
STEPHEN DEERHAKE: All right. Well, good morning, good afternoon, good evening, everyone. For the record, I'm Stephen Deerhake, the chair of the ccNSO Review Mechanism Working Group. I want to thank everyone for joining today's teleconference. I want to note also for the record that this is the 7 July 2021 edition of the working group that's tasked with developing ICANN Policy with respect to a Review Mechanism for the Retirement of ccTLDs, and we've convened again today at 20:00 UTC as we are one to do.

I want to thank those of you who've either stayed up really late or gotten up really early to participate on today's call. I do wish to apologize for the scheduling of today's call somewhat tongue in cheek. ICANN goes to great lengths to avoid cross-scheduling against other significant events and meetings, but who knew we would be up against EURO 2020 semi-final match this evening which is about to begin, I believe it's second half and I believe we might have a couple of absences due to that.

BART BOSWINKEL: And the holiday season.

STEPHEN DEERHAKE: And the holidays, yes. I'm saying they'll have to self-confess, let's put it that way, and I won't hold it against them.

As always, a big thanks to staff support, Joke and Bart, giving up prime of their evening again, as well as Kimberly and Bernard. I would also like to

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point out that roll call will be in the usual manner. So if you're on audio-only, please make yourself be known.

Moving on to administrative matters. As you, no doubt, notice since our last call, the Council did go ahead and carve out the Retirement Mechanism document for an independent vote by both the Council and the ccNSO membership at large. The Council did approve the document at ICANN71 and it's been sent to the ccNSO membership for a vote. And by coincidence, the voting period began today and it will conclude in three weeks at 23:59 UTC on Wednesday, the 28th of July.

So if I can, let me take my Review Mechanism Working Group chair hat off for a moment and put back on my Retirement Mechanism Working Group chair hat and whip the vote for the Retirement Mechanism document. I mean, at this point in the process, it's the membership that will determine the fate of the Retirement Mechanism document. And per the rules of the ccNSO, approval of this is going to require a supermajority, that is 66% of the ccNSO membership, as well as the voting membership turnout of at least 50%, which means, given our success in growth that at least 86 ccNSO members need to at least cast a vote one way or the other for the Retirement Mechanism document, and we need at least 114 affirmative ccNSO votes from ccNSO members for it to pass. And I believe my math—

BART BOSWINKEL:

I think your math is a bit incorrect.

STEPHEN DEERHAKE: Thank you. I was waiting for you.

BART BOSWINKEL: It's 87 members need to vote at the minimum and of the votes cast 66% needs to be in favor. So it could be at least 66 or 86, so that's two-third. That's around, I would say, roughly 55-60 votes in favor. But that's the bare minimum.

STEPHEN DEERHAKE: Yeah. I did it on the total number of votes that Joke said she sent out via tally, so that's my error.

BART BOSWINKEL: Fortunately, you made a mistake.

STEPHEN DEERHAKE: Yeah, if we could knock that down to 55-60. It's still a lot.

BART BOSWINKEL: There is concern, Stephen. That's why everybody on this call, if you relate it to a ccTLD manager or no people from a ccTLD manager, please reach out and vote, whatever they want to vote but that they use the opportunity to vote. That's the most important part. It would be a bad sign, a bad omen if we do not hit the quorum of 87 members.

STEPHEN DEERHAKE: I agree completely. This is a steep hill to climb, we only have three weeks to do it in, and I would argue in a way we're a victim of our own success, given our membership growth. If we do fail to reach the turnout requirement, there's a secondary process that kicks in for a second vote. I won't bore you with the details because, frankly, I don't remember them. But it will delay the final vote on this by at least another month and it'd be nice to get this wrapped up before ICANN72. But as Bart just remarked, having said all that, I do want to implore those of you who are your ccTLD's voting representative to consider the work of the Retirement Working Group proposal and support it. Again, as Bart also mentioned, for those of you who are associated with a ccNSO member but are not in a decision-making capacity with regards to this vote, I implore you to go lobby whoever it is within the organization who holds this vote and get him or her to support it. Please, please, please, this is really important.

BART BOSWINKEL: Patricio has his hand up so, Stephen.

