

Name: Santosh Jha

Organization: India

Submission ID: 131

Dear Sir/Madam,

I am attaching herewith India's comments on the IANA Stewardship Transition Proposal of the ICG for which the deadline is today, 8 September 2015.

Warm regards,

Santosh Jha

Joint Secretary (Policy Planning & Research, Counter Terrorism-Cyber Security)

Ministry of External Affairs

Room No.- 161-B, South Block,

New Delhi-110011

Tel. REDACTED

Fax. REDACTED

IANA Stewardship Transition Proposal: Call for Public Comment

Submission by India

India appreciates the efforts of the IANA Stewardship Transition Coordination Group (ICG) for all its work leading to the second draft proposal of mechanism for the Transition of the IANA Functions and also to enhance ICANN accountability. The intent of transition of IANA function to Global Multi-stakeholder Community is a welcome move. India broadly supports the proposal in principle for the IANA Transition.

2. The **ICG** proposal outlines the principal functions of IANA Transition from NTIA to the multi-stakeholder community. However, the details and its implementation plan do not seem to have been worked out as yet. The success of the transition plan would depend upon the details and implementation plan so as to achieve a truly global multi-stakeholder governance of the Internet.

3. The structure outlined in the proposal recommends creation of a new Post Transition IANA entity (PTI) as a subsidiary of ICANN, which would then contract PTI to perform IANA functions. PTI would deal with the names function. Operationally, very little would change. However, there would be a new multi-stakeholder IANA function review process on a periodic basis. In addition, there will be a Customer Standing Committee (CSC) with Members from different communities under ICANN. Practically, no change has been proposed in respect of the numbers and protocol functions. However, there will be two IFOs. The IANA Transition process would be complex and need to be transparent and based on consensus approach. For the successful transition, it would be necessary to simplify the process and automate with a rigorous workflow so as to have a clear transparent understanding of the entire process.

4. The ICG proposal provides that the IANA Function Review process (IFR) can recommend a separation process that could result in termination or non-extension of the ICANN and PTI contract and may impact certain implementation level linkages between the operational communities. Such termination or non-renewal may also affect the functions of PTI in relation to the other two operational communities namely numbers and protocols. The recommendation of IANA function operations may thus lead to issues related to compatibility and interoperability as well as security and stability of the Root Zone environment. The proposal should, therefore, provide for steps and safeguards to be taken to ensure that coordination is maintained between ICANN and PTI for successful implementation and its sustainability, keeping in view the expansion of Internet and technological innovations.

5. The ICG proposal needs to take into account the expanding role of Internet and innovations taking place in this area. The proposal, therefore, should have provision for expansion of existing communities to accommodate emerging future communities in line with the technology and innovation in the area of Internet. Further, Government Advisory Committee (GAC) is a legitimate stakeholder group with a specific concern and should, therefore, be part of the group. Adequate weight needs to be given to the recommendations of the GAC. Voting rights for the GAC in the Customer Standing Committee may also be considered.

6. Annexure 'S' attached to the draft proposal provides the following:

"PTI shall also taken into account the relevant national frameworks and applicable laws of the jurisdiction that the TLD registry serves (page 138 of 199)."

More clarifications are needed to the above mentioned statement made in the Annexure 'S'.

Further, in the provision relating to performance exclusion (page 143 of 199) of Annexure 'S', the following is stated:

"PTI not authorized to make modifications, additions, or deletions to the root zone file or associated information. (The ICANN-PTI Contract will not alter the root zone file responsibilities as set forth in Amendment 11 of the Cooperative Agreement NCR-9218742 between the U.S. Department of Commerce and VeriSign Inc. or any successor entity."

"The performance of the functions under the ICANN-PTI Contract, including the development of recommendations in connection with Section C.2.9.2 of the ICANN-NTIA Contract, shall not be, in any manner, predicated or conditioned on the existence or entry into any contract, agreement or negotiation between PTI and any party requesting such changes or any other third-party. Compliance with this Section must be consistent with C.2.8.2d of the ICANN-NTIA Contract."

It would be necessary to have clarification on the said provisions mentioned in Annexure 'S'.

7. The ICG proposal provides that the ICANN Board will have both administrative as well as policy functions. The proposal states that the CWG Stewardship recommends that implementation of all changes to the Root Zone environment such as DNSSEC as well as many classes of changes to IANA function operator processes would require formal approval of the ICANN Board. The proposal states that the framework in this regard would be in place. It is suggested that the framework must provide for the functions of the Standing Committee as well as the processes followed by the Standing Committee. Since changing of the Root Zone functions has important public policy implications, the Standing Committee must ideally include a representative from GAC. Further, special emphasis should be put on developing an open, transparent and accountable framework. It is necessary that additional checks and balances and verification processes are put in place for authorization of changes to the Root Zone content and the associated WHOIS database. Such a framework should be finalized prior to the IANA Stewardship transition to the new proposal. In addition, there should be a broader policy on the root servers. The protocol may need to be revised, if necessary, for adding more root servers in different parts of the world. Also, there should be an equitable distribution of root servers across countries.

8. The Root Zone Maintainer should be appointed through an open, fair, transparent and accountable tender process. The Root Zone maintainer has a crucial role to perform with respect to Domain Name Server. Therefore, the Root Zone Maintainer transition should be a necessary condition to ensure that the ICG proposal is complete.

9. The participation at ICANN policy development processes has not been satisfactory from certain regions, specifically from developing and emerging economies and least developed countries. It is important that the structure of governance that emerges post-transition is perceived as democratic and representative. In this context, it is imperative that the transition proposals consider criteria to enhance participation from all regions in the regular policy development and decision making processes. The commitment to a multi-stakeholder approach should be truly inclusive. There is an urgent need for ICANN to do further outreach, and make itself more visible to the global community once the transition takes place. This is also a key component in developing Community Empowerment mechanisms.

10. There are concerns with respect to whether the implementation of the proposal will continue to adhere to the criteria based on which IANA transition has been proposed. One of the criteria for present transition is that the proposal should have necessary safeguards to ensure that it is immune to control by any government or an inter-governmental organization. The issue of legal jurisdiction in such circumstances assumes greater importance especially as the ICANN and the newly proposed PTI are based in one particular country. It may be pointed out that being subject to the laws of a specific jurisdiction could lead ICANN and PTI open to some level of indirect government control. There is also a need for safeguards, checks and balances to ensure that the contract entered by ICANN with ccTLDs and gTLDs are subject to the jurisdiction of the respective countries. It will be necessary to further debate issues and evolve sound criteria and framework on jurisdiction issues.

11. Further, it must be ensured that the new accountability mechanisms as described in the ICG document are fully completed before the definite final transition. NTIA has renewed its contract with ICANN through September, 2016. It may not be possible to fully implement all mechanism by that time. There are unclear and unresolved issues regarding trademarks as provided in the proposal.

12. The success of the IANA transition will, to a large extent, depend upon the ways and means by which the accountability measures are implemented with full transparency and responsibility. Finally, the proposal focuses on transition of many current processes and methods. The proposal must also provide for flexibility for looking at machine to machine communication and Internet of Things and implications on Internet assigned numbers.