

# ***DRAFT***

## ***President's Strategy Committee Report***

### ***Introduction***

ICANN's President's Strategy Committee was established to provide observations and recommendations concerning strategic issues facing ICANN, and contributing to ICANN's strategic planning process, which occurs in consultation with the community. In the Board resolution approved at ICANN's December 2005 meeting, the Board emphasized the importance of the bottom-up ICANN processes and noted that the ICANN community could also 'benefit from the advice of a group responsible for making observations and recommendations concerning strategic issues facing ICANN.' In this same resolution, the Board approved the appointment by the President of a President's Strategy Committee to fulfill this purpose.

The Committee's work has included engaging with the community at ICANN's [ICANN meeting in Morocco](#) and the [ICANN's workshop on Internet governance](#). On 21 July, ICANN's [President's Strategy Committee](#) conducted [consultations](#), through a web-enabled online consultation,<sup>1</sup> which sought to address some questions the Committee identified for further exploration and that relate to ICANN's legal framework, policy making processes, administrative operations, transparency and accountability as well as the continued stable growth and operation of the domain name system.

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<sup>1</sup> Further information on these consultations, and comments to these consultations can be found at: <http://www.icann.org/announcements/psc-consultation.htm>. The transcript of these consultations can be found at <http://www.icann.org/announcements/psc-output.html>, and the audio portions can be accessed via these links: [Session 1](#), [Session 2](#).

The Committee is pleased to note that many of its recommendations compliment the issues identified in ICANN's current strategic planning process and also complement the outcomes achieved in the discussions between ICANN and the US Department of Commerce, which resulted in the Joint Project Agreement (JPA) of 29 September 2006.<sup>2</sup>

## ***ICANN's status and continued improved responsiveness to an evolving global environment***

The Committee recognizes ICANN's existing international character, including operations in multiple countries, staff from multiple countries, and a geographically diverse Board and Council structures. The Committee believes there are several areas in which ICANN should continue to work to improve itself as a global organization to ensure long-term stable operations responsive to its global stakeholders.

### **Legal status and identity:**

The Committee notes that in conjunction with the Joint Project Agreement, the ICANN Board affirmed a statement of responsibilities, and in particular committed to conduct a review of ICANN's corporate administrative structure:

*10) Corporate Administrative Structure: ICANN shall conduct a review of, and shall make necessary changes in, corporate administrative structure to ensure stability, including devoting adequate resources to contract enforcement, taking into*

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<sup>2</sup> Information on ICANN's strategic planning process can be found at: <http://www.icann.org/announcements/strategic-plan-22jun06.htm>. Specifically, issues identified for the coming planning cycle can be found at: <http://www.icann.org/announcements/strategic-plan-22jun06.htm#strategy>. The JPA can be found at: <http://www.icann.org/announcements/announcement-29sep06.htm>

*account organizational and corporate governance "best practices."*<sup>3</sup>

As one contribution to that review, and in order to further advance ICANN's internationalization, the Committee encourages the ICANN Board to explore with the US government, other governments, and the ICANN community, whether there are advantages and appropriate mechanisms for moving ICANN's legal identity to that of a private international organization based in the US. The Committee emphasizes that such exploration should not change the fundamental multi-stakeholder model of ICANN, or the evolutionary processes for organizational improvement outlined in ICANN's bylaws, or the need for clear accountability mechanisms for ICANN's processes and decision-making. The Committee considers such a development may contribute to the further improvement of stability. The Committee encourages the ICANN Board to explore the private international organization model as part of its review and to operationalize whatever outcomes result from the review by the end of 2007. In follow-up to the Committee's consultations and discussion provided by Ambassador Hans Correll regarding international organizational issues, further educational material has been made available and provides a good basis upon which to further the discussion with the community.<sup>4</sup>

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<sup>3</sup> For information regarding JPA see:

<http://www.icann.org/announcements/announcement-29sep06.htm>. Link specifically on Reaffirmation of Responsibilities can be found at: <http://www.icann.org/announcements/responsibilities-affirmation-28sep06.htm>

<sup>4</sup> On 21 July 2006 the President's Strategy Committee conducted consultations. During these consultations, former Under-Secretary-General for Legal Affairs and a former Legal Counsel of the United Nations, Ambassador Hans Corell was invited to discuss international organizational issues, particularly in relation to questions asked by the Committee in their consultation document. Further educational materials about how different international entities are expressed in relation to international private organizations is now available at <http://www.icann.org/psc/corell-24aug06.html>.

The Committee wants to be clear that in referring to a private international organization it is not suggesting a treaty organization or an intergovernmental organization.

## **Regional presence:**

The Committee believes that while ICANN's headquarters may remain in the US, it needs to continue to establish and strengthen regional presences, staffing and continue regional outreach. The Committee recognizes that ICANN has already undertaken steps to improve its operations, including the establishment of the regional liaison network and an office in Brussels Belgium. The Committee believes that building on the existing work will greatly benefit the global community and its awareness of, and participation and involvement in ICANN. The Committee notes that the correct approach is being taken with regard to regional presences and further regional presences and regional activities should continue to be structured with sufficient flexibility to meet the requirements of regional stakeholders, while preserving the integrity of a global focus and identity.

