

TRANSCRIPT

Framework of interpretation Working Group Call

20 September 2012

ccNSO:

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Kristina Nordström: So from the ccNSO we have Martin Boyle, Becky Burr, Keith Davidson, Stephen Deerhake, Eberhard, Lisse, Paulos Nyirenda, Patricio Poblete, and Nigel Roberts. And from Staff Support and Special Advisors we Jaap Akkerhuis, Bart Boswinkel, Kristina Nordström and Bernie Turcotte. And apologies from Kim Davies, Dejan Djukic and Bill Semich. And I think Cheryl will join when she has finished with her call that she's on right now.

Keith Davidson: Okay thanks, Kristina, any further apologies? Anyone's name not read? If not, can we move on and confirmation of the agenda. The agenda was circulated around a week ago. I heard nothing. Any comments or changes? If not, can we move onto the September meeting minutes? Any comments, questions or clarifications required? Bernie, anything on there that wasn't otherwise covered it? I see Eberhard has his hand raised. Eberhard.

Eberhard Lisse: As I said, I wasn't available last time and due to my job I am not often. I sometimes have to be unavailable but I must express concern for Martyn Boyle stating that he was unavailable for several calls and didn't read the documents. I wonder if you shouldn't send the emails to his private email address.

Keith Davidson: Martyn?

Martin Boyle: Yes. No thank you.

Keith Davidson: Okay. It's your option. Thanks for the suggestion anyway. And I see Cheryl Langdon Orr has just joined the Adobe Connect session and may be finishing with her other call. Okay Bernie was anything asked in terms of the meeting notes that were not otherwise covered?

Bernie Turcotte: I don't believe so. Fairly straight forward.

Keith Davidson: In that case can we move on to item four on the agenda if no one has anything else regarding the September meeting and can we have a look at the progress report for ccNSO Toronto meeting? Bernie, do want to just get us through this?

Bernie Turcotte: Sure. Alright, basically nothing really new. This was based on the one for Prague and we just updated slightly. The beginning part is exactly the same thing so the only place where there are changes is progress in Prague. I'll just walk us through it by reading it. I don't think there's anything particularly sensitive. On the topic of obtaining and documenting consent in March 2012 the chair of the ccNSO submitted the final report on the (inaudible) documenting (inaudible) delegation and re-delegation of ICANN's Board of Directors for implementation. At the Prague meeting the FoI Working Group agreed to complete this work on all substantive topics, identify the (inaudible) on the topics to the ccNSO and the GAC to seek their endorsement. This will, again, include the recommendations on the topic of obtaining and documenting consent. The ICANN Board of Directors will be informed accordingly.

On the topic of obtaining and documentation support for delegation and re-delegation requests for significantly interested parties, the FoI Working Group has concluded a public consultation on its interim report on obtaining and documenting support for delegation and the re-delegation requests from significantly interested parties (inaudible) 2012 to 20 April, 2012. One comment was submitted and analyzed. In addition the FoI Working Group (inaudible) GAC. A response has been sent to the -- there's a (inaudible) to be sent to the GAC is under consideration by the Working Group. Response—okay, we will talk about it now. That's why that one's a little flaky.

Keith Davidson: I think that's reflecting the option. Either we would like to enter a response to the GAC or we will still be—

Bernie Turcotte: Exploration by Working Group. Exactly. So we didn't know which one it would be so that's why you got both in there.

The Working Group is working on a final report on the topic of obtaining and documenting--

Pardon me?

Eberhard Lisse: You were echoing.

Bernie Turcotte: Sorry. The Working Group is working on a final report on the topic of obtaining and documenting support for delegation and re-delegation significantly (inaudible). Once concluded, it will be published. The final report will be submitted to the GAC (inaudible) on the other substantive topics.

On the topic of revocation and unconsented re-delegation members of the Working Group made considerable progress on analyzing the issues and developing draft recommendations pertaining to the further applications of the delegation and unconsented re-delegation.

The Working Group will continue its discussions at its Toronto face-to-face meeting. The Working Group anticipates it will publish its interim report on this topic (inaudible) meeting.

On the topic of annual reports on delegation and re delegation, the Working Group did work on terminology and recommendations for annual reports on delegations and re-delegations. Once the interim report on the topic on revocation and unconsented re-delegations is complete. The Working Group has had six telephone conferences and a face-to-face Prague meeting and this includes this meeting. That's it, sir. Over to you.

Unidentified Participant: Is Keith snoring now?

Keith Davidson: No. I'm talking to a muted phone.

Chris: It's Chris. I've joined the call.

Keith Davidson: Hi Chris. Thanks for joining. Okay so I think, Bart, can I just ask you in terms of our normal processes, the progress report has to be in ICANN's hands by when to be published and sorted?

Bart Boswinkel: As soon as possible. So this is done on the -- it doesn't need to be in ICANN's hands. We publish it on the ccNSO website.

