the

GNSO council look forward to this session every meeting and look forward to having some good conversation. So, Chérine.

CHÉRINE CHALABY: Just to echo what you just said, the board also looks forward to this meeting. We have very good topics, so we're very happy to be here and we're looking forward to engaging in a nice dialog on this. Thank you very much, Keith.

KEITH DRAZEK: Thank you, Chérine. So I'll just begin by noting that the GNSO council agenda, both for our working session today as well as our actual substantive or regular formal meeting that takes place on Wednesday is a very busy schedule. We have a tremendous amount of substantive work and things that we're considering, so while we know that this is a policy forum and an abbreviated meeting, there is a really significant amount of substantive work that we're tackling this week, and we very much value the board's engagement and contributions to the discussion, the dialog in our consideration.

So I'll start by kicking off topic number one on our list, which is a reference to the IGO curative rights protection next steps. So I just want to acknowledge, Chérine, the letter that we just received from the ICANN board, from you, on this topic, basically

indicating that the ICANN board has received the recommendations that the GNSO council approved. Recommendations one through four, and that your intention at this time is to put those recommendations out for public comment, which is of course part of the process of the board consideration of any consensus policy recommendations.

And concurrently, as you know, the GNSO council and the GAC have continued to engage in some dialog and have agreed to continue that dialog here in Marrakech about next steps for the rechartering or the chartering of a dedicated subgroup on the recommendation number five and IGO protections broadly.

So we look forward to having that conversation with the GAC on Tuesday at 1:30. It will actually be a subgroup or a group of interested parties of both the GNSO council and the GAC. So my message to you here is that the dialog is ongoing, and the GNSO council's sincere hope is that we're able to work with the GAC to properly scope and charter a dedicated subgroup under the RPM PDP working group to tackle this issue, and we're going to move forward with that while the board is considering its next steps related to recommendations one through four. But we appreciate your letter, and we will keep in touch with the board and on this topic as we have that dialog.

So I'll pause there. If Cherine or any board members would like to respond to this one, feel free. If any other councilors would like to weigh in, now is the time to do it.

CHERINE CHALABY:

I'll just say that we're really encouraged by the GNSO and the GAC working together and meeting this afternoon. The board doesn't prefer to be in the middle of things. I think we like the community to get together and discuss issues and find a way forward. That's very encouraging. And we will put recommendation one through four out to public comment. We're also forming a board caucus group on this to really give this priority and attention so that we can move the ball forward at the right pace. So we really appreciate that the GNSO are meeting this afternoon for beginning of a dialog, and I hope this would be a fruitful and beneficial dialog. Thank you very much, Keith.

KEITH DRAZEK:

Okay. Thank you, Cherine, and I'm happy to take any other comments from anybody on this topic. We have a Zoom room here for councilors, but I'll just look around for hands at this point if anybody would like to weight in. I think I do want to just note that I think there is a genuine desire and an interest at the GNSO council to find a good solution to this challenging issue, and we are engaging, as I said, with the GAC and interested members of

the GAC and the IGOs this week, and we will continue to do so in good faith to try to find a solution that is acceptable to the IGOs and to the GAC that also follows the process and procedure that we need to do here in the GNSO. And we think that we found an opportunity to do that and we're committed to trying to find the best possible outcome for all parties in this one.

So, any other thoughts or comments before we move on? Okay. Yes, Martin.

MARTIN SILVA VALENT:

Just a quick one. I've done this before, but just to be on the record, that whatever we do with the RPMs, to be very careful on how we handle that, not just [throw it there, because it's a very precise working machine and we have a timeline and everything.

KEITH DRAZEK:

Yeah. Thank you, Martin, and absolutely, it's worth restating that as the GNSO council looks to charter a dedicated subgroup under the auspices of or the umbrella of the RPM PDP working group, our goal is to have that group be distinct and really separate so it doesn't negatively impact the substance with the timelines or the deliverables of the RPM phase one or the RPM phase two, and that it can be scoped in such a way that it ensures participation of the IGOs and all relevant interested parties, and has experts and

expertise to contribute in the relevant international law. So, Martin, thank you for, again, reminding us that we have another ongoing PDP that we have to ensure isn't disrupted or delayed. So, thank you.

Okay. No other comments on this one? Let's move on. Next item on our agenda is discussion of the EPDP phase one consultation next steps. And just to clarify, this is the GNSO council's consideration of the board's acceptance of most of the EPDP phase one recommendations, but not all. I think as we all know, there were two recommendations that were not accepted in full. Recommendation one purpose two, and the recommendation 12, and so the GNSO council finds ourselves in a unique situation here where we've received consensus policy recommendations from the EPDP team, the GNSO council approved those recommendations in a consensus manner, forwarded it to the board, and the board in this particular instance chose not to accept all of those recommendations.

So we're in a bit of precedent-setting territory here, and the council is sensitive to the fact that we need to make sure that we are considering this step in this decision by the board appropriately and making sure that we understand the views of the board and that we can share the views of the EPDP team and the council with the board on this particular topic of the two recommendations that were not accepted in full.

I think the sense that we've got from our engagement with the EPDP team – and the council reached out to eh EPDP team to seek substantive input from the team on these two particular topic. The council is then also further considering process and procedure as the managers of the PDP process.

I think the sense initially is that there's not much concern about the nonacceptance of recommendation one purpose two, because it was placeholder language in the EPDP phase one report. Could have been accepted, could have been not accepted. There was an acknowledgement that it was placeholder language and would need further discussion during the phase two work.

Generally, the initial sense, I think, is that it's not overly contentious, but there is some concern about the board's nonacceptance of recommendation 12 in full where there was basically the language around the deletion of data related to the organization field where that data was not validated by the registrant. So there's a distinction between redaction and deletion, and there have been some concerns raised about that particular points.

So Cherine, I just wanted to communicate from the council perspective and to the board, we see this as the beginning today of a dialog, a beginning of a discussion between council representing the EPDP team from a substantive perspective and

ourselves from a procedural perspective. The beginning of a dialog with the board to better understand your rationale for those decisions and to perhaps share the views of the EPDP team and the council as to perhaps why we think that may not have been the right approach. We're not quite there yet, but that's sort of, I think, where we see this as next steps are concerned.

I will say one of the discussions we had earlier in our preparation meeting was the wish and the desire that the board had engaged with the council prior to making that decision if there were questions about two of the recommendations where it clearly resulted in the nonacceptance in full.

So we understand, of course, that the board was up against a deadline because of the expiration of the temporary specification, and that was a unique situation, but I think generally speaking, and looking ahead, the council would request that if the board were ever in a situation again of not wanting or being able to accept a recommendation that was forwarded to it, that there would be a prior discussion before the actual decision was made.

So, let me pause there, see if anybody would like to jump in, weigh in or respond.

CHERINE CHALABY:

So I know that Becky will want to handle this, and I know that Avri wants to say something, but just to comment, yes, I can see recommendation one, the wording was placing it on hold, and recommendation two, I can understand how you feel that it's possible that – you feel like we've ignored the work that you have done and that we come up with an alternative without having a dialog with you on exactly what happened, really. But we didn't ignore what you've done, but I think we needed to, given the timing, make a decision to trigger the dialog.

So I think we're now in the period – I agree with you – beginning of the dialog which we'd like to have with you. And I noted your request that in future, if we have an issue with recommendation, have a dialog first, because in the past, it's always been the board make a decision first and then we talk to you. Right? We're giving you our recommendation, make a decision. But your offer is well taken, and we'll consider that in future.

So I'm going to hand it over to Becky to take us through the rationale of why, what the issue is, and then I'm sure that Avri wants to say a few words about that, I'm sure. So Becky.

BECKY BURR:

Actually, I'm going to turn to Avri for the substance, and thankfully, I think this is actually a really easily solvable question

as opposed to a rejection or a problem.[It really reflected a question.]

I just want to echo Cherine on the process piece. I think we're all learning about process, timing, moving things up sooner, not waiting until the last minute. There's a lot of stuff going on, and I think we've had a couple of experiences in the last few months where it's been clear that that we have to think more carefully, a little bit more rigorously about timing and interactions.

So the only thing I wanted to say was just that the board's acknowledgement that the process could have been better, and we're going to take that away and work on it. I'm going to turn to Avri for the substance though.

AVRI DORIA:

Thanks. Yeah, it was an interesting experience for me, because obviously, I don't know if people saw, but I did have an opinion about our going against the recommendation one, and in fact, did stand down from that one. And yet – so then the question becomes, why did I go with our majority on question 12?

And basically, what came up at the last minute of our conversations is that there was possibly a technical issue that only showed up in certain implementations, there weren't clear

details about it, and this seemed to me the perfect opportunity to say we need to know more.

Now, there wasn't time at that point to stop the clock and say, "Listen, let's not vote on this temporary spec replacement while we do research on the possible technical issue." And I'm not going to go into that now. Hopefully we will. On the possible technical issue that occurs when you've deleted the data, and in some implementations, what happens if that data is not there, does some other data roll into it or something?

So that question was not answerable by us at that time. And so that seemed to be one of those perfect opportunities to go into that bylaws notion that says the board's rejection of a recommendation just activates this conversation, activates the clarification process. Thankful that that was there, that there's nothing final in having said it, and basically say, "Let's get the data."

So I think of it as one that can be dealt with really quite easily, is if the technical issue is not there, which I think was the reason behind most of the people's not accepting the recommendation, then we're in good shape to move on. So it actually was the kind of place where I think that bylaw was actually a good thing to have.

CHRIS DISSPAIN:

Just briefly on one thing. I just want to sort of – what we call a two-finger thing. Just to go back to the point that you made about talking to you first, you're right that we were partially driven by this deadline of getting it done.

But we did talk about the possibility of we should talk first, and there was a discussion about “Yes but the bylaw says this is the process that we need to use.” So I think it’s important that we understand that sometimes, yes, there is a process, but we all need to agree that it’s okay to step outside of that if we can solve a problem that way.

So I just want to make that point, [but in the main,] it was just the deadline. Thanks.

KEITH DRAZEK:

Okay. Thanks very much, Chris, and thanks, Avri. So I think that’s really helpful and really encouraging, and Chris, completely agree that if there's a process that needs to be followed outlined in the bylaws, that we need to respect that. And it could be perhaps an informal outreach or question, a clarifying question.

Obviously in this case, to Becky’s point and acknowledging this deadline that we were dealing with with the expiration of the temp spec, it was a unique situation.

