

Note from the Chair of the DRDWG

Since the Brussels ICANN meeting, the DRDWG has met regularly. During the meetings members the DRDWG has conducted an in depth analysis to identify issues that, according to the DRDWG need to be resolved in order to create a stable and predictable policy based framework for decision-making.

As stated in the second progress report, the DRDWG intends to treat the delegation, re-delegation and retirement processes and practices in a unified, consolidated manner. However for reasons of efficiency and effectiveness, the in-depth analysis was conducted on a process by process basis, and will be reported on separately.

This report includes the results of the analysis and documents the issues and draft recommendation relating to the current delegation process and practices. The working group would appreciate your feed-back and input, if any, on the report, in particular on the following questions:

- Have all the issues been identified? If not, please indicate what should be included.
- Are all identified issues relevant? If not, please provide a reason
- Will the recommendation of the DRDWG resolve the short and long term issues identified? Would you propose alternate recommendations and if so, why?

Input and feed-back can be provided either during the sessions on this topic at ICANN Cartagena or by submitting a comment at: drdwg-del@icann.org

Submissions will be archived and can be viewed at:
<http://forum.icann.org/lists/drdwg-del/>

You are kindly requested to submit your comments, if any, by no later than Friday 14 January 2011.

Process

The DRDWG initially adopted a work plan that contemplated completion of its mandate by July 2011. As a result of the progress made since the Nairobi and Brussels ICANN meetings and a change in its working methods, the DRDWG now expects to deliver its final report at an earlier stage. As indicated in the second progress report, the activities of the DRDWG have been broken down into 3 major phases of activity:

- Phase 1: Identify relevant policies, guidelines, procedures and practices regarding delegation, re-delegation and retirement of ccTLDs;
- Phase 2: Analyze the documented processes against the relevant policies and guidelines identified in Phase 1 and define a methodology to identify and classify

areas where the documented actions appear to be inconsistent with or not addressed in the policies and guidelines;

- Phase 3: Identify issues, if any, regarding each of the three phases and develop recommendations to resolve the issues identified. Submit a final report to the ccNSO council, including the recommendations.

As reported in its first progress report

(<http://ccNSO.icann.org/workinggroups/report-drd-25feb10-en.pdf>):

- The DRDWG has not identified an authoritative policy document that reflects all relevant policy inputs; and,
- There is no publicly available documentation of the current practices or procedures.

To understand the current policies and practices as reported in the second progress report (<http://ccNSO.icann.org/workinggroups/drd-progress-report-14jun10-en.pdf>), the DRDWG performed an initial analysis of the following documents (“Policy Statements”):

- RFC 1591
- ICP-1
- GAC Principles 2000 and 2005

These policies and guidelines provided a baseline against which to evaluate the actual practices of IANA and the decisions of the ICANN Board as reflected in the following documentation (“Documentation”):

- All available IANA reports on ccTLD delegations, re-delegations and retirements
- All ICANN Board decisions affecting ccTLD delegations, re-delegations and retirements.

If the DRDWG noted a difference between the “Policy Statements” and the processes and outcomes reflected in the “Documentation” and this suggested a change in policy had occurred the DRDWG considered whether or not such a change was implemented in a manner consistent with the procedural requirements covered by the ICANN Bylaws.

On this basis, individual cases were identified that the DRDWG considered potentially relevant to its work. A summary of these cases was included in the second progress report and fully documented in the DRDWG analysis report of 14 June 2010

(<http://ccNSO.icann.org/workinggroups/drd-analysis-report-14jun10-en.pdf>).

In September 2010 the DRDWG reconvened and undertook the following activities:

- Review of the results of its public consultation
- Publish a report on the public consultation (<http://forum.icann.org/lists/drd-analysis-report/pdfg9d7XHbtXU.pdf>)

- Develop a work plan for the current session of the DRDWG, based on the separate elements of Retirement, Delegation, “Re-delegation with consent of the incumbent operator” and “Re-delegation without consent of the incumbent operator”.

Once the report on “Re-delegation without consent of the incumbent operator” is finalized the DRDWG will generate a draft Final Report on all the elements for a formal public consultation during 2011. After this consultation has been completed the DRDWG will finalize its Report, and submit it for discussion and adoption to the ccNSO.

All Reports follow the same methodology, based on the previous work and the public consultation document issued before the Brussels meeting:

- All relevant documentation relating to policies, guidelines and procedures for each given element (such as retirement) are identified and listed.
- All documentation of relevant cases for a given element (such as delegation), which were noted to be of interest to the DRDWG are identified and listed.
- Each element of documentation that is relevant is analysed for conformity and applicability
- A list of issues is generated from the analyses.
- A recommendation is generated based on the analyses and issues.

ICANN-CCNSO-DRDWG

**Report on the re-delegation of ccTLDs where the
incumbent operator does not consent**

Notes:

- **The cases in this report will be split into two categories:**
 - **Cases of re-delegation where the incumbent operator has not consented to, and has contested, the transfer of the ccTLD; and**
 - **Cases of re-delegation where the incumbent operator has not consented to the transfer of the ccTLD but has not contested it.**
- **Consent means that the incumbent operator appeared to give their agreement to the requested change to the IANA database. The WG believes that the concepts of consent (voluntary, involuntary and informed) need to be further explored and clarified during the development of the “Framework of Interpretation”.**

1. Current processes, procedures or practices (facts)

1.1. Current processes, procedures or practices in use by ICANN and IANA that are documented.

1.1.1. RFC 1591(Annex A).

1.1.1.1. From Section 3.4 we have: “4) Significantly interested parties in the domain should agree that the designated manager is the appropriate party. The IANA tries to have any contending parties reach agreement among themselves, and generally takes no action to change things unless all the contending parties agree; only in cases where the designated manager has substantially mis-behaved would the IANA step in.”

1.1.1.2. From Section 3.5 “5) The designated manager must do a satisfactory job of operating the DNS service for the domain” we have the following: “In cases when there are persistent problems with the proper operation of a domain, the delegation may be revoked, and possibly delegated to another designated manager.”

1.1.2. News Memo #1 (addendum to RFC 1591)

1.1.2.1. “An additional factor has become very important since RFC 1591 was written: the desires of the government of the country. The IANA takes the desires of the government of the country very seriously, and will take them as a major consideration in any transition discussion.

On a few occasions, the parties involved have not been able to reach an agreement and the IANA has been required to resolve the matter. This is usually a long drawn out process, leaving at least one party

unhappy, so it is far better when the parties can reach an agreement among themselves.”

1.1.3. ICP1

1.1.3.1. *“(a) Delegation of a New Top Level Domain. Delegation of a new top level domain requires the completion of a number of procedures, including the identification of a TLD manager with the requisite skills and authority to operate the TLD appropriately. The desires of the government of a country with regard to delegation of a ccTLD are taken very seriously. The IANA will make them a major consideration in any TLD delegation/transfer discussions.”*

1.1.3.2. *“(d) Operational Capability. The TLD manager must do a satisfactory job of operating the DNS service for the domain. Duties such as the assignment of domain names, delegation of subdomains and operation of nameservers must be done with technical competence. This includes keeping the IANA or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience. Because of its responsibilities for the DNS, the IANA must be granted access to all TLD zones on a continuing basis.”*

1.1.3.3. *“(e) Transfers and Disputes over Delegations. For transfer of TLD management from one organization to another, the higher-level domain manager (the IANA in the case of TLDs), must receive communications from both the old organization and the new organization that assure the IANA that the transfer is mutually agreed, and that the proposed new manager understands its responsibilities. It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer.”*

1.1.4. GAC Principles 2005

1.1.4.1. *“3.4 ‘Re-delegation’ means the change of the person or body responsible for the administration of a ccTLD Registry effected by ICANN/IANA upon receipt of an authoritative request.”*

1.1.4.2. *“3.5 ‘Authoritative request’ for the purposes of this document is the request for the delegation or re-delegation concerning a ccTLD Registry addressed to ICANN/IANA by the appropriate body, according to national law, showing that the request is correctly made, authoritative and is in line with applicable law or, in the absence of such law, RFC 1591.”*

1.1.4.3. *“5.2.1. Any intellectual property rights that the ccTLD Registry may have acquired as the result of delegation or which any entity may have acquired as a result of the management, administration or marketing of the ccTLD shall be taken into account and dealt with in accordance with applicable law in the case of a re-delegation. Such*

rights should not be exercised in a way that unnecessarily impedes re-delegation of a ccTLD Registry decided according to national law or under the circumstances described under clause 7 below.”

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

1.1.5. Understanding the Delegation and Re-delegation procedure (Annex E)

- 1.1.5.1. <http://www.iana.org/domains/root/delegation-guide/>

- 1.1.5.1.1. *“2. Documentation showing that the request serves the local interest*

Crucial to the request are statements of support from the local Internet community. This documentation should provide information demonstrating that the request would be in the interests of the Internet community served by the ccTLD.

Good examples of this documentation include statements from national ISPs and ISP associations, Internet user groups, and Internet Society chapters showing support for the request. Other possibilities include statements from national consortia of electronic commerce providers or trademark and intellectual property holders. It would also be instructive to summarise the usage of Internet in the country, and an explanation on why the statements provided (and the organisations they are from) are representative of the community. If there is disagreement about how the ccTLD is run within the community, explain the circumstances and the different points of view, and why your application is the most appropriate path to serve the Internet community’s interests.”

