
STEPHEN DEERHAKE:

Thanks everyone for joining, good morning, good afternoon and good evening, depending on where you are. For the record, this is the 6 June 2019 edition of the ccNSO PDP working group tasked with developing ICANN policy with respect to the retirement of ccTLDs from the root zone. So, again, a good evening to those of you near the prime meridian, Bernard, Kimberly and myself, and Bart, as well, have the sweet spot this time around, as it's either late morning or early afternoon.

A big thanks to anyone who may have joined us out from the Asia Pacific region because it's the middle of the night there, and I think we are not represented, but I'm not positive on that. Staff is talking attendance in the usual manner. If there is anyone on audio only, then please identify yourself. Also, Eberhard is going to be joining us late, probably no later than 30 minutes, he's got something else that he's having to deal with.

So, the plan for today is to run through the usual up front and straight up matters, and spend a little time reviewing some light editorial changes to the policy for the retirement of ccTLDs, and as I was hoping to last time, but we really must do this time, I'd love to get this thing locked down in its entirety. It's critical that we do, because we've got to move on from this prior to our face-to-face meeting in Marrakech, which will be our next meeting.

Also, as I noted on the last call, we'll be coming back to the document to insert additional details into it as we flush them out. But my prime objective here really is to nail this thing down, because it's been taking

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up a lot of our time. And I'm not saying that the comments have been poor, actually the commentary on it has been great, and I think we're very close on that. So, once we've wrapped Bernard's retirement document, then Bart will be continuing discussion on the overview decisions document and at the end, after AOB, I'll give a brief overview of our agenda for Marrakech.

We don't have any administrative items, but we do have several action items, and it is my understanding that they've all been, there we go, thank you, they've all been completed with the exception of four, and I think in retrospect, I think rather than notify Council of the need for bylaw change, that probably should go straight to the Guidelines Review Committee, because we've actually started a little list of things that need to be fiddled with in the bylaws in Section 10, which is the ccNSO section.

BART BOSWINKEL: Stephen, this is Bart, I can't raise my hand unfortunately. I think the way to do it is first send it to Council, they can instruct GRC to maintain it.

STEPHEN DEERHAKE: Okay, that's fine, that's fine.

BART BOSWINKEL: That way it stays transparent so everybody knows what is happening and it's documented.

STEPHEN DEERHAKE: Okay, that's fine, you're our parliamentarian, so I defer to you on that. Let's see, what else do I have here? I think that's it on the action items, unless there is any question from anybody. And if not, then I think we can dive right into Bernard's policy document. I just want to remind everybody again that we really, really need to try to lock this down today. So, Kim, thanks for putting that up. That's it for me, so I think I'll give you the floor, Bernard.

BERNARD TURCOTTE: Thank you, sir, can you hear me?

STEPHEN DEERHAKE: We can, indeed, thank you.

BERNARD TURCOTTE: Excellent, alright. Let's move on to Section 3, Applicability of Policy, the rest has not been touched. We've got a grammar fix there, so instead, "and whose country code is removed," we've got "where the corresponding country code has been removed," again, just a grammar fix, this does not change the meaning in any way. 32-35 Eberhard picked up correctly, that in the definition of a functional manager, we have an "and" there. Which means that you would not be a functional manager if you broached either condition, because you need both to be a functional manager.

So we've changed that to an "or" for now, and addressed it in the next section, which doesn't cause it to bring any changes in the next section, and as Stephen has said, we can play with it once we've finished our next chunk of work, because we're going to have to come back here anyways. But obviously it would have been a problem because if someone decided not to talk to IANA, that could be the basis for defining them as a nonfunctional manager. I think it's an edge case and either case, but it's certainly a valid consideration, so that's how we decided to fix it, and I'll take any questions or comments at this point.

STEPHEN DEERHAKE:

Does anybody have any comments or questions or concerns on this new language? If so, raise your hand, or break in if you're audio only. And Bernard, I do not see any.

