

Proposed Bylaw Amendments proposed by ccNSO for Further Discussion

ICANN’s Legal Department reviewed the proposed Bylaws changes set out at https://ccnso.icann.org/sites/default/files/filefield_41859/idn-ccpdp-board-26sep13-en.pdf, as referenced in the ccNSO Chair’s 7 February 2020 letter to the ICANN Board Chair. We have identified (using the current Bylaws numbering) the sections suggested for amendment, show the ccNSO Proposal in redline to the existing Bylaws, and then show suggested edits for discussion in redline to the ccNSO’s Proposal. For ease of reference, we also set out the purpose for the change as identified in the ccPDP Board Report as well as questions to the ccNSO for further consideration, comments to explain additional drafting, or suggestions of alternate placement.

When the questions identified in this document are cleared, ICANN org will develop a redline to the entirety of Article 10, Section 10.4 to demonstrate the scope of proposed changes, as well as a redline to the Annexes as appropriate. We will also review the relevant Bylaws again to identify if there are any other areas where we recommend modification for consistency with the intent of and ability to implement the proposal.

Bylaws Section	ccNSO Proposed Amendment	Suggested Edits for Discussion	Purpose/Questions
Article 10, Section 10.4 (a)	The ccNSO shall have a membership consisting of ccTLD managers. Any ccTLD manager that meets the membership qualifications stated in paragraph 2 of this Section shall be entitled to be members of the ccNSO. For purposes of this Article, a ccTLD manager is the organization or entity responsible for managing <u>a country-code top-level domain according to and under the current heading “Delegation Record” in the Root Zone Database, or any later variant</u> an ISO 3166 country-code top-level domain and referred to in the IANA database under the current heading of "Sponsoring Organization", or under any later variant, for that country-code top-level domain.	The ccNSO shall have a membership consisting of ccTLD managers. Any ccTLD manager that meets the membership qualifications stated in paragraph 2 of this Section shall be entitled to be members of the ccNSO. For purposes of this Article, a ccTLD manager is the organization or entity responsible for managing a country-code top-level domain ccTLD according to and under the current heading “Delegation Record” in the Root Zone Database, or any later variant and referred to in the IANA database under the current heading of "Sponsoring Organization", or under any later variant, for that country-code top-level domain.	To include IDN ccTLD managers in ccNSO membership.
Article 10, Section 10.4(e)	Each ccTLD manager may designate in writing a person, organization, or entity to represent the	Each ccTLD manager may designate in writing a person, organization, or entity to represent the ccTLD manager in	To create “Representative” as a defined term.

