

Overview of the policies pertaining to the Delegation, Transfer, Revocation and Retirement of ccTLDs

Section 1 – Introduction

Currently policies pertaining to the delegation, transfer, revocation and retirement of ccTLDs are contained in various documents:

- RFC1591
- Framework of Interpretation of RFC1591
- Policy on retirement of ccTLDs

In order to assist interested parties in understanding the policies pertaining to ccTLDs, these documents are consolidated in this document

Through conversations it has become clear that various parts of RFC1591 have become obsolete and /or have been overtaken by other policies and the evolution of practices. The most obvious example is the statement in RFC1591 that it is extremely unlikely additional gTLDs will be created. The parts of RFC1591 that are not considered relevant anymore with respect to the delegation, transfer and revocation of ccTLDs and related matters are “faded” [faded].

In addition, the ccNSO has developed a Framework of Interpretation of RFC1591, i.e to provide a clear guidance on the interpretations of the policies and guidelines existing at the time the Framework of Interpretation was developed and adopted. According to the charter of the FOIWG these were the following documents:

- RFC1591, and
- GAC Principles 2005.

The FOI is included in this document by linking the interpretations with the relevant section in RFC1591 and can be identified by the use of a different font and size. RFC1591 as interpreted through the FOI is included. (see section 2, page 2)

Finally: recently the policy on retirement of ccTLD has become effective. The policy as adopted is included in section 3 (page 16)

Section 2 - RFC 1591 as interpreted by the FoI

RFC1591 - This memo provides information for the Internet community.

The Framework of Interpretation 2015

The Framework of Interpretation Working Group (FOIWG) presents its recommendations on the topics of Consent, Significantly Interested Parties and Revocation (unconsented redelegation) in this final report.

The FOIWG's goal was to provide IANA staff and the ICANN Board clear guidance in interpreting RFC1591, in order to clarify existing policies and to facilitate consistent and predictable application of these policies applicable to delegations and redelegations of ccTLDs.

The FOIWG has been working diligently for the past three years to complete its mandate, with members representing the ccNSO, GAC, ALAC and others.

In this time the FOIWG has produced draft position papers, held public consultations, regularly presented status reports to both the ccNSO and GAC, and finalized individual reports on all the afore mentioned subjects.

In considering the following recommendations it is important to note the following points:

- The FOIWG's Charter prohibited the introduction of new policies or changes to existing policies. To the extent new or changed policies may be appropriate or desirable, such policies can only be developed through a formal Policy Development Process (PDP).
 - The IANA functions contract between the US Government and ICANN, including any contract implementation issues or procedures relating to it, were outside the scope of the FOIWG.
- Recognising that ultimate authority on public policy for any country is its government and legislature, nothing in the FOIWG's report is intended to, or should be taken to, constrain or limit applicable law in respect of matters relating to country-code top-level domain names in the country or territory represented by the particular two-letter code or IDN string, or in the state of incorporation/place of business of the IANA operator.
- Nothing in the Framework of Interpretation limits or constrains the applicability of the 2005 GAC "Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains".

As such the following recommendations are presented to the ccNSO council for approval:

Regarding Consent, Significantly Interested Parties (SIP) and Unconsented Redelegations (Revocation):

The IANA Operator should adopt and implement the interpretations of RFC1591 provided by the Framework of Interpretation Working Group (FOIWG) as presented in this document.

Regarding IANA adoption and implementation of the FOIWG interpretations:

- *The ccNSO Council should consider chartering a working group to collaborate with IANA to develop content and other tools to educate and inform stakeholders about IANA's processes and procedures consistent with the FOIWG interpretations.*
- *The IANA Operator should continue to publish a public report on each ccTLD Delegation, Transfer and Revocation it completes. These reports should be published in a timely fashion, clearly identify the parties involved, describe its decision-making process and the facts relevant to its decision, including information that addresses all relevant aspects of the Framework of Interpretation recommendations.*

This memo does not specify an Internet standard of any kind. Distribution of this memo is unlimited.

