

TRANSCRIPT

Framework of Interpretation Working Group

8 December 2011

- Keith Davidson: Look, everybody, let's make a start, and there may be one or two more coming into the call later. But we have an agenda that's been circulated and no changes. Just a-- let's work your way through it. The first part is presents and apologies. So Kristina, can you give us presents and apologies received?
- Kristina Nordström: Sure. From the ccNSO today, we have Martin Boyle, Keith Davidson, Chris Disspain, Stephen Deerhake, Desiree Miloshevic, Eberhard Lisse, Nigel Roberts, Bill Semich. And from liaisons, we have Carlos Aguirre and Cheryl Langdon-Orr might join later. From staff support and special advisors we have Jaap Akkerhuis, Bart Boswinkel, Kristina Nordström, and Bernard Turcotte. And Apologies from Kim Davies.
- Keith Davidson: Thank you. And just on the note of apologies from Kim, Bernie, can we amend the 24th November meeting report to include Kim as an apology for that meeting as well? He sent that apology to me, but unfortunately I forgot to reflect it through to the meeting. So it's proper that we do record it in.
- Bernie Turcotte: I will note it in the--.
- Keith Davidson: Okay. And no other apologies received by anyone? And everyone mentioned was on the call? Thank you. Some information of the meeting report for 24 November, other than the amendment, include Kim's apology. Any other issues or missing items? We've got all the action points on that meeting listed for today.
- Bill Semich: I have a comment.
- Keith Davidson: Sure, Bill.
- Bill Semich: On 5/22 where it says I noted Diana stepping in probably implied revocation. You know, I haven't looked at the transcript, but I think what I was saying was a revocation process; not an actual revocation.
- Bernie Turcotte: I'll be glad to correct that, Bill.

- Bill Semich: Thanks.
- Keith Davidson: Thanks, Bill. Any further issues relating to the meeting report? If not, let's confirm the meeting report with the two amendments and move on to the Significantly Interested Parties document 2.9, which hopefully we can finally approve today. Bernie, do you want to put it up on the screen and give us one final look at the text we agreed on the last call? There's been no discussion, as far as I recall, since that last meeting. And so--
- Bernie Turcotte: Yes, Sir. I won't go through header and footer changes. I think everyone can be comfortable with that. The only changes of substance are in section 7.1., 7.1.1, to be specific, whereas agreed after material, and we can see it up on the screen, it is, we added substantial. And at the end of the sentence, we added including the incumbent manager, as per Desiree's request. So, I won't finish going through it. I don't think there were any other changes. So those were the only changes from the 2.8 version.
- Nigel Roberts: Bernie, before Bill says this, there's no comma before an and.
- k/d: Yes, so it goes legitimate and demonstrable.
- Bernie Turcotte: Yes. That just slipped in. Sorry, we'll fix that.
- Cheryl Langdon-Orr: Cheryl's in. I'm sorry I'm late. I had to extract myself from another call.
- Keith Davidson: --can be.
- Cheryl Langdon-Orr: Well, I shouldn't go there, should I?
- Keith Davidson: Cheryl, we're just on, finalizing the Significantly Interested Parties document, and just looking at the 7.1.1 on the screen, and just realized we need to remove the comma after legitimate to make (inaudible) language. I think we can take that as an intrinsic change that doesn't need a further round of--
- Kathryn Reynolds: Hi, everyone. This is Kathryn Reynolds joining. I'm sorry I'm late.
- Keith Davidson: Hi, Kathryn. Kathryn, (inaudible) saying, we have got to the point on the agenda where we're looking at the Significantly Interested Parties document final version, hopefully. And looking at 7.1.1 and just realized we had a slight grammatical error were we had legitimate, comma, and demonstrable interest, and there should be no comma. And just notwithstanding that minor intrinsic change, just seeking everyone's agreement that that should be the final text for 7.1.1.
- Kathryn Reynolds: Okay. Thank you.

Keith Davidson: And hearing no further comments, I propose that we proceed with the text, with the light intrinsic for the placement of the comma, and consider the document now approved and can progress the next stages of consultation. And is there any dissent? If not, we will proceed down that path.

Cheryl Langdon-Orr: Yay! Cheryl here, (inaudible). May I ask, are we still planning on having this out for public comment before the seasonal break, then? Because I've been threatening the At-Large community that that's what their homework will be over this break.

Bernie Turcotte: I believe on the last call we agreed to not do that.

Cheryl Langdon-Orr: Okay.

Bernie Turcotte: And we will prepare the version of the Public Consultation document over the end of the year break and have it ready for the first meeting of this group in the new year.

Cheryl Langdon-Orr: Okay. So then I can tell them that it will be their homework in January.

Keith Davidson: Yes, or late January.

Cheryl Langdon-Orr: Okay. There is a reason to try and tie those things down. Certainly from the ALAC and At-Large's point of view, when pre-Costa Rica, they're trying to put to bed all of the implementation of all of the review items, the 13 recommendations from their review. There's a huge amount going on in that time, and so we're trying to get a little bit of prior planning on things like what they're going to need to focus public comments and stuff on. So that's all.

Keith Davidson: Well, I think in that instance, Cheryl, we'll wait for Bernie to circulate a final copy, unsolete (ph) copy with the errant comma removed. And I'm sure Bernie can do that fairly quickly. But I think, feel free, and also Carlos feel free to share with the D (ph) folks as well the doc--

Cheryl Langdon-Orr: Oh, good.

Keith Davidson: Because I think once we've given our tick of approval, it's open to being sheered around. So if people want that studying and preparing for the consultation process, but--

Cheryl Langdon-Orr: Perfect. The GAC people would probably appreciate that opportunity as well.

Keith Davidson: Yes.

Cheryl Langdon-Orr: Fantastic. Thank you. Thank you, that's made my mind much more restful.

Keith Davidson: Okay. And I'm assuming nobody here has any objections with that as the process? Martin, you have your hand raised. Martin? You're still on mute, Martin.

Martin Boyle: Indeed. Yes, I raised my hand to suggest that we ask the GAC to try to take it down somehow over-- I seem to just been getting in the wrong place. (Inaudible) quite likely. I am unmute.

Keith Davidson: I've taken that down for you.

Martin Boyle: Thank you so much.

Keith Davidson: Okay. So it's just a point on the GAC. Nothing else? Can we move on? Bart, can you give us the process of the consultation?

Bart Boswinkel: Yes. It's fairly simple now. Say the public comment period has now formerly been closed. We still wait for--

Keith Davidson: Sorry. That's on the Consent document that's closed. I was thinking more of the SIP comment.

Bart Boswinkel: Oh, the SIP one. Yes, it's-- they've been tied together. It's, to say the SIP one, as Bernie said, we're going to prepare a public comment document and we'll post it prior to the Costa Rica meeting for public comment. But as you said, we can share it, this version we can share it because it's stable.

We can share it with the At-Large, the GAC, and the GNSO in preparation of the public comment period. And I think the intention is to have the public comment period open up and be up until the Costa Rica meeting so people have plenty of time to provide comments. And then we take it, afterwards, we take in the comments and prepare the final report.

So the normal structure is we publish an interim report that's for public comment. We take in the public comments period. We prepare a final report with we'd say on a specific topic. That will be sent to the GAC and the ccNSO for approval. And then if everything goes well, say both communities support it, it will be sent forward to the Board as a set of recommendations.

Keith Davidson: And on the Consent Consultation, while we're on the subject, it's now closed. It's-- there's been no comments received?

Bart Boswinkel: Yes, that's correct. So maybe I should remember, say, the GAC has a bit more opportunity to provide comments, if any. We'll finalize, say, the

recommendations early January as well, and prepare the final report. So it's just a bit of editing and getting the process stuff in right, and then it will be sent to the GAC and the ccNSO and seek support for the recommendations.

Keith Davidson: Any questions or comments for Bart on the consultation process, yet again?

Cheryl Langdon-Orr: No.

Keith Davidson: We're all in agreement?

Cheryl Langdon-Orr: Yes.

Keith Davidson: Thank you. Just for the record, noting Paulos and Patricio have both joined the call. Okay, moving on. Terminology, approval of the definition of SIP. Bernie, anything on that?

Bernie Turcotte: I didn't recirculate it because it was in 2.9. But unless arguments, we will use the definition we just approved in 2.9 as (technical difficulty) lexicon for Significantly Interested Parties.

