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STEPHEN DEERHAKE:

All right. Thanks, everybody. Good morning, good afternoon, and good evening. I want to thank everybody for joining the teleconference today. This is the 12<sup>th</sup> August 2020 edition of the PDP Working Group tasked with developing ICANN policy with respect to establishing in the review mechanism for ccTLDs as mentioned in RFC 1591, section 3.4.

We have convened today at 12:00 UTC, continuing adherence to our adopted meeting time rotation schedule. I want to thank those of you who have either stayed up really late or gotten up really early for participation.

Great call time for those of you near the meridian, less so for myself and others in the Americas and, frankly, horrible for colleagues near the antipodes. I don't see any on, actually, but we all suffer. Glad we agreed to do this rotation. I serve on another working group that does not and I think it's really, actually, rather unfair.

So, I want to thank Joke and Bart for their work today, in the middle of the workday, for being with us, as well as Bernard, who is up early. And I especially want to thank Kimberly, who is up really early working her usual Zoom magic. Thanks again for everybody for pitching up, and it looks like we got a pretty good turnout for today's call.

Staff will be taking attendance, I believe, in the usual manner. So, if there is anyone on audio only—and I don't see anybody—identify yourself so you are properly recorded.

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

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With regard to administrative matters, I have nothing formally, nor do I believe staff does, either, but if some things come up ... Kim, if you could scroll down as ... Agenda. That would be great. To the second page. Feel free to interrupt me. Thank you.

I do want to mention that the working group tasked with developing a retirement policy, which some of you on the call today are members of, did meet to begin discussing the public comments received about their work last week. That group is expected to meet again a couple of times. I did mention in our last call that was going to happen, but I thought I might give you a brief report on that for those who are not overlapped on that working group.

We reviewed the staff summary of the comments received, did not see anything immediately of significance that would substantially change the contents of the document that we did put out for public comment.

But nonetheless, Retirement Working Group will be scheduling a couple of meetings, as I just mentioned, going forward, to have a somewhat deeper dive into the comments received, with the goal to determine if any revisions to the interim retirement policy might be warranted, and also to put together a formal response to the comments received, and specifically addressing the staff report that was put together that summarized those comments for us.

With regard to action items, might note in response to some questions that were raised on our last call, you'll recall that we had some items in yellow on the document, which we'll be displaying presently.

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Selina Harrington from PTI did post to the list on Monday some comments from PTI regarding those questions that were raised. I want to thank Selina and PTI for their responsiveness, and we'll be getting to that presently. Selina is on the call, and I thank you for getting up at some ungodly hour on the West Coast to do that.

So, with regard to this teleconference, we need to dive back into Bart's document presented on the last call, nicely [kerned] by Eberhard with specific focus on decision point matrices within it. We need to start identifying what's in scope for this policy in terms of what actions can be reviewed, what we consider not in scope, etc., etc.

So, I think we'll start by looking at the questions raised on the last call, the items that are in yellow, along with responses received from PTI. So, we'll take a quick dive back into those sections and review the PTI responses.

Obviously, we're not going to get through all of this definitely today, but I do think we need to try to make some solid progress. We need to really start identifying items that make sense for us as a group. So yes, we think these come under the review policy and also say, yes, we do not think that these do, but we need to start cranking through that.

I realize it's high holiday season for a lot of you, so I thank everyone for pitching up today. This is a much better turnout for August than I was expecting, so I'm very happy about that. Having said that, I believe we can ... Yes, Kimberly. You read my mind. Bart, you want to take it—

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BART BOSWINKEL:

Yeah, it's just as easy. Kim, can you scroll down, please, to the tables? Yeah. So, if you recall, there was, from the previous meeting, a discussion around the different items under the decision list and what it really meant, etc. That was per table. At the time, say, to prep for that meeting, Eberhard highlighted some of them because this is Eberhard's version of the previous document.

Can you scroll down please, Kim? So, for your ... Yeah, to recall. So, this was one of the question, DNSSEC, WHOIS, etc. Scroll down, please. Pro forma used on mandatory alternative, thus request legal requirements. Scroll down, please. We will get to that.

