

**“Punch List”/Open Items on Post-Transition IANA Model Items for
CWG Discussion and Input (6 May 2015)**

Status update 19 May 2015

Note: Grey shaded/red items below are priority items.

Item #	Task	Group/ DT	Draft Recommendation	Status
New Post-Transition IANA (PTI) entity type				
1.	Determine legal entity: non-profit corporation or limited liability company. (Section III.A.i.a.)	CWG	Propose to move forward with a Non-Profit Public Benefit Corporation.	<i>Further work required to describe or develop the details including any additional restrictions of obligations under specific bylaws.</i>
Transfer of naming functions to PTI				
2.	Determine assets that will need to be transferred to PTI. (Section III.A.i.a.)	CWG	TBD	
3.	Determine whether consents will be required to transfer/assign assets to PTI. (Note: IETF consent is required for the assignment of the IETF MOU.) (Section III.A.i.a.)	CWG	TBD	

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PTI Board				
4.	Determine size and composition. Determine who appoints. (Section III.A.i.b.)	CWG	Propose to move forward with an insider board meaning a board with the majority appointed and therefore controlled by ICANN and likely to include employees / officers of ICANN (ref Sidley Memo of May 13 re PTI IANA Board Stress Tests).	<i>Further work required on the details including any specification of both inside and outside board members and roles.</i>
5.	Determine scope of PTI Board role. (Section III.A.i.b.) (See Sidley Austin memo of April 28 for statutory duties)	CWG		<i>Further work required to specify the details of any PTI board responsibilities over and above the statutory duties outlined by Sidley.</i>

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IANA Function Review (IFR)				
6.	Proposal contemplates that a Special Review may also be initiated by TLDs on concerns raised by TLDs directly with the ccNSO or the GNSO. (Section III.A.i.d.)	DT-N	TBD	<i>Discussion by DT –N ongoing</i>
7.	Proposal contemplates that IFR team can recommend amendments to SOW. Annex F contemplates any amendments proposed by IFR would be subject to ratification by ccNSO and GNSO. Determine voting threshold for ccNSO and GNSO (e.g., majority or supermajority? require both organizations?). (Annex F, page 50)	DT-N	TBD	<i>Discussion by DT –N ongoing</i>
8.	Special review is triggered by supermajority vote of ccNSO and GNSO councils. Determine voting threshold (i.e., 66-2/3%; 75%, etc.). (Section III.A.i.d. and Annex F, page 55)	DT-N	TBD	<i>Discussion by DT –N ongoing</i>
9.	If persistent problem triggers a special review, will timeline of review be accelerated to address issue? If not, how are issues addressed in the interim? (Annex F, page 55)	DT-N	TBD	<i>Discussion by DT –N ongoing</i>
10.	Special review can be initiated after “defined escalation procedures are exhausted” and “defined accountability mechanisms are exhausted.” Define with specificity what these procedures and mechanisms will be. (Annex F, page 55)	DT-N	TBD	<i>Discussion by DT –N ongoing</i>

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Customer Standing Committee (CSC)				
11.	Composition: who will select the TLD representative that is not a ccTLD or gTLD registry? (Annex G, page 59)	DT-C	An Expression of Interest must be submitted to be considered eligible for the CSC. For a person seeking to represent a TLD not considered to be either a cc or gTLD registry, the Expression of Interest must have the support of the relevant registry, which will serve as a recommendation for appointment to the CSC. As the ccNSO and GNSO Councils are responsible for approving the full membership of the CSC, the EOI will be considered as part of that approval process.	<i>To be discussed by CWG</i>
12.	Full membership of CSC is approved by ccNSO and GNSO. By what percentage? (Annex G, page 60)	DT-C	<p>Full membership of the CSC is to be approved by the ccNSO Council and GNSO Council in accordance with their own rules and procedures.</p> <p>The approval process should include some form of consultation between the two Councils.</p>	<i>To be discussed by CWG</i>