Keith Davidson: We've looked at the terminology extract for that, so assume everybody is in agreement with just taking the section 7 recommendation out of the document we've just approved and (inaudible) terminology paper. No dissent? Excellent, well done.

So we'll move on then to item 6 on the agenda, which is (technical difficulty). And that should be a very interesting topic.

I think on the basis of the progress that the Working Group is making, we could have a high level look at this document today, and then this will become the thrust of our work for future meetings. We do have a meeting scheduled I think for the 22nd of December, but I think we're sufficiently progressing now that we won't need that call. So if the Working Group agrees, I think we should just use this call as an opportunity to have the high level review of Revocation and then save it until we start our set of meetings in 2012.

And with that, can I invite Bernie to walk us through the document?
Thank you, Bernie. Oh, sorry. I see Eberhard has his hand raised. So, Eberhard.

Eberhard Lisse: What time of the day would the call be?

Keith Davidson: The 22nd of October-- sorry, the 22nd of December meeting was scheduled to be at 05:00 UTC, but I'm suggesting we scrub that meeting

and we go to our next scheduled meeting, which is January the 12th at 13:00 UTC.

Eberhard Lisse: Time-wise, it's good for me, so I abstain from any voting on the issue.

Keith Davidson: Thank you, Eberhard. So Bernie, do you want to walk us through Revocations?

Bernie Turcotte: Thank you, Sir. I've labeled it 0.1 because it is an early draft. Before we get into it, I have been tearing through the Applicant Guidebook for new gTLDs. And I am glad to report that there are some sections which might be of assistance for us, relative to the proper operation of the DNS.

I haven't finished considering those in detail and getting them ready, nor do I think we're ready to look at them at this point. But just a marker that that was a great (inaudible), and there is some info in there that I will circulate probably between now and our next meeting so people can start familiarizing themselves with that.

Moving right along. Background introduction, I'm not going to spend a lot of time on. It's the stuff from the DRDWG. So basically the standard stuff. The objectives are cut and paste -- identify applicable policies and procedures, analyze past cases, identify and analyze any issues arising, develop recommendations.

Applicable policy statements and guidelines. We have RFC 1591 section 3.4, Significantly Interested Parties in the domain should agree that the designated manager is the appropriate party.

The statement of interest is the next paragraph. The IANA tries to have contending parties reach agreement amongst themselves, and generally takes no action to change things unless the contending parties agree. Only in cases where the designated manager has substantially misbehaved would IANA step in.

And this was the point that I had noted in the meeting notes that Bill asked to be corrected. Just for those reference, the issues we've brought up, of course, there's no documentation or guidelines as to how to establish substantial misbehavior. There's no documentation or guidelines as to what IANA stepping in involves. It is unclear if these clauses apply to delegated ccTLDs.

Any questions on this part?

Nigel Roberts: Yes, I've got my hand.

b/t: Yes, Nigel.

Keith Davidson: Sorry. I had (inaudible) talking on mute. Nigel.

Nigel Roberts: Okay, two things. One is, well I think it's a minor edit. It may appear to some to be provocative. And the second part is to offer some substantial input. And the third one is a typo.

The typo is misbehavior doesn't have two S's in it. So if you could double check that throughout, please.

Bernie Turcotte: We've noted about 15 times. We're quoting RFC 1591 perfectly, and in RFC 1591, it does have the two S's.

Nigel Roberts: Then you should put (sic) in brackets or something.

Bernie Turcotte: We'll be glad to do that.

Nigel Roberts: But that's not the point. The first point is 3.1.2. I don't think that we should show the first paragraph in that quote. The designated manager -- (inaudible) -- sorry, I beg your pardon.

3.1.1., Significantly Interested Parties in the domain should agree to the designated manager as the appropriate party. Now Becky and I had some discussion about this, probably quite dry discussion at the last face to face. But it's clear to me that that refers to the creation of a ccTLD and appointment of the manager.

I'm not at all convinced any further (ph). I would assert quite the opposite. I'm not all convinced that that is a requirement that you can revisit every few months or years to say, well people, I don't like you anymore so you're now out.

So I think if you simply leave it out and concentrate on the next part -- which you just run off the screen again, I think -- the bit about the IANA takes, tries to have any contending parties reach agreement, which obviously refers to any situation where there is contention, whether it's at the beginning, middle, or end, and only in the cases where the designated manager substantially misbehaved would the IANA step in. Which is actually quite interesting, and it's worthy of considerable exploration in interpretation.

And the third paragraph is irrelevant to revocation. It's only for appointment of manager, whether on the first manager appointment or on a reappointment after a revocation. So I think, again, you can leave the third paragraph out. Does that make sense?

Bernie Turcotte: I was just trying to put it in context. I was not trying to suggest--

Nigel Roberts: No, no. I appreciate that, Bernie. I'm not having a go. What I'm trying to suggest is the context is self-evident if you just have the middle paragraph.

Bernie Turcotte: I'm not taking it like that, but what I wanted to say is the original idea was to set it up like that. And personally, I'll be glad to take direction from the group however they want to see it. I have no particular hard feeling on this.

Keith Davidson: I see Bill also his hand raised. Bill.

Bill Semich: Yes, I can't find misbehavior anywhere in RFC 1591. And in the quote on 3.1.1, that's mis-behaved, mis, and that's the only mention of the word behaved in the whole document. So let's get rid of that extra s. This is probably the 23rd time I've brought this up in the past year. Sorry.

Keith Davidson: 20th (ph), I believe.

Bill Semich: Yes, yes. Okay.

Nigel Roberts: Now misbehaved is pretty correct there, Bill. You can object to the hyphen, if you wish, but it's spelled correctly. It's elsewhere that there's another misbehavior, two S's.

Bill Semich: Nowhere on RFC 1591. Perhaps in our own documents.

Nigel Roberts: In this document. I'm not reading 1591. I'm reading--

Bill Semich: No, I know. I'm just saying that there's always been this discussion about leaving in the ss-behavior.

And I do sort of share-- I'm rethinking my position last time about revocation and misbehavior. I do kind of share what I take to be Nigel's earlier, my honest to any of Nigel's earlier comment. And that is intrinsically enough, his comment about substantially misbehaved and IANA stepping in, is specifically in a section that it looks like it was crafted to talk about selecting the initial delegated manager-- designated manager.

And so in that context, it's difficult to think, well how can it be a revocation if this is the designated manager who was either in the process of being selected or who has just been selected, and what is this substantial misbehavior in that context?

And I think we should take a look at the context and figure out if it is in fact relating to existing designated managers or more logically in terms of its placement in the document, relating to the process of selecting a designated manager, and perhaps one has been selected but not handed

the keys to the domain. And there's been some local input, and perhaps the designated manager, for example, has bribed someone or whatever in trying to get the local input to support him.

I mean we don't know what misbehavior means, as you point out, Bernie. So I think we should give it a little more thought than I had originally given it when, oh, it moves to the process of revocation.

The point I was trying to make when I said when I felt that it was moving to revocation was I don't see this section as talking about what we have traditionally come to call a redelegation process where some group or some association or an entity of the government steps forward and says, we don't like the way this is being done, and therefore, this manager should be shut down and it should be passed to this other group that we like better, or to this other process of selecting a group we might like better.

I don't believe this section is referring to that; I think it's referring to the initial selection of a designated manager and getting interested parties (inaudible). So much for that.

Chris Disspain: Keith, it's Chris. When there's a space, I'd like to sneak in.

Keith Davidson: Yes, I saw some hands appearing and then disappearing. So Chris, with you.

Chris Disspain: I don't currently (inaudible). I'm sitting in a taxi. But my immediate reaction to what Bill has just said is I don't agree. I don't think you can-- I don't see how, from my memory of that particular paragraph, you can claim that it simply applies to an initial delegation. It's pretty clear from memory that it says where it's delegated to delegated manager, whatever the words are, misbehaves -- and worry about what that means for a minute -- it can be revoked and maybe redelegated.

Once it's delegated, it's delegated. It can't be revoked until it is delegated. And you can't draw some arbitrary line that says you are now past the point of initial delegation and have now become ensconced forever. The line, the paragraph has a clause where it doesn't, and I don't see how you can make a distinction between initial delegation or not. But as I say, to be fair, I don't have the documentation in front of me.

Nigel Roberts: Can I follow up on that because it's directly on that point?

Keith Davidson: Yes. Thanks, Chris, and Nigel, by all means.

