
Agenda Item 5: CCWG-Accountability WS2 – GAC position as a Chartering Organisation

Issues

1. Activity since Panama City meeting.
2. CCWG-Accountability WS2 Final Report.
3. GAC position as a CCWG Chartering Organisation.

GAC Action Required

1. Activity since Panama City meeting

At the Panama City meeting (ICANN 62):

*The GAC was briefed on the final report and recommendations of the CCWG-Accountability WS2 by one of the Co-Chairs. It was agreed that the GAC should work towards adopting a final position as a Chartering Organisation no later than ICANN 63. The first phase of work will be identifying the recommendations of most relevance to the GAC, with further analysis of implications to be discussed with relevant GAC leads and the full membership. **Action Point:** Secretariat to prepare an initial summary paper for GAC members within 3-4 weeks (ACIG GAC Secretariat).¹*

The requested initial briefing was circulated to the GAC on 24 July 2018. There were no responses from GAC members.

Draft text for the Communique on this issue, incorporating a possible position for the GAC as a Chartering Organisation of the CCWG and draft GAC advice to the Board, was circulated to the GAC by the leadership group and has been included in the "Zero Draft" Communique circulated before this meeting. One comment was received on this text, from Switzerland which supported it as a basis for discussion.

2. CCWG-Accountability WS2 Final Report

The Report and previous GAC input are summarised in the previously circulated brief – see attached.

3. GAC position as a Chartering Organisation of the CCWG

The GAC (together with other SOs/ACs) is a Chartering Organisation of this CCWG. The [Charter](#) provides that: "...each of the chartering organisations shall, in accordance with their own rules and procedures, review and discuss the Draft Proposal(s) and decide whether to adopt the recommendations contained in it."

The GAC has a number of possible options for responding including:

- A. Support adoption of all of the recommendations.

¹ GAC Minutes Panama City

- B. Indicate specific areas of disagreement and propose alternatives. This could include, for example, particular issues to be addressed as part of the implementation process; and/or continuing review of contentious issues in another (perhaps simpler and less resource-intensive) forum.
- C. In conjunction with Option B (above) inform the CCWG Co-Chairs, in accordance with the CCWG Charter, of any recommendations where there is not GAC agreement to adopt, together with the reasons for this.

If the GAC does not adopt all of the recommendations, the CCWG [Charter](#) provides as follows:

SO and AC support for the Draft Proposal(s)

Following submission of the Draft Proposal(s), each of the chartering organizations shall, in accordance with their own rules and procedures, review and discuss the Draft Proposal(s) and decide whether to adopt the recommendations contained in it. The chairs of the chartering organizations shall notify the co-chairs of the WG of the result of the deliberations as soon as feasible.

Supplemental Draft Proposal

In the event that one or more of the participating SO's or AC's do(es) not adopt one or more of the recommendation(s) contained in the Draft Proposal(s), the Co-Chairs of the CCWG-Accountability shall be notified accordingly. This notification shall include at a minimum the reasons for the lack of support and a suggested alternative that would be acceptable, if any. The CCWG-Accountability may, at its discretion, reconsider, post for public comments and/or submit to the chartering organizations a Supplemental Draft Proposal, which takes into accounting the concerns raised.

Following submission of the Supplemental Draft Proposal, the chartering organizations shall discuss and decide in accordance with its own rules and procedures whether to adopt the recommendations contained in the Supplemental Draft Proposal. The Chairs of the chartering organizations shall notify the Co-Chairs of the CCWG-Accountability of the result of the deliberations as soon as feasible.

Submission Board Report

After receiving the notifications from all chartering organizations as described above, the Co-Chairs of the CCWG-Accountability shall, within 10 working days after receiving the last notification, submit to the Chair of the ICANN Board of Directors and Chairs of all the chartering organizations the CCWG-Accountability Board Report, which shall include at a minimum:

- a) *The (Supplemental) Proposal as adopted by the CCWG-Accountability; and*
- b) *The notifications of the decisions from the chartering organizations*
- c) *Documentation of the process that was followed, including, but not limited to documenting the process of building consensus within the CCWG-Accountability and public consultations.*

In the event one or more of the chartering organizations do(es) not support (parts of) the (Supplemental) Proposal(s), the Board Report shall also clearly indicate the part(s) of the (Supplemental) Final Proposal(s) which are fully supported and the parts which not, and which of the chartering organizations dissents, to the extent this is feasible.

For the CCWG **Work Stream 1** recommendations, the GAC expressed its position as: “While there are delegations that have expressed support for the proposal, there were other delegations that were not in a position to endorse the proposal as a whole. In spite of this

*difference of opinions, the GAC has no objection to the transmission of the proposal to the ICANN Board."*²

Current Position

There has been no activity within CCWG-WS2 since the Panama City meeting. This is because its work is concluded.

Chartering Organisations are considering their position on the final report. At the time of preparing this brief, the GNSO Council and SSAC had agreed to adopt the report in full.

Further Information

[CCWG-Accountability Work Stream 2 \(WS2\)](#)

Document Administration

Title	CCWG WS2 Accountability – GAC position as a Chartering Organisation
Distribution	GAC Members
Distribution Date	2 October 2018

² [GAC Marrakech Communique](#)

Attachment: CCWG-Accountability WS2: Inter-Sessional Brief for the GAC (circulated to GAC 24 July 2018)

Status of CCWG

This work originated with the transfer of oversight (“stewardship transition”) of the [IANA function](#) from the US Government to ICANN. In order to have the function moving to an accountable organisation, a Cross-Community Working Group (CCWG) was set up to recommend ways in which ICANN accountability to the community should be improved.

The GAC is a “Chartering Organisation” of this CCWG (see below). This means the GAC supported its creation and participates according to agreed rules (the “Charter”).

The first phase of the CCWG’s work (Work Stream 1 – WS1) was completed in 2016 and has been substantially implemented, including the creation of an “Empowered Community” and changes to the treatment of GAC advice to the ICANN Board.

The second phase of the work (Work Stream 2 – WS2) has now been completed by the CCWG. The Final Report and Recommendations are available [here](#) in multiple languages. The Recommendations, compiled against previous GAC statements, are set out at **ATTACHMENT 1**.

The CCWG has effectively completed its work and there are no plans (and no budget) for any further meetings. The remaining issues are:

- (a) Obtain the views of Chartering Organisations, no later than the end of ICANN 63 (Barcelona);
- (b) Submit the Report, including the views of Chartering Organisations, to the ICANN Board for consideration; and
- (c) Work with the Board and ICANN Org (through the CCWG Co-Chairs and Work Track leads) on implementation of the Recommendations.

GAC Position on Work Stream 1 Final Report

The GAC agreed on the following response to the WS1 Final Report (2016):

“The GAC expresses its support for the multistakeholder, bottom-up approach within ICANN and reiterates its interest in participating in the post-transition phase with a view to fulfilling its roles and responsibilities.

The GAC wishes to express its sincere appreciation of the diligent and productive work performed by the CCWG-Accountability, its Co-Chairs, its members and all its contributors.

The GAC reaffirms its role as an advisory committee to the ICANN Board and within the ICANN multistakeholder environment and will continue to advise on relevant matters of concern with regard to government and public interests.

The GAC has considered the CCWG’s proposal and supports Recommendations 1 to 10 and 12. However, there is no consensus on Recommendation 11 [Board obligations with regard to GAC advice] and the “carve-out” provision contained in Recommendations 1 and 2 [limiting the GAC’s powers in the Empowered Community where it has already provided advice to the Board.].

As regards Recommendations 1 and 2, the GAC expresses its willingness to take part in the envisioned empowered community mechanism as a decisional participant, under conditions to be determined

internally.

While there are delegations that have expressed support for the proposal, there are other delegations that were not in a position to endorse the proposal as a whole.

*In spite of this difference of opinions, the GAC has no objection to the transmission of the proposal to the ICANN Board."*³

GAC Participation in/input to Work Stream 2

The formally appointed GAC members of CCWG-WS2 were: **Argentina, Brazil, Canada, Denmark, and Iran.**

Other GAC participants in the CCWG and its Sub-Groups were:

Plenary: Vietnam, Switzerland, Korea, Netherlands, European Commission, World Broadcasting Unions, Kuwait, Ireland, Niue, United States, Cook Islands, Japan, UK, ACIG.

SO/AC Accountability: Switzerland, Iran, Argentina.

Jurisdiction: Canada, Brazil, Denmark, France, Switzerland, Iran, Argentina, Niue, Spain.

Human Rights: Canada, Switzerland, Iran, Argentina, Niue, Pakistan, Mexico

Diversity: AUC, Canada, France, Denmark, Switzerland, Argentina, Niue, Cook Islands, Spain

GAC input to the WS2 process, set out in full at **ATTACHMENT 1**, comprised:

- (a) Participation by some of the above GAC members in the work of some Sub-Groups during 2016-17.
- (b) Submission of public comments on some draft recommendations by a small number of individual governments (France, India, India, Italy, Switzerland, United Kingdom) between mid 2017 and early 2018.
- (c) No consensus GAC input to the CCWG on the draft WS2 recommendations.
- (d) Statements in GAC Communiques of (i) General support for the WS2 multistakeholder process, and (ii) A range of GAC member views on development of recommendations on ICANN jurisdiction.

CCWG WS2 Final Report & Recommendations

The Final Report and Recommendations deal with the following issues (in the order they appear in the Report).

As a general comment, the GAC may wish to consider whether some issues could/should be examined further in the next ICANN Accountability and Transparency review (ATRT3).

