

The government of Peru appreciates the opportunity of reviewing and commenting the draft new ICANN Bylaws which, we understand, are set to be approved before the Helsinki meeting. In this context, we would like the Board and the Community to reflect on the following issues:

1.- The bylaws represent the main legal body for ICANN. We believe it is only fair to highlight the efforts made by the drafters of the new bylaws. It is always difficult to choose accurate words and expressions. Moreover, it's difficult to avoid general or ambiguous terms when dealing with such vast amount of issues. We are certain the construction of each sentence and phrase has demanded a great deal of work.

2.- Eventually, ambiguous references cannot be expected to be overcome by a "framework for interpretation" limited to certain circumstances. Moreover, the framework for interpretation, even if agreed as binding, could never have the same legal standing of the bylaws.

3.- This is the case, every time the word "applicable" is placed before the word "law". Who decides what is applicable or not? We don't believe a future "framework for interpretation" can guarantee or reflect the progressive nature of international law. For the same reason, it would be very impractical to believe we could list all the tools international law has to offer only until today.

4.- The new bylaws fundamentally refer to principles of international law, conventions, local law and general international arbitration norms. In this scenario, for example, Free Trade Agreements that include chapters dealing with these issues should be disregarded? Those agreements and others of its kind are not considered. We believe a broader disposition would offer the Community greater confidence in the system. The bylaws should incorporate the evolving nature of international law and not leave this clarification to a limited framework for interpretation.

5.- We also feel it's important to raise the issue of jurisdiction. We believe the CCWG should focus on this issue in the Workstream 2.

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