So I think on this particular point, I think there is a desire and an interest of the council and the EPDP team, and certainly, certain members of the EPDP team to have a further discussion with you on this particular point related to recommendation 12, and we could probably have five minutes of that now just to sort of tee it up and then carry on the conversation.

James, I'm not sure if you wanted to speak – Mr. Bladel. James contributed to our discussion of council earlier about the substance of this particular point, recommendation 12, the deletion of the organization field data that's not validated, and sort of the question of opt in, opt out, and that it was actually sort of an effort to clean up the database. So I'm probably over my skis right now. James, if you could help just a few minutes of an observation of the rationale and the process that you went through on the team.

JAMES BLADEL:

Hi. Thanks. And thanks, Keith, and thanks everyone. I'm James Bladel, member of the EPDP team, and probably deserve a lot of the blame for where we ended up on recommendation 12, which was the result of some extensive discussions at our face-to-face meeting last January in Toronto.

The thinking behind it – and perhaps we could have communicated this more clearly in our report and would have

addressed or preempted some of the questions, I think, that led to the reason for the board to set aside recommendation 12, but our concerns stem from the fact that the registrant org field was a freeform text field that was collected from registrants and was not interpreted or implemented in a standardized way across registrars for the past roughly 20 years.

So we recognize that we had millions and perhaps even tens of millions of junk data in that field. Sometimes folks would just copy their name in there. If their registrant name was James Bladel, they would put registrant org, James Bladel. Sometimes they would put an aspirant organization in there like NewCo or it was a placeholder for an idea for an organization.

Some registrars would take that information and just – it was a throwaway, it was more like a second address line. Other registrars, like for example my registrar, interpreted that as an assignment of that registration to the organization and that the registrant name was just a point of contact at that organization.

And there were other implementations as well. So you can see that with the EPDP, what we were doing for the first time is we're establishing a standardized approach to how we're going to treat this field going forward, and I think that's a valuable thing, but it still doesn't address this legacy problem we have of millions of

records that are of unknown quality, whether that information is valid or not.

So what we wanted to do is provide a window for the registrant, notify them, say, “Come in and tell us if this information is correct.” And if it is correct, then just confirm it. If it’s not correct, then fix it or delete it. Which is, I think, a process that we’re all familiar with.

The challenge is of course there's always that percentage of folks who ignore that request. So then what do we do with that? And then that data we decided would be treated as an opt out and the opt out would be that we would delete that information from the WHOIS record and that there would no longer be any data in the WHOIS org.

I think the concerns that were raised is, well, if you're deleting something, that’s irrevocable – and we heard that this morning as well. And I don’t think this is any big secret, but registrars actually have lots of different information about customers that isn't published in WHOIS. Credit card information, secondary billing data, and all kinds of things that are published in WHOIS. And we would still have lots of ways to contact these folks.

So I think the concern that we would be creating these millions of orphaned domain names is not a valid concern. We still know

what account they're in, how to contact the account holder and how to fix those records.

So I think it was really an effort to design a process to clean up the legacy problem and establish a new ruleset going forward, but recognizing that we have to give these folks an opportunity to make a change, because we're changing the rules in the middle of the gam and we need to make sure they understand that this field that they may have thought was a throwaway field many years ago is now suddenly very important to their thing.

So hopefully that helps shed some light on how we got from where we were to our recommendation 12, and why, I think – and not speaking for the EPDP or the council, but just in my personal capacity, while I still believe that recommendation 12 as it stands is the right decision and the right process to going forward and also cleaning up this legacy problem. Is that what you were looking for, Keith?

KEITH DRAZEK:

Yeah. Perfect. Thanks, James. Much appreciated. And again, this is just the beginning of a discussion and a dialog. We didn't want to miss this opportunity to sort of tee this up and say, “Look, we may have some issues or some concerns here. We'd like to have that dialog and explain the rationale, acknowledging that this was a consensus recommendation from the EPDP team, it wasn't

pulled out of thin air. It was actually the result of many hours of discussions at the face-to-face meeting, and that was the recommendation. So we just want to make sure that we have the opportunity to at least initiate that.

Avri, I saw your hand. Go ahead.

AVRI DORIA:

Yeah, I just wanted to clarify, I actually accepted all of that. The piece of information that I got towards the end of the conversation, and it came actually from one of my fellow board members, is there may be implementations where once you deleted the data from the organization, other data may fill in that space, [in other words] may be used from the rest of the data that would therefore put some other information in there. In other words, that space would be filled, not by the registrant but by other information, and that that was an open question and there was uncertainty about that.

So that was the question that also came through at that point. So one step after that is what happens – are there any implementations that will fill in the organization spot with other data that it has once it's there? And that was the question.

KEITH DRAZEK: Thanks, Avri. That’s a good question, and not being a registrar, I certainly don’t have the answer to that one, but I think – as I see James coming back. James?

JAMES BLADEL: Thanks. And Avri, maybe we can make sure that I fully understand the concern, but in that scenario, the only way that data is reinserted into the org field in my understanding would be if the registrant did it. I don’t believe there would be any contingency that we thought of where a registrar or some other third party would put data into that field or change data in that field without the consent of the registrant. Once this window to correct that legacy data had closed, it was solely – the registrant had either confirmed it or the registrar had removed it, but then from that moment going forward, it was all under the control of the registrant and only the registrant.

KEITH DRAZEK: Okay. Thomas?

THOMAS RICKERT. Thanks very much. I’d just like to offer a more general point with respect to the rejection, or nonadoption, I should say, of recommendation 12, and that is that board in its rationale has raised security and stability concerns, and whilst I do appreciate

that that would be a good reason to not adopt, or as the case may be, reject a recommendation coming out of the GNSO, I think that in this particular case, the mere fact that the GNSO comes up with policy that may or may not lead to the loss of a domain name should not be a good enough justification not to adopt recommendations.

So I think that it would have been good to have prior communication on that. I think it would have been appropriate for the board to say that, “Okay, when this is implemented, make sure that enough notice is given to the registrants to avoid the loss of domain names,” but it is not unprecedented to have policy in place such as WHOIS reminders whereby if you don’t play by the rules, you may lose your domain name.

And I'm not sure what the optics of this at the global stage would be if whenever the GNSO comes up with policy that might end in the loss of domain names, that the board rejects or does not adopt such recommendations. So my plea would be – and I know that it has been extremely challenging for everyone to read everything, but I think that this nonadoption of a well-thought-out recommendation was unfortunate in this case.

KEITH DRAZEK:

Okay. Thank you, Thomas. I'm going to go to Michele next. I'm going to then ask if there's any further input from board

members, and then we really do need to move on on this one. I think there's further conversation, further discussion that we will have on this. The council may at some point ask the board to reconsider, but this is just the beginning of the conversation, but we do have a full agenda that we need to get through. So Michele briefly, and then I'll turn to the board.

MICHELE NEYLON:

Brevity of course being my middle name. Thanks, Keith. Going back to Avri's concerns or the concerns that Avri was articulating that other people shared, it sounds to me like whoever raised that doesn't actually understand how databases work. If you remove the data from a field in a database, unless you are really bad with SQL queries, in which case you should not be doing anything like that on a live database, the data is not going to move. You're not going to end up with the data from a field above or below it suddenly magically moving in, which sounds like what somebody had suggested could happen. That is a very strange idea, and maybe if some registrars or registries have totally inept staff working for them, that could happen, but I would think most of us don't, and if that is the only reason for having a concern about that around that particular recommendation, I'm happy for any of us to talk to you or anybody else further on it. But I don't think any of the registrars find that assertion plausible, to be perfectly

honest. It sounds like somebody doesn't understand how databases work.

KEITH DRAZEK: Okay. Thanks, Michele. Any further response or comment from the board?

BECKY BURR: I think we're all sort of in radical agreement here, so let's take yes for an answer. We had a question. It was really a question. The language suggested that information was being deleted, that there was some replacement that was possible, and that the information was going away. The board's question was, "Really?" I think we've all said no, so we should just get that down. But I think this was nothing more than we were puzzled by the language in the recommendation and needed an explanation. And yes, we should have figured out a way to ask that before it came to this, but it really reflected nothing more substantive than that.

KEITH DRAZEK: Thank you very much, Becky, and thanks, all. James, thank you for your contribution. Thomas too, and to everybody here around the table. So we'll take that under advisement and figure out next steps on this particular one in terms of process and procedure.

So thank you, let's move on them. The next item on our agenda is the EPDP phase two ongoing work. I think we had a robust discussion here in our prep session earlier today on this topic. I think as most of you know, we the council on behalf of the EPDP team for phase two have submitted an additional budget request for two face-to-face meetings of the group, one later this year, and the next one I believe for early 2020, with the expectation that there would be facilitation support and basically the resources that as we saw in the EPDP phase one were very effective in helping the group make advancements and progress. We certainly hope and expect to see that in the face-to-face meeting here, and that there would be a need to do that prior to Montréal and then again after Montréal.

So we look forward to a positive response. That was just submitted probably within the last week. Beyond that, as far as resourcing, there was discussion here in our prep session about concerns of timing and intensity of work, and timelines and deliverables. So that is an ongoing topic of discussion at council, but we recognize that the council in working with the PDP group, the EPDP team, it's our responsibility to ensure that from a process management perspective, that that's our responsibility to deal with, and we will certainly look to the board for support in resourcing as needed to bring this to a conclusion.

CHERINE CHALABY: Just to respond, the issue of budget and timing, on the timing issue, how fast or how slow the phase two goes is really down to the GNSO council and the EPDP team. That's your responsibility. The board stands ready to help and facilitate, and your budget request, I would leave it to Göran to answer that, but if he answers yes, the board is very supportive. Thank you.

KEITH DRAZEK: Thank you very much, Cherine. So the next topic that we discussed was a question of if we look at the work of the EPDP phase two, and the question, sort of a fundamental question of whether ICANN playing a centralized role in a uniform access model as a controller is a viable option, or whether the community through the EPDP needs to be considering an alternative. We're talking about a standardized system for access and disclosure. The question is, can that be a uniform access model as we've described it with ICANN playing a centralized function? Or do we need to be considering an alternative?

And I think as I've said recently, there's, in my view, a bit of a fork in the road ahead of us. We're going to have to choose one path or the other, and the sooner we have an indication as to the direction we should be taking, the better and more able the EPDP team will be to design the appropriate policies.

So I know that there's been engagement with the commission and others, and conversation, and I think there's a desire from the EPDP team to engage in that, and I know that Göran has extended that invitation to the EPDP team to contribute and to engage and to help shape those questions, but I think there's a general hope that the sooner we get that answer or some indication of the right path, the better off we'll be in delivering a timely solution. Göran?