Nigel Roberts: Chris, I totally agree with that. I think what Bill sees as my position is slightly, it's not misrepresented, it's just slightly harder that he's painting it

as. Let's number these paragraphs one, two, and three, and I know you're in a taxi right now. But what's clear from trying to interpret this document is that there isn't the separation of sections in the way perhaps you or I would draft it with draftsmanship. So we have appointments, operations, revocation in totally separate things.

My point in this document is that paragraphs one and three are clearly and only relating to appointment of manager, so they're out of context. Leaving them out doesn't say anything either way, and it makes it clearer. That's why I want to see paragraphs one and three out of the quote.

Paragraph two in the quote reads, "The IANA tries to have any contending parties reach agreement amongst themselves." It's stating a general principle, and it's John's golden rule, if you want to put it this way, that basically he was hands off and says basically whenever anybody gets into an argument, you guys had better sort it out for yourselves. And the only time that we will step in is if there is -- and this is this phrase again -- substantial misbehavior.

I think we need to focus on what that is and on what circumstances that is, but in principle I actually agree with what you're saying that if there is substantial misbehavior -- whatever that is, and we're going to look at that, I hope -- if there is substantial misbehavior, the IANA seems to have some kind of reserve power to step in and rescue the situation. I think that was the intent.

Keith Davidson: Okay. Thanks, Nigel. Bill, you have a comment.

Bill Semich: Thanks, Nigel. I guess what I was trying to-- perhaps I didn't make myself clear, I guess is the best way to put it. I'm raising this not so much as this is how it should be, but as pointing out the kind of confusion in this particular section, as you say, by isolating paragraph two, you're trying to clear up the confusion. And I'm just not that satisfied that the confusion is cleared up.

I think this section is confusing because of the context that it gives the appearance of wanting to say, oh, section 3.1 is-- 3.1.1 is all about selecting a new designated manager, and section 3.1.2 is all about doing a satisfactory job.

And so in that context, there is the question of what does it mean, substantially misbehaved? Is there some other kind of misbehavior that should be looked at or what? And so that's kind of what I was putting on the table. Not so much that, no no; there's no-- this has no relationship to existing delegations; it's more a question of what is it trying to square the

circle, or whatever, or the fact that this paragraph is in the middle of the section on new delegations.

Now I do, jumping ahead slightly, I think Bernie, in the material you've put together, I think you've done a good-- you've helped me a lot in terms of figuring out a way around that problem, but I still see the problem being something we should be aware of as we move forward with this topic.

Keith Davidson: Thanks, Bill. Bill and Nigel, both of you still have your hands up. Could you taken them down, please. Which I think Martin has the floor. Martin.

Martin Boyle: Thanks, Keith. I see perhaps some difficulties with the R&D (ph) effort you go through a document and a section's document, and then you start saying, well, that paragraph, even though it doesn't say specifically only relates to one thing or another, and then could be mapped (ph), as is this issue, onto that paragraph, I think is wrong.

I actually don't think that you can put your hands on your heart and say that the third paragraph in 3.4 only applies at the selection of the manager, because it doesn't say that. And when you go through into the next paragraph and the subsequent paragraphs, I think it actually is quite clear that it fits as a whole that at one stage, when you decide this is how you do it, but equally, if you get to a stage where you look (ph) community, the Significantly Interested Parties, are beginning to realize that the designated manager is perhaps not the appropriate party. That actually perhaps a stage for some actions to be taken.

So I think going back to what Chris was saying earlier, when you actually look at the document, I don't think you can just pick and choose. It's not a menu. You've got to take it all in context. And so I'd be very unhappy with the idea of just saying, oh well, we're just going to use the second paragraph, 3.4., out of context, and it's an interpretation of what that deleted paragraph means.

Keith Davidson: Sure. Good point, Martin, and I think Nigel's suggestion that this is more of the understanding the principle than trying to analyze the sort of-- with by weird character by character nature of the statement might be useful.

Martin, your hand is still up, if you could take it down. And Eberhard. Just for the record, Cheryl was indicating a tick, an agreement with Martin's comments. And Eberhard, you're next on the order.

Eberhard Lisse: Thank you. And I don't agree with Martin. I think the charter of this Working Group is this. So we cannot just say this is a done deal. We need to go and look at this. I do not really, my mind is made up, but we cannot just say because it's written in some part of the document, but

before it applies to every situation. That's what we have to figure out what it applies to.

Keith Davidson: Thanks, Eberhard. Martin.

Martin Boyle: Yes. Obviously would be the fundamental sake of following what Nigel is suggesting, and thus leaving second paragraph in it because then you are actually deciding that the first paragraph of 3.4 is not relevant in this case. I'm actually saying that you do need to look at that paragraph. You need to look at all of those, and you have to (inaudible) the new context.

On the slightly larger point, and I think the same thing will come up with when we look at the GAC principals, when you take a particular section of the document, just reading it (inaudible) information is actually just a little bit dangerous. Nothing-- you also have to try and understand some of the wider context of that whole document.

And I think there are other bits in section 3 about the appointment of the-- appointments of the manager and the role of the manager that are equally actually quite important when it comes to you then starting to think about what is essential to obviously (inaudible).

Keith Davidson: I believe Eberhard has his hand raised. I think we should really wind up the discussion on this topic fairly quickly, so we'll wind up with Eberhard's comments. But obviously we're going to continue to debate this in the future, and so it's not fair to (inaudible) as necessary for this section. Eberhard.

Eberhard Lisse: I just wanted to say that Martin and I are in agreement that we need to review this much deeper in the future.

Keith Davidson: Thanks, Eberhard. So, Bernie, I think noting that this is going to continue to cause us some debate, can we move ahead with the document and stay at a fairly high level at this stage, and just try and see if there is context around this statement as we proceed? Thank you, Bernie.

Bernie Turcotte: Thank you, Sir. All right. Not too bad. Only half an hour on point 3.1.1. Let's see if we do any better on 3.1.2. And given we only have 17 other subsection points, probably if we allocate about 25 hours for this, we can get through the first reading of the document. The-- it's a joke, guys. We've been together long enough.

Cheryl Langdon-Orr: I'm laughing, I'm laughing.

Bernie Turcotte: Since 3.5, the designated manager must do a satisfactory job of operating the DNS service for the domain. Here I think the whole section applies, and I've quoted the whole section. So, and under issues, we have--

n/r: Can you scroll down.

Bernie Turcotte: Pardon me?

Cheryl Langdon-Orr: We can all scroll now. Nigel, we all have our own scroll control.

Nigel Roberts: We do?

Cheryl Langdon-Orr: Yes. Kristina mentioned it.

Nigel Roberts: So we do.

Bernie Turcotte: There is no documentation or guidelines as to what constitutes doing a satisfactory job of operating the DNS for the domain. There is no documentation or guidelines as to what constitutes persistent problems with the operation of the domain. There is no documentation or guidelines as to the level of persistent problems with the operation of the domain would cause the revocation of the delegations. So that's what we have at this time for 3.1.2. And over to you, Sir.

Keith Davidson: And I see Nigel has his hand raised. Nigel.

Nigel Roberts: Okay. This is context from being there at the time, as much as anything else. Clearly, and this is how I read it at the time and this is how I read it 15 years later, this section has in mind the operation of the DNS with technical competence. It doesn't have in mind, at the time, and it should now have in mind, so I'm not trying to exclude this, the operation of a registry system. Because very many registries, apart from the largest ones, were quite often done just by editing certain files until quite late in the game.

So what this actually referring to is that the zone should stay up and it should not go down as quite a few TLDs did in the early days, disappear from time to time. And it's talking about technical competence in the DNS.

Now I would suggest that we need to explore this a little bit further, and say in today's modern world, this also implies running a registry system with competence. But that's not what the words actually say, and this is where the interpretation comes forward and this is where we can add value. That's my point.

Keith Davidson: Good point, too, Nigel. Thank you. Any further comments? Bernie-- or Stephen, I see you have your hand raised. Stephen.

Stephen Deerhake: Yes. With regards to Nigel's comments that we should expand this to include registry operation as well, are we not like tiptoeing into the policy area here that we've been trying to avoid?

