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ICANN

COMMENTS ON THE REPORT OF THE WGIG



**ICANN COMMENTS ON THE
REPORT OF THE WORKING GROUP ON INTERNET GOVERNANCE**

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ICANN Comments on the Report of the Working Group on Internet Governance (WGIG) Report

The Internet Corporation for Assigned Names and Numbers (ICANN) appreciates the opportunity to comment on the report of the Working Group on Internet Governance (WGIG).

Introduction

ICANN, together with its stakeholders, has followed and participated in the WSIS process. The ICANN community and its stakeholders are a wide ranging group, with long-term and deep expertise in many areas of the Internet's functioning. Many of the stakeholders have participated in the WSIS and WGIG process,¹ to which they have contributed at different stages, and may be providing their own respective comments on the Report.

The purpose of ICANN's participation in the WSIS processes (and WGIG public consultations) has been four-fold – 1) to provide an improved understanding of ICANN and its limited mandate; 2) to clarify areas of confusion and explain what ICANN is and is not responsible for – including what it does and how it does it; 3) to help the WGIG/WSIS participants appreciate the side-effects of the constraints that arise from the Internet's design since these constraints affect what is possible in the near and medium term; and 4) to understand to the best of our abilities the concerns of the international community both with regard to various aspects of "Internet governance" and with respect to the role and functioning of ICANN within that system.

ICANN is an internationally organized, non-profit corporation that has responsibility for Internet Protocol (IP) address space allocation, protocol identifier assignment, generic (gTLD) and country code (ccTLD) Top-Level Domain name system management, and root nameserver system management functions. These services were originally performed under U.S. Government remit by the Internet Assigned Numbers Authority (IANA) and other entities. ICANN now performs the IANA function.

ICANN is responsible for coordinating the management of the technical elements of the DNS to ensure universal resolvability so that all users of the Internet can find all valid addresses. It does this by overseeing the distribution of unique technical identifiers used in the Internet's operations, and delegations of Top-Level Domain names (such as .com,

¹ Workshops on WSIS have been held at past ICANN meetings, see: <http://www.icann.org/wsisis/>. For ICANN comments at the June 2005 WGIG Consultation, see <http://www.icann.org/announcements/ICANN-WGIG-statement-14jun05.pdf>.

.info, .biz, etc.). Information on ICANN's scope, mission, and core values can be found on its website² and in its Bylaws.³

Other issues of concern to Internet users, such as, for example, the rules for financial transactions, Internet content control, unsolicited commercial e-mail (spam), and data protection are outside the range of ICANN's mission of technical and related policy coordination.

ICANN is governed by an internationally diverse Board of Directors overseeing the policy development process. The 21-member Board⁴ consists of 15 voting Board members from all regions (4 from Latin America; 2 from Africa; 3 from North America; 2 from Europe; and 4 from Asia Pacific) and 6 non-voting Liaisons from ICANN's respective Advisory Groups. ICANN's President is from Australia and directs an international staff from over 13 countries around the world, working from three continents, which ensures that ICANN meets its operational commitment to the Internet community. ICANN operates with a current budget of approximately USD 23 million.

Within ICANN's structure,⁵ all stakeholders work collectively to address those issues that directly concern ICANN's mission and mandate. Designed to respond to the demands of rapidly changing technologies and economies, the flexible, readily implemented policy development process originates in the three Supporting Organisations, namely the Generic Names Supporting Organization (GNSO),⁶ the Address Supporting Organization (ASO),⁷ and the Country Code Names Supporting Organization (ccNSO).⁸ ICANN's Advisory Committees – the At Large Advisory Committee (for individual user organisations),⁹ the DNS Root Server System Advisory Committee,¹⁰ the Security and Stability Advisory Committee,¹¹ and the Governmental Advisory Committee (GAC), work with the Supporting Organisations to create appropriate and effective policies. In addition, the Technical Liaison Group channels technical information and guidance to the Board and to other ICANN entities.¹²

A very close link to governmental issues is provided by ICANN's Governmental Advisory Committee (GAC), where over 100 government representatives participate.¹³ Participation in the GAC is open to all interested government representatives from

² See <http://www.icann.org>.

³ See ICANN Bylaws at <http://www.icann.org/general/bylaws.htm>.

⁴ See <http://www.icann.org/general/board.html>.

⁵ See <http://www.icann.org/general/structure.html>.

⁶ See <http://gnso.icann.org/>.

⁷ See <http://aso.icann.org/>.

⁸ See <http://ccnso.icann.org/>.

⁹ See <http://www.icann.org/committees/alac/>.

¹⁰ See <http://www.icann.org/committees/dns-root/>.

¹¹ See <http://www.icann.org/committees/security/>.

¹² The TLG consists of four organisations, the European Telecommunications Standards Institute (ETSI), the International Telecommunications Union's Telecommunication Standardization Sector (ITU-T), the World Wide Web Consortium (W3C), and the Internet Architecture Board (IAB), and has a liaison to the ICANN Board.

¹³ For further information on the GAC, see: <http://gac.icann.org/web/index.shtml>.

respective departments involved in Internet issues. The GAC Chairman's Report for the Information of the United Nations WGIG, February 2005, provides an important overview of the GAC, its role, scope of activities, and advice provided to date.¹⁴ The GAC Chair serves as a Liaison to the ICANN Board, and advice provided by the GAC is taken seriously, and should the Board reject advice it must state why.¹⁵

As a private-public partnership, ICANN is dedicated to preserving the operational stability of the Internet; to promoting competition; to achieving broad representation of global Internet communities; and to developing policy appropriate to its mission through bottom-up, consensus-based processes.

