
STEPHEN DEERHAKE:

Alright. Let me thank everybody. Good morning, good afternoon, and good evening, and thank you for joining today's teleconference. For the record, this is the 23 May 2019 edition of the ccNSO PDP Working Group tasked with developing ICANN policy with respect to the retirement of ccTLDs from the root zone.

A warm welcome to those of you near the prime meridian as it's early afternoon there, it's evening for our colleagues in Asia, and it's an early morning for myself, and still earlier for Kimberley, and so I thank her for getting up in the dark to manage this call with her computer wavering in terms of its usefulness. So, I'm assuming staff will be taking attendance in the usual manner. So if there's anyone on audio only, please identify yourself so you're properly recorded as being present.

So the plan for this teleconference is to run through the usual upfront administrative stuff and then dive into where we are with respect to the Policy for Retirement ccTLDs document with the objective to really lock down the current text in its entirety. I think we're there. We'll be coming back to it obviously down the road to insert additional details. But my real objective here is to nail down what we got so we've got a strong structure that we can start filling in the details in.

Again, I want to encourage everyone to begin looking at the oversight document in [earnest] because that's where we're heading next. It will be a major component in our upcoming face-to-face meeting in Marrakech. We do not have any administrative items that I'm aware of, but we do have some action items, so I will turn the floor over to Bart at this point to run us through the action items. Bart, if you can, sir.

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BART BOSWINKEL: Yes, thank you. Thank you, Stephen. So, Action 1, 2, and 3 ... 1 and 2 have been completed. Number 4, staff to prepare. I didn't have the time. Apologies for this. The number 3, all to complete table in Google Doc on decision oversight or the other documents. I've seen some comments and we'll touch upon it later on during the call. So, that's with respect to the current status of the action items. Back to you, Stephen.

STEPHEN DEERHAKE: Thank you, sir. I think with no further ado, I will turn the floor over to Bernard. Kimberly, can you put up his latest, which I believe is 1.37.

[EBERHARD LISSE]: Take the [inaudible] number that's on the screen, 136 screen.

KIM CARLSON: I've got the –

[EBERHARD LISSE]: Take that one. Take that one on the screen.

KIM CARLSON: Okay. Thank you.

STEPHEN DEERHAKE: And Bernard, if you're there, I will turn the floor over to you.

BERNARD TURCOTTE: I will take the floor.

STEPHEN DEERHAKE: Thank you, sir. Good morning.

BERNARD TURCOTTE: [Inaudible] the floor. However, I don't have anything on my screen. Ah, there we go. Our beloved Policy document, and as Stephen has said, hopefully we can get locked this down today.

STEPHEN DEERHAKE: I want it done.

BERNARD TURCOTTE: Yes, sir.

STEPHEN DEERHAKE: You're going to get there.

BERNARD TURCOTTE: And so, we promise to get there. Yes. There has been a lot of clean up, so if you saw the red line, but really not a lot of significant changes to

the document. We will go down to – oh, I forget. I keep trying to go down. Next page please.

Nothing changed here, nothing changed in two. Next page please.

3. No changes here. Next page please.

4, 4.1, there is no changes if I remember correctly.

STEPHEN DEERHAKE: Yes.

BERNARD TURCOTTE: Next page please.

Alright, 4.2. Now, we've got a minor change here and the only change is that middle paragraph 62-66. And what I will say is I would like to skip over this and simply say that we will get back to this because it's a link from 4.4 where we cleaned up quite a few things and because it touched on the Notice of Retirement, we inserted this back here. But if everyone will indulge me – I see Nigel has his hand up. Stephen, over to you.

STEPHEN DEERHAKE: Nigel, the floor is yours. Earth to Nigel. Nigel, we cannot hear you.

NIGEL ROBERTS: Okay, it looks like I got muted. Hi. Just to let you know I'm on the call and I could join about 12:00. I'll be here for about half an hour then I'd get on the road, so I'll delay my departure.

STEPHEN DEERHAKE: Cheers. That's your comment?

NIGEL ROBERTS: Yeah, that's it.

STEPHEN DEERHAKE: Okay.

BERNARD TURCOTTE: Alright. Thank you, Nigel.

STEPHEN DEERHAKE: Nigel, lower your hand please. And carry on, Bernard. I'm sorry.

BERNARD TURCOTTE: There are a few other changes here but they're only for expected reading. On line 58, you'll notice that removed from the root five years, we've created a new term, "default retirement period" instead of repeating the five years all over the place. We've cleaned up. Retirement Plan is capitalized now everywhere in the document as was requested.

In line 68, again another definition to facilitate use describing the reasonable requirements. Since we refer to this and it is a thing, we've defined is as the Reasonable Requirements document. See there's a space missing right after the closed bracket. We'll fix that up at the end. As I said, the only real change is 62-66. We'll get back to that. Any questions before we shift to 4.3?

STEPHEN DEERHAKE: Any questions? Not seeing any hands, so I think, Bernard, you can continue. Thank you.

BERNARD TURCOTTE: Alright. Thank you. So, moving on, 4.3. Next page please. Alright, a significantly shortened 4.3 now, and really what's happened here is we took all the stuff that I was talking about, the Retirement Plan and we just boiled it down to all the time span stuff. Basically, the first bullet is exactly what it was.

