

# **Background for Discussions with ICANN**

**Richard Hill, ITU TSB, 9 August 2002**

## **1. Summary**

The Internet Corporation for Assigned Names and Numbers (ICANN)<sup>1</sup> performs a number of tasks critical for the good functioning of the Internet. Recently, ICANN has initiated a reform process and has invited comments on reform proposals.<sup>2</sup>

Mr Houlin Zhao, Director of the ITU-T Telecommunications Standardization Bureau (TSB) has offered<sup>3</sup> to engage in discussions with ICANN to explore ways in which ITU could increase its current cooperation with ICANN in order to help ICANN carry out the reforms it envisages. This initiative by Mr Zhao has been unanimously approved by the ITU's Member States<sup>4</sup>.

The intent of this paper is to provide background material to facilitate discussions between ICANN and ITU. This paper is a strawman for discussion: it is understood that specific requests should come from ICANN or be raised during the discussions of reform, and the details would have to be agreed and approved through the normal consultation and decision-making processes of both organizations.

## **2. ICANN's Functions and its Reform**

ICANN is a not-for-profit corporation established under the laws of the State of California, in the United States of America (USA). It operates under the framework of a Memorandum of Understanding (MoU) with the US Department of Commerce (DoC)<sup>5</sup>. ICANN currently performs a number of critical tasks related to the management of Internet names and addresses. Those tasks have been described in various statements, which are summarized below. Further detail of the statements is contained in Annex 1.

Stuart Lynn's 24 February paper "The Case for Reform" states that, while ICANN has had some successes, continued success would require a greater degree of government involvement. Mr. Lynn calls for a public-private partnership, rooted in the private sector, but with the active backing and participation of national governments. Mr. Lynn states that traditional international treaty organizations, such as the ITU, have shortcomings but does not detail those shortcomings. He states that ICANN's Government Advisory Committee (GAC) has not been sufficiently effective. He states that each of ICANN's accomplishments to date have depended on government support.

The 10 March 2002 staff paper "What ICANN Does" states the ICANN is responsible for coordination of Internet identifiers, and that this role includes both operational and policymaking functions. These functions include requests related to ccTLDs, in particular re-delegation requests, and policy coordination for security for the DNS infrastructure. It also states that ICANN is responsible for developing and implementing policies related to each of its operational functions.

The 20 June 2002 "Blueprint for Reform" states that ICANN has three roles: technical coordination, operational, and policy. It states that the policy role is a global role. However, policy development should be limited to that reasonable to enable ICANN to fulfill its mission. It states that, while consensus-driven policy making is preferable, other approaches may be used as necessary to

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<sup>1</sup> <http://www.icann.org>

<sup>2</sup> <http://www.icann.org/committees/evol-reform/links.htm>

<sup>3</sup> <http://www.itu.int/ITU-T/tsb-director/itut-icann/index.html>

<sup>4</sup> See Section 2 of Council document C02/92 at <http://www.itu.int/md/meetingdoc.asp?type=sitems&lang=e&parent=S02-CL-C-0092>

<sup>5</sup> <http://www.ntia.doc.gov/ntiahome/domainname/icann-memorandum.htm>.

accomplish ICANN's mission. It recognizes that expert advice from external sources could be of help to the Board for specific issues.

### **3. Discussion**

The basic starting point of all three papers quoted above (as well as of many other papers on the topic of ICANN reform) is *"if not ICANN, then who else?"* From the ITU's point of view, we would state the question differently, that is *"how can ICANN and ITU best work together?"*

Both the staff papers and Mr. Lynn's paper state that traditional international treaty organizations such as ITU have significant shortcomings that make them less attractive than ICANN. It would be worthwhile to engage in a detailed discussion of what those perceived shortcomings are, since, from the ITU's perspective, the traditional organizations also have significant qualities that could complement ICANN and be used to help ICANN to achieve its mission.