ISSUE	COMMENT
-------	---------

³ GAC Marrakech Communique

1. Diversity	Comments by 4 GAC members (on external accountability & weighting for numbers of Internet users) do not appear to have been agreed. Does the GAC agree that the proposals should apply to the GAC as an Advisory Committee?
2. Guidelines for standards of conduct presumed to be in good faith associated with exercising removal of individual ICANN Board Directors	No previous GAC views or discussion.
3. Human rights framework of implementation	Report states that comments by UK and Switzerland (on application of the Ruggie Principles ⁴) have been reflected in a compromise.
4. ICANN jurisdiction	Report “suggests” (does not recommend) that “another multistakeholder process of some kind should be considered to allow for further consideration, and potentially resolution, of [unresolved issues eg ICANN immunity].”
5. ICANN Ombudsman	No previous GAC views or discussion.
6. SO/AC Accountability	Does the GAC consider that it meets the best practices on accountability, transparency, participation & outreach suggested in the Report for all SOs/ACs to consider?
7. Staff accountability	No previous GAC views or discussion.
8. Transparency	Does the GAC consider that the recommended changes for more reporting by ICANN of its dealings with governments (outside the GAC) create any issues for GAC members?

Options for GAC as a Chartering Organisation

The [CCWG Charter](#) states:

Following submission of the Draft Proposal(s) [ie the Final Report], each of the chartering organisations shall, in accordance with their own rules and procedures, review and discuss the Draft Proposal(s) and decide whether to adopt the recommendations contained in it. The Chairs of the chartering organisations shall notify the Co-Chairs of the WG of the result of the deliberations as soon as feasible.

⁴ UN Guiding Principles on Business and Human Rights

The GAC can adopt or dissent from all or any of the Final Report's recommendations.

The GAC can also indicate a lack of agreement to support some recommendations but not object to the full set of proposals going to the ICANN Board. This is what happened with the CCWG-WS1 Report (see above).

Further Information

[CCWG-Accountability Work Stream 2 \(WS2\) - Plenary](#)

[CCWG-Accountability Sub-Group on Jurisdiction](#)

[CCWG-Accountability Sub Group on Diversity](#)

[CCWG-Accountability Sub Group on Human Rights](#)

[CCWG-Accountability Sub-Group on SO/AC Accountability](#)

Document Administration

Title	CCWG Accountability WS2: Inter-Sessional Brief for the GAC
Distribution	GAC Members
Distribution Date	24 July 2018

ATTACHMENT 1: GAC INPUT TO CCWG-ACCOUNTABILITY WS2

ISSUE/RECOMMENDATION	GAC INPUT TO DATE
1 Diversity	
<p>Recommendation 1: SO/AC/Groups should agree that the following seven key elements of diversity should be used as a common starting point for all diversity considerations within ICANN:</p> <ul style="list-style-type: none"> • Geographical/regional representation • Language • Gender • Age • Physical disability • Diverse skills • Stakeholder group or constituency <p>Recommendation 2: Each SO/AC/Group should identify which elements of diversity are mandated in their charters or ICANN Bylaws and any other elements that are relevant and applicable to each of its levels including leadership (Diversity Criteria) and publish the results of the exercise on their official websites.</p> <p>Measuring and Promoting Diversity</p> <p>Recommendation 3: Each SO/AC/Group, supported by ICANN staff, should undertake an initial assessment of their diversity for all of their structures including leadership based on their Diversity Criteria and publish the results on their official website.</p> <p>Recommendation 4: Each SO/AC/Group should use the information from their initial assessment to define and publish on their official website their Diversity Criteria objectives and strategies for achieving these, as well as a timeline for doing so.</p>	<p>Not substantively discussed by GAC. Not included in any Communiques.</p> <p>Public comments on the draft proposals were submitted by:</p> <p>France⁵</p> <p><i>Diversity is central to ICANN's legitimacy and accountability as a global forum</i></p> <p>France welcomes the fact that the objective of improving diversity, in line with its proposals during the work of Work Track 1 (hereinafter "workstream 1" or "WS1"), is at the heart of the group's multi-stakeholder work, and that the question of the representativeness of ICANN is now a priority issue. Since WS1, France has been campaigning with several other stakeholders to make the issue of diversity a priority in the development of ICANN's accountability mechanisms.</p> <p>The French Government wishes to emphasize first of all that improving diversity within ICANN is an integral part of its legitimacy and accountability to the Internet community. Indeed, ICANN will not succeed in becoming a truly global organization representing all Internet users in the world without changing its membership to more diversity.</p> <p>However, the various statistics available show that ICANN suffers from numerous imbalances. Today, more than two-thirds of Internet users live in developing countries. However, the current functioning of ICANN still lacks diversity, especially at the management level. Last year, an AFNIC study showed that ICANN leaders are mostly North American (40%), English</p>

⁵ <https://mm.icann.org/pipermail/comments-accountability-diversity-26oct17/2018q1/date.html>

Recommendation 5: Each SO/AC/Group, supported by ICANN staff, should undertake a regular update of their diversity assessment against their Diversity Criteria and objectives at all levels including leadership. Ideally this update should be carried out annually but not less than every three years. They should publish the results on their official website and use this information to review and update their objectives, strategies, and timelines.

Supporting Diversity

Recommendation 6: ICANN staff should provide support and tools for the SO/AC/Groups to assist them in assessing their diversity in an appropriate manner. ICANN should also identify staff or community resources that can assist SO/ACs or other components of the community with diversity-related activities and strategies.

Recommendation 7: ICANN staff should support SO/AC/Groups in developing and publishing a process for dealing with diversity-related complaints and issues.

Recommendation 8: ICANN staff should support the capture, analysis, and communication of diversity information, seeking external expertise if needed, in the following ways:

- 1.8.1. Create a Diversity section on the ICANN website.
- 1.8.2. Gather and maintain all relevant diversity information in one place.
- 1.8.3. Produce an Annual Diversity Report for ICANN based on all the annual information and provide a global analysis of trends and summarize SO/AC/Groups recommendations for improvement, where appropriate. This should also include some form of reporting on diversity complaints.
- 1.8.4. Include diversity information derived from the Annual Diversity Report in ICANN's Annual Report.

Note: In the context of the Diversity Questionnaire and throughout this report, the term

SO/AC/Groups refers to:

- SO – ccNSO, GNSO, ASO
- AC – ALAC, GAC, RSSAC, SSAC
- Groups – ICANN Board, ICANN staff, NomCom, Stakeholder Group, Constituency,
- RALO

(66%), male (76%) and from business (80%). Anglophones, women, people from other regions (Europe, Africa, South America, Asia ...) and representatives of civil society and governments are therefore under-represented. More recently, the recent ICANN study on gender diversity and community participation found that 66% of women believe that the culture of the ICANN community is dominated by men and 69% of respondents agree that the community should do more to increase diversity.

Since the launch of the WS2 at the 56th ICANN meeting in Helsinki, the French government - as well as many community stakeholders - has proposed putting diversity at the heart of the priorities of this second phase of reform by proposing explicit and concrete commitments, in particular through a long-term strategy led by a dedicated body.

The diversity subgroup proposals contain several advances

The French government wishes first of all to commend the efforts of the subgroup in charge of diversity since the launch in June 2016 of the works of the second working track. The recommendation report of the subgroup proposes several advances. First, a multidimensional definition of diversity could be established that takes into account both geographical and regional representation criteria, language, gender, age and also elements related to physical condition and community components (recommendations 1 and 4). This broad definition of diversity will help to understand the complexity of this phenomenon and to include all situations.

Secondly, the recommendation to measure diversity through up-to-date, comprehensive and published figures is also a positive step (recommendation 2). In particular, recommendations 3 and 4, which propose that each SO / AC establish a proper assessment against the diversity criteria and publish an annual report, will make it possible to better identify the priority actions within the community components. This approach, which encourages each AC / SO to take action and design strategies to become more diverse (Recommendation 5), will enable ICANN, as a whole, to develop a coherent diversity policy.

When recommendations in this report refer to ICANN, it means all of those entities included in SO/AC/Groups.

Thirdly, the establishment of a specific system of requests from community members to address any questions about ICANN's actions on diversity is a step forward. These advances must, however, be completed in order to establish a structural and ambitious diversity policy.

However, in order to establish a structural and ambitious diversity policy, a dedicated body is essential

The French government fears that the lack of global supervision will hinder the implementation of a coherent and long-term diversity policy. Indeed, to the extent that the report recommends that each SO/AC identify its own objectives and develop its own diversity strategy, the risk of fragmentation and conflicting actions between different SOs / ACs may hinder the steering of the policy as a whole if there is no ICANN-wide oversight body as a whole.

Thus, the French government, as well as many members of the community, remain convinced of the need to set up a dedicated independent oversight body for the global diversity policy as mentioned in recommendation 8 of the report. Indeed, members of the subgroup proposed to create an office for diversity within ICANN just like many public and private organizations around the world who have chosen this path. Some members of the subgroup objected to the creation of the Diversity Office arguing, on the one hand, that such a forum would generate financial costs and, on the other hand, that this competence fell to ICANN staff.

However, the French government believes that only an autonomous and dedicated entity, whatever its name (office, advisory group, etc.), is able to conduct an ambitious diversity policy effectively and independently, since the members of this entity will be transparent and unrelated to a group or ICANN staff. Indeed, it is essential that the structure in charge of the diversity policy be independent to guard against any conflict of interest.

