Commenter	Subject	Comment	
GNSO-BC	1.01 Choice of Law	The recommendations identify appropriate jurisdiction issues that ought to be addressed in ICANN's contracts and agreements with registrars and registries. Recommendations suggest "possible changes to the RA and RAA for study and consideration by ICANN the Organization, the GNSO and the contracted parties. Of the alternatives recommended, the BC opts for Alternative 5, the Status Quo Approach, which would retain the current practice of having no "governing law" clause in the RAA. The Status Quo is the result of over a decade of negotiation and amendments agreed to by ICANN and contract parties, so it presumably represents an appropriate balance. Moreover, the status quo agreements and contracts are also apparently acceptable to many new entrants who have recently become registries and/or registrars. And on principle, the BC favors retaining the status quo in order to maintain certainty and predictability for businesses.	20180118 - Read no comments
GNSO-NCSG	1.02 Choice of Law	The NCSG believes that, as it has been highlighted in the report, the recommendations on the Choice of Law should be discussed with the ICANN organization, Generic Names Supporting Organization, and the contracted parties.	20180118 - Read no comments
GNSO-RySGandRrSG	1.03 Choice of Law	The RySG and RrSG appreciate that the recommendations respecting choice of laws and choice of venues clauses (in form registry/registrar contracts) with ICANN are presented as suggestions for consideration by ICANN and the CPH and acknowledge the particular importance of allowing registries and registrars to have direct influence over changes with the potential to introduce broad changes to their contractual frameworks.	20180118 - Read no comments
Gov-Denmark	1.04 Choice of Law	Denmark supports the proposals contained in the document. We attach specific importance to the recommendations regarding choice of law and choice of venue provisions. We favour a menu approach composed of a small number of countries from each ICANN Geographic Region concerning the governing law of contracts, as this will be a benefit for registries and registrars in concluding contracts with ICANN. In this way, it will contribute to ICANN accountability and in ICANN serving global internet community. The same goes for the choice of venue in registry agreements. In the document on page 24, it is stated: "The method of "choosing" from the menu also needs to be considered. The registry could simply be able to make a choice from the menu, or it could be part of the registry's negotiations with ICANN." Denmark finds that if a menu approach is implemented, it is important that the weak party, i.e. registry or registrar, freely can choose the applicable law and venue, and that it is not left to the parties to negotiate since ICANN is the only one that registries and registrars can enter into contract with. We suggest that this will be reflected in the final recommendation on jurisdic-tion.	20180118 - Read no comments

Gov-Italy	1.05 Choice of Law	• We believe that the “status quo” option will not be a proper solution for the future, given the paste experiences with regard to the New gTLDs Program. • Implementing the “California approach” could eventually create a sort of undesirable hierarchy among jurisdictions. • We express some concerns regarding the other three options too. A system with a clear legal framework is needed to implement them which has not been defined properly yet. Special reference also need to be made to Child Protection. There is a concern about any move away from the present arrangements if that would permit or encourage future Registries to engage in “venue shopping” in search of a jurisdiction with materially lower standards of child protection laws or regulations, or materially weaker mechanisms to enforce compliance of hitherto widely accepted standards. Therefore, ICANN should make clear that, irrespective of the choice of jurisdiction, in all relevant circumstances the terms of the UN Convention on the Rights of the Child must be met or exceeded.	20180118 - Read - Jorge Cancio (GAC Switzerland): some of the comments which go into the elements of the Menu may be considered further down the road when discussing the implementation of the Menu approach Kavouss.Arasteh: I could favourably consider propsal from Italy ,This a preliminary reaction
Gov-Russia	1.06 Choice of Law	First of all, we would like to notice support of recommendations related to the choice of law and venues, which provide flexibility of law provisions in registry and registrar contracts.	20180118 - Read no comments
I2Coalition	1.07 Choice of Law	i2Coalition agrees that the subgroup cannot demand changes to RA and RAA agreements, but thanks the subgroup for properly framing the conversation when RA and RAA agreements are revised. Though we are making no statement on preference to the approach that should be taken to address venue, we agree that addressing venue would both enhance ICANN accountability and decrease business uncertainty for contracted parties.	20180118 - Read no comments
ICANN-Board	1.08 Choice of Law	The Board agrees with the CCWG-Accountability’s clarification that it cannot make recommendations requiring ICANN to make amendments to the RA or the RAA outside of the contractually required amendment process. The Board looks forward to the broader participation of contracted parties in reacting to this recommendation, to better understand their views on the issue and paths forward. The Board understands that there has not yet been an impact or feasibility assessment of any of the approaches presented by the CCWG-Accountability and appreciates the broad range of approaches presented. In addition, the recognition that there are some portions of the agreement that are appropriate for uniform treatment is an important concept to provide for some level of predictability in practice and enforcement. Any potential study of these ideas would need to assess the impact, as these scenarios could raise concerns related to potential loss of predictability in enforcement, or increased enforcement costs.	20180118 - Jorge Cancio (GAC Switzerland): interesting comments from the Board - as said before they seem to me relevant for the implementation of this rec Kavouss.Arasteh: Iam in favour of the second para. from ICANNSteve DelBianco: I welcome the board's input, but remember that ICANN is not a CCWG Chartering Organization.