GÖRAN MARBY:

Thank you, Keith. I will take this opportunity because I've received some questions on what we're doing, and I would like to sort of make a statement. I'm going to read it because everyone says I should have this right.

Our assumption is that the only way to create a unified access model based on the TSG is to take away the legal risk for the contracted parties providing WHOIS data for the UAM. I want to repeat that. Our assumption is that the only way to create a UAM based on the TSG is to take away the legal risk for the contracted parties providing WHOIS data through a UAM.

And that is our theory. And this is the possibility we're now testing through the work of what we call the [three strawberry team] consultations. And if this theory turns out to be wrong, there is no possibility of what we call a unified access model, which means

that there has to be some other form of access, but that will not be unified.

The UAM means that someone else than the contracted parties decide who gets access under what circumstances and for what purposes and safeguards. Someone else than the contracted parties has to make that decision.

We're going to the DPAs in Europe. We need a clear answer from them so that we can make sure there's no risk for the contracted parties providing WHOIS data through a UAM.

And the answer to this question will be provided to the expedited PDP to make the decisions about if this is going to become policy. Not the board, not the org.

By the way, the board reconfirmed that goal to try to test this theory by setting a new goal for me this year to do that. I hope this clears up some of the discussions you've been having.

On the timeline, the strawberry team, which is an internal project name, are meeting with the expedited PDP on Thursday to more in detail describe where we are in the process, what the next process is, what the next part of the process is.

And the European Commission is in the room as well, so they can take questions about the process as well.

When we finally go with questions to the DPAs, we will of course publish all those questions and we will of course be 100% transparent about the answers as well.

And because I just received a question, I haven't spoken to any DPA about WHOIS since I think June last year. I have not engaged in any meetings with the DPAs, and neither has my team talked about it in a formal way. So there is nothing more to record about that. I hope [inaudible] will give you a little bit of way forward when they meet the expedited PDP. Thank you.

KEITH DRAZEK:

Thank you, Göran. If anybody would like to get in queue, please raise your hands. Erika, I'll come to you next, I just want to comment. So Göran, thank you for that update. Thank you for that overview, and also thank you for engaging in your letters to the EPDP team and in the session here with the EPDP team on this topic. I think that will be very helpful. Erika, over to you.

ERIKA MANN:

Thank you, Göran. I believe this approach is very helpful and will certainly guide ICANN Org and the board well and the GNSO too. My question is, is there any information you could share with the GNSO? You mentioned some of the questions, but I wonder, I would assume you already have a package in support from the

legal counsel evaluating certain clusters of questions, for example if you're headquartered here and the controller is headquartered in country X, what kind of implication would this then have on the overall way in storing data or allowing access? Would you be able to share these kind of information the GNSO? Thank you.

GÖRAN MARBY:

On the specific question when it comes to the legal status of ICANN, we don't have any data. So the discussion about which DPA [inaudible] for us is an open one. The second question, what we base this on is actually open information which we shared, and that is the information received first from the DPAs by themselves when they actually told us, "Go and fix access for police force and other ones." That was in a letter from them last June, I think.

The second it me is where the European Commission in their letter to the board three months ago said there is a possibility to do unified access model if you do the purpose like this.

So we are testing the theory, and [Elena] will on Thursday, and the strawberry team, go through a little bit more about that. But it's based on the TSG. But it's based on the assumption that as long as the contracted parties don't have to answer the

questions, the liabilities have shifted. Where it's going, how it's going, that is another question.

As you remember that already two years ago, we said we're probably going to have someone outside actually asking the question, not ICANN. And as you know, we have engaged with organizations such as Europol and WIPO, because they are probably better to understand – to accredit the one who comes in and to validate the questions.

So we are not going down all the way when it comes to details. We're trying to get [principle answers on principle questions.] I think an important thing is that what we're saying is really that if we don't figure out a way to take away those liabilities from the contracted parties, there will be no unified access model.

And to Keith's point, there is a fork in the road. This is an expression I learned yesterday by Keith. Until then, the PDP will have a problem of actually constructing a UAM. And if you can't do a UAM, it'll be other models. But that means that the contracted parties still will have the responsibility to take action upon individual requests according to their own legislation.

But the final say if ICANN should have a unified access model and how it would be done out of that will be in the expedited PDP and nowhere else. So the work we're doing is to get that information

into the PDP, which has been the intention all the way. I hope that answers your question.

KEITH DRAZEK:

Okay. Thank you very much, Göran. That's very helpful, and I think in the interest of time – we have 15 minutes left, I want to get through the next three items on our agenda and try to keep five minutes for Cherine and the board to raise anything that you'd like to raise to our attention. So let me just briefly go – thanks, everybody, for that conversation. Very important topic, and we'll continue that and look forward to the engagement of your strawberry team with the EPDP team on Thursday. So thank you.

Okay, next item is IDNs. As we know, and as you know, the ICANN board approved a resolution in Kobe related to the policy considerations around IDN variant TLDs and essentially called for the GNSO and the ccNSO to engage together or to remain in contact to ensure that the policies that are developed are consistent, and of course not inconsistent.

So the council is engaging on this topic this week. We will be discussing this with the ccNSO during our joint session and trying to figure out the appropriate path forward. One of the challenges that we will have to figure out and to resolve is as we know, there's an ongoing gTLD subsequent procedures PDP where this

topic is being considered and discussed. That's obviously the policy development process for gTLDs.

The question then is, how do we as the GNSO for generic top-level domains engage with the ccNSO. Is there a willingness for the ccNSO to participate in the subsequent procedures PDP? Is there another process that needs to be considered? How do we ensure that that's all taking place?

So the council is very aware of this expectation and obligation, and we're taking it seriously, and those conversations will continue this week.

There's also some question at the council level about the IDN guidelines 4.0 and whether the council needs to look at the IDN issue holistically under a policy development lens to try to understand where policy implications exist and where it's truly implementation, and so these are conversations that the GNSO council is having and has been having now for a couple of weeks or a month.

So, any questions, comments, follow-up on that topic? Yes, Cherine. Thank you.

CHERINE CHALABY:

You said on the IDN variant issue that the GNSO will work with the ccNSO. Did you raise a question whether they are willing to do it

or not? Can we help and facilitate, or you've already approached them and it's been agreed and you're going to have the discussion? Which one is it?

KEITH DRAZEK:

Thanks, Cherine. Great question, and I expect that there's a willingness for the ccNSO and the GNSO to engage on the topic. I think the question is how, and through what process. In other words, should it be through the subsequent procedures PDP, which is a GNSO process? Will the ccNSO be willing to participate in that process? Do we need to consider some alternative? If there's something that's going to be binding on registries in the G-space, it needs to be a PDP, and so there's some question about I think the mechanism or the process by which we achieve the goal, which is to ensure that there's a consistent approach to the IDN variant policy issue.

Okay. Next item is the new gTLD subsequent procedures PDP. As we know, this is a group that's been working for quite a while, and good work has been done. There's still some work left to be done on the group. We did note – and Göran, a letter from Cyrus that came to the community on ICANN Org's looking ahead as it relates to preparation for implementation once the subsequent procedures PDP concludes its policy work to try to ensure that ICANN Org has taken whatever steps it can to prepare for

whatever implementation is likely to come. Anything you'd like to say on that?

GÖRAN MARBY:

I wasn't here, but many of you were, and you know that when we started the first time, it was not easy. There was success in the sense if you think [inaudible] success, we were able to come up with 1200 names, but it was a really tough process for everybody. It was also costly. If I got it correctly, it cost between \$30-35 million.

And we have very few systems left for that. We started something and it didn't work out. So a lot of the work was actually manual, and a lot of the work has to be manual because all the applicants have to go through the applicant guidebook which is – is it 300 pages or something? And all those tests [inaudible]. It's a very formal and also administratively complicated thing to do.

And GNSO council I think asked us a year ago or something about what are your preparations. So we sat down and started looking through preparations doing sort of assumptions. And instead of starting just building something based on an assumption, we thought it was a fair thing to go out to the community and sort of engage with different parts of the community, especially the policy team to sort of sit down and talk to them. And these are basic things, like how many do you expect it's going to be per

year? Are we talking about one closed round, or is it going to be one ongoing round? We still have the assumption about maximum 1000 per year, etc., because this comes back to how we can start to design an eventual system, and maybe we can take down the time from implementation of this from 18 months or something to maybe nine months or a year. So that's what we're talking about, is defining a measure of not – because I know that when the community finally arrives on this conclusion, you probably won't have it done. But it's going to take 16-18 months to do it. It's sort of hard to avoid it. Thank you.

KEITH DRAZEK:

Okay. Thank you, Göran, and to be clear, the council has not really had a chance to discuss the letter that was received from Cyrus, and we will be talking about that some more this week, so thank you for that additional context.

GÖRAN MARBY:

I know it's unusual for us to do this. It's sort of a test attempt, and it's really to start a discussion to receive input. Nothing in there is written in stone, we call it assumptions because we really want to check our assumptions with the community. We have some knowledge, but we know in this room and other parts of the community, you know much more than we do how this is going to work in practice.

And maybe I draw the conclusion that last time, we maybe didn't engage that much with the community about some of the practicalities, but there was a lot of work that went after the policy was set, so the applicant guidebook and all of that, and I want to have a more structured process for the benefit of everybody. It's still going to cost maybe \$25-30 million to build it. Thank you.

KEITH DRAZEK:

Thanks very much, Göran. So let's move on. We have five minutes left. The last item on our agenda was reference to review recommendations, prioritization and budgeting. This, I think, is at least a reference to the CCT RT recommendation referrals, and the question of – I think broadly, the community, including the GNSO and the board, are looking at these questions of prioritization, the impact on budgets, and so we as a council are very sensitive to this. Prioritization is a key component of our PDP 3.0 implementation work, so I just wanted to note that we're sensitive to this issue and we understand that the input to the multi-stakeholder model evolution that Brian Cote is running is critical. I know that our stakeholder groups and constituencies are providing input and the council is looking forward to engaging on this as well.

so I just want to stop there. Cherine, I want to hand it to you for the last four, five minutes. Any views from the board that we should know about?

CHERINE CHALABY:

Thank you. I think the board is focusing at the moment in completing the three major plans that are going to bind us all together. One is the strategic plan, and you should know that the board yesterday adopted the strategic plan, but we also met our commitment to the community by saying that we will leave the door open towards the end of the year when the operating and financial plan that will show us how and at what cost we're going to implement the plan is developed, and if we find that the affordability of the strategic plan cannot be met, we'll have to go back and adjust.