1.2. Inferred processes, procedures or practices – • Cases of re-delegation where the incumbent operator has not consented to, and has contested, the transfer of the ccTLD

Current processes, procedures or practices can be inferred from ICANN decisions regarding contested re-delegation of ccTLDs over the years. The following is a list of contested re-delegations of ccTLDs:

1.2.1. .AU re-delegation - September 2001

1.2.1.1. IANA Report - <http://www.iana.org/reports/2001/au-report-31aug01.html>

1.2.1.2. IANA Report - <http://www.iana.org/reports/2001/au-report-19nov01.html>

1.2.1.3. ICANN Board Decision – <http://www.icann.org/en/minutes/minutes-10sep01.htm>

1.2.1.3.1. *“After obtaining the endorsement of the Australian Government, auDA requested that ICANN redelegate .au to it. Mr. Elz took the position that the delegation of the .au ccTLD should be transferred from him to a suitable organization, but expressed some concerns about the suitability of auDA. Melbourne IT, currently the sole registrar for .com.au domain names, has also expressed reservations, suggesting that the delegation should be made to the Australian Government rather than auDA. The Australian Government has responded that it believes that the delegation should rest with auDA, subject to the Australian Government's supervision of whether auDA is appropriately serving the needs of the Australian Internet community.”*

1.2.1.4. There is no documentation that the manager of the .AU ccTLD approved the transfer.

1.2.2. .KE Redefication - November 2002

1.2.2.1. IANA Report <http://www.iana.org/reports/2002/ke-report-20dec02.html>

1.2.2.1.1. *“In the case of .ke, the current administrative contact has not agreed to the proposed redefinition to KENIC. However, he has also not responded to the many efforts of participants in the Kenyan Internet community to discuss with him their concerns regarding the .ke ccTLD. The KENIC organizers have made every reasonable attempt to include Dr. Ochuodho into their process, to engage him in dialogue, and to develop a commonly acceptable plan to which he would consent, but Dr. Ochuodho has not responded to these attempts. Where serious concerns are raised within the local Internet community, the administrative contact should seek to discuss, and as appropriate address, those concerns.*

Dr. Ochuodho has similarly failed to respond to the IANA's inquiries. The IANA has repeatedly asked him to provide some response to the considerable documentation of Kenyan Internet

community support that has been provided by KENIC. However, he has sent no acknowledgement, response, or rebuttal to this documentation, other than his allegations of political motivation at his meeting with IANA representatives on 7 August 2002. He has not responded to the IANA's requests that he come forth, in response to the widely expressed community concerns, with evidence of community support for his continued role as administrative contact, or evidence of dissatisfaction with KENIC. He has not fulfilled his commitment, agreed at the 7 August 2002 meeting, that within thirty days he would either (a) work out a solution with KENIC on the management of the .ke ccTLD; (b) demonstrate significant support within the Kenyan Internet community for administration of the .ke ccTLD by him rather than KENIC; or (c) agree to the redelegation of the .ke ccTLD.”

1.2.2.1.2. *“Based on the circumstances described above, the IANA concludes that redelegation is warranted in this case despite the objections of the current administrative contact. Under IANA policy, ccTLD redelegation requests are measured primarily by two yardsticks: technical competence and the views of the local Internet community. In the case of .ke, the overwhelming consensus of the views that have been expressed to the IANA is that KENIC has won the support of a wide range of Kenyan Internet stakeholders, including Internet service providers, users (academic, non-commercial, and business), and the government. Documentary evidence of support was reinforced at the meeting of IANA representatives with leaders of these communities in Nairobi in August 2002, in which the common message to the IANA was one of support for KENIC and a desire to see a change of delegation.”*

1.2.2.2. ICANN Board Decision <http://www.icann.org/en/minutes/minutes-18nov02.htm>

1.2.2.2.1. *“In summarizing the history and status of the .ke ccTLD, Mr. Touton noted that, after a lengthy process, a broad coalition within the local Kenyan Internet community has formed Kenya Network Information Center (KENIC). KENIC has been formed as a result of significant dissatisfaction with the current operation of the .ke domain and has broad support of the ISPs, the technical community, businesses, and individuals. It has also been endorsed by the Kenyan government as the appropriate manager of the .ke ccTLD. Stuart Lynn and other ICANN representatives recently spent several days at a conference in Kenya and witnessed a very significant level of support for KENIC within the local Internet community. The currently listed delegates of the .ke ccTLD are*

Shem J. Ochuodho (administrative contact) of Nairobi, Kenya, and Randy Bush (technical contact). Despite repeated invitations, Mr. Ochuodho has failed to participate in community discussions on concerns with his operation of the domain and opposes redelegation. Despite repeated requests, Mr. Ochuodho also failed to provide material suggesting that he enjoys significant support in the local Internet community, or that KENIC does not.”

1.2.3. .SO Re-delegation - February 2009

1.2.3.1. IANA Report - <http://www.iana.org/reports/2009/so-report-03feb2009.html>

1.2.3.1.1. *“The current technical contact for .SO has stated to ICANN that they do not consent to the redelegation request. In its submission, the applicant has stated that due to the lack of current use of .SO that “an exhaustive consultation with the current operator is probably not necessary”. It is reasonable to believe there is no substantial usage of the .SO domain that would require a coordinated transfer in the event of a redelegation.”*

1.2.3.2. ICANN Board Decision - <http://www.icann.org/en/minutes/minutes-03feb09.htm>

1.2.3.2.1. *“The information contained in the discussion regarding the redelegation was held in private.”*

1.3. Inferred processes, procedures or practices – • **Cases of re-delegation where the incumbent operator has not consented to the transfer of the ccTLD but has not contested it.**

Current processes, procedures or practices can be inferred from ICANN decisions regarding un-consented re-delegation of ccTLDs over the years. The following is a list of un-consented re-delegations of ccTLDs:

1.3.1. .UZ Re-delegation - December 2002

1.3.1.1. IANA Report <http://www.iana.org/reports/2003/uz-report-10apr03.html>

1.3.1.1.1. *“In May 2001, Mr. Khamidov sent a request the IANA for the .uz domain to be redelegated to two individuals affiliated with Euracom, one (Aziz Bektursunov) a citizen of Uzbekistan with an address in Tashkent and the other (Ranier Hartmann Karl) with an address in Berlin. The IANA later learned that Mr. Khamidov was no longer involved with the functioning of the .uz ccTLD.”*

1.3.1.1.2. *“Shortly after Mr. Khamidov ceased acting as the administrative and technical contacts for the .uz ccTLD, the IANA*

received competing requests for redelegation from the Euracom-affiliated individuals and the Uzbekistan Government. After discussion among affected interests within Uzbekistan, the Government's request was reformulated to change the proposed delegatee from a Government agency to Uzinfocom, a non-governmental structure. According to the procedure described above, the IANA encouraged the contending parties to engage on each other's positions, but this did not result in achievement of agreement.

In view of the lack of agreement, the IANA was required to resolve the competing requests by the parties to assume the delegation. Based on a review of the responses of the parties, it appears clear that the reformulated proposal put forth by the Uzbekistan Government, to have the ccTLD managed by Uzinfocom as a non-governmental organization, is better designed to reflect the needs for developing the .uz ccTLD according to the interests of the Uzbekistan Internet community and to gain its support. From the materials presented, it also clearly appears that Uzinfocom has the ability to operate the .uz ccTLD with technical competence.”

1.3.1.2. ICANN Board Decision -

<http://www.icann.org/en/minutes/minutes-02dec02.htm>

1.3.2. .KY-Re-delegation - June 2003

1.3.2.1. IANA Report <http://www.iana.org/reports/2003/ky-report-30jun03.html>

1.3.2.1.1. *“With the passing of this law, Mr. Mole immediately ceased responsibilities as administrative contact of the .ky ccTLD. He notified both the Cayman Islands Government and the IANA that effective immediately, he would no longer handle the administrative contact responsibilities, and such notice was also put on his registration website.”*

1.3.2.1.2. *“Shortly after Mr. Mole ceased acting as the administrative and technical contacts for the .ky ccTLD, the IANA received the redelegation request from the Cayman Islands Government. Based on a review of that request and considering Mr. Mole's cessation of carrying out the role of administrative contact it appears clear that the proposal put forth by the Cayman Islands.”*

1.3.2.2. ICANN Board Decision <http://www.icann.org/en/minutes/minutes-02jun03.htm>

1.3.2.2.1. Only the decision to re-delegate is recorded in the minutes.
There is no record of any of the ICANN Board discussion.

1.3.3. .MD Re-delegation - August 2003

1.3.3.1. IANA Report <http://www.iana.org/reports/2003/md-report-22oct03.html>

1.3.3.1.1. *“Upon its establishment in May 1995, the .md ccTLD was delegated by Dr. Jon Postel (then in charge of the IANA function at the Information Sciences Institute) to Pavel Chirev, of the Republican Centre for Informatics ("RCI") as administrative contact, and David Hoffman of Quantum Innovation, Inc. as technical contact. At that time, it was Dr. Postel's usual practice to delegate authority and responsibilities regarding ccTLDs to trusted individuals, but without entering into formal documentation relating to the delegation. In 1998, RCI entered into a contract with Domain Name Trust, a US-based company, for the rights to operate and oversee the .md ccTLD. Mr. Hoffmann continued to function as the technical contact. In August 2000, the authority over the management and administration of the .md ccTLD (as well as the National Registrant of the .md ccTLD), was designated to a state enterprise within Moldova. On 9 August 2001 the Minister of Transport and Communications through Decree nr. 137 formally designated RCI as the state authority authorized to carry out the responsibility of administering the ccTLD. On 19 September 2001, RCI was transformed into and succeeded by MoldData, a state enterprise.*

Meanwhile, Domain Name Trust sold its rights in the contract for operation of the ccTLD to DotMD, LLC, a company largely controlled by a Mr. Fred Meyer, which went into bankruptcy proceedings in October 2002. In February 2003, following the Bankruptcy Court proceedings, the court ordered, as part of settlement of the case, the return of authority over the .md domain name back to the state of Moldova.”

1.3.3.1.2. *“Since February 2003, and the order of the Bankruptcy Court to return operation of the .md ccTLD to the appropriate Moldovan government authority, the IANA has since then worked with the trustees for the DotMD, LLC estate, as well as MoldData to facilitate the transition of the ccTLD back to MoldData.*

During this roughly six-month period, the IANA received and considered various complaints from Mr. Frank Weyer, Mr. Hoffman, and other parties, claiming that they still maintained a

right in the management of the .md ccTLD. During this time period, the IANA attempted to facilitate communications among the parties and amiable resolution of the matter. These attempts by the IANA were largely unsuccessful, however, as the disputes were primarily driven by financial motives, and the IANA as a general policy will avoid becoming involved in third-party financial disputes.

Under RFC 1591 and ICP-1, the trustee must always act in the interests of the local Internet community. It is clear that as administrative contact, RCI (predecessor to MoldData) entered into a relationship for the operation of the ccTLD that eventually caused significant problems in the administration of the .md ccTLD. A trustee of a ccTLD does not have the ability to irrevocably transfer, delegate, or license out the rights to manage the ccTLD, without itself maintaining ultimate responsibility. The dispute and challenges involving the administration of the .md ccTLD have been difficult, contributed to by the bankruptcy of DotMD LLC and related Bankruptcy Court proceedings, and the ensuing financial disputes between various creditors of the DotMD estate and other interested parties.

Based on a review of the request from Pavel Chirev for the return of operation of the ccTLD to MoldData, the order by the Bankruptcy Court, the recognition by the government of Moldova that MoldData is the appropriate Sponsoring Organization, identifying both an administrative and technical contact within MoldData, it appears clear that the authority for management of the .md ccTLD should rest with MoldData.”

1.3.3.2. ICANN Board Decision -
<http://www.icann.org/en/minutes/minutes-19aug03.htm>

1.3.4. .LY Re-delegation - July 2004

1.3.4.1. There is no IANA Report or minutes of ICANN Board discussions regarding the July 2004 “provisional re-delegation” of .LY. The Board minutes simply record the decision. The October 2004 decision for a complete re-delegation is supported by an IANA Report and complete record of Board discussions:

1.3.4.2. ICANN Board Decision -
<http://www.icann.org/en/minutes/resolutions-29jun04.htm>

1.3.4.2.1. “Provisional Redelegation of .ly

Whereas, on 7 April 2004 the .ly ccTLD ceased functioning due to the failure of the master (primary) nameserver.