In March 2011 the charter of the Framework of Interpretation Working Group (FOIWG) was adopted by the ccNSO Council. According to its charter the FOIWG is to develop and propose a "Framework of Interpretation" for the delegation and re-delegation of ccTLDs

This framework should provide a clear guide to the IANA Operator and the ICANN Board on interpretations of existing policies and guidelines, which are defined in the charter of the FOIWG as the following documents:

- RFC1591
- GAC Principles 2005

The scope of the FOIWG also clearly specifies that:

- Any proposal to amend, update or change the Policy Statements is outside the scope of the FOIWG.
- The IANA functions contract between the US Government and ICANN, including any contract implementation issues or procedures relating to it, are outside the scope of the FOIWG

The FOIWG identified the following topics which will be considered individually and in the order presented:

- Obtaining and documenting consent for delegation and re-delegation requests.
- Obtaining and documenting support for delegation and re-delegation requests from Significantly Interested Parties (sometimes referred to as Local Internet Community or LIC).
- Developing recommendations for un-consented re-delegations.
- Developing a comprehensive glossary of the terms used for the delegation and re-delegation of ccTLDs.

- Developing recommendations for IANA reports on delegation and re-delegation.

In developing its Framework of Interpretation and recommendations, the FOIWG used the following approach for each of the 3 substantive topics (Consent, Significantly Interested Parties and Unconsented Re-delegations / Revocation).

- As a first step the FOIWG identified the applicable policies, guidelines and procedure statements and analysed all past cases of re-delegations with regard to consent.
- Based on this analysis the FOIWG identified the issues in the context of the applicable policies, guidelines and procedures.
- These issues were further analysed including an identification of the issues arising out of this analysis.
- The interim results were presented to the community in Interim Reports to seek input and feed-back, and at face-to face meetings with the community at public ccNSO and other meetings during the public consultation processes.

After closure of the public comment periods on each of the topics, the FOIWG reviewed and analysed comments received. Based on these careful reviews and analyses, the FOIWG did not deem it reasonable and necessary to amend its interim interpretations and recommendations

The Interpretations and Recommendations in each of the Final Interpretation reports [were] consolidated and are included in [the]Final Report (section 2 and 3 respectively).

As required by the charter, these full reports should be included in this Final Report, however In order to reduce the size of this report they are included by referencing the URL to these report (Annex A-C). A high level description of the full process of consultations and deliberations for each of topics is included (section 4, Background and Process).

With regard to the Glossary, the FOIWG noted that this would be developed in parallel, and as part of the development of each of the three (3) substantive topics. As such the terms in the glossary became part of the Framework of Interpretation and recommendations.

As to the last item - recommendations for IANA reports – the FOIWG decided this did not warrant a separate work item, as recommendations on reporting are contained as part of the interpretation and recommendations of each of the substantive parts.

The names of the members, observers, other liaisons and support staff and special advisors are listed on the webpage of the WG (see Annex D for a link to

the webpage), where you can also find the charter (Annex E includes a direct link to the charter). Documents, Reference Material, Notes and transcripts of the meetings can also be found on the webpage of the group.

In accordance with its charter, the Final Report is conveyed to the chairs of the ccNSO and GAC to seek support from the ccNSO and GAC for the Recommendations and Framework of Interpretation contained herein.

1. Introduction

This memo provides some information on the structure of the names in the Domain Name System (DNS), specifically the top-level domain names; and on the administration of domains. The Internet Assigned Numbers Authority (IANA) is the overall authority for the IP Addresses, the Domain Names, and many other parameters, used in the Internet. ~~The day-to-day responsibility for the assignment of IP~~

~~Addresses, Autonomous System Numbers, and most top and second level Domain Names are handled by the Internet Registry (IR) and regional registries.~~

Note: RFC1591 only identifies three mechanisms available to the IANA Operator to assign or modify the management responsibility for a ccTLD:

- Delegation (section 3 of RFC1591)
- Transfer (section 3.6 of RFC191) and
- Revocation (section 3.5 of RFC191).

2. The Top Level Structure of the Domain Names

In the Domain Name System (DNS) naming of computers there is a hierarchy of names. The root of system is unnamed. There are a set of what are called "top-level domain names" (TLDs). ~~These are the generic TLDs (EDU, COM, NET, ORG, GOV, MIL, and INT), and the two letter country codes from ISO-3166. It is extremely unlikely that any other TLDs will be created.~~

Under each TLD may be created a hierarchy of names. Generally, under the generic TLDs the structure is very flat. That is, many organizations are registered directly under the TLD, and any further structure is up to the individual organizations.