- Nigel Roberts: Can I answer that, or do you want to talk about it?
- Keith Davidson: I think a brief answer, Nigel.
- Nigel Roberts: In a way, yes. But this is, shall we say, what's known as purpose of interpretation. You're interpreting based on the purpose of the section, rather than the literal words of it.
- Bernie Turcotte: Okay.
- k/d: I see it as a really fine line, and prepared to entertain it on the basis of it's not the way you run the DNS requires these days more, or is more likely to require, the entire industry function rather than, as Nigel suggests, the football (ph) database (inaudible) that can be amended in somewhat rudimentarily--
- Stephen Deerhake: I agree with that. I just want to make clear that we seem to be tiptoeing into a policy area. But I'm not objecting to this, I just wanted to just get that clarified.
- Nigel Roberts: I think we're just on the right side of it, but yes, you're right.
- Chris Disspain: Keith, it's Chris, when you have a second.
- Keith Davidson: Chris, I've got Eberhard who's been-- Chris. Eberhard.
- Eberhard Lisse: Chris, you go first.
- Chris Disspain: Thanks. I would just caution, I don't actually have an issue with what Nigel says in specific terms about the point that he's using, but I would caution against the principle of doing that because if you do that on this particular issue, you can't then take refuge in not doing it on a whole other issues. And I would just be very cautious about taking that little step on the overall stuff that we're doing, (inaudible) on this particular point and not through to some other.
- Keith Davidson: Let's agree. We're very close to the line; we just don't know which side of the line we're on at this stage. Eberhard and then Martin.
- Eberhard Lisse: I agree with what Chris said. Unless he clearly says that you must operate a registry in one form or other, without meaning you must operate a registry. You must-- you know this client (inaudible) to request, you must assign the names. If you have a zone with 500 names, you can do this in one other form, but we should-- I don't see any justification for this Working Group to start dictating that registries must be used or registry software must be used, even if two open source solutions are available, and if not, then or else. I don't see that.

Keith Davidson: Thank you, Eberhard. And Martin.

Martin Boyle: Yes, thanks, Keith. I'm listening like I'd say (ph) previously to scale a certain nervousness of thinking particular words that some say satisfactory job of operating DNS service to the domain. And then operate and then extending that to the whole of the registry operation.

And I think that then gets back also to the sort of earlier point that all the global environments you would expect and require the designated manager to be, do a satisfactory job of operating the DNS service for that particular domain

If the other thinks that Nigel is talking about are bad, they're going bad, then you would imagine that clause 4 would come in. And the Significantly Interested Parties in the domain would certainly start questioning whether the person was competent to do that line of job serving the local Significantly Interested Parties from the local (inaudible).

So I think he's trying to expand something that shouldn't be expanded, and note that there are concerns and that will come up in different areas.

Keith Davidson: So I think, Martin, you're right. You're linking the two. It speaks to 1591 together. And I think in attempting to tackle a topic of revocation, Bernie's highlighting that both are the current policy statements that should, that could potentially influence the way you'll think about revocation.

I think that's been an eastward discussion as well. Thank you all for the session. But Bernie, I think in the interest of time, can we continue to work your way through the document and just note the comments?

I think just we have a number of points that I can see emerging that we could probably focus on and we could probably focus a set of discussions on the Working Group list with those topics, too. But in the interim, Bernie, please continue walking us through the document.

Bernie Turcotte: Thank you, Sir. All right. Moving on to 3.2, GAC Principles. The things I--

Unidentified Participant: 3.1.2?

Bernie Turcotte: No, 3.2.

Unidentified Participant: Okay.

Bernie Turcotte: GAC Principles 2005, 3.2.1. Seven principles related to delegations and redelegations.

7.1, principle delegation and redelegation is a national issue and should be resolved nationally and in accordance with national laws, taking into

account the views of all local stakeholders and the rights of the existing ccTLD registry. Once a final formal decision has been reached, ICANN should act promptly to initiate the process of delegation or redelegation in line with authoritative instruction, showing the basis for the decision.

Then we've got some other things under 7.2 where the registry operating the country code TLD does not have a formal communication with its national government, and its core functions are operated under a different jurisdiction. Any action to redelegate needs to take account of the legal framework in the country where the registry is based. In the event of redelegation, the government and the ccTLD should be aborted (ph), continue named resolution, or, if necessary, a mutually agreed period in which due transfer to another TLD.

7.2.2, in the case of the disputed redelegation request where the relevant country code TLD registry is based in another country, and where there is not a contract specifying which national law should apply, the government and ccTLD should seek to find mutually acceptable solutions-- a mutually acceptable solution where there is no documentation or guidelines as to how to establish substantial misbehavior.

It is strongly recommended that in the case of new delegations or redelegations, particularly where a registry is based out of country, national governments and registry managers should agree on the legal framework and the specific contract conditions to be used to judge any subsequent disputes or redelegation requests.

And so I had a bit of a problem because, of course, GAC principles don't really directly deal with revocation, I thought were relevant after going over the document several times. And because it doesn't directly deal with the revocation of a ccTLD, the only issue brought up is how does this dovetail with RFC 1591?

Keith Davidson: We're not going to do that on this call.

Bernie Turcotte: I think Keith is asking us not to because we only have an hour and seven minutes left. So, but anyway, I thought, given our background, our charter and where we've been at that it was important to list those things and for us to at least talk about them.

Keith Davidson: And I think we'll entertain a quick discussion. I see four hands up. Nigel, Patricio, Martin, and Eberhard. Nigel.

Nigel Roberts: Mine is very quick. We thought that it's the GAC principles that have got the misspelling in misbehavior, not RFC 1591.

Keith Davidson: Thanks, Nigel. Patricio.

Patricio Poblete: Seems to me that the end-- that the text of the end of 7.2.2 doesn't really come from the GAC principles. It seems to be copy/pasted someplace else, with the misbehavior thing in it.

Bernie Turcotte: Yes, I think you're right, Patricio. I'll make sure that I review that, and if it's incorrect, it will be fixed.

Keith Davidson: Let's hear from the potential order of the (inaudible) Martin.

Martin Boyle: Yes, I was actually very alarmed to see the (inaudible) spelled misbehavior in that way, And so I think (inaudible) check what the original GAC principles say. And in fact, where it says where there is no documentation or guidelines, it should say where there is evidence that local stakeholders and the executives who support government proposals for redelegation, etc. So that actually don't need to-- seems to be the thought (inaudible) corrected.

But I actually have a sort of slightly more fundamental point than that, because I think in this particular text, we were looking at the process of redelegation. And last by its nature, and I think the whole of the text, there were quite a number of indications of the process that you would go through when you were significantly decided, (inaudible) to decided that you needed to change your manager.

And a little bit like the RFC 1591 comment I made, I think the same thing actually does also apply in here, that you can't quite just take section 7, the principles related to delegations and redelegations, and then just read them off themselves. I just think that it's bad to, and I'm sure it will be a big discussion that we have when we start talking about what might be things that-- might considered as being misbehavior, while those things actually then appear elsewhere in the GAC principles. And in a quite a number of places in the GAC principles. And then indicated essentially the things that the local community, which RFC 1591 is supposed to also flag that it is a matter of serving that local community.

And then, of course, I think each of this comes that sort of difference of interpretation with Nigel, while on the one side with the DNS, which does affect everybody. But there are a whole other things that then start to affect that local (inaudible) community.

Keith Davidson: Thanks, Martin. And good point. I think what Bernie is obviously trying to head check here is that the principles that are covered and within the GAC principles that relate to the topic. In any case, we have two speakers, Eberhard and Bill. And then I think we should sum up and move on. So Eberhard.

Eberhard Lisse: What does dovetail mean? And secondly, is 7.2 (technical difficulty) basically points out under what (inaudible), under what jurisdictions this can be handled if the manager sits outside. I do not agree with what Martin is saying especially in regards to the local Internet community. And I read again GAC principles, which I do not give any (inaudible) from a particular situation to (inaudible) and should be sought in accordance with national law. So not in accordance with the use of the-- what should the (inaudible) stakeholders, one. (technical difficulty). However takes me (inaudible) of stakeholders (technical difficulty).

Keith Davidson: Thanks, Eberhard. Your audio was breaking up quite considerably. And I see everyone got the gist of the conversation. Bill.

Bill Semich: Yes, I just wanted to point out a couple things in 7.1 principles. The word "should" be resolved and "should" act promptly are being used, which is in contrast to the use of the word must in the RFC. So in some ways, I think this is choice of language is the reaffirmation of the concept of it being guidelines and not policy, which of course it says in 7.2.

And then another point, which it would be good to include somewhere in here about the GAC principles, the principles themselves in 1.3, again, reiterate that the principles are a guide for the relationships, not intended to be binding. And if either the government or the registry decide not to adopt the principles, this cannot be held against the registry, and the registry still has a valid existence.