STEPHEN DEERHAKE: I see that. Patricio, go ahead, sir.

PATRICIO POBLETE: Hello, everyone. I'm trying to do my part so next week I will be speaking of the LACTLD webinar to explain to my Latin American and Caribbean colleagues about this in Spanish or both of them. I wonder if you guys have any slides that I could borrow. I will be preparing the slides but if

you have some material that would be useful, I would appreciate if you let me use it.

BART BOSWINKEL: Consider it done, Patricio. Reach out to Joke, me, and I will get you the slides.

PATRICIO POBLETE: Thanks a lot.

STEPHEN DEERHAKE: Thank you, Bart. Thank you, Patricio, for taking the lead with the Latin American region on this. And thank you, Joke, for your forthcoming work on that as well.

So that's the end of my plea on that. It's really important. As Bart pointed out, this would be a huge embarrassment if we don't get this thing across the finish line. So yeah, we need to do this.

So let me switch hats again. I don't have any other administrative matters. I felt I should bring this one up, Bart. I know we didn't discuss it on the prep call but it occurred to me this morning. Have I missed anything, Kimberly, Joke, Bernard, on regards to administrative matters?

BERNARD TURCOTTE: I don't think so.

STEPHEN DEERHAKE:

I don't think so either, actually, for once. I got my once-a-meeting correction in from Bart, so maybe we'll get another one in before it's all said and done. I have no action items to report. I don't think I missed anything. But again, if I have, let me know.

As you will recall from our last call, which was a wee over a month ago now, pre-ICANN71, we did come to an agreement on overall principles review mechanism incorporating two general and four specific principles. So our goal today is to dive a bit deeper into what Bart is now calling topic clusters—and I think that's a good description for them—but more importantly, we need to assign some ownership and completion dates for them. Thus, at this point, I think I will turn things over to Bart if you're ready to go, sir.

BART BOSWINKEL:

Yes, I am. Thanks. Thank you, Stephen. So what we've done is revisit, effectively, two documents. One is the overall principles and I've included just as to capture the works to date. I've added a comment line that you can see that was based on Patricio's question/remark around preserve the stability, security, and interoperability of the DNS. So it's just in addition from my end to—I think based on the discussion is that we are looking at negative external side effects of the review mechanism on the DNS should be limited as much as possible to clarify. So it's not so much the process itself, the predictability and everything else, but it's more the side effects and the context in which this is done and the operational context which we need to keep in mind. So that was just a clarifying note. So I've included this. And if you have questions about this then we'll discuss it in a minute. Can you scroll down, please, Kim?

So the other parts are from there. I've also included a clarifying note regarding the fundamental fairness—this is additional note from today—is the fundamental fairness is the topic of cluster 4, as you can see. That's the bit of the principles I thought it would be useful to keep this in the background and once we start discussing the substance matters.

The second thing that we've done and what Stephen already alluded to in the agenda is again go over the topics you agreed on the order, although with the fundamental fairness, it has changed already because it's part of the principles. And then what we really are seeking for, and I think to start making progress and really start going into the substance is who of the working group on the call today is willing to take a lead and prepare probably a discussion paper or PowerPoint or presentation, and that we fill in the when as well going forward. When can we expect this?

If you recall, we have the Clusters paper we agreed upon or you agreed upon, I believe it was the end of May meeting, so nothing changed there. I'll go into a little bit more detail about this one. And we put I put this in a table and the who and when. So that's the major change. Can you go to cluster 4, please, Kim?

That's the one. So the fundamental fairness. As you may recall, as I said, it became part of the principles as Principle 6, so specific principle. And Eberhard kindly agreed that he would do a presentation on fundamental fairness and for further discussion on the next call, so that's the 21st of July. So we can start building and have a discussion among the group around fundamental fairness.

So that's the way we want to proceed or the leadership of the working group thinks to proceed. And it's more building a schedule when are we going to discuss what item and who will take the lead on introducing the topic. So it becomes a true working group effort and people get more active in preparing the material and leading the discussions.

Before we go into the details, any questions around this method and the process going forward and including the note? Maybe start with the note I've added to Principle 1. Can you go to page one again, please, Kim? Patricio, does it clarify the reason to preserve the general principle?