If a dedicated office within ICANN is still the best way for the French government and many members of the community, it is essential, in a constructive spirit, to advance on other possibilities on the form, and not on the principle that this structure could take, such as the creation of a

diversity advisory group within ICANN's Ombudsman, which is already a neutral and independent body.

India⁶

Earlier Government of India had submitted the following comments on CCWG Accountability

1. ⁷There must be robust oversight mechanisms, under which ICANN should be accountable to the global multi-stakeholder community, with adequate representation of geographical and linguistic diversity. In order for ICANN to accurately reflect the views of the multistakeholder community, there must be a sustained focus on barriers to entry which means that formal inclusion does not always translate to substantive inclusion of stakeholders (whether through existing SO/AC's or new ones), while keeping in view diversity of languages and regions.
2. ICANN's accountability to various stakeholders may be calibrated in the context of the different roles played by stakeholders on various issues. In particular, a higher level of accountability towards Governments is required in areas where Governments have primary responsibility, such as *national* security and similar public policy concerns.
3. In addition, ICANN must make efforts to broaden participation in the Government Advisory Committee (GAC), to take into account the views and concerns of Governments.

Brief background and relevant Excerpts from CCWG Accountability Work Stream 1 report:

In the Recommendation #12 of the CCWG Accountability Work Stream 1 report, the group assessed Diversity requirements based on ICANN's governance documents (Bylaws, AOC, ATRT2, documents from each of ICANN's SO's & AC's) and the following is excerpted directly from the above said report:

"Comments received on the Second draft proposal revealed that incorporating the diversity component into Accountability and Transparency Reviews may overburden the Review Teams. Therefore, the

⁶ <https://mm.icann.org/pipermail/comments-accountability-diversity-26oct17/2018q1/date.html>

⁷Reference: <https://forum.icann.org/lists/comments-ccwg-accountability-draft-proposal-04may15/pdfKhns2h5nEa.pdf>

CCWG-Accountability recommends the following actions with the view to further enhancing ICANN's effectiveness in promoting diversity:

- Including diversity as an important element for the creation of any new structure, such as the Independent Review Process (IRP) – for diversity requirements for the panel – and the ICANN Community Forum.
- Adding Accountability, Transparency, and Diversity reviews of SOs and ACs to structural reviews as part of Work Stream 2.
- Performing, as part of Work Stream 2, a more detailed review to establish a full inventory of the existing mechanisms related to diversity for each and every ICANN group (including Stakeholder Groups, Constituencies, Regional At-Large Organizations, the Fellowship program, and other ICANN outreach programs). After an initial review of the current documents, it became clear that they do not address the full concerns raised by the wider community on the issue of diversity.
- Identifying the possible structures that could follow, promote and support the strengthening of diversity within ICANN.
- Carrying out a detailed working plan on enhancing ICANN diversity as part of Work Stream 2.
- Strengthening commitments to outreach and engagement in order to create a more diverse pool of ICANN participants, so that diversity is better reflected in the overall community."

Thus, the scope of the Diversity sub-Group Task has been to focus on actions 3 to 5 identified in the CCWG-Accountability Work Stream 1 above, namely:

- (a) Defining Diversity
- (b) Measuring and Promoting Diversity and
- (c) Supporting Diversity

The Government of India would like to offer the following additional comments in continuation of our previous submissions on this topic by way of improvements to the draft recommendations referred to above:

Recommendation #1 & #2: Although it has been stated that SO/AC/groups agree that the 7 key elements of Diversity can be used as a common starting point for all Diversity considerations within ICANN, the following aspects/dimensions may also additionally be taken into account:

Race

Ethnicity

It is imperative to ensure diversity in SO/AC/Groups. While speaking of diversity, the importance of '**Geographic Diversity**' cannot be overstated. Therefore, it is strongly recommended that geographies (countries) where the largest number of internet users come from should be provided with voting rights and membership proportionate to the legions of internet users they seek to represent. Furthermore, each SO/AC must ensure equitable representation from each geography in proportion to the number of internet users that they represent.

While welcoming the recognition accorded to language as one of the key dimensions of Diversity, it is also added that this dimension of Diversity must also be factored in while deciding substantive issues pertaining to representation on key positions, as also language facilitation access and participation in ICANN activities as well as language services during ICANN Meetings and other ICANN Communications. In this it maybe pertinent to mention that over reliance on the UN's Official Languages would do disservice to ICANN which seeks to be seen as truly multistakeholder in ethos as well as in action. Thus, an alternative view needs to be taken on facilitating substantive inclusion amongst members from countries which not only represent the largest number of internet users but also of members from linguistic backgrounds which represent languages having the largest number of speakers globally (viz. Chinese/Mandarin, Hindi, Spanish et. al. refer Afnic Report pg.9/20). Here it may also be worthwhile to once again underscore the importance of making available Universally Acceptable domain names (UA and IDN's) and usable email id's(EAI) along with measures required to be taken to create an enabling ecosystem for providing a boost to websites and content hosted in regional and local languages, for it to achieve a critical mass and to serve larger sections of the hitherto unconnected population.

Also while acknowledging the importance of Diversity of Skills; it is also important to allay the interpretation that diversity/ inclusion requirements should not prevail over skill and experience. Those who have the greatest skill and experience will *ipso facto* be those who have been engaging with ICANN on a regular basis therefore possessing better skills to work the ICANN ecosystem on account of their greater familiarity with the way it works). However, that may attribute a higher weightage to skill and experience over considerations like diversity and inclusion. As such this appears to be

contrary to ICANN's intended purpose and hence should be allayed at the very onset through proper communication and adequate provisions to this effect. Further, due regard must also be given to a country's development status and necessary steps may be undertaken to ensure representation from least development countries (LDCs). A call for diversity doesn't just stem from a need for political correctness but in fact is essential for legitimacy of ICANN in the eyes of the community that it purports to serve and for it to be seen as a truly globally-representative body and not just one where participants with greater access to insider knowledge and information make policies for the whole globe.

We welcome the suggestion & Recommendation that each SO/AC/group should identify the elements of diversity which are mandated in their charters and/ or ICANN Bylaws and publish these findings on their websites

Measuring and Promoting Diversity:

Recommendation #3, #4 & #5: While appreciating the recommendation for each SO/AC/group, supported by ICANN staff for undertaking annual update f their diversity assessment against their Diversity Criteria and objectives at all levels including leadership, publishing these on their official websites and using this information to review and update their objectives, strategies and timelines, more information in the draft recommendations should have been provided regarding the criteria, structures and the processes for undertaking such updation of objectives, strategies and timelines.

Supporting Diversity

Recommendation #6, #7 & #8:

We welcome the recommendations #6,#7 & #8 regarding Supporting Diversity which include providing support and tools for SO/AC/groups in assessing their diversity, develop and publish a process for dealing with Diversity related complaints and support to the capture, analysis and communication of diversity information by way of dedicating a Diversity section on the ICANN website which gathers and maintains all the diversity related information at one place etc. However, ICANN must also develop processes which capture and analyze information on the impact of cultural sensitivity and unconscious bias on ICANN processes and document the same and develop processes which limit the extent of/ try and overcome/ minimize the impacts of the above factors on ICANN processes, through

appropriate training /support tools as well as measures aimed at substantive inclusion of users with differing sensitivities according to their respective cultures.

It is felt that language is a determining factor in supporting Diversity and hence it is felt that adequate measures need to be taken in the ICANN ecosystem to make available websites (information available on), resources (both for learning and participation), communication (like letters, newsletters, announcements, notifications etc.) and exchanges (mails in mailing lists) in languages which are best understood by the respective users and as such over reliance on the justification regarding the languages officially recognized by UN system does not seem to be in order. With the kind of resources that ICANN has at its disposal and the vision of ICANN to be seen as a truly globally-representative body, it is important that ICANN make available all the resources required for substantive participation at the disposal of all its stakeholders in order to support diversity and representation of the viewpoints of stakeholders from all linguistic and cultural backgrounds.

Switzerland⁸

Thank you very much for the opportunity to comment on the report from the Diversity Subgroup.

Although I feel that the report goes in the right direction, I would like to generally support the comments made by Ghislain de Salins [below] regarding the need of providing for some sort of adequate external evaluation and/or assessment of the diversity enhancing measures to be adopted.

Ghislain de Salins (GAC Vice Chair, in personal capacity)⁹

Why is diversity important?

⁸ <https://mm.icann.org/pipermail/comments-accountability-diversity-26oct17/2017q4/date.html>

⁹ <https://mm.icann.org/pipermail/comments-accountability-diversity-26oct17/2017q4/date.html>

Diversity should be at the core of the multi-stakeholder model. Without diverse structures, staff and leadership, ICANN will fall short of becoming a truly global organization which is supposed to represent all Internet users in the world. When ICANN was created in the 1990s, 75% of Internet users lived in developed countries. Today, more than two thirds of Internet users live in developing countries. However, the way ICANN functions today still lacks diversity, especially at the leadership level. Last year, a study by AFNIC (the ".fr" registry) showed that ICANN leaders are predominantly from North America (40%), native English speakers (66%), men (76%) and from the business sector / technical community (80%). Non-native English speakers, women, people from other regions (Europe, Africa, South America, Asia...) and people from civil society and governments are under-represented. Link to AFNIC study: <https://www.afnic.fr/en/about-afnic/news/general-news/9961/show/afnic-reveals-figures-on-diversity-within-icann-1.html>

The diversity subgroup's recommendations go in the right direction...