So we passed two resolutions. One is to adopt the plan as it is now, two, to allow for changes by the December timeframe when we see what the operating plan is, and the third one, to ensure that the plan, once it's amended if need be and in place, can be a living document and should be reviewed on planned intervals, but in a manner that makes sure that this is not just the board doing it, that the board is working with the community. We haven't got the process pinned down yet. We need to find out a way of doing it, because if we go through to keep the document

alive, if we go through a full production like the one we did to develop the plan, we're not going to do it. It's too much. So we have to find a way of all of us getting involved in a more streamlined way just to keep the plan alive until the five years expire and there's another plan. So this is where we are.

If you recall, the strategic plan has five objectives. One of those objectives is to improve the aspects of our governments in terms of efficiency and effectiveness, and Brian Cote is leading this effort. This is important. What I believe where we are now – and there's a session with Brian – is that we're going to do this work in two steps. The first step is pretty much complete. We have a list of issues. It went out for public comment, public comments have come in, and Brian is going to share that list now with you.

The next thing is to come up with a workplan. Not the solution, just a workplan of who will own which issue and when do they think they can find a solution and what the resources they need over the life of the strategic plan. So that should be really our focus, and we ask everyone to help in making that workplan complete. Thank you, Keith.

KEITH DRAZEK:

Thank you very much, Cherine. Let me just open the floor now. Anybody like to comment on anything? Any Other Business, any other topics for discussion briefly? Alright, I don't see any. So with

that, let me take the opportunity to thank you all very much. Everybody, our guests for joining us as well. I think this was a very informative and constructive session, so look forward to ongoing discussion on several of these topics, and we look forward to reporting out on our conversations with the GAC on the IGO CRP issue, working with you to figure out next steps on the EPDP phase one consultation work and everything else. So thank you all very much.

CHERINE CHALABY: Thank you, Keith.

KEITH DRAZEK: So GNSO councilors will take a ten-minute break.

Hey, everybody. We'll get started in about three or four minutes. Thank you.

Alright, one minute.

Okay. Hi, everybody. Welcome back. If everybody could please take your seats and wrap up your conversations. So the next session on our agenda is an update on the PDP 3.0 implementation. This is an important topic.

But just before we get to that, I do want to save a little bit of time here this afternoon to maybe recap or to follow up on the

conversation that we just had with the board. I think it makes sense for us to, while it's still fresh in our minds, have five or ten minutes to at least go over that conversation and to identify a path forward on a few different things. So we'll save that, but we'll go to the PDP 3.0 update now.

So again, let me just remind everybody that our implementation of the PDP 3.0 recommendations as approved by council is a really important bit of work, and the implementation is the culmination of work that we've been doing now for 18 months or more, and that this is really important, I appreciate those who have stepped up to help contribute to this, but I see this as something that needs to have a pretty significant amount of focus of the council and the volunteers over the course of the next several months. I think if we're going to be successful in achieving the implementation of PDP 3.0 this calendar year, which is what we set out to do, that we need to make some significant and substantial process going into Montréal.

So as I hand it over to Rafik for an update on PDP 3.0 implementation update, this is something I'm flagging for all of us as something that's really important and that we need to focus on and make sure that we apply effort and attention. So with that, Rafik.

RAFIK DAMMAK:

Okay. Thanks, Keith. So with regard to PDP 3.0, the first in terms of update that we start our work in Kobe meeting with an informal meeting with all who volunteered to join the small team, and since then, we had a biweekly call as agreed and trying to use the tools like Slack, Google Doc and so on for reviewing material and giving input.

But lately, we had to adjust our initial implementation plan in terms of targets and dates, because the progress we made – and that was shared in GNSO council list – I know that maybe it was shared a few days ago just before everyone traveling, so maybe not having a chance to review it, but I think the main highlight is that we tried to give a new target date for all the items or recommendations, and to start the planning for them.

So it's still our main target to finish work by AGM in Montréal, which means we have roughly four months to finish the work. So knowing that, we had to adjust our original deadlines. We kind of agreed in our last call with a few corrective actions, is that knowing that we need to increase our workload to catch up, so we'll have weekly calls because we saw that we have more discussion during the calls than really in-between. I want to thank everyone who participate in the review and input, but we had to kind of adjust to that.

And also, we will try to do better planning. We tried to cover several items in parallel, and I guess it was sometimes challenging because we have kind of to review material, give input, and then waiting for getting a new version, but also trying to work in several work in progress components, which can be sometimes challenging, even if it gives us the feeling that we are making progress, but still, we didn't finish this recommendation.

So we'll try to do better planning in the way that we know that we have the [four months] and the specific number of calls, so we try to allocate the recommendation by calls to give more visibility for all the team members to know what's coming, and also, we'll try to share more earlier the materials so we can get input.

On the other hand, in terms to give maybe more ownership to the team members is to have a lead for a recommendation or a group of recommendations to play the role of [inaudible] and to ensure that we have people paying attention to the different parts of the recommendation we are working on and not just counting on the staff to do so. So I think within the team, we got that understanding that we need to do more than what we are doing now, and probably, the summer in the northern hemisphere will be quite busy for us in terms of making progress.

So I think this is kind of basically what we are doing. I'm not talking about the substance, because I think what was agreed

before, if we have an issue, we will escalate to the council for input. We don't have any problem yet, and hopefully not anytime soon. But I think also we need maybe to kind of point that there are some actions for the council in terms of giving input. So we should do that as soon as possible so we can make progress, because also, there are some recommendations that we need to ask input, like I said for the council, but also for example to the working group leadership and so on.

So we don't have that control about the timeline when we are asking for input, but we need to do it as soon as possible to be able to get that feedback and incorporate it into our work.

So saying that, we are also having now kind of a new mantra, is to eat our own dog food, so to apply some of the recommendations for our own working methods.

So one of them is for example to have that updated project list or fact sheet to show the progress of working group, and Barry prepared for us a kind of mockup for the PDP 3.0, if it's possible to kind of explain it, and it's also an opportunity to see in kind of one single page update any concerns and giving idea about the [inaudible] status and main milestones. Barry?

BARRY COBB:

Thank you, Rafik. I think first and foremost – so this is ultimately recommendation 11 out of the PDP 3.0 group, and I think when the work plan was originally put together, staff did a first stab at trying to put down some possible ideas that help resolve that problem, and at the time, we were pretty heavy into EPDP. And for those that had followed closely, we had inherited one of the work products that had been sued in the reviews, which is called the fact sheet.

What we're doing here in PDP 3.0, at least in terms of the recommendation 11, is not a fact sheet whatsoever. That work product is a completely different purpose, it's more a communication tool, and more importantly, it's better utilized for those projects that also have a budgetary component. But its primary purpose is strictly communications at a very high level across the high-level components of the project, such as what milestones are achieved, what's your percent budget completion, what's the activity of the group, such as the hours, number of e-mails and those kinds of things.

So what we've done here for trying to accomplish or resolve recommendation 11 was really more about how best can the council manage the PDP working groups in a way that if they get in trouble, they can immediately take action and provide appropriate resources or make appropriate decisions or recharter or whatever the gambit of possibilities are, but the

point is to try to notify the council as early on in the process when they're about to get in trouble.

So one of the things that I'd been working in the back of my mind was to redo our project list. the current one you see now just in the past maybe two or three months, you'll probably notice on the summary page there's a first attempt at trying to provide a status and condition to that project. It was very simple. It's not robust enough to make heads or tails out of where a project is other than if it's not green, something's wrong.

So this version that you see up here is an attempt to take care of that, and I won't spend a whole lot of time going through the details, but I think there are some features of this that are carried over from the old version of the project list, and then there's some new components.

So the top portion is just really the summary of the project, the composition is kind of a new component and really more for quick links around who's on the team, you can get to the Wiki or the mailing list, but the bottom left part is a more breakout or a detailed breakout of the high-level milestones of the project in addition to the second column that provides the status. And then the lower right quadrant, the white one, is really just a reorganization of the summary of the project or what staff would update from month to month to inform the community.

So I'll kind of wrap it up here, but I think as Rafik stated, there's really two components about eating our won dog food here, at least as it relates to PDP 3.0. First is to start using this within our own group so we can hopefully know when we're about to get in trouble from a timeline perspective or any other problems that we may run into, but more importantly, I think the second bowl of dog food here is the status on the right, and I think the PDP 3.0 still needs to have some further deliberations around the business rules on how we're going to manage this, but primarily, there's two components.

The first is the status of the project. It mostly revolves around the scheduling of the project, whether it's on hold, if it hasn't started, or if it has started and about to miss a timeline, and then secondarily is just the overall condition of the project that may or may not be associated to the schedule.

So for example, you could have a working group that is on schedule but let's say hypothetically the chair decided to depart or step down or some other disruption occurred in the group. The condition may change, but the status may not.

So I think we need to understand how the council as well as the PDP or working group leadership are going to manage the status changes from month to month, because once they do flip to a yellow condition, that's pretty much a signal to the council that

maybe there needs to be some sort of intervention as I mentioned earlier, whether that's redoing charter or making some other kinds of decisions along the line so that we can try to course correct that group and help them complete in delivery. So I'll stop there, and if you have any questions – I think one final thing to say is this is still very much a prototype. I only have one or two projects from our primary project list loaded with this, but I'm hopeful that if not by the July version, for sure by the August version, we can roll this out if the council feels it's acceptable. Thank you.

RAFIK DAMMAK.

Okay. Thanks, Barry, for this. So what I want to add, since we shared the implementation plan to the council list, I hope that all councilors will have a chance to review it and share any question or they want to follow up there, but we can also try to answer any question here.

I want to ask if Pam you want to add anything.

PAM LITTLE:

Just very quickly, the small working group is represented or had participants from various stakeholder groups and constituencies. I think we have at least one from each group. But we can do with more help. There is a lot of work to be done. All the challenges we

see in working groups, we see here, the bandwidth issues are complex and so on. But we want to really push ahead, so as Rafik has said, our plan is to increase our meeting frequency from every fortnightly to every week.

We'll work out the details, but we're determined to hopefully deliver the final package to the entire council at the Montréal meeting. Thanks.

RAFIK DAMMAK.

Thanks, Pam. Just maybe a last thing, during our discussion, we also raised that maybe there are some elements that cannot be part of the implementation, but I think it can be worth [this kind of] to be in the parking lot, maybe for the consideration of the council later on.

