
KOBE – ccNSO: Retirement of ccTLDs PDP Working Group
Saturday, March 09, 2019 – 15:15 to 18:30 JST
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STEPHEN DEERHAKE: Can we start the recording?

BART BOSWINKEL: Are there any remote participants, Maria? They're all in this room?
Okay.

STEPHEN DEERHAKE: Then they're not remote. Wait a minute. I can't hear you. You need the microphone.

UNIDENTIFIED FEMALE: Nigel Roberts, Jaap (who is in here), Jason, Peter Van Roste, Bernard Turcotte, Holly Raiche are in the AC room.

STEPHEN DEERHAKE: Okay, excellent. Yeah, can you keep an eye on them if they start waving their hands? Okay, great.

Well, everyone, good afternoon and welcome to the face-to-face meeting here in Kobe. I apologize for the rooms. It's not our staff's fault. Kim asked for a properly-sized room and somewhere along

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the way that request evolved into what we're sitting in today. So, again, I apologize for that.

As you can see, we have a rather lengthy agenda. It actually is a little longer than that. With regards to administrative announcements, Bart will be handling the schedule update and walking us through the decision repository that he has developed. Bernie has completed the action item which is a revised version of the draft report that we've been discussing over the last several calls. Bernard will walk us through his latest revision on that. We'll have a break around then. There is a coffee break scheduled in the middle of this, and we will try to adhere to that coffee break so that you don't miss out on it.

Once we finish with the review of the revised draft, if we have a sufficient amount of time left which is probably going to be about 75 minutes or a little more, we're going to do a breakout on the oversight document. Bart is going to be leaving us after he finishes his administrative work in Item 2, but he should be back in time for the preparation for the breakout session and the breakout session itself. As we usually run these things, we're going to have flipcharts. Unfortunately, they're going to be out in the hallway. We apparently have the okay to do that. We'll split up into groups and do the usual brainstorming exercise and then come back and have each group's self-appointed or group-

appointed leader present their views on what they discussed on that.

If we don't have time to do that from start to finish, we will not do that and move directly into 6. But assuming we have done 5, then after we're done with that, we'll do a presentation of a slide set that has been prepared for presentation of the progress of this working group to both the ccNSO members meeting. That presentation I believe is on the first day in the first afternoon session, so the 13:00 hour session I think on Wednesday. That slide set will also be presented to the GAC when the ccNSO Council meets with the GAC.

Then last, we will have AOB and we will have a discussion of the next round of teleconferences leading up to Montreal.

That's where we are, and I believe we can move into Item 2. I'll turn that over to Bart. The floor is yours, sir.

BART BOSWINKEL:

Thank you, Steve. Marie, can you put up the schedule document? Before I run you through, let me explain why the update is needed. I've looked back at the original issue report in the council resolution and according to the schedule at the time – so that was in March 2017 – the substantive work on the full PDP, so the final report, should have been finished and completed by

February/March 2019. So that means both the retirement process and the review of decisions. It's very clear we're not there yet.

So what I've done is, as we discussed on the previous call, looked at it and I circulated the updated schedule to this group this morning or yesterday evening. While it's being shared, let me just run you through it because it doesn't take very much time.

Starting with preparing the interim paper on the retirement, and the interim paper is probably the initial report from this group to the community open for public comment, based on the progress we've made to date I think October 2019 or just before the Montreal meeting is probably a reasonable target date. If you think about it, we'll have some discussions between now and Marrakech (and probably more than one) on the oversight and decision-making. Then we need to have a discussion in Marrakech leading into the exception [and] reserve part and the IDN-related part and also the stress testing. And reporting on all these topics, I think October should be doable by then.

So that means October 2019 the initial paper of this working group will be opened up for public comment. That will trigger with the council, say at the Montreal meeting, it will trigger the formation of Working Group 2. Because once the initial paper is done, I think the basic structure for the retirement part of the PDP is completed. Yeah, you will need to refine it following public

comments, but if all goes well, it shouldn't be too much of an issue. So in December 2019 the review or Working Group 2 will be formed by the council so it can start I would say in January.

If you assume the update of public comment period for Working Group 1 to be starting in October, probably you look at the update for the final paper as starting in January 2020 because you run into this 40-day period for public comments, etc. So in January 2020 Working Group 1 will start updating and working on its final paper, and hopefully it will not be too contentious, the public comments, and it will be closed pretty early.

Now looking at the pace of this working group and knowing we've developed a reasonable working method over time, I assume by October 2020, so nine or ten months after Working Group 2 has been formed, they will be able to produce an interim report. That's the assumption. So October 2020, if you take that as a starting point, then the final paper using the same method as we did with – now it becomes blurred in the sense of less precise – but the final paper of Working Group 2 will be by March 2021. And then the initial report of the complete PDP will be around June 2021. And it will be published, and then we go into the decision-making process that starts. Can you go to the next page, Maria? The decision-making, and that means going submission of the final report, etc., by the issue [inaudible] to the council by September 2021. Then you have the council decision and

members vote. So you start looking in two years before this one is closed, so March 2022. I think this is more realistic than originally.

So that's the update on the working group on the schedule for this PDP. Any questions?

STEPHEN DEERHAKE: Thank you, Bart. I was kind of shocked at this as well, but it is what it is and I think we can make it and hopefully even make it a little sooner if we work hard. But that's where we stand. Are there any questions for Bart? Yes, Nick.

NICK WENBAN-SMITH: Sorry. Can you just scroll up just a bit? A bit more? Sorry. So the initial report you think that if we start the second....

BART BOSWINKEL: The initial report, this is the issue [inaudible]. This is where you see the combined....

NICK WENBAN-SMITH: Yeah, so Line 11, the interim paper for Working Group 2, you think that will be done by October 2020 if we start in January 2020 based on the speed we've been doing this group?

BART BOSWINKEL: Yeah.

NICK WENBAN-SMITH: Still, that seems quite optimistic to me, ten months.

BART BOSWINKEL: Yes, but don't forget by now we've got a reasonable working method which we didn't have beforehand.

NICK WENBAN-SMITH: Right. Okay.

BART BOSWINKEL: To get where we are right now, I think you may increase the pace a bit by adding more topics. But I think the way we start working right now since we did the breakout sessions, etc., is reasonably productive. This group had to get its head around what it means "retirement" and the implications and the understanding of ICANN's [IRP].

NICK WENBAN-SMITH: No, I agree. But I think as we started off that second part of the review mechanisms, I think we thought that would not be the

easiest bit of the whole PDP. I hope so, but I think that's quite challenging.

BART BOSWINKEL: It could be. At the same time, I think – and maybe I'm too optimistic – I think at the same time once you've got a review mechanism defined and probably today is a very good learning point for that is once you define the decisions and the oversight mechanism, especially decisions subject to review and you don't want a too complicated review mechanism and you want just one unified review mechanism for all these decisions, then it should be doable.

NICK WENBAN-SMITH: Okay. [inaudible].

BART BOSWINKEL: But if you want to have different review mechanisms for each and every type of transaction, yeah, then it's very optimistic.

NICK WENBAN-SMITH: Well, those are all topics for the second group, and I don't know with we're – all I'm saying is I think that's a nice plan but there must be some margin for error because there are a lot of assumptions in there.

BART BOSWINKEL: There are, yes.

NICK WENBAN-SMITH: There's a lot of assumptions.

BART BOSWINKEL: Yes, there are.

NICK WENBAN-SMITH: Okay.

STEPHEN DEERHAKE: It's not cast in stone, but we can hope to achieve it. Yes, go ahead, Brent.

BRENT CAREY: Just with the formation of Working Group 2, is there any benefit. In the timeline that's got it starting December calling for interested parties. But how long do you keep that open for, and can you run that at the same time to try and get them onboarded a bit?

BART BOSWINKEL: Brent, if you would see the heading, it would [inaudible] completion.

BRENT CAREY: Ah, completion.

BART BOSWINKEL: So why is this December? I think if you look at the dates, that's one reason why I have these dates in here, they're all around ICANN meetings, the major milestones because that's where this working group but other working groups and the community get the most work done. So using the Montreal meeting to start promoting Working Group 2, the council could then launch the call at that meeting. And then it takes a certain processing time.

BRENT CAREY: Yeah, thank you.

STEPHEN DEERHAKE: I would like to add that with regards to Working Group 2, I hope that most if not all the people I'm looking at in this room will be willing to step up and continue to participate since you already have your heads wrapped around this stuff. Go ahead, Bernard.

BERNARD TURCOTTE: On a review mechanism, also let's not forget that we should have done the homework on the ICANN's IRP and the revisions to that. I'm not saying that's necessarily the model, but some of the key points we will have handled in there will inform this group. So it's almost a warm start, going back to what Bart is saying, and that should help us in picking out the things we want and we don't want to do for this.

STEPHEN DEERHAKE: Hopefully, we will have learned as we go through this process. Any other questions or comments on this revised schedule or any questions directly for Bart? Bart, go ahead.

BART BOSWINKEL: If this working group has no real issues with this one, I'll suggest to the council to have a look at it as well so they are very aware of this update of the schedule so they don't – and it is relevant for the work panel, the ccNSO itself as well. So I'll ask them to put it on the agenda as an FYI for the council meeting on Wednesday.

STEPHEN DEERHAKE: Thank you, Bart. Anybody else with questions or comments at this point? Anybody online with questions or comments? No? You're watching?

UNIDENTIFIED MALE: Yes.

STEPHEN DEERHAKE: Okay, great. Thanks. That being the case, thank you, Bart. We can move on to the next item on the agenda which is the action item, and that is the revised draft report. If we could have that...

BART BOSWINKEL: [inaudible] you go to the repository.

STEPHEN DEERHAKE: Oh, we didn't do repository. My apologies. We have to go back to Bart. Second item under 2 is the decision repository, so Bart will walk us through.

BART BOSWINKEL: [inaudible] is just a draft.

STEPHEN DEERHAKE: What he put together as a draft. It's based on a similar structure that the guidelines review working group is employing to keep track of what they've done and decided on. So if we could have that repository [guy] up, that would be great. All right, Bart, it's all yours.

BART BOSWINKEL:

Thank you. As you may recall from the last conference call, there was a bit of a discussion and fall back on decisions already taken by this group at some point. In order to avoid this for the future but also assisting the group in combining these different decisions in the process is basically the idea to maintain a repository of decisions already taken or consensus calls or however you want to call it from the working group itself.

I think the first set of decisions was taken at the Barcelona in-person meeting when it became clear the ccNSO membership definition needed to be reviewed. That was an item that was identified, and it was then submitted to the ccNSO Council it happened.

Also, the discussion on the scope of applicability of the PDP was then settled in the, if I recall well, in the in-person meeting. At least, it was presented as such to the community in Barcelona. So that's included there as well, and the trigger event and the removal event as well.

I don't want to go through the details yet at this meeting, but please have a look at this. Check it if possible this week. If you have any comments, come back to the – I will circulate the Word document as well after this call so you have a basic idea of what

is happening. If you have any comments on any of these columns or rows, let me know.

I tried to capture, first of all, the items. It's interesting. You've already made some substantial decisions. The topic, a brief description is the most important point, date of the consensus call so you know when it happened even if you were not present, and then if it was a minority position on that consensus. I think to date there has not been any, but it's important to record it. And then whether it's policy related or not. For example, the membership one is not directly policy related, but it was a call. And then action if any, and then the comment block.

So if you have any comments on this table at all, please let me know. And please check, especially the description and the comment box because that clarifies the decisions and the next steps. So please take the time this week. We don't have to go through it line-by-line now. But if you can get back on the list this week, I think we can use it moving forward and inform the community accordingly.

That's it from my end.

STEPHEN DEERHAKE: Thank you, Bart. I would like to remind everyone that if you are scratching your head or looking at your notes about prior

meetings, we have excellent notes from staff that are up on the website for the working group and the recordings are also out there as well. Between the two, you should be able to refresh your memory or get a sense of what was discussed if you weren't on that particular call with regards to the items that are currently in the repository.

With that, I will open the floor to questions or comments to Bart or about this in general. Yes, go ahead.

