CRISP Team teleconference held on Friday, January 9th 2015 (13:00 UTC)

CRISP members present:

AFRINIC
Alan P. Barrett, AB
Ernest Byaruhanga, EB

APNIC
Izumi Okutani, IO
Craig Ng, CN
Dr Govind

ARIN
Michael Abejuala, MA

LACNIC
Andrés Piazza, AP

RIPE
Nurani Nimpuno, NN
Andrei Robachevsky, AR
Paul Rendek, PR

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a. Reconfirm schedule of future CRISP Calls

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1. Agenda review

IO reviewed the proposed agenda. No agenda items were added.

2. Actions review

a. Minutes

IO: we had one meeting emergency held yesterday, also one held on the 9th, whch clashed with the ASO meeting, so we don't have the minutes yet as there hasn't been sufficient time for the Secretariat to work on that.

b. Announcement to relevant stakeholders

IO: in addition to the IANA XFER list facilitated by the nro, I'd like to conform that the announcement has been forwarded to all the regional lists and the communications group.

It was confirmed that the announcement had been shared in the APNIC, ARIN and AFRINIC regions. GV confirmed that it had also been shared with the NRO communications group, who will promote it in their respective regions. IO noted that she shared with the ICG.

Status: DONE

3. Confirm pending issues

a. LACNIC

IO: LACNIC provided a graph and we thought a text version should be included.

AB: (via chat): We should send text version.

AB: I will copy paste from the text file.

b. Numbering scheme in Section II

IO: Minor issue (numbering format in Section III.a should be consistent), but I'm OK with the current format unless somebody feels differently.

c. Possibility of reformatting Section III

IO: I sent a draft 1-2 hours ago. I want to be very clear that people can capture what are the elements we're proposing. I sent three minor changes formatting changes to Section III. These comments were supported on the mailing list by AR and NN. I'd like to confirm if anyone has comments at this stage.

No comments were heard, so it was decided that members would send any comments on this agenda item to the mailing list.

d. PDF of issues lists

IO: Issues mentioned by NN. I agree, we want to make the list available in a format that is accessible to as many people as possible.

GV: I just uploaded the PDF version. It is now available on the website.

IO: GV, I wonder if you'd be able to create the PDF version every time we post an updated version on the NRO website.

GV: Yes. I will need to see how to do this from an excel file. I'm sure it can be done.

NN (via chat): You can simply save it to PDF or do a print to PDF. I'll be happy to help if you need it.

Status: done and agreed.

e. CRISP website improvements

IO: I'd very much like to hear crisp team's feedback whether this is a good idea. Second, I'm aware of the secretariat's limitations, so I'd also like to hear from GV.

NN: My motivation was that I got a lot of questions from people wanting to comment (where? how?), so I had a look at the website to make sure everything was clear. As we've been adding text incrementally, maybe we can take a look and see if we can make any changes that will make it as easy to read as possible. I think the main thing that needs to stand out is the current version and clear instructions on where to get the various documents. Also how to provide input and the deadline (January 12th).

Reasons: 1) clarity; 2) it's important that this page shows our work. I'm not a web usability expert, so these are simply some observations I made.

AB: I support what NN said. I think there's too much on the CRISP Team page (introduction, charter, list of members. etc.). I think most of those elements could be moved to subsidiary pages and the landing page could be just a brief high-level summary of what CRISP Team is, what the current status is, where we are in our timeline, how to give input, and how to get the latest version of all the documents. Then we could have links to the other subpages.

IO: We are all in agreement for all the points raised by NN. I'd like to confirm with GV regarding the resources and see if it can be accommodated.

GV: I also think they are good changes. I will start to make the changes right now based on NN's and AB's input and let you know when we have a new version of the CRISP page (in the coming 1-2 hours).

IO: I encourage CRISP Team to provide feedback once GV prepares the new website.

4. Confirm comments received
a. Each RIR region
IO: Have any comments received on your regional lists?

Via chat: No comments were received on the APNIC, AFRINIC, LACNIC or RIPE NCC lists.

b. Global list
IO mentioned a couple of comments received on the IANA XFER mailing list.

5. CRISP Team position per issue
IO: Agenda items 5a to 5e are the points raised by Richard Hill, which I shared on the mailing list.

IO proceeded to read and summarize the points listed by Richard Hill on each of items 5a-5e and the agreement expressed by several CRISP Team members (NN, AR and herself) on each of the points.

IO: Let's confirm our position for each of the points.

a. More details of dispute resolution
IO: Our proposed suggestion is that we simply list a very high-level principle that we think is important (it has to be in an impartial place, it should be in a single location, etc.). First, do we all agree that it's worth adding some high level principles as a part of dispute resolution?

