Policy for the Retirement of ccTLDs

DRAFT v2. 07

ccNSO

2020-03-16

0. Executive Summary

1 Background & Introduction

Request For Comment [2] ("RFC") 1591 [1] states:

> *4. Rights to Names*
>
> *[...]*
>
> *2) Country Codes*

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

In 2014 the ccNSO through its Framework of Interpretation confirmed that RFC 1591 applies to ccTLDs.

The ISO 3166-1 list is dynamic and country codes are added and removed on a regular basis. When a new ISO 3166-1 Alpha-2 code element (Alpha-2 code) is addenda ccTLD corresponding to that Alpha-2 code can be added to the Root by the IANA Naming Functions Operator (IFO). However, as was identified in 2011 by the ccNSO Delegation and Redelegation Working Group, there is no formal policy available for the removal of a ccTLD from the Root Zone when a country code is removed from the ISO 3166-1 list of country names.

It is important to note that ccTLDs are defined as those entries in the Root Zone database identified as such, these include:

- 2 letter ccTLDs corresponding to an Alpha-2 code (the majority of ccTLDs)

- 2 letter Latin ccTLDs not corresponding to an Alpha-2 code[1]

- IDN ccTLDs as approved by ICANN

[1] The ccTLDs .uk and .AC which refer to exceptionally reserved codes UK and AC are grandfathered as ccTLD and .EU, which corresponds with the exceptionally reserved code EU, was delegated under the relevant ICANN Board resolution from September 2000 (https://www.icann.org/resources/board-material/minutes-2000-09-25-en

2   Policy Objective

The objective of the policy is to provide clear and predictable guidance and to document a process that is orderly and reasonable up and to, but excluding, the removal of a ccTLD from the Root Zone[2].

3 Applicability of the Policy

This policy is applies to all entries in the Root Zone database which are identified as ccTLDs, and are subject to a Retirement Triggering Event (Trigger).

 Retirement Triggering Events are defined as follows:
- For 2 letter ccTLDs which correspond to an Alpha-2 code – The Trigger is the removal of the corresponding Alpha-2 code from the ISO 3166-1 standard by the ISO 3166-1 Maintenance Agency ("ISO 3166/MA")

- For 2 letter Latin ccTLDs which do not correspond to an Alpha-2 code

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[1]The removal of a (cc)TLD by the IFO is excluded from the policy, as this outside the remit of the policy scope of the ccNSO

- The Trigger is the ISO 3166-1/MA making a change (other than making that code an Alpha-2 code) to any of these. For each such Triggering Event the IFO will consider if the change requires retiring that ccTLD. If the ccTLD Manager disagrees with the IFO's decision to initiate the retirement process it can appeal the decision using the ccTLD appeals mechanism.

- For IDN ccTLDs – The Triggering Event will be identified in the policy which applies to IDN ccTLDs.

For the purposes of this policy a Functional Manager is the entity listed as "ccTLD Manager" in the IANA Root Zone database or any later variant, who is active with respect to the management of the ccTLD or with whom the IFO can officially and effectively communicate.

If a ccTLD is to be retired but does not have a Functional Manager the IFO cannot transfer responsibility to a new Manager according to its standard process. This set of circumstances would create a deadlock situation which would prevent the IFO from ever retiring the ccTLD. To avoid such a deadlock, and only under these specific conditions, this policy allows the IFO to proceed with a transfer of responsibility for the ccTLD to establish a Functional Manager and insure the ccTLD can be retired. Such a transfer should follow the standard IFO transfer process where possible.

4 Retirement Process

4.1 Expectations

There is a good faith obligation for both the IFO and the Manager of the retiring ccTLD to ensure an orderly shutdown of the retiring ccTLD which takes into consideration the interests of its registrants and the stability and security of the DNS.

