

TRANSCRIPT

Framework of Interpretation Working Group *21 November 2013*

Attendees:

ccNSO:

Martin Boyle, .uk
Becky Burr, .us (Vice Chair)
Keith Davidson, .nz (Chair)
Stephen Deerhake, .as
Daniel Kalchev, .bg
Eberhard Lisse, .na
Patricio Poblete, .cl
Nigel Roberts, .gg

GAC:

Frank March

Other Liaisons:

Maureen Hilyard, ALAC
Cheryl Langdon-Orr, ALAC (apology for lateness)

Guest:

Bill Manning, USC ISI

Staff Support and Special Advisors:

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

Kristina Nordstrom: This is ICANN Buenos Aires on November 21. The meeting room is Aguila. It's the Framework of Interpretation Working Group, and I would like to remind everybody to say your names before you speak for the transcript record. Thank you.

Keith Davidson: Thank you, Kristina. My name is Keith Davidson, for the record. I'm the chair of the working group. Just before we go around the table for introductions, just put in my own apology that from time to time today I'll probably be standing up and walking around, because I've got a very bad knee and it locks up if I sit down for too long. So, I think we have quite a large agenda today in spite of some last minute changes that we can attend to during the agenda session, but I don't think we're going to consume the entire three hours. So, I think we'll be having a break somewhere along the line and probably finishing early. So, can I have a list of apologies, please, Kristina?

Kristina Nordstrom: I don't have any apologies.

Keith Davidson: No apologies? Can we go around the table and -- sorry.

Unidentified Participant: I've seen Cheryl, who sends her apologies. She's going to be arriving late, but she will be coming.

Keith Davidson: And an apology from Cheryl Langdon-Orr for lateness. Can we go around the room and introduce ourselves, starting with [Per].

Per Dunnell: Hi. I'm [Per Dunnell]. I'm representing .mu.

Patricio Poblete: Patricio Poblete from Chile.

Gabriella Schitteck: Gabriella Schitteck, ccNSO.

Kristina Nordstrom: Kristina Nordstrom, ccNSO.

Frank March: Frank March representing New Zealand on the GAC.

Kim Davies: Kim Davies, ICANN staff.

Nigel Roberts: Nigel Roberts, .gg.

Bernard Turcotte: Bernie Turcotte, staff support.

Becky Burr: Becky Burr, .us.

Daniel Kalchev: Daniel Kalchev, .bg.

Martin Boyle: Martin Boyle, .uk.

Bill Manning: Bill Manning, .um.

Eberhard Lisse: Eberhard Lisse, .na.

Keith Davidson: Thank you. So, I will assume that those present as being correctly recorded as have the apologies. I see no exceptions. A bit of an agenda bash, if we could. Bill Manning fortuitously was in the room and we had a bit of a discussion just as we were coming together. Bill was the delegated representative for .um, and we did identify that as an oddity on our way through the delegation/redelegation

working group process. So, just to take advantage of him being here and the fact that we have quite a large agenda, I'd like to introduce an additional item for just 10 minutes. But, Bill, take us through so that we might have a bit more color and depth over that undelegation than was given to us by the ICANN board reports and so on. So, if we could do that after we confirm the meeting notes.

And then if we could spend a little bit of time with Frank as our GAC representative on this working group and just look at the process for the ccNSO and GAC -- or this working group and GAC collaboration going forward from here through to the end of our work and just what the GAC, what we might be able to do with the GAC to ensure that we're walking in step together until the sun sets. If we could do that after Bill's and then return to the agenda and to item 4, which will be the responses to the public consultation and so on.

So, is everyone happy with that? Is there anything else to add to the agenda? I see one new person in the room. Can you please introduce yourself from the microphone for the record?

Dan Ukiz: I am [Dan Ukiz] from .rs.

Keith Davidson: Okay. If there are no further agenda -- I'll just make for the record that Bart Boswinkel has joined the room. And, Bernie, we've had the meeting notes from the 7th of November. Is there anything from that that isn't otherwise covered on the agenda? Does anyone have any issues with that meeting report?

Bernard Turcotte: Nothing on my side. Fairly straightforward.

Keith Davidson: Excellent. Shall we move, then, to .um and, Bill, the floor is yours.

Bill Manning: Okay. So, if the floor is mine -- yes, sir?

Nigel Roberts: Some of us all know about .um, what it is, but many people don't. Do you mind starting from the very, very beginning of the dawn of time and giving a few seconds on how it came about before you tell us how it came not to be about?

Bill Manning: Okay. There was a volcanic eruption that occurred in the late 1980s, when there was some discussion about increasing or changing the number of top level domains from the five that existed at the time. And there was a decision made to use the ISO 3166 codes to create sovereign level delegations on the assumption that most of those things were sovereigns. So, there were a few codes that were added in which were not from ISO 3166, but in general that is referred to as the country code delegations. And Cooper, myself, Suzanne Woolf and Steve [Hotz], under the direction of Jon Postel, created all of the new TLDs under the cc list, including .um.

At the time, most countries -- there was not good connectivity. The Internet did not spread globally. Countries had no Internet in their mindset, it was below the event horizon for most of them. And so we ended up assigning operation of the country code top level domains to technically adept parties, whether or not they were in the country or not. And this generated, about five or six years later, when connectivity did occur, towards the mid-1990s, end of 1990s, when countries actually started to figure out that this was important, there were a fair amount of redelegations that occurred.

