

ICANN – CCNSO – FOIWG

Meeting Notes (draft V1) for 26 January 2012 – 13:00 UTC

1. Present / apologies

ccNSO:

Ugo Akiri, .ng
Martin Boyle, .uk
Becky Burr, NomCom (Vice Chair)
Keith Davidson, .nz (Chair)
Chris Disspain, .au
Stephen Deerhake, .as
Desiree Miloshevic, .gi
Eberhard Lisse, .na
Patricio Poblete, .cl
Kathryn Reynolds, .ca
Nigel Roberts, .gg
Dotty Sparks de Blanc, .vi

GAC:

Frank March
Suzanne Radell

Other Liaisons:

Cheryl Langdon-Orr, ALAC
Carlos Aguirre, GNSO

Staff Support and Special Advisors:

Jaap Akkerhuis, ICANN / ISO
Bart Boswinkel, ICANN
Kim Davies, IANA
Kristina Nordström, ICANN
Bernard Turcotte, ICANN

Apologies:

Paulos Nyirenda, .mw
Bill Semich, .nu

2. Meeting notes for 12 January 2012 – Accepted with minor amendments.

3. Consent - Review of GAC input into consultation and Final Report

3.1. KDavidson – The GAC has transmitted to the FOIWG its response to the FOIWG report on Consent.

3.2. SR – Presentation of the GAC response.

3.3. Issues around the section requesting a 60 day time limit

3.3.1. NR and EL – As presented it seems that the GAC is requesting the FOIWG create policy which is contrary to the mandate of this group.

Additionally, as pointed by EL there are a number of circumstances where 60 days may be insufficient - (summary).

3.3.2. SR – The intention was not policy development (summary)

3.3.3. KDavidson – The intent of the wg was that only positive consent by the incumbent manager could be considered consent – anything else cannot be considered consent (summary).

3.3.4. CL – Understands the GAC concerns and these need to be addressed at some point by the wg (summary).

3.3.5. EL – Has no issue with a deadline to close a process that is active – however as per the recommendations only a confirmation of consent as per the FOIWG recommendations can be considered as consent.

3.3.6. SR - "Thank you. That is actually very helpful, and as you'll see on the second bullet that the GAC had under this, we just – and maybe this is where it all gets resolved Clarification that this issue will in fact be addressed in your subsequent paper on unconsented redelegation"

3.3.7. NR - "Yeah, I think we're actually quite close on this. I could read, now that Eber—now I realize what Eberhard was saying. I could read this in two ways. Eberhard obviously read it one way and I obviously read it the other way. It's an unintended consequence and refusal to provide consent. Is it possible that you actually mean failure to provide consent rather than refusal? Because, if it's a refusal, then there's clearly no consent.

3.3.8. SR – Excellent point.

3.3.9. NR – Wg's remit does not include going into such details as these time frames for procedures.

3.3.10. FM and SR – Various points regarding the fact that the reply is from the GAC as a whole.

3.3.11. SR - "If I could chime in, Frank is completely correct, and I think your point Nigel, whether we really meant to say failure than refusal, we will certainly carry that message back to confirm for all of you, and that may well be a useful amendment now that we have clarification on bullet number two that you will in fact address a refusal in the next paper."

3.3.12. MB – It seems the situation where an incumbent does not reply is a problem that should be handled.

3.3.13. EL – This working group is not about making policy.

3.3.14. KDavidson – It may be appropriate for the WG to provide IANA

with a suggestion that there be a set period in which to reply.

- 3.3.15. NR – Supports EL
- 3.3.16. SR – Confused given her understanding is that the wg should provide a maximum of guidance.
- 3.3.17. BBurr -”So, I mean, I don't mean to dismiss or minimize the concern of the GAC, because I think it's a reasonable concern. I just wonder if what we ought to be saying is, "We hear you, that's an issue that is sort of premature right now given where we are," but it's an issue that we understand and acknowledge.”
- 3.3.18. EL - “Yes, I looked at the charter and the scope, based on and taking into account the findings of and issues identified by the DRDW. The working group is tasked to develop interpretations of the policy statements to resolve the issues identified by the DRD working group in a consistent and coherent manner. I do not think that allows us to tell the IANA function contractor what deadline it should set.”
- 3.3.19. FM - “Yes, just remembering time to move myself off mute. Just picking up on the point, I think, there is an issue around here. I think that the GAC position highlights the issue that a deadline would be, the lack of a deadline is a gap. I think 60-day is one which could be interpreted as setting specific policy and I can understand the concerns that Eberhard and others have on that. I think I would personally be very, very comfortable in reporting back to the GAC that the group has taken note of the need for a deadline and that this will be addressed, whether it's in this paper or another one. For my personal point of view I would have no concerns. And, I'd be very comfortable in reporting that back to the GAC. I'm not speaking out to see for Suzanne or anybody else on this, but that does seem to be this general exception, so there is a bit of a gap that could be addressed, and to see some contribution from the GAC and I think that's helpful, thanks.”
- 3.3.20. BT – The wg in other documents decided that items like specific time lines were implementation details.
- 3.3.21.

- 3.4. SR – Were there questions of comments on any of the other point in the GAC response?
- 3.5. KDavidson – no.
- 3.6. SR - “Okay, and then the final point, and that may be one that is ignorance on my part, but this is a generally-agreed assumption that whatever is drafted in response to your guidelines will in fact be reviewed and cleared? Whether by the FOI working group or the full CCNSO?”
- 3.7. KDavidson – As per the charter of the wg the recommendations have to be approved by both the ccNSO and the GAC.
- 3.8. DM – from chat “GAC has raised an important policy question and I think we would need to acknowledge that deadline issue, but not get further, agree that PDP working group will address it. My question is, do we as a group respond to GAC or do Suzanne and Frank convey it, and are they happy with that process?” And I think I already commented on that, that I personally would be very happy to take

back to the GAC the sentiments that have been expressed, and the reason, and the outcome from the GAC comments.”