INTA	1.09 Choice of Law	(please see original response for complete text) …….That is a significant risk for INTA and its members and, by extension, for all consumers who rely on trademarks to create accountability and to promote fair and effective commerce. Both the RA and the RAA include provisions that brand owners rely on to protect their marks (e.g., RA ¶ 2.8 and Specifications 7 and 11; RAA ¶¶ 3.7.7 and 3.18.1). Those provisions must mean the same thing for every contracted party. A regime where RAA ¶ 3.18.1 (for example) means one thing for one registrar but another thing for a different one (because the provisions may be interpreted differently under different laws) defeats the purpose of developing "consensus" policy in the first place. For that reason, INTA agrees with the conclusion of the Sub-group that avoiding such an outcome will likely require "having a relatively limited number of choices on the menu."	20180118 - Read no comments
John Poole	1.10 Choice of Law	I totally disagree with the Choice of Laws and Choice of Venue recommendations, which are a "recipe for disaster" for ICANN. I doubt Jones Day or any lawyer "worth their salt" would find merit in ICANN being subject to forumshopping by its "contracted parties"—many of whom are just self-interested profitseeking entities trying to exploit consumers (registrants) any way they can—or ICANN being subject to split decisions by legal authorities in multiple jurisdictions. Can you imagine the legal fees portion of future ICANN budgets if the "menu approach" was adopted? ICANN already has too many lawyers on its staff, and its legal costs are already too high. These recommendations should be relegated to File 13. ICANN's jurisdiction for "choice of laws" and "choice of venue" is, and should remain, Los Angeles, California, U.S., until such time as ICANN is removed to another jurisdiction.	20180118 - KA Unclear what is meant and uncomfortable with the comment.
GNSO-BC	2.01 Choice of Venue	The recommendations identify appropriate jurisdiction issues that ought to be addressed in ICANN's contracts and agreements with registrars and registries. Recommendations suggest "possible changes to the RA and RAA for study and consideration by ICANN the Organization, the GNSO and the contracted parties.	20180118 - Read no comments
GNSO-RySGandRrSG	2.02 Choice of Venue	The RySG and RrSG appreciate that the recommendations respecting choice of laws and choice of venues clauses (in form registry/registrar contracts) with ICANN are presented as suggestions for consideration by ICANN and the CPH and acknowledge the particular importance of allowing registries and registrars to have direct influence over changes with the potential to introduce broad changes to their contractual frameworks.	20180118 - Read no comments
Gov-Denmark	2.03 Choice of Venue	Denmark supports the proposals contained in the document. We attach specific importance to the recommendations regarding choice of law and choice of venue provisions.	20180118 - Read no comments
Gov-Russia	2.04 Choice of Venue	First of all, we would like to notice support of recommendations related to the choice of law and venues, which provide flexibility of law provisions in registry and registrar contracts.	20180118 - Read no comments
I2Coalition	2.05 Choice of Venue	i2Coalition agrees that the subgroup cannot demand changes to RA and RAA agreements, but thanks the subgroup for properly framing the conversation when RA and RAA agreements are revised. Though we are making no statement on preference to the approach that should be taken to address venue, we agree that addressing venue would both enhance ICANN accountability and decrease business uncertainty for contracted parties.	20180118 - Read no comments

ICANN-Board	2.06 Choice of Venue	The Board agrees with the CCWG-Accountability's clarification that it cannot make recommendations requiring ICANN to make amendments to the RA or the RAA outside of the contractually required amendment process. The Board looks forward to the broader participation of contracted parties in reacting to this recommendation, to better understand their views on the issue and paths forward. The Board understands that there has not yet been an impact or feasibility assessment of any of the approaches presented by the CCWG-Accountability and appreciates the broad range of approaches presented. In addition, the recognition that there are some portions of the agreement that are appropriate for uniform treatment is an important concept to provide for some level of predictability in practice and enforcement. Any potential study of these ideas would need to assess the impact, as these scenarios could raise concerns related to potential loss of predictability in enforcement, or increased enforcement costs.	20180118 - Read no comments
INTA	2.07 Choice of Venue	While the legal issue is a different one, INTA's position is the same on the merits of a "Menu" approach for the venue provision of the RA as well. Specifically, while INTA cannot assess a menu of venue options without knowing what is on that menu, INTA will ultimately judge the merits of any venue menu through the same prism as it would a choice-of-law menu, namely, whether the options on the menu tend to promote uniformity of understanding of the relevant terms of the RA and RAA. If the answer is yes, or if the choice-of-law questions are settled in such a manner that the venue question is not as relevant to these contractual interpretation concerns, then INTA would support a "Menu" approach for venue as well.	20180118 - Read no comments
John Poole	2.08 Choice of Venue	I totally disagree with the Choice of Laws and Choice of Venue recommendations, which are a "recipe for disaster" for ICANN. I doubt Jones Day or any lawyer "worth their salt" would find merit in ICANN being subject to forumshopping by its "contracted parties"—many of whom are just self-interested profitseeking entities trying to exploit consumers (registrants) any way they can—or ICANN being subject to split decisions by legal authorities in multiple jurisdictions. Can you imagine the legal fees portion of future ICANN budgets if the "menu approach" was adopted? ICANN already has too many lawyers on its staff, and its legal costs are already too high. These recommendations should be relegated to File 13. ICANN's jurisdiction for "choice of laws" and "choice of venue" is, and should remain, Los Angeles, California, U.S., until such time as ICANN is removed to another jurisdiction.	20180118 - Read no comments
GNSO-NCSG	3.01 Continued Discussions of Jurisdictional issues	Given that the jurisdiction subgroup has indicated that there is no support for moving ICANN's place of incorporation out of California, the NCSG supports further discussions of jurisdiction-related concerns, as the Recommendations propose. We acknowledge that the remit of the subgroup was limited, and that Work Stream 2 could not address all the possible issues due to time constraints. For example, ICANN's jurisdiction might have actual implications on the operation of gTLDs and ccTLDs, yet the subgroup did not discuss these implications within Work Stream 2 since the ccTLD community saw such discussions as within its remit. While some have argued that recent court cases in the US might have resolved some of the jurisdictional issues that were raised for certain ccTLDs, there may be a need to further elaborate on possible jurisdictional challenges, not only within the ccTLD community, but among the ICANN community as a whole.	20180118 - Read no comments