Keith Davidson: Any questions or observations about the report? Okay, we're relaxed and happy. Normally we would go through two readings but my concern here is that if we wait two weeks for a second reading it might get us too close to the meeting time for it to be published and since it's a fairly standard report, whether that's worthwhile. So perhaps what I'll do is repost this to the list asking for any changes over the next week on the list and then we'll proceed. If that's alright with everybody. Hearing no objections, we'll then move on.

Can we then move on to the big topic on today's agenda on revocation? We've got revised Version 4 draft and if we could have that up and, Bernie, would you like to talk us through the amendments -- the accepted and proposed amendments on the redline version? Thank you, Bernie.

Bernie Turcotte: Yes sir. That would be my pleasure. Right, so everyone should have it up on their screen. As noted there have been no changes at all that were not approved until—oh my. I don't like this version where you don't see anything. Okay. I was expecting this so I will bring on my version. Hold on. Alright.

Unidentified Participant: Somebody is definitely snoring.

Keith Davidson: I think—every time I hear there's a sound it's generating some sound on the Adobe Connect room. Is there a chance you could mute your Adobe Connect connection?

Unidentified Participant: I have actually my microphone muted all the time.

Keith Davidson: I wonder if it's your computer microphone. Do you have a second microphone somewhere because there's definitely a sound being generated from you?

Unidentified Participant: Okay. I'll check.

Keith Davidson: Where were we, Bernie?

Bernie Turcotte: For some reason it's not uploading properly. I will try it one more time because the version that was there. Just doesn't want to convert it. That's quite annoying. Let's go back to the version we've got and see if I can walk us through it from the version that I will open in my document. Okay.

Up until section 5, the only change to this point is the version number, the date, and (inaudible) okay and let's make this a little bigger. Too big there. And moving along from there the first change is in section 5.2.2.3 and that will take us there.

Eberhard Lisse: Can you say the number again?

Bernie Turcotte: 5.2.2.3. And this is Becky Burr proposed change to address Nigel's comment on clumsiness of original text. What we've got there is the right text. It just refuses to be (inaudible) so I will read it for everyone. The FoI Working Group believes that it is also consistent with the purpose of RFC1591 to interpret the phrase, "I am not stepping in," meaning that the IANA contractor would one, continue to be focused on the DNS Security and Stability and two, continue to deploy all means at its disposal to assist in resolving issues with incumbent manager. And that should be managers, of course. Or with the incumbent manager. I will note that. The text that you have in front of you on the Adobe Share is correct. Unfortunately it should be highlighted as a red line. 5.2.2.3 open it for comment.

Keith Davidson: Just as a matter of interest, Bernie, what is it that we—I mean, we had a red line copy circulated. What is it that happens on Adobe Connect that prevents that from publishing properly?

Bernie Turcotte: I'm really not sure. I wish I could tell you. Usually I can pull them up from the PDF-generated version on my computer but today it won't even take that.

Keith Davidson: Anyway. I see Becky has her hand raised. Becky?

Becky Burr: Yes, I just thought it would be useful to give a little bit of background on this. At the end of the call, not the last call but maybe two calls or maybe three calls ago, and what I did is I went through the transcripts of the call and, sort of, basically took the discussion and tried to implement comments that were received either with respective substance or just for construction and style. So I think what we're going through is my, sort of, using the scribe from the previous discussion about

these things just to try and implement suggestions and changes that people had talked about.

Keith Davidson: Okay. Thanks Becky. Any other comments? Martyn.

Martyn Boyle: Yes. I can pick that one up and that won't be as easy as you might realize. Can I ask a little question because I was trying to hunt for the RFC1591 text? I'm actually wondering why, in this particular case, it implies that the IANA is only focusing on DNS Security and Stability for this particular inaction.

Keith Davidson: Becky.

Becky Burr: That reflects a discussion about language that was earlier on in the document and that had, in general terms, we believed that the focus of the IANA contractor will have an exclusive one but that's just a reflection of language that we had talked about earlier in this document. Bernie, who knows the document better than I do, may be able to point out where but this is the language was (inaudible) in here for a while and although, in a slightly different but not materially different form.

Keith Davidson: Does that answer your question, Martyn?

Martyn Boyle: Not particularly, no. It just says it's in there because it's in there. My question is what is the anchor that has the particular conclusion and, as I say, I was trying to find my copy of RFC1591 but it seems to have fallen behind a desk or something and I haven't got it to hand.

Becky Burr: So I didn't mean to be contesting that it was in there because it was in there but that was an interpretation based on the focus on the nature of the necessary responsibilities and obligations that they were about stability, security and resolution and those kinds of issues and that was an observation that the group had made earlier based on the nature of the obligations set out in 1591 as the necessary obligations or responsibilities of what (inaudible).