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13.	If ccTLD or gTLD representative is recalled, can meetings continue before a replacement is named? (Annex G, page 60)	DT-C	In the event that a ccTLD or gTLD representative to the CSC is recalled, the appointing party can provide a temporary replacement while they endeavor to fill the vacancy. As the CSC will be meeting regularly on a monthly basis, best efforts should be made to fill the vacancy within one month of the recall.	<i>To be discussed by CWG</i>
14.	Determine how CSC will decide on who will be liaison to IFR. (Annex F, page 52)	DT-C	The CSC as a whole will decide who will serve as the Liaison to the IFR. Preference should be given to the Liaison being a registry representative given that technical expertise is anticipated to be valuable in the role.	<i>To be discussed by CWG</i>
15.	Proposed Remedial Action Procedures is noted as item to be agreed upon by CSC and PTI. Will this happen prior to transition? (Annex F, page 62)	DT-C	<p>It is expected that the CSC and the PTI will agree to Remedial Action Procedures post transition once the two entities are formed.</p> <p>It is important to note that the agreement should be between the CSC and PTI, not the CSC and PTI Board.</p>	<i>To be discussed by CWG</i>

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16.	IANA Problem Resolution Process: contemplates that CSC can escalate to ccNSO and GNSO which may then decide to take further action “using agreed consultation and escalation processes”. What will these processes be and is anything contemplated beyond a Special Review? (Annex J, page 68)	DT-C	The ccNSO and GNSO will be responsible for developing their own procedures, which will be done post-transition. It is envisaged that the Special Review will not be the only possible escalation path available, for example the ccNSO and GNSO could seek a meeting with the ICANN Board as a mechanism to resolve issues.	<i>To be discussed by CWG</i>
ICANN/PTI Contract; Statement of Work and SLEs				
17.	Determine to what extent the ICANN/PTI contract will be enforceability mechanism (vs. CSC, IFR or other ICANN accountability mechanisms). (Section III.A.i. and Section III.A.i.c. See also Annex F)	CWG		<i>See Sydley term sheet, . 19 May 2015. To be discussed by CWG</i>
18.	Determine which rights under the existing NTIA contract will be implemented in the ICANN governance documents and which will be in the new ICANN/PTI contract. (Section III.A.i.c.)	CWG	TBD	<i>See Sydley term sheet, . 19 May 2015. To be discussed by CWG</i>
19.	Determine who will have the right to trigger remedies for breaches of, and otherwise enforce, ICANN/PTI Contract (i.e., will PTI Board exercise this right or will this require CSC or IFR). (Sections III.A.i.b, c, and d)	CWG	TBD	<i>See Sydley term sheet, . 19 May 2015. To be discussed by CWG</i>

Item #	Task	Group/DT	Draft Recommendation	Status
20.	DT-A SLE documentation following receipt of additional IANA documentation. (Section III.A.ii.b. and Annex H)	DT-A	TBD	<i>DT-A scheduled to meet Friday 22 May 2015</i>
Escalation mechanisms				
21.	Who does ccNSO/GNSO escalate unresolved issues to? Will there be an IRP process? (Section III.A.ii.a. and Annex J, footnote 22)	DT-M	Discussed by DT C as input to DT –M: This is related to Q. 16 and will be dependent upon the procedures developed by the ccNSO and GNSO, which are expected to happen post-transition.	<i>DT-M to meet and discuss Tuesday 19 May 2015</i>
22.	Additional detail on how a persistent performance issue/systemic problem will be defined (e.g., discretion given to CSC or some principles-based standard)? (Section III.A.ii.c.)	DT-M and DT-C	<p>Discussed by DT C, and shared with DT-M: This is related to Q15 and should also be considered in the context of the SLAs contained in the contract.</p> <p>The Remedial Action Procedures should contain a threshold of what is regarded persistent or systemic problems, for example if reports reveal that an SLA has not be met for 6 continuous months this would be considered a persistent performance issue; however, it should be recognized that the CSC will have the discretion to determine whether this is a trivial or serious matter, and agree a course of action appropriate to the circumstances.</p>	<i>DT-M to meet and discuss Tuesday 19 May 2015</i>