The second bullet is a distillation of what was there already. It is new text but it doesn't bring in any new ideas, and we'll read through it. So, the first one says that the IFO cannot require the retiring ccTLD be removed from the root zone less than five years from the time the IFO has sent the Notice of Retirement to the retiring cc manager unless this is mutually agreed by the cc manager and the IFO.

Next bullet. Extending the removal of the ccTLD from the root zone beyond the default retirement period. If the manager wishes to request

an extension to the default retirement period, it must request this from the IFO as part of the Retirement Plan.

Again, this I don't think should be controversial in any way where we're referring back to the Retirement Plan as we had built it saying that you must produce a Retirement Plan if you want an extension.

The third bullet, the only change is we've created a new official term which is "maximum retirement period." So, that's what we've done here. I'm hoping there's nothing controversial here. Any questions?

STEPHEN DEERHAKE:

If I may reiterate to the group, we do have new terminology introduced here and I just want everyone be cognizant of that. I think it's a good approach. So, thank you, Bernard. Carry on.

BERNARD TURCOTTE:

Thank you, sir. Alright, 4.4. Now, you remember our last meeting, we had those two last bullets in 4.4 talking about how long a manager had to produce a Retirement Plan, and if they did not do so – thank you, Nick – then it would revert back to the five-year period. We had a discussion this really only apply in the case where there was a request for an extension and that should be move back up. I have some minor qualms but after sitting down and thinking about it for a while, I guess what bothered me was that we were leaving the period for which a manager would say he would request an extension via Retirement Plan completely open. And given everything else, this did not make sense to me. So, really the only new concept here to what we're talking about is

we're throwing in a 90-day period from the time the Notice of Retirement was sent for the manager to decide not to send in a Retirement Plan, just to advise the IFO that it's going to send one in according to the rules we'll describe later. So, we'll go over this text 82-87 right now.

After receiving a Notice of Retirement, the manager must decide if it wishes to request an extension to the default retirement period to remove the ccTLD from the root zone. Within 90 days of the Notice of Retirement having been sent, which is our standard throughout the document, the manager shall formally notify the IFO that it has received the Notice of Retirement and advise if it wishes to request an extension to the default retirement period. If the manager fails to formally notify the IFO within the 90-day period, the IFO will consider – and if we had a drum roll, you would all be very excited at this point. Next page please.

STEPHEN DEERHAKE:

Thank you, Bernard. Thank you, Kim.

BERNARD TURCOTTE:

That no extension is being requested and that the retiring ccTLD will be removed from the root zone five years from the Notice of Retirement period having been sent.

Again, this matches up against all our other standards we've established in the document and basically says the ccTLD manager who has been notified as 90 days to decide if it wants to ask for an extension or not

and if it doesn't reply the default is the IFO is free to consider that it will not be granting an extension and it's the standard five years.

So, since this is really the only major new text here. We'll take a sec and see if there are any questions. I see Nick.

STEPHEN DEERHAKE: Nick, the floor is yours, sir.

NICK WENBAN-SMITH: Okay. Can you hear me okay? Okay. Yeah, good. So, I'm just thinking this through about it being hard coded, that if you miss this 90-day limit then your ability to ask for any sort of extension is removed under the policy and whether that's smart to exclude some circumstances where you might reasonably after the 90-day period have some sort of change as a registry operator going through this process that you might want to then go back, and whether that's excluded or is that deliberate or whatever. And it ties into another point around supposing there's a plan and an extension beyond the five years is requested and then that's conditional on various explanations. It turns out not to be true or the plan is not followed properly and then can that be adjusted, and if so, what was the process for it?

I don't really have any answers but just checking that it's a smart idea, because I'm questioning really whether this is a smart idea to hard code and to remove any flexibility to extend beyond five years if you missed this 90-day initial period when you might – who knows what might happen, but a lot of things might be going on and whether we want to

deliberately do that. That's really a question more than an objection as it were.

BERNARD TURCOTTE: If I may, Stephen?

STEPHEN DEERHAKE: Go ahead, sir.

BERNARD TURCOTTE: Alright. I think what we'll do is part of my reasoning for this is in when a Retirement Plan is required because an extension is requested, and so in part I would like to defer answering that question until we get to that point if that's okay, Nick?

NICK WENBAN-SMITH: Yeah, that's fine. I understand. They kind of interrelate.

BERNARD TURCOTTE: Yeah, that's it. So, moving on to line 90. There has been basically no change here. We are basically talking about – if the manager of the retiring ccTLD does not wish an extension beyond the five-year period stated in the Notice of Retirement, it is expected but not mandatory that the manager produce a Retirement Plan for the ccTLD which would typically include boom, those are the standard bullets. There is no change here.

Where we've adjusted things is starting in 103. So, let's take our time and go over that and then we'll get back to ... yes?

EBERHARD W LISSE: Can we come in?

STEPHEN DEERHAKE: Eberhard, go ahead.

EBERHARD W LISSE: Can we make this – that we take this over, this language that Nick and Bart just talked about. Can we make this as an action item that we don't lose sight of it, please?

