

# 2022-December-20: Minutes NRO EC Teleconference

**FINAL**

**Date: Tuesday, 20 December 2022, 11:00 UTC**

**Attendees**

**Executive Council:**

Paul Wilson (PW)	APNIC	Chair
Hans Petter Holen (HPH)	RIPE NCCC	Vice-Chair
John Curran (JC)	ARIN	Treasurer
Oscar Robles (OR)	LACNIC	

**Observers:**

Benjamin Eshun (BE)	AFRINIC
Nirmal Manic (NM)	AFRINIC
Jeremy Harrison (JH)	APNIC
Michael Abejuela (MA)	ARIN
Richard Jimmerson (RJ)	ARIN
Pablo Hinojosa (PH)	APNIC
Chris Buckridge (CB)	RIPE NCC
Athina Fragkouli (AF)	RIPE NCC
Glenn Price	LeaderShape

**Secretariat:**

German Valdez (GV)	NRO Secretariat
Laureana Pavon (LP)	Minutes

**Agenda**

**1.- Welcome**

**2.- Agenda Review**

**3.- NRO Strategy Update (Glenn Price)**

**4.- Legal Team Report (Jeremy Harrison)**

**5.- AFRINIC Update**

**6- 2022 NRO Expenses**

**7.- 2023 NRO Budget**

**8.- NRO Distribution Formula**

**9.- RIR CEO Updates**

**Outline**

- Optional updates from the CEO on internal news of their RIRs

**10.- Open Actions Review**

**11.- Minutes Review**

- 2022-November-15: Minutes NRO EC Teleconference - DRAFT (Pending: ARIN, LACNIC, RIPE NCC)

**12.- Next Meetings**

- a) Tuesday 17 January 2023 Teleconference
- b) Tuesday 21 February 2023 Teleconference
- c) Tuesday 21 March 2023 Teleconference

**13.- AOB**

**14. Adjourn**

## **New and Updated Action Items**

**New Action Item 221220-1:** Based on the direction received from the NRO EC during the 20 December 2022 meeting, the Legal team to come back with a firm proposal re the incorporation of the NRO and present it at the February NRO EC meeting.

# Minutes

## 1.- Welcome

Because PW was traveling and had limited connectivity, the meeting was opened by HPH at 11:05 UTC.

## 2.- Agenda Review

After welcoming everyone, HPH went over the draft agenda, which was approved.

## 3.- NRO Strategy Update (Glenn Price)

GP shared his screen. He presented an updated project plan, with the activities in the scope of work for 2022/23, color coded to reflect their level of progress.

For the first of the three big areas that have been defined (Communication), because there have been no comments from anyone on the Strategy Narrative, its publishing has been delayed (we had initially hoped to publish this before Christmas).

Re the second area (Engage and Recruit), we wanted to connect and engage with the coordination groups and their chairs or leads. There has been significant progress, Richard organized a meeting with the CG leads for 2023 and began to help them understand what we're looking for. We'll then spend two days with them face to face, to accelerate them into their new roles and share how they can assist us in the strategic plan. As for the recruitment of PMs, GP received from RIPE NCC and APNIC examples of what we are looking for in a PM and in January will get this from ARIN. If anyone wants to contribute, please do so.

Re the strategic projects, GP listed what is needed from the NRO EC:

### 1.1 Strategy narrative

Feedback on the strategy narrative for internal/external sharing

### 3.1 Program acceleration

Identify Steering Group for Programs 2 and 3

GP thanked the RPKI Steering Group and the Secretariat's support in getting the meeting notes up quickly. He also thanked the NRO EC, adding that he hopes the EC feels that progress has been made. He will be reaching out in early January and make sure that we have a consolidated view that the EC you can sign off in January.

PW joined the meeting at this point.

To summarize, GP said that a significant amount of progress has been achieved on the RPKI program, and we've made progress on the coordination group leads. The ball is rolling and that doesn't slow during the holiday season. He has two requests for what needs to happen:

1. GP will resend the email with the communication we want to publish (probably will be delayed until GP receives feedback).
2. We can nominate the steering group members for cyber security and staff engagement.

HPH said he had not had time to comment on the narrative we received about a month ago and is not sure he will be able to do so before next meeting as he will be on vacation.

JC and PW will be in Honolulu for PTC'23 during the next NRO EC meeting.

JC said that he believes that we are finally moving forward and asked everyone to just make sure that we all have time to review and sign off.

After thanking everyone once again and wishing them the best for the holiday season, GP left the call.

#### **4.- Legal Team Report (Jeremy Harrison)**

JH said that the legal team held a meeting in November 2022 in Arizona together with the financial team and proceeded to present the outcomes of this meeting.

