2011-03-18- NoticeBDMtg

Directors and Liaisons,

Attached below please find the Notice of date and time for the Regular Meeting of the ICANN Board of Directors:

18 March 2011 – Regular Meeting of the ICANN Board of Directors -- at 17:30 UTC – This Board meeting is estimated to last 3.5 hours.

Some other time zones:

18 March 2011 – 10:30 AM PST Los Angeles

18 March 2011 – 6:30 PM CEST Brussels

18 March 2011 – 1:30 PM EST Washington, D.C.

19 March 2011 - 06:30 AM Wellington

http://www.timeanddate.com/worldclock/fixedtime.html?month=3&day=18&year=2011&hour=17&min=30&sec=0&p1=0

MATERIALS - SPECIAL NOTE – Following on the changes that were recently made to the Materials, they have been broken into two separate books – included in the Board Book (along with the notice and call information) are the following: 1) an expanded agenda and 2) a more concisely formatted set of board papers. The last part – titled "Additional Materials" is a separate board book, available on Board Vantage which includes additional materials and exhibits that are related to some of the papers where board members would like to explore additional information on many of the topics.

MATERIALS -- All Materials are available on Contact Information Redacted

, if you have trouble with access, please let us know and we will work with you to assure that you can use the BoardVantage Portal for this

meeting.

The materials are all available in two board books from BoardVantage, if you are unable to access, it can be mailed to you directly.
If you have any questions, or we can be of assistance to you, please let us know.

If call information is required, it will be distributed separately

If you have any questions, or we can be of assistance to you, please let us know.

John Jeffrey
General Counsel & Secretary, ICANN
John.Jeffrey@icann.org <John.Jeffrey@icann.org>
<mailto:John.Jeffrey@icann.org <mailto:John.Jeffrey@icann.org> >
Contact Information Redacted

2011-03-18-Agenda and Draft Resolutions

DRAFT RESOLUTIONS – 18 March 2011 ICANN Board Meeting

1. **CONSENT AGENDA**

   RESOLVED, the following resolutions in this Consent Agenda are hereby approved:

   a. **Approval of Minutes of 25 January 2011 ICANN Special Board Meeting**

      RESOLVED (2011.03.18.xx) the Board hereby approves the minutes of the 25 December 2010 ICANN Special Board Meeting.

   b. **From SSAC – Approval of Changes to Membership (2011-03-18-01)**

      Whereas, the Security and Stability Advisory Committee (SSAC) does review its membership and make adjustments from time-to- time.

      Whereas, the SSAC Membership Committee, on behalf of the SSAC, requests that the Board should appoint David Conrad to the SSAC.

      It is RESOLVED (2011.03.18.xx) that the Board appoints David Conrad to the SSAC.

   c. **Approval of VeriSign RSEP request (for .NAME) for release of numeric-only strings and numeric strings with hyphens (2011-03-18-02)**

      Whereas, VeriSign submitted a Request pursuant to ICANN's Registry Services Evaluation Policy to amend the .NAME Registry Agreement to allow the allocation of numeric-only and numbers-and-hyphens domain names in .NAME.

      Whereas, .NAME is the only gTLD currently not allowed to allocate numeric-only and pure numbers-and-hyphens domain names. Whereas, ICANN evaluated the proposed amendment to the .NAME Registry Agreement as a new registry service pursuant to the Registry Services Evaluation Policy, did not identify any security, stability or competition issues, and posted an amendment for public comment and Board consideration (see http://icann.org/en/announcements/announcement-3-16sep10-en.htm).

      Whereas, the potential issues cited during the public comment period were adequately addressed in VeriSign's response to ICANN, which

also described existing mechanisms to deal with the perceived problems.
Whereas, approving the proposal would augment the options available to registrants for registering names in .NAME.

It is hereby **RESOLVED** (2011.03.18.xx) that the amendment to allow allocation of numeric-only and numbers-and-hyphens domain names in .NAME is approved, and the President and General Counsel are authorized to take such actions as appropriate to implement the amendment.

d. **From the SIC - ccNSO Review – receipt of Board WG final report and dissolution of the WG (2011-03-18-03)**

Whereas, the ccNSO review Working Group has delivered to the Structural Improvements Committee its final report of activity, which contains conclusions and recommendations for enhancing the effectiveness of this structure;

Whereas, the ccNSO review Working Group has fulfilled the tasks assigned to it at the time of their establishment, and it can now be dissolved;

Whereas, the Board agrees with the Structural Improvements Committee on its proposal to thank the Chair and Members of the Working Group for their commitment and ability to fulfil the tasks assigned to them; and

Whereas, the Structural Improvements Committee will provide the Board with a set of suggested actions to address the conclusions and recommendations of the final report of this Working Group;

RESOLVED (2011.03.18.xx), the Board receives the final report of the ccNSO review Working Group.

RESOLVED (2011.03.18.XX), the Board dissolves the ccnSO Review Working Group and thanks the Chair and Members of the ccNSO review Working Group: Jean-Jacques Subrenat (Chair), Ram Mohan, Demi Getschko, Alejandro Pisanty and Vittorio Bertola, for their commitment and ability to fulfill their tasks.

RESOLVED (2011.03.18.xx), the Board directs the Structural Improvements Committee to present a set of suggested actions for approval at the 24 June 2011 Board meeting, so as to address the conclusions and recommendations formulated in the final report of this Working Group.

e. **From the SIC – Approval of Revision of Bylaws re implementation of SSAC Review Working Group Report (2011-03-18-04)**

A. Bylaws change

Whereas, Article XI, Section 2, Subsection 2 of the Bylaws governs the Security and Stability Advisory Committee (SSAC).

Whereas, in its final report published 29 January 2010 http://www.icann.org/en/reviews/ssac/ssac-review-wg-final-report-29jan10-en.pdf [PDF, 282 KB], the Security and Stability Advisory Committee (SSAC) recommended that task area one of the SSAC Charter (Section 2(2)(a)(1) http://www.icann.org/en/general/bylaws.htm#XI) should be removed because it is out of scope of the activities of the SSAC.

Whereas, on 12 March 2010, the Board received the SSAC final report and directed the Structural Improvements Committee (SIC) to identify actions necessary to address the recommendations within the report, at http://www.icann.org/en/minutes/resolutions- 12mar10-en.htm#1.6.

Whereas, the SIC, at its 14 October 2010 meeting, recommended that the Bylaws should be amended to achieve the recommendation of the Working Group on improvements to the SSAC by removing task area one and renumbering the other task areas.

Whereas, the SIC also considered the SSAC reviewer's recommendation that the Board should have the power to remove SSAC members, and recommended that the Bylaws should be amended to reflect this companion removal power. Any removal should be formed in consultation with the SSAC.

Whereas, in resolution 2010.28.10.11 the Board directed staff to post the proposed Bylaws amendments for a period of no less than 30 days.

Whereas, the proposed amendments were posted for public comment for a period of 30 days beginning 03 November 2010 and ending 02 December 2010.

Whereas, staff provided the Board with a summary and analysis of the public comments received and recommended that the Board approve the Bylaws amendments as posted at

http://www.icann.org/en/general/proposed-bylaw-changes-xi-2-03nov10-en.pdf.

RESOLVED (2011.03.18.xx), the Board approves the Bylaws revisions as posted for public comment in furtherance of the recommendations arising out of the SSAC review Working Group.

Resolution Text Superceded

f. **From the BGC – Approval of membership of IDN Variants Working Group (2011-03-18-05)**

Whereas, the Board requested that the BGC recommend membership of a Board IDN Variant Working Group (BV-WG) to oversee and track the IDN Variant Issues Project. *See* Resolution (2010.12.10.31) available at http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#7.

Whereas, the BGC recommended that the Board approve the following Board members to serve on the BV-WG: Ram Mohan (Chair), Thomas Narten, Kuo-Wei Wu and Suzanne Woolf.

RESOLVED (2011.03.18.xx), the ICANN Board approves Ram Mohan, Thomas Narten, Suzanne Woolf and Kuo-Wei Wu as the members of the Board IDN Variant Working Group, with Ram Mohan as Chair.

Item Removed from Agenda

Item Removed from Agenda

c. **Approval of Location of ICANN Public Meeting in North America – October 2012 (2011-03-18-07)**

Whereas, ICANN intends to hold its third Meeting for 2012 in the North America region as per its policy;

Whereas the Canadian Internet Registration Authority (CIRA) submitted a viable proposal to serve as host for the ICANN 2012 North America Meeting;

Whereas, staff has completed a thorough review of the Canadian Internet Registration Authority (CIRA) proposal and finds it acceptable;

Whereas, the Board Finance Committee will review and is expected to approve the budget for the ICANN 2012 North America Meeting as proposed in this paper on 13 March;

It is hereby **RESOLVED** (2011.03.18.xx) that the Board accepts the proposal of the Canadian Internet Registration Authority (CIRA) and approves that the ICANN 2012 North America Meeting shall be held in Toronto, Canada from 14-19 October 2012, with a budget not to exceed US$2.01M, and that the Toronto Meeting be designated as the 2012 Annual Meeting.

d. **Approval of ICANN Public Meeting Dates for 2014-2016 (3011-03-18-08)**

Whereas, ICANN intends to hold Meetings in 2014, 2015 and 2016 as per its policy;

Whereas, the dates proposed in this paper were published for public comment for a period of 15 days ending 8 March 2011;

Whereas, staff has completed a thorough review of the public comments received, and has used those comments to develop the scheduled dates of ICANN Meetings;

It is hereby **RESOLVED** (2011.03.18.xx) that the Board accepts the dates of Meetings to be held in 2014, 2015 and 2016.

Main Agenda

2. **2011-2014 Strategic Plan – for approval (2011-03-18-09)**

Whereas**,** ICANN's July 2011 through June 2014 Strategic Plan seeks to provide four areas of high level strategic focus for ICANN;

Whereas, ICANN's July 2011 through June 2014 Strategic Plan identifies in addition to four areas of focus, enablers across all areas to reflect ICANN's responsibilities towards a multi-stakeholder model, collaboration, and being international, transparent and accountable;

Whereas, ICANN's July 2011 through June 2014 Strategic Plan captures strategic objectives and strategic projects, details of community work and staff work will be reflected in the operational plan and identifies strategic performance metrics;

Whereas, ICANN's Strategic Plan is based on input from the ICANN Staff, community organizations, ICANN Board of Directors, public

consultations on ICANN's website, and presentations at the ICANN Cartagena meeting and to constituency groups;

Whereas, the Strategic Plan will form the framework around which the July 2011 through June 2012 Operational Plan and the associated budget are constructed.

Whereas, members of the community have been very generous with their time and the Board appreciates the work that they have done.

It is hereby **RESOLVED** (2011.03.18.xx) the Board approves the July 2011-June 2014 Strategic Plan, and directs the President and staff to move forward with the community-based Operational planning process based on the strategic objectives as set forth in the plan. Minor edits will be provided to staff by the Board before close of business on Monday 21 March 2011, final changes will be subject to the Chairman's final approval.

Item Removed from Agenda

Item Removed from Agenda

5. **AOC Reviews including ATRT Recommendations (2011-03-18-12)**

Resolution Text Superceded

6. **From the SIC – GNSO Constituency Process (to be provided following SIC meeting)**

7. **From the BFC – Approval of Expenses Related to Board Approved Activities (to be provided following BFC meeting)**

8. **From the SIC – TLG Review – actions based on Independent Reviewer's Final Report (2011-03-18-13)**

    Whereas, the independent reviewers for the Technical Liaison Group (TLG) Review have delivered a final report, which contains conclusions and recommendations for enhancing the effectiveness of this structure, primarily by abandoning the current structure and potentially to replace it with bilateral or other arrangements;

    Whereas, the report has been posted for public comments, both at the draft stage and in its final version, and some comments received have raised concerns about the future of the relationships between ICANN and other members of the Internet technical community;

    Whereas, the Board agrees with the Structural Improvements Committee on its proposal to thank the independent reviewers and others involved in commenting and advancing the activities for their commitment and contributions; and

    Whereas, the Board agrees with the Structural Improvements Committee on its proposal to establish a Board Working Group to consider measures to enhance the coordination and cooperation between ICANN and other

members of the Internet technical community before deciding on any dismantling of the TLG;

RESOLVED (2011.03.18.xx), the Board accepts the Final Report on the TLG Review from JAS Communications LLC and thanks the independent reviewers, staff and the SIC members for their work with this review.

RESOLVED (2011.03.18.xx), the Board establishes the Board Technical Relations Working Group to consider measures to enhance the coordination and cooperation between ICANN and other members of the Internet technical community with the intent of among other things dissolving the TLG by the 2011 Annual Meeting; and asks the Working Group to engage the ICANN community in a fully consultative process on the coordination and cooperation between ICANN and other members of the Internet technical community.

RESOLVED (2011.03.18.xx), the Board requests the BGC to nominate five directors as members of this working group, one of whom to serve as Chair for consideration at the Board meeting of 21 April 2011.

RESOLVED (2011.03.18.xx), the Board requests that the SIC develop a charter for this Working Group based upon the report of the TLG review, comments to that review and any other available information for consideration at the Board meeting of 21 April 2011.

9. **Fast Track Review Possible Actions (2011-03-18-14)**

   Whereas, the Final Implementation Plan for the IDN ccTLD Fast Track Process was approved by the ICANN Board at its annual meeting in Seoul, Republic of Korea on 30 October 2009 and launched on 16 November 2009.

   Whereas, the Final Implementation Plan requires annual review of the process, and the ICANN Board directed staff to *"monitor the operation of the IDN ccTLD Fast Track process at regular intervals to ensure its smooth operation, and, subject to Board review, update the process when new technology or policies become available, with the goal to efficiently meet the needs of Fast Track process requesters, and to best meet the needs of the global Internet community."*

   Whereas, ICANN has completed the first review of the IDN ccTLD Fast Track Process, conducted in two parts: A public session held during the ICANN meeting in Cartagena on 6 December 2010 and an online public comment forum running from 22 October to 17 December 2010 and subsequently extended to 31 January 2011 at community request.

Whereas, ICANN released on 21 February 2011 a review of the received comments with accompanied ICANN recommendations and general feedback.

Whereas, the Board notes that the Fast Track Process is limited in its approach and eligibility requirements, while the community works to solve policy issues necessary to build a broader and ongoing process, and while outstanding issues related managing variant TLDs is pending further study per the draft proposal for the study of issues related to the delegation of IDN Variant TLDs released for public comment.

RESOLVED (2011.03.18.xx) the ICANN Board approves the recommendations set forth in "ICANN Recommendations of Public Comment Received on the Review of the IDN ccTLD Fast Track Process" and directs the CEO to have the identified work performed.

RESOLVED (2011.03.18.xx), the Board thanks the community for participation in the first annual review of the Fast Track process, and acknowledges that the first review of the Fast Track process is complete.

10. **Issues Arising from Silicon Valley Meeting**

11. **Any Other Business**

2011-01-25-Board-Meeting-Minutes

Preliminary Report
25 January 2011 Special Meeting of the ICANN Board of Directors

A Special Meeting of the ICANN Board of Directors was held via teleconference on 25 January 2011 at 20:00 UTC.

Peter Dengate Trush promptly called the meeting to order.

In addition to Chairman Peter Dengate Thrush the following Directors participated in all or part of the meeting: Rod Beckstrom (President and CEO), Steve Crocker (Vice Chairman), Sébastien Bachollet, Cherine Chalaby, Bertrand de la Chapelle, Rita Rodin Johnston, Erika Mann, Gonzalo Navarro, Raymond A. Plzak, Rajasekhar Ramaraj, George Sadowsky, Mike Silber, Bruce Tonkin, Katim Touray, and Kuo-Wei Wu.

The following Board Liaisons participated in all or part of the meeting: Heather Dryden, GAC Liaison; Ram Mohan, SSAC Liaison; Thomas Narten, IETF Liaison; and Suzanne Woolf, RSSAC Liaison.

Reinhard Scholl, TLG Liaison, sent apologies.

Also, the following ICANN Management and staff participated in all or part of the meeting: John Jeffrey, General Counsel and Secretary; Akram Atallah, Chief Operating Officer; Kurt Pritz, Senior Vice President; Diane Schroeder, Director of Board Support; and, Amy Stathos, Deputy General Counsel.

1. Executive Session

The Board conducted an executive session, in confidence. No actions were taken during the executive session.

2. Consent Agenda

The Chair of the Board introduced the design of the agenda to the newer Board members and noted that any Board member could request the removal of items from the Consent Agenda. The Board requested three items to be moved to the Main Agenda, the consideration of Proposed Bylaws Amendments Changing Term Ending Dates for Supporting Organization and At-Large Selected Board Members; the VeriSign RSEP request (for .NAME) for release of numeric-only strings and numeric strings with hyphens, and the Telnic RSEP request for release of numeric-only strings except for single-character labels which were moved to the first items on the main agenda.

The following resolutions were approved unanimously 16-0. The Resolutions were moved together by the Chair, and George Sadowsky seconded the motion.

RESOLVED, the following resolutions in this Consent Agenda are hereby approved:

a. **Approval of Minutes of 8 December 2010 ICANN Special Board Meeting**

RESOLVED (2011.01.25.01) the Board hereby approves the minutes of the 8 December 2010 ICANN Special Board Meeting.

b. **Approval of Minutes of 10 December 2010 ICANN Regular Board Meeting**

RESOLVED (2011.01.25.02) the Board hereby approves the minutes of the 10 December 2010 ICANN Regular Board Meeting.

c. **Approval of Minutes of 10 December 2010 ICANN Organizational Board Meeting**

RESOLVED (2011.01.25.03) the Board hereby approves the minutes of the 10 December 2010 ICANN Organizational Board Meeting.

d. **Approval of Revised Charter of the Finance Committee**

Whereas, the Board Finance Committee (BFC) is currently operating under a Charter approved in 2000, available at *http://www.icann.org/en/committees/finance/*.

Whereas, as part of the BFC's obligation to review its operations and make appropriate recommendations for updates or enhancements, on 5 December 2010 the BFC approved a Revised Charter that better reflects the BFC's current operations. The Revised Charter also incorporates, unchanged, the standard language for Board Committee Charters as previously approved by the Board Governance Committee. See *http://www.icann.org/en/minutes/resolutions-06mar09.htm#10.*

RESOLVED (2011.01.25.04), the Revised Charter of the Board Finance Committee is approved.

Rationale for Resolution 2011.01.25.04

Approving the revised Board Finance Committee (BFC) charter at this time makes sense as the revised version better reflects the current operations of the BFC than the prior version. It also now conforms to the recent revisions to all other charters, as approved by the Board Governance Committee. Further, the revised charter reflects the BFC's activities as they relate to the size and scope of ICANN in 2011 and that the BFC is operating in accordance with the best practices. In developing the revised Charter both best practices as well as the actual operations of ICANN's BFC were reviewed and considered significant to approve the revised charter.

The approval of the Revised BFC Charter should have a positive public effect in

that it increases the accountability and transparency of the organization and aligns with the BFC's current activities and best practices. There is no financial impact on ICANN or the community by revising the BFC charter. Confirmation of the BFC mandate through revision to its charter does not present any impact on the systemic security, stability and resiliency of the DNS.

e. From SSAC –Appointment of SSAC Chair

Whereas, Article XI, Section 2, Subsection 2 of the Bylaws governs the Security and Stability Advisory Committee (SSAC).

Whereas, Article XI, Section 2, Subsection 2 of the Bylaws states that the Board shall appoint the Chair and the members of the SSAC.

Whereas, on 10 December 2010 Steve Crocker announced his intention to resign as Chair of the SSAC upon the selection by the SSAC of a new Chair and appointment by the Board.

Whereas, on 22 December 2010 Ray Plzak resigned as Vice Chair of the SSAC.

Whereas, the SSAC initiated an election for Chair and Vice Chair from the members of the Committee beginning 10 December 2010 and ending 07 January 2011.

Whereas, the Committee elected Patrik Fältström as Chair and James Galvin as Vice Chair.

RESOLVED (2011.01.25.05), the Board accepts the recommendation of the SSAC and appoints as Chair of the SSAC and extends its best wishes to Patrik Fältström and to James Galvin in their important new roles.

f. From SSAC – Thank you to departing SSAC Member - Christophe Reverd

Whereas, Christophe Reverd was appointed to the ICANN Security and Stability Advisory Committee on 26 June 2009.

Whereas, ICANN wishes to acknowledge and thank Christophe Reverd for his service to the community by his membership on the Security and Stability Advisory Committee.

RESOLVED (2011.01.25.06), that Christophe Reverd has earned the deep appreciation of the Board for his service to ICANN by his membership on the Security and Stability Advisory Committee, and that the Board wishes Christophe Reverd well in all future endeavours.

g. From SSAC – Thank you to departing SSAC Member & Vice-Chair – Ray Plzak

Whereas, Ray Plzak was appointed to the ICANN Security and Stability Advisory Committee on 17 May 2002.

Whereas, ICANN wishes to acknowledge and thank Ray Plzak for his service to the community as Vice Chair and member of the Security and Stability Advisory Committee.

RESOLVED (2011.01.25.07) that Ray Plzak has earned the deep appreciation of the Board for his service to ICANN as Vice Chair and member of the Security and Stability Advisory Committee, and that the Board wishes Ray Plzak well in all future endeavours.

h. From SSAC – Thank you to departing SSAC Chair – Steve Crocker

Whereas, Dr. Stephen Crocker was appointed as Chair of the ICAN Security and Stability Advisory Committee on 14 March 2002.

Whereas, Dr. Crocker has served with consummate skill and dedication as the Chair of the SSAC.

Whereas, Dr. Crocker brought structure and substance to the operation of the SSAC, and led the Committee through major landmark events such as SiteFinder and Root Scaling.

Whereas, Dr. Crocker expanded the membership of SSAC to include subject matter experts on a broad range of topics, simultaneously increasing the Committee's geographic diversity and depth of Staff support.

Whereas, Dr. Crocker guided the SSAC through its first comprehensive external review, and ensured the implementation of all recommendations in a timely manner.

Whereas, Steve Crocker transformed the Security and Stability Advisory Committee from a concept to excellence in execution, resulting in enhanced credibility to the Committee in specific and to ICANN in general.

Whereas, on 10 December 2010 Dr. Crocker announced his intention to resign as Chair of the SSAC upon the selection by the SSAC of a new Chair and appointment by the Board.

Whereas, the SSAC initiated an election for Chair and Vice Chair from the members of the Committee beginning 10 December 2010 and ending 07 January 2011.

Whereas, the Committee elected as Chair and James Galvin as Vice Chair.

Whereas, on 25 January 2011 the Board appointed as the new Chair of the SSAC.

RESOLVED (2011.01.25.08), that Dr. Crocker has earned the tremendous gratitude and deep appreciation of the Board for his tireless service and dedication to ICANN as Chair of the Security and Stability Advisory Committee, and that the Board wishes Dr. Crocker well in all future endeavours.

i.   Approval to Track Global Policy Process for IPv4 Post-Exhaustion

Whereas, the *Board's Review Procedures for Global Internet Number Resource Policies Forwarded for Ratification by the ASO Address Council in Accordance with the ASO MoU,* states that "When, in accordance with step 1 in the Global Policy Development Process of the ASO MoU (Attachment A, article 1), ICANN staff liaising with the addressing community becomes aware of a global policy development within the scope of the ASO MoU, ICANN staff informs the ICANN Board of this development. The Board decides, as and when appropriate, that this development should be followed by ICANN staff and instructs the ICANN CEO to assign staff for this purpose. ICANN staff so assigned shall inform all ICANN Supporting Organizations and Advisory Committees, shall establish an ICANN web page to be kept up to date and shall compile a background report to be kept up to date on this global policy development. This background report shall be provided to the Board as requested."

Whereas, ICANN staff has informed the Board that a policy proposal entitled "Global Policy Proposal for the Allocation of IPv4 by the IANA post exhaustion" is in development and that this Proposal has entered the first adoption steps within the individual RIRs as well as being recognized by the ASO Address Council as a valid Global Policy Proposal.

Whereas, the Proposal is identified as a global policy development within the scope of the Memorandum of Understanding between ICANN and the ASO.

RESOLVED (2011.01.25.09), the Board requests that the development of the policy proposal entitled "Global Policy Proposal for the Allocation of IPv4 by the IANA post exhaustion" be followed by ICANN staff in line with the Board's Review Procedures for such policy proposals and instructs the ICANN CEO to assign staff for this purpose.

Rationale for Resolution 2011.01.25.09

The Global Policy Proposal has reached the discussion stage in all Regional Internet Registries and the time is ripe to start producing and posting Background Reports on the Proposal's status. Directing staff to conduct the required tracking work is in furtherance of ICANN's obligations under the MoU with the ASO and the Board's Review Procedures for Global Internet Number Resource Policies.

There will be a nominal budgetary impact when directing staff to track the Proposal, as ICANN staff are already allocated to the ASO, and the tracking of proposals at this stage require limited staff effort. If approved, future implementation may pose additional impacts on the budget, public and security/stability related issues, but those are not ripe for assessment at this time. Requiring staff tracking at this stage will also allow for advance preparation in advance of a request from the ASO for ratification.

j. Approval of RSSAC Review Implementation Plan

Whereas, on 5 August 2010, the Board resolved to receive the Final Report of the RSSAC review Working Group, and directed the Structural Improvements Committee (SIC) "to present a set of suggested actions for approval at the October 2010 Board meeting, so as to address the conclusions and recommendations formulated in the final report of this Working Group", at *http://icann.org/en/minutes/resolutions-05aug10-en.htm#2.f* .

Whereas, ICANN staff members supporting the organizational reviews identified a set of measures in a document "RSSAC review WG final report: implementation steps", dated December 2010, to address the recommendations arising out of the Working Group and provided those to the SIC.

Whereas, the SIC finds the proposed measures are adequate and proposes to have staff, working in coordination with the SIC, to finalize an implementation plan based upon the implementation steps identified, and to provide a final implementation plan to the Board for receipt and consideration.

RESOLVED (2011.01.25.10), the Board approves the "RSSAC review WG final report: implementation steps" put forward by the SIC and instructs the SIC, in coordination with staff, to provide the Board with a final implementation plan to address the conclusions and recommendations in the final reports of the RSSAC review Working Group.

Rationale for Resolution 2011.01.25.10

The proposed implementation steps were provided to the Board in fulfillment of the Board's 5 August 2010 resolution requiring the submission of this proposal. The implementation steps address the recommendations arising out of the Review Working Group's Final Report. A draft Final Report was posted for public comment and no comments were received, including none indicating that there would be a negative impact if the recommendations were adopted. Further, adoption of the implementation plan for the RSSAC Review will set the stage for a dedicated staff effort to improve cooperation and communication between ICANN and the root server operators within the framework of the RSSAC structure.

Directing the creation of a final implementation plan will have a nominal budgetary impact, in that it will require further resources of the staff supporting

ICANN's Organizational Reviews. The identification of final implementation steps is anticipated to occur within the resources already allocated. The further impact of the implementation work will be identified as practicable.

k. Approval of Proposed Bylaws Amendment to Create a Non-Voting Chair-Elect to the Nominating Committee

Whereas, Article VII, Section 2 and 3 of the Bylaws govern the composition of the Nominating Committee (NomCom) and the terms of the NomCom members.

Whereas, in its final report published 29 January 2010 http://www.icann.org/en/reviews/nomcom/nomcom-review-finalization-wg-final-report-29jan10-en.pdf, the NomCom Review Finalization Working Group recommended that the Chair of the NomCom be elected one year in advance, requiring changes to the ICANN Bylaws in Article VII, Section 2 and 3 at http://icann.org/en/general/bylaws.htm#VII.

Whereas, on 12 March 2010, the Board received the NomCom Review final report and directed the Structural Improvements Committee (SIC) to identify actions necessary to address the recommendations within the report, at http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#1.6.

Whereas, the SIC, at its 14 October 2010 meeting, recommended that the Bylaws should be amended to achieve the recommendation of the NomCom Review Finalization Working Group by electing the NomCom Chair one year in advance, while also highlighting that the related Bylaws amendments must incorporate appropriate flexibility for the Board.

Whereas, the Board, at its 28 October 2010 meeting, resolved that the proposed Bylaws amendments should be posted for public comments.

Whereas, the proposed Bylaws amendments, see http://icann.org/en/general/proposed-bylaws-revision-vii-10nov10-en.pdf , were posted for public comments from 10 November to 10 December 2010 and this period elapsed without any comments being received.

RESOLVED (2011.01.25.11), the Board approves the proposed Bylaws amendments and directs staff to work with the Structural Improvements Committee to prepare for implementation of the new provisions to be effective for the 2013 Nominating Committee.

Rationale for Resolution 2011.01.25.11

The Bylaws amendments proposed will have the purpose of achieving the recommendation of the NomCom Review Finalization Working Group by designating the NomCom Chair one year in advance, while preserving appropriate flexibility for the Board to review the candidate for the Chair.

As no public comments have been received indicating that this would not be a positive change regarding the Nominating Committee and its processes. The budgetary impact of this is neutral, as the transition from the non-voting advisor to the Chair to the Chair-Elect does not represent a change in the number of Nominating Committee members supported through the budget for the Nominating Committee.

l. Thanks to the 2010 Nominating Committee

Whereas, on 27 August 2009, ICANN appointed Wolfgang Kleinwächter as Chair of the Nominating Committee.

Whereas, the 2010 Nominating Committee consisted of delegates from each of ICANN's constituencies and advisory bodies.

RESOLVED (2011.01.25.12), the ICANN Board expresses its deep appreciation to Wolfgang Kleinwächter and all of the members of the 2010 Nominating Committee for their dedication, hard work, and successful efforts.

m. Approval of Redelegation of the .BF domain representing Burkina Faso

Whereas, BF is the ISO 3166-1 two-letter country-code designated for Burkina Faso.

Whereas, ICANN has received a request for redelegation of .BF to the Autorité de Régulation des Communications Electroniques;

Whereas, ICANN has reviewed the request, and has determined that the proposed redelegation would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.13), the proposed redelegation of the .BF domain to the Autoritéde Régulation des Communications Electroniques is approved.

Rationale for Resolution 2011.01.25.13
Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain. In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria. This criteria includes establishing the country-code is eligible (e.g. listed in the ISO 3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly and equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of operational and technical competency where such concerns should be minimal.

n. Approval of Redelegation of the .CD domain representing the Democratic Republic of Congo

Whereas, CD is the ISO 3166-1 two-letter country-code designated for the Democratic Republic of the Congo;

Whereas, ICANN has received a request for redelegation of .CD to Office Congolais des Postes et Telecommunications;

Whereas, ICANN has reviewed the request, and has determined that the proposed redelegation would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.14), the proposed redelegation of the .CD domain to the Office Congolais des Postes et Telecommunications is approved.

Rationale for Resolution 2011.01.25.14
Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing

of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain.

In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria.

This criteria includes establishing the country-code is eligible (e.g. listed in the ISO
3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly and equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is

provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the
IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of operational and technical competency where such concerns should be minimal.

o. Approval of Redelegation of the .SY domain representing the Syrian Arab Republic

Whereas, SY is the ISO 3166-1 two-letter country-code designated for the Syrian Arab Republic;

Whereas, ICANN has received a request for redelegation of .SY to the National Agency for Network Services;

Whereas, ICANN has reviewed the request, and has determined that the proposed redelegation would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.15), the proposed redelegation of the .SY domain to the National Agency for Network Services is approved.

Rationale for Resolution 2011.01.25.15
Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain.

In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria. This criteria includes establishing the country-code is eligible (e.g. listed in the ISO 3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly

and equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of operational and technical competency where such concerns should be minimal.

p. **Approval of Delegation of the .한국 ("Hanguk") domain representing the Republic of Korea in Korean**

Whereas, 한국 ("Hanguk"), encoded as "xn--3e0b707e", is a string that has been deemed to appropriately represent the Republic of Korea through the IDN Fast Track process.