So again, it's a nice touch point or a nice reference as we try and pull all this together. But it wasn't the intention, and Martin you can correct me, but certainly by the language, it wasn't the intention that this be sort of an international rule of law that governments have agreed to impose in ccTLD selection and redelegation.

Keith Davidson: And Martin, your response.

Martin Boyle: Yes, that is actually right, Bill, because ICANN is not a governmental organization. It's (inaudible) position to write treaty text, and therefore at the end of the day, what you have are a set of identifying rules. Well, not even rules; guidelines to help people on with their way and interpret what is happening.

And sort of certainly that was something that Martin threw some fairly acrimonious and very difficult discussions over a number of years to exactly what the fate is and what you could actually formally tell people it might be. And part of that problem is also based on the part of the previous GAC principles, the GAC principles from 2000, were actually

quite authoritarian, and in fact the GAC in 2005 the second batch from that.

And it is a shame you don't have any GAC people on this call, because I think that is probably quite a real discussion that we have to have with the GAC on how they would see how the sort of expectation of those principles. And certainly IT (ph) that executes (inaudible) that the various principles documents that they submitted to ICANN are in fact advice, and therefore ICANN should be turning (inaudible) very clearly say if there was anything in the advice that we can't accept.

Keith Davidson: Okay, thanks, Martin. Okay, again, I think the significant further discussion on this point, too. But Bernie, please continue trekking through the document.

Bernie Turcotte: Okay. So that would conclude our GAC Principle section. And we would move on to section 4, Relevant Procedures. As agreed in the previous document, we've got the note, these procedures are only presented for information on current practices and are not considered as applicable policy statements for the FOI Working Group. Hopefully that still meets the requirement.

The procedure we're talking about, of course, is understanding the ccTLD delegation/redelegation procedure from the IANA website, and the quote is there.

We have under the heading, requesting confirmation from contacts. Once IANA has completed its verification and analysis of the materials supplied in the request, it then requests confirmation of the redelegation from the current administrative and technical contacts, if applicable, as well as the newly proposed administrative and technical contacts paragraph.

If confirmation is immediate from all parties, IANA proceeds with the next step in the process. In those cases where confirmation is not received from one or more parties, further consultation is necessary full staff (ph). IANA's experience has been that a failure to receive confirmation from the existing or proposed contacts can significantly delay and complicate the process.

Keith Davidson: Wait, Eberhard is very eager to say something.

Bernie Turcotte: I think I just want to finish my issues and then I'll turn it over to people to shoot at it.

Keith Davidson: Sure.

Eberhard Lisse: No, I just wanted to-- what dovetail means.

Bernie Turcotte: Pardon me?

Eberhard Lisse: I just wanted to know what dovetail means.

Bernie Turcotte: Oh, from the previous point. Dovetail means how does it fit in, how does it work with.

Keith Davidson: It's a carpentry term as to how you might put together the drawers, wooden drawers where there's a--

Cheryl Langdon-Orr: Inscribe (ph).

Keith Davidson: A dovetail joint, which means two pieces of wood fitting tightly together on their own without the need for glue or nails or other assistance.

Eberhard Lisse: Thank you, but I didn't understand the terms. Thank you.

Keith Davidson: Sure.

Unidentified Participant: 12 (ph) and transfer then don't (ph).

Bernie Turcotte: All right, I'm going back to my issues. There is no documentation or guidelines as to what can significantly delay and complicate the process implied. It is unclear how a redelegation can proceed without the approval of the incumbent manager, if it is to be considered a transfer as per RFC 1591. So that's what I've got under this, and I'll be glad to throw it open to questions and comments.

n/r: Do I get the floor?

Keith Davidson: Martin.

Martin Boyle: I was quite happy to Chris to go first if he wants to.

Chris Disspain: I wasn't going anywhere.

Cheryl Langdon-Orr: It was Nigel.

Unidentified Participant: You're in a taxi.

Cheryl Langdon-Orr: Hopefully he is going somewhere, yes.

Martin Boyle: Well, yes. (Inaudible) in a taxi going nowhere.

I think, just as a little point I've made told for to (inaudible) significant delay, I've made this point before when we said that we would come back to derelict managers at the late event. And I'm also sort of conscious in the thinking actually happened when (inaudible) redelegated. The manager at the time just eventually refused to communicate.

And I think in both of those cases, we do have to sort of stop and say, well, if the regional manager isn't there any longer and somebody else is running it, running it for it, we probably need to just consider that as the particular fate, case in hand. And then also the paragraphs on refusing to answer, should that actually be some good reason to just seriously delay the process. So what I want to do is just flag off I think there is at least one, perhaps two, important issues to (inaudible) into one.

Keith Davidson: Thanks, Martin. And Nigel.

Nigel Roberts: I'm going to raise an objection to having this IANA procedures section in here at all. There's two points to this. The first is that it's entirely procedural and tactical. There's no policy or strategic merit to this whatsoever in our discussions. And secondly, even if there was some merit hidden away in there, something that we should be interpreting, it's not about revocation.

Keith Davidson: Okay. Thanks, Nigel. Eberhard.

Eberhard Lisse: Didn't we say at some stage we were not looking at this particular document?

Bernie Turcotte: I believe what we said, Eberhard, is that we needed to be very clear that it's not being looked at as policy, which is what the point of the note in 4.1 is. However, this is the only procedure which applies to taking a ccTLD and moving it from one manager to another. And as such, that's why I included it versus the cases that we've studied. So that's why I've got it in there, anyways.

Keith Davidson: Okay. I see I've got a speaking order of Bill and Elb (ph). But Eberhard, I think you're probably after a point of verification, so Eberhard, please. Eberhard, you're still on mute. Okay, you don't want to talk to us.

Eberhard Lisse: Sorry, I was on mute. This is very confusing, and I'm even more bound to confusing our GAC representatives who are only on occasionally participating on these calls. I think we should remove this.

Keith Davidson: Okay, thanks. Bill.

Bill Semich: I have a similar opinion of it, although I wasn't going to make a bid deal about it at this point because I think Bernie put it in here purely as informational. But at any rate, if I go through my notes here, the first note I wrote on this page is what's this got to do with revocation? And lo and behold, others share my question.

I know that it's the redelegation without approval or agreement by both sides that you're trying to get at, but it looks to me, looking at this

document, Bernie, that this whole redelegation, the historical redelegation process is procedurally being proposed to be replaced with the idea of a revocation and then a new manager. And putting in this policy sort of muddies the waters a bit, I guess.

Keith Davidson: Thanks, Bill. Nigel.

Nigel Roberts: Just very, very briefly at the end of it. This is about consensual redelegation, 4.2.1. And therefore for the reasons I said earlier, I think this whole section should come out.

Keith Davidson: Thanks, Nigel. And I think, again, Bernie, let's keep working through the document, recognizing all this and we've got 40 minutes left to this call at maximum. So please proceed and we'll take those comments into account along the way. Thank you. Thank you, Bernie.

Bernie Turcotte: Okay. Hopefully we've gone to, just to make the point, I guess, Nigel is talking about under 4.2.2. It doesn't say how a redelegation can proceed without the approval of the incumbent manager. So I think I understand the points that were raised, but after beating up on all of this, I thought it was useful to put it in, and it's easier to take stuff out if that's the will of the group.

Analysis of IANA reports on redelegations. We kept it simple here. IANA reports on redelegations do not always note or document if consent was provided by the incumbent manager, or a CNTC (ph), for the transfer. And in such cases, almost never explains why it is not documented.

Because of this, it's difficult to obtain a clear enough understanding of how many redelegations are unconsented by the incumbent manager. Additionally, minutes of ICANN board meetings, which deal with redelegation of ccTLDs, rarely document if a redelegation is unconsented.

So I think that's the only thing we can say, and certainly people can make the argument that it may not be relevant to revocation. But given where we come from, again, I thought it might be useful to throw in something relative to this. Because certainly the IANA reports never talk about a revocation.

I'll throw it open questions or comments.

Nigel Roberts: I quite like what's in section 5.

Keith Davidson: Okay, one comment from Nigel. No other comments? Carry on, Bernie.

Bernie Turcotte: Okay, you're just trying to lull me to sleep, I know it. I can't wait to see what's coming here.

Summary and analysis of issues. There is no definition of what is meant by revocation. The introduction of section 3 of RFC 1591 states that a new top level domain is usually created and its management delegated to a designated manager all at one, indicating that a ccTLD being in the root, and the delegation of the management of that ccTLD, are separate elements.

