Governmental Advisory Committee

ICANN

GAC Communiqué – Lisbon

28 March 2007

This Communiqué and its Annexes constitute formal advice to the Board from the Governmental Advisory Committee.

I. INTRODUCTION

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Lisbon, during March 24-28, 2007.

46 members and 3 observers participated in the meeting.

The GAC expressed warm thanks to the Government of Portugal and the organisers, Fundação para a Computação Científica Nacional, for hosting the meeting in Lisbon.

II. WHOIS

The GAC adopted a set of Principles Regarding Generic Top Level Domain (gTLD) WHOIS Services (Annex A).

The GAC held a joint session with the GNSO Council regarding the recently completed WHOIS Task Force Final Report. The GAC noted that the recommendations included in the Report indicate a significant division of views regarding the appropriate approach to WHOIS services, and urges the GNSO

Council to continue its efforts to develop consensus-based proposals. In this regard, having completed the Principles, the GAC is committed to continuing consultations on the WHOIS issue, including providing additional advice as appropriate, prior to the further consideration of any recommendations by the Board.

III. New gTLDs

The GAC adopted Principles Regarding New gTLDs (Annex B) which are intended to provide the ICANN Board and the wider global community with a clear indication of the governmental priorities for the introduction, delegation and operation of new gTLDs. The principles respond directly to several agreed provisions resulting from the World Summit on the Information Society and will provide a coherent framework for future interactions on these issues, particularly in relation to the ongoing ICANN Policy Development Process for new gTLDs.

The GAC intends to develop its interactions with the GNSO in the future regarding the implementation of both the WHOIS and New gTLD principles.

IV. IDN

The GAC acknowledges with satisfaction ICANN's 7th March 2007 announcement of its successful conduct of laboratory tests of Internationalized Domain Names. The GAC has taken note of the draft issue paper on selection of IDN ccTLDs associated with the ISO 3166-1 two letter codes prepared within the joint ccNSO-GAC IDN Working Group.

In the spirit of the collaborative effort that was adopted in the São Paulo meeting GAC has asked all its members to evaluate the socio-political and cultural implications of the issues outlined in the aforesaid paper in terms of the languages and characters that may be used for IDN ccTLDs, and respond

directly to the ccNSO Council. The GAC has similarly taken note of the outcomes report of the working group on IDNs constituted by the GNSO Council.

The GAC recognizes that the IDN ccTLD standards development processes can be slow and would encourage early action to develop methodology to prepare these standards.

The GAC and its members along with the ccNSO and GNSO Councils will work towards the global deployment of IDNs which will expand the spread of the Internet and enable a vast number of people to exchange information in their local languages.

V. ccNSO

The GAC had a useful exchange with the ccNSO on ccTLD issues. The GAC heard views from the ccTLD Community on ICANN regions and noted the sensitivities associated with this issue.

The GAC received a presentation of a national case study highlighting questions being addressed in the country. The GAC intends to continue this dialogue with the ccNSO on sharing good practices.

The GAC noted that the consultation on retiring country-codes raises public policy issues and intends to provide advice in due course.

The GAC reminds the Board that the applicable version of the GAC Principles and Guidelines for the Delegation and Administration of ccTLDs is the one dated 5th April, 2005 (Annex C), adopted at the Mar del Plata meeting.

VI. ICANN Board and GAC cooperation

The GAC welcomes the introduction of a Master Calendar which will allow all constituencies to participate in the ICANN policy development processes in a coordinated fashion. The GAC also welcomes the formulation of an extensive outreach programme and looks forward to contributing in this ongoing work.

VII. Transparency and Accountability Principles

The GAC recalls the paragraphs of the WSIS Geneva Declaration of Principles and the Tunis Agenda for the Information Society relevant to international management of the Internet. The GAC took note of the Affirmation of Responsibilities for ICANN's Private Sector Management approved by the ICANN Board of Directors, 25th September 2006. The GAC encourages ICANN to continue posting advance notice of Board meetings and agenda and full minutes of such meetings and maintain a spirit of transparency in its deliberations.

