
STEPHEN DEERHAKE:

Alright. Thank you everyone. Good morning, good afternoon, good evening. I want to again thank everyone for joining today's teleconference which is our third since our face-to-face meeting in Marrakech. For the record, this is the 15th of August 2019 edition of the ccNSO PDP Working Group tasked with developing ICANN Policy with respect to the retirement of ccTLDs from the Root Zone.

It's early morning where I am, lunchtime for those of you on the Meridian and a really bad time of night for those on the Antemeridian but as you know we rotate the calls and carry on and I want to thank those who are up early or up late specifically.

Again, thank you for everyone who's joined the call. I, myself, am pretending to be on holiday but American style which involves putting two laptops, a switcher printer, extra paper, and a power strip to the beach. Obviously, with Americans, at least me, are clueless when it comes to figuring out how to correctly go on holiday. I hope you guys have a better handle on it.

So, let's get into it. As you can see from the Agenda displayed, we have scheduled a brief discussion regarding the status of ISO 3166 DIS Version 4, which followed the discussion on the mailing list earlier this week between Eberhard and Jaap. Hopefully both are on the call, which appears to be the case. In which case, I'll be calling upon Jaap to provide us a brief update and then call upon Eberhard to elaborate on his comments posted to the list. I don't want to go into this in great detail today. Rather, I want to get this out in the record.

And I do wish to encourage the Working Group Members to review the ISO 3166, the IS Version 4 Document, since at the end of the day it appears our work will likely be based on this document rather than the current ISO 3166 Document that has been near and dear to us for some time now. There's some terminology changes involved which we need to incorporate in our work. So, that's where we'll go with that. Also, with respect to administrative matters, the Agenda notes the Status discussion with regards to the Retirement of IDN ccTLDs. And I will turn things over to Bart for this update. So, Bart, if you're ready to go on that.

BART BOSWINKEL:

Oh, yes, let's get this set. After our last call I sent a note to the list referring to the Final Report of the IDN Preliminary Review Team and also to the Council, upcoming Council Discussion which will happen next week. And where the trigger event around IDN ccTLDs will be part of the review and update of the ccPDP, too, if Council agrees. So, that's the current status and I'll pass a link to the Final Report which has been posted, the Final Report of this Review Team in the chat so those who are interested can review it and see it. And the Council Agenda will be circulated later today and that will be posted so those who are interested can see that it is part of the discussion. That's all.

STEPHEN DEERHAKE:

Thank you Bart. Appreciate that. So, the priority today is similar to what we carried out during our last call. We will continue our discussion regarding Decision Making. Bart has done a further revision on the

Decision Making Table, so we'll be reviewing that. Then after that we'll continue our discussion on the removal of exceptionally reserved strings. This all might seem repetitive but it's actually not because we're advancing in both areas.

In keeping with tradition to keep Davidson set with the Framework of Interpretation Working Group, we're providing Working Group Members two opportunities to weigh in on the subject at hand before we, what I would describe as "putting it to bed".

I also think that this approach is particularly important this time of year as those of us in the Northern Hemisphere are at least attempting to get in a wee bit of rest from our work lives and I thus recognize that attendance may well be suboptimal over these August meetings. I do think it's important however that we carry on our work and I note for the record that we will have a Blue Moon Meeting on the 29th, our third meeting of the month, which might be a first for an ICANN Working Group though I haven't actually researched that. So, having said all that, let's dive into the revised Decision Making Table and with that I will turn the floor over to Bart. And Kimberly if you can display Bart's latest and greatest that would be wonderful.

BART BOSWINKEL: Stephen, Stephen.

STEPHEN DEERHAKE: Yes, Bart?

BART BOSWINKEL: Stephen, do you want to first hear the status update or first want to go into the Decision Making? The status update on ISO 3166?

STEPHEN DEERHAKE: Oh, yes. Excuse me. Of course. Yes, let's do that. Absolutely, Bart. I totally spaced on that given the time of day and I haven't had coffee yet. Yes, let's go ahead with that. With regards to that, Jaap, if you want to give us a brief update, three to four minutes or less, as to where the ISO is with regards to the revised document that sparked our discussion on the list earlier this week. Please, Jaap.

JAAP AKKERHUIS: Well, I'm sorry. It's now up to fault. I've been talking about this update for quite some time now and we started off Fall of last year. And ISO Standards needs to be reviewed every three years. The 3166, last one review was in 2013 if I remember correctly and so it's really badly needed to be reviewed. During the review, end of six years, the rules have changed and among that is that all standards should actually be put into one document instead of multiple documents when possible. Notably, the definitions.