Note: Given the importance and exceptional nature of the ccTLD retirement process the IFO, prior to sending a Notice of Removal (see next section), should contact the ccTLD Manager and confirm who the IFO should be dealing with regarding the retirement process. The person or role identified by the ccTLD Manager to deal with the retirement process is referred to as the Retirement Contact and in the remainder of this document the use of the term ccTLD Manager should be understood to mean ccTLD Manager or Retirement Contact if one has been formally identified to the IFO by the ccTLD Manager.

4.2 Notice of Removal

Once the IFO confirms that a ccTLD should be retired and has a Functional Manager, it shall promptly notify the Manager of the ccTLD that the ccTLD shall be re-moved from the Root Zone 5 years (Default Retirement Date) from the date of this

notice (Notice of Removal) unless a Retirement Plan (see following sections for details) which is agreed to by the Manager and the IFO stipulates otherwise and is in accordance with this Retirement Policy.

The IFO shall include with the Notice of Removal a document describing the reasonable requirements (Reasonable Requirements Document) it expects of a Retirement Plan and note that the IFO will make itself available to the Manager to assist in the development of such a plan should the Manager request it.

4.3 Setting a date for Retirement

The IFO cannot require that a retiring ccTLD also be removed from the Root Zone less than 5 years from the date the IFO has sent the Notice of Removal (Section 4.2 of this policy) to the retiring ccTLD Manager unless an alternate Retirement Date is mutually agreed to by both the ccTLD Manager and the IFO. If the Manager wishes to request an extension to the Default Retirement Date it must request this from the IFO as part of a Retirement Plan.

The IFO must remove a retiring ccTLD from the Root Zone no later than 10 years after having sent a Notice of Removal to the ccTLD Manager (Maximum Retirement Date).

4.4 Retirement Plan

After receiving a Notice of Removal the Manager must decide if it wishes to request an extension to the Default Retirement Date.

If the Manager of the retiring ccTLD does not wish an extension to the Default Retirement Date stated in the Notice of Removal it is expected, but not mandatory,

that the Manager produce a Retirement Plan for the ccTLD which would typically include:

- A copy of the Notice of Removal

- Date the ccTLD is expected to stop taking registrations, renewals and transfers that exceed the date of removal from the Root Zone. It is important to note that there is a reasonable expectation that the date provided is the earliest practical date for implementing this.

- Details of a communications plan to advise the registrants of retirement of the ccTLD.

If the manager of the retiring ccTLD wishes to request an extension beyond the De- fault Retirement Date stated in the Notice of Removal it must produce a Retirement Plan which is acceptable to the IFO and is in accordance with the conditions listed below.

Granting an extension to the Default Retirement Date is at the discretion of the IFO and shall not be unreasonably withheld. The Reasonable Requirements Document that the IFO will have included with the Notice of Removal will describe the factors it will consider when evaluating a request for an extension to the Default Retirement Period.

A Retirement Plan which requests an extension shall include, in addition to the previously listed items, the following:

- The length of the extension requested (a maximum 5 additional years) including the proposed date of the removal of the ccTLD from the Root Zone.

- The reasons for requesting an extension. An impact analysis which supports the reasons for making the extension request.

142 If the ccTLD Manager wishes to produce a Retirement Plan it must do so within 12
143 months of the IFO having sent the Notice of Removal to the Manager of the retiring
144 ccTLD. At its discretion the IFO can extend the 12 month limit to a maximum of 24
145 months in total upon receiving a request for such an extension from the Manager. If
146 the IFO grants such an extension it shall promptly notify the Manager of this.

147 If the ccTLD Manager submits a Retirement Plan to the IFO, the IFO shall provide a
148 definitive response to the Manager regarding the request for an extension within 90
149 days of such a request being received by the IFO.

150 The response by the IFO, if positive, shall state the length of the extension which has been
151 granted. If the response is negative, the IFO shall include the specific reasoning for the
152 refusal. The approval of an extension request shall not be unreasonably withheld.

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154 If the request for an extension is rejected and the ccTLD Manager believes that the
155 rejection is unreasonable or is inconsistent with the Reasonable Requirements
156 Document it may appeal the decision by the IFO (see Section 5.2 on page 11 of this pol-
157 icy).