AR: What kind of high-level principles on dispute resolution are you talking about?

IO: I think it's listed in AB's email.

AB: In my email I copied some text that John Curran mentioned on the IANA XFER mailing list (his memory of the reasons why the Bermuda jurisdiction was chosen). Those seemed to me as a good start for a list of high-level principles. I think we could incorporate those high-level principles without going into detail. For example, we shouldn't say which jurisdiction should be chosen but we could say it should have a good reputation for this type of things. I'm not ready to provide text, but that's the rough idea.

AR: Although I need to see the final text, if it doesn't change the direction of our initial proposal I think it's fine.

IO: I don't need people to make the final decision at this stage.

MA (via chat): This is the text referenced (from John Curran's post to the IANA XFER mailing list:
"From memory, I recall that Bermuda jurisdiction for arbitration was proposed by the RIRs to ICANN (and later used for the inter-RIR NRO agreement) due to the following perceptions -
- A neutral venue totally independent of all the parties, RIRs and ICANN.
- Allows for single location for arbitration of all disputes, rather than needing to select venue based on parties involved.
- Makes use of well-understood International Chamber of Commerce rules.
- Has court system of recognized integrity with international commercial arbitrations generally free of court interventions."

Dr Govind: Regarding jurisdiction, I wonder how it is going to be included in the SLA.

IO: First, I think we've agreed as CRISP Team that drafting the SLA is outside the scope of our work and will be done by the RIRs – the stakeholders. As CRISP Team, we set the high-level provisions we want to see included in the SLA, which you've seen in our second draft. What we're discussing here is whether we would include a similar, high-level principle for dispute resolution.

AR (via chat): Just do not see a real reason to make this principle more heavy than other principles we include.

PR (via chat): I agree with AR.

IO: I think it's a point we can get back to Richard to see why he thinks this is important.

AR: I'm not against clarification of this point. I just don't think that if we include the text referenced in the chat above we would be making this principle disproportionately more detailed than the others.

CN and AB (via chat): Agree. It's too much detail.

IO: Conclusion: We'll go back to Richard explaining that this would make this principle much more detailed than the other principles included for the SLA and why this issue was not of concern to us, as we feel that the topic of dispute resolution has been sufficiently described in our document.

AB: A general comment on the SLA and the contract. Perhaps we could say that the drafting of the SLA would follow an open process, consulting with and building community consensus among the community before its implementation. Perhaps something like that would be enough to address comments on there not being enough detail in this document.

IO: I personally agree with you AB.

AR: My main view on the principles section is basically that we are not a legal team. I think we can trust RIR legal teams to do this. There's no need to include a comment on that. I don't think we need so much detail in this case (dispute resolution).

PR (via chat): I support this line of thinking.

CN (via chat): we are in heated agreement.

IO: I very much support this way of thinking. Comments? I'd like to reconfirm AR's point. We agreed during the ninth call that we are not in a position to tell RIR staff what to do. My current suggestion is that we don't mention anything about RIRs doing open communications and such, because that's what we agreed during the ninth meeting.

AB: I'm fine with not changing the text, we have enough work already. Perhaps in our response to the community why we haven't included any text we can say that we can't tell the RIRs what to do, but we fully expect that they will consult with the community when it's appropriate.

No further comments were heard.

Conclusion: Too detailed to cover only the dispute resolution part compared to other principles. We can trust the RIR staff to do their job. Not change the text but explain this to Richard.

b. Reflect low input in RIR processes Section VI
IO: I think NN and AB commented on this on the mailing list.

AB: The comment I made on the CRISP internal list is that participation from the AFRINIC region has been on par with what we see in non-controversial policies. Not much participation on the mailing list, just a few posts, and quite a lively discussion during the face to face meeting. This is more or less normal for the AFRINIC community. I don't see a problem with lack of participation.

NN As I said on the list, I do not agree that this has not been bottom-up. The timing when this is happening (Xmas, end of the year) might have contributed to there being less discussions on the global list. But this is at the end of the process, if it had been the start, I would have been more concerned. We had a lot of input early in the process, and the CRISP members were selected to represent these views expressed. Basically, most of the discussions happened in each of the regions, rather than on the global list, that's really how these bottom up processes work.

