USCIB

UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

Peter M. Robinson
President & CEO

February 15, 2008

Suzanne R. Sene
Office of International Affairs
National Telecommunications and Information Administration
1401 Constitution Avenue, NW
Room 4701
Washington, DC 20230

Re: NTIA Notice of Inquiry, The Continued Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System: Midterm Review of the Joint Project Agreement

Dear Ms. Sene:

The United States Council for International Business (USCIB) is a founding member of the ICANN GNSO's Business Constituency and was very active in the formative stages of ICANN. The technical coordination of the Internet is of critical importance to all of our members given the amount of their business that is conducted over it. We therefore continue to work to inform the larger business community about ICANN and its important work. We also continue to support ICANN and its model of private sector leadership, and are pleased to provide comments on the mid-term review of the Joint Project Agreement (JPA).

Although USCIB does not support conclusion of the JPA at this time, USCIB supports the launching of discussions within the ICANN community and between ICANN and NTIA on how to facilitate a sound and stable transition to a fully independent, private sector led ICANN. Such a transition must ensure that ICANN has the requisite structures and procedures in place to meet the ongoing demands and ensure that it can fulfill its mandate. In this regard, priorities include:

- Maintaining ICANN's credibility by preserving and enhancing the private sector led bottom-up consensus policy development model that has made ICANN successful; and
- Ensuring the continued security and stability of the Internet's names and numbering system.

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International Chamber of Commerce (ICC)
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USCIB has for some time been working with the International Chamber of Commerce (ICC) and others from various business groups to increase business participation in ICANN and will continue to do so. To this end, USCIB and ICC have been working with ICANN staff to develop new and innovative mechanisms to enhance the voice of business users in ICANN and its policy development process, including engagement with ICANN's Board of Directors, staff and Government Advisory Committee (GAC). Considering the thousands of businesses that rely on the Internet today and the thousands more that will rely on the Internet as it expands in the coming years, mechanisms that facilitate business user input and the consideration of that input are indispensable – especially for companies that are unable to allocate resources to actively participate at meetings.

The JPA states "ICANN reaffirms its commitment to maintaining the security and stability in the coordination of the technical functions related to the management of the DNS and to perform as an organization founded on the principles of stability and security, competition, bottom-up coordination and representation". USCIB members view the implementation of appropriate mechanisms and procedures as the best way to ensure the long-term stability of the private sector led bottom-up consensus policy development model. Moreover, additional mechanisms to enhance transparency and accountability are essential.

USCIB members believe an agreed upon transition must be consistent with the above priorities if ICANN is to transform itself into an effective, independent organization. Furthermore, our members note that many of the responsibilities ICANN agreed to in Annex A of the JPA will evolve as ICANN's work proceeds, with new challenges and opportunities constantly arising as the Internet grows and develops.   Thus, the fundamental question to answer during discussions regarding the transition to a fully independent, private sector led organization is how to put in place the best framework to allow ICANN and the Internet community to fulfill these responsibilities in this constantly evolving environment.   With this in mind, USCIB offers the following comments on some of ICANN's responsibilities under the JPA.

Security and Stability: As mentioned above, the responsibility of ensuring the continued security and stability of the Internet's names and numbering system is of primary importance to USCIB members given that an increasing amount of their business is being conducted over the Internet. ICANN's overall responsibilities for the DNS and the unique indicators are a critical element to the Internet's stability, which continues to be tested in new ways as the Internet develops.   The stable and robust functioning of the DNS is vital not just for the functioning of the Internet's identifier system but also as a platform for evolving technologies and new services. In the face of an evolving DNS, ICANN must maintain the necessary structure and processes to ensure that the Internet continues to grow as a secure, robust, and reliable platform. Within its established technically oriented remit, ICANN must be adaptive. It is critical that the final transition plan ensures that ICANN and the Internet community are well equipped to respond to any new challenges as they arise.

Transparency: We applaud ICANN in its progress on improving transparency. Some excellent initial steps have been taken. We note in particular the significantly improved website and appreciate the concise and reader friendly monthly newsletters. We look forward to continuing to work with ICANN as further significant changes and improvements occur on this important issue.