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159 If the Manager of the retiring ccTLD and the IFO cannot agree on a Retirement Plan
160 within 12 months, or up to a maximum of 24 months if the IFO has granted such an
161 extension, of the IFO having sent the Notice of Removal to the Manager, then the IFO
162 shall promptly advise the Manager that the ccTLD shall be removed from the Root Zone
163 5 years from the date the IFO has sent the Notice of Removal to the Manager of the
164 retiring ccTLD.
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166 ## 4.5 Exception Conditions

If the Manager becomes non-functional after a Retirement Plan is accepted the IFO can use the same procedure outlined in the Requirements section to transfer the ccTLD to a new manager. In such cases the original timeline for retiring the ccTLD shall not change.

If the Manager breaches the Retirement Plan the IFO should work with the Manager to reinstate the Retirement Plan. If this is not possible the IFO can advise the Manager that it will maintain the Default Retirement Date from the Notice of Removal..

5. Oversight & Review Mechanism

5.1 Oversight

This policy is directed at ICANN and the IFO as the entity that performs the IANA Naming Functions with respect to ccTLDs.

This policy is not intended and shall not be interpreted to amend the way in which ICANN interacts with the IFO and the delineation of their roles and responsibilities.

This policy will not change or amend the role of the ICANN Board of Directors has with respect to individual cases of ccTLD delegation, transfer and revocation, which is understood to be limited to a review to ensure that the IFO (staff) has followed its procedures properly. It is important to note that the IFO's decisions to:

- Notify the ccTLD manager of the retirement
- Remove a ccTLD from the Root Zone

Are of out scope for this policy (see Section 2 on page 3)

5.2 Review Mechanism

In this policy on retirement decisions have been identified which shall be subject to a review mechanism.

6. Stress testing

6.1 Stress testing

Stress testing is defined as:

- Test the process as developed by applying the process to "corner case" situation and understand whether such a case results in a unwanted outcome or side effects.
- If the outcome of that situation results in an unwanted outcome or side effects adjust Policy/Process if needed.

After completion of the draft process the stress testing was conducted through answering the following questions:

- What is outcome of this situation when process is invoked?
- Is the outcome of that situation/the result unwanted or are side effects unwanted/unacceptable?
- Does Policy/Process need to be adjusted/refined?

6.2 Identified situations

i.   *Significant names change of country (resulting in change of ccTLD).*
   Examples are:
   - ZR (Zaire) to CD (Congo, Democratic Republic of) (1997)
   - TP (East Timor) to TL (Timor-Leste) (2002)

ii.   *Domain Names under management at removal date.*
At agreed end-date (date of removal from the root-zone) Second Level domain names are still under management of the ccTLD Manager, despite reasonable efforts from the ccTLD Manager to end registrations

iii.   *Breach of Retirement Agreement*

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Various situations:

- The ccTLD Managers continues to promote ccTLD and accepts registrations during retirement process. Does it make a difference if at removal date no SLDs under management or the number of registrations under management has not declined or has even increased compared to number at date of Retirement Notification?
- The ccTLD Manager stops all activities i.e. goes off-line
- The ccTLD Managers takes no action resulting in serious deterioration of the zone

iv. **The ccTLD Manager goes bankrupt after Notification of Retirement**

v. **Request for Transfer after the Retirement Notice is send**
- Retirement result of significant name change
- Retirement result of dissolution country, significant interested parties cannot be identified

vi. **ccTLD Manager ends membership of the ccNSO and claims policies (Retirement & RFC1591/FoI) are therefore not applicable.**
Note: the ccNSO Council recently established that membership of ccNSO by definition ends when entity listed as ccTLD Manager is no longer listed as such in the IANA Root Database, implying that for the duration of the retirement process membership of the ccNSO does not end, unless it is actively terminated by the Manager.