In the end it was decided that for this round, actually we'll still keep the [inaudible] apart but we'll update all the various parts to the new standards. And then after this has been done, it will be immediately new around titles and actions will be shown into new standard. But also change what this current revision tries to compensate for is that the table will not be printed anymore in the document itself but it's all online under the [inaudible] browsing [inaudible]. So that's where all

the information is and so even though there's adaptations in the text of that.

The current stages is that it was first Work Group dealing with the changes, then it went to TC 46 Work Group 2 for more deliberations and so that happened in February and that was the draft. And then in the end it went to the Plenary that happened in June and the Plenary has eight weeks of discussion time that ended last week on the 8th of August, I think. So, and now it's for full fault which will take 12 weeks for the Faulting Procedure and so they'll be finished in October.

What Abraham had saw was that when things are going to be final, the F stage they call it, the Final Draft International Standard, and that's when it is called a fault, whenever it reaches this stage, it is already available for money in the standard show but notice it's still a draft. And what they apparently did with ISO was what they do with other standards as well, is putting in some sort of document, mostly time and date introduction plus the first chapter and that's basically what happened here as well.

And this happens to contain the definitions as they have been closed now for Part 1. If you really read it, it is actually the wording of the old things. There's actually nothing really substantial has been changed. Substantial changes will happen probably, and I mean the Draft Team will want to make substantial changes but hearing that's a draft, they should've changed two engines at the same time. So first they want to do the [inaudible] current and then a new one there might be really essential change to the document.

That's what the stages is. And I don't really agree. I don't think really there's a lot changed in the terminology or the procedures or anything else. It's still the same. A lot of the old references has been thrown out and replaced by new ones. Some definitions has been thrown out because a reason [inaudible] I think it's 531 talks about the ISO [inaudible] or whatever. This is the big day to date of definitions and every standard is supposed to fall back to that unless they have an old definition.

STEPHEN DEERHAKE: Thank you, Jaap. Appreciate that. I've got a hand from Nick I believe?

BART BOSWINKEL: Sorry, the first one was Eberhard, so we...

STEPHEN DEERHAKE: I can't... Yeah, are they ranked now?

BART BOSWINKEL: Yeah, they are ranked. The first one is Eberhard, then Peter.

STEPHEN DEERHAKE: Eberhard, then Peter, and then Nick. Okay, got it. Go ahead Eberhard.

EBERHARD W. LISSE: Hi there. I wasn't... I fully agree with Jaap. I wasn't really concerned too much about substantial changes. I liked that they introduced a few

more definitions in the beginning and because that makes it easier to refer to status instead of lists because they will refer to the name or the number of the list and people get confused and if you can say a code, Alpha-2 Code has a status of assigned, reserved, or whatever, that makes it easier for the terminology as far as I am concerned.

The other thing that gets us... That's not such a big dilemma. The other thing is as far as triggering elements, triggering events are concerned, nothing changes. And the third thing I wanted to just point out, we should be a little bit careful to make sure that we don't finalize our terminology in our document before theirs is finalized. Otherwise we use other terminology and that wouldn't be to... The substance for our substantive discussion, it doesn't make any difference because the trigger event is that changing of the element.

JAAP AKKERHUIS:

Yeah, you're right with the definitions used to be sprinkled around the document and it was not always sure of what was the definition or not and that's why the new rules require you to have all the definitions put into a single chart at the start of the document. But the definitions itself hasn't been changed.

EBERHARD W. LISSE:

It's just that it is more easier to handle and that if we have to deal with newly onboarded GAC Members who have never had any insight or input or output into that issue even though they're probably involved in name changes of countries, it's better that we can have an easy to refer to, easy to understand, and unambiguous terminology. So, I think that

they put this all into one section makes it much more helpful, much more easier to read. So, and I just wanted to point out that we just must pay a little bit attention to when this is finalized so that we have our terminology exactly in line with theirs so there is no discord.

STEPHEN DEERHAKE: Appreciate it, Eberhard. Thank you. Jaap, go ahead.

JAAP AKKERHUIS: For the timeline, the optimistic timeline, I've got it in front of me and that's why it's right now about today. The result of the fault will be known the 24th of October. So, at that time there might be some small changes still, editorial changes into the draft if people are complaining by the Fall. It could be that it's found filtered down and I mean returned to the Work Group as well but it's unlikely.

BART BOSWINKEL: May I suggest that we take it as an Action Item to say to look at it at the Montreal face-to-face meeting because that's supposed to be the 24th of October which is the most optimistic timeline and by that time, we take stock again of where we are with respect to the update.