As such, revocation could be interpreted revoking the right for the incumbent manager to manage the ccTLD, but would not require removing the ccTLD from the roots.

So again, those are points for discussion and talking, and oh my Lord, Nigel's got his hand up. All right.

Nigel Roberts: I really like 6.1.1. I think it's actually gets to the heart of the sentence, because it uses the word usually in RFC 1591, which means that's what's expected. But it clearly captures that RFC 1591 considers these two operations as distinct--

c/l: Discreet.

Nigel Roberts: --distinct things.

Keith Davidson: Okay. Thanks, Nigel. Eberhard. Eberhard, you're still on mute. Can I get one of those fans (ph)?

Eberhard Lisse: Sorry there. Revoking the right for the incumbent, or revoking the right of the incumbent?

Bernie Turcotte: Maybe Bill can help us with the grammar, given he's always wordsmithing things quite well.

Eberhard Lisse: Maybe Becky should see us on the next call or something.

Bernie Turcotte: Or Keith is quite good with these things, also, I will note.

Keith Davidson: I think let's leave it in the interim, and I think it's a point of clarification. But let's stay at fairly high level.

Bernie Turcotte: All right. 6.2, there is no policy basis for a redelegation that is not consented by the incumbent's manager. If there is no consent for a redelegation from the incumbent manager, then the domain cannot be redelegated. It is possible that the delegation to the current manager could be revoked then delegated to a new manager.

So just trying to tie it in to what was in section 5 when we were talking about documentation of redelegation, not indicating if there was consent.

I'm not sure if Elb (ph) put down his hand and he's got it up again, but let's go for it.

Eberhard Lisse: No, I just wanted to make sure that we don't forget to review this particular issue from the previous paragraph. I have put considerable importance to it.

Bernie Turcotte: I will note it in the meeting notes, and I'm sure it will clearly show up in the transcript, Eberhard.

Keith Davidson: Thanks, Eberhard. And Nigel.

Nigel Roberts: This is where I'm really unhappy about using the word delegations, because it's clearly being used in its plain English sense and not in the technical sense here. I'd like us to try and use some more neutral language. I mean I know appointment is almost just as bad, but we really can't imply here that it's a delegation as if we're-- it's the senior who holds the feast while the sovereign (ph) thinks it, doesn't change his mind.

Bernie Turcotte: Nigel, just to be clear, you're talking to the point on 6.2.1 at the end of the sentence?

Nigel Roberts: Yes. The word-- the delegation to the current manager could be revoked. So clearly delegation to current manager is delegation in the plain English sense.

Bernie Turcotte: Ah, okay, that delegation. Okay.

Nigel Roberts: So I would say revoking the-- find the word.

Bernie Turcotte: I think what Keith is telling us is let's not try and wordsmith this--.

Nigel Roberts: No, no. I'm not trying to rewrite it on the fly; I'm just trying to raise a flag so that we can bear that point in mind when you revise it.

Bernie Turcotte: Yes, I think I understand your point and I'll note it and we can beat up on it. As Keith has said, I think we'll be playing with these words for quite a few months. Okay, noted, 6.2.1.

Keith Davidson: Yes, I think it's more a question of the rich and (inaudible) of the document and saying at a principle level that-- and I think given that it likely will be a month away from our next meeting, let's not try and get too much into the finessing those words, but say it in (inaudible).

Thanks, Bernie, please continue.

Bernie Turcotte: 6.3, although there is a policy statement dealing with revocation, section 3.5 of RFC 1591, which is the DNS operation clause, there is no documentation, including processes or procedures, regarding revocation.

6.3.1, it would seem reasonable for the FOI Working Group to develop basic guidelines to frame the development of processes and procedures for the revocation of ccTLDs by IANA. These guidelines should include, and there's a truckload of stuff, so before we get into the details, if we're-- maybe we can just talk to 6.3 and 6.1 and see if there are thoughts or comments.

Keith Davidson: Nobody appears to have any comments. Oh, Eberhard, please proceed.

Eberhard Lisse: Are we now really going to develop policy, or are we interpreting policy? I think we agreed that we do not do anything that will create policy. We just interpret existing policy. If there is no policy, we say there is no policy and then a policy development process can be decided upon by the ccNSO.

Keith Davidson: I think providing that we make suggestions that could be, that are interpreting policy, and if they're around set of potential guidelines or roadmap for IANA to use, then I don't think that's inventing policy. I think it's interpretation. Eberhard.

Eberhard Lisse: Keith, Keith, you, me, and nobody else can interfere in the bilateral relation between the IANA function contractor. And any given ccTLD has no position, the FOI Working Group has no position to make such policy. As simple as that.

Keith Davidson: Yes, I don't think this is an issue of making policy. This is the question of the Working Group, along with IANA, and there's no IANA staff on the call, but if there is agreement that this is within policy, and this bit of processes or procedures provides clarity in most policies, then I don't think we have a problem. Anyway, I see Stephen and Nigel with their hands up. Stephen.

Stephen Deerhake: Can either you or Bernie flush out a little bit for me what you mean by basic guidelines as opposed to guidelines in general? I mean what's that distinction?

Bernie Turcotte: Well, if I can take that one, Mr. Chair.

Keith Davidson: Thank you.

Bernie Turcotte: I think what we've tried to say is Eberhard is quite right; we're not developing policy. I do not see this as talking about developing policy. There is a very clear reference in section 3.5 RFC 1591 that there can be revocation. So I don't think we're talking about inventing stuff here.

What we don't have, what section 6.3 is talking about is that although there is a mention of revocation as a policy statement in RFC 1591, there

are no processes or procedures anywhere which refer how that could go through.

The second point is it's not really the FOI Working Group's job to develop processes or policies for IANA. However, as Keith has mentioned, it's our job to sort of maybe draw a box around it as to what the FOI is thinking about when it's interpreting policy statements so that IANA can use that while it's thinking about developing a process or a procedure.

Stephen Deerhake: They would be under no obligation to consider it, though.

Bernie Turcotte: Well, listen; I think if we go back to our original starting point from the DRD, what we said is we'll provide advice and guidelines for how we're interpreting the policy. And if it doesn't work, then the ccNSO, upon evidence of it not working, can decide to have a policy development process as per the ccNSO charter, and then ICANN will be bound by that.

Stephen Deerhake: Okay.

Keith Davidson: And just incidentally, we've been here already with I think the same document, we've got some suggested processes for IANA and to verify consent. In any case, I've got three speakers, Bill, Eberhard, and Nigel. Bill.

Bill Semich: Bernie, I'm a little confused by the construction and the relationship of section 6 and section 7. One where we're proposing some things so that in the guidelines that should include certain steps that need to be taken, and the other where we're asking IANA to develop the processes and procedures for those certain steps to be taken, some of which are duplicate of, or whatever, and others which are different. Can you give me a little explanation or help me understand the purpose of these two different sections, 6 and 7?

Bernie Turcotte: I think, to be honest, as I said when we started looking at this document, this is version 0.1. And I think under 6.3.1. was a bit of a scratch pad for me before I got to section 7. In a future version of this document, I would probably cancel out everything under 6.3.1, to be honest.

Keith Davidson: Thanks, Bernie. Eberhard, then Nigel.

Eberhard Lisse: Yes, I have asked in the past, how does the new NTIA FNOI play a role here? It states quite clearly that IANA couldn't function, IANA itself and its staff must be totally separate from policy and things like this. So I think this, I agree with Bernie; maybe you should take this out next version.

Bernie Turcotte: To be clear, I was talking about 6.3.1.1-- stuff under 6.3.1, and not thinking of section 6.3.

Keith Davidson: Thanks, Eberhard. Nigel.

Eberhard Lisse: No, I meant 6.3.1. Only 6.3.1. It's nothing wrong with saying that there is no documentation around, and but if policy needs to be done, then it's for a development process and not for IANA.

Keith Davidson: Well, I think here again, the issue is do other-- do the principles that are included in RFC 1591, and (inaudible) to the extent that they are and the GAC principles, are they clear enough that we believe that this bit of statement, if IANA were to agree to them, provides clarity to existing policy, or is it an invention of policy? And that's a piece that we'll have to apply constantly to this work (ph). But my belief is that it's sufficient to say this is clarifying policy rather than inventing policy, and it's just driving up (inaudible), not the policy itself.

Nigel has his hand raised. Nigel.