The GAC intends to provide advice to the Board on the development of ICANN's Transparency and Accountability Management Operating Principles, and looks forward to the report commissioned by the Board from the One World Trust.

VIII. Other Matters

(i) .xxx
The GAC reaffirms the letter sent to the ICANN Board on 2nd February 2007. The Wellington Communiqué remains a valid and important expression of the GAC's views on .xxx. The GAC does not consider the information provided by the Board to have answered the GAC concerns as to whether the ICM application meets the sponsorship criteria.

The GAC also calls the Board's attention to the comment from the Government of Canada to the ICANN online Public Forum and expresses concern that, with the revised proposed ICANN-ICM Registry agreement, the Corporation could be moving towards assuming an ongoing management and oversight role regarding Internet content, which would be inconsistent with its technical mandate.

(ii) ENAC Representation
The following members have been designated to serve as GAC representatives to the Emergency Numbers and Addresses Committee (ENAC) for 2007:
  Mr. Pankaj Agrawala, India
  Ms. Maimouna Diop Diagne, Senegal
  Mr. Augusto Gadelha, Brazil
  Mr. Bill Graham, Canada
  Mr. Stefano Trumpy, Italy

(iii) President's Strategy Committee report
The GAC welcomes with interest the final report of the President's Strategy Committee and would appreciate receiving information from the Board on how it intends to associate the GAC and its members with any follow-up activity on this report. The GAC expects that any such follow-up activity will fully take into account relevant provisions of the Tunis Agenda for the Information Society.

* * * *

The GAC warmly thanks all those among the ICANN community who have contributed to the dialogue with the GAC in Lisbon.

The next GAC meeting will take place during the ICANN meeting in San Juan, Puerto Rico, USA 24th -28th June 2007.

Annex A

GAC PRINCIPLES REGARDING gTLD WHOIS SERVICES

Presented by the Governmental Advisory Committee
March 28, 2007

1.1 The purpose of this document is to identify a set of general public policy issues and to propose principles related to generic top level domain (gTLD) WHOIS services, in line with the recommendations of the Tunis Agenda of the World Summit on the Information Society in November, 2005.

1.2 These principles are intended to guide the work within ICANN and to inform the ICANN Board of the consensus views of the GAC regarding the range of public policy issues associated with WHOIS services.

Public Policy Aspects of WHOIS Data

2.1 The GAC recognizes that the original function of the gTLD WHOIS service is to provide a look up service to Internet users. As the Internet has evolved, WHOIS data is now used in support of a number of other legitimate[1] activities, including:

1. Supporting the security and stability of the Internet by providing contact points for network operators and administrators, including ISPs, and certified computer incident response teams;

2. Allowing users to determine the availability of domain names;

3. Assisting law enforcement authorities in investigations, in enforcing national and international laws, including, for

---

[1] Subject to applicable national law.

example, countering terrorism-related criminal offences and in supporting international cooperation procedures. In some countries, specialized non governmental entities may be involved in this work;

4. Assisting in combating against abusive uses of ICTs, such as illegal and other acts motivated by racism, racial discrimination, xenophobia, and related intolerance, hatred, violence, all forms of child abuse, including paedophilia and child pornography, and trafficking in, and exploitation of, human beings.

5. Facilitating enquiries and subsequent steps to conduct trademark clearances and to help counter intellectual property infringement, misuse and theft in accordance with applicable national laws and international treaties;

6. Contributing to user confidence in the Internet as a reliable and efficient means of information and communication and as an important tool for promoting digital inclusion, e-commerce and other legitimate uses by helping users identify persons or entities responsible for content and services online; and

7. Assisting businesses, other organizations and users in combating fraud, complying with relevant laws, and safeguarding the interests of the public.

2.2 The GAC recognizes that there are also legitimate concerns about:

1. the misuse of WHOIS data, and

2. conflicts with national laws and regulations, in particular applicable privacy and data protection laws.

Principles Applicable to WHOIS Services

3.1 The definition, purpose, and operation of gTLD WHOIS services should reflect and respect the different interests and concerns outlined in Section 2 above.

3.2. gTLD WHOIS services must comply with applicable national laws and regulations.