Comments on the WGIG Report:

ICANN appreciates the work of the Chair, Secretariat and Members of the Working Group on Internet Governance in seeking to pursue a multi-stakeholder, transparent, and consultative approach to the WGIG's Terms of Reference and work program.

ICANN agrees that the working definition of Internet governance adopted by the WGIG is appropriate and reflects the wide range of issues, stakeholders, and principles surrounding issues relating to the Internet. ICANN strongly supports the recognition in Paragraph 12 of the WGIG report that "Internet governance includes more than Internet names and addresses, issues dealt with by the Internet Corporation for Assigned Names and Numbers (ICANN)..."

While ICANN agrees that there are a wide range of public policy issues relating to the Internet, most of these – as the Report acknowledges – are outside of ICANN's scope and mission. ICANN believes that regardless of which issues relating to the Internet one focuses on, one must recognise the value of and the need for a multi-stakeholder approach, and the different roles and responsibilities for all stakeholders.

In particular, ICANN emphasizes the need for multi-stakeholder organisations, mechanisms, and agreements to be properly structured in order to take into account the principles and interests that guide the participant stakeholders; to group as much as possible relevant stakeholders; to create mechanisms (such as structuring, policy development processes, votes, etc.) appropriate for fair decision-making in adequate timeframes; and to consider appropriate mechanisms for resolving disputes, reviewing decisions as needed, and resolving disputes among stakeholders.

ICANN is pleased that the WGIG report recognises ICANN's role and the importance of its operation as a multi-stakeholder organisation. ICANN's experience in addressing issues within its core mandate through an inclusive multi-stakeholder approach has

¹⁴ See GAC Chairman's Report at: http://gac.icann.org/web/home/GAC_CHAIRMAN_WGIG_REPORT.doc, and accompanying presentation at: http://gac.icann.org/web/home/WGIG_presentation-Feb05.ppt.

¹⁵ See ICANN Bylaws, Article XI, Section 2 (1) (j and k) at <http://www.icann.org/general/bylaws.htm#XI>.

ensured that ICANN resist stasis and embrace evolution and adaptation to changing needs.

ICANN is fully aware that it is important to continuously improve both its structure and its performance – and has built into its Bylaws the review of each Supporting Organisation and Advisory Committee to strengthen this commitment.

Public policy issues relevant to Internet governance and assessing the adequacy of existing governance arrangements

The WGIG has done some important work in discussing public policy issues pertaining to Internet governance. In light of its responsibilities, it is appropriate for ICANN to comment on several of the issues identified as relevant to Internet governance and of highest priority, including related issues and problems set out for the attention of the WSIS. ICANN's comments (tracking the Report) are mainly concentrated on areas identified within ICANN's mandate and mission, and include comments regarding multi-stakeholder governance, which is also relevant to areas outside ICANN's mission and mandate.

(Paragraph 15) Administration of the root zone files and system: There is insufficient recognition in the Report of the fact that the root nameserver system has been successfully managed since the Internet's inception and that none of the risks cited have, in fact, materialized. The root nameserver system is operated professionally by a diversity of organisations in different countries, without political discrimination. The coordination and diversity of the administration of the root nameserver system has been the source of great efficiency and resilience and any formalization of relationships, and by whom and for what purposes, should be carefully considered in light of this, to ensure the strength of the system is not jeopardized.

As part of their work, the root nameserver operators are using an Internet facility called “anycast” to significantly replicate the root nameservers around the world. This is further discussed in comments to Paragraph 76.

The purpose outlined in the MoU between ICANN and the US Department of Commerce when first signed was that ‘the Parties will jointly design, develop, and test the mechanisms, methods, and procedures that should be in place and the steps necessary to transition management responsibility for DNS functions now performed by, or on behalf of, the U.S. Government’. These functions were defined as:

- ‘a. Establishment of policy for and direction of the allocation of IP number blocks;
- b. Oversight of the operation of the authoritative root server system;

c. Coordination of the assignment of other Internet technical parameters as needed to maintain universal connectivity on the Internet; and

d. Other activities necessary to coordinate the specific DNS management functions, as agreed by the Parties'¹⁶

The role of the US government in current authorisation of changes to the root zone files is as a reviewer to ensure that ICANN has followed properly the procedural requirements for zone file changes. The transparency of the arrangements, coupled with the value system of the Internet's stakeholders, is such that neither the US or any other government, nor any individual, organisation, nor group of organisations, is able, either now or in the future, to abuse the editing function of the root zone file. This is particularly important for changes to the root zone file as regards the entries of country-code Top Level Domains.

For a full understanding of how the root nameserver system operates, how the various players perform their functions, and how its values have enabled its success, see an explanation of the domain name root nameserver system found at: <http://www.isoc.org/briefings/019/>. See also *Signposts in Cyberspace*, National Academies Press, 2005; a report by the US National Research Council.¹⁷ For further comments on the administration of the root zone files and system, see comments on Paragraph 76.

(Paragraph 17) Internet stability, security and cybercrime: Internet stability and security are paramount objectives for ICANN, as it carries out its responsibilities together with many other organisations and entities involved in the Internet's operation.