Perhaps the most interesting one for me was the government of China figured out that it wanted .cn, and discovered that .cn was actually allocated to a couple

of graduate students at the Max Planck Institute in Germany. And the difficulty there is that many branches of the Chinese government decided they wanted it. And so one -- as part of the redelegation process, there was -- what Postel used was, you go figure out what it is that you want and tell us. Give us a consistent answer and then we will evaluate. That happened.

.um never really had another home. I was the original administrator for .um. I'm sorry?

Nigel Roberts: (Inaudible)

Bill Manning: .um is designated as the US minor outlying islands. It is nine islands in the Pacific and one in the Caribbean. All of them are currently uninhabited. There was one island in the Pacific, Baker Island, that was used to extra guano. There are mineral rights listed, they're still there. Currently, those mineral rights are owned by DuPont, but they have an injunction against tapping natural resources in what is considered now a national park.

Keith Davidson: Just interrupting for a moment, I see some new people in the room. So, for the record, could we have your names on the -- if you could use the microphone and introduce yourselves?

Chris Jamanga: Yes. My name is [Chris Jamanga]. (Inaudible).

Keith Davidson: Can't hear.

Chris Jamanga: [Sidoniq].

Keith Davidson: What city? And that's Chris?

Chris Jamanga: Yes.

Unidentified Participant: (Inaudible) for a year I am actually representing ICANN on the MA 3166, maintenance agency.

Keith Davidson: Which brings me to the point that I so rudely interrupted you on, Bill, and that is that the ISO 3166 list was generally compiled for the purpose of postal codes. So, it seems like a real oddity that you would add .um with some islands in the Pacific and some in the Caribbean for the use by postal offices.

Bill Manning: I didn't -- we just pulled the 3166 list. We did not add to it, we didn't recommend to it. At one point, because there were mining interests on the island, there was postal service to Baker Island.

Nigel Roberts: Actually, if I could just clarify that a little bit, because that comes directly to our bit of magic from before the dawn of time. The ISO 3166 list was not the postal list. The postal list was actually ISO 3166, so it's for other codes. And that's how we came to get in the room, but that's a side issue that I can talk about another time.

But 3166 was a United Nations list designed for those countries and territories for which statistics wanted to be collected separately. Now, (inaudible) catchall (inaudible).

Keith Davidson: But they aren't wanting to get the (inaudible) level of detail. Very briefly you have --

Unidentified Participant: Well, the ISO list actually constitutes (inaudible) into this and they will merge into one, so, I mean, so it's difficult to say what it is. I mean, that's --. So, to get on the list, I mean, it helps to be a UN member, but it's not really necessary, and there are more interesting ways of doing that.

Keith Davidson: So, we could all be right or all be wrong. Thank you.

Bill Manning: The province of the 3166 list is, for the purposes of our discussion, immaterial. That it exists and is used is material and it's not -- it doesn't exist at the behest of ICANN. It's done by another party.

Keith Davidson: Great. We'll come to that at the very end of this discussion, but can I just remind everybody to, if you are speaking, to use your name first to introduce yourself?

Bill Manning: Okay. So, again, this is Mr. Manning, and I will resume from after they stopped extracting guano from Baker Island. So, the country code existed. There were from the time of its inception in 1992 to about 1998, there was exactly one entry under .um. I was the administrator of that domain at that point, and it was basically a placeholder. There wasn't a whole lot going on there.

There were some discussions that occurred about five years later, 2003, 2004, with some folks in the ICANN that were at that point in time ICANN contractors and said, well, if we've got this TLD, is there any interest? And so we started checking around and we actually created a corporate holding body for it. Talked to the USC legal folks, who agreed that we could extract this TLD from ISI and put it under a company framework called USMIR, for the US Minor Outlying Islands Registry. And then we started talking with some folks, and we ended up with a dozen registries and about 400 entries just by word-of-mouth. So, 2007 came around and there were some questions raised about did the US Government actually think this was a reasonable thing to do, to basically monetize this TLD?

Doing some homework, we went and discovered that the US Minor Outlying Islands' administration had been used to the Department of Interior. The Department of Interior essentially was silent after repeated attempts, including letters to congressmen, letters to our congress people and the secretary and undersecretaries of the Department of Interior. We got nothing, but that stirred some interest in other parties, other parts of the US Government, including NTIA.

NTIA decided that they were the responsible party, and they contacted some folks at USC, not the legal department, not the existing .um administrator, somebody who had no DNS or operations experience at all. And the person said I have no idea what's going on here.

And so, on May 2, 2008, I got this letter from the Department of Commerce. It says, "Dear Mr. Manning. NTIA is in receipt of your April 22, 2008 letter, in which you claim to be the operator of the .um country code top level domain, and protest the return of the domain to unassigned status. NTIA has seen no evidence to substantiate your claim. To the contrary, the information that has been provided to NTIA supports the decision to return .um to unassigned status. The TLD is associated with the US minor outlying islands, Baker, Howland, Jarvis Atol, Kingman Reef, Midway Island, Palmyra Atoll, Wake Island, and Navassa Island, which are part of the Pacific remote islands under the jurisdiction of the United States government. As such, .um ccTLD is a US government asset." So, they claim asset.

"Since December 4, 1997, University of Southern California's ISI, on behalf of the US government, has acted as administrator for .um. On October 3, 2006, ICANN received correspondence from USC ISI indicating they no longer wished to perform the administrator function for the .um TLD. As of this correspondence, USC indicated there were no subdelegations for the .um TLD. On January 16, during special meeting of the ICANN board of directors, the board resolved there is a resolution that the delegation of .um of the TLD be removed from the DNS route and it be returned to unassigned status." And there is a link to the publicly available minutes.