PR: I very much disagree with this point. We've been very active for quite a number of months in various fora, not only on our own RIR fora but also in other meetings. At each opportunity we've had, we've made a point of talking about this transition. I think we received very clear feedback from the RIPE community. I agree with NN here. Most of this has been happening on a regional level, but that's how the RIR communities operate, the robustness of the system. Let's be realistic. Talking about the RIPE region, once people had assigned CRISP Team members, I think that they have full support that those folks selected from the community would be defending the principles they were given, which I think is being done.

IO: I think PR has made a very good point – the mere fact that the CRISP Team members are community elected is a sign that they give trust in our work. Richard's point was that there's very low level of input from some regions. I think as regards the APNIC region Richard was somewhat correct. Correct me if my observation is wrong, but it's true that we didn't receive that many contributions from our community. Having said that, it doesn't read to saying that our proposal is not supported. If people had concerns, they would express them. People are generally happy with the current situation in the APNIC region.

AR: To be fair to Richard, I think he didn't imply that there is no support from the community. I think we might need to highlight what we just said here: that discussions focused on the IANA XFER mailing list at the end of the process, that it was uncontroversial, and that the bulk of the input was already collected in regional processes.

IO: To clarify: was Richard mentioning low traffic on the IANA XFER list or on the regional lists? If he's simply referring to the global discussions, I agree in highlighting this as AR just mentioned.

AB (via chat): We don't expect too much comment on a non-controversial proposal. We can ask for explicit indicators of support.

AR (via chat): A quote from Richard's email: "In addition, I think the language in VI needs to be tweaked a bit. While the RIR processes are indeed bottom up, there wasn't much bottom up in this particular process, not because of the process, but because there weren't that many inputs from the bottom. The RIRs did try to stimulate inputs, going so far as to send out surveys, but there weren't that many responses. So I think that the opening section of VI should reflect that."

IO: My interpretation is that he's talking about the RIR process, not the global process. I take note that there's active discussion in RIPE and AFRINIC regions, I don't know about LACNIC and ARIN. Perhaps Richard was looking at the APNIC region and seeing very little input.

IO: As a way of moving forward, I'm personally OK to describe this for the APNIC region (that there's not much feedback or active discussion on the mailing list) and the region for this, reflecting the explanation in this text if Dr Govind and Craig feel this is OK.

NN: I think that Richard's referring to the global list and the end of the process. I think that AR summarized it very well in that this is really the end of the process and that each community had their discussions early and then trusted their CRISP representatives to represent them. You could turn it around and say that it would be a sign of the process not being bottom-up and that the representatives had not done a good job in consulting with their community if the very last phase of this would have received lots of conflicting feedback on the global list. If we want to say anything, I think it's fair to say that we worked with a very aggressive timeline.

IO: I'm still not sure we can be sure Richard was talking about the final phase, as he was posting to the APNIC list.

PR: I think all the points have been made. I can speak about the RIPE community. They made their principles very clear. They said what they wanted carried out. They elected individuals to represent them on this team. If NN and AR went back and said "the principles we talked about are not in this proposal and we don't know where this is going," the community would be quick to raise its head. Probably the same can be said about the other RIRs. I don't think there's anything to explain about this.

IO: I agree that if people have issues they would be raising red flags in their communities.

CN: I just want to echo what everyone's been saying. At the APNIC region we've been talking about this for a really long time. IO, Dr Govind and I held a Webex briefing session last week and I think we had 15-20 people on the line from the whole region. My position is to not to make any changes to the document. I think NN's description of the regional processes and engagement is sufficiently clear. Maybe all we need to do is reply to Richard and say "we don't agree with this" for the reasons we've mentioned.

AP: I just wanted to say that the panorama is similar to what Paul and Craig said about their regions. The LACNIC community has been discussing this for a long time. We also want to say that especially the two members elected from the community have the community's support and they have been following the discussions in the community. The situation is similar to the other RIRs. We don't have any red flags, not because we don't have participation but because we have their support.

IO: I think we're all in agreement. People have not raised any red flags and have trusted us to develop this proposal. I think these are the key points I'd like to communicate. No need to change the text.

IO: People don't actually say "yes, I agree" unless they have concerns.

Conclusion: We're not going to change the text and we're going to communicate to Richard that seeing low input doesn't mean we have the community's agreement, which is implicit in CRISP Team support.

c. Option of having NRO as an operator

IO: Richard's saying that there's been some support in some of the RIR regions for the NRO to be an operator. He's asking why CRISP Team hasn't discussed this option. I quite like the point made by Mwendwa that it may be possible that it was raised in some of the regions but the conclusion, the consensus in all the regions was that ICANN will continue as operator. It would be odd for us to start considering the NRO at this point as it differs from the consensus of the RIR regions. This may be a possibility in the future, but we already have the possibility in the SLA of changing the IANA operator so this could always be discussed in a bottom-up way in each region and then globally.