So we see this as a continuous improvement, and when we have any issue that we deem to be discussed later, we can share that with the council, and maybe continuing that process afterwards.

KEITH DRAZEK:

Thank you very much, Rafik and Pam, and BHarry also for the work that you've put into these documents and these mechanisms, tools.

So again, just to reiterate and to reinforce this, the PDP 3.0 implementation is very important. If we look to achieve this by the end of this calendar year, we need to make significant progress between now and Montréal. Good work is happening. We have a group of volunteers, but we could use more. So if anybody has some bandwidth and is willing to step up to contribute, it would be very welcome. And I'd encourage you to do that. If you have volunteered and have not been participating extensively, please do so. This is really important work, and I don't want us to look back and say we missed an opportunity to implement and that we essentially have missed an opportunity to put into effect the good work that happened last year. This is on our shoulders at this point and we need to deliver.

So thank you. Before we move to the next session, which is the EPDP phase two update, I just want to note for those who are planning to attend the council dinner tonight, departure is at 18:45 from the Hotel Du Golf lobby for those that RSVPd, and so there's going to be a bus and we will be departing at 18:45. So just a reminder, and if you're running late, please contact us, contact staff and let us know. So look forward to that for everybody that's going to participate.

And frankly, looking ahead, I think we as a council need to decide whether the council dinners and council cocktail, whatever we end up doing is something that everybody is committed to,

because we've had some folks that are not participating and some folks who RSVPd who have now said they have a conflict, and I think just generally as a council, I think we need to figure out if this is something we're all committed to as a team building exercise and an engagement that we care about. Is it something we need to do every meeting, is it maybe once a year? I think that we need to think about this, because a lot of work goes into the planning, and then to have people drop off at the last minute is not ideal. And if we're going to be doing it, we should be doing it as a group. So I'll just put that marker down for the moment.

Okay. Rafik, back over to you.

RAFIK DAMMAK.

Okay. So we move to the next agenda item. Sorry, Michele, should use the Zoom.

MICHELE NEYLON:

I did. I can use other things if you want. Just on this thing around the council social event thing, I'm one of the people who cannot attend this time around, but generally speaking, I do attend all of them. I do find them pleasant, useful, helpful. I think it's a nice idea. Maybe we need to make them slightly simpler or something, but I think it's a fantastic idea and I would be very sad and traumatized if they were to go away.

RAFIK DAMMAK.

Okay. Thanks, Michele.

PAM LITTLE:

Can I just do a plug for the session at 6:00, the Ethos Award? I hope we have many faces from the GNSO, because that's just before our dinner, so hopefully we can still make good time for dinner if you come to the award ceremony. There'll be a presentation at 6:00. Thank you.

RAFIK DAMMAK.

Okay. I think we did all the social things now, so let's move on to the EPDP phase two. So I think we already heard several comments previously, and raising some concerns like the workload and so on, but in terms of update what I can share here as the liaison is that we shared kind of the draft timeline a few weeks ago, and that was also indicated in the webinar last Monday. So as you could see, we have that objective to deliver or to publish the initial report by November. I think we know that's quite ambitious, but for that purpose, we made the request for example for having the resource to organize a face-to-face meeting.

For the EPDP team, plan during Marrakech meeting is we will have session on Tuesday and Thursday, and we'll try to make

more progress. I think it was raised already that we spent some time to discuss about the approach and we tried to shift between what's the best way to start, but we are aiming for Tuesday really just to start with an example, and to see how we can use it to see if it works and to show that we can follow that for the rest of our work. And that's talking about the standardized system for access and disclosure.

So, that will be the focus of our meeting in Marrakech is really to make a progress that we can build upon it for the next weeks and to have something that we can discuss hopefully by the face-to-face meeting, that should be on the second week of September, if I'm not mistaken, and that's depending if we get the resources on time.

I recall that I shared the timeline in the council list but I didn't hear any concerns. I know several have raised the problem of the pace and the workload, and I think that it's noted. As I explained before, I think we see some symptoms like the difficulties for several groups to deliver on time when we have a call for input. And even for those groups who asked that we need to have more quicker pace.

So I think that the question now for the leadership team is how we can balance and to find a way that we can get the deliberation ongoing and ensure we don't put more workload on the team

members. So we have all those constraints and we will see how we can find acceptable solution.

On the other hand, I think we might need to ask for guidance to the council, in particular to clarify with regard to the charter if it's needed and so on. So maybe in coming weeks you can come up with the question to the council but we don't have that yet, but this is just my personal assessment and seeing the ongoing discussion and the problem raised by the EPDP Team members.

Okay. I think this is just a quick update since we already heard in several locations about the EPDP Phase 2 today, but I am happy to answer any question and also follow up or bring any guidance or input to the EPDP Team. Okay.

Yes, Carlos?

CARLOS RAUL GUTIERREZ: Yes. I heard some conditional comments from the CEO and I just wanted to know if the team is going in a different direction or if it's obvious what CEO said about – to be liberated from liability in terms of this disclosure of information. Is it included? Are you talking about that yet or is there any doubt about these conditions? Thank you.

RAFIK DAMMAK: Okay. Thanks, Carlos. I will ask Marika – sorry to put you on the spot here. But as far as I know, I don't think we discussed that about the liability or how we will deal with it. At this level, we are not really focusing on that. We are just kind of starting from the beginning and we had this idea of building blocks, trying to respond to several questions. We didn't start yet. We are trying to find the best way how to start. We thought like having user group or the lawful bases, and so on. But probably Marika can elaborate more than me here.

MARIKA KONINGS: Thanks, Rafik. This is Marika Konings. I think you actually said it very well. I think part of the discussions now are already focused on making sure that all the steps are understood and all the elements are considered, which of course, if that's properly done means you have a compliant system. But of course, liability question is there and I think that partly is well the engagement that ICANN Org is having with DPAs and also the outreach they've done to the EPDP Team that the answer hopefully will come through, that dialogue on whether it's possible to reduce that liability. And if not, of course the group will still need to [factor] that into its discussions and eventual recommendations.

RAFIK DAMMAK: Okay. Thanks, Marika. Let's see if there is any question – oh, Keith.

KEITH DRAZEK:

Thanks, Rafik. I just wanted to follow up the discussion earlier with the Board and specifically with Göran as he was referring to the engagement of his so-called Strawberry Team focus with the EPDP team later this week. And of course, this follows on the letter that was exchanged between Goran and Janis, the EPDP Chair, on this topic of engagement and try to come up with the right questions to help inform the discussions with the commission or the Data Protection Board or Data Protection Authorities.

So, I'm just curious, within the EPDP Team whether there's been some discussion or focus on that question and trying to help engage with Goran in this effort. Did you get some clarity around roles and responsibilities and reduction of liability etc., etc.? Or is this really the first sort of face-to-face engagement along that path? And I just want to make sure that we're not missing an opportunity within the EPDP Team to think about this and to engage with Goran's point folks. But at the same time, I recognize there's other work that the EPDP Team is doing and we don't want to have a major distraction. So, just trying to make sure that we're finding the right balance there. Thanks.

RAFIK DAMMAK: Okay. Thanks, Keith. So if I'm not mistaken, you're talking about the letter that was sent a few days ago?

KEITH DRAZEK: I'm sorry. I may not be familiar with that letter. I was thinking of the one that went back and forth about a month ago on this question of engagement with – sorry, go ahead.

RAFIK DAMMAK: Okay. I think for that engagement, we spend more time in the beginning is to see how we do it because there was that idea maybe we need a small team but we will participate as a whole. I don't think – I'm trying here really to recall in terms of what agenda items we discussed in the last calls. I don't think we really went into substance but maybe Marika can clarify.

MARIKA KONINGS: Thanks, Rafik. This is Marika. Yeah, I think it originally was discussed and indeed they talked about maybe having a small team, but I think that quickly demonstrated that that may not be possible or would create a lot of complexity by adding the rules around how that small team would engage, how would it take decisions. So, I think at least leadership decided to any engagement would be done with the full team. As already noted that the EPDP Team will meet with the Strawberry Team on

Thursday as part of its meeting, and I guess the expectation is that there will be further dialogue or conversation around how to structure that engagement and that may result in further consideration by the EPDP Team on how to do that, but I think on principle their proposal is to do that in the plenary style to make sure everyone's able to participate and engage in that.

RAFIK DAMMAK:

Thanks, Marika. I think this is my recollection too, it's just that we didn't really go into that. This is also maybe a question to different council. I think now probably the council itself receiving several communication by the EPDP Team. So, we will need to see how we can handle all these kind of request and how to fit them within our work plan. I mean I'm not going to say it's a distraction, but we need to think is how we can keep really our plan for now since we have this target date of November and still trying to cover other issues. Yes, Carlos.

CARLOS RAUL GUTIERREZ: I want to praise your work as a liaison and the reports and so on and just based on the experience of the EPDP Phase 1. I see more complexity in this round, so just a follow-up question. Do we still have board members as liaison to the EPDP? Are those the same ones that will have learned from the experience of the first phase? And how do the Board members coordinate with the Strawberry

Team? And would you include the charter of the Strawberry Team in your weekly reports so we can understand how this coordination, let's say, or umbrella over or under EPDP phase two is going to work? Please remind us when you send them out. This is the most important report where we will find these coordination methods so we learn from the phase one. Thank you. Again, thank you very much, Rafik, for your great work as liaison to EPDP.

RAFIK DAMMAK:

Thanks, Carlos. Much appreciated. In terms of the composition from the liaison from the Board and also from ICANN Org, there was no change. I mean for the whole EPDP, some groups they needed to replace but I think we kept, let's say, 80% of the same people who were in the phase one. For the Strawberry Team, I have no idea. This is under Göran supervision and its initiative. Just I say, I mean strawberry is seem something that raise allergy I guess, so I hope next time we don't have peanuts team and so on. But it's a good question here in terms of to understand what's going on, so we will see during our first day here meeting and engaging with them and how we will coordinate.

Also I guess one question here, since we have already liaison from the ICANN Org, what does it mean to have this a new team? Maybe they are working on the – I don't know – project but we need to

be sure that all the divisions and the groups within the ICANN Org are coordinating and participating and that the input through their liaison, and also that happens in a timely manner. I think we need to avoid that situation – there’s a concern or question at later stage.