Keith Davidson: Yes I think, Martyn, just perhaps if you have a read of the relevant clause in 1591 and review the text, you will get another chance to discuss this one on our next call so perhaps if you'd like to do that then, if you still see a gap or have an issue, raise it then. Any other comments? Becky, your hand's still up or do you want to comment?

Becky Burr: Sorry, putting it down.

Keith Davidson: Patricio.

Patricio Poblete: Yes, I have a question that the words "continue to" both in number one and two. What difference do they make? How would this be different if those two weren't up there?

Bernie Turcotte: Becky, I think this one's going to be for you.

Becky Burr: I'm sorry, I had just moved around the document. I'm trying to highlight the number of the paragraph we were on before.

Keith Davidson: Yes. 5.2.2.3 And the question is would you drop the words "continue to" immediately after the one and the two. And I think it's a good suggestion from Patricio that clarifies and focuses the—

Patricio Poblete: Actually, my question was why are they there? Are they supposed to make a difference?

Becky Burr: So I think we need to go back up earlier in the document. The language that I put in there was—is this searchable on here?

Keith Davidson: No.

Bernie Turcotte: No, but I can find anything that you want if you let me know.

Becky Burr: It says “the focus”. I think there’s an earlier reference that includes the construction “continued to be focused” and so I used that deliberately to reflect the discussion about the previous discussion about language. So if you look for “focus” or “stability” in the same document.

Keith Davidson: While we’re waiting and other people are looking and taking a (ten down). I’m looking through the document. I can’t find immediately but my suggestion and perhaps in order to proceed, let’s revisit the readability. This particular clause 5.2.2.3 I think was agreed by a group of people working on that in the background so there may have been some definitive reason. Can we review and come back to it at the next meeting, Patricio? Okay?

Becky Burr: That works for me.

Keith Davidson: Okay. Thank you. Martyn. Do we have the list, Martyn?

Martyn Boyle: I do. I found my copy of the RFC1591, at least my online copy and the actual text concerned simply says, “only in cases where the designated manager has substantially misbehaved would the IANA step in.” It doesn’t actually make any mention in there about that being an issue of DNS Security and Stability. It just says “substantial misbehavior” which is then addressed at length in the next section so I’m reposing my question as to why 5.2.2.3 is making this specific reference to IANA’s focus on DNS Security and Stability in this particular case.

Keith Davidson: Becky. Any comments on that?

Becky Burr: I am going to have to go back and look at that and I am almost certain that this was a text (inaudible) on a call that I didn’t participate in that refers back to some other text that we had discussed previously. Bernie, do you have any? I didn’t just make this up—it’s a reference to something else we had previously discussed.

Bernie Turcotte: Yes, it’s probably five or six meetings back. Maybe further so we’ll have to go through the archives and pull up the various pieces for Martyn.

Keith Davidson: Yes, Martyn, I think if I can just offer one piece of clarification from my notes here and that is when we got stuck on this I noted that three, or part five of three in RFC1591 states that the designated manager must do a satisfactory job of operating the DNS service for the domain and that was, sort of, a hinging factor that everything else worked from. This wasn’t a comment on whether the designated manager wore odd clothes or anything else but that nothing else would be a particular reason to revoke or be considered misbehavior unless it hinged on the operation of the DNS service for the domain. So that’s where I think it came from but we’ll take a look at that. I think Patricio and Eberhard both have their hands raised so, Patricio then Eberhard. Patricio. Can’t hear you.

Patricio Poblete: Sorry, it was on mute. Can you hear me now?

Keith Davidson: Yes.

Patricio Poblete: My understanding is that 5.2.2.3 is there because we had a discussion about what the “stepping in” means. The main interpretation is that it could lead to revocation but there is also an alternative interpretation that “stepping in” that could mean stepping in to help this manager that is apparently unable to perform his duty.

So the second interpretation that we’re saying is that it’s not inconsistent with 1591 and it could also be performed in the process of revocation but making sure that the domain continues resolving, for instance. And so if that is the agreed interpretation, I think we could be a little more explicit about that.

And also I should point out that committing the IANA contractor to deploy all means at its disposal is a little strong. There could be an accusation later that the IANA didn’t really put all their means out there to resolve some issue but that would be a bit of an overkill. I think we could moderate that a little.

Keith Davidson: Okay. Thanks Patricio. Eberhard.

Eberhard Lisse: I have two comments about Martyn’s intervention. We are not dealing with misbehavior here. We are dealing with stepping in and we are defining what it means. It would really help, Martyn, if you read the stuff that is being circulated if you can’t participate. It is really annoying to have to re-mitigate it every single time.

Secondly, I am extremely wary of us defining something that can lead to the revocation unless there is a really good cause and, therefore, we have spoken offline and online so that before—let’s put it like this. I don’t agree that IANA can step in because misbehavior is used in a different context. In order not to die in a ditch on this, we said, okay let’s make it so that everybody can live with it. But having to re-mitigate this every single conference call is starting to annoy me and I object against it.