STEPHEN DEERHAKE: Patricio, do you have any thoughts on this?

BART BOSWINKEL: Or somebody else?

PATRICIO POBLETE: Not really. I'm reading.

STEPHEN DEERHAKE: Just trying to limit side effect issues. More importantly, while Patricio is pondering that, does anyone not like the approach that we're adopting here going forward? I would love to hear any negative comments on this approach as well. Thank you.

BART BOSWINKEL: While you think of it, maybe then the next question is—Kim, can you scroll down to the first table? First of all, any questions, comments around the next steps? By the end of the call, Patricio, we'll get back to this, the previous item. Any comments around the process?

So maybe let's do it this way. If you agree, please use your green marks. In a way, it assumes that you are willing to participate as well in preparation of one or two of these topics, so it becomes a real and true working group effort. I see a hand up. Irina, go ahead.

IRINA DANELIA: Thank you, Bart. It's not like I disagree with that process, but if I will find my name in the column who, honestly, I have no idea what I should do, not in terms of the method but in terms of real scope, real work.

BART BOSWINKEL: That's a very fair point. Thank you.

STEPHEN DEERHAKE: Very good point, Irina. Thank you.

BART BOSWINKEL: What we discussed—and look, we—Bernie and I and Joke and Kim—will be supporting you. Let's take, for example—and I think that's a very good and probably it's the elephant in the room—the topic of binding decisions through the RM, the review mechanism. If you recall, there is a whole discussion around it. We had a whole discussion around it and a

full session with ICANN Legal with Sam Eisner. What we said we would do, we'd come up with one or two questions and have further discussion with Samantha around this topic to really appreciate.

Bernie did some research and came up in his e-mail of the 28th of May with some background material. And what we really were thinking about is, for example, take this—and this is probably the major item—is that a small subgroup would prepare the discussions and the questions with Samantha around this specific topic, so that's the who. So who prepares this? So we'll start to look at material. If you have any questions or come up with a recommendation in this area as a small subgroup, and then have a discussion by the working group on this particular topic.

And the when, that's more a scheduling effort, as I said, with—let's go to the example of the fairness principle. Eberhard will prepare a presentation because he's been really advocating this as a basic principle that the working group should look into and prepare it and take us through his findings and his views around that principle. Then we'll have a discussion and see and check with the working group how and in what way it may become part of the overall procedure process.

And the when is when is this scheduled? So this is scheduled for the next week. So that was the basic thoughts about the who and when, and with respect to each, and maybe we can combine them because that's why they're in a cluster or topic cluster so the more issues aspect of that main theme will cluster like ICANN corporate governments fundamentals, to what extent does this impact the review mechanism. Does this answer your question, Irina?

IRINA DANELIA: A little bit. Thank you, Bart, for your effort. I would be a really happy to do some work and to bring a real input, but I would definitely need much more concrete task as you just described on the one example. But no matter which line I would have taken, I would definitely ask help to define the task much more concrete. Thanks for your explanation anyway.

BART BOSWINKEL: Let's take another look at it. This is where we as support staff but also the leadership—and, Eberhard and Stephen, please chime in—where we have a bit of an issue. We want that the working group members take on a more active role and we're looking for a way of doing this. And we thought this might be a manner in which at least some people—and it doesn't say you take a topic where you feel comfortable, where you put your name forward and start preparing and not on your own. Together, as I said, with us and one or two fellow membership working group members, prepare a topic and then present it to the group so the group can discuss it. Does that make more sense to you? Stephen and Eberhard, please chime in.

EBERHARD LISSE: Even for the other ones of us. We are all familiar with the concept of homework.

STEPHEN DEERHAKE: I've got my hand up.

BART BOSWINKEL: Go ahead, Stephen.

STEPHEN DEERHAKE: It's not like we're trying to saddle anyone with, "Oh my God, I have to do a 12-15 slide deck presentation in three weeks or whatever." I think collaboration would actually be very useful. But we are trying to assign some ownership of some of these topics to working group members so that they can spend some time—and it's northern hemisphere summertime so you can spend some of that time on the beach thinking about some of these things—and come back to us with minimal presentation but some thoughts on the particular topic within the cluster so that we can start crafting some language around what a review mechanism should look like, because that really at the end of the day is what we're tasked with by our colleagues within the ccNSO and indeed by ICANN overall.