Indeed, there is lingering misperception and misunderstanding of ITU's mission, functions, powers, and operating methods. These misperceptions are derived in part from the tensions related to OSI vs. TCP/IP of 15 years ago, and in part from the role that ITU had, also 15 years ago, in facilitating discussions on international telephone rates. But today's ITU is significantly different, because it has responded—at the request of its constituency—to the significant changes in the telecommunications sector, notably privatization and deregulation.

ITU-T is a government-industry partnership that uses bottoms-up processes to develop consensus, non-binding recommendations. Its processes are very efficient and effective, even when compared to organizations such as the IETF. ITU-T Recommendations form the basis for all modern telecommunications, including the physical layer and local-loop without which there would be no access to the Internet. Other ITU-T Recommendations are essential for modern electronic business methods: for example PKI security is based on ITU-T Recommendation X.509.

It is worth noting that ITU-T comprises two separate activities. Meetings of experts agree Recommendations. These are published by the ITU-T secretariat, called the Telecommunications Standardization Bureau (TSB). TSB also performs administrative tasks specified in certain Recommendations, for example maintaining the database of international telephone codes.

Similarly, it is important to note that ICANN should clearly distinguish its role in facilitating the process of formation of consensus decisions from its role in carrying out administrative functions as called for by consensus decisions. That is, the "secretariat" role of ICANN should be distinguished from what the ICANN staff has called its "policymaking" role. This distinction will become increasingly important as the decisions that ICANN is called to make become increasingly complex and of interest to governments.

The staff paper cited above identifies two major tasks for ICANN: operational and policy. The Blueprint adds a third task: coordination. Lynn's original paper emphasized the need for government involvement.

The ITU does not have any operational tasks, so there is no possible overlap or conflict with ICANN in that area, not even for operation of the ".int" registry.

With respect to policymaking, from the ITU's perspective Lynn's emphasis on the role of governments appears appropriate, and more likely to succeed than the approaches taken subsequently by the staff and in the Blueprint. As Lynn noted, ICANN policies have, to date, been successful only when backed by governments (the US government in particular) or when they have been heavily influenced by traditional intergovernmental consultation processes (the UDRP, which was largely developed by WIPO). As more and more governments recognize that the Internet is a critical public infrastructure, governments are likely to wish to exert an increasing level of oversight on the public-interest aspects of ICANN's policies. This must be recognized and accommodated if a reformed ICANN is to be successful.

From the ITU's point of view, the conclusions drawn by Mr. Lynn would appear appropriate. One of the tasks of governments is to protect the public interest and, to the extent that ICANN makes decisions that have public policy implications, governments must be involved, in partnership with the private sector (which includes civil society).

This private-public partnership would strengthen ICANN and allow it to continue to perform its functions, which are widely seen to be critical for the good functioning of the Internet.

The ITU can play a role in helping ICANN to build a private-public partnership that would allow all of the world's governments to participate in an appropriate way, while recognizing the importance of private sector leadership. It was in that spirit that the Director of TSB, Mr. Zhao, commented on ICANN reform.

ITU supports ICANN's work. Neither ICANN alone, nor ITU alone, can solve all of ICANN's current problems. But ICANN and ITU working together could solve many of the current problems.

However, the subsequent positions taken by the ICANN staff and by ICANN's Evolution and Reform Committee would appear to raise certain reservations from the point of view of certain governments, GAC, and ITU. See Annex 2.

#### **4. Proposals**

**What follows constitutes initial thoughts for discussion (a strawman), not final proposals. Any actual proposals would have to be agreed by both ICANN and ITU using their respective normal decision-making processes.**

As noted above, it would appear that neither ICANN alone, nor ITU alone, could address successfully all of the issues that ICANN must face. As Stuart Lynn argued in his initial paper, ICANN needs government involvement. ITU-T can provide an **appropriate** level of government involvement, that is, one that recognizes the leadership role of the private sector and one that does not seek to impose government control on ICANN.

As noted above, we suggest re-formulating the question "*if not ICANN, then who else?*" to "*how can ICANN, ITU, and others work together?*". ICANN could benefit from ITU-T's proven processes, procedures, and expertise in certain areas.

