ICANN Geographical Regions

Final Report by the ccNSO Regions Working Group
For Submission to the ICANN Board

24 September 2007

Working group members:
David Archbold, (Chair), .ky
Becky Burr, ccNSO Council Member
David Chen, .tw
Mohamed El Bashir, .sd
Don Hollander, APTLD
Andy Kang, .kr
Oscar Moreno, .pr
Oscar Robles-Garay, .mx
Ron Sherwood, .vi

ICANN staff support
Donna Austin
Gabriella Schittek
Bart Boswinkel

Table of Contents

Executive Summary

1. In 2000, by formal resolution, the ICANN Board directed the staff to assign countries to geographic regions on the basis of the United Nations Statistics Division's current classifications of "Countries or areas, codes and abbreviations," as revised 16 February 2000, and "Composition of macro geographic (continental) regions and component geographical regions," as revised 16 February 2000.[1] The resolution gave no authority for deviations from the UN classifications.

2. Nevertheless, the ICANN Bylaws define five regions, three of which (II, III and IV) are different from the UN classifications. They are:

    I. Africa,
    II. North America,
    III. Latin America/Caribbean,
    IV. Asia/Australia/Pacific and
    V. Europe.

    In addition, the concept that "persons from an area that is not a country should grouped together with the country of citizenship for that area" was extended so that the area or territory itself was similarly allocated to the region of the "mother country".   Unfortunately, even the underlying "citizen rule" was incorrectly applied in some instances.

3. As a consequence, depending upon the measurement criteria one uses, either 17% or 40% of countries are allocated to different ICANN regions than those to which they are allocated by the UN Statistics Office.

4. Section 5 of the ICANN Bylaws states:

    "The specific countries included in each Geographic Region shall be determined by the Board, and this Section shall be reviewed by the Board from time to time (but at least every three years) to determine whether any change is appropriate, taking account of the evolution of the Internet."

5. The second, three-yearly review was due to be carried out in 2006 but was deferred, possibly pending receipt of this report from the ccNSO.

6. Initially it was hoped that the ccNSO would be able to provide some firm recommendations to the ICANN Board for the realignment of ICANN's Geographic Regions. It quickly became apparent, however, that extensive consultation throughout the ICANN community would be necessary. It was considered that this would take considerably longer than the Board would be prepared to wait for initial input and that, in any event, better and more

---

[1] http://www.icann.org/minutes/minutes-16jul00.htm

meaningful responses would be likely if the necessary work were sponsored by the Board itself. The goal of this report therefore is to explain the problems that exist with the current ICANN Geographical Regions and to urge the Board to establish a community-wide Working Group to take forward the work of the ccNSO and make recommendations to the Board on a revised regional structure.

7. The Report identifies the different uses that are made of ICANN's Geographic Regions by different ICANN communities, and also points out that different regional structure also exist within ICANN.

8. There is agreement within the ccNSO that the present Geographic Regions are flawed, and that there are therefore serious concerns about a number of representational issues. With respect to the possible adverse impact upon participation in ICANN, opinions fall into on of two differing camps. On the one hand, it is felt that participation is primarily dependent upon the degree of interest that individual ccTLD managers have in ICANN and that "tinkering" with the regional structure will make little difference. The second group feel that regional structure has a significant impact upon participation and that corrections are warranted for that reason alone. There is agreement, however, that improving active participation is an important issue. The disagreement is merely over whether or not the regional structure is a significant issue in that regard. It is noted that where a strong ccTLD managers' regional organization already exists there is less concern about the regional structure as a whole.

9. The report then details the work that the ccNSO has already taken to investigate this issue, and describes the interim action it has taken to alleviate immediate problems – specifically permitting overseas territories to self-select their ICANN region for ccNSO purposes only, and with the agreement of their respective governments.

10. The report concludes that the ICANN Board cannot simply maintain the status quo. It must either pass a resolution specifically authorizing the present deviations from the UN Statistics Regions, or it must adopt a revised regional structure. Because of their complexity, the ccNSO strongly recommends the appointment of a community-wide Working Group to further study these issues, to consult with all stakeholders and submit proposals to the Board. To assist with this work, the report concludes by examining some potential approaches that might be considered, and by providing examples of the sometimes contradictory views that have been expressed as part of the consultations it has held over the past several months.

11. To reach the position expressed in this report, the Working Group went through an extensive consultation process. Based on a questionnaire in July 2006, the need for re-assessment of the definition of ICANN's Geographic Regions was ascertained. To structure the discussion at the ICANN Lisbon

meeting, the WG produced a discussion paper. Based on the comments received on the paper, the WG produced a redraft for consultation. The consultation was conducted from 10 -28 May 2007. The input received resulted in a further draft containing revised recommendations. This paper was published for consultation from 20 June until 9 July, and was also the subject of discussions at the ICANN San Juan meeting. The final report of the WG was submitted to the ccNSO Council, including a draft for the paper to be submitted to the Board. At the request of the ccNSO Council, this paper for put up for consultation from 8 August until 28 August. No further comments were received.