Keith Davidson: Okay, thanks Eberhard. I see Patricio probably still has his hand up and Martyn probably wants to respond so, Martyn.

Martyn Boyle: Yes, thanks. I think that’s fine. I understand Eberhard’s frustration but I still think that we do need to look very carefully at the documents in front of us and the place where, in reference to “stepping in” comes in is in that section four and it is directly linked to misbehavior not to the DNS Security and Stability. Now the DNS Security & Security might be part of that. Nevertheless I think it’s got to fair question so say why are we deviating quite so substantially from RFC1591? That’s the only point I wanted to make. I’m sorry if it upsets you Eberhard but I do think this is actually an issue that does need to be raised again so we do properly understand it.

Keith Davidson: I think, Martyn, probably what I could suggest because this was a significant stumbling block to this group. But the clause that we’re dealing with here is about IANA stepping in and that our interpretation of that means that, by stepping in, IANA would be looking to assist in resolve the issues rather than revocation or some draconian or disciplinary action so that’s the main intent. And I think if you, Martyn, if I could ask you to re-read 3.4 and 3.5 of RFC1591, then I think you might come to the same conclusion that the rest of, or most of, the Working Group have that this is an appropriate interpretation relating to the limitation of the DNS. So if you could focus on that, Martyn, and then re-raise your question next week. But I see Becky, Eberhard and Martyn also want —Becky?

Becky Burr: Yes, I just wanted to say that I think that this is really not a complicated question. It is really an articulation of our, sort of, scoping what is the function of IANA and setting reasonable limits. It’s job is not to be the good guy police of the world but

to focus—sort of consistent with the way in which we have all thought about IANA's or ICANN's mission focusing on making sure that the DNS result for people would be dependent on the ccTLD.

So I think it's good to not only follow from the document but it does reflect a very common sense notion of what needs to be done by IANA as a central level and what we are going to need to (inaudible) sovereignty at a more local level. And so I don't recall absolutely the conversation but I think there are—it's just an ordinary interpretation that it's not IANA's job to be the global consumer protection authority or the local whatever it is. And those functions are normally performed by a sovereign with a different kind of legitimacy than ICANN or IANA.

Keith Davidson: Thanks Becky. I think the power of persuasion has applied and both Eberhard and Martyn have taken their hands down. So unless there's any other comments with the proviso that we've left Martyn to do some further reading and an opportunity to re-discuss next week if he still has issues and I noticed he's indicating he's not all that happy but never mind, we'll re-visit it next week. And Eberhard now has his hand up, so Eberhard.

Eberhard Lisse: Actually, I just wanted to agree with you. We don't need to re-mitigate this all the time and if we re-mitigate it once more then I will go back on my initial position and we'll start from scratch again. I'm fairly done with it. It's not a matter of frustration. I also don't want interpersonal and side issues and collateral things. I want us to move on please.

Keith Davidson: I also would like us to make progress but I think an understanding that some people who haven't been able to be on the calls in the last of months, we must get the opportunity to catch up because we are a working group that's based on the input and sometimes it's just a question of catching people up with the information and the pieces that have been covered by others. Anyway, can we move on and if there's nothing else on 5.2.2.3, can we move on to the next piece please, Bernie?

Bernie Turcotte: Yes sir. Gladly. Our next change is 5.2.3.3.1.1. I feel like a bingo—the note on this one should read new text from B. Burr to address concerns from 9 August meeting. So I will read it through. On balance, the Working Group believes that RFC1591 be read to impose an ongoing responsibility on ccTLD managers to carry out the necessary responsibilities and do an equitable, just, honest and competent job. Note, the existence of this ongoing responsibility with respect to a ccTLD will turn on whether or not RFC1591 formed the basis for that ccTLD delegation and, if not, the terms and conditions applicable to that delegation. Over to you, sir.

Keith Davidson: Okay. Any discussions? This again was quite contested that held us up for several meetings and Becky came up with the text here. Any other comments from anybody? Any questions? If not, then we move on. Thank you, Bernie.

Bernie Turcotte: Our next change is 5.2.3.3.6.1. The note says new text from B. Burr to address concerns from 9 August meeting by Nigel Roberts. The text reads, "It would seem reasonable to interpret this requirement in the current context as obligated to the manager to (inaudible) successful and understandable to prospective applicants and to apply these policies in an impartial manner treating similarly situated would-be registrants in the same manner." Over to you sir.

Keith Davidson: Okay, any questions? Any discussions? Okay. Everyone's reasonably happy. Okay, moving on to the very next clause, I think, Bernie.

Bernie Turcotte: Almost. 5.2.4.1. Misbehavior. New text agreed to by B. Bird, Nigel Roberts and others at 6 September meeting. Reformatted for consistency.