UNIDENTIFIED FEMALE: Thank you. I'll just say that this was very helpful. So, thank you, Bart.

BART BOSWINKEL: Thank you.

STEPHEN DEERHAKE: Anybody else? No? Nobody online? Okay. Nobody in the room? All right, well, thank you, Bart. You are relieved of duties.

BART BOSWINKEL: I'll be back.

STEPHEN DEERHAKE: You come back as soon as you can.

BART BOSWINKEL: Yep.

STEPHEN DEERHAKE: We have a better offer later in the day than whatever it is you're going to now, so do return.

With that, we can move on to Item 3 which I discussed, and that takes us to Item 4 which is the action item in Number 3. Bernard will thus walk us through his latest draft. If we could have his draft up, that would be great. Maria, if you could do that. Bernard, I will turn the floor over to you.

BERNARD TURCOTTE: Thank you, sir. All right, here we go. No, that's not the right document. Sorry. We'll get there. We've got a whole chunk of time. In the meantime, if someone has a good singing voice.

STEPHEN DEERHAKE: Are we still on Adobe Connect for this?

BERNARD TURCOTTE: The other one.

UNIDENTIFIED MALE: The ICANN song.

BERNARD TURCOTTE: The ICANN song, yes.

STEPHEN DEERHAKE: Well, IBM used to have a songbook, so I think ICANN is overdue for one. They're hip title was "Ever Onward, IBM." Perhaps we can come up with a set of lyrics for that title for ICANN.

BERNARD TURCOTTE: Not the redline please. The clean. Is that the clean version? Yeah, it looks like it.

UNIDENTIFIED FEMALE: It looks like it.

BERNARD TURCOTTE: No, that's the redline. All right, we can work with that. It's not a big issue.

All right, everyone. As we can see, following our discussion on the last call, we've changed PTI to IFO everywhere. The suggestion was to go to IFO, and so I've done that. If there are more comments on that, we can have that discussion.

UNIDENTIFIED FEMALE: Okay, I'll go because I've been harping on this one. I think, first of all, IANA functions operator is ICANN. ICANN holds the contracts to perform the IANA functions and then delegates them to IANA to perform the IANA functions. So you're not talking about PTI here; you're talking about ICANN.

One of the suggestions Kim made was let's define it first. I think what we're looking for is the IANA naming functions operator. That is PTI. And then for simplicity, I think what Kim suggested in one of the meetings is because we all still refer to it as IANA, can we say the IANA naming functions operator currently performed by the PTI and for simplicity and longevity it's known as IANA. We keep going with IANA throughout the document.

BERNARD TURCOTTE: Well, what I've done here is I used IANA naming functions operator, put a footnote and said we're going to call it IFO. I put a footnote too that says currently operated by PTI.

UNIDENTIFIED FEMALE: And going forward, you still go back to PTI though.

BERNARD TURCOTTE: I just put IFO everywhere.

UNIDENTIFIED FEMALE: Oh, you did?

BERNARD TURCOTTE: Yes.

UNIDENTIFIED FEMALE: Okay, so that's new since the last time I looked at the document.

BERNARD TURCOTTE: Yes, that's what I'm saying. I replaced PTI by IFO.

UNIDENTIFIED FEMALE: So the abbreviation of INFO is not IFO, it's INFO.

BERNARD TURCOTTE: No, I realize that, but at the last meeting IFO was used in other areas with the review I think, so I think that's why we had it put in.

UNIDENTIFIED FEMALE: Okay.

BERNARD TURCOTTE: I don't think we need to spend the meeting on that. We can have a talk about it on the – oh. I don't think we need to spend the

meeting on that. I changed this according to what I was asked. So if we want to have a chat about it on the list, that's fine. I'm just making it clear what I've done here.

UNIDENTIFIED FEMALE: Okay, so we'll chat more on the list. I think did you want to say something, Peter?

PETER VAN ROSTE: No, I want to chat on the list [as well].

UNIDENTIFIED FEMALE: Okay, we'll chat on the list.

BERNARD TURCOTTE: Thank you, Peter. All right, so that's our first contentious change. All right now, skipping aside the IFO controversy, we talked about what is a functional manager. Now I've gone out on a limb and proposed a definition. Please feel free to shoot at it. What it says is, "For the purposes of this document a functional manager is one which is recognized as authoritative for the ccTLD by both the IFO (let's not get into that) and the registry and can officially interact with the IFO on matters regarding that ccTLD."

It's a starting point. If you want to take a shot at it, please go. But I thought it's always easier to critique something that's written. I see Patricio really wants to say something on this.

STEPHEN DEERHAKE: Go ahead.

PATRICIO POBLETE: I think we understand that the manager is the organization that runs the ccTLD not a person.

STEPHEN DEERHAKE: Sometimes they may be one and the same.

PATRICIO POBLETE: But when we talk about the ccTLD manager, we are talking about the organization. Here it seems that they are talking about a person that's recognized by the organization, by the registry you say.

BERNARD TURCOTTE: The way this is written, we're not making a statement it's a person or not.

PATRICIO POBLETE: But what do you mean by the registry?

STEPHEN DEERHAKE: Okay, Peter?

PETER VAN ROSTE: Peter [Van Roste] for the record. I was going to suggest that this is another case for a chat on the list. First of all, definition doesn't belong in a footnote. And second, we have introduced the ccTLD, the registry, and the manager. And the manager is authoritative for the ccTLD, so I guess there is a bit of confusion. At least, I'm confused again. And we maybe want to do some wordsmithing on the list.

BERNARD TURCOTTE: Oh, please do. As I said, it was just to get the conversation going. Patricio?

PATRICIO POBLETE: I think we all understand what a ccTLD manager is. It's an organization that runs the ccTLD. And this, I thought it was about defining when that ccTLD manager is functional. I suppose it is functional when it's able to perform the duties of running the ccTLD. So it's an objective that we're defining, not a noun.

BERNARD TURCOTTE: I think Peter has it right. Let’s beat it up on the list. I just wanted to put something that people can shoot at, and we’ll get to it as we usually do here.

All right, moving on. Okay, the next section that was changed is 4.1 Expectations. Nick, this one was for you from a comment from last time. Instead of “cooperation,” “there is a good faith obligation for both the IFO and the manager of the retiring ccTLD” I think is what we were aiming for. Any comments on that?

NICK WENBAN-SMITH: Yeah, I think that’s exactly right. I think in terms of the policy, the policy states that both the ccTLD and the IFO when they are dealing with each other that should be a good faith obligation, a positive obligation on both parties to be diligent in responding and to be constructive as we, I think, all expect. And that was obviously implied, but I think the policy should state it on its face and I’m pleased to see that.

BERNARD TURCOTTE: All right, great. Any other comments or questions? Okay, great. Thank you.

Moving on, nothing significant there. Nothing significant there. The great IFO debate. The great IFO debate. All right, did not touch “mutually agreed.” I square bracketed it following Allan’s

comment last time. It's something we can talk about today. We'll get back to it. I'll just finish running through the other changes. Nothing major there. And that's about it.

So except for the IFO debate and the functional manager, we have the "mutually agreed" point and that would be the major things that we have to settle.

STEPHEN DEERHAKE: Allan, you wish to start this?

ALLAN MACGILLIVRAY: Sure. Without looking at the particular instance in the text, my point was a general one. And I think this flows a bit from Nick's comment. It really has to do – I'm going to say what it is – is really the power relationship in this whole process. So I believe there should be an obligation on both parties.

And I'm dealing only with the second five-year period, the discretionary five years. In the first five-year period, I believe we have agreed that any kind of retirement plan is not mandatory, so there's no need for agreement on that. So in the second period, the ccTLD manager – sorry, I'm moving around a bit – there would be an obligation to discuss and let's use the word negotiate in good faith. And I think that we should capture that.

But at the end of the day, the outcome would not be mutually agreed. It will be up to the IFO to render a decision. For example, the manager may ask for four years and the outcome could be one year. That outcome is not mutually agreed. If we make it mutually agreed, effectively it gives the incumbent operator a veto. So that's why I don't feel we can use the term mutually agreed. Thanks.

STEPHEN DEERHAKE: Bernard?

BERNARD TURCOTTE: Okay, two things. In the paragraph above I think we go through in detail how you get additional time which is, as we had discussed, is clearly set so that it's the IFO that decides based on the request with the paragraph much earlier where we talked about there is a good faith obligation on both sides. So I don't think that's the issue.

Here I understand your point a little better. Maybe it's just a problem with the paragraph and where this is. This is more talking about if we want to go less than five years than just the initial five-year period. Because you'll remember we had a discussion about if there's an agreement that it makes sense for everyone because we're in a situation where there's a country

being renamed and there is a new blank ccTLD being created and there's an easy transition path, then maybe it makes sense to actually retire the ccTLD earlier than five years. There's actually no need to keep it around for five years. We wanted to make sure that there was a condition that allowed for that to happen, and that's where the mutually agreed came to.

So maybe it's just a question of trying to clean up that language and make that clearer, and then everyone will be okay with it. That's what we were trying to address with that.

ALLAN MACGILLIVRAY: Yeah, well, I'm happy to have another look at the text. I think you understand where I am, Bernie, and I understand where you are in the first five years. I guess I don't see a need for the IFO to agree to a shorter period in that first five-year period. I don't object to it, but I don't see it as a necessity of the policy. So that would be my comment. But anyway, let's see how this plays out.

BERNARD TURCOTTE: Well, I don't agree because if we go a little earlier in here, the first statement is, "PTI cannot require that a retiring ccTLD be removed from the root less than five years from the time the IFO has sent a notice of retirement." So if we want to go there, that's where that becomes interesting. We have to carve that out so that

if it makes sense with all the other caveats that we've got in here, that this can be done.

ALLAN MACGILLIVRAY: So I think this is another one for the list. We'll get some text. I really don't think we're far apart on this anyway. So, okay, thank you, Bernie.

STEPHEN DEERHAKE: Thank you, Alan. Thank you, Bernard. Any other comments, concerns, questions for Bernard on this point? Anybody online with a comment, question?

NICK WENBAN-SMITH: Just a quick question. Sorry.

STEPHEN DEERHAKE: Go ahead, Nick.

NICK WENBAN-SMITH: It still says "PTI" at the beginning of Lines 75 and 78. Is that a deliberate non-change to IFO or not? Or should it be IFO?

BERNARD TURCOTTE: Which line numbers?

NICK WENBAN-SMITH: 75 and 78 starts off with PTI. Everywhere else, the PTI has been changed to IFO.

BERNARD TURCOTTE: That’s an oversight.

NICK WENBAN-SMITH: An oversight? Okay, I wasn’t sure.

BERNARD TURCOTTE: For some reason it didn’t pick it up.

NICK WENBAN-SMITH: That’s okay. No worries. Cool.

BERNARD TURCOTTE: It was a global change and it didn’t [happen].

NICK WENBAN-SMITH: Got it.

STEPHEN DEERHAKE: A fuzzy little change. Anybody else on anything? Okay, I’m seeing people shaking their heads.

UNIDENTIFIED MALE: I was just reflecting on Allan’s point about whether the country code manager would unilaterally have a shorter than five years without agreement with the IANA function operator. I’m not sure what I think about that.

EBERHARD LISSE: Very jet lagged and late. Remember, this is a bilateral thing. We cannot tell anybody what to do anything anyway. So if somebody really says, “I’m walking away only at one year. I can get it done,” we cannot prescribe them to do it. We are making policy for ICANN. ICANN cannot take it less than five years unless – generally, five years is a good thing. ICANN cannot take it less than five years. But if a TLD manager says, “No, I’ve got 50 domain names. It takes about six weeks to do it, and so one year is good enough for us,” and on review, reflection make sure that he knows what he’s talking about everybody agrees, then I don’t see why we should wait five years. We can always say, “Okay, once it’s done, we keep it the rule for another year. You have to be on the safe side.” But there is no need to have a minimum of five years if the ccTLD manager has walked away.

STEPHEN DEERHAKE: Thank you. Bernard?