Accountability: As mentioned, ICANN has made great progress on increased transparency and developing ideas involving organizational accountability. USCIB encourages ICANN to further enhance the mechanisms that reinforce accountability. We also believe that any such mechanisms should be independent of governments or intergovernmental organizations.

In particular, our members feel that ICANN should institute a system of checks and balances on the Board that is independent of the Board. The existing Reconsideration Request and Independent Review processes, for example, are merely advisory, and their recommendations are referred back to the same Board that made the initial decision. In addition, we encourage continued thought on the Board's voting requirements, e.g. perhaps certain Board decisions could require a supermajority. Our members believe effective accountability mechanisms for the organization and the ICANN Board, reflected in changes in its Bylaws, should be established prior to transition.

Similarly, USCIB believes that ICANN must ensure financial and budgetary oversight. We applaud the steps ICANN staff has taken in this direction and want to continue to work with them to provide input. We note, however, that ICANN used to have a multi–stakeholder Budget Advisory Group, which is no longer active. USCIB recommends reactivating and reforming the Budget Advisory Group, so that the ICANN community can provide input and ensure accountability in ICANN's budgeting process in a meaningful way.

Contract compliance and enforcement should also be improved. ICANN was founded on the premise that contracts with relevant parties form the basis of 'self governance' and that all affected stakeholders must work together in a consensus based, bottom up policy process. ICANN must increase its efforts to ensure it meets its responsibilities for enforcement and compliance of the contracted arrangements.

TLD Management: ICANN has played a critical role in introducing competition in the domain name space. The introduction of new gTLDs will continue to increase competition. It is essential that the introduction of new gTLDs is done in a way that does not jeopardize the stability and security of the Internet's names and numbering system.

With regard to Internationalized Domain Names (IDNs), ICANN deserves credit for undertaking significant efforts in 2007 to advance the testing and implementation of IDNs. They are at a relatively early stage of rollout, which will present complex challenges, such as the potential for alternative IDN implementations, including the use of alternative roots. USCIB looks forward to addressing these issues with ICANN, and we believe a discussion of how ICANN intends to

effectively manage these important challenges, both now and into the future, is an important element of the transition plan.
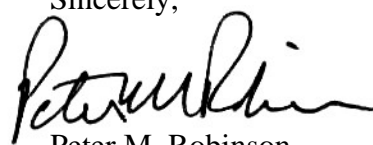
Multi-Stakeholder Model: As mentioned, the private sector led bottom-up consensus policy development process is critical to ICANN's legitimacy and must be preserved. For example, attempts by ICANN to make the multi-stakeholder model more effective should ensure a strong voice for the general business community. Also as mentioned above, we believe that further innovative mechanisms and processes to improve business user participation in ICANN and in the policy development process are essential in order to ensure that their views are taken into account. Such mechanisms should be in place before the conclusion of a transition as our members view effective and meaningful participation by business users as an indispensable element of the multi-stakeholder process.

Furthermore, meaningful multi-stakeholder participation must be based on sound information. For example, necessary data collection prior to launching a policy development process (PDP) for relevant policy areas should remain a priority. In order to engage in informed consideration, neutral fact based and easily digestible policy papers are an essential step that will benefit all stakeholders, and significantly improve the consensus policy development process. Such materials serve all parties at ICANN, including the GAC, the Board, and those engaged in the consideration of any specific policy.

Role of Governments: The advisory role of the GAC plays the important function of informing ICANN of public policy issues impacted by ICANN work. We support seeking the views of the GAC on issues that address public policy matters at an early stage of the policy development process so that they can be fully considered. We are pleased that a dialogue between the GAC and the ICANN community has begun and we would like to see it become more active. The Department of Commerce can play an especially helpful role in encouraging GAC members to participate in ICANN discussions with all stakeholders, particularly the business community.

Thank you for this opportunity to comment. We look forward to the launching of discussions between NTIA and ICANN, with support from the business community and other stakeholders, on a sound and stable transition to full private sector leadership for this important organization.

Sincerely,

Peter M. Robinson