In the country TLDs, there is a wide variation in the structure, in some countries the structure is very flat, in others there is substantial structural organization. In some country domains the second levels are generic categories (such as, AC, CO, GO, and RE), in others they are based on political geography, and in still

others, organization names are listed directly under the country code. The organization for the US country domain is described in RFC 1480 [1].

Each of the generic TLDs was created for a general category of organizations. The country code domains (for example, FR, NL, KR, US) are each organized by an administrator for that country. These administrators may further delegate the management of portions of the naming tree. These administrators are performing a public service on behalf of the Internet community. Descriptions of the generic domains and the US country domain follow.

Of these generic domains, five are international in nature, and two are restricted to use by entities in the United States:

World Wide Generic Domains:

~~COM - This domain is intended for commercial entities, that is companies. This domain has grown very large and there is concern about the administrative load and system performance if the current growth pattern is continued. Consideration is being taken to subdivide the COM domain and only allow future commercial registrations in the subdomains.~~

EDU - This domain was originally intended for all educational institutions. Many Universities, colleges, schools, educational service organizations, and educational consortia have registered here. More recently a decision has been taken to limit further registrations to 4 year colleges and universities. Schools and 2-year colleges will be registered in the country domains (see US Domain, especially K12 and CC, below).

~~NET - This domain is intended to hold only the computers of network providers, that is the NIC and NOC computers, the administrative computers, and the network node computers. The customers of the network provider would have domain names of their own (not in the NET TLD).~~

ORG - This domain is intended as the miscellaneous TLD for organizations that didn't fit anywhere else. Some non-government organizations may fit here.

INT - This domain is for organizations established by international treaties, ~~or international databases.~~

United States Only Generic Domains:

GOV - This domain was originally intended for any kind of government office or agency. ~~More recently a decision was taken to register only agencies of the US Federal government in this domain. State and local agencies are registered in the country domains (see US Domain, below).~~

MIL - This domain is used by the US military.

Example country code Domain:

US - As an example of a country domain, the US domain provides for the registration of all kinds of entities in the United States ~~on the basis of political geography, that is, a hierarchy of~~ ~~<entity name>.<locality>.<state code>.US.~~ For example, "IBM.Armonk.NY.US". In addition, branches of the US domain are provided within each state for schools (K12), community colleges (CC), technical schools (TEC), state government agencies (STATE), councils of governments (COG), libraries (LIB), museums (MUS), and several other generic types of entities (see RFC 1480 for details [1]).

~~To find a contact for a TLD use the "whois" program to access the database on the host rs.internic.net. Append "-dom" to the name of TLD you are interested in. For example:~~

~~————— whois -h rs.internic.net us-dom~~

or

~~————— whois -h rs.internic.net edu-dom~~

3. The Administration of Delegated Domains

The Internet Assigned Numbers Authority (IANA) is responsible for the overall coordination and management of the Domain Name System (DNS), and especially the delegation of portions of the name space called top-level domains.

The FOIWG interprets “Delegation” (section 3 of RFC1591) to mean the process by which the IANA Operator initially assigns management responsibility or assigns previously assigned responsibility (after a revocation) for the management of a ccTLD.

The FOIWG interprets RFC1591 to require the IANA Operator to avoid actions that undermine the stability and security of the DNS and/or the continuing operation of the ccTLD (section 3 of RFC1591)

Most of these top-level domains are two-letter country codes taken from the ISO standard 3166.