STEPHEN DEERHAKE: Yes, we can. Has it been elevated to that level? And I'll defer to Nick on that since he brought the issue up. Nick, if you would care to weigh in on what we do with what you've brought up, because I really like to lock this down but if you got an issue with particular lines here, let's –

NICK WENBAN-SMITH: I think Bernard has flagged it already, and that's fine by me.

BERNARD TURCOTTE: We will get back to it in this section here.

NICK WENBAN-SMITH: Yeah, perfect.

BERNARD TURCOTTE: So, it may become an action item, Eberhard, but we'll see how Nick feels after I try to explain this in this next section we're going into.

STEPHEN DEERHAKE: Okay, great, Bernard. Go ahead then, sir.

BERNARD TURCOTTE: The first bullet 103, really minor editing. We're talking about default retirement period. I mean there is nothing really there that makes much of a difference. Next page please.

Alright. Now, oops. Okay. Thank you. Section 106 to 111 was basically slightly edited but is an edited copy/paste, so it fits into this section from the text we had accepted in Section 4.3, which was deleted. So, basically granting an extension to the default retirement period is at the discretion of the IFO but shall not be unreasonably withheld. I think you'll all remember that language.

The Reasonable Requirements document that the IFO will have included with the Notice of Retirement will describe the factors it will consider when evaluating a request for an extension to the default retirement period. A Retirement Plan which requests an extension shall include –

Alright. Again, technical new text here in 4.4 but it's just, as I said, moving it down from 4.3 because it makes more sense to go here.

Then in the include, we fixed the point Allan was talking about given we had two terminus date bullets, so I've adjusted the first bullet slightly. The length of the extension requested, a maximum of five additional years including the proposed date of removal of the ccTLD from the root zone.

I didn't think just leaving the initial bullet captured it all, so I just fixed it a bit. So, we've got closure on that point. The other bullets are essentially the same as the other points. Next page please.

STEPHEN DEERHAKE:

Okay. Thank you.

BERNARD TURCOTTE:

Alright. Now, this point the next bullet starting at 125. What we've got here is basically what we had in the previous version. It was just outside of the Retirement Plan being required. Now, it's a sub bullet to the Retirement Plan being required. If the ccTLD manager wishes to produce a Retirement Plan, he must do so within 12 months the IFO having sent the Notice of Retirement to the manager of the retiring ccTLD. The IFO added discretion can extend the 12-month limit to a maximum of 24 months total. If the IFO grants such an extension it shall properly notify the manager.

No changes, simply moved up to be under the required section.

New text starting 130-135. This again was reedited, no new concepts but brought down from 4.3 to this because it made sense to be in here.

If the ccTLD manager submits the Retirement Plan to the IFO, the IFO shall provide the definitive response to the manager regarding the request for an extension within 90 days if such a request being received by the IFO. The response by the IFO, if positive, shall state the length of the extension which has been granted. If the response is negative, the IFO shall include the specific reasoning for the refusal.

This is essentially the same wording from section 4.3.

Now, I'll draw your attention however to footnote 6, which we've got at the bottom of our screen. There was a mix-up in the previous version saying we could use the IRP. Now, we all know that the IRP is not applicable to ccTLDs. We made sure that happened in Work Stream 1 of the CCWG-Accountability, so that had to be rewritten. I worked with Bart on this.

What this gives in footnote 6: The working group anticipates that if the request for an extension is rejected and the ccTLD manager feels that the rejection is inconsistent with the rules, it will be able to use the review mechanism that will be developed in Part 2 of the ccNSO PDP 3. To avoid any misunderstanding, ICANN's IRP process is not applicable to decisions pertaining to the delegation, transfer, and revocation of a ccTLD.

We should [inaudible]. Very sorry about that typo.

STEPHEN DEERHAKE:

Thank you, Bernard. If I can reclaim the floor. I see I've got a hand from Allan. Before I acknowledge Allan and give him the floor, I just want

everyone on this call to think through all this, and if you got any issue with it, raise your hand as well. This is an important point here and we will have a way out of this situation in Part 2 of the retirement policy. But I just want to make everyone cognizant of the fact that we are outside of the usual IRP process. So, with that, Allan, I give the floor to you, sir. Good morning.

ALLAN MACGILLIVRAY:

Good morning, Stephen. Yes. I just wanted to – it has to do with the last sentence in the footnote. I think we’re going to get into a debate on this and as I’m not a lawyer but, certainly, my reading of the ICANN Bylaws is not consistent with the last sentence. So, I think it would be best if we just struck it but I would point out that – I mean I can read from the ICANN Bylaws.

They say notwithstanding neither provision in the Section 4.3, the IRP scope shall exclude any of the following sub i, sub ii, “Claims relating to ccTLD delegations and redelegations.”

Now, I know there’s the issue, we’ve changed terminology with the use of “redelegations,” but certainly there’s no mention of “revocation.” So, I think that that sentence should be dropped or at least made entirely consistent with the Bylaws. And I don’t know how to deal with the use of the term “transfers” as opposed to “redelegations.” Thank you.

STEPHEN DEERHAKE:

Thank you, sir. I’m not quite sure where to go with that at the moment. I’m inclined to keep that sentence. I don’t see that it’s in –

BERNARD TURCOTTE: Stephen, I can pick up for a shot at it.