What is a chronology of events? What are the SIP statements? Is there a registration policy? This is, as you may recall, all part of the evaluations and findings, etc., by PTI. So, just to ... Yes. Scroll down, please, Kim. Yeah.

I think, effectively, these marked items were the areas that needed clarification. Can you move to the document from PTI, please, Kim? So, these are the responses or the clarifications provided by PTI on the e-mail list. Yeah.

Selina, I don't want to put you on the spot, but do you want to add any additional comments to the ones that are provided, or you just want to wait for comments from the group? How do you want to proceed with this one?

SELINA HARRINGTON:

Well, I don't have anything additional to add. We just went through the questions that Eberhard brought up on the last call and tried to answer

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them with these clarifications. But if there are any other additional questions, I can try to answer them now or bring—

BART BOSWINKEL: Yes.

SELINA HARRINGTON: Back to him later today.

BART BOSWINKEL: Yeah. Thank you. So, my suggestion is we just go through this document. You did have time to read through it. It was sent in advance of this meeting. I'll do it per heading and ask the working group members whether there are any additional questions, and then we proceed from there, and then we start with the main item on the agenda.

So, first point is, is DNSSEC set up correctly? So, that was one of the decision points. You had a chance to read through the clarification from PTI. Are there any additional questions, need for clarification? Jaap, I see your hand is up. Please, go ahead.

JAAP AKKERHUIS: Yes, I have more for clarification. This test and probably some other tests, are these done on a regular basis, or only initially, or only when there is a change requested?

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[SELINA HARRINGTON:] It's only when there is a change requested that these tests are performed.

JAAP AKKERHUIS: Yeah. It might be useful to mention that in this type of test, because if you review [what's doing,] how a TLD is behaving over time, when you don't change anything you don't notice that things are actually broken, like [Pakistan at the moment.]

BART BOSWINKEL: Thanks, Jaap. Peter?

PETER KOCH: Yes. Thanks, Bart. There are a couple of tests—and I think we talked about these earlier—that are flagged, technical tests for better understanding. It might be helpful to add a note who has the change control over these tests because they are not necessarily described in community-based documents. So, just pointing to WHOIS defining those and that they are mostly considered PTI-operational these days, I believe. Thank you.

BART BOSWINKEL: Thanks. Jaap, is that an old or a new hand?

JAAP AKKERHUIS: No, that's an old hand. I thought it went away, but ...

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BART BOSWINKEL: No, it didn't. It's still there.

JAAP AKKERHUIS: It didn't. Okay.

BART BOSWINKEL: Yeah. Selina, do you want to respond to Peter or Jaap's comments?

SELINA HARRINGTON: Oh. I'm sorry about the ... The second comment was, "Who has—"

BART BOSWINKEL: From Peter, yeah.

SELINA HARRINGTON: The change control over these tests?

BART BOSWINKEL: Yeah. Yeah.

SELINA HARRINGTON: I'm sorry, what do you mean by that?

PETER KOCH: Can I just jump in?

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BART BOSWINKEL:            Yeah.

PETER KOCH:                So, other than policies, for example, that are defined by the community following a particular process, the technical checks, to my understanding, are defined by PTI/IANA, with a certain amount of community involvement, or have been in that way to my understanding.

Compare that, maybe, to the gTLD pre-delegation checks. There is a totally different set of checks, and they have been part of the Applicant Guidebook, I believe, so that we separate this and make clear how they come into existence.

SELINA HARRINGTON:        Okay. I'll actually need to check with Kim about that because I believe there were some community consultations when our root management system was initially developed with regard to the technical checks. But it was before my time, so I'll ask Kim to clarify that.

BART BOSWINKEL:            Thanks, Selina.

PETER KOCH:                No, that's actually true. I mean, I remember those community consultations. Okay. But it wasn't formal community—

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BART BOSWINKEL: It's not part of a policy developed through the policy developing organizations. I think that's the point you want to make, Peter, isn't it?

PETER KOCH: Yeah. Yes. That's a point I want to make. It's nothing I would want to suggest to be replaced or something. Just getting the history straight. Thank you.