The sub-group report recognizes the value of diversity and proposes a broad definition, including various criteria: Language; Gender; Age; Physical Disability; Diverse skills; Stakeholder group or constituency. The report proposes that SO/ACs assess themselves against diversity criteria and publish an annual report. ICANN staff would then publish a global annual report on diversity based on the AC/SOs' reports. AC/SOs are encouraged to take actions and design strategies to become more diverse.

... but it probably won't be enough to change the way ICANN functions.

While I recognize that each SO/AC has their own challenges and should design their own diversity strategies and objectives, I'm concerned that the lack of external oversight will only lead to inertia and / or self-congratulation. If ICANN staff only is responsible for publishing an annual report on diversity, the report will probably not propose anything new or any ambitious objective to enhance diversity.

Is there any solution?

There are various available options to enhance external oversight for these diversity strategies and reports. One of them is to create a diversity office. Another option would be to have an advisory panel on diversity, with people coming from SO/ACs and in charge of coordinating the staff efforts to draft a global annual report on diversity. The panel could also propose objectives or best practices to SO/ACs and analyze the gaps between

	AC/SOs strategies and results. By the way, the Ombudsman sub-group proposes in its recommendations to create an Ombudsman advisory panel with similar views. That could be of interest to the diversity subgroup.
2 Guidelines for Standards of Conduct Presumed to be in Good Faith Associated with Exercising Removal of Individual ICANN Board Directors	
Final Report pp 10, 20 & Annex 2.	Not substantively discussed by GAC. Not included in any Communiques. No public comments submitted by governments.
3 Framework of Interpretation for Human Rights	
The CCWG-Accountability WS2 recommends the adoption of the Framework of Interpretation it developed for the ICANN Bylaws dealing with Human Rights, which can be found in Annex 3.	<p>Switzerland¹⁰</p> <p>As a general remark, our impression is that the proposed framework of interpretation follows a too restrictive interpretation of the Human Rights Core Value, which may be seen as a way of constraining rather than really furthering the engagement to respect human rights. The desirable minimum would be to at least follow the UN Guiding Principles on Business and Human Rights (UNGP), as we repeatedly expressed in the Subgroup discussions.</p> <p>Accordingly, we propose that the following paragraph on page 4 (under “internationally recognized human rights”) be reworded as follows: “However² because they only create obligations for States. By committing to one or more of these international instruments, nation states are expected to embed human rights in their national legislation. Businesses should respect human rights as set out in the UN Guiding Principles on Businesses and Human Rights. “</p> <p>As to the concept of “respecting” human rights, the UNGP go beyond just “avoid violating” them and should include also the positive commitment</p>

¹⁰ <https://mm.icann.org/pipermail/comments-foi-hr-05may17/2017q2/date.html>

and notion "to avoid infringing on the human rights of others" and "should address adverse human rights impacts with which they are involved".

As to "internationally recognized human rights", a reference to the UNGP as standard for business enterprises should be included, as mentioned above. In addition, references to other universal human rights agreements from the UN should be included, such as the Convention on the Rights of the Child, the International Convention for the Protection of All Persons from Enforced Disappearance, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx> for reference).

Furthermore, also the humanitarian international public law should be considered, such as the Geneva Conventions.

Finally, there are also other relevant agreements which should be considered, such as the European Convention on Human Rights and the Budapest Convention on Cybercrime or the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108). The latter has been ratified by all the 47 member states of the Council of Europe and by Uruguay, Mauritius and Senegal. It is the only binding international instrument on the protection of fundamental rights and freedoms that includes the right to privacy when processing personal data. This instrument is not only a regional convention but has a universal vocation since it is open to the accession of non-member states of the Council of Europe. Several States have begun the accession process.

Regarding the interpretation of the section "as required by applicable law", we consider that this element should never be used as a means to implicitly relativize the universality of human rights, subjecting and/or constraining them to national legislation. It would be desirable to include expressly that this means to "comply with all applicable laws and respect internationally recognized human rights".

United Kingdom¹¹

¹¹ <https://mm.icann.org/pipermail/comments-foi-hr-05may17/2017q2/date.html>

i. Why the Human Rights Core Value needs effective and universally accepted interpretation

Universal respect for human rights is an intrinsic part of ICANN's mission to serve the global public interest. Such respect enhances ICANN's global legitimacy and accountability. It valuably complements in a uniform way across the ICANN community, the role of ICANN's Governmental Advisory Committee (GAC) on matters of public interest including adherence to fundamental human rights.

This requirement to respect human rights has become all the more critical as ICANN's technical mission has gained greater prominence in the affairs of the global Internet stakeholder community and the policy development undertaken by the ICANN community has impacted all sectors and users of the Internet. The evolution and expansion of the generic top level of the domain name system during the last decade has brought this impact into sharp relief: there have been numerous policy development processes and decisions where questions about rights have come to the fore of the stakeholder deliberations and where the GAC has necessarily had to intervene. For example, there have been questions about how ICANN can ensure there is fair and legitimate opportunity for communities to express themselves and assemble online.

ICANN took a major step forward, therefore, in incorporating the Human Rights Core Value in its Bylaws because this reaffirmed ICANN's existing obligations and substantially clarified ICANN's commitment to respect Human Rights which was not previously fully understood or appreciated by many ICANN stakeholders and members of the ICANN leadership.

It is important therefore that the ICANN global stakeholder community understands fully how this core value should be implemented throughout its operations by the Supporting Organisations and Advisory Committees, the ICANN Board and its staff. Taking full account of the extensive discussions in the community, the work of the CCWG-Accountability Sub-group on Human Rights is therefore commended and for all its hard work in developing the draft Framework of Interpretation for Human Rights. The Chair of the Sub-group, Niels ten Oever is congratulated for his steadfast

commitment to steering the group in an open, inclusive and transparent way in order to produce the draft Framework.

ii. Support for the Framework of Interpretation

The result of the Sub-group's work should now be supported as providing the effective means for enabling the ICANN community to adapt to the regime of adherence to human rights consistent with the Core Values in the Bylaws. The SOs and AC's are encouraged to review the Framework in order to ensure compliance in their operating principles, working modalities, management protocols and day-to-day operations.

iii. The Considerations: UN Guiding Principles on Business and Human Rights

ICANN is a private organisation under US law and as such it is not a duty-bearer under international human rights law, as is the case for nation states. The UN Guiding Principles on Business and Human Rights, unanimously adopted by the United Nations Human Rights Council in June 2011, established that business enterprises - including trans-national entities - have a responsibility to respect human rights.

It is noted that the potential applicability of these Guiding Principles to ICANN – a private sector-led, multi-stakeholder transnational entity - was comprehensively discussed by the CCWG Accountability Sub-group on Human Rights.

The argument that the entirety of the UN Guiding Principles could not be cited as a reference point, or source of guidance, for interpreting ICANN's Human Rights Core Value, is readily understood and accepted: much of the text is concerned with State responsibilities.

However, it is very disappointing that there is no reference in the Framework to the UN Guiding Principles despite the direct applicability of key elements of the second pillar relating to corporate responsibilities. These relate for example the conduct of due diligence, ensuring transparency, the undertaking of impact assessments, instituting mechanisms for correcting negative impacts, and generally integrating a culture of commitment to respect human rights throughout the organization. As such they provide fundamental elements of universal best

	<p>practice for effective adherence to human rights and therefore merit direct reference in the Framework of Interpretation.</p> <p>Given the private sector-led, multi-stakeholder constitution of ICANN there seems to be no inherent disruptive conflict or inconsistency created by reference to these elements in the universally accepted UN Guiding Principles. It is hoped, therefore, that in the course of finalising the Framework of Interpretation following the current public consultation, there will be further consideration of the applicability of those elements of corporate responsibility contained in the UN Guiding Principles on Business and Human Rights and of the value of their due reference cited in the final document as an instrument for all the SOs and ACs – including the GAC - and their respective sub-groups and constituency parts to take fully into account in their strategies for implementing the human rights core value.</p> <p>Furthermore, if these UN Guiding Principles are not directly cross-referenced in part by the Framework of Interpretation, it would be a lost opportunity for the ICANN community to be a global transnational beacon for advancing corporate respect for human rights.</p>
4 Jurisdiction	
<p>Recommendations Relating to OFAC Sanctions and Related Sanctions Issues</p> <p>The Subgroup considered issues relating to government sanctions, particularly U.S. government sanctions administered by the Office of Foreign Asset Control (OFAC). OFAC is an office of the U.S. Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals.</p>	<p>There is no GAC consensus position on the substantive issues.</p> <p>The GAC stated in its most recent Communique¹²:</p> <p><i>Several GAC members reiterated major concerns regarding the report from the subgroup on jurisdiction. These members consider that it falls short</i></p>

¹² GAC Panama City Communique

4.1.1 ICANN Terms and Conditions for Registrar Accreditation Application Relating to OFAC Licenses

For ICANN to enter into a Registration Accreditation Agreement (RAA) with an applicant from a sanctioned country, it will need an OFAC license. Currently, "ICANN is under no obligation to seek such licenses and, in any given case, OFAC could decide not to issue a requested license." This uncertainty could discourage residents of sanctioned countries from applying for accreditation. The sub-group recommends that the above sentence should be amended to require ICANN to apply for and use best efforts to secure an OFAC license if the other party is otherwise qualified to be a registrar (and is not individually subject to sanctions). During the licensing process, ICANN should be helpful and transparent with regard to the licensing process and ICANN's efforts, including ongoing communication with the potential registrar.