Background

The Definition of ICANN's Geographic Regions

12. In July 2000, at its meeting in Yokohama, the ICANN Board agreed[2] to adopt the regional structure defined by the United Nations Statistics Division in its "Composition of macro geographic (continental) regions, geographical sub-regions, and selected economic and other groupings [3]", following GAC advice that "ICANN should make reference to existing international norms for regional distribution of countries"[4],

13. The treatment of persons from "areas that are not countries" raised some issues for the region-based selection of At Large Directors. It should be noted that the context of these discussions was the citizenship (as opposed to residency) of individual directors, rather than electoral constituencies or regional organisations. Staff responded that persons from "areas that are not countries" should be grouped together with the country of citizenship for that area. "*Thus, a resident of Guadeloupe (an overseas department of France located in the Caribbean) would be grouped with Europe rather than Latin America/Caribbean*"[5].

14. By formal resolution, the ICANN Board then directed the staff to assign countries to geographic regions on the basis of the United Nations Statistics Division's current classifications of "Countries or areas, codes and abbreviations," as revised 16 February 2000, and "Composition of macro geographic (continental) regions and component geographical regions," as revised 16 February 2000.[6] The resolution gave no authority for deviations from the UN classifications.

---

[2] http://www.icann.org/minutes/minutes-16jul00.htm
[3] http://unstats.un.org/unsd/methods/m49/m49regin.htm
[4] http://www.icann.org/committees/gac/communique-14jul00.htm
[5] http://www.icann.org/minutes/minutes-16jul00.htm
[6] http://www.icann.org/minutes/minutes-16jul00.htm

15. However, the ICANN Bylaws define five regions, three of which (II, III and IV) are different from the UN classifications. They are:

> I.   Africa,
> II. North America,
> III. Latin America/Caribbean,
> IV. Asia/Australia/Pacific and
> V.   Europe.

> In addition, the concept that "persons from an area that is not a country should grouped together with the country of citizenship for that area" was extended so that the area or territory itself was similarly allocated to the region of the "mother country".   Unfortunately, even the underlying "citizen rule" was incorrectly applied in some instances. For example, citizens of most British Overseas Territories are not automatically citizens of the United Kingdom, nor are citizens of American Samoa automatically citizens of the United States.

16. This decision was subsequently endorsed at the first 3 yearly review held in Montreal in June 2003[7].

17. The current assignment of countries and territories to ICANN's Geographic Regions can be viewed at http://www.icann.org/montreal/geo-regions-topic.htm.

Other Regional Structures within ICANN

18. Various alternative "regional structures" have been established within ICANN. These structures include the "regions" used by the ASO/NRO[8], and the "regions" to which Regional Liaison Officers have been allocated by ICANN staff[9].

---

[7] http://www.icann.org/minutes/minutes-26jun03.htm

[8] The five "regions" used by the Regional Internet Registries are:

> AfriNIC –   Africa
> APNIC –   Asia and Pcific
> ARIN ─   Canada, the United States, and several islands in the Caribbean Sea and North Atlantic Ocean
> LACNIC –   Latin America and parts of the Caribbean
> RIPE –   Europe, Parts of Asia and the Middle East

> See http://aso.icann.org/rirs/index.html

[9] The "regions" for which ICANN Regional Liaison Officers have so far been appointed are:

> Africa
> Armenia. Azerbaijan, Belarus, Georgia, Kazrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine & Uzbekistan

The Purpose of Geographical Regions

19. The ICANN Geographical Regions were originally created to ensure regional diversity in the make up of the ICANN Board, in particular, though the appointment of the At-Large directors.

20. ICANN's original (November 1998) Bylaws[10] stated:

   "Section 6. INTERNATIONAL REPRESENTATION

   In order to ensure broad international representation on the Board, no more than one-half (1/2) of the total number of At Large Directors serving at any given time shall be residents of any one Geographic Region, and no more than two (2) of the Directors nominated by each Supporting Organization shall be residents of any one Geographic Region. *As used herein, each of the following shall be a "Geographic Region": Europe; Asia/Australia/Pacific; Latin America/Caribbean Islands; Africa; North America.* The specific countries included in each Geographic Region shall be determined by the Board, and this Section shall be reviewed by the Board from time to time (but at least every three years) to determine whether any change is appropriate."

21. By October 1999, the Bylaws[11] had been modified so that Geographical Regions also defined the electorate for At Large Directors and At Large Council. However, this use of Geographic Regions was dropped from the Bylaws[12] by July 2000, and the December 2002 Bylaws[13] introduced the present Board structure in which the At Large members were replaced by directors appointed by the Nominating Committee (NOMCOM). The following provisions of the current Bylaws with the geographic diversity of the ICANN Board:

   "2. In carrying out its responsibilities to fill Seats 1 through 8, the Nominating Committee shall seek to ensure that the ICANN Board is composed of members who in the aggregate display diversity in geography, culture, skills, experience, and perspective, by applying the criteria set forth in Section 3 of this Article. At no time shall the Nominating Committee select a Director to fill any vacancy or expired term whose selection would cause the total number of Directors (not including the President) who are citizens of countries in any one Geographic Region (as defined in Section 5 of this Article) to exceed five; and the Nominating Committee shall ensure through its selections that at all times the Board includes at least one Director who is a citizen of a country in each ICANN Geographic Region.