This would not imply any "hand over" by ICANN to ITU-T or any loss of control. The basic principle of the proposals in this paper is to find ways in which ITU could offer non-binding advice to ICANN, just as it does for the rest of the telecommunications sector worldwide. ITU would not be involved in operational matters, but could provide input to ICANN with respect to policy matters of interest to governments.

**A detailed review of the perceived shortcomings of ITU would be welcome.**

The following sub-clauses of this section present an outline of proposals for the issues listed above.

##### **4.1 Policies and Procedures for .int**

ICANN currently administers the ".int" domain. The ITU receives complaints from time to time from international treaty organizations that do not understand the rules that ICANN uses to assign names in ".int".

Since the ".int" domain name is reserved for intergovernmental treaty organizations, ITU-T could assist ICANN by developing internationally agreed principles and procedures for the administration of the "int" domain.

Specifically, the process of preparing an ITU-T Recommendation for the administration of ".int" could be initiated. It should be stressed that the end-result, namely the Recommendation, would not

be binding on ICANN: any private-sector company can choose to ignore any ITU-T Recommendation.

## **4.2 Issues related to .arpa**

The fact that the ".arpa" domain is perceived to be controlled by US entities (whether ICANN through IANA or IAB through ISOC) has created some very serious concerns regarding the implementation of the ENUM protocol.

Such concerns could be mitigated if it were to be accepted formally that ITU-T should play some role, to be discussed and agreed, in the formal control of the ".arpa" domain and its sub-domains, in particular "e164.arpa". That is, some consideration could be given to the development of some form of formal assurances that the concerned entities would not unilaterally take steps considered to be inconsistent with sovereign national rights.

Such assurances might take the form of an exchange of letters between ICANN and TSB, or the form of an ITU-T Recommendation which ICANN would then formally approve and adopt. Development of such a Recommendation would best be initiated by ICANN itself.

## **4.3 Re-delegation of ccTLDs when the Administrative Contact is not In-Country**

The ITU regularly receives complaints from countries in cases where the administrative contact for "their" ccTLD is located outside the country. It appears that ICANN is reluctant to take action in such cases for a number of reasons, including the fact that it has no way of knowing who really represents a country's government and the fact that the current ccTLD administrator might be able to initiate legal action against ICANN in US courts.

It is proposed that ICANN could request the ITU-T to analyze the situation and to make proposals so that the ITU's (or the US's) sovereign immunity could be used to assist in the process of re-delegating "high-jacked" ccTLDs. As part of the process, there would have to be a clear definition of what constitutes an "illegitimate" "off-shore" delegation, as opposed to one fully approved by the concerned government ("tv" is a well-known example of an approved "off-shore" delegation).

At a minimum, ITU-T could assist ICANN by "authenticating" letters to ICANN that purport to come from national governments (this is the same role that ITU-T plays for ENUM<sup>6</sup>).

## **4.4 ICP-1 and the Role of Governments in ccTLD Re-delegations.**

While there are many ITU Member States who either are or have ccTLD operators under what they consider to be an appropriate level of control, there are other Member States who are not satisfied with their level of control of their "ccTLD" manager. Conversely, while there are many ccTLD operators who have good relations with their governments, there are some instances of tensions between ccTLD operators and governments.

ccTLD operators have expressed in a number of ways and in a number of forums<sup>7</sup> their unease over the fact that ICP-1 (and its predecessors, including RFC 1591) were formally agreed without formal consultation with the operators themselves.

It is proposed that a process could be initiated to create an ITU-T Recommendation covering portions of ICP-1. ccTLD operators, governments, ICANN itself, and all other interested parties would cooperate to agree this Recommendation. Again, the Recommendation would not be binding on ICANN.

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<sup>6</sup> <http://www.itu.int/ITU-T/inr/enum/index.html>

<sup>7</sup> See for example <http://forum.icann.org/reform-comments/general/msg00135.html> and <http://www.centri.org/news/CENTR-ICANN-statement.html>

## 4.5 Issues related to gTLDs

There are calls from various quarters, including the US government<sup>8</sup>, for increasing the number of gTLDs. But other quarters argue against that increase. As ICANN's New TLD Evaluation Process Planning Task Force has pointed out<sup>9</sup>, there are a number of unanswered questions. Some of the questions fall outside the scope of ITU, some do not.

