

## Transcript

### Framework of Interpretation Working Group

10 November 2011

Keith Davidson: Good evening, everyone, or morning or afternoon. It's afternoon on Wednesday for us in American Samoa, so I'm not in a position to be leading the world around. In fact, that's the very last place and time in any given day. But, I think we should make a start to the meeting. And Kristina, can we have a list of those present and those who have apologized, please?

Kristina Nordstrom: Sure. From the ccNSO we have Ugo Akiri, Keith Davidson, Chris Disspain, Stephen Deerhake, Eberhard Lisse, Kathryn Reynolds, Dotty Sparks de Blanc. And from liaisons we have Cheryl Langdon-Orr. From staff support we have Bart Boswinkel, Kim Davies, Kristina Nordstrom, and Bernard Turcotte. And apologies from Frank March, Martin Boyle, Suzanne Radell, Dejan Djukic, Patricia Poblete, Paulos Nyirenda, Bill Semich, and probably Jaap Akkerhuis.

Keith Davidson: Well, thanks, Kristina. And are there any further apologies? There's someone who's from (inaudible). If not, can we move on to item two on the agenda, the confirmation of the meeting report from 27 October? That document that's been out for quite some time, so it's been (inaudible) and just ask if there are any corrections or amendments.

No? If not, we'll consider the meeting report confirmed. And sorry, Kristina, I think you're changing the document just a little bit too late.

Bernie, were there any action points from that meeting that are not otherwise covered anywhere?

Bernard Turcotte: I don't believe so. And just make sure here. No, I think we're going to cover everything in the upcoming items on the agenda, sir.

Keith Davidson: Excellent. Thank you. Okay, then moving on to item three, it's the review of the Significantly Interested Parties paper.

I think -- can I just ask. I'm hearing a lot of interference on this line, so can I ask everyone who's not talking to please mute? And I see a number of people who are on the Adobe Connect room who have speakers or microphones turned on. So, if you could mute those as well.

And -- well, hopefully this will be our final, final, final, final, final review of the Significantly Interested Parties. It is (inaudible). And as I understand it from Becky and Bernie, you worked hard in Dakar to get the final amendments into place.

So, Bernie, can you talk us through the final amendments and see if we can get a final agreement to proceed to the next (inaudible) with this document?

Bernard Turcotte: Yes, sir. We've had some problem with the redline so we're going to work from the regular document. I'll pull up the redline so I know I'm talking about the right thing on my screen here. So, hold on just a sec.

Okay. So, we are talking about version 2.7 of the document. It's been in circulation for a week. The first change is in section three in the title where we accommodated Bill's requirement that we had the GAC Principles in there and he felt much more comfortable with guidelines. So, that's been replaced as requested.

Becky Burr: Hi, it's Becky.

Bernard Turcotte: Hi, Becky.

Becky Burr: Hello.

Bernard Turcotte: There are no other changes until section seven. And I will pop that up in a second.

Keith Davidson: Bernie, I just noticed -- I'm just looking at the redline copy. There seems to be some change, but it may be just formatting under 5.1.5.

Bernard Turcotte: 5.5. Yes, that's just formatting. In the clean version, it washes out.

The next change is section 7.1. And basically, we've added "should." So, "IANA should undertake the steps necessary to implement the following interpretation of policies."

Are we all okay with that? Okay, it sounds like it's a go.

The next change is in section 7.1.1. Make sure we've got that up. And basically, shortened it and added basically, "or others that have a direct material legitimate and demonstrable interest in the operation of the ccTLDs." We've removed the, A, actively engaged. And we have "direct material legitimate." So, we adjusted the wording as per the meeting in Dakar.

Is that okay for everyone? Sounds okay.

Becky Burr: Silence is golden.

Bernard Turcotte: Yes. Next change, 7.1.1.1. We've replaced "re-delegation" with "transfer or uncontested re-delegation." Is that okay? Alright.

The next change will begin 7.1.1.2. And basically, we've just replicated the change from 7.1.1, but just -- as we discussed at the meeting, to make sure that people must demonstrate that they are Significantly Interested Parties. Is that okay for everyone?

Okay, I'll take it as being acceptable.

Racing along, 7.1.2 has quite a few big rewrites and basically removes most of the --

Keith Davidson: Just a moment, Bernie. Eberhard has (inaudible). Eberhard?

Bernard Turcotte: Sorry, Eberhard.

Eberhard Lisse: I have been still thinking about -- and some others have still been thinking on 7.1.1.1. I haven't finalized my thoughts, so this is not yet final, please. Just keep this in mind, yes? We have some issues there with this. Bill has made some comments, but he's not -- offline, but he is not available now. So, I don't want to go -- to make this go unremarked.