JH then shared a presentation, in which he recalled that the NRO EC tasked the Legal group with preparing a list of key issues of questions to guide future NRO EC discussions around the concept of incorporation of the NRO. This was considered by the Legal team and then together with the Financial team to see the technical implications.

The Legal team identified several key motivations:

- Limitation of liability (separate the liability from each RIR's core enterprise)
- Corporate status / legitimacy (clear status for recognition)
- Administrative convenience (finance; consistent accounts; stability fund; third-party sponsorship / direct funding, etc.; potential assumption of responsibilities under external agreements; direct employment, etc.; growth of NRO is leading to increased costs, particularly re: strategic plan and new project managers –incorporation would potentially simplify management of this process)

The Legal and CFO groups agreed a set of key criteria for incorporation:

- Mandate of NRO must remain (principles of the MoU to remain in any incorporated NRO)

- Not for profit registration (or incorporation in any form) must not increase the administrative burden for each RIR
- English speaking of friendly country (jurisdiction)
- Predictable and stable jurisdiction (stable, predictable, politically neutral)
- Access to advice and knowledge (using existing knowledge or reputable and easily available local advice)
- Limited liability (for members and directors)
- Limited financial and regulatory requirements (minimal local representation requirements, reporting requirements must not be burdensome)
- Open and respected banking system (limited currency controls)
- Employment (direct employment is likely to be administratively burdensome, secondment from the RIRs may therefore remain the more appropriate avenue)
- Administrative convenience vs burden shifting (administrative burden should be simplified, not just shifted)
- No membership restrictions or implications (consider foreign shareholding/membership restrictions)
- Tax friendly (simple taxation system but not with the reputation of being a tax haven)
- Accessible for most RIRs (limit the inconvenience of long-distance travel to the fewest number of RIRs to the extent meetings will be held within the jurisdiction.
- Winding up (jurisdiction must allow for a relatively simple and orderly winding up process, with surplus funds/assets capable of being distributed in accordance with the wishes of the RIRs)

JH concluded this part of his presentation by sharing some other non-essential items for consideration agreed by the Legal and CFO groups: potential for immunity or privileged status; not a hostile sanction environment; treaty situation – multilateral recognition; good local arbitration center (for handling disputes within the same jurisdiction but not necessarily under the same legal system).

He shared that during the meeting the question “Should the home jurisdiction of a current RIR be considered for incorporation of the NRO?” and had concluded that this would have both pros and cons. Pros would include relevant local knowledge of the financial, legal and governance requirements, while the cons would include a potential appearance of bias and control.

Ultimately, it was agreed that the selection of potential jurisdictions should be based on the key criteria rather than choosing a jurisdiction to try to fit the rationale within that country's framework.

JH shared that the legal team had decided the following action item: "Ask the NRO EC what they want to accomplish through incorporation. This is a zero-step question, as it will inform the priority of the considerations listed and may also result in the identification of alternative pathways (other than incorporation) to achieve the goals without additional administrative burden."

JC thanked JH for noting wind-down, as that's prudent and worth doing. It raises a question: ownership and shares aspect. JC had assumed that the structure would not have shares that could not be attributed to benefit, that it would be a formal public benefit corporation. Has any thought been given to the merit of a structure that could have owners (even if the RIRs)?

JH replied that they did indeed consider that and looked at different structures. Not having direct legal share interest was considered the better option.

JC then said that it had almost been assumed that incorporation would make things easier, yet in this presentation there is an interesting twist that the CFOs indicated that incorporation (e.g., employment) might complicate matters. This means that having an explicit statement of what we wish to accomplish with incorporation is now even more important. We the EC owe a formal response to the Legal team so you can continue the assignment.

OR noted that two months ago they had produced some ideas to answer this question, and said he believes that JC had kept the notes.

HPH thanked JH for the presentation. He added that he sees several reasons for incorporation: 1) Perception to the outside world that the NRO is a single entity; 2) Obtaining international status (e.g., Uruguay or Switzerland) might be beneficial; 3) Last and most important: to limit the liability beyond the emergency funds in the situation we are right now. Also, perhaps the option of having the NRO have some power in case something happens in one of the RIRs.

HPH said that, while he would love to see us moving forward on this, he thinks it requires some thoughts on the actual benefits.

PW observed that it feels like we're spinning our wheels, we've been through this discussion some time ago. He agrees that we need to be clear on why. If we have a misperception that employing people through an incorporation would be easier and it is not, that does not count as a negative but as a misconception. He agrees with HPH that it's the liability issue that's quite important. With RPKI there are liability issues that we need to manage through a single entity, that's where incorporation would help.