BERNARD TURCOTTE: Just about that, just to qualify that a bit, if we go back – sorry, I will get there. Okay, in this first paragraph of expectations, “There is a good faith obligation for both the IFO and manager of the retiring ccTLD to ensure an orderly shutdown of the retiring ccTLD which takes into consideration the interests of its registrants and the stability and security of the DNS.”

So just to frame it in the context of what Eberhard was telling us, I think there is a sane thinking about this to see and make sure that everyone understands if they’re proposing a shorter period, what makes sense. Because if we’ll remember some of the discussions we had, some managers may be interested in trying to shorten this for their own advantage when maybe it doesn’t match up to the interests of the registrants. We have to try and navigate that, and I think PTI’s job as usual is to make sure that everyone understands what the right thing to do is and that we come up with a good solution.

STEPHEN DEERHAKE: Go ahead, Eberhard.

EBERHARD LISSE: Again, while I agree with some of this, we cannot prescribe a ccTLD manager what to do. I mean, that’s an extreme example

that I don't think will actually [happen]. What is a little bit more in the realm of the understandable or the possible is if South and North Korea were to unify – it's unlikely, but it happened in Germany – let's say it happens. Then North Korea goes away. They've got 50 or 60 domain names and they are more or less all government, so that's not a big – if they say, "No, we have organized this," that's a [thing that we could see]. If somebody with 3,000 names just walks away, then we shouldn't perhaps listen to what he's saying and look at the registrar of last resort approach. But generally speaking, if they say, "No, we don't need five years. We have a plan here. In three years we get it done and we then walk away," we should not insist on five years. That's my view.

STEPHEN DEERHAKE: Brent, go ahead.

BRENT CAREY: Is the Exception Conditions another place we could deal with this potentially? Because really it's an exception to the rule, this shorter time period. So perhaps we could look at including a statement in there.

STEPHEN DEERHAKE: All right, thoughts on that?

BERNARD TURCOTTE: I think that may be a way of dealing with it. Fine. [I'll rewrite.] That's why we have these meetings, right? I sit in my corner and I type these things just to the best of my ability, but I'm still doing it in a vacuum and that's why you're here. My point is to get something you can shoot at and once we start looking at how it looks, then, yeah, absolutely. Great suggestion. Let's think about it. Thank you.

STEPHEN DEERHAKE: Thank you, Bernard. It seems like it's a very ripe target today. But I thank you for your work on this. Any other questions, comments on this? No? Okay, Bernard, are you happy?

BERNARD TURCOTTE: Yeah, I think as we said in the agenda, we're trying to nail this down so we can move on to the next portion. So I think on the mutually agreed has been this discussion we've been going on which now we're talking about an exception condition, I think we've gone around that. So we've two things left to, I think, nail this down. Because all the big things I think we seem to be in agreement about. So we've got to define what is an active manager. We've got to come up with that. We had a bit of a discussion earlier. And we have to finish the discussion whether

we want to keep using IFO or not, and [inaudible] is making the point that maybe that's not the right thing. So we've said that on those two things we would be going to the list. Hopefully, it would be great if the topic is warm in front of our minds right now if we could get a discussion going on the list this week about those things so we can nail it down. And then, basically, we've got this part down. Thank you.

STEPHEN DEERHAKE: I second what Bernard said about trying to get the discussion going this week. And by all means, feel free to continue the discussion that started here amongst yourselves and with Bernard during the course of the week. With that, I'd say we have a wrap on Item 4 for today. Allan, go ahead. I'm sorry.

ALLAN MACGILLIVRAY: I'm trying to think of the place to raise this, so I'll raise it now. If you look at Lines 109-114 which are the elements of the plan that would be in the second phase, the retirement plan, I think we need to make sure we've got everything here. I think these were top-of-head, here they are, but I don't want us to say we're going to close this off, that part is done. I think at some point we're going to have to have another push at that to say are there things that we would add to the list. I think the final bullet, communications plan, some of us in the west understand what

that is, but I think that might need a little more elaboration for people. So I just want to flag that. I don't disagree. I just think it might need a little more elaboration. Thank you.

STEPHEN DEERHAKE: Thank you, Allan. That's a good observation because we probably will come back with something along those lines. Peter, you're next.

PETER VAN ROSTE: Yeah, thank you. And thank you, Allan, for bringing this up. I was going to refer to this. First of all, it says [should], and I'm not really sure how I should interpret that. Is it a soft requirement or a hard requirement. So would the list be expected to be exhaustive or not? And then there might be exceptions.

So on the nitpicking side, I have a bit of an issue with the ccTLD being the active party, like "the ccTLD will stop accepting new registrations." That doesn't work. A ccTLD isn't anything [that] can do anything. But that can be fixed on the editorial side. I just wanted to raise it.

More on the substance, "ccTLD will stop accepting the renewal of existing registrations." Not all of us are working on renewals. Now of course, if we don't have renewals, we have something else. And

then again, back to the hard and soft requirements. Does it mean come up with some equivalent?

Again, this is still open and as far as we say we go back to [the list], I'm fine with that and don't need a solution now. But there are issues to be dealt with here.

And then on the communications plan, I think we discussed about a rationale section or a companion document. I'd really like to see the reasoning for this because it looks a bit like we're trying to protect somebody from the registry where the registry should have that plan under their own responsibility. So this is probably going a step too far. But then again, having that companion document explaining the reasoning and the goals of these measures would be extremely helpful.

STEPHEN DEERHAKE: Thank you, Peter. I've got Eberhard in the queue followed by....

EBERHARD LISSE: Followed by whom? By Brent. Okay, it says on the top Line 108 "as a minimum." So it's not cast in stone. And as Bernard said, he's basically to sit down and capture what we have been saying. I don't mind whether we write ccTLD or the ccTLD manager or whatever, but in effect the ccTLD will no longer register new domain names. No new domain names will be registered with,

for, at, whatever – this is semantics. We can agree on what we write there, but the point is the effect is at some stage you cannot register that in that ccTLD domain anymore. Then we must find a system.

Most of us, actually, I don't understand you're saying some of us don't work on renewals. Most TLDs that I know renew their domain names. Let me finish. It's not that – I do not know any where you say you register for one year and then it goes away into public and then you have to apply for it and somebody else comes first when it's dropped and gets it first. That's not the way it works. If you have a domain name registered under any TLD, before it expires you can go and renew it. And that's what we want to block, so we must find a timeline at what stage we stop doing this so that eventually we must come to an end. Otherwise, this is never-ending. So I didn't really understand why you're saying some ccTLDs or some TLDs are not working on renewals.

STEPHEN DEERHAKE: Thank you. Brent, do you want to yield the floor to Peter or do you want to go ahead?

BRENT CAREY: Do you want to respond, Peter?

PETER VAN ROSTE: Thank you. I said some of us don't and you said many do, so we are in violent agreement. But there is at least one ccTLD that I know of, and actually that pays my trip, we don't have renewals. You register and then that's a perpetual contract. And there is probably a way to find a solution in that particular case. Not saying we're planning to retire soon. But there might be other registries with a similar model. The point is, this is a line item. It says "as a minimum," and then we can't deal with this. So soft requirement, hard requirement. There needs to be some wordsmithing around this, and I'm suggesting not to do this now. By the way, transfer or registrations is also ambiguous. It doesn't explain to me whether it's registrar or registrant transfer. So there's work to do on this. Let's agree on that part for the moment and then chat on the list, I guess.

STEPHEN DEERHAKE: Definitely chat on the list. I might add that transfers in some registries imply a one-year renewal, so there's an additional complication.

EBERHARD LISSE: Just one word.

STEPHEN DEERHAKE: Brent, do you want to give Eberhard one word and then you can come on board, I promise.

BRENT CAREY: Yes.

STEPHEN DEERHAKE: Okay, he's next.

EBERHARD LISSE: If a ccTLD doesn't renew, it's not affected by the deadline of renewal.

STEPHEN DEERHAKE: Let me get to Brent first. We have an online comment, but let me get to Brent and then we'll come back to the online comment because Brent has been very patient.

BRENT CAREY: I just had one comment. In Barcelona we also talked about disputes. So in this list, I think we need to come back and also how are disputes to be handled is another one.

STEPHEN DEERHAKE: Bernard, make a note of that. We have an online comment. Go ahead, Maria.

UNIDENTIFIED FEMALE: Yes, we have a comment from Tom Barrett: “109-111 should include the term ‘whose expiration date extends past the date of removal from the root zone.’”

STEPHEN DEERHAKE: Thank you, Tom. Yes? You’re up.

UNIDENTIFIED MALE: Yes, basically that’s a good comment because [inaudible] wanted to say here we have a case where there’s no renewals. Also, the wording that [inaudible] stated I ask for 10 years and I say I will accept 11 years for renewals. And the [inaudible] in Barcelona many discussed about [is] financially viable for ccTLD managers to do this, to keep the domain alive. And if we force them to stop taking renewals, how can we expect them to keep operations [further]?

For example, you say you want to know that they will stop taking renewals in front. With the current wording, I said. In practice, it’s different. But you come to the wording. You like wording here so much, so let’s stick to the wording. With the current wording it

can be, “Okay, I want to keep the domain alive for five more years and I’ll take renewals just for a year.” How is he going to keep for another four years of operations? Is it financially viable?

So I think that what must be included is financial plan for keeping the domain for the requested time. The manager needs to provide assurances that it will be able to keep the operations that long, not to just say, okay, [inaudible] he’ll do it. And I said before, clear line of communications between ccTLD manager and the ICANN only hear keeps saying details of communications to the registrants and in time, five to ten years, many things can change in ccTLD manager. It needs to be known who is talking to who? That’s it.

STEPHEN DEERHAKE: Okay, thank you. We’ve got Eberhard.

EBERHARD LISSE: This is getting really seriously too theoretical and too detailed. The manager must make a retirement plan. And, I mean, we cannot really force him to make a financial retirement plan and that plan and that plan. Either the retirement of the ccTLD manager is a responsible entity or person, then we can advise them this is what is the minimum and make sure you pay attention to your renewals and pay attention to your financial

situation and that's it. We are not there to tell everybody must [inaudible] a financial plan, must do this.

This is a rare occurrence which has happened rarely in the past where financial planning was not a big drama. It was more drama that some domain names couldn't be transferred in time and that was the reason why they asked for renewal. So we should concentrate on the most probable first. And then the theoretical, rare events, outliers we can also look at and can mention them. But in the end, it's the – if my TLD gets retired, it's my responsibility to act responsibly. If I don't act responsibly, it's not our problem here. It's a problem between the manager and his clients and the manager and [inaudible]. Nobody else.

STEPHEN DEERHAKE: Thank you, Eberhard. Tom, go ahead. Do you need a mic?

TOM BARRETT: Sorry. I was trying to participate online. My point was actually different. Let's say we agree to a termination plan in five years. The registry should be able to renew up to five years. The point is, let's make sure they don't actually accept a ten-year registration knowing they're gone in five. I do think we want to be explicit in terms of protecting the registrant against an irresponsible registry that allows that to happen.

STEPHEN DEERHAKE: Thank you. Go ahead.

NICK WENBAN-SMITH: Just thinking a little bit about this list of the things which we might expect to find in the retirement plan, I think the fact that we've got this list and it's not very well thought through is a reflection that it was probably one of these meetings where a group of us were brainstorming it. And I think I might have actually written this list. So it's all my fault and I fully accept that, but it was done quite hastily. And I think conceptually there's a bunch of stuff for an orderly going dark of a ccTLD and these are just some examples. It wasn't supposed to be interpreted as very carefully thought through. This is more of a placeholder for those sorts of things.

And certainly I do agree that when I thought about what are the operations that we do as a registry? We accept registrations, we have disputes, we have transfers, etc. At some point, logically these sorts of things start to go dark. And obviously, you wouldn't allow new registrations to continue past the date when the ccTLD is supposed to be taken out of the zone and nothing works. So, yeah, there should be a sequence of these things.

And I accept Peter’s point as well that some registries don’t take registrations for a specific time. It’s like an ongoing contract. So some bits of this are not going to be relevant to some registries, depending on their operations.