Whereas, on 13 April 2004 minimal functionality was restored when the last good copy of the .ly zone was slaved by the former master nameserver to a master.

Whereas, as set forth in RFC 1591 (<ftp://ftp.rfc-editor.org/in-notes/rfc1591.txt>) and later affirmed in ICP-1 (<http://www.icann.org/icp/icp-1.htm>), “TLD managers are trustees for the delegated domain, and have a duty to serve the community.”

Whereas, on 10 May 2004, the proposed delegees began offering name service for the .ly domain on a limited basis. To date their servers have responded well to the minimal load, Mr. Maghur’s team has been responsive to requests, and there is every reason to believe that their servers, along with the slave (secondary) will be more than adequate to handle the full load as a result of updating the nameserver delegation in the root zone.

Whereas, the process of fully validating the appropriateness of the request from GPTC is still underway, and that therefore it is appropriate at this time to allow Mr. Maghur and his team to take over the caretaker role in order to provide greater operational stability for the LY domain while the redelegation process is completed.

Resolved [04.48], the President is permitted to allow the provisional redelegation of the .ly domain to GPTC and Mr. Marwan Maghur, until such time as a full redelegation may be arranged.”

1.3.4.3. IANA Report - <http://www.iana.org/reports/2005/ly-report-05aug2005.pdf>

1.3.4.3.1. *“The .ly ccTLD was delegated by IANA to Mr. Khalil Elwiheishi at the Alshaeen for Information Technology as Administrative and Technical contact. When the Alshaeen for Information Technology was no longer able to effectively manage the domain, Dr. Hosni Tayeb was selected as the “Temporary caretaker” for the domain, and held that role until this redelegation process was complete.”*

1.3.4.3.2. *“Based on the materials submitted and the IANA’s evaluation of the circumstances, including the monitoring of their performance during the provisional redelegation period, GPTC qualifies as an appropriate manager for the .ly registry, with*

support from the Libyan Internet community, including the Libyan Government. As noted above, the government of Libya has formally endorsed GPTC as the appropriate delegatee for the .ly registry.”

1.3.4.4. ICANN Board Decision -

<http://www.icann.org/en/minutes/minutes-18oct04.htm>

1.3.4.4.1. *“Whereas, IANA has been provided and has put on record all the required official paperwork needed including records of meetings that took place locally in the Libyan Internet Community by ISOC, GPTC, LTT, et al. and that all agree with the redelegation to GPTC. Most recently, the GPTC has sent a letter of intent to enter into an agreement with ICANN.”*

1.3.5. .IQ Redelegation - July 2005

1.3.5.1. IANA Report - <http://www.iana.org/reports/2005/iq-report-05aug2005.pdf>

1.3.5.1.1. *“In January 2000, the ccTLD information was updated to reflect InfoCom as an organization related to the named sponsoring organization and the administrative contact, and as the address for the technical contact, Mr. Bayan Elashi. In October 2002, new nameservers were added to the root-zone file for .IQ. Operations for the ccTLD were conducted in the United States, from InfoCom’s offices in Richardson, Texas.”*

1.3.5.1.2. *“Mutual agreement of the old and the new delegees is a factor that ICANN takes very seriously when considering redelegation requests. Here, the designated technical contact is unavailable for consultation due to imprisonment. However, it is particularly noteworthy that between the original delegation in 1997 and 2002, Alani Corporation/InfoCom did not promote the use of the domain, or serve the interests of the Internet users of Iraq.”*

1.3.5.2. ICANN Board Decision -

<http://www.icann.org/en/minutes/minutes-28jul05.htm>

1.3.6. .CX Redelegation - January 2006

1.3.6.1. IANA Report - <http://www.iana.org/reports/2006/cx-report-07mar2006.pdf>

1.3.6.1.1. *“Importantly, there is no disagreement between the old and new delegees that the new manager be installed. In practice, the new delegee is responsible for the day-to-day maintenance and operation of the .CX zone at present, The currently listed delegee organization no longer exists, and the named AC and TC have not presented any challenge to the redelegation, or the choice of delegees. CIIA associated personnel are currently managing the domain’s name servers and performing other functions necessary to keep the .CX domain functioning and active on the Internet.”*

1.3.6.2. ICANN Board Decision -
<http://www.icann.org/en/minutes/minutes-10jan06.htm>

2. Analysis of documentation identified in section 1.

2.1. Current processes, procedures or practices in use by ICANN and IANA that are documented:

2.1.1. RFC1591 has sections which apply to the delegation of ccTLDs

2.1.1.1. IANA has published its current practices relating to ccTLD delegations via a number of methods over time. In 1994 it published RFC 1591 as its statement of current practice and in 1997 this was updated with ccTLD Memo #1. In 1999, ICP1 was published as its statement of current practice.

RFC1591 or the principles it contained were accepted by a majority of ccTLDs active in ccTLD governance issues in 2001 and to this day (see WWTL.org and IATLD.org web archives). News Memo #1 nor ICP1 (which integrates News Memo #1) were never officially endorsed by any significant group of ccTLDs.

2.1.1.2. In support of re-delegations without manager approval.

2.1.1.2.1. From Section 3.4 we have: *“4) Significantly interested parties in the domain should agree that the designated manager is the appropriate party. The IANA tries to have any contending parties reach agreement among themselves, and generally takes no action to change things unless all the contending parties agree; only in cases where the designated manager has substantially mis-behaved would the IANA step in.”*

2.1.1.2.1.1. Clear statement that IANA could undertake re-delegation without manager approval, or possibly a revocation, if the designated manager has substantially mis-behaved.

2.1.1.2.1.2. The term “mis-behaved” remains undefined in the remainder of the document. One can logically conclude that as a minimum this would refer to the designated manager would fail to respect the conditions of delegation as prescribed in RFC1591, such as being in country and being equitable.

2.1.1.2.1.3. There is no process or procedure described as to how an un-approved re-delegation or revocation should proceed.

2.1.1.2.2. From Section 3.5 “5) The designated manager must do a satisfactory job of operating the DNS service for the domain” we have the following: “In cases when there are persistent problems with the proper operation of a domain, the delegation may be revoked, and possibly delegated to another designated manager.”

2.1.1.2.2.1. Clear statement that IANA could undertake re-delegation without manager approval or revoke the domain if the designated manager has failed to do a satisfactory job of operating the DNS service for the domain.

2.1.1.2.2.2. The document offers no definition of what a “satisfactory job” or an unsatisfactory job would imply.

2.1.1.2.2.3. There is no process or procedure described as to how an un-approved re-delegation or revocation should proceed.

2.1.2. News Memo #1

2.1.2.1. News Memo #1 was not supported by the ccTLD community (see 2.1.1.1)

2.1.2.2. Adds to RFC1591 consideration of the desires of the government of the country. “*The IANA takes the desires of the government of the country very seriously, and will take them as a major consideration in any transition discussion*”.

2.1.3. ICP1 has sections which apply to the re-delegation of ccTLDs

2.1.3.1. ICP1 was not supported by the ccTLD community (see 2.1.1.1)

2.1.3.2. The DRD WG analysis of RFC1591 vs ICP1 concluded that “This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as “Significantly Interesting” in its report titled “DETAILED ANALYSIS AND CLASSIFICATION OF POTENTIAL ISSUES”.

2.1.3.3. ICP1 includes the provisions of News Memo #1 in its considerations for re-delegation.

2.1.3.4. The text in 1.1.3.1 is vague on if it applies to re-delegations without manager approval and completely open as how it should be applied.

- 2.1.3.4.1. This is a significant change from RFC1591 in that RFC1591 tempered its version of this language with the following clause “*only in cases where the designated manager has substantially mis-behaved would the IANA step in.*”.
- 2.1.3.4.2. ICP1 removes this clause from this section, allowing it potentially unlimited scope for its decisions.
- 2.1.3.5. ICP1 adds the following language which is applicable to un-approved re-delegations: “(f) Revocation of TLD Delegation. In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager.”
 - 2.1.3.5.1. “*Misconduct*” seems to replace “*mis-behaved*” from RFC1591 and the wording change does not seem to be a major issue. However transferring “misconduct” from its previous section to this section essentially removes all limits from the previous section.
 - 2.1.3.5.2. “Violation of policies set forth in this document and RFC1591” is a significant addition to RFC1591 especially when considering that ICP1 requires that the ccTLD provide IANA with access to its zone file.
 - 2.1.3.5.3. The previous point is of further concern when considering that ICP1, contrary to its statement on this, did include changes to policy.
- 2.1.3.6. ICP1 requires that IANA have access to the ccTLD zone file. Although this is no longer required in practice, this requirement has not been formally rescinded.
- 2.1.4. GAC Principles 2005 includes sections which apply to the re-delegation of ccTLDs
 - 2.1.4.1. The GAC Principles 2005, which are advice to the Board, do recommend a number of additional elements but this is tempered via the following text in the Preamble:
 - 2.1.4.1.1. 1.3. These principles are intended as a guide to the relationships between Governments, their ccTLD and ICANN. They are not intended to be binding and need both Governments and Registries voluntarily to agree to apply them within their legal framework. If either the Government or the Registry decides not to adopt the principles, this cannot be held against the Registry, and the Registry still has a valid existence.

- 2.1.4.2. Section 7.1 should be an important factor in considering contested re-delegations.
- 2.1.5. IANA has published a description of the processes and procedures it uses for the re-delegation of ccTLDs.
 - 2.1.5.1. Contains no reference or information on un-consented or contested re-delegations.
- 2.2. Inferred processes, procedures or practices – **Cases of re-delegation where the incumbent operator has not consented to, and has contested, the transfer of the ccTLD**
 - 2.2.1. .AU re-delegation September 2001
 - 2.2.1.1. Failure to reply to an IANA request considered approval for a re-delegation.
 - 2.2.1.1.1. Considering a failure to reply by an active ccTLD manager as an approval for a re-delegation is an administrative is inadequate and an issue.
 - 2.2.1.1.2. There is no publicly documented process or procedure which supports this action.
 - 2.2.2. .KE re-delegation November 2002
 - 2.2.2.1. *“In the case of .ke, the current administrative contact has not agreed to the proposed redelegation to KENIC.”*
 - 2.2.2.2. Justification for an un-approved re-delegation of this ccTLD:
 - 2.2.2.2.1. *“Under IANA policy, ccTLD redelegation requests are measured primarily by two yardsticks: technical competence and the views of the local Internet community. In the case of .ke, the overwhelming consensus of the views that have been expressed to the IANA is that KENIC has won the support of a wide range of Kenyan Internet stakeholders”*
 - 2.2.2.3. It is unclear how this justification maps into the rules which allow for un-approved re-delegation of a ccTLD:
 - 2.2.2.3.1. One of the key rules supporting un-approved re-delegation, in either RFC1591 or ICP1, is failure to operate the domain properly which would seem to be referred to as the “technical competence” yardstick in the previous section. Given technical

operations were being provided by an Internet DNS veteran, R. Bush, it would be impossible to make the case that there was technical incompetence. The IANA Report does not try to make this case in any way.