5.2.4.1.1 The Working Group interprets “behavior” in this context to refer to conduct solving the failure of this manager, one, to carry out the responsibilities of that role or, two, to carry out those responsibilities in the manner required by RFC1591. In this way, it is used in a manner that roughly equates to misconduct in public office. Under that standard (inaudible) a ccTLD manager would appear to have misbehaved if it willfully neglects to carry out the duties of a ccTLD manager and/or, in carrying out those duties, willfully engages in misconduct to such a degree and without reasonable excuse or justification as to amount to (inaudible) of his or her designation.

5.2.4.1.1 and 5.2.1.2. Over to you, sir.

Keith Davidson: Thanks, Bernie. Becky has her hand raised. Becky.

Becky Burr: Yes, I just think it’s important to put this in context and I know we talked a little about this on the last call but I just wanted to make sure that when we are talking about this language, we understand that this is independent of the competence of (inaudible) of the discussion which follows later in the document. So we have it interpreted that it includes some degree of willfulness or ongoing or repeated behavior. That does not mean that we’re saying 1591 should be interpreted to excuse, sort of, employee incompetent behavior. That’s in a separate part of the document. It’s a little hard to see this in the way that we’re going though it but I just wanted to put that into the framing.

Keith Davidson: Okay, thank you, Becky. Any comments or questions? If not, let’s assume everybody’s reasonably satisfied with those two clauses and, can we move on please. Bernie.

Bernie Turcotte: Yes, we’ll be dealing with 5.2.4.2, 5.2.4.2.1, and 5.2.4.2.2.

5.2.4.2.2 “Substantial misbehavior” would involve misbehavior as defined above that is either egregious or persistent. “Substantial misbehavior” would therefore appear to include 5.2.4.2.1 performing the necessary responsibilities of a designated manager in a manner that imposes serious harm or has a substantial adverse effect on the local or global Internet community. In this context, serious harm should be evaluated in the context of the IANA contractor’s continued focus of DNS Security and Stability as described above in section 5.2.1.3. The knowing repeated material failure to perform the necessary responsibilities of a designated manager in a manner of equitable, just and/or honest.

Or performing the necessary responsibilities of the designated manager in a manner that imposes serious harm or has a substantial adverse effect on the local global Internet community. In this context, serious harm, substantial adverse effect, should be evaluated in the context and in the contractor’s continued focus of DNS Security as described in the above sections.

That was a bit of a weird copy. I’ll have to go back and make sure I’m correct on that text.

Keith Davidson: I was just looking at my document as you were reading it and I see two hands, though. Firstly Becky, then after Becky, Eberhard. Becky.

Becky Burr: Sorry my hand just went up. I have no comments.

Keith Davidson: Thanks Becky. Eberhard.

Eberhard Lisse: I just also wanted to mention I think there is some drafting at IoC. The two paragraphs are basically the same and I think they must be re-drafted.

Keith Davidson: Okay.

Bernie Turcotte: Yes, I think there was a (inaudible) issue. I'll draft it right away.

Keith Davidson: If there's nothing else, can we move on? Thanks Bernie.

Bernie Turcotte: Sure. 5.2.5.1 Under Process for Revocation. New text from B. Burr to address numerous concerns from 9 August meeting. The FoI Working Group also believes this is consistent with the intent of RFC1591 to state that revocation should be the last resort option for the IANA contractor. The IANA contractor should use all means at his disposal to assist the manager to resolve any important issues with respect to the designated managers meeting the applicable requirements of RFC1591. Revocation should only be considered if the IANA contractor reasonably demonstrates that the manager is unable or unwilling, in an appropriate timeframe, to A, resolve specified material failures, to carry out its responsibilities under RFC1591, and/or B, to carry out those responsibilities in the manner required by RFC1591. If the delegation is revoked, the IANA contractor should use all means at his disposal to ensure the ccTLD will continue to resolve things and that a suitable replacement is identified by significantly interested parties in the manner previously described on an expedited basis. Over to you sir.

Keith Davidson: I think just before we open the floor for questions on 5.2.5, Patricio in the chat room raised the issue that at the end of 5.2.4.2.2, the last statement phrase is described above 5.2.1.3 and Patricio is pointing out that 5.2.1.3 doesn't exist so it's probably been a re-numbered clause. So Bernie, if you could note to reference the—

Bernie Turcotte: Yes, I'll fix up all of 5.24.2.

Keith Davidson: Beautiful. Okay. I'm moving on to 5.2.5.1. Any comments? Any questions? I see no hands raised. Martyn.

Martyn Boyle: Yes, I'd picked up on that use or means at its disposal to assist which somebody identified to as being perhaps unduly onerous when we looked at this in an earlier text 5.2.3.3.1.1. I think somewhere like that. It says the same consideration still needs to be (inaudible).

Keith Davidson: Okay. Noted. Eberhard.

Eberhard Lisse: It is to me quite clear that the IANA contractor must go out of its way to assist any failings ccTLD manager before drastic steps are being taken. Therefore this position is not really negotiable from my side.

Keith Davidson: Okay. Martyn.