Bernard Turcotte: Alright. So, we'll put a placeholder there for you, Eberhard. That's 7.1.1.1, correct?

Eberhard Lisse: Yeah.

Bernard Turcotte: Okay. So, we were at 7.1.2, "Applicants should be encouraged to provide documentation of the support of stakeholders for the delegation, re-delegation or replication requests. But, IANA should also provide an opportunity for stakeholders to comment on the requests by a public process." I think that Becky managed to capture our thoughts relative to that rather well. Are there any questions or comments on that?

Okay. Moving on to 7.1.2.1 was--.

Keith Davidson: Bernie, sorry to interrupt again, but there is some awful background noise coming through on this. Can I again ask everyone who's not speaking to mute? Thank you.

Bernard Turcotte: Alright. So, 7.1.2.1, "These requirements do not modify or eliminate the rights, if any, of a delegated manager prior to the adoption of C1591."

We're all good with that? I hear nothing and I see no hands up. I'll give it a sec. Okay.

7.1.2.2, stakeholders is -- this is a new statement. "Stakeholders is used here to encompass significantly interested parties, interested parties, and other parties referenced in our C1591. So, we're basically using stakeholders to capture the whole lot of those.

Are there any questions or comments on that? And this was discussed in Dakar.

I don't see anything and I don't hear anything, so I seem to think that's good.

71.23 was adjusted from what it was in the previous section. It's completely new in the redline because it changed places, but it's a similar paragraph to what was there before. I'll go through it. "Classification of Input. IANA should develop, publish and document its compliance with procedures for consideration of input from stakeholders, taking into account the nature of the commenting party's interest in the delegation, transfer," quote -- sorry, bracket, uncontested -- seriously, "uncontested re-delegation, revocation and operation of the ccTLD and the relevance, substance and weight of such input. This classification should be based on the FOI Working Group interpretation of Significantly Interested Parties."

"This classification must also take into account that, in the case of the delegation, Significantly Interested Parties should agree that the designated manager is the appropriate party and that other stakeholders have some voice in selecting the manager. In the case of the transfers, stakeholder input should be considered and taken into account."

I think this tries to capture everything we talked about in Dakar. To my mind it does, but I'll be glad to take comments or questions.

I don't see any hands. I don't hear any voices. Okay.

Moving on to 7.1.3. Minor modifications, the intent essentially is the same. "IANA reports on delegations, transfers and revocations should reflect consistent application of these FOI Working Group recommended guidelines and should include the detailed results of IANA's evaluation of stakeholder input regarding the request of action."

Is this okay for everyone? Going once, going twice. I see no hands. I hear--.

Keith Davidson: Appears to be.

Bernard Turcotte: Pardon me, sir?

Keith Davidson: It appears to be acceptable to everyone, so please continue, Bernie.

Bernard Turcotte: Okay. We -- as per the meeting in Dakar, we've touched up 7.2, 7.3, and 7.4. So, we'll run through those just to make sure everyone's comfortable with those. In the redline they show as new because they got moved around, but there were more edits than complete changes.

7.2. "The IANA functions manager is requested to inform the GAC and ccNSO at each ICANN meeting on the plan in progress to date in implementing these FOI Working Group recommended guidelines." So, I guess the big change here is the IANA functions manager terminology.

Are we okay with that? Okay. I don't see anything. No noise, alright.

7.3. "Should the IANA functions manager choose not to comply with these FOI Working Group recommended guidelines in connection with sending specific delegation, transfer or revocation, it should provide the

rationale for doing so in the public reports." Again, I think it's more of the terminology for the IANA functions manager.

Questions, thoughts, comments, corrections? I don't see any hands and I hear no noise. Okay.

7.4. "Any changes to these FOI Working Group recommended guidelines should be the subject of a formal public consultation as per ICANN standard procedures," which is essentially what was written there previously. So, there is -- I'm not even sure where the change is officially on that one.

Is that still okay with everyone? Okay.

So basically, that's it. We've run through it and we've got a placeholder for Eberhard on 7.1.1.1, which basically states -- let me get that back up here. And we've got that there. "This provision does not eliminate or replace the requirements in the consent topic regarding the consent of the proposed manager and in the case of a transfer or uncontested re-delegation the incumbent manager."

So, EI, how do you want to handle this? We've actually run through the whole document and I think we're pretty good. Are you still thinking about this or --?

