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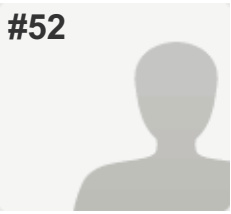**Collector:** Web Link 1 (Web Link)
Started: Saturday, December 19, 2015 12:51:01 AM
Last Modified: Saturday, December 19, 2015 1:01:09 AM
Time Spent: 00:10:08

PAGE 2: Personal Information

Q1: Name	Pedro Ivo Silva
Q2: Affiliation	Ministry of External Relations
Q3: Responding on behalf of	Brazilian Government

PAGE 3: Recommendation 1

Q4: Is establishing an Empowered Community for enforcing Community Powers a solution that is acceptable to you?(Please see Annex 1 - Recommendation #1: Establishing An Empowered Community For Enforcing Community Powers for more information)

Yes, I support this recommendation.,

Comment
The government of Brazil welcomes the proposal to create a "community mechanism". This should be one of the main pillars of the new proposed accountability arrangement, as a properly empowered community mechanism is fundamental to balance decision-making power within ICANN. The implementation of the "empowered community" concept as one of the building blocks of ICANN's accountability would contribute to increase the perception of legitimacy, on the part of all stakeholders, of the corporation´s decisions. To that end, it will be important to ensure the participation of all relevant stakeholders – including governments - independently of their status under the current ICANN structure, as the corporation's oversight should be transitioned to the global multistakeholder community and not to a limited number of stakeholder groups. We therefore support the proposal regarding the participation of the 5 SOs/ACs in the community mechanism, which – it must be recalled – intends to perform a substantial differentiated role vis-à-vis the Board´s functions, and therefore should not automatically mirror the procedures for setting up the Board.

PAGE 4: Recommendation 2

Q5: Is empowering the community through consensus: engage, escalate, enforce a solution that is acceptable to you?(Please see Annex 02 - Recommendation #2: Empowering The Community Through Consensus: Engage, Escalate, Enforce for more information)

Comment
During discussions in the CCWG-Accountability and in previous public consultation periods, the government of Brazil has abstained from defending a specific model of decision-making process within the "Community Mechanism". As indicated in our response to recommendation #1, the government Brazil has been just advocating that the model to be adopted should not leave out important stakeholders such as governments. In this regard, we defer to the larger multistakeholder community the decision on this specific topic.

PAGE 5: Recommendation 3

Q6: Is redefining ICANN's Bylaws as 'Standard Bylaws' and 'Fundamental Bylaws' a solution that is acceptable to you?(Please see Annex 03 - Recommendation #3: Redefining ICANN's Bylaws As 'Standard Bylaws' And 'Fundamental Bylaws' for more information)

Comment
During discussions in the CCWG-Accountability and in previous public consultation periods, the government of Brazil has abstained from commenting on this specific topic. In this regard, we defer to the larger multistakeholder community the decision on the given recommendation.

PAGE 6: Recommendation 4

Q7: Is ensuring community involvement in ICANN decision-making: seven new Community Powers a solution that is acceptable to you? (Please refer to Annex 04: Details on Recommendation 4: Ensuring Community Involvement In ICANN Decision-Making: Seven New Community Powers for more information)

Yes, I support this recommendation.,

Comment
As previously stated, Brazil supports the proposal to establish a mechanism to empower the ICANN multistakeholder community. The implementation of the "community" concept and its related 7 powers as one of the building blocks of ICANN's accountability is essential to ensure the necessary checks and balances vis-à-vis the corporation´s decisions.

PAGE 7: Recommendation 5

Q8: Is changing aspects of ICANN's Mission, Commitments and Core Values a solution that is acceptable to you?(Please refer to Annex 05 - Details on Recommendation #5: Changing Aspects Of ICANN's Mission, Commitments And Core Values for more information)

Yes, I support this recommendation. ,

Comment
While supporting the present recommendation, the government of Brazil holds the view that the concept of 'public interest' mentioned in ICANN's Mission, Commitment and Core Values should be developed by an authoritative entity and not by ICANN and its community of stakeholders. The definition of this cornerstone principle should be done by an entity that has undisputed legitimacy and credibility. We are not prejudging at this point whether this entity should be multilateral or multistakeholder.