Whereas, ICANN has received a request for delegation of .한국 to the Korea Internet & Security Agency.

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.16), the proposed delegation of the .한국 domain to the Korea Internet & Security Agency is approved.

Rationale for Resolution 2011.01.25.16
Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain.

In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria.

This criteria includes establishing the country-code is eligible (e.g. listed in the ISO 3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly and equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the
IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of

operational and technical competency where such concerns should be minimal.

q. Approval of Delegation of the .新加坡 ("Singapore") domain, and the . ("Singapore") domain, representing Singapore in Chinese and Tamil

Whereas, Singapore is currently listed in the ISO 3166-1 standard;
Whereas, 新加坡 ("Singapore"), encoded as "xn--yfro4i67o"; and ("Singapore"), encoded as "xn--clchc0ea0b2g2a9gcd"; are two strings that were deemed to appropriately represent Singapore through the IDN Fast Track process;

Whereas, ICANN has received a request for delegation of .新加坡 and to Singapore Network Information Centre Pte Ltd;

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.17), the proposed delegation of the top-level domains to Singapore Network Information Centre Pte Ltd is approved.

Rationale for Resolution 2011.01.25.17
Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain.

In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected

parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria.

This criteria includes establishing the country-code is eligible (e.g. listed in the ISO 3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly and equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of

the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of operational and technical competency where such concerns should be minimal.

r. **Approval of Delegation of the سورية. ("Sourya") domain representing the Syrian Arab Republic in Arabic**

Whereas, the Syrian Arab Republic is currently listed in the ISO 3166-1 standard;

Whereas, سورية. ("Sourya"), encoded as "xn--ogbpf8fl", is a string that has been deemed to appropriately represent the Syrian Arab Republic through the IDN Fast Track process.

Whereas, ICANN has received a request for delegation of سورية. . to the National Agency for Network Services.

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.18), the proposed delegation of the سورية. ("Sourya") domain to the National Agency for Network Services is approved.

Rationale for Resolution 2011.01.25.18
Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate

the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain.

In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria.

This criteria includes establishing the country-code is eligible (e.g. listed in the ISO 3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly and equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of operational and technical competency where such concerns should be minimal.

s. Approval of Delegation of the seven top-level domains representing India in various languages

Whereas, India is currently listed in the ISO 3166-1 standard;

Whereas, ("Bharat"), encoded as "xn--h2brj9c"; ارتهب "Bharat"), encoded as "xn--mgbbh1a71e"; ("Bharat"), encoded as "xn--fpcrj9c3d"; ("Bharat"), encoded as "xn--gecrj9c"; ("Bharat"), encoded as "xn--s9brj9c"; ("Bharat"), encoded as "xn--xkc2dl3a5ee0h"; and
[scripts will be correctly coded in the posted version]

("Bharat"), encoded as "xn--45brj9c"; are seven strings that were deemed to appropriately represent India through the IDN Fast Track process;

Whereas, ICANN has received a request for delegation of the seven strings as top-level domains to the National Internet Exchange of India;
Whereas, ICANN has reviewed the request, and has determined that the proposed delegations would be in the interests of the local and global Internet communities.

RESOLVED (2011.01.25.19), the proposed delegation of the seven top-level domains to the National Internet Exchange of India is approved.

Rationale for Resolution 2011.01.25.19

Why the Board is addressing the issue now?

Staff presents delegation and redelegation requests for country-code domains to the Board for decision, once staff is satisfied the applicant has provided a sufficiently complete application that has a reasonable prospect of a positive Board decision. In line with ICANN's commitments to perform timely processing of requests relating to the IANA function, and the DNS root zone in particular, the ICANN Board seeks to evaluate such requests at its next scheduled Special Meeting.

What is the proposal being considered?

The proposal is to approve a request to the IANA function to change or designate the sponsoring organisation (also known as the manager or trustee) of a country-code top-level domain.

In line with established practice, the ICANN Board is involved in making the decision to proceed with such requests as one step of this multi-step process.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant, the current operator (if applicable), and other directly connected parties. In line with ICANN's practice of keeping incomplete root zone change requests in confidence, ICANN has not performed open consultation on this matter.

What concerns or issues were raised by the community?

Any concerns or issues are raised within the public report that will be published in conjunction with this action. This report will be published on the IANA website at http://www.iana.org/ should the root zone change request has successfully completed final processing, usually 1-2 months after the Board's decision.

What significant materials did the Board review?

The Board is involved in assessing requests against a variety of public interest criteria.

This criteria includes establishing the country-code is eligible (e.g. listed in the ISO 3166-1 standard); establishing the proposed manager is supported by the local Internet community; establishing the proposed operator is operationally and technically competent; establishing the proposed manager is based locally and bound under local law; establishing the proposed manager operates fairly and

equitably; establishing that in cases there is a transfer of operations that an appropriate plan is in place to preserve ongoing stability of the domain; and establishing that the action is compatible with any applicable local laws and regulations. During the staff compilation process, the applicant is asked to provide a variety of materials in support of these various aspects.

Pertinent information from these supplied materials and other staff research is provided to the Board, and published in a public report at the end of implementing an approved request.

What factors the Board found to be significant?

The Board considers factors described in the public report, in relation to the basic principles of country-code domain delegation described earlier.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, and the local communities to which country-code top-level domains are designated to serve.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the fiscal impact of the internal operations of country-code top-level domains within a country, other than ensuring the operator is based in country and has the appropriate mechanisms to allow the local Internet community to properly oversee the domain's ongoing operation.

Are there any security, stability or resiliency issues relating to the DNS?

For country-code top-level domain delegations, ICANN seeks to approve only such requests where reasonable concerns have been satisfactorily addressed, and the proposed new manager has demonstrated a sufficient level of operational and technical competency where such concerns should be minimal.

Resolutions 2011.01.25.01, 2011.01.25.02, 2011.01.25.03, 2011.01.25.04, 2011.01.25.05, 2011.01.25.06, 2011.01.25.07, 2011.01.25.08, 2011.01.25.09, 2011.01.25.10, 2011.01.25.11, 2011.01.25.12, 2011.01.25.13, 2011.01.25.14, 2011.01.25.15, 2011.01.25.16, 2011.01.25.17, 2011.01.25.18, and 2011.01.25.19 were approved in a single vote approving the consent

agenda items. All Board members present unanimously approved these resolutions.

Ram Mohan thanked Steve Crocker and Ray Plzak for their service on the SSAC and expressed deep gratitude and appreciation for their work in guiding the SSAC to where it is now.

The Chair agreed with Ram, and noted for the Board that it was at the Chair's request that Steve remained as Chair of the SSAC through the organizational review cycle. The Chair noted that the resolutions thanking Steve and Ray for their service on the SSAC were passed by acclamation.

Main Agenda

3. Approval of Proposed Bylaws Amendments Changing Term Ending Dates for Supporting Organization and At-Large Selected Board Members

The Chair introduced the proposed Bylaws changes to align the end of terms for directors appointed by the Supporting Organization and the At-Large Community (Seats 9-15) to an ICANN meeting, for transition purposes. This recommendation arose out of the Board Review Working Group recommendations. The current transition cycle is between meetings, and the recommendation will allow for better handover. The proposed Bylaws revisions were posted for public comment and the comment period was extended, prior to presenting to the Board for approval. The Chair noted that while it was not necessary for SO-appointed directors to abstain from voting, he understood that some members may choose to abstain on this item. The Chair then requested that Board members appointed through the Nominating Committee move and second this resolution.

Steve Crocker moved and George Sadowsky seconded the Resolution.

The Chair opened the floor for discussion.

Sébastien Bachollet inquired as to why the recommendation did not allow for the possibility of a transition at a meeting that was within nine months of the Annual General Meeting, as opposed to the eight month limitation identified in the proposal. Sébastien noted that there will be some cases where there will be a meeting within the nine-month period, though not within the eight-month period, and there is not a big difference in adding the additional month. Sébastien also noted that he would abstain from a vote on this item because, if approved, it will affect the length of his term.

Amy Stathos explained that the Structural Improvements Committee forwarded this matter to the Board Governance Committee (BGC) for implementation, and the BGC discussed the possibility of having the window for transition defined as six to nine months as opposed to six to eight months. The BGC concluded that

eight months past the AGM was the maximum amount of time that should pass prior to transition. If the mid-year meeting occurred beyond the eight-month window, the terms will transition at the six months past the AGM interval currently in place.

The Chair noted that the process to implement this recommendation has been ongoing, and we should proceed with the consideration.

The Board then took the following action:

Whereas, the Bylaws currently require that all incoming members of the ICANN Board of Directors not selected by the Nominating Committee (NomCom) are seated on the Board six months after the prior year's Annual General Meeting (AGM).

Whereas, six months after the prior year's AGM typically occurs in between ICANN's International Public Meetings ("Meeting").

Whereas, the *Board Review Working Group (BRWG) recommended* that the seating of Board members not appointed by NomCom occur at a mid-year Meeting to facilitate the smooth transition of Board members.

Whereas, the Board Governance Committee ("BGC") considered this issue, agreed with the rationale of the BRWG, but recognized that a mid-year Meeting may not always occur; the BGC thus recommended modifications to the BRWG recommendation to allow for seating of incoming directors without delay.

Whereas, proposed Bylaws amendments to reflect the BRWG recommendations were posted for public comment for two months (8 November 2010 through 8 January 2011) at *http://www.icann.org/en/public-comment/#bylaws-amend-article-vi82010*.

Whereas, just one public comment, supporting the proposed amendments, was received during the public comment period.

RESOLVED (2011.01.25.20), the Board approves the proposed Bylaws amendments necessary to facilitate a change in transition of Board members selected by the Supporting Organizations or At-Large community.

Nine Board members voted in favor of Resolution 2011.01.25.20. The Chair, Sébastien Bachollet, Rita Rodin Johnston, Gonzalo Navarro, Ray Plzak, Mike Silber, and Bruce Tonkin abstained from voting on the Resolution. The Resolution carried.

Rationale for Resolution 2011.01.25.20

Following an independent review by the Boston Consulting Group (BCG) of the ICANN Board (http://www.icann-ombudsman.com/en/reviews/board/report-02nov08-en.pdf), a Board Review Working Group (BRWG) was formed to help determine implementation feasibility of the BCG recommendations. The BRWG, after numerous meetings, extensive email communications and document analysis, issued its Final Report (http://www.icann.org/en/reviews/board/board-review-final-26jan10-en.pdf) in January 2010. One of the recommendations from the BRWG, which the Board considered, was to seat all Board members not selected by the Nominating Committee, at an ICANN mid-term meeting. With some minor modifications to address the possibility that no mid-term meeting will occur, the Board believes that the BRWG recommendations are reasoned and geared toward ensuring smooth transition of Board members. The only comment received from the community was from ALAC and in support of the proposed Bylaws amendments. (*See* http://forum.icann.org/lists/bylawsamend- article-vi8/msg00000.html "The Proposed Bylaws Amendments on Board Member Term Transitions are in alignment with ALAC philosophies related to transitions. The ALAC welcomes and support these amendments.")

The Board expects that this will have a positive public impact, in that typically new Board members will be seated at the conclusion of a Meeting, allowing for outgoing Board members to conclude their terms at the conclusion of that same Meeting. A transition period provides for a much smoother transition than changing terms in between Board meetings. The outgoing Board members will be able to complete a cycle of being briefed about and then addressing matters pending for discussion and decision at the next meeting. Likewise, the new Board members will be able to start afresh with the next issues at the beginning of the process.

The Board's decision may have a minimal financial impact on ICANN in that both outgoing and incoming Board members' travel and accommodations will be funded to the transition Meeting. As currently structured, however, additional funding would be required for no more than four Board members, and often less. It is unlikely that the potential amount of additional travel support that may be required will have an impact on the budget or the community. The Board sees no impact on the systemic security, stability and resiliency of the DNS.

4. Approval of VeriSign RSEP request (for .NAME) for release of numeric-only strings and numeric strings with hyphens

The Chair asked George Sadowsky to address this item, as George requested its removal from the consent agenda.

George stated that he read the materials for both the .NAME and .TEL requests, an noted that he is in favor of the .TEL request, but against the .NAME request. George noted that these are sponsored TLDs that were established with rules in

place, including a rule that neither could have totally numeric names. For the .TEL request, George noted his understanding of the request to expand beyond one digit numerical names, but does not understand how there cannot be user confusion within .NAME when an arbitrary string of digits can be registered there. This would cause direct confusion for users between .NAME and .TEL, and it is only appropriate for .TEL.

The Chair requested clarification from George regarding the potential confusion, as many other TLDs already have the ability to have numerical strings, therefore why is there a specific concern of confusion in numerical-only strings when used in .NAME.

George responded that it would not be semantically clear to a user what a number followed by the .NAME extension means; it could be a telephone number, it could not be.

The Chair reiterated that the same possibility already exists in other TLDs, and there is no risk of confusion.

George confirmed that he still identifies a risk of confusion regarding the .NAME request.

Mike Silber noted his concern is not in the detail of the application by either registry, but rather the process for handling these requests through the RSEP amendment process, as noted by Tim Ruiz. Mike noted that the RSEP process may not be appropriate for this type of change, and that he would prefer that staff advise on an appropriate mechanism for amendments of this type.

Suzanne Woolf offered some clarification regarding the concerns raised by George. The idea behind sponsored TLDs is that there was some meaning to infer from names; not all TLDs are created equal. There are some constructs that could be fine in one TLD, but cause confusion in use in another TLD because of what people believe the extension means. Mike's suggestion that there's a process issue is right, but it could be that the sponsored TLD idea doesn't work out in long-term practice.

Bruce Tonkin clarified that .NAME is a restricted TLD, not a sponsored TLD.

The Chair noted that may be a distinction without a difference when the registry is seeking to change what may be fundamental conditions of operation. The Chair noted that he does not have a problem with the .TEL request, only with eh .NAME request. If the key element was the definition of a name, now that is being changed. The chair notes that he approves of processes that allow entrepreneurial development and commercial growth, but it has to be in line with the policies. The Chair noted that it may be that the Board takes this item away for further consideration, and request work towards a framework for evaluating

this type of change. The Chair noted that the Board is not trying to block development, but to make sure that there's a clear path that leads to predictable outcomes.

Bruce clarified the constructs of .TEL and .NAME. .TEL, as with other sTLDs, was set up with the ICANN Board delegating responsibility for policy making to a sponsoring organization. On that basis, it's reasonable to approve the .TEL change because it was put forward by the sponsoring organization and there's no strong technical reason not to do it. .NAME is different, as the policy management is essentially for ICANN. They've requested a change for which there was public notice and comment. Unless there were community concerns about the change raised through that process, Bruce noted he's inclined to approve the request because that is consistent with the process in other, more open TLDs. Other TLDs are able to allocate numerical strings, therefore there may not be a reason to impose a restriction here.

Kurt Ritz provided a summary of the public comment period, where four comments were received, including one negative comment. The negative comment raised a question as to how numbers might pose problems for trademark owners for protecing rights. The comments – and the question of whether the change would change the nature of the .NAME charter – were forwarded to VeriSign, which responded to those concerns. That letter has been provided to the Board. The request has been under consideration for some time.

The Chair stated his opinion that the response doesn't address the difference of a fundamental change in the registry.

Sébastien Bachollet noted that this would be a big change, and noted the issue of representing our names in numbers, such as passport numbers. He noted that he would not be agreeing with this change.

Upon querying by the Board, a majority of the directors indicated that they wished to defer consideration of the .NAME request to allow further time for consideration.

The Board discussed the request from VeriSign for .NAME as well as the RSEP request for .TEL relating to the release of numeric-only strings, and the potential differences in the Board's consideration of each request.

The Chair queried the Board and it was determined that a majority of the directors wished to defer further discussion on the .NAME request to allow further time for consideration. The Chair noted that the Board could follow up with staff on any questions on this item, and asked the Secretary to adjourn this item to the agenda of the next Board meeting.

5. Approval of Telnic RSEP request for release of numeric-only strings except for single-character labels

The Chair then queried the Board on whether to defer consideration of the .TEL request. A majority of the Board indicated it was prepared to move to a vote.

The Chair then moved and Bruce Tonkin seconded the resolution, and the Board then took the following action:

Whereas, Telnic submitted a Request pursuant to ICANN's Registry Services Evaluation Policy to amend the .TEL Registry Agreement to allow the allocation of numeric-only (excluding single-digit) domain names in .TEL.

Whereas, .TEL is one of the only two gTLDs currently not allowed to allocate numeric-only domain names.

Whereas, ICANN evaluated the proposed amendment to the .TEL Registry Agreement as a new registry service pursuant to the Registry Services Evaluation Policy, did not identify any security, stability or competition issues, and posted an amendment for public comment and Board consideration (see *http://icann.org/en/announcements/announcement-14oct10-en.htm*). Whereas, the potential issues cited during the public comment period and by ICANN were adequately addressed by Telnic's responses.

Whereas, approving the proposal would augment the options available to registrants for registering names in .TEL.

RESOLVED (2011.01.25.21), the amendment to allow allocation of numeric-only (excluding single-digit) domain names in .TEL is approved, and the President and General Counsel are authorized to take such actions as appropriate to implement the amendment.

Twelve Board members voted in favor of Resolution 2011.01.25.21. Sébastien Bachollet, Bertrand de La Chappelle, Rita Rodin Johnston, and Mike Silber abstained from voting on the Resolution. The Resolution carried.

Thomas Narten requested that the proposed rationale be modified to include some historical information on the introduction of single character names in TLDs, and the Chair and Bruce Tonkin confirmed this request. Staff agreed to present the additional information in the rationale statement provided to the Board with the proposed meeting minutes.

Rationale for Resolution 2011.01.25.21
Why the Board is addressing the issue now?

On 8 October 2010 Telnic submitted a request pursuant to ICANN's Registry Services Evaluation Policy (RSEP) to amend the .TEL Registry Agreement to allow the allocation of numeric-only (excluding single-digit) domain names in .TEL. ICANN advised Telnic that an amendment to Appendices 6, Schedule of Reserved Names, and S, the Charter, would be necessary to implement the new service. ICANN determined the amendment was a substantial change to the Registry Agreement; therefore, Board consideration was necessary. Telnic had on 11 August 2010 submitted a RSEP request to allocate single and two-character ASCII names and that request was approved on 18 November 2010.

What are the proposals being considered?

The Board considered whether or not to approve the proposed amendment to allow the allocation of numeric-only (excluding single-digit) domain names in .TEL.

What Stakeholders or others were consulted?

The proposed amendment was subject to public comment from 14 October 2010 through 13 November 2010; four comments were received, one was supportive, one did not address the merits of the proposal but made a suggestion to enhance it, one raised a potential issue, and the last one was the response from Telnic. ICANN asked Telnic to address the issues raised in the public comment forum and by ICANN, which Telnic and .TEL's delegated policy-making authority "the IPAG" did by submitting each one a letter to ICANN.

What is the history of single-letter domain names?

As stated in the GNSO's Reserved Names Working Group Final Report, dated 23 May 2007 ("RN-WG Report"), "[it] appears that the original purpose for reserving the single characters was driven by technical concerns," which the Report concluded were no longer applicable. The technical concerns were largely believed to be centered in reserving single-letter strings at the second-level to allow for future expansion of the name space. In light of this conclusion, the RN-WG Report recommended "that single letters and digits be released at the second level in future gTLDs, and that those currently reserved in existing gTLDs should be released." The RN-WG Report may be found at http://gnso.icann.org/issues/new-gtlds/final-report-rn-wg-23may07.htm.

Since the RN-WG released its report in 2007, eight (i.e., .BIZ, .COOP, .INFO, .JOBS, .MOBI, .PRO, .TEL, and .TRAVEL) of the seventeen gTLD Registries under contract with ICANN have sought (via RSEP requests) and received approval for the release of single-character names at the second level. Registries that have been approved to allocate these previously reserved names are doing so via Request for Proposals, auctions, and first-come-first-served mechanisms.

What concerns or issues were raised by community?

One commenter raised the following issue in the public comment forum: 1) whether the proposal might constitute a fundamental change to the TLD; and as a corollary, 2) whether the delegated policy-making authority was followed.

What significant materials did Board review?

While considering the proposed amendment, the Board reviewed the following materials: the request from Telnic for a new registry service <http://www.icann.org/en/registries/rsep/telnic-request-08oct10-en.pdf>; the proposed amendment subject of the Board resolution <http://www.icann.org/en/tlds/agreements/tel/proposed-tel-amendment-2-14oct10-en.pdf>; public comments related to the amendment <http://forum.icann.org/lists/tel-numeric-only-domains/>; a letter from .TEL's IPAG addressing the issues raised <http://www.icann.org/en/registries/rsep/conroyto-pritz-25nov10-en.pdf>; and a letter from Telnic addressing the issues raised <http://www.icann.org/en/registries/rsep/mahdavi-to-schwartz-07jan11-en.pdf>.

What factors the Board Found to be Significant?

1.   ICANN conducted the threshold security, stability and competition review on the proposed service pursuant to the RSEP, and did not identify any significant issues. Numeric-only names have been allowed in 14 gTLDs and several ccTLDs for years without harm to the security or stability of the Internet. From a purely technical point of view, there is no difference on what TLD allows the numeric-only names, therefore there is no new issue created by this proposal. ICANN advised Telnic that an amendment to Appendices 6, Schedule of Reserved Names, and S, the Charter, would be necessary to implement the new service.

Additionally, the RN-WG recommendations (noted above in history) for new gTLDs included that single and two-character numeric-only strings should be reserved at the top-level based on technical concerns. The RN-WG further noted that "if sufficient research at a later date demonstrates that the technical issues and concerns are addressed, the topic of releasing reservation status can be reconsidered." The RN-WG recommendation also included that these names be released at the second level in future gTLDs, and that those currently reserved in existing gTLDs should be released. The RN-WG did not address numeric-only strings beyond two characters as they are already permitted in a majority of gTLD registries and do not raise technical concerns. Registries that have restrictions against numeric-only strings do so at their discretion as a contractual element of their Registry Agreement with ICANN.

2.   The proposed amendment was available for public comment from 14 October 2010 through 13 November 2010; four comments were received, one

was supportive, one did not address the merits of the proposal but made a suggestion to enhance it, one raised a potential issue, and the last one was the response from Telnic. The comment period produced no clear consensus view on whether or not the amendment should be approved; each commenter provided input suggesting a different path, and some issues, described above, were noted.

3.   The comment from Tim Ruiz (registrar GoDaddy.com, Inc.) suggested that the proposal might constitute a fundamental change to the purpose of the TLD. Ruiz further added that Telnic's promise not to allow numeric-only second-level registrations was a fundamental aspect of its application and a primary reason why .TEL was awarded to Telnic and not Pulver (another bidder for .TEL sTLD at the time). He concluded that this request should not be granted without requiring the rebidding of the .TEL sTLD itself, giving an opportunity for others to bid competitively.

4.   Khashayar Mahdavi, CEO of Telnic Limited (.TEL registry) submitted a response to Tim Ruiz's comment. He stated that the proposal is not a fundamental change to the nature of .TEL, since the restriction on all-numeric strings has nothing to do with the nature of .TEL and was instead a measure put in place to address initial concerns about potential conflicts with ENUM. He stated that .TEL's purpose, as described in its Charter, is to serve the community of users who wish to use a TLD to store and publish their contact information in the DNS.

5.   In response to ICANN's request, .TEL's policy-making body, IPAG provided additional information in a letter on 25 November 2010 explaining the policy development and approval process that was followed, in order to develop the RSEP request.

6.   In the same letter, the Chairman of the IPAG, Lawrence Conroy, a well-recognized ENUM expert, explained why the proposal does not create a technical issue with ENUM. Conroy stated that "*In this proposal, single-digit labels (such as 1.tel or 4.tel) are reserved, rather than continuing to apply a blanket prohibition of all numeric labels (such as 3663.tel); that is not needed or useful. By blocking all single digit labels, the root of an ENUM tree cannot be placed directly in .tel. ENUM simply doesn't work with multi-digit labels. Telnic did not and does not intend to launch any alternative to ENUM, and has a long standing agreement with ICANN that this will be the case for .tel.*" (the letter is included in the Annex).

7.   In a letter from Telnic on 7 January 2011, in response to ICANN's request, Telnic explained why they believe the proposal would not cause confusion between a numeric-only name under .TEL and what might be considered to be a corresponding telephone number. Telnic noted the issue has not been raised before, that adequate tools exists to deal with instances of actual

user confusion and/or misrepresentation, and that other TLDs already offer such names without restriction or problems. Lastly, Telnic remarked that should user confusion be identified as an actual problem; their IPAG is well qualified to address any issues that may arise.

8. .TEL is one of the two gTLDs that is prohibited from allocating numeric-only domain names. By approving the proposal, .TEL would be in a better position to compete with the rest of the gTLDs in the market, which in turn, would provide more options to registrants.

Are there Positive or Negative Community Impacts?

By approving the proposed amendment, the gTLD market will be more competitive by allowing .TEL to have a similar offering to the rest of the gTLDs, and more importantly, the registrants will have more options to choose for registration.

Are there fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public?

There are no foreseen fiscal impacts/ramifications of approving this amendment on the Strategic Plan, the Operating Plan, Budget, the community, or the public.

Are there any Security, Stability or Resiliency issues relating to the DNS?

The proposed service related to the amendment was subject to the preliminary security and stability review pursuant to the Registry Services Evaluation Policy. ICANN did not identify any security, stability or competition issues: http://www.icann.org/en/registries/rsep/arias-to-shadrunov-14oct10-en.pdf <http://www.icann.org/en/registries/rsep/arias-to-shadrunov-14oct10-en.pdf> .

6. CEO's Report

The Board received a report from the CEO on progress since the Cartagena meeting. The CEO thanked the Board for its acknowledgement of the preparatory work being done by staff in advance of the Board/GAC consultation. Te CEO also provided an update on the planning for the Silicon Valley/San Francisco meeting, including the increase in sponsorship opportunities available at that meeting as a means to enhance the event while keeping the ICANN-budgeted amount flat.

The Chair thanked the CEO and staff for the work to include rationale within the Board papers, and the GAC advice work.

Bruce Tonkin noted that there were community concerns regarding the jump in sponsorship levels, and inquired as to whether the levels introduced for the

Silicon Valley/San Francisco meeting would remain static for future ICANN meetings.

The CEO noted that sponsorship opportunities provide businesses with a means to promote themselves and build brands, and is a way to defray the costs and/or to upgrade the ICANN meetings. The CEO cited to the IGF model of fully self-funding meetings, while recognizing that ICANN's history with meetings requires that there be certain levels of funding and technical support available for consistency. In order to upgrade the Silicon Valley meeting without raising the budget, a higher category for sponsorship was created. The Chair noted that in advance of determining sponsorship levels for future meetings, there should be a review of the program, with a focus on both raising money to alleviate budget concerns, and doing so in a way that is fair and transparent to all.

Bertrand de La Chapelle questioned the comparison with the IGF, particular given the three/year cycle of meetings with ICANN as opposed to the once/year meetings of the IGF. Bertrand raised the question about the connection between sponsorship level and the ability to present materials and activities to the ICANN community, and whether the act of sponsoring a meeting is a commercial activity.

The CEO clarified that he does not see the ICANN meetings as commercial activities – they are not. Rather the sponsorship of the meeting is a commercial activity for those who seek visibility through their sponsorship.

The Chair noted that it's important to recall that those who do not sponsor ICANN meetings still participate ICANN meetings.

Ram Mohan inquired about the staffing resources to support the IDN Variant Management Project.

The CEO noted that Naela Sarras was appointed to replace Tina Dam as the Director of IDN's. Naela previously worked in the IANA Functions Department. The CEO also noted that outside consultants would be used for a lot of the work on the IDN Variant Management Project.

Sébastien Bachollet noted the political as well as the commercial activity that sponsorship can represent, and the need to account for the possibility that those without money also have items to share with the community.

The CEO clarified that the privileges afforded to sponsors should only be commercial privileges; there is no relationship to ICANN policy work and other activities of ICANN and the community. The CEO requested the Board to share with him any concerns that something is bundled into sponsorship privileges that shouldn't be there.

George Sadowsky inquired about the inclusion of a 90-minute session on the ICANN meeting schedule for the top-level sponsors, and how that may interfere with other scheduled matters for the week of the meeting.

The CEO confirmed that the speaker slot issue raised by George was an important question and should be reviewed prior to defining the sponsorship opportunities for the meeting in Asia.

Mike Silber noted that a few years back, a decision was taken that meetings should not be run solely through the funding of local sponsors and should not be viewed as zero-cost activities. If there's any change to that decision, a Board committee should be involved in that work.

The CEO clarified that there is no intention to run the meetings as a zero-cost activity; the increase in sponsorship opportunity will provide enhancements to the meetings, and for the Silicon Valley meeting will cover the cost of the Gala, as that responsibility has fallen to ICANN. The meetings are being run to the budget approved by the Board.

The Chair noted the import of this conversation, and noted that the Public Participation Committee could address many of these questions.

Rita Rodin Johnston noted that there was some confusion in the community regarding the change in sponsorship levels, and requested that staff be more explanatory and transparent in presenting changes to the meetings.

The CEO noted that as the organization is becoming more professional, concerns have been raised that ICANN may be working to achieve profits, which is a misperception. Management is working to run a world-class nonprofit, and if any perceptions are to the contrary, the CEO offered to talk that through with the Board.

7. **Strategic Plan**

Kurt Pritz provided a short briefing on the status of the strategic plan work, scheduled for approval at the Silicon Valley/San Francisco meeting. Kurt noted there were telephonic consultations with the ccNSO, the GNSO and the ALAC, and a redlined draft addressing public comment was produced. In addition, the Board working group met with staff to discuss changes to the plan, including a better identification of areas where ICANN is in control of outcomes and the areas within which ICANN simply has influence – such as the number of TLDs that sign the root. Another change was to provide more measurable objectives in each section. There were some specific objectives that were added, as well as better definition of terms. To complete the work on the Strategic Plan, there will be a review of the recently-ended public comment, and a new version will be presented in advance of the Silicon Valley/San Francisco meeting.

8. Rationale documents

The General Counsel and Secretary provided a presentation on the work to create three levels of rationale documents based upon the complexity of the issue under consideration for the Board, as represented in the papers for this meeting. The first is a long-form explanation, identifying all of the items addressed and considered as part of the decision, as with the cross-ownership rationale. The .TEL rationale statement is an example of the second level of statement, where it is briefer. The third level of statement is for the more administrative matters or more easily-considered matters, to show the basis for the decision in a briefer fashion. The General Counsel and Secretary called for continued feedback from the Board on how these documents can be improved.

George Sadowsky asked for a clarification on the purpose of the rationale documents. Are they showing the straight line to the decision, or It was noted that this work will continue to evolve and feedback is welcome. The Board discussed the difference between rationales and minutes of meetings, and the scope of rationale documents to present issues considered, materials viewed, and reasons why items were rejected or accepted.

Rita Rodin Johnston noted her understanding that rationale statements are not to be minutes, which record discussions and votes. The rationale statements provide the rationale underlying the Board's decisions – what papers did the Board consider; arguments the Board heard; the pros and cons of undertaking the decision; and other relevant items. The rationale statements are not to record specific Board member thoughts or dissention.

The Chair noted that the Board seemed to be in agreement on the purpose for the rationale, though there are specific decisions undertaken by the Board that may require more detail, such as the work on economic studies. Both George and Rita are correct; not every issues needs a complete summation, but there may be times when a higher level of detail is appropriate in a rationale statement. The Chair acknowledged that the organization will continue to refine this practice.

The General Counsel and Secretary noted that within the discussion of the proposed rationale statements, if the Board noted anything that is missing, that should be raised. The papers set forth a majority view of the Board.

The Chair confirmed that the general sense is that the community wants to see an outline of the issues considered, the materials reviewed, and why items were rejected or accepted. The position of individual directors will be recorded in the minutes.

a. Economic Studies – adopting rationale

The General Counsel and Secretary presented the work done to build a detailed rationale for the Board's actions regarding economic studies within the New gTLD program. As Board members had already provided some comments prior to the Board meeting, a note was made that some improvements could be made to the paper.