BART BOSWINKEL: Yeah. And so, some of these checks are maybe just ... This is not part of any policy. It's part of implementing the policy suggestion and the technical operations, etc. Yeah? If no other comments, then we go to the second one. Are there any comments/questions regarding this second point? Is WHOIS and RDAP working?

Again, this is one of those tests. I don't see any hands up, so I assume the clarification is clear. And then we go to the third one, that the incumbent manager provide consent was a pro forma use or an alternative document. Again, are there any questions/comments regarding this point? I don't see any hands up, nor any comments in the chat. Yeah. Go ahead, Peter.

PETER KOCH: Yeah. So, apologies for my confusion. The pro forma is going back to the FOI Working Group, or what is that resolve?

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BART BOSWINKEL: Selina, you want to respond?

SELINA HARRINGTON: Yes, that is going back to the FOI WG. The advice that they provided was that, for transfers from ccTLDs, we needed to get consent from the manager, from an officer who is representative of the managing organization. And so, we created a pro forma, or they can provide that consent in a different way. But it's separate from the usual administrative contact/technical contact confirmation step, and it only applies to transfers.

BART BOSWINKEL: And if I recall, this pro forma was included in Kim's presentations, which I used to subtract these different decision points. So, I think it was on one of the slides, if I recall. Peter, is that an old hand, new hand? Do you want another question?

PETER KOCH: Sorry, old hand. Thanks for the clarification. I'll go back to Kim's slides. Thank you.

BART BOSWINKEL: Yep. And then the next one, "Does the request meet legal requirements?" Again, the clarification. Are there any questions/comments around this clarification? I don't see any hands up. Thanks again. Then the next one, "What is a chronology of community

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events?” Again, a clarification. Questions from any of the working group members?

STEPHEN DEERHAKE: I don't see any.

BART BOSWINKEL: Nope. Then we go to the next page. “What are the significantly interested parties, or the statements of the significantly interested parties?” Again, the clarification, first of all, around the concepts, “Significantly interested parties as from the FOI,” and then the rest. Are there any questions/comments around the clarification on what are the SIP statements?

STEPHEN DEERHAKE: Looks pretty quiet to me.

BART BOSWINKEL: Good. Thank you. Is there a registration policy? Again, same question. Questions/comments from the working group members? I don't see any hands up, nor any questions in chat. Next page please, Kim, if there is anything else. I believe this was the final one.

STEPHEN DEERHAKE: That was the final question.

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BART BOSWINKEL: Okay, thank you. And thank you very much, Selina, also, on behalf of, I think, your colleagues.

STEPHEN DEERHAKE: Yes.

BART BOSWINKEL: I think this is very, very helpful. Thanks for providing these responses so timely.

STEPHEN DEERHAKE: Let me also echo what Bart just said. Thank you so much, and thank your colleagues, as well. Bart, back to you.

BART BOSWINKEL: Can we go back to the document please, Kim? Then we go to the ... Version 1.6, sorry, the document. We have plenty of documents. And can you go up to the first matrices? Just stick there. So, the next ... And this is what we have alluded to quite some ... Yeah, on the two ... I think the previous two or three working group meetings.

It's now about time to start filling in the matrices and to identify those decisions that will be subject to the review mechanism. As you'll recall, the FOI identified one decision that should be advised to make one decision subject to the review mechanism. That was the decision, with respect to the board decision, with respect to the revocation of a ccTLD.

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So, that's included in the framework of interpretation final report. And the Retirement Working Group identified, also, just one decision subject for the review mechanism, and that's the decision around the extension of a removal. So, from a five-year period to the longer-term period with a maximum of ten years.

The decision to remove the ccTLD from the DNS root zone file was not subject to the review mechanism. So, that was the note from the Retirement Working Group. So, scrolling down, just to keep those two in the back of your mind.

Now, yeah, the next step is to identify the decisions subject to the review mechanism around transfer and delegation itself. As I said on the previous call, or as we said on the previous call, we have listed all the decisions PTI makes, and those of you who were part of the Retirement Process Working Group may recall we have used that same methodology or same method to identify decisions to be subject to the review for the retirement.