4.1.2 Approval of gTLD Registries

In the 2012 round of the New gTLD program, it was difficult for residents from sanctioned countries to file and make their way through the application process. The Applicant Guidebook (AGB) states: "In the past, when ICANN has been requested to provide services to individuals or entities that are not SDNs (specially designated nationals) but are residents of sanctioned countries, ICANN has sought and been granted licenses as required. In any given case, however, OFAC could decide not to issue a requested license."

The sub-group recommends that ICANN should commit to applying for and using best efforts to secure an OFAC license for all such applicants if the applicant would otherwise be approved (and is not on the SDN list). ICANN should also be helpful and transparent with regard to the licensing process, including ongoing communication with the applicant.

4.1.3 Application of OFAC Limitations by Non-U.S. Registrars

It appears that some non-U.S.-based registrars might be applying OFAC

of the objectives envisaged for Work Stream 2, and that its recommendations only partly mitigate the risks associated with ICANN's subjection to US jurisdiction.

Several GAC members welcomed the recommendations on jurisdiction and stressed in particular the importance of industry having options, including a menu, for choice of law and venue for contracts with ICANN.

In relation to the discussion on jurisdiction, GAC members took note of the acknowledgement by the Cross Community Working Group that "further discussions" to address unresolved concerns" are needed.

The GAC, in its face-to-face interaction with the ICANN Board, asked Board members whether they could "identify options for continuing discussions on aspects of ICANN jurisdiction that will not be resolved by the CCWG-Accountability WS2 work". The Board replied that it is not in a position to answer this question prior to receiving the final recommendations from the CCWG after discussion and decision by the chartering organizations.

Similar statements have been included in previous Communiqués.¹³

Brazil¹⁴

The CCWG Final Report includes a Dissenting Statement as follows:

24 October 2017: Brazil expresses its opposition to the draft report on jurisdiction submitted to the CCWG plenary on 11 October 2017. The draft report falls short of the objectives envisaged for Work Stream 2 – in particular the need to ensure that ICANN is accountable towards all stakeholders –, by not tackling the issue of ICANN's subjection to US jurisdiction, as well as leaving untouched the unsatisfactory situation where US authorities (legislature, tribunals, enforcement agencies,

¹³ GAC Communiqués: San Juan, Abu Dhabi, Johannesburg

¹⁴ CCWG Final Report Annex 4.2

sanctions with registrants and potential registrants, based on a mistaken assumption that they must do so simply because they have a contract with ICANN. Non-U.S. registrars may also appear to apply OFAC sanctions, if they "cut and paste" registrant agreements from U.S.-based registrars. While ICANN cannot provide legal advice to registrars, it can bring awareness of these issues to registrars.

The sub-group recommends that ICANN clarify to registrars that the mere existence of their RAA with ICANN does not cause them to be required to comply with OFAC sanctions. ICANN should also explore various tools to remind registrars to understand the applicable laws under which they operate and to accurately reflect those laws in their customer relationships.

4.1.4 General Licenses

OFAC "general licenses" cover particular classes of persons and types of transactions. ICANN could pursue general licenses to cover transactions integral to ICANN's role in managing the DNS and contracts for Internet resources, such as registries and registrars entering into Registry Agreements (RAs) and Registrar Accreditation Agreements (RAAs), Privacy/Proxy Accreditation, support for ICANN-funded travelers, etc. This would enable individual transactions to proceed without the need for specific licenses.

A general license would need to be developed in conjunction with the U.S. Department of the Treasury, which must amend OFAC regulations to include the new license. This regulatory process may be a significant undertaking.

The sub-group recommends that ICANN take steps to pursue one or more OFAC "general licenses." ICANN should first prioritize a study of the costs, benefits, timeline and details of the process. ICANN should then pursue general licenses

regulatory bodies, etc.) can possibly interfere with the activities ICANN performs in the global public interest.

Brazil cannot accept this state of affairs – where Governments are not placed on an equal footing vis-à-vis the country of incorporation as regards their ability to participate in ICANN's management of Internet's global resources –, which is not in line with the rules and principles embodied in the Tunis Agenda for the Information Society nor with the fundamental tenets of the multi-stakeholder approach, which we uphold and support.

Brazil hereby submits the document annexed below, which forms an integral part of the present statement, and which indicates the points Brazil considers should have been reflected in the draft report.

ANNEX

1. Introduction

Brazil recalls the principle endorsed by the subgroup on jurisdiction on how it would proceed in discussing and proposing recommendations for ICANN, namely that "we [the subgroup on jurisdiction and, by extension, the CCWG] should be looking at what are the outcomes we're looking for and less trying to be very specific about how to implement it." (1) As summarised by the rapporteur of the subgroup on jurisdiction, "we [the subgroup on jurisdiction and, by extension, the CCWG] are in the business of making policy recommendations and not implementation recommendations." (2)

At the CCWG plenary meeting at ICANN 59, the concept of immunity from US jurisdiction (partial immunity, restrictive immunity, immunity with exceptions) featured prominently as an indispensable condition for the CCWG as a whole to accept the proposal that it would not pursue recommendations to change ICANN's jurisdiction of incorporation or headquarters location. Subsequently, at the subgroup level, some convergence of views could be discerned to the effect that immunity from US jurisdiction would be needed to remedy "the concern that US organs can possibly interfere with ICANN's [core functions in the management of the DNS]". (3)

as soon as possible, unless it discovers significant obstacles. If so, ICANN should report this to the community and seek its advice on how to proceed. If unsuccessful, ICANN needs to find other ways to remove "friction" from transactions between ICANN and residents of sanctioned countries. ICANN should communicate regularly about its progress, to raise awareness in the ICANN community and with affected parties.

4.2 Recommendations relating to Choice of Law and Choice of Venue Provisions in ICANN Agreements

This sub-group considered how the absence of a choice of law provision in the base RA, the absence of a choice of law provision in the standard RAA, and the contents of the choice of venue provision in RAs could impact ICANN's accountability. These are standard-form contracts that are not typically negotiated; changes are now determined through an amendment procedure (e.g. Art. 7.6 of the RA).

The sub-group understands that it cannot require ICANN to make amendments to the RA or the RAA. Rather, this recommendation suggests possible changes to the RA and RAA for study and consideration by ICANN the organization, the GNSO, and the contracted parties.

The RA and RAA do not contain choice of law provisions. The governing law is thus undetermined, until determined by a judge or arbitrator or by agreement of the parties.

4.2.1 Choice of Law and Venue Provisions in the Registry Agreement

The sub-group identified several alternative approaches for the RA, which could also apply to the RAA. The body of the report discusses the advantages and disadvantages of each approach.

We understand that there was room for consensus around the need to recommend that ICANN seek to obtain immunity from US jurisdiction in ways that enhance ICANN's accountability towards all stakeholders. Thus the subgroup could have recommended that ICANN take steps to ensure that US organs cannot exercise jurisdiction over ICANN in ways that interfere with the policy development and policy implementation activities ICANN performs in the global public interest, while making sure that ICANN remains accountable for all its actions, including accountability under US laws and tribunals for such activities that do not directly interfere with the management of Internet's global resources.

We share the concerns expressed by some members of the subgroup on "how to design immunity [so that ICANN becomes free from the possibility that US organs may interfere with its core functions] in a way that does not immunise ICANN from liability for arbitrary and unlawful actions." (4) To address these concerns, we believe that the subgroup could have expressly called upon ICANN to maintain and further develop independent accountability mechanisms to ensure that ICANN can be held liable, especially for its activities that would be covered by immunity from US jurisdiction.

Furthermore, we agree that ICANN's immunity from US jurisdiction should be partial, and therefore that there should be exceptions to it, which should enable, for example, that ICANN's internal governance functions which do not directly interfere with the management of Internet's global resources (such as employment disputes within ICANN, health and safety regulations, etc.) remain subject to the normal operation of the laws and tribunals of the country of incorporation.

2. Ensuring ICANN is accountable to all stakeholders

The NETmundial multistakeholder statement has urged that "... the process of globalization of ICANN speeds up leading to a truly international and global organization serving the public interest with clearly implementable and verifiable accountability and transparency mechanisms that satisfy requirements from both internal stakeholders and the global community."

In this connection, the Charter of Work Stream 2 expressly relies on the NETmundial multistakeholder statement in order to define ICANN's accountability goals. (5) Currently, ICANN's accountability mechanisms do

4.2.1.1 Menu Approach. The sub-group supports a “Menu” approach, where the governing law would be chosen before the contract is executed from a “menu” of possible governing laws. The menu needs to be defined; this could best left to ICANN and the registries. The sub-group discussed a number of possible menus, which could include one country, or a small number of countries, from each ICANN geographic region, plus the status quo (no choice of law) and/or the registry’s jurisdiction of incorporation and/or the countries in which ICANN has physical locations.

The sub-group has not determined what the menu items should be, but believes there should be a balance between the advantages and disadvantages of having different governing laws apply to the same base RA, which likely suggests having a relatively limited number of choices on the menu. The sub-group recommends that the Registry choose from among the options on the menu (i.e., the choice would not be negotiated with ICANN).

4.2.1.2 “California” (or “fixed law”) Approach. A second possible option is for all RAs to include a choice of law clause naming California and U.S. law as the governing law.

4.2.1.3 Carve-Out Approach. A third possible option would be a “Carve-Out” approach, whereby parts of the contract that would benefit from uniform treatment are governed by a uniform predetermined law (e.g. California) and other parts are governed either by the law of the registry’s jurisdiction or by a jurisdiction chosen using the “Menu” approach.

