

Centre for Communication Governance

Post-Event Debrief

Document: ICANN 55

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CONTENTS

1. Introduction	3
2. IANA Transition: An Update	4
a. CCWG Accountability @ ICANN 55	
b. Work Ahead	6
i. Work Stream 1 Implementation	
ii. Work Stream 2	
3. Internet Governance and Policy Discussions at ICANN 55	8
a. Global Public Interest and ICANN	
b. Policy Development Processes	

INTRODUCTION

The 55th International Public Meeting of the Internet Corporation for Assigned Names and Numbers (ICANN) was held at Marrakech from 5-10 March, 2016. This meeting was considered a milestone for the IANA (Internet Assigned Numbers Authority) Transition as it saw the approval of the transition proposals that have since been sent for review to the US National Telecommunications and Information Administration (NTIA) by the ICANN Board.

Apart from discussions on the transition, the meeting also saw discussions at High Interest Public Sessions and meetings of the various Supporting Organizations (SOs) and Advisory Committees (ACs). The Cross-Community Working Group on Internet Governance held a public session on updates from the internet governance sphere. It also had a face-to-face meeting with participants to discuss the future work and working methods of the group. The Working Groups on the various Policy Development Processes (PDPs) also conducted their sessions at the Meeting.

This document was prepared to highlight few key discussions that may be of interest to stakeholders. For a more detailed account of the development of the CCWG Accountability Proposal read our blog series: [On the Road to Marrakech](#). Some of our other output on this topic include:

- 1) Aarti Bhavana's [Op-Ed on Role of Governments](#) in the Post Transition ICANN;
- 2) Aarti Bhavana's Blogpost on [Update from Marrakech](#);
- 3) Gangesh Varma's [Op-ed on the transition debates at ICANN and the way forward](#) and
- 4) Gangesh Varma's post Blogpost on [Global Public Interest and ICANN](#).

IANA TRANSITION: AN UPDATE

Overview of developments

In March 2014, the US National Telecommunications and Information Administration (NTIA) announced its intention to transition its oversight role over IANA functions to a global multistakeholder body. Following the announcement, ICANN developed two parallel processes: the IANA Stewardship Transition Process and Enhancing ICANN Accountability. The IANA Stewardship Transition Process was led by the IANA Stewardship Transition Group (ICG) and the Enhancing ICANN Accountability process was led by the Cross-Community Working Group on Accountability (CCWG-Accountability).

The ICG developed a consolidated proposal from the Names, Numbers, and Parameters Communities. While the ICG proposal was finalised several months ago, the names portion of that proposal is incomplete without the accountability mechanisms provided in the CCWG-Accountability proposal. Accordingly, the ICG has been waiting on the CCWG-Accountability to complete its report so that both reports can be sent for approval to NTIA, as a package.

CCWG-Accountability @ ICANN55

CCWG-Accountability's mandate to increase ICANN's accountability has been divided into two streams: Work Stream 1 deals with accountability-enhancing mechanisms that must be in place before the IANA Transition, while Work Stream 2 focuses on those mechanisms which may be implemented at a later stage, after the transition. The Supplemental Final Report on recommendations for Work Stream 1 was completed and sent to the Chartering Organisations¹ for approval the week before the meeting started. SSAC was the first to

¹ The 6 Supporting Organisations and Advisory Committees that accepted the CCWG-Accountability charter (known as the Chartering Organisations) are the Address Supporting Organisation (ASO), Country Code Names Supporting Organisation (ccNSO), Generic Names Supporting Organisation (GNSO), At-Large Advisory Committee (ALAC), Governmental Advisory Committee (GAC) and Security and Stability Advisory Committee (SSAC).

[confirm](#) its approval, with [ASO](#) quick to follow. ALAC also [ratified](#) the entire proposal. The much-awaited GAC [response](#) confirmed its non-opposition to the final proposal, with the final two confirmations coming from the [GNSO](#) and [ccNSO](#). Further, the CWG-Stewardship also [certified](#) that this proposal met the dependencies on which their proposal was based, therefore allowing the IANA Stewardship Transition proposal to proceed as a whole.

The two most interesting discussions on this issue took place within GNSO and GAC, as both bodies had expressed strong and differing opinions over the role of governments proposed through these recommendations. GNSO discussed the recommendations in detail and identified certain proposals over which there was no consensus internally - these were mainly Recommendations 1, 2, 10 and 11. The cumulative effect of these recommendations would be an increased role of governments in the post-transition ICANN, with GAC getting a decisional voice in matters of retaining or removing members of the ICANN Board, as well as a say over operational issues, such as budget approval. At the same time, it would retain its special advisory status according to which if the ICANN Board decided not to follow GAC Consensus advice, it would have to explain the reasons for not doing so and then work with GAC to try to find a mutually acceptable solution. Additionally, it would also be exempt from accountability reviews that the other SO/ACs would undergo. During its meeting, GNSO voted on each contentious recommendation and passed the Report as a whole, while noting the objections raised by certain councilors.

In its letter to the CCWG-Accountability co-chairs, GAC announced its preference to be a decisional participant in the Empowered Community. It noted that there was no consensus on Recommendations 11, and the carve-out for GAC in Recommendations 1 and 2. In stark contrast to the perspective of the GNSO, some members of the GAC argued that the new structure could potentially weaken the role of governments. The [minority statement](#) submitted by some governments including Brazil, Argentina, France among others, to the CCWG captures this view. Opposing the proposal meant stalling the transition, which in turn would have meant continued US oversight of ICANN. Whereas, supporting the proposal without opposition would have meant governments lose power in a governance model which envisioned a balanced and equal sharing of power among stakeholders. At the end of the day, the GAC approved the proposal but explicitly expressed the lack of consensus regarding specific parts of the proposal that affected its operation.