BERNARD TURCOTTE:

Alright, thank you everyone. Okay, that was the only thing we did not talk about on our last call. The notice of retirement, we've got the changes that were presented, Section 4.2, sorry, please Kimberly. So that is just a carryover from the edits from last time, which we had accepted. So, I'm not going to discuss those. Moving on.

The rest of the changes 4.4, are from our discussions at the last call, thank you Kimberly. So, this whole 90 day thing we removed completely, as requested, because we had the other timelines below, and so right now all it says is that after receiving a notice of retirement, the manager must decide if it wishes to request an extension to the default retirement period, so that's as requested. And if we go down

just a bit, in line 91, we changed the five year retirement period to be consistent with the terminology that we've inserted elsewhere, which is the default retirement period which was defined earlier.

And then we go down to 104, if the manager, the retiring ccTLD, blah, blah, blah, and is in accordance with the conditions listed below, thank you for the conditions, there we've got very little changes, 139, next page please, we had included "promptly advised manager," that was discussed the last time around. You will notice that in footnote 6 we've removed the delegation transfer and revocation of a ccTLD.

Originally it was a problem with the S, but after our discussion, given the fact the bylaw states still redelegation versus transfer, which is what we talked about in Action Item 4, at the beginning of this call, we agreed to simply change it by removing that, so that is now removed. So it reads, "ICANN's IRP process is not applicable to decisions pertaining to ccTLDs." Alright, so that was Section 4.4, any questions?

STEPHEN DEERHAKE: Thank you, Bernard. Questions or comments, doesn't application so. We're good to go.

BERNARD TURCOTTE: Alright, thank you, sir. Back to you.

STEPHEN DEERHAKE: Thank you, Bernard. We're clipping along here at a pretty good pace. Kim, I think we're going to put up the decision making oversight decision stuff and turn the floor over to Bart. Is that amenable to you, Bart?

BART BOSWINKEL: Thanks Stephen, yes. Good day everybody. So the way I suggest to go through so you can see the comments some of them would say more grammatical, textual or editorial nature. But also some more substantive. And the way I want to do this is to ask the person who submitted these comments to explain their point of view, if you agree.

So, going to the document, you see Nick has added a comment, so, "I agree with this list with the proviso that many of it, if not all, need qualification by terms which has some legal by diligence good faith reasonable and appropriate. Does not one size fits all here?" Nick, because you submitted that comment, do you want to allude to it? Explain or comment on it and make some additional comments?

STEPHEN DEERHAKE: Bart, I'm not sure, he is on the call, but he is driving, I believe. I think he's listening only, at this point.

BART BOSWINKEL: I saw him, otherwise I wouldn't do it. I saw him in the Zoom room.

STEPHEN DEERHAKE: Yeah, I see him there too, but he did send an email that he was driving. Let's see.

BART BOSWINKEL: Otherwise, we can get back to Nick later on. Then we go to the next one. The next one is again, can you scroll down? The next one is again from Nick, so we'll defer that one until he's ready and can talk to us. Then you see the comments from Naela, so that's only editorial, scroll down, please. I think the next one would be, say about, and these are the major questions, probably, say from Patricio. Patricio, would you like to allude to your comments here, and then we go into the table. You're driving as well, aren't you.

STEPHEN DEERHAKE: Oh, he is driving as well, he's on his way to the office, that's right. I guess we should just go into the table.

BART BOSWINKEL: There's one more question or comment from my end and this was more food for thought, as I said on the previous call, than anything else. If you look at the table and if you go to the way it's been filled in, so who takes decision, oversight, it's IANA or PTI, or the IFO -- go ahead, Patricio.

PATRICIO POBLETE: Can you hear Patricio? I'm actually on the street, so it may be a bit noisy, but let's try. My comment was about the fact that I kind of feel

that this exercise of classifying things to reviewable or non-reviewable, may not be very useful in the sense that people will ask for review no matter what, and we have to make a decision whether it's reviewable or not, and if we say it's not, then they will ask for review of that decision. So I don't know if you gain much by really making this distinction. That was my comment.