3.3 gTLD WHOIS services should provide sufficient and accurate data about domain name registrations and registrants subject to national safeguards for individuals' privacy in a manner that:

1. Supports the stability, reliability, security, and global interoperability of the Internet, from both a technical and public trust perspective; and

2. Facilitates continuous, timely and world-wide access.

3.4 Ongoing collaboration among all relevant stakeholders who are users of, affected by, or responsible for, maintaining WHOIS data and services is essential to the effective implementation of these principles.

Recommendations for Action

4.1 Consistent with the above principles, stakeholders should work to improve the accuracy of WHOIS data, and in particular, to reduce the incidence of deliberately false WHOIS data.

4.2 The ICANN community, working with other stakeholders, should gather information on gTLD domain name registrations and registrants and how WHOIS data is used and misused. This information should be publicized and used to inform future debate on this issue.

ANNEX B

GAC PRINCIPLES REGARDING NEW gTLDs

Presented by the Governmental Advisory Committee
March 28, 2007

1.   Preamble

1.1   The purpose of this document is to identify a set of general public policy principles related to the introduction, delegation and operation of new generic top level domains (gTLDs). They are intended to inform the ICANN Board of the views of the GAC regarding public policy issues concerning new gTLDs and to respond to the provisions of the World Summit on the Information Society (WSIS) process, in particular "*the need for further development of, and strengthened cooperation among, stakeholders for public policies for generic top-level domains (gTLDs)*"[2] and those related to the management of Internet resources and enunciated in the Geneva and Tunis phases of the WSIS.

1.2   These principles shall not prejudice the application of the principle of national sovereignty. The GAC has previously adopted the general principle that the Internet naming system is a public resource in the sense that its functions must be administered in the public or common interest. The WSIS Declaration of December 2003 also states that "*policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues.*"[3]

---

[2] See paragraph 64 of the WSIS Tunis Agenda, at http://www.itu.int/wsis/docs2/tunis/off/6rev1.html
[3] See paragraph 49.a) of the WSIS Geneva declaration at
http://www.itu.int/wsis/docs/geneva/official/dop.html

1.3 A gTLD is a top level domain which is not based on the ISO 3166 two-letter country code list[4]. For the purposes and scope of this document, new gTLDs are defined as any gTLDs added to the Top Level Domain name space after the date of the adoption of these principles by the GAC.

1.4 In setting out the following principles, the GAC recalls ICANN's stated core values as set out in its by-laws:

> *a. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.*
>
> *b. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.*
>
> *c. To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.*
>
> *d. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.*
>
> *e. Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.*
>
> *f. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.*
>
> *g. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions*

---

[4] See: http://www.icann.org/general/glossary.htm#G

> *based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.*
>
> *h. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.*
>
> *i. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.*
>
> *j. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.*
>
> *k. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.*

2.   Public Policy Aspects related to new gTLDs

When considering the introduction, delegation and operation of new gTLDs, the following public policy principles need to be respected:

Introduction of new gTLDs

2.1   New gTLDs should respect:

a) The provisions of the Universal Declaration of Human Rights[5] which seek to affirm *"fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women"*.

b) The sensitivities regarding terms with national, cultural, geographic and religious significance.

2.2   ICANN should avoid country, territory or place names, and country, territory or regional language or people

---

[5] See http://www.un.org/Overview/rights.html

descriptions, unless in agreement with the relevant governments or public authorities.

2.3 The process for introducing new gTLDs must make proper allowance for prior third party rights, in particular trademark rights as well as rights in the names and acronyms of inter-governmental organizations (IGOs).

2.4 In the interests of consumer confidence and security, new gTLDs should not be confusingly similar to existing TLDs. To avoid confusion with country-code Top Level Domains no two letter gTLDs should be introduced.

Delegation of new gTLDs

2.5 The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.

2.6 It is important that the selection process for new gTLDs ensures the security, reliability, global interoperability and stability of the Domain Name System (DNS) and promotes competition, consumer choice, geographical and service-provider diversity.