Eberhard Lisse: Yeah. I have been totally snowed in this week, so I had some really big issues to deal with so I haven't finalized this. And we have been having some discussions offline, so -- with some of the people. So, I'll not finalize this. I think we put this on the mailing list and we should be able to put this on the -- and have this finished by the next call so we can put this to bed finally before or on the next call.

Unidentified Participant: Eberhard, can I ask what your exact problem is with the current writing?

Eberhard Lisse: Sorry, I'm still not ready to put my thoughts in -- out. They're not -- I haven't totally reflected it. I don't want to talk about this.

Bernard Turcotte: Okay, Mr. Chair, I think I've done my part on this, so I'll hand this back over to you.

Keith Davidson: Yeah. I'd just -- I do have some concerns that this is the fifth occasion we've vetted this document and I -- in the absence of hearing an actual concern, I would like us to move ahead and go to the next stage, if we could. So, I don't have any clarity --

Eberhard Lisse: Sorry.

Keith Davidson: As to what Eberhard --

Eberhard Lisse: Just answer me on this one. We still have got some issues with regard to SIP and whether -- when it applies. And I haven't been able to finalize my thoughts and I don't want to put some half-cocked stuff up here now.

Please give me a few more days just to finalize our thoughts -- or my thoughts on that.

Keith Davidson: Thanks, Eberhard. I see Stephen has his hand raised. Stephen?

Stephen Deerhake: Quoting from some correspondence on this that's been kicking around on 7.1.11, does it -- it in some minds appears to permit the exclusion of contested re-delegation that will take place without the incumbent manager's consent. Is that a possible interpretation of that language now?

Bernard Turcotte: This is Bernie. Can I ask Becky to step into this, because I think --

Becky Burr: Yeah.

Bernard Turcotte: She readjusted that to specifically address that.

Becky Burr: So, I think that the current language suggests that the only place you could have a re-delegation without consent would be in a situation where there is the sort of substantial misbehavior issue, which we haven't discussed and we have to flesh that out. But, I think at least where I got to in drafting this, and I think I intended the language to reflect this, is that absent the substantial misbehavior, a re-delegation requires consent. And so, I think the big question going forward is what's the substantial misbehavior standard and all of that. But, my intention in the current drafting was to sort of move us into the place where we get to those questions next.

Keith Davidson: Okay. Thanks, Becky. Does that help clarify at all for you, Eberhard?

Eberhard Lisse: Yes, but it does not finalize this. At least give us a little bit more -- give me a little bit more time and give these people who are actually discussing this offline a little bit more time to reflect on this. And I do not want to be pushed into putting this to bed today.

Keith Davidson: Bernie --

Becky Burr: I have some -- he says -- at some level -- I mean, I do think that there's a way in which all of this holistically has to tie up. And so, there's a way in which I think we probably won't totally reach closure on this issue until we reached closure on the misbehavior issue. But -- because I do think that that's a -- that's another very significant topic that needs to be discussed, but one that we haven't really -- that we don't have closure on right now.

Keith Davidson: Thanks, Becky. And I'll -- yeah, I'm not trying to bulldoze us through. I just think we have had some time on it. I think Chris says the same (inaudible). Chris?

Chris Disspain: Thanks, Keith. I once again find myself in a state of some confusion. It's actually nothing to do with Eberhard's position. It's Eberhard's position and that's fine. But, I'm not entirely clear what the connection is with misbehavior. So, absent -- my understanding -- my reading of this -- and to be fair, I wasn't involved in the discussions in Dakar. My reading of this is that the Significantly Interested -- it's a definition of what Significantly

Interested Parties are. And 7.1.1.1 seems to me to be simply a statement that says, irrespective of what the Significantly Interested Parties say, there is a requirement for consent of the proposed manager. And in the case --

Becky Burr: I agree.

Chris Disspain: Transfer the incumbent manager. That's all it means. I don't understand what it's got to do with misbehavior.

Becky Burr: So, Chris, just to be clear, I completely agree with your reading. The exception to the consent requirement is when there is significant misbehavior, which --

Chris Disspain: Right.

Becky Burr: Is an issue that we haven't discussed. But, I completely agree with you that -- and that, in the ordinary course, you require the consent of the incumbent manager and the proposed manager.

Chris Disspain: Right. Okay.

Keith Davidson: Okay. Look, I think on reflection -- and I thought this was a pretty straightforward and probably readily agreed to clause, but let's keep that placeholder in place for a moment. And I wonder if -- I mean, I've seen no list discussion on this since Dakar. I'm failing to really get to grips of what the issues are. But, could I -- Eberhard, could I urge you to raise the matter on the list over the next day or so with a view to resolving it by no later than next Wednesday? And if there is a need to hold back this document, we could do so at that point but, if it can be resolved, I'd really like to see it resolved. And so, I'd ask if that's satisfactory. And I see Eberhard has the same (inaudible).