STEPHEN DEERHAKE: I concur with that and may I now ask Peter to weigh in since his hand is waving at me. Thank you, Peter, go ahead, sir.

PETER KOCH:

Yeah, thank you Stephen, hi. So, just to add to that. I have a slightly different observation here. I posted a message to the list two minutes before the meeting because I underestimated the time it took to compare the two variants of the document. But it appears to me that the ISO TC tries to make these status explicit, but they did that in a very strange way. So, we are still not completely sure whether or not reserved is a status or not and that is something to look at when we get to look at the document.

Based on the fact that they retroactively like reengineered what the online browsing platform was and tried to import that in the standard obviously, the standard in itself doesn't appear to be too consistent to me and may make our work easier but at the same time may also not. So, there is definitely something to look at. I believe that there could be a substantive change in whether or not reserved is a status or not. Thank you.

STEPHEN DEERHAKE:

Okay, thank you, Peter. I appreciate that. Jaap, you seem to have a comment about that?

JAAP AKKERHUIS:

I don't really. The term reserved was always been kind of wishy washy defined. It's something the MA should do but it's not part of the standard and that hasn't changed. And that's in the text which is not public in the example. I mean these wordings haven't been changed.

BART BOSWINKEL: So, this goes back to the point let's revisit it when it's been voted upon. Why are we speculating right now?

STEPHEN DEERHAKE: Yeah, let's... Nick, go ahead sir.

NICK WENBAN: Yeah, thanks. Yeah, just a little comment on the Zoom thing first which is that I can't see which order I'm in in terms of the hands and I don't know if as a participant whether you can see the hand ordering going up. If anyone knows the answer to that then I'd be interested to know but I haven't found a way to do it yet.

So, my point was though, with the review of the standards kind of being baked in, and I understand that that makes sense in that standards get reviewed periodically, but this policy that we're creating is going to be in place for, well we hope, decades, right? So, given that the standards upon which a lot of our policy making potentially subject to change, even if it's fairly hopefully in substantive changes as we're talking about at the moment with Version 4.

To the extent that our policy then becomes outdated because of terminology changes in the standard, ought we not build into our policy a process whereby where something is critical as the 3166 Standard gets updated or periodically reviewed? That we, following one of those changes or updates or new versions coming out, we'd bake into our policy that we also need to review it to make sure that the policy stays, so that the sense of the policy stays in place despite the fact that the

standard upon which the policy relies and hangs on very heavily might have been updated and should we not put that into the policy wording while it's fresh in the mind because of this new version coming out. So that's really the point I wanted to make.

STEPHEN DEERHAKE: Thank you Nick, duly noted. I'm not quite sure. I agree. I probably... We need to put some language in there at the end of the day. Bart, can you make the note that we need to think about that, and we will go forward with that.

BART BOSWINKEL: Yes, and put it this way. Say in the IDN Policy and also in the Fast Track, you know for a Draft Policy you will see there is a review mechanism built in. And I can appreciate where Nick is coming from. And yeah, probably it's something you want to build in anyway. A review mechanism. Under what circumstance is another thing but that's something for further discussion probably at ICANN in Montreal or later on when we finalize the document. Thanks, Nick, for noting. Nenad has his hand up.

STEPHEN DEERHAKE: Yes, I see that and go ahead, sir.

NENAD ORLIC: Hi. Nick mentioned one of the long-term consequences of the situation with the changes of the standard and thank you for that. And another

one is a short-term consequence on the work of our group. What if best ending time of 24th of October for the change of the standard doesn't happen and it flunks, can we as a group point to the not finished standard or we are obliged to go with the still standing standard, do you know what I mean? So, can we use wording that has not been officially approved if something happens beyond 24th of October with the standard?

STEPHEN DEERHAKE: I would think we would go ahead with the current on the record language terminology standard if there is in fact a delay for the 24 October date. I do think, however, at the end of the day, by the time we do get our work done, what's being looked at now will in fact be the case. So, I don't think we have to really worry that much if 24 October date slips with the ISO people. Jaap, you may have some comments on that?

BART BOSWINKEL: And Eberhard has his hand up as well, Stephen.

STEPHEN DEERHAKE: Oh, okay.

JAAP AKKERHUIS: Everybody thinks that the 24th of October, I mean, it will need to be final and so there is a slim chance, it's very small. That will mean that there is no consensus. It's Plenary fault but what I have seen from a fault

coming out of TC 46 in general is that it's most times very decisive that it's going to happen. So, I think we can stick with it. Unless something really outrageous happens, I mean the 24th October should work. I haven't heard through the grapevine that there are holdups about it, and I know there's now the French translation going on so it will be a real problem if things are getting held up.