vii. **Country Code was removed from list of Assigned codes because country dissolved and Code was re-assigned shortly afterwards (within 10 years) to another country added to the list**

viii. **Uncertainty about authoritativeness of lines of communication between ccTLD Manager**

248   *and IFO*
249   The identity of authoritative entities are not clear during process.
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251 *ix.*   *Breach of Agreement due to conflicts of laws*
252   • Due to court injunction
253   • Due to applicable national law / Court order
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255 *ix.a Additional cases of breach of Agreement*
256   • Breach of agreement during extension period
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258 *x.*   *Island state disappears, but interests intend to keep ccTLD "alive"*
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260 *xi.*   *Unforeseen technical consequences/significant consequences for other affecting other*
261   *TLDs/DNS in general*
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263 *xii.*   *Country disappears/ however there is a clear successor state*
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265 *xiii.*   *Decision by ISO 3166 MA to remove country code is completely out of line, in breach of*
266   *ISO 3166 or ISO rules*
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268 *xiv.*   *Assets of the ccTLD go to other party during removal process*
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270 *xv.*   *Does the retirement policy apply to pending retirement case?*
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6.3 Result of Stress test per identified situation

Item #	Situation	Result	Relevant section policy and / or other document if any	Adjustment if any
I	Significant names change of country	No need to adjust the policy. Significant name change as defined though ISO 3166 standard is one of the causes to remove country code.	Section 2	None
ii	Donain Names under management at removal date.	Whether significant number under management or only a limited set, is not relevant. There is a need to avoid gaming the system. Rationale for Retirement process is to accommodate new ccTLDs per RFC 1591	Section 4.3 and RFC 1591	None
iii	Breach of Retirement Agreement - ccTLD Manager promotes SLD post retirement notice - ccTLD stops all activities - ccTLD manager does not take any action	Process continues if agreed, Compliance is not applicable. IFO may invoke revocation	Section 4.3 proposed policy, Section 4 FoI	None
iv	The ccTLD Manager goes bankrupt after Notification of Retirement	May become a Security and stability issue: IFO assess on case-by case basis. substantively it is responsibility of operator. Revocation may be warranted if threshold for revocation is met.	Section 4 FoI	None
v	Request for Transfer after the Retirement Notice is send	There is a gap in current policy (RFC 1591 and section 3 FoI). No specific mechanisms for expedient and "administrative" transfer specifically targeted at orderly retirement process.	RFC 1591, Section 3 FoI	Need to include specific mechanism targeting retirement

Item #	Situation	Result	Relevant section policy and / or other document if any	Adjustment if any
Vi	ccTLD Manager ends membership of the ccNSO	Policy is by definition only targeted at ICANN see Annex C of the ICANN Bylaws).It is up to ICANN to decide whether membership of the ccNSO is relevant in individual cases.	Section 3, Annex C ICANN Bylaws on scope ccNSO Policy Development Process	None
vii	Country Code was re-assigned shortly after removal (within 10 years) to another country added to the list	Currently considered impossible.	ISO 3166	None
viii	Uncertainty about authoritativeness of lines of communication between ccTLD Manager and IFO. Is ccTLD manager or its administrative contact authoritative and authorized to take the decision	The IFO deals with a Functional Manager, and if required may transfer to a new entity which is Functional. In addition, section 3.1 of the FoI provides a sensible basis to expect that the IFO seeks contact with the ccTLD Manager and relevant decision-making entity of the ccTLD Manager.	Section 3, Functional manager (proposed policy) Section 3.1 FoI	None
ix	Breach of Agreement/Plan, resulting from conflict of laws: - Court Injunction - to applicable Law/ Court order	The retirement plan must be subject to legally binding court order in the jurisdiction.		None
Ix a.	Breach of agreement during extension period	This situation could be handled, depending on reason, through proposed and existing policy. In case of "bad faith" or significant misbehaviour, revocation may be way to address issue.	Section 4.5 of proposed policy, Section 4 FoI	None
x	Island state disappears, but interests (was: commercial Interests" intend to keep ccTLD "alive"	If the code element is removed, the ccTLD is eligible for retirement. Reason for removal is not of relevance.	RFC 1591: IANA is not in business of deciding what is and what is not a country	None

