CRISP Team teleconference held on Monday, January 12th, 2015 (13:00 UTC)

CRISP members present:

AFRINIC
Alan P. Barrett, AB
Mwendwa Kivuva, MK

APNIC
Izumi Okutani, IO
Craig Ng, CN
Dr Govind

ARIN
Michael Abejuala, MA
John Sweeting, JS

LACNIC
Andrés Piazza, AP

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

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1. Agenda review

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

PR: I see that we have some work to do on the editorial changes, but at this juncture I think it's important that we start finalizing this document and publish it for review sometime soon. I suggest we work on producing a final document to submit to the ICG.

NN: I think we should send a reminder to the global list that the comments to the second draft expire at 23.59 UTC. Now is the time to comment. Make the timeline clear for this week; we don't want people to submit discussions on the big issues after the deadline. As chair, IO should send a message to the list saying that we are only working on editorial changes this week.

IO: I sent a reminder of the deadline, but I after this meeting will send another reminder saying we will not be likely to be incorporating comments after this stage.

IO: Based on PR's suggestion, perhaps we can move agenda item 4 after item 5. Well discuss 2, 3, 5, 5 in this order.

AR and AB supported swapping agenda items 4 and 5.

2. Actions review

a. Minutes

IO: Up to the 8th meeting, the notes have been posted. We still don't have the notes for the meetings after that.

GV: The Secretariat is working on that right now.

b. NRO CRISP Website improvement

IO: GV has already updated the NRO website based on the discussions of our last call. I've seen no new inputs. GV, can you provide an update?

GV: I made the changes sent by Friday. I need to catch up with some of these inputs and see which are

micromanagement of the website, personal preferences, and so on. I need to check what the input is before I can implement any changes. I need to check the input received during the weekend.

NN: Thanks. I realize we're all working on tight deadlines. My motivation is to make clear 1) the latest draft, 2) the latest timeline, 3) how to contribute. I don't necessarily need my suggestions to be implemented precisely, nor a response on every single suggestion.

IO: Generally I think the concept of what NN has shared makes sense to me. I leave it to you, GV, to see how to incorporate this with the resources available. I'd like to add that there's a description of the mailing list as "closed," which we'd like to change. I'll send the comment to the list and GV can see whether to implement the change (change to "read-only").

c. HTML and text versions
IO: AB has already sent the text version of our proposal to the list and is working on the html version.

AB explained how he generated the PDF and html versions. He noted that he had encountered some issues in how Libra Office makes these conversions.

AB: Could somebody send me a clean word version of the document? I can prepare a new PDF file.

MA will send the clean MS Word version to AB, who will create new PDF and html versions.

AB: The PDF version on the website contains a table with version control. If possible, I'd like a copy of that file so that it can be included in the html and text versions.

GV will send the version control table to AB to include in the html and text files.

d. Metadata in docx file
IO: AB has been working to ad dress this

AB: I haven't been working to fix it because MA has control of the master version of the document. My intention was to raise the issue so we can fix it. If we remove the incorrect information from the MS Word file, this will fix the problem for all versions (file properties' metadata shows that it is the work of the CRISP Team).

3. Confirm discussions status
a. Each RIR region
IO: Were any additional points shared in the regional lists that did not make it to the global list?

IO: From the APNIC region, I received a message from a member saying they agree with the proposal. I noted that they could share that in the global list if they so wished.

AB (via chat): No discussion in AFRINIC region, but I did see one notice of support.

PR (via chat): There were some comments sent to COOP-WG and we have asked for it to be forwarded to the IANA XFER list. They are waiting moderation.

NN: I'm not sure who's responsible for moderation, but perhaps they could be moderated as soon as possible.

GV: Before this call, I cleared 3 messages that were being held for moderation. They are now all on the IANA XFER mailing list.

b. Global list

IO: I think I've listed all issues in items 5.a to 5.e and what's not listed here are the 3 points raised by Richard Hill, which I believe have been resolved.

No comments were heard.

5. CRISP Team positions per issue

a. Dispute Resolution

IO: I sent my summary to the CRISP Team mailing list on what the issues raised and the CRISP Team's position are.

IO proceeded to review the points included in her email (subject: CRISP Team position per issues discussed at the 11th call Re: Summary of Discussions point for each issue; date: January 12, 2015), quoted below.

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a. Dispute Resolution

(Richard Hill)
Additional description about dispute resolution: arbitration scheme.
Either:
- specify the same arbitration clause that is in the present MoU, namely "ICC
arbitration in Bermuda" OR
- Alternatively, "ICC arbitration in a neutral venue"

(CRISP Team ML)
No agreement on the suggested alternatives.
May be OK to simply state "arbitration in a neutral venue" without specifying
a scheme."
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CN: Neutral is difficult to define when it comes to drafting the contract. Arbitration in an agreed venue by all parties would work but including the word "neutral" makes it difficult to accommodate.