STEPHEN DEERHAKE: Yeah, if you wish to do so, sir. Please.

BERNARD TURCOTTE: On the transfer versus redelegation, I think we've made that very clear in the Framework of Interpretation, so I'm not at all worried about that. The revocation point, fair enough, Allan. I think that when we were writing up the rules – I'll go back to the exact wording we were playing with before it got turned into Bylaw language. But certainly, the intention was that the IRP did not apply to anything ccTLD-ish.

Thank you, Stephen back to you.

STEPHEN DEERHAKE: Thank you, sir. I've got raised hands from Nick and Eberhard, so I'd go with Nick first. I understand now that Zoom ranks them. So, Nick the floor is yours, sir.

NICK WENBAN-SMITH: [Inaudible] your expertise in Zoom. It just all looks a bit unclear who puts their hand up from view anyway. I think it's absolutely right that the IRP process doesn't apply to any of this. It's helpful in formulating the policy. In the sense, we've got some scope here to say that the policy – these sorts of questions shouldn't be subject to IRP processes in

the event that there's a difference of opinion between the IFO and the ccTLD manager going through this process. So, I think that is exactly right.

And I agree with Allan's point around the footnote not being the right language exactly, but I think the intent of it I do agree with even if it doesn't exactly scan with the exact wording used in the Bylaw. I think you could reword it to say, look, this policy – those sorts of questions – I'm [raising] out of this policy and not to be subject to IRP processes and that might equally do the trick because it's clearly not an IRP sort of process here. And I've put some comments in the Google Document around, look, if the IFO and ccTLD manager agree on the length of the extension then what do we do with that? Would you handle that differently?

I don't necessarily agree, by the way, that those sorts of quite specific decisions on whether the Retirement Plan is reasonable or not reasonable needs to be having the same sort of review mechanism as Part 2 of the ccNSO PDP, so I don't necessarily – you could do but I don't think you need to. That might be rather over engineered for this sort of thing. My suggestion was that the ccNSO Council could break the deadlock as to whether or not it is reasonable because that's a group of people who are knowledgeable and relatively unconflicted on these sorts of questions. That's just my [inaudible]. Thank you.

STEPHEN DEERHAKE:

Thank you, sir. I've got Eberhard and then Nigel. So, Eberhard, the floor is yours now.

EBERHARD W LISSE: The use of the term “redelegation” is digging a very big ditch and I will not be able to provide consensus for the use of this word in our policy whether it’s in the Bylaws laws or not. Redelegation in the Bylaws, I don’t care about. We’re talking about revocation and transfer. The last sentence in the footnote can, like Patricio said, go away. I think we state in the beginning that we’re using the terminology as interpreted by the FOI. We’re not writing Bylaws, we are writing policies, and I’m very serious about this. We’re not going to use the word redelegation. If we use that, I will vote against the outcome. It’s as simple as that. This is not [consensible] as far as I’m concerned.

STEPHEN DEERHAKE: Thank you, sir. Nigel.

NIGEL ROBERTS: Yeah, thanks. I just managed to hang on until now. Very minor point but I think I might shove my [inaudible] briefly. I’m looking at the footnote. My eyes are bad. I don’t know whether it’s this footnote 5 or something that I can’t read. And the last sentence, “ICANN’s IRP process is not applicable to decisions pertaining to the delegation, transfer, revocation of a ccTLDs.” Well, that should be singular anyway. But I’m totally and utterly neutral and don’t give a damn if we have that sentence there or not, and the reason for that is this. You can write ICANNs IRP processes green, blue, or whatever, it will not affect this policy because that statement is not a statement of policy, it’s a statement around the ICANN Bylaws. During the accountability, it was a specific call about

based on the principle of subsidiarity of ccTLDs that IRP, and in fact, any of the accountability mechanism that the BAMC shepherd are not applicable to ccTLDs because of the principle of subsidiarity.

Now, we do need an appeal mechanism, that's what the next stage of the PDP is about. We do need to consider how we deal with certain things about if some of the challenges the IFO about whether or not the exercise of their discretion is reasonable or not. But the fact is that ICANN's IRP process is not applicable full stop, whether you put it in or not, that remains the case because that's the Bylaw. Thanks.

STEPHEN DEERHAKE:

Thank you, sir. Bart, you have comment on this?

BART BOSWINKEL:

Yeah. I have effectively two. Let me start with Nick's observation about the role of the ccNSO Council and maybe the ccNSO. Up to now, and this is just for historical reasons maybe, the ccNSO Council and the ccNSO have avoided I would say by a kind of norm and value to get involved in individual cases. Now, I saw your note in the oversight document. I think the individual councilors could be asked, that's up to the ccTLD manager and others, but the council as such to get involved in individual cases is probably – it will open up a floodgate. It's not just with respect to these kinds of issues but also with respect to issues around delegation or around transfers, etc. So, you would change the nature of the council and to change the nature of the ccNSO if you would say as a mechanism introduced the council to adjudicate in individual cases because it will be interpreted that way. But that's my

view and based on conversations and what happened in the past. So, that's one comment.