2.7 Applicant registries for new gTLDs should pledge to:

a) Adopt, before the new gTLD is introduced, appropriate procedures for blocking, at no cost and upon demand of governments, public authorities or IGOs, names with national or geographic significance at the second level of any new gTLD.

b) Ensure procedures to allow governments, public authorities or IGOs to challenge abuses of names with national or geographic significance at the second level of any new gTLD.

2.8 Applicants should publicly document any support they claim to enjoy from specific communities.

2.9 Applicants should identify how they will limit the need for defensive registrations and minimise cyber-squatting that can result from bad-faith registrations and other abuses of the registration system

Operation of new gTLDs

2.10 A new gTLD operator/registry should undertake to implement practices that ensure an appropriate level of security and stability both for the TLD itself and for the DNS as a whole, including the development of best practices to ensure the accuracy, integrity and validity of registry information.

2.11 ICANN and a new gTLD operator/registry should establish clear continuity plans for maintaining the resolution of names in the DNS in the event of registry failure. These plans should be established in coordination with any contingency measures adopted for ICANN as a whole.

2.12 ICANN should continue to ensure that registrants and registrars in new gTLDs have access to an independent appeals process in relation to registry decisions related to pricing changes, renewal procedures, service levels, or the unilateral and significant change of contract conditions.

2.13 ICANN should ensure that any material changes to the new gTLD operations, policies or contract obligations be

made in an open and transparent manner allowing for adequate public comment.

2.14 The GAC WHOIS principles are relevant to new gTLDs.

3. Implementation of these Public Policy Principles

3.1 The GAC recalls Article XI, section 2, no. 1 h) of the ICANN Bylaws, which state that the ICANN Board shall notify the Chair of the Governmental Advisory Committee in a timely manner of any proposal raising public policy issues. Insofar, therefore, as these principles provide guidance on GAC views on the implementation of new gTLDs, they are not intended to substitute for the normal requirement for the ICANN Board to notify the GAC of any proposals for new gTLDs which raise public policy issues.

3.2 ICANN should consult the GAC, as appropriate, regarding any questions pertaining to the interpretation of these principles.

3.3 If individual GAC members or other governments express formal concerns about any issues related to new gTLDs, the ICANN Board should fully consider those concerns and clearly explain how it will address them.

3.4 The evaluation procedures and criteria for introduction, delegation and operation of new TLDs should be developed and implemented with the participation of all stakeholders.

N.B. The public policy priorities for GAC members in relation to the introduction of Internationalised Domain Name TLDs (IDN TLDs) will be addressed separately by the GAC.

ANNEX C

PRINCIPLES AND GUIDELINES FOR THE DELEGATION AND ADMINISTRATION OF COUNTRY CODE TOP LEVEL DOMAINS

Presented by the Governmental Advisory Committee

1. PREAMBLE

1.1. The purpose of this document is to set out a general framework of principles and guidelines for the relationship between national governments, the Registry of the country code associated with that country, and the Internet Corporation for Assigned Names and Numbers (ICANN). However, the situation varies significantly between countries. This framework is intended to help establish, not constrain or dictate, the development of the three-way relationship. Governments, country code Top Level Domain (ccTLD) Registries and ICANN share the responsibility for ensuring a Domain Name System that is stable, secure, open, and easily accessible.

1.2. The main principle is the principle of subsidiarity. ccTLD policy should be set locally, unless it can be shown that the issue has global impact and needs to be resolved in an international framework. Most of the ccTLD policy issues are local in nature and should therefore be addressed by the local Internet Community, according to national law.

1.3. These principles are intended as a guide to the relationships between Governments, their ccTLD and ICANN. They are not intended to be binding and need both Governments and Registries voluntarily to agree to apply them within their legal framework. If either the Government or the Registry decide not to adopt the principles, this cannot be held against the Registry, and the Registry still has a valid existence.

1.4. The Internet has evolved from a tool primarily reserved for computer and networking research, to a global medium for commerce, education, and communication since ccTLDs were first established and, in particular, since RFC 1591 was issued. Advances in the global information infrastructure, especially the Internet, are of crucial importance for national and global economic growth. Top Level Domains (i.e. domains in the top level of the global domain name system) play a significant role in this respect. ccTLDs have acquired an increasing part in the domain names market and are seen by many as part of the Internet identities of their country or geopolitical territory.

