

# DRAFT

## Discussion Document ICANN Geographical Regions

### Background

1. ICANN's original (November 1998) Bylaws<sup>1</sup> 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.”

2. Although the Bylaws have been modified over the years, the present version<sup>2</sup> says much the same thing:

“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.”

3. In reviewing these Bylaws, it is worth noting that:
  - Nothing can be found on the public record to explain how, why or on what basis the five Geographic Regions were originally selected.
  - Any change to the five Geographic Regions would require an amendment to the Bylaws.
  - The allocation of specific countries to each Geographic Region is determined by the Board (This was first done at the Yokohama meeting in July 2000)
  - This allocation of specific countries to Geographic Regions must be reviewed at least every three years. (This was first done at the Montreal

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<sup>1</sup> <http://www.icann.org/general/archive-bylaws/bylaws-06nov98.htm#V>

<sup>2</sup> <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#VI>

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meeting in June 2003, and a review<sup>3</sup> was initiated in November 2006 but has not yet been completed.)

4. The ICANN Geographic Regions also form the basis of the regional structure of the ALAC and ccNSO, and are used to ensure the geographic diversity of the GNSO Council. No other ICANN Committee or Organisation makes use of the Geographic Regions.
5. 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 [ICANN's Geographic Regions](#) in the manner described in [Section 4\(7\) through \(9\) of this Article](#); (b) three ccNSO Council members selected by the ICANN Nominating Committee; (c) liaisons as described in [paragraph 2 of this Section](#); and (iv) observers as described in [paragraph 3 of this Section](#).

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 [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. ....”

And

### “Section 4. MEMBERSHIP

....

4. The Geographic Regions of ccTLDs shall be as described in [Article VI, Section 5 of these Bylaws](#). 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.

...

7. The ccNSO Council members selected by the ccNSO members from each Geographic Region (see [Section 3\(1\)\(a\) of this Article](#)) shall be selected through nomination, and if necessary election, by the ccNSO members within that Geographic Region. ...

8. Any ccNSO member may nominate an individual to serve as a ccNSO Council member representing the ccNSO member's Geographic Region. Nominations must be seconded by another ccNSO member from the same Geographic Region. By accepting their nomination,

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<sup>3</sup> <http://www.icann.org/announcements/announcement-rev-28nov06.htm>

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individuals nominated to the ccNSO Council agree to support the policies committed to by ccNSO members.

9. If at the close of nominations there are no more candidates nominated (with seconds and acceptances) in a particular Geographic Region than there are seats on the ccNSO Council available for that Geographic Region, then the nominated candidates shall be selected to serve on the ccNSO Council. Otherwise, an election by written ballot (which may be by e-mail) shall be held to select the ccNSO Council members from among those nominated (with seconds and acceptances), with ccNSO members from the Geographic Region being entitled to vote in the election through their designated representatives. In such an election, a majority of all ccNSO members in the Geographic Region entitled to vote shall constitute a quorum, and the selected candidate must receive the votes of a majority of those cast by ccNSO members within the Geographic Region. The ccNSO Council Chair shall provide the ICANN Secretary prompt written notice of the selection of ccNSO Council members under this paragraph.”

And, finally:

“Section 5. REGIONAL ORGANIZATIONS

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. Decisions to designate or de-designate a Regional Organization shall require a 66% vote of all of the members of the ccNSO Council and shall be subject to review according to procedures established by the Board.”

6. The balance of this paper discusses:
  - If and how the ccNSO should consider amending its (internal) regional structure.
  - What recommendations, if any, the ccNSO should submit to ICANN with respect to its current Review of Regions.
7. Technically, the current Review covers only the allocation of specific countries to the Geographic Regions as presently defined in the Bylaws. This paper therefore also considers the appropriateness of a recommendation to the ICANN Board that it should extend the Terms of Reference of the Review to include consideration of a possible amendment to the Bylaw definition.

## Discussion

### The Purpose of Geographical Regions

8. The ICANN Geographical Regions were originally established in an attempt to ensure regional diversity in the make up of the ICANN Board and, in particular, the At-Large appointed directors. They were subsequently adopted by the ccNSO.

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9. Initially, therefore, the Geographical Regions appear to have been defined primarily as a means of balancing representation at the highest level. With the passing of time, they have come to influence, some believe adversely, participation and representation at the working level.

### The Concerns

10. In July 2000, at its meeting held in Yokohama, the ICANN Board agreed<sup>4</sup> 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"<sup>5</sup>. This decision was subsequently endorsed at a 3 yearly review held in Montreal in June 2003<sup>6</sup>. Despite this, the present ICANN Geographical Regions are not the same as those defined by the UN.

11. UN Statistics Division defines five regions as;

- a. Africa,
- b. 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 ),
- c. Asia,
- d. Europe and
- e. Oceania (consisting of Australia & New Zealand, Melanesia, Micronesia, and Polynesia).