The second comment relates to what Allan said, and I'm partly guilty of the final sentence in the footnote. The reason for including it this way and I've noted the text in the Bylaws – if you would look at the IANA Naming Functions contract, it specifically states delegation, transfer, and revocation and its description. Now, there are some more discrepancies between the ICANN Bylaws and the IANA Naming Functions contract not just with respect to this one but also in other areas. And the question is whether this could be one of those notes like the one on the definition in the member's definition to alert council to let's say there is a discrepancy and the language in the Bylaws has been overtaken by the Framework of Interpretation, which have been [inaudible] to the IANA Naming Function contract to ensure alignment, because if you would look at the IANA Naming Function contract and this is from ICANN itself, then it clearly relates to the Framework of Interpretation and how it interprets RFC5091 as a Policy document. So I think noting this and alerting council to it and that this a [gray] area where probably the Bylaws need to be adjusted, it is probably a way out and to ensure consistency at least from say RFC5091 an FOI point of view and the ICANN Bylaw. Thank you.

STEPHEN DEERHAKE:

Thank you, Bart. Yeah, we obviously have some [inaudible] fixing to do with respect to the Bylaws with regards to the ccNSO. This is recognized now on a couple of fronts and it seems like every day maybe another thing needs to be wiggled and tickled a bit. There we go.

Bernard, the floor is yours, sir. I don't see any other hand. So I think you can continue, sir.

BERNARD TURCOTTE: If possible, other explanation for why revocations were not in there once the lawyers got a hold of it, I was at the original drafting session that created the Bylaws from the Work Stream 1 report. Yes, that was me, being the only non-lawyer there. But probably what happened is the lawyers didn't see anything in the policies anywhere in the Bylaws about revocation and decided not to include it in there. I think Bart's approach for redelegation would probably also apply to revocation in that we could just advise the council that there is a gap there in that the original advice from the ccNSO Council [inaudible] for the next meeting I guess is that revocation is clearly included in the things that the IRP shall not deal with.

STEPHEN DEERHAKE: Thank you. We'd appreciate that. [Inaudible] my head against my desk, but yes, go ahead.

BERNARD TURCOTTE: Yeah, having managed those, I'll take that up. I'll pull up the archives. So that was the great discussion of the footnote. Maybe as a way out for the moment instead of mentioning, "Delegation, transfer, and revocations," maybe just for now as a placeholder: [ICANN's IRP process is not applicable to decisions pertaining to ccTLDs]. And just leave out

the specific things. I think that is quite fair versus what we were doing in Work Stream 1 Accountability.

STEPHEN DEERHAKE: Okay. I want to ask the group if we strike “delegation, transfer, and revocation” out of that last sentence in the footnote, does that work for the group. Is there anyone who has an issue with that revised language on that last sentence in footnote 6? If you do, wiggle your hands. I’m not seeing any hands. I’m going to assume that that is implied consent that we can do that – strike that – and we can carry on with that footnote. And, Bernard, I assume you’ll make the editorial change and we can carry on from here.

BERNARD TURCOTTE: Thank you, sir.

STEPHEN DEERHAKE: Nobody is wiggling. I don’t see any wiggling. I see lots of clouds blinking. I don’t understand what that is but anyway. Go ahead, sir. Thank you.

BERNARD TURCOTTE: Thank you. So we have now managed to get past 135, on to 136. Yes, Patricia, it’s a placeholder anyway until we get the text.

If the manager of the retirement ccTLD and the IFO cannot agree on a Retirement Plan within 12 months or up to a maximum of 24 months, if the IFO is granted an extension of the IFO having sent the Notice of

Retirement to the manager then the IFO shall advise the manager that the ccTLD shall be removed from the root five years from the IFO having sent the Notice of Retirement to the manager of the retiring ccTLD.

Again, this was simply moved up from being a bullet that applied to all Retirement Plans to simply applying to when a Retirement Plan is required because an extension is being requested, so there are no major editorial changes.

Now, on to Nick's question from much earlier. If we will remember the way I have it noted is it's a two-part question. First, do we really need a 90-day notice period before that after which the manager cannot request an extension? What is that based on?

It's about the Sections from 125 to 141. If we're saying that the base period for defining a Retirement Plan, if you're required to make one – and these sections only apply when you're asking for an extension – then to my mind, when I was reading through this, I saw a potential for disaster if we left it completely open to a manager 360 days into the first year of having the IFO send a Notice of Retirement sort of coming up saying, "Oh, oh, I need more time. Let's do a Retirement Plan," and would catch everyone short footed and could cause, in my mind, some reasons for a ccTLD manager complaining that is request for an extension to 24 months was not granted or that he didn't have enough time to produce a Retirement Plan.

The second part is you will remember from the section on the Notice of Retirement that we state very clearly in there that if the ccTLD manager requested the IFO work with the ccTLD to help produce the Retirement

Plan. Now, as we know from the listing of the requirements we have here – I would say the things we’ve listed here – are not the be-all end-all and not overly [taxing] I would think, but they do require some thought and some planning, but producing such a plan will take some time. So this was the basis for my thinking that we should have a period.