And I suppose my final thought was we want to be really careful about being prescriptive about what goes in here because it’s not supposed to be a definitive plan. It’s supposed to be like a framework, skeleton and the details of each specific retirement are going to be very fact-specific depending on what and who it is and what the circumstances of the change in name [and] the country or whatever. So you don’t want to be – these are going to be quite lightweight in terms of what we actually prescribe as being definite requirements.

STEPHEN DEERHAKE: Thank you, Nick. Can I encourage everyone to think about what we’re looking at here from 109 down to 114 and perhaps we can develop a thread on the list around this particular set of texts with the idea of trying to keep it lightweight but also trying to flesh it out a little bit. Bart, go ahead.

BART BOSWINKEL: Yes. One comment, and maybe this captures it. If you look at Line 108, it uses the word “should” and it should [inaudible] “may” or

“could include” as more [as] an indication of what could be included. Because that takes away a lot of the pressure on this group.

STEPHEN DEERHAKE: It certainly solves the complete remuneration problem. [I will buy] you that. Who else?

UNIDENTIFIED MALE: [inaudible] go first.

STEPHEN DEERHAKE: Which one? Allan?

UNIDENTIFIED MALE: Allan.

STEPHEN DEERHAKE: They’ve come to an agreement, and Allan won.

ALLAN MACGILLIVRAY: I don’t think we’re being fair to Brent today. Actually, Nick raises a point, and I think it’s worth talking about. Are we talking about a paragraph that starts out with a normative statement and then empowers PTI to seek a plan that could include? In other words,

that puts a lot of the weight on. Like, for example, in order to ensure the early retirement and to protect the interests of registrants. A normative thing why you're doing this. I think this is what I think we need.

Are we talking about then PTI will be empowered to seek a plan in order to protect registrants then, which could include? So in other words, every plan might not include every one of the elements, but it would be up to PTI to determine what those are from a menu. Or are we actually prescribing that menu at the outset?

That's something I think we should talk about because I think actually the point you raised, it's not so much a financial plan, is that what if the registry gets into financial trouble and all of a sudden they have to cease operations well beyond the date that was chosen? I raise this as an example, not to be debated. Maybe they have to present an emergency shutdown plan. In other words, if we find a point we can no longer operate, this is the what we'll do to execute to get out of here in 30 days or something like that.

And when I start thinking like that, I'm more of the mind of we could be here forever in saying it has to contain this and this and this. So I'm inclining more toward an empowering PTI – sorry – IFO to seek certain things in order to protect effectively the

interests of registrants here. So that's, I think, worth discussing.
Thanks.

STEPHEN DEERHAKE: Thank you. We've got Brent in the queue.

BRENT CAREY: I just read it as a minimum. So are we talking here these are the minimum requirements that we need? Or to Allan's point, is it going to be a maximum with an exhaustive list? So I think we need to think around that a bit.

STEPHEN DEERHAKE: Yeah, go ahead.

UNIDENTIFIED MALE: Regarding this, one important thing was said. We are developing this policy for ICANN and then how ICANN should know what ICANN needs to know [inaudible] how ICANN should or must behave in certain situations regarding retirement. So basically, this list should be for what ICANN needs to know, what ICANN must know or do when this situation happens. You said [it] doesn't need to know financial [itself irresponsible entity]. You said it cannot be enforced. So how does this influence ICANN in its decisions? That's the filter that should [scope] the list.

UNIDENTIFIED MALE: Yeah, this kind of retirement plan is only something that the manager has to develop and represent to the IFO in case they need more than five years. That's the basis on which it could be awarded a longer time than five years. So a consequence of that is that if the manager doesn't need or want more than five years, there's no need to present any plan at all. And that may be a weakness in our approach because this kind of registrant protection measures [or customer] protections are a good idea in any case, not only when more than five years are needed. So I just wanted to point that out.

STEPHEN DEERHAKE: Thank you. Peter and then Eberhard.

PETER VAN ROSTE: Yeah, thank you. Two points. One is, when this is giving the IANA guidance, then I think that we need to approach it from the ceiling downwards. That is like restricting the power and then leave some leeway to the south. Instead of saying minimum and then IANA can, nothing personal, your successor (organization, I mean) can come up with random requirements just to drive the ccTLD manager into noncompliance. Making this up, of course. But this

is how it works in this kind of lawmaking. This is a protection in which direction.

The other point, I'm really surprised I must say in a ccNSO session to hear that it's IANA's job to execute consumer protection in a way that would protect the registrant in a ccTLD from the ccTLD manager. I think we might be at the risk of stepping out of our territory here.

STEPHEN DEERHAKE: Thank you, Peter, for both those comments. Eberhard next.

EBERHARD LISSE: I was going to say the same thing in different but as heavily accented German-English. It's not our job to tell the ccTLD manager what to do. We make policy for ICANN. By the way, it's not IANA. It's the IANA function operator or PTI. We should be clear on the terminology. And lastly, I went to the DENIC website and what's written there in German is as close to renewal as I can make it.

UNIDENTIFIED MALE: Maybe I'm failing my [inaudible].

STEPHEN DEERHAKE: I'll let you two take that offline [inaudible] time. Yes, go ahead.

UNIDENTIFIED MALE: Thank you, chair. I'm happy with the wording because my understanding of policy is it's guidance that could be used alongside other sets of documents. So looking at what we've done so far, of course the interpretation depends on the region, but I think we are fairly on the right track insofar as ccTLD issues are concerned.

STEPHEN DEERHAKE: Thank you. I do have one observation. It seems like the last 20 minutes or so I've enjoyed this discussion a lot, but the implicit underlying assumption that this discussion was based on it seems to me that it was implicitly assumed that a registry that's retiring is completely going out of business and it's going away and there's no successor. In other words, there's no transfer to a new two-letter code string such as there would be with a country name change. And in my way of thinking, retirements would mostly be that. That a country is changing name. We have couple examples. One that's in place and one that is now being discussed out in the Pacific island region.

If that's the case with regards to the argument, "Oh, my God. We're going to financially cripple the registry by preventing them from having renewals," which was discussed in Barcelona, I think in most of these instances that will happen down the road long

after we're not discussing this is that it would be in effect a transfer to a new registry and in all likelihood the new registry entity would probably be the same as the old entity. So as they transition to the new one, I'm not sure there would be that big of a financial hit as I think has been assumed underlying a lot of this discussion.

I'd be curious to know what the rest of the group here thinks about that and if that is the majority case going forward – we don't know whether it would be or not, of course – how that would affect some of the discussion. So I'm happy to hear anything from anybody. Bernard? Or are we going to have deafening silence? Bernard's saving me.

BERNARD TURCOTTE: My comment on that is when we try and prepare policy documents like that, we look at the worst case scenario. Usually, it's easier. I think several people have said it here. We're just trying to give guidance to ICANN and the operator as what should happen in the worst case. Eberhard has said it. We can't force a ccTLD manager to do anything.

But as we wrote in the expectations, there's a good faith requirement. Hopefully, everyone will get along. And, yes, even if it's only a five-year period, everyone will understand that it's a good idea to work through it. We've said earlier in the document

that the functions operator should be there to assist the manager if they want in preparing for that retirement in that the IANA functions operator should provide documents which should help guide that so that it's there to assist everyone.

So we seem to have gotten jammed on 108. [Line] 108 was, as said, the list we came out of Barcelona with and that's why that's there. So I think Bart's point of – I think there are two points here after listening to this, actually three.

The first thing is earlier when we say the IANA functions operator is given notice to the manager, we say they will include a document as to what a retirement plan can look like and give specifications for what they're expecting, what makes sense, and we're not trying to codify that. Let's remember we said we wanted a lightweight document because in these kinds of things, they rarely occur and they're highly variable. And the harder we think at codifying these things, the harder it's going to be for everyone to apply this thing. We just need to really think as lightweight as possible and understand that everyone has good faith in this.

The second thing is “a retirement plan could,” and from listening to everyone here, I would just say “a retirement plan could,” strike “as a minimum,” “include commitments to the following.”

UNIDENTIFIED MALE: Change the as a minimum.

BERNARD TURCOTTE: Yeah, just remove it. So “a retirement plan could include commitments to the following.”

UNIDENTIFIED MALE: “But not limited to.:

UNIDENTIFIED MALE: I would change the “as a minimum” to [inaudible].

BERNARD TURCOTTE: “Typically” works for me too.

STEPHEN DEERHAKE: Bernard, for the record, can you repeat the complete phrasing now because [Sean’s] not been on mic?

BERNARD TURCOTTE: Okay, so what’s being suggested is replace “as a minimum” with “typically.” So it would read: “A retirement plan could typically include commitments to the following.” That removes the stigma of a lot of those things because, as Peter has said, then it becomes a very soft requirement. As I’ve said earlier, we’re trying to create

something where we're giving touchpoints but we're not trying to lock things in because in this kind of theory – some of us have been around too long – we understand that it's highly variable and people are trying to do the right thing in most cases. But we want to put in a backstop. That's all for me. Thank you.

STEPHEN DEERHAKE: Thank you, Bernard. Desiree, you have a comment or a question.

UNIDENTIFIED FEMALE: Well, I think it has now been explained. And really if this document as a retirement plan is guidance or is help to potential retirement of a ccTLD manager when a ccTLD manager would come to IFO and ask for some guidance, then these commitments should really be an option to help them out, do the work in case they are not clueless how to do that and how to make communication plan rather than something that the IFO should order ccTLD manager to do in order to protect registrants. So I really wanted to go back to as to why we're doing this and what are the real cases, the worst case scenarios. As we know, there are some ccTLDs out there that run in parallel, and what would be the incentive to retire those? Maybe you have discussed those in Barcelona as well. But I think we're looking now here really at a scenario where the ccTLD manager is asking for help and options as to what they can do rather than orders, this what you will stop.

So I would make it even softer that a ccTLD would stop accepting new registrations or as options and make it as flexible as possible.

STEPHEN DEERHAKE: Thank you, Desiree. Eberhard?

EBERHARD LISSE: I'm getting the feeling we are moving actually away on a tangent from our actual goal. We're not here to protect the registrants. We're not here to protect commercial ccTLDs. We're here to design a policy what ICANN and the IFO have to do when the ISO code goes away, when a country goes away, when a country changes their name. We should not get into too much detail. We should give a guideline. We should give a strict policy to ICANN and IFO what to do which can include guidelines for the ccTLD manager. We are not here to tell ICANN or the IANA function operator to protect registrants. We're here to tell them the name has left the building and we need to retire the ccTLD. That's it.

We must do this in a reasonable and in a predictable and in an orderly manner. But in the end, the [sympathy] – I'm a ccTLD manager. I'm highly critical of ICANN and IFO at times. But the [sympathy] ends at some stage. We are living by the sword of ISO and if the name goes away, the name goes away and then we

must have a plan. And the plan [inaudible] that we are making is for ICANN and [PTI], not for the ccTLD, not for the registrants.

STEPHEN DEERHAKE: Thank you, Eberhard. Jaap?

JAAP AKKERHUIS: To be nitpicking, ISO doesn't do names. They do codes. There is a difference because we just changed name of [Macedonia].

STEPHEN DEERHAKE: Yeah, thank you, Jaap. Any more comments on this? Patricio?

PATRICIO POBLETE: Yeah, I think that Eberhard makes an important point when he says that maybe it's not our business to do anything about the registrant protections, for instance. Maybe so. If he's right, then we should go line-by-line analyzing the rationale. Why are we saying that? Why are we asking for details of the communication plan to advise the registrant of the imminent retirement of a ccTLD if it's not to protect those registrants that could be unaware of that? Why are we asking for a date to stop accepting new registrations? That could well be the day before the ccTLD goes away from the root zone. Why are we asking for [any] date earlier than that if not to protect registrants that could be

unaware that the ccTLD is going away? If we don't want to go into that business, well, let's [extract] those lines or provide a [inaudible] rationale.

STEPHEN DEERHAKE: Thank you, Patricio. Tom?

TOM BARRETT: Hi. Yeah, I agree. Right in the preamble of this document, if the audience is not the ccTLD manager in terms of defining best practices [and] how they should terminate their registry, we should be explicit about that. And we also should be explicit that this document is not designed, I think, to protect consumers or registrants. Because I think it's going to be misinterpreted by anyone who reads the document because it's part of ICANN and that's ICANN's mission. So if we don't want that to be part of this document, I think it's worthwhile to be explicit about it.