In this field, ICANN's main concerns are the assurance that domain names will resolve uniquely to IP addresses; that IP addresses and ASNs (Autonomous System Numbers) will have been assigned unequivocally, each to a specific organisation or individual, and will resolve uniquely to a network resource such as a computer, a port, or network; and that the parameters associated with Internet protocols, such as port numbers for specific protocols, will be assigned uniquely and can be easily referenced.

Further and as part of this same mandate, ICANN's functions and responsibilities include the security and stability of the Domain Name System's root nameservers and the certainty of the propagation of the root zone files, by mechanisms such as DNSSEC, as well as the continued availability of domain name resolutions even in face of catastrophic physical, computational, or other events affecting name registries. ICANN performs the related operations, which include the IANA function, in an environment of continuous improvement. For further comments on Internet stability, security, and cyber crime, see comments on Paragraph 79.

¹⁶ See <http://www.icann.org/general/icann-mou-25nov98.htm>.

¹⁷ See http://www7.nationalacademies.org/cstb/pub_dns.html.

(Paragraph 19) Meaningful participation in global policy development: ICANN agrees with the importance of meaningful participation in global policy development, and its multi-stakeholder model is designed to ensure the broadest possible participation from interested individuals and groups in all regions of the world. The participation of organisations and individuals in the processes of ICANN decision-making is made meaningful by: assuring that such participation can be continued both online and in physical meetings, so as to reduce the potential disadvantage for participants endowed with weak infrastructures; workshops in the ICANN meetings that facilitate the up-to-date understanding of issues under development or discussion; regional meetings and workshops such as those started by the GAC to bring government officials up to the latest information; and full respect for the internal operational autonomy of its constituencies, as far as compatible with the coherent functioning of the organisation.

ICANN continues to seek greater participation from developing countries, including government participation in the GAC, and respective stakeholder participation in ICANN's Advisory Committees and Supporting Organisations. Additionally, representation from all of ICANN's regions in the ICANN structure is required under ICANN's Bylaws.

Participation via the Internet has provided a meaningful way to enable participants to take part in discussions within ICANN and other organisations. The availability online of materials, transcripts, speeches, whether for a specific meeting or a longer term discussion means that if there is access to the Internet all interested around the world have equal access to the information and ability to participate. For further comments on meaningful participation in global policy development, see comments on Paragraph 82.

(Paragraph 20) Capacity building: ICANN's mission can only be accomplished through the participation of a broad community that has a high level of technical and non-technical understanding of the issue under discussion. Therefore, although ICANN's foundational documents do not mandate it to be directly involved in capacity building, ICANN's work has and will continue to contribute to training, understanding, and in general capacity building and enhanced reach to the Internet around the world. A growing part of the capacity-building effort is approached through understanding and collaboration with other organisations also active in the field. Thus, for example, members of other organisations who also have ties to ICANN introduce subjects related to ICANN's mission in those organisations' training events around the world.

Further, through assisting local members of the Internet community in countries and economies on issues related to its mission, ICANN helps the local, bottom-up process of capability development and institution building. A recent illustration of this role is ICANN's recognition of AFRINIC, which successfully brought together the African continent to establish a Regional Internet Registry for the allocation of IP addresses to African ISPs, companies and organisations, and LACNIC, a Regional Internet Registry for the allocation of IP addresses to Latin America ISPs, companies and organisations.

At the request of other organisations involved in capacity building, ICANN works to improve understanding of ICANN's mandate. ICANN works with, and participates in events of, organisations such as the Internet Society (ISOC), United Nations Development Programme (UNDP), the Asia Pacific Telecommunity (APT), the Agence Intergouvernementale de la Francophonie, Pacific Island Telecommunications Association (PITA), Commonwealth Telecommunications Organisation (CTO), the Arab League, and the UN Economic Commission for Africa (UNECA).

While ICANN is not involved in work relating to carriage of Internet traffic, including regional Internet Exchange Points, members of the ICANN community are also involved in their technical and private sector capacities in promoting the establishment of regional Internet Exchange Points as a way of developing regional capabilities and infrastructure.

(Paragraph 21) Allocation of domain names: The policies and procedures for authorizing and overseeing Generic Top Level Domains (gTLDs) is one of the main areas of ICANN's work. ICANN welcomes the endorsement of the WGIG to its work in this field, and agrees with the need to further develop these policies, with a full understanding of the complexity of the matters. ICANN however, finds questionable the WGIG report's statement that new gTLDs have a significant impact on the equitable distribution of resources, and would welcome a clarification, if possible, of what the WGIG intended with it. Upon introduction of a new TLD, all users of the Internet have access to it, regardless of location. ICANN does recognise that in the long term the operation of gTLDs should involve geographically distributed operators whose operational and fiscal competence has been established.

Since ICANN's formation it has undergone two rounds (in 2000 and 2004) resulting in the designation of new TLD. In addition, in September 2004, ICANN published a strategy for the introduction of new top-level domains (TLDs). The envisaged strategy takes into account many relevant technical, economic, socio-political and cultural issues. In light of several new developments regarding DNS operations and structure, ICANN has developed a plan to facilitate implementation of the strategy for the designation of new TLDs.¹⁸

The strategy for implementation most recently included the development of a comprehensive list of questions that should be considered based on study and comments regarding: current market behaviors; published studies; earlier TLD and sTLD application rounds; success of various models; globalization, and effectiveness of existing contracts in providing appropriate levels of oversight. In June 2005 ICANN posted for community input 5 important issue areas arising,¹⁹ which include:

- 1) Whether and how many TLDs should ICANN designate and with what frequency;
- 2) Which naming conventions should apply;
- 3) Which allocation method or methods should be used;

¹⁸ Further information on ICANN's work in relation to policies and procedures for gTLDs can be found at: <http://www.icann.org/topics/gtld-strategy-area.html>.