GNSO-RySGandRrSG	3.02 Continued Discussions of Jurisdictional issues	With respect to the suggestion for another multistakeholder process to discuss unresolved jurisdiction issues, the RySG and RrSG do not support such a proposal. Jurisdiction has been a topic of discussion within the CCWG Accountability for over three years, culminating in recommendations respecting OFAC and governing law/venue clauses that have the potential for yielding positive results for the overall ICANN community. But further discussions regarding jurisdiction in an ICANN context seems unwise. Three years is more than enough time to develop proposals that have a reasonable chance of gathering community support, and indeed that appears to be exactly what has happened. Sufficient time, attention and community resources have been given to the topic.	20180118 - Read - Thiago Jardim: I have one comment: the continuation of discussions about the subject in the sort proposed by the subgroup does not imply that we would be discussing changes of jurisdiction. Thiago Jardim: There seems to be often a misunderstanding of what discussions about jurisdictional immunity really are.Thiago Jardim: They are not to be confused with discussions with a change of place of incorporation, for
Gov-Italy	3.04 Continued Discussions of Jurisdictional issues	In conclusion, Italy believes that further considerations and discussions are required before the approval of any options.	20180118 - Read no comments
Gov-Russia	3.05 Continued Discussions of Jurisdictional issues	Russian Federation would like to suggest the Subgroup to continue to engage with development of relevant recommendations including broader types of immunity from US jurisdiction that could prevent ICANN from being subject to unilateral political or regulatory interference.	20180118 - Read no comments
GNSO-BC	3.06 Continued Discussions of Jurisdictional issues	We therefore do not agree with the noted minority view that the “draft report falls short of the objectives envisaged for Work Stream 2 – in particular the need to ensure that ICANN is accountable towards all stakeholders –, by not tackling the issue of ICANN's subjection to US jurisdiction.” In the BC’s view the draft report meets the objectives set forth for this WS2 project in the CCWGAccountability’s Work Stream 1 final report.	Added at SDB request.
ALAC	4.01 General	The ALAC very much appreciates the work done by CCWG-Accountability WS2 Jurisdiction Subgroup, and the recommendations it has published for public comment in November 2017 to tackle ICANN’s jurisdictional challenges. And the ALAC agrees with all consensus recommendations as put forward by the Subgroup. The ALAC especially wants to highlight the following recommendations:	20180118 - Read no comments
Gov-Denmark	4.02 General	Denmark supports the proposals contained in the document. We attach specific importance to the recommendations regarding choice of law and choice of venue provisions.	20180118 - Read no comments

Gov-France-RoughTranslation	4.03 General	Although the proposals in the report on ICANN's jurisdiction are moving in the right direction, the French government believes that they will not be sufficient to genuinely provide a solution to the issues raised by the exercise Unilateral of a particular jurisdiction over an organization whose mandate is to manage a global common good, the domain Name System. Currently, ICANN is a United States entity, which has many implications for ICANN's accountability for equality between the various stakeholders. Indeed, this statute induces that ICANN's activities remain framed by the law of one State, that of the United States, and that the American courts have jurisdiction over the law. However, the goal of improving ICANN's accountability to the entire Internet community induces that its legal responsibility is to all stakeholders without any advantage over another and that no country in Individual may not intervene, directly or indirectly, in the full implementation by ICANN of its global public service missions. In view of the strong divergences in the sub-working group, the French Government encourages members to explore new avenues, in particular proposing to introduce immunities, including partial, of jurisdiction in ICANN in order to To ensure its autonomy and accountability towards the entire global Internet community.	20180118 - Read no comments
Gov-Italy	4.04 General	Italy reaffirms that all Governments should have an equal role and responsibility for international Internet governance and for ensuring the stability, security and continuity of the Internet (Art. 68 of Tunisi Agenda). Conflicts of jurisdiction on the Internet might have implications with respect to the “EU acquis”, e.g. as regards data protection and geographical indications. ICANN is the administrator of a global resource, so we will support any solution that ensure that its functioning should not be biased by the jurisdiction of the hosting country. Furthermore, we believe that the future jurisdiction and applicable laws should safeguard the application of principles enshrined in the international conventions in Private International and Procedural Law.	20180118 - Read no comments
ICANN-Board	4.05 General	Several of the recommendations are actionable and implementable, and in some instances, codify current practice by the ICANN organization. There are other recommendations which may prove problematic to fully address, and we provide our input on those for further consideration. This input is not intended to interfere with this work, but rather to provide information to further the Subgroup and CCWG-Accountability's efforts as it finalizes its full report.	20180118 - Read no comments

