

Report WG on Public Comment Proceeding (DRAFT)

Version 3 – 18 August 2020

TITLE: ccNSO PDP3 Initial Proposals for Process to Retire ccTLDs

Section I: General Overview and Next Steps

Purpose: The ccNSO Policy Development Process 3 (PDP3) working group, tasked with developing and proposing policy for the retirement of country code Top-Level Domains (ccTLDs), is seeking input and feed-back from the broader community on its proposed process to retire ccTLDs, when the country code is removed from list of country codes in the ISO 3166 standard.

Current Status: The Interim Paper is the first step in documenting the recommended policy for the retirement process of ccTLDs.

Next Steps: After closure of the Public Comment period, the working group will review the comments received and take into account in developing a final set of policy recommendations.

Section II: Contributors

At the time this report was prepared, a total of seven (7) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Business Constituency	Steve del Bianco	BC
Registry Stakeholder Group	Samantha Demetriou	RySG
At-Large Advisory Committee	ALAC staff	ALAC
Russian Institute for Public Networks	Evgeny Kuskevich	RIPN
Domainregistry.de	Hans-Peter Oswald	HPO

Individuals:

Name	Affiliation (if provided)	Initials
Clement Gentry		CG
Lawrence Owala-Roberts	Microboss, Nigerian Internet Registry Authority (NIRA), Business Constituency	LOR

Summary of Comments, References to Interim Paper, Draft WG Response

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

General comments

The ALAC, RySG, and BC explicitly supported the proposed approach, definitions, and descriptions. In addition, each of these groups raised some points for consideration.

The other contributors (LOR, HPO, CG, and RIPN) focused on specific topics and did not comment on the general approach, definitions, and descriptions.

Specific comments

1. The ALAC requests to consider two points from an end-user perspective: 1. Removal of a TLD will mean less likelihood for confusion as usually the removal of one would make room for a new one, and 2. Retirement could pose a problem for some registrant when they are used to an “old” address, which then becomes obsolete after retirement of the ccTLD.

Reference in Interim Paper:

- Annex A. Result of Stress Test per Identified Situations # 2 - Domain Names under management at removal date - Whether there is a 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.
- Annex A. Result of Stress Test per Identified Situations # 12 - Unforeseen technical consequences/significant consequences or other affecting other TLDs/DNS in general. Name Servers 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 a ccTLD is a predictable and foreseeable process. There should be no surprises. Customers should know where their essential services are hosted.

Draft WG Response: The WG thanks ALAC for the comment. The WG has discussed and considered the issues of the impact of the removal of a ccTLD from the Root Zone Database File extensively as part of its stress testing of the policy.

Does Paper need to be amended DRAFT? N

2. The ALAC noted that the replacement of a non-Functional Manager should be transparent and follow due process. In addition, the IFO and the Functional Manager should work together in good faith and ensure the interests of registrants are taken into account.

Reference in Interim Paper:

- Section 3, final two sentences (page 5) - 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.
- Annex A. Result of Stress Test per Identified Situations # 5 - Request for Transfer after the Retirement Notice is sent. – There is a gap in current policy (RFC 1591 and section 3 Fol). No specific mechanisms for expedient and “administrative” Transfer specifically targeted at orderly Retirement process.

Draft WG Response: We thank ALAC for comment and agrees with the observation as the WG noted in its Interim Paper Section 3, final two sentences (page 5) and Annex A. Result of Stress Test # 5.

Does Paper need to be amended DRAFT? N

3. Finally, ALAC noted that the review mechanism to be used is not clear, nor is clear what exactly will be subject to a review mechanism.

Reference in Interim Paper:

- Section 5.2 (page 8) - In this Policy on Retirement decisions have been identified which shall be subject to a review mechanism.

Draft WG Response: The WG notes that the decision that could be subject of the review mechanism is explicitly listed in the policy. With respect to the second point the WG notes that the review mechanism itself is not part of the work of this WG but will be dealt with in the second part of the ccNSO PDP3.

Does Paper need to be amended DRAFT? N

4. The RySG suggests clarifying that 1. the proposed policy is not retroactively applicable and 2. The policy does not apply to non-ccNSO members but can be used as a model.