4.2.1.4 Bespoke Approach. In the “Bespoke” approach, the governing law of the entire agreement is the governing law of the Registry Operator.

4.2.1.5 Status Quo Approach. A fifth possible approach is to retain the status quo, (i.e., have no “governing law” clause in the RAA).

4.2.2 Choice of Law Provisions in Registrar Accreditation Agreements
The options for the RAA are essentially the same as for the RA.

not meet all stakeholders’ expectations, for ICANN is more accountable to the country of incorporation and its citizens, namely the United States, than to others.

We would have hoped that the draft report on jurisdiction would have recommended measures aimed at increasing ICANN’s accountability as defined in the NETmundial multistakeholder statement, i.e. accountability towards all stakeholders, by recommending that steps be taken to ensure that no single country, individually, can possibly interfere with the policy development and policy implementation activities ICANN performs in the global public interest, while making sure that ICANN remains accountable for all of its actions.

3. ICANN currently is more accountable to US jurisdiction than it is to others

The authorities of a country where an entity is based have a superior (and in many respects exclusive) claim to jurisdiction over the activities of that entity. For example, the territorial State is the one with exclusive enforcement jurisdiction, so that only the local enforcement agencies have the necessary authority to compel people in the country to comply with national laws and court rulings.⁽⁶⁾

That the United States is in a unique position to impose or enforce its own laws and regulations and domestic policies over ICANN, in ways that affect the Internet worldwide, is borne out by the fact that, in the draft report on jurisdiction submitted to the CCWG plenary on 11 October 2017, the US OFAC sanctions regime has been singled out as a major problem for ensuring ICANN’s impartial operations towards all stakeholders. The sanctions regime of no other country has been so singled out, nor could they be so, as sensibly interfering with the activities ICANN performs in the global public interest. Notice that ICANN is subject to the OFAC sanctions regime because (i) OFAC applies to US nationals (individuals or entities) and (ii) ICANN is incorporated under US laws, i.e. a legal entity possessing US nationality.

OFAC is just one example of a regime under US laws that applies to ICANN in a manner that can interfere with the functions and activities ICANN performs in the global public interest. As these functions and activities acquire greater importance in practically every sector of a country’s life, it

4.2.3 Choice of Venue Provisions in Registry Agreements

Under the RA, disputes are resolved by "binding arbitration," pursuant to ICC rules. The RA contains a choice of venue provision stating that the venue is Los Angeles, California as both the physical place and the seat of the arbitration. When entering into contracts with registries, ICANN could offer a list of possible venues for arbitration rather than imposing Los Angeles, California. The registry that enters into a registry agreement with ICANN could then choose which venue it prefers at or before the execution of the contract.

4.3 Further Discussions of Jurisdiction-Related Concerns (Suggestion)

There were a number of concerns raised in the sub-group where the sub-group had substantive discussions but did not get to a point of conclusion. As an example, there were discussions of limited, partial, relative, or tailored immunity for ICANN that did not come to conclusion.

These concerns were put on the table by different stakeholders, and for these stakeholders, these are legitimate concerns. As these concerns were not discussed to the end, there should be a path forward for these concerns beyond the CCWG-Accountability, which was tasked to look into a limited number of issues within a limited period of time and with a limited budget.

Therefore, the sub-group suggests that another multistakeholder process of some kind should be considered to allow for further consideration, and potentially resolution, of these concerns. We believe that this report, with its annexes, can be a very useful tool

is not unreasonable to assume that other US organs or regulatory bodies in each and every sector may exercise their powers of jurisdiction over ICANN in ways that influence ICANN's policy actions with consequences for the Internet in other countries.

4. The insufficiency of remedies that do not shield ICANN from US jurisdiction

For as long as ICANN remains a private law entity incorporated under US laws with no jurisdictional immunity for its core global governance functions, it will be subject to US jurisdiction in the ways described above, notably to US exclusive enforcement jurisdiction over activities and people within US territory in ways that can adversely affect the Internet worldwide. Hence, for ICANN to obtain "insulation from the vagaries of U.S. foreign policy or other laws and policies that would circumvent ICANN's accountability to its global MS community",⁽⁷⁾ it is necessary that it be granted immunity from US jurisdiction. This insulation, in turn, cannot be achieved through just the commitment of US enforcement agencies to exempt ICANN from specific and currently known regimes or measures that interfere with ICANN's activities, as will be the case, for example, if ICANN obtains a general license from OFAC. Apart from many other (non OFAC) existing US laws and regulatory regimes that can potentially impact on ICANN's global governance functions, new and unforeseen laws and policies that interfere with ICANN's activities can at any time be enacted and enforced by the country of incorporation.⁽⁸⁾

5. The need for ICANN's immunity from US jurisdiction

To remedy the state of affairs described above, where the United States is in a unique position to impose or enforce its own laws and regulations and policies over ICANN in ways that affect the Internet in other countries, it is necessary that ICANN obtain immunity from US jurisdiction. There is no obstacle preventing private organisations formed under the laws of one country, as ICANN currently is, to enjoy (be granted) jurisdictional immunities. If immunity is so granted, ICANN would still be an organisation incorporated under the laws of California, subject to California laws and to their corresponding accountability mechanisms with respect to such activities that may be expressly exempted from the immunity regime.

for further debates which will surely take place – whether in another cross-constituency effort or in a future ATRT Review, or in some other ICANN context. The appropriate forum for such discussions is beyond the mandate of the CCWG-Accountability; however, we encourage the community to build on the work of the sub-group and prior work in this area.

Further, in addition to the necessary exceptions to ICANN's immunity from US jurisdiction, which would thereby remain subject to the existing accountability mechanisms under US laws, all of ICANN's public global activities that will cease to be subject to the unilateral accountability mechanisms of the United States will, instead, be subject to the accountability mechanisms devised by the global multi-stakeholder community.

There are precedents of modern regimes of partial immunity, with a detailed set of exceptions as well as internal accountability mechanisms, applicable to private law entities, although strictly speaking no such precedent would be necessary for a suitable regime of immunity to be crafted.

For example, the ICRC (International Committee of the Red Cross) is a private association formed under the Swiss Civil Code, it draws its legal existence from the Swiss domestic legal order, it is subject to the laws of Switzerland, it is not an intergovernmental organisation. Yet it enjoys immunity from the local laws, subject to few exceptions (the basis for the ICRC's immunity is an agreement with Switzerland as well as Swiss laws). Further, where the ICRC enjoys jurisdictional immunity, it is immunity from adjudication and enforcement, and it can be waived at any time. Accordingly, it is not immunity from liability.

In the US, there would be at least one similar example, namely the International Fertilizer and Development Center (IFDC), whose immunity from US jurisdiction seems to have been obtained through a Presidential decree in 1977 under the US International Organizations Immunities Act. The IFDC would remain a US incorporated non-profit corporation employing relevant US laws for its internal governance functions that do not impinge on its global mandate.

6. Conclusion

Brazil considers that the draft report on jurisdiction submitted to the CCWG plenary on 11 October 2017 should have reflected the points identified above, as well as included recommendations to the effect that:

(i) ICANN shall obtain jurisdictional immunities from the United States, for example under the US International Organizations Immunities Act, except for such ICANN activities that do not directly interfere with the

management of Internet's global resources, which exceptions will inter alia enable US adjudication of claims related to ICANN's internal governance functions;

(ii) ICANN shall maintain and further develop accountability mechanisms not subject to the jurisdiction of any single government, through appropriate bottom-up multi-stakeholder policy development processes, to ensure that ICANN can be held liable especially for its activities that are immune from US jurisdiction.

Due to the draft report's failure to address such concerns which, in our view, occupied centre stage in the process that led to the launching of Work Stream 2, Brazil cannot support the draft report.

¹ The principle was spelled out by Mr. Bernard Turcotte at meeting #43 (23 August 2017) of the subgroup

on jurisdiction and guided the subsequent work of the subgroup.

² Statement by Mr. Greg Shatan at meeting #43 (23 August 2017) of the subgroup on jurisdiction. See also

statement by Mr. Bernard Turcotte at the same meeting: "Every time we get into detail of implementation,

we are, A, causing more work for ourselves. B, sometimes doing that work without the full context. So ...

let's describe what we're looking for. What's our objective? And, you know, let's be clear. I mean, if this

thing makes it through the entire process and is approved, ICANN is going to be bound to look into this

and say what it can and can't do."

³ See the statement by Mr. Nigel Robert on his email of 23 August 2017 (15:44:08 UTC), available at

<http://mm.icann.org/pipermail/ws2-jurisdiction/2017-August/001471.html>: "The concern that US organs

can possibly interfere with ICANN's ccTLD management is reasonable."

⁴ Ibid.