1.5. The initial selection for the management of ccTLDs was by "selecting a designated manager for a domain that was able to do an equitable, just, honest, and competent job". This was a mutual recognition of rights and duties and this should remain the fundamental basis for any future selection of ccTLD Registries. There is currently a variety of legacy ccTLD situations with different legal or contractual frameworks.

1.6. It is recalled that the Governmental Advisory Committee (GAC) to ICANN has previously adopted the general principle that the Internet naming system is a public resource in the sense that its functions must be administered in the public or common interest. The WSIS Declaration of December 2003 states that "*policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues.*" This is in the context that, "*Governments, as well as private sector, civil society and the United Nations and other international organizations have an important role and responsibility in the development of the Information Society and, as appropriate, in decision-making processes. Building a people-centred Information Society is a joint effort which requires cooperation and partnership among all stakeholders.*"

1.7. It is recalled that the WSIS Plan of action of December 2003 invites "*Governments to manage or supervise, as appropriate, their respective country code top-level domain name*". Any such involvement should be based on appropriate national laws and policies. It is recommended that governments should work with their local Internet community in deciding on how to work with the ccTLD Registry.

2. <u>OBJECTIVE OF THIS DOCUMENT</u>

2.1. This document updates the principles set out in February 2000. It takes account of experience and best practice for the delegation and administration of ccTLDs. It is intended as a framework which the different parties can use to help define the way they work together. How these principles and guidelines may be used depends on local/national laws and traditions. They may contribute to clarifying the bilateral relationship between these parties. They could also contribute to the development of:

- a communication between the relevant government or public authority and ICANN about their respective roles;

- a communication between the relevant government or public authority and the ccTLD Registry where this is deemed appropriate by the government and Registry concerned or provided for by national laws; and

- an appropriate communication between ICANN and the ccTLD Registry.

2.2. From a GAC perspective, the first two of these types of communications are of primary importance, since governments are directly involved. The third type often involves two private parties and is of interest to governments to the extent it affects public policy interests.

3. <u>DEFINITIONS</u>

For the purposes of this document, the following definitions apply:

3.1 "Communication" might include a law, regulation, agreement, document, contract, memorandum of understanding or any other form of relationship as appropriate.

3.2 'Country code top level domain' or 'ccTLD' means a domain in the top level of the global domain name system assigned according to a two-letter code based on the ISO 3166-1 standard 'Codes for the Representation of Names of Countries and Their Subdivisions.'

3.3 'Delegation' means the procedures that need to be taken by ICANN/IANA for the inclusion of a ccTLD in the DNS root upon receipt of an authoritative request.

3.4 'Re-delegation' means the change of the person or body responsible for the administration of a ccTLD Registry effected by ICANN/IANA upon receipt of an authoritative request.

3.5 'Authoritative request' for the purposes of this document is the request for the delegation or re-delegation concerning a ccTLD Registry addressed to ICANN/IANA by the appropriate body, according to national law, showing that the request is correctly made, authoritative and is in line with applicable law or, in the absence of such law, RFC 1591.

3.6 'ccTLD Registry' means the entity (whether an organisation, enterprise or individual) responsible for managing and administering a ccTLD.

3.7 'Designation' means decision by the relevant government or public authority or any other body foreseen by the national law of the country concerned on the person or body that will be the manager of the relevant ccTLD Registry according to national law.

3.8 'Relevant government or public authority' means the national government or public authority of a distinct economy as recognised in international fora, as those terms are used in the ICANN bylaws and the GAC Operating Principles, associated with the country code.

3.9 'Local Internet community' means the local community in the country associated with the country code, and includes the national government. This definition is specific to the purposes identified in this document and not broader.

4. ROLE OF GOVERNMENT OR PUBLIC AUTHORITY

4.1 Principles

4.1.1. Ultimate public policy authority over the relevant ccTLD rests with the relevant government or public authority; how this authority is exercised is determined by applicable law.