STEPHEN DEERHAKE: Nice, go ahead.

UNIDENTIFIED MALE: Actually, he misunderstood me and I would like to [inaudible] [eventually].

STEPHEN DEERHAKE: Okay.

NICK WENBAN-SMITH: I think the point is well made that if it wasn't a retirement process, ICANN would have nothing to do with a CC policy about registrant protection, consumer protection education, all those sorts of things. [Obviously], I think there are certain best practices which we share but ICANN, that's none of their business. In fact, when we think about drafting the policy, part of the background to interpret this might include that sort of language that actually ICANN has no mandate to put any sort of positive obligations on a ccTLD in terms of how they represent or look after their ccTLD for their community.

The retirement plan here though, and what I'm thinking is the mechanism is that unless there's an agreed retirement plan, you have five years. And that the retirement plan is kind of like the carrot to incentivize or to explain why it is that you need up to potentially ten years which is quite a long period. And I think it's in that context that we're looking for – at least I think that's what we discussed, right? That there was a sort of – you needed to justify why it was that five years wasn't enough and these sorts of things like we have ten-year registrations and this is our process, this is why we need a longer period depending on the

circumstances of whatever, your country is changing names, country's disappearing or merging with South Korea or whatever.

So your code changes because of the country name or because of some other thing which has triggered 3166 code change. I think that's what the concept was, wasn't it? That in order to win more than the five-year basic minimum, you needed to have gone through to explain to everybody else why it was that five years wasn't sufficient and you needed to have by exception a longer period. That's the context of it.

STEPHEN DEERHAKE: Thank you, Nick. Eberhard?

EBERHARD LISSE: Again, I don't like to hear the words best practice in these halls.

NICK WENBAN-SMITH: Worst practices then. Worst practices.

EBERHARD LISSE: That's a separate thing. And Patricio I think misunderstood me. I said there's nothing wrong with being reasonable and there's nothing wrong – or I meant to say that there's nothing wrong with protection of the registrants. But it's not our job as a group here

to do this. These things have practical implication with regards to retirement. You need to have a plan.

We are stopping five-year renewals at a certain date. Let's say my last registration runs out in seven years and I've got 25,000 of those. That's a good indicator to the IFO that they must get at least seven or eight years. If you have said my registrations are all running two years, but now that you're retiring I want to renew them all for ten years, it's probably not going to be received with much enthusiasm.

The idea is that we are reasonable and if a ccTLD says, "Look, we have got this and this issues," I'm quite sure IFO is going to be reasonable. But there must be a [sentence inside which says] at some stage we are going to stop taking renewals because renewals can be used to prevent retirement. That's the idea. Eventually, in fairness to all, there must be a fixed date from which no more renewals are being taken. There must be a fixed date from which no registrations are not taken any longer and so on.

But I see it more from the practical aspect. It's a rare instance and some of these things have affected the previous retirements, so we should have learned from that and give guidelines and give a policy to ICANN and IFO that they know what to do which is also quite reasonable to the ccTLD manager and equally reasonable

to the registrants. But in the end, the policy we're making is not here for registrants or for ccTLD managers. It's for ICANN and IFO.

STEPHEN DEERHAKE: Thank you, Bernard.

BERNARD TURCOTTE: Thank you. Just to address one little comment here. We keep saying the retirement plan is only if you want more than five years, and that's not the way the initial part is written. It doesn't prevent you from doing a retirement plan even if you're in the five-year period or less. We're saying that if you don't want to talk to the IANA functions operator about it, the IANA functions operator is in its right to close down the registry after five years. But as we said earlier, there's a good faith requirement and if everyone is working in good faith, then there probably will be a retirement plan whether it's three years, four years, five years, or six years just so everyone understands what's going to go on and how it's going to work out. Thank you.

STEPHEN DEERHAKE: Thank you. Patricio, go ahead please.

PATRICIO POBLETE: Yes, Bernard, but the retirement plan is only required if you are asking for more than five years.

STEPHEN DEERHAKE: Thank you. Any other – whoops. I looked to the right. I don't know who put up their hand first, so I'll let you two sort it out. All right, go ahead.

UNIDENTIFIED MALE: I'll be short. I'm not for the easy solutions, and taking out "as a minimum" is an easy solution. I think there should be a minimum [if] the plan is obligatory so that you must know what is the minimum expected thing and what should be done and not for putting out a minimum.

STEPHEN DEERHAKE: Thank you. Allan?

ALLAN MACGILLIVRAY: Actually, I want to go back to Tom's point. I had been laboring under the assumption that we would want to put in something to the extent we can that would benefit registrants, which is why we mention registrants earlier in the document. And I don't think we all completely agree on this, and I think this is an important point that we should pause to try and resolve. And then once it is

resolved, in other words if we're going to take certain limited steps to protect registrants in certain situations, that's fine. If we're protecting registrants, this flows. If we're not, then I think we should explicitly state in the document we're not doing this and this is why. But I think we're laboring under two different assumptions about this, and I think we have to address that assumption and then we can proceed from there. Thanks.

STEPHEN DEERHAKE: Thank you, Allan. Go ahead.

UNIDENTIFIED MALE: Thank you. Further to the comments that have been made, I'm looking at this policy affecting an ecosystem and not a specific organization. So in the same spirit of good sense, I would want to look at a lightweight document that considers an entire ecosystem.

The second point is I'm also looking at it from a contested scenario where guidance probably is needed because it is not always that there will be good sense or rather the retirement will happen in a peaceful environment. What if there's an element of contest and there's need for a firm decision to be made?

EBERHARD LISSE: I think we can address with the oversight which we do a little bit later. Again, we are telling IFO and ICANN what to do. If there is a fight going on internally, it's not really the big problem. Eventually, we have a deadline. But this I think is an issue that we could look at when we have a bit better view on our policy and when we look at oversight.

STEPHEN DEERHAKE: Thank you, Eberhard. Any other comments, or can we close out this discussion? And if we can close out the discussion, I note the [IANA] schedule calls for a “transition period” beginning at quarter of the hour. And we have been at it for 90 minutes, so I would suggest that barring anybody wants to get one last dig in or requests that we pick up this conversation on the other end of the break, that we consider this closed and go into a break session. Fifteen minutes?

UNIDENTIFIED MALE: Yep.

STEPHEN DEERHAKE: So be back at 5:00.

All right, everyone. It's three past. We agreed that we'd come back at the top of the hour, so if people can take their seats. Before we

move on to the next agenda item, I would just like to go back to the top of Bernard’s document and refer us all to the Policy Objective, what at the end of the day is simply “to provide a clear and predictable guidance and to document a process that is orderly and reasonable [from the time] a country code is removed from the [ISO] 3166-1 list [of country names] up [and] to, but excluding,” what actually happens in the root zone. That’s beyond our remit.

To that end, I would like to ask Kim Davies to weigh in on behalf of IANA PTI to provide his input on this. And, Kim, if you can attempt to say anything. Or do we need to defer this? Kim has lost his voice. That’s the issue. A silent Kim Davies is a rare thing, but I was wondering why he was mute today.

KIM DAVIES: I’ll e-mail my thoughts later because I can’t speak.

STEPHEN DEERHAKE: I believe Kim has indicated that he will e-mail his thoughts, PTI/IANA’s position, to the list in good time. Thank you, Kim. I think we’ll exempt you from the breakout groups.

Okay, that being the case, we can move on to the next item on the agenda which will be the breakout groups regarding the oversight document. I believe everyone here has a good idea of how the

breakout group sessions work. If anyone needs refreshing, we can put up that slide. I don't see anybody waving their hands saying please tell me what we need to do.

[inaudible], can you increase the size of that a bit please? The groups have been predefined I'm told by those who....

UNIDENTIFIED MALE: Yeah, it's an old list.

STEPHEN DEERHAKE: Ah, it's the old list, so you get to spend time arguing with your same set of buddies. Okay, we now have it at a reasonable size. Thank you. Well, we did. No pressure.

UNIDENTIFIED MALE: [inaudible] always blame Adobe.

BART BOSWINKEL: o Just one more time.

STEPHEN DEERHAKE: It's back again, and I'm going to turn the floor over to Bart who will – oh, wait. Allan, go ahead.

ALLAN MACGILLIVRAY: I really don't want to get into a pedantic debate about what is oversight, all right? But at least in my mind, oversight can be ex-ante or an ex-post, right? But the ex-post oversight is called an appeal. An appeal is not in the remit of this working group. I accept that now. But I just feel that if we're having a discussion, we should have it in such a way that this assumes that there is going to be an appeal mechanism. This is what we think of oversight. This assumes that there will be no appeal mechanism. So I think you have to know that to close on oversight.

STEPHEN DEERHAKE: An appeal mechanism is a given. But Eberhard wants to comment further.

EBERHARD LISSE: You are preempting the breakout groups. That's exactly the point we can discuss in the breakout group, report back, and then agree or disagree on it. Your point is valid, but this is something that we can really nicely define now.

STEPHEN DEERHAKE: Thank you, Eberhard. Allan, did you have further comment? Okay, I think we're going to make you the charter member of the next working group. You'll be given Member #1. We [inaudible] license plate that comes with it, no extra charge.

UNIDENTIFIED MALE: [inaudible]

STEPHEN DEERHAKE: We can arrange that. Bart, you ready to roll?

BART BOSWINKEL: Yeah.

STEPHEN DEERHAKE: Thanks.

BART BOSWINKEL: It's fairly simple. This document was circulated already before the Barcelona meeting. I recirculated it yesterday. I put it up so you can check. These questions are just to help you on defining what you consider to be oversight and, to Allan's point, probably decisions ready for review and identify them. So you map out what you think the oversight process should look like and what are the decisions along the process that you think are worth taking to a review mechanism. That's the whole point of this exercise.

What you will see in the background material is something that was again shared with you based on the original discussions,

mind maps, etc. So that should not be new. It's just a reminder. But this time, it's more or less that we have you brainstorming on what you consider to be oversight, report back so we can take the next step in the process because that's it.

Going back to Allan's point, I would say we discussed this around when we discussed the schedule is probably you want to see the way to look at the decisions for review it is probably the trigger points for review. Consider it that way. So it dovetails into the review mechanism. That's probably the goal for this part of the exercise of the oversight and review. Where do you go into the review mechanism. So it's more or less creating the interface at that point.

So take a look at the oversight retirement process. Probably you all have thoughts about it. Could you come up with, Maria, the list of former groups? I will put back up the list with questions once we've done. There is one whiteboard or flipchart over there. There's a flipchart over here. And I think there is a flipchart outside. Two flipcharts outside.

UNIDENTIFIED MALE: Nick's group goes outside.

BART BOSWINKEL: Yeah?

[NICK WENBAN-SMITH]: I demand a [review]. Independent.

UNIDENTIFIED MALE: Which decision do you want [inaudible]?

BART BOSWINKEL: So here you've got the three groups. We work with three groups. I think one inside here, and then we use one to collect everything, and we have two outside. So please check in which group you are, and then I would say – which one is that one? Oh, that's the one outside. So Eberhard is going outside. Peter, if you would go – what do you want to say?

STEPHEN DEERHAKE: We potentially want to [do a little adjustment because I know my group is going to be] [inaudible] based on who's not here.

BART BOSWINKEL: Oh. And if you please check the size of the groups as well. But this is – if you see one group is very large, go to another group. And if you're not listed, just join the smaller group. So check and find your – so either Number 1 or Number 2 on that list and then join him or her. No, it's him in all cases. So, Peter, if you can outside as

well. Stephen, if you stay here. And, Eberhard, go outside, that group. And then [inaudible].

STEPHEN DEERHAKE: And 30 minutes? 20 minutes?

BART BOSWINKEL: I think....

STEPHEN DEERHAKE: [That's our time] [inaudible].

BART BOSWINKEL: 30 minutes. And you've got 30 minutes to come up and please appoint somebody who will be reporting back. So check the lists where to go. Please check the groups you're in because then we put back up the document with the questions.