It was very clear from the start that not all decisions need to be subject to the review but, in order to be on the safe side, we have listed all of them. So, it's absolutely not necessary to make them subject to the review, and the argument at the time was some of these decisions are so technical, and not even policy-related, as we just discussed. Making them subject to review is not very helpful because it's not effective and efficient to do so. Can you scroll down, please, Kim, to the next matrix?

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So, this is number three, as we already said. Can you scroll down please?  
So, if you'll recall from the presentation, also, as we discussed, the initial evaluation was the first step in the process.

I think the first question is, and probably to assist everybody, if you'll recall, we were introduced to the complaint procedure of PTI and my understanding—and Selina, please correct me, or maybe that's more a question for PTI—that all these decisions, if they affect some of the actions of a ccTLD, are subject to the complaints procedure. So, at least there is some recourse already through the complaints procedure for all these different decisions.

And so, that's the second column that is directly [with] PTI. Selina, is that an overstatement? You want to check, or should we address it at the next call again? But at least, that's a decision you take right now based on these initial evaluations. They are all subject to the complaints procedure.

So, I see Selina's response. I assume this is not just the initial evaluation but that's the case for all the evaluations undertaken by PTI. So, if we would fill this in? Say, "Every decision is subject to the complaint procedure." Can you confirm this, please, Selina? Yeah. Maarten, go ahead.

MAARTEN SIMON: Yes, I have a question. A complaints procedure works only for the requestor to the delegation.

BART BOSWINKEL: Yes.

MAARTEN SIMON: So, okay. Okay. So, for—

BART BOSWINKEL: Yeah. So, just for the record, say the subjected ccTLD manager. So, that's ... But you know there is a complaint procedure. It applies to the ccTLD and PTI, so there is possible recourse for some of the decisions made by PTI already through the complaints procedure, but I think it's important to understand that at least PTI is subject to that complaint procedure. Okay.

So, that being said, then, I think the way we treated this with the Retirement Working Group is ... And this is more a question, also, for Selina, but PTI, and maybe some people do have, already, a view: which of these decisions are subject to oversight? "Oversight" with the Retirement Working Group meant oversight by the ICANN Board of Directors.

If you would scroll down, I think it's the final ... Table four, I believe, Kim. So, yes. There, you can already see, in a way, that [have] the procedure been followed in evaluating the request, so that's ... Effectively, you could say this is the oversight by the ICANN Board of Directors on the decisions undertaken here.

So, in a way ... Maybe I'm stretching here, a bit, but there is oversight on PTI with respect to these decisions. That is the way I have interpreted it, or I would interpret this decision. Are there any comments/questions

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around this interpretation? I have used this to illustrate what was meant with “those oversight,” but also to illustrate why.

Say the taker was, etc., say, whoever takes the decision, was inserted by staff: this is the reason for inserting this. So, are there, at least, any questions/comments around this interpretation of that table, what is meant with oversight, etc.?

And then we got to each of these tables. I don’t see any hands or ... So, maybe we should start with this table because I think, ultimately, this is the most important one in the sense of it is the one that becomes public and, at the end of the process ... Because based on this one, there is a delegation.

There is a transfer, and/or ... So, let me ask you—and this is a direct question for you—if you look at this list of decisions, are there any views on which of these decisions should be subject to a review mechanism, however defined? And whoever should be able to launch that review, going back to Maarten’s question?

So, any views from the working group, please. Who wants to kick-off? Which of these decisions do you think—or the oversight decision—should be subject to the review mechanism? Stephen, go ahead.

STEPHEN DEERHAKE:

Thank you, Bart. Rare interjection from the chair, here. I certainly think number one is warranted for the review. At the end of the day, it’s the fundamental issue because it does involve the transfer. I’m not sure how detailed we want to be in prescribing exactly what we mean by “transfer

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warranted”/“delegation warranted,” but I would definitely put that one on the list. I see Allan has his hand up so, Bart, I’ll turn it back over to you. Thank you.

BART BOSWINKEL: Yeah. Allan, go ahead.

ALLAN MACGILLIVRAY: Yeah. Thank you. Well my view, generally, is everything should be subject to review. So, I would not parse these individually. I can see others may do that, but anything that could impact the transfer or delegation, I think, should be subject to review. So, I look at this globally.