KEITH DRAZEK:

Thank you very much, Rafik. And yes, to echo Carlos’s thanks and acknowledgement of your service in this and certainly it’s ongoing, so thank you for all of that. I think your last point was a really good one about making sure to the extent there are different groups within ICANN that are engaging with you as the EPDP Team, that we ensure that they’re in sync, not in conflict with one another and that it’s coordinated. So, thank you for that. I’m certainly interested in how the conversation goes with the so-called Strawberry Team and where that goes. I think it’s important for the community through the EPDP Team to have input into invisibility into what Goran and his team are doing. And so, I think this is really, really important but I also recognize that it could become a distraction, and I would regret that certainly. So, I look forward to an update on that.

RAFIK DAMMAK:

Thanks, Keith. I think this is something we need to put now or to raise during discussion. But in terms also of input, I want just to

recount something is while the team is working and we are having our own plan and so on, but we are also trying to get input from those who are trying to [inaudible] some solution.

For example, we had a presentation from Steve Crocker about – okay, another strange name – the Barbecue Team, to hear from them and see what kind of perspective and idea they followed. We are also planning on Tuesday to hear from Michael Palage and the [BWCI]. I cannot remember what it stands for but we do hear from – yes. To hear from their model. So, we are trying to see all these kinds of suggestions. So probably we can discuss if it's or not possible to examine in our deliberation. Michele?

MICHELE NEYLON:

Just kind of not entirely on-topic, not entirely off-topic but not exactly direct. What is the fixation with the food? So you have the council name model, you have the strawberry. Now you're talking about barbecue. I mean some of us are trying to be on diet, for God's sake.

RAFIK DAMMAK:

I guess we need the Cross-Community Working Group to discuss about the possible name to be used in groups.

MICHELE NEYLON: Well, I was thinking we should go with craft beers or gins or something like that to just to be a little bit more interesting for those of us who are fascinated about such things.

KEITH DRAZEK: Alright. Thank you, Michele. Thank you, Rafik for the update. Any questions? Any comments on the EPDP Phase 2 work? Obviously, lots to be done this week on the subject, several sessions including the one that we were just referring to. So, thanks for the update, Rafik. I think with that, we can move on. We're a bit ahead of schedule by about 10 minutes. So, let me ask a question. Would anybody like a 10-minute break now before we get to the ATRT3 update? Alright, 10-minute break. Let's be back here at precisely 20 after. Thank you.

[BREAK]

KEITH DRAZEK: Hi, everybody. This is Keith. We will start in about four minutes but I just want to flag for councilors. I forwarded to the council list a series of questions that we will see from the ATRT3 Team, so in the next four minutes please check your e-mail, review the questions, and make sure that we have an informed dialogue. Thank you.

Okay, everybody. This is a one-minute warning. One-minute warning.

Okay, good afternoon, everybody. Welcome back to the GNSO Council Working Session, ICANN65 in Marrakech. If everybody could please take your seats. Thank you very much. I know the recording has started, so we will get going.

I'd like to take this opportunity to welcome the members of the ATRT3, the Accountability and Transparency Review Team #3, who are joining us here in the room. And so, with that, we'll get right to it. I will hand it over to Pat Kane and Cheryl Langdon-Orr as the co-Chairs. Take it away.

PAT KANE:

Thanks, Keith. The ATRT3 Team is mostly here. The GNSO members I think were seated at the table just to introduce who've you've sent to the ATRT3. We got Jacques Blanc, we've got Erica Varlese. Michael, did I see you? There's Michael. Wolfgang, thank you very much. Osvaldo, Adetola and then your liaison from ALAC, my co-Chair, Cheryl Langdon-Orr, there you go. And the rest of the crew in the front row is the rest of our [motleys]. Thanks for joining, everybody. I was trying to ignore Maarten. No, sorry, Maarten. And our board liaison as well, Maarten Botterman. Thank you, Maarten.

Before we get started, I just want to make one announcement. We do have a member that's been appointed by the GNSO that will be changing roles and changing her job and will thus be leaving us at the end of the summer. Is that correct? So, Erica will be with us on the ATRT3 until the end of the summer, but at that point in time she's changing her role in the company and she will no longer be with us. So, that's up to you if you want to replace somebody but we'll not talk about that since we only have about 20 minutes.

Keith mentioned that there was some questions sent around. We sent four questions. We're going to ask two of them specifically today. It takes less than 20 minutes then we have a couple more time. We'll ask another one but we're going to focus on two in the open forum. So, Jacques, if you would kick off for us please.

JACQUES BLANC:

Yeah. Jacques Blanc for the record. I'm actually participating in the GAC assessment group. Another group will be taking the following. Here are the questions that are going to be pushed to the GAC and on which we're going to base part of the assessment. First question, are your community members satisfied with their interaction with the GAC? What types of improvements would your community like to see implemented?

Second one, what is your perception of transparency within Policy Development Process including the EPDP?

Third one, do you find the Board's current level and recent efforts towards accountability and transparency improvements satisfactory?

And fourth, if there are anything else you'd like to share from the perspective of accountability and transparency?

PAT KANE:

Do you want to address the GAC one first, Jacques? Yes, he does. Okay.

KEITH DRAZEK:

Thank you, Pat. Thank you, Jacques, for teeing that up. All four are very thought-provoking questions. I see some people interested already. I think I'll take a crack at the first question about the GAC. I think that one of the challenges that we've always seen or had with engagement with the GAC is the fact that the GAC only really meets during the ICANN meetings and they don't engage intersessionally I think as a group anyway. That said, I think that we have over time now with the EPDP as an example and with the Subsequent Procedures Work Track 5 effort on geographic names, there actually has been engagement intersessionally and ongoing basis in our PDPs of members of the

GAC. So I think we need to draw a distinction between the GAC as a body and the GAC members as individual government representatives participating in our processes. So, I know that one of the challenges historically has been encouraging the GAC or members of the GAC to participate in GNSO PDPs. I feel like we've actually made substantial progress in encouraging and securing that engagement. But when it comes to engagement with the GAC as a whole, that challenge that they only meet three times a year and really have a hard time making decisions outside of those three meetings. I think it tends to extend timing or extend processes. Whereas, I think we're able to accomplish more intersessionally through our monthly meetings in the GNSO Council. So, that's enough for me. Let's open it up to others. So, Tatiana, I saw your flag go up, then Pam.

TATIANA TROPINA:

Yeah, thank you. I actually have answers to two questions but I believe it's better to address GAC first or both. Okay. About the GAC, I do think that Julf is doing an amazing job with the GAC liaison, but I do find our engagement at the ICANN meeting like GNSO and GAC as a body quite old. These meeting in big room – you know what I mean – where we have GNSO Chair and co-Chairs and room full of GAC, always seems old to me because I honestly do not understand how it contributes to the dialogue because

this is just a strange open session which sometimes even multiply the problem we might have.

I agree with Keith here that maybe just because the GAC meets only three times a year and your problem can potentially have multiplies. So, maybe engagement with individual GAC members who are participating in the PDPs might help to flag the problems early.

I do have some comments about transparency and accountability improvements, but I believe I better to tell them later, right? Okay. For now GAC only. Thank you.

KEITH DRAZEK:

Thank you very much, Tatiana. So, I'll run the queue. If you all have any questions or feedback, feel free to raise your hand. So, Pam, Michele, and Robin.

PAM LITTLE:

I just have two points to make. At the moment as a whole, at the council level, we interact with the GAC through ICANN meetings. We have a formal GNSO/GAC session at each ICANN meeting. As Tatiana pointed out, that tends to be very formal. But we also have post every ICANN meeting a GNSO Council review of the GAC communicate on advice that the GAC issue that might have impact on GNSO or gTLD policies. That process I think we may

want to have a look at how we can improve that. It tends to be taken by the GAC's seem to be a bit – sometime can be a bit confrontational or controversial as to the tone of our response or the content of our response. That review exercise actually provided as a review to the Board, for the Board to take into consideration when the Board actually consider as the GAC advice. It was really intended to sort of inform the Board's consideration and deliberation, but as how I see it over the last few years, the way we conduct that exercise, it doesn't seem to be a very fruitful or successful or as intended. Maybe that's something we can also look at, at how to improve that process. That's sort of the council level. Whether we are satisfied with interaction, I think there's always room for improvement.

But also at the stakeholder group level, we feel as registrars from the Registrar Stakeholder Group, the GAC as a whole doesn't sometimes do not seem to have a good understanding of the domain name industry as a whole. For most groups' perspective, we would like more opportunity to be engaged with the GAC to really be able to share information or maybe provide some sort of the industry background industry information as kind of an education. We wouldn't want to use education but just to truly make sure when they are issuing GAC advice that we impact domain name registrars, that they really have a good understanding of what registrars business is like, different

business models, the challenges, and all that kind of information so they are making informed advice when they are issuing GAC advice. Thank you.

KEITH DRAZEK: Thanks very much, Pam. We're going to go to Michele then Robin. Then we probably need to draw a line and move on to Question #2 in the interest of time. Michele and then Robin.

MICHELE NEYLON: Thanks. On the GAC, I mean I totally agree with Tatiana that the sessions we have with them at these public meetings, I don't see them being productive, I don't see them as being particularly helpful for either us or for them. I mean the entire setup. It's almost kind of confrontational in some respects. It's not collegial and I think that's part of the problem we have in general when it comes to GNSO and the GAC. There isn't a collegial relationship, it's very much us versus them. It's always kind of setup – I get those two bodies going out of just kind of waiting to see where the sparks would fly from. Whereas, if you go to other spaces, for example, within RIPE we have the wonderful working group that Julf co-Chairs which is the cooperation working group where you find governments and their representatives working with people from the technical infrastructure space together. It's much more

collaborative. It's not this kind of head-to-head let's see who's the bigger bull types of situation.

What we have this with several of the other engagements with other groups where it's not a natural engagement. You don't have the opportunity to sit down with somebody and trying to fond to you explain to, "Okay. this is the issue we have, how can we fix this?" And you explaining, "Okay, that's interesting," but these are the challenges you may not be aware of. And actually having that dialogue – we don't have that. We have a very confrontational thing. I filter through. In many respects, many of the interactions between the GAC and the rest of us, and I don't think it's healthy.

KEITH DRAZEK:

Okay. Thanks, Michele. I'll just interject here briefly that I think part of that dynamic is that the GNSO and the GAC on substantive issues and decisions made around gTLD policy have on opposite sides for quite a while. I mean look at the IGO curative rights issue right now is just one example, but not the only example. So, I think there is a substantive reason why there is ...