PR (via chat): Neutral is so subjective.

AB (via chat): "Arbitration in an agreed venue" is OK for me.

NN (via chat): +1 to Craig.

MA (via chat): I was thinking the same thing about "neutral" because depending on definition of that word, could be difficult at a later time.

AR (via chat): Yes, agree.

JS (via chat): Agree.

Current position: To go ahead with the text included currently on the proposal and leave the details to the RIR legal teams.

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Applicable jurisdiction

(Comment by Richard Hill)
Specification of the substantive law that will apply to the new contract/SLA.
- He is suggesting (1) the community should give them some guidance and (2)
the community should have the opportunity to comment on whatever the RIR
legal team comes up with.
- For (1), suggest that the proposal include something to the effect that the
contract will include a clause specifying that the substantive law that
applies to the contract will be that of a neutral jurisdiction.

(CRISP Team ML)
General agreement on the direction to consult the RIR communities about the
SLA but not at every step.

Two text suggestions.

"RIRs must consult the community before the contract is finalised." OR

"It is the expectation of the community that the contract between RIRs and
any future IANA operator shall be drawn with consultation with the RIR
community".
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IO I'd like to confirm that we agree in the general direction about adding text in the sense that we will consult the community about the SLA text before the SLA is finalized.

No opinions against were heard.

b. Details of the SLA
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 (Comment by Richard Hill)

SLA text/format
  - A preference is that the draft text be contained in the proposal
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    submitted. OR
  - As an alternative, he could accept some mechanism whereby the
    community, including this list, is asked to comment, at a later
    stage, on the text of the contract/SLA.

He could accept some mechanism whereby the community, including this
list, is asked to comment, at a later stage, on the text of the
contract/SLA.
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IO: I think this is covered in our earlier consensus point (we'll consult with the community before we finalize). Should we consult this IANA global list in addition to the RIR community?

AB (via chat): No need to mention that.

PR (via chat): Why would you do that? No need for that.

AB (via chat): It's part of the community.

PR (via chat): It something we don't normally do - don't make it up.

AR (via chat): We have mature processes when it comes to consulting with the community, no need to specify details.

PR (via chat): Absolutely

AR: I'm fine. I think it makes sense to consult the community, but I wouldn't specify in our proposal the mechanisms or processes we'll use. We already have the RIR governance model, so there's no need to specify details here.

PR (via chat): Completely agree.

CN (via chat): +1

IO: I agree. We already have the existing mechanisms.

PR: I don't want to fall into the trap of saying that the community will decide every single thing of the SLA. I wonder if we need to be careful to not imply that we'll build the SLA step by step with the community.

AP (via chat): +1 Paul.

NN: I think we're in agreement that we expect consultation, but it's neither realistic nor constructive to have the community do a group review on the contract.

AB: We need to be careful of what we say. We don't need the community to be consulted every step of the way. I expect there will be negotiations between the legal teams of the RIRs and the IANA operator. We probably don't want the community to nitpick or derail the process by too detailed comments. I don't have any suggested wording, I'm afraid.

IO: Are you saying that we don't want the community saying "this should be implemented, not that," but more like a final documentation check when RIRs implement policies? Not to implement specific procedures but to see whether it's in line with what's been agreed? Is this a fair understanding of your point?

AB: Yes. The community needs to be consulted, but not every single step of the way.

AR: I would avoid terms like consensus or checking with the community or even approval. I like the phrase where we say "expectation they will be consulted." That's wide and descriptive enough to underline that the community will be consulted, but at the same time leaves the actual consultation process up to the RIRs.

PR: I agree with that.

MA (via chat): How about any contract will be formulated in consideration of community feedback after consultation with the community?

AB (via chat): The community did not get involved in the details of the existing ICANN NRO MoU.

PR (via chat): No they did not. We consulted with them and it was left to the RIRs.

AR volunteered to draft the exact wording on describing how we will go about community consultation on the SLA.

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(Comment by Jim Reid)
He is skeptical about the practicality of a single contract between
the IANA operator and 5 RIRs in a post NTIA world.
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IO: Perhaps we can acknowledge his comment and say that maybe RIPE members of the CRISP team can consult and see if the RIPE community has any concerns that should be considered at the time of drafting the SLA.

AB (via chat): Yes, just respond to him. no need to change the document.