2.2.2.3.2. The “views of the local Internet community” yardstick raises some interesting questions:

2.2.2.3.2.1. It would be impossible to map the “views of the local Internet community” yardstick against the “significantly mis-behaved” section of RFC1591.

2.2.2.3.2.2. It would be difficult to map the “views of the local Internet community” yardstick against section F of ICP1: *“(f) Revocation of TLD Delegation. In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager.”*

2.2.2.3.2.3. This would leave the following language from ICP1: From Section *“The management of Delegated Domains”* sub-section E we have: *“In the event of a conflict over designation of a TLD manager, the IANA tries to have conflicting parties reach agreement among themselves and generally takes no action unless all contending parties agree. On a few occasions, the parties involved in proposed delegations or transfers have not been able to reach an agreement and the IANA has been required to resolve the matter. This is usually a long drawn out process, leaving at least one party unhappy, so it is far better when the parties can reach an agreement among themselves”*. Which basically allowed IANA to decide without restriction.

The association of this clause from ICP1 with the views of the local Internet community “yardstick” is obviously an important leap in interpretation which is not documented prior to this IANA Report.

This is of further concern when considering the issues raised concerning local Internet community support in the Redlegation Report of the DRDWG.

2.2.3. .SO re-delegation February 2009

2.2.3.1. From the IANA Report we have *“The current technical contact for .SO has stated to ICANN that they do not consent to the re-delegation request.”*

- 2.2.3.1.1. Clearly an un-approved re-delegation.
- 2.2.3.1.2. Documentation indicates that it was impossible to contact the administrative contact.
- 2.2.3.1.3. Documentation would seem to support an un-approved re-delegation for reasons of significant failure to operate the domain properly.
- 2.2.3.1.4. Although there is no publicly documented IANA process to deal with such failures with a manager the documentation does show good faith effort by IANA to contact the manager and have the situation corrected - without success.
- 2.2.3.1.5. Documenting the notice on the web site that the domain was not taking registrations at this time is very applicable.

2.2.3.2. From the Board Minutes we have *“The information contained in the discussion regarding the redelegation was held in private.”*

2.2.4. ICANN Bylaws are very clear on the Board’s obligations to minute its discussion and under what conditions it can limit this. There is no documentation showing that the process to not record minutes of this discussion were followed.

2.3. Inferred processes, procedures or practices – **Cases of re-delegation where the incumbent operator has not consented to the transfer of the ccTLD but has not contested it.**

Note: Although these cases do not meet the criteria in section 2.2 for a contested re-delegation these cases are of interest to the DRDWG.

2.3.1. . UZ re-delegation December 2002

- 2.3.1.1. IANA documentation states that then current administrative contact stopped functioning as such and had sent in a re-delegation request. This re-delegation request was contested by the local government which put in its own re-delegation request for the ccTLD.
- 2.3.1.2. IANA implies it did not require the approval of the then administrative contact given he had stopped functioning as such and that it simply had to decide between the two competing re-delegation requests. IANA selected the request that was not submitted by the administrative contact of record.
- 2.3.1.3. There is no record of the then current administrative contact removing himself from this function or of being replaced.
- 2.3.1.4. The issue of how an administrative contact stops being considered as such and a lack of documented IANA processes and procedures for dealing with such cases is an issue.

2.3.2. .KY re-delegation June 2003

- 2.3.2.1. There is clear documentation that the then administrative contact removed himself from this position and notified IANA of this change without appointing a replacement.
- 2.3.2.2. There is no public procedure for dealing with a re-delegation request when there is no administrative contact.

2.3.3. .MD re-delegation August 2003

- 2.3.3.1. Complex situation involving the bankruptcy of the operator company and consideration by the creditors that the delegation was an asset. Unclear if there was a functioning administrative contact.
- 2.3.3.2. US court ordered the return of the domain to the country in accord with the wishes of the country.
- 2.3.3.3. This does not seem to raise any significant issues.

2.3.4. .LY “provisional” re-delegation June 2004.

- 2.3.4.1. The DRD WG analysis of this Board Decision concluded that “This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as “Significantly Interesting” in its report titled “DETAILED ANALYSIS AND CLASSIFICATION OF POTENTIAL ISSUES”.
- 2.3.4.2. Provisional re-delegation was not covered in any public documentation at the time and has never been used since. There was never any public definition of what a provisional re-delegation implies.
- 2.3.4.3. Undertaking such a decision without the benefit of an IANA report to the Board is at odds with standard practice and should be considered highly irregular.
- 2.3.4.4. In addition to taking action on a re-delegation without an IANA Report or indicating where the request originated the Board minutes only document the decision. This is unexpected given that this was clearly a special situation, yet no explanation is given as to why the Board discussions are not included in the minutes. Without any other explanations one could consider this a breach of ICANN bylaws.

2.3.5. .IQ re-delegation July 2005

- 2.3.5.1. The IANA report is unclear on the reason(s) for approving this re-delegation, which was not supported by the delegee.
- 2.3.5.2. The domain was delegated to a US based company with administrative and technical contacts also based in the US.

2.3.5.2.1. The IANA report does not analyse or comment on this breach of RFC1591 and ICP1 that delegees must be in country.

2.3.5.3. The IANA report fails to mention if IANA tried to contact the incumbent regarding the re-delegation request. The report only mentions that the “the designated technical contact is unavailable for consultation due to imprisonment”

2.3.5.3.1. There is no mention as to the status of the delegee, Infocom, while the re-delegation request was being processed by IANA or if any attempts at contacting it were made.

2.3.5.3.2. It is obvious that the status of Infocom as well as IANA’s ability to contact it would have been in doubt given the conviction of Infocom. This being said there is no relevant information regarding this in the IANA report.

2.3.5.3.2.1. *“In January 2000, the ccTLD information was updated to reflect InfoCom as an organization related to the named sponsoring organization and the administrative contact, and as the address for the technical contact, Mr. Bayan Elashi. In October 2002, new nameservers were added to the root-zone file for .IQ. Operations for the ccTLD were conducted in the United States, from InfoCom’s offices in Richardson, Texas.*

The technical contact, Bayan Elashi, was arrested in December 2002. In July 2004 Bayan Elashi, InfoCom, and others were convicted in a United States court, for conspiracy to violate, the Export Administration Regulations and the Libyan Sanctions Regulations. In April 2005 Bayan Elashi, InfoCom, and others were convicted in a United States court, for conspiracy to deal in the property of a Specially Designated Terrorist and conspiracy to commit money laundering, along with other related crimes. Additionally, Bayan Elashi was convicted of dealing in the property of a Specially Designated Terrorist and money laundering.”

2.3.5.3.2.2. *“Mutual agreement of the old and the new delegees is a factor that ICANN takes very seriously when considering redelegation requests. Here, the designated technical contact is unavailable for consultation due to imprisonment. However, it is particularly noteworthy that between the original delegation in 1997 and 2002, Alani Corporation/InfoCom did not promote the use of the domain, or serve the interests of the Internet users of Iraq.”*

- 2.3.5.3.3. The IANA report fails to mention if the inability to contact the delegee or its administrative contact were a factor in its decision to re-delegate the domain without the approval of the incumbent.
- 2.3.5.4. The IANA report seems to focus on the conviction of Infocom and the technical contact by a US court. This is of concern for several reasons:
 - 2.3.5.4.1. It is unclear how IANA came by this information or how it confirmed it.
 - 2.3.5.4.1.1. Was this part of the information supplied in the re-delegation request?
 - 2.3.5.4.2. It is unclear if the convictions were in any way related to the operation of the ccTLD and therefore relevant to the IANA report and the re-delegation request.
 - 2.3.5.4.2.1. The IANA report fails to make any links between the convictions and the operation of the domain.
 - 2.3.5.4.2.2. If the convictions were not related to the operation of the ccTLD why were they included in the IANA Report given IANA reports only focus on relevant information?
 - 2.3.5.4.3. It is unclear if the IANA report was attempting to focus on the imprisonment or the conviction and imprisonment.
 - 2.3.5.4.4. Jurisdiction – the report clearly points out that this was conviction by a US court and imprisonment in the US.
 - 2.3.5.4.4.1. Would this be the same for all jurisdictions?
- 2.3.5.5. Proper operation of the domain
 - 2.3.5.5.1. “The .IQ ccTLD was never active. For most of the time the ccTLD was operated by Alani Corporation/InfoCom, the only entries appeared to be two that pointed to the registry itself.”
 - 2.3.5.5.2. The IANA report fails to mention if this improper operation of the domain, as per RFC1591 and ICP1, was a factor in its decision to re-delegate the domain without approval of the incumbent.
- 2.3.5.6. Community Support

- 2.3.5.6.1. The IANA report fails to mention if there was any community support for the re-delegation.
- 2.3.5.6.2. Given the circumstances one could logically assume that there was none.
- 2.3.5.6.3. There are no rules which allow for the re-delegation of a ccTLD without community support.

2.3.5.7. Summary of issues

- 2.3.5.7.1. IANA reports need to clearly and consistently document the status of its contacts with the incumbent in any re-delegation.
- 2.3.5.7.2. IANA reports need to clearly and consistently document community support for re-delegation requests.
- 2.3.5.7.3. IANA reports need to clearly present the case for any un-approved re-delegation as per the applicable rules.
- 2.3.5.7.4. IANA reports should only contain information that is relevant to the analysis of the re-delegation request.
- 2.3.5.7.5. If the conviction or imprisonment of a delegee or its representatives, for reasons that are not related to the operation or management of the ccTLD, should be a factor in the analysis of a re-delegation request the rules should be updated to reflect this.

2.3.6. .CX re-delegation January 2006

- 2.3.6.1. The lack of response from the administrative contact or the technical contact to a re-delegation request was considered as a tacit approval. This would suggest there was no functioning administrative contact.
- 2.3.6.2. Circumstances certainly support this decision however there is no policy or procedural framework to support this type of action.

3. Issues

3.1. Fair and consistent application of bylaws applying to minutes of Board meetings

- 3.1.1. It is unacceptable that the minutes of ICANN Board meetings dealing with the re-delegation of ccTLDs do not meet the letter and the spirit of the bylaws regarding this.

3.2. Applicability of ICP1

- 3.2.1. ICP1 is not generally supported by the ccTLD community and requires updating.