UNIDENTIFIED MALE: Where is 2?

BART BOSWINKEL: 2 is Peter. Peter Koch is over there. And Nigel, no sorry, Eberhard is outside and Stephen is outside as well. So Group 1 is outside and Group 2 is outside as well. Please go to your – can you put

back up the document with the questions? So for those of you who do not understand the purpose of this exercise, it is trying to design or come up with what you think are relevant items to be considered in an oversight process. And we've put up some basic questions what you can look at and try to answer. And this should bring in already some answers for the oversight process and the important decisions. That's all. Just keep it up.

UNIDENTIFIED MALE: [inaudible]

BART BOSWINKEL: Yeah. So if you want to, we'll leave this document on there and then you can check it.

Okay, let's get started. You've got 25 minutes, otherwise I have to keep you here after 6:00 and we still have to run through a slide deck as well.

STEPHEN DEERHAKE: All right, can we get seated and start with the various presentations? Eberhard and Nick, can you guys sit down? Don't make me have Bart do this. Desiree, you are our spokesperson for our group, just so you know.

UNIDENTIFIED FEMALE: [Am I]?

STEPHEN DEERHAKE: Yes, you've been designated.

UNIDENTIFIED MALE: Should I start?

UNIDENTIFIED MALE: Yes please. [inaudible]

UNIDENTIFIED MALE: Yeah, so I'll try to reflect the process and the flow of the discussion rather than being able to present a concise result, which I think is not a failure.

We started from the assumption that [the whatever] oversight process would follow or be developed to the delegation and transfer process, which made us think about the board as an oversight entity very quickly because the board is involved in the delegation and transfer process at some point.

Then we looked at the timeline and potential oversight invocation points – that was the working title – so when would oversight happen? What would questions be or where would an action be needed on an approval or recognition or whatever term

is lawyerly correct. The initial one, and that I think we concluded, the notice itself might be worth being shared with the board just to say that there is a process, a clock ticking, but there's nothing that the board or the oversight entity would be involved in.

At the end of our process, there's the removal of the ccTLD from the root zone, and we had some discussion whether at that point or at multiple points in between the oversight body would be involved. And I think I remember correctly that we did not arrive at a complete conclusion.

One observation was that the board, or whatever entity is available, the more it gets involved in the....

UNIDENTIFIED FEMALE: [inaudible]

UNIDENTIFIED MALE: There is only one board. There is only the ICANN board.

UNIDENTIFIED MALE: [The PTI] board.

UNIDENTIFIED MALE: The PTI board doesn't exist because PTI doesn't exist because it's the IANA functions operator, and the board isn't....

UNIDENTIFIED FEMALE: [It's still a board] [inaudible].

UNIDENTIFIED MALE: No, it's a black box.

UNIDENTIFIED MALE: [inaudible]

UNIDENTIFIED MALE: The IFO is a black box. It can have a board. It can have a dictator or something. So, yes, but your question is, of course, completely justified. It's the ICANN board that we were thinking of. But as I said, I'm going to reflect the process.

So the more this oversight entity is involved in the operations, like the more often you would invoke it here, the lesser it is available for oversight because it's so much involved in the whole process. And so that is the [inaudible] to keep in mind.

Yeah, oversight point aligned with the timeline. I think I said that.

And then we shifted the perspective a bit thinking about one of the disadvantages of having the actual ICANN board being involved. And one point that came up was involving the ICANN board instead of leaving these items under the responsibility of

the IANA functions operator, the disadvantage is that board decisions can be harder undone than PTI decisions. So that was a counterincentive for invoking the board, and we didn't arrive at a conclusion there, I think.

We also thought about, because that same question came up, so, "Ah, board. Which board? Okay, the ICANN board. But who else would be there?" And the Customer Standing Committee was one entity that was mentioned and, again, we didn't have any preference or couldn't arrive at a conclusion. But that would be one other entity, and there might be more.

Did I miss anything or misrepresent anything badly, which I would regret? Okay. Questions? Yeah?

UNIDENTIFIED FEMALE: Just one thing. We had a quite big discussion about oversight and what it meant. There was some discussion and debate about what was the purpose of oversight and what did it mean.

UNIDENTIFIED MALE: Yeah, especially the question, if I have nothing to decide or nothing to reject actually, what is the oversight? And then Allan mentioned that in the plenary session before the ex-ante and ex-post approaches to oversight in terms of appeal or being [involved] in the process. We didn't talk about [suspensive]

effects of oversight or appeals and so on and so forth. That's to be left for later.

BART BOSWINKEL: Two questions just to make sure whether you follow this. Did you have a chance to discuss the transparency confidentiality of any of the decisions?

UNIDENTIFIED MALE: We did not get there.

BART BOSWINKEL: Okay. And the second one is, did you identify any decisions that would be open for review? So as maybe trigger point for the review process. No? You didn't.

UNIDENTIFIED MALE: I'm not sure I understand the question. Allan?

ALLAN MACGILLIVRAY: I think we discussed, even though I don't think we had a consensus, is the only decisions that would be subject to review are those decisions in which there was discretion being exercised by the IFO. So from that perspective, for example, issuing of the notice would not be reviewable because that has no discretion.

Where it has discretion is in accepting to extend beyond five years, and it has discretion in denying a request to extend beyond five years.

UNIDENTIFIED MALE: Yeah, and I think we also talked about whether it was an explicit or an implicit decision to go for five years. Implicit being the ccTLD manager not responding and at that point in time the date for the removal would be set. But we didn't come to a conclusion how often to invoke the review or oversight in that case.

UNIDENTIFIED MALE: Actually, one other point [maybe you didn't] emphasize is we just brought up the notion of just as in many countries someone who is on death row has an automatic right of appeal, even though we're not talking about appeals, but maybe we floated the notion that there would be some programmed review at a certain period before the TLD is removed from the root just as an automatic within a certain period before they pull it, there would be some third party just making – so we talked about that, I believe.

UNIDENTIFIED MALE: Yeah, we also didn't dive into any abuse scenarios, as in what is the optimal point to invoke any review/appeal to get an extension of the five or ten years or what. Okay, Bart?

BART BOSWINKEL: Going back, and I don't know whether this is but maybe it's too deep into the weeds, if you go back to the decision or what was considered the end of the process that starts triggering the removal of the ccTLD, you could imagine either it's part of, the check you just introduced, it could be part of the removal process. [inaudible] that's outside of the policy. But then again, maybe that's appealable. Or it should be the end point of the process. It is done. It is completed. Now all of the conditions have been met to trigger the removal process. So it's defining the end point of the process and the starting point of the removal process.

UNIDENTIFIED MALE: Actually, we just didn't have that discussion. I'm happy to debate it with you, but I'll leave that for the moment. Thanks.

UNIDENTIFIED MALE: Okay, who's next?

BART BOSWINKEL: Stephen's group, so that's Desiree. Take the mic [inaudible].

UNIDENTIFIED FEMALE: Okay, so our group started looking at the list of important decisions and we marked the as D1, D2, D3. Throughout the

process of, let's say, a five-year timeline or a ten-year timeline with the clear point that there might be some extensions of this five-year up to ten-year timeline. And we looked at what could trigger the change of the code name and what could actually trigger the retirement of a ccTLD and that it ends with this removal at the end either of a five-year or a ten-year period.

So the Decision 1 is the decision that is made at the ISO 3166-1 when there is a code name change. We actually talked about [Swaziland] in particular because that's been the recent one. So this Decision 1 that is outside the scope of a ccTLD manager and it's outside of the scope of the IFO, but it happens externally. Therefore, at some point we have a liaison here or Jaap is the liaison with the working group of ISO 3166 who would also tell IFO that this change has happened. We think that would actually trigger that IFO would tell the ccTLD manager that there is a code change in case they are unaware. We think there could be a case like that.

So there's some process here [with this other] decision when there's a communication between the IFO and a ccTLD manager saying, "This code is taking place. Do you have a retirement plan?" The ccTLD manager says, "Yes. This is what it is." Or it could say, "No. We don't have a plan, and please go away." Which means this is not in good faith. Or there's no agreement to discuss the retirement plan. Or in most cases what will happen is that

they would ask for help, in which case the IFO would then provide the copy of the retirement plan here. And this is where the process. There is also an option there is no response. It's not "go away" or "please help" but there could be a silence on the part of the ccTLD manager.

So that all fits within this two-year plan. And then there [is a] list of things that need to happen in the retirement plan that Peter spoke about that's the dates that are set, and we didn't so much look at that. But this is a decision here about the retirement plan. If you don't have a plan, the ccTLD manager decides to ask for help or [decide].

And the third one is actually the communication plan. It's a decision on a timeline, so that's the next one, to communicate together to the registrants about the set of notices, the set for renewal, transfer, or when they will stop with the registrations.

What else did we look at? I think we looked at this particular thing: no response, which is Decision 4, from a ccTLD manager. Where there's no cooperation and there's [some] oversight function. So who makes a decision in that case? There's a list of decisions. In this case the ccTLD manager makes the decision. And which of those were subject to review and by whom? When we looked at these decisions, we thought that all of them should be transparent. They shouldn't be confidential so that the

registrants are being protected by the transparency of a decision, [the] communication between the IFO and the ccTLD manager. And those exchange materials that are supporting the code change or the transfer of the [assets] to another registry, in this case of [Swaziland] let's say it will go to a new .en registry. There will be a transfer there.

So we stopped there because we didn't have enough time to think about confidentiality and which decisions are subject to review. But we thought that only the extension of five-year period to ten or any other request coming from a ccTLD manager could be subject to review.

That's any questions? Okay.

STEPHEN DEERHAKE: Thank you, Desiree. No, we've got two more to go.

UNIDENTIFIED MALE: One group.

STEPHEN DEERHAKE: One group. Okay, which is Group 4?

UNIDENTIFIED MALE: Group 3.

STEPHEN DEERHAKE: 3, okay, sorry.

UNIDENTIFIED MALE: [inaudible] Group 3. [inaudible]

UNIDENTIFIED MALE: No. The native English speaker is the spokesman.

UNIDENTIFIED MALE: [inaudible]

UNIDENTIFIED MALE: I'm quite willing to [inaudible].

NICK WENBAN-SMITH: So, okay, good. So not a huge amount of [new, new] I don't think. I think one of the things we started off by saying is that the ICANN board has at least two ccTLD reps and those are all public record. And so to a certain extent in terms of oversight, in our community we'll be relying on the ICANN board which does have strong ccTLD participation on. And that is effectively the backstop in terms of process oversight. However, we were concerned about transparency requirements and we thought that – well, we went 'round a bit about this – but certainly that there should be an

annual update on the public record and whether that is frequent enough. But actually I think where we came to is that decisions, particularly say a decision for non-extension, should be formally tabled at the next public session so that everybody is aware of what is going on there. So that's in terms of oversight and transparency.

We talked a bit about whether every single piece of communication between a ccTLD whose code element has been changed and are therefore in the retirement process should be public record. And we thought the answer to that is no, they shouldn't be public record. But the decisions made should be public record. So the negotiation behind the scenes as to whether or not you get your five years and the Draft Plan A, Draft Plan B, Draft Plan C, etc., would not be public, but a decision to grant an extension and the formally agreed plan would finally be public record. And those should be tabled as such so that transparency is met.

In terms of, well, we call it appeal. There are certain categories of decisions where the ccTLD ought to have a recourse. And this is the second part of this PDP. The examples we found were if the IFO didn't agree with the ccTLDs plan and therefore denied a time extension, or gave a lesser time extension than that which was requested I suppose, then that's something which would be an obvious subject for appeal through the appeals process. And

there's been some discussion about a failing registry operator. Maybe it doesn't have the financial resources or whatever. And if there was a sort of process of transferring a non-functional registry operator to a registry of last resort, then that's the sort of decision which ought to be subject to some sort of appeal mechanism.

I think the final thing I'll say is we wanted to keep it as simple as possible, and that would be a desirable outcome. And I think that's in line with the other processes that we've talked about here.

STEPHEN DEERHAKE: Thank you, Nick. Any questions for Nick and/or his group on this? Brent?