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(Comment by Gerard Ross)

Do we want to express support for this point, when sharing our conclusion
about SLA that we considered under this spirit?
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To avoid any perception of bias, NN excused herself from participating in discussions of the comment sent by Gerard Ross, as he is her spouse.

IO: As no comments were heard, if there's no support otherwise, we can reply with what we discussed at the call today without reference to his specific comments.

c. MoU/contract + necessity of the contract

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(Comment by Pinwar Wong and  Seun Ojedeji)
  - Not sure if the contract is the best available option than MoU, for
example

  [CRISP Team position]
  - The contract is the best option for its legal bindings and to replace the
IANA-NTIA contract
  - No changes in the proposal text

  [CRISP Team volunteer to explain on the IANAXFER list]
  - Craig Ng
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IO: I think the conclusion is that a contract is necessary, but would anyone like to provide an additional explanation? Perhaps somebody with legal background?

CN: We've discussed this before. Essentially, not all agreements are enforceable in a court. Agreements that can be enforced in a court are called contracts. Without too much legalese, I feel the question has been sufficiently answered on the mailing list. My sense is that we don't need to go into that again.

The other point is that traditionally ICANN and the RIR community have been reluctant to enter into binding contracts. In this particular place, because it replaces the NTIA contract, the community expects us to have a legally binding contract. Although traditionally our community has been reluctant to enter a binding contract, that idea has now gone out the window.

AB (via chat): I think the AFRINIC community asked for a binding contract with SLA.

Conclusion: CN will reply to the question on the mailing list.

d. Selection of Review Committee

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(Comment by Seun Ojedeji)
Selection of Review Committee

Seun Ojedeji has asked us a question on why our draft proposal doesn't
specify the Review Committee will be selected in the manner similar to NRO
NC. He doesn't seem to have further comments for my explanation and making
the suggestion below:

  - uniform membership requirement
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   - uniform selection process

(Seun Ojedeji/Alan Barrett)
Use of the word NRO:

   - Should it be replaced with RIRs?
   - Alternative: (no strong position)
     NRO    (a coordinating body for the five)
     NRO EC (The chief executives of the five RIRs)
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IO: After my explanation, he has further suggested to have a uniform selection process. My observation is that this should be left to each RIR region. However, we can perhaps state a common principle in the selection of the Review Committee such as:

"The selection of the Review Committee members should be conducted in an open, transparent, bottom up process, appropriate for each RIR region. There should be equal representation from each RIR region in constituting the Review Committee."

PR: I think earlier today I saw an email with different wording to which I agreed and AB too supported that wording ("Run by RIRs using the processes they usually use to make these selections."

IO: I agree that the actual selection should be made by the RIRs.

AB: I agree with PR, we shouldn't include too much detail. I agree with saying the RIRS or the RIR community. But somebody suggested that some other communities (e.g. the IETF) should be invited to be part of the review community. My position sent to the mailing list is that it should be possible for the RC to seek advice from other communities outside the RIRs.

Dr Govind: Are the RIRs going to involve law enforcement agencies and other stakeholders in the review team?

IO: The idea is that we don't specify the details. We make sure that the representatives are chosen from each RIR region according to their preferences.

JS (via chat): Agree, should not specify any specific groups.

AR (via chat): Agree with Izumi.

PR (via chat): Agree with John.

MK (via chat): The review Committee's work is measure performance of the IANA operator. Members of the committee will be chosen by the respective RIRs irrespective of their backgrounds, so long as they understand the work of the RIRs.

NN: I'm comfortable with the text posted on the mailing list ("The selection of the Review Committee

members should be conducted in an open, bottom up and inclusive mechanism, appropriate for each RIR region. There should be equal representation from each RIR region in constituting the Review Committee.")

PR (via chat): Bottom-up, open and inclusive.

AB (via chat): I support the text Nurani pasted.

AP: Most of the questions that Dr Govind sent were already clarified by IO and other colleagues in the chat room. I just want to agree and clarify about the review committee. NN, when you say that the criteria that RIRs use to appoint their representatives, maybe we should clarify the spirit of this as PR posted (bottom-up, open and inclusive). As long as we guarantee that it is open, inclusive and bottom up, the process is up to each RIR, only for assessing the work of the operator. There are not seats reserved for any groups, just 3 seats for each RIR community, the composition is up to each RIR. I thought no further clarification was needed on this point, but now with these questions, I think perhaps another clarification is needed.

AB (via chat): We didn't say "3 seats for each RIR", we left the number open.

AP (via chat): True, Alan.