STEPHEN DEERHAKE: Okay, thank you, Jaap, for that. Nenad, is that an old hand or a new hand?

NENAD ORLIC: Well, that's an old hand but just I want to say if by some... I'm used to looking at the worst-case situation so if that happens then the things that Nick said gets to be a must, not an option.

STEPHEN DEERHAKE: Okay, thank you sir. Eberhard, and then we're going to close out then move on to the rest of the Agenda. One final remark, Eberhard?

EBERHARD W. LISSE: I think we should be avoiding under all circumstances using old terminology if there is a change in terminology that we are aware of. However, that is something that we can put right at the end of our thing if we have to because it is absolutely unlikely, if impossible, that the substantive issue, the trigger event will change. The trigger event

remains the same, a change in status of the Alpha-2 country code. And how is defined, how we... Doesn't really make a difference for us.

But I would rather not want to rush into producing a document when we know that there is a terminology change, and what then. If necessary, wait a little bit at the end and say we are waiting for the terminology to be finalized if this has to be done and then use that terminology.

STEPHEN DEERHAKE:

I agree and that's not going to be a big thing, so thank you guys for your input on this. Thank you Jaap, thank you Eberhard. If we can then proceed into the revised Decision Making Table that Bart's been working on. If Kimberly could bring that up for Bart that would be wonderful. And Bart, I will give the floor over to you. Thank you, Kimberly. Bart, go ahead sir.

BART BOSWINKEL:

I'm muted. Sorry. So, the changes I've included. Can you scroll down please, Kim? So, scroll up a bit. Yes. So, the first one is based on the previous, the discussion from last meeting, I've said there are three points in the table. So, one is the decision, so the initial decision, it's called now the initial decision. The second thing is, the second question was, and the second column was oversight; is it needed and by whom?

What I've done is, based on the discussion and based on where the direction of travel seems to go from the group, is included a little bit of a placeholder definition for reference. It's following the Kim Davis's

email on the role of the ICANN Board that has been evolved over time. Limit to ensuring that IFO has followed proper procedures. So that's the way the ICANN Board currently acts with regard to delegation and transfers and revocations of ccTLDs. So, that's the reference there. And so, to focus the attention.

And then with respect to the review mechanism I've, based again on the discussions, etcetera, and previous discussions and thinking it through, say what do we really mean knowing that the second part of this PDP is around the developing of the review mechanism itself. It's probably that the real question is whether the decision could be made subject to review or is admissible for review, so that's more in terms if it's not admissible, so that's the country logic. If it's inadmissible then there is no room for review. So, if admissible, it can be subject to review. So that was more an interpretation based on the discussion and this is a starting point for the further discussion so keep this in the back of your mind and I've also included in the email I just circulated.

Can you scroll down now, Kim? So, what I've done is I've consolidated the who takes decision oversight and subject to review so the only thing you will see, you will not see any reference anymore to the different groups and Breakout groups from Marrakech. So that's why you see the table as it is. We've consolidated. What I've also done for this exercise as was part of the discussion, I've merged Decision 3 and 4 around the retirement plan. As you can see the Decision 5 as it is, that is marked differently because that's a decision on the, I'll call it, "administrative transfer", is not discussed but it came up during the discussion. It has not been discussed by the Working Group so therefore it should be treated differently, maybe even excluded at this stage.

Can you scroll down, please Kim? Then I've highlighted Decision 7 in a different way because probably that will be the focus point of today's call is whether the decision to agree or disagree to the retirement plan should be taken by IFO or by somebody else, another entity, and should it be subject to review? So that was from the notes from the previous call. It's the most critical part of the whole procedure. So, should the initial decision to agree or disagree plan be with IFO, yes or no? So, we'll get there in a minute.

And can you scroll down please Kim? So, and the rest, I've filled it in. So, for today's focus and to start the discussion, my suggestion is first to focus on the... can you scroll up again, please, Kim, to Page 1 or to the page with the placeholder? One more. Thank you. First one is are there any questions relating to this placeholder definitions of oversight and rephrasing. So, let's start with that one. Say, limiting to ensuring the IFO has followed the proper procedure. So, who is doing this oversight is somebody else but at least it puts some better understanding and focus on oversight. Are there any comments, questions, regarding this placeholder definition? I don't see any hands, okay.

STEPHEN DEERHAKE:

Do we have any comments on this? Do you feel that where Bart's gotten to with this reflects what we think should happen here? Comments welcome. Thank you. Bart, I'm not seeing any so...