IANA has published its current practices relating to ccTLD delegations via a number of methods over time. In 1994 it published RFC 1591 as its

statement of current practice and in 1997 this was updated with ccTLD Memo #1. In 1999, ICP1 was published as its statement of current practice.

RFC1591 or the principles it contained were accepted by a majority of ccTLDs active in ccTLD governance issues in 2001 and to this day (see WWTL.org and IATLD.org web archives). News Memo #1 nor ICP1 (which integrates News Memo #1) were never officially endorsed by any significant group of ccTLDs.

- 3.2.2. The DRD WG analysis of RFC1591 vs ICP1 concluded that “This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as “Significantly Interesting” in its report titled “DETAILED ANALYSIS AND CLASSIFICATION OF POTENTIAL ISSUES”.
- 3.2.3. ICP1 unilaterally implemented a requirement for government support for delegation of ccTLDs
- 3.2.4. ICP1 requires that IANA have access to the ccTLD zone file. Although this is no longer required in practice this rule is still in effect.
- 3.2.5. Since its publication ICP1 has never been updated although several key ICANN Board decisions since its publication clearly impact its scope.
- 3.2.6. ICP1 does not mention IDN ccTLDs
- 3.2.7. ICP1 should be updated in co-operation with the ccTLD community.
- 3.2.8. ICANN - IANA’s continued use of ICP1 to evaluate contested re-delegations is problematic for many reasons:
 - 3.2.8.1. Contrary to the statements in ICP1, it does contain significant changes in policy.
 - 3.2.8.2. Given ICP1 was never approved by the ICANN Board these changes in policy were never approved and were implemented contrary to the bylaws that were in effect at the time.
 - 3.2.8.3. ICP1 has not been updated since its publication and contains elements which are no longer valid, such as access to the zone file.
 - 3.2.8.4. ICP1 does not incorporate the guidance provided by the GAC Principles 2005 and IANA in its recent IANA Reports has stopped referring to the GAC Principles.
 - 3.2.8.5. Not providing any guidance or restrictions relative to decisions relative to contested re-delegations is problematic even if there is no documentation demonstrating that there have been issues with this.
 - 3.2.8.6. Providing ICANN - IANA with the power to revoke a ccTLD for a breach of any policy in RFC1591, News Memo #1 and ICP1 without any process or procedures in a policy and process organisation such as ICANN is problematic even if there is no documentation demonstrating that there have been issues with this.

3.3. Inactive or retired manager or administrative contact that is not replaced

- 3.3.1. IANA has no published rules or requirements defining what is an active ccTLD manager or administrative contact (active ccTLD manager is defined here as a manager with whom IANA is regularly in contact with (at least once per year)).
 - 3.3.2. IANA has no published rules or requirements defining how a ccTLD manager or administrative contact can retire without being replaced.
 - 3.3.3. What is the status of a ccTLD where the manager or administrative contact is not active or has retired without being replaced?
- 3.4. Failure to reply as an approval
- 3.4.1. IANA has no published rules as to what constitutes a failure to reply to its emails and the practice seems highly variable depending on the circumstance. This allows IANA on occasion to set what seem to be arbitrary periods for a manager to reply to an IANA request.
 - 3.4.2. It is a significant issue that IANA classify a failure to reply from an active ccTLD manager as an acceptance to re-delegate a ccTLD.
- 3.5. IANA processes and procedures for un-consented and contested re-delegations
- 3.5.1. Documentation shows that:
 - 3.5.1.1. Un-consented and contested re-delegations occur on a regular basis.
 - 3.5.1.2. IANA has not published any processes or procedures dealing with these.
 - 3.5.1.3. The only other information available is that which can be inferred from IANA Reports and Board Minutes regarding these cases (when they are available, see 3.1) demonstrate highly variable application of rules over the years.
 - 3.5.2. Un-consented re-delegations are one of the most critical decisions ICANN can recommend.
 - 3.5.3. It is unclear what rules apply to legacy ccTLDs (where the current delegee was selected prior to ICANN being created) which do not have any formalised relationship with ICANN and are not members of the CCNSO. This should be clarified.
 - 3.5.4. IANA not having a published process or procedure for dealing with un-consented re-delegations and the fact that IANA Reports on these re-delegations do not always present a clear picture of the situation is a significant issue.
- 3.6. Public IANA Reports

- 3.6.1. Public IANA reports are inconsistent in clearly presenting if a re-delegation request is approved or not. Public IANA Reports need to clearly indicate if a re-delegation request was approved, by whom and how.
- 3.6.2. In cases of un-approved re-delegations, which is an extremely serious situation, the reasons which justify carrying out this act are often not clearly presented in the context of applicable rules.

3.7. Application of GAC Principles 2005

- 3.7.1. In 2005 IANA Reports under the Evaluation Section have the following text: *“In acting on redelegation requests, the IANA currently follows the practices summarized in "Internet Domain Name System Structure and Delegation" (ICP-1, <http://www.icann.org/icp/icp-1.htm>). ICP-1 represents an update of the portions of RFC 1591 (<http://www.rfceditor.org/rfc/rfc1591.txt> which was issued in March 1994) dealing with ccTLDs, and reflects subsequent documents and evolution of the policies followed by the IANA through May 1999. Relevant guidance is also provided in the GAC Principles.”*
- 3.7.2. In the 2010 version of the IANA Reports we have no mention of the GAC Principles: *“The evaluation of eligibility for country-code top-level domains, and of evaluating responsible trustees charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet’s unique identifier systems. The evolution of the principles has been documented in “Domain Name System Structure and Delegation” (RFC 1591), “Internet Domain Name System Structure and Delegation” (ICP-1), and other informational memoranda.”*
- 3.7.3. RFC1591, News Memo #1 and ICP1 make no reference to the GAC Principles.
- 3.7.4. There is no other current published material mentioning using the GAC principles anywhere on the ICANN or IANA web sites.
- 3.7.5. IANA needs to include these considerations clearly in its documentation, processes and procedures.

3.8. IANA vs. applicable local law and legislation for a ccTLD

- 3.8.1. IANA needs to clarify the impact of local (to the ccTLD) laws and legislation in its evaluation of contested re-delegation requests.

4. Recommendations

The DRDWG have conducted research on the ICANN decisions relating to delegations and re-delegations of ccTLDs and believe the research highlights decisions made that contain elements of inconsistent application of policies, guidelines and procedures, and on occasions that ICANN decisions have been based

on criteria not included in the relevant policies, guidelines and procedures. The decisions of the ICANN board should be logical and predictable.

Although elements of this report support a recommendation for the ccNSO to undertake a PDP, this WG notes the considerable time requirement to develop a PDP along with the urgent need to provide clarification of various issues and procedures within ICANN, and therefore for reasons of expediency, efficiency, effectiveness and flexibility, recommends a two-step process to the ccNSO Council.

The DRDWG recommends that, as a first step, the ccNSO Council undertake the development of a “Framework of Interpretation” for the re-delegation of ccTLDs. This framework should provide a clear guide to IANA and the ICANN Board on interpretations of the current policies, guidelines and procedures relating to the re-delegations of ccTLDs.

The results of the use of such a Framework of Interpretation should be formally monitored and evaluated by the ccNSO council after a pre-determined period. If the results of this evaluation indicate that the Framework of Interpretation failed to provide logical and predictable outcomes in ICANN decision making, the ccNSO council should then launch a PDP on the re-delegation of ccTLDs.

Annex A – RFC1591

Network Working Group
Request for Comments: 1591
Category: Informational

J. Postel
ISI
March 1994

Domain Name System Structure and Delegation

Status of this Memo

This memo provides information for the Internet community. This memo does not specify an Internet standard of any kind. Distribution of this memo is unlimited.

1. Introduction

This memo provides some information on the structure of the names in the Domain Name System (DNS), specifically the top-level domain names; and on the administration of domains. The Internet Assigned Numbers Authority (IANA) is the overall authority for the IP Addresses, the Domain Names, and many other parameters, used in the Internet. The day-to-day responsibility for the assignment of IP Addresses, Autonomous System Numbers, and most top and second level Domain Names are handled by the Internet Registry (IR) and regional registries.

2. The Top Level Structure of the Domain Names

In the Domain Name System (DNS) naming of computers there is a hierarchy of names. The root of system is unnamed. There are a set of what are called "top-level domain names" (TLDs). These are the generic TLDs (EDU, COM, NET, ORG, GOV, MIL, and INT), and the two letter country codes from ISO-3166. It is extremely unlikely that any other TLDs will be created.

Under each TLD may be created a hierarchy of names. Generally, under the generic TLDs the structure is very flat. That is, many organizations are registered directly under the TLD, and any further structure is up to the individual organizations.

In the country TLDs, there is a wide variation in the structure, in some countries the structure is very flat, in others there is substantial structural organization. In some country domains the second levels are generic categories (such as, AC, CO, GO, and RE), in others they are based on political geography, and in still others, organization names are listed directly under the country code. The organization for the US country domain is described in [RFC 1480](#) [1].

Each of the generic TLDs was created for a general category of organizations. The country code domains (for example, FR, NL, KR, US) are each organized by an administrator for that country. These administrators may further delegate the management of portions of the naming tree. These administrators are performing a public service on behalf of the Internet community. Descriptions of the generic domains and the US country domain follow.

Of these generic domains, five are international in nature, and two are restricted to use by entities in the United States.

World Wide Generic Domains:

- COM - This domain is intended for commercial entities, that is companies. This domain has grown very large and there is concern about the administrative load and system performance if the current growth pattern is continued. Consideration is being taken to subdivide the COM domain and only allow future commercial registrations in the subdomains.
- EDU - This domain was originally intended for all educational institutions. Many Universities, colleges, schools, educational service organizations, and educational consortia have registered here. More recently a decision has been taken to limit further registrations to 4 year colleges and universities. Schools and 2-year colleges will be registered in the country domains (see US Domain, especially K12 and CC, below).
- NET - This domain is intended to hold only the computers of network providers, that is the NIC and NOC computers, the administrative computers, and the network node computers. The customers of the network provider would have domain names of their own (not in the NET TLD).
- ORG - This domain is intended as the miscellaneous TLD for organizations that didn't fit anywhere else. Some non-government organizations may fit here.
- INT - This domain is for organizations established by international treaties, or international databases.

United States Only Generic Domains:

- GOV - This domain was originally intended for any kind of government office or agency. More recently a decision was taken to register only agencies of the US Federal government in this domain. State and local agencies are registered in the country

domains (see US Domain, below).

MIL - This domain is used by the US military.