It is proposed that a process could be initiated to create a high-level ITU-T Recommendation (along the lines of E.190) covering the general principles that should guide gTLD creation. This Recommendation would **not** cover all the issues, only some of them. Again, it would not be binding on ICANN. Work on such a Recommendation would best be initiated by ICANN itself.

## 4.6 Interactions between the ICANN Board and GAC

As clearly indicated in the 26 June GAC Statement on Reform<sup>10</sup>, the governments represented in GAC have somewhat differing views concerning their role and the nature of the interactions between GAC and the ICANN Board. On the basis of the discussions that have taken place within ITU, it is safe to say that the divergence of views on this topic is even greater amongst the governments represented in ITU.

There does not seem to be much concern with GAC's role as an advisory body and this role is considered valuable. ITU has contributed to the work of GAC from its inception and plans to continue to do so. But GAC is not a body that is (or can be) formally recognized by a majority of the world's governments. Thus GAC cannot, on its own, provide sufficient government input to ICANN. ITU-T could provide additional government input without affecting the private-sector nature of ICANN.

It could be productive to explore ways of further formalizing the relations between ICANN and ITU, which might lead to a clarification of the nature of the interactions between governments and ICANN.

## 4.7 Increasing Participation of Developing Countries

While several developing countries participate in ICANN in various ways (ccTLD, GAC, etc.), there are many developing countries who have a low level of awareness of ICANN's activities. ICANN has addressed this issue making several efforts to increase the involvement of developing countries (efforts called "outreach" by ICANN).

However, these efforts involve very significant costs and staff effort.

Both ITU-T and ITU-D have ongoing relations with all developing countries and ITU maintains field offices in several countries. These resources could be used to increase the participation of developing countries.

Specifically, ICANN could ask the Director of ITU-T to:

1. Issue a circular calling attention to ICANN's procedures for ccTLD re-delegation<sup>11</sup>.
2. Issue a circular calling attention to ICANN's procedures for reserving country names in the ".info" domain.

In addition, the Director of ITU-T, in cooperation with the ITU-D, could::

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<sup>8</sup> <http://www.icann.org/correspondence/doc-to-icann-25may01.htm>

<sup>9</sup> <http://www.icann.org/committees/ntepptf/final-report-31jul02.htm>

<sup>10</sup> <http://www.icann.org/committees/gac/statement-on-reform-26jun02.htm>

<sup>11</sup> <http://www.iana.org/cctld/redelegation-overview-19jun02.htm>

3. Organize information sessions, workshops, and seminars in developing countries on topics related to the deployment, operation, and governance of IP-based networks and IP-based services ("IP-based networks and IP-based services" is the terminology used within ITU for what is commonly called "the Internet").

#### **4.8 Issues related to IP addresses**

The RIRs currently perform IP address allocation in accordance with policies developed by the RIRs themselves. Although there is general satisfaction with the RIRs' performance, some questions have been raised with respect to a perceived regional imbalance of IPv4 address allocation, and with respect to future policies for IPv6 address allocation.

It is proposed that the RIRs, the IETF, ITU members, ICANN, and other interested parties could cooperate to agree a high-level ITU-T Recommendation (along the lines of E.190) covering the general principles that should guide IP address allocation. This Recommendation would **not** cover all the issues, only some of them. Again, it would not be binding on ICANN or the RIRs. Work on such a Recommendation would best be initiated by the RIRs themselves.

#### **4.9 GAC Secretariat**

Various scenarios for the long-term future of the GAC Secretariat have been made and are being discussed.

The ITU-T has offered to provide, at no cost to ICANN or to ITU Member States, the basic administrative secretariat function for GAC (that is, taking minutes of meetings at which ITU is present and maintaining the GAC web site). There would be no incremental cost for these activities because ITU staff attend GAC meetings (in principle) and typically take notes at those meetings; also, the small size and simple nature of the GAC web site means that it could be maintained by the ITU webmasters with no real increase in their workload.