BART BOSWINKEL:

Yes, thank you Patricio, and I've been thinking about that comment, and I think it is the same, it's a bit what you see at this in the Dutch court systems. So if a decision, if you go to an entity to ask for review but that decision is not set up for review, then they have to refuse it. And in that sense it's always helpful and it needs to be clarified that certain decisions are set for review and certain decisions are not set up for review.

It's like with the IFPs. You could say the same argument that flies with respect to the IFP, although the bylaws exclude them from IFP, some decisions, for example the delegation, yet people could try to submit an IRP on that one. So in that sense from a logical point of view, you're right, but my view is that you need to state whether a decision may be subject for review, or not. Does that clarify it, Patricio?

PATRICIO POBLETE:

Well, yeah, I would say to look at it from a practical point of view. If something is obviously non-reviewable, anyway, if you all feel that it is a necessary distinction, then I won't oppose.

BART BOSWINKEL: Okay, thank you. Anybody wants to comment on their part? Anybody else?

STEPHEN DEERHAKE: I see Kim Davies has got his hand up. Kim?

KIM DAVIES: I just wanted to remind everyone, I know it's been discussed in the past, there is a complaints procedure that is active for all the naming functions, so I think absent any specific appeal or view process being specified here, there is the general process which allows for escalation, for example, to the ICANN CEO, to the Board, et cetera, so any customer complaints about our actions as IANA staff, you do have that process already.

BART BOSWINKEL: Thanks, Kim.

STEPHEN DEERHAKE: Thank you, Kim, yes. Anybody else? I see no further hands, so you're free to go.

BART BOSWINKEL: So, related, and that's one of the things I've been thinking about, and this may be more a question for the group, to what extent to we need

to define, well, let me take a step back. The working group discussed some time ago that it will recommend policy to ICANN. Now if you look at it, and if you look at how takes decision, it is in most instances the initial decision, as you can look at the list, is taken by PTI, but PTI takes these decisions under and following the IANA naming functions contract.

So my question is whether the working group in its policy its recommendations already allude to the IANA/IFO to make these decisions, or whether that's more a matter of implementation, it's more question of noting there is a decision and this decision is subject to review, yes or no, and it is very clear to say the role of the Board is limited, but that again is not defined properly through the policy, but it's an implementation decision.

I hope I'm making that clear. It was just a question that crossed my mind. If you think it's a loose cannon or a loose thought, then disregard it, but it was something that crossed my mind when we were going over the document again and thinking about it, to whom is the policy directed? At the end of the day, it's directed to ICANN Org, because that's the scope of ccNSO policy making.

STEPHEN DEERHAKE:

Anybody have any further thoughts on this? Thank you Bart for that. Any additional comments? Do you want to chew on it for a while and perhaps get back to it on the list? I think what you've got going there, Bart, makes sense, but I think we may all want to think about it a little deeper. Anyway, sir, continue, I see no comments.

BART BOSWINKEL:

So, the next one is if you can scroll down a little bit, you can see it in front of you, and I think Naela that you're the only one that effectively inserted some entities that would take a decision and where the oversight lies, and that's probably some, because say you're at the end of the operational end, do you want to explain why you inserted these entities at these places, or do you think it's more self explanatory, Naela.

NAELA SARRAS:

Yeah, thank you, Bart. I believe when I was going through this, and it's been a while, my apologies. So, I felt that if we are provided with a clear policy document, I thought that these questions are straightforward answered, should be sufficiently informed by the policy when it implemented to make more surface decisions.

And in fact, I think building on what you were saying a little bit earlier, some of these decisions don't even seem like they're decisions, they're actually operation of things lifted straight out of the policy, and so I felt that they were steps that the IANO or the IFO should be empowered to carry them out per policy and then all the oversight mechanisms that already exist, all that, of course, applies.

So that's, I think, the thinking that I had behind how filled the table. Some questions I wasn't clear 100% on where I didn't understand what administrative transfer was, so I had questions about that.