BART BOSWINKEL:

No, okay. That's good. So, we'll maintain this and based on this I think we can say that it focuses the discussion. I have the second point is a

similar question but regarding to the review. Do you think, this sits here as placeholder, this clarifies what we mean in this part of the process on what is meant with the review or so it's more about admissibility to the review to anything else that we discuss here. Not about the review processes as well because that clarifies and it makes it easier for the reviewer as well, as one point but it's more a kind of gating function that we're talking about. Any questions, remark, around this way of interpreting the review mechanism as we discuss with this Working Group?

STEPHEN DEERHAKE:

I'm not seeing any hands. I think we've got a level of agreement.

BART BOSWINKEL:

So, we'll revisit this next time again and then we'll play around with it. So, okay, thank you very much. Then let's scroll down please. So, the next one is, and I want to do a different approach. As you can see, who takes the initial decision that we discuss. Based on the previous call, ultimately everybody thought the IFO should be the entity that takes the overall decision. So, Kim can you put up the first poll please? So, what we're trying to do right now... That's the one.

KIMBERLY CARLSON:

Bart, I only have one poll, sorry.

BART BOSWINKEL: Okay. So, to explain, we've been, Kim and I have been preparing polling as kind of an experiment for this group and we played around with it yesterday and it didn't work for this one so my fault. Thanks Kim. Now, you got the one for the subject to review, don't you?

KIMBERLY CARLSON: I do, yes.

BART BOSWINKEL: Yeah, okay. Then we'll get to that one because that's a different one. So, first of all, the question is after two weeks of thinking about it and looking at it again and with the understanding of the interpretation of oversight is subject to review, do you agree that the all the initial decisions should be taken by the IFO, including, and scroll down please, Kim to decision, what is called Decision Number 7, decision to agree or disagree to the Retirement Plan. So that the initial decision is taken by the IFO and if you agree with this filling in please click yes. Your yes button. Give you a few minutes.

STEPHEN DEERHAKE: Somebody's got church bells in the background.

BART BOSWINKEL: Yeah, that's me.

STEPHEN DEERHAKE: Eberhart's contrarian. That's alright.

BART BOSWINKEL: Some people haven't voted. So, maybe, Eberhart you voted against. Could you say, do you disagree with all or with one or any other concerns?

EBERHARD W. LISSE: I don't require ICANN. I don't agree that this is an operational decision that ICANN Board should approve. It can reviewed but it should not interfere with their normal kind of things. That should not be a mandatory approval required in the process.

BART BOSWINKEL: I'm just talking initial process. Sorry for not explaining it properly, Eberhart. I'm talking that who takes the initial decision, that's the IFO, not ICANN.

EBERHARD W. LISSE: Yes, but it says here should be subject to ICANN Board Approval if it means that if this is an automatic status IFO decides and then ICANN must approve it before they can communicate it or... That I don't agree with. But if it says they disagree and then somebody can appeal, but then I don't think the ICANN Board approval should affect it. I don't agree with this.

BART BOSWINKEL: You disagree with the should be subject to ICANN Board approval.

EBERHARD W. LISSE: Yes, it should be subject to review.

BART BOSWINKEL: Yeah, okay.

EBERHARD W. LISSE: Or appeal.

BART BOSWINKEL: Yeah. But say the initial decision itself should be taken by the IFO.

EBERHARD W. LISSE: Yes, I agree with that.

BART BOSWINKEL: Okay, thank you for the clarification. I think I'll strike this part and...

STEPHEN DEERHAKE: Thanks, Eberhart. Go ahead.

BART BOSWINKEL: And Nick as well. So, Nick agrees with you as well and sorry for confusing. I should have deleted this part. Then so for the rest, I think with respect to this one, everybody, let me ask it this way. There were some people who did not put up their hand, either country, say

positively. Are there any questions regarding this point because some people did not put up their hand at all?

STEPHEN DEERHAKE: Do we have any questions from the group on what we're looking for here? I'm not seeing any hands, Bart, but I'm also not seeing –

BART BOSWINKEL: Yeah, some people didn't put up.

STEPHEN DEERHAKE: -- a lot of agreements one way or the other. Garth, since you're on the call, do you have any thought?

BART BOSWINKEL: Jaap has his hand up.

STEPHEN DEERHAKE: Sorry, Jaap, go ahead sir.

JAAP AKKERHUIS: It's just as far as I don't really [inaudible].

BART BOSWINKEL: Yeah, okay. That's fair.

