Sam, Bernie:

Here below is what I would send to IOT – probably early tomorrow morning.

Bernie – can we touch base then about your other email – I am swamped today.

Best regards,
David

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Dear members of the IRP IOT:

As you know, we were unable to gather a quorum for a conference call Sept. 6th despite several reminders from Bernie over a period of about a month. This comes on the heel of difficulties gathering quorums for calls over the past year.

While this is a disappointment, I think it fair to say that post-IANA Transition there has been some fatigue in the community. That is understandable – nothing I say here is meant as criticism.

But as IOT lead I must take steps to ensure that we remain viable, especially now that we have significant responsibility for establishing the 'new' IRP as mandated in Bylaw 4.3(n)(i). It is now two years since this bylaw was enacted and we must get on with this work.

Therefore, I want to suggest a plan for us, the members of the IOT, to accomplish what we must with due regard to moving things along.

Here is what I propose:

1. That we take steps, starting at ICANN 63 (with appropriate notices beforehand), to reconstitute the IOT by approaching SOs/ACs with information about such a need. We would administratively organize this through the ICANN Org Policy group. This means adding members to the IOT. No one currently on the IOT who wishes to remain would be barred from staying in the IOT going forward under my plan – but the plan would suggest that those who are no longer interested/participating should please resign, with no adverse inference to be drawn. Those who remain must be willing to participate in work and deliberations. (Bylaw 4.3(n)(i) indicates that the IOT will be established "in consultation with" the SOs/ACs.)

2. In the meantime, I urge us as a group to contribute thoughts on list and to make a quorum for two calls prior to ICANN 63 to address two important issues we are almost finished with:

   a. Interim rules of procedure. If we can close on this by Oct. 11th the interim rules could be presented to the Board at its meeting in Barcelona – this would help ensure the new rules are available ASAP; and

   b. Repose (Time-for-Filing issue) - analyze public comment and finish this work (interim rules would protect claimants from any impact from the time-for-filing rule pending finalization of that topic).

   The two calls would both be in the week of Oct. 8th. They would be Tuesday Oct. 9 at 19:00 UTC and Thursday Oct. 11 at 19:00 UTC.

3. Thus, it is expected we would wind-up work on the interim rules and repose prior to having a reconstituted IOT. If we start a reconstitution effort I estimate we could have a reconstituted IOT by early in the new year – there is plenty of work

yet to do. (See Annex A below.)

4. I have been asked to give a summary of IRP developments to a few groups at ICANN 63 and will do so on behalf of the IOT – and will pass slides around to the IOT when I get them done – we could in those presentations mention this plan and we could also encourage SOs/ACs at the same time to get moving with the standing panel. I think it possible that by adding IOT-reconstitution to the SOs/ACs agenda it could help them focus on the standing panel as well.

Best regards,
David

Annex A – remaining tasks for IOT:

a. CEP rules to be developed – see section 4.3(i);

b. Possibly recommend panel training – see section 4.3(j)(i);

c. Develop an IRP panelist recall procedure – see section 4.3(j)(iii);

d. Possibly develop specialized PTI service-complaints rules – see section 4.3(n)(ii);

e. Develop procedures if ICANN elects not to respond to an IRP (see section 4.3(n)(iv)(F) but note that section 4.3(g) may provide all the procedure we need in this respect);

f. Develop standards and rules governing appeals (see section 4.3(n)(iv)(G) and see also section 4.3(w)). For example, will we allow appeals where there was no response? Or appeals of non-binding IRPs? (see section 4.3(x)(iv)) Or appeals of interim relief under section 4.3(p))? We may also want to talk about the potential for defaults/dismissals and the allowance, or not, for related appeals;

g. Will we develop additional independence requirements for IRP panelists – see section 4.3(q)((i)(B). This includes consideration of term limits and restrictions on post-term appointments to other ICANN positions – see 4.3(q)(i)(B) and see 4.3(j)(iii); and

h. Possible review of Annex D, section 4.2 (Community IRPs) so that we can help our respective SOs/ACs in the event of a community IRP.