So we've got to figure out a way to move forward on that and I think this is a viable way. If people have a different way they think would make more sense, I'm happy to entertain their proposal. But that's all we're trying to do here. We're not trying to saddle a few of you with a ton of work. That's not our intent at all. We're trying to actually get many hands engaged here on these topics, and if there's one of particular interest, then yeah, definitely it'd be nice if you could step forward. Thank you, Bart.

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

ALLAN MACGILLIVRAY: Thank you, Bart. I think I understand what you're trying to do. We're in a bit of a situation where we have to start breaking out. I think what I hear you're saying is trying to get some of the working group members to kind of dive a little more deeply into some of these issues. I think the worst case would be to actually refine the questions we have to answer and probably a best case is even if you got the questions defined then maybe even put forward some ideas for resolution.

So I just want to say that I support this view and this way forward. Let me say that I'm prepared to volunteer generally and I'll leave it to others to maybe to choose other topics. I don't feel I know much about anything so that makes me equally qualified for it all. I'm trying to put a positive spin on that. So I'll leave it up to you.

BART BOSWINKEL: Thanks for putting this forward, Allan, in the sense of not knowing enough. I think that's the way we are developing this. Some of us are lawyers, some aren't. I think not being qualified puts you in the perfect position to come up with the right questions. You need to understand it, and if you understand it not being too qualified, it is understandable for the outside world as well. And if you don't understand a question, etc., then you should raise that. And I think that's the flipside of it is—at least I just can speak for me, for me personally—it's easy, say, by education I'm a lawyer, if need be, I can draft one review mechanism, but that would be my own without consulting you and that's it. And you will have

tons of questions, etc., so that's one topic the way we've entertained but it doesn't carry the weight as if you as working group members have done so. So that's why we prefer this way of doing it. I, at least, prefer this way of doing it, that you immerse yourself in one or two of these topics, as well as your colleagues do. And of course, we'll assist you. That's our role in the process. Thanks again. Irina, go ahead.

STEPHEN DEERHAKE: Thank you, Bart.

IRINA DANELIA: Thank you very much for your explanation. I'm still not sure I can take a lead at any topic but I will be happy to be a part of any team. So, whoever wants me to participate, I will be happy to join. Thank you.

BART BOSWINKEL: Thank you, Irina.

STEPHEN DEERHAKE: Thank you. Yes, indeed.

BART BOSWINKEL: Anybody else? Any comments from anybody else, at least on the process or you have questions that you don't understand going forward? I don't see any hands up. I don't have the chat open.

STEPHEN DEERHAKE:

None either.

BART BOSWINKEL:

Okay. So my suggestion and the unfortunate thing is we know we have a few lawyers on the group and we discussed this already. Stephen, he suggest prerogative that—and I recall that at least Maarten and Nick volunteered more or less with respect to topic one around the governance, specifically around the binding. And if there are one or two more volunteers who are willing to prepare ... Because this is probably the most difficult area for discussion or we definitely need to have a follow up in the dialogue with ICANN Legal, if there are one or two people who are willing to work together with Maarten and Nick, more or less put their names forward as well. Because I recall they were willing to look into this area as well. So that you have a small group of three or four people and maybe that small group can look at this whole cluster of topics. I know it's a little bit undemocratic and work is [inaudible] but I recall they were willing to really look into this topic. And if we do have two or three others who are willing to do this, then we can take this forward because this is probably the most difficult part of the whole mechanism.

STEPHEN DEERHAKE:

It's a contentious topic, I agree, and they both did express an interest in participating in the development of that. Curiously, I think they're both at Wembley, but we got apologies from both so they're excused. But I think we can pencil them in, certainly, at the bottom of topic cluster 1. If there's anybody else within the working group that would have a

specific interest in formulating, discussing, getting ready to present to the working group on this topic, we'd be happy to have you guys on board as well. Thank you, Bart.