⁵ "During discussions around the transition process, the community raised the broader topic of the impact

of the change on ICANN's accountability given its historical contractual relationship with the United States

and NTIA. Accountability in this context is defined, according to the NETmundial multistakeholder

	<p>statement, as the existence of mechanisms for independent checks and balances as well as for review and redress. The concerns raised during these discussions around the transition process indicate that the existing ICANN accountability mechanisms do not yet meet stakeholder expectations."</p> <p>Work Stream 2</p> <p>Charter, section II, problem statement.</p> <p>⁶ In the case of ICANN, if the argument is made that any country in the world could pass legislation or judgments to interfere with ICANN's core functions which are performed in US territory, the enforcement of any such legislation or judgment would still need go through action of US enforcement agencies. In other words, US organs would have to consent to them, and US organs themselves would have to carry out or enforce the required action at the request of other countries' organs. For example, in the absence of treaties agreed on by the United States, US courts would have first to recognise foreign judgments against ICANN, in exequatur proceedings, for them to be enforceable within the US, and their execution would have to be carried out through US organs.</p> <p>⁷ According to Professor Milton Mueller, who is a participant in the subgroup on Jurisdiction, "[w]hat we need is ... insulation from the vagaries of U.S. foreign policy or other laws and policies that would circumvent ICANN's accountability to its global MS community." (http://mm.icann.org/pipermail/ws2-jurisdiction/2017-August/001391.html)</p> <p>⁸ One historical example of such new legislations enacted by the US which affected the dealings of US nationals (citizens and entities) with foreign countries is the Cuban Liberty and Democratic Solidarity [Libertad] Act of 1996, also known as Helms–Burton Act.</p> <p>Public comments on the draft CCWG proposals were submitted by:</p>
--	---

Russian Federation¹⁵

Russian Federation welcomes the opportunity to comment the report “[Draft Recommendations on Jurisdiction](#)”. We would like to thank all participants of the Subgroup for their efforts and inputs to the report.

First of all, we would like to notice support of recommendations related to the choice of law and venues, which provide flexibility of law provisions in registry and registrar contracts. Recommendations that are to make ICANN to take any steps to reduce the effect of OFAC sanctions against foreign governments are noted with appreciation as well, but can be recognized only as a first attempts to handle the multi-layer objective of ICANN jurisdiction challenges.

We support the inclusion of Annexes with the dissenting opinion of Brazil and the proposed issues list, which was supported by stakeholders during ICANN 60 and provide rich food for further work.

At the same time we would like to express our major concerns, which have been early presented during broad discussion of ICANN jurisdiction issues, including public session at ICANN 60. We believe that report falls short of the objectives envisaged for Work Stream 2, and that its recommendations only partly mitigate the risks associated with ICANN's subjection to U.S. jurisdiction, which makes the adoption of the report unacceptable. This is the position of several governments reflected in [GAC Communiqué \(ICANN 60, Abu-Dhabi\)](#)¹⁶.

Taking in account the high risk that OFAC sanctions against foreign governments would harm large number of ordinary Internet users and businesses in sanctioned countries, we consider the recommendations proposed by the Subgroup for the corresponding ICANN actions are limited in the ability to tackle possible negative effects since the principle of «best efforts» provides no guarantee that ICANN would be able to adequately address the problem.

¹⁵ <https://mm.icann.org/pipermail/comments-jurisdiction-recs-14nov17/2018q1/date.html>

¹⁶ https://gacweb.icann.org/download/attachments/27132037/GAC%20ICANN60%20Communique_Final.pdf?version=5&modificationDate=1511302067000&api=v2

Russian Federation would like to suggest the Subgroup to continue to engage with development of relevant recommendations including broader types of immunity from US jurisdiction that could prevent ICANN from being subject to unilateral political or regulatory interference.

As well as to consider the option of withdrawing ICANN from US jurisdiction either partially or completely, including Brazil proposals on the issue of partial immunity as a solution when all issues relating to the national interests of States and interstate issues are addressed in the event of a conflict in international jurisdiction.

We believe that if the Subgroup did not constrain the proposed recommendations due to restrictions of US jurisdiction as a basic condition, it would allow to work out a more comprehensive solution for jurisdiction issues based on more options, which can possibly find wider choice of solutions, taking into consideration that larger number of issues been identified by the Sub-group in the [List of Proposed Issues for Jurisdiction Subgroup Consideration](#)¹⁷. It would be useful to continue the work of the Subgroup or other appropriate group or process that should be established for continuation of this work with analysis of these issues. Besides issues, referenced in this list, we recommend to examine the issue of sustainability of PTI being based in the same jurisdiction as ICANN, as a critical point for stability of Internet technical and operation system. Russian Federation proposes to ICANN leadership and broader ICANN communities to support and encourage a wider participation of international legal teams balancing the formed majority of US-based expertise.

We believe that it would be useful if final recommendations will based on the following principles:

Independence: to exclude any unilateral interference with the functioning of the Internet critical infrastructure and/or the operating activity of ICANN and to prevent erosion of the rights and obligations defined by the mandate;

Sustainability: to have a high degree of stability and to eliminate the possibility of the impact by short-term international or national factors;

¹⁷<https://docs.google.com/spreadsheets/d/1zAMj3Oz8TEqbjauOyqt09Ef-1ada9TrC7i60Mk-7a14/edit#gid=0>

Trust: legitimacy of any legal governance and dispute resolution systems depends on the degree of trust of the participants for the process, decisions and outcomes, therefore, recommendations transparency, accountability, subsidiarity and impartiality of solutions suggested for ICANN jurisdiction should be ensured;

Universality: to incorporate international experience of regulation and enforcement in high level operation and management of Internet. First of all, adequate mechanisms should be proposed to protect the interests of Internet users in case of sanctions.

Russian Federation realizes that the ability of ICANN to fulfill its mission as a global DNS coordinator and policy maker of the Internet potentially contradicts the need to follow the requirements of the national legislation of a single state.

We also see contradictions with major international consensus like for example Tunis Agenda for the Information Society, which have stated that countries should not be involved in decisions regarding another country's country-code Top-Level Domain.

Collisions could negatively affect the atmosphere of trust for DNS services as well as the security and connectivity of the global Internet. Having a unique status, protecting public interests, ICANN can offer more acceptable mechanisms of immunity as a solution to this problem, more effective than working on the principle of "best efforts" in case of sanctions. Any participants of the ICANN work processes should not be obliged to follow OFAC sanctions only because they have a contract with ICANN. ICANN should always commit to the policy of non-discriminatory attitude to all parties involved in the process of coordination and development of the world-wide Internet.

Italy¹⁸

Italy welcomes the possibility to provide comments in response to the Jurisdiction Sub-Group Recommendations and wants to thank the Jurisdiction Sub-group members for their valuable work.

¹⁸ <https://mm.icann.org/pipermail/comments-jurisdiction-recs-14nov17/2018q1/date.html>

Italy reaffirms that all Governments should have an equal role and responsibility for international Internet governance and for ensuring the stability, security and continuity of the Internet (Art. 68 of Tunis Agenda). Conflicts of jurisdiction on the Internet might have implications with respect to the "EU acquis", e.g. as regards data protection and geographical indications.

ICANN is the administrator of a global resource, so we will support any solution that ensure that its functioning should not be biased by the jurisdiction of the hosting country. Furthermore, we believe that the future jurisdiction and applicable laws should safeguard the application of principles enshrined in the international conventions in Private International and Procedural Law.

Concerning the draft recommendations please find below our comments:

- We believe that the "status quo" option will not be a proper solution for the future, given the past experiences with regard to the New gTLDs Program.
- Implementing the "California approach" could eventually create a sort of undesirable hierarchy among jurisdictions.
- We express some concerns regarding the other three options too. A system with a clear legal framework is needed to implement them which has not been defined properly yet.

Special reference also needs to be made to Child Protection. There is a concern about any move away from the present arrangements if that would permit or encourage future Registries to engage in "venue shopping" in search of a jurisdiction with materially lower standards of child protection laws or regulations, or materially weaker mechanisms to enforce compliance of hitherto widely accepted standards. Therefore, ICANN should make clear that, irrespective of the choice of jurisdiction, in all relevant circumstances the terms of the UN Convention on the Rights of the Child must be met or exceeded.

In conclusion, Italy believes that further considerations and discussions are required before the approval of any options.

France¹⁹

The French government thanks the sub-group in charge of the jurisdiction for the many efforts made to advance this crucial issue to strengthen the accountability of ICANN to the entire multi-stakeholder community. Since its launch in June 2016, the Jurisdiction sub-group has had deep disagreements among members, which reflect a wide divergence of views on the group's mandate, its objectives and the scope of possible solutions.

Although the proposals of the ICANN Jurisdiction Report go in the right direction, the French Government believes that they will not be sufficient to truly address the issues raised by the unilateral exercise of a particular jurisdiction over a particular jurisdiction. organization whose mandate is to manage a global common good, the system of domain names.

Currently, ICANN is an entity under US law, which has many implications for ICANN's accountability to equality between different stakeholders. Indeed, this status implies that ICANN's activities remain governed by the right of only one State, that of the United States, and that US jurisdictions have jurisdiction ex officio. However, the goal of improving ICANN's accountability to the entire Internet community means that its legal accountability to all stakeholders without any one being favored over another and no country in the world. particular, directly or indirectly, in the full realization by ICANN of its global public.

Given the strong divergences within the sub-working group, the French government encourages members to explore new avenues, in particular proposing to introduce immunities, in particular partial immunities, from jurisdiction to ICANN in order to guarantee its autonomy and its accountability to the entire global Internet community.