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23.	Customer complaints, Phase 2: additional detail on customer mediation process and ability to initiate an IRP. (Annex I, page 66)	DT-M and DT-C	Discussed by DT C, provided as input to DT –M: It appears that this question relates to a) and c) and as such is outside the remit of the CSC	<i>DT-M to meet and discuss Tuesday 19 May 2015</i>
Separation Process				
24.	Under what circumstances can the separation process be triggered? Will it only be upon a recommendation of the IFR? (Section III.A.ii.d. and Annex L)	CWG/DT-[SR]	Under development	<i>Discussion by DT –N /X ongoing</i>
25.	What remedies must be exhausted prior to triggering separation process? (Section III.A.ii.d. and Annex L)	CWG/DT-[SR]		<i>Discussion by DT –N /X ongoing</i>
26.	Who can initiate a separation process? (Section III.A.ii.d. and Annex L)	CWG/DT-[SR]		<i>Discussion by DT –N /X ongoing</i>
27.	Is the cross community working group for a separation contemplated by Annex L different from the IFR team? If so, more detail is needed. (Annex L)	CWG/DT-[SR]		<i>Discussion by DT –N /X ongoing</i>
28.	Is there an interim approval of an IRF recommendation to separate (i.e., by SOs/ACs) or does recommendation go directly to ICANN/Board? (Section III.A.ii.d. and Annex L)	CWG/DT-[SR]		<i>Discussion by DT –N /X ongoing</i>
29.	Implementation of a separation. (Section III.A.ii.d. and Annex L)	CWG/DT-[SR]		<i>Discussion by DT –N /X ongoing</i>

Item #	Task	Group/D	Draft Recommendation	Status
Root Zone Maintainer (RZM)				
30.	Proposal contemplates that if RZM transition is completed prior to IANA stewardship transition, need mechanism to ensure that change requests for Root Zone are implemented in a timely manner by RZM (proposal references possible agreement between RZM and PTI). (Section III.A.iii.b.)	DT-F	Note: Cannot yet advance this. Contingent on what happens with the parallel Root Zone Maintainer Cooperative Agreement.	<i>DT-F meeting 19 May (outcome not included)</i>
31.	Discuss potential requirement for an agreement between PTI and RZM or changes to the Cooperative Agreement. (Annex N, page 77)	DT-F	Note: Cannot yet advance this. Contingent on what happens with the parallel Root Zone Maintainer Cooperative Agreement	<i>DT-F meeting 19 May (outcome not included)</i>
32.	What is the process mechanism body to approve substantive changes related to RZM? The details for an authorization approval function still needs to be determined.	DT-F		<i>DT-F meeting 19 May (outcome not included)</i>
Timeline				
33.	Develop timeline for implementation. CCWG dependency (consider with CCWG timeline). (Section IV.D.)	CWG		<i>Continue to monitor and await feed-back CCWG</i>

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CCWG Dependencies				
34.	ICANN Budget – Ability for the community to approve/veto the ICANN budget. Requirements relating to budget to include transparency of IANA function’s comprehensive costs and itemization of costs at project level. (Section III.A.iv.b.)	CWG		<i>Continue to monitor and await feed-back CCWG</i>
35.	Community Empowerment Mechanisms – The multistakeholder community would be empowered to have certain rights with respect to ICANN Board and the IANA functions including: <ul style="list-style-type: none"> <li data-bbox="310 792 884 824">i. ability to appoint/remove board members; <li data-bbox="310 846 1016 911">ii. ability to exercise oversight with respect to key ICANN board decisions (approve/veto rights); <li data-bbox="310 932 1026 964">iii. ability to approve amendments to fundamental bylaws 	CWG		<i>Continue to monitor and await feed-back CCWG</i>
36.	IANA Function Review – the IFR should be created and empowered to conduct periodic and special reviews of the IANA functions. (Section III.A.i.d.; Annex F)	CWG		<i>Continue to monitor and await feed-back CCWG</i>

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37.	Customer Standing Committee (CSC) – A CSC should be created and empowered to monitor the performance of the IANA functions and escalate non-remediated issues to the ccNSO and GNSO. The CSC should be contemplated by the ICANN bylaws. If not currently within the mandate, the ccNSO and/or GNSO should be empowered to address matters escalated by the CSC. Section III.A.ii.a.; Annex G and Annex J)	CWG		<i>Continue to monitor and await feed-back CCWG</i>
38.	Appeal Mechanism – An appeal mechanism, for example in the form of an Independent Review Panel, will be required for issues relating to the IANA functions. (Annex I and Annex J)	CWG		<i>Continue to monitor and await feed-back CCWG</i>
39.	Separation Process – Mechanism for a separation process to be included once certain remedies are exhausted which would trigger a separation of PTI. (Annex L)	CWG		<i>Continue to monitor and await feed-back CCWG</i>
40.	Fundamental Bylaws – All of the foregoing mechanisms are to be provided for in the ICANN bylaws as “fundamental bylaws”.	CWG	<i>Note: Continue to monitor</i>	<i>Continue to monitor and await feed-back CCWG</i>