BART BOSWINKEL: I think the administrative transfer is one of the terms that probably still needs to be defined in the glossary, and it comes straight out of some of the Board decisions from all the IANA reports, or something. But I know we've inserted it in the glossary and it still needs to be defined. I think the first time it was applied was in the case of .rs and also I know it happened in the case of .an and .cw. Stephen, go ahead.

STEPHEN DEERHAKE: Thank you, I just want to double check that we either have an action item or it's destined to go into the glossary, this administrative transfer phrase, so we don't drop the ball on it, that's all.

BART BOSWINKEL: Yeah, and it's still an open term, and it should be included in the terminology. Can you scroll down a bit? Anybody else on this list, put it the other way around, do you see any other roles and responsibilities here and what is probably a very important one, but I haven't seen anybody, is which of this whole set of decisions should be subject to review? Because that's ultimately the goal of this exercise, to identify those decisions that should be subject to review, according to the method that will be developed. Stephen?

STEPHEN DEERHAKE: Bart, it might be useful to drop that question out onto the list, particularly for those who are not on the call, and I can nudge them between now and Marrakech to think about that question. So we might be able to flesh this out further there.

BART BOSWINKEL:

And one of the other things, this is just a list effectively to assist identifying these decisions. It doesn't have any other purpose than first of all identifying which decisions are taken and by whom, and then which ones are subject to review. That we can insert in the document, as well. So, I'll phrase the question over the next day or two and then send it to the list. Anybody else on this? No? Can you scroll down, Kim?

Here we go. I think it's more editorial, I think there are no other, yeah, I don't see any other comments, so I think based on what we just discussed, the real question is, and I'll say two points; first of all, probably going back to the comment from Nick, what he meant, and then explain it, and then secondly, and that's another action item for me, is to back to the list and identify, ask people to identify which of these decisions are subject to review, and have a discussion either on list in person in Marrakech on to what extent do we need to detail these decisions, taking into account the scope of the ccNSO, but that's for followup discussion, as well. I don't have anything else, Stephen, so back to you.

STEPHEN DEERHAKE:

Alright, thank you very much, Bart. I think with regard to Nick's comment, I think we're going to have get him to flesh that out a little further for us when he's in a position to do so, and hopefully that can be done on the list between now and Marrakech, so that we go into Marrakech with whatever further explanation he would like to offer on

that legalese stuff there, at the top. So, I'll reach out to him on that. Thank you, Bart. Kim, if we could have the agenda displayed, I think we're going to be able to get out of here early today.

Is there any other business from anyone? I do not see any hands. The hands go to the top now, don't they? Okay. No other business, apparently. So, our next meeting you can see is on the 24th of June and it's the face-to-face at Marrakech from 9:00 until noon local time. I presume there will be remote participation.

Just to give you guys a heads up, the format will be similar to our past meetings, in that we will again have a couple breakout sessions, but tentative plans begin with a discussion of decision metrics in relation to oversight with the goal of trying to get that finalized. Then we'll probably have a flip chart breakout to get the group thinking about stress testing, and this is not yet confirmed, but I would like to have a short presentation on the exceptional reserve problem from someone who has some experience with it, but I haven't gotten that wrapped up yet, and that will probably be pretty short, I mean, 10 minutes probably at the most, with some Q&A.

And then after that the tentative plan is to move into our second flip chart session breakout and have the group work on identifying other issues relating to the exceptional reserve problem and how we might want to handle that. So, in the run up to Marrakech, I would like to encourage everyone to start seriously thinking about the stress test question and the exceptional reserve issue. And that actually is it for me. Anything further from Bart, Bernard, Kimberly?

BERNARD TURCOTTE: All good here.

KIM CARSON: Nothing, thank you.

BART BOSWINKEL: Nothing.

STEPHEN DEERHAKE: Okay, great. Well, given that, I want to thank everyone, I want to especially thank Bart, Bernard, Kim for their efforts today, and I wish everyone safe and uneventful travels to Marrakech. And I think with that, I'm going to adjourn the meeting. So save travels, hope to see most if not all of you in Marrakech, and thank you everyone for participating today.

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