AR: I'm in full support of your comment with regard to this issue. I think our starting point, from my perspective, is that the community consensus is that the current system works well and doesn't require substantive changes. Our mandate was to amend the current system in a way that it does not constrain future evolution. The current system works well and doesn't require any dramatic changes.

IO: I really like the point you made on the mailing list, Andrei: "don't break anything that works." I agree and I'm seeing many others agree as well.

d. Change in ICANN Bylaws for global PDP

AR: About Richard's comments about the bylaws and his justification. I'm not sure he's absolutely correct. If you look at IANA's contract, it only specifies separation of operational and policy development roles for the designated IANA functions staff members, it doesn't extend to the whole ICANN staff. I think our point is that there is separation and that this CRISP Team has nothing to do.

AR (via chat):

"C.2.5 Separation of Policy Development and Operational Roles -- The Contractor shall ensure that designated IANA functions staff members will not initiate, advance, or advocate any policy development related to the IANA functions."

AR: If there is an issue, it pertains to the policy development process.

IO: Yes, that's what we've been agreeing in multiple meetings. I actually replied to Richard about this point. If there is anything else you feel we need to communicate to the list on this issue we can consider it.

No further comments were heard.

e. SLA text is a must to approve the proposal

AB: I sent an email in which I quoted a few sentences from the ICG RFP. Right at the beginning it says responses should be as detailed as possible but it doesn't say really how detailed that is. In the section about post-transition arrangements, it just asks us to explain what changes we want. I think our existing text in which we say there will be an SLA, a contract that should include the following considerations is sufficient. I don't see anything that says that our response will be invalid because it does not include the legal text.

IO: We can explain this and also the basic principle we agreed - we'll define high-level principles to include in the SLA and leave the rest of the work to the RIR staff as this is not part of our role.

Conclusion: We made an agreement on this during our last meeting. We can add AB's point.

IO: This concludes the issues raised by Richard. I think our position is consistent with what we discussed on the mailing list.

Conclusion: It's not necessary to include any of the points raised by Richard, but we should bring these points back so he knows our conclusions.

Next step: IO will send to Richard what we've agreed. Then you can actually add to the mailing list that we've mentioned in this call. The rest of the members should add their comments to any comments I'll be making.

f. No of past arbitration cases / g. How to know whether arbitration works

IO: John Curran mentioned that there have been no arbitrations in our past experience. The question raised by Pindar is, in that case, how can we be sure that a particular arbitration would work. He didn't say we needed to add anything to our proposal but seemed curious to know the answer. Personally, I'm not sure the CRISP Team needs to answer this, but I wanted to know your thoughts on this.

CN: I've read Pindar's query and I think it's been sufficiently answered on the mailing list. Personally, I think that Pindar might have been a bit confused about the arbitration because he had in mind the arbitration panel used in the IDRP for domain name dispute resolution. From our perspective, arbitration is important to us because we want to take it out of the jurisdiction of the court of a particular country. Arbitration is like a private court of international law. Again, I'm going into too much detail. Bottom line, I don't feel we need to respond any more to the question, as it's already been answered to Pindar's satisfaction on the mailing list.

IO: I agree with your observation about the first point, but on the second point (if there haven't been any arbitration cases, how do we know that the system works) I'm not sure that's been answered.

CN: Perhaps as a lawyer I should answer that. Arbitration is used all the time, especially in international contracts. It's a much faster system than going through and relying on the courts. I can clarify this point to Pindar.

h. Editorial comments (Link, LACNIC region coverage)

IO: I think GV has already replied that LACNIC coverage should be "Latin America and the Caribbean," not "South America and the Caribbean." I'll follow up with the LACNIC representatives on the mailing list.

6. Preparation for the final draft

IO: I'll send some text to the list on today's agenda items 6a-6d. We can then discuss this during our next call, which I'd like to confirm will be on Monday January 12th at 12 UTC.

7. Next Meeting

a. Reconfirm schedule of future CRISP Calls / b. Date of the 11th Call

It was decided to add a few meetings. After some discussion, the following meeting schedule was agreed:

Monday 12th January   13:00 UTC 11th Teleconference

Tuesday 13th January   13:00 UTC 12th Teleconference

Wednesday 14th January   13:00 UTC 13th Teleconference

Thursday 15th January   13:00 UTC 14th Teleconference

8. AOB

As no further comments were heard, the meeting was adjourned at 14.30 UTC.