¹⁹ See: <http://www.icann.org/announcements/announcement-06jul05.htm> and <http://www.icann.org/tlds/new-gTLD-questions.pdf>.

- 4) What conditions should apply for new TLD operators;
- 5) As a special case, how will the deployment of Internationalized Domain Names (IDNs) at the top level impact discussion and findings on the questions above.

ICANN continues to undertake this work in close consultation with ICANN's Governmental Advisory Committee (GAC), as recognised in a communication from ICANN's CEO to the GAC Chairman stating that "it is very clear that such a policy will encompass a number of public policy elements such as competition policy, consumer protection issues, and intellectual property rights protection. The process foresees that the GAC will be consulted on these matters and I would therefore like to bring this to the attention of the GAC."²⁰

In the Chairman of the GAC's response to the CEO communication,²¹ the GAC noted the process underway, observing specifically that "In general, GAC members support the objective of introducing greater consumer choice and commercial competition into the markets for domain names. We would however, take this opportunity to remind ICANN of the advice contained in the March 2000, Cairo meeting communiqué to the effect that:

Recognising ICANN's responsibilities to achieve consensus in the creation of any new gTLDs, ICANN should avoid, in the creation of new gTLDs the alpha-3 codes of ISO 3166-1; well known and famous country, territory or regional language or people descriptions; or ISO 639 codes for representation of languages, unless in agreement with the relevant governments or public authorities."²²

ICANN also welcomes the opportunity that this round of comments provides to invite even broader participation in the processes mentioned here.

(Paragraph 22) IP addressing: While ICANN has heard community concerns over the allocation of IP addresses, it observes that the work of the five Regional Internet Registries (RIRs) and the Address Supporting Organisation under ICANN (ASO) have successfully ensured the distribution of IP addressing based on needs. ICANN has adopted procedures on the Review of Global Internet Number Resource Policies.²³ With the deployment of IPv6 (the new IP addressing numbering protocol) global network interoperability continues to be one of ICANN's primary goals.

The RIRs have been providing regular information and clarifications regarding IP addressing space. For example, APNIC has provided clarification of issues and questions surrounding IP addressing allocation to China.²⁴ The RIRs are working individually and

²⁰ See December 2004 communication from ICANN CEO to the GAC, found at: <http://www.icann.org/correspondence/twomey-to-tarmizi-01dec04.pdf>.

²¹ See April 2005 communication from Chairman of GAC to ICANN CEO, found at: <http://www.icann.org/correspondence/tarmizi-to-twomey-03apr05.htm>.

²² For March 2000 GAC communiqué see: <http://gac.icann.org/web/communiques/gac5com.htm>.

²³ See <http://www.icann.org/general/review-procedures-pgp.html>.

²⁴ See <http://www.apnic.net/news/hot-topics/index.html#ip-addressing> and <http://www.apnic.net/news/hot-topics/internet-gov/ip-china.html>.

collectively through the Number Resource Organization (NRO) and ICANN's ASO to develop new policies for the allocation and assignment of IPv6 address space. The policy development process is open, global, and inclusive. For further comments to IP Addressing, see also comments to Paragraph 77.

(Paragraph 23) Intellectual property rights (IPR): While ICANN's mission does not directly involve intellectual property rights protection, it has, together with the appropriate organisation responsible for intellectual property rights, the World Intellectual Property Organisation (WIPO), established protections to facilitate more economical means of addressing domain name related trademark disputes by establishing the Uniform Domain Name Dispute Resolution Policy (UDRP) to resolve dispute over trademarks and domain names.²⁵ The application of the UDRP has been used to resolve over 12,000 dispute resolutions, largely to general satisfaction, without direct ICANN involvement, and mostly among experts who are able to consider disputes in the relevant language.

(Paragraph 25) Data protection and privacy rights: ICANN recognises the importance of data protection and privacy rights. With regard to those areas under its mandate, it is working with stakeholders on concerns raised over the issues surrounding Whois databases. ICANN is also looking forward to new technical proposals from the IETF for re-structuring of the databases vital to the operation of the Internet and the registration of IP address assignments and domain name registrations. For further comments to data protection and privacy rights, see also comments to Paragraph 83.

(Paragraph 26) Consumer rights: ICANN has an extremely limited mandate which does not lead into acting in consumer protection, not even in the registration of domain names. Issues surrounding consumer rights as they relate to the registration of domain names fall to the national jurisdictions and national law. ICANN-approved registries and registrars are obligated to comply with national and/or laws. ICANN does encourage responsible behavior of the approved registries and registrars before consumers worldwide.