ISPCP	4.06 General	The jurisdiction group has done an excellent job of dealing with some of the challenges that come from U.S. jurisdiction. ICANN must maintain its global mission above all else. U.S. law makes that difficult in some circumstances, by placing sanctions on certain foreign governments, which ICANN is required to obey. The subgroup has offered a set of recommendations are sensible ways of approaching that difficult set of circumstances, and we support them. In particular, we are supportive of ICANN actively engaging in the process of assisting contracted parties in seeking waivers from the U.S. Treasury's Office of Foreign Assets Control (OFAC). This seems to be a sensible way to uphold ICANN's mission despite the requirements of the United States government.
ALAC	5.01 OFAC applicable to RAA?	The ALAC very much appreciates the work done by CCWG-Accountability WS2 Jurisdiction Subgroup, and the recommendations it has published for public comment in November 2017 to tackle ICANN's jurisdictional challenges. And the ALAC agrees with all consensus recommendations as put forward by the Subgroup. The ALAC especially wants to highlight the following recommendations:
GNSO-BC	5.02 OFAC applicable to RAA?	The BC supports the recommendations to address issues relating to U.S. government trade sanctions administered by the Office of Foreign Asset Control (OFAC). In order for all global internet users to participate in ICANN processes and contracts, ICANN should increase its commitment to seek and obtain appropriate sanctions relief. ** In particular, the BC supports the 4th recommendation, so that ICANN will commit to apply its best efforts to support participation in ICANN meetings by business users and registrants from countries that are subject to sanctions. That should be interpreted to commit the ICANN legal team to vigorous pursuit of relief, whether through specific or general licenses or waivers. These recommendations should be implemented regardless of whether the current US administration seems disinclined to approve OFAC license requests. What's important is for ICANN to be consistent and persistent in applying for sanctions relief – no matter what government is in place at the time.
GNSO-NCSG	5.03 OFAC applicable to RAA?	The NCSG strongly agrees with the proposals of the subgroup to overcome the accessibility issues that US sanctions create, and support measures being taken to provide relief for those who are not on the US government's Specially Designated Nationals (SDN) list. We support all of the recommendations related to OFAC sanctions. However, we believe that the following improvements could significantly increase the value and clarity of the OFAC-related recommendation in the report:
GNSO-RySGandRrSG	5.04 OFAC applicable to RAA?	We welcome the subgroup's effort to investigate issues between ICANN's goal of administering the Internet as a neutral global resource and the possible imposition of sanctions by the US or other countries. We support the report's recommendations with regard to OFAC licenses and the suggestion to provide clear information about the limited applicability of OFAC restrictions for non-US based parties under contract with ICANN.

Gov-Russia	5.06 OFAC applicable to RAA?	Recommendations that are to make ICANN to take any steps to reduce the effect of OFAC sanctions against foreign governments are noted with appreciation as well, but can be recognized only as a first attempts to handle the multi-layer objective of ICANN jurisdiction challenges. Taking in account the high risk that OFAC sanctions against foreign governments would harm large number of ordinary Internet users and businesses in sanctioned countries, we consider the recommendations proposed by the Subgroup for the corresponding ICANN actions are limited in the ability to tackle possible negative effects since the principle of «best efforts» provides no guarantee that ICANN would be able to adequately address the problem.
I2Coalition	5.07 OFAC applicable to RAA?	i2Coalition understands that codifying that the State of California in the United States of America is the permanent jurisdictional home of the nonprofit organization of ICANN brings with it some challenges. Key among these challenges is how ICANN can maintain its global mission while U.S. law requires them to obey OFAC sanctions. The recommendations proffered by the subgroup are sensible ways of approaching that difficult set of circumstances, and we support them.
ICANN-Board	5.08OFAC applicable to RAA?	On the recommendation for ICANN to confirm to non-U.S based registrars that OFAC rules do not apply to their operations solely by virtue of a contract with ICANN, the first portion of the recommendation does not appear to be an issue based on ICANN's understanding. As noted in the recommendation, ICANN is not able to provide legal advice to registrars on which laws actually apply, and any confirmation would have to be provided alongside a note that this should not be considered as legal advice from ICANN. It is a registrar's obligation to understand the laws to which they are subject and what is necessary to be in Registration Agreements, or what rules govern the registrar's actions with parties other than ICANN. For the portion of the recommendation that states "ICANN should also explore various tools to remind registrars to understand the applicable laws under which they operate and to accurately reflect those laws in their customer relationships," it is not clear what other tools the CCWG-Accountability is considering outside of ICANN's confirmation. Contracted parties already have this obligation. If further tools have already been considered by the CCWG-Accountability, it would be helpful to understand what those are.
INTA	5.09 OFAC applicable to RAA?	The sub-group recommends that ICANN make non-US registrars aware that they may be erroneously prohibiting residents of sanctioned countries from using their services because of a mistaken belief that they are obligated to apply OFAC sanctions solely by virtue of having a contract with ICANN. Understanding that ICANN cannot provide legal advice to registrars, INTA supports the recommendation that ICANN can nevertheless clarify to registrars that their RAA with ICANN does not in itself impose on them the obligation to comply with OFAC sanctions, and encourage registrars to gain a better understanding of the applicable laws under which they operate and to accurately reflect those laws in their customer relationships.