Now, I put in 90 days just to line it up with the other 90-day period we had in there. Is it longer? Should it be six months? Maybe. I’m not tied down. It’s just for me, if you receive the Notice of Retirement, 90 days seem to be a reasonable increment to at least respond to the IFO saying, “Yes, we got your request. And yes, we would like to produce a Retirement Plan.” Now, this being said, also if we think about it, going back to Nick’s point, the manager is not certain if he is going to want an extension or not, there is nothing that forces him to produce the Retirement Plan even if he says before the end of the 90-day period that he’s going to produce one. We have right in front of us the text that says, “Well, if there is nothing agreeable that’s produced, we simply go back to the standard five-year period.”

So, in my mind, if a manager is certain he doesn’t want an extension period, we know what happens. If a manager is certain he wants an extension period, it’s very clear what happens. If a manager is uncertain before the end of the 90-day period, he can simply acknowledge that the manager has received the Notice of Retirement and will be requesting an extension. If it works out, they’ve got 12 months at least to produce this, and if they work in good faith, maybe even up to 24 months. And if it doesn’t work out, it doesn’t change anything. So, this was my thinking. Back to you, Stephen. I see a hand up.

STEPHEN DEERHAKE: Thank you, sir. We've got a hand from Danko. So, go ahead, sir.

DANKO JEVTORIĆ: Thanks. Just a short comment from a country that has lost its country code twice. I agree with that and I would not expect a manager to be surprised by losing the country code. So probably they will be in position having given some thought to it even before the information by the IANA Function Operator. So this is for me reasonable line of thinking. Thanks.

STEPHEN DEERHAKE: Thank you, sir. Really appreciate that, really appreciate your expertise in this particular area as you have gone through it. So, with that, I turn the floor over to Nick.

NICK WENBAN-SMITH: Sorry. Just took a moment. Am I unmuted?

STEPHEN DEERHAKE: You're unmuted, sir. I can hear you fine. Go ahead.

NICK WENBAN-SMITH: As I pressed "Unmute me" I got a notice saying I was muted. Anyway.

STEPHEN DEERHAKE: It's all about [inaudible].

NICK WENBAN-SMITH: I totally agree that in the ordinary [course], 90 days is reasonable. I also take your point entirely that all of these things are slightly arbitrary. Maybe two months is enough, maybe six months is enough. You have to decide something and clarity is absolutely important here. So, I don't have any issue as such with 90 days being the date chosen. I think that's very reasonable. Three months should be enough to get [aboard] of the country code manager to focus their minds on this and to produce a response.

What I was thinking of is it's hard coded that there is no discretion, that even if the IFO wanted to accept something after the 90 days, they wouldn't be able to because they'd missed the limit and whether that is smart. That specific detail that they sent something in or there was some sort of misunderstanding, it may be some linguist – I don't know – there's some sort of misunderstanding and for some reason, they took it about 100 days after the notification. At that point, they're totally barred under our policy in the current wording from any extension over the five years. No exceptions, no flexibility, no nothing. Is that what we intend? Because that's what the language is and just to check that that is the intention, because that's what the language says to me. There's no circumstances that missing a notification to indicate an extension.

By the time they've gone through some of the Retirement Plan processing, they might have realized actually, "We do need a bit of time," or something might change, circumstances change. It may be

that everybody is totally okay with it as being like that. I'm just saying that inflexibility is something that kind of always raises my hackles a little bit in terms of binding people to a policy that might have unintended consequences. If people are cool with it then I totally respect that there needs to be a process. I greatly appreciate Danko's point about actually in practice. That's fine. I'm just questioning that sort of black and white, there's no discretion to do anything, and if you miss the 90 days then that's it. Five days and the ten-year option is totally out of the window for you. That was it, only point. Thanks.

STEPHEN DEERHAKE: Thank you, sir. If you've got any alternative language you'd like to propose, we're happy to hear it. I'm not sure –

BART BOSWINKEL: Stephen, can you put me? I can't raise my hand. So can you put me in the line as well?

STEPHEN DEERHAKE: You cannot raise your hand? I've got Allan and Eberhard. I'll put you – okay. I will go to Allan next. Allan, sir, the floor is yours.

ALLAN MACGILLIVRAY: Thank you, Stephen. I too agree with Nick's point. I kind of stumbled over the 90 days. And I certainly agree with Bernie, there has to be some onus on the manager to declare their intentions early in the process. I'm not hung up on 90 days, but certainly it's a period of less

than a year. But what I think Nick is talking about – and if he isn't, maybe this is a separate circumstance – is what does one do with changed circumstances? In other words, something happens past this initial 90-day period and reasonable people would want to deal with that. So maybe we have to put in a separate but related provision which would allow the manager to request an extension to submit a Retirement Plan where you can choose your language – changed circumstances, unforeseen developments. And certainly the onus would be on the manager to explain what has changed that would allow them to avail themselves of this provision because we certainly don't want someone running in the last minute saying, "Now I want an extension." They have to say, "The reason is because this has changed and that circumstance did not exist previously in that 90-day period." Thank you.

STEPHEN DEERHAKE: Okay. Thank you, sir. I've got Eberhard and then I've got ... Eberhard, you're next. Go ahead.

EBERHARD LISSE: After me, it's Bart.