STEPHEN DEERHAKE: That's fair enough, thank you Jaap. Appreciate that and appreciate your contributions.

BART BOSWINKEL: Yeah, but so in principle we will revisit this again next week as a kind of a second reading because then it becomes easier. So, let's go back and can you scroll up again, Kim, to the oversight? So, again, based on the discussion from last week and this probably alludes to your point and again apologies for the unclarity from my end. Say there were effectively three instances where the ICANN Board should play an oversight role as defined.

One is, and that's outside of the process, is the decision to notify the ccTLD Manager. So that is whether the procedure has been, internal procedure, has been followed. The second one which, but it's outside or has not been discussed, but is the decision on the administrative transfer. And scroll down please, Kim. And the third instance would be -- scroll down please, Kim -- at the end of the process on the removal itself again that was as a Working Group agreed upon to date whereas the removal decision itself as a conclusion will be outside of the process and again that is based on my understanding of last week's discussion with the only part for the ICANN Board should have an oversight role. Nick, I see your hand is up.

NICK WENBAN: Yeah, hi. I'm still looking through these 12 Items and the decision points and then the column, who makes the initial decision oversight question mark, subject to review question mark. I suppose my thought is that

basically all of these boil down to the IFO decisions, and immensely. And some parts of that in turn, and this is where I think we need to be a little bit specific about what we're saying here, because I think in general, in terms of the internal governance structure of IFO versus ICANN, and at what point this in general oversight because it's a wholly owned subsidiary of ICANN although it's sort of ran independent with it's own Board and all the rest of it, but it is subject in general terms to oversight by the full ICANN Board.

And then you've said there's some specific points where actually there's an internal control mechanize, the IFO can't just put a ccTLD out to the Root without actually an ICANN Board sort of formalizing that as an internal control mechanism. Those internal control mechanisms as between the ICANN Board and IFO I think are none of our business fundamentally. That's the processes internally within IFO and ICANN.

I think what we're looking at here is if those are the points essentially where the IFO are doing things, and it's nice to sort of list them out, but what I'm trying to get to is that the review, when we come to what things could be subject to review, is a totally separate mechanism. And that's why I think that if you're a ccTLD Manager, and let's say since that's what we're mostly looking at this through the lens of, and you don't like the decision that has been made somehow as a result of following these policy processes, and a good example of that would be you ask for a time extension and it's refused, then there needs to be a review process, not just going to the ICANN Board which you could call upon to do that.

And I think all of that stuff probably forced into the second part of the PDP and probably we just part them for now saying, well, that is a small part of a general review process of decisions made or not made by IFO, some of which might require for in terms of internal governance or formality ICANN Board signoff and some of them might not. But that's a subsection of a wider range of areas where ccTLDs will want a review mechanism and that is yet to be decided under the second thing, and it could probably collapse a lot of this stuff down because it comes down to it's still the same person making the decision.

They're all IFO decisions. Sometimes there's an internal check with the ICANN Board but it's up to them really what they ask of the ICANN Board or the ICANN Board requires to be checked before actually it's actioned. But none of that actually deals with the substantive point which is some sort of independent review mechanism and that is what I think we just park all of this to part to now.

BART BOSWINKEL:

Yeah, so Nick I'll get back to you about... Thanks Nick. So, just one question is, let's say, do you want the second part to decide to which part of the procedure should be subject to review or do you want this group which part of the retirement process should be subject to review?

NICK WENBAN:

I think it's unwise to be prescriptive about there something... Fundamentally, if there's decisions made, and this is part of the review mechanism, but a decision is made at some point and it might be something to do with the retirement process. Then there's an internal,

or there's an independent review mechanism to have that decision. And obviously the trigger point is a decision, but I wouldn't get into, this is what a decision is. I think that it does have to be based on the facts of whatever it is at the time and you can't be prescriptive about that now.

Because it could be a decision or it could be like a non-decision, or a lack of a response, or you know some other type of thing that you want getting reviewed and I think it's only... If you look at the way that say public authority decisions are reviewed in the United Kingdom, there is a general right of review of those sorts of decisions and they're dealt with through that process. But part of the process, the first part of that process is, has there been a decision which is properly reviewable or not?

BART BOSWINKEL: And that's what you're talking about.

NICK WENBAN: Yeah, exactly. And that's part of the review process itself rather than part of our trying to second guess.

BART BOSWINKEL: Or you say this decision is not subject to review.

NICK WENBAN: Yeah, exactly.

BART BOSWINKEL: That's inadmissible.

NICK WENBAN: Yeah exactly. That's all part of the review process itself.