The Chair opened the floor to discussion.

Katim Touray requested that the Board's resolution make clear that this is the Board's rationale statement, and not a statement from staff.

Sébastien Bachollet and Thomas Narten indicated that they had suggested editorial changes.

Rita Rodin Johnston noted that the proposed statement generally captured the Board's position.

The Chair invited the Board to work with the General Counsel on editorial suggestions, and inquired about high-level issues that the Board may wish to discuss. The Chair invited the Board to provide editorial comments to the General Counsel as soon as possible after the meeting.

The General Counsel confirmed that any comments would be processed into a new version and circulated to the Board for consideration, with the rationale statement to be finalized for publication in the Board's meeting minutes. The Preliminary Report of the minutes would indicate that the rationale statement is still being edited.

The Chair then moved the proposed resolution, noting that there would be a period for wordsmithing of the text of the rationale, and Rita Rodin Johnston seconded.

Bertrand de La Chappelle noted that he had proposed changes to the resolution text and discussed the content of his proposed insertions.

Heather Dryden requested that any resolution taken not indicate that the Applicant Guidebook will be finalized or approved at the Silicon Valley meeting, as that is not the expectation of the GAC.

The Chair and Rita cautioned that any resolution be focused on the approval of the rationale relating to the Board's decision on Economic Studies, and should not go beyond the scope of that issue.

Rita then raised a question of how public comment on phase 2 of the New gTLD Economic Study would be taken into account, as well as the advice from the GAC, if this resolution is approved at the meeting.

The Chair confirmed that though ICANN will not be doing further studies, it will listen carefully to all the advice that will be provided regarding the studies that have been completed.

The CEO noted that it is important to listen to the community to see if they have further insights to provide based upon the studies taken to date.

The Chair confirmed with General Counsel that the resolution noted that there has been consideration of the rationale, it is being finalized, and will be made a part of the minutes.

The Board then took the following action:

Whereas, on 10 December 2010, the Board recognized that the overarching issue of the call for economic analysis, has been addressed by comprehensive expert consultation and analyses, including reports by CRA International, Dennis Carlton, Michael Katz and Greg Rosston. http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#2.

Whereas, on 10 December 2010, the Board acknowledged that with respect to the call for economic analysis, ICANN is in the process of receiving and reviewing public comment, and the Board will take into account that public comment including the advice of the GAC and directed staff to make change http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#2.

Whereas, all economic studies have confirmed the overall benefits of continuing to open the domain name space, in terms of enabling innovation, increasing choice and fostering a healthier competitive environment.

Whereas, the introduction of detailed rules and safeguard mechanisms via community comments in the successive versions of the draft applicant guidebook is the appropriate way to minimize the potential costs related to the implementation of this policy and optimize the use of the domain name space as a common global resource

Whereas, in order to avoid the opportunity costs of further delays, efforts should now be focused on finalizing those mechanisms, during the Board-GAC meeting in February and the community interaction at the Silicon Valley meeting in March.

Whereas the CEO shall continue to ensure that staff takes into account public comment on New gTLD Economic Study Phase II, as well as the advice of the GAC on the call for economic studies, and make revisions as appropriate to the Final Applicant Guidebook.

Whereas the CEO will carefully watch timing of implementation and fulfill ICANN's obligations under the Affirmation of Commitments that if and when new gTLDs have been in operation for one year, ICANN will organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in the introduction or expansion.

Whereas, the Board has considered rationale for making this decision and is in the process of revising the rationale, which will be made part of the minutes from this meeting upon approval.

RESOLVED (2011.01.25.22), the Board will not commission any further economic studies on new gTLDs in advance of making its decision on the launch of the new gTLD Program as the Board has determined that no further commissioned economic studies could better inform the Board's decision.

Fifteen Board members voted in favor of Resolution 2011.01.25.22. Rita Rodin Johnston opposed the Resolution. The Resolution carried.

Rita noted her belief that the rationale is appropriate, as well as the resolution, but is concerned from a governance perspective on the process of discussing the context of resolutions on the fly. In addition, Rita raised a concern – as noted before – that the public comment on this issue just closed yet the Board is passing a resolution based upon those comments.

Rationale for Resolution 2011.01.25.22

Pursuant to the Board's resolution, the rationale as discussed during the meeting is provided [Insert Link].

b. Cross-ownership - adopting rationale

The Board noted that all previously declared conflicts of interest on this topic remained, and that it was not necessary for the conflicted members and liaisons to leave the meeting for the discussion so long as they refrained from participating in the discussion.

The Chair invited discussion on the high-level issues within the rationale, and whether the proposed statement captures the cross ownership debate.

George Sadowsky noted that he was not aware of the opportunity to provide comments before hand, he did not have a chance to provide suggested wording that may remove his objection. George indicated that he will vote against the resolution.

Sébastien Bachollet requested that some of the history of the cross-ownership issue, such as inclusion of terms in the .COM and .NET registry agreements, be included in the rationale statement.

The General Counsel confirmed that historical information could be inserted.

The Chair noted that there would be a brief period after the meeting to provide wordsmithing suggestions on the rationale statement, which would be posted with the Preliminary Report of the meeting.

Katim Touray presented some proposed amendments to the resolution for the Board's consideration.

Ray Plzak raised the question of why the Board has to vote on the rationale, and why the publication of a rationale is not sufficient. Ray noted that he would be voting no on the resolution because of this issue.

The Chair noted that Ray's position seems to be that there does not need to be a vote on the rationale, but that Ray did not indicate opposition to the actual text of the rationale.

The Chair then moved, and the Steve Crocker seconded the following resolution:

Whereas, on 5 November 2010, the Board passed a resolution on the issue of cross-ownership between registries and registrars for the New gTLD Program. *http://www.icann.org/en/minutes/resolutions-05nov10-en.htm*.

Whereas, the Board has reviewed and considered a Proposed Rationale explaining the Board's decision.

RESOLVED (2011.01.25.23), the Board adopts the Proposed Rationale as the Rationale for the Board's decision on cross-ownership between registries and registrars in the New gTLD Program.

Nine Board members voted in favor of Resolution 2011.01.25.23. Ray Plzak, George Sadowsky, Katim Touray and Kuo-Wei Wu opposed the Resolution. Sébastien Bachollet, Bertrand de La Chappelle, and Bruce Tonkin abstained from voting on the Resolution. The Resolution carried.

Rationale for Resolution 2010.01.25.23

The rationale approved by the Board is provided here: [INSERT LINK].

9. Board/GAC Consultations

a. Process for Consultations

The General Counsel and Secretary described the work done to date to form a proposed process for consultations with the GAC, starting with a proposal drafted after the Cartagena meeting, and incorporating revisions from Board members to create a single process document, and noted that there is ongoing discussion on the formation of a process.

The Chair described that a Board working group was formed to address the consultations, with the identification of topic leaders, and a series of calls planned to clarify positions on issues. The Chair noted that the goal is to reach a Bylaws consultation with the GAC at the Silicon Valley meeting. The Chair explained that because the consultation in Brussels is such a short time before the Silicon Valley meeting, ICANN will be unable to finalize the guidebook at the San Francisco meeting.

Heather Dryden noted a concern that the Board appeared to be moving in a direction to adopt a final process, while the GAC is expecting to be able to review and comment and come to an agreement over what the process would look like. Within the process as provided within the materials, Heather expects the GAC to have comments, though it will be a useful draft for the GAC to respond to. Heather requested that any action on this item by the Board allow an opportunity for the GAC to influence and make changes to the process.

The Chair confirmed that the Board would not be setting up a generic process and then trying to use it at the Silicon Valley meeting; rather, there will be a consultation with the GAC and that will help develop a generic process for the future. The Chair noted that the Board is not going to allow a delay in identifying the ideal consultation process to hold up the upcoming Bylaws consultations that will be necessary on .XXX and New gTLDs. The Chair agreed to call the document as presented to the Board a draft to allow for GAC input, noting that improvements will likely be identified through the actual consultation process.

Heather responded that there will likely be GAC comment on the proposed process, and that further refinements after the first consultation could be useful. However, Heather questioned whether Board action on the proposed process would send the incorrect message that the process has been decided.

Ray Plzak queried whether the Board could identify the generic process as the one that would be used only for the first consultation, as opposed to setting an expectation that it would be the process for all future consultations.

Heather advised against making a determination that the proposed process would be used in its current form for the first Bylaws consultations, absent GAC input on the process.

The Chair recommended that that this agenda item could be for discussion only, and Ray and Heather agreed that no resolution was necessary at this time, so long as the communication on the formation of a process continued. The Chair agreed to send the proposed process to the GAC as an idealized version.

Ray confirmed that the Chair's suggestion matched the sense of the Board, as did Steve Crocker.

The CEO noted his support for Ray's comments, and clarified the staff position on this item. While staff preferred a tighter definition of the process, it was relaxed in response to Heather's feedback regarding GAC concerns. There is need to have a process that shows that the Bylaws are being met, and that may be achieved through a concise, defined process. The iterations of the proposed process were provided to the Board on multiple occasions. The CEO noted his focus on having clear processes to achieve a productive meeting in Brussels, as ICANN is spending nearly half a million dollars to produce the event.

The General Counsel, in support of the CEO's statement, noted that staff prepared an tighter alternative version of the process that could be shared with the Board to consider, and determine which version to send to the GAC for discussion.

Rita Rodin Johnston supported the General Counsel's offer to share the additional version, and requested that Board members had an opportunity to send comments on either version to staff prior to making a decision as to which version to send to the GAC.

The Chair agreed with Rita's suggestion, so that the sense of the Board could be identified in regards to the selection of a process. The Chair requested for the alternative wording to be provided by staff, and then the Board would work through any additional wording or comments.

b. New gTLDs

The Chair then turned to the specific issue of the Brussels consultation on New gTLDs, to trigger the Bylaws consultation in San Francisco.

Heather Dryden noted that the materials presented to the Board regarding a proposed process for the Brussels consultation on New gTLDs had not yet been agreed to by the GAC, and that she had not yet seen the documentation. While the documentation reflected many of the conversations between her and the Chair of the Board, there are items that require further reflection from the GAC and refinement. Heather stated that the information should have been presented earlier, and not part of a packet of Board materials, and as the GAC has not had the opportunity to review these materials and comment, Heather requested that

the documents not be published. There are some points within the documents that are not agreed among the Board and the GAC. Heather also proposed some alternative language for the Board's resolution on this topic to make clear that the Applicant Guidebook will not be finalized and approved at the Silicon Valley meeting, against GAC expectations. The GAC still remaining issues with the Applicant Guidebook that it considers significant and substantive, though it is not seeking to reopen the conversation on all issues.

The Chair confirmed that Heather's amendments to the resolution could be considered so long as the Bylaws consultation is triggered by this amendment.

Gonzalo Navarro requested that this Bylaws consultation triggering amendment be made very clear.

The General Counsel provided language to meet the Board's requests.

The Chair moved and Mike Silber seconded the following resolution:

Whereas, the ICANN Board and ICANN's Governmental Advisory Committee (GAC) has scheduled a meeting from 28 February – 1 March 2011 in Brussels, Belgium ("Meeting") to discuss a specific list of issues raised by the GAC relating to the New gTLD Program as follows ("Topics"):

• The objection procedures including the requirements for governments to pay fees;
• Procedures for the review of sensitive strings;
• Root Zone Scaling;
• Market and Economic Impacts;
• Registry – Registrar Separation;
• Protection of Rights Owners and consumer protection issues;
• Post-delegation disputes with governments;
• Use and protection of geographical names;
• Legal recourse for applicants;
• Providing opportunities for all stakeholders including those from developing countries;
• Law enforcement due diligence recommendations to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué; and
• The need for an early warning to applicants whether a proposed string would be considered controversial or to raise sensitivities (including geographical names).

Whereas, the Meeting is not intended to be the consultation mandated by Article XI, section 2, paragraph 1(j) of the ICANN Bylaws.

Whereas, the Board wishes to trigger the Bylaws mandated consultation to take place during ICANN's Silicon Valley/San Francisco ("SV/SF") meeting scheduled for 13-18 March 2011.

Whereas, the Board intends for the Bylaws mandated consultation during the SV/SF meeting to be limited to the Topics discussed during the Meeting.

Resolved (2011.01.25.24), the ICANN Board hereby determines that it intends to progress toward launching the New gTLD Program, as close as practically possible to the form as set out in the Proposed Final Applicant Guidebook.

Resolved (2011.01.25.25), the Board hereby determines to take actions on the Topics listed above that, at present, are not consistent with GAC advice.

Resolved (2011.01.25.26), the ICANN Board hereby triggers the consultation as provided for in ICANN Bylaws section Article XI, Section 2, Paragraph 1(j), which shall take place on Thursday, 17 March 2011, during the ICANN SV/SF meeting.

Resolved (2011.01.25.27), the Bylaws-mandated consultation triggered above shall be limited to the Topics discussed at the Meeting for which the Board has not changed its position during or after the Meeting, and that remain not consistent with GAC advice.

All Board members in attendance approved of Resolutions 2011.01.25.24, 2011.01.25.25, 2011.25.26, and 2011.25.27.

Heather Dryden re-stated her concern that the process included in the Board book not be published, as a statement that the papers represent the current agreement of the parties is not entirely accurate. The papers should not be published without input from the GAC and incorporation of GAC comments.

The Chair confirmed that he and Heather would continue a dialogue on that topic.

Sébastien Bachollet then inquired as to whether travel support could be added for the Chairs of ICANN Sponsoring Organizations and Advisory Committees to attend the Brussels consultation.

The Chair stated his view that while having the SO and AC Chairs online could be helpful, the Chairs are often not authorities on any particular topics identified for discussion, and the focus at the consultation should be on expert participation. The Chair informally polled the Board on the topic, and many were opposed to the idea.

The Chair noted that though, at first sight, it seems to be a good idea, there is no assurance that they would be in a position to contribute to the debate; just having them at a meeting when they can't say anything seems to be a high level of cost without much gain.

Steve Crocker inquired as to any Chairs actually wanted to come, so that ICANN would not be creating an impression that they are obligated to attend. The meeting is already quite large. However, Steve indicated that if there was a situation where a Chair really needed to attend but could not afford to, it may be appropriate for some assistance to be worked out.

Sébastien stated that he was aware of at least three persons who were trying to attend even if no travel support from ICANN was forthcoming. Sébastien raised the concern of showing the community that ICANN will support only part of the community.

Bruce Tonkin noted that inviting just the Chairs may create more problems than are solved, as others will want to attend as well. The entire meeting will be transcribed. No decisions will be taken in Brussels. The GAC Consultation is not intended to be a dialogue with the community in general, but a dialogue between the Board and the GAC, which is open to all to listen.

The Chair agreed with Bruce, highlighting the idea that the Brussels meeting is not a community consultation. The Chair noted that while there did not seem to be support for adding travel support as proposed, further conversation could continue online regarding this item.

Rationale for Resolutions 2011.01.25.24 – 2011.01.25.27

Both the Board and the GAC have identified a need to have a consultation regarding the outstanding issues relating to the proposed launch of a new gTLD program. Both parties have agreed that this is the correct time to have this consultation. The Board will review all of the papers (including supporting materials and references) prepared for the meeting in consideration of GAC advice. Further, the Board has consulted with all stakeholders throughout the process for posting and revising each version of the Applicant Guidebook on issues identified by the GAC. The particular issues raised by the GAC that will be addressed at the Meeting are found in the GAC Cartagena Communiqué. http://gac.icann.org/press-release/gac-2010-communique-39.

Conducting the Meeting and the Bylaws Consultation between the Board and the GAC should have a positive impact on the community. It assures the entire community that the Board is taking the comment process and its Bylaws requirements seriously and hopes to achieve as much consensus as possible.

There will be a significant fiscal impact on ICANN's budget as a result of the Meeting, which will require additional resources for travel, accommodations,

meeting space and related expenses. This includes expenses for some GAC members, Board members, staff members and possibly other representatives. GAC members that are not funded to this Meeting may also feel some fiscal impact if they choose to attend the Meeting in person. There are no security, stability or resiliency issues relating to the DNS that will result from holding the Meeting or the Bylaws Consultation.

c. ICM

The General Counsel and Secretary introduced a resolution that clearly adopts the position of the Board of where the questions are for a Bylaws consultation with the GAC on ICM.

The Chair confirmed that the resolution would authorize the transmission of a letter containing all the material regarding the Board's identification of GAC advice on this topic.

The CEO moved and Katim Touray seconded the following resolution:

Whereas, at its meeting in Cartagena, Colombia, the Board noted its agreement with the staff's assessment of potential conflicts with GAC advice if the Board proceeds with its determination to enter a registry agreement with ICM Registry for the .XXX sTLD, and invoked the GAC consultation process. See *http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#4.*

Whereas, during the meeting in Cartagena, the GAC sought affirmative statements from the Board on its positions on ICM-related items.

Whereas, in an attempt to make a future consultation with the GAC as productive as possible, the Board position on all items of GAC advice are clearly set forth in an attached document.

RESOLVED (2011.01.25.28), the Board directs staff to provide the GAC with the document setting forth the full Board position on items of GAC advice. The Board positions set forth correspond to the items identified for consultation at the Board's 28 October 2010 meeting.

Ten members of the Board approved of Resolution 2011.01.25.28. Cherine Chalaby, Rita Rodin Johnston, Erika Mann, Rajasekhar Ramaraj and Kuo-Wei Wu were unavailable to vote on the Resolution. Sébastien Bachollet abstained from voting on the Resolution.

Bruce Tonkin then inquired as to whether the actual date for the Bylaws consultation on the ICM matter was defined, as it was not set forth in the resolution.

The Chair noted that there was not a definite date set, though there was an earlier indication that the GAC and Board would try to do so in Brussels if there was time.

Bruce noted that out of courtesy to ICM there should be some indication of timing.

The CEO proposed that 17 March be specified for the ICM Bylaws consultation, noting that staff is prepared to have it earlier. However, if there is not time for the ICM consultation in Brussels, having an additional meeting prior to the Silicon Valley meeting would be extremely expensive, unless the meeting could happen by telephone.

Bruce stated that the only two real alternatives are in Brussels or in San Francisco, and the Chair of the GAC indicated that the agenda for Brussels is full on New gTLD matters. Bruce recommended that it should be formally scheduled for San Francisco.

The Chair raised the possibility that the consultation with the GAC may be very short on the ICM issue, if the areas of disagreement are low. The Chair then accepted a proposal requiring the consultation to be completed no later than 17 March.

Heather Dryden confirmed that the idea of a 17 March consultation on ICM was presented to the GAC, but she did not have feedback on the idea. While there is the possibility for timing to allow the ICM consultation to proceed in Brussels, Heather noted that with the full schedule, it is unlikely.

Bruce Tonkin then moved and the CEO Seconded the following Resolution:

RESOLVED (2011.01.25.29), the ICANN Board hereby establishes that the consultation on ICM as triggered in Cartagena and as provided for in ICANN Bylaws section Article XI, Section 2, Paragraph 1(j), shall take place no later than Thursday, 17 March 2011.

Ten members of the Board approved of Resolution 2011.01.25.29. Cherine Chalaby, Rita Rodin Johnston, Erika Mann, Rajasekhar Ramaraj and Kuo-Wei Wu were unavailable to vote on the Resolution. Sébastien Bachollet abstained from voting on the Resolution.

   Rationale for Resolutions 2011.01.25.28 – 2011.01.25.29
As the Board has continued in its consideration of ICM's application for the .XXX sTLD, on 28 October 2010, the Board identified areas requiring consultation with the GAC prior to the Board entering a proposed Registry Agreement with ICM, as certain pieces of GAC advice may not be consistent with the Board's anticipated

action. The Board's obligation to consult with the GAC arises out of Article XI, Section 2.1(j)-(k) of the ICANN Bylaws, and the Board formally invoked the consultation process at its meeting in Cartagena. In order to make the consultation as productive as possible, and to address the GAC's concern that it receive the Board's position on whether entering into a Registry Agreement with ICM would be inconsistent with GAC advice, the attached provides further detail and specific citations to support the Board's position on each piece of GAC advice.

The provision of a comprehensive Board position document is likely to result in a positive impact on the public. The position document provides detail and explanation that will benefit the entirety of the ICANN community as the discussions surrounding the anticipated approval of a Registry Agreement for the .XXX sTLD continue. The forwarding of this document does not pose any fiscal impact on ICANN, the community or the public, however there may be additional costs and expenses incurred in facilitating the consultation between the Board and the GAC, including travel and lodging expenses. The provision of the position document will not have any impact on the security, stability or resiliency of the DNS.

10. Report on AOC Reviews including ATRT Recommendations – Next Steps

The Board held a quorum call and assessed that eleven voting members remained in attendance.

Mike Silber requested a more fulsome briefing with staff regarding the ATRT recommendations outside of the Board meeting. The CEO confirmed that a meeting would be arranged.

Steve Crocker then moved and Mike Silber seconded the following resolution:

Whereas, the Affirmation of Commitments required ICANN to organize a review – to be completed no later than December 31, 2010 – of its execution of commitments to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders;

Whereas, as required by the Affirmation, the Accountability and Transparency Review Team (ATRT) submitted its final report to the Board on 31 December 2010 and posted it for public comment through 14 February 2011;

Whereas, the Affirmation states that the Board will take action on the resulting recommendations within six months of receipt of the report;

RESOLVED (2011.01.25.30), the Board acknowledges the hard work and dedication of ICANN's ATRT members and thanks these volunteers for engaging in an intensive, public process, under challenging deadlines, to produce a comprehensive set of recommendations to improve ICANN;

RESOLVED (2011.01.25.31), the Board encourages the public to comment on the ATRT recommendations, and requests that all Supporting Organisations and Advisory Committees, and the Nominating Committee, provide the Board with initial input on the Report, by 14 February 2011, and that the Governmental Advisory Committee and the Nominating Committee work with the Board to consider actions on recommendations related to their organizations;

RESOLVED (2011.01.25.32), the Board requests that ICANN Staff provide the Board with a proposal for Board action on each recommendation and, where practicable, proposed, initial work plans and budgets for the recommendations, along with a status report on efforts related to all recommendations, by 21 February 2011, taking into account all input received.

Ten members of the Board approved of Resolutions 2011.01.25.30, 2011.01.25.31, and 2011.01.25.32. Cherine Chalaby, Rita Rodin Johnston, Erika Mann, Rajasekhar Ramaraj and Kuo-Wei Wu were unavailable to vote on the Resolution. Peter Dengate Thrush abstained from voting on the Resolutions.

The Chair noted the reason for his abstention is due to his service on the Accountability and Transparency Review Team, though he supports the thrust of the resolution.

Rationale for Resolutions 2011.01.25.30 – 2011.01.25.32

Adherence to the Affirmation of Commitments requires ICANN to undertake the creation of proposals for Board action on each recommendation arising out of Accountability and Transparency Review Team's (ATRT) Final Report. While this work is already underway, ICANN's commitment to accountability transparency is furthered through the transparent tracking of the process.

The community response to the ATRT's final recommendations is still being provided through the open public comment process. The creation of the proposal for Board action will have a budgetary impact on the organization. Significant staff resources will be devoted to the creation of the proposal, and the proposal itself will identify further budgetary considerations in the implementation of the recommendations. There is a potential that the financial resources of the organization may need to be reallocated to allow sufficient staff support to create a meaningful proposal.

11. New gTLDs

a. Rec6 Working Group Recommendations

Kurt Pritz noted that staff was looking to the Board to provide direction on this issue in advance of the meeting with the GAC in Brussels.

The Chair suggested that, due to lack of time, an informational call could be set up for discussion.

The CEO confirmed that a call would be set up on this item.

No action was taken.

Due to time constraints, no other items were considered. The Chair then adjourned the meeting.

PROPOSED RATIONALE FOR BOARD DECISION ON ECONOMIC STUDIES ASSOCIATED WITH THE NEW gTLD PROGRAM
(subject to revision, if necessary, based on recent public comment period)

Executive Summary

ICANN was formed to foster user choice, consumer trust and competition in the domain name system (DNS) marketplace, as recently reaffirmed in the Affirmation of Commitments. After creating competition with respect to Internet registrars, which ICANN accomplished shortly after it was formed in 1998, ICANN turned its attention to creating competition with respect to Internet registries and, in particular, allowing for additional Top Level Domains (TLDs) to be created. ICANN's first efforts in this respect was the proof of concept round of a limited number of new generic TLDs (gTLDs) in 2000, followed by the addition of a limited number of sponsored TLDs in 2004-05. These modest additions to the root demonstrated that additional TLDs could be added without adversely affecting the security and stability of the domain name system.

ICANN's Board then turned its attention to possible additional TLD expansions, and the Board sought direction from the GNSO. In August 2007, the GNSO issued a lengthy report, following an extensive policy development process, in which the GNSO recommended that ICANN permit a considerable expansion in the number of new gTLDs.

Subsequent to the issuance of the GNSO's report, ICANN has commissioned several economic studies to inform the development of implementation procedures on a number of issues, including whether additional gTLDs would create competition at the registry level, whether new gTLDs should have price caps, and whether there should be restrictions on registry-registrar cross-ownership. ICANN intended the economic studies to address questions from the community (including the NTIA) about how to understand and balance costs and benefits of the new gTLD program.

Ultimately, ICANN obtained reports from several economists, including some of the world's leading economists who specialize in competition issues. Those economists generally supported an open approach in which new gTLDs would continue to be added to the root, subject to appropriate restrictions to address trademark and other competition concerns that ICANN has included in the gTLD Guidebook. Those studies greatly improved ICANN's understanding of the marketplace. Further, the studies made clear that the economists did not anticipate that the costs that might be associated with new gTLDs would outweigh the overall benefits of their introduction, and determined that it was too difficult to predict.

ICANN operates on the basic premise that competition law throughout the world is based upon, which is that increased competition is almost always valuable in order to stimulate innovation and consumer benefits. The studies that ICANN has commissioned have not demonstrated otherwise.

As a result, ICANN's Board has concluded that there is no economic basis that would justify stopping the New gTLD Program from proceeding and no further economic analysis will prove to be any more informative in that regard than those that have already been conducted.

Furthermore, the Board has determined that the numerous economic studies have sufficiently identified the key issues that require safeguards in the Applicant Guidebook and that it is now the responsibility of the Community and the Board to finalize the appropriate rules that will maximize benefits and reduce potential costs.

I.   History

ICANN's mission statement and one of its founding principles is to promote user choice, consumer trust and competition. ICANN has created significant competition at the registrar level, which has resulted in enormous benefits for consumers, including dramatically lower prices for second level domain names and considerable innovation in the registrar community. To date, however, ICANN has not enabled any meaningful competition at the registry level.

The ICANN Board is committed to making decisions based on solid factual investigation and expert analysis and ICANN has declared in the Affirmation of Commitments that it would continue to evaluate and analyze economic effects of the New gTLD Program.

The Board therefore commissioned several economic studies to inform its decision making on the New gTLD Program. This section contains a brief history of significant actions taken by ICANN to consider economic issues associated with the gTLD program.

In December 2005, the GNSO commenced a rigorous policy development process to determine whether (and the circumstances under which) new gTLDs would be added. A broad consensus was achieved in community deliberations that new gTLDs should be added to the root in order to stimulate competition further and for numerous other reasons.

In October 2006, unrelated to the proposal to develop new gTLDs, during a special telephonic meeting of the Board, the Board passed a resolution that requested that ICANN's President commission an independent study by a reputable economic consulting firm or organization to deliver findings on economic questions relating to the domain registration market. https://community.icann.org/display/tap/2006-10-18+-+Review+of+.BIZ%2C+.INFO+and+.ORG; http://www.icann.org/en/minutes/minutes-18oct06.htm. The Board's request for this study had nothing to do with the anticipated policy for new gTLDs, which the Board had not yet acted upon because the GNSO's report had not been completed.

Subsequent to this 2006 Board meeting, ICANN commissioned CRA International (CRAI) to perform an economic study. (For more information about CRAI, *see* http://www.crai.com.*)* By the time CRAI began its study, however, several other important economic issues had arisen in conjunction with the ongoing development of the New gTLD Program. As a result, ICANN Staff asked CRAI to focus on those issues in particular, including issues associated with common ownership of registries and registrars.

In August 2007, the GNSO issued its final report regarding the introduction of new gTLDs. http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-parta- 08aug07.htm.

In June 2008, the ICANN Board approved implementation of the new gTLD program. http://www.icann.org/en/minutes/resolutions-26jun08.htm.

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In October 2008, CRAI issued its report. http://icann.org/en/topics/new- gtlds/crai-report-24oct08-en.pdf.

After CRAI issued its October 2008 report, several members of the ICANN community requested that ICANN commission economic studies that would specifically address the possible economic consequences of new gTLDs. Although this was not the focus of the Board's resolution in October 2006, some commentators argued that ICANN should not proceed with new gTLDs until the Board received the results of the study the Board had requested in 2006. Accordingly, ICANN retained the services of economist Dennis Carlton, who recently had served as the chief economist to the United States Department of Justice Antitrust Division. Professor Carlton is one of the world's leading economic experts; he is based at the University of Chicago and is a member of the highly-regarded Compass Lexecon consulting firm.

In March 2009, Professor Carlton issued his first report, which states that ICANN retained him to analyze from an economic perspective ICANN's anticipated introduction of new generic top level domain names (gTLDs), and to identify and address the benefits and costs associated with ICANN's proposal. http://www.icann.org/en/topics/new-gtlds/prelim-report-consumer-welfare- 04mar09-en.pdf.

Also in March 2009, Professor Carlton issued a second report, which specifically addresses the question of whether new gTLDs should have price caps. http://www.icann.org/en/topics/new-gtlds/prelim-report-registry-price-caps- 04mar09-en.pdf.

In April 2009, economist Michael Kende submitted a report to ICANN entitled Assessment of Preliminary Reports on Competition and Pricing, on behalf of AT&T. Dr. Kende's report comments on Professor Carlton's March 2009 papers.

In June 2009, Professor Carlton submitted a report responding to Michael Kende's April 2009 Assessment of Preliminary Reports on Competition and Pricing. http://www.icann.org/en/topics/new-gtlds/carlton-re-kende-assessment- 05jun09-en.pdf.

Also in June 2009, Professor Carlton issued his fourth and final report, entitled Report of Dennis Carlton regarding ICANN's Proposed Mechanism For Introducing New gTLDs. http://www.icann.org/en/topics/new-gtlds/carlton-re- proposed-mechanism-05jun09-en.pdf.

On 30 September 2009, ICANN committed (via its Affirmation of Commitments with the U.S. Department of Commerce) to further analyze the effects of new gTLDs within one year of their introduction. http://www.icann.org/en/documents/affirmation-of-commitments-30sep09- en.htm.

In the fall of 2009, ICANN retained the services of well-respected economists, Professor Michael Katz from the University of California Berkeley and Professor Greg Rosston from Stanford University to conduct even further economic analysis.

On 16 June 2010, Professors Michael Katz and Greg Rosston issued their first report. http://icann.org/en/topics/new-gtlds/economic-analysis-of-new-gtlds- 16jun10-en.pdf.

On 3 December 2010, Professors Michael Katz and Greg Rosston issued their second report. http://icann.org/en/topics/new-gtlds/phase-two-economic- considerations-03dec10-en.pdf.

II. The Main Issues Addressed in the Economic Studies

A.   CRAI October 2008 Report

CRAI's report focuses on economic issues related to the new gTLD program, including issues associated with common ownership of registries and registrars. http://icann.org/en/topics/new-gtlds/crai-report-24oct08-en.pdf.