And just while I have the floor, I’d like to table a question. We can discuss it later. Where there is a request to change the technical or administrative contact, there may be a debate around whether that is part of a transfer or not. So, I think we should think about that decision, as well, at some point. Thank you.

BART BOSWINKEL: Thanks, Allan. Nick, your hand is up. Go ahead.

NICK WENBAN-SMITH: I totally agree with Allan that we need to be careful not to narrowly describe what is within the scope of review. I think that there is a general presumption that anything which adversely impacts the manager, whatever it is, without limitation, should be subject to review, and I

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wouldn't try to slice it too specifically. So, I would agree with that approach.

BART BOSWINKEL: Thanks. Patricio, your hand is up.

PATRICIO POBLETE: Yep. Yeah, I agree that we should not be too narrow in defining what can be reviewed, but that leads me to another question. When there is a request for a review to be initiated, who makes the decision that that review is admissible? So, I don't think we have discussed that, but there needs to be an initial check that there are grounds for a review procedure to be started. Who will make that one decision that allows the whole thing to begin?

BART BOSWINKEL: Bernie, go ahead.

BERNARD TURCOTTE: I think Patricio is correct, we haven't decided that. But if we look at the IRP, which, in some ways at least, we're certain to be similar, anybody can make a claim. The body that you have identified as being responsible for reviewing the action makes the determination versus the appropriateness of the claim, initially.

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So, I don't know if that helps, but it's basically if you selected a panel to hear complaints. One of their first jobs is to see if it meets the tests that are proscribed in its charter for reviewing problems. Thank you.

BART BOSWINKEL: Thanks, Bernie. Anybody else want to comment on this part? Because I have a question going back to ... Yeah. Maarten, go ahead.

MAARTEN SIMON: I think I agree with Allan's point and I think we should, maybe, first look for what decision triggers the opportunity for a review, and then what the scope of the review is is the second question. So, what decision triggers effect, "Okay. Now, this is the point where review can start"?

BART BOSWINKEL: Yes, that would have been my next question, as well. Thanks, Maarten. So, I think what you ... Allan, please go ahead, because I had the same question for you, what you meant. But Allan, go ahead.

ALLAN MACGILLIVRAY: Yes. Thanks, Bart. So certainly, I agree with this question. If there is a debate about whether to even start a panel then I think ... And actually, this goes back to the general point I made before. Would a decision to accept the complaint and start the process ... If that is denied, is that subject to the IRP itself?

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In other words, it goes to my question with the integration of the review mechanism we're doing here with the broader review mechanism that is going to be within ICANN? I guess that's why I like to look at them concurrently, and this is an example of why we feel we have to understand that better.

BART BOSWINKEL:

Thanks, Allan. So, before we go down that path, please ... Your question is noted, Allan, so we'll get back to that once we go more in-depth into the review mechanism itself, or the process, and the procedures around it in relation to the IRP.

But I do have a question. What did you mean by "all these decisions should be subject"? And this is in line, I think, with Maarten's comment. Did you mean that at every stage or every decision taken here, in every stage of the delegation and transfer process undertaken by PTI, should be subject to the review, or is it more a cause for review?

If the decision, for example, is the proposed manage/operation on technical competence, if the assessment is "no," this could be a cause for launching a review. Or do you mean when PTI takes that decision because it's not clear it's part of the whole process and procedure that it is a trigger event for the review mechanism?

So, I think it's ... Yeah. Nick, you had a similar view, and Allan as well. And Stephen, you as well. So, maybe one of you, and maybe others, could chime in: what do you mean when you say "all the decisions should be subject to review?"

ALLAN MACGILLIVRAY: All right. I might as well jump in, since I raised it first. Just to use your example, if PTI took a decision not to proceed with a transfer delegation because they judge that the manager was not operationally and technically competent, then that entity, who is, I guess, aggrieved, would be permitted to launch the complaint process to, effectively, contest that decision. You're making a nuance between "cause" and "subject to" that may be lost on me. I don't have your legal training, Bart.

BART BOSWINKEL: Yeah. It is, what are the grounds for making the decision, and when do you take ... And which decision, or when do you take it? So, it's the cause for the review or the ... That's it. Bernie, your hand is up. Go ahead.