   Australasia/Pacific
   Canada & the Caribbean
   Europe
   Middle East

   See http://www.icann.org/general/staff.html

[10] http://www.icann.org/general/archive-bylaws/bylaws-06nov98.htm
[11] http://www.icann.org/general/archive-bylaws/bylaws-29oct99.htm
[12] http://www.icann.org/general/archive-bylaws/bylaws-16jul00.htm
[13] http://www.icann.org/general/archive-bylaws/bylaws-15dec02.htm

3. In carrying out their responsibilities to fill Seats 9 through 14, the Supporting Organizations shall seek to ensure that the ICANN Board is composed of members that in the aggregate display diversity in geography, culture, skills, experience, and perspective, by applying the criteria set forth in Section 3 of this Article. At any given time, no two Directors selected by a Supporting Organization shall be citizens of the same country or of countries located in the same Geographic Region." and

"**Section 5. INTERNATIONAL REPRESENTATION**
In order to ensure broad international representation on the Board, the selection of Directors by the Nominating Committee and each Supporting Organization shall comply with all applicable diversity provisions of these Bylaws or of any Memorandum of Understanding referred to in these Bylaws concerning the Supporting Organization. One intent of these diversity provisions is to ensure that at all times each Geographic Region shall have at least one Director, and at all times no region shall have more than five Directors on the Board (not including the President). As used in these Bylaws, each of the following is considered to be a "Geographic Region": Europe; Asia/Australia/Pacific; Latin America/Caribbean islands; Africa; and North America. The specific countries included in each Geographic Region shall be determined by the Board, and this Section shall be reviewed by the Board from time to time (but at least every three years) to determine whether any change is appropriate, taking account of the evolution of the Internet."

22. Over time, references in the Bylaws to ICANNs Geographic Regions have been expanded and are now included in the sections dealing with the GNSO, ALAC and ccNSO. However, the use to which the Geographic Regions are put varies from organisation to organisation. This is summarised in Table 1 below:

ICANN Board:	To ensure geographic diversity of the Board by making reference to the <u>citizenship</u> of individual Board members.
GNSO Council:	To ensure geographic diversity of the Council by making reference to the <u>citizenship</u> of individual Council members.
ALAC :	a. To ensure geographic diversity of the Committee by making reference to the <u>citizenship</u> of the five NOMCOM appointed members.
	b. Two members appointed by each RALO, where there is <u>one RALO per ICANN Geographic Region</u>.
	c. A RALO's membership may include individuals who are citizens <u>or residents</u> of countries within the RALO's Region.
	d. To ensure geographic diversity of the five ALAC appointments to NOMCOM by making reference to the <u>citizenship</u> of the nominees.
ccNSO	a. To define the constituencies for the nomination and election of Council Members by making reference to the <u>countries</u>

	within each Region.
	b. To "designate" regional organizations who may appoint observers to the ccNSO Council. Unlike RALOs, ccTLD regional organizations are not part of the ICANN organization, and have their own membership rules which may or may not be tied to ICANN's Geographic Regions. Nevertheless, the ccNSO's Bylaws imply that only one regional organization may be "designated" for each ICANN Region.

Table 1. The Use of Geographic Regions by Organisations and Committees

23. Thus in the case of the ICANN Board and GNSO Council the citizenship of individual members (or prospective members) is checked against the required distribution across Regions. The ALAC takes a similar approach, but also uses Regions to define the "catchment area" for each RALO. Only the ccNSO uses the Regions to define the constituencies for the election of Council Members. In addition, although ccTLD regional organizations are not organs of ICANN and can define their own membership criteria, the ccNSO designates only one such organization for each ICANN Region. It may be that different approaches could be used to improve each of these quite distinct uses of Geographic Regions.

The Concerns

Problems with current definition of the Geographic Regions

24. The present ICANN Geographical Regions are not the same as those defined by the UN or other existing international norm for regional distribution of countries.

25. UN Statistics Division defines its five regions[14] as;

 I. Africa,
 II. Americas (consisting of *Latin America & the Caribbean* and *Northern America*. To complicate matters, in Note b/ to its table, the UN Statistics Office states, "The continent of *North America (003)* comprises *Northern America (021)*, *Caribbean (029)* and *Central America (013)*. In other words, according to the UN, both the Caribbean and Central America may be considered to be part of *Latin America & the Caribbean* or *North America,* presumably depending upon context),
 III. Asia,
 IV. Europe and