B.   Professor Carlton's March 2009 Consumer Welfare Report

Professor Carlton's first report states that ICANN retained him to analyze from an economic perspective ICANN's anticipated introduction of new generic top level domain names (gTLDs), and to identify and address the benefits and costs associated with ICANN's proposal. http://www.icann.org/en/topics/new-gtlds/prelim-report-consumer-welfare-04mar09-en.pdf. Professor Carlton reached three primary conclusions:

- ICANN's proposed framework for introducing new TLDs is likely to improve consumer welfare by facilitating entry and creating new competition to the major gTLDs such as .com, .net, and .org. *See* Carlton March 2009 Consumer Welfare Report, page 2.

- To the extent that the introduction of new gTLDs gives rise to intellectual property concerns, they can be addressed through existing legal mechanisms and appropriately designed ICANN procedures for protecting intellectual property. It would not be sensible, from an economic perspective, to block entry of gTLDs to prevent potential trademark concerns. . . . The likely adverse effects such a strategy would have on consumer welfare would likely be greater than any potential harm, especially since appropriate steps can be taken if needed to address concerns regarding intellectual property rights. *See* Carlton March 2009 Consumer Welfare Report, page 3.

- Even if new gTLDs do not compete with .com and the other major TLDs for existing registrants, it is likely that consumers would nonetheless realize significant benefits from new gTLDs due to increased competition for new registrants and increased innovation that would likely be fostered by entry. *See* Carlton March 2009 Consumer Welfare Report, page 4.

C.   Professor Carlton's March 2009 Price Cap Report

Also in March 2009, Professor Carlton issued a second report, which specifically addresses the question of whether new gTLDs should have price caps. http://www.icann.org/en/topics/new-gtlds/prelim-report-registry-price-caps-04mar09-en.pdf. His answer was negative:

- I conclude that price caps or ceilings on prices charged by operators of new gTLD registries are unnecessary to insure competitive benefits of the proposed process

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for introducing new gTLDs. I further conclude that imposing price caps on the registries for new gTLDs could inhibit the development and marketplace acceptance of new gTLDs by limiting the pricing flexibility of entrants to the provision of new registry services without generating significant benefits to registrants of the new gTLDs. *See* Carlton March 2009 Price Cap Report, pages 2-3.

D. Michael Kende's Assessment of Preliminary Reports on Competition and Pricing

In April 2009, economist Michael Kende's released his "Assessment of Preliminary Reports on Competition and Pricing" (http://forum.icann.org/lists/competition-pricing-prelim/pdfo06MgHdyxb.pdf), which was submitted to ICANN on behalf of AT&T. Although the Board did not commission the Kende report, the Board was provided with a copy of the report, which it considered together with Professor Carlton's response.

The Kende report had commented on Professor Carlton's March 2009 papers evaluating the likely impact on consumer welfare of ICANN's proposed framework for authorizing new gTLDs, and the appropriate role for price caps in services provided by new gTLDs. Dr. Kende opined that:

- [T]here is no evidence of the type of beneficial competition that Professor Carlton argues that the proposed gTLD framework will introduce. *See* Kende Report, page 11.

- The economic study that the Board directed the staff to undertake in 2006 [...] pointed the way to an appropriate and informed approach by ICANN, which would provide the answers to the questions that were addressed by Professor Carlton in his two preliminary studies. *See* Kende Report, page 19.

- New gTLDs would impose costs on trademark holders by requiring defensive registrations and Professor Carlton's March 2009 reports ... failed to analyze the present status and satisfaction of trademark holders with the current safeguards... *See* Kende Report, page 11.

- Price caps for new gTLDs would be appropriate due to the ...possibility that registries might [set prices] aimed at customers registering defensively, who may be less price sensitive See Kende Report, page 19. The absence of price caps for new gTLDs could result in the elimination of price caps for existing registries. See Kende Report, page 13.

Professor Carlton responded to Dr. Kende's paper (http://www.icann.org/en/topics/new-gtlds/carlton-re-kende- assessment-05jun09-en.pdf.) with the following points:

- There is no basis for Dr. Kende's claim that the study authorized by the ICANN Board in 2006, which proposed to analyze the scope of the market for registration services, is necessary for evaluating whether consumers would benefit from ICANN's proposed framework for introducing new gTLDs. Even if .com (or, for that matter, any other TLD) today exercises market power, new gTLDs could enhance consumer welfare by creating new products and fostering innovation, and promoting future competition with .com and other TLDs. That is, entry of a new

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gTLD can be desirable even if the gTLD does not erode any of the market power that .com may possess. *See* Carlton Response Paper, page 3.

- While concerns about consumer confusion and defensive registrations need to be considered, Dr. Kende provides no basis for concluding that restricting the entry of new gTLDs is the best solution to reducing these costs. Alternative mechanisms exist, and others are actively being studied by ICANN, to protect trademark holders while preserving the procompetitive benefits of entry. *See* Carlton Response Paper, page 3.

- Dr. Kende exaggerates costs associated with ICANN's gTLD proposal. He defines defensive registrations as those which direct traffic to other sites, but this definition fails to distinguish between productive registrations which attract and maintain traffic as well as those undertaken only to protect trademarks. *See* Carlton Response Paper, page 3.

- [T]here is no basis for Dr. Kende's claim that the absence of price caps for new gTLDs will require elimination of price caps for existing TLDs. *See* Carlton Response Paper, page 4.

    E.   Professor Carlton June 2009 Report

In June 2009, Professor Carlton issued his fourth and final report, entitled Report of Dennis Carlton regarding ICANN's Proposed Mechanism For Introducing New gTLDs. http://www.icann.org/en/topics/new-gtlds/carlton-re-proposed-mechanism-05jun09-en.pdf. In this report, Professor Carlton responded to many of the comments that ICANN had received to his earlier reports, in particular comments from trademark interests, which expressed concerns that the cost of protecting their interests should overcome the desirability of expanding the number of gTLDs. Professor Carlton disagreed:

- This possibility [of the need for defensive registrations to protect trademark interests], and the harm to consumer welfare that results, is recognized by existing trademark law and in economic analyses of intellectual property. But to the extent that the introduction of new gTLDs gives rise to intellectual property concerns, they can be addressed through existing dispute resolution mechanisms and appropriately-designed modifications of ICANN procedures for protecting intellectual property. Given the availability of these alternative mechanisms for resolving trademark related disputes, the draconian remedy of restricting entry would be likely to harm consumer welfare compared to approaches based on these alternatives. *See* Carlton June 2009 Report, page 4.

Professor Carlton's report continued:

- Given the availability of alternative mechanisms to address concerns about consumer confusion and defensive registrations, which are discussed below, ICANN's plan to introduce new gTLDs is likely to benefit consumers by facilitating entry which would be expected both to bring new services to consumers and mitigate market power associated with .com and other major TLDs and to increase innovation. As a result, the proposal by DOJ, NTIA and others to delay or even preclude deployment of new gTLDs is likely inconsistent with

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consumer interests. I conclude that such output restrictions are unnecessary and that the concerns motivating these restrictions can be addressed without resorting to draconian restrictions on entry, which essentially would freeze the number of TLDs less than fifteen years after the first commercial development of the Internet. *See* Carlton June 2009 Report, page 10.

F.   Professors Katz and Rosston June 2010 and December 2010 Reports

Professors Michael Katz and Greg Rosston issued their first report in June 2010 and their second report in December 2010. http://icann.org/en/topics/new-gtlds/economic-analysis-of- new-gtlds-16jun10-en.pdf; http://icann.org/en/topics/new-gtlds/phase-two-economic- considerations-03dec10-en.pdf.

The Katz/Rosston studies are lengthy reports that include theoretical and empirical analysis. They undertake a comprehensive economic analysis of the market; they review prior economic studies on the subject; they conduct various empirical analyses; and they propose additional analysis that could be conducted once new gTLDs are introduced. In their second report, Katz and Rosston conclude:

- By definition, a new gTLD will benefit the community if the incremental benefits generated by introduction of the gTLD outweigh the incremental costs that it triggers. Incremental benefits refer to the benefits created by a new gTLD relative to alternatives. The case studies—particularly .mobi—demonstrate that, in at least some instances, there can be viable alternative means of achieving the stated objectives of a gTLD application and consequently, the incremental benefits of the new gTLD might be low. The case studies also highlight the fact that, at the time an application for delegation of a new gTLD is submitted, the magnitudes of both incremental benefits and incremental costs will very likely be uncertain and will vary by application. The case studies also demonstrate that there is a range of processes and policies that can be implemented to reduce the costs associated with the misappropriation of trademarks and other intellectual property. The lessons from the experiences with different intellectual property protection regimes in the gTLDs introduced to date can usefully inform future decisions about intellectual property protection mechanisms. Lastly, the registration behavior we examined in community-based gTLDs and the registration behavior by brand owners provides useful information about the value of new gTLDs and the value to brand owners of registering in different TLDs. The existence of substitutes is important to the evaluation of both benefits and costs. For example, the incremental costs of misappropriation may be lower than they first appear because a large number of third-level names already can be used to engage in misappropriation. The incremental costs come from the possibility that second-level domains have more powerful effects than third-level domains. *See* Katz/Rosston December 2010 Report, pages 74-75.

In short, while Professors Katz/Rosston note that there will, undoubtedly, be certain costs associated with the introduction of new gTLDs, there are a variety of mechanisms that are available to address those costs, and one cannot conclude that the costs of new gTLDs will, in fact, be greater than the undoubted benefits of the new gTLD program.

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III. Board Determinations

In order to assess whether additional economic studies were still necessary at that stage, as requested by some members of the Community, the Board has considered the independent economic reports listed above and the extensive comments provided by the Community.

A.   Benefits of continuing to open the gTLD space has been extensively addressed.

The economists generally support an open approach in which new gTLDs would be added to the root, subject to appropriate restrictions to address trademark and other competition concerns, which ICANN has now included in the gTLD Guidebook.

There is no economic support for the notion that ICANN should block all new gTLD proposals or conduct economic analysis of every new proposed gTLD in order to determine whether the theoretical benefits of that gTLD outweigh the theoretical costs.

ICANN's default position should be to foster competition as opposed to having rules that restrict the ability of gTLDs to innovate. Blocking all new gTLDs would be contrary to the basic economic principle that innovation and efficient competition is good and is highly likely to result in long-run benefits to consumers.

Whether new gTLDs will provide competition for .COM is not particularly relevant to the question of whether new gTLDs would promote competition in the marketplace generally. Empirical studies on this question would be extremely difficult, and it seems impossible to conclude that, less than fifteen years after the introduction of the commercial Internet, ICANN should make the decision to block all efforts to create competition at the registry level, including with respect to .COM absent absolute proof that the benefits associated with those gTLDs would not outweigh their costs.

As a result, ICANN's Board has concluded that there is no economic basis that would justify stopping the New gTLD Program from proceeding and no further economic analysis would prove to be any more informative in that regard than those that have already been conducted.

B.   The three main economic issues that require attention have been clearly identified and discussed, namely:

- Ownership of registries and registrars

- The need for price caps

- The potential risks to trademark owners

The Board believes that the introduction of detailed rules and safeguard mechanisms based on extensive Community interaction in the successive versions of the draft applicant guidebook is the appropriate way to minimize the potential costs related to the implementation of this policy and optimize the use of the domain name space as a common global resource.

In particular, to the extent that there are costs to trademark owners or others, ICANN has worked extremely hard with the community to address those concerns, and ICANN

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pledges to continue that effort and review the newly developed rights protections mechanisms on a regular basis to ensure they are working or, if necessary determine what revisions to be made to improve those mechanisms.

As a consequence, at this stage, and in order to limit the opportunity costs of further delays, the Board considers that there is no benefit in commissioning further studies on these issues and that efforts should now be focused on finalizing the appropriate mechanisms, in particular during the Board-GAC meeting in February and the community interaction at the Silicon Valley meeting in March.

IV. Impact Assessment

A.   Are there Positive or Negative Community Impacts to this decision?

Determining that no further ICANN commissioned economic studies will inform the Board's ultimate decision on moving forward with new gTLDs will likely have a neutral impact on the community. Such a decision will merely inform the community that the Board is not expected to delay the New gTLD Program for any further ICANN commissioned economic studies. Such a decision is likely to be seen positively by some in the community, and negatively by some in the community. In any case, the overall balance of costs and benefits in the new gTLD program will be determined through the implementation of the final rules and safeguards included in the Applicant Guidebook.

B.   Are there financial impacts on ICANN, the Community and/or the Public?

The decision to commission no further economic studies will have a positive impact on ICANN operating budget and plan. It is now intended that ICANN will not be spending any further money on economic studies before launching the New gTLD Program and thus no further delays to the New gTLD Program will be based on the need to complete any further studies. There could be a financial impact on proponents or opponents of the New gTLD Program given that no more delays will be at the hands of a further commissioned economic study, but such impacts are not known at this time.

C.   Security, Stability and Resiliency

The decision not to commission further economic studies is not likely to have any direct impact on the security, stability or resiliency of the DNS.

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DRAFT RATIONALE FOR ICANN BOARD'S
CROSS-OWNERSHIP DECISION

I.   Introduction

When ICANN was formed in 1998, one of its primary purposes was to promote competition in the domain name system, which, prior to that date, consisted of a single entity (Network Solutions, Inc.) that operated the .COM, .NET, and .ORG registries and also was the sole registrar for those entities. The memorandum of understanding that ICANN signed with the United States Department of Commerce contained the following provision:

> This Agreement promotes the management of the DNS in a manner that will permit market mechanisms to support competition and consumer choice in the technical management of the DNS. This competition will lower costs, promote innovation, and enhance user choice and satisfaction.

http://www.icann.org/en/general/icann-mou-25nov98.htm. ICANN's Bylaws and other foundational documents articulate that the promotion of competition in the registration of domain names is one of ICANN's core missions. *See* ICANN Bylaws, Article 1, section 2.6.

ICANN has created significant competition at the registrar level, which has resulted in enormous benefits for consumers. Until recently, however, ICANN had not taken steps toward fostering meaningful competition at the registry level. The material below summarizes the Board's significant actions on cross-ownership of registries and registrars and the major proposals the Board considered. Below also describes the Board's analysis and reasons for deciding to permit cross-ownership under the circumstances described in the 5 November 2010 resolution. *See* http://www.icann.org/en/minutes/resolutions-05nov10-en.htm.

II.   History of the Board's Consideration of Cross-Ownership

This section sets forth a history of significant Board consideration of the subject of cross-ownership of registries and registrars.

- Prior to 2010, the ICANN Board considered the issue of cross-ownership on numerous occasions, recognizing, however, that no official policy was

ever developed by the ICANN policy development making bodies. Whether ICANN permitted cross-ownership of registries and registrars, and to what degree, was therefore determined contractually. The contractual provisions were not uniform, though some barred registries from owning more than 15% of any ICANN-accredited registrar. The original 15% limitation was the product of negotiation as opposed to any policy development process.[1] Throughout the period that ICANN was limiting for some registries the ability to have ownership interests in registrars, ICANN never restricted registrars from owning interests in registries and, in fact, several registrars did own interests in registries.

- Over time, and as ICANN's development of new gTLDs presented the need for more diverse business models in the domain name marketplace, and the community expressed interest in revisiting cross-ownership contractual limitations, the Board began to consider the issue of registry/registrar cross-ownership.

- ICANN initially commissioned an economic study to address issues relating to Vertical Integration and the effects of eliminating restrictions. *See* 23 October 2008 Report from CRA International http://www.icann.org/en/topics/new-gtlds/crai-report-24oct08-en.pdf.

- At the 22 June 2009 ICANN meeting in Sydney, Australia, the ICANN Board conducted a lengthy workshop entitled "Vertical Integration Between Registries and Registrars – The Economic Pros and Cons," which included presentations by economists and outside legal counsel. http://syd.icann.org/files/meetings/sydney2009/presentation-vertical-separation-22jun09-en.pdf.

- At the 27 October 2009 ICANN meeting in Seoul, South Korea, the Board again discussed cross-ownership. http://sel.icann.org/node/6768.

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[1] The negotiations occurred among ICANN, Network Solutions, Inc. (now VeriSign), and the United States Department of Commerce, addressing the fact that Network Solutions was, at the time, the sole registry and registrar for .COM, .NET, and .ORG. ICANN was in the process of creating competition within the registrar market, and Network Solutions was required to separate its registrar operations from its registry operations. The result of the negotiations was that Network Solutions was permitted to own only 15% of the surviving registrar business (and Network Solutions agreed that it would no longer serve as the operator for .ORG).

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- On 28 January 2010, in response to a request from the community, the Generic Names Supporting Organization (the "GNSO") Council decided to initiate a policy development process on cross-ownership between registries and registrars on an expedited basis. http://gnso.icann.org/resolutions/#201001.

- At the 12 March 2010 ICANN meeting in Nairobi, Kenya, the Board passed a resolution (http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#5) indicating that, as a default position, no cross-ownership would be allowed in the new gTLD program but that if the GNSO were to develop a policy recommendation on the subject prior to the launch of new gTLDs, the Board would consider that policy. This "default" position was intended to encourage the community to develop a policy so that the Board would not have to address the issue on an implementation level.

- In May 2010, ICANN published version 4 of the Draft Applicant Guidebook, which included a note that the Board encouraged the GNSO to recommend policy on this issue, and that the Board would review and revisit the issue again if the GNSO did not submit recommendations in time for launch of the new gTLD program. http://www.icann.org/en/topics/new-gtlds/comments-4-en.htm.

- At the 22 June 2010 meeting in Brussels, Belgium, the Board again discussed cross-ownership. http://brussels38.icann.org/node/12470.

- On 12 August 2010, the public comment period on the GNSO's initial report on cross-ownership ended. https://st.icann.org/data/workspaces/vert-integration-pdp/attachments/vertical_integration_pdp:20100818171812-0-28944/original/Summary%20of%20public%20comments%20for%20Initial%20Report%20on%20VI_rev%204.pdf.

- On 18 August 2010, the GNSO submitted an initial report, offering the Board multiple proposals on cross-ownership that were diametrically opposed. https://st.icann.org/data/workspaces/vert-integration-pdp/attachments/vertical_integration_pdp:20100818172144-0-27930/original/Revised%20Initial%20Report%20Vertical%20Integration%20PDP%20WG%2018%20Aug%202010%20Final.pdf.

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- In response to the Board's request per its resolution passed on 25 September 2010 (http://www.icann.org/en/minutes/resolutions-25sep10-en.htm#2.11), on 8 October 2010, the GNSO informed the Board that it was unable to reach a consensus on any of the proposals it had submitted. http://gnso.icann.org/mailing-lists/archives/council/msg09754.html.

- On 5 November 2010, the Board adopted its final resolution on the issue of cross-ownership. http://www.icann.org/en/minutes/resolutions-05nov10-en.htm. The Board concluded that – so long as certain restrictions were put into place on the conduct of registries and registrars, specifically as they relate to data, and so long as competition review remained available in the event of concerns regarding market power – there was no economic support to restrict, on an across-the-board basis, the ability of registries to hold ownership interests in registrars, and vice versa.

- On 12 November 2010, ICANN published the Proposed Final Applicant Guidebook including language conforming to the Board's 5 November 2010 resolution. (http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-12nov10-en.pdf.). Further, part of the Proposed Final Applicant Guidebook is the November 2010 Draft gTLD Agreement, which includes a new Specification 9 entitled the "Registry Operator Code of Conduct.) *See* http://www.icann.org/en/topics/new-gtlds/draft-agreement-specs-clean-12nov10-en.pdf

III.   **The Board's Analysis of Cross-Ownership**

A.   **Why the Board is addressing this issue now.**

- ICANN's mission statement and one of its founding principles is to promote competition. ICANN has created significant competition at the registrar level, which has resulted in enormous benefits for consumers. To date, ICANN has not created any meaningful competition at the registry level.

- The Board sought to permit diversification of business models, especially for the new gTLD program.

- Community members sought re-evaluation of cross-ownership limitations in light of new gTLD program.

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- The Board wanted to create greater certainty in the domain name marketplace by encouraging the bottom-up policy development process to develop policy on cross-ownership, but no such policy has been developed or proposed.

B.   Major Cross-Ownership Proposals Considered by the Board

The GNSO considered a large number of proposals on cross-ownership, which it distilled into six proposals that it submitted to the Board. https://st.icann.org/data/workspaces/vert-integration-pdp/attachments/vertical_integration_pdp:20100818172144-0-27930/original/Revised%20Initial%20Report%20Vertical%20Integration%20PDP%20WG%2018%20Aug%202010%20Final.pdf. Those six proposals are summarized in sections 1-6 below, and are listed in order from the most restrictive on cross-ownership to the least restrictive. Economists Salop and Wright submitted a seventh proposal to the Board, which is summarized in section 7 below. None of the proposals reflect a consensus opinion.

1.   **DAGv4**

The DAGv4 proposal represents a per se prohibition against cross-ownership of registries and registrars, with only limited exceptions. For example, a registrar or an affiliated entity is allowed up to a 2% ownership stake in a registry. A registrar or its affiliate may not hold a registry contract, nor may a registry entity control a registrar or its affiliates. Further, registries may not distribute names in any TLD. *See* GNSO's Revised Initial Report, pages 18-19.

- A registrar entity or their affiliate (another company with whom the registrar has common control) may not directly hold a registry contract. This applies regardless of the TLD(s) in which the registrar is accredited.

- A registrar entity or their affiliate may have beneficial ownership of up to 2% of the shares in a registry company. Beneficial ownership is a form of ownership in which shares have: (a) voting power, which includes the power to vote, or to direct the voting of the shares; and/or (b) investment power, which includes the power to dispose of or to direct the disposition of the shares.

  - In no circumstance may a registry entity control a registrar or its affiliates, or vice versa.

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- Affiliates of the registry entity may not distribute names in any TLD -- as either a registrar, reseller or other form of domain distributor.

- No registrar, reseller or other form of domain distributor (or their affiliates) may provide registry services to a registry entity. Registry services are defined in Specification 6 to the registry contract.

- Names can only be registered through registrars.

- Registries can set accreditation criteria for registrars that are reasonably related to the purpose of the TLD (*e.g.*, a Polish language TLD could require registrars to offer the domain via a Polish language interface).

- Participating registrars must be treated on a non-discriminatory basis.

- Registries can register names to themselves through an ICANN-accredited registrar.

    2. **IPC**

The IPC proposes three models of .brand exceptions to restrictions on cross-ownership of registries and registrars. Under the .brand Single Registrant – Single User ("SRSU"), the .brand Registry Operator (the "bRO") is the registrant and user of all second-level domain names. Wholly-owned subsidiaries and otherwise affiliated companies could register and use second-level names. Under the .brand Single Registrant – Multiple Users ("SRMU"), the bRO is the registrant for all second-level names and may license them to third parties that have a pre-existing relationship with the brand owner (*e.g.*, suppliers) for other goods/services. Under the .brand Multiple Registrant – Multiple User ("MRMU"), the bRO and its trademark licensees are the registrants and users of all second-level names. *See* GNSO's Revised Initial Report, pages 59-66.

Seven additional criteria for these .brand exceptions to cross-ownership apply, including:

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- The trademark must be identical to the .brand string and the subject of registrations of national effect in at least three countries in three ICANN regions;

- Trademark owners whose principal business is to operate a domain name registry, register domain names, or resell domain names are ineligible;

- Under MRMU, the bRO delegates second-level names subject to trademark license agreement quality control provisions that allow at-will termination of registrations; and

- Brand TLDs with second-level names registered to unrelated third parties are ineligible.

A new gTLD registry that satisfies the criteria: (a) could control an ICANN-accredited registrar solely for registrations in that TLD; (b) would not need to use an ICANN-accredited registrar for registrations within the TLD; and/or (c) could enter into arrangements with a limited number of ICANN-accredited registrars for registrations in that TLD.

3.   **RACK+**

The RACK+ proposal permits cross-ownership between registries and registrars, as long as co-owned entities possess less than 15% ownership interest in the other. *See* GNSO's Revised Initial Report, pages 45-48.

- This cross-ownership approach allows both registry operators and registrars to invest in domain name wholesale and retail businesses. The rationale is to avoid creating ownership positions that provide access to registry data for registrars.

- This group does not recommend that a new contract regime be established between ICANN and registry backend services providers. Rather, ICANN could enforce this cross-ownership rule through the registry operator contract.

- Cross-ownership caps should be supported by appropriate provisions addressing "affiliation" and "control" to prevent gaming against the caps.

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- Registries must use only ICANN-accredited registrars in registering domain names and may not discriminate among accredited registrars.

- Equivalent access and non-discrimination principles should apply to all TLD distribution.

    4. **JN2**

The JN2 proposal permits cross-ownership between registries and registrars, as long as cross-owned entities are not in a position of controlling the other or possessing a greater than 15% ownership interest in the other. The JN2 proposal contains a definition of affiliation, which includes both ownership (>15%) and control (direct or indirect) and allows exceptions for single registrant TLDs, community TLDs and orphan TLDs. *See* GNSO's Revised Initial Report, pages 34-38.

- It restricts registry operators and their affiliates from distributing names within the TLD for which the registry operator or its affiliate serves as the registry operator.

- It allows registrars (and their affiliates) to be registry operators provided they agree not to distribute names within a TLD for which they or their affiliates serve as the registry operator.

- Restrictions do not apply to back-end registry service providers (RSPs) that do not control the policies, pricing or selection of registrars.

- After 18 months, any restricted RSP may petition ICANN for a relaxation of those restrictions depending on a number of factors.

- Cross-ownership limitations extend to registrar resellers for 18 months. After that, market protection mechanisms must be in place.

- Registry operators may select registrars based on objective criteria and may not discriminate among the ones they select.

    5. **CAMv3**

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The Competition Authority Model ("CAMv3") prohibits cross ownership between registries and registrars as originally set forth in the ICANN Board's Nairobi resolution, but allows up to 100% cross ownership under the rules of a waiver/exemption process. It allows referral to national competition authorities to resolve questions about market power and consumer protection. *See* GNSO's Revised Initial Report, pages 49-58.

- Those entities that wish may request an exemption/waiver. These would be forwarded to a standing panel entitled the Competition/Consumer Evaluation Standing Panel (the "CESP"). This panel would be given a set of guidelines for evaluating the applications. If the CESP "quick look" or initial analysis raises no competition or consumer protection concerns, the exemption/waiver would be granted.

- If the CESP initial analysis raises competition or consumer protection concerns or indicates a need for a more detailed or extended review, then ICANN shall refer the matter to the appropriate national competition and/or consumer protection agencies.

- For those entities that are granted a waiver/exemption, ICANN will amend registration authority agreements to include rules designed to prevent self dealing or harm to third parties such as registrants and Internet users.

- The CAM model proposes a three tiered approach toward contractual compliance: (1) ICANN's normal compliance efforts; (2) an annual audit; (3) an expanded Post Delegation Dispute Resolution Procedure (the "PDDRP") for third parties to initiate their own administrative remedy, coupled with a strict three strikes rule for repeat offenders.

6. **Free Trade**

The Free Trade Model proposes to discard limits on cross-ownership entirely. *See* GNSO's Revised Initial Report, pages 39-44.

- It discards cross-ownership restrictions on registrars, registries, and registry service providers ("RSPs").

- Equivalent access for registrars is required with registries allowed to self distribute so long as they are bound by the RAA and pay required registration fees.

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- RSPs are required to be accredited by ICANN for technical sufficiency. RSPs will be bound by terms, conditions, and restrictions similar to those imposed on registry operators through their contractual agreement with each registry operator.

- This model removes the need for exceptions like Single Registrant – Single User ("SRSU"), Single Registrant – Multiple Users ("SRMU"), and Orphan TLDs.

- This proposal assumes ICANN's funding of contractual compliance resources will match the demands of the new gTLD expansion.

- Requirements to monitor, enforce and ultimately prevent malicious or abusive conduct are directed at the conduct at issue rather than cross-ownership limitations.

7. **Salop & Wright**

The Salop and Wright Model permits cross-ownership, but if the share of the registrar or the registry that applies to acquire a significant ownership interest in any new or existing entity at the other vertical level exceeds the relevant market share threshold, then ICANN will notify the appropriate governmental competition agencies. *See* http://www.icann.org/en/topics/new-gtlds/registry-registrar-separation-vertical-integration-options-salop-wright-28jan10-en.pdf. ICANN will place the application on hold for a period not to exceed 45 days. This matches the existing waiting period for new registry services that might raise competitive issues. *See* http://www.icann.org/en/registries/rsep/rsep.html. Salop and Wright recommend two possible next steps:

- If the agency or agencies notify ICANN and the registry or registrar during that 45 day period that the acquisition of the entity at the other vertical level may violate its competition laws, ICANN will place the application on hold for another period not to exceed 120 days to allow the agency or agencies and the applicant to resolve any concerns. At the end of this period, or sooner if notified by the agency or agencies that any issues have been resolved, ICANN will resume processing the application; or

- At the end of that 45-day period, ICANN will continue to process the application, and the registrar or registry will bear the risk of any subsequent enforcement action.

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C. What Stakeholders or Others Were Consulted?

- Economists

    - CRA International

    - Salop & Wright

- Legal Counsel/Staff

- The GNSO, including the Vertical Integration PDP Working Group

- The Governmental Advisory Committee

- All other Stakeholders and Community members through public comment forum and other methods of participation.

D. What Concerns or Issues Were Raised by the Community?

- ICANN should quickly resolve the issue of cross-ownership, even though no consensus is likely to be reached by the community/the GNSO.

- There was no consensus in support of any of the six proposals submitted by the GNSO in its initial report.

- There is general support for certain exceptions to restrictions on cross-ownership (certain new gTLDs, single registrant single use TLDs), which may be considered on a case-by-case basis.

- There is general recognition of the need for enhanced compliance efforts.

- There is general concern about involvement of national competition authorities that may not understand or have experience with the domain name marketplace.

E. What Significant Materials did the Board Review?

- Reports from Economists

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- 23 October 2008 Report from CRA International: http://www.icann.org/en/topics/new-gtlds/crai-report-24oct08-en.pdf.

- 22 June 2009 ICANN Board workshop entitled "Vertical Integration Between Registries and Registrars – The Economic Pros and Cons," which included presentations by economists Salop & Wright and outside legal counsel: http://syd.icann.org/files/meetings/sydney2009/presentation-vertical-separation-22jun09-en.pdf.

- 28 January 2010 Report from Salop & Wright: http://www.icann.org/en/topics/new-gtlds/registry-registrar-separation-vertical-integration-options-salop-wright-28jan10-en.pdf.

- 12 September 2010 Report from Salop & Wright, evaluating the six major proposals submitted by the GNSO: http://www.icann.org/en/minutes/board-briefing-materials-2-25sep10-en.pdf (pages 34-50).

- 18 August 2010 Revised Initial Report from the GNSO: https://st.icann.org/data/workspaces/vert-integration-pdp/attachments/vertical_integration_pdp:20100818172144-0-27930/original/Revised%20Initial%20Report%20Vertical%20Integration%20PDP%20WG%2018%20Aug%202010%20Final.pdf.

- Comments from the Community

  - The Public Forum: http://icann.org/en/public-comment/#vi-pdp-initial-report.

  - Summary of Comments: https://st.icann.org/data/workspaces/vert-integration-pdp/attachments/vertical_integration_pdp:20100818171812-0-28944/original/Summary%20of%20public%20comments%20for%20Initial%20Report%20on%20VI_rev%204.pdf.

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- Comments from the At Large Advisory Committee (the "ALAC"): http://www.atlarge.icann.org/announcements/announcement-10sep10-en.htm.

- Comments from the Governmental Advisory Committee (the "GAC"): http://www.gac.icann.org/press-release/gac-comments-new-gtlds-and-dagv3.

- Board Briefing Materials

  - 25 September 2010: http://icann.org/en/minutes/board-briefing-materials-1-25sep10-en.pdf.

  - 28 October 2010: http://www.icann.org/en/minutes/board-briefing-materials-1-28oct10-en.pdf (pages 137-142); http://www.icann.org/en/minutes/board-briefing-materials-2-28oct10-en.pdf (pages 69-100).

- Board Meeting Minutes & Transcripts: http://www.icann.org/en/minutes/.