BERNARD TURCOTTE: I think I understand Allan's point. I think the point Bart is trying to make—I'll go back to the IRP again—is an IRP can't be launched before the board has made a decision – allocating a new TLD string, etc.

And that's what Bart is talking about. There are few triggering events, and the IRP is very simple. It's a board decision. The board has made a decision and the IRP claims that the board did not follow the bylaws. I mean, that's the bottom line.

Now, anything in the bylaws can be looked at in support of that decision to see if that decision was taken properly by the board. So, if I understand correctly—and I'm trying to paraphrase here to clarify for everyone—we

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may have a very few instances which can launch a formal appeal, because let's not forget that we haven't defined a mechanism yet.

But if it looks anything like the IRP, it's a long and expensive process. You don't want to launch that for very small things. But once you have launched it, the causes can go a lot deeper. That's the difference, I think, Bart, if I got that right or not.

BART BOSWINKEL: Nick, your hand is up. Go ahead.

NICK WENBAN-SMITH: Sorry. I think it's interesting to look at the trigger in terms of a decision point. And obviously, a decision is an obvious trigger point for a complaint process if you're unhappy with the decision, but I don't think it's quite as simple as a decision. It could be a failure to look at a request, or a prolonged delay in the [inaudible].

But like Allan's example of a request for delegation, no decision is made, or it's just put in the long grass for years. I think that should also be subject to some sort of review, even if it's not actually a formal board decision, is the first point.

But I think probably the more interesting question, when you come to judicial review processes in the UK, is the question of locus around who has grounds to make a complaint in terms of the aggrieved party. There are lots of examples, certainly in common law systems like the U.S. and the UK around the thresholds that you should hit.

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It's obviously not a small threshold, but you need to have a locus threshold in order to bring a complaint. And actually, that's kind of a more important question than what is within the scope of the complaint specifically. So, that might be a more useful way to look at it.

BART BOSWINKEL: That would be the next phase, but this at least triggers the discussion. That was the intention of this, at least.

NICK WENBAN-SMITH: Yeah, yeah, and I get it.

BART BOSWINKEL: That was Allan's question at the time, as well.

NICK WENBAN-SMITH: Yeah.

BART BOSWINKEL: So, where do we start? Do we start here, or do we start at the end? And this is the easier way.

NICK WENBAN-SMITH: I think these are interesting examples of the sort of things that might give rise to a complaint process, so we can start to focus on that.

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BART BOSWINKEL: Yeah, the [complaint review—]

NICK WENBAN-SMITH: But I don't think it's an exclusive ... Because, as you say, if you passed it too narrowly then you'll end up ...

BART BOSWINKEL: Yeah, yeah. But these, at least, are the decisions we know of that we can build upon. That's fine. But at least you have a starting point. That was the whole purpose of this exercise. Go ahead, Allan.

NICK WENBAN-SMITH: But just this question of "delegation warranted," that's an interesting point, but it's not just as simple as that. It could be, as Allan described, a failure to grant an application is also within the scope, I would say.

BART BOSWINKEL: Okay. Allan, go ahead.

ALLAN MACGILLIVRAY: Thank you, Bart. So, just to try and help us move along a bit, I don't immediately recall the outcome of the complaints process, so maybe Selina, or Bernie, or somebody could remind us. What's the end-point in the complaints process, in terms of resolution or non-resolution?

Because maybe that's the point of departure for these other "decisions," that you have to have exhausted the complaints. And then, if indeed

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there is still a dispute, then it is available. But maybe someone could talk about the complaint process again. Thanks.

BART BOSWINKEL: I think what we should do ... I'll take it as an action item that we resend the presentation again that PTI gave on the complaints procedure. That was in the same session that you did the RAP. And, the complaints procedure, I think it ends up with a decision by ICANN CEO whether ... But Selina, please correct me if I'm wrong.

SELINA HARRINGTON: Yes, that's right, Bart. And here, there is also the option to go to the ombudsman.

BART BOSWINKEL: Yeah.

SELINA HARRINGTON: [inaudible].