---

[14] http://unstats.un.org/unsd/methods/m49/m49regin.htm

V. Oceania (consisting of Australia & New Zealand, Melanesia, Micronesia, and Polynesia).

26. The resulting differences between the UN Statistics Regions and ICANNs Regions are shown in Diagram 1 below[15]. Diagram 2 illustrates how the UN Statistics Regions had to be modified in order to obtain the ICANN Regions. The numbers in brackets represent the number of countries in each region.
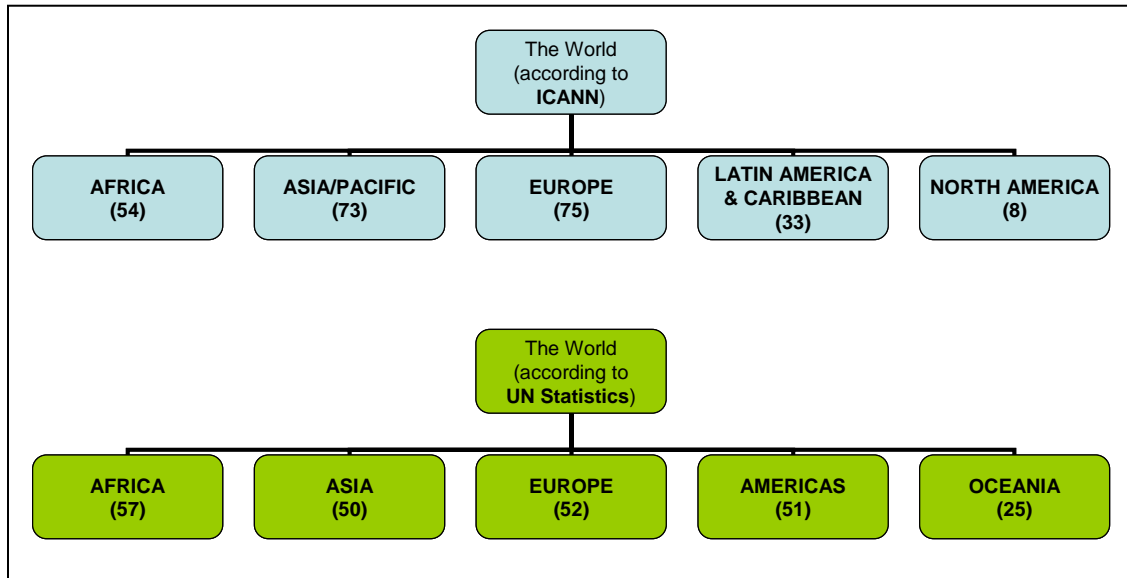

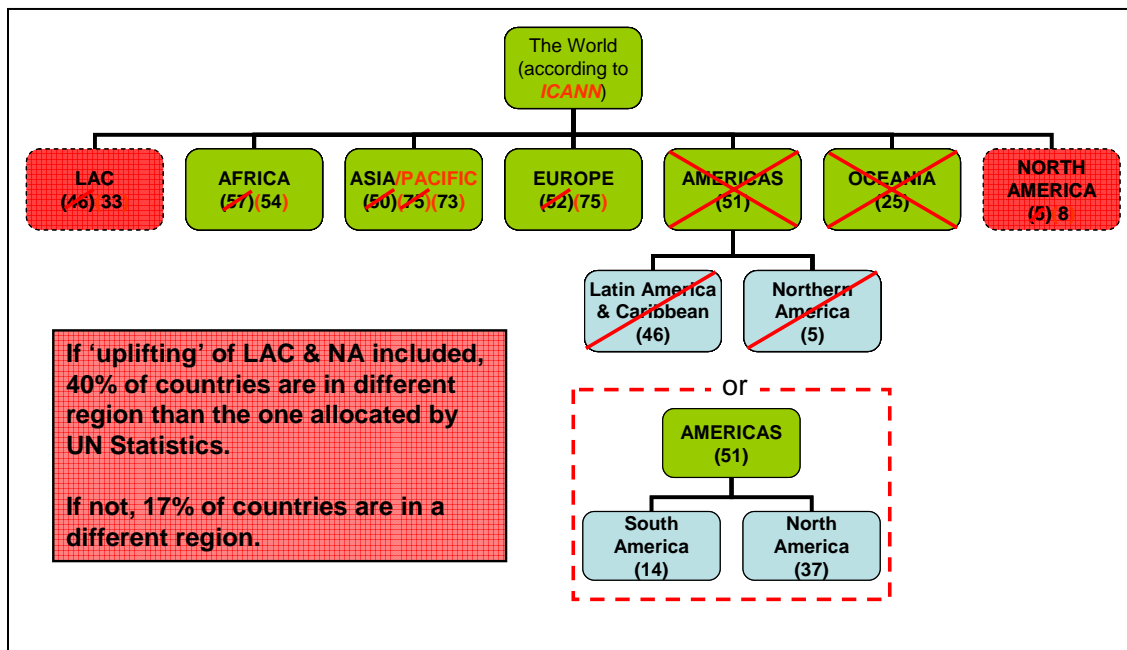**Diagram 1. Comparison between UN Statistics and ICANN Regions**

Diagram 2. Modifications to UN Statistics Regions to Obtain ICANN Regions

---

[15] An animated PowerPoint presentation showing the steps necessary to move from the UN Statistics Regions to the ICANN Regions is available for viewing on-line (no download required) at http://www.icta.ky/ICANN/From_UN_to_ICANN.htm

27. It may be that ICANN staff, as directed by the Board, was trying to squeeze the UN Statistics Division's country allocation into the predefined ICANN Regions. Nevertheless, by doing so, the Working Group is of the opinion they invalidated the Board's reason for adopting the UN allocation in the first place, i.e. to avoid being involved in assigning countries to regions by adopting some independently prepared and authoritative list for this purpose.