Reference in Interim Paper:

- Section 3, 1st Paragraph (page 5) - This Policy applies to all entries in the Root Zone database which are identified as ccTLDs, and are subject to a Retirement Triggering Event ("Trigger").
- Section 5.1, 1st Paragraph (page 8) - This Policy is directed at ICANN and the IFO as the entity that performs the IANA Naming Functions with respect to ccTLDs.
- Annex A. Result of Stress Test per Identified Situations # 6 - 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.
- Annex A. Result of Stress Test per Identified Situations # 16 - 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 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 the proposed Policy.

Draft WG Response: The WG refers to Section 3, 1st Paragraph (page 5); Section 5.1, 1st Paragraph (page 8); Annex A. Result of Stress Test per Identified Situations # 6 and # 16. The WG notes that the policy clearly states that the policy shall not be retroactively applicable. With respect to applicability to non-ccNSO members the WG re-iterates that ccNSO scope of Polices are limited and only directed at ICANN (Annex C ICANN Bylaws).

Does Paper need to be amended DRAFT? N

5. The BC suggests two additional stress tests: 1. The confidence in the retirement process by end-users is guaranteed, and 2. Migration of critical data is properly archived and stored for historic/research purposes. With respect to the latter test, it is suggested that ICANN/ccNSO be responsible for archiving the concerned ccTLD DNS data.

Reference in Interim Paper:

- Section 6.2 (page 9) – (long please see original document).
- Annex A. Result of Stress Test per Identified Situations - (long please see original document).

Draft WG Response: The Test as suggested will be included in the list of stress tests (Note: which will be completed at a later meeting of the WG)

Does Paper need to be amended DRAFT? Y, include tests in the list of stress tests.

6. The BC suggests that IFO should include in its Notice of Removal a statement that the Registry should refrain from registering any new domain with validity beyond the proposed date of retirement.

Reference in Interim Paper:

- Section 4.2, second paragraph (page 6) - 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.
- Annex A, Result of Stress Test per Identified Situations # 3 - Breach of Retirement Agreement (ccTLD Manager promotes SLD post Retirement notice, ccTLD stops all activities, ccTLD Manager does not take any action) - Process continues as if agreed. Compliance is not enforceable. However, IFO may invoke Revocation.

Draft WG Response: The WG notes that both the proposed policy and stress test # 3 deal with the situation described.

Does Paper need to be amended DRAFT? N

7. The BC also suggested that IFO should mandate a periodic review of the ISO 3166-1 MA standard to create a predictable process that triggers the Notice of Retirement.

Reference in Interim Paper:

- Section 3 (page 5). Section 4.2, first paragraph (page 6) - 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 removed 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 and is in accordance with this Retirement Policy stipulates otherwise.

Draft WG Response: The WG notes that this is an operational issue and should not be part of the policy. It is also important to understand that the IFO is informed on a regular basis by the ICANN representative on the ISO3166-1 MA of the changes to the standard.

Does Paper need to be amended DRAFT? N

8. The BC and LOR noted that neither the proposed policy nor the stress tests measure how registrants and key national values on the retiring ccTLD domain/servers would affect the retirement process, especially in light of multiple data privacy laws.

Relevant section in Interim Paper, if any: None

Draft WG Response: The WG notes that the issues the BC and LOR raise are outside the scope of the policy mandate of the ccNSO as defined in Annex C of the ICANN Bylaws. The ccNSO is not in a position to develop policies directed at ccTLDs with respect to their registration policies and hence registrants.

Does Paper need to be amended DRAFT? N

9. The BC and LOR also raise the question whether any ICANN Bylaw changes are envisioned, or mechanisms need to be restructured to help to make this process effective.

Reference, if any, in Interim Paper: None.

Draft WG Response: The WG does not anticipate any Bylaw change nor does it anticipate major implementation issues. The proposed process takes into account and builds on the procedures used to date leading up to the removal of ccTLDs from the root zone file database.

Does Paper need to be amended DRAFT? N

10. LOR notes that as brands made massive investments in various domains, they should be provided ample notice to migrate.

Reference in Interim Paper:

- Section 4.4, 3rd Paragraph, third bullet point (page 7) - details of a Communication Plan to advise the registrants of the Retirement of the ccTLD. If the manager of the retiring ccTLD wishes to request an extension beyond the Default 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.
- Annex A, Result of Stress Test per Identified Situations # 2 - Domain Names under management at removal date - Whether there is a 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.
- Annex A, Result of Stress Test per Identified Situations # 3 - Breach of Retirement Agreement (ccTLD Manager promotes SLD post Retirement notice, ccTLD stops all activities, ccTLD Manager does not take any action) - Process continues as if agreed. Compliance is not enforceable. However, IFO may invoke Revocation.