BART BOSWINKEL:

Anybody who wants to put his/her hand up for this one? Additional? Allan is putting his hand up. And maybe one more. Be aware, this will come back to the full working group before we take the next step.

I saw your question, Peter. As I said, this is probably the most contentious one and we had a discussion with Stephen and Eberhard. It's probably worthwhile to tackle this one right up front. So this would be in two or three meetings. So I don't know the dates, probably somewhere in August that we can pencil into when for this specific topic. So the first topic on the list is the fundamental fairness, and then we'll start looking into this one.

STEPHEN DEERHAKE:

I think we're probably going to end up in the first meeting in September but that's just my guess.

BART BOSWINKEL:

Yeah. Be aware, this is just preparing the discussions.

STEPHEN DEERHAKE: Yes, absolutely. This is not you have to come up with a polished position paper on this. It's just to get us going on these topics, and it's really important that we do. So thank you. Back to you, Bart.

BART BOSWINKEL: Thanks. As this is really looking into the, I would say, line item—row four and the final one is six, probably maybe they can cover the other areas as well but that is secondary. Let's keep it with this with four people. Can we scroll down, please, Kim?

So we've done fundamental fairness. So that's for the next meeting. And now we get into the other areas. The next one would be the relevant policy references. That's what you've identified at the time. And if you recall, more or less this is the order in which you wanted to address the various clusters. So let me ask—and we'll revisit this at the next call anyway—who is willing to participate in this one, relevant policy references, and prepare the discussion, presentation, etc.? You can see the questions and we can go back to the notes as well. Who is willing to put her/his name forward for this specific topic? And the when would be after the first one is completed. Anybody?

STEPHEN DEERHAKE: Do we have any takers here, please?

BART BOSWINKEL: We talk about September.

STEPHEN DEERHAKE: Yeah, this is certainly not before September, if not a little later, at least the last half of the month.

BART BOSWINKEL: Any volunteers? Irina will find some more. Are you willing to take this on, and Peter as well? Maybe this is one of those areas where two or three will be enough.

STEPHEN DEERHAKE: Thank you, guys. I just realized things are happening in the chat.

BART BOSWINKEL: Maybe one more person, just to ensure backup. Svetlana as well. Thank you. We'll keep it with that. As I said, we'll be supporting you anyway.

Then the applicability of ccNSO policies would be the next one. This might be an easier one. If you recall on the webinar when we introduced the retirement policies, so that was pre-ICANN71, there was a presentation on the applicability which can be used. Maybe that's already been addressed and that we updated when necessary, but that would be the next one. It's a good starting point. So there's not very much work needed there for a full discussion. Is that okay with you, Stephen?

STEPHEN DEERHAKE: Yes.

BART BOSWINKEL: So this is more of a staff thing so put my name there, and maybe one of you who's willing to act as a counterpart. Who's interested in the applicability of ccNSO policies to members, non-members, etc.?

STEPHEN DEERHAKE: I would argue that we really need somebody from the working group to step in, not so much just to keep Bart honest but to just provide a member viewpoint. And I don't mean that as any measured disrespect, Bart.

BART BOSWINKEL: I would feel very uncomfortable doing it. The other way around it's ... Sean? Sean put his name forward. That would be great. Thanks, Sean. So that would be somewhere in October as well or before because—yes, go ahead, Eberhard.

EBERHARD LISSE: If it's in October, you can put me on as well.

BART BOSWINKEL: Okay. And Eberhard. As I said, we've done some prep work. There is prep work available anyway, and then it's discussing this with the full group. Thanks. So then swipe my name, please, Kim. I'll support this and we'll find a way how we divide this. But at least then we know what's happening.

Okay. Then the next one has already been dealt with and we can go to rules and procedures. What we could do and maybe we should—because now we’re talking already either ICANN72 and beyond that we first check how we go and move forward with the other clusters, and then revisit this, I would say, once we got to cluster 4. So first review the mechanism and then start filling in the names. Would that work for everybody? Because this is well out. And then we’re really into the nitty-gritty work of how a review mechanism could look like. Anybody on that second suggestion that we fill this in later?