F.   What Factors the Board Found to Be Significant

The Board considered numerous factors in its analysis of cross-ownership. The Board found the following factors to be significant:

- the risk of data abuse, including front running, privacy violations, and domain tasting, and the availability of contractual and legal tools to manage that risk (recognizing that data abuses occur regardless of whether cross-ownership is permitted);

- the risk of increasing exposure to litigation;

- the risk of abuse of market power, and the availability of contractual, regulatory and legal tools to manage that risk (recognizing that abuses of market power occur regardless of whether cross-ownership is permitted);

- the principle that the Board should base its decision on solid factual investigation and expert analysis;

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- the lack of reported problems with ICANN's historical practice of permitting registrars to own registries;

- the recognized benefits of vertical integration in other industries; and

- the goal of promoting equal access to registries for registrars.

G.   The Board's Reasons for Permitting Cross-Ownership Under Certain Circumstances

Some in the community have suggested that the Board's 5 November 2010 resolution relating to registry/registrar cross-ownership was a complete reversal from the Board's position set out in Nairobi on this topic. However, the default position set forth in Nairobi was not meant to be the Board's final position on cross-ownership. As noted above, the Board's Nairobi resolution was to be a placeholder only. The Board's hope was that setting out an extreme position of strict cross-ownership would help the community arrive at a consensus position on registry/registrar cross-ownership that would be beneficial for all involved.

In the fourth version of the Applicant Guidebook, the Board made clear that the Nairobi resolution was not the final word. Specifically, the Draft Applicant Guidebook included a note that the Board encouraged the GNSO to recommend a policy on this issue, and that the Board would **review the cross-ownership issue again if the GNSO did not make recommendations in time for launch of the new gTLD program**. *See* http://www.icann.org/en/topics/new-gtlds/draft-agreement-specs-clean-28may10-en.pdf at page 5 (emphasis added).

By the September 2010 Board retreat, the GNSO had failed to develop a consensus policy on the issue of cross-ownership. There, the Board asked the GNSO to state whether consensus was possible (http://icann.org/en/minutes/resolutions-25sep10-en.htm#2.11). On 8 October 2010, the GNSO informed the Board that it was unable to reach a consensus (http://gnso.icann.org/mailing-lists/archives/council/msg09754.html.) Accordingly, the Board had to make a final determination on cross-ownership, at least for the first round of the new gTLD Program, and took the matter up during its retreat in November 2010.

In Trondheim, the Board noted that it "had over six months since Nairobi to consider the issue [of cross-ownership], including consideration of the GNSO VI working group's deliberations, and community comment including at the ICANN meeting in Brussels in June 2010." (*See* http://icann.org/en/minutes/resolutions-05nov10-en.htm.) The Board went on to state that it had "carefully considered available economic analysis, legal advice and advice from the community" in making its determination.

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During deliberations on the cross-ownership issues, the Board considered multiple reasons for voting in favor of the November resolution. As noted above, the Board considered all the information contained in each of the community proposals, as well as independent economic analysis, public consultations, public comment forums and Board briefings that were provided during the Board's decision making process. In light of the voluminous material and numerous discussions, the Board made is decision reflected in the 5 November 2010 resolution for the following reasons.

- None of the proposals submitted by the GNSO reflect a consensus opinion; as a result, the Board supported a model based on its own factual investigation, expert analysis, and concerns expressed by stakeholders and the community.

- ICANN's position and mission must be focused on creating more competition as opposed to having rules that restrict competition and innovation.

- Rules permitting cross-ownership foster greater diversity in business models and enhance opportunities offered by new TLDs.

- Rules prohibiting cross-ownership require more enforcement and can easily be circumvented.

- Rules permitting cross-ownership enhance efficiencies and almost certainly will result in benefits to consumers in the form of lower prices and enhanced services.

- Preventing cross-ownership would create more exposure to ICANN of lawsuits, including antitrust lawsuits, which are costly to defend even if ICANN believes (as it does) that it has no proper exposure in such litigation.

- The new Code of Conduct, which is to be part of the base agreement for all new gTLDs, includes adequate protections designed to address behavior the Board wants to discourage, including abuses of data and market power. Data protection is best accomplished by data protection tools, including audits, contractual penalties such as contract termination, punitive damages, and costs of enforcement, as well as strong enforcement of rules. By contrast, market construction rules can be circumvented and cause other harms.

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- Case-by-case re-negotiation of existing contracts to reflect the new cross-ownership rules will permit ICANN to address the risk of abuse of market power contractually.

- In the event ICANN has competition concerns, ICANN will have the ability to refer those concerns to relevant antitrust authorities.

- ICANN can amend contracts to address harms that may arise as a direct or indirect result of the new cross-ownership rules.

IV.   Impact Statement

A.   Are there Positive or Negative Community Impacts?

The Board thinks that its decision to allow cross-ownership of registries and registrars in the new gTLD Program will have a positive Community impact, as it will, at a minimum, help foster competition and innovation.

B.   Financial impact.

The Board does not think that its decision will have a financial impact on ICANN's Strategic Plan, Operating Plan or Budget, except to the extent that compliance efforts to enforce the new Registry Code of Conduct may impact the Contractual Compliance budget. Additional Contractual Compliance staff and resources may be required, but the precise amount is unknown at this time. The Board may be in a better position to analyze that financial impact on ICANN once the number of new gTLD Registry Operators are known.

The Board thinks that there will be a positive financial impact on the community and the public. Registries and Registrars will be able to reduce costs and, the savings of which hopefully will be passed on to the consumers. Moreover, competition tends to reduce prices to the consumer.

C.   Security, Stability and Resiliency.

The Board sees no security, stability and resiliency issues relating to the DNS arising from its decision on cross-ownership.

STATEMENT OF OPPOSITION

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One Board member, George Sadowsy, voted in opposition to the Board's Resolution on Cross-Ownership passed on 5 November 2010 (http://www.icann.org/en/minutes/resolutions-05nov10-en.htm) and submitted his statement of opposition set forth below. Another Board member voted in opposition to the Board's Resolution on Cross-Ownership and indicated his opposition was on similar grounds to George's. George Sadowsky's statement reads:

I oppose this motion on several grounds. First, the resolution makes a very significant change in relationships between registrars, registries, and registry service providers. It will drastically change both the current dynamics of the domain industry and the way in which it will evolve. This change will be introduced concurrently with a major expansion of the gTLD space, and we cannot predict with any certainty the effects of either change, much less the combination.

Second, the significant extent of this change makes it irreversible for all practical purposes. If unintended consequences appear that make it advisable to re-introduce some separation between parties, it will be impossible to do so without major disruption of the players in this industry.

Third, in spite of the measures to be taken to ensure "good conduct," the resolution has the potential to commingle all of the data, public and private, regarding a registry in one place, providing the possibility of easy and invisible sharing of data within a merged or co-owned entity regardless of the scope of any agreement with ICANN.

Such sharing is likely to be undetectable given the close affiliations among the entities. Data now forbidden to be shared between registries and registrars will be shared. Both auditing and enforcement by ICANN are unlikely to be effective, all the more so as we move from 20+ to hundreds of new gTLDs.

Finally, a combined registry-registrar having the possibility of data sharing will have more market power than otherwise. Assuming that each gTLD registry must continue to treat all registrars equally, the real benefits of vertical integration are largely illusory, but those that can be easily obtained by the officially forbidden sharing of data are real.

The removal of restrictions to vertical integration embodied in this resolution is unnecessary, and goes counter to both the interests of registrants and the global public interest.

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2011-03-18-01 Board Submission Approval of Changes to SSAC Membership

ICANN BOARD SUBMISSION NO. 2011-03-18-01

TITLE: **Appointment of David Conrad to the Security & Stability Advisory Committee**

PROPOSED ACTION: For Consent Agenda

EXECUTIVE SUMMARY:

The Chair of the Security and Stability Advisory Committee respectfully requests the appointment of David Conrad as a new Committee member.

COMMITTEE RECOMMENDATION:

The Committee desires the appointment of David Conrad to the Security and Stability Advisory Committee.

PROPOSED RESOLUTION:

Whereas, the Security and Stability Advisory Committee (SSAC) does review its membership and make adjustments from time-to- time.

Whereas, the SSAC Membership Committee, on behalf of the SSAC, requests that the Board should appoint David Conrad to the SSAC.

It is resolved (20XX.xx.xx.xx) that the Board appoints David Conrad to the SSAC.

PROPOSED RATIONALE:

The SSAC is a diverse group of individuals whose expertise in specific subject matters enables the SSAC to fulfil its charter and execute its mission. Since its inception, the SSAC has invited individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's domain name system.

The SSAC's continued operation as a competent body is dependent on the accrual of talented subject matter experts who have consented to volunteer their time and energies to the execution of the SSAC mission. David Conrad has been providing his expertise to the SSAC, both while he was an ICANN staff member and more recently as an Invited Guest. The SSAC will benefit from David's commitment as a full member, which will give the SSAC access to skills that are essential for the SSAC to fulfil its responsibilities.

Submitted by: Ram Mohan, SSAC Liaison to the Board

Position: Liaison to the ICANN Board from the Security &
                       Stability Advisory Committee

Date Noted: 28 February 2011

Email: rmohan@afilias.info

2011-03-18-02 Board Submission VeriSign RSEP Request - .NAME

ICANN BOARD SUBMISSION NO. 2011-03-18-02

TITLE: **Proposal to allow allocation of numeric-only and numbers-and-hyphens domain names in .NAME**

PROPOSED ACTION: **For Board Consideration**

EXECUTIVE SUMMARY:

ICANN received a Request from VeriSign on 25 August 2010 through the Registry Services Evaluation Process (RSEP) to allow the allocation of numeric-only and numbers-and-hyphens domain names in .NAME.

The Board first considered this request at its 25 January 2011 meeting. At that meeting the Board decided to pend consideration of the proposal to give the Board members an opportunity to ask additional questions regarding the nature of the change, the .NAME charter, and whether the requested change materially altered the charter.

The one question: "…explain how the introduction of numeric+hyphen only names is consistent with the original intent of this sTLD, which is to represent names only," was forwarded to VeriSign. Their answer, in full below, seeks to explain why the change is consistent with the fact that .NAME was, "originally conceived to represent an individual's personal identity on the Internet … and to make available domains for personal use."

From the previous Board paper:

.NAME is one of the three restricted gTLDs (the others are .BIZ and .PRO) that have a Registry Agreement with ICANN. Domain registrations in .NAME are restricted to "Personal Names" that are defined in Appendix 11 as "*a person's legal name, or a name by which the person is commonly known. A 'name by which a person is commonly known' includes, without limitation, a pseudonym used by an author or painter, or a stage name used by a singer or actor.*"

RECOMMENDATION:

It recommended that the Board to approve the Amendment related to the Request:

- The new service doe not raise any security, stability or competition issue;

- VeriSign stated and documented that the proposal does not constitute a fundamental change to the TLD (it will continue to be for individuals for their personal use);

- VeriSign described existing mechanisms to deal with a perceived issue raised during the public comment;

- All gTLD registries, with the exception of .NAME are free to allocate numeric-only domain names; and that approving the proposal would expand the options available to registrants under .NAME,

Possible rationale for the recommendation is provided below; the Annex of this paper further expands on the reasoning.

PROPOSED RESOLUTION:

Whereas, VeriSign submitted a Request pursuant to ICANN's Registry Services Evaluation Policy to amend the .NAME Registry Agreement to allow the allocation of numeric-only and numbers-and-hyphens domain names in .NAME.

Whereas, .NAME is the only gTLD currently not allowed to allocate numeric-only and pure numbers-and-hyphens domain names.

Whereas, ICANN evaluated the proposed amendment to the .NAME Registry Agreement as a new registry service pursuant to the Registry Services Evaluation Policy, did not identify any security, stability or competition issues, and posted an amendment for public comment and Board consideration (see http://icann.org/en/announcements/announcement-3-16sep10-en.htm).

Whereas, the potential issues cited during the public comment period were adequately addressed in VeriSign's response to ICANN, which also described existing mechanisms to deal with the perceived problems.

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Whereas, approving the proposal would augment the options available to registrants for registering names in .NAME.

It is hereby **RESOLVED** (2011.03.18.__) that the amendment to allow allocation of numeric-only and numbers-and-hyphens domain names in .NAME is approved, and the President and General Counsel are authorized to take such actions as appropriate to implement the amendment.

PROPOSED RATIONALE:

- Why the Board is addressing the issue now?

  On 25 August 2010 VeriSign submitted a request pursuant to ICANN's Registry Services Evaluation Policy (RSEP) to amend the .NAME Registry Agreement to allow the allocation of numeric-only and numbers-and-hyphens domain names in .NAME. ICANN advised VeriSign that an amendment to Appendices 6, Schedule of Reserved Names, and 11, Registration Restrictions, would be necessary to implement the new service. ICANN determined the amendment was a substantial change to the Registry Agreement; therefore, Board consideration was necessary.

- What are the proposals being considered?

  The Board considered whether or not to approve the proposed amendment to allow the allocation of numeric-only and numbers-and-hyphens domain names in .NAME.

- What Stakeholders or others were consulted?

  The proposed amendment was subject to public comment from 16 September 2010 through 16 October 2010; four comments were received, one of them was not related to the proposal, one did not address the merits of the proposal, one raised two potential issues, and one was supportive. ICANN asked VeriSign to address the issues raised in the public comment forum, which VeriSign did by submitting a response letter to ICANN.

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- What concerns or issues were raised by community?

  The following issues were raised by one commenter in the public comment forum: 1) whether the proposal might constitute a fundamental change to the TLD; and 2) whether the proposed expansion of the "Personal Name" definition could have an impact on the defensive registrations that would be required by a trademark owner.

- What significant materials did Board review?

  While considering the proposed amendment, the Board reviewed the following materials: the request from VeriSign for a new registry service <http://www.icann.org/en/registries/rsep/verisign-name-request-25aug10-en.pdf>; the proposed amendment subject of the Board resolution <http://www.icann.org/en/tlds/agreements/name/proposed-name-amendment-15sep10-en.pdf>; public comments related to the amendment <http://forum.icann.org/lists/name-numbers-and-hyphens-domains/>; a letter from VeriSign addressing the issues raised in the public comments <http://www.icann.org/en/registries/rsep/steele-to-pritz-07jan11-en.pdf>; and a letter from VeriSign addressing a question from the Board <http://www.icann.org/en/registries/rsep/waldron-to-arias-28feb11-en.pdf>.

- What factors the Board Found to be Significant?

  1. ICANN conducted the threshold security, stability and competition review on the proposed service pursuant to the RSEP, and did not identify any significant issues. Numeric-only names have been allowed in 14 gTLDs and several ccTLDs for years without harm to the security or stability of the Internet. From a purely technical point of view, there is no difference on what TLD allows the numeric-only names, therefore there is no new issue created by this proposal. ICANN advised VeriSign that an amendment to Appendices 6, Schedule of Reserved Names, and 11, Registration Restrictions, would be necessary to implement the new service.

  2. The proposed amendment was available for public comment from 16 September 2010 through 16 October 2010; four comments were received, one of them was

not related to the proposal, one did not address the merits of the proposal, one raised two potential issues, and one was supportive. The comment period produced no clear consensus view on whether or not the amendment should be approved; each commenter provided input suggesting a different path, and some issues, described above, were noted.

3. One comment, from Steven Metalitz, suggested that the proposal might constitute a fundamental change to the TLD. ICANN posed this very question to VeriSign upon receiving the Request. Metalitz additionally noted that the proposed expansion of "Personal Name" definition could have an impact on the defensive registrations that would be required by a trademark owner.

4. To address Mr. Metalitz's remarks, VeriSign provided additional information to ICANN in a letter on 7 January 2011 stating that "*The proposed change to permit pure number and number-hyphen domain names is not a fundamental change to the .name TLD, as the .name TLD will continue to be for individuals for their personal use.*", further adding that, "*Additionally, numbers in the context of .name are relevant at this time because of how people around the world now use the web and the Internet. In many places in the world, especially in developing countries, mobile has become the predominate form of communication and interface to the web. A phone number is how one is known. And, typing numbers on a phone interface is often easier than typing letters.*"

5. Further, VeriSign stated that "*Challenges relating to the registration of pure number or number-hyphen .name domain names would be addressed under the Eligibility Requirements Dispute Resolution Policy.*" Lastly, VeriSign also mentioned two services it offers to the IP and brand protection community that would help mitigate the perceived issue. With regard to trademark protection, it is also worth noting that .NAME is directed to individuals for personal use, and not for business.

6. To address a Board member question, VeriSign provided additional information to ICANN in a letter on 28 February 2011 stating that "*The .name Top Level Domain (TLD) was originally conceived to represent an individual's personal identity on the Internet. But more importantly, the purpose of the .name TLD*

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was to make available domains for personal use." further adding that "*Since it [.NAME] was introduced, the way people identify themselves on-line has evolved from just one's personal name and/or nickname to also include their monikers or handles for their avatars, for blogging, and for use in different social media channels to represent themselves on-line. In developing regions of the world, with the rapid growth of mobile phones, where there's been lagging development of high-speed broadband landline infrastructure and PC penetration, the use of one's mobile number has become more important and prevalent for accessing the Internet. One's personal identify in these parts of the world has grown to include one's mobile number.*"

7. In that second letter VeriSign further stated that "*removing the pure number restriction would provide .name with parity with all other gTLDs now that ICANN has approved TelNic's similar RSEP in January 2011.*" By approving the proposal, .NAME would be in a better position to compete with the rest of the gTLDs in the market, which in turn, would provide more options to registrants.

- Are there Positive or Negative Community Impacts?

  By approving the proposed amendment, the gTLD market will be more competitive by allowing .NAME to have a similar offering to the rest of the gTLDs, and more importantly, the registrants will have more options to choose for registration.

- Are there fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public?

  There are no foreseen fiscal impacts/ramifications of approving this amendment on the Strategic Plan, the Operating Plan, Budget, the community, or the public.

- Are there any Security, Stability or Resiliency issues relating to the DNS?

  The proposed service related to the amendment was subject to the preliminary security and stability review pursuant to the Registry Services Evaluation Policy. ICANN did not identify any security, stability or competition issues: <http://www.icann.org/en/registries/rsep/arias-to-kane-09sep10-en.pdf>

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Submitted by:	Francisco Arias
Position:	gTLD Registry Technical Liaison
Date Noted:	28 February 2011
Email and Phone Number	francisco.arias@icann.org; Contact

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2011-03-18-03 Board Submission ccNSO WG Final Report

ICANN BOARD SUBMISSION NO. 2011-03-18-03

TITLE: **Final Report from ccNSO Review WG**

PROPOSED ACTION: **For Consent Agenda**

EXECUTIVE SUMMARY:

The Board Working Group on improvements to the Country Codes Names Supporting Organization (ccNSO) has concluded its work and presented its Final Report, see announcement at http://icann.org/en/announcements/announcement-03mar11-en.htm . The starting point for the WG was the final report from the independent reviewers, Items International, issued 15 June 2010; http://www.icann.org/en/reviews/ccnso/items-ccnso-organisational-review-15jun10-en.pdf and public comments received on this report. The WG developed draft conclusions and recommendations in a draft final report which was posted for public comments. Two comments were received, supporting the findings while adding certain precision on a couple of details. The posted final report from the WG has been edited in response to these comments. The next steps will be implementation planning and actual implementation of the findings.

PROPOSED SIC RECOMMENDATION:

The following recommendation is proposed for the SIC's consideration: The SIC recommends that the Board acknowledges receipt of the final report, thanks the Working Group Chair and Members, dissolves the WG and instructs the SIC to provide a set of suggested actions to address the conclusions and recommendations in the final report.

PROPOSED RESOLUTION:

Whereas, the ccNSO review Working Group has delivered to the Structural Improvements Committee its final report of activity, which contains conclusions and recommendations for enhancing the effectiveness of this structure;

Whereas, the ccNSO review Working Group has fulfilled the tasks assigned to it at the time of their establishment, and it can now be dissolved;

Whereas, the Board agrees with the Structural Improvements Committee on its proposal to thank the Chair and Members of the Working Group for their commitment and ability to fulfil the tasks assigned to them; and

Whereas, the Structural Improvements Committee will provide the Board with a set of suggested actions to address the conclusions and recommendations of the final report of this Working Group;

RESOLVED (2011.03.18.XX), the Board receives the final report of the ccNSO review Working Group.

RESOLVED (2011.03.18.XX), the Board dissolves the ccNSO Review Working Group and thanks the Chair and Members: Jean-Jacques Subrenat (Chair), Ram Mohan, Demi Getschko, Alejandro Pisanty and Vittorio Bertola, for their commitment and ability to fulfil their tasks.

RESOLVED (2011.03.18.XX), the Board directs the Structural Improvements Committee to present a set of suggested actions for approval at the 24 June 2011 Board meeting, so as to address the conclusions and recommendations formulated in the final report of this Working Group.

PROPOSED RATIONALE:

The proposed actions conclude an important step in the review process and pave the way for implementation planning and implementation of the recommended measures, with a view to fulfilling the purpose of the review, notably improvements of the ccNSO. The actions can be achieved thru efforts of existing ICANN staff and would not entail any budgetary consequences. No potential negative effects with the actions have been identified and there are no advantages to gain by delaying the actions.

Submitted by:	Olof Nordling
Position:	Director, Services Relations
Date Noted:	4 March 2011
Email and Phone Number	Olof.nordling@icann.org Contact

2011-03-18-04 Board Submission Revision of Bylaws re SSAC Review WG Implementation Plan

ICANN BOARD SUBMISSION NO. 2011-03-18-04

TITLE: **SSAC-Related Changes to ICANN Bylaws**

PROPOSED ACTION: **For Consent Agenda**

EXECUTIVE SUMMARY:

The Working Group on improvements to the Security and Stability Advisory Committee (SSAC) recommended that task area one of the SSAC Charter should be removed because it is out of scope of the activities of the SSAC. The SIC agreed that task area one should be removed. The reviewers also recommended that a process be put in place to allow for the Board to remove SSAC members. The SIC agreed that, as the Board has the power of appointment of SSAC membership, the Bylaws should be revised to allow for the complementary power of removal, so long as its performed in consultation with the SSAC. On 28 October 2010 the Board approved resolution 2010.28.10.11 directing that the proposed Bylaws amendments should be posted for public comment for a period of no less than 30 days. Following the Board's directive, the public comment forum was opened on 03 November 2010 and will close on 02 December 2010. At the time of this Submission, no comments were submitted in the public comment forum. The current draft of the Summary and Analysis document to be posted in the public comment forum is attached as Exhibit A. The SIC considered this item at its meeting in Cartagena, but due to concerns expressed, the item was removed from the Cartagena Board agenda. Subsequent consultations have lead to the current proposal, expressed in two separate resolutions.

PROPOSED SIC RECOMMENDATION:

The following recommendations have been proposed for the SIC's consideration: The SIC recommends that the Board approve the proposed changes to the ICANN Bylaws to allow for the complementary power of SSAC member removal, so long as its performed in consultation with the SSAC. Recommendation Superceded

PROPOSED RESOLUTIONS:

A. Bylaws change

Whereas, Article XI, Section 2, Subsection 2 of the Bylaws governs the Security and Stability Advisory Committee (SSAC).

Whereas, in its final report published 29 January 2010 http://www.icann.org/en/reviews/ssac/ssac-review-wg-final-report-29jan10-en.pdf [PDF, 282 KB], the SSAC Review Working Group recommended that task area one of the SSAC Charter (Section 2(2)(a)(1) http://www.icann.org/en/general/bylaws.htm#XI) should be removed because it is out of scope of the activities of the SSAC.

Whereas, on 12 March 2010, the Board received the SSAC Review Working Group final report and directed the Structural Improvements Committee (SIC) to identify actions necessary to address the recommendations within the report, at http://www.icann.org/en/minutes/resolutions- 12mar10-en.htm#1.6.

Whereas, the SIC, at its 14 October 2010 meeting, recommended that the Bylaws should be amended to achieve the recommendation of the SSAC Review Working Group on improvements to the SSAC by removing task area one and renumbering the other task areas.

Whereas, the SIC also considered the SSAC Review Working Group's recommendation that the Board should have the power to remove SSAC members, and recommended that the Bylaws should be amended to reflect this companion removal power. Any removal should be formed in consultation with the SSAC.

Whereas, in resolution 2010.28.10.11 the Board directed staff to post the proposed Bylaws amendments for a period of no less than 30 days.

Whereas, the proposed amendments were posted for public comment for a period of 30 days beginning 03 November 2010 and ending 02 December 2010.

Whereas, staff provided the Board with a summary and analysis of the public comments received and recommended that the Board approve the Bylaws amendments as posted at http://www.icann.org/en/general/proposed-bylaw-changes-xi-2-03nov10-en.pdf.

RESOLVED (2011.03.18.XX), the Board approves the Bylaws revisions as posted for public comment in furtherance of the recommendations arising out of the SSAC Review Working Group.

Resolution Text Superceded

PROPOSED RATIONALE:

The proposed actions are in line with the adopted implementation plan following the SSAC Review and serves to fulfil the commitments agreed by the Board to that end.

The Bylaws changes have been posted for public comments. They received no comments indicating any foreseen negative effects and there is no reason to delay their adoption. The task to develop a security framework is intended to fulfil the Board's expressed desire that work within task area one of the SSAC Charter should be performed by ICANN. There is no reason to delay this task as it, per se, would have no budgetary consequences. The outcomes should explicitly cover scoping and resource estimates, to be considered and decided by the Board once the task has been accomplished and a proposal put forward.

Submitted by:	Ray Plzak
Position:	SIC Chair
Date Noted:	2 March 2011
Email and Phone Number	plzakr@gmail.com

2011-03-18-05 Board-Submission IDN Variants Working Group

ICANN BOARD SUBMISSION NO. 2011-03-18-05

TITLE: **Approval of Membership of the Board IDN Variants Working Group (BV-WG)**

PROPOSED ACTION: **For Consent Agenda**

EXECUTIVE SUMMARY:

During the 10 December 2010 Board meeting in Cartagena meeting, the Board dissolved the Equivalent Strings Working Group and requested that the Board Governance Committee (BGC) establish a new Board IDN Variant Working Group (BV-WG) to oversee and track the IDN Variant Issues Project. *See* Resolution (2010.12.10.31) available at http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#7.

At its meeting on the 18 February 2011, the BGC recommend that the Board approve the following as members of the Board IDN Variant Working Group: Kuo-Wei Wu, Thomas Narten, Suzanne Woolf and Ram Mohan. The BGC also recommended that Ram Mohan be approved as chair of the BV-WG, as he co-chaired a previous working group on this topic.

BGC RECOMMENDATION:

The BGC recommends that the Board approve the membership of the BV-WG as approved by the BGC.

PROPOSED RESOLUTION:

Whereas, the Board requested that the BGC recommend membership of a Board IDN Variant Working Group (BV-WG) to oversee and track the IDN Variant Issues Project. *See* Resolution (2010.12.10.31) available at http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#7.

Whereas, the BGC recommended that the Board approve the following Board members to serve on the BV-WG: Ram Mohan (Chair), Thomas Narten, Kuo-Wei Wu and Suzanne Woolf.

Resolved (2011.03.18.xx), the ICANN Board approves Ram Mohan, Thomas Narten, Suzanne Woolf and Kuo-Wei Wu as the members of the Board IDN Variant Working Group, with Ram Mohan as Chair.

PROPOSED RATIONALE:

The Board directed the Board Governance Committee to establish the Board IDN Variant Working Group (BV-WG), to oversee and track the IDN Variant Issues Project. The approval of the membership of the BV-WG by the Board will allow the work as identified in the resolution to proceed. By overseeing and tracking the IDN Variant Issue Project, the BV-WG will increase the accountability and transparency of the organization. There is no financial impact on ICANN or the community by approving the membership of this working group. Approval of the membership of the working group does not present any impact on the systemic security, stability and resiliency of the DNS.

Submitted by:	Amy Stathos
Position:	Deputy General Counsel
Date Noted:	05 March 2011
Email and Phone Number	amy.stathos@icann.org; +1.310.301.3866

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Separator Page

Item Removed from Agenda

Item Removed from Agenda

Item Removed from Agenda

2011-03-18-07 Board Submission October 2012 North America Meeting Location Board Submission - 03012011

TITLE: **Location of October 2012 ICANN Meeting**

PROPOSED ACTION: **For Consent Agenda**

EXECUTIVE SUMMARY:
The location of the ICANN International Public Meeting ("Meeting") to be held from 14-19 October 2012 needs to be confirmed. In the regular rotation, this Meeting is to be held in North America. The Annex to this paper summarizes the steps taken to locate a site for the North America 2012 Meeting.

STAFF RECOMMENDATION:
Staff recommends accepting the proposal of the Canadian Internet Registration Authority (CIRA) to host the October 2012 Meeting.

BOARD FINANCE COMMITTEE RECOMMENDATION:
The Board Finance Committee will review and is expected to approve the budget for North America 2012 on 13 March.

PROPOSED RESOLUTION:
Whereas, ICANN intends to hold its third Meeting for 2012 in the North America region as per its policy;

Whereas the Canadian Internet Registration Authority (CIRA) submitted a viable proposal to serve as host for the ICANN 2012 North America Meeting;

Whereas, staff has completed a thorough review of the Canadian Internet Registration Authority (CIRA) proposal and finds it acceptable;

Whereas, the Board Finance Committee will review and is expected to approve the budget for the ICANN 2012 North America Meeting as proposed in this paper on 13 March;

It is hereby resolved (2011.03.18.___) that the Board accepts the proposal of the Canadian Internet Registration Authority (CIRA) and approves that the ICANN 2012 North America Meeting shall be held in Toronto, Canada from 14-19 October 2012, with a budget not to exceed US$2.01M, and that the Toronto Meeting be designated as the 2012 Annual Meeting.

PROPOSED RATIONALE:

As part of ICANN's public meeting schedule, three times a year ICANN hosts a meeting in a different geographic region (as defined in the ICANN Bylaws) of the world. Meeting Number 45, scheduled for 14-19 October 2012, is to occur in the North America Geographic Region. A call for recommendations for the location of the meeting in North America was posted on 1 November 2010. A proposal was received from the Canadian Internet Registration Authority (CIRA).

The Board reviewed Staff's recommendation for hosting the meeting in Toronto, Canada, and the determination that the proposal met the significant factors of the Meeting Selection Criteria used to guide site selection work. Outside of the call for recommendations, the process for selection of sites does not call for public consultation, as the staff assessments of the feasibility of any site is the primary consideration.

There will be a financial impact on ICANN in hosting the meeting and providing travel support as necessary, as well as on the community in incurring costs to travel to the meeting. There is no impact on the security or the stability of the DNS due to the hosting of the meeting.

The Board thanks all who recommended sites for ICANN Meeting Number 45.

Submitted by: Nick Tomasso
Position: Senior Director, Meetings & Language Services
Date Noted: 27 February 2011
Email and Phone Number nick.tomasso@icann.org +1-310-630-7730

2011-03-18-08 Board Submission 2014-16 ICANN Mtg Dates

ICANN BOARD SUBMISSION No. 2011-03-18-07

TITLE:	Dates of 2014, 2015 and 2016 ICANN Meetings
PROPOSED ACTION:	For Consent Agenda

EXECUTIVE SUMMARY:
The dates of ICANN International Public meetings ("Meetings") to be held in 2014, 2015 and 2016 need to be confirmed. The Annex to this paper will include the list of important holidays, celebrations, observances and community events that were considered when developing the recommended dates identified in this paper.

STAFF RECOMMENDATION:
Staff recommends that the Board accept the dates of Meetings to be held in 2014, 2015 and 2016, that are identified below. The dates have been posted for a public comment period ending on 8 March. If any comments received affect a change to the dates, staff will provide alternate dates for approval.