BRENT CAREY: Just on the failing registry, last resort. I know we've talked about it on the list a little bit, but I think we need to flesh that out a bit in the policy as well.

STEPHEN DEERHAKE: Okay, duly noted. Jordan?

UNIDENTIFIED MALE: Is this a time to make a general observation based on those three presentations?

STEPHEN DEERHAKE: Feel free.

UNIDENTIFIED MALE: I'm kind of struck by the use of the term oversight, unfortunately. It sounds like that might be a bad thing to be. But oversight to me sums up that someone is keeping an eye on the process being done, and the process being done at this point is the IFO, right? So one of the things that someone mentioned to me I think was whether there should be some part of the ccNSO that oversees that process, keeps an eye on it, and the CSC is an obvious one. Because the decisions and the appeal things are interesting, but it's the ongoing who's just watching this process that's part of what oversight is. Just offering that as an observation.

STEPHEN DEERHAKE: Thank you for that, Jordan. I would argue it's probably the Customer Standing Committee's, we could add it to their remit for all their other oversight of that function. But certainly if somebody feels otherwise, speak up or speak to the list on it. Any other [inaudible]? Allan?

ALLAN MACGILLIVRAY: Well, since the Customer Standing Committee is 50% CCs and 50% Gs, I really don't think it's an appropriate body to get involved in this kind of policy.

STEPHEN DEERHAKE: Interesting observation. I had not thought about the bicameral makeup of the CSC. Given that, I would urge everyone to think about this and add it to yet another topic for discussion on the list and during our sequence of teleconferences leading up to Marrakech and the face-to-face there. Eberhard?

EBERHARD LISSE: Oversight translates actually, as far as I'm concerned, into transparency. We don't need to inform the public about details – names, confidentiality, data protection, these kinds of things – but, for example, if the IANA functions operator gives a regular report to the board that is on the public record, then we see what's going on. Then we separate from this decisions that are discretionary like the other group said. Those are appealable by the mechanism that we will define later.

Personally, my view is that IANA [inaudible] has always abided by policy and the PTI/IFO will also abide by policy. The problem comes up when there is no policy, then they made it up as they

make along. So as long as we can publish on a regular basis like the clock has started ticking, a retirement plan has been sent in, we have approved it, extension has been granted/extension has not been granted, appeal has been lodged, appeal was successful or unsuccessful. As that is published, we can always if they're interested communicate with the ccTLD manager and get his or her side of the story. We don't need to second guess as far as oversight is concerned and micromanage PTI or IFO or whoever is doing the function.

Transparency is the best mechanism of keeping people honest when they have to publish this on a regular basis in a meaningful form. The current reports that PTI provides to the board as rationale for delegation is very uninformative. But that's a method that we can write in the policy. And once it's transparent, we know it's happening and we can communicate with the ccTLD manager. If then somebody of us is concerned, we can take it up. But it's a bilateral thing anyway.

STEPHEN DEERHAKE: Thank you, Eberhard. Peter and [Naela], I'm not sure who had their hand up first. So you want to? Okay, [Naela], go ahead. And then Peter.

[NAELA SARRAS]:

Thanks, Peter. After our group did the discussion and listening to the other groups, I'm starting to think that we went a little too far and too prescriptive in saying CSC, ICANN board. I think what the policy should say is that the policy should express its wishes to have oversight and transparency and then let the implementation decide how that is implemented. And then I assume that this will go out for implementation and then public comment before it's actually implemented.

And then the second idea, actually it's sort of building a little bit on what Eberhard said. Right now when a delegation or a transfer is in process, there's a report that says the ccTLD is being transferred to this party. And so that is part of the reporting that we do monthly. So I agree with you. I think that should be also built into that report with the major milestones listed there, and that would be another form of transparency there.

STEPHEN DEERHAKE:

Thank you.

EBERHARD LISSE:

We had said on a regular basis, annual or maybe after an adverse decision, so that people can see what's happening. I prefer a regular report so we know it's happening. I can make a note, "In one year I must see something." And I forget about these things,

but if I can put it in my reminders, it comes up a week before so that I can be on the lookout.

And then, of course, if there is a major adverse effect like extension plan not approved, it should come to the board's attention. Then we can see that. If a ccTLD manager needs assistance, they can always ask or we can always ask them. If not, it's not our problem.

STEPHEN DEERHAKE: Thank you, Eberhard. Peter?

PETER VAN ROSTE: Thank you, Stephen. I wanted to respond to what Jordan said in terms of confusion or concern about the use of the word oversight. And then you explained what [you said]. I would like to add that oversight can also mean that the overseeing party assumes responsibility or that there's a shift, which was maybe obvious. And I can't offer what follows from that for potential appeals or suits or you name it, but that's another [part]. [It's] not only about transparency but that shift.

On the CSC, we discussed that a bit. There's more than Gs and Cs there. There's the GAC without voting rights, and that might add pepper or salt or whatever. So that's [another thing]. I was going to say the CSC is concerned with KPIs and performance rather

than content at the moment or substance. Not meaning that the rest is not substantial, but in terms of they're, for example, not concerned with the technical checks or something. They're not diving into things, and adding heavyweight tasks to their mission derail the issue. Not to be mistaken as a firm anti-position, but let's not destroy this thing by overloading it maybe and it's still an option. Thank you.

STEPHEN DEERHAKE: Thank you, Peter. Allan?

ALLAN MACGILLIVRAY: Going back to transparency, I think we carried in a little different definition of oversight. What I'm hearing is I think everyone is in agreement with oversight. We have to write that up, but I heard a lot of convergence around the need for that and I'm in agreement with what I was hearing.

So I think the question for me is, what do we have to do beyond that transparency? One of the things we started out with in our group was the current practice under which the ICANN board reviews the process that the current IFO/PTI has followed when it does a delegation or a transfer. So I call it a process audit. Another way to look at it is a second pair of eyes. This is a very significant step. We want a second pair of eyes to make sure that everything

has been followed. So that's an idea that I am quite attracted to so I'll put that out.

But beyond that, I think we should defer a debate on CSC, ICANN board, the board of the IFO (if I could use that term) until we have some sense of where we are on what we need. But I would point out just on the CSC that if we went down that road, that would require changing its charter which would involve the engagement and approval of other SOs and ACs in the community. And I'm not sure the value added that it would bring would be worth all of that baggage that would be carried along with it. Thank you.

UNIDENTIFIED MALE:

Adding to what Allan just said if you look at the charter, what it currently does is monitor the performance of PTI against service-level agreements. So if you want to do it for the CSC [to have a] role in this process, you need to define service-level agreements around the retirement and the retirement process and that needs to be included in the statement [of work].

STEPHEN DEERHAKE:

I think we've answered our question about the appropriateness of the CSC. Yes, Alyssa, go ahead.

ALYSSA MOORE: Sorry. Before we close this out, it seems to me that what we're talking about is less of an oversight function and more of a monitoring function. And in that case, the ccNSO might have a role to play in monitoring the process to make sure that it is transparent. Thank you.

STEPHEN DEERHAKE: Speaking as a ccNSO Council member, I'm not sure that's really appropriate. But let me think about it. Eberhard?

EBERHARD LISSE: I actually fully agree with this because I don't allow anybody to oversee my ccTLD, but I'm quite willing to be transparent. It's none of Patricio's or your or Jaap's or [your] decision what .na does. It's solely mine as manager or managing director or the board of my directors. And we have to abide by RFCs and FOI and we don't have to misbehave substantially. Otherwise, it's none of your business.

But what we want to do is want to have a mechanism that is transparent so that if a ccTLD manager gets aggrieved and he is small and lonely, that he has got some big muscle that he can talk to and who can assist him.

STEPHEN DEERHAKE: Thank you, Eberhard. I would like to close this out as we have a couple more agenda items that we should tend to and we have about 15 minutes left.

BART BOSWINKEL: [And just to add] we do have enough work or material to work on regarding oversight starting to come up with at least a summary of what you said and what you've done and then building on that, take this to the next steps up to Marrakech.

STEPHEN DEERHAKE: I agree. I think Bernie will have callouses on his fingertips by the time of our next teleconference given the workload we've given him.

Maria, if we could get up the slide deck for the ccNSO and GAC presentation please. [inaudible]

BART BOSWINKEL: This is a slide deck I circulated this morning. It's a draft we discussed on the last call that we would run through it. Can you go to the next page please?

Going back, it follows the same structure as the previous presentation. So closed items, closed in Barcelona and closed

since Barcelona. I think this is reflected in the repository of decisions as well. So next slide please.

This is where it starts between Barcelona and what this group has accomplished, the duration of process. What I've tried to capture is the starting point and the end point. As you will see, the starting point of the retirement process is the notification of PTI and not the triggering event because that's a given. And this is where it [inaudible]. It's a subtle difference, but I think this is captured in the document as well this way.

And the end of the process at a specific time, so the five year or when the retirement has been executed. And maybe that's a point for what we just discussed with Allan. That's why I was [inaudible]. But it excludes, as you decided or as you reached as one of your decisions, it excludes the removal of the ccTLD from the DNS root zone file. Next slide, please.

So a first question for the audience on Wednesday or Tuesday is the definition of this duration of the process. Next slide, please. I don't see – yeah, go ahead, Allan.

ALLAN MACGILLIVRAY: Actually, just a general comment on the use of the word “agree.” I wouldn't want people to misinterpret that. So maybe, “Do you have any comments on” or some synonym.

BART BOSWINKEL: Yeah, I'll update it. When I wrote this – no, that is very clear. So basic duration. Basic duration is five years. There is a bit of the rationale which is also included in the repository document. Next slide, please.

Absolute maximum duration ten years, again, with a bit of the rationale from the repository document. Yeah, go ahead, Patricio.

PATRICIO POBLETE: Yeah, about that rationale, I would say that's one reason but that's not the only reason. Actually, I think the real reason is that there is a rule that says that for a ccTLD to exist, the code has to be in the ISO list and we may accept [violations] to that rule only on a temporary basis as a transition. So that's the real reason why there has to be a deadline.

BART BOSWINKEL: Can you go back one slide please? And then Peter. I think it's captured on bullet one.

PATRICIO POBLETE: No.

BART BOSWINKEL: No?

PATRICIO POBLETE: Even if codes were never [inaudible], we would still want to delete the ccTLD if the code doesn't exist in the list.

UNIDENTIFIED MALE: [inaudible]

UNIDENTIFIED MALE: Yeah.

STEPHEN DEERHAKE: Peter?

PETER VAN ROSTE: I would like to strongly disagree and also suggest that we in front of the GAC do not open this issue. The point of disagreement is that there is no rule that says there needs to be a code to remain a ccTLD. The rule says there needs to be a code so you can be delegated a ccTLD. Whether or not that [holds,] we have had that discussion on the list and elsewhere I think where we had this interesting contribution on the list where somebody said the moment the code is gone this is no longer a ccTLD so what is it? It is a gTLD and so on and so forth. I think we do not want to repeat

that discussion with GAC involvement or even observation. Thank you.

STEPHEN DEERHAKE: Either a modification of a variant of the slide set for the GAC presentation is what you're suggesting. Yes, Patricio?

PATRICIO POBLETE: Yeah, I agree with the GAC thing that you say, but if I understand what you're saying, are you saying that then if a code is removed from the list, then the corresponding ccTLD could exist forever?

[PETER VAN ROSTE]: Well, that is probably wasting Bart's time now, but I would say no because the first bullet item I think for me is the driving force. We both may have different driving forces. If we arrive at the same conclusion, that should be fine for the moment.

BART BOSWINKEL: I think it's in a way – can you go back up to the triggering event that was reached as [inaudible]. Go up again. Go up again. Go up again. Go up again. No, you're going down. Stop. Go down again one more. The other way. Stop. I think the best way is to strike this one because effectively it's captured in the triggering event, and that's more than enough. There is no further rationale. The

triggering event causes this, and therefore it needs to be removed. So let's just strike it and this way it's captured and it's outside of the scope of this working group.