Eberhard Lisse: Yeah. I'm quite sure we can do this because Bill Semich, who raised the point, is at the moment offline because of travel. And when he's online, we can do this on the mailing list. Yeah. I was very busy so I didn't really fully participate with input in his argument, but I'm just putting my hand up here so that this gets -- that he gets a chance to raise his point.

Keith Davidson: Okay. Well --

Eberhard Lisse: Yeah. So, just -- I hear what you say here. We should get -- as soon as he's back online we will advance something to the list.

Keith Davidson: Yeah. So -- okay, let's proceed on that basis.

Just before we sort of approve the rest of the document, Kim, I think you're online. And I just wonder if you have considered this -- yeah, the new statements and what might be required of IANA, and whether that presents any specific problems (inaudible) other than operationalizing.

Kim Davies: I am here. I haven't looked closely at the most recent version of the document. If you think that there's something specific that I should review with a careful eye, I'm happy to do so.

Keith Davidson: No, it's more just getting a feeling for where it had been. And I assume you did participate in Dakar and the editing of the document.

Kim Davies: I did.

Keith Davidson: I didn't want to have to come up with something that IANA has no chance of doing. And again -- and I see Eberhard (inaudible).

Eberhard, can you hear me? I can now, but can't anymore. Okay. (Inaudible) was just on the (inaudible) screen and said no more voice here.

Eberhard Lisse: So, I'm back now, apparently.

Keith Davidson: Okay.

Eberhard Lisse: Stephen wrote a little thing onto the list on this point of order; can we close 7.11 on the mailing list after discussion of it on the mailing list? I would support that point of order.

Keith Davidson: Okay. And I think that's exactly where I'm going to go. So, what I think we have resolved, and correct me if I'm wrong, is that we have accepted the document in its entirety except for 7.1.1.1 and that will go to the list and we will close discussion on that next Wednesday. So, I admit there's some compelling difficulty raised with leaving it in its current form. It will become the final text for the document. And I see Stephen has his hand raised. Stephen?

Stephen Deerhake: The question -- do they want to set some sort of timeframe for posting of discussions and then they -- that we can try to reach consensus on this?

Keith Davidson: Okay. Thank you, Stephen. And I see Chris has his hand raised. Chris?

Chris Disspain: Yeah. Just to say that I think we can, because we don't know that there is a problem yet. So, let's just say simply that we -- that Eberhard's agreed, or rather we -- we're expecting to hear from Bill and we'll work on it in the next couple of days.

Keith Davidson: Excellent. I think that sounds like the compromise. I thank all. And so, let us consider the Significantly Interested Party chapter closed, with a small opening for 7.1.1.1. The rest of the takers have agreed and that debate to conclude by next Wednesday if we can.

Okay. Thank you very much and I think that's really good progress on this document and it's close to being the second chapter concluded.

Unless there's anything else regarding the -- SIP document, can we move on with the agenda? I'm not hearing any further discussion on it.

So, can we go to item four on the agenda and the public consultation? And Bernard, I wondered if you could update us on any progress on the consent document consultation. I understand that it's due to close sometime in early December and -- I'm sorry. Can you hear me?

Bernard Turcotte: It's due to close December 1st, I believe, and our only comment so far is as stands.

Keith Davidson: I'm sorry; I missed the very last sentence there. And the only comment something.

Bernard Turcotte: Is a spam, an invalid submission.

Keith Davidson: Excellent. I'm so pleased that we're not exempt from spam.

Bernard Turcotte: However --

Keith Davidson: Okay. Thanks, Bernie. And can we then look forward to a similar consultation for the SIP document and ask Bart and Bernie to work on a timeline and process that will replicate a similar amount of time to enable reasonable input on the SIP document. I would like to, if we can, get this document out to consultation this side of Christmas so that we can potentially conclude the consultation period with the first ICANN meeting next year.

Bernard Turcotte: It's my plan to have this as a public consultation before the holiday break.

Keith Davidson: Excellent. Thank you.

Okay. Is there anything else we need to look at in terms of the public consultation processes? If not, we should (inaudible) from the agenda and the timetable of meetings going forward. Our next meeting would be on the 24th of November at 1500 UTC and going through the rotation.

I had heard a comment from one of the working group participants saying that the meeting times are (inaudible) of them and, of course, they're on everybody's -- I think this was the most reasonable time, although this particular call is always going to be the one that's most (inaudible) out to the US, part of Europe and parts of Africa. So, this is likely to be the lightest participation call of the three times. But, we have a series of meetings that should allow us to make good progress all the way through (inaudible).

