



# Internet Corporation for Assigned Names and Numbers

1 December 2004

Mohamed Sharil Tarmizi  
Special Advisor, Office Of The Chairman  
Malaysian Communications and Multimedia Commission  
Chair of the Governmental Advisory Committee of ICANN  
63000 Cyberjaya, Selangor Darul Ehsan  
MALAYSIA

Dear Sharil,

I would like to use this letter to request input from the GAC on the public policy elements of a number of the issues before us. I would also like to propose a few ways in which we could strengthen the interaction between the GAC and ICANN staff. Lastly, I would like to report on some of the ongoing developments in ICANN which you may wish to bring to the attention of the GAC membership.

## **1. Issues with public policy aspects for GAC consideration**

Aspects of public policy form part of some ongoing and foreseen policy development issues before us. I would like to briefly discuss them and request the GAC to consider them in its ongoing work. We know that the GAC is considering a number of these issues already, particularly in its Working Groups, and is keenly interested to progress them. Therefore, we welcome the continued engagement of the GAC. Progress on these matters is essential so that GAC's views and opinions, in the form of advice to the ICANN Board, is taken fully into account. I would like to recommend in particular that the GAC consults with the Supporting Organisations and Advisory Committees as well as with ICANN staff on these matters:

- 1. Establishing a policy for the Introduction of New gTLDs:** ICANN staff has recently published a draft strategy for the establishment of a policy for the introduction of new gTLDs. It is very clear that such a policy will encompass a number of public policy elements such as competition policy, consumer protection issues, and intellectual property rights protection. The process foresees that the GAC will be consulted on these matters and I would therefore like to bring this to the attention of the GAC.

The GAC will appreciate that the issues are of a rather complex nature and in order to have a structured and efficient debate on these issues it would seem appropriate that the GAC and the relevant ICANN staff interact to establish a clear joint view on the nature of the public policy issues,

the way they can be best addressed, the required interaction with the Supporting Organisations and Advisory Committees, and the timelines associated with the above.

2. **Internationalised Domain Names:** given the on-going work on IDNs and the interest of the community in the matter, I would request that the GAC commences to consider the relevant public policy elements that may relate to the implementation of IDNs, especially at the top level. This should allow ICANN to move forward in due time. As explained below, I am also putting in place a Presidential Committee on IDNs and this should help crystallise the relevant public policy issues and their relation to the technical issues that need to be addressed.
3. **WHOIS policy development process in the GNSO:** The discussions in the GNSO on WHOIS are of a complex nature, in particular as a result of the divergence of laws and regulations around the world. It seems unlikely that these laws and regulations will be harmonised in the near term, if ever. That said, ICANN will be faced with the practical reality of the need for a coherent and level-playing-field approach that take account of the positions of all players in this matter. Furthermore, it would seem that the positions of the law enforcement agencies as well as those of the Data Privacy laws around the world need to be reconciled. It would be appropriate if the GAC could inform the ICANN Board of its views on this matter and, if useful, this could be preceded by a discussion with ICANN staff.
4. **WIPO-II:** As you are aware, the results of the Joint Working Group have left little or no middle-ground between the views of the different proponents. Following a request from our side to the WIPO Senior Staff to inform us on their views on the possibility of finding middle ground (the response to which has been posted on our website) we believe that further consultations are required, particularly as many interested parties have informed us of their wish to provide further considerations. We have therefore commenced a period of public comment until 31 January 2005 in which we seek further views on the matter. We will inform the community (including the GAC) of the results of the comments received and hope that this will allow us to move forward. We urge parties concerned to continue to discuss these matters so that common ground can be found.
5. **ASO Memorandum of Understanding:** The GAC expressed some concerns during the meeting in Kuala Lumpur and the fact that some discussions have taken place since, including between the GAC Chair and the Managers of the RIRs. ICANN has since concluded the ASO MoU with the RIRs. I would like to point out to the GAC the MoU provision that foresees regular opportunities to re-visit its provisions, should this be of use to the GAC in the future. ICANN would encourage the GAC to candidate its liaison with the ASO so that the Policy Development Processes in the ASO merit from the GAC's input.