Example country code Domain:

US - As an example of a country domain, the US domain provides for the registration of all kinds of entities in the United States on the basis of political geography, that is, a hierarchy of <entity-name>.<locality>.<state-code>.US. For example, "IBM.Armonk.NY.US". In addition, branches of the US domain are provided within each state for schools (K12), community colleges (CC), technical schools (TEC), state government agencies (STATE), councils of governments (COG), libraries (LIB), museums (MUS), and several other generic types of entities (see [RFC 1480](#) for details [1]).

To find a contact for a TLD use the "whois" program to access the database on the host rs.internic.net. Append "-dom" to the name of TLD you are interested in. For example:

```
whois -h rs.internic.net us-dom
or
whois -h rs.internic.net edu-dom
```

3. The Administration of Delegated Domains

The Internet Assigned Numbers Authority (IANA) is responsible for the overall coordination and management of the Domain Name System (DNS), and especially the delegation of portions of the name space called top-level domains. Most of these top-level domains are two-letter country codes taken from the ISO standard 3166.

A central Internet Registry (IR) has been selected and designated to handle the bulk of the day-to-day administration of the Domain Name System. Applications for new top-level domains (for example, country code domains) are handled by the IR with consultation with the IANA. The central IR is INTERNIC.NET. Second level domains in COM, EDU, ORG, NET, and GOV are registered by the Internet Registry at the InterNIC. The second level domains in the MIL are registered by the DDN registry at NIC.DDN.MIL. Second level names in INT are registered by the PVM at ISI.EDU.

While all requests for new top-level domains must be sent to the Internic (at hostmaster@internic.net), the regional registries are often enlisted to assist in the administration of the DNS, especially in solving problems with a country administration. Currently, the RIPE NCC is the regional registry for Europe and the APNIC is the

regional registry for the Asia-Pacific region, while the INTERNIC administers the North America region, and all the as yet undelegated regions.

The contact mailboxes for these regional registries are:

INTERNIC	hostmaster@internic.net
APNIC	hostmaster@apnic.net
RIPE NCC	ncc@ripe.net

The policy concerns involved when a new top-level domain is established are described in the following. Also mentioned are concerns raised when it is necessary to change the delegation of an established domain from one party to another.

A new top-level domain is usually created and its management delegated to a "designated manager" all at once.

Most of these same concerns are relevant when a sub-domain is delegated and in general the principles described here apply recursively to all delegations of the Internet DNS name space.

The major concern in selecting a designated manager for a domain is that it be able to carry out the necessary responsibilities, and have the ability to do a equitable, just, honest, and competent job.

- 1) The key requirement is that for each domain there be a designated manager for supervising that domain's name space. In the case of top-level domains that are country codes this means that there is a manager that supervises the domain names and operates the domain name system in that country.

The manager must, of course, be on the Internet. There must be Internet Protocol (IP) connectivity to the nameservers and email connectivity to the management and staff of the manager.

There must be an administrative contact and a technical contact for each domain. For top-level domains that are country codes at least the administrative contact must reside in the country involved.

- 2) These designated authorities are trustees for the delegated domain, and have a duty to serve the community.

The designated manager is the trustee of the top-level domain for both the nation, in the case of a country code, and the global Internet community.

Concerns about "rights" and "ownership" of domains are inappropriate. It is appropriate to be concerned about "responsibilities" and "service" to the community.

- 3) The designated manager must be equitable to all groups in the domain that request domain names.

This means that the same rules are applied to all requests, all requests must be processed in a non-discriminatory fashion, and academic and commercial (and other) users are treated on an equal basis. No bias shall be shown regarding requests that may come from customers of some other business related to the manager -- e.g., no preferential service for customers of a particular data network provider. There can be no requirement that a particular mail system (or other application), protocol, or product be used.

There are no requirements on subdomains of top-level domains beyond the requirements on higher-level domains themselves. That is, the requirements in this memo are applied recursively. In particular, all subdomains shall be allowed to operate their own domain name servers, providing in them whatever information the subdomain manager sees fit (as long as it is true and correct).

- 4) Significantly interested parties in the domain should agree that the designated manager is the appropriate party.

The IANA tries to have any contending parties reach agreement among themselves, and generally takes no action to change things unless all the contending parties agree; only in cases where the designated manager has substantially mis-behaved would the IANA step in.

However, it is also appropriate for interested parties to have some voice in selecting the designated manager.

There are two cases where the IANA and the central IR may establish a new top-level domain and delegate only a portion of it: (1) there are contending parties that cannot agree, or (2) the applying party may not be able to represent or serve the whole country. The later case sometimes arises when a party outside a country is trying to be helpful in getting networking started in a country -- this is sometimes called a "proxy" DNS service.

The Internet DNS Names Review Board (IDNB), a committee established by the IANA, will act as a review panel for cases in which the parties can not reach agreement among themselves. The IDNB's decisions will be binding.

- 5) The designated manager must do a satisfactory job of operating the DNS service for the domain.

That is, the actual management of the assigning of domain names, delegating subdomains and operating nameservers must be done with technical competence. This includes keeping the central IR (in the case of top-level domains) or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience.

There must be a primary and a secondary nameserver that have IP connectivity to the Internet and can be easily checked for operational status and database accuracy by the IR and the IANA.

In cases when there are persistent problems with the proper operation of a domain, the delegation may be revoked, and possibly delegated to another designated manager.

- 6) For any transfer of the designated manager trusteeship from one organization to another, the higher-level domain manager (the IANA in the case of top-level domains) must receive communications from both the old organization and the new organization that assure the IANA that the transfer is mutually agreed, and that the new organization understands its responsibilities.

It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer.

4. Rights to Names

- 1) Names and Trademarks

In case of a dispute between domain name registrants as to the rights to a particular name, the registration authority shall have no role or responsibility other than to provide the contact information to both parties.

The registration of a domain name does not have any Trademark status. It is up to the requestor to be sure he is not violating anyone else's Trademark.

- 2) Country Codes

The IANA is not in the business of deciding what is and what is not a country.

The selection of the ISO 3166 list as a basis for country code top-level domain names was made with the knowledge that ISO has a procedure for determining which entities should be and should not be on that list.

5. Security Considerations

Security issues are not discussed in this memo.

6. Acknowledgements

Many people have made comments on draft version of these descriptions and procedures. Steve Goldstein and John Klensin have been particularly helpful.

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Annex B – News Memo #1



Dedicated to preserving the central coordinating functions of the global Internet for the public good.

CCTLD News Memo #1 (23 October 1997)

There is a backlog of topics to discuss so this message will touch on several things that will be discussed more fully separately in subsequent messages over the next several weeks.

1. Organization

It seems that it would be helpful to have a bit more organization among the country code TLD managers and operators to share information about problems and solutions, software and systems, and policies and procedures.

I hope this mailing list is a significant step in the right direction. However there may be other things that could be done. For example, it might be helpful to have a time during the annual INET conference for those of us that can attend to get together. However, meeting on a world wide basis may be too expensive, so regional groupings and meetings are also possible, and I encourage you to form regional groups, with mailing lists and meetings.

2. Policy and Procedures

The policies and procedures for the use of each country code must be available for public inspection. Generally these are posted on web pages or made available for file transfer.

While we expect there will be variations in policies and procedures from country to country due to local customs and cultural values, they must be documented and available to interested parties.

An additional factor has become very important since RFC 1591 was written: the desires of the government of the country. The IANA takes the desires of the government of the country very seriously, and will take them as a major consideration in any transition discussion.

On a few occasions, the parties involved have not been able to reach an agreement and the IANA has been required to resolve the matter. This is usually a long drawn out process, leaving at least one party unhappy, so it is far better when the parties can reach an agreement among themselves.

4. Shared Registries

In Great Britain (.UK) a system of "shared registration" has been developed (see <http://www.nic.uk>). This is a very interesting approach to allowing competition in the registration process and one that is likely to be adopted in other countries. The IANA encourages country code managers to look into forming a management consortium including the interested parties and adopting a shared registry operation.

5. Naming Structure

The design of the naming structure under the country code is up to the manager of that country code. There may be reasons for an unusual or even unique structure to be developed in a particular country due to local customs. However, it may be useful to develop a model country code naming structure as a basis for local variations. This is a topic to be discussed further in future messages.

If there are criteria as to the type of organization that is appropriate to register under a particular branch of the country code, those criteria must be published (as part of the policies and procedures) and applied equally to all applicants.

Sometimes there are questions about what kind of names should be allowed (or outlawed). The experience is that if there is to be some set of allowed (or outlawed) names in a particular situation the best approach is to use an existing list maintained by another long-existing, reputable, organization. Just as we use the list of country codes determined by the ISO-3166 standard.

Another aspect of names is what characters to allow in names. In the early days, there were rules against names that started with a digit (such as 3COM). These rules have been discarded, at least for the COM domain, and such names work with no problems for the DNS system. Even names of all digits work fine. It is up to you to decide what names to allow or not, but it is important to be realistic about what efforts you have to make to consistently enforce the rules you make.

Thank you.

IANA

Please send comments on this web site to: webmaster@iana.org

Page Updated 16-April-2000.

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Annex C – ICP1

ICP-1: Internet Domain Name System Structure and Delegation (ccTLD Administration and Delegation)

IMPORTANT NOTICE. The following Internet Coordination Policy is being posted for the information of the Internet community. It contains a statement of the current policies being followed by the Internet Assigned Numbers Authority (IANA) in administering delegations of Top Level Domain Names of the Internet Domain Names System (DNS). At a future date, the ICANN Board may consider changes to these policies and will, at such time, notice proposed changes for public comment in accordance with the ICANN Bylaws.

Comments on this document are welcome and should be directed to comments@icann.org.

**INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS
INTERNET ASSIGNED NUMBERS AUTHORITY
Internet Domain Name System Structure and Delegation (ccTLD Administration
and Delegation)
(May 1999)**

Abstract

This document is a summary of current practices of the Internet Assigned Numbers Authority (IANA) in administering [RFC 1591](#), which includes the guidance contained in [ccTLD News Memo #1](#) dated October 23, 1997. It DOES NOT reflect any changes in policy affecting the administration of DNS delegations. It is intended to serve as the basis for possible future discussions of policy in this area. Changes in ICANN/IANA policy will be made following public notice and comment in accordance with the ICANN Bylaws.

Introduction

The IANA is the overall authority for day-to-day administration of the Internet Domain Name System (DNS). IANA staff carry out administrative responsibilities for the assignment of IP Addresses, Autonomous System Numbers, Top Level Domains (TLDs), and other unique parameters of the DNS and its protocols. This document provides general information on IANA policy for administering the DNS. Instructions on procedures to be followed in requesting TLD delegations or changes are available on the website at iana.org.