JC said that the findings of the Legal team removed one possible motivation (simplified administration by having an entity that could hire centrally). But he agrees that loss of that one potential benefit doesn't mean that we don't have a long list of benefits. We need to list them

down so the legal team understands what we are looking to achieve. He then listed four strong reasons: 1) Legal liability; 2) Simplified contracting; 3) Ability of the registry system to continue regardless of the situation of any particular RIR; 4) A perception issue about the seriousness and the integrity of the RIR system.

HPH asked JH if the four points mentioned by JC provides the Legal team with enough feedback or if there are any more questions that need to be answered.

JH asked if simplified financial management of the NRO budget might be another item.

JC said that he is not an expert on the matter, but that currently our financial management is pretty simple, and he doesn't see that changing under and incorporated structure. In his opinion, it's a "like to have," not a "must have."

JH said that what has been shared today is enough direction for the Legal team to start working and that the team will come back to the EC in February once we have a chance to meet in January.

**New Action Item 221220-1:** Based on the direction received from the NRO EC during the 20 December 2022 meeting, the Legal team to come back with a firm proposal re the incorporation of the NRO and present it at the February NRO EC meeting.

## **5.- AFRINIC Update**

BE provided the following update:

- What the board has been trying to do since the CEO exited AFRINIC was basically to ensure that we get back the quorum of the board by legal means.
- He is very optimistic, as it is very likely that the board will have quorum close to the end of the year.
- It has been quite difficult trying to get things done.
- He formally thanked the RIRs for their support and encouragement in the difficult times AFRINIC is going through, it is truly appreciated.
- He apologized if he has not been very communicative so far and hopes everyone will understand.
- AFRINIC looks forward to the NRO EC's continued support and guidance.
- He hopes he will be able to come back to this group with the news that we are back before the end of the year.

HPH thanked BE, adding that it is definitely very good news that he is expecting to have the board back before end of the year.

PW agreed. He then asked BE if he could share a little more about what he expects will be the means by which the board will become functional again.

BE replied that there are several. A section of the companies act that allows us to seat directors. We very recently submitted some names to the court and those are under consideration. Another legal option is to look at the genesis, the reasons that led to the problem to see if they were valid reasons. There are various steps, we are trying various means to ensure we are back, not a single solution. If not before the end of the year, then it will be in early 2023.

HPH thanked BE for his explanation.

## **6- 2022 NRO Expenses**

GV said he had shared a preliminary report to the mailing list. Projected expenses have taken us to approximately 92% of budget execution, according to data provided by the CFOs. GV will finalize this report after we the final numbers are available at the end of the year. He asked for any questions or comments to be sent to him through the mailing list.

HPH thanked GV for this preliminary report and added that the EC will do the approval of the final accounts in January.

## **7.- 2023 NRO Budget**

GV said that he would like some feedback from the EC. Based on what we discussed throughout the year about the strategy review, one of the changes is that he removed all expenses related to the CGs from the 2023 budget, as we agreed that the CGs would be granted more autonomy and that their work would be more through the CEOs directly (i.e., coordination, but not necessarily approved by the NRO EC). He added that he had also maintained what the NRO did the past year re support and governance. A final aspect that has been considered was recommended by the CFOs is adjustment by inflation (8% reflected in some items, mostly staff and travel).

GV then explained that a more challenging part of the process was the actual cost of the programs, which has been difficult to project. He has calculated 200k US dollars for each of the programs (staff, some travel and some hiring costs). This is simply a first approximation, considering that the programs might be starting around the second half of the year.

The total budget is about 2M dollars, including the programs.

A comment from HPH to his colleagues: we are increasing the autonomy of the CGs but by restricting their budget, they would have to request budget from each RIR directly. He just wants to make sure that this is actually what we want to do. He will make the necessary travel available for his staff to meet with the others, but we need to be mindful of what we are doing.

A second comment from HPH: I hear there is uncertainty about the continuity of the IGF. It's worth reflecting on committing collectively to going to IGF and setting up a stand there. This year we were actually there but RIPE sent a much larger contingent. If we are going to do that, he would like to plan that with greater anticipation and fund it together.

Given the AFRINIC situation, HPH suggested that it might better to delay approval until January.

JC observed that today we have 100% quorum for the EC (the EC has four members, and they are all present on the call), so there is no formal restriction on making decisions. Having said that, he agrees that it would be better to defer this matter until January.

## **8.- NRO Distribution Formula**

GV then shared a preliminary report with the NRO distribution formula. NRO expenses are distributed based on the self-reported revenue of the registration services. In this particular report, two scenarios are considered: five RIRs / four RIRs. The idea of reviewing this formula each year is to make sure that you are happy with the distribution. The final numbers will be ready at the end of the year.

HPH thanked GV and said that, as the final numbers are not available, we cannot approve this yet. Also, as JC said, we do have quorum, but postponing the decision until January might be best.

JC and OR agreed to postpone the decision.