~~A central Internet Registry (IR) has been selected and designated to handle the bulk of the day to day administration of the Domain Name System. Applications for new top level domains (for example, country code domains) are handled by the IR with consultation with the IANA. The central IR is INTERNIC.NET. Second level domains in COM, EDU, ORG, NET, and GOV are registered by the Internet Registry at the InterNIC. The second level domains in the MIL are registered by the DDN registry at NIC.DDN.MIL. Second level names in INT are registered by the PVM at ISI.EDU.~~

~~While all requests for new top level domains must be sent to the Internic (at hostmaster@internic.net), the regional registries are often enlisted to assist in the administration of the DNS, especially in solving problems with a country administration. Currently, the RIPE NCC is the regional registry for Europe and the APNIC is the regional registry for the Asia Pacific region, while the INTERNIC administers the North America region, and all the as yet undelegated regions.~~

~~The contact mailboxes for these regional registries are:~~

~~INTERNIC hostmaster@internic.net
APNIC hostmaster@apnic.net
RIPE NCC ncc@ripe.net~~

~~The policy concerns involved when a new top level domain is established are described in the following. Also mentioned are concerns raised when it is necessary to change the delegation of an established domain from one party to another.~~

~~—A new top-level domain is usually created and its management
—delegated to a "designated manager" all at once.~~

Most of these same concerns are relevant when a sub-domain is delegated and in general the principles described here apply recursively to all delegations of the Internet DNS name space.

The major concern in selecting a designated manager for a domain is that it be able to carry out the necessary responsibilities, and have the ability to do a equitable, just, honest, and competent job.

1) The key requirement is that for each domain there be a designated manager for supervising that domain's name space. In the case of top-level domains that are country codes this means that there is a manager that supervises the domain names and operates the domain name system in that country.

The manager must, of course, be on the Internet. There must be Internet Protocol (IP) connectivity to the nameservers and email connectivity to the management and staff of the manager.

There must be an administrative contact and a technical contact for each domain.

The FOIWG interprets the requirement that there be an administrative and technical contact for each domain including, for ccTLDs, an administrative contact residing in the country (section 3.1 of RFC1591) to mean, as a general rule, that the manager must confirm, and the IANA Operator must be able to validate, that the administrative contact resides in the country or territory associated with the ccTLD.

This establishes a clear intention from RFC1591 that there be local (in the country or territory associated with the ccTLD) presence.

For top-level domains that are country codes at least the administrative contact must reside in the country involved.

Note: The FOIWG recognizes that there may be extenuating circumstances where it is impractical or impossible for the administrative contact to reside in the country or territory. ccTLDs that represent territories without permanent population will, by definition, not be able to meet the requirement.

Note: The requirement for an in-country administrative contact did not appear before 1994 when it was first introduced by RFC1591. Therefore this requirement may not be expected of ccTLDs established or last transferred before the publication of RFC1591.

2) These designated authorities are trustees for the delegated domain, and have a duty to serve the community.

The designated manager is the trustee of the top-level domain for both the nation, in the case of a country code, and the global Internet community.

Concerns about "rights" and "ownership" of domains are inappropriate. It is appropriate to be concerned about "responsibilities" and "service" to the community.

The FOIWG interprets the requirement that the manager serves as a *"trustee"* for the delegated domain, *"with a duty to serve the nation, in the case of a country code, and the global Internet community"* (section 3.2 of RFC1591) to require the Manager to (i) provide mechanisms to allow for registrants and significantly interested parties to provide input regarding registration policies to the manager and (ii) to preserve the security and stability of the ccTLD, and (iii) to work with the IANA Operator to preserve the stability and security of the global DNS/Internet.

3) The designated manager must be equitable to all groups in the domain that request domain names.

This means that the same rules are applied to all requests, all requests must be processed in a non-discriminatory fashion, and academic and commercial (and other) users are treated on an equal basis. No bias shall be shown regarding requests that may come from customers of some other business related to the manager - e.g., no preferential service for customers of a particular data network provider. There can be no requirement that a particular mail system (or other application), protocol, or product be used.

~~There are no requirements on subdomains of top-level domains beyond the requirements on higher-level domains themselves. That is, the requirements in this memo are applied recursively.~~ In particular, all subdomains shall be allowed to operate their own domain name servers, providing in them whatever information the subdomain manager sees fit (as long as it is true and correct).

4) Significantly interested parties in the domain should agree that the designated manager is the appropriate party.

Note: In the case of a delegation section 3.4 of RFC1591 requires that Significantly Interested Parties should agree that the designated manager is the appropriate party and that other Stakeholders have some voice in selecting the manager.