Bylaws Section	ccNSO Proposed Amendment	Suggested Edits for Discussion	Purpose/Questions
	<p>ccTLD manager in matters relating to the ccNSO <u>(the Representative)</u>. In the absence of such a designation, the person, organization, or entity listed as the administrative contact in the IANA database shall be deemed to be the designate of the ccTLD manager by whom the ccTLD member shall be represented.</p>	<p>matters relating to the ccNSO <u>(the “Representative”)</u>. In the absence of such a designation, the person, organization, or entity listed as the administrative contact in the IANA database shall be deemed to be the designate of the ccTLD manager by whom the ccTLD member shall be represented.</p>	
<p>Proposed new section: Article 10, Section 10.4(f)</p>	<p><u>Designation of Emissary: In the event two or more ccTLD Managers from one and the same Territory, are members of the ccNSO, those ccTLD managers are to appoint an Emissary to vote in the specific cases enumerated in this Article on behalf of the members from that country, territory or area of particular geopolitical interest, for purposes of voting in the ccNSO. For the purposes of this Article, and Annexes B and C, Territory is defined to mean the country, dependency or other area of particular geopolitical interest listed on the ‘International Standard ISO 3166-1, Codes for the representation of names of countries and their subdivisions – Part 1: Country Codes’, or, in some exceptional cases listed on the reserved ISO 3166-1 code elements.</u></p> <p><u>During any period in which an Emissary is not appointed, the ccTLD Manager that has been the member of the ccNSO for the longest period of time is deemed to be the emissary for that Territory.</u></p>	<p>(f) Designation of Emissary</p> <p><u>(i)</u> For purposes of this Article, and Annexes B and C, “Territory” is defined to be the country, dependency or other area of particular geopolitical interest listed on the ‘International Standard ISO 3166-1, Codes for the representation of names of countries and their subdivisions – Part 1: Country Codes’, or, in some exceptional cases listed on the reserved ISO 3166-1 code elements.</p> <p><u>(ii)</u> For any Territory for which there is a single ccTLD manager that is a member of the ccNSO member, the Representative selected by that manager in accordance with Section <u>10.4(-e)</u> shall be the <u>Territory’s eEmissary (“Emissary”)</u> for the purpose of voting <u>in the specific cases enumerated in this Article, Annex B, or Annex C of these Bylaws.in the ccNSO</u></p> <p>In the event two or more ccTLD Managers <u>Managers</u> from one and the same Territory are <u>ccNSO</u> members of the ccNSO, those ccTLD managers are to appoint <u>one of the Representatives from among</u></p>	<p>To introduce and define the concept of Emissary</p> <p>Consider using 10.4(e) for this and modifying it to be “Designation of Representative and Territory”, with (i) as the text as amended above, (ii) as the Emissary language. For simplification, consider moving the definition of Territory 10.4(a) or 10.4(d).</p> <p>QUESTION: The language as presented by the ccNSO uses the term “specific cases presented in this Article” as well as “for purposes of voting in the ccNSO”. As Emissary is used in Annex B, we suggest expanding this to cover the Annex. We also note that there are instances where votes</p>

Bylaws Section	ccNSO Proposed Amendment	Suggested Edits for Discussion	Purpose/Questions
	<p><u>For any Territory for which there is a single ccTLD manager, the Representative selected by that manager in accordance with Section 4.e shall be the Emissary for the purpose of voting.</u></p>	<p>those ccNSO members to serve as the an Emissary Emissary to vote on behalf of the ccNSO members from that Territory. The Emissary in the specific cases [enumerated in this Article Annex B, or Annex C of these Bylaws] on behalf of the members from that country, territory or area of particular geopolitical interest, [for purposes of voting in the ccNSO.]</p> <p><u>Whether</u></p> <p><u>(iii)</u> During any period in which an Emissary is not appointed, the ccTLD Manger that has been the member of the ccNSO for the longest period is deemed to be the emissary for that Territory.</p> <p><u>(iv) Each Emissary, regardless of the number of ccTLD managers within the relevant Territory, is entitled to cast a single vote in any round of any voting process defined within this Article, Annex B or Annex C that is reserved for Emissary voting. The ccTLD managers within each Territory may define the process to determine how their respective Emissary’s vote is determined.</u></p> <p>(iv) For any Territory for which there is a single ccTLD manager, the Representative selected by that manager in accordance with Section 4.e shall be the Emissary for the purpose of voting in the ccNSO^[ER1].</p>	<p>appear to remain at the member level (such as on an issues report), therefore the “purposes of voting in the ccNSO” seems too broad. Can the ccNSO identify for us a preferred path forward?</p> <p>Regarding the length of ccNSO membership, is there an external or objective source that we can reference? Is there a possibility that managers have joined, resigned and joined again in a manner that they could assert a longer cumulative length of membership? If that’s not a real issue, no need to solve for that.</p> <p>We also recommend to make clearer that Emissaries represent a single vote, and to place that here so we do not need to repeat across the relevant sections, and reserve the right to the managers in Territory to specify how Emissaries are to be directed.</p>