(Paragraph 27) Multilingualism: The Internet historically began with the use of the English language and a small subset of Roman characters and Arabic numerals. The Internet was started and had much of its early growth in a context in which the ASCII character set was found or made to be sufficient to represent most of what was needed in domain names and in the contents of email, files, and later the identification of resources on the World Wide Web. While one cannot change history, one can build on it and draw lessons from it. With the increase in use of the Internet in all regions (and by diverse linguistic groups) of the world, there is a strong need for multilingual content, and the capability to support multilingual use. It is important to note that a large part of the concerns about multilingualism on the Internet refer to content in numerous languages, alphabets, scripts, and character sets; another part is concerned with keywords in search and directory systems, and only a fraction refer to domain names.

²⁵ See <http://www.icann.org/udrp/udrp.htm> and <http://arbitrator.wipo.int/domains/>.

The issues surrounding the use of non-ASCII character sets in the domain name system must be handled with appropriate care to ensure the continued interoperability of the global Internet. There are many stakeholders, organisations, and entities involved in the implementation of non-ASCII character usage on the Internet – ranging from operators of browsers and other client-side software to domain-name registrars. Working in coordination with the appropriate technical communities such as the IETF and stakeholders, ICANN adopted guidelines for the deployment of Internationalized Domain Names (IDN), opening the way for registration of domains in many of the world's languages. The work relating to IDN implementation is a continuing task and collaboration among all parties involved with respective expertise is essential, including that of the Arab League, the CJK (Chinese-Japanese-Korean) group,²⁶ ongoing discussions in respective countries and regions, and organisations such as UNESCO. For further comments on multilingualism, see also comments on Paragraph 85.

“Proposals for action, as appropriate”

ICANN recognises the challenges faced by the WGIG in trying to address the adequacy of current Internet governance arrangements in relation to the principles outlined in the final WSIS documents, and notes that the WGIG could not come to any agreement on the possible future mechanism surrounding global public policy and oversight (and the 4 ‘models’). This is not surprising given that the Internet comprises many different arrangements, and having one ‘oversight’ for all ‘global public policy’ relating to Internet issues and involving a multi-stakeholder model is in and of itself difficult.

There is an inherent tension between public international law and the private international law on which much of the Internet is based. For example, one of the main ways in which ICANN acts, and the only extent of ‘authority’ it exerts, is through the many hundreds of international private law contracts and Memoranda of Understanding between ICANN and registries and registrars around the globe. Each of these contracts has explicit provision for amendment when new “consensus-based policies” are approved by ICANN. By involvement through the GAC in multi-stakeholder discussions on such technical policy issues, governments have ensured²⁷ that public policy concerns related to ICANN’s area of responsibility have been injected into these private international law contracts. This is an effective way for governments to ensure that key public policy aspects are consistently accounted for in the operation of the private bodies that operate the Internet’s DNS and IP addressing infrastructure throughout the world. The importance of these contracts is that they are the only enforceable means through which ICANN actually affects the behavior of market actors that provide naming and addressing services to Internet users.

ICANN appreciates governments focusing on their appropriate role in exercising public policy responsibilities in the overall realm of Internet governance, and in ICANN in particular. Experience demonstrates how difficult it can be for a broad and diverse group

²⁶ See <http://www.cjk.org/cjk/index.htm>.

²⁷ For examples of GAC advice to ICANN since ICANN’s formation, see Matrix, Appendix A.

of governments to reach consensus on complex technical issues. This difficulty arises partly because of different legislative realities and political views, and partly through very different interpretations of which aspects of ICANN's work raise public policy issues. As a result, any efforts to create 'oversight' must be considered with a great amount of care, particularly on the merits of effectiveness and rapid and practicable implementation. Further, experience also shows that any development of oversight must first consider the nature, scope, and extent of the oversight under discussion, and the objectives intended by implementing it.

ICANN agrees with the WGIG recommendations on institutional coordination and regional and national coordination, and would note that this should occur under existing arrangements with existing organisations. Organisations and entities, whether intergovernmental, private sector, business, technical, academic, civil society, or any other already exchange information regularly and should work to build on existing work to ensure further information sharing with each other and to interested stakeholders and participants. All organisations can improve the coordination of activities and exchange of information, and in particular work to ensure that the multi-stakeholder approach is implemented as far as possible in all regions and supported on the national level as well.

Recommendations to address Internet-related issues

ICANN agrees with the need to ensure effective and meaningful participation of all stakeholders, especially from developing countries, and concurs with the related need for appropriate capacity building programs. It has addressed areas of its work in relation to outreach, partnerships, improving responsiveness and improving meaningful participation from all regions of the world in the respective parts of these comments.

(Paragraph 76) Administration of the root zone files and root server system of the domain name system (DNS): To build on the comments above, ICANN is working with the root nameserver operators to establish institutional arrangements based on existing best practices of operation. Root nameserver operators, together with the technical community, continue to work to ensure that the 13 root nameservers, whose number cannot be increased due to protocol limitations, meet all end-user requirements. ICANN's work in this area includes contributions by the DNS Root Server Advisory Committee (RSSAC), which has a Liaison who sits on the ICANN Board.

It should be noted that many of the root nameserver operators have used an Internet facility called "anycast" to significantly replicate root nameservers around the world (on the order of 100 or so are now in operation in, for example, South Africa, Brazil and soon India).²⁸ Anycast deployment focuses on technical and operational needs, diversity, and appropriate facilities.

²⁸ Information on the root anycast can be found at: <http://www.root-servers.org>.