ICANN MEETING DATES / GEOGRAPHIC ROTATION 2014 — 2015 — 2016	
2014	
23 - 28 March 2014	No. 49 | Europe (Tentative)
22 - 27 June 2014	No. 50 | North America (Tentative)
12 - 17 October 2014	No. 51 | Asia Pacific (Tentative)
2015	
08 - 13 February 2015	No. 52 | Africa (Tentative)
21 - 26 June 2015	No. 53 | Latin America (Tentative)
18 - 23 October 2015	No. 54 | Europe (Tentative)
2016	
28 Feb - 4 Mar 2016	No. 55 | North America (Tentative)
19 - 24 June 2016	No. 56 | Asia Pacific (Tentative)
30 Oct - 4 Nov 2016	No. 57 | Africa (Tentative)

BOARD PUBLIC PARTICIPATION COMMITTEE RECOMMENDATION:
The Board Public Participation Committee has reviewed and approved the proposed dates for Meetings to be held in 2014, 2015 and 2016.

PROPOSED RESOLUTION:
Whereas, ICANN intends to hold Meetings in 2014, 2015 and 2016 as per its policy;

Whereas, the dates proposed in this paper were published for public comment for a period of 15 days ending 8 March 2011;

Whereas, staff has completed a thorough review of the public comments received, and has used those comments to develop the scheduled dates of ICANN Meetings;

It is hereby resolved (2011.03.18.___) that the Board accepts the dates of Meetings to be held in 2014, 2015 and 2016.

PROPOSED RATIONALE:

While ICANN continues to examine the overall structure of the Meetings and conferences it conducts, including the number, type and geographic rotation, it is important to identify and publish proposed dates for ICANN Meetings through 2016. Publishing the Meeting dates is important to prevent conflicts with other community events, as well as to allow ICANN Meeting participants to plan for their attendance.

The proposed dates were selected based on careful avoidance of important holidays, celebrations, and observances around the globe. Similarly, every effort was made to identify and prevent scheduling conflicts with other community events. Staff recommendations were then developed for review by members of the ICANN Public Participation Committee, and subsequently published for a 15-day public comment period.

There will be no financial impact on ICANN in announcing the dates of upcoming ICANN Meetings. There is no impact on the security or the stability of the DNS due to announcement of the dates.

Submitted by:	Nick Tomasso
Position:	Senior Director, Meetings & Language Services
Date Noted:	28 February 2011
Email and Phone Number	nick.tomasso@icann.org

2011-03-18-09 Board Submission 2011-2014 Strategic Plan

ICANN BOARD SUBMISSION NO. 2011-03-18-09

TITLE: **2011-2014 ICANN Strategic Plan**

PROPOSED ACTION: **For Board Adoption**

EXECUTIVE SUMMARY:

ICANN produces a three-year Strategic Plan that is reviewed and updated annually. The Board is being asked to approve the updated 2011-2014 Strategic Plan. The appendix to this paper includes a clean version of the Plan and a redline version reflecting changes made from the draft.

After consultation with the Board and community, and publication of a draft for comment, ICANN published a Final version of the 2011-2014 Strategic Plan for Board consideration.

This new plan retained and updated the well-received one-page Strategic Plan Summary; added a new section introducing the concept that ICANN achieved some objectives through influence while others are within its control; and included measureable performance metrics related to the Strategic Objectives. The plan reflected continuity from the previous plan and was updated to reflect accomplishments and new initiatives identified by the community as important.

The plan reflects the substantial advice from the community. Changes based on this input are underlined in the prose.

In more detail, highlights of the new plan substantively and the consultative engagement processes to write it are:

KEY SUBSTANTIVE CHANGES IN THIS YEAR'S PLAN

Overall, this year's Strategic Plan update resulted in several content and format changes to last year's plan along with the addition of performance metrics. The following section provides a summary:

- Concept of Influence versus Control added

    - Key theme woven throughout the plan that in some areas ICANN has more direct control over actions and outcomes and in other areas ICANN can only influence actions or outcomes

- Revised the Strategic Focus Area headings to align with Affirmation of Commitments language

- DNS Stability & Security Focus Area

    - Recognized success of DNSSEC and other security efforts along with business continuity planning exercises and simulations

- o Focused new initiatives on more efforts in the Internet Protocol area and RPKI; committed to greater outreach, involvement and coordination of the global community into DNS Stability & Security actions

- Competition, Consumer Trust & Consumer Choice Focus Area

  - o Recognized successes in IDNs, IDN Fast Track, new gTLDs and other programs and a push to keep policy development programs moving forward

  - o Continued to support initiatives for Whois improvements, Registrant protections and promotion of fair opportunities for open entry into Internet markets around the globe

- Core Operations including IANA Focus Area

  - o Recognized significant investments made in the IANA function (e.g., personnel, processes, continuity exercises, EFQM), progress on ICANN's Operational Excellence Initiative (OEI) and improvements on transparency of financial reporting.

  - o Continued focus on IANA performance and securing the follow-on contract and implementing performance metrics which reflect the efforts of EFQM and OEI

  - o Enhanced efforts for Contractual Compliance program

- A Healthy Internet Governance Eco-system Focus Area

  - o Added the word governance to the focus area title to reflect that the primary actions are aimed at participating in and improving Internet governance

  - o ICANN remains committed to the vision of one unified global Internet

  - o Increased efforts on building stakeholder diversity including reaching out more the corporate community

  - o Provided clarity of ICANN's objectives for international engagement

  - o Eight new strategic metrics addressing this focus area

PLANNING AND PROCESS:

The planning process for this year's Strategic Plan update recognized the ICANN's ongoing commitment to the bottom-up, decision-making model and contained extensive consultation with the multi-stakeholder community, the Board, and several workshops with ICANN Staff.

- The process began in September with ICANN Staff workshops addressing each of the four Strategic Focus Areas. The workshops considered what had been accomplished in the past year, what environmental changes had occurred in the past year and what new changes needed to be made to each focus area based upon the group's evaluation.

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- During October, pre-draft meetings were held with the ccNSO, GNSO, ALAC and RALOs to obtain their input on accomplishments, environmental changes and new opportunities.

- In early November, an initial DRAFT of the plan was compiled based upon staff and community organization input.

- In late November, the DRAFT plan was posted for public comment prior to the Cartagena meeting.

- During Cartagena, several consultations occurred with stakeholder groups to further refine the plan.

- During the Silicon Valley Board Workshop, the Board formed a working group that was to discuss strategic planning and to provide direction. This group is comprised of Steve Crocker, Bruce Tonkin, Katim Touray, Mike Silber, Ramaraj, Ray Plzak, Dennis Jennings (ret), and Jonne Soininen (ret). Two strategic planning Board working group meetings were held, one in Cartagena and one subsequent teleconference.

- In January an extended public comment forum occurred.

- During February, all of the input from the various community organizations, public feedback and Board comments were incorporated into the final draft provided here for approval.

There are two version of the updated plan: clean and redlined. In the clean version of the 2011- 2014 Strategic Plan the underlined portions are those added or reworked as a result of Community and Board comments. Additionally, the redlined version of the 2011- 2014 Strategic Plan, shows all of the wording changes that were made to the draft plan since it was previously posted on 27 November 2010.

STAFF RECOMMENDATION:

For reasons stated, the Staff recommends that the Board adopt the proposed

2011-2014 Strategic Plan.

PROPOSED RESOLUTION:

Whereas, ICANN's July 2011 through June 2014 Strategic Plan seeks to provide four areas of high level strategic focus for ICANN;

Whereas, ICANN's July 2011 through June 2014 Strategic Plan identifies in addition to four areas of focus, enablers across all areas to reflect ICANN's responsibilities towards a multi-stakeholder model, collaboration, and being international, transparent and accountable;

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Whereas, ICANN's July 2011 through June 2014 Strategic Plan captures strategic objectives and strategic projects, details of community work and staff work will be reflected in the operational plan and identifies strategic performance metrics;

Whereas, ICANN's Strategic Plan is based on input from the ICANN Staff, community organizations, ICANN Board of Directors, public consultations on ICANN's website, and presentations at the ICANN Cartagena meeting and to constituency groups;

Whereas, the Strategic Plan will form the framework around which the July 2011 through June 2012 Operational Plan and the associated budget are constructed.

Whereas, members of the community have been very generous with their time and the Board appreciates the work that they have done.

It is hereby RESOLVED *(2011.03.18.xx) the Board approves the July 2011-June 2014 Strategic Plan, and directs the President and staff to move forward with the community-based Operational planning process based on the strategic objectives as set forth in the plan. Minor edits will be provided to staff by the Board before close of business on Monday 21 March 2011, final changes will be subject to the Chairman's final approval.*

PROPOSED RATIONALE:

What Stakeholders or others were consulted?

As part of this extensive review, ICANN conducted many community consultations that were held to receive input. These included meetings with the ccNSO Strategy and Operations Planning Group, GNSO leadership, ALAC, and RALOs (separately). During the recent Silicon Valley Board Workshop, the Board formed a working group that was to discuss strategic planning and to provide direction. This group is comprised of Steve Crocker, Bruce Tonkin, Katim Touray, Mike Silber, Ramaraj, Ray Plzak, Dennis Jennings (ret), and Jonne Soininen (ret).

What concerns or issues were raised by the community?

Following the public comment period (27 November 2010 - extended to 25 January 2011) and the continued consultations, the three areas outlined below where identified as being areas of concern that needed refinement.

1. Re-organization of objectives to: (a) distinguish areas of Influence versus Control, and (b) clarify levels of engagement.

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Based on consultations with the Board Working Group, we have revised the language in the first sections of each of the focus areas to amplify and clarify on the role of ICANN's Influence versus Control in each of the strategic focus areas.

2. Establish more measurable objectives with: (a) clear definition of desired outcomes, and (b) a consistent evaluation model.

   Performance metrics have been added to each focus area that provides measureable metrics to gauge ICANN's progress toward the strategic goals. We have incorporated relevant comments that added clarity to the Strategic Plan's various objectives. For example, we changed one of the pillar labels from *Consumer Choice, Competition and Innovation*, to *Competition, Consumer Trust and Consumer Choice* to specifically align language with the Affirmation of Commitment; the *Healthy Internet Eco-System* was modified to *A Healthy Internet Governance Eco-System.*

3. Revised and added additional wording for clarity.

   Language in the prose sections that describes the objectives in more detail have been standardized and a set of more measurable strategic objectives were listed at the close of each section.

Are there Positive or Negative Community Impacts?

There are positive impacts because the Community will see in the updated Strategic Plan that we took into account their feedback and thus the multi-stakeholder bottom-up decision-making model is being implemented. Secondly, we have refined the Strategic Plan to incorporate strategic performance metrics in alignment with Community feedback and expectation.

This plan also includes thirty-six new performance metrics that ICANN will now carry forward into the Operations Planning process to link the Strategic Planning process to the Operating and Budget planning processes. ICANN will also need to develop the tracking and reporting mechanisms for these new performance metrics. We anticipate that the community will view these metrics as providing greater transparency and accountability.

This year's planning process was planned to be a "dusting off" of the previous plan but resulted in more substantial adjustments following extensive Community participation and feedback . In order to accommodate the information, the consultation process was adjusted accordingly, which delayed the timeline from a planned approval in Cartagena (December 2010) to the current in San Francisco (March 2011).

Aniticipating similarly intensive engagements in the future, the Strategic Planning cycle will be started earlier next year. That planning cycle will be published shortly.

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The remainder of the annual planning cycle includes approval of the Strategic Plan, incorporation of the Strategic Plan into the Operating Plan framework (currently in-work) and finally development of the next fiscal year Budget (planned for approval in June). A framework of that Operating Plan is posted and anticipates many features of this proposed Strategic Plan.

As part of ICANN's planning process, the adopted Strategic Plan guides the development of the FY12 Operating Plan and Budget. Historically, the Strategic Plan is important as it focuses the operating priorities for the Board, Staff and Community for the next three years.

Submitted by: Kurt Pritz

Position: Senior Vice President, Stakeholder Relations

Date Noted: 2 March 2011

Email: Kurt.Pritz@icann.org

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2011-03-18-10 Board Submission 2011-03-05 Letter from PDT-Heather Dryden

From: icann-board-bounces@icann.org [icann-board-bounces@icann.org] On Behalf Of Peter Dengate Thrush [Peter.DengateThrush@icann.org]
Sent: Saturday, March 05, 2011 12:50 PM
To: Heather Dryden
Cc: ICANN Board of Directors
Subject: [icann-board] Documenting the Board/GAC Brussels consultation

Dear Heather,

On behalf of the Board of Directors of ICANN, I would like to formally thank the ICANN's Governmental Advisory Committee for participating in the first intersessional Board/GAC meetings, held in Brussels on 28 February and 1 March 2011, regarding ICANN's proposed implementation of the new gTLD program.

We appreciate the preparatory work and time commitment of the GAC Members in participating in these discussions. We also look forward to continuing to work with you on the best ways to evaluate and implement changes to the program resulting from your advice, in the consultation scheduled to be held at the Silicon Valley ICANN Meetings to be held in San Francisco later this month. We are still holding the 17 March consultation slot open and look forward to adding the other day to these consultations following on from your recent offer to be available for this additional time.

The Board looks forward to continuing to collaborate with the GAC in order to conclude the consultation process on the new gTLD program during the Silicon Valley/San Francisco Meeting.

The Board has made a good faith effort toward narrowing the outstanding issues as evidenced by the production of Board Papers, and the subsequent use of the GAC scorecard to frame and shape the issues. The clarity gained during these efforts has significantly reduced the amount of work that needs to be done in order to reach agreement on most issues.

We have included the ICANN Board's response to the GAC scorecard entitled 'Board Notes GAC Actionable Scorecard, attached.   We have provided this response, to set out information regarding the Board's evaluation of the GAC advice, which has been summarized within your scorecard. We look forward to discussing this with you further as part of the evaluation. The issues that you have raised are responded to point-by-point.

While discussion in Brussels confirmed that we would work together to clarify implementation of the issues marked as "1(b)", a narrowed focus in San Francisco on the issues that are still in contention would be a best use of the Board and GAC's time during the two days of consultations, and should represent the final stages in our required consultation. Accordingly, we propose focusing there on those items marked with a "2", in the Board's response to the Scorecard attached. Those items marked 1(b) might result in follow on discussions with the GAC regarding implementation in the time leading up to the launch of the program, but do not appear that they will require the same consultation that we have triggered on the "2"'s since we are not in fundamental disagreement on those items categorized as 1(b)'s.

Our breakdown of the Scorecard shows a total of 80 subparts, including a total of 25 - 1As; 28 - 1Bs; 23 - 2s; 4 - TBDs. In terms of the 12 sections identified by the GAC, we have 2s in five of them - sections 2, 4, 5, 6 and 8. We do not have any 2s in sections 1, 3, 7, 9, 10, 11 and 12, although in section 10 we have three TBDs. A table of this breakdown is also attached.

We look forward to hearing from your preferred date for a second day of consultation, during the Silicon Valley/ San Francisco ICANN Meeting.

Again, our thanks for a very productive meeting.

Sincerely,

Peter Dengate Thrush
Chairman of the Board of Directors,
Internet Corporation for Assigned Names and Numbers

+64 4 4998959 (DDI)
+64 21499888 (mobile)

2011-03-18-10 Board Submission Scorecard-Chart(1A-1B-2)

Item	Subpoints	1A	1B	2	?
1	1		1		
2	8	1	3	4	
3	8	8			
4	3	1	1	1	
5	1			1	
6.1	8	2	3	3	
6.2	15	5	3	7	
6.3	7	1	1	4	1
6.4	4	1	2	1	
7	2		2		
8	7	1	4	2	
9	1	1			
10	8	3	2		3
11	6	1	5		
12	1		1		
Totals	80	25	28	23	4

2011-03-18-10 ICANN-Board-Notes-Actionable-GAC-Scorecard-2

ICANN Board Notes on the GAC New gTLDs Scorecard

4 March 2011

This document contains the ICANN Board's notes on the "GAC indicative scorecard on new gTLD outstanding issues" of 23 February 2011. Each GAC scorecard item is noted with a "1A", "1B", or "2":

- "1A" indicates that the Board's position is consistent with GAC advice as described in the Scorecard.
- "1B" indicates that the Board's position is consistent with GAC advice as described in the Scorecard in principle, with some revisions to be made.
- "2" indicates that the Board's current position is not consistent with GAC advice as described in the Scorecard, and further discussion with the GAC in San Francisco is required.

Item #	GAC Scorecard Actionable Item	Position	Notes
1.	**The objection procedures including the requirements for governments to pay fees**		
1.	Delete the procedures related to "Limited Public Interest Objections" in Module 3.	**1B**	The GAC indicated in Brussels that its concern relates to requiring governments to use this objection process. The Board and GAC therefore agreed that it would be consistent with GAC advice to leave the provision for Limited Public Interest Objections in the Guidebook for general purposes, but the GAC (as a whole) would not be obligated to use the objection process in order to give advice.
2.	**Procedures for the review of sensitive strings**		
2.1.1	*1. String Evaluation and Objections*	**1B**	A procedure for GAC review will be

	Procedure Amend the following procedures related to the Initial Evaluation called for in Module 2 to include review by governments, via the GAC. At the beginning of the Initial Evaluation Period, ICANN will provide the GAC with a detailed summary of all new gTLD applications. Any GAC member may raise an objection to a proposed string for any reason. The GAC will consider any objection raised by a GAC member or members, and agree on advice to forward to the ICANN Board.		incorporated into the new gTLD process. The GAC may review the posted applications and provide advice to the ICANN Board. As discussed with the GAC, such advice would be provided within the 45-day period after posting of applications, with documentation according to accountability and transparency principles including whether the advice from the GAC is supported by a consensus of GAC members (which should include identification of the governments raising/supporting the objection).
2.1.2	GAC advice could also suggest measures to mitigate GAC concerns. For example, the GAC could advise that additional scrutiny and conditions should apply to strings that could impact on public trust (e.g. '.bank').	**2**	If the GAC were to provide suggested changes to mitigate concerns, we are concerned that the advice would lead to ad hoc changes to the evaluation process based on subjective assessments.
2.1.3	In the event the Board determines to take an action that is not consistent with GAC advice pursuant to Article XI Section 2.1 j and k, the Board will provide a rationale for its decision.	**1A**	

2.2	**2. Expand Categories of Community-based Strings** Amend the provisions and procedures contained in Modules 1 and 3 to clarify the following:		
2.2.1	"Community-based strings" include those that purport to represent or that embody a particular group of people or interests based on historical, cultural or social components of identity, such as nationality, race or ethnicity, religion, belief, culture or particular social origin or group, political opinion, membership of a national minority, disability, age, and/or a language or linguistic group (non exhaustive). In addition, those strings that refer to particular sectors, such as those subject to national regulation (such as .bank, .pharmacy) or those that describe or are targeted to a population or industry that is vulnerable to online fraud or abuse, should also be considered "community-based" strings.	**2**	Any community is eligible to designate its application as community-based. Bona fide community applicants are eligible for preference in the event of contention for a string. Also, ICANN has provided a community objection process in the event that there is "substantial opposition to it from a significant portion of the community." (A community objection may be lodged against any application, whether or not it is designated as community-based.) The GAC's list of groups and sectors appears to be an example of the kinds of communities that may be able to achieve standing to raise a community objection.

			ICANN will review the standards for the community objection process to ensure that they are appropriate. Revised standards will be included in the forthcoming version of the Applicant Guidebook.
2.2.2	Applicants seeking such strings should be required to affirmatively identify them as "community-based strings" and must demonstrate their affiliation with the affected community, the specific purpose of the proposed TLD, and –when opportune evidence of support or non-objection from the relevant authority/ies that the applicant is the appropriate or agreed entity for purposes of managing the TLD.	2	The GAC's suggestion would require applicants to designate themselves as a community, even if they might not be. Strings may have many meanings, not all of which might implicate a community. Reducing the context for how strings may be used is contrary to an important goal of the new gTLD program, which is to help encourage competition, innovation and consumer choice.
2.2.3	In the event the proposed string is either too broad to effectively identify a single entity as the relevant authority or appropriate manager, or is sufficiently contentious that an appropriate manager cannot be identified and/or agreed, the application should be rejected.	2	The community objection process is intended to deal with applications where "there is substantial opposition" to the application "from a significant portion of the community." This GAC advice seems to suggest that

			unless everyone can agree on an appropriate applicant for a given string then the string should not be approved. Again, this seems contrary to the goal of increasing competition and providing additional choice to all consumers. Further, the phrase "sufficiently contentious" is vague and it is unclear who the GAC is suggesting would need to agree on an "appropriate manager." Thus, this suggestion does not seem to be workable in light of the goals of the new gTLD program.
2.2.4	The requirement that objectors must demonstrate "material detriment to the broader Internet community" should be amended to reflect simply "material detriment", as the former represents an extremely vague standard that may prove impossible to satisfy.	**1B**	Staff will return with revised wording to address this concern.
2.2.5	Individual governments that choose to file objections to any proposed "community-based" string should not be required to pay fees.	**1B**	ICANN will investigate a mechanism for the forthcoming round under which GAC members could be exempted from paying fees for objections in some circumstances (subject to constraints

			imposed by budget and other considerations).
3.		**Root Zone Scaling**	
3.1.1	The Board should continue implementing a monitoring and alerting system and ensure a) that ICANN can react predictably and quickly when there are indicators that new additions and changes are straining the root zone system, and	**1A**	Root zone monitoring systems are currently in place. ICANN will work with root zone operators to identify relevant reporting metrics and establish a process to report such metrics to the GAC and the Internet community.

Furthermore, a process will be implemented that enables the delegation of TLDs to be slowed or stopped in the event there is a strain to the root zone system.

ICANN also commits to review the effects of the new gTLD program on the operations of the root zone system, and defer the delegations in the second round until it is determined that the delegations in the first round did not jeopardize root zone system security or stability. |
| 3.1.2 | b) that the processes and possible resulting restorative measures that flow from its results are fully described in the Application | | See 3.1.1 above. |

	Guidebook before the start of the first application round.		
3.2	The Board commits to defer the launch of a second round or batch of applications unless an evaluation shows that there are indications from monitoring the root system etc. that a first (limited) round did not in any way jeopardize the security and stability of the root zone system.		See 3.1.1 above.
3.3	The Board commits to make the second round or batch of applications contingent on a clean sheet from full technical and administrative assessment of impact of the first round with recommendations which should go out to public comment for approval.		See 3.1.1 above.
3.4	The Board commits to avoid the possibility that other activities will be impacted by the possible diversion of resources to processing new gTLD applications.		ICANN commits that the operation of the IANA functions and ICANN's coordination of the root zone system will not be negatively affected.
3.5	The Board should ensure that ICANN can effectively address the specific needs of applicants from different, perhaps non-English speaking cultures, and with different legal environments.		See note on 3.4 above.

3.6	The Board should monitor the pace and effectiveness of ICANN's management of contract negotiations for new gTLDs in a potential situation of 200 to 300 simultaneous applications and evaluations.	**1A**	
3.7	The Board is confident that all relevant actors (IANA, root server operators, etc) are sufficiently informed about what is expected from them in terms of work loadings and resources in order to fulfil their respective roles, in particular the pre delegation checking, approvals, implementation of potentially 200 to 300 root zone changes a year and expected post-delegation changes.	**1A**	
4.	**Market and Economic Impacts**		
4.1	Amend the final Draft Applicant Guidebook to incorporate the following: Criteria to facilitate the weighing of the potential costs and benefits to the public in the evaluation and award of new gTLDs.	**2**	It is not planned that information gathered as part of the application will be used to predict the net benefit of the prospective TLD – that would be too speculative to be of real value. However, during the discussions between the GAC and the Board in Brussels, the GAC indicated that the weighing of costs and benefits should

			instead take place as part of the new gTLD program review as specified in section 9.3 of the Affirmation of Commitments.
4.2	A requirement that new gTLD applicants provide information on the expected benefits of the proposed gTLD, as well as information and proposed operating terms to eliminate or minimize costs to registrants and consumers.	**1B**	As clarified through the discussions with the GAC in Brussels, ICANN will continue to explore with the GAC during the ICANN Public meeting in March 2011what data might be included in the application to provide useful input to later economic studies and community analysis.
4.3	Due diligence or other operating restrictions to ensure that Community-based gTLDs will in fact serve their targeted communities and will not broaden their operations in a manner that makes it more likely for the registries to impose costs on existing domain owners in other TLDs.	**1A**	ICANN will continue to work to ensure that post-delegation dispute mechanisms adequately address this concern.
5.			**Registry – Registrar Separation**
	Amend the proposed new registry agreement to restrict cross-ownership between registries and registrars, in those cases where it can be determined that the registry does have, or is likely to obtain, market power.	**2**	ICANN sought to implement a marketplace model that would enhance competition, opportunities for innovation and increase choice for consumers while preventing abuses in cases where the registry could wield

			market power. While lifting restrictions on cross-ownership, ICANN reserves the right to refer issues to appropriate competition authorities if there are apparent abuses of market power. As previously resolved by the Board, registry agreements will include requirements and restrictions on any inappropriate or abusive conduct arising out of registry-registrar cross ownership, including without limitations provisions protecting against misuse of data or violations of a registry code of conduct.
6.		**Protection of Rights Owners and consumer protection issue**	
6.1.1	*1. Rights Protection: Trademark Clearing House (TC)* The TC should be permitted to accept all types of intellectual property rights that are recognized under the national law of the country or countries under which the registry is organized or has its principal place of business. The only mandatory requirement for new registry operators will be to recognize national and supranational trademark registrations issued before June 26, 2008 and	**1B**	ICANN will update the Applicant Guidebook to permit the Trademark Clearinghouse to include intellectual property rights for marks in addition to registered trademarks and those protected by treaty or statute. Of those marks, registry operators will be required to recognize national, supranational and marks protected by treaty and statute as eligible for their sunrise and Trademark claims services (subject to proof of use as described

	court-validated common law trademarks.		below relating to sunrise services). The Clearinghouse must clearly note when entering the marks into the database, which marks are registered trademarks. The proposed date cut-off will not be utilized as discussed with the GAC.
6.1.2	Sunrise services and IP claims should both be mandatory for registry operators because they serve different functions with IP claims serving a useful notice function beyond the introductory phase.	**2**	The IRT and STI suggested an either/or approach. Please advise reasons for advocating both.
6.1.3	IP claims services and sunrise services should go beyond exact matches to include exact match plus key terms associated with goods or services identified by the mark) e.g. "Kodakonlineshop") and typographical variations identified by the rights holder.	**2**	ICANN recognizes that trademark holders have an interest in receiving notification in the event that strings are registered that include their mark and a key term associated with goods or services identified by the mark. This remains an area of discussion.
6.1.4	All trademark registrations of national and supranational effect, regardless of whether	**1B**	All trademark registrations of national and supranational effect, regardless of

	examined on substantive or relative grounds, must be eligible to participate in the pre-launch sunrise mechanisms.		whether examined on substantive or relative grounds, will be eligible for inclusion in the Trademark Clearinghouse and for the Sunrise/TM Claims service subject to the following. Registries that utilize a sunrise process must require submission of evidence of use of the mark by holders of all trademark registrations, regardless of the jurisdiction of registration. Use of the trademark may be demonstrated by providing a declaration from the trademark holder along with one specimen of current use. Further discussion should take place relating to proof of use.
6.1.5	Protections afforded to trademark registrations do not extend to applications for registrations, marks within any opposition period or registered marks that were the subject of successful invalidation, cancellation or rectification proceedings.	**1A**	
6.1.6	The IP claims service should notify the potential domain name registrant of the rights	**1A**	Agreed. Note: the notification to the rights holder will be sent promptly after

	holder's claim and also notify the rights holder of the registrant's application for the domain name.		the potential registrant has acknowledged the IP Claim and proceeds with the application to register the name.
6.1.7.1	The TC should continue after the initial launch of each gTLD.	**2**	The Trademark Clearinghouse will be an ongoing operation. The Sunrise and TM Claims service will operate only at launch (in accordance with the recommendations of the IRT and the STI). Trademark holders will continue to be able to subscribe to "watch" services that will be able to utilize the Centralized Zone File Access system to be able to efficiently monitor registrations across multiple gTLDs.
6.1.7.2	Rights holders, registries and registrars should all contribute to the cost of the TC because they all benefit from it.	**1B**	Rights holders will pay the Trademark Clearinghouse when the rights holders register their marks, and the registry will pay when administering its sunrise/trademark claims service.
6.2.1	*2. Rights Protection: Uniform Rapid Suspension (URS):* Significantly reduce the timescales. See attached table for proposed changes.	**1A**	

6.2.2	The complaint should be simplified by replacing the 5,000 word free text limit + unlimited attachments [para 1.2] with a simple pro forma standardised wording with the opportunity for not more than 500 words of freeform text and limit the attachments to copies of the offending website.	**1A**	Note: The word limit will not apply to respondents.
6.2.3	Decisions should be taken by a suitably qualified 'Examiner' and not require panel appointments.	**1A**	Examiners will be appointed by the URS Provider. Only one Examiner will be appointed per URS proceeding.
6.2.4	Where the complaint is based upon a valid registration, the requirement that the jurisdiction of registration incorporate substantive examination (paras 1.2f (i) and 8.1a) should be removed.	**1B**	There is no requirement that any registration of a trademark must include substantive evaluation. Each trademark registration must be supported by evidence of use in order to be the basis of a URS complaint. Use of the trademark may be demonstrated by providing a declaration from the trademark holder along with one specimen of current use. Further discussion should take place relating to proof of use.

6.2.5	If, as is expected in the majority of cases, there is no response from the registrant, the default should be in favour of the complainant and the website locked. The examination of possible defences in default cases according to para 8.4(2) would otherwise give an unjustified privilege to the non-cooperating defendant.	**1B**	An examiner will review the merits of each complaint to ensure that the standard is met, even in the event of a default. The examiner will not be required to imagine possible defenses – this provision will be removed from the Guidebook.
6.2.6	The standard of proof (para 8.2) should be lowered from "clear and convincing evidence" to a preponderance of evidence".	**2**	The principle of the URS is that it should only apply to clear-cut cases of abuse. "Clear and convincing" is the burden of proof that was recommended by the IRT and endorsed by the STI.
6.2.7	The "bad faith" requirement in paras 1.2f), 1.2g) and 8.1c) is not acceptable. Complainants will in only rare cases prevail in URS proceedings if the standards to be fulfilled by registrants are lax. Correspondingly, the factors listed in paras 5.7a) ("bona fide") and b) "been commonly known by the domain name") can hardly allow a domain name owner to prevail over the holders of colliding trademarks.	**2**	The standard applied for the URS is based on the UDRP standard. Both require a finding of bad faith.
6.2.8	A 'loser pays' mechanism should be added.	**2**	A loser pays mechanism was

			investigated, but ultimately was not adopted. The UDRP does not have a loser-pays mechanism. It is unlikely that complainants would ever be able to effectively collect based on clear-cut cases of abuse, since the names in question will already have been suspended. Notwithstanding, ICANN will monitor URS procedures once launched to see whether a loser pays mechanism or some other methodology to reimburse mark holders is feasible.
6.2.9	Registrants who have lost five or more URS proceedings should be deemed to have waived the opportunity to respond to future URS complaints (this amendment corresponds to the "two strikes" provision which applies to rights holders).	**2**	Due process principles require that every registrant should always have the opportunity to present a defense.
6.2.10.1	However, there should be a clear rationale for appeal by the complainant.	**2**	The Board has asked the GAC to clarify if it intended to refer to "complainant" (as opposed to respondent) in this statement. Every appeal will be decided de novo, and therefore the appeal process does not require a separate evaluation of the rationale for filing the appeal.