### **5. Conclusions**

By working with ITU-T on selected topics, ICANN could address a number of issues that are currently open. As a result of this cooperation, ICANN would remain faithful to the principle of private sector leadership while recognizing the important role of governments as representatives of the public interest.

One or two specific areas could be identified to use as pilots or trials for increased cooperation.

## **Annex 1: Citations from ICANN Documents**

### **1. Stuart Lynn's "The Case for Reform"**

The descriptions cited above differ in some respects from the initial proposals made by ICANN President Stuart Lynn. We cite from Mr. Lynn's 24 February 2002 paper "ICANN – The Case for Reform"<sup>12</sup>:

1. I have come to the conclusion that the original concept of a purely private sector body, based on consensus and consent, has been shown to be impractical.
2. ... this reform must replace ICANN's unstable institutional foundations with an effective public-private partnership, rooted in the private sector but with the active backing and participation of national governments.
3. The United Nations, the World Trade Organization, and the International Telecommunications Union are all complex and sometimes effective organizations within their respective realms; however, each model has deep and evident shortcomings which in the Internet environment would render it a worse alternative than a reformed ICANN.
4. ICANN's mission is effective management and coordination of those few, higher-level elements of the Internet's naming and address allocation systems that require or benefit from global management and coordination, while abstaining from actions that might interfere with the creativity and innovation that has made the Internet such a dynamic resource. ICANN's mission is stewardship and operational stability, not the defense of its existence or the preservation of the status quo.
5. I am now convinced that the original desire to avoid a totally governmental takeover of the IANA functions led to an overreaction - the choice of a totally private model. With three years' experience, it is clear that model is simply not workable. ... ICANN currently has an advisory committee to channel governmental input, but that mechanism has not effectively integrated the views or the influence of governments; we must find a better way.
6. What is needed at this stage if ICANN is to carry out its mission is neither a totally private nor a totally governmental solution, but rather a well-balanced public-private partnership.
7. ICANN has gone about as far as it can go without significant additional participation and backing from national governments.
8. ... active national government participation in ICANN is critical to its success.
9. Today, the Governmental Advisory Committee is the only formal mechanism for governmental input into ICANN. Despite significant effort by many of its members, it has been only a minimally acceptable vehicle, partly because of a lack of adequate commitments by the world's governments and partly because of the Internet community's own ambivalent attitudes (reflected in the attitude of ICANN, which is a composite of that community) towards government involvement. In addition, while all governments are invited to participate, the existence of the GAC has not generated the scope of governmental participation and commitment that is necessary for ICANN's long-term success.
10. Appropriate national government participation would contribute greatly to the success of ICANN in at least two ways. First, it could provide the public interest accountability that all agree should be a part of any global ICANN-like organization. Second, it would increase the likelihood that governments would more effectively encourage the participation of their national citizens and entities that is critical for ICANN's success.

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<sup>12</sup> <http://www.icann.org/general/lynn-reform-proposal-24feb02.htm>

11. If one thing is clear from the past three years, it is that a purely private entity that must depend on the voluntary cooperation of many other entities is not likely to be able to coordinate anything globally without significant governmental support. Indeed, each of ICANN's accomplishments to date have all depended, in one way or another, on government support, particularly from the United States.
12. National government participation, in my view, is also essential to end the Sisyphean effort of searching for a workable public accountability mechanism for ICANN.
13. Although governments vary around the world, for better or worse they are the most evolved and best legitimated representatives of their populations - that is, of the public interest.