Impact of the current definition

28. In the opinion of the Working Group the current definition is not only confusing to the individual, it makes it more difficult – particularly for smaller countries with limited resources - to be actively engaged in different aspects of ICANN. There are more meetings to attend, different people to know and different structures to understand. For example, ccTLD managers in the Middle East are by definition part of ICANN's Asian, Australian, Pacific Region. At the same time, for the allocation of IP number resources, they rely on RIPE NCC, the Regional Internet Registry for Europe and the Middle East, and therefore are considered to be part of the European Region. If somebody from the Middle East were elected through the ccNSO to serve on its Council or the ICANN Board, he or she would be considered to originate from the Asian, Australian Pacific Region. If elected through the ASO to serve on the ASO EC or the ICANN Board that same person would take a seat for the European Region.

29. If the citizenship criterion is applied as well, the consequences become even more complex and confusing. For example, representatives from Caribbean Islands are depend for IP Number Resources on either LACNIC (Latin America) or ARIN (North America). For ASO matters they are assigned either to Latin American Region or the North American Region. For ccNSO, and Nom Com matters they are sometimes considered to be part of the European Region. It is instructive to note that the GAC does not operate under a regional structure.

30. A number of ccTLD managers and Internet communities are dissatisfied with the present ICANN regional structure as they believe it adversely impacts their representation and participation in ICANN as a whole, and the ccNSO in particular, as was presented during the ICANN Lisbon meeting (see: http://www.icann.unrealgraphics.net/meetings/lisbon/presentation-ccnso-members-b-27mar07.pdf)

Representational Issues

31. As a result of both internal debate within the Working Group and the public consultation amongst the ccNSO membership, it appears that there is

general consensus that the present regional structure results in representational difficulties such as:

- Within the ccNSO, candidates for Council must be nominated, seconded and voted in by Members from within their own region. In practical terms, in order to gain such support, a candidate must be able to attend either main ICANN meetings or Regional meetings on a regular basis, and probably has to have views and interests (with respect to ICANN) that are shared by his constituency. The geographical remoteness of, for example, some Overseas Territories from the region of their mother country, or even of countries at the extremities of a large Region, makes these preconditions to election unlikely.
- Groups of countries that have strong affinity because of culture, language, political affiliation, etc, could find that their regional representative, elected by other interests, does not adequately represent their views.
- Other ICANN organisations, such as the ALAC, whose elections are similarly based upon ICANN's Geographic Regions may be encountering similar issues.

32. As assignment of some of the ccTLD to a Geographic Region is based on citizenship, it is unclear if it is citizenship of the Sponsoring Organization, Administrative Contact or Technical Contact. If it is based on citizenship of the natural person who fulfils the role of Administrative or Technical Contact and this person is citizen of another country or territory then to which Region is he or she assigned? Secondly, it is unclear if citizenship as criterion should be extended to encompass legal persons as well.

33. The Bylaws on membership of the ccNSO seek to redress one consequence of the definition of Geographic Regions: "For purposes of this Article, managers of ccTLDs within a Geographic Region that are members of the ccNSO are referred to as ccNSO members "within" the Geographic Region, regardless of the physical location of the ccTLD manager." However, this provision only solves specific implications of the Geographic Regions as defined. Situations as described above, nor other effects associated with the citizenship criterion, are covered by aforementioned provision.

Participation Issues

34. Whilst there is general consensus about the need to resolve the representational issues stemming from the present definition of ICANN Geographic Regions, the same is not true with respect to its impact upon participation in ICANN. Indeed, opinions seem to fall within one of two opposed camps; those that believe that Regions are relevant only to representation and have nothing to do with participation, and those that consider participation to be the important issue with representation being only a minor problem.

35. The first group believes that the degree of participation by any country is a direct reflection of the degree of interest in ICANN held by the individuals involved. Some are of the view that many in the Internet community, including ccTLD managers, consider the matters discussed by ICANN in general and the ccNSO in particular to be irrelevant to their day-to-day operations. If they were interested, they would find a way to participate irrespective of the regional structure. Conversely, no "tinkering" with the regional structures will increase participation.

36. The alternative view is that participation is a concern for similar reasons to those for representation, but in this case, the reasons apply not just to ccTLD managers, but to entire local Internet communities. On the one hand, individuals from some jurisdictions can face unrealistic travel requirements, only to find little shared interest with members of the "home" Region or, on the other, could attend a nearby regional meeting in a foreign language and with no "official" recognition. Whilst the degree of individual interest is an important factor, a better organised, meaningful regional structure is more likely to motivate individuals to participate, and will better support other outreach initiatives.