Martyn Boyle: Yes, I think that actually goes to "using reasonable steps" but "all means at its disposal", that's actually very, very heavy.

Keith Davidson: Okay so I think perhaps a question of finding a compromise where I think yes, Eberhard, if you took it to logical conclusion it would mean that IANA would ignore everything else in the world to resolve this particular issue which maybe isn't quite what the intent of (inaudible). Anyway, Eberhard.

Eberhard Lisse: No, not every issue of the world. Only the means at its disposal. I disagree and my position has always been that IANA contractor doesn't have the right to re-delegate against consent even if there is misbehavior and if we compromise on this position, we have said and stated that IANA will try, as much as can be

humanly done, to assist the manager before they resort to drastic steps. And we're not going to go away from that if you want to contend this.

Keith Davidson: Okay perhaps, Martyn, you might consider some words that might be more—you might be more comfortable with what you could suggest and Eberhard could consider that doesn't necessarily change the intent but clarify. Okay, Martyn's indicating on Adobe Connect that he will (inaudible). So thank you. Any other comments? If not, can we move along please, Bernie?

Bernie Turcotte: Yes sir. 5.2.5.3 comment reads new text from Becky to address an August meeting. The text reads, The Working Group that the ccNSO undertake in (inaudible) of the act and interest of stakeholders to identify for further discussion possible procedures to be followed in connection with any proposed revocation of the delegation of the ccTLD based on the work of the FoI Working Group. These procedures should be reviewed and approved by the ccNSO as they will be responsible for monitoring these. Over to you sir.

Keith Davidson: Okay, any questions or comments? Everyone's happy. I'll take silence as happy enough. Okay, thanks Bernie. Can we move on?

Bernie Turcotte: Sure. Next change is in 5.3.2.2. It's not a full re-write. It's an add at the end of it. This is new text from Becky to address concerns from 9 August meeting. After the beginning of the text, I'll read the existing text in 5.3.2.2. The IANA contractor has not published its expectations as far as what constitutes a manager doing a satisfactory job of operating DNS service for the domain (inaudible) to ccTLD or what should be considered to be persistent problems with the proper operations of the domain itself. That test was agreed. There were no questions there. The new text begins here. The working group suggests that the ccNSO could provide implementation guidance by documenting different standards and generally accept the practices of DNS operations that have developed over time. The failure to comply with which would constitute problems with the proper operation of the DNS or the ccTLD. Over to you, sir.

Keith Davidson: Okay, that still is a little bit clumsy but I think the intent's quite clear. Any questions or comments? If not, moving right along. Bernie.

Bernie Turcotte: 5.3.2.3 9 August proposed changes which were not approved. This documentation could inform what it means for ccTLD managers to be persistent problems with the proper operation of the domain and (inaudible). Sorry I basically just cut and pasted it so we're trying to talk about the documentation I guess that would be developed in the previous (inaudible) to have these published. Over to you sir.

Keith Davidson: Okay, I see some hands raised. Firstly Becky and then Eberhard. Becky.

Becky Burr: Yes, I think there's some weird glitch in the numbering here but basically the notion is that IANA hasn't published anything but ccTLD (inaudible) it's in a good position to do that and to be helpful to IANA in providing guidance on that and that's what those two sections are supposed to address.

Keith Davidson: Okay. Thanks Becky. Eberhard.

Eberhard Lisse: I think we must stop this for the time being. We must redraft this properly because it's not easy to understand what's written there. It's not easy to understand what should be written there; what is meant. And generally accepted principles or best practices have never been accepted by most of the ccTLDs so I propose that we redraft the document and convene on our next meeting and do this over.

Keith Davidson: Okay Eberhard's asking for more time. Thank you Eberhard. Okay any other comments, questions. Becky, is your hand up again?

Becky Burr: No just last time.

Keith Davidson: Okay, if there's nothing else, can we move on? Thanks Bernie.

Bernie Turcotte: Yes sir. I just want to make sure, Eberhard, were you referring to all the document or just that section?

Keith Davidson: Eberhard.

Eberhard Lisse: All the sections that are not properly drafted. Whether it is—to be really honest, I find it actually quite difficult to follow some things so I'm a little bit worried about what's happening here.

Keith Davidson: Noted. Thanks, Eberhard, Bernie, can we move on?

Bernie Turcotte: Yes sir. Let's make sure we've got—the next action is 5.3.3 Definition of revocation. The note says 9 August .3 and subsection proposed changes not approved. So we'll put it on the document that we've got in front of us. Make sure we're talking about the right thing. 5.3.3. That's good. Yes alright. The text is good it's just the change is not highlighted. The first 5.3.3.1 is fine. There were no comments on that. 5.3.3.2 There was a proposed change which was not accepted at the end of the paragraph after bracket 2. "Delegation responsibilities for the," and then, "Management of the ccTLD to the designated manager," was added. So the term, instead of reading "the ccTLD to the designated manager", I believe it was even Eberhard that raised that. It was not very good spelling and we adopted that one to read, "Delegation responsibility for the management of the ccTLD to the designated manager." Which I think is just a writing correction to make things correct so I don't think of that one as being a huge one but I'll throw it open. 5.3.3.2.