JC observed that it would be important for AFRINIC to appoint a member to the NRO EC forthwith as soon as it sorts its things.

## **9.- RIR CEO Updates**

JC presented the ARIN update:

- Not anything substantial, ARIN 50 took place in Hollywood in October.
- We also had a major cleanup of our PDP, which was adopted by the board, no substantial changes, but clearer to read.
- Continued significant work in terms of improving our security, will be announcing the results of our first security audit next week, we're investing in RPKI and IRR development, trying to make our interface more user friendly.
- ARIN is going into two-factor authentication for our clients, that's pushing others to do so as well.
- We also have a voice-based two-factor authentication system which turned out to be not very wise. Now, you can't turn on voice-based two-factor authentication when you create an account.
- Two-factor authentication will become mandatory next year.

After apologizing and wishing everyone a happy new year, PW had to leave the meeting at this time.

PH presented the following update for APNIC:

- As he would prefer PW to give the update. Because he cannot speak on behalf of APNIC, he will just mention some generalities.
- The APNIC Executive Council met in December, and approved the budget for 2023, which includes an increase in membership fees from 1 Jan 2023.
- He wished everyone a happy holiday season and a happy new year.

OR said that he had nothing to update on LACNIC at this time.

HPH presented a RIPE NCC update:

- There was a very successful RIPE NCC Roundtable Meeting in Dubai a couple of weeks ago.
- It's good to see the community coming back together again.
- We had a board meeting last week, they approved the activity plan budget for next year, approximately 10% more than last year. We also discussed inflation and what we are going to do next year.
- The most interesting thing: how to handle transfers from distressed areas or areas in dispute. We had a discussion at the RIPE meeting with members from Ukraine regarding measure to keep resources from being captured.
- The other thing that was implemented immediately is the obligation to have transfers notarized (Ukraine). However, RIPE NCC will put this in place for all transfers.
- Notarization + blocking mechanism should make it more difficult to transfer resources out of the region.
- Notarization is something HPH is pushing for independently of the war in Ukraine.
- The main of the opinion of the Board is still that we need a policy change in order to put restrictions on transfers, although the Board did approve a temporary mechanism for six months, so that members can put a temporary lock on transfers.

JC applauded HPH for his work on improving accuracy. As much as he understands the desire for community process, he does not see any possible reason why an organization cannot protect itself and block a resource for further investigation or court clarity. JC does not know if this point helps HPH in his discussion, but in JC's opinion the community cannot be solely responsible for deciding whether you accept dubious transfers.

HPH asked NM if he had any update from the AFRINIC staff.

NM replied that while he is not the CEO, he can provide an update of what the AFRINIC staff has been doing:

- We have prepared the budget for 2023 and are hopeful that we will soon have the board to approve it
- He thanked everyone, specially for the small gift given to the staff, they appreciated it.
- Hopefully we will get a CEO and the board up and running and back to AFRINIC as it was before.

## **10.- Open Actions Review**

Action Item 221115-1: GV to reply to ICANN asking them to reserve two places for the NRO at the ICANN Leadership Program (LP) 2023 to be held at ICANN 76. The names of the two participants will be provided in due time once the ASO AC chair and vice chair are elected, but no travel support will be required from ICANN. CLOSED

Action Item 220920-1: GV to draft and send to John Levine of the IETF Trust a reply as suggested by JC in his email to the NRO EC mailing list dated 6 September 2022 (subject: Response to IETF Trust). IN PROGRESS

Action Item 220726-4: HPH will share with the EC draft output of the RIPE NCC'S recommended approaches to crisis response once this output is ready (2022 Q4). OPEN

HPH observed that he is still waiting for the management policy and process. Once he has the RIPE NCC version, he will share it with the others.

OR asked GV or PW whether we have received any follow up on the SLA updates (<https://www.icann.org/en/public-comment/proceeding/proposed-amendments-to-the-sla-for-the-iana-numbering-services-13-09-2022>).

GV replied that he has not been contacted.

PH added, to his knowledge, PW has not been contacted either.

HPH said he is happy to take that question in January and if the incoming chair wants to join, he will be happy to exchange notes.

## **11.- Minutes Review**

- 2022-November-15: Minutes NRO EC Teleconference - DRAFT (Pending: ARIN, LACNIC, RIPE NCC)

## **12.- Next Meetings**

- a) Tuesday 17 January 2023 Teleconference
- b) Tuesday 21 February 2023 Teleconference
- c) Tuesday 21 March 2023 Teleconference

No objections were heard regarding these dates.

## **13.- AOB**

Since PW was not on the call at this moment, JC thanked everyone and wished everyone happy holidays.

## **14. Adjourn**

There being no further business to discuss, the meeting was adjourned at 12:41 UTC.