STEPHEN DEERHAKE: Yes.

EBERHARD LISSE: I'm not too hung up on the 90 days either. I think we should maybe replace the "must" with "should" because it has got one year to 24

months to write a Retirement Plan anyway. The intent here is not to say if you only hand it in after 91 days, you're gone. No. The idea is you should advise IFO as early as possible that you're working on a plan. But maybe we shouldn't put a proper timeframe on but the plan here is – what Nick and Allan is saying and I agree, I'm not hung on a fixed time – but the idea is not to put somebody on 90 days on a certain notice but to say do it as early as possible.

I fully agree with Danko. I've been saying this forever. No country changes its name out of the blue. Chagossian Islands are being discussed. Cook Islands are being discussed. Dutch Antilles were discussed for several years. So the idea is not to set a fixed timeframe but no ccTLD manager who has a residency requirement anyway can make me believe that they don't know that their country has changed its name, it's nonsense. So they know early on something is happening. And if they're not paying attention, I'm sorry. We are all adults. We don't have to write a policy for kids.

STEPHEN DEERHAKE:

Alright, thank you, sir. I appreciate that. I note in the comments – Nick's comment with agreement from Allan. And further comment from Nick that just popped up. We will take that into consideration as well, sir. I've got Bart next and then Allan. Bart apparently cannot raise his hand for some reason.

BART BOSWINKEL:

No, and nor can Bernie. Bernie wanted to chime in as well in this topic. I think maybe the 90 days – if you look at the way it's structured, there

are effectively two messages. One is acknowledgment of receipt of the Notice of Retirement. I think that is a co-element of it and maybe that's something that should not change, the 90 days, because then you ensure there is a channel of communication between the IFO and the ccTLD manager. So, that's one.

The second point, and this is my interpretation of what Nick and Allan said, is that even ... for example, Bernie alluded to it effectively in four scenarios. One is the manager knows definitely that he does not want the Retirement Plan, and the second one is he definitely knows he does want a Retirement Plan. So these are the two extremes in a way, and that's very clear.

In between is he doesn't know whether he wants a Retirement Plan, so therefore, he initially says nothing. Or he doesn't know that he doesn't want a Retirement Plan. That's the vague situation. And probably if something like if that's vague, if you include something like this in the notice say, "I'll get back to you in half a year," then allow for a timeline to make up your mind. But as part of that initial response, then I think you sorted this out and make it less burdensome and allow for changing insights from the ccTLD manager and/or the significantly interested parties. So the ccTLD manager may want to do it, but others – the significant interested parties – might say differently or the other way around. But you need to allow for that kind of flexibility as well. It's unclear where we'll go but then at least allow this in the initial response from this ccTLD manager.

STEPHEN DEERHAKE: Thank you, sir. I will turn the floor back over to Bernard.

BERNARD TURCOTTE: Thank you, Stephen.

STEPHEN DEERHAKE: Okay, go ahead.

BERNARD TURCOTTE: Listening to all of these, I'm going to do something I don't do often. I'm going to argue with Bart. Simply saying the manager has to reply to the Notice of Retirement within 90 days of it being sent and then what if he doesn't? It's just a non-statement to me. I mean it's nice to have but given what we're doing, I'm not sure it brings us that much further.

Maybe the way out of this which might make more sense than 90 days is if everyone is comfortable with the 12 months and a possible extension to 24 months, which is what we have basically between lines 125 and 141, why don't we throw in instead of 90 days to one year? I mean that's the basic line we have in the sand in line 125. You've got 12 months to develop a Retirement Plan. I think that matches up nicely. If people don't get back up to us, we've always said to everyone, "The five-year applies. You have 12 months to develop the Retirement Plan." If someone wakes up late and circumstances have changed within that year and they wake up 364 days after having received the Notice of Retirement, we've got a built-in extension there for an extra 12 months at the discretion of the IFO. So, for me, it sort of meets all the requirements if we throw that to 12 months. Over to you, Stephen.

STEPHEN DEERHAKE: Thank you, sir. I think that is a legitimate way out of this. Looking to see what people think about it. I've got a couple of hands. I will turn the floor over to Eberhard first and Nick next. So, Eberhard, the floor is yours, sir.

EBERHARD LISSE: I like what Bernard is saying. So we remove all of this giving notice of wanting to produce a plan at all. That way, if you wish to produce a Retirement Plan, you hand it in. So the whole paragraph of "if the manager wishes to use a plan, it must do so within 12 months," but we don't have to write when it must inform. I would like if we put something in to give IFO three months time to review – it's not necessary because it's just a notice. We can scrap the notice. I mean we remove all reference to it from the text. If a manager wants to submit a plan, submit it. That works for me.

STEPHEN DEERHAKE: And if they do not then where do we go there?

EBERHARD LISSE: Then they don't. If they don't submit within 12 months, they don't submit within 12 months. Nothing is happening from IFO side in the first 12 months anyway.

STEPHEN DEERHAKE: Okay. Right. I got you there. Thank you, sir.

EBERHARD LISSE: Have we got somebody from IFO on the call? I don't see.

STEPHEN DEERHAKE: I'm not sure there's anybody.

EBERHARD LISSE: West Coast.