## **2. Staff Paper: "What ICANN Does"**

On 10 March 2002, the ICANN staff posted a paper<sup>13</sup> describing ICANN's tasks. We cite below selected portions of that paper:

1. The Internet Corporation for Assigned Names and Numbers (ICANN) is responsible for coordinating the Internet's naming, address allocation, and protocol parameter assignment systems.
2. As overall coordinator of the Internet's systems of unique identifiers, ICANN's role, while defined and limited, includes both operational and policymaking functions.
3. For the country-code top-level domain (ccTLD) registries, ICANN staff handle, investigate, and process requests for delegation and redelegation, and for changes in the TLD nameservers specified in the root zone file.
4. Finally, ICANN has the responsibility for policy coordination with respect to the security of the various parts of infrastructure that make up the operational DNS.
5. In the policymaking sphere, ICANN is responsible for developing and implementing policies related to each of its operational functions. The nature and scope of ICANN's policymaking role differs for each function.
  - a. ... in the area of IP address and AS number allocation, ICANN's responsibility extends only to global addressing policies;
  - b. ... ICANN plays a more direct and significant role in setting registry-level policies for the global top-level domain registries (gTLDs),
  - c. ... ICANN is responsible for the DNS zone file administrative functions of ccTLD delegation, ccTLD re-delegation, ccTLD TLD name server changes, and the implementation of ccTLD registry agreements (where completed).
  - d. Far more common than ccTLD delegation matters are requests to ICANN for the re-delegation of already-delegated ccTLD registries. Requests for redelegation are judged according to the same basic criteria as delegation requests, with the focus on technical competence, support from the local Internet community, and commitment to accept the fundamental public service responsibilities that are inherent in ccTLD trusteeship.
  - e. ICANN is responsible for coordinating the stable functioning of the DNS root name server system.
  - f. ICANN currently operates the registry for the .int TLD, which is for organizations established by international treaty.

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<sup>13</sup> <http://www.icann.org/general/toward-mission-statement-07mar02.htm>

### 3. Blueprint for Reform

On 20 June 2002 the ICANN Evolution and Reform Committee published the "Blueprint for Reform"<sup>14</sup> which was subsequently approved by the ICANN Board. We cite from the Blueprint:

1. The essence of the debate over ICANN's Mission lies in the nexus between ICANN's technical coordination role, its operational role, and its policy role. There are some who see ICANN as merely an agent to carry out technical, operational instructions. The ERC does not support this view.
2. ICANN, today, inevitably has a global policy role. That is quite different than the halcyon early days of the Internet before commercialization. ...ICANN provides a forum where policy development can occur through a process that strives to achieve reasonable consensus wherever it can, and move forward in instances where the consensus process is deadlocked.
3. ICANN is the private-sector body responsible for coordinating the global Internet's systems of unique identifiers.
4. ICANN should engage in policy development to the extent - and only to the extent - as is reasonable to enable ICANN to fulfill its mission in conformance with its core values.
5. The ICANN Board of Directors is ICANN's ultimate decision-making body. It and it alone has the legal responsibility to make and be legally accountable for all policy and other decisions.
6. A bottom-up, consensus-driven approach to policy development is preferable wherever such approaches do not prevent the Board from carrying out its ultimate responsibility for ensuring policies are developed, approved, and implemented as necessary to accomplish ICANN's mission.
7. Any policy development process, particularly when initiated by the Board, should have most of the following characteristics:
  - a. A clear assignment to the appropriate policy development body. If more than one such body has an appropriate interest, one body shall be assigned the lead responsibility for coordinating with the others;
  - b. An opportunity for the Board to receive advice from other bodies including Expert Advisory Panels or bodies (see below) and the GAC;
8. This section on "Accountability" recommends improvements to current processes to advance ICANN's core values of openness and transparency.
9. As and when needed to address specific issues and to help the Board arrive at specific decisions, Expert Advisory Panels or existing expert bodies should be established or consulted by the Board.

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<sup>14</sup> <http://www.icann.org/committees/evol-reform/blueprint-20jun02.htm>

## Annex 2: Government Reservations

The USA has stated<sup>15</sup>:

1. [The DoC] believes ICANN's efforts should be focused around coordination of the core technical and directly related policy areas initially set forth in the Department's 1998 Statement of Policy. We agree with the majority of stakeholders that ICANN's mission must 'stay narrow.' ICANN is not, and should not become, the 'government of the Internet.'