Keith Davidson: I don't see anyone raising their hand. No comment. I see Eberhard is giving it a green too and still nobody's taking the floor so I think it's both clarifying.

Bernie Turcotte: Okay. Moving on.

Keith Davidson: Move onto 5.3.3.3.

Bernie Turcotte: Yes. 5.3.3.3 At such one should define delegation as the IANA contract manager identifying or acknowledging the identification of a proposed manager as the designated manager for the ccTLD. The responsibility for—okay, that was the big mess that we never got cleaned up. Hold on a sec.

Keith Davidson: Yes, I think we have the intent of the text but we need to rework this too, Bernie.

Bernie Turcotte: Yes, that one we need to finish rewriting. Basically, that was just the proposed change. Our next change is 5.3.4.1 which has been rewritten for Becky and is probably worth taking some time to go over. 5.3.4.1 The FoI Working Group also believes the intent of RFC1591 is that revocation should be the last resort option for the IANA contractor. The IANA contractor should use all means at its disposal to assist the manager to resolve any persistence issues, that the respective and designated manager of operations of ccTLD. Revocation should only be considered if the IANA contractor reasonably demonstrates that the manager is unable or unwilling, in an appropriate timeframe, to A, resolve such (inaudible) material failures to carry out its responsibilities under RFC1591 and/or B, to carry out responsibilities in the manner required by RFC1591. If this allegation is revoked the IANA contractor should use all means at its disposal to

ensure the ccTLD will continue to resolve (inaudible) in that a suitable replacement is identified in a manner described elsewhere on an expedited basis. Over to you, sir

Keith Davidson: Any comments? Any questions? Any clarification? I see Martyn has his had raised. Martyn.

Martyn Boyle: Just a simple question. Who is the IANA contractor reasonably demonstrating to?

Keith Davidson: Good point. Eberhard.

Eberhard Lisse: Perhaps to the manager that is being revoked.

Becky Burr: Hi. This is Becky. I'm sorry I'm watching my dogs and I still have access to the Adigo room so I'm just breaking in. I think it's just a, sort of, standard group. If it's challenged my question would be have is the IANA contractor put together a case that makes that case that (inaudible).

Keith Davidson: Okay, so it's the legal intent of showing reasonable demonstration. Does that answer your question, Martyn?

Martyn Boyle: Yes. I wonder whether that thought actually does need to be embodied in the text because at the moment, just reasonably demonstrating, I'm not at all convinced that those who follow us will actually know what we really meant.

Keith Davidson: We could footnote what that might mean. Eberhard.

Eberhard Lisse: Yes, we can reword this to be more clear but the point is we need to interpret 1591 to say the IANA manager—contractor doesn't have to demonstrate certain things. It's a very slippery and dangerous slope which I would not be able to support.

Keith Davidson: Okay. Martyn.

Martyn Boyle: I wasn't even suggesting that.

Keith Davidson: No. I don't think you would.

Becky Burr: I'm sorry. I think this can be easily addressed. I think Martyn is asking a, sort of, basic question that we can clarify here. I think what we're talking about is creating a record that demonstrates that it's there for other— for further consideration outside of that context.

Keith Davidson: Okay, thanks Becky. Martyn.

Martyn Boyle: Yes, I think that's a good point that Becky makes and I don't know whether it is picked up elsewhere but I think the obvious point is that there should be some opportunity for a manager who is under threat of revocation to at least have an opportunity to appeal against that and, therefore, that there is some due process and a clear obligation to demonstrate.

Keith Davidson: If there's nothing else I think Bernie can work on the text. And Patricio is asking actually what is the difference between 5.2.5 and 5.3.4? I think this is—5.3.4 is the—

Becky Burr: Sorry. Becky is back.

Keith Davidson: Hi Becky. Patricio, 5.3.4 is the actual process of re-delegation—or revocation and 5.2 5 is explaining the behaviors for the issues that would lead to it. So hopefully—

Bernie Turcotte: Well, maybe more to Patricio's point is here we've gone and maybe that distinction hasn't been made but, clearly enough, as we strayed into section 5.3, but we're now dealing with interpreting section 3.5 of RFC1591. And so we're going again into the process for revocation but this time with a concern raised under section 3.5 of RFC1591.

Keith Davidson: Thanks, Bernie. Any other questions or comments or observations? If not, can we move on? Thanks, Bernie.