37. During the consultations conducted by the Working Group, some respondents have pointed out that regional organisations such as CENTR, APTLD and LACTLD do not necessary rely upon the ICANN regions definition as a basis for membership. This is true, and the openness of these organisations is noted. On the other hand, from the ICANN perspective, the Bylaws do appear to relate these regional organisations to ICANN regions.

38. For example, within the current ccNSO section of the Bylaws, Clause 2 of Section 3 states:

> *"There shall also be one liaison to the ccNSO Council from each of the following organizations, to the extent they choose to appoint such a liaison: (a) the Governmental Advisory Committee; (b) the At-Large Advisory Committee; and (c) each of the Regional Organizations described in Section 5 of this Article. These liaisons shall not be members of or entitled to vote on the ccNSO Council, but otherwise shall be entitled to participate on equal footing with members of the ccNSO Council. …."*

Section 5 (Regional Organisations) states:

> *"The ccNSO Council may designate a Regional Organization for each ICANN Geographic Region, provided that the Regional Organization is open to full membership by all ccNSO members within the Geographic Region. …."*

39. Regional Liaisons are not members of the Council and are not entitled to vote. This therefore is not a "representational" issue. Yet the ccNSO can

"designate" (whatever that means) only one regional organisation for each of ICANN's Geographic Regions. It follows that ccNSO recognition and support will almost certainly be channelled to these "designated", ICANN Regions – based local organisations.

40. It is not clear what would happen if, say, the Caribbean countries formed their own local ccTLD organisation. Under the present Bylaws, it is most unlikely that such an organisation would be "designated". However, what would happen if membership of such an organisation were opened to all ccNSO members within the LAC Region? Even more complex, if a new local ccTLD organisation was formed by a grouping of ccTLD managers from two ICANN regions (e.g. the Arab States), would membership have to be open to all ccNSO members in one or both ICANN regions before ccNSO designation could be considered?

41. Although new local organisations are a real possibility, it is not being suggested that they are likely to open their membership to all ccNSO members within an existing ICANN region and so the ccNSO may never have to answer the above questions. On the other hand, the Bylaws do appear to make the assumption that one regional organisation maps directly to each ICANN Region when in reality this is not the case now and may be even less so in the future. It is difficult to see why such an assumption is necessary.

42. It is noted that where a strong regional ccTLD organisation already exists, members are less likely to see "participation" as an issue than in areas where there is no appropriate regional organisation (e.g. Caribbean, Pacific Islands, Middle East).

43. Despite the diverse views outlined above, the Working Group is unanimous in its view that increasing participation in the ccNSO by ccTLD managers should be a major concern for the ccNSO. The whole question of participation at all levels will be examined by a new ccNSO Working Group that was established during the San Juan meeting.

ccNSO Procedures and Decisions

44. In case it is of assistance to the Board, the following section details the internal regions review undertaken by the ccNSO, and its resulting decisions.

45. The primary references to Geographic Regions within Article IX (Country-Code Names Supporting Organisation) of the Bylaws are:

"Section 3. ccNSO COUNCIL
1. The ccNSO Council shall consist of (a) three ccNSO Council members selected by the ccNSO members within each of <u>ICANN's Geographic Regions</u> in the manner described in <u>Section 4(7) through (9) of this Article</u>; (b) three ccNSO Council members selected by the

ICANN Nominating Committee; (c) liaisons as described in <u>paragraph 2 of this Section</u>; and (iv) observers as described in <u>paragraph 3 of this Section</u>.

2. There shall also be one liaison to the ccNSO Council from each of the following organizations, to the extent they choose to appoint such a liaison: (a) the Governmental Advisory Committee; (b) the At-Large Advisory Committee; and (c) each of the Regional Organizations described in <u>Section 5 of this Article</u>. These liaisons shall not be members of or entitled to vote on the ccNSO Council, but otherwise shall be entitled to participate on equal footing with members of the ccNSO Council. …."

And

"Section 4. MEMBERSHIP

4. The Geographic Regions of ccTLDs shall be as described in <u>Article VI, Section 5 of these Bylaws</u>. For purposes of this Article, managers of ccTLDs within a Geographic Region that are members of the ccNSO are referred to as ccNSO members "within" the Geographic Region, regardless of the physical location of the ccTLD manager. In cases where the Geographic Region of a ccNSO member is unclear, the ccTLD member should self-select according to procedures adopted by the ccNSO Council.

46. The majority of ccTLD managers who responded to the ccNSO survey on Regions, conducted during the latter half of 2006, supported the concept of a regional structure that would maximise ground level participation and representation in the ccNSO. The ccNSO Regions Work Group was therefore tasked with examining what the ccNSO might do in addition to submitting this report to the Board.

47. The Working Group concluded that the possible courses of action were:

    (1) To do nothing.

    (2) To start with a clean sheet of paper, and design a new regional structure that better meets the needs of the ccNSO.

    (3) To make minor, short-term modifications to the existing regional structure so as to remove some of the more obvious anomalies (e.g. Overseas Territories).