In sum, with regard to improving ICANN's global operations, the Committee encourages the Board to consider in a manner described above, the benefits of the international private organization model and its related potential immunities to limit liabilities or instabilities. The Board should ensure, however, that appropriate full accountability and review mechanisms are established, including utilizing international arbitration panels.

As part of ICANN's process of enhancing its internationalization, the Committee encourages the Board to consider the strengthening of the multi-stakeholder partnership approach to build on awareness, participation, partnership and a better understanding of specific components and competences of ICANN.

## **Root-zone management and transparency:**

The process surrounding root-zone updates have been clarified through the IANA function, with explanations of steps undertaken for root zone changes.<sup>5</sup>

In addition to this, the Committee encourages ICANN to discuss with the Department of Commerce methods for clarifying and simplifying the root-zone update process. The Committee considers that such discussions could include a number of options. One could be to substitute the US role of auditing/authorizing amendments to the zone file with a two phased outsourced process, such as for example: 1) an auditor contracted by US Department of Commerce to undertake this function, with reporting back from auditor to US and ICANN; 2) that contracting of a third party auditor to be taken over by ICANN if proven sustainable. Another, perhaps complimentary approach, could be to discontinue auditing/authorization for simple changes to the zone file through automation of processes (sometimes referred to as e-IANA) with ICANN ensuring more visibility to the existing public reporting of such changes.

## **Ongoing contingency planning:**

As part of ICANN's contingency planning, the Committee encourages the Board to continue discussions with the community's various stakeholders, in particular with the US DoC, how some of its policy objectives relating to the zone file and DNS could be better achieved through the implementation and/or evolution of contingency "triggers" and appropriate backstop mechanisms as expressed in ICANN's existing contingency plan. This could be achieved as part of the review of corporate administrative structure.

## ***Contributing to capacity development***

The Committee notes that ICANN is already undertaking much work in partnership with respective organizations to facilitate outreach and

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<sup>5</sup> For IANA Root Zone Management process, see: <http://www.iana.org/procedures/process-flow.html>.

provide expertise in respective areas of capacity building as appropriate within ICANN's mandate. The Committee notes ICANN's work with different organizations, including DiploFoundation, UNECA, Francophonie, PITA, ISOC, and others with regard to education, training and information sharing,<sup>6</sup> as well as ICANN's own recognition of its mandate and role in relation to contributing to capacity development.<sup>7</sup> The Committee recognizes that better understanding of ICANN can also facilitate and enhance the evolution of ICANN's own existing supporting organizations.

The Committee encourages the ICANN Board and Management to continue to engage with partners (including regional and international organizations) to identify how the ICANN community, within its technical coordination role, can best build on and continue to contribute to capacity building objectives in the regions (particularly Africa, Middle East, Central Asia and Caucuses, Pacific Islands, Southeast Asia and South Asia, and Latin America and the Caribbean) and help develop region-specific programs in cooperation with other relevant Internet organizations within the principals of non-duplication of effort and promoting advanced approaches to security and stability.

## ***Participation and role of stakeholders***

The Committee notes that the provisions in ICANN's bylaws with regard to reviewing the respective Supporting Organizations and Advisory Committees are an important part of ensuring a multi-stakeholder organization that remains responsive to the environment in which it operates to most effectively and efficiently carry out its responsibilities. The greatest impediment to any organization is

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<sup>6</sup> See e.g., ICANN's 7 April 2006 Status report to DoC, including for example, sections 9 and 14e. <http://www.icann.org/general/mou-status-report-07apr06.pdf>.

<sup>7</sup> See, e.g., ICANN's comments to the WGIG report and comments with regard to role with capacity building. <http://www.icann.org/announcements/ICANN-WGIG-report-comments-15aug05.pdf>.

becoming stagnant in the environment in which it operates or the community to which it is responsible.

The Committee notes the recently provided LSE review of the Generic Names Supporting Organization (GNSO)<sup>8</sup> as an important step in reviewing the GNSO structures and processes, including representation of stakeholders and broad participation. The LSE's report includes the observation that stakeholder representation in the GNSO requires review to ensure it is reflective of the emerging Internet environment. Also, the Committee acknowledges the work of the current ALAC and notes it has conducted a self review which has identified several key areas in which ALAC needs to grow stronger.<sup>9</sup>

With this in mind, the Committee encourages the Board to initiate and conclude the foreseen reviews of its Supporting Organizations, Advisory Committees, Nominating Committee and At Large Advisory Committee (ALAC) particularly to clarify and strengthen respective roles, contributions, expectations, and responsibilities.

Building on the existing structure and mechanisms, the Committee encourages the Board to challenge the community to work together to establish a clear typology, including examining roles and responsibilities, of various participants in the ICANN process. In relation to the broad classification of civil society, the respective roles of suppliers, users, non-commercial entities, individuals, and/or At Large would benefit from clarification.

## ***Conclusion***

The members of the Committee trust that the above recommendations are thoughtful and useful observations and recommendations concerning strategic issues facing ICANN. We hope the Board and community find them useful contributions to

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<sup>8</sup> For LSE report on the GNSO, see: <http://www.icann.org/announcements/announcement-15sep06.htm>.

<sup>9</sup> See [http://alacwiki.org/index.php/Self\\_Review](http://alacwiki.org/index.php/Self_Review).

ICANN's strategic planning process and to the reviews being undertaken.

29 November 2006