Bylaws Section	ccNSO Proposed Amendment	Suggested Edits for Discussion	Purpose/Questions
NEW Article 10, Section 4.6.1	<u>Register of Representatives and Emissaries: The ccNSO Council shall develop and maintain a register of Representatives and Emissaries, in accordance with Article IX Section 3.11.</u>		Consider inserting this statement into the rules and procedures document referenced at Section 10.3(k), or adding this requirement directly into 10.3(k), to separate out Council responsibilities from membership definition issues.
Article 10, Section 10.4(i)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 Emissaries. In such an election, a majority of <u>the Emissaries entitled to vote</u> all ccNSO members in the Geographic Region entitled to vote shall constitute a quoruman 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), <u>with ccNSO members from the Geographic Region being entitled to vote in the election through their Emissaries.</u> <u>In such an election</u> , a majority of the Emissaries entitled to vote in the Geographic Region shall constitute a quorum and the selected candidate must receive the votes of a <u>majority of those cast by the Emissaries ccNSO members</u> within the Geographic Region.	To define that Councillor votes must be made through Emissaries and to redefine quorum. Note that additional text as in the Bylaws also needed to be updated, and so the expanded text is provided here. See note as it relates to “members . . . entitled to vote” set out below in relation to Annex B.
Annex B, Section 1.e	<i>Members of the ccNSO.</i> The members of the ccNSO may call for the creation of an Issue Report by an affirmative vote of at least ten members of the ccNSO representing at least ten different Territories present at any meeting or voting by email.	<i>Members of the ccNSO.</i> The members of the ccNSO may call for the creation of an Issue Report by an affirmative vote of at least ten members of the ccNSO representing at least ten different Territories present at any meeting or voting by email. The affirmative vote must include votes from at least ten different Territories.	To require diversity amongst territories in requesting an issues report. QUESTIONS RAISED: Confirming that this right to vote remains

Bylaws Section	ccNSO Proposed Amendment	Suggested Edits for Discussion	Purpose/Questions
			with the ccNSO Member and not the Emissary.
Annex B, Section 13	<p>Following the submission of the Members Report and within the time designated by the PDP Time Line, the ccNSO members shall be given an opportunity to vote on the Council Recommendation. The vote of members shall be electronic <u>and through their designated Emissaries</u>. The and members' votes shall be lodged over such a period of time as designated in the PDP Time Line (at least 21 days long).</p> <p>In the event that at least 50% of the ccNSO members <u>Emissaries entitled to vote</u> lodge votes within the voting period, the resulting vote will be employed without further process. In the event that fewer than 50% of the ccNSO members <u>Emissaries</u> lodge votes in the first round of voting, the first round will not be employed and the results of a final, second round of voting, conducted after at least thirty days notice to the ccNSO members, will be employed <u>irrespective of whether</u> if at least 50% of the ccNSO members <u>Emissaries</u> lodge votes . In the event that more than 66% of the votes received at the end of the voting period shall be in favor of the Council Recommendation, then the recommendation shall be conveyed to the Board</p>	<p>Following the submission of the Members Report and within the time designated by the PDP Time Line, the ccNSO members shall be given an opportunity to vote on the Council Recommendation. The vote of members shall be electronic and lodged through their designated Emissaries. The members' votes shall be lodged over such a period of time as designated in the PDP Time Line (at least 21 days long).</p> <p>In the event that at least 50% of the Emissaries entitled to vote lodge votes within the voting period, the resulting vote will be employed without further process. In the event that fewer than 50% of Emissaries lodge votes in the first round of voting, the first round will not be employed and the results of a final, second round of voting, conducted after at least thirty days notice to the ccNSO members, will be employed irrespective of whether at least 50% of the Emissaries lodge votes . In the event that more than 66% of the votes received at the end of the voting period shall be in favor of the Council Recommendation, then the recommendation shall be conveyed to the Board in accordance with Item 14 below as the ccNSO Recommendation.</p>	<p>Clarifying that votes on Members Reports are through Emissaries.</p> <p>NOTE: Both here and in Article 10.4(i), the statement that ccNSO members vote through their Emissaries could cause tension as the wording could be read to suggest that “each” is entitled to vote.</p> <p>To the extent that Emissaries are used for voting, the ccTLD member right seems to be better stated as a right to participate in directing the Emissary how to vote on the matter, given that the Emissary can only vote one way, and there could be division amongst the managers in a Territory. We look forward to discussing with the ccNSO how to best reflect this.</p>

Bylaws Section	ccNSO Proposed Amendment	Suggested Edits for Discussion	Purpose/Questions
	in accordance with Item 14 below as the ccNSO Recommendation.		