John Poole	5.10 OFAC applicable to RAA?	I wholeheartedly agree with the OFAC recommendations, all of which are only common sense and which ICANN org should have addressed long before this subgroup ever needed to address these issues. If these recommendations are implemented and the U.S. proves it cannot accommodate ICANN and its stakeholders, then ICANN will absolutely need to be relocated to another jurisdiction other than the U.S.
Middle East Space	5.11 OFAC applicable to RAA?	We specifically support the following recommendations of the Jurisdiction Subgroup: ● ICANN should clarify to registrars that the mere existence of their registrar accreditation agreement (RAA) with ICANN does not cause them to be required to comply with OFAC sanctions;
ALAC	6.01 OFAC General Lic.	The ALAC very much appreciates the work done by CCWG-Accountability WS2 Jurisdiction Subgroup, and the recommendations it has published for public comment in November 2017 to tackle ICANN's jurisdictional challenges. And the ALAC agrees with all consensus recommendations as put forward by the Subgroup. The ALAC especially wants to highlight the following recommendations:
GNSO-BC	6.02 OFAC General Lic.	The BC supports the recommendations to address issues relating to U.S. government trade sanctions administered by the Office of Foreign Asset Control (OFAC). In order for all global internet users to participate in ICANN processes and contracts, ICANN should increase its commitment to seek and obtain appropriate sanctions relief. ** In particular, the BC supports the 4th recommendation, so that ICANN will commit to apply its best efforts to support participation in ICANN meetings by business users and registrants from countries that are subject to sanctions. That should be interpreted to commit the ICANN legal team to vigorous pursuit of relief, whether through specific or general licenses or waivers. These recommendations should be implemented regardless of whether the current US administration seems disinclined to approve OFAC license requests. What's important is for ICANN to be consistent and persistent in applying for sanctions relief – no matter what government is in place at the time.
GNSO-NCSG	6.03 OFAC General Lic.	The NCSG strongly agrees with the proposals of the subgroup to overcome the accessibility issues that US sanctions create, and support measures being taken to provide relief for those who are not on the US government's Specially Designated Nationals (SDN) list. We support all of the recommendations related to OFAC sanctions. However, we believe that the following improvements could significantly increase the value and clarity of the OFAC-related recommendation in the report: - ICANN should prioritize obtaining one or two General OFAC licenses. Therefore, we suggest that the recommendation to obtain General OFAC licenses be more clearly prioritized in the report; and - As, in our view, this is one of the most important recommendations that ICANN should act upon, we believe that the report should propose a detailed timeline for the implementation of this recommendation by ICANN.
GNSO-RySGandRrSG	6.04 OFAC General Lic.	We welcome the subgroup's effort to investigate issues between ICANN's goal of administering the Internet as a neutral global resource and the possible imposition of sanctions by the US or other countries. We support the report's recommendations with regard to OFAC licenses and the suggestion to provide clear information about the limited applicability of OFAC restrictions for non-US based parties under contract with ICANN. (unclear how this should be classified)

Gov-Russia	6.05 OFAC General Lic.	Recommendations that are to make ICANN to take any steps to reduce the effect of OFAC sanctions against foreign governments are noted with appreciation as well, but can be recognized only as a first attempts to handle the multi-layer objective of ICANN jurisdiction challenges. Taking in account the high risk that OFAC sanctions against foreign governments would harm large number of ordinary Internet users and businesses in sanctioned countries, we consider the recommendations proposed by the Subgroup for the corresponding ICANN actions are limited in the ability to tackle possible negative effects since the principle of «best efforts» provides no guarantee that ICANN would be able to adequately address the problem.
I2Coalition	6.06 OFAC General Lic.	i2Coalition understands that codifying that the State of California in the United States of America is the permanent jurisdictional home of the nonprofit organization of ICANN brings with it some challenges. Key among these challenges is how ICANN can maintain its global mission while U.S. law requires them to obey OFAC sanctions. The recommendations proffered by the subgroup are sensible ways of approaching that difficult set of circumstances, and we support them.
ICANN-Board	6.07OFAC General Lic.	Regarding the fourth component, pursuing OFAC “general licenses,” the Board appreciates the recommended approach of an initial step where the ICANN organization study costs, benefits, timeline and details of such a process. The Board also requests that opportunity costs be identified in that study. The study may also be aided by a further problem statement from the community to identify the scope of issues that the CCWG-Accountability believes will be solved through a general license. During deliberations, details were provided by ICANN organization to the Subgroup regarding some concerns regarding seeking a general license. For example, there is no application process to seek a general license; a general license requires a change in regulation by the U.S. Department of the Treasury, or a change in legislation. As the report notes, the regulatory process may be a significant undertaking, with no guarantee of success from any such lobbying effort or expense. The second part of that recommendation, regarding “removing ‘friction’” from transactions in the event that there are “significant obstacles” to pursuing general licenses, could be clarified. If the CCWG-Accountability has further recommendations beyond what is laid out in the report, those would be beneficial to state, as there is no basis against which to measure if ICANN can successfully implement this part of the recommendation.