BART BOSWINKEL: Or I would say you can argue both ways but that's a fair point. So, go ahead Eberhard.

EBERHARD W. LISSE: Nick's intervention helps me a lot because we can take all this ICANN Board oversight out of this because it's really like you say it's none of our business. There's an internal corporate control mechanisms because who in the end, if it comes to the worst, gets sued is ICANN so they must make sure internally they have got their processes in place. We need to be dealing with what needs to be done and what can be done if somebody is aggrieved and internally. And while taking things on review is one thing, I always find that before one goes to court, the court's like to have internal mechanisms to be exhausted.

So, if we have a very reasonable review mechanism and that has been exhausted, then of course anybody can go to court for anything but if they have an internal mechanism that is well designed and has not been used, most courts will say use that message first before you come to us. We only want to resolve conflicts that cannot be resolved otherwise.

BART BOSWINKEL: Thank you Eberhard. Allan?

EBERHARD W. LISSE: You're on mute.

STEPHEN DEERHAKE: Allan, you're apparently on mute. Yes, go ahead sir. And Eberhard, lower your hand.

BART BOSWINKEL: Allan? We still can't hear you. But in the meantime, Bernie?

STEPHEN DEERHAKE: Yeah, let's go to Bernie because Allan is still on mute.

BERNARD TURCOTTE: Can you hear me?

STEPHEN DEERHAKE: Yes, we can.

BERNARD TURCOTTE: Just a minor point relative to Nick's intervention and just the general discussion. I mean, I think to a certain degree it's fine to compare this to parliamentary systems and various things, but we have to remember here that the policies we develop can also apply to how the Board

behaves relative to certain things. So, we are not only dealing with our own little universe. A policy that is properly formulated and accepted by the Board can affect how the Board will be treating things and I don't think we need to forget that. Thank you.

BART BOSWINKEL: Thank you. Allan?

STEPHEN DEERHAKE: Thank you Bernie. Allan, we're still waiting to hear from you. Can you type in the chat and let us know what's happening? Perhaps communicate us. There we go. See that now.

BART BOSWINKEL: Audio is not working, yeah.

STEPHEN DEERHAKE: Allan, do you want to... Okay. He will put his comments in the chat. Thank you, Allan. That will be noted.

BART BOSWINKEL: Yeah, okay Allan. Can you lower your hand because that is... Unless you got it working now? Yeah, thank you. So going back, I think based on this conversation, it's the bit about oversight and who takes the initial decision is probably can be merged in a way and it's more around we need to find language to describe it in terms of governance and maybe it's part of implementation of this policy where the different roles are

delineated and it's more the review, etcetera, that is the focus point. And if not, that's fine as well.

Before we go into that maybe Kim now, we can do the... I think, based on this, I'll revisit this one before the next meeting and you will have it earlier than this time because I'll be on holidays next time. As it started oversight and review, again to see how it works and also as a kind of experiment, I also take into account the discussion we just had and initiated by Nick, you see a poll in front of you.

Now I'll give you a few minutes. What you will see is the decisions listed here and its Decision 3 and 4 have been merged with 7 and so that's the third bullet point here, retirement plan needs to... Can you fill in which of these decision points, call it that way, should be subject to review, so admissible to the review process? I'll give you a few minutes to fill it in and I think it's a nice starting point for the next phase of the discussion. Can you fill it in please? Decrease would be as notification. I'll give you one more minute to fill it in. Yes, it's notification in the document as you can see but we were playing around. We were preparing it yesterday. Don't you see the poll anymore?

EBERHARD W. LISSE: I don't have the poll.

BART BOSWINKEL: Kim can you...?

KIMBERLY CARLSON: Is everyone not seeing the poll right now?

BART BOSWINKEL: I don't see the poll either.

KIMBERLY CARLSON: Okay.

BERNARD TURCOTTE: I have it.

BART BOSWINKEL: As I said this is an experiment. Yeah, I submitted it as well. Strange.

STEPHEN DEERHAKE: So, some people apparently got the poll up on their screen and some did not.

KIMBERLY CARLSON: So, it sounds like those who submitted it no longer see it. You can only vote once.

STEPHEN DEERHAKE: That is correct. It went away on me as soon as I clicked submit.

BART BOSWINKEL: Okay. So, can just put it up and it's...

KIMBERLY CARLSON: We only have 50 percent voted right now.