The FOIWG interprets "Significantly Interested Parties" (section 3.4 of RFC1591) to include, but not be limited to: a) the government or territorial authority for the

country or territory associated with the ccTLD and b) any other individuals, organizations, companies, associations, educational institutions, or others that have a direct, material, substantial, legitimate and demonstrable interest in the operation of the ccTLD(s) including the incumbent manager.

To be considered a Significantly Interested Party, any party other than the manager or the government or territorial authority for the country or territory associated with the ccTLD must demonstrate that it has a direct, material and legitimate interest in the operation of the ccTLD(s).

The FOIWG interprets the requirement for approval from Significantly Interested Parties (section 3.4 of RFC1591) to require applicants to provide documentation of support by stakeholders and for the IANA Operator to evaluate and document this input for delegations and transfers.

Note: This interpretation should not be taken as implying the elimination or replacement of any of the requirements relating to Consent of the proposed and incumbent Managers.

Note: IANA reports on Delegations and Transfers should reflect consistent application of these FOIWG interpretations and should include the detailed results of the IANA Operator's evaluation of Stakeholder input regarding the requested action.

The IANA tries to have any contending parties reach agreement among themselves, and generally takes no action to change things unless all the contending parties agree; only in cases where the designated manager has substantially mis-behaved would the IANA step in.

The FOIWG interprets RFC1591 to permit the IANA Operator to revoke a ccTLD delegation in appropriate circumstances where the manager has substantially misbehaved (section 3.4 of RFC1591).

Note: RFC1591 identifies three mechanisms available to the IANA Operator to assign or modify the management responsibility for a ccTLD, namely Delegation, Transfer and Revocation

The FOIWG interprets RFC1591 to require the consent of an incumbent manager to any Transfer of responsibilities. If a ccTLD manager engaged in substantial misbehaviour is unwilling to consent, and the IANA Operator's informal efforts to address such misbehaviour are unavailing, Revocation is the only formal mechanism that remains available to the IANA Operator.

Accordingly, the FOIWG interprets RFC1591 to permit the IANA Operator to revoke a ccTLD delegation in appropriate cases where the manager has substantially misbehaved.

The FOIWG interprets “misbehaviour” (section 3.4 of RFC1591) in this context to refer to conduct involving the failure of a manager to (i) carry out the necessary responsibilities of that role, or (ii) carry out those responsibilities in the manner required by RFC1591

The FOIWG interprets substantial misbehaviour (section 3.4 of RFC1591) to involve misbehaviour (as defined above) that is either egregious or persistent and may include performing the necessary responsibilities of a manager in a manner that imposes serious harm or has a substantial adverse impact on the Internet community by posing a threat to the stability and security of the DNS.

The FOIWG interprets RFC1591 to limit the IANA Operator’s authority to step-in to situations where substantial misbehaviour by the ccTLD manager (a) poses a risk to the security and stability of the DNS or (b) involves the manager's failure, after notice and a reasonable opportunity to cure, to perform the objective requirements (i.e., to be on the Internet, maintain IP and email connectivity, identify a technical contact and to identify an in-country administrative contact).

The FOIWG interprets the intent of RFC1591 to provide Revocation as the last resort option for the IANA Operator.

The IANA Operator should use all means at its disposal to assist the manager to change conduct considered to be substantial misbehaviour by the manager. The IANA Operator should use all means at its disposal to assist the manager to change conduct considered to be substantial misbehaviour by the manager.

Revocation should only be considered if the IANA Operator reasonably demonstrates that the manager is unable or unwilling in an appropriate time frame to:

- Resolve specified material failures to carry out its responsibilities under RFC1591; and/or
- Carry out those responsibilities in the manner required by RFC1591

Note: The FOIWG believes it is consistent with RFC1591 (section 3.4) and the duty to act fairly to recognize the manager has the right to appeal a notice of revocation by the IANA Operator to an independent body

Note: The FOIWG believes it is consistent with RFC1591 that If the IANA Operator revokes a delegation it should attempt, in collaboration with the significantly interested parties, to ensure the ccTLD will continue to resolve names until a suitable replacement can take over.