6.2.10.2	The time for filing an appeal in default cases must be reduced from 2 years to not more than 6 months.	**2**	The IRT originally suggested a URS without any appeal process. The STI suggested the inclusion of an appeal process (without any mention of a limitation on the ability to seek relief from a default). In response to comments, the Applicant Guidebook was revised to include a two-year limitation period on the opportunity to seek relief from a default.
6.2.10.3	In addition, the examination of possible defences in default cases according to para 8.4(2) means an unjustified privilege of the non-cooperating defendant.	**1A**	
6.2.11	The URS filing fee should be US$200-US$300 and minor administrative deficiencies should not result in dismissal of the URS complaint.	**1B**	ICANN will negotiate with URS service providers for the best prices and services. The fee range mentioned will be a target.
6.2.12	A successful complainant should have the right of first refusal for transfer of the disputed domain name after the suspension period so that the complainant is not forced to pursue a UDRP proceeding to secure a transfer.	**1A**	A successful complainant should have the right of first refusal to register the disputed domain name after the expiration of the registration period and any extension of the suspension period. This right of first refusal upon expiration will not diminish the registration period, or the period of time available for the registrant to seek

			relief from default, or in any other way harm the rights of any registrant.
6.2.13	The URS should go beyond 'exact' matches and should at least include exact + goods/other generic words e.g. "Kodakonlineshop".	**2**	As recommended by the IRT, the URS only applies to registrations that are identical or confusingly similar to protected marks as described in the Guidebook. As noted above, the URS is only intended to apply to clear-cut cases of abuse.
6.3.1	**3. Rights Protection: Post-delegation Dispute Resolution Procedure (PDDRP)** The standard of proof be changed from "clear and convincing evidence" to a "preponderance of evidence".	**2**	This was the standard developed by the IRT.
6.3.2	The second level registrations that form the underlying basis of a successful PDDRP complaint should be deleted.	**2**	The registrants are not parties to the proceedings, thus keeping a registrant from using the domain name or stripping the name from the registrant should be effected through an alternative proceeding, such as URS or UDRP. Note that to the extent registrants have been shown to be officers, directors, agents, employees, or entities under common control with

			a registry operator, then deletion of registrations may be a recommended remedy.
6.3.3	The requirement of "substantive examination" in para 9.2.1(i) should be deleted.	**1B**	There is no requirement that any registration of a trademark must include substantive evaluation. Each trademark registration must be supported by evidence of use in order to be the basis of a PDDRP complaint. Use of the trademark may be demonstrated by providing a declaration from the trademark holder along with one specimen of current use. Further discussion should take place relating to proof of use.
6.3.4	A new para 6.1 a) be added: "being identical to the complainant's mark in relation to goods and services which are identical to those for which the complainant's mark is registered. This would not apply if the registrant has a better right to the mark. In particular the registrant will in normal circumstances have a better right if the mark has been registered prior to the registration of the complainant's mark."	**(?)**	(Clarification from the GAC requested.)

6.3.5	Regarding the second level (para 6.2), the registrant operator should be liable if he/she acts in bad faith or is grossly negligent in relation to the circumstances listed in para 6.a)-d).	2	Changing the standard from requiring "affirmative conduct" to "gross negligence" would effectively create a new policy imposing liability on registries based on actions of registrants.
6.3.6	The requirement in para 7.2.3 lit.d) that the complainant has to notify the registry operator at least 30 days prior to filing a complaint is burdensome and should be reduced to 10 days if not deleted entirely.	2	The current requirement is in place to provide the registry with a reasonable amount of time to investigate and take appropriate action if a trademark holder notifies the registry that there may be infringing names in the registry.
6.3.7	Para 19.5 should be amended as follows: "In cases where the Expert Determination decides that a registry operator is liable under the standards of the Trademark PDDRP, ICANN will impose appropriate remedies that are in line with the Determination.	1A	ICANN agrees that it will impose appropriate remedies that are "in line" with the determination. It should be noted however that ICANN is ultimately responsible for determining the appropriate remedy.
6.4.1	*4. Consumer Protection* **A**mend the "Maintain an abuse point of contact" paragraph in the DAG to include government agencies which address consumer protection:	1B	

6.4.2	A registry operator must assist law enforcement, government agencies and agencies endorsed by governments with their enquiries about abuse complaints concerning all names registered in the TLD, including taking timely action, as required, to resolve abuse issues.	1B	ICANN agrees that the registry operator must assist appropriately in law enforcement investigations. There might be a difference between local and International law enforcement agencies. There is a question about whether this requirement would be stronger than what is already required by law. Changes to the Guidebook will be made after consideration of those issues.
6.4.3	Ensure that ICANN's contract compliance function is adequately resourced to build confidence in ICANN's ability to enforce agreements between ICANN and registries and registrars.	1A	Augment ICANN's contractual compliance function with additional resources to support the program of contracts between ICANN and the registries and registrars.
6.4.4	**Vetting of certain strings** gTLD strings which relate to any generally regulated industry (e.g. .bank, .dentist, .law) should be subject to more intensive vetting than other non-geographical gTLDs.	2	ICANN has requested clarification from the GAC of the intended meaning of "generally regulated industries", but generally believes that *a priori* categorization of strings is inherently problematic.
7.	**Post-Delegation Disputes**		
7.1	Change the wording in the sample letter of Government support in AG back to the wording in DAGv4 and keeping the new	1B	ICANN will modify the suggested wording of the letter of support or non-objection, and make clear its

	paragraph 7.13 of the new gTLD registry agreement with the changed wording from "may implement" to "will comply". E.g change the wording from "may implement" back to "will comply" with a legally binding decision in the relevant jurisdiction.		commitments to governments in additional text of the Applicant Guidebook. However, the registry agreement will continue to indicate that ICANN "may implement" instead of "will comply" with such decisions for legal reasons. As discussed previously with the GAC, ICANN's commitment to comply with legally binding decisions is made to governments, not to registries, Therefore, it is not necessarily in the interests of ICANN, or of governments, to place that obligation in registry agreements, giving registry operators the ability, and perhaps duty, to force ICANN to implement decisions in every case. (ICANN has a mechanism to enforce its contracts with registry operators.)
7.2	In addition describe in the AG that ICANN will comply with a legally binding decision in the relevant jurisdiction where there has been a dispute between the relevant government or public authority and registry operator.	**1B**	The suggestion to change "court decision" to "legally binding decision" requires further discussion as it may in some cases amount to a redelegation request. Also, there could be multiple jurisdictions that have given their support to one application (e.g., multiple "Springfield"s), thus, it may not

			be appropriate to implement a particular action based on one such decision.
8.	**Use of geographic names:**		
8.1.1.1	***1. Definition of geographic names*** Implement a free of charge objection mechanism would allow governments to protect their interest	**1B**	ICANN will investigate a mechanism for the forthcoming round under which GAC members could be exempted from paying fees for objections in some circumstances (subject to constraints imposed by budget and other considerations).
8.1.1.2	and to define names that are to be considered geographic names.	**2**	The process relies on pre-existing lists of geographic names for determining which strings require the support or non-objection of a government. Governments and other representatives of communities will continue to be able to utilize the community objection process to address attempted misappropriation of community labels. ICANN will continue to explore the possibility of pre-identifying using additional authoritative lists of geographic identifiers that are published by recognized global organizations.
8.1.2	This implies that ICANN will exclude an	**1B**	ICANN will continue to rely on pre-

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	applied for string from entering the new gTLD process when the government formally states that this string is considered to be a name for which this country is commonly known as.		existing lists of geographic names for determining which strings require the support or non-objection of a government. This is in the interest of providing a transparent and predictable process for all parties. (See related note above.)
8.1.3	Review the proposal in the DAG in order to ensure that this potential [city name applicants avoiding government support requirement by stating that use is for non-community purposes] does not arise. Provide further explanations on statements that applicants are required to provide a description/purpose for the TLD, and to adhere to the terms and condition of submitting an application including confirming that all statements and representations contained in the application are true and accurate.	**2**	There are post-delegation mechanisms to address this situation. In addition, the "early warning" opportunity will offer an additional means to indicate community objections.
8.1.4	Governments should not be required to pay a fee for raising objections to new gTLD applications. Implement a free objection mechanism would allow governments to protect their interest.	**1B**	ICANN will investigate a mechanism for the forthcoming round under which GAC members could be exempted from paying fees for objections in some circumstances (subject to constraints imposed by budget and other

			considerations).
8.2.1	*2. Further requirements regarding geographic names* The GAC clarifies that it is a question of national sovereignty to decide which level of government or which administration is responsible for the filing of letters of support or non-objection. There may be countries that require that such documentation has to be filed by the central government - also for regional geoTLDs; in other countries the responsibility for filing letters of support may rest with sub-national level administrations even if the name of the capital is concerned. GAC requests some clarification on this in the next version of the Applicants Guidebook.	**1A**	This principle is agreed, and this can be clarified in the Guidebook. ICANN invites governments to identify appropriate points of contact on this issue.
8.2.2	According to the current DAG applications will be suspended (pending resolution by the applicants), if there is more than one application for a string representing a certain geographic name, and the applications have requisite government approvals. The GAC understands such a position for applications that have support of different administrations or governmental entities. In such circumstances it is not considered appropriate	**1B**	ICANN will continue to suspend processing of applications with inconsistent/conflicting support, but will allow multiple applicants all endorsed by the same authority to go forward, when requested by the government. This area needs further discussion on the potential situations that could lead

	for ICANN to determine the most relevant governmental entity; the same applies, if one string represents different geographic regions or cities. Some governments, however, may prefer not to select amongst applicants and support every application that fulfils certain requirements. Such a policy may facilitate decisions in some administrations and avoid time-consuming calls for tenders. GAC encourages ICANN to process those applications as other competing applications that apply for the same string.		to redelegation requests.
9.		**Legal Recourse for Applications**:	
9.	Seek legal advice in major jurisdiction whether such a provision might cause legal conflicts – in particular but not limited to US and European competition laws. If ICANN explains that it has already examined these legal questions carefully and considering the results of these examinations still adheres to that provision, GAC will no longer insist on its position. However, the GAC expects that ICANN will continue to adhere to the rule of law and follow broad principles of natural justice. For example, if ICANN deviates from its agreed processes in coming to a decision,	**1A**	As discussed with the GAC, ICANN has examined these legal questions carefully and considering the results of these examinations still adheres to this provision. ICANN will clarify in the Applicant Guidebook that: if ICANN deviates from its agreed processes in coming to a decision, ICANN's internal accountability mechanisms will allow complaints to be heard.

	the GAC expects that ICANN will provide an appropriate mechanism for any complaints to be heard.		
10.	**Providing opportunities for all stakeholders including those from developing countries**		
10.1	*Main issues* **1. Cost Considerations** **S**et technical and other requirements, including cost considerations, at a reasonable and proportionate level in order not to exclude stakeholders from developing countries from participating in the new gTLD process.	**TBD**	ICANN's Board recognized the importance of an inclusive New gTLD Program and issued a Resolution forming a Joint Working Group (JAS WG) which is underway. ICANN would like to receive the report of the JAS WG as soon as possible. JAS WG is requested to provide a possible deadline for his work during the ICANN meeting in SFO allowing the Board to act. It is noted that one of the challenges in developing support mechanisms for applicants is to ensure that such support is actually received by those applicants with the most need, rather than being used advantageously by other participants. This issue has also been taken into account in the work of the JAS WG.

			The minimum technical requirements for operating a registry are expected to be consistent across applications.
10.2.1	**2. Language diversity** Key documents produced by ICANN must be available in all UN languages within a reasonable period in advance of the launch of the gTLD round.	**1A**	Some documents are already available in the 6 UN languages. The Final Application Guidebook will be also in due course, and the web site will be organize to find easily all the documents available in each language.
10.2.2	The GAC strongly recommends that the communications strategy for the new gTLD round be developed with this issue of inclusiveness as a key priority.	**1A**	
10.3	**3. Technical and logistics support**	**1B**	ICANN has agreed to provide certain mechanisms for technical and logistical support, such as assisting with matching needs to providers. ICANN is also considering setting up regional help desks to provide more responsive and relevant technical support to new gTLD applicants in developing countries.
10.4	**4. Outreach – as per Joint AC/SO recommendations**	**1A**	
10.5	**5. Joint AC/SO Working Group on support for**	**TBD**	This item from the GAC Scorecard

	new gTLD applicants. GAC urged ICANN to adopt recommendations of the Joint AC/SO Working Group.		appears to reflect the interim report of the JAS WG. ICANN is awaiting their final report. (ICANN would like to receive the report of the JAS WG as soon as possible.)
10.6	**6. Applications from Governments or National authorities (especially municipal councils and provincial authorities) – special consideration for applications from developing countries** The GAC commented that the new gTLD process should meet the global public interest consistent with the Affirmation of Commitments. It therefore urged ICANN to set technical and other requirements, including cost considerations, at a reasonable and proportionate level in order not to exclude developing country stakeholders from participating in the new gTLD-process. Key documents should be available in all UN languages. The GAC urges that the communications and outreach strategy for the new gTLD round be developed with this issue of inclusiveness as a key priority. ii. Nairobi Communiqué The GAC believed that instead of the then	**TBD**	This set of issues overlaps with and is addressed in the other items in this section.

proposal of single-fee requirement, a cost-based structure of fees appropriate to each category of TLD would: a) prevent cross subsidization and b) better reflect the project scale, This would improve logistical requirements and financial position of local community and developing country stakeholders who should not be disenfranchised from the new TLD round. Further the board believes that : a. New gTLD process is developed on a cost recovery model. b. Experience gained from first round will inform decisions on fee levels, and the scope for discounts and subsidies in subsequent rounds. c. Non-financial means of support are being made available to deserving cases. i. Proposed that the following be entertained to achieve cost reduction: • Waiving the cost of Program Development ($26k). • Waiving the Risk/Contingency cost ($60k). • Lowering the application cost ($100k) • Waiving the Registry fixed fees ($25k		

	per calendar year), and charge the Registry- Level Transaction Fee only ($0.25 per domain name registration or renewal). ii. Proposed that the reduced cost be paid incrementally, which will give the applicants/communities from developing countries more time to raise money, and investors will be more encouraged to fund an application that passes the initial evaluation. iii. Believe that communities from developing countries apply for new gTLDs according to an appropriate business model taking into consideration the realities of their regions. ICANN's commitment towards supporting gTLD applicants in communities from developing countries will be a milestone to the development of the overall Internet community in Africa and other developing regions.		
10.7	**A. Other Developing world Community comments** Rolling out new gTLD and IDNs was done in a hurry and without basis on a careful feasibility study on the impact that this rollout will have on developing countries. For some	1B	ICANN is investigating and intends to provide mechanisms for assisting with matching needs to providers, and will continue to investigate mechanisms for providing additional forms of support (such as providing documents in

	representatives, this is a massive roll out of gTLDs and IDNs that will find many developing countries unprepared and unable to absorb it. There is the fear that there might be serious consequence in terms of economic impact to developing countries.		additional languages beyond the official U.N. languages).
11.	**Law enforcement due diligence recommendations [to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué]** (Note: ICANN will provide an update on the status of the RAA-related recommendations from law enforcement)		
11.1	Include other criminal convictions as criteria for disqualification, such as Internet-related crimes (felony or misdemeanor) or drugs.	**1B**	ICANN accepts the principle that screening should be as effective as possible. ICANN is willing to meet with law enforcement and other experts to ensure that all available expertise is focused on this issue. (ICANN notes however that there is no consistent definition of criminal behavior across multiple jurisdictions, and the existing proposed Applicant Guidebook consciously targets "crimes of trust".)
11.2.1	Assign higher weight to applicants offering the highest levels of security to minimize the potential for malicious activity, particularly for those strings that present a higher risk of serving as venues for criminal, fraudulent or illegal conduct (e.g. such as those related to	**1B**	ICANN could consider providing extra points in some aspects of the qualification evaluation scoring process. (ICANN notes however that a priori categorization of strings is inherently problematic.)

	children, health-care, financial services, etc.)		
11.3	Add domestic screening services, local to the applicant, to the international screening services.	**1B**	ICANN accepts the principle that screening should be as effective as possible. ICANN is willing to meet with law enforcement and other experts to ensure that all available expertise is focused on this issue. (ICANN is mindful that this particular recommendation could lead applicants to locate in certain regions in order to game the depth of domestic screening. International screening is likely to include the reports of local agencies and could therefore be duplicative.)
11.4	Add criminal background checks to the Initial Evaluation	**1B**	ICANN accepts the principle that screening should be as effective as possible. ICANN is willing to meet with law enforcement and other experts to ensure that all available expertise is focused on this issue. (ICANN notes that there is no consistent definition of criminal behavior across multiple jurisdictions, and the existing proposed Applicant Guidebook already addresses serious crimes of trust.)
11.5	Amend the statement that the results of due diligence efforts will not be posted to a	**1B**	ICANN will explore possible ways to make results public, but is concerned

	positive commitment to make such results publicly available		that posting such information poses concerns about privacy that should be explored further.
11.6	Maintain requirements that WHOIS data be accurate and publicly available.	**1A**	From the Affirmation of Commitments: "ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws. Such existing policy requires that ICANN implement measures to maintain timely, unrestricted and public access to accurate and complete WHOIS information, including registrant, technical, billing, and administrative contact information."
12.	**The need for an early warning to applicants whether a proposed string would be considered controversial or to raise sensitivities (including geographical names)**		
12.1	Reconsider its objection to an "early warning" opportunity for governments to review potential new gTLD strings and to advise applicants whether their proposed strings would be considered controversial or to raise national sensitivities.	**1B**	The principle of an early warning is already included in the Guidebook. The exact process needs to be discussed further – please see the Board's notes above with respect to the GAC's advice on "Procedures for the review of sensitive strings."

2011-03-18-11 Board Submission Letter re ICM Consultation Jeffrey-to-dryden-10feb11

From: John Jeffrey
Sent: Thursday, February 10, 2011 1:08 AM
To: Heather.Dryden
Cc: Rod Beckstrom; Peter.DengateThrush; Amy Stathos
Subject: ICM Consultation Resolution

Heather Dryden,
Chair, Governmental Advisory Committee, ICANN

Dear Heather:

As you know, during the recent ICANN Board Meeting, the ICANN Board of Directors passed the following resolution relating to the application by ICM for the sponsored gTLD .XXX. The Preliminary Report of this meeting is set out at
(http://www.icann.org/en/minutes/prelim-report-25jan11-en.htm).

Whereas, at its meeting in Cartagena, Colombia, the Board noted its agreement with the staff's assessment of potential conflicts with GAC advice if the Board proceeds with its determination to enter a registry agreement with ICM Registry for the .XXX sTLD, and invoked the GAC consultation process. See http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#4.

Whereas, during the meeting in Cartagena, the GAC sought affirmative statements from the Board on its positions on ICM-related items.

Whereas, in an attempt to make a future consultation with the GAC as productive as possible, the Board position on all items of GAC advice are clearly set forth in an attached document.

RESOLVED (2011.01.25.28), the Board directs staff to provide the GAC with the document setting forth the full Board position on items of GAC advice. The Board positions set forth correspond to the items identified for consultation at the Board's 28 October 2010 meeting.

RESOLVED (2011.01.25.29), the ICANN Board hereby establishes that the consultation on ICM as triggered in Cartagena and as provided for in ICANN Bylaws section Article XI, Section 2, Paragraph 1(j), shall take place no later than Thursday, 17 March 2011.

In furtherance of the Board's direction, attached please find the paper referenced in resolution 2011.01.25.28 above. Also attached for your review and ease of reference is a chart that lays out much of what is in the paper, although the paper has a bit more elaboration. Please do not hesitate to contact me if you have any questions.

Best regards,
John Jeffrey
General Counsel & Secretary
ICANN

To:	The Governmental Advisory Committee

From:	ICANN Board of Directors

Date:	Approved - January 2010 Board Meeting

Subject:	ICANN Board position on Meeting GAC Advice on ICM's Application for the .XXX sTLD

In Cartagena, the Board noted that it agrees with the staff's assessment of potential conflicts with GAC advice if the Board proceeds with its determination to enter a registry agreement with ICM Registry, and invoked the GAC consultation process. *See* http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#4. The Board directed staff to communicate the Board's determination to the GAC. On 25 January 2011, the Board approved this document setting out the Board's positions, and directed staff to provide the document to the GAC. The Board positions are consistent with the attached chart, previously provided after approval by the Board on 28 October 2010.

As identified in the GAC's Cartagena Communiqué, the GAC notes that the position stated in the Wellington Communiqué "represents consensus GAC advice and still applies." GAC Communiqué – Cartagena, at http://gac.icann.org/system/files/Cartagena_Communique.pdf. For the sake of completeness, the Board addresses GAC statements arising out of the Wellington Communiqué as well as three other documents: (1) a 2 February 2007 Letter from the Chair and Chair-Elect of the GAC to the Chair of the ICANN Board; (2) the Lisbon Communiqué; and (3) a 4 August 2010 Letter from the Chair of the GAC to the Chair of the ICANN Board.

1. Areas of Potential Inconsistency with GAC Advice

The Board previously identified three pieces of GAC advice with which entering a Registry Agreement may be inconsistent:

a. From the Wellington Communiqué, the GAC's statement:

"[S]everal members of the GAC are emphatically opposed from a public policy perspective to the introduction of a .xxx sTLD." This statement was reiterated in a 3 February 2007 letter from the GAC Chair.

b. From the Lisbon Communiqué:

"The GAC also calls the Board's attention to the comment from the Government of Canada to the ICANN online Public Forum and expresses concern that, with the revised proposed ICANN-ICM Registry Agreement, the Corporation could be moving towards assuming an ongoing management and oversight role regarding Internet content, which would be inconsistent with its technical mandate."

c. From the 4 August 2010 letter from the Chair of the GAC:

"The GAC therefore recommends that community-wide discussions be facilitated by ICANN in order to ensure than an effective objections procedure be developed that both recognizes the relevance of national laws and effectively addresses strings that raise national, cultural, geographic, religious and/or linguistic sensitivities or objections that could result in intractable disputes. These objection procedures should apply to all pending and future TLDs."

2. Board Positions on Each Potentially Inconsistent Item:

a. GAC Member Opposition, stated in the Wellington Communiqué and 2 February 2007 letter.

The Board requests clarification from the GAC as what constitutes GAC advice for the purpose of determining whether ICANN Board action would be consistent with GAC advice. In the event that the GAC asserts that a reported position of "several members of the GAC" is GAC advice on public policy matters, then entering into a Registry Agreement with ICM would be inconsistent with the opposition to the introduction of the .XXX sTLD, and the ICANN Board/GAC consultation should address this topic.

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b.   ICANN as Content Enforcer, raised in the Lisbon Communiqué.

The concern of ICANN moving towards assuming an ongoing management and oversight role regarding Internet content inconsistent with its technical mandate is mitigated through some of the provisions of the ICM Registry Agreement and Due Diligence Documentation.

The ICM Compliance Reporting System includes many provisions regarding ICM's obligations for monitoring and content enforcement within the .XXX sTLD. *See* http://www.icann.org/en/tlds/agreements/xxx/appendix-c-compliance-reporting-system-26jul10-en.pdf. ICM's agreement with the Sponsoring Organization for the .XXX, IFFOR, includes obligations for IFFOR to contract with third party vendors to establish monitoring programs regarding registrant compliance with the sTLD policies. ICM/IFFOR Agreement at Section II.9 (page 4). ICM commits to fund these activities through a US$10/registration payment to IFFOR. ICM/IFFOR Agreement at Section I.1. *See* http://www.icann.org/en/tlds/agreements/xxx/iffor-sponsoring-organization-agreement-26jul10-en.pdf. As noted by ICM in the materials it provided to the Board in advance of the 28 October 2010 meeting, "the Registry Agreement no longer contains the provisions that authorized ICANN's review and ability to negotiate IFFOR policies", removing ICANN's involvement from setting content-related policies. *See* 28 October 2010 Board Briefing Materials, Book 2, at page 178.

The possibility remains that ICANN may be required to take contractual compliance action against ICM for content-related matters that also result in violations of the Registry Agreement. This risk is not unique to the .XXX sTLD. In addition, as with other sTLDs, if the .XXX sTLD Registry is delegated, registrants and others will likely turn to ICANN for assistance with content-related issues. ICANN cannot stop such requests for content oversight to occur, though the revised terms of the proposed Registry Agreement make the viability of those requests less likely than in prior iterations of the proposed Registry Agreement. As the Board cannot determine that entering into the Registry Agreement is fully consistent with this GAC advice, the ICANN Board and the GAC may benefit from further discussion of this potential issue.

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c. Creation of Objection Mechanism, Requested in the 4 August 2010 letter.

The ICANN Board seeks clarification from the GAC as to whether the statement regarding the creation of objection mechanisms in "pending and future TLDs" is providing GAC advice on entering the .XXX Registry Agreement. If this 4 August 2010 statement constitutes GAC advice on .XXX, the Board acknowledges that entering into a Registry Agreement with ICM would not be consistent with this advice.

There are no objection procedures in place to address the possibility that the .XXX string may raise national, cultural, geographic, religious and/or linguistic sensitivities or objections.[1] The GAC's contemplated objection mechanism was not included in the Request for Proposals for the sTLD program when it was initiated in 2004. Outside of the public comment periods, there was no formalized string objection process within the 2004 sTLD RFP process when ICM applied for the .XXX sTLD. Materials relating to the sTLD RFP are available from http://www.icann.org/en/tlds/stld-apps-19mar04/. The imposition of an objection mechanism for the evaluation of the .XXX string would therefore revise the sTLD process, an outcome that should be avoided.

As the GAC is aware, ICM was successful in arguing to an Independent Review Panel that ICANN did not act consistently with the documented sTLD process when the Board in 2007 reconsidered a 2005 decision, which the Panel determined the Board had already made, that,the sponsorship criteria was met. *See* the Panel's Declaration, at http://www.icann.org/en/irp/icm-v-icann/irp-panel-declaration-19feb10-en.pdf. Similarly, the creation of a string objection process nearly seven years after ICM applied for the .XXX sTLD, and the use of that process to evaluate ICM's application today, would result in an improper modification of process and raise the possibility of challenge to such actions.

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[1] ICANN has been dealing with this issue within the New gTLD Program, however that work remains separate from the consideration of the .XXX sTLD, which is not subject to the timing or the requirements of the New gTLD program.

3. Areas where the Board considers entering a Registry Agreement to be consistent with GAC Advice.

For the benefit of the Board and GAC, the Board sets forth the basis for its determination that four items of advice arising out of the Wellington Communiqué are consistent with the Board's determination that it intends to enter a registry agreement with ICM.

In the Wellington Communiqué, the GAC identified four specific public policy aspects to be included in the proposed Registry Agreement, and requested information on the degree the .XXX Registry Agreement would address those areas. The Wellington Communiqué stated that a Registry Agreement must include "enforceable provisions covering all of ICM Registry's commitments" that:

"Take appropriate measures to restrict access to illegal and offensive content;"

"Support the development of tools and programs to protect vulnerable members of the community;"

"Maintain accurate details of registrants and assist law enforcement agencies to identify and contact the owners of particular websites, if need be;" and

"Act to ensure the protection of intellectual property and trademark rights, personal names, country names, names of historical, cultural and religious significance and names of geographic identifiers drawing on best practices in the development of registration and eligibility rules."

The Board considers that each of these four aspects are appropriately addressed within the Proposed Registry Agreement, and provides detailed discussion below. The discussion below also meets the GAC's request for "[c]onfirmation from ICANN that the proposed Agreement would include enforceable provisions covering all of ICM Registry's commitments." *See* Wellington Communiqué.

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a. The Registry Agreement includes appropriate measures to restrict access to illegal and offensive content.

The Board considers that the proposed Registry Agreement contains terms that are appropriate to restrict access to illegal and offensive content. The Registry Agreement Terms are set forth in Appendix S to the Registry Agreement, available at http://www.icann.org/en/tlds/agreements/xxx/proposed-xxx-agmt-appendix-s-clean-23aug10-en.pdf. Some of the terms the Board considered to determine this item was met include:

Part 1.2, obligating ICM to "promote the development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control of access to content."

Part 5, at page 9 of the Appendix, provides a description of the registrar selection process, requiring each registrar to demonstrate "understanding of the principles and intentions underlying the .xxx registration policies" (Item II); "willingness and ability to propagate and enforce sTLD policies . . . in accordance with policies and procedures prescribed by Registry Operator" (Item IV); and "demonstrated systems designed to avoid submission of clearly inappropriate applicants" (Item VII).

Attachment 1 to the Appendix, at page 20, includes a product listing introducing ".xxxlock", a "service intend[ed] to provide registrants with the ability to prevent modifications, transfers, or deletions of domain names without explicit permission from the registrant. The service's main purposes are to prevent malicious domain hijacking and domain transfer errors." The anticipated protections against malicious conduct reduce the risk of domain name hijacking, which could result in posting of illegal or offensive content.

Attachment 1 to the Appendix, at page 21, also includes a specification for offering of digital certification services requiring registrants "to provide appropriate credentials to verify their organization and their right to use their .xxx domain name. Certificates give the end users of Web sites a higher level of trust; ensure their privacy, and provid[e] a secure mechanism for any online financial transactions."

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These terms impose a clear requirement for validation of registrants. ICM also provided information regarding the Verification System Agreement, setting out the obligation for the registrant to represent and warrant its compliance with the sponsoring organization policies and best practices, to not sell or trade the credential, as well as to maintain current contact information, and to remain subject to a disqualification policy. The registry also retains the right to freeze the use of a domain name outside of a UDRP process. The Verification System Agreement is at http://www.icann.org/en/tlds/agreements/xxx/terms-for-verification-credentials-contract-26jul10-en.pdf, and also includes a term that the registrant will comply with all applicable laws and regulations. The Verification System Agreement will reduce the opportunity for a .xxx domain name to be registered and then licensed or sold to a third party that will not comply with the registry policies and requirements.

Appendix S, at Attachment 1, page 20, also describes a "xxxProxy" service, a service via Authorized Proxy Agents. When a registrant opts for this service the actual verified identity of the registrant will also be stored in the registry Authentication Database." With this requirement for authorization of proxy service providers and agreements to store the registrant identity, creates an expectation that all registrants will abide by the sTLD policies as they cannot mask their identity from the Registry.

Placing further specification regarding other types of "offensive" material would require ICANN to take a role in content management.

b. **The terms of the Registry Agreement supports the development of tools and programs to protect vulnerable members of the community.**

Appendix S, as cited above, includes an obligation for ICM to promote development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control of access to content. In addition, ICM assumes the obligation for policy making authority "relating to terms and conditions for registration in the .XXX sTLD relating to child safety and preventing child abuse images." http://www.icann.org/en/tlds/agreements/xxx/iffor-responsibilities-obligations-20jul10-en.pdf. The due diligence documentation – including this identification of ICM and IFFOR Responsibilities and Obligations, demonstrates the commitment to adopting best business practices in accordance with safeguarding

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children online, combating child abuse images, prohibiting misuse of personal information, ensuring clear and accurate consumer disclosures and prohibiting deceptive marketing. See http://www.icann.org/en/tlds/agreements/xxx/iffor-responsibilities-obligations-20jul10-en.pdf.

The Sponsoring Organization (IFFOR) will specifically assume this responsibility under its agreement with ICM, including operating to "promote the development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control regarding access to online adult entertainment" (page 1); and creating best practices to "safeguard children online and combat child pornography [and] implement innovative approaches to reduce the incidence of children exposed to online adult entertainment." (Page 4.) The IFFOR/ICM Agreement is available at http://www.icann.org/en/tlds/agreements/xxx/iffor-sponsoring-organization-agreement-26jul10-en.pdf. Further, the IFFOR Policy Council will include a Child Protection Advocate as one of its members. http://www.icann.org/en/tlds/agreements/xxx/appendix-d-iffor-organizational-chart-26jul10-en.pdf.

ICM provided materials describing a robust Compliance Reporting System, under which ICM – working with IFFOR – will facilitate referral of complaints regarding child abuse images and other complaints. ICM commits to " follow hotline and/or law enforcement direction with respect to these complaints." The Compliance Reporting System is described at http://www.icann.org/en/tlds/agreements/xxx/appendix-c-compliance-reporting-system-26jul10-en.pdf.

Appendix S also includes a rapid takedown provision for use in challenging abusive registrations including unauthorized registration of personal names. The Rapid Takedown service is described at Attachment 1, page 20. The provisions of the Registry Agreement are supplemented through ICM's Registry Policy on Preventing Abusive Registrations, available at http://www.icann.org/en/tlds/agreements/xxx/preventing-abusive-registrations-20jul10-en.pdf.

