**AFRALO / AfrICANN joint meeting**

**Buenos Aires, Wednesday 24 June 2015**

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**Statement**

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We, African ICANN Community members participating in the ICANN 53rd International Public meeting in Buenos Aires and attending the joint AFRALO / AfrICANN meeting on Wednesday 24 June 2015, discussed the Proposals made by the Cross community group on IANA stewardship transition (CWG-Stewardship) and the Cross Community Working Group on enhancing ICANN accountability (CCWG-Accountability).

We first want to congratulate the CWG-Stewardship and the CCWG-Accountability groups for the huge amount of work undertaken in a short period of time and thank them for their time and efforts. Nevertheless, we want to make the following comments:

**Our views on the Proposed future governance of Internet unique Identifiers**

**Concerning the 3rd Draft Proposal of the Cross Community Working Group to Develop an IANA Stewardship Transition Proposal on Naming Related Functions that has been shared with the chartering organizations**

#### We observe the significant change in the overall model presented in the current draft as opposed to the first draft of the CWG proposal released for public comment in December 2014 and we welcome this change in approach. We also observe there has been further improvement from the 2nd draft as well.

#### We understand and welcome the intention of the proposal to create a new entity called the post transition IANA (PTI) as an affiliate to ICANN (with ICANN as its sole member) that will be awarded contract by ICANN to operate the IANA on Naming Related Functions.

#### The expected composition of PTI board which is proposed to be sourced internally as determined by ICANN board is acceptable. However we understand that since there will be only one member of ICANN on the board, ICANN influence would be reduced to minimal, hence we expect that the selection of its members would be largely done in the public interests. We also hope that in the inclusion of 2 members populated by the nominating committee, geographic diversity after competence is highly ensured in its selection process.

#### We are concerned about the sustainability of PTI especially as it will rely on ICANN in terms of its resources (most especially funding)

#### Although we understand the legal separation that PTI brings, at the same time we are concerned about the structural complexity that goes along with it and wonder whether maintaining separation of IANA as a department was explored in detail

#### We understand from the proposal that a customer standing committee (CSC) will be tasked with monitoring operational performance of the IANA functions related to names, and strongly suggest that the prerogatives of the CSC be strictly defined within its intent of monitoring and reporting. It has to be ensured that reports are transparently available to the community since it is proposed to be largely dominated by the “so-called” direct customers

#### We also understand from the proposal that an IANA function review team (IFRT) would be created to review activities of the PTI as it concerns IANA functions and operations as defined in the contract and the IFRT would recommend renewal of PTI contract (or otherwise) to the ICANN board

#### The composition of the IFRT as proposed is acceptable, however we don't think there is need to include a CSC liaison especially as CSC is already dominated by registries and considering that IFRT also has more seats for the so called “direct customers”

#### We are concerned that the IFRT decision would still be subject to GNSO/ ccNSO approval (aside from that of ICANN board) as we believe IFRT is already composed of the chartering organizations.

#### We welcome the proposed composition of a Separation Cross Community Working Group (SCWG) and we suggest that its charter is defined to ensure that its composition is made up of people different from IFRT members

#### We expect that activity of IRFT would be transparently carried out and community driven

#### We observe that the CWG proposes to transfer IANA assets including the IANA trademarks; we are in disagreement with this as we will prefer that the trademarks remain with the contractor post-transition (which is ICANN)

* + - * We recommend that the scope of IFRT is clarified in ensuring that it’s solely for names related functions. We suggest this clarification is made in its charter.

#### Concerning the report of Cross Community Working Group on enhancing the ICANN accountability (CCWG-accountability)

#### The creation of fundamental bylaws that require the consent of the community to be changed is a good approach and would enhance the accountability of ICANN board to the community. We believe that the fundamental bylaws should include the essential standing issues such as the mission and the core values of the organization, excluding any functional or operational issues.

#### We find it inappropriate to mention that the governance of the organization will be under the leadership of the private sector. One of the conditions of the NTIA for the transition to happen is to preserve and enhance the multi-stakeholder nature of ICANN. Multi-stakeholder model includes private sector, civil society, technical and academic communities and governments. This is how ICANN has always been governed and this is how it should be in the future

#### While giving the community the power of recalling the whole board is an appropriate accountability mechanism. However this should be the very extreme step to be taken, as a last resort. We do wish this would never happen. The majority of 75% proposed in the report for such decision looks acceptable.

#### Recalling one or more board members without reason is an anomaly in itself; Its impact would be that the Board directors would act in the interest of the SOs or ACs that appointed them rather than acting in the interest of the entire community (ICANN as an organization). We believe that such a power should only be given to the whole community (and not the appointing party only) and for an important and justified cause. The decision in this case should be taken with a reasonable majority.

#### We find it unacceptable that the Board directors appointed by the NomCom would have a different recalling procedure which brings about unequal treatment of the ICANN board.

#### We appreciate the reinforcement of the Independent Review Process, as well as the reconsideration mechanism proposed in the report.

#### We do not see the unincorporated associations as a good means for SOs and ACs to exercise the powers included in the report because the practical application of the UA setup seems to be problematic and complicated.

#### One of the problems is the fact that some of the community stakeholders may be unable and/or unwilling to become a UA, which means that they will not contribute to the community decision making process while exercising the proposed community powers.

#### Also creating the UA may expose the SO/AC to legal issues as they may be sued within the California jurisdiction, which may harm the community members. We should find a way to provide immunity from prosecution

#### Any other form of legal entity to represent the SOs and ACs wouldn’t be acceptable if it leads to suing those entities in courts.

#### All the accountability mechanisms should avoid leading to courts as much as possible. In fact, we do not accept that ICANN affairs be managed by courts in whatever jurisdiction. ICANN is an example of a thriving multi-stakeholder community and we should endeavor to protect that as much as possible

* The final aim of the CCWG work is to enhance the Accountability to the community in a transparent manner. The membership model would enhance the accountability of the board to the ICANN members. With the membership model, we do not solve the accountability problem but instead shift the issue from the board to the members.
* Therefore we recommend that checks and balances should be put in place at the membership level to ensure that the members are accountable to the community.

#### The community group that will act on behalf of the respective community stakeholders to exercise the powers mentioned in the report should be as inclusive as possible. We prefer equal footing for all SOs and ACs, but can live with the composition proposed in the report.

Finally, we reiterate our support to the CWG-Stewardship and the CCWG-Accountability groups and appreciate the progress made so far. However, we think that their proposals need further work to find the right balance in the multi-stakeholder solution for the stewardship transition and the best ways to empower the community using the right means and avoiding the risk of ICANN being weakened or lose its independence, its inclusiveness and its multi-stakeholder nature.