So, what occurred was that an unformed party at USC ISI basically told NTIA, I don't know what this is, there is nothing here, take it away. When in fact, if you look at the registration database, we have a couple of hundred entries into the database. We have still two active registrars that will take that .um registrations, and I've been the registrar since its inception.

That's pretty much the history of it. So, at some point a department of the US government decided to assert control even though it's Department of Interior's responsibility, Commerce decided that they were going to take charge and they instructed ICANN's board to move it to unassigned status, which the board did.

Keith Davidson: Which is quite an interesting move from our perspective, because it was an undelegation, we think, rather than a retirement. So, I think we've referred to it consistently on the way through, Bernie, as an undelegation, haven't we?

Bernard Turcotte: Yes.

Keith Davidson: And there is no category for that. There is nothing in RSC 1591 or the GAC principles on delegations and redelegations that refers to just removing something from the route. So, yeah, it's conceptually interesting to us from that perspective, but it sounds to me like the US government in its control of one of those territories has gone through some machinations. You could hardly say that's a political interference in the sense of some other sovereign right.

Bill Manning: Well, actually, this relates back to my earlier point about the government of China, and who gets to speak for .cn? There were several different, independent parts of the Chinese governments which claimed authority over .cn. And we have one department of the US government, the Department of Interior, which is ostensibly responsible for these islands and their activities. And the US Department of Commerce has decided that it gets to speak on that behalf without Interior giving them that right. So, there is a conflict inside who actually speaks for this set of activities. And Becky wants to say something.

Keith Davidson: Well, actually, Nigel was first.

Nigel Roberts: Let Becky go ahead.

Becky Burr: I'm just really puzzled about this. This is Becky Burr. I'm really puzzled about the assertion that it's a US asset. That's -- it doesn't seem to me that there is any basis in US law for claiming that a top level domain is a US asset. The US government happens to have controlled .us all along, but --

Bill Manning: Good question. Would you like to help me take that back up formally?

Becky Burr: Well, I'm definitely interested in knowing more about this.

Keith Davidson: Do you have -- was that a quote directly from the letter, where you said it was an asset?

Bill Manning: Yeah, that's on the NTIA letterhead.

Keith Davidson: Nigel, and then Patricia.

Nigel Roberts: Okay, two things. Like Becky, I'm equally interested in the legal theory behind the delegation and redelegation of TLDs. Two things spring to mind. I'll take them in reverse order because the first one is shorter. Listening to the letter and listening to what you said about the relationship of the Department of the Interior to effective control of the territory within the US government, it seems to me that there is a question of (inaudible), when it comes to the actions of another US government department. It would be a bit like the Department of Transport trying to assert something over one of the unoccupied islands near me. It seems a bit curious.

The other thing is that we've persistently referred to .um as undelegation, perhaps because they're both (inaudible), I don't know. I don't see any logical theory behind this. We have just -- perhaps because we haven't completed the work that we just completed. But we just completed work on revocation, done it very carefully in excruciating detail over 18 months. And it seems to me that the only possible conclusion is that returning a domain to unassigned status perhaps before delegation and again sometime in the future or not, it doesn't matter, can only fit into one category, in what we've examined in RFC 1591, that's revocation.

Keith Davidson: Or perhaps it's a whole new category that isn't defined and therefore requires a PDP.

Nigel Roberts: No, Keith, I think we said the other day that there weren't any other categories?

Keith Davidson: Well, we agreed that there aren't any other categories, but whether there is a need. As we know, retirement of a ccTLD, there have been some that have been retired and we will be going through a PDP for that, because there is no indication of previous policy on that point. Anyway, back to Bill and then Patricia, then Stephen.

Bill Manning: So, it's Bill Manning. So, 1591 came into existence after the TLDs were created. They were actually created and distributed, and then 1591 was kind of a document that came out after the fact that kind of said, oh, we should probably explain ourselves a little bit. It was never envisioned in the discussions that led up to 1591 that a country may choose to unassign its TLD and put it into unassigned status. But a country certainly can -- I mean, I could see the UK government instructing Nominet to cease operations and they were going to shut down the .uk main servers and stop taking registrations, because they didn't want .uk. I could see where the UK government might do something that unfathomable. And that movement to unassigned status was not contemplated in 1591, nor when we created [links].

Keith Davidson: I think we're getting to a level of detail we shouldn't be exploring. In the delegation/redelegation, we looked at some of the earlier IFCs and some of the earlier attempt to codify the delegation process. And you're right, we recognized that 1591 was after the majority of the delegations, the 246 ccTLDs. Anyway, we've got Patricia, then Stephen, then Martin.

Patricio Poblete: Yes, Patricio Poblete here. I was going to ask if there have been an IANA report on this, but in the meantime I managed to find the report, so it is there. Since there are no effective parties, there is little to consider in making that decision.

Keith Davidson: I think Bill is saying there are effective parties because where are registrations entered into the register. What I didn't quite get clarity on, though, Bill, was whether the register was actually serving and resolving names?

Bill Manning: The registries and the registrars were active. You could get resolution of .um registrations. What IANA failed to do, or apparently they failed to do, was to actually look to see what was being resolved, what was being delegated. They simply took the NTI letter at face value, that there was nothing there, and acted as if it was empty.

