

TRANSCRIPT

Framework of Interpretation Working Group Meeting Singapore

27 March 2014

Attendees:

Martin Boyle, .uk
Chris Disspain, .au
Keith Davidson, .nz
Stephen Deerhake, .as
Daniel Kalchev, .bg
Patricio Poblete, .cl
Nigel Roberts, .gg
Dotty Sparks de Blanc, .vi

ICANN Staff:

Kim Davies
Kristina Nordstrom
Bernard Turcotte

Apologies:

Cheryl Langdon-Orr, ALAC

Keith Davidson: Good morning, everybody. And welcome to the FOI Working Group Meeting. Thank you, Patricio.

Patricio Poblete: (Inaudible)

Keith Davidson: Do we have a quorum?

Unidentified Participant: (Inaudible)

Keith Davidson: I believe we do have a quorum.

Unidentified Participant: We are good.

Keith Davidson: That's left to the Chair -- to the Chairman.

Unidentified Participant: I was just saying, if Keith says so we have a quorum.

Keith Davidson: Yeah.

Unidentified Participant: That's what I would think.

Keith Davidson: So, the first -- Oh, first item on the agenda is, present and apologies. And, Kristina, can you let us know who has apologized, and who is on the Adobe Connect Room, and here.

Kristina Nordstrom: I would prefer it if you would introduce yourselves in the room, if that's okay. And we don't have anybody in the room who is not -- in the Adobe Room who is not present in this room. And we have apologies for Cheryl Langdon-Orr, Cheryl.

Keith Davidson: Cheryl Langdon-Orr. Okay. And for the record, I'm Keith Davidson, and Chair of this Working Group. And we'll start from my left and work our way around the table.

Daniel Kalchev: I'm Daniel Kalchev, from the B.G.

Dotty Sparks de Blanc: Dotty Sparks de Blanc, from V.I.

Nigel Roberts: Nigel Roberts, from Dot G.G., and I apologize for my presence.

Keith Davidson: And have we forgotten, (inaudible) any other, don't apologize.

Stephen Deerhake: Stephen Deerhake, American Samoa.

Bernard Turcotte: Bernard Turcotte, Staff Support.

Patricio Poblete: Patricio Poblete, of C.L.

Martin Boyle: Martin Boyle, Dot-U.K.

Kim Davies: Kim Davies, IANA Functionary.

Kristina Nordstrom: I'm Kristina Nordstrom, from ccNSO. And I would like to remind everybody to state your names before you speak. Thank you.

Keith Davidson: Thanks, Kristina. And behind us in the room there is, Gabby and Bart, for the record. Approval of the agenda: the agenda has been on the list for at least two weeks, I think, so more time than usual. I didn't see anything on the list for any suggested changes. Is everybody happy that we proceed on that basis? I think so. So we'll move to item three on the agenda which is the approval of the Meeting of the Board of 6th March. Bernie, is there anything on that meeting report that doesn't otherwise come up on the agenda? Is everyone happy with the meeting report?

Bernard Turcotte: Fairly straightforward.

Keith Davidson: I think silence is agreement. So the Meeting of the Board, of 6th March is approved. And moving on to item four, the GAC update. Was everyone in the GAC room for the joint session? I think the GAC have come from says to agreeing with the framework, except for the unresolved points that remain. What we've offered to do, and what we will do, is have a brief discussion between Bernie, Becky and I, with Susan and Peter Nettlefold from Australia, and Frank, and try and resolve anything that remains unresolved at this stage.

We are going to deliver then, the entire frame of interpretation with a single document with a previous cover note that we had circulated to this group, and just say, now is the

time for your approval, and let's resolve anything that's unresolved. So I think we have a pathway forwards.

I think we have quite reasonable clarity, and we'll see further clarity from the GAC about what they have agreed as well, so that we can start to work with Kim on actual implementation in the interim. I think it's in our best interest to get his final stages of implementation advanced as quickly as possible, because we want to clear our desk for what is now, a much more important route going forwards in terms of the U.S. Government transition from -- for the IANA Contract.

Did you have something, Nigel?