With the approval of all the chartering organisations, the IANA Stewardship Transition Coordination Group (ICG) Proposal and CCWG-Accountability proposal were sent to the ICANN Board, which passed the resolution on March 10 and transmitted both proposals to NTIA for the final steps of the transition.

Work ahead

In the months ahead, the NTIA and US Congress will evaluate the two proposals to gauge whether they adequately meet the various criteria laid out. However, Work Stream 1 has not concluded completely just yet. The recommendations laid out in the Supplemental Final Proposal need to be implemented as well, before moving on to Work Stream 2 issues.

Work Stream 1 Implementation

Work Stream 1 recommendations will be implemented through the Budget Implementation Group and IRP Implementation Group. However, a majority of the work lies in Bylaws drafting, to ensure that the recommendations are accurately captured in the text of the new bylaws. The drafting and finalization of the bylaws are going to take place over the next few weeks, on a rather tight timeline. Though the final report has been transmitted to the NTIA, the review and assessment on that end will not be completed until bylaws implementing the Work Stream 1 recommendations are in place. Further, it is desirable that the NTIA-assessed report be submitted to the U.S. Congress before it goes on recess mid-July. Accordingly, the CCWG has set for itself a [target timeline](#):

8 April: CCWG finishes draft bylaws

15 April: Open Public Comment for bylaws

15 May: Close Public Comment for bylaws

31 May: Board approves draft bylaws

Work Stream 2 Recommendations

Once this is completed, Work Stream 2 is expected to kick-off around June 2016. The work will be divided into subgroups on the themes of: Human Rights, Jurisdiction, Transparency, Diversity, SO/AC Accountability, Staff Accountability and Ombudsman. These subgroups will soon be created and will be open to all to join. At present, the chartering organizations have been [invited](#) to re-confirm their appointed members, to ensure that they can take on the heavy workload that lies ahead.

While CCWG-Accountability has completed a significant portion of its mandate, it must be emphasised that implementation details are crucial to this process. The importance of Work Stream 2 mustn't be underestimated either, as each of these issues is critical to enhancing ICANN's accountability.

Internet Governance and Policy Discussions at ICANN 55

Global Public Interest

ICANN held a High Interest Session on ‘Exploring Global Public Interest within ICANN’s Remit’. The term ‘global public interest’ is difficult to define. The discussions in the CCWG-Accountability revived the debate in ICANN’s public interest commitments. The session at ICANN 55 updated the community on ICANN’s efforts in moving closer to a definition. The panel lead by Nora Abusitta, consisted of Marilia Maciel, Wolf Ludwig, Nii Quaynor, and was moderated by Oliver Crepin Leblond. Nora Abusitta, Senior Vice President of ICANN’s Development and Public Responsibility Programs presented an update on the discussion so far. She provided details of ICANN’s efforts and inventory of its commitments. Nii Quaynor, the Chair of the Strategic Panel on the Public Responsibility Framework, presented the 2014 Report of the Strategic Panel. The broad and aspirational definition of the panel was discussed as well. Wolf Ludwig presented the European understanding of the term captured by the paper available [here](#). Marilia Maciel provided a recap of the Workshop on Global Public Interest in Critical Internet Resources at the 2015 Internet Governance Forum. Transcripts and archives of the session can be found [here](#). A Community Resource page is available [here](#).

New Policy Development Processes (PDPs)

New gTLDs Subsequent Procedures

This PDP was initiated by the GNSO after the closure of the first round of new gTLD applications. The aim was to evaluate and learn from the experiences of the first round, and make policy recommendations and changes for subsequent rounds. The process began with the setting up of a discussion group that identified issues and areas of policy development for subsequent procedures. This process then culminated in the [preliminary issue report](#) and the [final issue report](#). The GNSO Council then passed a resolution to initiate the PDP and set up a working group. More information on this PDP can be found [here](#). Details of the face-to-face meeting of this Working Group in Marrakech is available [here](#).

PDP on Next-Generation gTLD Registration Directory Service (RDS) to replace WHOIS

This Board-initiated PDP is the latest step in 15 years of efforts to develop a stronger WHOIS policy. WHOIS discussions usually revolve around issues of accuracy, purpose, availability, privacy, anonymity, cost, policing, intellectual property concerns and malicious use. This PDP will be analysing all these issues, with the aim of answering these questions- (1) what are the fundamental requirements for gTLD registration data; and (2) is there a need for a new RDS to replace the existing WHOIS policy. This work is expected to take place over three phases. More information on this PDP can be found [here](#).

PDP Review of All Rights Protection Mechanisms in All gTLDs

Since the new gTLD Program, several new Rights Protection Mechanisms (RPMs) have been developed taking into account potential trademarks concerns that could arise from the increase of gTLDs: the Uniform Rapid Suspension Dispute Resolution Procedure (URS); the Trademark Clearinghouse (TMCH) and the associated availability through the TMCH of Sunrise periods and the Trademark Claims notification service; and the Post-Delegation Dispute Resolution Procedures (PDDRPs). This focus of this PDP is to conduct a review of all RPMs in all gTLDs in two phases: Phase One will focus on a review of all the RPMs that were developed for the New gTLD Program, and Phase Two will focus on a review of the Uniform Dispute Resolution Policy (UDRP). More information on this PDP can be found [here](#).