INTA	6.08 OFAC General Lic.	The sub-group recommends that ICANN take steps to pursue one or more OFAC general licenses by “first making it a priority to study the costs, benefits, timeline and details of seeking and securing such licenses.” The sub-group then recommends that ICANN proceed to secure such licenses “unless its study reveals significant obstacles, in which case the community should be consulted about how to proceed.” INTA supports the recommendation that the issue of general licenses should be studied. However, INTA does not support the recommendation that this study be “a priority.” Given ICANN’s current budget and funding concerns, ICANN should have greater discretion to set priorities, taking other potential priorities into consideration. Further, in INTA’s view, the reference to “significant obstacles” is ambiguous and the sub-group’s report should be amended to provide that ICANN shall not be required to take more than commercially reasonable efforts to obtain general licenses. In INTA’s view, ICANN should have the discretion not to pursue general licenses if the process is unreasonably onerous for the organization.
John Poole	6.09 OFAC General Lic.	I wholeheartedly agree with the OFAC recommendations, all of which are only common sense and which ICANN org should have addressed long before this subgroup ever needed to address these issues. If these recommendations are implemented and the U.S. proves it cannot accommodate ICANN and its stakeholders, then ICANN will absolutely need to be relocated to another jurisdiction other than the U.S.
Middle East Space	6.10 OFAC General Lic.	We specifically support the following recommendations of the Jurisdiction Subgroup: ● ICANN should take steps to pursue one or more OFAC “general licenses” with the U.S. Department of Treasury in connection with DNS-- related transactions. If unsuccessful, ICANN will need to find other ways to enable transactions between ICANN and residents of sanctioned countries to be consummated with a minimum of “friction.”
ALAC	7.01 OFAC Lic new gTLD	The ALAC very much appreciates the work done by CCWG-Accountability WS2 Jurisdiction Subgroup, and the recommendations it has published for public comment in November 2017 to tackle ICANN’s jurisdictional challenges. And the ALAC agrees with all consensus recommendations as put forward by the Subgroup. The ALAC especially wants to highlight the following recommendations:
GNSO-BC	7.02 OFAC Lic new gTLD	The BC supports the recommendations to address issues relating to U.S. government trade sanctions administered by the Office of Foreign Asset Control (OFAC). In order for all global internet users to participate in ICANN processes and contracts, ICANN should increase its commitment to seek and obtain appropriate sanctions relief. ** In particular, the BC supports the 4th recommendation, so that ICANN will commit to apply its best efforts to support participation in ICANN meetings by business users and registrants from countries that are subject to sanctions. That should be interpreted to commit the ICANN legal team to vigorous pursuit of relief, whether through specific or general licenses or waivers. These recommendations should be implemented regardless of whether the current US administration seems disinclined to approve OFAC license requests. What’s important is for ICANN to be consistent and persistent in applying for sanctions relief – no matter what government is in place at the time.

GNSO-NCSG	7.03 OFAC Lic new gTLD	The NCSG strongly agrees with the proposals of the subgroup to overcome the accessibility issues that US sanctions create, and support measures being taken to provide relief for those who are not on the US government's Specially Designated Nationals (SDN) list. We support all of the recommendations related to OFAC sanctions. However, we believe that the following improvements could significantly increase the value and clarity of the OFAC-related recommendation in the report:
GNSO-RySGandRrSG	7.04 OFAC Lic new gTLD	We welcome the subgroup's effort to investigate issues between ICANN's goal of administering the Internet as a neutral global resource and the possible imposition of sanctions by the US or other countries. We support the report's recommendations with regard to OFAC licenses and the suggestion to provide clear information about the limited applicability of OFAC restrictions for non-US based parties under contract with ICANN.
Gov-Russia	7.05 OFAC Lic new gTLD	Recommendations that are to make ICANN to take any steps to reduce the effect of OFAC sanctions against foreign governments are noted with appreciation as well, but can be recognized only as a first attempts to handle the multi-layer objective of ICANN jurisdiction challenges. Taking in account the high risk that OFAC sanctions against foreign governments would harm large number of ordinary Internet users and businesses in sanctioned countries, we consider the recommendations proposed by the Subgroup for the corresponding ICANN actions are limited in the ability to tackle possible negative effects since the principle of «best efforts» provides no guarantee that ICANN would be able to adequately address the problem.
I2Coalition	7.06 OFAC Lic new gTLD	i2Coalition understands that codifying that the State of California in the United States of America is the permanent jurisdictional home of the nonprofit organization of ICANN brings with it some challenges. Key among these challenges is how ICANN can maintain its global mission while U.S. law requires them to obey OFAC sanctions. The recommendations proffered by the subgroup are sensible ways of approaching that difficult set of circumstances, and we support them.
ICANN-Board	7.07 OFAC Lic new gTLD	As ICANN organization has discussed with the group, ICANN has a regular practice of applying for specific licenses for proposed Registrars as well as Registry operators, except those subject to individual sanctions (if they are on the SDN list). These portions of the recommendations are therefore codification of existing practice, can be implemented. ICANN organization also, as a regular practice, remains in contact with applicants for which a license is sought. The Subgroup provides commentary on the experience of new gTLD applicants for which ICANN needed to apply for an OFAC license, and even suggests that ICANN had not informed an applicant that an OFAC license was being sought. While the statements surrounding ICANN organization's interaction with applicants may not be correct, we concur with the CCWGAccountability on the broader issue that ICANN organization should strive for open communication with applicants on potential OFAC issues and license status.