Nigel Roberts: Two quick points, very quick. First of all --

Keith Davidson: Your name for the record.

Nigel Roberts: Nigel Roberts. It would be very helpful if we could still just have a bit of a reminder. Not perhaps what we've agreed with GAC, but perhaps where the potential areas for the discussion, that's the first point. The second point on the implementation, and I've said this before, we are not making a new policy that needs to be implemented. This policy, the existing policy, should be -- it's already being implemented and our draft should be informing the IANA's work with that.

Keith Davidson: I don't think there's any dispute on that at all, but yeah. And, yes, I think the document that we, you know, the final framework that we send to the GAC, obviously, should come to our, so that we can review it along the line.

Unidentified Participant: Maybe you could use the word cooperation instead of implementation.

Keith Davidson: Okay.

Nigel Roberts: Keith, that's not what I was asking. It would be helpful if we revisited those to have a general idea where the flash points might be with the GAC. I was being diplomatic.

Keith Davidson: Well I think we already know those, in terms of the feedback they've provided so far, but remembering that they wanted to see the entire framework before they passed the final, kind of, judgment. So, yes, the Working Group will go through the process, sending them the full framework, and then saying, these were the things that you had coming to them, that we hadn't fixed yet. Are they still relevant in the context of the whole framework, and is there anything else in terms of the context of the whole framework that would preclude your approval coming into -- under ICANN. So I think that's a straightforward methodology, isn't it?

Nigel Roberts: It's not the methodology, I'm seeing the (inaudible), I wanted some reminder, that's all I'm asking.

Unidentified Participant: (Inaudible).

Bernard Turcotte: Bernard Turcotte, I'm trying to answer Nigel's query. We have three main blocks, which is consent, SIP and revocation. On consent, they have agreed there is no issues. On SIP, there was some minor pushback, and we've got the correct that we think that will make everyone happy for discussion today.

On revocation we've received no formal comments. The grumblings were about other things, I think they just didn't understand what we were proposing. So, really, I think there was only one point, we listened and Becky, Bart and I, made a minor adjustment to SIP

which we'll be proposing today for the Group's review. And we feel that if we repackage that into a document, we'll send it to the group first, but if they are -- it will simply be an editing job. There will be no new content, we'll repackage that with Becky's note for the GAC, adjusted accordingly, and that will be the package they are waiting for.

They have gotten to a point where they understand there are some things that are not covered by us, they understand they should not be, which is a great leap forward, I think, and the answer, to be interesting, has been, "Oh, maybe we can work on those things with you," instead of some of the past answers we've got.

Keith Davidson: Everybody is happy? So, end of (inaudible), we've Got Bart, in the room today. But I think the GAC are actually meeting on Thursday which is beyond the normal arena, so maybe they have commitments already, but I would have considered it a courtesy for them to have to have apologized, since they are personally present here.

So, can we move on? Is there anything on revocations that we move together?

Bernard Turcotte: Actually, yes, we need a final approval, if we are not making any changes, because it was published for public consultation. We had the two replies, we've posted our comments on the two replies. We do not feel there is anything to change versus the reply. The comments we did receive, which is essentially what we said, and as such, given there have been no other comments, we would need simply to finalize that today, if possible.

Keith Davidson: Okay. And can we -- is there any the thinking voice from the idea that we are approving the final wording of the revocation document? Everyone is happy? (Inaudible), one here, thank you. Except where you have --

Unidentified Participant: (Inaudible). Can we put up separate teams in the controls so I can put it up. (Inaudible)
--

Keith Davidson: Thanks, please.

Unidentified Participant: (Inaudible)

Keith Davidson: That's not the Chairs of the FOI Working Group on their approval of revocation, that's four-way noise. Thank you.

Kristina Nordstrom: (Inaudible)

Keith Davidson: I didn't hear that, Kristina.

Bernard Turcotte: Her up close is not working. I'll bring it up on my screen, and you can share my screen. Speaking of (inaudible) --

Keith Davidson: It's uploaded. There's some progress?

Unidentified Participant: I will bring it up.