BART BOSWINKEL: And at least it's around these individual, smaller decisions, and that's between PTI and the parties who are in direct contact with PTI, where these parties can go to use a complaint procedure. So, going back to your ... I think it was Maarten's original point. It's not applicable, and you can't use it as an outsider.

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So, for example, if you're part and parcel of the significantly interested parties, if you would allow one of those parties to launch the review, they definitely are not part and parcel of the complaints procedure.

So going back, I think, based on these comments to date ... Yeah. I don't know if anybody else has any additional questions/comments around decisions on this table that should be subject to the review. I think we got quite some material to proceed, but anybody else? Patricio, go ahead.

PATRICIO POBLETE:

Yeah. I think we should try to identify the formal PTI decisions or whatever that are subject to review and distinguish them from their reasons or procedure for taking that decision. So, we kind of all go into some micro-description of possible reasons for complaint.

That should be part of the evaluation to determine if this is admissible as a complaint or as a request for review. We should plan for the future. Even if you try to make an exhaustive list of possible reasons, that will change in time, but our procedure should stand.

So, if tomorrow there is a new check added in this list of tests that PTI uses, that should be okay. We shouldn't need to amend our procedure for handling reviews. So, if we concentrate on the broader set of decisions that can be made, formal decisions, then I think we should be safer in terms of our work not being needed to be amended very often in the future.

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BART BOSWINKEL: And Patricio, may I ask? If you would apply your criteria on this list already, can you identify one or two decisions which you think should be subject to that review mechanism?

PATRICIO POBLETE: Yeah. I think that a decision that should be subject to review is PTI denying a request for a transfer.

BART BOSWINKEL: Yeah. Okay. And what about PTI granting a transfer although the incumbent is opposed?

PATRICIO POBLETE: Yep, sure. Sure. When there is a transfer and a consideration, at the end, PTI will make a decision either to grant it or to deny it.

BART BOSWINKEL: Yeah.

PATRICIO POBLETE: I think that should be what can be subject to review without needing to be opening a possible review window every step of the way. I would do that only at the end, and then open it to consider what the reasons were. But the cost for review would be PTI either granting or denying a given transfer request.

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BART BOSWINKEL: And the rest is details to fill in [the complaint].

PATRICIO POBLETE: Exactly.

BART BOSWINKEL: Yeah, yeah. And to fill in the start of the review. One more question. Should it be for you, Patricio? Because I think it is going a bit down the path of the Retirement Working Group, as well. Is it the PTI decision or is it the decision by the ICANN Board of Directors? Because currently the decision, as you know, to transfer or delegate is taken by the ICANN Board of Directors, although it's a due diligence one. But still, that's the formal decision point, and that's the public one.

PATRICIO POBLETE: I would try to identify issues that may affect ccTLD managers or would-be ccTLD managers and have them be subject to review, independently of whose body made that decision. The thing that they have in common is that it affects ccTLD managers or applicants to be ccTLD managers.

BART BOSWINKEL: Yeah. But at what point in time? Maybe specify. PTIs, for example, the example you use is around PTI granting/warranting or not granting the decision or the delegation and transfer. Is it PTI or is it the ICANN Board of Directors? Because ultimately, that is the body that, due to the oversight, etc., is taking that decision.

PATRICIO POBLETE: Personally, I would not limit that to one or the other. As I have said, if it affects a ccTLD manager—

BART BOSWINKEL: Okay, now I understand what you meant.

PATRICIO POBLETE: Then it should be subject to review because we have to keep in mind that all issues affecting the ccTLD community were left out of the review process that already exists for gTLDs. So, we have to catch whatever else was left out.

BART BOSWINKEL: Okay. Thank you. Now I understand what you meant. Thank you. Allan, over to you.

ALLAN MACGILLIVRAY: Thank you, Bart. Just a general comment. I particularly focus on the SIP statements because what we have here ... We need a review mechanism that national governments can access if they feel aggrieved, and it's important for the legitimacy of ICANN and the PTI's organizations to have this available.