INTA	7.08 OFAC Lic new gTLD	The sub-group takes issue with language in the Applicant Guidebook for the New gTLD Program to the extent that it is similar to the above-discussed language from the RAA in that it provides that, “[i]n the past, when ICANN has been requested to provide services to individuals or entities that are not SDNs (specially designated nationals) but are residents of sanctioned countries, ICANN has sought and been granted licenses as required. In any given case, however, OFAC could decide not to issue a requested license.” The sub-group again recommends that ICANN commit to applying for and using “best efforts” to secure OFAC licenses for all such applicants if they are “otherwise qualified” and are not on the SDN list. INTA agrees that ICANN should not have unfettered discretion to refuse to apply for such licenses, but has concerns that ICANN not be hamstrung in its ability to carry out its other mandates. As above, INTA recommends that the term “otherwise qualified” be replaced by “otherwise approved” or “otherwise acceptable.” INTA further recommends that the “best efforts” standard be reconsidered and that a less onerous standard of “commercially reasonable efforts” or “reasonable best efforts” be recommended by the sub-group.
ISPCP	7.09 OFAC Lic new gTLD	The jurisdiction group has done an excellent job of dealing with some of the challenges that come from U.S. jurisdiction. ICANN must maintain its global mission above all else. U.S. law makes that difficult in some circumstances, by placing sanctions on certain foreign governments, which ICANN is required to obey. The subgroup has offered a set of recommendations are sensible ways of approaching that difficult set of circumstances, and we support them. In particular, we are supportive of ICANN actively engaging in the process of assisting contracted parties in seeking waivers from the U.S. Treasury’s Office of Foreign Assets Control (OFAC). This seems to be a sensible way to uphold ICANN’s mission despite the requirements of the United States government.
John Poole	7.10 OFAC Lic new gTLD	I wholeheartedly agree with the OFAC recommendations, all of which are only common sense and which ICANN org should have addressed long before this subgroup ever needed to address these issues. If these recommendations are implemented and the U.S. proves it cannot accommodate ICANN and its stakeholders, then ICANN will absolutely need to be relocated to another jurisdiction other than the U.S.
Middle East Space	7.11 OFAC Lic new gTLD	We specifically support the following recommendations of the Jurisdiction Subgroup: ● ICANN should commit to applying for and using best efforts to secure an OFAC license for all applicants for registrar accreditation and/or generic top-- level domain (gTLD) registries resident in countries subject to U.S. sanctions if the applicant is otherwise qualified (and is not on the Specially Designated National List). During the licensing process, ICANN should be helpful and transparent with regard to the licensing process;
ALAC	8.01 OFAC Lic Registrar	The ALAC very much appreciates the work done by CCWG-Accountability WS2 Jurisdiction Subgroup, and the recommendations it has published for public comment in November 2017 to tackle ICANN’s jurisdictional challenges. And the ALAC agrees with all consensus recommendations as put forward by the Subgroup. The ALAC especially wants to highlight the following recommendations:

GNSO-BC	8.02 OFAC Lic Registrar	The BC supports the recommendations to address issues relating to U.S. government trade sanctions administered by the Office of Foreign Asset Control (OFAC). In order for all global internet users to participate in ICANN processes and contracts, ICANN should increase its commitment to seek and obtain appropriate sanctions relief. ** In particular, the BC supports the 4th recommendation, so that ICANN will commit to apply its best efforts to support participation in ICANN meetings by business users and registrants from countries that are subject to sanctions. That should be interpreted to commit the ICANN legal team to vigorous pursuit of relief, whether through specific or general licenses or waivers. These recommendations should be implemented regardless of whether the current US administration seems disinclined to approve OFAC license requests. What's important is for ICANN to be consistent and persistent in applying for sanctions relief – no matter what government is in place at the time.
GNSO-NCSG	8.03 OFAC Lic Registrar	The NCSG strongly agrees with the proposals of the subgroup to overcome the accessibility issues that US sanctions create, and support measures being taken to provide relief for those who are not on the US government's Specially Designated Nationals (SDN) list. We support all of the recommendations related to OFAC sanctions. However, we believe that the following improvements could significantly increase the value and clarity of the OFAC-related recommendation in the report:
GNSO-RySGandRrSG	8.03 OFAC Lic Registrar	We welcome the subgroup's effort to investigate issues between ICANN's goal of administering the Internet as a neutral global resource and the possible imposition of sanctions by the US or other countries. We support the report's recommendations with regard to OFAC licenses and the suggestion to provide clear information about the limited applicability of OFAC restrictions for non-US based parties under contract with ICANN.
Gov-Russia	8.04 OFAC Lic Registrar	Recommendations that are to make ICANN to take any steps to reduce the effect of OFAC sanctions against foreign governments are noted with appreciation as well, but can be recognized only as a first attempts to handle the multi-layer objective of ICANN jurisdiction challenges. Taking in account the high risk that OFAC sanctions against foreign governments would harm large number of ordinary Internet users and businesses in sanctioned countries, we consider the recommendations proposed by the Subgroup for the corresponding ICANN actions are limited in the ability to tackle possible negative effects since the principle of «best efforts» provides no guarantee that ICANN would be able to adequately address the problem.
I2Coalition	8.05 OFAC Lic Registrar	i2Coalition understands that codifying that the State of California in the United States of America is the permanent jurisdictional home of the nonprofit organization of ICANN brings with it some challenges. Key among these challenges is how ICANN can maintain its global mission while U.S. law requires them to obey OFAC sanctions. The recommendations proffered by the subgroup are sensible ways of approaching that difficult set of circumstances, and we support them.

