

2022-October-18: Minutes NRO EC Teleconference

Date: Tuesday, 18 October 2022, 11:00 AM UTC

Attendees

Executive Council:

Paul Wilson (PW)	APNIC	Chair
Hans Petter Holen	RIPE NCCC	Vice-Chair
Oscar Robles (OR)	LACNIC	
Eddy Kayihura (EK)	AFRINIC	

Apologies:

John Curran (JC)	ARIN	Treasurer
------------------	------	-----------

Observers:

Nirmal Manic (NM)	AFRINIC
Pablo Hinojosa (PH)	APNIC
Jeremy Harrison (JH)	APNIC
Kenny Huang (KH)	APNIC
Ernesto Majó (EM)	LACNIC
Esteban Lescano (EL)	LACNIC
Richard Jimmerson (RJ)	ARIN
Athina Fragkouli (AF)	RIPE NCC

Secretariat:

German Valdez (GV)	NRO Secretariat
--------------------	-----------------

Agenda

1.- Welcome

2.- Agenda Review

3.- RIR Legal Team Update (Athina Fragkouli and Jeremy Harrison)

4.- NRO Strategy Update

- a) Response from Leadershape
- b) RPKI Implementation Update
- c) Leadershape Invoice

5.- AFRINIC Update

6.- RIR CEO Updates

Outline

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

7.- Open Actions Review

8.- Minutes Review

- 2022-September-20: Minutes NRO EC Teleconference - DRAFT (Pending: AFRINIC, APNIC, ARIN, LACNIC, RIPE NCC)
- 2022-August-16: Minutes NRO EC Teleconference - DRAFT (Pending: AFRINIC, APNIC, ARIN, LACNIC, RIPE NCC)

9.- Next Meetings

- a) Tuesday 15 November 2022 Teleconference
- b) Tuesday 20 December 2022 Teleconference
- c) Tuesday 17 January 2023 Teleconference

10.- AOB

11. Adjourn

New and Updated Action Items

New Action Item 221018-1: GV to double check that the invoice submitted by LeaderShape for the balance of the contracted amount matches the originally agreed amount and send this information to the EC mailing list so that the payment can be authorized by the five CEOs.

New Resolutions

-

Minutes

1.- Welcome

PW welcomed everyone and the meeting began at 11:03 AM UTC.

2.- Agenda Review

PW went over the draft agenda, no comments were heard, and the agenda was approved as written.

3.- RIR Legal Team Update (Athina Fragkouli and Jeremy Harrison)

JH thanked the EC for making time available. He said that the Legal Team will be meeting with the CFOs at a joint meeting in Arizona on 8-9 November, that the first session will be a joint session to discuss the Stability Fund and the processes and procedures for its deployment, and that on the second day, the Legal Team will have focus groups. He then asked whether there are any specific priorities stemming out of the Strategic Plan that's been developed on which the EC would like the Legal Team to focus.

While sharing his screen, JH presented the priority focus areas discussed by the NRO Legal Team for its upcoming Arizona meeting: 1) the Stability Fund (legal framework for its deployment), 2) NRO incorporation (this is being considered in the context of the Stability Fund, but would the NRO EC like the Legal Team to further consider this as an independent item?), 3) NRO strategic focus areas (RPKI, cybersecurity, government engagement), and 4) Coordination with the ECG on the *Emergency Backend Operations for Number Registries* project.

PW agreed that they should start with the Stability Fund, which is already on the Legal Team's work plan.

As for incorporation, PW asked OR about the work he was doing with JC.

OR replied that they had one meeting where they explored the likelihood of their organizations accepting the incorporation and then discussed some of the reasons for the incorporation. Finally, OR and JC concluded that the NRO should be incorporated and now must prepare the argument in favour of incorporation.

PW suggested that the lawyers should definitely be looking at the incorporation question to provide more guidance.

OR will ask JC for the arguments, as these may trigger different conversations.

HPH recalled that the EC has at least two different opinions on whether they should incorporate. His personal opinion is that it might be easier to look at the Stability Fund and incorporation separately, as the Stability Fund seems to be straightforward and setting up something dedicated for that might be simpler than first figuring out if we want to incorporate the NRO and how to do it.

RJ mentioned some that JC agrees that one of the keys is including a legal review and a business review, and that the next step should be to lay out the design of how it's going to be incorporated in a way that's relatable to the five RIR boards and immediately bring this to the boards so that the CEOs will have the authority they need to move forward.