Draft WG Response: The WG has discussed impact of removal on registered domain names. The WG believes that registrants, registrars and others will have ample time to make the necessary changes given the duration of the retirement process and the cause of triggering event (significant change of name of the country or its dissolution).

Does Paper need to be amended DRAFT? N

11. With respect to duration of the proposed process:

- LOR notes that under some circumstances 5 years may not be long enough if, for example, 10-year registrations are allowed.
- LOR also notes that limitation of the duration makes it impossible for a registry to allow for even longer registrations and as a result that ccTLD Manager may seek redress of that situation.
- HPO considers the five (5) year period enough time. However, he suggests that if retired ccTLD is replaced by new ccTLD grandfathering rule domain names is applied, providing right of first registration to registrants under the “old” ccTLD.

Reference in Interim Paper:

- Section 4.3 (page 6) - The IFO cannot require that a retiring ccTLD be removed from the Root Zone less than 5 years from the date the IFO has sent the Notice of Removal (Subsection 4.2) 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”).
- Annex A, Result of Stress Test per Identified Situations, # 2 - Domain Names under management at removal date - Whether there is a 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.
- Annex A, Result of Stress Test per Identified Situations, #12 - Unforeseen technical consequences/significant consequences or other situations affecting other TLDs/DNS in general. Name Servers 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 a ccTLD is a predictable and foreseeable process. There should be no surprises. Customers should know where their essential services are hosted.

Draft WG Response: The WG has extensively discussed the duration of the retirement process considering the situations mentioned by LOR. The proposed duration was considered reasonable and balanced. With respect to the proposal of HPO, this is a matter of registration policy of the new ccTLD Manager of the successor/new ccTLD Manager. Note that registration policies of ccTLD Manager is outside the policy scope of the ccNSO (Annex C ICANN Bylaws).

Does Paper need to be amended DRAFT? N

12. LOR suggests that a retirement plan should be mandatory, even if the Functional Manager does not want an extension of the duration of the retirement process.

Reference in Interim Paper:

- Section 4.4, 2nd paragraph (page 6) - 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.....

Draft WG Response: The WG notes that the issue LOR raises was discussed extensively by the WG and is considered outside the scope of the policy mandate of the ccNSO as defined in Annex C ICANN Bylaws.

Does Paper need to be amended DRAFT? N

13. LOR suggests mandatory auditing of domain name numbers by IFO to make sure the ccTLD is truly winding down and the system is not gamed.

Reference in Interim Paper:

- Section 4.5, Final paragraph (page 8) - 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 Retirement.
- Annex A, Result of Stress Test per Identified Situations # 4 - 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.

Draft WG Response: The WG noted it has discussed breach of agreement and other potential harmful behavior. The WG is of the view that the current policies provide safeguards against harmful behavior.

Does Paper need to be amended DRAFT? N

14. CG and RIPN raise concerns about the proposed irreversible impact of a trigger event leading to the removal of the ccTLD from the root zone. In view of CG and RIPN, additional conditions should be taken into account which may call for the preservation of the ccTLD, specifically: The ccTLD can still be of commercial, cultural, historical or other relevant use for a broad community and /or if there is a clear successor state, as recognized by United Nations, than the government of this state may show willingness and interest to go on with supporting the ccTLD, which otherwise could be retired

Reference in Interim Paper:

- Section 3, 2nd Paragraph (page 5) - 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 added, a ccTLD corresponding to that Alpha-2 code can be added to the Root by the IANA Naming Functions Operator ("IFO"). However, as was identified by the ccNSO Delegation and Redellegation Working Group in 2011, 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.
- Annex A. Result of Stress Test per Identified Situations, #11 - 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.

- Annex A. Result of Stress Test per Identified Situations #13 - Country disappears/ however there is a clear successor state - Countries do not disappear overnight. Takes some time before ISO-code is removed. In addition the decision to remove country code is not part of the Policy.

Draft WG Response: The WG appreciates the concerns raised. As stated in the Paper, the WG believes that the core principle from RFC 1591 that “IANA is not in the business to determine what is and what is not a country” should be adhered to. Further, the various aspects of the comments were extensively discussed by the WG and the results of these discussions are reflected in the proposed policy and the associated stress tests.

Does Paper need to be amended DRAFT? N