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c. The terms of the Registry Agreement require the maintenance of accurate details of registrants and assist law enforcement agencies to identify and contact the owners of particular websites, if need be.

The Registry Agreement, at Appendix 5 (page 48), imposes Whois data availability requirements on the Registry. *See* http://www.icann.org/en/tlds/agreements/xxx/proposed-xxx-agmt-clean-23aug10-en.pdf. The Whois requirement are supplemented under Appendix S to the Registry Agreement. Part 6 of the Appendix, beginning at page 6, includes privacy capabilities for additional data to be associated with the registration (page 12), as well as an obligation that the Whois data will be searchable on multiple data points. The "xxxProxy" service, described above, requires that even when a registrant elects to use a privacy service, "the actual verified identity of the registrant will also be stored in the registry Authentication Database." (Appendix S, page 20.)

ICM's verification system, which imposes requirements on use of websites and updating of registration information, in addition to the Compliance Reporting System discussed above, provide heightened assurance regarding the availability of registrant contact information.

d. The terms of the Registry Agreement ensure the protection of intellectual property and trademark rights, personal names, country names, names of historical, cultural and religious significance and names of geographic identifiers drawing on best practices in the development of registration and eligibility rules.

The Registry Agreement contains many protections against abusive registrations that do not exist within other registries to date. ICM also propounds an ICM Registry Policy on Preventing Abusive Registrations that includes "common-law trademark claims, personal names, [and] cultural or religious terms" in the types of terms that can qualify for special protections within the Registry. This includes the creation of a mechanism whereby the GAC and/or the governments of any country or economy participating in the GAC may identify for reservation names that match words of cultural and/or

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religious significance. *See* http://www.icann.org/en/tlds/agreements/xxx/preventing-abusive-registrations-20jul10-en.pdf.

Appendix 6 to the Registry Agreement contains a Reserved Names list, following standard Registry reservation requirements including a prohibition on two-character reservations, and the reservation of geographic and geopolitical names on the ISO 3166-1 list, in English and all related official languages. *See* http://www.icann.org/en/tlds/agreements/xxx/proposed-xxx-agmt-clean-23aug10-en.pdf at page 56.

Appendix S to the Registry Agreement contains a Start Up Trademark Opposition Procedure to allow intellectual property claimants to challenge registrations (page 19); an "IP Protect" service to allow Intellectual Property owners to designate non-resolving registrations and imposing "strict conditions regarding transfer" (page 20); and a Rapid Takedown process, "a mechanism for rapidly changing an active domain to non resolving status in the clearest of cases of trade- or service-mark abuse, or abusive registrations such as the unauthorized registration personal names, to be adjudicated by an Approved Third Party Adjudicator pending a full UDRP filing." (Page 21.)

Finally, the Registry Agreement also specifies the applicability of ICANN consensus policies, including the UDRP. *See* http://www.icann.org/en/tlds/agreements/xxx/proposed-xxx-agmt-clean-23aug10-en.pdf, Article III, Section 3.1 (b), at page 3.

Conclusion:

For each of the four specified public policy areas that the GAC identified in the Wellington Communiqué for addressing in a .XXX sTLD Registry Agreement, the Board confirms that the proposed Registry Agreement contains terms that sufficiently address the areas. The Board identifies that, at minimum, the terms and provisions identified above from proposed Registry Agreement and the additional Due Diligence documentation provided by ICM provide sufficient support to confirm that the Board is acting consistently with the GAC advice provided through the Wellington Communiqué.

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4. Additional Information Request Regarding the .XXX sTLD (not Advice)

In its 2 February 2007 letter, the GAC requested a "clear explanation of why the ICANN Board is satisfied that the .XXX application has overcome the deficiencies relating to the proposed sponsorship community." This was a re-statement of the request made in the Wellington Communiqué for a "[w]ritten explanation of the Board decision to proceed to entry into negotiations, particularly with regard to the sponsored community and public interest criteria outlined in the sTLD selection criteria." The question relating to the sponsorship community remained after ICANN's President submitted two letters to the GAC Chair.

Board Response:

Though this request does not require consultation between the parties, the Board notes that in anticipation of the GAC consultation, it is beneficial for the Board and the GAC to conclude on all matters relating to the .XXX sTLD application.

In March 2007, the Board determined that ICM's Application and the Revised Agreement failed to meet, among other things, the Sponsored Community criteria of the sTLD RFP specification. *See* http://www.icann.org/en/minutes/resolutions-30mar07.htm#_Toc36876524. ICM challenged that Board determination through the initiation of an Independent Review of the Board's action, and in February of 2009, the Independent Review Panel issued findings including: (1) that the Board's earlier 1 June 2005 resolution found that that the application of ICM Registry for the .XXX sTLD met the required sponsorship criteria; and (2) the Board's 2007 reconsideration of that finding was not consistent with the application of neutral, objective and fair documented policy. IRP Declaration, page 70, at http://www.icann.org/en/irp/icm-v-icann/irp-panel-declaration-19feb10-en.pdf. In furtherance of the Board's commitment to furthering the accountability of ICANN, on 25 June 2010 the Board determined to accept and act in accordance with the these two identified findings of the Panel. http://www.icann.org/en/minutes/resolutions-25jun10-en.htm#5. As a result of the Board's decision to accept those findings, the Board is now acting under the premise that the sponsorship criteria have been met.

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Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
GAC-BD-XXX-2006-02-28-01	Wellington Communiqué	Specify how Registry Agreement will take appropriate measures to restrict access to illegal and offensive content;	Appendix S imposes many related obligations on ICM: - promote development and adoption of responsibility business practices designed to combat child pornography - a registrar selection process requiring thorough understanding of the principles of the .xxx registration policies, and willingness to enforce those policies; - specifies .xxxlock – a "locking" service aimed at preventing malicious hijacking of registrations - requires Digital Certificates to provide higher levels of trust.	There is a clear requirement for validation of registrants, as well as policies against illegal and offensive material such as child pornography. The proposed Agreement also sets out processes to reduce the chance of malicious hijacking, which could lead to the posting of illegal or offensive content. Finally, the requirement that all registrants be verified – even if a privacy service is used – creates an expectation that all registrants will abide by the sTLD policies as they cannot mask their identity from the Registry. Placing further specification regarding other types of "offensive" material would require ICANN to take a role in content management.
GAC-BD-XXX-2006-02-28-02	Wellington Communiqué	Specify how Registry Agreement will support the development of tools and programs to protect vulnerable members of the community;	Within Appendix S, there is an obligation ICM to promote development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control of access to content. Appendix S also includes a rapid takedown provision for	The proposed Registry Agreement, along with the documents provided in the Due Diligence phase, such as the identification of ICM and IFFOR Responsibilities and Obligations, demonstrate the commitment to adopting best business practices in accordance with safeguarding children online, combating child abuse images, prohibiting misuse of personal information, ensuring clear and accurate consumer disclosures and prohibit deceptive marketing. *See*

* Note on term "GAC Advice": This list does not serve as an authoritative identification that the GAC statements listed constitute formal GAC Advice under Article XI, Section 2.1.j of the ICANN Bylaws. ICANN intentionally included all items that might be considered GAC Advice based on inclusion in formal Communiqués or correspondence to the Board.

Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
			use in challenging abusive registrations including unauthorized registration of personal names.	http://www.icann.org/en/tlds/agreements/xxx/iffor-responsibilities-obligations-20jul10-en.pdf. Further, the IFFOR Policy Council will include a Child Protection Advocate as one of its members. http://www.icann.org/en/tlds/agreements/xxx/appendix-d-iffor-organizational-chart-26jul10-en.pdf. ICM has also provided documentation relating to a Compliance Reporting System to review complaints of non-compliant registrations or registrants operating in a manner that violates IFFOR policies, including special provisions regarding reports of child abuse images. Information on the Compliance Reporting System is available at http://www.icann.org/en/tlds/agreements/xxx/appendix-c-compliance-reporting-system-26jul10-en.pdf.
GAC-BD-XXX-2006-02-28-03	Wellington Communiqué	Specify how Registry Agreement will maintain accurate details of registrants and assist law enforcement agencies to identify and contact the owners of particular websites, if need be; and	The main Registry Agreement and Appendix S impose Whois data availability requirements. Under Appendix S, proxy registration will be allowed, but only pursuant to the xxxProxy service using authorized proxy agents, requiring the verified identity of registrants to be stored in the registry Authentication database. Appendix S, Part 6 also requires the creation of a	The provisions requiring verification of registrants, combined with the robust Whois searchability requirements and the limitation on using only ICM-approved proxy or privacy registration services meets the concern raised by the GAC regarding availability of registrant contact information. Further, the ICM Compliance Reporting System requires ICM to follow law enforcement direction in regards to the handling of reports of child abuse images.

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Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
			Whois database searchable on multiple fields of data.	
GAC-BD-XXX-2006-02-28-04	Wellington Communiqué	Specify how Registry Agreement will act to ensure the protection of intellectual property and trademark rights, personal names, country names, names of historical, cultural and religious significance and names of geographic identifiers drawing on best practices in the development of registration and eligibility rules.	Appendix 6 to the Registry Agreement contains a Reserved Names list, following standard Registry reservation requirements including a prohibition on two-character reservations, and the reservation of geographic and geopolitical names on the ISO 3166-1 list, in English and all related official languages. Appendix S contains a Start Up Trademark Opposition Procedure to allow intellectual property claimants to challenge registrations; an "IP Protect" service to allow Intellectual Property owners to designate non-resolving registrations; and Rapid Takedown process to allow quick takedown of registrations in clear cases of trade or service mark abused pending a full UDRP filing. The Registry Agreement also specified the applicability of	The proposed Registry Agreement contains many protections against abusive registrations that do not exist within other registries to date. ICM also propounds an ICM Registry Policy on Preventing Abusive Registrations that includes "common-law trademark claims, personal names, [and] cultural or religious terms" in the types of terms that can qualify for special protections within the Registry. This includes the creation of a mechanism whereby the GAC and/or the governments of any country or economy participating in the GAC may identify for reservation names that match words of cultural and/or religious significance. http://www.icann.org/en/tlds/agreements/xxx/preventing-abusive-registrations-20jul10-en.pdf.

* Note on term "GAC Advice": This list does not serve as an authoritative identification that the GAC statements listed constitute formal GAC Advice under Article XI, Section 2.1.j of the ICANN Bylaws. ICANN intentionally included all items that might be considered GAC Advice based on inclusion in formal Communiqués or correspondence to the Board.

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Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
			ICANN consensus policies, including the UDRP. (Article III, Section 3.1 (b)).	
GAC-BD-XXX-2006-02-28-05	Wellington Communiqué and 2 February 2007 letter	The Wellington Communiqué noted that several GAC members were emphatically opposed from a public policy perspective to the introduction of an .XXX sTLD, and not contingent on the specifities of the proposed agreement. The GAC member opposition was reiterated in the 2 February 2007 letter.	N/A	The question remains whether a position taken by "several members of the GAC" can be equated with GAC advice on public policy matters. If it is not GAC advice, then the concern of inconsistency diminishes.
GAC-BD-XXX-2007-03-28-01	Lisbon Communiqué	The Lisbon Communiqué stated that ICANN could be moving towards assuming an ongoing management and oversight role regarding Internet	N/A	The concern of ICANN being required to oversee content, while mitigated through the creation of the ICM Compliance Reporting System, may not be fully eliminated through the proposed Registry Agreement. There is the possibility that ICANN may be required to take compliance action against ICM for content-related matters that also result in violations of the Registry Agreement. Further, regardless of the merit of such requests, if the .XXX sTLD Registry is

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Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
		content, which is inconsistent with its technical mandate.		delegated, registrants and others will likely turn to ICANN for assistance with content-related issues. ICANN cannot stop such requests for content oversight to occur. The ICANN Board and the GAC may benefit from further discussion of this potential issue.
GAC-BD-XXX-2010-08-04-01	4 August 2010 letter	The 4 August 2010 GAC letter called for a cross-community discussion to assist in the development of an objection procedure "that both recognizes the relevance of national laws and effectively addresses strings that raise national, cultural, geographic, religious and/or linguistic sensitivities or objections that could result in intractable disputes. These objection procedures should apply to all pending and future TLDs."	N/A	There are no objection procedures in place or contemplated to address the possibility that the .XXX string may raise national, cultural, geographic, religious and/or linguistic sensitivities or objections. ICANN has been dealing with this issue within the New gTLD program, however that work remains separate from the consideration of the .XXX sTLD, which is not subject to the timing or the requirements of the New gTLD program. Further, outside of the public comment periods, there was no formalized string objection process within the 2004 sTLD RFP process when ICM applied for the .XXX sTLD. If the "pending" TLD refers to .XXX, the approval of the .XXX sTLD Registry Agreement without allowing for these types of objections would be inconsistent with GAC advice.

* Note on term "GAC Advice": This list does not serve as an authoritative identification that the GAC statements listed constitute formal GAC Advice under Article XI, Section 2.1.j of the ICANN Bylaws. ICANN intentionally included all items that might be considered GAC Advice based on inclusion in formal Communiqués or correspondence to the Board.

2011-03-18-12 Board Paper ATRT Report 28 Feb 2011

ICANN BOARD SUBMISSION NO. 2011-03-18-12

TITLE:	**Accountability & Transparency Review Team (ATRT) Report**
PROPOSED ACTION:	**For Board Consideration and Action**

EXECUTIVE SUMMARY:

The ATRT Report (Exhibit C; PDF online) submitted to the Board on 31 December 2010 contains 27 recommendations, eight of which are marked "high priority," and a majority of which have proposed implementation deadlines ranging from "immediately" to October 2011. The recommendations, which are summarized in Annex A, are focused on improving the Board (and Nominating Committee – NomCom – processes), the Governmental Advisory Committee (GAC), public input and policy development, and review mechanisms for Board decisions. The Affirmation of Commitments (Affirmation) obligates the Board to take action on the Report by 30 June 2011.

Staff recommends that the Board: 1) move forward with implementation plans for the ATRT recommendations, as detailed below and in Annex A, directing staff to support and regularly report on the status of implementation; 2) consider (and seek input on) how the additional cost of ATRT implementation will be accommodated in the FY2012 budget, and 3) determine how the Board will manage ATRT implementation work going forward.

The Annex to this submission provides background information, staff's ATRT Recommendation Projects List (Exhibit A), and staff's proposed, initial implementation plans (Exhibit B).

STAFF RECOMMENDATION:

ATRT Recommendations. Staff recommends that the Board adopt 26 of the 27 ATRT recommendations, having determined after an initial assessment that these recommendations: have the potential to advance ICANN's transparency and

accountability objectives; can be implemented by ICANN (if resources are allocated); and do not appear to negatively impact the systemic security, stability and resiliency of the DNS. As discussed in the attachments, some recommendations relate to operations that staff has changed, or is in the process of changing, and the ATRT has provided useful guidance for this work.

Of these 26 recommendations suggested for Board adoption, staff recommends that the Board modify the timeline proposed by the ATRT for nine of the recommendations, and seek a clarification and/or modification of two of these recommendations, as detailed in the staff's proposed implementation plans (Exhibit B).

Staff recommends that the Board not implement ATRT Recommendation #5 – a compensation scheme for voting Board Directors – at this time, but give adoption and implementation further consideration as detailed in the staff's proposed implementation plan (Exhibit B).

Budget. The incremental costs and staff resources required to implement a majority of the ATRT recommendations can be accommodated within the existing budget and/or current, proposed FY2012 budget. Additional personnel and consulting funds will be needed, however, to complete implementation of all of the ATRT recommendations, as detailed in staff's proposed, initial implementation plans (Exhibit B). Based on initial estimates, an additional US$25,000 will be needed this fiscal year, and US$965,000 will be needed in FY2012 to support this work. Staff recommends that the Board Finance Committee work with staff to recommend appropriate budget action.

Board Efforts. Staff recommends that the Board determine how it will address the ATRT implementation activities going forward, and work with staff and the community (where needed) on the detailed implementation plans. One option is for the Board to create a new (temporary) Board task force to oversee all of these activities. Another approach is to divide ATRT recommendation implementation among current, relevant Board Committees. A third option is to assign all ATRT work to one current Board Committee. An important, related question is what mechanism the Board will use to interact with the GAC on ATRT recommendations that require Board/GAC consultation and agreement? Although the ATRT Report references the current Board/GAC Joint Working Group (JWG) for these efforts, the JWG will be submitting

its final report at the March ICANN meeting. Either the charter for the JWG needs to be extended, or a different group needs to be assigned this responsibility. Given the proposed pace of implementation and the key decisions that must be made by Board members, staff recommends that the Board decide on these issues at the March ICANN meeting, if at all possible.

PROPOSED RESOLUTION:

Whereas, the Accountability and Transparency Review Team (ATRT) Report provided 27 recommendations to improve ICANN, and the Affirmation of Commitments obligates ICANN to take action on the Report by 30 June 2011;

Whereas, the Board encouraged public comment and input from ICANN organizations on the Report, and the Board received from Staff an initial proposal for Board action on each recommendation along with proposed, initial work plans and budgets;

Whereas, The Board finds that 26 of the recommendations have the potential to advance ICANN's transparency and accountability objectives and can be implemented by ICANN with the necessary support and resources, and the remaining recommendation requires further consideration;

Whereas, some of the ATRT recommendations relate to operations that staff has already changed, or is in the process of changing, thanks to ATRT guidance, and some recommendations will require additional time, resources, and consultations to implement;

Resolved (___), the Board requests that ICANN Staff assist the Board and community in moving forward with implementation plans for the ATRT recommendations, and regularly report on the status of implementation;

Resolved (___), the Board requests input on how the additional cost of ATRT implementation will be accommodated in the FY2012 budget, and also requests that the Governmental Advisory Committee and the Nominating Committee work with the Board on implementation of recommendations involving their organizations;

Resolved (___), to fully respond to the obligations in the Affirmation of Commitments, the Board requests that ICANN Staff develop proposed metrics to quantify and track activities called for in the Affirmation and ATRT report, and benchmarks that enable ICANN to compare its accountability and transparency-related efforts to international entities' best practices.

PROPOSED RATIONALE

As required by the Affirmation of Commitments, the recommendations resulting from the Accountability and Transparency Review Team (ATRT) were provided to the Board on 31 December 2010 and posted for public comment. The ATRT provided a constructive report that validates and builds upon ICANN's commitments and improvements. The Board encouraged and considered input from the community, including the Supporting Organizations, Advisory Committees, and the Nominating Committee, and reviewed the staff's input and proposed implementation plans. The public comments were supportive of the ATRT report and staff's due diligence resulted in advice that ICANN move forward with implementation of all but one of the ATRT's 27 recommendations. Staff provided initial, proposed plans that demonstrated ICANN's ability to implement the recommendations and estimated resource costs. While the Affirmation obligates the Board to take action within six months of receipt of the Report, the Board has concluded that ICANN should move forward on implementation plans for 26 of the recommendations and that budgetary considerations and final implementation timelines will be addressed before the end of this fiscal year.

The Board finds that these recommendations: have the potential to advance ICANN's transparency and accountability objectives, which are articulated in the Affirmation and ICANN's bylaws; can be implemented by ICANN (pending resource allocation); and do not appear to negatively impact the systemic security, stability and resiliency of the DNS. The Board has asked staff to work with affected organizations and develop final implementation plans for Board approval, and notes that ICANN has already made progress on implementation of several operational changes called for by the ATRT.

The Board agrees with staff's assessment that the ATRT recommendation that ICANN "adopt a compensation scheme for voting Board Directors" merits further consideration. Adoption and implementation of this recommendation should be given

additional attention due to the complexity of this issue and the multiple planning and consideration stages it involves.

Finally, in order to evaluate ICANN's execution of commitments to "maintain and improve robust mechanisms for public input, accountability, and transparency," and effectively measure ICANN's ability to improve elements that support these objectives, specific assessment mechanisms are needed. The Board has asked staff to develop metrics and benchmarks for consideration. Without agreement on clear, measurable actions, future transparency and accountability improvement efforts and assessments could be hampered.

Attachments:
Annex A
Exhibit A - ATRT Recommendation Projects List
Exhibit B - Staff's proposed, initial implementation plans
Exhibit C - ATRT Report
Exhibit D – Public Comment Summary

Submitted by:	Denise Michel	Date Noted:	28 February 2011
Position:	Advisor to the President & CEO	Email and Phone Number	denise.michel@icann.org +1-310- 301-8632

2011-03-18-13 Board Submission TLG Review

ICANN BOARD SUBMISSION NO. 2011-03-18-13

TITLE: TLG Review, Next Steps

PROPOSED ACTION: For Consent Agenda

EXECUTIVE SUMMARY:

JAS Communications LLC, the independent contractor undertaking the Review of the Technical Liaison Group (TLG), has delivered its final report, see http://www.icann.org/en/reviews/tlg/tlg-review-final-report-03dec10-en.pdf . This report was posted for public comments, see http://www.icann.org/en/public-comment/public-comment-201101-en.htm#tlg-final-report . A key recommendation is to dismantle the TLG and rather find bilateral ways to maintain relationship with important members of the Internet technical community. The sequence of such measures is important and the proposal is to develop suitable alternative relationships before considering dismantling of the TLG.

PROPOSED SIC RECOMMENDATION:

The following recommendation is proposed for the SIC's consideration: The SIC recommends that the Board acknowledges receipt of the independent reviewers' final report, thanks the Chair and Members and establishes a WG to consider measures to enhance the coordination and cooperation between ICANN and other members of the Internet technical community.

PROPOSED RESOLUTION:

Whereas, the independent reviewers for the Technical Liaison Group (TLG) Review have delivered a final report, which contains conclusions and recommendations for enhancing the effectiveness of this structure, primarily by abandoning the current structure and potentially to replace it with bilateral or other arrangements;

Whereas, the report has been posted for public comments, both at the draft stage and in its final version, and some comments received have raised concerns about the future of the relationships between ICANN and other members of the Internet technical community;

Whereas, the Board agrees with the Structural Improvements Committee on its proposal to thank the independent reviewers and others involved in commenting and advancing the activities for their commitment and contributions; and

Whereas, the Board agrees with the Structural Improvements Committee on its proposal to establish a Board Working Group to consider measures to enhance the coordination and cooperation between ICANN and other members of the Internet technical community before deciding on any dismantling of the TLG;

RESOLVED (2011.03.18.XX), the Board accepts the Final Report on the TLG Review from JAS Communications LLC and thanks the independent reviewers, staff and the SIC members for their work with this review.

RESOLVED (2011.03.18.XX), the Board establishes the Board Technical Relations Working Group to consider measures to enhance the coordination and cooperation between ICANN and other members of the Internet technical community with the intent of among other things dissolving the TLG by the 2011 Annual Meeting; and asks the Working Group to engage the ICANN community in a fully consultative process on the coordination and cooperation between ICANN and other members of the Internet technical community.

RESOLVED (2011.03.18.XX), the Board requests the BGC to nominate five directors as members of this working group, one of whom to serve as Chair for consideration at the Board meeting of 21 April 2011.

RESOLVED (2011.03.18.XX), the Board requests that the SIC develop a charter for this Working Group based upon the report of the TLG review, comments to that review and any other available information for consideration at the Board meeting of 21 April 2011.

PROPOSED RATIONALE:

The proposed actions conclude an important step in the review process and pave the way for careful consideration of the measures proposed by the independent reviewers, while ensuring that any restructuring is done in a sequence agreed by the community. The actions to be decided do not, per se, entail any budgetary consequences or potential

negative effects. It is important to take these actions now to timely prepare for future restructuring actions to be proposed for the Board's consideration and decision.

Submitted by: Ray Plzak

Position: SIC Chair

Date Noted: 2 March 2011

Email and Phone Number plzakr@gmail.com

2011-03-18-14 Board Submission Fast Track Review

ICANN BOARD SUBMISSION NO. 2011-03-18-14

TITLE: **Results of IDN ccTLD Fast Track Review**

PROPOSED ACTION: **For Board Consideration**

EXECUTIVE SUMMARY:

The IDN ccTLD Fast Track process launched on 16 November 2009. Since the launch, the IDN ccTLD Fast Track Program (as of this writing) has received requests from 34 different countries/territories; 25 countries/territories have completed the string evaluation stage of the process, and 17 countries/territories (represented by 27 IDN ccTLDs) are delegated in the DNS root zone.

As required in the Final Implementation Plan for IDN ccTLD Fast Track Process, a first review of the Fast Track process has been undertaken. The review was conducted in two parts: A public session held during the ICANN meeting in Cartagena on 6 December 2010, and a pubic comment forum. The public comment period ran from 22 October to 17 December 2010 and was subsequently extended to 31 January 2011 at community request. Overall ICANN received quality input from the DNS technical community, ccNSO, APRALO, .HK and individual Internet users (a total of 36 comments). The number and tone of the comments could generally be perceived as an indication that the process is stable and functions well. The summary and analysis of received comments (Executive Summary and ICANN Recommendations on the Review of the IDN ccTLD Fast Track Process) is provided in the Annex to this paper.

As a result of these public consultations, few changes to the process are recommended at this time (e.g., the addition of minor explanatory text and clarifications in the charts included in the Fast Track Implementation Plan). Additional analysis of several issues raised in the Review may later result in the recommendation of future changes to the Board. The newer issues are primarily the result of on-going work related to various IDN activities such as problems related to the identification and possible delegation of similar strings. These are included in the recommendations below.

STAFF RECOMMENDATION:

It is recommended that the Board approve the ICANN IDN Fast Track recommendations described in the attached Annex. Briefly summarized: these are:

1. While making no immediate changes to the implementation of the Fast Track process, consider future changes as informed by the following activities:

   a. Outreach events and community discussions on the rules used to assess string confusability.

   b. Determining if the subject of IDN Tables and additional requirements (if any) for establishment of such tables will be addressed in the ICANN initiative for Management of Variant TLDs per the published proposed plan (http://www.icann.org/en/announcements/announcement-5-21feb11-en.htm).

   c. Continued collaboration between IDN Fast Track staff and IANA Functions Department on issues related to IDN tables.

   d. Improved documentation of IDN Fast Track and IANA Functions Department processes to reduce requester confusion and handling of requested strings that are similar to existing strings or reserved strings.

   e. Coordination with relevant groups to identify potential ways to provide mechanisms whereby operators of new IDN ccTLDs and ICANN notify the browser community and other interested groups of the availability of their IDN ccTLD in order to facilitate application development that will improve the usability and utility of IDNs.

2. Address a few typographical errors and make minor clarifications in the charts included in the Fast Track Implementation Plan implementation guide.

Staff also recommends that the Board acknowledge the first Fast Track Review to be completed.

PROPOSED RESOLUTION:

Whereas, the Final Implementation Plan for the IDN ccTLD Fast Track Process was approved by the ICANN Board at its annual meeting in Seoul, Republic of Korea on 30 October 2009 and launched on 16 November 2009.

Whereas, the Final Implementation Plan requires annual review of the process, and the ICANN Board directed staff to *"monitor the operation of the IDN ccTLD Fast Track process at regular intervals to ensure its smooth operation, and, subject to Board review, update the process when new technology or policies become available, with the goal to efficiently meet the needs of Fast Track process requesters, and to best meet the needs of the global Internet community."*

Whereas, ICANN has completed the first review of the IDN ccTLD Fast Track Process, conducted in two parts: A public session held during the ICANN meeting in Cartagena on 6 December 2010 and an online public comment forum running from 22 October to 17 December 2010 and subsequently extended to 31 January 2011 at community request.

Whereas, ICANN released on 21 February 2011 a review of the received comments with accompanied ICANN recommendations and general feedback.

Whereas, the Board notes that the Fast Track Process is limited in its approach and eligibility requirements, while the community works to solve policy issues necessary to build a broader and ongoing process, and while outstanding issues related managing variant TLDs is pending further study per the draft proposal for the study of issues related to the delegation of IDN Variant TLDs released for public comment.

RESOLVED (2011.03.19._), the ICANN Board approves the recommendations set forth in "ICANN Recommendations of Public Comment Received on the Review of the IDN ccTLD Fast Track Process" and directs the CEO to have the identified work performed.

RESOLVED (2011.03.19.__), the Board thanks the community for participation in the first annual review of the Fast Track process, and acknowledges that the first review of the Fast Track process is complete.

PROPOSED RATIONALE:

Why the Board is addressing the issue now?

As approved by the Board, the IDN ccTLD Fast Track process calls for staff to conduct a review of the process on an annual basis. The IDN ccTLD Fast Track Program launched in November 2009, and commenced its first review in Oct 2010.

What are the proposals being considered?

Many proposals were received by the community within the review, including proposals that called for changes to the limited nature of the Fast Track process. In maintaining a focus is on what necessary changes could be made to enhance the Fast Track while remaining true to the limited nature of the process, no overreaching proposals were considered. Instead, proposals regarding clarifications in communications with requesters and better education on the process were the primary proposals taken under consideration.

What Stakeholders or others were consulted?

A public comment period was held from 22 October to 31 Jan 2011 and an open consultation session was presented at the ICANN Cartagena meeting, with interactive participation from those in Cartagena and those participating remotely worldwide. Both forums allowed for extensive community participation from DNS technical community, ccTLD community and individual Internet users.

What concerns or issues were raised by community?

As detailed in the Annex, there were general concerns about the limited nature of the IDN ccTLD Fast Track process, specifically; the lack of appeals or reconsideration process, IDN tables, and transparency of the process while a request is pending. Other operational concerns included operational issues such as confusion between the documentation requirements for string evaluation and the IANA delegation process. Ongoing work is currently in place to address the operational concerns.

What significant materials did Board review?

The Final Implementation Plan of the IDN ccTLD Fast Track, public comments received from DNS technical community, ccTLD community, individual Internet users, and the ICANN Recommendations of Public Comments Received on the Review of the IDN ccTLD Fast Track Process (http://www.icann.org/en/public-comment/fast-track-review-summary-comments-18feb11-en.pdf)

What factors the Board Found to be Significant?

Despite its limited scope, the IDN ccTLD Fast Track Process works well. Since its launch, the IDN ccTLD Fast Track Program received requests from 34 different countries/territories, 25 countries/territories have completed the string evaluation stage of the process, and 17 countries/territories (represented by 27 IDN ccTLDs) are delegated in the DNS root zone. Continued actions are being taken to address the operational issues expressed in the review to improve communication with requesters. The ongoing improvements in education and communications work, along with the identified consultation work recommended by staff, are all significant in determining that no major changes should be instituted in the Fast Track Process. In addition, the ongoing policy work in the ccNSO regarding broader introductions of IDN ccTLDs offers another arena for concerns to be raised and addressed.

Are there Positive or Negative Community Impacts?

Many of the comments received were from the Bulgarian Internet community expressed disappointment about the rejection of the applied-for string, and there may be a negative impact on that community if no appeals mechanism is instituted within the process. However, maintaining the limited scope of the Fast Track, and allowing the ongoing IDN policy work to continue without interference, will have a positive community impact in maintaining the accountability of ICANN to its processes.

Are there fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public?

Substantial changes to the current IDN ccTLD Fast Track Process may require funding for additional staff or consultants to provide expertise in order to support work on IDN tables or variants. There may be additional costs in conducting outreach, though

minimal. Greater involvement with the browser and application developer community may require broader support from the community and supporting organizations.

Are there any Security, Stability or Resiliency issues relating to the DNS?
The careful management of the IDN ccTLD Fast Track process is intended to ensure that strings do not cause DNS security and stability issues or introduce confusability issues for the Internet community. The 25 countries and territories that have cleared the Fast Track process to date have satisfied the criteria set forth in the Final Implementation Plan for the safe introduction of IDNs at the top-level of the DNS.

Submitted by: Naela Sarras

Position: Manager, IDN Fast Track

Date Noted: 2 March 2011

Email and Phone Number: naela.sarras@icann.org, +1 310 301 5819