Top Level Structure of the DNS

The DNS structure contains a hierarchy of names. The root, or highest level, of the system is unnamed. Top Level Domains (TLDs) are divided into classes based on rules that have evolved over time. Most TLDs have been delegated to individual country managers, whose codes are assigned from a table known as [ISO-3166-1](#), which is maintained by an agency of the United Nations. These are called country-code Top Level Domains, or ccTLDs. In addition, there are a limited number of "generic" Top Level Domains (gTLDs), which do not have a geographic or country designation. Responsibility for adoption of procedures and policies for the assignment of Second Level Domain Names (SLDs), and lower level hierarchies of names, has been delegated to TLD managers, subject to the policy guidance contained in this document. Country code domains are each organized by a manager for that country. These managers are performing a public service on behalf of the Internet community. A list of current TLD assignments and names of the delegated managers can be accessed at <http://www.iana.org/cctld/cctld.htm>.

The Management of Delegated Domains

As part of its responsibility for the overall coordination and management of the DNS, the IANA receives and processes all requests for new TLDs and for changes to existing TLDs. The following policies are applicable to management of TLDs. In general, the principles described here apply recursively to all delegations of the Internet DNS name space.

(a) Delegation of a New Top Level Domain. Delegation of a new top level domain requires the completion of a number of procedures, including the identification of a TLD manager with the requisite skills and authority to operate the TLD appropriately. The desires of the government of a country with regard to delegation of a ccTLD are taken very seriously. The IANA will make them a major consideration in any TLD delegation/transfer discussions. Significantly interested parties in the domain should agree that the proposed TLD manager is the appropriate party. The key requirement is that for each domain there be a designated manager for supervising that domain's name space. In the case of ccTLDs, this means that there is a manager that supervises the domain names and operates the domain name system in that country. There must be Internet Protocol (IP) connectivity to the nameservers and electronic mail connectivity to the entire management, staff, and contacts of the manager. There must be an administrative contact and a technical contact for each domain. The administrative contact must reside in the country involved for ccTLDs. The IANA may choose to make partial delegations of a TLD when circumstances, such as those in a developing country, so dictate. It may also authorize a "proxy" DNS service outside of a developing country as a temporary form of assistance to the creation of Internet connectivity in new areas. [N.B. The IANA continues to receive inquiries about delegation of new gTLDs. This is a significant policy issue on which ICANN will conduct a careful study and review based on the established decision making procedures. Information about this study will be disseminated on the website at icann.org.]

(b) TLD Manager Responsibility. TLD managers are trustees for the delegated domain, and have a duty to serve the community. The designated manager is the trustee of the TLD for both the nation, in the case of ccTLDs, and the global Internet community. Concerns about "rights" and "ownership" of domains are inappropriate. It is appropriate, however, to be concerned about "responsibilities" and "service" to the community.

(c) Fair Treatment. The designated manager must be equitable and fair to all groups in the domain that request domain names. Specifically, the same rules must be applied to all requests and they must be processed in a non-discriminatory fashion. The policies and procedures for the use of each TLD must be available for public inspection. Generally these are posted on web pages or made available for file transfer. While variations in policies and procedures from country to country are expected due to local customs and cultural values, they must be documented and available to interested parties. Requests from for-profit and non-profit companies and organizations are to be treated on an equal basis. No bias shall be shown regarding requests that may come from customers of some other business related to the TLD manager. For example, no preferential service for customers of a particular data network provider. There can be no stipulation that a particular application, protocol, or product be used.

(d) Operational Capability. The TLD manager must do a satisfactory job of operating the DNS service for the domain. Duties such as the assignment of domain names, delegation of subdomains and operation of nameservers must be done with technical competence. This includes keeping the IANA or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience. Because of its responsibilities for the DNS, the IANA must be granted access to all TLD zones on a continuing basis. There must be a primary and a secondary nameserver that have IP connectivity to the Internet and can be easily checked via access to zones for operational status and database accuracy by the IANA.

(e) Transfers and Disputes over Delegations. For transfer of TLD management from one organization to another, the higher-level domain manager (the IANA in the case of TLDs), must receive communications from both the old organization and the new organization that assure the IANA that the transfer is mutually agreed, and that the proposed new manager understands its responsibilities. It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer. In the event of a conflict over designation of a TLD manager, the IANA tries to have conflicting parties reach agreement among themselves and generally takes no action unless all contending parties agree. On a few occasions, the parties involved in proposed delegations or transfers have not been able to reach an agreement and the IANA has been required to resolve the matter. This is usually a long drawn out process, leaving at least one party unhappy, so it is far better when the parties can reach an agreement among themselves. It is appropriate for interested parties to have a voice in the selection of the designated manager.

(f) Revocation of TLD Delegation. In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager.

(g) Subdelegations of Top Level Domains. There are no requirements for management of subdomains of TLDs, including subdelegations, beyond the requirements for TLDs stated in this document and [RFC 1591](#). In particular, all subdomains shall be allowed to operate their own domain nameservers, providing in them whatever information the subdomain manager sees fit, as long as it is true and correct.

(h) Rights to Domain Names. The IANA has no special requirement for policies to be followed by TLD managers in connection with disputes over rights to domain names other than those stated generally in this document and [RFC 1591](#). Please note, however, that use of a particular domain name may be subject to applicable laws, including those concerning trademarks and other types of intellectual property.

(i) Uses of ISO 3166-1 Table. The IANA is not in the business of deciding what is and what is not a country. The selection of the [ISO-3166-1](#) list as a basis for country code top-level domain names was made with the knowledge that ISO has a procedure for determining which entities should be and should not be on that list. For more information about the ISO 3166 Maintenance Agency, please see the following webpage: <http://www.iso.org/iso/en/prods-services/iso3166ma/index.html>.

(j) Maintenance Procedure for Root Zone File. The primary root zone file is currently located on the A root server, which is operated by Network Solutions, Inc.(NSI), under a cooperative agreement with the U.S. Government. Changes to the root zone file are made by NSI according to procedures established under Amendment 11 of that cooperative agreement.

Annex D – GAC Principles 2005

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

Presented by the Governmental Advisory Committee

1. PREAMBLE

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

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

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

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

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

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

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

2. OBJECTIVE OF THIS DOCUMENT

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

- a communication between the relevant government or public authority and ICANN about their respective roles;
- a communication between the relevant government or public authority and the ccTLD Registry where this is deemed appropriate by the government and Registry concerned or provided for by national laws; and
- an appropriate communication between ICANN and the ccTLD Registry.

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

3. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

4. ROLE OF GOVERNMENT OR PUBLIC AUTHORITY

4.1 Principles

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

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

4.2 Guidelines

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

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

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

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

5. ROLE OF ccTLD REGISTRY

5.1 Principles

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

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

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

5.2 Guidelines

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

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

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

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

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

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

6. ROLE OF ICANN

Principle

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

7. PRINCIPLES RELATING TO DELEGATIONS AND RE-DELEGATIONS

7.1. Principle

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

7.2. Guidelines

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

7.2.2. In the case of a disputed re-delegation request where the relevant country code TLD Registry is based in another country and where there is not a contract specifying which national law should apply, the government and ccTLD should seek to find a mutually acceptable solution. Where there is evidence that local stakeholders and the Internet community support the government proposal for re-delegation, but where there is no legal basis for imposing the re-delegation, ICANN may contribute to identifying alternative solutions to resolve the problem.

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

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

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

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

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

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

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

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

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

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

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

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

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

10. COMMUNICATION BETWEEN ICANN AND THE ccTLD REGISTRY

10.1 Principle

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

10.2 Guidelines

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

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

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

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

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

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

10.2.2.1. Cause to be operated and maintained in a stable and secure manner the authoritative primary and secondary name servers for the ccTLD, adequate to

resolve names within the ccTLD for users throughout the Internet, and any sub-domains over which they retain administrative authority;

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

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

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Mar del Plata, 5 April 2005

Annex E – IANA – Understanding the Delegation and Re-delegation Procedure.

Understanding the ccTLD Delegation and Re-delegation Procedure

Country-code top-level domains (ccTLDs) are two-letter top-level domains that are derived from the ISO 3166-1 standard. IANA is responsible for receiving requests relating to the delegation and re-delegation of a sponsoring organisation for these domains. The sponsoring organisation is entrusted with operating the domains in the public interest for the community the domain is designated to serve. IANA evaluates requests against both technical and public interest criteria, and provides the results of its investigation to the ICANN Board of Directors who ultimately decide whether to approve requests. IANA is also responsible for implementation of requests that have been approved by the ICANN Board.

Note well: This document is not a statement of policy, and should not be construed as such. It is simply a guide prepared by IANA staff to assist applicants better understand the process, and will be adapted over time based on feedback and questions.

Who is this document for?

This document is for anyone who needs to understand the step-by-step process involved in the delegation or re-delegation of a ccTLD. While primarily intended as a guide for those organizations pursuing such a request, this document is also intended to serve as a reference for anyone interested in the IANA ccTLD delegation and re-delegation process.

Who is involved in a delegation or re-delegation?

The delegation or re-delegation of a ccTLD, while conceptually simple, can become complex because many different organizations and individuals play a part in the process. For example:

- **The proposed new operator (applicant)** typically initiates the process and provides the needed information in a standard format.
- **The existing operator** is contacted to confirm the change is appropriate and should be implemented, in the event of a re-delegation request.
- **The sponsoring organization**, in many cases the government associated with the ccTLD, is asked to verify that the re-delegation is supported.

- **Those parties served by the ccTLD** are asked to show that they support the request and that it meets the interests and needs of the local Internet community.
- **IANA Root Management Staff** act as the coordinator and analyst for the request. This work includes investigating the details of the request, preparing a recommendation for the ICANN Board, and implementing the request if it is approved.
- **The ICANN Board of Directors** considers the recommendation prepared by IANA staff and then votes on whether the request should move forward.
- **The US Department of Commerce** evaluates a report on the request prepared by IANA staff.

Submitting the Request

The steps for delegation and re-delegation involve preparation of an initial request via a Change Request Template. In addition to the Change Request Template, IANA requires supplementary information that shows that the request meets the eligibility criteria. IANA uses this information to corroborate the delegation or re-delegation request. This documentation includes:

- information showing the change serves the local interest in the country;
- documentation demonstrating the technical and administrative capabilities of the organization receiving the re-delegation;
- a description of the legal status of the organization;
- the names of contacts in any in-country government agencies who have a say in the delegation/re-delegation;
- a detailed description of how existing ccTLD operations will be transferred to the proposed new operator, in the case of a re-delegation;
- documentation showing that the new operator will operate the domain in a fair and equitable manner; and,
- the approvals of the current contacts for the TLD, in the case of a re-delegation.

Each of these requirements is described in more detail below.

Once these materials are received, they are validated and examined. A report is prepared on the request by IANA, obtaining the necessary approvals from the various parties involved in the delegation and re-delegation, and finally the implementation of the change if agreed upon and approved.