MICHELE NEYLON:

I think it's setup that way, Keith. Sure, you do have the conflict at times but a lot of conflict comes from lack of communication and

understanding. When you have communication and understanding, a lot of the conflict goes away. I mean I come from a country where up until relatively recently, 95% of our population were at one particular region 5% of all others that if you were brought up under one particular religion, you had no understanding and had all sorts of weird preconceptions about the others. Which if you actually start mixing them together, oddly enough, they get along quite well.

So, the idea that just because the GAC and the GNSO do not agree on certain things and that that's going to lead to that kind of conflictual setup, it doesn't have to be that way. And I think when you look at a situation where there's a better understanding – why is it that the GNSO takes the particular position that we take on certain things? Is it A, because we've got nothing better to do with our lives? Or B, because of a whole series of other things? Why are the governments taking some of the positions that they take? If you have that communication and dialogue, a lot of the conflict can go away.

KEITH DRAZEK:

Okay. Thanks, Michele. Robin and then Julf. Then we need to move on to the next question.

ROBIN GROSS:

Thank you. On this first question about GAC interaction, I can share that I've been particularly frustrated over the years with respect to GNSO and GAC interactions and I feel like part of this is really the extent to which members of the GAC really buy into the multistakeholder model. Governments are really used to being in charge of things, and here in the multistakeholder model, not everybody gets everything that they want. We all have to lose on some issues. And I'm finding that for some members of the GAC, that's simply not an acceptable answer or solution.

So I don't really have a suggestion for how we can improve this. I hope others can but I do see this as being one of the more fundamental problems. You can take a look at some of the policy issues over the years when the GNSO and the GAC have been on different sides of the issues. We find the GNSO has participated in this bottom-up policy and created policies that then get approved by the council, and then we find sort of a parallel process where the GAC goes in then lobbies the Board to undo what the GNSO has done, or another example, like in the last round of new gTLDs inventing things like Public Interest Commitments to change the GNSO policy in order to appease what the GAC wants. So I find this to be particularly frustrating and I don't see it as something that's getting any better but maybe getting worse over the years. Thanks.

KEITH DRAZEK: Thanks, Robin. Julf?

JULF HELSINGIUS: I would like to really support what Michele said and point out – I think a lot of it is not so much a problem with either GAC or GNSO but it's ICANN as an organization and the way we structure things and how we work procedurally and how we do things at these meetings. Instead of getting together and discussing what the problem is and what solution to find, we go in our silos and follow procedure and produce communiqués that then go off to the Board. We're going to be pushed down again and again and again and again. In pretty much any other community I've been working in, what you do is you actually find a meeting room or a bar and go and sort out the issue. Thank you.

KEITH DRAZEK: Thanks, Julf. To pivot, I think that was a good opportunity to focus on and we should take this away as an action item: what types of improvements would your community like to see implemented? We've described the community's feelings but now what are we going to do about that? What would we propose? I think the GNSO Council and our constituencies and stakeholder groups need to think about that question and come back to the ATRT3 with some recommendations from our perspective.

Next question unless, Pat, you wanted to – sorry, go ahead.

UNIDENTIFIED MALE: Sorry, Erica, do you just want to rephrase the community question?

ERICA VARLESE: Sure. Yeah, I'm happy to jump in. The second question comes from our community work party focusing just general on the community's perception of transparency within the Policy Development Process including the EPDP.

KEITH DRAZEK: Thanks, Erica. Tatiana, did you want to respond on the transparency topic? Something else? Okay, let's see if anybody would like to respond on the perception of transparency within Policy Development Process including the EPDP. Then we'll get to Tatiana at the end for whatever else you'd like to bring up.

Okay, Michele?

MICHELE NEYLON: Thanks. What I'm going to say isn't terribly new. Just because you published and make available all the documentation and information doesn't actually mean that there's transparency. The issue that ICANN struggles with is it's an acronym soup. The [laws]

of jargon and acronyms used for describing even quite simple things, it has become a running joke almost. I think that's one of the issues is that with many of the policies that are being developed, it's not clear to the parties that could be affected by the policy that is going affect them.

One of the things that I've asked for multiple times in the past is, could you at least look at applying some kind of taxonomy to these things so that it will be clearer? The people, organizations, whatever, within these particular categories might need to care about this. For example – I know it's not within the remit but I'm just going to use this as an example as I was looking at some slides. Let's say for argument's sake that we were talking about DoH as a policy. You could see a taxonomy there – Civil Society, DNS operators, ISPs, hosting providers, etc. or stuff around certain things with are very, very specific to IANA probably only really concern ccTLD registry operators and certain DNS providers. But along the time, it's so incredibly hard to untangle what the thing is actually.

Not even ATRT3. If you walked in off the street and looked at that slide, what the hell is ATRT3? I mean I can't even remember what that acronym stands for. Can the rest of you at the table remember what the acronym stands for? I suspect that if you were to quiz us, half of us will probably fail.

KEITH DRAZEK: Alright, thanks, Michele.

UNIDENTIFIED MALE: ATRT3 is the little round robot that spins around. It looks like a trash can. Just for clarity.

KEITH DRAZEK: Excellent. It's getting late in the day I can tell. We're getting punchy. Okay, anybody else would like to get in queue on this particular topic, perception of transparency within the PDP process? We're talking about the PDPs, including the EPDP.

UNIDENTIFIED MALE: I could modify that slightly. I'm the co-chair of the group. What about accountability within those PDPs? Would that open things up a little bit more? Do you feel that there's sufficient communication or do you feel like there's sufficient back and forth between the PDPs and the GNSO or a general question there?

KEITH DRAZEK: Paul, go right ahead. Thanks.

PAUL MCGRADY:

Thanks. The short answer to that is no, and that's why we have PDP 3.0. But even within PDP 3.0 – I don't want to make this too bureaucratic but I think there's a lot of room for more accountability in relationship to meeting deadlines, having consistent reports, so that not all the information we're getting is at the council table because that's where we tend to get it, right? And this is very public and nobody wants to be viewed as anything going wrong or slowing down. So I personally think that there's a lot more structure that we could build in. It would still be a lightweight framework because that's how little structure we have now.

I think it worked fine for a while but we are seeing slowdowns in PDPs, we're seeing slowdowns in Cross-Community Working Groups, things are just dragging on, we're losing participation. And so I do think that there is the possibility for more accountability and structure in that. I just think that whoever we bring on as new Chairs for these kinds of things are just going to have to be on board with that rather than reporting when they want to or us chasing them constantly. So, yeah, I think that the next two years you're going to see an evolution of that. I think most people around the table think we can get more done quickly than we are. We're not ashamed of that. There's a lot more PDP-ing going on than historically has been, right? So we have to get some structure around it, but not too heavy.

KEITH DRAZEK: Thanks very much, Paul. So, we're a couple of minutes over and we have the CCT RT folks here with us. Michele, briefly. Then anybody else who'd like to get in queue.

MICHELE NEYLON: I love the way you think you can get me to speak briefly on any topic, but thank you.

CARLOS RAUL GUTIERREZ: Let me know when we discuss Questions 3 and 4.

KEITH DRAZEK: The ATRT3 folks said that they wanted to at least get to Questions 1 and 2. So we'll get to Tatiana and then Carlos after this. Michele, go right ahead.

MICHELE NEYLON: Okay, just on accountability, I tend to agree mostly with what Paul was saying, which is odd. But the keyword used was "accountability." I think one of the areas where I think this isn't just in relation to PDPs but it has to do with a lot of engagement is around Statements of Interest and Conflict of Interest Statements that it's very easy to know who some of us are – Pam works for Alibaba, Keith works for Verisign. It's easy, you can see

that. But other times, it's not at all clear who the hell some of these people are and whose interest they're actually pushing. It's something where sometimes people self-declare as if they're attached to a particular group and it's not easy to go back and say, "Actually, hold on a second. They're not." In a former role, I have to do that a couple of times with the staff, going back and saying, "This person said they're a member of the stakeholder group and they're not." I just wonder how much more of that is going on. I think I'm not alone in having concerns around that.

UNIDENTIFIED MALE: So you could have said Statement of Interest Transparency.

MICHELE NEYLON: Where the [inaudible].

KEITH DRAZEK: Okay, thanks. So I've got Tatiana then Carlos then Marie, and then we're wrapping up.

TATIANA TROPINA: Thank you very much. I think that my answer is on the intersection of Question 3 and 4, but I would like to flag my deep dissatisfaction. I'm dissatisfied and I'm disheartened with how the recommendations of the Work Stream 2 Accountability are

handled now. I don't blame the Board here. I understand the workload. I understand that it requires funding and prioritization. But in the context of current efforts, to reform the multistakeholder model and we know that funding is going to go there, the attention is diverted there, and they do believe that the Work Stream Accountability had very important recommendations like AC/SO's accountability, jurisdiction, human rights, diversity, and so on and so forth, and these issues will pop up in the process of this reform in multistakeholder model discussion and I want to say that I disagree that some of the new issues are coming forward, they've been treated as a priority, they're being treated in a top-down manner when community already more than a year ago agreed on recommendations to improve these organizations from the point of transparency/accountability and have no idea why this is still on the table, why this is still not confirmed and why we're going forward with some [strange examples]. Thank you.

KEITH DRAZEK:

Thanks very much, Tatiana. I think this is a really important point. It's a question for the ATRT3 to consider the current status of the Accountability Work Stream 2 effort, where those have been concluded, where they have not been concluded, and to try to put some energy and resources behind that. Tatiana, thank you for that.

Carlos and then Marie.

CARLOS RAUL GUTIERREZ: Yes, very short too. To Questions 3 and 4, I think you can dig deeper with those questions. ATRT2 spent a lot of time with Board accountability, looked at the numbers, and made some very specific recommendations. Now the framework has changed because we have new Bylaws and I think this is an area where your review should go very deep – look what we measured under the older framework, what does the new framework change for the Board accountability. And there is a great opportunity to benchmark there. I don't know if it has improved or not but I would be very interested.

Regarding the last Question #4, when I remembered the results of ATRT2 compared to CCT, who is coming next, we finished the work of ATRT2 within a year so I would be interested to know what your time horizon is because it was very effective. We got lost in CCT RT and we spent almost two years and that took a lot of impetus away from the results. So those are my two comments to 3 and 4 even though you are not so interested to hear about that.

PAT KANE: Carlos, this is Pat Kane. The Accountability and Transparency Review has a one year mandate. We have to be done in one year from start, so it will be next March.

KEITH DRAZEK: Thanks very much, Carlos. I'm sure that the ATRT3 is interested in all four of these but it was a matter of prioritizing. We're 20-minute now going on 30-minute timeslot. Marie, last word.