Keith Davidson: So, a government was either not being truthful or didn't know, but asserted something and IANA took that at face value. Would you like to comment on that, Kim?

Kim Davies: I think on that --

Keith Davidson: The name is?

Kim Davies: My name is Kim Davies, and I work in the IANA department. All the activity that happened on .um as a result of discussions with the University of Southern California. They were the sponsoring organization at the time. We had dialogue with them. If memory serves, .um delegation was lame for an extended period. The name servers weren't working, we kept getting complaints. Our monitoring system kept notifying us that .um was not working.

We are in the same building, so we reached out to several people we knew there. In the end, the head of USC wrote us a letter advising us that USC does not intend to operate this domain any further, the domain is not in use, that there is no registrations in this domain, and therefore they requested that we remove it from the route (inaudible).

So, in the context of what we're doing, we didn't go to NTIA until the authorization phase of this request. But I can check the records going back. It's been a while, but in general that's my recollection, that USC managed this process. It wasn't -- IANA didn't take action as a result of NTIA asking us to do something.

So, Keith, I will concur that that is probably exactly what happened, but the head of USC had no clue what was going on three levels below in his organization, and he didn't ask.

Keith Davidson: Okay, thank you. I've got Stephen, then Martin, then Eberhard.

Stephen Deerhake: Stephen Deerhake, .as. My apologies for tardiness.

Keith Davidson: And your name is?

Stephen Deerhake: Stephen Deerhake, .as. Apologies for being late. Outlying conference rooms are hard to find. I want to go back to an earlier point. I would like to say for the record that .as, and I can probably speak for Dottie, who should be here shortly, finds that the notion that a territory country code of the United States, such as .as, .vi, .pr, etc., is a "USG asset." Most curious, and we would dispute that.

Keith Davidson: Thanks, Stephen. Martin?

Martin Boyle: Thanks. It was --

Keith Davidson: Your name?

Martin Boyle: Martin Boyle, .uk. What sparked my interest was Bill's reference to the concepts of undelegation versus retirement. Now, the UK, not Nominet, but the UK, has in fact two top level domains, .gb, which is the entry officially in the ISO list, and .uk, which for political reasons is by far the preferred reference to the UK.

Now, .gb is still in use, sitting in the Ministry of Defense, but I'd always in the past assumed that if you -- if the government were to decide that it no longer needed .gb, then it might retire it. When in fact, from what Bill has just said, it would seem to me that the UK government have to make a specific decision to undelegate it. Now, this one is a much easier one because in fact the delegation is owned by the UK government. It's a Ministry of Defense operated application that uses it. But I just thought I would raise that to make sure that other people would see that as being the right process, that it would be an undelegation, i.e., a revocation of rather than being a retirement issue.

Unidentified Participant: (Inaudible)

Martin Boyle: No, I'm actually asking for an understanding of whether in this particular case you are not talking about the retirement of a code, but actually a revocation -- the UK government would ask to revoke that and then leave it unassigned. Because that then seems to me to be quite an interesting concept of here is a code that is still in the list and is still in use.

Keith Davidson: That's very interesting and something we should maybe adjudicate sometime at some point, teasing out a little further as an academic exercise.

Martin Boyle: No, it's more than an academic exercise. The reason I'm raising it here is that when at some stage we start going through a PDP for retirement, then we actually need to be very clear in our own mind what we mean by retirement. And rather naively up to now have thought that if in the remote chance the UK government was to decide that it would separate itself from .gb, it would do it by revocation, not by retirement.

Nigel Roberts: Undelegation is a technical term only.

Martin Boyle: Yeah, sorry.

Keith Davidson: Eberhard is next, but I've got you now recorded on the speaking list, Nigel. I think when I use the word academic exercise for this group, if it were to entertain it, it is an academic exercise. It is beyond the scope of this working group to consider that. However, it does raise all sorts of interesting asides. So, the speaking list, firstly is Eberhard, then Nigel, and then I think we need to draw a line under this and carry on with our work. Eberhard?

Eberhard Lisse: I just looked up and .gb is a reserved domain and it is administrated by the JNT Association trading as JANET in Oxfordshire, in Lumen House. And then I find it really difficult to understand how IANA cannot find out with running .um, when I from around the world take one e-mail to figure out from the IANA database who to talk to when I want to register (inaudible). I find this difficult to understand.

Kim Davies: I don't feel we had difficulty contacting the responsible party for .um. We're speaking with the sponsor organization, speaking with various staff that works within the sponsor organization, speaking to those who were managing the zone at the time within that organization. Well, they are represented on behalf of ISI that they were. You know, if there is a dispute within that organization, that's not necessarily something that we get involved inside the internal dynamics by a sponsoring organization. But they make communications to us.

Keith Davidson: I think we're getting to a level of detail that we probably shouldn't be visiting. Getting to the original order for Nigel and then Eberhard.

Nigel Roberts: Well, my original comment is that, again, perhaps this is a good thing for saying we should be doing our glossary pretty quick. But when Bill and I talk about undelegation, we talk about removing things from the root rather than the legal or quasi-legal contact of revoking a domain name.

So, when we come to retirement, I think we've got something -- we've already got our first discussion point. But listening to Kim to some extent defend what went on, and this is not the forum for that, I keep hearing his expression sponsoring organization. It really annoys me, because there is no definition of it. It's a term that ICANN adopted unilaterally, applied to ccTLD without any definition of what a sponsoring organization is or how it differs from the words that we used in RFC 1591. This appears nowhere in RFC 1591. People keep talking about sponsoring a domain as if we're selling soap powder, and I wish we'd stop it.