PAGE 8: Recommendation 6

Q9: Is reaffirming ICANN's commitment to respect internationally recognized human rights as it carries out its Mission a solution that is acceptable to you?(Please refer to Annex 06 - Recommendation #6: Reaffirming ICANN's Commitment to Respect Internationally Recognized Human Rights as it Carries Out Its Mission for more information)

Yes, I support this recommendation. ,

Comment
Brazil strongly supports the suggestion of including a commitment to Human Rights in the ICANN Bylaws and agrees that further efforts should be spent as part of Work Stream 2 in order to fully operationalize ICANN's commitment to Human Rights, including the development of a Framework of Interpretation. To that end, Brazil suggests the Human Rights Principles contained in the "NETmundial Multistakeholder Statement" could serve as an input to that work.

PAGE 9: Recommendation 7

Q10: Is strengthening ICANN's Independent Review Process a solution that is acceptable to you?(Please refer to Annex 07: Recommendation 7: Strengthening ICANN's Independent Review Process for more information)

Yes, I support this recommendation. ,

Comment
Brazil supports the proposal of strengthening ICANN's Independent Review Process (IRP). For Brazil, it is important that decisions made by the IRP should be binding on the ICANN organization and effectively independent from national courts so that they could not be overruled by national courts where ICANN is legally established. The autonomy of the IRP would be seriously undermined if this condition cannot be met as any proposed accountability mechanism would be ineffective if ICANN's jurisdiction is ultimately able to restrict its power. Furthermore, we consider it will be essential for the IRP Implementation Oversight Team to clearly define comprehensive and detailed procedures for the given mechanism, including the definition of firm deadlines for each step.

PAGE 10: Recommendation 8

Q11: **Is fortifying ICANN's request for reconsideration process a solution that is acceptable to you?(Please refer to Annex 08 - Recommendation #8: Improving ICANN's Request For Reconsideration Process for more information)**

Yes, I support this recommendation.,

Comment
The government of Brazil supports strengthening ICANN's request for reconsideration, but notes that it should not be regarded in isolation but rather as one among other mechanisms to solve the various issues related to the need to ensure enhanced accountability in the post-transition period.

PAGE 11: Recommendation 9

Q12: **Is incorporation of the Affirmation of Commitments a solution that is acceptable to you?(Please refer to Annex 09 - Recommendation #9: Incorporation of the Affirmation of Commitments for more information)**

Yes, I support this recommendation.,

Comment
The government of Brazil supports the present recommendation based on the understanding that the incorporation of the provisions contained in the AoC reflects the agreement of the global multistakeholder community, including governments. In this respect, Brazil welcomes the decision of the CCWG to not incorporate Section 8(b) of the AoC to the bylaws, as ICANN should not be constrained to be legally established in a specific country if, in the future, its stakeholders should decide otherwise.

PAGE 12: Recommendation 10

Q13: **Is enhancing the accountability of Supporting Organizations and Advisory Committees a solution that is acceptable to you?(Please refer to Annex 10 - Recommendation #10: Enhancing the Accountability of Supporting Organizations and Advisory Committees for more information)**

Yes, I support this recommendation.,

Comment
The government of Brazil supports the given recommendation and looks forward for the continuation of this discussion within work stream 2.

PAGE 13: Recommendation 11

Q14: **Is Board obligations regarding GAC Advice (Stress Test 18) a solution that is acceptable to you?(Please refer to Annex 11 - Recommendation #11: Board obligations regarding GAC Advice)**

No, I do not support this recommendation.,

Comment
As previously stated, Brazil is concerned with the fact that discussion around Stress Test 18 has been surrounded by a number of misperceptions. Firstly, in our view it is a clear mistake to associate Stress Test 18 to the intent to avoid the risk of capture by governments. As per the transition proposal at hand, governments would retain a purely advisory role to the Board, including in regard to public policy issues. In other words, government's advice – even if issued by consensus - is not binding today and it is poised to remain so in the post-transition period. The Brazilian government has consistently expressed its view that