Item #	Situation	Result	Relevant section policy and / or other document if any	Adjustment if any
xi	Unforeseen technical consequences/significant consequences for other affecting other TLDs/DNS in general. Nameservers for Domain names not under ccTLD, are still under ccTLD to be removed.	Communication to customers is part of the retirement plan. In addition the removal of ccTLD is predictable and foreseeable process. There should be no surprises. Customers should know where their essential services are hosted.	Section 4.4 of proposed process (line 131 and 132 above)	None
xii	Country disappears/ however there is a clear successor state	Countries do not disappear overnight. Takes some time before ISO-code is removed. In addition decision to remove country code is not part of the policy	ISO 3166 Standard	None
xiii	Decision by ISO 3166 MA to remove country code is completely out of line, in breach of ISO 3166 or ISO rules	Decision to remove country code is not part of the policy and ICANN should not be involved in process of removal of country code, independent of merits of decision. Reasonably predictable decisions over the past years. This is not an issue for the policy, but an issue for the ISO3166 MA and ISO itself. No need to adjust the policy.	RFC 1591: The IANA (ICANN) is not in the business to decide what is and what is not a country. ISO has a process for adding (and removing) country codes.	None
xiv	Assets of the ccTLD go to other party during removal process.	Receiving end will be aware of the issues: Retirement of the ccTLD. No surprises for them. Even if ccTLD manager would go bankrupt. People in the country will know about the removal and retirement process.	Section 4.4 of proposed process (line 131 and 132 above)	None
xv	Does the retirement policy apply to pending retirement case?	The WG believes the applicability of the policy to existing situations or those emerging before the proposed policy becomes effective is out of scope of its	Line 26 and line 46-52	See footnote page 2, marked

Item #	Situation	Result	Relevant section policy and / or other document if any	Adjustment if any
	Clarification: where under the current operational practices, 1 of the ccTLDs is considered ineligible	mandate. For situations prior to this policy coming into force, responsibility lies with the IFO to create a suitable procedure. The WG suggests that such a procedure could be based on and anticipates on the proposed policy.		

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7 . Background & Process to date

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7.1 Background

At its meeting on 10 December 2015 the ccNSO Council discussed the launch of the formal ccNSO Policy Development Process to address the lack of policy with respect to the retirement of ccTLDs as well as a review mechanisms for decisions pertaining to the delegation, transfer, revocation and retirement of ccTLDs.

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To increase the predictability and legitimacy of decision pertaining to the retirement of ccTLDs and in accordance with the recommendations of the ccNSO Delegation and Redelegation working group (DRDWG) in 2011[3], the void or lack of policy relating to the retirement of ccTLDs needs to filled by

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3 See DRD WG Final Report, page 19, http://ccnso.icann.org/workinggroups/drd-wg-final-report-07mar11-en.pdf and Council Decision 16 March 2011, http://ccnso.icann.org/workinggroups/minutes-council-16mar11-en.pdf

a policy developed by the ccNSO. However, at the time the DRDWG also recommended that such a ccNSO PDP should be launched following the development of a Framework of Interpretation of RFC 1591.

Following initial discussions by the ccNSO Council, input and feed-back was sought from the ccTLD community at the Marrakesh (ICANN55) and Helsinki (ICANN56)meetings. At its meeting in Helsinki (ICANN56) the ccNSO Council launched the ccNSO Policy Development Process 3.

On 9 March 2017, the Issue Manager submitted the Final Issue Report to Council. Following the discussions by the ccNSO Council, feed-back and input from the community and the drafting team, the Issue Manager recommended:
   1. The ccNSO Council initiates one (1) ccNSO Policy Development Process to develop policy proposals for both a Review Mechanism and on the Retirement of ccTLDs.
   2. The initial focus needs to be on developing a Review Mechanism, which is considered the highest priority, particularly in light of the IANA Stewardship transition. Only then the focus should be on Retirement, and, if needed, revisit the Review Mechanism to include decisions relating to the Retirement of ccTLDs.
   3. To appoint two working groups each with its own charter, working method and schedule.