PW observed that it seems that LACNIC, ARIN, and APNIC see incorporation as something that should be done if it's done right. HPH also agreed. This gives the Legal Team something to do, which might be something simple, a fairly open brief to include considerations, caveats, recommended path forward, and so on.

AF said that having principles or a design makes sense, adding that the principles should also include, if possible, a jurisdiction, as that would make the work of the Legal Team much easier.

RJ added that the ARIN board should be concerned about any anti-trust considerations that might be attached to this, so when the legal team reviews this, it would be helpful if they could add some thoughts on how we would be protected from anti-trust, price fixing, or other claims along those lines so the boards will know that this type of things were addressed.

EK said that AFRINIC was not raising any objections. As for the anti-trust documentation, AFRINIC has just filed with the anti-competition commission in Mauritius and their assessment might be handy for the Legal Team to consider. The commission did not consider AFRINIC as an anti-competition threat and were comfortable despite the accusation that was raised against AFRINIC.

PW asked whether the Legal Team needed any additional guidance.

JH replied that this was enough for the moment, that looking at incorporation and the contents for the Stability Fund will probably be the limit of what can be achieved in Arizona, but that there will be a number of items coming out of that meeting to report back to the EC and then get

some further direction on what the Legal Team can prepare to submit to the relevant boards at the right time.

PW wondered whether incorporation might not deserve more time than that, given that we are moving to potential readiness. He then asked whether the Legal Team could see specific discussions that need to happen at this point for the specific focus areas mentioned by JH.

AF said that it will be difficult to work on this before having the framework or the criteria from OR and JC, adding that it would be very helpful to have this before the Legal Team's November meeting in Arizona.

OR noted that he and JC had not been working on defining requirements, criteria, or a jurisdiction but, instead, analyzing perceived expected benefits, a justification for incorporation.

AF thanked OR for clarifying this and noted that the Legal Team would need some clarity in terms of jurisdiction to start discussing incorporation.

HPH said that, in order to define the best jurisdiction, the EC might need the help of the Legal Team. However, the EC could provide some pointers, such as incorporating in a no sanctions jurisdiction and perhaps some other things such as our knowledge of a specific legal system, costs if that is an issue, and so on. The question is: What are we asking the Legal Team to do? Without a set of business requirements, it sounds like a mission impossible to ask them to come back with a proposal for a legal structure that can be implemented.

OR replied that he does not have an answer to that question but would like to create a different open action, as the one he was working on with JC was more focused on why the NRO needs to be incorporated. If we need the Legal Team to have that information, we first need to have the conversation, and this is not defined in our open action items.

RJ said that the things that AF and JH are talking about will have to be addressed eventually, but for now what would be more useful would be for the Legal Team to focus on big ticket items (e.g., be careful not to do this, these are the things we can do, etc.). Once the RIRs have put a design together, when it comes to selecting the location, we might need to engage a contractor, first because it will be good to have this backing, second because I don't know that the five of us can agree on a location.

AF observed that a way forward might be for the Legal Team to come up with relevant questions that would help the discussion from a legal perspective and bring them to the EC for discussion and then take it from there.

PW agreed that this would be very useful. He said that the EC would work via email to see what, if any, additional guidance we can provide. If there is none, we can look at the questions the Legal Team will prepare. His own suggestion is that, because other topics are significantly affected by the issue of incorporation, this work should be prioritized.

Regarding RPKI, AF noted that the Legal Team was also discussing the possibility of having a legal analysis of its legal status just as was done with IP addresses. This would require some time and effort. She said it would be great to have time for all the focus areas but asked what priorities the EC would like the Legal Team to focus on if time was insufficient to address them all.

OR is more inclined to agree with what RJ mentioned about big-ticket items, have some general recommendations or legal suggestions on what we should look at so we can narrow our search when we hire a legal firm to provide us with recommendations.

Regarding the item where the Legal Team will be working with the ECG about backup operations and those types of things, RJ said he understand that this is a very touchy topic for engineers. If the Legal Team is coordinating with the ECG, they might provide the ECG with some guidance and invite them to think of this not as an analysis of engineering fails but more about making sure that there is a backup, for example, in case a registry must be moved on an emergency basis. This will need the help of all five RIRs and we must be sure that we're able to do that.

HPH reiterated what he said the last time the EC discussed this, which is that the hard part is not the engineering but taking over the registry.

PW agreed that there is a lot involved in this topic (issues around membership, service, confidential information, etc.). This could be generalized by extending this topic beyond engineering operations and simply considering these as one of several big picture areas that we would need to be answered, but that would be giving the Legal Team more and more things to do. This could be a scoping exercise: if we do in fact sometime have an RIR failure, what does that mean? He asked JH and AF whether this generalization would make sense.