Keith Davidson: I think we already have gained some clarity that IANA is willing to change from their use of sponsoring organization, they just -- well, they're waiting for us to provide them with the term that we want to see them use. So, it's now in our end, not theirs. Eberhard?

Eberhard Lisse: I'm just mainly doing this so it's recorded nicely in the transcript. This way of dealing with ccTLDs by IANA function operator or ICANN is just the very reason why this working group came to fruition. It is not meant to attack you or anyone. I really still don't understand why if somebody wants to register with .um, it takes two minutes to get a hold of the guy, and if somebody wants to undelegate, or whatever, the whole ccTLD, it's difficult to reach the guy when he's in the same building. The point I want to make is not that. The point is that we need to get framework down so that in the future these things get done in a predictable manner.

Keith Davidson: Thank you. Well, I think that probably brings us to the end of the session. So, it's been quite a thought-provoking little piece of information and was much more -- well, we've entertained quite a bit more time than the 10 minutes we allotted on the agenda. But thanks, Bill, for just happening to be here and giving us some fuel for thought, and getting our brains started this morning. And you are most welcome to stay for our deliberations, if you so wish.

Can we now move to the topic of the GAC and how we might work going forward? And, Frank, during the GAC meeting the other day, we discussed that we haven't quite fully resolved the SIP chapter, and we now have completed our revocation chapter and the GAC could choose to participate in the public consultation either individually or collectively. Or await the upcomers, the public consultation and have a final report.

My thought is that perhaps the GAC would prefer to look at the framework, all three chapters, holistically and provide us a new set of comments, taking into account any old comments they feel are still unresolved, but as it applies to the entire framework rather than dealing in a chapterized fashion. Can I firstly check that that's -- or what you see might be most appropriate for the GAC?

And the other question, Frank, I think, is what process you would like to see us follow? Is there a need for webinars or some teleconference or something for the GAC members going forward between now and Singapore to answer questions or have some debate around some issues, and so on? How can we get to Singapore with a strong degree of accord between the GAC and the (inaudible)?

Frank March:

For the record, Frank March, GAC. I think you're right, we did try to do this chapter-by-chapter, but the strong feedback from those of the GAC who had actually taken an interest in this work was that they wanted to see the whole report before they commented, so they could look at the thing as a whole.

In terms of the likely feedback, I think it will come from a narrow section of the GAC. It's likely to focus on the significantly interested parties issues around the role of government. It's unlikely to look at other issues in terms of the strict definitional discussions that this group has undertaken. I don't think, for example, that some of the issues that have been raised in the revocation paper around what is inappropriate action or significantly -- I forget some of the terminology. You're all familiar with it, though. You've tried to spend a lot of time defining what misbehavior would be, and so on. I doubt very much that the GAC is interested in that. I think the work of this group is fine as far as that is concerned. So, that's likely to be the focus.

I think, Keith, something like a webinar would be helpful. Am I not speaking close enough into the mike? I think that -- I can hear myself coming out of the speaker now. I think that a webinar could be helpful. It would certainly give, if I can put it in these terms, give some members of the GAC no excuse for not knowing what's going on. But those people who are very interested in this, and obviously NTIA, in particular, I would take a close interest, will read the paper very thoroughly, will be aware of all the issues and will give good feedback. So, I think that would be helpful.

In terms of timing, Singapore would be -- what's going on there? It would obviously be helpful from the point of view of this group. The GAC is coming out of its current preoccupations with the new gTLD program, to some extent, and so look at other issues over the next few months. It still has some things to put to bed. Singapore, like this one, is likely to be a very busy, crowded agenda, but I think it's reasonable to expect that you can expect formalization of a report on that time frame.

Keith Davidson:

Excellent. Yeah, Frank, I think we're very happy to entertain the requirement of time that the GAC folks feel they need from either this working group or the [CBAB] piece Becky and Bernie or whatever subset you want. But it's probably quite important to us and given to design the joint ccNSO/GAC position to know how roughly what sort of time requirement the GAC would like to spend on the topic and so on. So, if you and I can start collaborating along the way as we get closer, that would be very helpful.

Frank March:

Frank March again. Keith, I just wonder, what would be the consequences if the GAC was unable to give this group an answer before London?

Keith Davidson: Well, I guess there is no --

Bart Boswinkel: This is Bart. If you look at the charge of this working group, it is expressed and that was the starting point, it is the recommendations of this working group need to be supported by both the GAC and the ccNSO. So, say, you need to have fleshed out discussion on, say, like SIP, and that needs to be included or at least finalized. And then the full book on BFOI needs to be supported by both the GAC and the ccNSO before it can be sent to the board. That's the ultimate end goal.

Keith Davidson: I mean, I think there was sort of a commitment from the GAC to work with us all the way through, and this has been a longer process than I anticipated. My preference is to try and wind up this working group in London, but it actually disbands at that point and prime work's in place, implemented and so on. So, yeah, if we can look at how we can accomplish that rather than could it go beyond that point, then maybe we can get to concluding it in London. Back to Frank, then Nigel.