the way GAC´s advisory role is currently exercised is insufficient to factor in the perspective of governments in a relevant way within ICANN´s Board decision-making process. We have nonetheless indicated the willingness of not challenging this in the context of the elaboration of the transition proposal but rather to explore ways, in full respect of the multistakeholder format, through which governments roles and responsibilities in regard to public policy issues might be fully exercised in the post-transition period. Second, ST 18 ignores the fact that even though consensus might seem the most forceful and effective way to express government´s opinion (and by the same token the opinion of any particular group), it is not the only method (and certainly not the most common) employed by governments to make decisions. In some cases, intergovernmental decisions are made in the context of strong opposition of one single government (or a very small group of governments) which does not, in any way, affect the legitimacy and "representativeness" of such decisions. What ST 18 would actually seek would be to impose on GAC a decision-making process that would give a "de facto" veto power for any individual government (or very small group of governments) that may, even in cases where massive majority of governments would favor any given course of action (that might, by the way, involve the interests of a particular national company), be able to block the possibility of triggering the requirement that the Board must enter into negotiations to find a mutually acceptable solution to any conflict between possible Board action and GAC advice. In the light of the stated above, Brazil firmly rejects ST 18 and fails to see why approval of the IANA stewardship transition proposal should be held hostage of a decision in that regard. It is important, on the hand, to uphold the principle that each SO and AC should retain its autonomy in deciding about its internal operating procedures, without being, in principle, constrained by any external rule that might impose an obligation to frame its decision-making mechanism in any particular way. In stating that "Any Governmental Advisory Committee advice approved by a full Governmental Advisory Committee consensus, understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection, may only be rejected by a vote of two-thirds of the Board", the ST18 language does not only impose "full consensus" on GAC advices, it goes even further and defines what this concept means.

Q15: Is committing to further accountability work in Work Stream 2 a solution that is acceptable to you? (Please refer to Annex 12 - Recommendation #12: Committing to further accountability work in Work

Yes, I support this recommendation. ,

Comment
At the outset, the government of Brazil would like to recall that it engaged in the accountability review effort

Stream 2)

recall that it engaged in the accountability review effort based on the understanding that, according to the NETmundial Multistakeholder Statement, "it is expected that the process of globalization of ICANN speeds up leading to a truly international and global organization serving the public interest with clearly implementable and verifiable accountability and transparency mechanisms that satisfy requirements from both internal stakeholders and the global community". Accordingly, we have defended throughout the process that, unless the issue regarding the "legal status" of the corporation is adequately addressed, any attempt to reform its practices and to establish new governance or accountability mechanisms would be limited at the end of the day by the fact that any proposed changes will have to adapt to the current existing legal status. In that light, Brazil considers that the global efforts towards transitioning the way ICANN operates to a new regime should have as an ultimate goal the establishment of a new "constitution" resulting from the collective will of all stakeholders in replacement of the existing unilaterally foundational set of rules. Even if by the end of the day the global multistakeholder community would decide to maintain things as they are, a serious discussion, without preconditions beyond those parameters proposed by NTIA and accepted by all at the beginning of the process, should have taken place. In other hands, even if the decision to maintain the main features of the present legal status were to be made by the global multistakeholder community, this should have been the result of free and unrestricted discussion – and not the starting point to which all efforts had to be guided by. Although Brazil would prefer that the issue regarding legal status/jurisdiction be part of the initial transition proposal, we agree the discussion on those topics should not prevent the transition from taking place but rather should be further investigated in the context of "work stream 2". In that sense, we consider that, although any working party to be tasked for this should continue to be guided by the parameters defined in the March 14th 2014 announcement, no single topic should be considered "off-limits". It should be noted that although Brazil shares the concern about the influence that ICANN´s existing jurisdiction may have on the actual operation of policies and accountability mechanisms being proposed, one of our main concerns, from a governmental perspective, refers to the process for the settlement of disputes within the ICANN model. This discussion involves the choice of venue and of the applicable laws but not necessarily the location where ICANN is incorporated. On a more general note, the government of Brazil expects that the same level of attention, resources and efforts being devoted to work stream 1 should also be dedicated to work stream 2. In particular, we believe that a clear timeframe should be established in regard to the activities to be undertaken under work stream 2.

Q16: Please submit comments you have in addition to the information provided above, including on NTIA criteria, CWG-Stewardship requirements and Stress Tests.

Respondent skipped this question