4.1.2. Every country or distinct economy with a government or public authority recognised in accordance with article 3.8 above should be able to ask for its appropriate country code to be represented as a ccTLD in the DNS and to designate the Registry for the ccTLD concerned.

4.2 Guidelines

4.2.1. The relevant government or public authority is strongly encouraged to ensure that the ccTLD is being administered in the public interest, within the framework of its national public policy and relevant laws and regulations.

4.2.2. The relevant government or public authority should be able to ensure that domain name registration in the ccTLD by Registrars benefits from effective and fair conditions of competition, at appropriate levels and scale of activity.

4.2.3. To give effect to their public policy interests, governments or public authorities may wish to base any communication with ccTLD Registries on the terms outlined in Clause 9.

4.2.4. In making a designation or acceptance for a ccTLD Registry, the government or public authority should take into consideration the importance of long-term stability in the administration and management of the ccTLD and in the DNS. In most cases, such stability may be best served through the designation of an organisation or an enterprise rather than a specific individual.

5. ROLE OF ccTLD REGISTRY

5.1 Principles

5.1.1. The ccTLD Registry is a trustee for the delegated ccTLD, and has a duty to serve the local Internet community as well as the global Internet community. Some governments or public authorities may require their agreement before any sub-contracting or sub-licensing of the delegation. Where this agreement is given, the government or public authority should notify ICANN.

5.1.2. In performing their functions ccTLD Registries are subject to applicable law.

5.1.3. Any claim of intellectual property right in the two-letter code in itself shall not impede a change of Registry.

5.2 Guidelines

5.2.1. Any intellectual property rights that the ccTLD Registry may have acquired as the result of delegation or which any entity may have acquired as a result of the management, administration or marketing of the ccTLD shall be taken into account and dealt with in accordance with applicable law in the case of a re-delegation. Such rights should not be exercised in a way that unnecessarily impedes re-delegation of a ccTLD Registry decided according to national law or under the circumstances described under clause 7 below.

5.2.2. The ccTLD Registry should work cooperatively with the relevant government or public authority of the country or territory for which the ccTLD has been

established, within the legal framework, and in line with appropriate public policy objectives of the government of the country or distinct economy concerned.

5.2.3. The ccTLD Registry, and the Registry's administrative contact, should be resident or incorporated in the territory and/or jurisdiction of the relevant government or public authority unless formally decided otherwise by the relevant government or public authority. In any event the ccTLD should operate in a way that is consistent with the laws and public policy of the relevant government or public authority.

5.2.4. The ccTLD Registries have the opportunity to participate in the ICANN Policy Development Processes through the Country Code Names Supporting Organisation (ccNSO). The GAC encourages the ongoing extension of the ccNSO's membership.

5.2.5. In any sub-contracting of the technical operations of the ccTLD Registry or administrative and management functions of the ccTLD, the sub-contract should state that the delegation itself is not reassigned to the sub-contractor. Any re-assignment would have to be in accordance with the provisions of Clause 7.

6. ROLE OF ICANN

Principle

6.1 ICANN's mission with respect to ccTLD Registries is to co-ordinate the Internet's systems of top-level domain unique identifiers, and to ensure their stable and secure operation, in particular: the allocation and assignment of the sets of unique Internet identifiers; the operation and evolution of the root name server system; and the policy development related to these technical functions as defined in the ICANN Bylaws.

7. PRINCIPLES RELATING TO DELEGATIONS AND RE-DELEGATIONS

7.1. Principle

Delegation and re-delegation is a national issue and should be resolved nationally and in accordance with national laws, taking into account the views of all local stakeholders and the rights of the existing ccTLD Registry. Once a final formal decision has been reached, ICANN should act promptly to initiate the process of delegation or re-delegation in line with authoritative instructions showing the basis for the decision.

7.2. Guidelines

7.2.1. Where the Registry operating the country code TLD does not have a formal communication with its national government and its core functions are operated under a different jurisdiction, any action to re-delegate needs to take account of the legal framework in the country where the Registry is based. In the event of a re-delegation, registrants in the ccTLD should be afforded continued name resolution or, if necessary, a mutually agreed period in which to transfer to another TLD.