12. The ICANN Bylaws also define five regions, but there are significant differences. They are;

- a. Africa,
- b. North America,
- c. Latin America/Caribbean,
- d. Asia/Pacific and
- e. Europe.

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<sup>4</sup> <http://www.icann.org/minutes/minutes-16jul00.htm>

<sup>5</sup> <http://unstats.un.org/unsd/methods/m49/m49regin.htm>

<sup>6</sup> <http://www.icann.org/minutes/minutes-26jun03.htm>

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13. In addition, following GAC advice that “ICANN should make reference to existing international norms for regional distribution of countries”<sup>7</sup>, ICANN allocates Overseas Territories to the same ICANN Region as their “mother county”. ICANN stated that this was done on the basis of “nationality” rather than “residency”, but ICANN failed to appreciate that the citizens of several Overseas Territories do not hold the citizenship of the “mother country”.
14. It may be that ICANN staff were merely trying to squeeze the UN Statistics Division’s country allocation into the predefined ICANN Regions. Nevertheless, by doing so, 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.
15. None of these deviations from the UN structure were explicitly authorised by the ICANN Board Resolution in Yokohama, and the Montreal resolution does so only by making reference to the “published list”.
16. It is also necessary to question the “fitness for purpose” of the UN List as it is designed purely for statistical purposes and takes no account of political affiliations, language, culture, geophysical issues or Internet related technical issues, all of which have a significant impact upon the ICANN community.
17. As a result, within ICANN itself, various different “regional structures” have been established to better meet these additional criteria. It is, perhaps instructive to note that the GAC does not operate under a regional structure. The various regional structures within ICANN include the “regions” used by the ASO/NRO<sup>8</sup>, and the “regions” to which Regional Liaison Officers have been allocated by ICANN staff<sup>9</sup>. Unfortunately, not only is this confusing to

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<sup>7</sup> <http://www.icann.org/committees/gac/communique-14jul00.htm>

<sup>8</sup> The five “regions” used by the Regional Internet Registries are:

- AfriNIC – Africa
- APNIC – Asia and Pacific
- 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>

<sup>9</sup> The “regions” for which ICANN Regional Liaison Officers have so far been appointed are:

- Africa
- Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine & Uzbekistan
- Australasia/Pacific
- Canada & the Caribbean
- Europe

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the individual, it makes it more difficult – particularly for smaller countries with limited resources - to actively participate in different aspects of ICANN. There are more meetings to attend, different people to know and different structures to understand.

18. A number of ccTLD managers and Internet communities therefore 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.

19. Representation is a problem because:

- 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, make 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.

20. Participation is a concern for similar reasons, but applies not just to ccTLD managers, but to entire local Internet communities. On the one hand, individuals from some jurisdictions can face unrealistic travel requirement, only to find little shared interest with members of the “home” Region or, on the other, attend a nearby regional meeting in a foreign language and with no official recognition.

21. It should be noted, however, that there is a view held by some members of the Working Group that the degree of participation by any country is a direct reflexion of the degree of interest in ICANN held by the individuals involved. If they are interested, they will find a way to participate irrespective of the regional structure. Conversely, no “tinkering” with the regional structures will increase participation.

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Middle East

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

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22. The alternative view is that 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.

### Options for the ccNSO

23. From the recent ccNSO survey on Regions, it would appear that the majority of ccNSO managers support the concept of a regional structure that will maximise ground level participation and representation in the ccNSO. The possible courses of action are:

- a. To do nothing, i.e. continue to adopt the current ICANN Regions without modification.
- b. To make minor modifications to the existing regional structure so as to remove some of the more obvious anomalies (e.g. Overseas Territories).
- c. To start with a clean sheet of paper, and design a new regional structure that meets the needs of the ccNSO
- d. In conjunction with any of the above, consider recognising sub-regional groups.

### Doing Nothing

24. Doing nothing will not resolve any of the issues that have been raised, and is therefore not recommended.

### Minor Modifications

25. 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 is 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.

26. Such minor modifications might include:

- a. 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.
- b. Creating an Arab Region for ccNSO purposes.
- c. Creating a Pacific Islands sub-region.

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### Design a New Structure

27. A better approach might be to design a new regional structure for the ccNSO which is designed to maximise participation and representation, and is flexible enough to take into account the differences detailed above. The disadvantages of this approach include:
- a. It would create yet another different regional organisation within ICANN  
Does this matter? Could it be aligned with one of the other existing structures, e.g. Regional Liaisons or ASO?
  - b. It could restart the debate about the need for representation based upon population, or number of servers, or number of Internet users, etc.
  - c. Too much flexibility could result in organisational chaos.
  - d. It is perhaps difficult to achieve a solution acceptable to everyone.

### Recognise Sub-regional Groups

28. There is nothing to stop the formation of sub-regional groups at the moment, but such groups receive no recognition within ICANN or the ccNSO. Without such recognition, such groups would not be able to seek representation at the council level, and so at least one of the objectives would not be fulfilled.
29. Although it would be possible for Sub-Regional groups to be recognised by the ccNSO, it is difficult to envisage a method which would allow them to be fairly represented.
30. Sub-groups, however, might assist with improving participation in the affairs of ICANN.