Keith Davidson: I'm just noting for the record that Debbie Monahan, as an observer, has entered the room. And while we are waiting shall I -- I have some housekeeping. I think we'll take a break at 10:30 if we haven't finished our work by then. It's quiet, isn't it?

(Pause)

And further for the record Marina Cherkasova has entered the room. She's from (Inaudible). We can't wait any longer, people who are listening to the recording will be wondering about the long silence. So, who would like to volunteer to sing us a song?

Unidentified Participant: (Inaudible)

Keith Davidson: Oh, touché, Nigel. I'm usually hear a little (inaudible), dude.

Nigel Roberts: Nothing from me, so. Worse come to worse, they'll end up sharing my screen.

Unidentified Participant: Then it would have been perfect.

Keith Davidson: I'm pretty sure, could you test it that on screen?

Unidentified Participant: Hey. Thank you, Eric.

Keith Davidson: Okay. So, Bernie, lest had a look at the changes to SIP.

Bernard Turcotte: Thank you, sir. That would be Significantly Interested Parties, version 3.5, the version was emailed yesterday afternoon, with track changes from the previous version which was approved. The only change except for page footings, et cetera, of any importance. Here we go. Okay. We adjust that just a bit. All right, so I'll read the new version, and I think you'll understand. "Applicants should document the support of Significantly Interested Parties for delegation. IANA may provide an opportunity for SIPs and other stakeholders to --"

It would have to be on the page break, "--comment on the request via a public process where evidence of support is lacking." So, basically what we had previously is that applicants should be encouraged to provide documentation of the support of stakeholders for the delegation, redelegation -- Whoa, whoa, whoa, don't run away."-- But IANA should also provide an opportunity for an opportunity for stakeholders, so now we --"

Unidentified Participant: (Inaudible)

Bernard Turcotte: Yes. That's correct. So, that's the change, that's the only change in the document, and that will probably help some of the concerns that have been mentioned from all of us in the GAC.

Keith Davidson: Martin?

Martin Boyle: Martin Boyle. Just from my memory, which often fails me, could you remind me of what the GAC comment actually was that led to this change?

Bernard Turcotte: There was a concern -- this was not written, this was in conversation, there was a concern that if the local government did all the homework, and did public consultations, and this and that, and submitted a full package, that even though they had them, that they interpreted this as IANA having to run yet another public consultation, and they felt that if it was fine that it was required that there be proof that there was consultation, but if it's been done, why would it have to be done again? So that's our attempt at solving that.

Keith Davidson: Martin?

Martin Boyle: Okay. So this isn't wording that was agreed at the same discussion. This is you interpreting and then hoping that you've got it right. No. it's just I'm a little bit surprised that it leaves open that IANA can challenge, if it thinks the evidence is lacking. And I'm

not quite sure whether just was it given that, well you might decide the evidence is lacking. So they might have supplied full package of information that documents the requirements. And then IANA turns around and says, "Well, yes, but we think that you haven't done X, Y Z, and therefore we are going to go to open consultation, and I was wondering whether that would actually start the same concerns that the GAC had originally expressed to you, in that conversation.

Bernard Turcotte: Two points on that. I think Becky and I considered all those options, and as we know, there's a lot of grey in these things. We do want to provide for the intents of the policy which was why we were brought together. And the intent of the policy -- oh, software discussion -- the intent of the policy was that, Significantly Interested Parties had something to say. So I think this is sort of the compromise language, and unfortunately Becky had to head back and could not be with us.

The second point, and I think Kim may be able to speak to this -- and no I'm not putting you on the hot seat -- but this is not a binary thing. Usually in these files there are many discussions with many people about points, and it's not, you punch a ticket, and it's either black or white, and I think that's why IANA, you know, some people think of it as simple, and in the overarching, big things, in the way it is, but the devil really is in the details, and the way they interpret and talk about these things. And I think if I can channel Becky a bit, we were trying to walk the line, and I think if anyone has done any kind of a decent job, of doing some consultation and they provide that proof, then I think IANA would, pass the judgment, as they do on any other points for applications, whether it be technical merit or other things.