STEPHEN DEERHAKE:

Any thoughts from anyone?

BART BOSWINKEL:

Let me do it the other way around. If you agree that we do this later, so around ICANN72, please check your green marks. If you disagree, please check your red marks. At least one green, a few green marks. Good. Thank you. There’s no red mark so we’ll do this around ICANN72. Then scroll down, please, because there are only two to go.

The other one is the choice of law which is again related to the mechanism, etc. I would suggest we do this at the same time, ICANN72.

The final one is determine who has standing. Please recall, we have the spreadsheet and the spreadsheet already fills this in. We probably need to check this. I don’t know about you, but I think this is around when we start going into the details of a review mechanism, this becomes

important again, but you've already done a lot of work in this area so that can be deferred to ICANN72 as well, in my view.

I think we covered and we got a working plan. So thank you with people taking on some work. We'll revisit this as always on the next call as a starting point, just to ensure those who are not on the call that they understand what is the purpose, and especially Maarten and Nick because we signed up their names that they are aware that we've done this. Back to you Stephen. Thanks.

STEPHEN DEERHAKE:

Thank you, Bart. Thank you very much for that. Thank you, everybody, for stepping forward into this. I hope we got a good sense of a way forward here because we really need to start burning down and start crafting some words around what we want.

I think with that, Kimberly, if I could have the agenda displayed again unless there any questions from anyone. I don't see any ends. So, as you saw from the slide deck, what we did have filled in was the good doctor Eberhard, he's on top to provide an initial discussion on fundamental fairness, I believe, on our next call.

I would like to discuss the next meetings but before that, is there any other business that anybody might have about anything or anything? If you want to yell at your chair, this is the time to do it. I'll take the criticism. Well, that's a vote of confidence. Thank you. I'm not seeing a huge waggle of hands so I'm going to assume there's no other business.

With regards to next meetings then, the 21 July meeting is locked in. The two August meetings, as you can see, a question mark is beside them. They're in the midst of the northern hemisphere's holiday season. Any thoughts from you about these? I'd like to keep things moving along but if it's apparent that we'll have minimal participation—oh, yeah. Can we do a poll? Here we go. Thank you, Kim. Can we get people to respond to the poll—I totally spaced on the poll—that we had talked about? We got time so we can give it 90 seconds, maybe. People vote away. Thank you for the turnout today, by the way. It's more than I thought it would be. Kim, I don't know where we are with the clock.

KIMBERLY CARLSON:

We'll give it another couple of seconds, give it a minute here.

STEPHEN DEERHAKE:

Thank you, thank you, thank you. Oh, I'm really heartened. Yay, yay, yay. Okay. Looking at that, I would say we go ahead with both. As you know, we do everything twice anyway, so if you miss one because you're on the beach, that's perfectly acceptable. I see Eberhard has his hand up.

EBERHARD LISSE:

I propose we go ahead with the one on the 4th of August and ask the question again on the next meeting. Maybe then people are more clear about the 18th.

STEPHEN DEERHAKE:

I agree with you. That's a great idea. So we'll go ahead with the August 4th meeting which we actually thought was going to be more problematic. But yeah. So August 4 is now confirmed and we will check in with the August 4th meeting attendees and see what they think about the 18th. I mean, I would like to keep them both going, personally, but that's just me. I'd like to wrap this thing up before I'm dead, basically. So let's plan on ... 4th is definite, 18th will be dependent on a poll during the meeting on the 4th. 21 of July is confirmed.

With that, I'm done. If anybody else has anything else, you can waggle hands. I know I gave you that opportunity earlier but I'm giving it to you again. So with that, I'm done.

I want to thank everybody for attending today's call. It's a nice turnout. I especially want to thank Joke and Bart who are, as usual, attending today's call out of band. And, of course, many thanks to Kimberly for her Zoom magic, and Bernard for his continuing contributions. I think with that, I'll declare this meeting adjourned. Kimberly, you may stop the recording. I just wish everyone to stay safe and have a great summer. We'll see in a couple weeks. Thank you. Bye.

BART BOSWINKEL:

Bye-bye.

[END OF TRANSCRIPT]