Nigel Roberts: Indeed. And again, I want to come at this from the bottom up rather than the top down. Let's just think about what the scope is of what this Working Group is. It's of the interpretation of existing policy. It's out of scope for us to make policy. It's out of scope for us to make execution procedures. Our job is to interpret -- that means to explain what the policy means and slash out the construction of the policy. In other words, to dissect it and expand on what it means.

This section, the whole 6.3.1- 1, 2, 3, 4, 5,6 and so on, perhaps they're all very fine things, but they're out of scope for this Working Group. These are things which should be created by the appropriate party when they know what the policy means.

So for example, some of what you've put in here, Bernie, is right to say the policy implies that if a revocation is contemplated, a fair hearing should be given. But that is the strategic statement, whereby we're putting color on the existing policy and you have to connect that to something in RFC 1591, for example, a non-existent IDNV (ph).

But by saying the IANA function must provide a formal notice, they must do public notice that runs for 28 days and things like this, that's executory and is out of scope. So I think this is very thin ice, and I think it's better that we take it out as is, and we address how do we put in the best parts of it in a form that fits in with the scope of the group.

Bernie Turcotte: Yes, and I agree with you. And as I'll repeat, this was a bit of a scratch pad. I was not thinking these would survive, but rather to do exactly what you're talking about. Give us a framework for how we could rewrite this and make sense of it, relative to our mantic (ph).

Nigel Roberts: Marvelous. I didn't think you bought yourself a black helicopter.

Keith Davidson: I think also, Nigel, it would be interesting to have Kim's input from an IANA perspective as to what maybe going too far. Let's just say, on a future call we'll get to have this conversation. Martin has his hand up. Martin.

Martin Boyle: Thanks, Keith. I've been sort of roughly in line with Nigel's analysis (inaudible) to the end of it. In fact, I must admit I started drawing the conclusion, and I think my conclusion is that the (inaudible) process, and perhaps 6.3.1.1 to 6.3.1.7, end up getting rather pre-scripted (ph).

But I think the direction I would go in is that as we start doing these pretensions (ph) of the policy that is already in place, we probably also need to start making sure that we're putting in place the right questions to ask so that we actually flag and the fact that there needs to be some form of consultation, or there needs to be some sort of process that allows or ensures that the right information is collected.

And I say this not because it actually helps IANA, IANA contract, or ICANN more generally, but it doesn't help those people who are looking at (inaudible) as to understand properly what the processes are and put the right thinking in place before they even start down this root.

So I see it a little bit as being an interpretation of-- a possible (ph) interpretation of policy that the information we need to understand (inaudible). Thanks.

Keith Davidson: Thanks, Martin. Okay I think, Bernie, please continue.

Bernie Turcotte: Thank you, Sir. That was 6.3.

6.4, there is a policy for revoking the delegation of ccTLD from manager for consistent problems with the operation of a domain. 3.5 of RFC 1591, there is no documentation of any procedures or guidelines to implement this policy statement, and there is no documentation of it ever being used by ICANN.

And what we've got under that is IANA shouldn't take public process for developing criteria for establishing what persistent problems with the operation of ccTLD are, which could result in the revocation of the delegation of a ccTLD.

I don't know if Martin still has his hand up, or if he wants to talk to this, but I'll throw it open to the floor.

Martin Boyle: Yes, I did actually want to talk to it because 6.4.1 sounded horribly like defining criteria of what the seriousness behavior context actually is,

which I think is not IANA but rather for us to see whether we can understand the documents enough to tell them that.

The second point I think I've raised is that that section 3.5 of RFC 1591, when I read it, I was sort of, after the first time, I was a little bit surprised that here you have some of the-- (inaudible) actually deciding the waters what is substantial misbehavior, and then going and doing.

But as time has gone on, I actually do take comforts from the concept, from the statement that it's never been used, from which I would actually draw in here is something that is exceptionally unusual. That it really is the (inaudible), completely enough we lost the top (ph) and everybody is suffering. And this is one of the reasons why I didn't like us stepping close to that line in the earlier discussions.

It just seems to me that 6.4.1 is very, very dangerous area for us to be going down that particular route. And really, it's almost at the point we're saying, well okay, if we do have to define what the circumstances are, then even there, I think it's actually very, very difficult to say in any sort of clarity, you need to (inaudible), as well as (inaudible).

Keith Davidson: Thank you, Martin. Eberhard.

Eberhard Lisse: I support Martin, and I do it, again, from the angle of that the newer FNOI from NTIA clearly states that IANA cannot develop policy and themselves cannot even be involved in any policy making. This is a policy-- if there is such a policy, then ICANN has to make it, that means it's the ccNSO PDP. IANA cannot do this, not that good. And you'll recall that I've been shot down quite significantly when I suggested that we review the FNOI because it may have impact on our work to this, in the group.

Keith Davidson: Actually yes, just that comment, Eberhard, I was reading through the statement of work and contract for the future IANA contract. And interestingly, they've seen quite a substantial back off. And so IANA, the clarification that applies to the contract group, IANA will not create policy. It may be involved in constant (ph) policy development. We're requested to do so, as a matter of interest.

Anyway, Bill, you had your hand raised. Bill.

Bill Semich: On the question of no documentation of any procedures or guidelines to implement revocation, I think Nigel may have mentioned this earlier, but if you actually look at RFC 1591 and read the relevant section, 3.5, it's all self-contained. It says it must do a satisfactory job. And then it says what these things are that must be done -- management of the assigning of domain names, which in my book I would call the registry process, but that's dubious, I guess, and other things. These are all technical

requirements, and in the cases where the persistent problems with the proper operation, and the operation has been defined in the paragraphs above, that delegation may be revoked. It doesn't say it will be. So I think we should just circle our wagons around section 5 and work on that as the process for revocation.

Keith Davidson: I think point well made, Bill. And I agree. I think it is quite clear, and I don't think any of the revisions that Bernie has included in anyway deviating from that proper management of the DNS is outlined in 1591.

Okay, we only have about 15 minutes left for this call, and quite a bit more to get through. So Bernie, can we-- having noted the comments, Bernie, can we continue now?

Bernie Turcotte: Yes, Sir. 6.5, the policy is the same as that IANA may step in for substantial misbehavior, two S's, yes, I know. Section 3.4 RFC 1591 raises several issues, which we've gone through in the section 3 of this document, does this statement apply to delegated ccTLDs? What constitutes substantial misbehavior? There is no documentation of examples of what constitutes IANA stepping in, should this be interpreted to mean revocation.

So those are just questions relative to the issues, and they are the same questions that were brought up in section 3.1

6.6, it's unclear how section in the GAC principles match up to policy statements for contested redelegations or revocations, which is a fairly clear restatement as what was in that section.

There is no requirement by IANA reports that clearly document and explain redelegations where the incumbent manager has not consented, which is basically a statement we grabbed from a previous document. I just thought it was useful to bring it in here, given our context.

So I'll take questions on 6.5, 6.6, and 6.7.

Keith Davidson: Okay, any questions? Nigel.

Nigel Roberts: I presume we're going to try and answer the questions in 6.5. That's the first point.

Bernie Turcotte: Pardon me, Sir, I didn't get that.

Nigel Roberts: I presume we're going to answer these questions, 6.5- 1, 2, and 3?

Bernie Turcotte: I guess that's part of our job.

- Nigel Roberts: And 6.6, I don't understand, and 6.7, I'm concerned about (inaudible). Because it says there's no requirement for IANA reports to clearly document and explain redelegations where the incumbent manager has not consented. We said that there aren't any.
- Bernie Turcotte: No, we said it shouldn't happen.
- Nigel Roberts: Yes, okay. Then I think we need to rephrase this ever so slightly, but I know where you're going.
- Bernie Turcotte: Yes. I'm just making sure the intention here is that if there is something that is done, that it's clearly documented that it's being done.
- Nigel Roberts: Yes, I see where you're going. And again, the way it's put, again, I don't want to admit the possibility that there are redelegations without consent that can only be a revocation for the binding appointment.
- Bernie Turcotte: Yes, I'm sure we can work on the wording, but you understand what I'm trying to do here.
- Nigel Roberts: Yes, I think we're good.
- Bernie Turcotte: Okay.
- Keith Davidson: Thanks, Nigel. Anything else before we move through the recommendations? If not, please proceed, Bernie.
- Bernie Turcotte: Thank you, Sir. Now I have to say, I didn't think we'd get to section 7, so I'm sort of really fully unprepared at this point because you've thrown me off.
- Keith Davidson: Point of order. Nigel.
- Nigel Roberts: It seems we're getting close to the end of this call, why don't we put this off so you can do some further work on 7?
- Cheryl Langdon-Orr: Stuffy in here.
- Keith Davidson: I guess the recommendations are the infinitely flexible aspect. And so I'm finessing the rest of the document first, and lay on the recommendations to flow is probably not all that inappropriate. And Eberhard has his hand raised. Eberhard. You're still muted.
- Eberhard Lisse: Sorry. So I'm noting just for the record, I have just dug up the little statement of work, section 3.2.5, separation of policy development and operational roles to contract the shell (ph) ensure that designated IANA function staff must, will not initiate it-- initiate, advance or advocate any policy development related to the IANA functions.