Option 1 – Do Nothing

48. Doing nothing will not resolve any of the issues that have been raised by ccTLD managers. This option therefore was not recommended.

Option 2 – Design a New Structure

49. An alternative option was to design a new regional structure for the ccNSO only, which was designed to maximise participation and representation, and was flexible enough to take into account the differences detailed above. However, undertaking such a task in advance of any action taken by ICANN as a whole was considered to be premature. It therefore was not recommended.

Option 3 – Minor, Short-term Modifications

50. Although minor modifications to bring quick relief to some of the problem areas might be possible, or even desirable, in the short term, the underlying problems would remain and would undoubtedly come to the surface once more. The biggest concern was that the present regional structure has the effect of imposing a "one-size-fits-all" solution on large areas of the world and does not have the flexibility to take into account the language, cultural, political and economic differences that have a great impact upon work at the practical level.

51. Two such minor, short-term modifications were originally proposed for consideration.   They were:

    Option 3a. Allowing a ccTLD within an area such as the Caribbean to choose whether it belongs to the LAC, NA or EU region for ccNSO purposes.

    Option 3b. Facilitating the creation of sub-regional or inter-regional groups.

52. Following consultation, it appeared that there was insufficient support to proceed with Option 3b as a short term measure in advance of any decision by ICANN. This option was therefore withdrawn. On the other hand, general support was received for Option 3a, and this is described more fully in the following paragraphs.

53. Concern about mis-allocation of some "overseas territories" had been raised and discussed at the past two ccNSO meetings at least. In some cases it was clear that, even under ICANN's existing rules, errors in regional assignments have been made. Fairness suggested that such errors should be quickly corrected where it is within the ccNSO's power to do so. Given that the ICANN Regions review may provide a permanent solution to this problem, a temporary solution could be implemented by specifying specific procedures for self-selection of a Region.

54. According to clause 4 of section 4 of the Bylaws:

"In cases where the Geographic Region of a ccNSO member is unclear, the ccTLD member should self-select according to procedures adopted by the ccNSO Council."

55. This implies the ccNSO (Members and Council) is able to define a procedure for self-selection, which would alleviate some of the concerns for the ccNSO itself without having to go through the process of a Bylaw change. No changes in the rules for election to the ccNSO Council would be required. However, whatever procedure would be defined (and the finally agreed procedures are attached at Annex A), the underlying concern of lack of transparency for outsiders and newcomers to the ICANN environment as a result of the definition Geographical Regions will not be redressed.

56. An alternate view was that it was "dangerous" for the ccNSO to take unilateral action prior to a decision on regional structures being taken by the ICANN Board. It was also been pointed out that no elections to the ccNSO Council would take place for another 12 months (January 2008). Therefore there was no apparent need to take precipitous action. The counter argument was that it had already taken well over 12 months for the ccNSO to get to the present stage in its discussions. The full ICANN Regions Review could likely take much longer to reach conclusions and even longer to implement them. In any event, for the very small nations involved, the concern was not so much about representation (in practical terms, they too small to make any difference) but rather the feeling that their concerns were being ignored by the ICANN community and that "injustice" was being allowed to continue. This leads to disillusionment, and a lack of interest and participation.

57. The ccNSO has on balance decided to implement self-selection of those territories currently allocated to Geographic Regions by virtue of the "citizenship criteria", using the procedures detailed at Annex A. This self-selection process will be for ccNSO purposes only, and is likely to be replaced once the ICANN review of Geographic Regions has been completed.

58. In addition, the ccNSO has appointed a new Working Group to examine means of increasing participation in ICANN's activities, whether at Regional, ccNSO or ICANN level.

Conclusions and Recommendations

59. The ccNSO has concluded that whilst the Board's decision at Yokohama that it would be "*best to refer to some independently prepared and authoritative list*" for the purposes of allocating countries to regions, was a good one, the present allocation deviates significantly from the "authoritative list" that was purportedly selected. In fact, depending upon the measurement criteria one

uses, either 17% or 40% of countries are allocated to different ICANN regions than those to which they are allocated by the UN Statistics Office.

60. Because the Bylaws require a review of Geographical Regions every three years, and the last review was in 2003, it is believed that the ICANN Board does not have the option of "doing nothing". The available options therefore appear to be:

    (1) To pass a Board resolution that properly authorises the *status quo* with respect to Geographical Regions.

        Such a resolution is likely to be difficult to draft. It would either have to acknowledge that ICANN is creating its own definition of Geographical Regions, independent of any other international standard, or it would have to explain and explicitly authorise all deviations from the UN Statistics Office definition. Moreover, the present allocation of "areas that are not countries" is said to be based upon "citizenship" (albeit that it has been incorrectly applied in some instances), yet "citizenship" is an attribute of individuals, not areas.

    (2) To pass a Board resolution that authorises new or revised Geographical Regions. Because of the complexity of the issue and the potential impact upon constituencies other than the ccNSO, it is recommended that the ICANN Board appoint a Working Group to study the issue and make recommendations prior to the Board making its determination.