### Possible Starting Places for a New Regional Organisation

31. Possible starting places for the development of a new regional organisation are:
- a. To accurately follow the UN regions
  - b. To accurately follow the UN regions, but drop down one level, significantly increasing the number of regions.
  - c. To adopt an existing alternative regional structure from within ICANN, e.g. that used by the Regional Liaison Officers or the ASO.
  - d. To ask countries (governments and ccTLD managers) which region they would like to be in (without pre-defining them)
  - e. To split the existing ICANN regions where there is an obvious way of doing so, e.g. Africa, North America, Latin America, Caribbean, Asia, Pacific and Europe. However, this would not assist the Arab States and might not work successfully for the Caribbean. Although often lumped together, the Caribbean Islands have significant differences in terms of

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language (English, Spanish, Dutch and French), political structure (overseas “territories” of the US, UK, France and Holland, and independent countries), regional organisations (CARICOM, Organisation of East Caribbean States), economies and culture. Putting them into a single region would not necessarily resolve the present problems. Similar situations exist in other areas of the world.

- f. To look for an alternative, third party definition of geographical regions outside of both the UN and ICANN.

32. If new regions are introduced, consideration must be given to the minimum number of ccNSO member countries required in each region before that region is granted ccNSO recognition. For example, the ccNSO itself did not officially come into existence until there were a minimum of 4 members from each region.

### **Flexibility**

33. Whichever solution is adopted, a more flexible approach is essential. Countries (represented by both governments and the ccTLD manager) should be able to opt to join an alternative region that is more suited to their particular situation. It is important to note that a country’s regional choice for the ccNSO may be different to their regional choice in respect to another SO or Advisory Committee.

34. If this flexibility is allowed to continue beyond the initial period, it may be necessary to impose certain constraints to avoid organisational chaos. For example, once a choice is made, the country should be required to remain in the chosen region for a minimum period of three or five years before an alternative choice can be made.

35. It may be appropriate to restrict such choices to alternative regions that border the initially allocated region.

### **Consultation with Interested Parties**

36. The ccNSO has already conducted a survey of all ccTLD managers and a summary of the results was presented at the ccNSO meeting in Sao Paulo<sup>10</sup>. Unfortunately, although majority of respondents made it clear that they would be happy to consider sensible changes, many did not respond at all. It was also clear that several of the questions were not understood by many - probably because of language difficulties.

37. A fundamental problem is that changes in the regional structure are needed so as to encourage participation by those not already involved. But if you are not yet involved, you are unlikely to respond to a survey.

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<sup>10</sup> <http://www.icann.org/meetings/saopaulo/archbold-ccnso-sp-05dec06.pdf>

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38. Unfortunately, there has been little input so far from the Arab States, and so their desire for their own region remains anecdotal for the moment.
39. Input from ccNSO regional organisations has been requested, but only the AfTLD Excom has so far responded. It is strongly of the view that the African Region should continue to cover the entire continent, and that this should include the Arab States situated in northern Africa.
40. Obtaining feedback from the ASO/NRO on the reasons for adopting the current regional structure would be helpful.
41. Obtaining feedback from ICANN staff on the reasons for adopting the current regional structure for Regional Liaison Officers would also assist.
42. Consultation with the GAC and ALAC is obviously required at some point, but it is considered that this would be more appropriately done as part of ICANN's current Regions Review.

## Recommendations

43. Concern about the ccNSO's regional structure has been raised and discussed at the past two ccNSO meetings at least. No opposition to adopting a more flexible approach has been voiced. It is therefore recommended that, at a minimum, the Interim Solution detailed at paragraph 26a be implemented forthwith, with those at 26b and 26c being implemented if sufficient support from the regions in question is forthcoming.
44. It is further recommended that the Regions Working Group be tasked with obtaining the additional feedback detailed at paragraphs 38 and 41, with the aim of recommending a new regional structure for the ccNSO for consideration at the San Juan meeting in June 2007.
45. A new ccNSO structure can resolve only some of the ccTLD managers' concerns that have been detailed above, and does little to assist with the participation of local Internet communities. Some of these concerns and their potential solutions involve the definition of ICANN's Geographic Regions in addition to the allocation of specific countries to those regions. It is therefore recommended that the Regions Working Group be tasked with the preparation a submission from the ccNSO to the ICANN Board which:
  - a. Recommends that the terms of reference of the current Regions Review be extended to cover consideration of the definition of Regions contained in the Bylaws.

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- b. Details, as input to the Regions Review, the concerns and potential solutions contained in this paper. Particular emphasis should be placed upon the need for flexibility.
- c. Commits to appropriately amending the ccNSO's regional structure should this be necessary following the acceptance of the findings of the Regions Review.

18 March 07