To contract yourself (ph) may respond to a request for informational request for interested and affected parties, as enumerated in section 3.1.3, to inform ongoing policy discussion and may request guidance of (inaudible) as necessary for the (inaudible) of IANA functions. This contradicts what Keith said in this regards. I just wanted to put it on the record.

Keith Davidson: I think that's providing excellent clarification. That's the point I made that IANA cannot develop policy. They can request policy clarification, and they can be on recruit as a party involved in discussions that may lead to policy development. Thanks, Eberhard, for that.

Okay. So the proposal from Nigel was to potentially suspend any discussion on the recommendations in this report. Bernie, is there any specific aspect of the recommendations that you feel should be covered on today's call?

Bernie Turcotte: I think just at a high level, we might want to just end the ideas. But I do agree with Nigel that given the input, I'll be going over this, and the next version of the document will be interesting.

I also think that given the input and our experience, we've got a whole bunch of points to put on the mailing list for discussion. So I can go through a very high level go-through and take a few comments and then we'll be done.

Keith Davidson: Okay. I think if you can skip through in three or four minutes, and I think that would be okay. But I see (inaudible) Eberhard has his hand raised. Eberhard.

Eberhard Lisse: As usual Bernard, can you please do this in small chunks?

Bernie Turcotte: Yes. I've posted a note with your comments and said that we would do it that way, and I'll be sticking to that.

Keith Davidson: Thanks. And Eberhard. Now his hand is gone. Yes, Eberhard.

Eberhard Lisse: I just actually wanted to first my agreement, but my big sticky finger finds it difficult to find the red button to push down. They are all square. I'm in the middle of little square buttons.

Nigel Roberts: Are they all alike or all different?

Keith Davidson: Thank you, Nigel.

Nigel Roberts: Say we're having to read this out, 7.1, IANA should undertake steps necessary to implement interpretation of policies. That grates on me.

You can't implement an interpretation. IANA should take note of the follow interpretations.

Bernie Turcotte: I believe I've cut and pasted that from our two other documents. So if we want to change that, no problem.

Nigel Roberts: I didn't see it in the other two.

Keith Davidson: I think (inaudible) might like to confirm (inaudible), because it is kind of an instruction for IANA. Let's worry about that later rather than now. Okay, Bernie, I think a very quick skip through.

Bernie Turcotte: All right, the 7.1.1. definition of revocation of delegation of a ccTLD. Revocation is used in RFC 1591 and refers to the rescinding of the rights and responsibilities of the incumbent manager to manage the ccTLD. I don't want to argue about this. It's just a placeholder. I did not spend a lot of time. I just said, okay, let's put a placeholder and I will get beaten up for it, but I tried to keep it sane and we can destroy it at will.

Process and procedure for revocation. IANA needs to establish a process and procedure for the revocation of a ccTLD.

And 7.1.2.2 and 7.1.2.3 are derivatives of the points we've talked about, and we'll change, so I'm not going to go through those.

7.1.3, interpretation of IANA stepping in per section 3.4 of RFC 1591, again a placeholder. No one get your guns out. IANA stepping in for section 3.4 of RFC 1591 should be considered as meaning that IANA can apply a range of actions, from mediation to revocation, depending on the situation.

7.1.4, substantial misbehavior as a basis for IANA stepping in, per section 3.4. The incumbent manager can be considered as significantly misbehaved. No longer meets the key requirements for supervising domain names in the ccTLD for which it is responsible, section 1 of RFC 1591. Or 7.1.4.1.2, no longer meets the key requirements of supervising the domain name. There is a spelling mistake in the ccTLD for which is responsible in the country or territory associated with a ccTLD, as per section 1 of RFC 1591.

7.1.4.1.3, the administrative contact name by the incumbent manager does not reside in the country or territory associated with the ccTLD, as per section 1 of RFC 1591.

7.1.4.1.4, substantial failure to act as a trustee for the ccTLD as determined as used in section 2 of RFC 1591. Note the term trustee is used to describe the manager's duty to serve the community and does

not describe the specific legal relationship the manager to the delegated domain.

So 7.1.4.5, I think I should be shot for, but that's okay. I'll let Nigel do that. Is convicted of criminal offense should (inaudible) relevant to its role as manager of ccTLD.

So, however, 7.1.4.1.1 to 7.1.4.1.4 are-- I picked up items from sections 1 and 2 of RFC 1591.

And there we go. So before we beat this up to death, there is definition of persistent problems. IANA needs to establish and publish a clear set of criteria to define persistent problems, and the stuff below it was probably myself getting carried away.

Applicability of GAC principles, IANA should respect applicable laws and court decisions.

And 7.1.7, IANA procedures for delegations and redelegations should clearly document.

So that's about where we are. Again, these are just my personal bits that I dragged out in creating a straw man which we can beat up on. So go for it.

Keith Davidson: Thanks, Bernie. Nigel.

Nigel Roberts: Actually, I think it's helpful what you've written there. It's going to require some knocking into shape, and like you say, probably pistols at dawn from time to time.

Whenever you say the IANA shall define something, my instincts say, no they shan't. That's our job. We're the interpretation crew. Whenever you say something that looks like we are defining policy, that's PDP job. And when you do a defining processes, that's executory.

So I think there's one that's all over all three, and I think we need to tease out and trash (ph) them. But there's some good stuff in here.

Bernie Turcotte: I completely agree with you.

Keith Davidson: Okay. Thank you, Nigel. And we are fully agree and support that--

Nigel Roberts: Can I just put it up again?

Keith Davidson: Yes, I have, sorry. Eberhard.

Eberhard Lisse: I think we should review my previous request that we should clearly differentiate between IANA as a function and IANA as a manager, or as a

contractor. And IANA is-- what is IANA? IANA is a function that is operated. The function cannot respect anything. IANA, by policy, who makes policy? I think we must be a little bit more clearer, and I note that this is a first draft, so I just wanted to put myself into the process.

Keith Davidson: Okay. Thanks, Eberhard. And I think that draws us to the end of discussion on the document, and I think it's been a very valuable discussion. So I thank you all very much for your contribution to (inaudible). I think it gives Bernie some serious debate (ph) to do some revisions, but I think we will hear the slightly more robust document in the next iteration as a result of the discussion. So well done, everybody.

And I think in drawing the meeting to a close, and any other business, I put up on the agenda my proposal that we don't meet on the 22nd of December, but we do meet on our next scheduled date of 13 January at 13:00 UTC.

Stephen Deerhake: Keith, you put 12 on the notes.

Keith Davidson: 12 January at 13:00 UTC. And anyway, I'll confirm that to the list, if everyone is happy with that. I notice that Cheryl is agreeing with it vigorously. So if there is nothing further from anyone, no additional items, any other business? No? Going once, twice, sold. Okay.

Cheryl Langdon-Orr: --talking.

Keith Davidson: Thank you all very much for a very useful meeting and for a very useful year. We might be talking again until next year, so enjoy your year-end festive season in the best form you possibly can, and we'll talk to you, anew and refreshed on the 12th of January. Thank you, all.

Bernie Turcotte: Absolutely. Thank you, guys.

Stephen Deerhake: Thanks, guys. Take care.

Bernie Turcotte: --end of the year to everyone. And if anyone gets into withdrawal because we've got so many weeks between our calls, just send me an e-mail and we can set up a call and I can let you beat up on the documents.

Keith Davidson: Thank you, Bernie.

Unidentified Participant: Thank you.

Unidentified Participant: All right, guys. Happy new year, guys.

Nigel Roberts: Bernie, are you still there?

Bernie Turcotte: Yes.

Nigel Roberts: I sent you a Skype message so you kind of have this as editable text so I can play around with it.

Bernie Turcotte: Okay. No problem. Thanks.

Nigel Roberts: Because I've got withdraw symptoms. Thanks a lot, goodbye.

Unidentified Participant: Bye everybody.