

**Draft of Principles and Criteria that Should Underpin Decisions on the Transition of NTIA
Stewardship as at 9 March**

These principles and criteria are meant to be the basis on which the decisions on the transition of NTIA stewardship are formed. This means that the proposals can be tested against the principles and criteria before they are sent to the ICG.

1. Security, stability and resiliency: changes must not undermine the operation of the IANA function and should assure accountability and objectivity in the stewardship of the service.
2. Transition should be subject to adequate stress testing.
3. Any new IANA governance mechanisms should not be excessively burdensome and should be fit for purpose.
4. Support the open Internet: the changes should contribute to the open and interoperable Internet.
5. Accountability and transparency: the service should be accountable and transparent.
 - i. Transparency: transparency is a prerequisite of accountability. While there might be confidentiality concerns or concerns over operational continuity during the process of delegation or redelegation of a TLD, the final decision and the rationale for that decision should be made public or at least be subject to an independent scrutiny as part of an ex-post assessment of service performance;
Unless prevented or precluded by confidentiality, any and all audit reports and other review materials should be published for inspection by the larger community;
 - ii. Independence of accountability: accountability processes should be independent of the IANA Functions Operator and should assure the accountability of the Operator to the inclusive global multistakeholder community;
 - iii. Independence of policy from IANA: ~~the policy processes should be independent of the IANA Functions Operator. The Operator's role is to implement changes in accordance with policy agreed through the relevant bottom up policy process;~~
 - iv. Protection against Capture¹: safeguards need to be in place to prevent capture of the service or of any oversight or stewardship function;
 - v. Performance standards: the IANA Functions Operator needs to meet agreed service levels and its decisions should be in line with agreed policy. Processes need to be in place to monitor performance and mechanisms should be in place to remedy failures. A fall-back provision also needs to be in place in case of service failure; and

¹ A group can be considered captured when one or more stakeholders are able to effectively control outcomes despite a lack of agreement from other stakeholders whose agreement or non-objection would be required to achieve consensus. Conditions for consensus will need to be agreed appropriate for the group.

Martin 3/2/15 4:45 PM

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Comment [1]: Correction of the text: it should be the policy independent of the operator, and not vice versa!

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Comment [2]: Deletion proposed by Milton Mueller

Martin 3/4/15 10:25 PM

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vi. Appeals and redress: there should be an appeals process, which should be independent, robust, affordable, and timely, on decisions that include binding redress open to affected parties and open to public scrutiny. Appeals should be limited to challenging the implementation of policy or process followed, not the policy itself.

vi. alternative: Appeals and redress: any appeals process should be independent, robust, affordable, timely, provide binding redress open to affected parties and be open to public scrutiny. Appeals should be limited to challenging the implementation of policy or process followed, not the policy itself.

Martin 3/9/15 7:49 AM

Comment [3]: It was generally agreed on 5 March that this will need to be reassessed following discussions on appeals process. That suggests that this is not really a principle. Hence a new formulation is proposed below.

6. Service levels: the performance of the IANA Functions must be carried out in a reliable, timely and efficient manner. It is a vital service and any proposal should ensure continuity of service over the transition and beyond, meeting a recognized and agreed quality of service and in line with service-level commitments;

i. Service level commitments should be adaptable to developing needs of the customers of the IANA Function and subject to continued improvement; and

ii. Service quality should be independently audited (*ex-post* review) against agreed commitments.

Martin 3/5/15 12:17 PM

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7. Policy based: decisions and actions of the IANA Functions Operator should be made objectively based on policy agreed to through the recognised bottom-up multi-stakeholder processes. As such, decisions and actions of the IANA Functions Operator should:

i. Be predictable: decisions are clearly rooted in agreed and applicable policy as set by the relevant policy body;

Martin 3/4/15 9:43 PM

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ii. [Suggested compromise] For ccTLDs, respect national sovereignty: Policy decisions for ccTLDs [may be/are usually] made locally through nationally agreed processes in accordance with national laws and in compliance with IETF technical standards. Post transition of the IANA function, nothing will be done by ICANN/IANA to impact the stable operation of ccTLD Registries and gTLD Registries.

Martin 3/9/15 7:49 AM

Comment [4]: "are usually" proposed to the GAC as an alternative to "may"

iii. Be non-discriminatory;

iv. Be auditable (*ex-post* review); and

v. Be appealable by significantly interested parties.

8. Diversity of the Customers of the IANA functions:

i. The IANA Functions operator needs to take account the variety of forms of relationship with TLD operators. The proposal will need to reflect the diversity of arrangements in accountability to the direct users of the IANA Functions;

ii. For ccTLDs: the IANA Functions Operator should provide a service without requiring a contract and should respect the diversity of agreements and arrangements in place for ccTLDs. In particular, the IANA functions operator should not impose any additional requirements on the registry unless they are directly and demonstrably linked to global security, stability and resilience of the DNS.

iii. For gTLDs: the IANA function should continue to provide service notwithstanding any on-going or anticipated contractual disputes between ICANN and the gTLD operator. No additional requirements for prompt delivery of IANA services should be imposed unless they are directly and demonstrably linked to global security, stability and resilience of the DNS.

9. Separability: any proposal must ensure the ability:

- i. To separate the IANA Functions from the current operator ([i.e. ICANN](#)) if warranted and in line with agreed processes;
- ii. To convene a process for selecting a new Operator; and
- iii. To consider separability in any future transfer of the IANA Functions.

10. Multistakeholderism: any proposal should foster multi-stakeholder participation in the future oversight of the IANA functions.

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Comment [5]: Erick Iriarte suggested "For ccTLDs: the IANA Functions Operator should provide a service without requiring a contract and should respect the diversity of agreements and arrangements in place for ccTLDs. In particular, the national laws related to each ccTLD should be respected and no additional requirements should be imposed unless they are directly and demonstrably linked to global security, stability, resilience of the DNS and existing registrants' use of the ccTLD." Revision shown has been agreed off-line with him,

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Comment [6]: Revised wording proposed by Stephanie Duchesneau and did not get any opposition. Editing proposed by Mary Uduma.