I believe that the list above presents a challenging number of existing and new, complex topics. It would be opportune to have a discussion during the Cape Town meeting on how the GAC would foresee to approach the matter and any modalities associated with it.

## **2. Interaction between the GAC and the ICANN staff.**

It seems to me that the interaction between the GAC and ICANN staff would merit from some increase in intensity, that is, to establish a GAC position for transmission to the Board on the public policy elements of the issues elaborated above.

Firstly, I would like to inform you that we hope to commence recruitment of a GAC liaison officer. This staff member will assist the Vice President Policy Development Support in the daily interaction with the

---

GAC Chair and Vice Chairs, the GAC Secretariat, and the GAC membership. This concerns the issues under discussion in the GAC that merit input from ICANN staff, information of the state of consideration and discussion of the topics - where appropriate - in ICANN's Supporting Organisations and Advisory Committees, and information about ICANN's operational practice and experiences.

Secondly, I intend to inform the GAC, via its Chair, on a regular basis of ongoing developments in ICANN that merit the attention of the GAC membership either for discussion or – if appropriate – for information in order to ensure that the GAC has proper understanding of the matter in relevance to its work.

Thirdly, I propose that, in addition to more daily interaction with the Vice President Policy Development Support and his team, it may be beneficial for a regular conference call between the GAC Chairs and Vice-Chairs and the relevant members of ICANN's senior executive team as a whole.

Fourthly, I consider that it may be worthwhile considering how the interaction could be increased between the GAC and the other Supporting Organisations and Advisory Committees for mutual benefit of both sides. This could be ad-hoc or regular and it could be on specific topics of interest or on a more general basis.

### **3. Major recent developments in ICANN**

ICANN is moving ahead on many fronts in parallel with its major aims to increase the performance of our operational activities, to strengthen the policy development processes, to address the requests for global presence and interaction with a broader range of stake-holders, and to project forward some of ICANN's strategic planning.

We have recently published ICANN's first rolling, **Draft Strategic Plan for the period 2003-4 to 2006-07**, thereby establishing the current three-year goal for ICANN's staff and operational functions. The Draft Strategic Plan will be prepared on an annual basis, as a matter of good business practice, by ICANN staff and Board to respond in concrete, operational terms reflecting the dynamic interests and requests of ICANN's constituencies. It does not raise new policy issues nor does it establish the budget but it does project forward some of the issues relevant to ICANN's future operations and which need to be considered in moving forward. I bring the Draft Strategic Plan to attention of the GAC as it may assist in a better understanding of the operational context within which the organisation is moving forward.

The **ICANN budget for fiscal year 2004-05** became effective 1 November 2004 instead of 1 July as planned. This was due to ongoing discussions with the Registrar community on the conditions surrounding the earlier proposals for ICANN's budget. For your information, the ICANN budget has now been increased to US\$ 15.8 million and it allows us to address a considerable number of issues and initiatives requested by the ICANN constituencies. We consider this an important development and it demonstrates that ICANN is maturing to a professional organisation that has the necessary means to carry out the important tasks related to the stability and security of the Internet's Domain Name Systems, as entrusted to it by the global Internet community.

The practical result of the budget increase are many, including the ability to hire staff for each of the ICANN Departments; to improve the tools and instruments needed to increase IANA performance; to attend to relations with ICANN stakeholders; to move forward with establishing global presence; to

---

address a whole slate of important issues such as Internationalised Domain Names, availability of ICANN materials in other languages; assisting developing countries; and to better support and underpin the policy development processes and our daily relations with the Supporting Organisations and Advisory Committees.

ICANN continues to move forward on three (3) fronts in the area of **generic Top-Level-Domains**. First of all, following the 10 applications for new sponsored TLD's (sTLDs) and the evaluation of their bids by independent evaluators, we have commenced contract negotiations with the applicants for .TRAVEL and .POST. In parallel, the applicants are responding to the reports of the independent evaluators, and in some instances have entered into direct discussions with the evaluation panels in order to clarify some issues. Any outstanding issues between the independent panels and the applicants will be resolved by ICANN's Board and we expect to move towards contract negotiations with some other applicants as well. Secondly, ICANN is about to launch the re-bid of the .NET agreement as foreseen in the relevant contract. GAC members can follow the process via the information we post to the ICANN web-site. Thirdly, as mentioned, we have published the draft of a Strategy for the Introduction of New gTLD's.