JH agreed, adding that the Legal Team obviously has a pre-direction to start developing the list of questions and key considerations for incorporation, with the Stability Fund remaining a focus for the meeting in Arizona and report back to the EC. The Team can then start looking at additional focus areas such as RPKI, with the analysis of this broader issue of the emergency movement of a registry crossing over to next year. The Team will probably not have anything to report on this in the next month or two.

PW asked JH and AF to share any more questions they may have for the EC, then the EC will get back to the Legal Team before the Arizona meeting.

PW thanked JH and AF, who left the meeting at this time.

4.- NRO Strategy Update

a) Response from LeaderShape

PW said that Glenn Price has expressed his gratitude to the EC for the confidence. Given the time of year, however, he cannot find twenty days and has instead mapped out twelve days

between now and the end of the year and can follow up with the eight additional days if they are still required in 2023.

No objections were heard.

b) RPKI Implementation Update

RJ said that the EC had done well in putting JC on this, as it has actually helped inside the ARIN organization move towards in aligning our RPKI more with the other four RIRs. The actual update will have to be provided by JC himself either at a coming meeting or via email.

c) LeaderShape Invoice

PW asked GV if there are any issues with this.

GV replied that he is looking for approval to pay the last invoice. He sent the new invoice last week and a reminder yesterday, this will conclude the last phase of LeaderShape's consultancy. He added that the actual services are described in the invoices.

HPH asked if this is within the contract we agreed to. If it is within the original contract, he will sign off on the payment immediately, but if it is outside the contract then we need to understand why.

PW asked GV whether he had checked whether the amount is the balance of the original contractual amount.

GV replied that he checked it when it was first related a few weeks ago and he found it OK but would like to double check.

New Action Item 221018-1: GV to double check that the invoice submitted by LeaderShape for the balance of the contracted amount matches the originally agreed amount and send this information to the EC mailing list so that the payment can be authorized by the five CEOs.

5.- AFRINIC Update

EK began by making the following statement for the record:

“As you may be aware, my contract as CEO at AFRINIC is arguably due to expire on 03 November 2022 and today is probably my last day as a member of the NRO.

My statement is as follows:

At the outset, I am aware of my obligations as CEO, and nothing that I will state here will constitute a breach of my NDA.

It is common knowledge that AFRINIC has been in the limelight for a while now, especially since March 2021 following CIL's first application for an injunction and the subsequent cases brought.

Your respective organizations have also been assisting us and following AFRINIC's file closely such that nothing is secret to you, more so that the minutes of AFRINIC's board meetings are publicly accessible.

The string of litigation brought by the handful of hijackers of AFRINIC has deprived the Board of AFRINIC of quorum and thus the ability to make decisions. With my inherent powers as CEO and as a Registered Member, I have so far done my level best to fearlessly fight the said hijackers who are already rejoicing over the imminent expiry of my contract, knowing full well the absence of succession to the CEO.

Since I am not aware of any plans made to address the purported expiry of my contract as CEO, I find it appropriate to seek your permission to introduce Mr. Nirmal Manic who is the Head of Finance and Accounting at AFRINIC and who, from time to time and for administrative convenience, also oversees AFRINIC's operational management on those days when I would be on leave. In the circumstances we are in, I consider Nirmal to be the most suitable person to be AFRINIC's Liaison to the NRO, more so that he is in a better position to assist you as and when the needs arise."

EK noted that NM is present at this meeting and will be attending the CFO meeting as well.

NM explained that EK had informed him of this meeting and invited him today, everything is new for him, he already knows GV, and he will be attending the CFO meeting in three weeks in Arizona, where we will discuss the incorporation of the NRO and from there we will see. NM will be the liaison to AFRINIC after EK's contract expires on 3 November. He will appreciate the other's guidance.

PW welcomed NM to the EC and said that it will be good to have him representing AFRINIC during EK's hopefully temporary absence. PW also thanked EK for his statement and asked him to send a copy to GV to be included in the minutes.

EK then said that he had shared an update with AFRINIC resource members on the situation in the courts. Re the situation regarding the board members, we don't know when the judge will make a decision, but if our request is acceded to, the current hiccup of the board paralysis will be done with, and we can go back to business as usual.

He clarified that, even though they've managed to make the case around so many other things, this is an issue of non-compliance with contractual terms.

HPH asked the following question: What will happen if the court does not accommodate the requests? Would the organization remain paralyzed?