Frank March: Frank March again. I can't commit the GAC, but it does seem to me that London is an achievable endpoint. If we regard Singapore as being an opportunity for dealing with educational issues and any outstanding questions that the members of the GAC have. I think what we need to do is make it, frankly, pretty straightforward for people to find the material, read the material, feedback on the material. I have already undertaken to collect responses on behalf of the GAC, and I will reiterate that in the next -- coming out of this meeting, point out the timeline and work with the chair to achieve that to the best of our ability. Frankly, I think that the issues I have described aside, I think the GAC will be pretty happy with the report. Because I think you've done a good job.

Keith Davidson: Thank you, Frank. I've got Nigel, then Stephen. Nigel?

Nigel Roberts: Thank you, Frank. I'm actually very comfortable with what I'm hearing about -- from the GAC, which is actually mostly, shall we say, trying to fit into the way the GAC works, isn't it really? The GAC, as I understand it, is a very diverse body and it's quite large, and you've had a lot of other things on your mind and we do understand that. And I can see that possibly there are difficulties to be navigated in getting to where we all want to be. I mean, we've been working on this together and I think particularly in the early days, GAC has been very helpful. In the last few meetings and so on is that you may have been distracted by the ccTLD stuff. So, even if we couldn't achieve our target, I certainly hope that that doesn't turn out to be the case. I'm not that upset.

What I am kind of concerned about is something that is not really related to GAC, per se; it's related to the IANA and to ICANN specifically. It is very clear that what we've been doing is not writing new policy. We've been very careful to restrict ourselves to look at the sources of existing policy to (inaudible) and color and gloss and interpret and so on. The true interpretation of something does not change because the ICANN board does or does not approve of it.

It is my view that the ICANN board, in particular, cannot fail to take notice of what we've already written in making any future redelegation decisions. We can't say we're going to carry on like we did with, I don't know, .um, or whatever, because we haven't yet ratified the work of the GAC and the ccNSOs within the working group.

It's out there, it's actually in public notice, on for public consultation. Maybe there are some little things where there's going to be some little tweaks that we haven't quite hit the mark, but I think we have. And so from -- the ICANN board should take notice of what we've done even now. It's persuasive even as it stands. And just because for technical reasons the GAC takes three months longer or six months longer to approve it and then another -- it's delayed up to be ratified by the ICANN board, I don't feel that the ICANN board should refuse to take notice of what we've done. And that's the point I want to make.

Keith Davidson: Thanks, Nigel. Any response, Frank? Any comment?

Frank March: No, I completely agree with that. The other thing is that if it does go forward with full endorsement from the GAC as the terms of reference to this group require, then the board would be in peril if it ignored it. So, it gives it much more emphasis, which, of course, is the whole point. But I agree with Nigel. I mean, it's out there, it makes points. I think it's a good piece of work, and if the board doesn't take notice of it now, then it would be very silly.

Keith Davidson: Okay. Microphone, Nigel? So, I've got Stephen, then Eberhard.

Stephen Deerhake: In the interest of getting the GAC up to speed on this, will it make sense at the Singapore meeting to perhaps make members of this working group available on the weekend preceding the opening of the meeting and be able to interact with the GAC? Have some session scheduled, because I know you guys have some weekend meetings before the formal start of the meeting. If we could maybe carve out a couple hours to help them get up to speed before that?

Frank March: Frank March again. Slight misstatement there, Stephen. The GAC works Saturday and Sundays. It's full schedule as the first two days of that weekend. We did have a break on a Monday so that we can interact with other groups, and then we work on the Tuesday and Wednesday. So, it's four full days. But I'm certain that we could work in something. And to our mutual education session would probably be a very useful thing to schedule, a sort of forum environment so there could be a question-and-answer free-flow would be a very, very sensible thing to do. Whether doing it on the weekend, say, on a Saturday morning or I think better, try to schedule it on the Monday so that -- because that's the time that is set aside for that sort of interaction for the GAC.

Keith Davidson: I think leave that for us to coordinate on, but let's not get into a debate as to whether the GAC works or not, anyway. Sorry, Frank. Eberhard?

Eberhard Lisse: Listen, I just wanted to mention the word is endorsed, like you're supposed to endorse and not to approve. And also there is an option if they don't endorse you can still recommend this listing was not endorsed, if they don't endorse specifically. But I don't think that's a big issue. I have a proposal. Why don't we do it from 9:00 to 11:00 on Monday, during the grand opening session?

Keith Davidson: Okay. Leave the timetabling to Frank and I. Okay, is there anything else in terms of the GAC? Do you perceive any need for a call between Suzanne and yourself and perhaps the CBAB -- CBAL?

Frank March: Yeah, it could be valuable because, to be quite straightforward about this, Suzanne is the one who reads these papers. Out of all the members of the GAC, she is the one who reads the papers carefully, analyzes them in the light of the knowledge of, particularly US government and NTIA, thinking about the very issues we're talking about. Has a knowledge of the history. Whether she knows

about the NTIA literal or not, I'm not sure. In the case of .um, in terms of it's a more complicated story than perhaps some of us understand.

Yeah, I think that might be helpful, because that could step out exactly what the issues are. Frankly, you have the feedback from the SIP chapter. That's unlikely to change very much. It's been pretty carefully thought through, and we'll obviously revisit that. But revisiting that in that grouping of the [cabal] could help all of us, frankly. And then a strong recommendation from the group within the GAC to proceed is likely to achieve a GAC consensus very quickly after that. So, I'm fairly optimistic this could happen. But I think an education session in Singapore would be really helpful, because there will be some people coming in late to the GAC unaware of the background that could be brought up to speed through that process.