- 3.9. SR – “Okay, I do apologize to everybody for chiming in. Frank, I may have misunderstood you. Is the message we are taking back that this issue of a deadline would be addressed in a PDP?”
- 3.10. FM – yes
- 3.11. SR - “Oh, okay. I’m – I had missed that. I thought there was still quite a bit of discussion as to whether a deadline is a policy versus an implementation issue. So, I had understood Becky to say, well, why don't we put that sort of aside as an issue that we need to address. I hadn't realized that the group had already decided to go the route of a PDP.
- 3.12. MB – Does not think the group agreed to a PDP recommendation but rather that this topic would be looked at in Revocation.
- 3.13. KDavidson - “Yeah, I think the – yeah, the suggestion was that if necessary a PDP would be done, but probably that this would be resolved as we further our work. In any case, I think as my interpretation of where we're at. “
- 3.14. SD – Agrees with KDavidson.
- 3.15. KDavidson - “Okay. Okay, well I think, I think Becky's comment on the chat in the Adobe room is very relevant and probably the appropriate closure to this discussion point, and that is to note that it is a legitimate issue, and should be reviewed and unconsented redelegation when we get to that section including the question of whether establishing a deadline is within the working group's remand. So, with that, can we agree that that is the point that we will note as our future action point on this issue? Thank you. And, are there any other issues relating to the GAC's input from anyone? Any other aspect that people disagree with? Any other aspect that people agree with? Okay. Thank you.”

4. Significantly Interested Parties – Public consultation

- 4.1. Bboswinkel – The public consultation should be up by next and the process, as per the new requirements, should close by the end of April.

5. Revocation - Review of email discussion and continuation of this topic.

- 5.1. BT – Presentation of summary of email discussion.
- 5.2. KDavidson – Where do we go from here.
- 5.3. BT – It may be useful to discuss and define what SMB and “Stepping in” mean before closing the discussion on 3.4.
- 5.4. KDavidson – Was trying to promote this approach in his last email to the list with little success.
- 5.5. KR – Maybe we should document how IANA has done this in the past.
- 5.6. KDavidson – If we do not get any closer to consensus on the list next week we should probably agree to put this on the agenda for the next f2f meeting in Costa Rica.
- 5.7. EL - “I think we shouldn't, I agree, we should maybe approach it from backwards.

First, look at whether IANA ever has stepped in on the work conditions and what have they done, and then we can look at what substantial misbehavior would mean, what persistent problems mean, and then decide what we feel appropriate steps – what we think step-in means. Okay? I also want to mention that we must not speak of IANA, we must speak of the IANA function contractors, or function operators.”

- 5.8. KDavidson - ...“I think IANA is kind of our accepted abbreviation for the IANA function but can we take it as read, when anyone mentions IANA, they mean the IANA function, and otherwise should specify the IANA contractor?”
- 5.9. MB - “...Because, it seems to me in a couple of places, that as you said yourself Keith, there seems to be some move to conversions. But then, sort of drifted off the front burner at various stages, and I just wonder whether, if we actually have perhaps before we get involved for the next round of e-mail slugging, something that actually said – okay, here really are the outstanding points. And then, start off by agreeing that yeah, we all agree that those are the outstanding points. And then, just sit down and address those one by one as we've done in other parts of (inaudible) this process.”
- 5.10. KDavidson – Could we do that BT?
- 5.11. BT – Does not think this is possible at this point.
- 5.12. PP - “Well, besides my comments with conceptual that the word used in the RSCs substantial, instead of significant, when they talk about misbehavior. I think before (inaudible) means on what it means for misbehavior to be substantial, we need to decide whether that particular phrase, that particular sentence, applies to misbehavior that could have happened at any time during the exercise of the functions of the designated manager, or only in the process of its being appointed initially. The phrase, the sentence, is in the middle of the section that Gary deals with that initial appointment, the designation. But, on the other hand, it seems to me that this document, important as it is, it's not particularly well-organized and I believe that sentence applies more generally to misbehavior that could have happened at any time, because otherwise there are things like section of number three, where there are a lot of requirements on the designated manager to be equitable to all groups, for instance, and there is no punishment in case that doesn't happen. What if that, what if the manager isn't fair to all the groups? I think that would be one thing that could trigger this IANA stepping in, that's in the next section.”
- 5.13. NR – Confused about MB's point and notes that its substantial misbehaviour and not significant.
- 5.14. DSD – Supports BT's point.
- 5.15. KDavidson - “Okay. Thank you, Dotty. So yeah, well, the question in my mind is that if we can't define then we have to disregard, so, I'm keen that we should exhaust the opportunity of seeking to define both what misbehavior and (inaudible) might mean. So, I think we're there. Let's revert to a bit, a bit through the list conversation and I'll try and stimulate some, further debate, on the basis of the recent responses to my last message to the list and see if I can tease out a bit, further

conversation, and again I think if we're unable to resolve or get closer to resolution on this then it probably should form the core of our discussions in Costa Rica.”

6. Future Meetings

- 6.1. The next meetings of the WG will be on Thursday 9 February 2012 05:00 UTC (teleconference).

7. Conclusion of the meetings

- 7.1. The meeting was concluded at about 23:00.