In October, I signed the long-awaited **Memorandum of Understanding (MoU) with the individual Regional Internet Registries** -- ARIN, RIPE, APNIC and LACNIC, as well as with the Number Resource Organisation (NRO) (representing the above mentioned RIR's collectively) with regard to the Addressing Support Organisation (ASO) of ICANN. We also anticipate AfriNIC will sign the MoU following its official recognition. The signing marked an important moment for ICANN as we can now move forward in concrete terms in our joint efforts with the RIRs.

GAC members may be particularly interested in the **ccTLD Accountability Frameworks** - the agreements that are foreseen to formalise the existing bi-lateral relationships of ICANN with the ccTLD registries. As the GAC members may know, the current management team believes that the model for contracts that ICANN used in the past, while appropriate for that time in ICANN's evolution, needs to be expanded to allow agreements expressing substantial simplification. Ongoing and fruitful discussions between ccTLD registries and ICANN staff have helped clarify a number of issues that now can be addressed with much more clarity. ICANN staff has asked the ccNSO to commence work in this area and provide guidance on what principles and issues should be addressed in these Accountability Frameworks.

This progress, together with the scheduled availability of new staff, we believe puts us in a position to commence a programme of phased discussions with the ccTLD managers individually early next year, that will allow us to conclude such agreements over the next few years. Given the fact that this concerns potentially some 240 agreements, we will be obliged to spread out the workload over a period of time. We are currently holding a number of exploratory and very encouraging discussions to gauge the interest of the ccTLD managers and obtain a better view of the issues in this context. The respective governments may well be interested to follow these discussions, or find it important to conclude formal communication with ICANN on the matter as part of a triangular relationship. We will endeavour to engage with the governments concerned.

In this context, the GAC is actively considering an update of its position on the **ccTLD-Principles and Guidelines**. We are interested to understand how the GAC discussions on the cc-principles are advancing and what the expected outcome and timeline is. The GAC may find it useful to consult with interested ICANN constituents, in particular the ccNSO on this matter. The relevant GAC Working Group has been briefed on the issues that ICANN encounters with re-delegations and we are of course available for

---

further discussions on the matter. The consideration of the practical experience of the ICANN staff in this arena may be of real value to this initiative.

During the ICANN meetings at Kuala Lumpur and now in Cape Town, specific workshops have been organised on the issue of **Internationalised Domain Names** (IDNs). The nature of the workshops is targeted to be that of ICANN in a facilitating role to try and assist to advance the work of a great many organisations in the areas of language technologies, software tools and applications, DNS registry operations, hardware manufacturing, and many more. We appreciate the political importance that governments put on IDNs but I find it important to underline that ICANN is only responsible for a small part of the overall effort, namely to ensure that IDNs are able to be resolved in the DNS. Given the political sensitivities of IDNs, I believe that it is important that other organisations coordinate the efforts of other partnering organisation, such as UNESCO that has started to play a key role on the issue of languages and scripts. During the Cape Town meeting, the workshop on IDN's will have a certain focus on African languages and their specific issues. We have invited the President of the African Institute for Languages, Mr. Adama Samassekou, to participate and we are looking forward to GAC members participate in the workshop.

Furthermore, I am finalising the setting up of the President's Committee on IDNs. The scope and responsibility of the Committee is to provide the Board and ICANN community with advice on issues that relate to IDN policies, in particular issues that impact the implementation of IDN especially at the top level.

## **Conclusion**

With this letter, I have wanted to request the GAC's input on a number of issues with public policy relevance and under consideration in ICANN.

I have also wanted to provide the GAC with an overview of the most recent developments in ICANN and draw your attention to a number of issues. Furthermore, I have also wanted to give some new focus to the relationship between the Government Advisory Committee and the ICANN staff.

I am looking forward to your reaction to the proposals contained in this letter.

Yours sincerely



Paul Twomey  
President & CEO

---