Keith Davidson: Okay. I think -- well, let's -- yeah, I'd like to be working on perhaps doing an hour or teleconference or something prior to Singapore and in Singapore. But I think we should schedule a call for a smaller group and work our way through that, and if we can do that in this calendar year, to get Suzanne and yourself, we'll find the time. So, I think --

Unidentified Participant: I would just like to note for the record that he just referred to the CBAB as the cabal.

Keith Davidson: I don't think we're going to see in the glossary. So, anyway, I think this probably takes us through the first hour of our work, so perhaps we should have a break for 20 minutes. Shall we deal with item 4 on the agenda, which is feedback on the revocation paper? And, Bernie, have we had any --

Bernard Turcotte: (Inaudible)

Keith Davidson: Okay, still nothing. Okay, so we'll come back to item 5 after a 20-minute break, and just start to have a look at some of the concepts of the glossary and terminology and so on. So, if everyone's happy, we'll adjourn and back at 10:25. Thank you all.

[Break]

Keith Davidson: Thank you. So, FOI Working Group back in session, and I think before we hit onto our first look at the glossary and so on, can -- we thought we might have a bit of a look at a bit more to do with the GAC and the GAC principles as was referenced during the joint GAC/ccNSO session. And, Bernie, do you want to just have a bit of a discussion on that?

Bernard Turcotte: Yes, please, thank you. I'd like to take advantage, while we have Frank here, in the context that the advice, the response we got back from the GAC on the SIP stuff talked about really the main worry was that we didn't reference or use the GAC principles enough in the document. And that we probably will get a similar, if not exactly the same response relative to revocation. I don't take that as a bad thing, per se. I think it's a question of if I try to be positive about this, just adjusting things so it makes sense.

I've gone through -- makes sense for both parties, I should say, right? So, I've gone through the GAC principles in detail with the understanding that we refer to them as the GAC principles for some very specific reasons. And really to a certain extent, on the topics we had defined in from the DRD days, there's really very little that matches up. It doesn't mean that the GAC principles aren't the

GAC principles, but relative to the topics we were given, I don't see a lot of dovetailing, because there just isn't.

I mean, if we take revocation, there is actually no mention of revocation anywhere in the GAC principles. And I don't think it's a question of trying to get around the GAC principles; I think it's more a question of RFC 1591, what we were given as a mandate was to look at how these things are done, and technically there is nothing. And I don't think we're going against subsidiarity, as such. And the other point is that I think it's the third section of the introduction of the GAC principles that says it's nonbinding unless everyone has agreed to it in country. So, we're trying to walk our way through this, and I'm wondering if you might have some words for us, Frank, that can be recorded.

Keith Davidson: Can I just say that from the look on Frank's face, the second word was going to be off. And just for the record, can we note that Cheryl Langdon-Orr has joined us? Welcome, Cheryl. And Joe [Dasini] from .ph.

Eberhard Lisse: There is another (inaudible) in the background, hovering in the background.

Keith Davidson: The gentleman at the back?

Unidentified Participant: I shall leave shortly.

Keith Davidson: Alan from .ca. Becky, you wanted to have a word, and then come back to Frank?

Becky Burr: Well, maybe I'm going to bail Frank out.

Keith Davidson: In that case, Frank?

Becky Burr: I had a long talk with the GAC representative from Australia, and I came away with a different impression. Not -- it sort of first came out as you don't refer to the GAC principles enough. But I think what was bothering him was that there was no clear statement about the -- because this is about revocation, there was no clear statement that the ultimate public policy authority rests with the relevant government. And the relevant government under -- you know, applying its own laws could come with a request to IANA for what he referred to as a redelegation.

And the other part of it was the notion that it doesn't say that if they exercise their rights under applicable law, in accordance with applicable law and get a court order, demand transferring it, that IANA would comply. And I think he wanted to sort of comply promptly with us.

So, I think I am not -- I was not hearing a general request for more references to the GAC principles, but to an acknowledgement that we assumed and didn't address that IANA would comply with a court order that was binding on IANA.

Unidentified Participant: (Inaudible)

Becky Burr: Yes, but we could -- couldn't we just like drop a footnote that says that?

Unidentified Participant: (Inaudible)

Keith Davidson: Let's tease that one out a little bit, but I think another issue for Australia is that they have the situation of the Commonwealth of Australia and some minor outlying territories that don't necessarily have governments, where they act as

government, and so how their authority will work in those oddities. So, anyway, they probably have more interest in this than sovereign nations with what they assert as a single territory. Anyway, Frank?

Frank March: (Inaudible) for the transcript, because I wasn't part of this conversation, Becky. But I agree with you, both of what you and Keith have said. First of all, Australia is in a similar position to the US and perhaps the UK in that it has a number of outlying islands and territories. And I know that (inaudible) department has done a great deal of thought to this. They don't have a problem necessarily but they're just trying to think things through in terms of legal responsibility and so on, as responsible government officials sometimes do, and so you're right.

But it comes back to the point I think the issue, the comments on the significant interest post was the role of governments and the impact the governments could have. And, of course, very rightly, the issue that is putting out that it is local -- the issues need to be resolved locally. Now, locally means government and, of course, includes court orders and so on. So, I'm sure there -- I don't think there are any issues of principle here. There are issues of strong nuance perhaps. And I would imagine that our feedback from the GAC to this group will be in that respect.

And if we can have an open forum discussion set up in Singapore, a lot of those issues can be surfaced and probably quite easily resolved through a mechanism such as what you're suggesting. Because I don't think there is anything fundamental here. I think it is a matter of emphasis and impact.