Keith Davidson: Kim?

Kim Davies: Sir, a few thoughts on the matter. I think one of the underlying concerns of everyone, really, involved in these processes is face-saving. The benefit of the (inaudible) procedures as they exist today, is, you know, any decisions here will be basically forced back from the applicants. Those that become publicly aware, and an application that is ultimately not successful is never made public. That has downsides as well, but has a benefit that people that are unprepared, or make deficient applications, never really see the light of day.

I see a benefit in the original language, that it doesn't put IANA in a position of having to make a decision about whether they are lacking, which kind of implied a judgment that rather than declaring back to the applicants for them to resolve, should be declaring to the public for them to resolve. That's my initial take on that, and I feel that this has been a more delicate situation than what we currently experience, certainly not insurmountable, but that would be my initial take from this kind of language.

Keith Davidson: How does that sit with the idea that you'll be publishing the redelegation requests upon -- the (inaudible), what's been through the threshold if they are not frivolous, you go and publish the request. Is that -- are you expecting that because of that you will have a better quality of application, or a more thorough application because people will want to avoid the embarrassment of being immediately accountability of their wording?

Kim Davies: Well I hope that will be an outcome, but I think that there's probably a qualitative difference between publishing the identity of an applicant and really to much more than that, and providing a public forum where all the critics of the applications, and you can put on the record their thoughts.

Keith Davidson: Nigel?

Nigel Roberts: I think to some extent, we are looking at the implementation detail of what the IANA would do. Which is fair enough for background, but this -- we are talking about applications at the amount, not redelegations, really. Am I right there? So this is the fresh application, new TLD arrives in the (inaudible) list and so on.

There's an issue which, again, I suppose is more background implementation in our work, but if you -- by analogy to an application through a license to a government department for, let's say, to run a cell phone network, or something like that, there's an element of Sunshine here, there's an element of public process, and is usually say, I for instance that today turn your applications in, and there's another group in the country or territory that wants to run it, you know, how they get together, or (inaudible), get your applications in.

Bernard Turcotte: I'm not arguing with what you're saying. I think what we heard back from some of the concerned parties was that if they've done the work that seems to impinge on sovereignty; so, that's why we try to find a line that allows us to walk in between. If work has been done, and then the applicant and IANA, as I was saying earlier, can have those discussions which you can mention the previous text that IANA had to deal with, period, and that was causing some heartburns.

Nigel Roberts: As I say, I think to some extent this is a matter for the IANA to look into beyond what we are writing, but that's good.

Keith Davidson: What you are saying is they must have a role that's applicable to everybody, and I think the (inaudible) was that governments felt that if they had done their job, IANA was not in a place to argue that job, so this is trying to trigger the applicants quickly. Do we need the actual last words where evidence of support is lacking? Because to me, if you eliminate that and you're just sort of highlighting a process, that might just help -- So, just as an opportunity to allow IANA the discretion of when they might or might not or -- How do you feel, Kim?

Kim Davies: I may not think that -- that gives us far more latitude that makes it work for us, but I can see the FOI Working Group of 2030, looking at this saying, "Well, I had interpreted it in the wrong way," so with any flexibility of granting us or moving us, you know, giving us the flexibility that might not be agreed to.

Keith Davidson: And Patricio?

Patricio Poblete: It's been a (inaudible), IANA made sure that evidence is not lacking. Some dissenting parties might write to IANA on their own initiative, does this language allow for that?

Keith Davidson: I can't see that it doesn't (inaudible).

Unidentified Participant: And to be clear, in practice, I mean, we take all it puts into consideration that have been raised with our through formal or informal channels, and if we know of any significant input, we will raise over the applicant to address as part of our normal procedure.

Keith Davidson: Bernie?

Bernard Turcotte: We are talking about a fundamentally different environment, because we will be publishing names of applicants for delegation and redelegation. I mean up until now you would only see it at the end of the process if it worked. So I think if you take all of that in consideration, you'll understand that this text sort of allows everyone to find that grey line if we want. Now, we can try -- you know, there's been a suggestion of striking the last sentence, that's a possibility, that gives more flexibility to IANA, I think, and has recognized that, but will it be satisfactory, is the other thing. That's why the original text

was crafted like that, to put it away and I think that's the last thing, as far as we can tell, that would allow us to submit the package and send it through.