Working with its stakeholders (including governments through the GAC) ICANN, as part of the completion of the MoU with the US Department of Commerce,²⁹ will identify, as appropriate, any clarification of institutional arrangements needed to guarantee continuity of a stable and secure root nameserver system. Among other things, it will be important to assure there exist processes and procedures for responding to the inability of an existing root nameserver operator to continue to function. The WGIG report is welcomed in this context, in its affirmation that transitions to new arrangements must be gradual and mindful of stability and continued operation of the Internet.

(Paragraph 77) IP addressing: ICANN agrees completely that any transition from IPv4 to IPv6 “should ensure that allocation policies for IP addresses provide equitable access to resources,” while noting that there may be different interpretations of the criteria for defining “equitable.” To date, the system of address allocation has been modified several times in order to ensure that all applicants can obtain enough address space, and it has also corrected where possible some of the initial large allocations, thus freeing IPv4 space for the use of others. To this end, ICANN, together with the RIR community, has adopted Procedures for the Review of Global Internet Number Resource Policies. Working together with the ASO and NRO, there should be a smooth transition from IPv4 to IPv6. It should be noted that the technical community does not expect that IPv4 operation will cease any time soon. Rather, both IPv4 and IPv6 will co-operate for an indeterminate period of time, measurable in years, if not decades.

(Paragraph 79) Internet stability, security and cybercrime: ICANN’s first core value is “Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.” ICANN’s role in this area brings together many different stakeholders and players involved in the areas of work that contribute to the interoperability and unique resolvability of domain names. As noted above in the comments to Paragraph 17, ICANN performs the related functions in this area, which include the IANA function, in an environment of continuous improvement. ICANN’s Security and Stability Advisory Committee advises the ICANN community and Board on matters relating to the security and integrity of the Internet’s naming and address allocation systems, and has a Liaison to the ICANN Board. It is important to note that many issues related to Internet stability, security and cybercrime are under the jurisdiction of national and international agreements.

(Paragraph 82) Meaningful participation in global policy development: The ICANN model is designed to ensure multi-stakeholder participation in ICANN from all regions of the world, based on transparency, openness and a participatory process. ICANN is working to improve participation of all stakeholders from developing countries, in part by proposing a fund to enable support for further participation as well as regional presences via regional liaisons and partnerships with regional players.

ICANN embraces this recommendation, which fits into items of its draft Strategic Plan as well as its Operational Plan and Budget for 2005-2006. ICANN is in the process of

²⁹ For status reports on the completion of the MoU, see: <http://www.icann.org/general/agreements.htm>.

renewing and expanding programs for outreach in all regions, with a focus on developing countries.

ICANN is also engaged in coordination with other organisations relevant to the Internet. Thus, for example, ICANN has a liaison with the IETF to ensure fluid communication with the Internet standards creation process; the ITU, ETSI and W3C work with ICANN through the Technical Liaison Group, which designates a liaison to the ICANN Board (at present, a representative of the ITU). ICANN also works with UNESCO and several other organisations on subjects related to Internationalized Domain Names. Indeed, closer ties are difficult to envision among such different and independent organisations, and ICANN welcomes them even if asymmetric.

(Paragraph 83) Data protection and privacy rights: ICANN recognises the importance of data protection and privacy rights, and the complexity surrounding these issues. ICANN's work in relation to Whois has been ongoing, reflecting the fact that the issue is complicated by a divergence of laws and regulations around the world. It is not clear that these laws and regulations will be harmonized in the near term, if ever. However, ICANN is faced with the practical reality of the need for a coherent approach that can address this divergence. Furthermore, it would seem that the positions of law enforcement agencies and data privacy authorities may also diverge.³⁰ In light of this, work continues in ICANN's GNSO³¹ and GAC, to try to address some of these complex and interdependent areas.

(Paragraph 85) Multilingualism: ICANN has undertaken much work over the past years on issues surrounding the implementation of IDNs, including establishing guidelines for the implementation at the registry level.³² ICANN continues to work with respective stakeholders to facilitate discussion and awareness on issues surrounding the introduction of multilingual domain names. To date, ICANN has hosted and facilitated three workshops on IDNs at recent meetings, the last one at the ICANN meeting in Luxembourg.³³ This is in addition to ICANN participation in discussions and meetings of other organisations such as UNESCO, the IETF, the Arab League's Arabic Domain Names Pilot Project and others.

ICANN is working to strengthen the participation and coordination with all stakeholders, and working with the GAC³⁴ and other stakeholders to identify relevant public policy elements that may relate to the implementation of IDNs, especially at the top level. ICANN agrees that while the implementation of IDNs is important for the global community, it must occur in a manner that ensures continued interoperability and stability of the Internet's unique identifier system. Barriers to interoperability will only

³⁰ GAC workshop: http://gac.icann.org/web/meetings/mtg22/GAC_Lux_Communique.rtf.

³¹ See <http://gnso.icann.org/>.

³² See <http://www.icann.org/topics/idn.html>.

³³ See <http://www.icann.org/meetings/luxembourg/idn-workshop-13jul05.htm>.

³⁴ See reference to IDN in the CEO communication to the GAC Chairman at <http://www.icann.org/correspondence/twomey-to-tarmizi-01dec04.pdf> and response from GAC Chair found at <http://www.icann.org/correspondence/tarmizi-to-twomey-03-apr-05.htm>, as well as GAC communiqués found at: <http://gac.icann.org/web/communiques/index.shtml>.

jeopardize capacity building, increased use of the Internet by all, and achievement of a global information society.

