

## Decisions to launch a ccNSO PDP

### Introduction

At its meeting on 10 December 2015 the ccNSO Council discussed the launch of the formal ccNSO Policy Development Processes to address the lack of policy with respect to retirement of ccTLDs and Review Mechanism on issues of delegation, revocation and retirement of ccTLDs.

Assuming the the IANA Stewardship Transition will be successful, a Review Mechanism should be in place rather sooner than later to ensure a redress mechanism for ccTLDs with respect to the most critical decisions pertaining to a ccTLD: delegation, revocation, transfer and retirement of a ccTLD. Until such time a policy this has been developed and is implemented, such a mechanism remains unavailable, whilst comparable decisions or similar decisions affecting gTLDs are subject to review and redress.

Following the implementation of the Framework of Interpretation and in line with the recommendations of the Delegation and Redelegation working group in 2011<sup>1</sup>, the void or lack of policy relating to the retirement of ccTLDs needs to be filled. It is advised that the policy development process on retirement of ccTLDs will be started to increase the predictability and legitimacy of decision pertaining to the retirement of ccTLDs.

Following the initial discussions of Council, input and feed-back from the community was sought at the Marrakesh meeting. At the request of Council, the secretariat prepared an overview of the different alternatives and associated timelines, taking into account the feed-back and input received at the Marrakesh meeting. Three (3) different alternatives were presented to Council at its meeting on 12 May 2016:

1. The two PDPs (Review Mechanism and Retirement) run sequentially
2. One PDP two sequential WG (Review Mechanism, Retirement)
3. One PDP two Parallel WG (effectively the same as one PDP with one WG)

To inform the discussions of Council further on the implications of the launch of the ccNSO Policy Development Process(es), two separate but dependent topics will be presented:

- Decisions needed at the Helsinki meeting to launch the ccNSO Policy Development Process.
- One or Two PDPs. Whether or not to combine the topics of Review Mechanism for decision regarding delegation, revocation, transfer and retirement of ccTLDs and Retirement of ccTLDs in one policy development process.

### Council Decision Needed at the Helsinki meeting to launch a ccNSO PDP

Assuming the ccNSO Council will launch at least one formal policy development process at its meeting in Helsinki, the ccNSO Council will need to take the following decisions:

1. **Request an Issue report** (ICANN Bylaws, Annex B section 1 and 2). Written request (Council resolution) which describes the topics/ issue at high level that needs to be

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<sup>1</sup> See DRD WG Final Report, page 19, <http://ccns0.icann.org/workinggroups/drd-wg-final-report-07mar11-en.pdf> and Council Decision 16 March 2011, <http://ccns0.icann.org/workinggroups/minutes-council-16mar11-en.pdf>

addressed. The request for the issue report will determine the breadth and width of the issues to be addressed and hence whether the policy development process

2. **Appointment of the Issue manager.** The role of the issue manager is defined in Annex B. Main tasks are effectively to manage the process, which includes ensuring progress and reporting.
3. **Decide on a tentative timeline to receive the Issue Report.** Unless otherwise defined, the issue report should be available within 15 days after appointment. However to ensure an adequate basis for the next Council decision, for example the required Opinion of ICANNs general Council on whether the issues are within the scope of the ccNSO and requirement to draft comprehensive Issue Report, the suggestion is to request the Issue Report by early October. This would allow the Council to initiate the PDP at its face- to-face meeting in Hyderabad, after consulting the ccTLD community present.
4. **Appointment an oversight committee.** Although not required, the ccNSO PDP allows for the creation of a Council committee that will oversee the Issue Manager, at least during the first stage of the process. Experience in the two proceeding PDP's has shown that this mechanism ensures an adequate definition of the issues at stake and progress. If Council intends to appoint such a committee it is suggested to appoint one Councillor from every region under chairmanship of the vice-chair who "oversees" the policy and policy related activities (Demi Getschko)

(For more details see Annex A: the first two phases of ccNSO PDP

### **One or Two ccPDP? The Request for the Issue Report**

As said the choice for one or two PDP is interrelated with the decisions Council will need to take at the Helsinki meeting, in particular by the Council resolution to request an issues report. The scope of this request (i.e. the topics that need to be addressed in the Issue Report) determine the breadth of the the issues that can be addressed in the Issue Report and then in the next phases of the PDP.

At the Marrakesh meeting, the community present was of the view that the initial focus needs to be on developing a Review Mechanism. This is considered to be of highest priority, in particular in light of the IANA Stewardship transition. Only then the focus should on retirement, and, if needed, revisit the Review Mechanism to include decisions relating to the retirement of ccTLDs.

Further, the view of the community was to do as many things in parallel as feasible. The preference was to conduct one (1) PDP, although implications were not very clear.