MARIE PATTULLO: Thanks, Keith. Marie from the BC. Accountability and transparency over the entire organization – I fully agree with Michele that just because something is printed, it doesn't mean anyone is going to read it, it doesn't mean anyone is going to understand it. But we from the other side need to take responsibility as well in that. We can't force someone to learn. What we can do – and here I can speak for the BC and I'll get [inaudible] if I'm wrong. There are things that we can do within our own constituencies, our own stakeholder groups to mentor people, to onboard them, to explain to them. But we're not their mommies. There has to be a limit somewhere that everything has to be as available as possible, but we can't actually spoon feed them. Thanks.

KEITH DRAZEK: Thanks, Marie. Pat, back over to you for final words.

PAT KANE: On behalf of the third iteration of the Accountability and Transparency Review Team, we would like to thank the Generic Name Supporting Organization Council for your time and your commentary today. We will be happy to accept any follow-up questions or answers. Thank you very much.

KEITH DRAZEK: Thank you. Alright, thanks, everybody. And with that, we will thank the ATRT3 for joining us. Welcome the CCT RT team – Jonathan Zuck and team – to join us, and apologies for the delay.

[BREAK]

KEITH DRAZEK: Okay, if everybody could take your seats. Thanks, everybody. Okay, let's go ahead and get to it. We're running out of time. Welcome to the CCT RT. The purpose of our discussion – excuse me, everybody. Please wrap up your conversations. Thank you. We're already running over time and we have limitations in terms of how long we can go over into the mandated coffee breaks.

We're welcoming the CCT RT here today. I think as everybody knows in Kobe, the ICANN Board announced that it was essentially not accepting all of the CCT RT recommendations and, in fact, referring quite a number of them back to the community for further work or to ICANN Org for consideration. Some of those referrals are coming back to the GNSO Council and then subsequently to some of our PDP Working Groups. So this is an opportunity for us I think to engage with the CCT RT. Jonathan, in terms of getting either an update on the work and the progress and the thinking of the CCT RT itself, and then really to tee up our council discussions on this because we're going to have to consider the implications of some of these referrals. So, Jonathan, with that, maybe I can hand it over to you.

JONATHAN ZUCK:

Sure. Thanks, Keith. Jonathan Zuck for the record. I'm a Policy co-Chair for the At-Large but I was also Chair of the first CCT review. It's interesting in that it was mandated to start quite quickly after the start of the New gTLD Program and so began its work in many respects before there was a lot of the results that had come in from the New gTLD Program.

One of the things that we discovered in trying to make evaluations – almost academic evaluations, if you will – about the effect on competition, for example, or the effect on consumer

trust, etc. was that we had a real lack of data with which to perform that analysis. That is a recurring theme within ICANN decision-making, the availability of data and how we should get access to data, what needs to happen to make that data sanitized enough so it doesn't have effect on people's businesses, etc., but making decisions in the absence of data is something that ICANN has done for far too long where everybody says, "I won't share my data with you but I'll tell you that it doesn't say what you think it does," or something like that. That's the kind of conversation that we end up having in a lot of work group environments. So I think that's partly a core of some of the CCT recommendations going forward was that as we begin to continue to evaluate how that program performed and how future programs should be modified, we didn't have enough data in front of us to be conclusive about any of that.

I guess I want to clarify that the Board in their response I think raised some very serious issues about resources, prioritization, budget, and things of that sort. I think the Board would do well to appoint a Chief Optics Officer perhaps and somebody to say, "Take your foot out of your mouth before you announce your decision," or something like that because it's often a process problem. That happened with SSR2 and I think it happened with the CCT Review, right? The very first review after the transition, suddenly we're not accepting all the recommendations and that

ends up being very bad optically. But at a substantive level, the issues are very real. The organization is now inundated with recommendations for reform and change, and prioritization is an issue. I don't agree that anything should be above that analysis, including the Work Stream 2 Accountability recommendations. We as an organization have to prioritize and find a process for doing that.

So the Board has begun to reach out to the Review Team as a whole, CCT just being the first of them but the ATRT3, the SSR2, Rights Protection Mechanisms Group, etc., to try and figure out what that process might begin to look like, and they're planning to actually submit a survey out to the community to try and gain an understanding about how that might look going forward.

As far as the CCT recommendations themselves, we are partly responsible for the fact that there's this delegations in that the GNSO decided to launch a PDP on Subsequent Procedures prior to the completion of the review. So that meant that there was already something convened that otherwise might have been mandated by the Board as result of a recommendation that was sort of the target for a particular recommendation for consideration, etc., so some of that was an anomaly of the situation that we were in.

Some other things, they referred to the staff and I think that's far more problematic. Like we asked for certain kind of data, we were going to go ask the staff if we think that data would really be useful. I think that's a problematic response given that we did spend two years on it. We had a competition economist as part of the group. We can say definitively that data would be useful and determining whether or not a gTLD program led to increase competition or not. That is literally not up for question, much less to be answered by ICANN staff. So I think we need to approach this in a more nuanced way. I think the Board probably should've delayed their response rather than responding in a way they did. But I believe the issues that they're facing in terms of resources are very real and we all need to participate in trying to figure out how to prioritize the recommendations that we've now begun to inundate the organization with.

KEITH DRAZEK:

Thank you very much, Jonathan. I think as we all understand, these review teams are important accountability mechanisms and some of them are carried over from the old Affirmation of Commitments but they have been incorporated into the new Bylaws following the IANA transition and the ICANN accountability process. While we recognize that these are important accountability mechanisms, it's also very important to recognize that this question of cost and prioritization and

resourcing and all of that is a valid question and a valid concern. I think we've heard from Cherine and others talk about the idea of better understanding the cost implications of recommendations earlier in the process, and so the community can be better informed as we go through those reviews I think all are very legitimate.

But I think in this particular case, we've got an example with the CCT RT. We had an example with the SSR2 before it was reformed. And that there are some bigger questions about how we as a community deal with these reviews and now we, as a result of this particular decision, as a GNSO Council, have to focus on these referrals that relate to the policy work that's ongoing in Subsequent Procedures. I think Subsequent Procedures is the primary one.

Anyway, let's open it up for questions or comments. We have seven minutes. Yes, Carlos?

CARLOS RAUL GUTIERREZ: Thank you very much. This is Carlos. I was member of the review team. I take a different view from Jonathan. I think he's hilarious that the Board is up to accept or not recommendations of reviews because of the background of the reviews. The reviews are there to take us the back and have kind of an outside view. So when we went into the second accountability, we looked what did number

one recommended. We checked ourselves without asking the Board if they have made some improvements and we reported on that. So I think it's up to CCT Review Team 2 to judge how much the organization and the Board will have fulfilled a recommendation.

It was really out of place, the recommendation. Not only too early but out of place. I mean those are soft recommendations. It's a review from the AoC that has been incorporated. I didn't expect them to accept or not. Either they act or not, and we will see in the next round how much progress they have done. So I was really surprised that they took it like it was a GNSO policy recommendation. I think we are mixing up the background of the AoC spirit of the reviews with day-to-day budgetary issues and resources issues.

So it's very interesting to see what the Board thinks about some recommendations. But it will be up to the next round, the subsequent round or the subsequent review team to challenge the actions or inactions of the Board and the rationale that they didn't have the resources. I think we really have to sit for a few minutes and try to map where the organizational reviews are, where the AoC reviews are, and where the effectiveness of the Policy Development Process is.

If we start mixing the three of them and measuring all of them with the same negative measure, “Oh, we don’t have money” – they aren’t looking for efficiency improvements either but that’s what I mean with negative measure – we are up for a ride here. I think there is a room for review teams, there is room for organizational reviews, and then there is room for our Policy Development Process. Right now they are putting everything under the same standards and criticizing or accepting everything based on purely monetary resource issues. That is not good. Thank you very much.

KEITH DRAZEK:

Thank you, Carlos. Jonathan, do you want to respond?

JONATHAN ZUCK:

Yeah. I think that makes sense, Carlos. I guess the bottom line is that prior to the CCT, it was the Board’s practice to accept all of the recommendations of the review teams and yet it became the practice of every subsequent review team to spend a half to two-thirds of its time figuring out all of the things that didn’t actually get implemented. So there’s a practical side to this that I think it has to be addressed by the community, not left to the Board – I agree with you there – but I completely see the quandary they found themselves in, and it’s not just a money issue, it’s a resources issue, it’s a bandwidth issue. And for you to say they can

all co-exist might not entirely be true if policy discussions end up getting pushed off of the table because we're constantly reorganizing, constantly reforming, try to implement contradictory reforms, etc. I think there needs to be a community process or prioritization.

CARLOS RAUL GUTIERREZ: Assigning resources is the management issue. That's what managers are hired for. I'm just asking for a differentiated approach to the different activities that we have. We have the review teams, we have the internal organization, and if you ask me about priority, the priority is the Policy Development Process. I hate the three types of activities being measured with the same standards. I agree with you. You know we have always agreed in CCT. Thank you.

KEITH DRAZEK: Thank you, Carlos. Thanks, Jonathan. Okay.

DAVID TAYLOR: Hi. David Taylor, also on the CCT Review Team. I'm just wanting to chat with Jonathan and Carlos. Just on the recommendations that I thought I want to underline one point is that we did pre-select certain recommendations and we suggested they should be a prerequisite before another round. So it was something there

which I just addressed and said to GNSO, “Look at the ones which are prerequisites,” because we were very conscious of potential cost implications, so we have a subset which is prerequisite.

KEITH DRAZEK: Thanks very much, David. That’s really helpful context. Anybody else like to get in queue? We have two minutes left before we have to break. Jonathan, any final comments?

JONATHAN ZUCK: No. Thank you and I appreciate all the efforts that you put into these policy efforts. I hope that we can all get together on this data issue because it comes up time after time in PDPs. We got to stop making impressionistic Renoir style policy and really try to make it based on actual data and measure the results of the actions that we take or we’re just spinning in the wind. Thanks.

KEITH DRAZEK: Thank you very much, Jonathan. Thanks to all members of the CCT RT and the staff that supported your efforts. It was a tremendous amount of work and obviously it’s not entirely done at this point with the current situation. So, thank you. Thanks to everybody. With that, we will draw this meeting to a close. We can stop the recording now. Thanks to everybody for participating in

the GNSO Council Working Session on Monday in Marrakech.
Thanks. We will talk again soon.

[END OF TRANSCRIPTION]