While IDN is important, production and dissemination of local content is essential, and ICANN supports the view that more effort should be put into developing content locally. Many users seek multilingual content, and this is an important area of work on the local and regional levels.

Conclusion:

ICANN believes that the WGIG report has provided an important contribution to the WSIS discussions. It also believes it is important to work and continue to cooperate with governments, civil society, the technical community, business community, and with all existing organisations to help ensure the stable and secure functioning of the Internet.

ICANN would observe that during the WSIS discussions on Internet governance, ICANN has continued to develop, and has undertaken work such as its first set of reforms (including enhancing the role of the GAC and users/civil society, and ccTLDs), creating the ccNSO, completing the MoU with the RIRs and the NRO, recognizing LACNIC and AFRINIC, introducing new gTLDs, recognizing new registrars, and furthering competition in gTLDs.

Based on a multi-stakeholder model, ICANN has learned in its work that this model is not easy to achieve in practice, and to achieve it well requires continuous assessment of what can and should be done better. As a result, the ICANN Bylaws themselves require that each Supporting Organisation and Advisory Committee be regularly reviewed to ensure continued improvements. Additionally, ICANN continuously seeks to improve its areas of operations and procedures to ensure a full global multi-stakeholder participatory model for areas under its responsibility, and increased participation from developing countries. This means that the ICANN model, while not perfect, continuously evolves and seeks to improve -- it is not static.

Finally, ICANN would like to state that its strong commitment to, and support of, a multi-stakeholder governance approach, based on bottom up policy development, is related not only to those areas within its mandate and mission, but also to those Internet areas outside this mandate and mission. In particular, ICANN believes that its own experience is absolutely relevant for the other areas of the Internet, where many of the relevant stakeholders of the Internet from the private sector involved in ICANN are also involved.

Appendix A

SUMMARY OF GAC ADVICE TO ICANN, 1999-2004

This table highlights the main topics that were addressed by GAC in 20 plenary meetings, 1999 – 2004, as reported in the corresponding GAC Communiqués and related documents. For more complete information please refer to the published text of the GAC Communiqués which can be found on the GAC website at www.gac.icann.org.

GAC Meetings – March 1999 to July 2000

GAC MEETING	Singapore March 1999	Berlin May 1999	Santiago August 1999	Los Angeles Nov. 1999	Cairo March 2000	Yokohama July 2000
RELATIONS WITH ICANN		GAC Membership Criteria: amend the Bylaws	Supports geographical diversity and international representation	Takes note of ICANN/DOC/NSI agreements	Comments on the election process for At Large membership	Detailed commentary on ICANN Budget issues. ccTLDs should pay their contributions to ICANN
GAC WORKING METHODS	Commits to implement efficient procedures	GAC adopts the Operating Principles			Identified priorities for future workplans	
GTLD POLICIES					New TLDs should avoid ISO codes.	Will discuss further
INTELLECTUAL PROPERTY		Endorses WIPO-I Report on trademarks and UDRP				
CCTLD POLICIES		Requests prompt redelegation on request of public authority	Re-Statement of basic principles included in the preamble to the Operating Principles	Continued discussions	Adopts the ccTLD Principles.	Confirms support for GAC ccTLD Principles. Recommends that ICANN write to governments to confirm current delegations.
WHOIS		Supports transparency and reliability of registration data				
GEOGRAPHICAL DIVERSITY			Considers that the criterion for eligibility for election should be “Citizenship”			For geographical regions, ICANN should refer to existing international norms.

GAC MEETING	Singapore March 1999	Berlin May 1999	Santiago August 1999	Los Angeles Nov. 1999	Cairo March 2000	Yokohama July 2000
OTHER MATTERS		Reference to domains containing registration restrictions.			Support for an effective process for election of At Large representatives	

GAC Meetings – November 2000 to March 2002

GAC MEETING	Marina del Rey Nov. 2000	Melbourne March 2001	Stockholm June 2001	Montevideo Sept. 2001	Marina del Rey Nov. 2001	Accra March 2002
RELATIONS WITH ICANN			Detailed commentary on the desirable pre-conditions for “test-bed environments”.		Cooperation with ICANN on Security and Stability issues. Takes note of At Large Membership issues	Extended discussion of ICANN Reform
GAC WORKING METHODS		Re-election of First Chair. GAC establishes three working groups	Outreach activities prioritised. Creation of Vice-Chair positions	Priority for Outreach activities		
GTLD POLICIES	Detailed Opinion to given to the ICANN Board		Requests ICANN publish information about the policies of the new TLDs.	Encourages evaluation of new gTLDs (not done yet). Authorises use of alpha-2 codes in <i>.aero</i> to represent airlines.		Envisages creation of a new TLD for the use of governments. (Not followed up)
ccTLD POLICIES	Confirms support for GAC ccTLD Principles. Requests ICANN advise on the execution of redelegation requests.	Reaffirms support for the GAC ccTLD Principles and for trilateral communications	Recalls request to ICANN to write to governments to confirm designation of current ccTLD managers.	Appreciates that ICANN is using the GAC ccTLD Principles. First reference to ccNSO.		
GEOGRAPHICAL TERMS				Recommends reservation of country names in <i>.info</i>	Continued discussions on Dot Info issues.	
IDNs		Detailed commentary on the pre-conditions for successful introduction of IDNs	See test bed environments.	Reaffirms pre-conditions for successful introduction of IDNs		
IPV6				IPV6 First reference.	Encourages ICANN to promote IPV6	Supports deployment of IPV6
OTHER MATTERS						