Denmark²⁰

¹⁹ <https://mm.icann.org/pipermail/comments-jurisdiction-recs-14nov17/2018q1/date.html>

²⁰ <https://mm.icann.org/pipermail/comments-jurisdiction-recs-14nov17/2017q4/date.html>

	<p>Denmark welcomes the opportunity to comment on the recommendations contained in the above-mentioned document. We would like to thank all participants in the sub-group and in the CCWG for their dedication to developing recommendations on this difficult and important subject on jurisdiction.</p> <p>Denmark supports the proposals contained in the document. We attach specific importance to the recommendations regarding choice of law and choice of venue provisions.</p> <p>We favour a menu approach composed of a small number of countries from each ICANN Geographic Region concerning the governing law of contracts, as this will be a benefit for registries and registrars in concluding contracts with ICANN. In this way, it will contribute to ICANN accountability and in ICANN serving global internet community. The same goes for the choice of venue in registry agreements.</p> <p>In the document on page 24, it is stated: "The method of "choosing" from the menu also needs to be considered. The registry could simply be able to make a choice from the menu, or it could be part of the registry's negotiations with ICANN." Denmark finds that if a menu approach is implemented, it is important that the weak party, i.e. registry or registrar, freely can choose the applicable law and venue, and that it is not left to the parties to negotiate since ICANN is the only one that registries and registrars can enter into contract with. We suggest that this will be reflected in the final recommendation on jurisdiction.</p> <p>Denmark is committed to participating in the continued work of the CCWG Accountability and its sub-groups.</p>
5 ICANN Office of the Ombudsman (IOO)	
Final report pp 12, 25 & Annexes 5.1 & 5.2	Not substantively discussed by GAC. Not included in any Communiques. No public comments submitted by governments.

6 SO/AC Accountability	
<p>Each SO/AC/Group should implement these Good Practices, to the extent these practices are applicable and an improvement over present practices. It is not recommended that implementation of these practices be required. Nor is it recommended that any changes be made to the ICANN Bylaws. It should be noted that the Operational Standards for periodic Organizational Reviews conducted by ICANN could include an assessment of Good Practices implementation in the AC/SO subject to the review.</p> <p>6.1 Accountability</p> <p>6.1.1 SO/AC/Groups should document their decision-making methods, indicating any presiding officers, decision-making bodies, and whether decisions are binding or nonbinding.</p> <p>6.1.2 SO/AC/Groups should document their procedures for members to challenge the process used for an election or formal decision.</p> <p>6.1.3 SO/AC/Groups should document their procedures for non-members to challenge decisions regarding their eligibility to become a member.</p> <p>6.1.4 SO/AC/Groups should document unwritten procedures and customs that have been developed in the course of practice, and make them part of their procedural operation documents, charters, and/or bylaws.</p> <p>6.1.5 Each year, SO/AC/Groups should publish a brief report on what they have done during the prior year to improve accountability, transparency, and participation, describe where they might have fallen short, and any plans for future improvements.</p> <p>6.1.6 Each Empowered Community (EC) Decisional Participant should publicly disclose any decision it submits to the EC. Publication should include description of processes followed to reach the decision.</p> <p>6.1.7 Links to SO/AC transparency and accountability (policies, procedures, and documented practices) should be available from ICANN's main website, under "accountability." ICANN staff would have the responsibility to maintain those links on the ICANN website.</p> <p>6.2 Transparency</p>	<p>Not substantively discussed by GAC. Not included in any Communiqués. No public comments submitted by governments.</p>

6.2.1 Charter and operating guidelines should be published on a public webpage and updated whenever changes are made.

6.2.2 Members of the SO/AC/Group should be listed on a public webpage.

6.2.3 Officers of the SO/AC/Group should be listed on a public webpage.

6.2.4 Meetings and calls of SO/AC/Groups should normally be open to public observation. When a meeting is determined to be members-only, that should be explained publicly, giving specific reasons for holding a closed meeting. Examples of appropriate reasons include discussion of confidential topics such as:

6.2.4.1 Trade secrets or sensitive commercial information whose disclosure would cause harm to a person or organization's legitimate commercial or financial interests or competitive position.

6.2.4.2 Internal strategic planning whose disclosure would likely compromise the efficacy of the chosen course.

6.2.4.3 Information whose disclosure would constitute an invasion of personal privacy, such as medical records.

6.2.4.4 Information whose disclosure has the potential to harm the security and stability of the Internet.

6.2.4.5 Information that, if disclosed, would be likely to endanger the life, health, or safety of any individual or materially prejudice the administration of justice.

6.2.5 Records of open meetings should be made publicly available. Records include notes, minutes, recordings, transcripts, and chat, as applicable.

6.2.6 Records of closed meetings should be made available to members, and may be made publicly available at the discretion of the AC/SO/Group. Records include notes, minutes, recordings, transcripts, and chat, as applicable.

6.2.7 Filed comments and correspondence with ICANN should be published and publicly available.

6.3 Participation

6.3.1 Rules of eligibility and criteria for membership should be clearly outlined in the bylaws or in operational procedures.

6.3.2 Where membership must be applied for, the process of application and eligibility criteria should be publicly available.

6.3.3 Where membership must be applied for, there should be a process of appeal when application for membership is rejected.
 6.3.4 An SO/AC/Group that elects its officers should consider term limits.
 6.3.5 A publicly visible mailing list should be in place.
 6.3.6 If ICANN were to expand the list of languages that it supports, this support should also be made available to SO/AC/Groups.
 6.3.7 A glossary for explaining acronyms used by SO/AC/Groups is recommended.

6.4 Outreach

6.4.1 Each SO/AC/Group should publish newsletters or other communications that can help eligible non-members to understand the benefits and process of becoming a member.
 6.4.2 Each SO/AC/Group should maintain a publicly accessible website/wiki page to advertise their outreach events and opportunities.
 6.4.3 Each SO/AC/Group should create a committee (of appropriate size) to manage outreach programs to attract additional eligible members, particularly from parts of their targeted community that may not be adequately participating.
 6.4.4 Outreach objectives and potential activities should be mentioned in SO/AC/Group bylaws, charter, or procedures.
 6.4.5 Each SO/AC/Group should have a strategy for outreach to parts of their targeted community that may not be significantly participating at the time, while also seeking diversity within membership.

6.5 Updates to Policies and Procedures

6.5.1 Each SO/AC/Group should review its policies and procedures at regular intervals and make changes to operational procedures and charter as indicated by the review.
 6.5.2 Members of SO/AC/Groups should be involved in reviews of policies and procedures and should approve any revisions.
 6.5.3 Internal reviews of SO/AC/Group policies and procedures should not be prolonged for more than one year, and temporary measures should be considered if the review extends longer.

<p>6.6 Mutual Accountability Roundtable</p> <p>6.6.1 It is recommended that the Mutual Accountability Roundtable not be implemented.</p> <p>6.7 Should Independent Review Process (IRP) be applied to SO/AC activities?</p> <p>6.7.1 The IRP should not be made applicable to activities of SO/AC/Groups. The appropriate mechanism for individuals to challenge an SO/AC action or inaction is through ICANN's Ombuds Office, whose bylaws and charter are adequate to handle such complaints.</p>	
<p>Staff Accountability</p>	
<p>Final Report pp 14, 31 & Annex 7</p>	<p>Not substantively discussed by GAC. Not included in any Communiques. No public comments submitted by governments.</p>
<p>Transparency</p>	
<p>8.1 Improving ICANN's Documentary Information Disclosure Policy (DIDP), 8.3 Transparency of Board Deliberations & 8.4 Whistleblower Policy</p> <p>Final Report pp 14, 33 & Annexes 8.1 & 8.2</p> <p>8.2 Documenting and Reporting on ICANNs Interactions with Governments</p> <p>8.2.1 In the interest of providing the community greater clarity with regard to how ICANN engages government stakeholders and to ensure that the ICANN Community and, if necessary, the Empowered Community is fully aware of ICANN's interactions with governments, the CCWG-Accountability recommends that ICANN begin disclosing publicly the following (notwithstanding any contractual confidentiality provisions) on at least a yearly (but no more than quarterly) basis with regard to expenditures over \$20,000 per year devoted to "political activities," both in the U.S. and abroad:</p> <p>8.2.1.1 All expenditures on an itemized basis by ICANN both for outside contractors and internal personnel.</p> <p>8.2.1.2 All identities of those engaging in such activities, both internal and external, on behalf of ICANN.</p>	<p>Not substantively discussed by GAC. Not included in any Communiques. No public comments submitted by governments.</p>

- 8.2.1.3 The type(s) of engagement used for such activities.
- 8.2.1.4 To whom the engagement and supporting materials are targeted.
- 8.2.1.5 The topic(s) discussed (with relative specificity).

Implementation Guidance re Recommendation 8.2

Note - This recommendation needs to be consistent with DIDP [ICANN Documentary Information Disclosure Policy] exceptions, specifically the exception which states:

Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party (note - the WS2 Transparency recommendations for DIDP did not mention or modify this exception which is currently included in the DIDP and as such it would be expected to stand).

The above discussion of DIDP policies is by way of explanation, and does not expand the application of this policy.

Overall one must recognize that ICANN is a critical actor in the DNS and has significant expertise in the area. ICANN's corporate objectives include a number of activities and programs to share this expertise with all interested parties including governments.

As such any activities where ICANN is presenting information which is publicly available or which is part of formally published ICANN position on a subject through training programs, conferences or individual meetings should not be required to be disclosed beyond the reports which are currently published by ICANN and reports regarding bilateral conversations with governments.

Note: Reporting on bilateral conversations can be found in the ICANN Quarterly Reports. Additional information on specifics of these reports can be requested via the DIDP subject to the stated exceptions. An example of such

a report can be found at
<https://www.icann.org/en/system/files/files/quarterly-report-08may18-en.pdf> page 29

To further facilitate the community's understanding of ICANN's objectives in discussions with governments it should publish an annual Government Engagement Strategy which should describe the focus of its interactions with governments for the coming year. This document should be derived from existing documentation including but not limited to annual planning, CEO reports to the Board and correspondence with the GAC.