Keith Davidson: Yes. But I'd just add, yeah, we might be able to take the original wording which we have agreement on from our group, and revisit that with GAC and see if they'll agree with that, if they don't we could offer this as alternate wording. Is that the best plan, and does it make sense? Okay, and just for the record, yeah, Chris has entered the room and as a member of the Working Group and Chris Disspain.

Unidentified Participant: Yes.

Keith Davidson: Let me go over. So for the record, yes, Chris Disspain is in the room, and worryingly.

Bernard Turcotte: Chris has entered the building.

Keith Davidson: Okay. And of course, we can't approve these words on the basis of one meeting anyway, so shall we hold them all in square brackets at this stage, and see how our first dialogue with the GAC goes and come back to us on a call if there's a message actually to deal with it. Stephen?

Stephen Deerhake: Stephen Deerhake, American Samoa. So, where did we end up on this wording at this point in time ?

Keith Davidson: I think we are going to stay with the original jigs, because we had agreement to go forward with that. If the GAC don't like it, we might propose the new (inaudible), if it is palatable to them, we'll come back to the Working Group to sign off on it. Does that make sense? Or is that the cart before the horse. Yes?

Unidentified Participant: (Inaudible)

Keith Davidson: Okay, but I'm --

Bernard Turcotte: Sorry, Keith. Just when you say it's palatable to them, what are you going to -- what process are you going to use to cross -- does that just mean, I've run at cross (inaudible) if all meetings are okay. Or what are we going to do try and seek for that?

Keith Davidson: Well, this particular bit I think is for Frank and Susan to act as -- you know, as the members of the Working Group to assist the eligibility, it's unfortunate they are not here, and the GAC are meeting today. Okay. I think we've done as much as we can today, and thanks for your input, I think that's helped us clarify in our minds. I think you will -- can we move on to the terminology paper? And was there something we needed to deal her with miniature?

Bernard Turcotte: Well, we have to do a final approval of the paper, the online approval was given, so if we can throw it up, I've distributed the version with the new text for manager which was to read on the list, the Working Group list.

Keith Davidson: Is the text on screen. Do you want to talk us through it, Bernie?

Bernard Turcotte: Sure. Can you make this scrollable, please? I can't, so would you take us down to Manager, please. There we go. Ah! Now I can also do that. Okay.

Keith Davidson: Let me enlarge it a little bit.

Bernard Turcotte: This is better. Keith is doing the techie thing. Okay. Here we go. "431, Manager, the natural or legal person that is responsible for ensuring that the ccTLDs administrative,

and operative, as per the applicable policies and guidelines and is listed as the manager for the ccTLD in the IANA database for TLDs." Okay. The only change in the document, sir.

Keith Davidson: So we got through with the fifth reading on this, and is there any debate or discussion? Is there any clarification needed? If not, last chance -- we'll consider this approved, and so they essentially approve the glossary?

Bernard Turcotte: Yes, sir.

Keith Davidson: And we have put a path with the glossary, that didn't need to go public consultation?

Bernard Turcotte: No.

Keith Davidson: So, we now have the backend piece to the framework approved. So it started as the -- this was going to be before the addition of the demo, if you remember. So, we now have a completed framework except for those that we still have to resolve with the GAC, and the report section. Okay. Excellent. Well done, chaps. And, Martin?

Martin Boyle: I'm Martin Boyle. Can you explain to me why you don't think we need to go out to consultation on this document?

Keith Davidson: With the glossary. I mean, we can, that we've, on the basis of two calls, made the decision not to.

Martin Boyle: I see. Do you mean go around the group rather than -- because I thought you said go out to consultation on it.

Keith Davidson: We can take the document there that's now (inaudible), and post it on the ICANN for public comment, and I'll elucidate feedback and go through another round. But on the discussion on the calls we've had, we decided we didn't need to do that, because it was a glossary, it was purely a definition of terms. But the content of those terms, haven't been resolved in the actually check tests along the way, I think -- Nigel?