Bernie Turcotte: Sure. New text is 5.3.4.1 from Becky to address concerns from 9 August meeting. The Fol Working Group also believes—let me make sure. Sorry. Wrong one. 5.3.4.3. The Working Group suggests that the ccNSO undertake, in consultation with a GAC and other interested stakeholders, to identify for further discussion possible procedures to be followed in connection with any proposed revocation for the delegation of a ccTLD based on the work of the Fol Working Group. This is fairly close to the text that we had earlier on and it is meant to me. Over to you, sir.

Keith Davidson: Okay, any questions or comments or discussions? Eberhard.

Eberhard Lisse: What paragraph are we discussing now?

Bernie Turcotte: 5.3.4.3.

Eberhard Lisse: I can't find 5.3.4.3 in my document.

Keith Davidson: Actually we had an inconsistency here looking on the screen. We go from 5.3.4.2 to 1.1.1.1 and it's not the—it doesn't include the new text. Oh yes it does. Eberhard, for clarification, 1.1.1.1, which follows on from 5.3.4.2, the first two sentences have been struck out so where it says the IANA contractor should develop and post procedures and then these procedures should be reviewed and approved by the ccNSO; those two sentences are struck out completely. And then the new wording starts with the Working Group suggests that the ccNSO undertake.

Eberhard Lisse: I am no longer able and also not really willing to continue working on this particular document because it doesn't make sense. It really needs—sorry Bernie, but it really needs to be redrafted in a way that is coherent. For me, I'm not willing to carry on like this.

Bernie Turcotte: It's the conversion process from PDF because I'm looking at the original one here and the numbering is okay so we'll just note that the conversion utility is being a little flaky and make sure that the net versions doesn't have these issues. We're done, anyway. We're done anyway. We're at the end.

Keith Davidson: But if anyone else has any questions about the proposed text for 5.3.4.3, the Working Group suggests that the ccNSO undertake, in consultation with the GAC and other interested stakeholders, to identify for further discussion possible procedures to be followed in connection with any proposed revocation of the delegation of the ccTLD based on the work of Fol working group. So if anyone has any comments, Eberhard.

Eberhard Lisse: I'm not sure I can live with this.

Keith Davidson: Clumsy text that arose out of the last meeting but—

Becky Burr: This is Becky, sorry.

Eberhard Lisse: I'm not done yet. I'm not done yet. I wasn't finished yet. I'm not sure about that. This is all (inaudible) in any way to make such recommendations. This is a policy development process. It has issues with regard to non-members of the ccNSO. It has issues with regard to delegations prior to ICANN, prior to 1591. It is an important issue. I am not really happy with it.

Keith Davidson: Yes, it is a very important issue. Becky, what are you seeking to clarify?

Becky Burr: I guess I don't really have a huge investment in this one way or the other. I think we're talking about procedures and we could be silent on this. I don't think that there would be a problem with it. I don't think it's a, sort of, an issue—there were a couple of other places where the reference to the GAC had (inaudible) and didn't work well but this is mostly, sort of, if there were procedures to be developed., the ccNSO could do them and develop them and just consult with other stakeholders in this. I don't think it's necessary one way or another but I don't think Eberhard's completely off base when he says that this is a little more than an interpretation. It's a suggestion or how we might go forward on this.

Keith Davidson: Stephen has his hand raised. Stephen.

Stephen Deerhake: Yes, this smells like policy. I concur with Becky, especially, but also with Eberhard that I think we're really going to get off into the weeds with this one. I think we should probably strike it.

Keith Davidson: Okay. That is a suggestion to the ccNSO to consider and, of course, it could lead to policy if the ccNSO desired. So, again, I think it's something that arose that was seeking to be inclusive and open rather than merely a suggestion. Anyway that sounds like there's a fair bit of anti-feeling but let's re-number and read it and contigue around it on the next call, perhaps with (inaudible). And Bernie, is that it for the document?

Bernie Turcotte: There are no other changes, sir.

Keith Davidson: Excellent. So we've made some fairly solid progress I think in some parts of the document and other parts we still have quite a bit of work to do. But does anyone have any other comments or issues relating to the broader topic of revocation? If not, can we then move on on our agenda?

We have two outstanding items, most under item five. One is the response to the GAC on consent and the other is response to GAC on (inaudible) and what I propose here is that I will get to the list our draft responses over the next few days. And I think timing will allow us if we finalize our responses on the next call we can get them in in time so I'll try and encourage debate on that so we can get those two items agreed as much as possible before the meeting.

Okay, is there anything else in terms of other outstanding items? We have a further call scheduled for the 4th October at 0500 UTC and then we're scheduled during Toronto to meet 1:00 pm to 4:00 pm local time, 1700-2000 UTC. If there's nothing else in terms of other business, I will draw the meeting to a close. But thank you all for your anticipation and we have a slightly earlier than normal or a very rigid to our fault one and a half hour debate. Thank you all for your brevity and coming and we'll talk to you all on the 4th October.

Thank you.

Becky Burr: Good night everybody.

Bernie Turcotte: Good night guys.

Unidentified Participant: Bye bye.