Keith Davidson: And I think on our own way we've struggled with some of the terminology that some people suggest that we use the term local government, and I think in the New Zealand or the Australian scene, local government means the council, the city council or the town council. So, the idea that in New Zealand the Eketahuna town council could object to something that .nz is doing and seek a redelegation to themselves, just is quite absurd, I would think. But there is this tendency for us to assume that government is a single, contiguous or autonomous body that makes single, rational decisions, and of course it isn't. It is a multitude of departments and quite often those departments have debates or arguments across their ministries, and so on. So, I guess the reference to local law is the more appropriate thing, because -- you know, as a tenor of the discussion.

So, anyway, so I think we have some agreement that we're not too far out of sync and we need probably, again, to be exploring this from an informational aspect. And maybe we need to work with Australia on some examples of what might go wrong or might work and how it would be applied.

Frank March: Yeah, and not only that -- Frank March again. I'm working very closely with the Australians, responsible Australian officials across a number of issues, and I'll undertake to add this to the list and also work with my US colleagues to try and give you a coherent set of feedback which can be used to facilitate that discussion, which might help both parties.

Keith Davidson: Thank you, Frank. Okay. I think is there anything else on this aspect that you wanted to cover, Bernie?

Bernard Turcotte: I guess we can leave it there for now, but I think Frank's reference to how we can nuance this or integrate -- I mean, my mathematical mind is how can we insert somewhere in the work we've done the clarity the GAC is looking for, that we're not saying the GAC cannot run according to its principles? Our work is slightly

orthogonal to that, because I think to a certain extent we do not believe that we are qualified to do things relative to the GAC principles. We did look and I've analyzed this thing in detail, but there were just no things that really crossed over and fit into what we were trying to do and therefore we've come up with our things, which hopefully will help for a certain part of the problem. And I don't think that anyone has a problem with the rule of law applying as a basis for things. And if we can come to some sort of understanding that that is the case, then hopefully we can come to something that is agreeable to everyone.

Frank March: I completely agree with Bernie. The plain fact of the matter is the GAC principles are principles. RFC 1591, which this group has looked at very carefully and analyzed carefully in terms of the practice and so on, in various -- the collective experience of this group are really different labels. The principles are high level principles. You have been dealing with quite difficult definition of the terminology and we're going to be doing a bit more of that today. And, frankly, that's not where the GAC is at. The GAC wants to make sure that governments have an appropriate authority to the appropriate label.

And it comes back to what I was saying, is that probably we're not going to go too much further than the comments that came back in response to significantly interested parties. But it would be really helpful if there is a wider understanding of the work of this group, the fact that you are focused on not making policy, but perhaps isolating areas when new policy is necessary. And that would be helpful, because it's an interpretation of history, what has happened, why it's happened -- well, not so much why it's happened, but what has happened in a strictly operational sense. And, frankly, it's probably a level below where the GAC really wants to focus.

Keith Davidson: Okay, thanks, Frank. Yes, okay. Anything else on the topic before we move on? I think we now -- we could move into item 5 on the agenda, which is the terminology or glossary chapter. I've mistakenly wrote that we had previously agreed on the terminology and, of course, we haven't.

I'm just wondering if everybody had a chance to read this, because it was circulated very late, as on Monday. And I'm wondering if it is fair for us to actually entertain debate on this. Or perhaps rather than having Bernie walk us through it on the assumption that we've all read and absorbed it, that maybe we just open up the table for any input that anyone has to say something is drastically wrong or they dislike it, or whether we just leave it. My fear here is that we -- I'm proposing that we don't meet again until January as a working group, so if we start to get into any detail on this today, we will have forgotten it all by the end. So, is it appropriate to really start today or could we just make some general observations about it that we can take away and charge Bernie with working on so he can take time off at Christmas? Nigel and then Bernie.

Nigel Roberts: Well, generally I support what you just said. Would it not be possible to do both, as in we don't start our usual dissection here and now, but we encourage a robust and lively e-mail debate over the coming weeks between now and our next telephone conference?

Keith Davidson: So, the idea that Bernie could slice and dice the document and deal with some topics that he believes might be more controversial and we take them on the list, that sounds like a reasonable way. Bernie?

Bernard Turcotte: Yeah, I sort of like that, because in fact this document is over a year old. I just pulled it up when we finished some stuff, and I'd really like the chance to go over

it, especially considering we've published revocation, so that I can pull the relevant parts and put it all together and we've got something that's up-to-date so that we can look at it.

Keith Davidson:

Okay, thanks, Bernie. Well, it's occurring to me that we're all in accord, and so unless anyone wants the floor in order to raise any issues from this document, I propose that we leave it at that and move on to item 6 on the agenda, other business. We've already cut off the revocation topic as due to -- the outcome consultation on that is due to finish at the end of December, so we'll await that. And so looking at our schedule, I suggested we have four meetings before Singapore, starting on January 23, and circulating every two weeks after that through to February 6. That seems to be relatively unoccupied times in terms of any other global meetings.

So, if everyone is happy with that as a contemplated timetable, and there is likely to be some additional meetings with the GAC and so on. Other than that, does anyone have anything else to raise in terms of any other business? If not, I'll close the meeting and give you 1.25 hours of your lives back. Thank you. Thank you all for your participation and we'll talk to you on January 23, if not before. Thank you and declare the meeting closed.