As said taking into account the results of the Marrakesh meeting, three (3) alternatives approaches were mapped out and presented to Council:

- Two sequential PDPs (Review Mechanism and Retirement)
- One PDP two sequential WGs (Review Mechanism, Retirement)
- One PDP two Parallel WGs (effectively the same is one PDPD with one WG)

The initial analysis suggested that the major differences between the alternatives are:

- Availability of community members/ Workload for the community. Running one PDP with one WG and/or too tight deadlines will require a relative longer term committed

pool of volunteers with a broad range of expertise. In light of two other major projects, the on-going Accountability discussions (WS 2) and expected implementation work around the WS 1 and IANA Stewardship Transition, it is questionable whether this pool will be available.

- Moment in time when the Review Mechanism is available to the community. If the preferred method is one PDP, the Review Mechanism will be available only after completion and implementation of the Review Mechanism and Retirement policy recommendations. From a PDP perspective the determining factor is the the members vote. If a single, combined PDP with two sequential WGs is preferred the preferred option, it is anticipated that the PDP will be completed at its earliest one year after the recommendations for a Review Mechanism have been developed.

Further analysis has shown that the choice for one (1) or two (2) PDP's may be deferred until Council decides to initiate the PDP(s). According to Annex B of the ICANN Bylaws, section 3, the Council shall decide whether or not to initiate a PDP after it has received an Issue Report from the Issues Manager. One course of action could be that Council decides to initiate a PDP on review Mechanism and split and defer the decision on the Retirement to a later stage when the Final report on the review mechanism is completed. This would suggest that the request for the issue report should refer to both elements and further to include in the request an advice whether or not to combine the two elements in one PDP, once it is better understood which issues need to be addressed.

In addition, the request for the issue report could contain a request to propose a structure to organise the work in an efficient and effective manner, both from a timing perspective as from a resourcing perspective.

### **Next Steps**

The ccPDP is one of the topics for discussion with the community. It is also a topic for discussion with GAC.

In order to prepare for these meetings, the following steps are suggested:

- A. Preparation for the Helsinki meeting, which include:
  1. Preparation of the Request for the ISSUE Report, which is advised to include:
    - Scope of the issues to be addressed ( review mechanism and retirement of ccTLDs)
    - Advise on one PDP or splitting off the work on the retirement of ccTLD into a separate PDP
    - Structure of work of the PDP
    - Tentative timeline for the Issue Report. Proposed timeline is early October, so before the Hyderabad meeting, to allow Council to take a decision on the initiation of the PDP at the Hyderabad meeting.
  2. Assuming Council intends to appoint the oversight committee, seek volunteers from each region
  3. Consideration on the appointment of the Issue manager
- B. Consult the community present on proposed scope Issue Report and tentative way forward.
- C. Inform the GAC on scope of issue to be addressed, and need for PDP(s). How they will be engaged in the process, and tentative timeline

## **Annex A: The first two phases of a ccNSO PDP**

### Phase 1: Issue Report

Start of ccNSO PDP: Request of Issue report

#### Mandatory Actions Council:

- Written request (Council resolution): describing the issue that needs to be addressed.
- Appoint Issue Manager (effective 7 days after Council resolution).
- Creation of Issue report by Issue Manager (unless otherwise defined, within 15 days after appointment. However to ensure adequate basis for the Given the need for Opinion of ICANNs general Council and requirement to draft comprehensive Issue Report, suggest minimum time of 30 days.

#### Advisable Council actions:

- ccNSO Council appoints steering committee, to guide and assist Issue manager throughout the process. It is suggested to appoint at least one Councillor per Region. Reason to ensure
- Inform ICANN General Council the PDP has been launched. General Council shall need to provide an opinion that the PDPs is within scope etc.
- Inform the Regional Organisations of potential PDP.
- Inform the GAC that the ccNSO intends to launch PDP.

#### Requirements Issue Report

The requirements for an Issue Report are defined in ICANN Bylaws Annex B Section 2. The main ones are:

- Definition of scope of issues. The scope of the issue is partly described in DRD WG Final Report. The CWG-Stewardship and CCWG-Accountability discussion and successive reports provide background material with respect to the Review mechanism, in particular the work around the in or exclusion of a review mechanism as part of the initial discussion of the CWG-Stewardship.
- Opinion ICANN's General Counsel.
- Advise Issue Manager whether to initiate (one or two) PDP.
- Tentative timeline for the PDP
- Structure of the PDP: Advise whether or not to use a Taskforce as defined in Annex B or other structure, for example working groups

### Phase 2 Initiation of PDP

Decision of Council to initiate PDP

Starts with submission of Issue Report

Total expected minimal duration: 2 months, depending on public comments

#### Mandatory Actions Council:

- Vote to initiate PDP within 21 days of receipt of the issue report. 10 Councillors need to vote in favour of initiating PDP.
- Adopt charter of WG

- Establish initial timeline of PDP
- Call and appointment of volunteers

Expected duration: 1.5 month

Mandatory actions ICANN (staff)/Issue Manager:

- Post notification of initiation of PDP, including Issue Report
- Public comment on Issue Report (minimum of 21 days, however current practice at least 40 days)
- Review of comments received, relate to WG.

Expected duration: 2 months, depending on number of public comments