Note: Application to Incumbent Managers. It could arguably be asserted that

RFC1591 could limit the IANA Operator's authority to "step in" to the process of selecting a manager, on balance, the FOIWG interprets section 3.4 of RFC1591 to create: (i) an ongoing obligation on the manager to operate the ccTLD without substantial misbehaviour and (ii) a reserve power for the IANA Operator to "step in" in the event that the manager does "substantially misbehave."

However, it is also appropriate for interested parties to have some voice in selecting the designated manager.

The FOIWG defines Stakeholders in the context of the administration of ccTLDs to encompass Significantly Interested Parties, "*interested parties*" and "*other parties*" referenced in RFC1591

The FOIWG interprets the requirement for "interested parties" to have "some voice" (section 3.4 of RFC1591) to require applicants to provide documentation of support by Stakeholders and for the IANA Operator to evaluate and document this input for Delegations.

There are two cases where the IANA and the central IR may establish a new top-level domain and delegate only a portion of it: ~~(1) there are contending parties that cannot agree,~~ or (2) the applying party may not be able to represent or serve the whole country. The later case sometimes arises when a party outside a country is trying to be helpful in getting networking started in a country -- this is sometimes called a "proxy" DNS service.

~~The Internet DNS Names Review Board (IDNB), a committee established by the IANA, will act as a review panel for cases in which the parties can not reach agreement among themselves. The IDNB's decisions will be binding.~~

5) The designated manager must do a satisfactory job of operating the DNS service for the domain. That is, the actual management of the assigning of domain names, delegating subdomains and operating nameservers must be done with technical competence.

The FOIWG interprets RFC1591 to require the IANA Operator, in the manager selection process, be satisfied that the proposed manager possesses the necessary technical, administrative and operational skills, judged by the standard of the ordinarily competent ccTLD manager (section 3.5 of RFC1591).

This requires the prospective manager to demonstrate that he or she (or, if a legal person, 'it'): (i) possesses the requisite skills to carry out the duties of a manager (skills test); and (ii) If designated, will have the means necessary to carry out those

duties (including the ongoing responsibilities discussed above), upon receiving the appointment (executory preparedness test).

This includes keeping the central IR (in the case of top-level domains) or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience. There must be a primary and a secondary nameserver that have IP connectivity to the Internet ~~and can be easily checked for operational status and database accuracy by the IR and the IANA.~~

In cases when there are persistent problems with the proper operation of a domain, the delegation may be revoked, and possibly delegated to another designated manager.

The FOIWG interprets the term “Revocation” (section 3.5 of RFC1591) to refer to the process by which the IANA Operator rescinds responsibility for management of a ccTLD from an incumbent manager.

Note: Section 3.5 of RFC1591 explicitly contemplates Revocation in appropriate cases involving “persistent problems with the proper operation of a domain.”

6) For any transfer of the designated manager trusteeship from one organization to another, the higher-level domain manager (the IANA in the case of top-level domains) must receive communications from both the old organization and the new organization that assure the IANA that the transfer is mutually agreed,

The FOIWG interprets the term “Transfer” (section 3.6 of RFC1591) to refer to the process by which the IANA Operator transfers responsibility from an incumbent manager to a new manager with the consent of both parties.

Note: In the case of a “Transfer” section 3.6 of RFC1591 requires that Stakeholder input should be considered and taken into account by the IANA Operator.

Note: The terms “*redelegation*” and “*unconsented redelegation*” are in common use by ICANN, the IANA Operator and the stakeholder community when describing the reassignment of a ccTLD manager.

Given there is no reference to the term “*redelegation*” in RFC1591 and that there is no policy basis for an “*unconsented redelegation*” the FOIWG recommends that the term “*redelegation*” be replaced with the term “Transfer” and that the term “*unconsented redelegation*” be replaced with “Revocation followed by a Delegation”.

The FOIWG interprets section 3.6 of RFC1591 to require that the IANA Operator only seek consent for a Transfer request from the incumbent manager and the proposed manager. The IANA Operator should not seek consent from the Administrative or Technical contacts.

The FOIWG further interprets section 3.6 of RFC1591 regarding *agreement* to the Transfer as requiring that the communication from the IANA Operator requesting a party's consent should clearly state (a) what the party is being asked to agree to and (b) what steps the IANA Operator will or may take in response to the party's (i) affirmative consent, (ii) affirmative refusal to consent, or (iii) failure to respond to the communication requesting consent.