ICANN-Board	8.06 OFAC Lic Registrar	As ICANN organization has discussed with the group, ICANN has a regular practice of applying for specific licenses for proposed Registrars as well as Registry operators, except those subject to individual sanctions (if they are on the SDN list). These portions of the recommendations are therefore codification of existing practice, can be implemented. ICANN organization also, as a regular practice, remains in contact with applicants for which a license is sought. The Subgroup provides commentary on the experience of new gTLD applicants for which ICANN needed to apply for an OFAC license, and even suggests that ICANN had not informed an applicant that an OFAC license was being sought. While the statements surrounding ICANN organization's interaction with applicants may not be correct, we concur with the CCWGAccountability on the broader issue that ICANN organization should strive for open communication with applicants on potential OFAC issues and license status.
INTA	8.07 OFAC Lic Registrar	....INTA therefore recommends that the "best efforts" standard be reconsidered and that a less onerous standard of "commercially reasonable efforts" or "reasonable best efforts" be recommended by the sub-group to ensure that ICANN may exercise reasonable judgment if pursuit of a license becomes unreasonably onerous for the organization in a particular case. As a matter of transparency, should ICANN exercise such judgment regarding an application for an OFAC license and terminate an application process, such reasoning should be well documented and available to the community on request. INTA also recommends that the meaning of the term "otherwise qualified" be clarified. It is unclear whether an "otherwise qualified" applicant is one that would otherwise become a registrar or could still be rejected by ICANN on other grounds. INTA suggests using the term "otherwise approved" or "otherwise acceptable." This will more clearly indicate that ICANN has decided that the applicant should become an accredited registrar but for the need for an OFAC license. Thus, the language would read ""require ICANN to apply for and use [reasonable best efforts OR commercially reasonable efforts] to secure an OFAC license if the other party is otherwise approved to become a registrar (and is not on the SDN List)
ISPCP	8.08 OFAC Lic Registrar	The jurisdiction group has done an excellent job of dealing with some of the challenges that come from U.S. jurisdiction. ICANN must maintain its global mission above all else. U.S. law makes that difficult in some circumstances, by placing sanctions on certain foreign governments, which ICANN is required to obey. The subgroup has offered a set of recommendations are sensible ways of approaching that difficult set of circumstances, and we support them. In particular, we are supportive of ICANN actively engaging in the process of assisting contracted parties in seeking waivers from the U.S. Treasury's Office of Foreign Assets Control (OFAC). This seems to be a sensible way to uphold ICANN's mission despite the requirements of the United States government.

John Poole	8.09 OFAC Lic Registrar	I wholeheartedly agree with the OFAC recommendations, all of which are only common sense and which ICANN org should have addressed long before this subgroup ever needed to address these issues. If these recommendations are implemented and the U.S. proves it cannot accommodate ICANN and its stakeholders, then ICANN will absolutely need to be relocated to another jurisdiction other than the U.S.
Middle East Space	8.10 OFAC Lic Registrar	We specifically support the followjng recommendations of the Jurisdiction Subgroup: ● ICANN should commit to applying for and using best efforts to secure an OFAC license for all applicants for registrar accreditation and/or generic top-- level domain (gTLD) registries resident in countries subject to U.S. sanctions if the applicant is otherwise qualified (and is not on the Specially Designated National List). During the licensing process, ICANN should be helpful and transparent with regard to the licensing process;
GNSO-BC	9.01 Other - Non-US Sanctions	In addition, sanctions are often applied by non-US governments, such as the European Union's Common Foreign and Security Policy (CFSP). The BC therefore asks whether the recommendations could be generalized enough so that ICANN would take steps to obtain relief for participants affected by any or all sanctions – not just OFAC sanctions from the US government.
GNSO-BC	10.01 Other - Scope of work	We therefore do not agree with the noted minority view that the "draft report falls short of the objectives envisaged for Work Stream 2 – in particular the need to ensure that ICANN is accountable towards all stakeholders –, by not tackling the issue of ICANN's subjection to US jurisdiction." In the BC's view the draft report meets the objectives set forth for this WS2 project in the CCWGAccountability's Work Stream 1 final report.
Gov-Russia	10.02 Other - Scope of work	(long response - please see official comment for full text)..... We support the inclusion of Annexes with the dissenting opinion of Brazil and the proposed issues list, which was supported by stakeholders during ICANN 60 and provide rich food for further work. At the same time we would like to express our major concerns, which have been early presented during broad discussion of ICANN jurisdiction issues, including public session at ICANN 60. We believe that report falls short of the objectives envisaged for Work Stream 2, and that its recommendations only partly mitigate the risks associated with ICANN's subjection to U.S. jurisdiction, which makes the adoption of the report unacceptable. This is the position of several governments reflected in GAC Communique (ICANN 60, Abu-Dhabi).
I2Coalition	10.03 Other - Scope of work	i2Coalition wishes to respectfully disagree with the comments of Brazil and other dissenters, specifically when addressing frustration with the subgroup not putting the subject of ICANN's location of incorporation up for community discussion. It is clear that the IANA transition was predicated on the fact that ICANN is, and will remain, a California nonprofit. It is inappropriate and out of scope to attempt to change that at this time.

ISPCP	10.04 Other - Scope of work	The ISPCP understands that the United States will remain the jurisdictional home of ICANN, and we see this as preferable to the alternatives of either moving jurisdiction, for which there is no public will, or becoming an NGO. ICANN only works if it has accountability, including legal accountability, and this runs counter to the role of an NGO. Therefore, this was the proper and just conclusion. It is with that in mind that we wish to respectfully disagree with the comments of Brazil and other dissenters when they expressed frustration that a new path was not forged on jurisdiction. We believe that it is not the time to attempt a change of jurisdiction, and that the stasis of ICANN's residence in the State of California, on which the IANA transition was predicated and passed, should remain.
John Poole	10.05 Other - Scope of work	(long input – please see original comment for complete text)…..I sympathize with Brazil (dissenting statement in Annex E), as well as those in India and elsewhere, who now recognize they were misled and lied to, to which I can only say, don't take it personally. You can watch this video of the former ICANN CEO lying to the French Senate. ICANN has lied to me and a lot people; it is part of the ICANN corporate and organizational culture. Recognize and acknowledge it, don't take it personally.
GNSO-BC	11.01 Other - Stress testing recommendations relating to sanctions	BC members observed and participated in the work group that drafted these recommendations. BC member Steve DelBianco drafted three Stress Tests to assess how sanctions recommendations would improve ICANN's accountability when faced with plausible scenarios that impose stress on the ICANN organization and community. These stress tests are shown in the annex to this comment. An improvement in accountability can be seen when comparing the status quo with the structures and processes that would result from implementing the WS2 recommendations.