Nigel Roberts: There's a much easier reason than that. And first of all, a glossary does not contain content, in the sense that we are writing an interpretation or something. But more importantly than that, the glossary is us saying, when we use the word, this is what we use it to mean. You can't have consultation out onto the community on that, because the community can't tell us what we mean when we use the word, it sounds a bit humpty dumpty to me.

Keith Davidson: I am reluctant to want to reopen a (inaudible) note we've made.

Bernard Turcotte: I'm equally reluctant, I think. We are in danger of spinning ourselves into a whole new area that we don't -- we really don't need to go into. Maybe we should concentrate on the GAC's issues and get those sorted.

Nigel Roberts: But like I say, this is us saying what we mean when we use this word. It makes no sense to get somebody else to tell us what we use the word, we know what we mean.

Keith Davidson: Kim?

Kim Davies: So, I do disagree that this is the last course of action, that my understanding is, it's not only you using this terminology to say what we mean, you are also instructing IANA to start using some of this terminology. I think it's a bit beyond that.

Nigel Roberts: But that's in the rest of the document, wouldn't say that.

Bernard Turcotte: That's exactly what I was about to say. That's true, but in effect what we are doing is we are saying, when we said the word "this" in the main body of the document, this is what we -- for clarity this is what we mean by that, and that's fine, and I genuinely don't think that -- think that (inaudible). I have a tendency to lean always towards going at it as necessary, but I just don't think it's necessary in this case.

Keith Davidson: I'm seeing Martin not frowning so much, so I'm assuming he's happy.

Martin Boyle: Yes. I just wanted to understand why we thought we might get away with this.

Keith Davidson: Strike that from the record. Can I bring us back to order. Bernie?

Bernard Turcotte: To Martin's point, the only thing that is not a cut and paste is (inaudible), all the rest of the terms have been defined as such in the other work.

Martin Boyle: Okay.

Keith Davidson: Happy enough? Excellent. Thank you. So now we move to any other business, and we have a schedule of meetings proposed, but the next meeting will be the 10th of April, that's 13:00 UTC, and then rotating on the (inaudible) change. Thereafter, Thursday, 24th April; Thursday 8th May; Thursday the 22nd May; Thursday, 1st June; and then we move to ICANN, London.

Chris, then Martin?

Chris Disspain: I'm just curious as to what we are going to be meeting about. I have a sneaking suspicion that if we get together we'll find something to talk about, which might be a bad thing.

Keith Davidson: My suggestion, as for these dates, that they be no more than one-hour calls, but they are vary entries, and the -- and my hope is that we need no more than one or two of them, but we have them in our diaries, and there are further issues with the GAC that we need to work through, or anything to do with the IANA implementation that we do have them there. Certainly on the way forward, that we are not -- yeah, that we are struggling to get a group together because it's not in the diary. So I'm not going to have any calls, plenty of distraction on some other stuff that's quite important. So we are not going to waste time here on calls for the sake of it. And, Martin?

Martin Boyle: Just to note, that the 1st and 24th is NETMundial actually, and as I believe you all are going to be there, and probably -- you're not? All right, okay. In that case you might want to leave it, but I will flat this, it will be a problem for some people.

Keith Davidson: I tried desperately to delete that one because it will be (inaudible) Day in Australia and New Zealand, and I won't be in (inaudible) --

Martin Boyle: Well then, why don't you just release it? If you're not going to get -- those from Brazil are going to really struggle.

Keith Davidson: Bernie insisted, that's why.

Unidentified Participant: Have you tried deleting Bernie?

Keith Davidson: And hit delete, the 24th by consensus. Sorry, Bernie. I'm okay with that. Modified schedule, deletion of the meeting of the 24th April, I think that gives us plenty of time,

should we need it along the way. So, is there any other business from anyone in the room? Anyone at the back of the room, I can't see.

Okay, with that, I'll declare the meeting closed. Thanks for your participation and we'll talk to you again on the 10th (ph) of April -- April at the latest.