STEPHEN DEERHAKE: It's really early there. It's early for [inaudible]. It's really early for them. Eberhard, I will assume you're going to lower your hand and I will go to Nick next. Thank you, sir. Nick, the floor is yours, sir.

NICK WENBAN-SMITH: Great. Thanks. I'm very happy with that suggestion. I suppose I was just thinking what was crystallizing my nervousness or anxiety about everything falling or succeeding on a notification. When we went through the last ccNSO Council meeting, we had a workshop for those that weren't there and we went through the various Empowered Community processes. There were a lot of these sorts of notification must be done within x days or x in the scheme of potentially [ten-year] period was quite short, and that the whole process just fell if you just missed it. It's that sort of thing which I don't think is smart from a legal

perspective to hard code into a policy for ourselves to be using. So that's really what I'm about. I think it's great, so that's fine by me.

STEPHEN DEERHAKE: Okay. Thank you, sir. Eberhard, I see your hand is up again.

EBERHARD LISSE: Yeah, I'm thinking about it. We can assume that a Retirement Plan is being submitted unless it's not, isn't it?

STEPHEN DEERHAKE: Well, it either is or it's not. So, yes.

EBERHARD LISSE: The point I'm saying is, if everybody works on the assumption, unless somebody doesn't submit it within 12 months, there will be a Retirement Plan. We don't need IFO to be given notice we want to submit one. Either they do or they don't.

NICK WENBAN-SMITH: It's going to be [inaudible] just Retirement Plan.

UNIDENTIFIED MALE: Yes, correct.

STEPHEN DEERHAKE: Duly noted. Bernard, I'm going to turn the floor back over to you, sir. I will note that we are now in over time.

BERNARD TURCOTTE: You know what, I think that really covers it. I think just to be clear, we had one section in the Notice of Retirement which was based on this 90-day thing which now should be adjusted according to what seems to be pretty much a consensus position.

So I've got a few typos and I've got to adjust this 90-day thing according to the conversation we've just had, and I've got to adjust footnote 6. There's probably two action items to notify the council relative to the use of redelegation in the Bylaws in Section 4.3 and that it doesn't cover revocation also.

If there are no other changes in the documents, I think we've made some pretty serious progress. Unfortunately, we won't be able to finally lock it down today but I think with what we've agreed to today, it should go pretty quick on our next call. Thank you, Stephen. Back to you.

STEPHEN DEERHAKE: Thank you, sir. We were also planning to engage with Bart with his follow-on document, but given that we've gone over time, I don't see that as a possibility today. Kimberly, if you could put up the agenda? Thank you. You read my mind.

Bart, I don't know if you've got any feedback on the Google Doc stuff or not. Do you wish to discuss briefly? If you do, feel free. The floor is yours.

BART BOSWINKEL:

Sorry, I had to unmute but my [inaudible] wasn't working. Not it is.

Not really. I've noticed some people commented – those of you who haven't – I don't know whether you had the chance to read it. Either use the PDF or Word document or the Google Doc, but please look at it so we can have a fruitful discussion about it.

There is one item which I commented on and I want to draw your attention. Maybe it's just a [red herring] as the one I just made, but thinking about it and thinking also in the context of the scope of the ccNSO policy [remit] and the IANA Naming Function contract and the relation between PTI and ICANN or IFO and ICANN is whether say we focus too much on IFO and the decisions made by IFO, because ultimately that's the way it's implemented – at least you can interpret this that way – and so it's an implementation to the IANA Naming Function contract and the role of the IFO. Ultimately, the policy is directed at ICANN and the role and decision-making and how they draw the line between PTI, IFO, and the ICANN Board is also something that they worked out over time. That's just food for thought.

Those of you who haven't looked at the Google Doc and/or the Word and PDF document, please look at it and we'll start fresh in two weeks' time with the oversight document. That's all, Stephen.

STEPHEN DEERHAKE: Thank you, sir. Yes. So we will begin with that in our next discussion. We're working on the Marrakesh face-to-face as you can see in Section 6. That's kind of where we're going at this point in time. Any comments that you wish to submit to the list regarding how you think that meeting should progress would be great. We're again planning a couple of breakout sessions with ... flip boards, whatever, what we've done in the past. So we really want to look at the issue of [exceptionally] reserved ccTLDs and also we want to really dive in to stress testing of where we are with our policy development at that point. That's where we are with that.

If there's Any Other Business, I'm happy to entertain anybody's thoughts on that. I'm looking and I do not see Any Other Business. So with that, our next meeting is in two weeks' time. Kimberly, if you can refresh me as to when it is, that would be great because I don't have it on my notes in front of me.

KIM CARLSON: Yeah. The next call is June 6. That's 17:00 UTC.

STEPHEN DEERHAKE: 17:00 UTC on June 6. Note it in your calendars. I hope you can all make it. I want to thank everybody for participating this morning, this afternoon, this night wherever you are. I think that's it. I think I can call this a close. We can stop the recording. And thank you, Kimberly, so much for being up so early. I really appreciate it. Thank you, Bart, and

thank you, Bernard. And we're done. We will see you in two weeks. Bye-bye.

[END OF TRANSCRIPTION]