The IANA Operator should also advise the Manager to seek legal advice prior to granting consent. The requirement to secure informed consent does not obligate the IANA Operator to ensure that the party from whom consent is sought is informed about consequences not within ICANN or the IANA Operator's control.

The requirement to secure informed consent does not obligate the IANA Operator to ensure that the party from whom consent is sought is informed about consequences not within ICANN or the IANA Operator's control.

- For further clarity of what a party is being asked to agree to in (sic) a Transfer, the IANA Operator should clearly indicate it will undertake all steps necessary to transfer the incumbent manager's role as trustee for the ccTLD (as the term is used in RFC1591) to the proposed manager, including, without limitation, changing the entry in the IANA database.
- **Note:** In RFC1591, the term "trustee" is used to describe the manager's duty to serve the community, and not to describe the specific legal relationship of the manager to the delegated domain.
- For further clarity the IANA Operator should describe in detail to those parties what steps it will or may take in response to those parties' affirmative consent
 - The IANA Operator needs to establish and publish a procedure by which it will request a party's consent, the information that will be provided by the IANA Operator in connection with such a request, and the manner in which it will receive and document the party's response to such a request.

The process used by the IANA Operator should create a formal record reflecting who provided the consent or other response, the status of the person providing the consent or response, and should demonstrate that a party's consent to a re-delegation is clear, informed, unambiguous, affirmatively expressed, and freely given, as each of those terms are defined.

The IANA Operator should adopt the following criteria when evaluating the consent of an incumbent or proposed manager for a re-delegation request or from a proposed manager for a delegation request:

- *Consent must be specific, informed, unambiguous, affirmatively communicated, and freely given.*

- *For further clarity consent, by definition, must be voluntary. In practice, however, the IANA Operator will rarely be in a position to determine whether or not a party's consent is voluntary. The IANA Operator itself must be perfectly neutral and should not attempt to compel, threaten, or persuade the party to approve a request. Consent may be deemed by the IANA Operator in its reasonable discretion to be freely given if it is specific, informed, unambiguous, affirmatively communicated and acquired by the IANA Operator without threat or coercion*

and that the new organization understands its responsibilities.

It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer.

The FOIWG interprets the requirement for “concerned” or “affected” parties in Transfers to communicate with the IANA Operator (section 3.6 of RFC1591) to require applicants to provide documentation of support by Stakeholders and for the IANA Operator to evaluate and document this input for Transfers.

Note: IANA reports on Delegations or Transfers should reflect consistent application of these FOIWG interpretations and should include the detailed results of the IANA Operator's evaluation of Stakeholder input regarding the requested action.

4. Rights to Names

1) Names and Trademarks

~~In case of a dispute between domain name registrants as to the rights to a particular name, the registration authority shall have no role or responsibility other than to provide the contact information to both parties.~~

~~The registration of a domain name does not have any Trademark status.~~ It is up to the requestor to be sure he is not violating anyone else's Trademark.

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.

Section 3 - Policy for the retirement of ccTLDs

1.1 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 Mechanism for decisions pertaining to the Delegation, Transfer, Revocation and Retirement of ccTLDs.

To increase the predictability and legitimacy of decisions pertaining to the Retirement of ccTLDs and in accordance with the recommendations of the ccNSO Delegation and Redelegation Working Group (DRDWG) in 2011¹, the void or lack of Policy relating to the Retirement of ccTLDs needs to be filled by 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:

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. 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. 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, to 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>.

¹ 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>

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 a Retirement process?
- Additional conditions for Retirement of a ccTLD? What are the 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 the 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 the 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:

1. 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.
2. The events that would trigger the Retirement of IDN ccTLDs. The Retirement WG advised Council that the events leading the de-selection of IDN ccTLDs should be identified under a ccPDP that also defines the selection of IDN ccTLD strings.

1.2 Introduction

Request for Comment ("RFC") 1591 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 not static 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 in 2011 by the ccNSO Delegation and Redefinition Working Group, there is no formal policy available for the removal of a ccTLD

from the Root Zone when a Country Code is deleted 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 ISO 3166-1 Alpha-2 Code Element (the majority of ccTLDs).
- 2 letter Latin ccTLDs not corresponding to an ISO 3166-1 Alpha-2 Code Element ².
- IDN ccTLDs as approved by ICANN.