GAC Meetings – June 2002 to October 2003

GAC MEETING	Bucharest June 2002	Shanghai October 2002	Rio de Janeiro March 2003	Montreal June 2003	Carthage Oct. 2003 1 st Regional Forum
RELATIONS WITH ICANN	Continued discussion of ICANN Reform Issues detailed opinion . Recommends improvements in procedures for consultation between ICANN and GAC	Reaffirms decisions in Bucharest. Adopts detailed amendments to ICANN Bylaws regarding GAC responsibilities and “external advice”. Agreed to non-voting GAC Liaison to ICANN Nominating Committee.	Continues to focus on ICANN Reform. Appointed Liaisons		New Registry Services – GAC notes that GNSO will formulate a proposal. Takes note of Anycast for Root Servers. Encourages Root server operators to make more information available and increase awareness.
GAC WORKING METHODS		Discussion of GAC priorities. Secretariat transition. Priority of outreach confirmed.	Confirmed CVC election Constituted new Working groups. Reinforcing Outreach activities.	Outreach confirmed with a view to Carthage meeting. Reinforce communications among GAC members on a regional basis.	GAC debates Structure and Finance. Regional Forum concept to be extended to encourage Outreach.
ADDRESSING POLICIES			Took note of consultations with the RIRs		
WHOIS				Whois: further consideration at future meetings	Refers to GAC efforts to compile information on Whois.
ccTLD POLICIES	Joint working group with ICANN and ccTLDs to improve interactions, including out-of-country registries.	Requests ICANN to be more efficient in up-dating the IANA database for ccTLDs.	Supports creation of the ccNSO Comments on trade-marking of ISO ccTLD Codes	Restated advice on ccNSO and concurs with the revised ICANN Bylaws.	Pending re-delegations continue to cause concern. Recalls advice on ccNSO
GEOGRAPHICAL TERMS	Agrees procedure for the release of country names in Dot Info.	Agrees to put the WIPO II report on GAC work program. Continues to monitor country names in Dot Info.	Recommends implementation of WIPO II recommendations. Creation of a joint working group	Recalls advice on WIPO II and requests progress from the joint working group	Regrets delays in the WIPO II working group
IDNs		Welcomes progress in IETF; recalls advice to exercise care in introducing IDNs.	Comments on IDN and expectations for the IDN working group (not fulfilled yet.)	Took good note of ICANN decisions to implement IDN	
IPv6	Further support for IPV6.	Encourages activity on IPv6			
OTHER MATTERS					

GAC Meetings – March 2004 to December 2004

GAC MEETING	Rome March 2004 2nd Regional Forum	Kuala Lumpur July 2004 3rd Regional Forum	Cape Town Dec. 2004 4th Regional Forum
RELATIONS WITH ICANN	Welcomes the intention of the ICANN board to prioritise and schedule principle actions.	Welcomes ICANN's recognition of value of public policy input. Notes ICANN's contingency plan. Continues to attach importance to timely requests for GAC advice.	ICANN Letter to GAC of 1December 2004. Takes note of publication of ICANN Strategic Plan.
GAC WORKING METHODS	Re-election of a Vice Chair. Creates GNSO Working Group (WG1) Appreciation for the Regional Forum. Need to communicate effectively with non member countries.	Affirmed election of two new Vice Chairs. Decided to elect Chair and Vice Chairs before end 2004.	
ADDRESSING POLICIES		Encourages ICANN ASO MOU; Calls for effective liaison with ASO. ASO to broaden its member-ship.	Consulted with ASO members Welcomed MOU between ICANN and NRO/ASO. Constituted GAC/ASO Liaison group. Welcomed constitution of Afrinic.
GTLD POLICIES		Extended liaison with GNSO; focus on new TLDs.	Restates support for increased competition and for security and stability.
WHOIS		GAC will focus on Whois policy	Recognises public policy dimension of Whois; consulting with members and with GNSO
ccTLD POLICIES	Welcomes formation of ccNSO. Took note of WG 4 report. Further discussion in KL	Creates CCNSO-GAC Liaison Group. Welcomes inclusive CCNSO. Further work on GAC ccTLD Principles update by Cape Town.	Endorses Final Public Draft of the updated principles, for publication. Intends to adopt the text at Mar del Plata. Members of joint liaison group with appointed by ccNSO.
GEOGRAPHICAL TERMS	Urges the working group to turn to implementation issues.	Recalls previous advice on WIPO II recommendations.	Recalls advice on WIPO II, encourages all parties resolve the matter without delay.
IDNS		Takes note of the proceedings of the Regional Forum. Encourages ICANN to ensure that IDN tables and standards include input from local communities	
IPv6	Asks the ICANN Board to keep due attention to IPv6	Takes note of the proceedings of the Regional Forum. Welcomes addition of IPv6 addresses of name servers in the root zone.	Takes note of the proceedings of the Regional Forum.
INTERNET GOVERNANCE		Welcomed ICANN WSIS workshop	Members participated in WSIS workshop. Exchange of views with Chair and Executive Coordinator of WGIG. Agrees to submit a factual report to WGIG through the Chair.
OTHER MATTERS	Takes note of Any-cast mirror roots policies.	Briefing from SSAC on re-direction of domains and adoption of DNSSEC.	