BART BOSWINKEL: Yeah, but this is not... It's just to... Now you can see the results of say and what is very obvious. I think most, at least of the 50 percent, say there are very clearly some which people think are subject to review. Some people feel that all decisions should be subject to review. And at least there are, based on this one I think, we need to think about how to proceed and taking into account what Nick's discussion as well. So, you could... I don't know if it's a helpful way forward.

STEPHEN DEERHAKE: Alright, I think this is a really useful tool. We need to polish it about, but I'm impressed with this snap decision to try this out for this call. I think this is going to be very helpful going forward and I thank you and Kimberly for pulling this one off without... It seems a wee little bit rocky but let's go for it going forward. And I see Eberhard has his hand up so I will [inaudible] hand. Go ahead sir.

EBERHARD W. LISSE: Yeah, there is, I just noticed on the bottom line of the screen, there is a polling thing and it may be that I should've clicked it before the results came out. So maybe we must just try another poll eventually and I think

this is helpful. It's probably that I clicked it away and I should've sort of clicked on polling again before the results came out.

BART BOSWINKEL: Stephen, may I suggest, it's almost the top of the hour and I still want to do the exception reserves as well, that we finish with say the description, etcetera, and take into account the discussion we had with Nick and on oversight and the governance structure and use the results of this poll for the next meeting and then now go to exception reserve.

STEPHEN DEERHAKE: Alright so you do want to go into overtime on this?

BART BOSWINKEL: Just briefly. Again, to explain what I've circulated and then see where people are heading with that one knowing that.

STEPHEN DEERHAKE: Alright, let's do that then. Let's close this out and let's have a little extra time but I really don't want to use the entire additional half hour.

BART BOSWINKEL: No, it's with respect to exception reserve, and this is just to explain what we've done and what I've done, is following last call there was some email exchanges and some questions and comments specifically from Nick, Kim Davies, and from Eberhard. And I've updated the

tentative summary and especially the proposal which you can read, which is in front of you, and which has been circulated.

Maybe it's something to save for the next call to focus on the start with this one, whether this is acceptable, and etcetera. I've circulated or I've introduced IDN ccTLDs at the start of this call. I've circulated an email on IDN ccTLDs. IDN ccTLDs as triggering event, it will be discussed in the overall policy if the Council agrees. If not, it will revert back to this group, but if the Council agrees it will be taken out.

So, going back to the exception reserve, have a look at it and then please respond to the, on the email list this week, as an Action Item for you and then we'll update it again and I think that... If you agree please let us know as well because then we can use this going forward. I don't have anything else around it unless anybody has a question around exception reserved so this is more an Action Item for you.

STEPHEN DEERHAKE:

Okay I do not see any hands up. With respect to commentary on this. Anybody have any comments at this point in time or shall we pick this up at our next call which is I believe on the 29th? Bart, I think we're good to go on this because I do not see any hands up.

BART BOSWINKEL:

I agree. So, if you have any comments on the latest version integration of section reserved and what's... Please note so or send an email to the list.

STEPHEN DEERHAKE: Thank you. Can we move on to Action Items?

BART BOSWINKEL: Action Items is based on the last call and most important one is the bit that people were expected to respond to the email list. So, I'll read the Action Items from the notes from last time. So, table to be consolidated. So, the group run over, look at the consolidated overview and respond to the list. And yes. Then the revisit the Board oversight discussion next meeting, so that's what we've done today, and I've simplified the table so that Action Item is concluded as well. And there were some comments on the Staff on exception reserve codes, etcetera. And there was a discussion and I'll recirculate it, so the Action Items have been concluded from last call.

STEPHEN DEERHAKE: Thank you sir. For the group, is there any other business that anyone would like to raise at this point in time? I'm not seeing any hands so I'm assuming not. I want to thank everyone for participating. I'd like to remind everyone that our next meeting, our Blue Moon meeting, our third of the month, will be at 17:00 UTC on the 29th of August and I realize that some of us will be on holiday and will not be able to attend but those who are around and able I would certainly appreciate your participation. We'll try the poll again. I think it's a useful mechanism going forward. And if there's any other comments, questions, from Kimberly, Bart, Yoka, or Bernard. Otherwise I think we can call a halt to this. Do you guys have anything else to say?

BART BOSWINKEL: I would just say have a nice rest of the day.

STEPHEN DEERHAKE: Okay, everyone. I'm going to call this meeting to a halt. I wish everyone happy holidays if you haven't gotten yours in yet. I know some of you have got them scheduled and will not be available. Thank you all for participating and this meeting is adjourned. Thanks Kimberly, you can close the recording and we will be in touch shortly and be sure to be active on the list. Thanks guys, appreciate it, bye-bye.

[END OF TRANSCRIPTION]