

Comment Amendment Article 18 and 19 ICANN Bylaws

Version 1 | 14 April 2023

The Country-Code Name Supporting Organization (ccNSO) Council welcomes the opportunity to provide a response and input to ICANN’s proposed amendments to Articles 18 and 19 of the ICANN Bylaws. This response and input reflects the views of the ccNSO (Council) and was adopted as such in accordance with the Guideline: ccNSO Statements (2016)¹.

0. Summary

The ccNSO Council supports the proposed amendment to the Bylaws. However, the Council believes that sections 18.8 (d) and 19.6 (a) need to be updated to align them with 18.7 and the proposed changes to section 19.5 (i) and (ii). The ccNSO Council is also of the view that this Fundamental Bylaw change is an opportunity to adjust the frequency of the IANA Naming Function Review. Finally, the Council wants to express its concern about the timing of this review: will the amendment process be included in time by the time the ccNSO and GNSO are expected to appoint co-chairs for the second review?

1. Support proposed Bylaw changes

The ccNSO Council supports the proposed amendment to the Bylaws and has no comments on the proposed changes themselves.

2. Co-chair selection: Amendment sections 18.8 (d) and 19.6 (a)

Under the current text of section 18.8 (d) and section 18.7 (a) and (b) the ccNSO Council is expected to select a co-chair from members appointed by the ccNSO Council (section 18.7 (a)) and registries stakeholder group (section 18.7 (b)). The ccNSO Council believes that the text of the section 18.8 (d) final sentence needs to be adjusted to reflect that the ccNSO Council should select a co-chair from among the members appointed by the ccNSO Council.

Taking into account the proposed language of section 19.5, a similar situation would arise if section 19.6 (a) is not amended. The ccNSO would – without a change – be required to appoint a co-chair to be selected from among the ccNSO and RySG appointed members.

3. Frequency of IFR: Suggestion to amend 18.2 (b)

The ccNSO Council suggests to amend 18.2 (b). The proposal is to change the frequency of the IANA Naming Function Review. Currently the frequency is defined in section 18.2 (b) as: *“once every five(5) years, measured from the date the previous IFRT for a Periodic IFR was convened”*. We suggest changing this to: **once every five(5) years. measured from the date**

¹ https://ccnso.icann.org/sites/default/files/filefield_47783/guidelines-statements-30mar16-en.pdf

the previous IFRT for a Periodic IFR submitted its Final Report to the ICANN Board of Directors.

Rationale. The anticipated duration of a Periodic IFR is 12-18 months. Assuming there will be some recommendations that need to be implemented, this will take some time as well (the implementation of some of the recommendations of the limited set of recommendations from the first IFR, is still underway. See the introduction of the current public comment forum: *There are four types of changes:*

1. *The removal of a duplication at Article 18, Section 12(a), as identified by the first IANA Naming Function Review (IFR) Team in its Final Report.*
2.”

The ccNSO Council appreciates that the first IFR has taken more time than originally anticipated to complete its work. However, the ccNSO Council believes - in general – that a reasonable period is needed between changes resulting from the implementation of recommendations and review of the impact of those changes specifically, launching a review before the recommendations of the previous review have been implemented, such as is currently the case, is counter-productive to the review process.

Therefore, the ccNSO Council suggests that, for future IFRs, the period between reviews is adjusted to allow for implementation of recommendations of the previous reviews.

4. Impact of process to amend the Bylaws on launch second IFR

The ccNSO Council notes that the proposed amendments to Article 18 and 19 are Fundamental Bylaw changes. The Council also notes that the second IANA Function Review was recently launched. The Council recently (6 April 2023) received the request to appoint three (3) members to the second IANA Naming Function Review Team, and – in time – appoint a co-chair. The Council finally notes that the ICANN Board will have to consider the comments, then determine whether to proceed with any or all of the Fundamental Bylaw changes.

After the Board has determined to proceed with changes the Empowered Community needs to approve the changes, using and in accordance with the procedures detailed in Annex D of the ICANN Bylaws. It is our understanding that the time the Board needs to consider the Bylaw changes and the duration of the Approval Action procedures may take the Bylaw change well beyond the date the ccNSO Council is expected to appoint a co-chair and/or beyond September 2023, when the IFRT is anticipated to start its work.

Assuming that the launch of the second IFRT will remain as planned, i.e. before the Fundamental Bylaw has become effective, the ccNSO Council would appreciate hearing how to interpret section 18.8 (d). Alternatively, the ccNSO Council suggests to defer an effective launch of the IFR until such time the Fundamental Bylaw change has become effective.