1. The Change Request Template

The template used for delegation and re-delegation requests can be obtained from the IANA web site at:

<http://www.iana.org/cctld/cctld-template.txt>

This template is a plain text form to be filled out by the applicant and submitted via electronic mail for processing. Once an applicant has completed filling out the template, it should be sent to IANA's Root Management team at:

root-mgmt@iana.org

The template should be submitted to IANA be in ASCII plain text format. While it is sometimes tempting for formatting or other reasons to use HTML, RTF, Portable Document Format, or other proprietary word processing formats, please use only plain text. The use of other formats will delay processing as IANA staff will need to convert them.

The applicant may attach the supplemental information along with the original template as email attachments. Another approach would be to wait for the confirmation receipt with its ticket number and then use that number in subsequent messages to send the attachments. In either case, electronic copies of relevant paper-based documentation and supporting materials should be sent as Portable Document Format (PDF) files.

The applicant should also send the original supplemental materials, or official copies, to IANA by post. To send materials by post, please submit the initial template via electronic mail to obtain a ticket number and post the supplemental documents to:

IANA Root Management
Ticket Number: ticket-number
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6648
USA

It is requested that the applicant ensures the envelope and correspondence clearly includes the reference number from the template confirmation receipt, to help expedite processing.

Delays in the delegation/re-delegation process can also be avoided if the template and other documents sent to IANA are in English. IANA appreciates the fact that diverse languages are in use by ccTLD operators throughout the world. However, IANA does not currently have the resources or ability to ensure accurate and timely translations of templates and supporting documents. Where appropriate, translations of key documents (such as government decrees relating to the request, and so forth) should be notarised official translations.

The template is made up of a number of parts:

1. a brief description of the purpose for the change request;
2. the identification of the ccTLD itself;
3. the identity of the sponsoring organization;
4. the administrative contact for the re-delegation;

5. the technical contact for the re-delegation;
6. the primary nameserver for the ccTLD;
7. a list of the secondary nameservers for the ccTLD;
8. the URL for registration services; and,
9. the address of the “WHOIS” (port 43) server associated with the ccTLD.

Once the template is sent to IANA, the applicant will receive an automated confirmation of receipt from the IANA’s ticketing system. This confirmation receipt will include a ticket number in the subject line of the message in the form:

Subject: [IANA #ticket-number] Re: subject of message

The ticket number is used to track progress and correspondence related to the request. For this reason it is very important to ensure that the ticket number is included in the subject line – just as it appears in the confirmation receipt – in all future communications related to the request. Failure to include the tag in the subject line of correspondence will delay the processing of your request.

Note that if you do not receive an automated confirmation message from IANA with the above subject line tag within a reasonable timeframe (i.e., less than a day), it is possible your message was inappropriately marked as unsolicited commercial email and deposited in a “spam box” for later review by IANA staff. If this is the case, we apologize. Due to the public nature of IANA service mail boxes, IANA receives a substantial amount of unsolicited commercial email and have been forced to take steps to reduce the load of this email on our processing of requests. Should you experience significant delays, please either call IANA staff at:

+1 310 823 9358 begin_of_the_skype_highlighting +1 310 823
9358 end_of_the_skype_highlighting

or send a fax to:

+1 310 823 8649

2. Documentation showing that the request serves the local interest

Crucial to the request are statements of support from the local Internet community. This documentation should provide information demonstrating that the request would be in the interests of the Internet community served by the ccTLD.

Good examples of this documentation include statements from national ISPs and ISP associations, Internet user groups, and Internet Society chapters showing support for the request. Other possibilities include statements from national consortia of electronic commerce providers or trademark and intellectual property holders. It would also be instructive to summarise the usage of Internet in the country, and an explanation on why the statements provided (and the organisations they are from) are representative of the

community. If there is disagreement about how the ccTLD is run within the community, explain the circumstances and the different points of view, and why your application is the most appropriate path to serve the Internet community's interests.

Along with the documentation for local support, this part of the application should include a summary of the intended administrative operation of the domain name including, as an example, how names will be added and in what order, removed, how disputes will be resolved.

3. Documentation showing the technical and administrative skills of the applicant

The applicant must show that they have the technical and administrative skills needed to run a ccTLD registry. Examples of documentation that may be included in this section are:

- A description of the staffing, financial and technical resources that would be put in place to serve the ccTLD.
- A description of the applicant's technical capabilities including the technical plan for both registry and DNS operations.
- The proposed registry/registrar model, if any, along with database capabilities, zone data generation and provision of public whois services.
- Database and physical security for the operation of the ccTLD.
- An explanation of how system outages will be prevented and what system recovery procedures will be put into place for the ccTLD.
- A description of previous registry/database and Internet related experience.
- An overview of the qualifications of financial and business officers and any other relevant management employees.

The list above is not exhaustive but serves as examples of what may be used to help complete this section of the application.

4. Legal company requirements

When ccTLDs were first implemented in the mid-1980s, they were usually assigned to specific individuals to act as custodians and run the domains in the public interest. Today, however, ccTLD operations are normally delegated to organizations. As a result, the applicant needs to describe the legal authenticity, status and character of the organization applying for the re-delegation.

Items that might be included in this section are:

- The legal name, principal address, telephone and fax numbers for the organization.
- The organization's email contact address and URL of its website.

- The Dun and Bradstreet D-U-N-S Number (if any), and/or local company registration numbers, of the organization proposed to become the operator.
- Full names and titles of the directors, officers and all senior managers of the organization proposed to become the operator.
- A short description of the history of the organization that would give the IANA team the ability to assess the size, stability and history of the organization.

5. Transfer Plan

In the case of a re-delegation, the applicant should provide information on how existing operations will be transferred to the proposed new operator. It should explain how the stability of the domain will be preserved, and how existing registrants will be impacted by the change. If the application is in relation to a transfer from a retired ccTLD to another ccTLD, it is strongly recommended this plan describe the transfer and decommissioning process for the retired domain.

6. Government contact

In this short section, the applicant should provide documentation indicating that any appropriate government officials have been informed about the request. A statement of support from the relevant government department or agency is effective in meeting this requirement.

7. Fair and Equitable Treatment

Applicants are asked to demonstrate that they will operate the domain in a fair and equitable manner for the local Internet community the domain is designed to serve. This can usually be demonstrated by providing IANA with a domain registration policy that allows all people to register domains on an equal basis, without unduly favouring a particular segment of the community. It is not considered unfair if a domain's policy limits registration only to people within the country the domain is designated to serve.

After IANA receives the request

Once IANA has sent a confirmation receipt to the applicant for the request and has received the provided supplemental information, IANA begins a process of analysis and verification.

IANA confirms the accuracy of the information provided on the template and makes assessments of the additional documentation provided. In cases involving nameserver changes, IANA performs a series of tests on all nameservers to ensure they are properly configured according to the relevant technical standards.

The amount of time this step takes varies depending upon the depth and quality of information provided in the supporting documentation and the complexity of the individual re-delegation case.

There are two possible results from the IANA review step. First, IANA may find that they have sufficient documentation to go forward with the request. In this case, IANA staff begins the process of requesting confirmation of the re-delegation from existing contacts. In the event that IANA needs further documentation, it requests that information from the applicant and informs them that the re-delegation will not proceed until the documentation and information has been received. If there is no reasonable prospect the re-delegation request can succeed, IANA will inform the requestor this and may administratively close the request.

Requesting confirmation from contacts

Once IANA has completed its verification and analysis of the material supplied in the request it then requests, confirmation of the re-delegation from the current administrative and technical contacts (if applicable) as well as the newly proposed administrative and technical contacts.

If confirmation is immediate from all parties, IANA proceeds with the next step in the process. In those cases where confirmation is not received from one or more parties, further consultation is necessary. IANA's experience has been that a failure to receive confirmation from the existing or proposed contacts can significantly delay and complicate the process.

IANA's experience also suggests that each delegation and re-delegation request presents unique challenges. IANA and ICANN are able to assist countries and ccTLDs in meeting these challenges. However, if the applicant ensures all contacts are able and ready to respond to the confirmation request, processing will proceed much more quickly.

Preparing the request for the ICANN Board

ICANN's Board of Directors votes on all re-delegation requests. Based on the information IANA has received from the applicant and the subsequent analysis made by IANA Root Management staff, IANA prepares a report for the ICANN Board of Directors.

This report describes the request, the process used for its evaluation, details the results of IANA's analysis of the request and provides a recommendation. If the Board votes in favor of the request, the application moves on to the next step. If the ICANN Board of Directors votes against a request, IANA will inform the applicant of that decision and work with the applicant to make sure the reasons for the decision are fully explained. The Board may also decide they need further information or research, in which case IANA will coordinate further work in this area and contact the requestor as needed.

Seeking authorisation for the change

As is required by the current contract under which IANA operates, once the ICANN Board has approved the request, a public report — which is a summary of the longer Board report — is prepared and submitted to the United States Department of Commerce for authorisation. Typically, the US Department of Commerce processes these reports within a business week, however IANA cannot guarantee any specific timeframes under which the application will be approved.

Implementing the change

Once the US Department of Commerce approves the IANA report, VeriSign will implement the name server changes in the root-zone as specified in the request, and IANA will make the proposed data changes needed to implement the conclude the request.

Immediately after being notified that the request has been implemented, the applicant should verify that the changes were made correctly. In the event that any problems arise, the applicant should immediately work with IANA to resolve the issues. For any issues associated with alterations to a ccTLD, the applicant should contact IANA Root Management at root-mgmt@iana.org and use the ticket number provided in the confirmation as a reference.

Common Questions

How long does a request take?

Every delegation or re-delegation request is different. With many organizations participating in any particular request, the processing can be affected by delays in coordinating and communicating among the parties, obtaining the necessary approvals, and verifying the information provided. The process can be further complicated when not all parties agree to the request.

Because of this, it is not possible to predict a timetable for the process from receipt of the request through to completed implementation. Fully-formed requests that clearly meet all relevant criteria can take as little as a month or two. In some extreme and complicated cases, requests can take a number of years.

Are there circumstances where some information is not needed?

There are some special cases when less information is required to support a re-delegation request.

IANA will check if a change request to a supporting organization reflects a change of administrative responsibility to a new organization that is essentially the same as the

previous organization. Situations like this, called an “administrative re-delegation”, include where ccTLD management has shifted as the result of an internal restructure, internal governmental restructure, or the entity is renamed or wholly acquired by another entity.

In such cases, to be considered an administrative re-delegation, day-to-day operations would need to remain substantially unaltered. For example, there would normally need to be continuity of staff, policy, policy setting structure, levels of service and so on.

When a request is determined to be an administrative re-delegation, IANA will allow the applicant to bypass some of the elements of a regular re-delegation, such as demonstrating local Internet community support and operational competencies. IANA will also implement the change without the requirement for the ICANN Board to decide the matter.

If IANA considers an application to be eligible for this expedited treatment, it will advise the applicant.

(v9, 2007-10-01)