PR: I would like to stress that, for the RIPE and probably for other regions as well, we've always been open to other communities. If we follow the process we do for our selections, anyone would be free to put themselves forward for candidates. If we use "bottom-up, open and inclusive," we are covering any interested party.

MK (via chat): The review Committee's work is measure performance of the IANA operator. Members of the committee will be chosen by the respective RIRs irrespective of their backgrounds, so long as they understand the work of the RIRs

NN (via chat): +1 to Andres and Paul .

PR (via chat): Thanks Izumi.

NN (via chat): (and Mwendwa :))

IO: May I confirm with Dr Govind whether this addresses his point?

Dr Govind: Thanks for the clarification.

Conclusion: Minor changes to the existing wording (instead of transparent use inclusive, things like that). Continue the discussion on the mailing list.

NN (via chat): Happy with the text Izumi proposed (pasted into the chat by me).

e. Budget Review

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I observed there is no section talking about budget review in the second
draft. I understand 800k+USD is contributed annually to ICANN by all RIRs,
may I know if ICANN presents annual budget specifically for this
contribution? If yes who does the review? If no then I suggest it be
incorporated in our proposal and I think it's something NRO NC can do
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IO: I'm not sure if this is relevant to the transition. Perhaps someone more knowledgeable about this can comment.

AB (via chat): John Curran replied on the list.

CN: At the moment, the NTIA contract with ICANN is a 0 dollar contract – no money exchanges hands. Between the NRO and ICANN there is a voluntary payment of approximately 800,000 US dollars per year. There's no legal obligation to do that, but the RIRs have been contributing to the fund forever. The question being asked is whether the SLA we're talking about contemplates payment of a fee. Perhaps bringing this up now will open a can of worms.

AR: I agree with CN. It might open a can of worms. We need to avoid this 800,000 being confused with a fee. I would include something related to cost recovery if we were negotiating with a contractor. Principle: not for profit, cost recovery

AB: Suggestion: leave any discussion of fees out of the proposal. We can reply on the mailing list along the lines of "ICANN staff and RIR boards, when negotiating the contract, will discuss anything relating to fees at that time." As to cost recovery, ICANN is incurring in very high costs, so we might want to avoid including that.

AP (via chat): Alan, agree.

PR (via chat): I agree with Alan.

JS (via chat): Agree with Alan also.

Conclusion: Any monetary issues will be discussed by ICANN staff and RIR boards at the time of implementation.

Dr Govind: We could include some kind of general high level principle saying that budget review should be conducted for the public interest.

AB (via chat): No need to mention budget or budget review at all. Leave it to the RIRs to work out.

IO: We may want to provide some rationale about why we're leaving this out. AB, are you willing to provide this rationale?

AB: We're already leaving most of the SLA to the RIRs, so why should this be any different? Why should we try to micromanage this particular aspect? I don't see a need to put it in the document.

AR: I want to respond to Dr Govind's point. We're coming to those issues because we haven't' nailed down how we plan to negotiate this contract (cost recovery basis, other principles). I think nailing down this right now (the general approach) is important.

NN: I tend to agree that, as with the other details discussed in relation to the contract, we've agreed to keep it on a principle level. I agree with AR that it is at principle point. I understand AB's point that ICANN may have a tendency to incur costs; on the other hand, that is also the reason you want to put that in here. If this fee then becomes unreasonably high, then that's a reason to change IANA operator. I think the point about making it clear that it's a separate fee from what the RIR contribute to ICANN is very important as well for this particular reason, to separate the IANA operator and the cost of a service provider and any other relations that the RIRs have with ICANN.

AR (via chat): +1 on Nurani's point on fee separation.

IO: I suggest we state something like "the RIRs and ICANN will negotiate the fee for the agreement that is reasonable for both parties, for example, using a cost recovery model." Does this sound reasonable?

NN (via chat): I would be interested in hearing AB's response to this. Does this make sense to you?

AB: Are we proposing putting something like this in section III.A.3? I'm not opposed to the idea of adding principles like that. I don't think it's necessary, but I have no problem with that.

JS (via chat): As Alan, I see no reason to but am not opposed if others feel strongly.

PR (via chat): And I think it should be the IANA operator - not directly mention ICANN.

AR (via chat) to Everyone: Yes, IANA operator.

Action: IO to draft something to start a discussion on this issue on the mailing list.

IO: I think we've covered most of the points.

Highlights of the quick summary of agenda items 5.a to 5.e provided by IO:
- Dispute resolution: No consensus to change the current document to add more details of the arbitration.

- We can add a description in our proposal that we plan to consult the community before implementing the SLA. AR volunteered to provide the wording.

- We'll answer to Jim Reid on the mailing list but will make no changes to the proposal.