Are there any comments or any discussion relating to this timetable, or can we positively confirm it?

Eberhard Lisse: I have my hand up, but anyway. Keith, this objection to the meeting times, I don't want to know a name, but was it from a civil servant?

Keith Davidson: No, it was from an ex-civil servant. Okay? But anyway, I haven't -- that is the only feedback I've had in terms of the new schedule. So, I'm inclined to think that everyone else agrees. Can I --

Eberhard Lisse: I think this schedule is (inaudible), but it's fair on everybody. So, everybody has to suffer once in a while. And if you can't suffer, doesn't take part in the call. In the end, it all evens out. We have been through this five times. And who doesn't -- who can't participate can't participate.

Keith Davison: Yeah. Okay. I think it is a system of dedication and those who are dedicated do join. But, I'll reiterate that we don't make a final and binding decision on the basis of one call. So, missing one because it's at the most extraordinarily bad time for you should not hurt your ability to keep up with the work of the working group and contribute to the decisions. Yeah, I think on the basis of one small objection I'm not going to seek to change or modify the schedule any further or the timing of the meetings. And so, we'll regard those as -- the firm schedule going forward.

And I think we should review, again, at the March ICANN meeting where the (inaudible) change though it the summertime and daylight savings, Northern Hemisphere, Southern Hemisphere. Fun and games yet again.

Okay. We have one more item on the agenda and that was that some on the working group had requested the -- that we provide transcripts to their calls. It is possible and we already provide audio recordings, but that's not everyone's cup of tea and just redigesting (inaudible) one of these calls. So, the idea that the transcript could be provided seems pretty solid to me. And we can do that with a turnaround time of 72 hours after the call. If we wanted to do it any sooner, it would cost arms and legs. So, it doesn't seem to be all that appropriate, but it would be another avenue of people to catch up on this. And so, unless there's any objection, we should proceed.

And I see Eberhard. So, Eberhard, do you have a comment?

Eberhard Lisse: I think the transcription is very good because listening to audio, for example, for Ugo, is very difficult because of the poor bandwidth. I have done some stuff a few meetings ago to take transcripts and make this into properly readable pdfs. So, I can look at the format of the transcripts and do this. I have a process that does this in two -- in one minute or so. So, I think transcripts is a very good idea and a record of this. Even if we don't publish it for the whole population, if we just publish it internally, it's very good because the -- it's almost as good as the record on the mailing list because we know exactly what's said. We can refer to what has been said and it makes things so much easier.

Keith Davidson: Excellent. Okay, so that's a strong message of support to proceed. And I didn't think there would be any objections, but I thought we should get the (inaudible) for that. And it's hardly a transgression of curtesy because the audio recording is there in (inaudible). And -- but so, yes, we'll proceed on that basis and -- unless there's any objections or other comments?

Okay. And is there any other business for tonight? Does anyone have anything they wish to add?

Eberhard Lisse: Yes, I have. Eberhard.

Keith Davidson: Oh, Eberhard.

Eberhard Lisse: I have, again, participated on this meeting only with the Adobe Connect. I'm not using the telephone. So, I'm using the Net Book. I'm not using the iPad. But, what I'm saying is, if we don't have telephone connection

but we have a reasonable Internet connection, that's a very good alternative that we should push.

Keith Davidson: Thanks, Eberhard. And, yeah, I think the next meeting I am at home for I will try Adobe Connect myself without the phone, so -- and it's been great to see the constant improvements in Adobe Connect and I -- that would be a nice next phase that to have a single device and connection.

Okay. Is there anything else?

Eberhard Lisse: And --

Keith Davidson: If not --

Eberhard Lisse: You can put the phone on mute and have it lying next to you so you can -- if it fails, just then immediately switch to the phone until you get confident. I'm so confident I tell Kristina my number, but I said she doesn't have to call me anymore.

Keith Davidson: Keep your phone. Thanks, Eberhard.

Okay, anything else from anyone? If not, I will declare the meeting closed. Thank you for your participation and we'll talk again on the 24th of November at 1300 UTC. Thanks very much (inaudible).

Kristina Nordstrom: Good night, everybody.

Unidentified Participant: Thanks.

Keith Davidson: Good night.

Unidentified Participant: Thanks.

Becky Burr: Good night, everybody.

Unidentified Participant: Bye.

Unidentified Participant: Bye.

Unidentified Participant: Bye-bye.

Unidentified Participant: Bye.

Unidentified Participant: Bye.