7.2.2. In the case of a disputed re-delegation request where the relevant country code TLD Registry is based in another country and where there is not a contract specifying

which national law should apply, the government and ccTLD should seek to find a mutually acceptable solution. Where there is evidence that local stakeholders and the Internet community support the government proposal for re-delegation, but where there is no legal basis for imposing the re-delegation, ICANN may contribute to identifying alternative solutions to resolve the problem.

7.2.3. It is strongly recommended that, in the case of new delegations or re-delegations, particularly where a Registry is based out of country, national governments and Registry managers should agree on the legal framework and specific contract conditions to be used to judge any subsequent disputes or re-delegation requests.

8. GUIDELINES FOR A COMMUNICATION BETWEEN THE RELEVANT GOVERNMENT OR PUBLIC AUTHORITY AND ICANN

8.1. In cases in which there is a communication between the relevant government or public authority and ICANN/IANA, it should include the nominated, designated point of contact for communications with the relevant government or public authority.

8.2. In the absence of a communication, or where there are reasons for doubt, ICANN/IANA should consult with the diplomatic authorities or the Governmental Advisory Committee members for the government or distinct economy concerned on the competent authority and appropriate point of contact with their administration for communications.

8.3. Recognising ICANN's responsibilities to achieve consensus in the creation of any new generic TLDs, ICANN should avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.

9. GUIDELINES FOR A COMMUNICATION BETWEEN THE RELEVANT GOVERNMENT OR PUBLIC AUTHORITY AND THE ccTLD REGISTRY

9.1. Depending on the needs in individual national circumstances, it may be appropriate for the relevant government or public authority to establish a communication with its newly designated Registry. Any such communication could include the following provisions:

9.1.1 Term, performance clauses, applicable law, opportunity for review and process for revocation.

9.1.2 A commitment by the Registry to operate the ccTLD in the interest of the relevant local Internet community and the global Internet community.

9.1.3 Confirmation that the ccTLD is operated in trust in the public interest and that any claim of intellectual property rights in the two-letter code in itself shall not impede any possible future change of Registry.

9.1.4 Conditions to ensure the transfer of all relevant DNS data to the new Registry, if, for any reason, a reassignment of delegation to a new Registry is necessary, taking all interests into account.

9.1.5 References to ensure the safety and integrity of the Registry databases.

9.1.6 Conditions for the efficient and effective resolution of disputes arising from domain name registration.

10. <u>COMMUNICATION BETWEEN ICANN AND THE ccTLD REGISTRY</u>

10.1 Principle

A Registry should not sub-contract part or all of the technical operations of the ccTLD Registry affecting the global stability of the DNS without ensuring that the sub-contractor has the appropriate technical capability, and informing ICANN accordingly.

10.2 Guidelines

10.2.1. The communication between ICANN and the Registry should as a minimum contain ICANN's commitment to:

10.2.1.1 Maintain, or cause to be maintained, a stable, secure, authoritative and publicly available database of relevant information for each ccTLD (see below);

10.2.1.2. Ensure that authoritative and accurate root zone information is generated in a timely manner from such database and contribute to the root servers' operating in stable and secure manner. Also, ensure that changes to the root zone database are made on the basis of reliable authentication procedures confirming the authority and identity of the requesting party;

10.2.1.3. Maintain, or cause to be maintained, authoritative records and an audit trail regarding ccTLD delegations and records related to these delegations; and

10.2.1.4. Inform the Registry in a timely manner of any changes to ICANN's contact information.

10.2.2. The communication between ICANN and the Registry should contain the Registry's commitment to:

10.2.2.1. Cause to be operated and maintained in a stable and secure manner the authoritative primary and secondary name servers for the ccTLD, adequate to resolve names within the ccTLD for users throughout the Internet, and any sub-domains over which they retain administrative authority;

10.2.2.2. Inform ICANN in a timely manner of any changes to the ccTLD's contact information held by ICANN;

10.2.2.3. Set out clear conditions and parameters for any payment by the ccTLD.   ♦

Mar del Plata, 5 April 2005