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 Zone³.

3 Applicability of the Policy

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). 0

Retirement Triggering Events are defined as follows:

- For 2 letter ccTLDs which corresponded to an ISO 3166-1 Alpha-2 Code Element – The Trigger is the deletion of that corresponding Alpha-2 Code Element 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 ISO 3166-1 Alpha-2 Code Element – The Trigger is the ISO 3166-1 MA making a change (other than making it an ISO 3166-1 Alpha-2 Code Element) to any of these. For each such Triggering Event the IFO will consider if the change requires deleting 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 on the (de-)selection of IDN ccTLD strings, the development of which was initiated on 21 May 2020⁴ and which applies to all 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.

² The ccTLDs .uk and .ac which refer to exceptionally reserved codes UK and AC are grandfathered as ccTLDs and .eu, which corresponds to 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>)

³ The removal of a (cc)TLD by the IFO is excluded from the policy, as this is outside of the policy scope of the ccNSO.

⁴ See Issue Report ccPDP4 as adopted:

<https://community.icann.org/display/ccnsowkspc/Policy+Development+Process+%28ccPDP4%29+-+%28de-%29selection+of+IDN+ccTLD+Strings?preview=/138969190/138969196/ISSUE%20report%20ccPDP%204%20version%20final%20-%202014%20May.pdf>

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 ensure the ccTLD can be retired. Such a Transfer should follow the 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 Retirement Triggering Event has occurred and that the 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 five (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 request that a retiring ccTLD be removed from the Root Zone less than five (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 ten (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 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.

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 of five (5) additional years) including the proposed Date of the removal of the ccTLD from the Root Zone.
- The reasons for requesting an extension as well as an impact analysis which supports the reasons for making the extension request.

If the ccTLD Manager wishes to produce a Retirement Plan it must do so within twelve (12) months of the IFO having sent the Notice of Removal to the Manager of the retiring ccTLD. At its discretion the IFO can extend the twelve (12) month limit to a maximum of twenty-four (24) months in total after receiving a request for such an extension from the Manager. If the IFO grants such an extension it shall promptly notify the Manager of this.

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

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

If the request for an extension is rejected and the ccTLD Manager believes that the rejection is unreasonable or is inconsistent with the Reasonable Requirements Document, it may appeal the decision by the IFO (see Section 5.2 of this Policy).

If the Manager of the retiring ccTLD and the IFO cannot agree on a Retirement Plan within twelve (12) months, or up to a maximum of twenty-four (24) months if the IFO has granted such an extension, of the IFO having sent the Notice of Removal to the Manager, then the IFO will promptly advise the Manager that the ccTLD shall be removed from the Root Zone 5 years from the date the IFO has sent the Notice of Removal to the Manager of the retiring ccTLD.

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 Retirement Date set with the previous manager shall not change unless it is in accordance with this Retirement Policy.

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f 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.

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 that 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 decisions to 1. notify the ccTLD Manager of the Retirement and 2. remove a ccTLD from the Root Zone Database, are of out scope for this Policy (see Section 2).

5.2 Review Mechanism

In this Policy on Retirement, decisions have been identified which shall be subject to a Review Mechanism. These decisions are:

1. The IFO initiating the Retirement Process for a 2 letter Latin ccTLD which does not correspond to an ISO 3166-1 Alpha-2 Code Element following the ISO 3166-1 MA making a change to this entry (other than making it an ISO 3166-1 Alpha-2 Code Element). 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.
2. The IFO refusing to grant a request by the ccTLD Manager for an extension to the Default Retirement Date of its ccTLD (section 4.4). If the ccTLD Manager disagrees with the IFO's decision to refuse the request for an extension it can appeal the decision using the ccTLD Review Mechanism.

The Review Mechanism for relevant decisions pertaining to the Delegation, Transfer, Revocation or Retirement of ccTLDs is subject of a separate Policy development effort. Once the Policy is adopted by ICANN, the decisions mentioned above in this section shall be subject to the Review Mechanism.