So, that's a perspective that I would contribute, here. And certainly, in a situation ... And I kind of understand a bit where you're going, Bart. I think, now, a decision not to transfer or delegate is not itself taken by the

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ICANN Board. So that, I think, is an issue that we will have to figure out because, at one point, if a national government feels they are aggrieved because the transfer is not occurring, what recourse do they have? Because they can't access the complaints process. Thanks.

BART BOSWINKEL:

Yeah. This goes back to the point that Maarten and Nick made: who may launch a review mechanism. I think that's going to be a very interesting discussion by the group and, hopefully, we can do it in-person at one point in the near future.

So, I think, Stephen, that we can go back to the other tables. I think, for me, unless somebody really wants to make an additional comment, we do have some material to take this a step further. Yeah. We could go through the previous tables, but I think you'll end up with the same type of arguments. So, Stephen, I wanted to hand it back to you for ...

STEPHEN DEERHAKE:

Thank you, Bart. Thank you so much for leading that. I think you're quite right. I think we got a fair amount, here, of material today to chew on. So I think, given that we don't have that much time left, I want to thank everyone for the discussion.

Kimberly, if you can put up the agenda, then I think we'll move onto any other business. I don't have any. I don't know if anybody else does. I don't see hands waving. So, that being the case, let's move on, then, to next meetings.

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You can see what the schedule is going forward. I fully understand, if people are on holiday, that they can't make these meetings. If the time is really god-awful for you, like 6.2 for those of you in Europe, I can understand that, as well.

As chair, I will be making them all, I hope. I'll probably be in some sort of COVID lockdown by September, so it's not like I'll be able to go anywhere, anyway. Are there any questions from the group about our meeting schedule, then? All right. Not seeing any.

The schedule takes us up to our ICANN69 meeting in Hamburg. Kim, you'll have to refresh my feeble memory. I don't know if we're planning to meet in Hamburg or not. I hear it's going to go on virtually for two weeks, so I have not looked at the schedule and have not been in touch with the meetings people. Is there anything formally planned that you're aware of, Kim?

KIMBERLY CARLSON: Hi, Stephen. No plans for the Review Mechanism Working Group to meet.

STEPHEN DEERHAKE: Okay. Yay.

BART BOSWINKEL: Stephen, I can't put up my hand. I think what will be the suggestion, but we'll get back to you in the next meeting, is that we'll go on as ... So, try to avoid overlap with the two-week meeting. So, that's the AGM itself and the week before. Maybe think about ... It depends on how it goes.

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And then, a week after, not have a meeting after. So, it looks like we'll reconvene somewhere early November during the first week.

STEPHEN DEERHAKE: We'll likely have a rather sizable gap, then, is what ...

BART BOSWINKEL: Yeah. And the reason is you don't want to meet ... It will be very strenuous on staff to meet during the extended AGM, and the week after we'll be completely exhausted. And probably, people who are not in the European time zone attending the ICANN69 will be exhausted, as well.

STEPHEN DEERHAKE: Oh, yeah. No, I agree completely. Staff burnout with these meetings, particularly this upcoming AGM, which is uncharted territory, is a real concern of mine. I don't want people throwing their laptops out of their office windows.

BART BOSWINKEL: So as an action item, we'll take on to circulate the proposed meetings until mid-November, so everybody can pencil them in and be aware of this, and then we'll continue. Okay. Thank you.

STEPHEN DEERHAKE: Okay. Thank you for that, Bart. I think that's about it then. If anybody has anything else they want to pitch in here, we'll ... A couple of minutes to go. Feel free to wag your hand, but I don't see any hand-waving.

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So, I think we have wrapped this one up. I think it was pretty productive. I thank Bart, again, for taking the lead on that. I want to thank everyone for pitching up, especially those of you who waved your hands and pitched in. Don't forget the mailing list. It's lonely, so don't be shy to post.

We'll pick up next time where we left off this time. So with that, I want to thank you all again and wish you a good morning, good afternoon, good evening, and good night, wherever you happen to be.

I also want to admonish everyone to please continue to stay safe in these crazy times. So, Kimberly, I think it's a wrap and you can cease recording. Thank you, everyone, again. We will see you soon.

UNIDENTIFIED MALE:           Bye, all.

STEPHEN DEERHAKE:           Take care.

**[END OF TRANSCRIPTION]**