However, at the meeting in Copenhagen (ICANN58, March 2017, the ccTLD community present suggested to change the order in which the topics need to be addressed. Analyses showed that alternating the order would save at least 3 months and simplify the process. Effectively this meant that by reversing the order, so first develop Retirement policy proposals and then those for the Review Mechanism, the potential Review Mechanism would be available sooner to the community.

The ccNSO Council initiated the 3rd ccNSO Policy Development Process (ccPDP3) in March 2017 by adopting the Issue Report. Accordingly the ccPDP3 Working Group to develop policy

recommendations for the Retirement of ccTLDs was established by June 2017. The Charter of this WG was included in the Issue Report and is available at: https://ccnso.icann.org/en/workinggroups/pdp-retirement.htm.

The ccPDP3 Retirement WG was tasked to develop policy proposals to address at a minimum the following topics and issues identified in the Issue Report:

- Consistency of terminology
- What triggers a retirement?
- Who triggers retirement process?
- Additional conditions for retirement of a ccTLD? What are conditions for actual retirement of a ccTLD? Is the occurrence of a triggering event sufficient or should additional requirements be in place?
- Compliance with conditions? Assuming retirement of a ccTLD is conditional, who will monitor, and who will be held accountable, if at all, if requirements are not met?

As the activities of the WG are undertaken within the framework of the ccNSO Policy Development Process, the limitations with respect to the scope of a ccPDP, specifically by Article 10 and Annexes B and C to the ICANN Bylaws limit the scope of the WG's work and proposals.

Further, the ccPDP3 Retirement WG was tasked to report to ccNSO Council on topics or issues which they identified and considered out of scope for the WG. Accordingly, the Chair of the WG informed the ccNSO Council and Issue Manager that the ccPDP3 Retirement WG identified two issues, which need to be addressed, but were considered out of scope of ccPDP3:

- The ccNSO membership definition (section 10.4 (a) of the ICANN Bylaws). The membership definition was changed as part of the IANA Stewardship Transition process.
- The events that would trigger the retirement of IDN ccTLDs. The Retirement WG advised Council that the events leading the de-selection of IDNccTLDs should be identified under a ccPDP that also defines the selection of IDNccTLD strings.

7.2 Process to date

After the call for volunteers and appointment by the ccNSO Council of the members (see Annex A of listed members, observers and experts and staff support) the ccPDP3 Retirement Working Group held its first conference call and commenced its work in June 2017. Since then the WG has met [x] times, of which [y] times in person during ICANN meetings starting at the Johannesburg meeting in June 2017 (ICANN59) and [z] times through conference calls.

In the course of its work the original timeline and schedule as included in the Issue Report, was updated twice (March & December 2019).

The first work item the WG completed was on the Rules of Engagement i.e the internal procedures for interaction and decision-making, which guided the activities of the WG members (see: https://community.icann.org/pages/viewpage.action?pageId=64081623&preview=/64081623/89981518/roe.draft.2017-08-17%20closed.pdf)

As of ICANN60 (in Abu Dhabi, United Arab Emirates) and at every following meeting the ccPDP3 Retirement WG informed the ccTLD community and members of the Governmental Advisory Committee present at the respective ICANN meetings about its progress.

At the Kobe meeting (ICANN64), the ccTLD Managers present expressed their initial support for the proposed method and process, including its proposed duration. At the Montreal meeting (ICANN66) the ccTLDs present expressed their support for the proposals with respect to the decisions that should be subject to oversight and the Review Mechanism.

At the Montreal meeting, the chair and vice-chair of ccPDP3 Retirement WG also conducted an extensive on-boarding session for members of the Governmental Advisory Committee.

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References

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Index (if needed)

Annex A Overview of results stress testing

Annex B (membership of RET WG)