61. As noted in paragraph 21 above, an examination of the current Bylaws discloses that ICANN's Geographic Regions are used in different ways by different ICANN constituencies.   It might therefore be possible to consider different solutions for different uses of the Regional Structure.

62. For example, an alternative methodology for ccNSO Council elections might be to place no regional restrictions upon nominations or voting, but to appoint the three citizens of each Region that receive the most votes. A further condition might be that no two Council members could be citizens of the same country. Although such a procedure might bring the ccNSO more in line with other ICANN constituencies, it has not been considered by the membership as they would prefer to first see ICANN's approach to these issues.

63. A underlying problem is that "citizenship" is one of the possible attributes of an "individual" (other examples are "residency" and "nationality") that can be used to allocate the individual to a country. It is believed that the term "citizenship" was introduced into the Bylaws because the Board wish to make it clear that, when considering the appointment of an individual to the Board, it should be his "citizenship" rather than "residency" that should be

used when checking diversity requirements. This is perfectly fair. However, "citizenship" is not an attribute of a country or jurisdiction, and so It cannot properly be used to allocate a country to a region.

64. The obvious way to allocate countries to a Region is to follow without modification the allocations made by an independent third party, e.g. UN Statistics. The UN allocation is based purely on geographical location, and does not take political considerations into account. It would appear that this causes difficulties for some jurisdictions where their "overseas territories" are legally an integral part of the mother country. This, of course, begs the question of why, therefore, should such territories have a separate ccTLD?

65. The legal relationships between the various "overseas territories" and their respective mother countries vary enormously. It is a complex area which ICANN would do well to avoid. The two available options therefore appear to be (a) to ignore the political concerns and stick with the UN geographically-based allocations, or (b) to permit some means of self-selection for the territories involved.

66. On the other hand, the disadvantage of the UN Statistics model may be that it is purely geographical. One of ICANN's core values is:

"4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making."

Why therefore should only geographic diversity be taken into account? Are functional and cultural diversity not important? Should language be taken into consideration, at least as far as regional organizations are concerned? These are questions that the Board may wish to consider at an early stage.

67. As noted previously, the Working Group has been unable to establish why the existing five ICANN regions were chosen. Consideration should at least be given to harmonizing the Regions with those of UN Statistics, which, with the exception of Oceania, gives a fairly even spread of number of countries per region, i.e.

Region	Number of Countries
Africa	57
Americas	51
Asia	50
Europe	52
Oceania	25

Table 1. UN Statistic Regions

68. Alternatively, consideration could be given to "uplifting" of one or other of the alternative sub-divisions of the Americas:

Region	Number of Countries
Africa	57
LAC	46
Northern America	5
Asia	50
Europe	52
Oceania	25

Table 2. "Uplifting" Americas Sub-Regions (Option 1)

Region	Number of Countries
Africa	57
South America	14
North America	37
Asia	50
Europe	52
Oceania	25

Table 3. "Uplifting" Americas Sub-Regions (Option 2)

69. Finally, the Working Group consulted with both ccNSO members and the general community. In addition, two presentations were made to the GAC and one to the ALAC. The main points from the feedback received, including some that are contradictory, are detailed below. It is hoped that these can assist a Working Group tasked by the Board to consider this matter in greater detail:

- The issue of regions may touch on things like national sovereignty and cultural identity, and it is therefore extremely important that the issue is treated with sensitivity and that broad consensus is sought for any recommendations (to the Board).

- While we agree that the present implementation of geographic diversity leaves something to be desired, we wholeheartedly support the principle itself.

- Currently the North American region has a very small number of members relative to the other regions and yet it still is guaranteed one director. While some may consider this appropriate, considering the sheer number

of Internet 'users' in the North American region, that isn't what this level of representation is about.

- Balance is a key issue. The current regions are skewed, perhaps especially in regards to ccTLDs.

- The present composition of the African Region should not be changed.

- It is vital that the GAC be closely involved in the Regions Review.

- The agreement of Governments should not be required in the ccNSO's interim self-selection process.

- The allocation of countries to regions should recognize the sovereignty and right of self-determination of states.

- Flexibility is key.

- Regional structures should take into account geography, culture, language, and economic ties. This may lead to an increase in the number of regions.

Draft Procedures for the Self-Selection of ccNSO Regions Under the Provisions of Clause 4 of Section 4 of the ICANN Bylaws

1. **Applicability**. These procedures are available only to those ccTLDs that:

    a. are currently assigned to an ICANN Geographical Region on the basis of the citizenship criterion, and

    b. are members of the ccNSO.

2. **Options.** The ccTLD may opt to join the ICANN Geographic Region with which the ccTLD Manager and the Government believe the country or territory has the closest geographic, language, cultural and economic ties.

3. **Procedure.** The ccTLD manager is to submit a request, which must include a letter of support from the ccTLD government, for consideration by the ccNSO Council.

4. **Limitations**. From the date that an application under these provisions has been approved by Council, no further applications from that ccTLD will be considered [for a minimum period of 5 years]. In the event the application has been approved by the Council the assignment to the ICANN Geographic Region only has affect with regard to matters relating to the ccNSO