UNIDENTIFIED MALE: Let me add two things actually. The one would be following, Patricio, your line of argument, I'd say that at the moment the triggering event has happened that ccTLD would be an illegitimate ccTLD and that would be bad and the GAC shouldn't even get the idea. Thank God we're not recorded here.

The other one is when we talk about the timelines, there might be the question of why 10 years. Why not 15 or 25 because ISO says it's 50 years. And we might want to be careful in that direction as well.

PETER VAN ROSTE: I agree, but at one point you need to come up and say you agreed on ten years and that's been circulated.

UNIDENTIFIED MALE: I'm fine with ten years.

PETER VAN ROSTE: And it's arbitrary. It's very clear.

STEPHEN DEERHAKE: Thank you, Peter. Bart?

BART BOSWINKEL: Yeah, scroll down again. Scroll down again. Scroll down again. Scroll down again. Okay, and then these are the – I think the second way, Allan, going back to your point is concept acceptable, is this acceptable?

ALLAN MACGILLIVRAY: Yeah, or [inaudible].

BART BOSWINKEL: Comments, no, because you want to have a show of cards.

ALLAN MACGILLIVRAY: Oh, you're going to do a show of cards?

BART BOSWINKEL: Yeah.

ALLAN MACGILLIVRAY: Oh, how long are you...?

STEPHEN DEERHAKE: Microphone.

ALLAN MACGILLIVRAY: How long are you planning for this session.

BART BOSWINKEL: About 20-25 minutes.

ALLAN MACGILLIVRAY: Ew, good luck with that. I mean you get into that, you could have a long session. But I'm the one who has been advocating outreach and getting feedback, so I want to go on record as I started all this, right?

STEPHEN DEERHAKE: Thank you, Allan. We recognize you're a troublemaker. We have 33 minutes for this session, and I can probably squeeze a little bit more out if I cut the ECA presentation short, which [is] easy enough to do.

UNIDENTIFIED MALE: Yeah, sorry. Either I am confused or I have contributed to confusion. I was under the assumption that this is presented to the GAC, not the ccNSO.

UNIDENTIFIED MALE: [inaudible] ccNSO.

UNIDENTIFIED MALE: Okay, fine. So my comments about the GAC might now explain themselves.

UNIDENTIFIED MALE: Yeah.

UNIDENTIFIED MALE: Okay, sorry about that.

BART BOSWINKEL: Stephen said also for the GAC, but not [with this part]. It will be a summary of this. He will not....

STEPHEN DEERHAKE: Hence the fork of the slide set.

BART BOSWINKEL: Can you scroll down again? Next page. Retirement plan, again, I hope this captures what was discussed. I was preempting today's discussion a bit and the discussions online.

STEPHEN DEERHAKE: Peter?

PETER VAN ROSTE: A slight nitpick. The retirement plan is requirement to extend the duration beyond five years. It's not only if you ask for ten.

STEPHEN DEERHAKE: Well taken.

BART BOSWINKEL: Yeah. Next page please. Questions. The next slide, retirement process, just an overview. The red things are outside of the policy. That's why they're marked red so the triggering event and the removal from the root zone file is outside. And then you have the two paths, one with arrangement and one without an arrangement, just to highlight how it's happening. Any questions on this slide? Oh, it's readable, isn't it? Next slide.

Do they look reasonable? I think it captures the discussion what's in the – and I think this concludes. Maybe the next one more. Next steps, this is what the group's doing. And that concludes the slide deck.

STEPHEN DEERHAKE: Thank you, Bart. Any further comments? I think it was very handy that we – useful that we put this up for review because I think the

comments we've gotten are insightful and important in terms of how we present this. Peter, go ahead.

PETER VAN ROSTE: Sorry, it's me again. As a matter of religion almost because I don't believe there's an exceptionally reserved list this is an internal thing of the MA. What about trigger event for ccTLD already not on the ISO list?

BART BOSWINKEL: If you look at the online platform which is publicly available which is marked by the ISO [3166], the online browsing platform it's called, that's where they publish the [exception] reserved country codes.

PETER VAN ROSTE: Yes, without any external mandate. I feel your resistance. I just was inclined to make that point.

STEPHEN DEERHAKE: Thank you, Peter, and don't apologize for speaking up. This is why we're here.

If there are no further questions or comments on that, I would like to call the discussion of the presentation to a close and move on to any other business, which indicates we're getting close to

adjournment. Is there any other business from anyone? Ah, Bernard.

UNIDENTIFIED MALE: [And Naela].

STEPHEN DEERHAKE: Oh, I didn't see [Naela].

[NAELA SARRAS]: [inaudible]

STEPHEN DEERHAKE: Oh, sorry.

BERNARD TURCOTTE: Actually, I'm going back to....

UNIDENTIFIED MALE: [inaudible]

STEPHEN DEERHAKE: It's because Peter [inaudible].

BERNARD TURCOTTE: Just back on the presentation, I'm with Allan a bit. You're asking them to chew a lot of stuff and come up with a lot of decisions in 30 minutes. Don't forget, we've been at this for a while. You may want to, I don't know, build the presentation so if it's going well, you can get into further steps or if people jam up on things, then they don't feel that they've missed out on half the deck or something like that.

UNIDENTIFIED MALE: Yes, all I would do is just take out the slides where it said, "Do you agree?" That would give you the flexibility to pause when you want or not. That's all. Because otherwise, you're obligated to stop at every spot.

UNIDENTIFIED MALE: Yeah, I understand. And it depends on how it goes. So you as presenter certain always ask these questions. You've got them in front of you. If you print this one, you've got the questions in front of you. That makes it easier. One of the reasons for including it and doing it this way is looking back at some of these sessions with green cards or questions is most of the times the questions were not prepared in advance. And therefore they were very ambiguous and you lost a lot of time in just reframing and addressing the ambiguity of the questions. That's why I've included this, and it makes it easier for people to read and think

through. But it forces you to ask these questions. So not having them, if you have them on paper next to you, say print this slide deck with questions and present the other ones, you can always step in and use these questions.

STEPHEN DEERHAKE: Go ahead, Nick.

NICK WENBAN-SMITH: Just generally on the point about showing cards and stuff, I know I have sort of an allergy to this being sprung on in the actual session. If you're going to ask people to indicate one way or another, then it's only fair to give them a few days of notice. On some questions I can show a card yes or no. But on other questions maybe not so much as something like this I might want to talk to my colleagues. I might need to talk to my chief executive potentially or not. But something existential like retirement if it was a significant point, then it's only fair to give people enough time to absorb it and maybe talk to colleagues because some of us have got internal processes to follow.

UNIDENTIFIED MALE: That's why I was struggling with the word "agree." It doesn't capture what you want. It's just effectively you want a hum from the room. A positive hum or something else. Say are we going in

the right direction? Maybe that's the question you should ask. Is it the right direction we're going?

UNIDENTIFIED MALE: Maximum two [inaudible]. Maximum two card [inaudible].

STEPHEN DEERHAKE: Max of two, I agree with that. So we will huddle and rework this. Peter again.

PETER VAN ROSTE: So, yeah, temperature of the room is a thing and avoid the cards because that is too formal. I guess we agree on that. I maybe missed it, but we've been talking about this rationale document or the [recitals] to it. Were they still on the to-do list? So we promised them to the audience or we can point to that saying that – what we want to achieve is that if people run away screaming because they either disagree or consider this too complicated, we probably want to get that feedback. Are we off in the weeds and have been dealing with this for too long? Now if anybody is interested in more details, we might want to suggest that, yes, we are working on an explanatory document that you then can later share with others. I just don't remember whether it was on the slides as a promise or not.

STEPHEN DEERHAKE: Eberhard?

EBERHARD LISSE: If you talk to government representative, saying to table something means politely to go somewhere else. It means politely that you don't want to deal with the matter. It's a good thing. We should do that. We should refer it to later to the mailing list because they will never e-mail us.

STEPHEN DEERHAKE: This actually also goes back to the lack of GAC participation to this date, which is an ongoing issue. Thank you, Peter.

NENAD ORLIC: I had a question [under AOB].

STEPHEN DEERHAKE: Under AOB?

NENAD ORLIC: Final question for the AOB.

STEPHEN DEERHAKE: We're here so go ahead.

NENAD ORLIC:

As you may notice, I was really trying to steer clear from the subject of IDNs, but for the end I just had to mention it. Also, since I saw it on a slide that we are working on it, so my question is when will we be working on it as a trigger event?

I am aware, again, that in the goal of this working group it states that “the goal of the working group is to report on and recommend a policy for the retirement to the delegated top-level domains associated with the country codes assigned to the countries and territories listed in the ISO 3166-1,” and that excludes the IDN ccTLD formulated like this. But again, in a council resolution that was forming of this group it says initial focus needs to be on developing of policy retirement of ccTLDs. It never mentions this wording that’s in the goal, though it says clearly ccTLDs.

And in Barcelona we came to conclusions that IDN ccTLDs are ccTLDs and therefore I think it would be wise to include them somehow. And basically what that slide last says, we just need a trigger event. [People], why [were] we avoiding the subject. We only need a trigger event for that and then we [covered] the subject of IDN ccTLDs. It doesn’t need to be.

That’s the reason why I avoided discussing it [anywhere] where it might be appropriate. It could be appropriate in many other

points of the documents. But in the end if we just define a good trigger point for the IDN ccTLDs, that's it. This subject of domain retirement is put for discussion [very rarely]. And since we have it on the subject and we're doing something as a policy, I think we should make it future proof by thinking of IDN ccTLDs as ccTLDs as normal as the current listed in the ISO list. That's all I want to say, and I wanted to say it for the record and not to bother you that much. Thank you.

STEPHEN DEERHAKE: No, that's fine. I actually concur with you on that because if we adopt that definition, then there's really no further work that has to be done simply for the IDNs, and we will make that clear at some point.

If there's no other....

NENAD ORLIC: Just when? Let's try to make some internal obligation on when we will because if we don't, I will bring the subject as much often as I can.

STEPHEN DEERHAKE: Let me try to answer question by moving on to the last item on the agenda which is next meetings. We've identified the

opportunity to have six teleconferences between now and Marrakech. And I believe we will, in fact, have a discussion during one of these, possibly not the next one but probably the one after, on this whole IDN question. And if we can – let me put it this way. We will endeavor to have this discussion during a teleconference whose time is more convenient to you than not. How about that? Because we all suffer from about every third call you're wondering, "Why am I getting up for this?" or "Why am I staying up for this?"

BART BOSWINKEL:

[inaudible] another point as well. Nenad, in response, this is not avoiding the topic as you could see. So you got the exceptionally reserved country codes as well, which is – the thinking was let's do the basic process first, which is already hard enough, and then look at the trigger events for the exceptionally reserved and for the IDN ccTLDs. So this is not avoiding it, definitely not. But once we've got this process in place, then it is really talking about what is the trigger event. Or put it another way, when is that trigger event complete in case of IDN ccTLDs. Because I think there are many instances where this could happen.

STEPHEN DEERHAKE:

Thank you, Bart. If there's no further discussion on this particular topic, let me move on then with giving you guys what we think

will be the tentative meeting schedule. This, once finalized, will go out on the list. The proposal is to start two weeks after the end of this meeting on the Thursday as per usual, picking the rotation up from the last meeting teleconference rotation.

So the schedule tentatively if my math is correct would be 28 March at 11:00 UTC, 11 April at 17:00 UTC, 25 April at 23:00 UTC, 9 May at 05:00 UTC, 23 May at 11:00 UTC, and lastly 6 June at 17:00 UTC. So this gives us two weeks off before we pick up, which is usually what we do after a face-to-face, and gives us six meetings in the time period between now and convening for our next face-to-face in Marrakech.

Again, this is tentative until we get [them mass] sorted and make sure it's right, and it will go out on the list. And I think we're going to be in a position by Marrakech to have had a lot of stuff done and pushed forward. So that is the tentative schedule. Are there any questions? Any objections?

Seeing none, I would like to bring this meeting to a close. I would like to thank our able staff. I'd like to thank the techies in the back who have made this run smoothly. And I'd like to thank all of you who have stuck it out all afternoon and into the evening. So this meeting is adjourned. Thank you, guys.

[END OF TRANSCRIPTION]