- Is contract necessary? AR will draft a response and will send it to the global list, but there's no need to change any part of our proposal.

- Selection of review committee: I sent the text of the suggestion to the list. We will be working on the revision, but I think the basic concept has been agreed.

4. Editorial suggestions
a. Confirming editorial changes / b. Volunteer to work on editorial changes

IO: We still haven't provided feedback on replacing "NRO" with "RIRs" as suggested on the mailing list by AB.

PR (via chat): Agree, use RIR.

AB (via chat): Everywhere? Or in some sections?

MK (via chat): Agree.

AB (via chat): So "RIRs will establish a review committee"?

PR: It might be fine to replace NRO with RIRs in the entire document.

MK (via chat): It cannot be blanket. We have to use according to context.

MK: use logic when replacing so the final document will make sense.

IO: Perhaps we could see if it makes sense to replace it everywhere. Any to list all the parts where it says NRO and one to work on the editorial changes that have been submitted? It may be too much for MA.

AB: I volunteer to go through the document looking for places where NRO or NRO EC need to be changed to RIRs and to implement the changes I've suggested. Everyone could do that and then send their versions (with version control) to MA.

PR (via chat): Not sure if passing the pen to many is smart.

NN: PR took the words out of my mouth. I want to make sure that we don't have several people sending several versions and confusing the person holding the pen. I think it's good to have a central point for edits.

MA (via chat): I can work on this but would perhaps like assistance from someone just to ensure confirmation of changes to be made.

AB: I agree with PR and NN that we need a central point of contact. It wasn't my intent to do anything different, just to distribute the workload. MS Word has an option to merge documents with track changes. If so, I don't see why we can't distribute the workload that way.

AR (via chat): 1) editorial suggestion ->draft, then substantial changes (item 5)

MK (via chat): If we had a collaborative online document, it would be easier for all of us to use it, otherwise we might need to use Google docs.

IO: I would like to keep the process we've been using. AB has listed his suggestions and I'll be happy to compile all the changes that have been suggested.

NN (via chat): (Alan: Understood. I certainly appreciate your point about distributing the workload!)

MA: To ensure efficiency, I can be the central point to create a redline draft. I'm also comfortable with AR's model, I'm open to that too. One question: I got multiple revisions on the same section. I was able to clean that up and clarify, but I'm not really sure how to accommodate that. Suggestions? It doesn't seem like a terrible problem and I can contact the person who sent the suggested text, but I'd be happy to hear other suggestions.

IO: Suggestion: for editorial, non-controversial changes, you can incorporate all the points. If there are two versions, perhaps MA can confirm with the list. With regard to suggested changes for substantial part covered in agenda item 5, I suggest that we stick to the people who took initiative/responsibility to draft the text. We can discuss this on the mailing list and confirm on our next call.

Suggestion: We will first draft the purely editorial version, no changes in the comments. Send that to the community. Then submit to the community the changes decided under agenda item 5.

NN: Are you proposing that we will first see a clean document with all the editorial changes, then those of us who were responsible for writing a particular section will be responsible for trying to incorporate any suggestions from the community or CRISP Team that we've agreed to and then send that to the list or MA?

IO: Observe only suggestions within CRISP Team to make sure we have a common understanding. No need for you to reply to the IANA list or draft any text based on the issues being raised. For example, there may be comments requesting to change your section. Before we send this to MA, it's your responsibility to see what changes should be incorporated. I'll write this on the mailing list in case clarifications are needed and we can discuss this later.

AB (via chat): 1. start with clean version of second draft. 2. make editorial changes, Michael to integrate

them all. 3. when we have finalised the editorial changes, start making substantive changes.

AR: Perhaps it's easier having a thread on the CRISP mailing list to decide this.

IO: I will send my suggestion to the mailing list

NN: Thank you AB for listing it. As for the substantive changes, I suggest we list the changes that need to happen. That makes it easier to make sure we don't overlook anything.

IO: OK. I will list all the substantive changes needed for 5a-5e after the call. We'll confirm online how we'll implement them, including the timeline.

MA (via chat): FYI, I will also, to the extent I can, be looking at formatting, grammar, punctuation, consistency, context, etc. but as always, welcome suggestions and edit proposals on these items as well. But I will be moving forward on cleaning up the draft as best as possible to get this to a clean, finalized form in preparation for Thursday's deadline, so a work in progress.

6. Next Meeting
IO reminded those present that the next CRISP Team meeting was scheduled for the next day, 13 January, at 13 UTC.

7. AOB
There being nothing further to discuss, the meeting was adjourned at 13.55 UTC.