As for the other course of action, EK said he'd met with the Minister of ICT in Mauritius and he'd mentioned that the second option would be an election to fill the empty seats, which in EK's opinion would take 2-3 months to organize and eventually all the seats on the board will be filled. This might also be viable, although we have evidence that votes have been bought.

OR asked whether this election would be conducted online or during AFRINIC's next f2f event.

EK replied that, if it has to be a quick election, it will not wait until the next f2f meeting. Given the issues with the buying of votes, another option that is being discussed is distributed f2f elections (election polls in different cities). But at this point he does not know.

Just for transparency, PW said that he had suggested a meeting of the four CEOs in 24 hours. If any more questions come out of that meeting for EK or MN, they will let them know.

PW thanked EK for everything and said that hopefully they will be seeing him at future meetings.

6.- RIR CEO Updates

HPH presented the following update:

- The RIPE NCC has its meeting coming up next week and he is looking forward to seeing the other CEOs and other colleagues in Serbia.
- Sanctions are being discussed, as well as how to ensure the correctness of transfers in areas of distress.
- AF has written an article that addresses the issue of what additional due diligence we would already have in place, but also, if we want to go even further, the potential need for policy proposals to do so, e.g., not doing transfers at all in the countries under distress. He foresees that there will be a discussion on this (where do we keep the threshold, what kind of source do we use for this, etc.).

HPH then brought up a minor administrative issue: there seems to be an assumption in the minutes from the ASO AC meeting that we will waive their registration fee for RIPE 85 and that we are just not answering their messages. Right now, there is no generic mechanism for this, but HPH is happy to put that in place if that's the case everywhere else.

PW replied that the general principles of the operation of the Address Council is that, unless otherwise specified as a joint decision, everything pertaining to our own respective members is for each RIR to determine.

All agreed to continue the discussion of this topic on the mailing list.

RJ provided the following ARIN update:

- The ARIN meeting is going on this week, with the NANOG meeting taking place right now and the ARIN meeting starting on Thursday.

- This meeting is taking place in Los Angeles and there will be a board meeting.
- Our elections will start alongside this meeting. This year there is a larger board, so where there would normally be two seats available on the ARIN Board of Trustees for replacement on 1st January 2023, there are now three to grow the board size by one starting next year, and then do the same next year to add another one until we've added three new board members for a total of 10 board members.

OR presented the LACNIC update:

- LACNIC 38 was held in Bolivia, the first time a LACNIC meeting was held in this country.
- There were about 400 participants in person and about 600 registrations online. This is a typical behavior for our second meeting of the year, which has less attendance than the first.
- The board started scheduling meetings with leadership organizations such as LACTLD, LAC-IX, and others.
- We also included a meeting with former LACNIC board members and want to make these conversations a regular occurrence to connect the two generations.
- This is hopefully the beginning of a good practice: having regular meetings with leadership in the region.

7.- Open Actions Review

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 220816-2: All to send to JC/OR a list of requirements so they can put together a statement of requirements of what the NRO would like to accomplish through incorporation (e.g., program managers, home for the RIR Stability Fund, etc.). OPEN

In response to PW, OR said that it would help for the others to find their own set of requirements, suggestions or limitations from their board or organization.

It was decided to keep this action item open.

Action Item 220816-5: JC to share the latest version of the NRO MoU to the list. OPEN

RJ will remind JC of this action item in his notes.

Action Item 220726-2: JC and OR to investigate pros and cons of incorporation, the steps and timing, risks and other considerations involved and prepare a strawman by December, with a check-in in late September or early October to see whether that path is still valid. (replaces action Item 220624-4) OPEN

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 is still waiting for the draft RIPE NCC process. Once he has that he will share with the EC a modified version that would suit the NRO sometime in Q4.

8.- Minutes Review

- 2022-September-20: Minutes NRO EC Teleconference - DRAFT (Pending: AFRINIC, APNIC, ARIN, LACNIC, RIPE NCC)
- 2022-August-16: Minutes NRO EC Teleconference - DRAFT (Pending: AFRINIC, APNIC, ARIN, LACNIC, RIPE NCC)

PW invited everyone to approve the previous meeting minutes.

9.- Next Meetings

- a) Tuesday 15 November 2022 Teleconference
- b) Tuesday 20 December 2022 Teleconference
- c) Tuesday 17 January 2023 Teleconference

No issue with these dates were raised at this time.

10.- AOB

No AOB were discussed.

11. Adjourn

There being no further business to discuss, PW moved to adjourn the meeting, EK seconded the motion, no objections were heard, and the meeting was adjourned at 12:20 UTC.