The EU has stated<sup>16</sup>:

2. ICANN should have a clearly defined, limited and stable mission, giving priority to technical functions that are essential for the coordination and stability of the Internet. Certain existing activities could be reduced to improve that focus. Relevant legal and contractual work should be reduced to what is essential.

Norway has stated<sup>17</sup>:

3. ICANN's core functions relate to the technical co-ordination of the Internet naming and address systems, and these functions should be given priority. Norway therefore believes that ICANN's functions should remain mainly technical.

As a consequence certain existing functions should be reduced and ICANN's mission should be more narrowly defined than today.

The GAC has stated<sup>18</sup>:

4. [ICANN] Coordinates policy-development as necessary to perform [certain] technical functions.

The following reservations have been publicly stated by ITU<sup>19</sup>:

5. The ITU Secretariat notes that the statement in paragraph 1 in the 27 June 2002 GAC statement makes reference to the Communiqué of 2 March 1999. This particular reference is a statement of the national governments present (see <http://www.icann.org/committees/gac/communique-02mar99.htm>) and, at the request of the ITU in 1999, specifically excluded making reference to intergovernmental organizations.
6. The issue of ICANN Evolution and Reform and the relations between ITU and ICANN have been discussed in a number of ITU bodies, notably ITU Council, ITU-T Study Group 2, and the ITU-T Telecommunications Standardization Advisory Group (TSAG). While there is unanimous support within ITU for increased cooperation between ICANN and ITU, varying views have been expressed with respect to the best ways to increase cooperation, with some Member States believing that ITU should contribute primarily through participation in ICANN's Governmental Advisory Committee and Protocol Supporting Organization, while other Member States propose exploration of a wider range of options for cooperation.
7. Because of the range of views expressed by ITU Member States on many of the topics covered in the Statement, the ITU Secretariat must disassociate itself from a number of the substantive conclusions made in the GAC statement on ICANN Evolution and Reform. In particular, *inter alia*:

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<sup>15</sup> <http://www.ntia.doc.gov/ntiahome/congress/2002/icann6122002.htm>

<sup>16</sup> Paper submitted to GAC on 18 June 2002

<sup>17</sup> Paper submitted to GAC on 31 May 2002

<sup>18</sup> <http://www.icann.org/committees/gac/statement-on-reform-26jun02.htm>

<sup>19</sup> Communication sent to GAC Secretariat and to ICANN Reform public forum, not yet published.

- a. The ITU Secretariat notes that while the GAC “shares the view” that a private/public sector partnership is essential (paragraph 8), it refers to ICANN as a “private sector body” (paragraph 3). The ITU Secretariat considers that unclear boundaries between the role of the “private sector” and the role of “public sector” as well as the legal form and venue of ICANN, and, in particular, the role of GAC as an “Advisory Committee”, will continue to pose fundamental structural difficulties. For example, the Secretariat is unaware of any “private sector body” that would have its “Core Values” and/or “Mission Statement” subject to detailed editing by government representatives.
  - b. The ITU Secretariat considers that ICANN cannot be characterized as a “private sector body” if its existence, particular responsibilities and oversight is subject to ongoing oversight of a single government. On the other hand, if a “private/public sector partnership is essential” and a private sector body is to be chartered or mandated with certain responsibilities by governments collectively, then in accordance with ITU Plenipotentiary Resolution 102 (Minneapolis 1998): “it must flow from full international cooperation” and “the role of governments is to provide a clear, consistent and predictable legal framework”.
  - c. With respect to consensus, given that ICANN has explicitly asked for advice, we note that telecommunications standardization and policy-making activities have a long tradition of being based on bottoms-up consensus-based decision making, and that this tradition continues to guide work on IP-based networks and IP-based services in many standardization bodies and forums.
  - d. With respect to funding, given that ICANN has explicitly asked for advice, we note the current trend in telecommunications in many countries towards national policies that favor market pricing mechanisms, reductions in cross-subsidization mechanisms, and cost-based pricing.
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