

# 2011-04-21- NoticeBDMtg

**Directors and Liaisons,**

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

**21 April 2011 - Special Meeting of the ICANN Board of Directors --  
at 3:00 UTC – This Board meeting is estimated to last 3 hours.**

**Some other time zones:**

**20 April 2011 – 8:00 PM PST Los Angeles**

**21 April 2011 – 5:00 AM CEST Brussels**

**20 April 2011 – 11:00 PM EST Washington, D.C.**

**21 April 2011 – 3:00 PM Wellington**

**<http://www.timeanddate.com/worldclock/fixetime.html?iso=20110421T03>**

**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 [www.boardvantage.com](http://www.boardvantage.com) <<http://www.boardvantage.com/> <<http://www.boardvantage.com/>> > , 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.**

**The call information is also attached. If you require a call out to be brought into the meeting, because you are not in a location with a toll free dial-in, please let us know and we will have the call operators call you 5-10 minutes before the start of the meeting.**

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

**John Jeffrey**

**General Counsel & Secretary, ICANN**

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Personal Information Redacted

**CALL INFORMATION:**

Contact Information Redacted

Contact Information Redacted

Contact Information Redacted

# **2011-04-14-Agenda-Res-Rec-21 April 2011 ICANN Board Meeting**

Agenda, Resolutions, Rationales & Potential Conflicts  
21 April 2011 ICANN Board Meeting

**Executive Session – Board Alone Time (30 Minutes)**

1. **From the Compensation Committee – Approval of Recommendations re Ombudsman Compensation (2011-04-21-11)**  
Employment Information

**Consent Agenda (10 Minutes):**

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

2. **Approval of Minutes of 18 March 2011 ICANN Board Meeting**

***RESOLVED** (2011.04.21.xx), the Board hereby approves the minutes of the 18 March 2011 ICANN Board Meeting.*

3. **From the BGC – Organizational Meeting to Fill Leadership Vacancies (2011-04-21-01)**

Whereas, upon the conclusion of the June 2011 Mid-year Meeting in Singapore, there will be a vacancy in the position of the Chair of the Board due to the transition in Seat 11 on the ICANN Board of Directors.

Whereas, the Board Governance Committee has identified that it is preferable for the Board to immediately fill a vacancy in the ICANN Board Chair position, as well as immediately address any necessary changes in composition of Board Committees and leadership due to the transition of Board members, and is prepared make recommendations to the Board on these items.

Whereas, an Organizational Meeting of the Board is required as soon as possible after the conclusion of the June 2011 Mid-year Meeting for the Board to take action to elect a Chair (and Vice-Chair, if necessary), as well as appointing Board committee members as needed.

***RESOLVED** (2011.04.21.xx), the Secretary is directed to notice an Organizational Meeting of the Board of Directors to occur immediately after the conclusion of the June 2011 Mid-year Meeting.*

**PROPOSED RATIONALE:**

This administrative resolution assures that the Board will continue with a full composition of leadership upon transition of Board membership. There is no anticipated fiscal impact from this decision, as the Organizational Meeting will occur in the same location as the 2011 Mid-year Meeting. There will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

4. **From the BGC – Revised Code of Conduct (2011-04-21-02)**

Whereas, the Board Governance Committee (BGC) is charged with oversight of the Board's compliance with the organization's Code of Conduct, approved in 2008.

Whereas, the BGC has identified that Code of Conduct Guidelines would provide guidance and assistance in maintaining compliance with the Code of Conduct.



Whereas, non-substantive revisions to the Code of Conduct are necessary to incorporate references to the Code of Conduct Guidelines, and the BGC has approved those proposed revisions.

**RESOLVED** (2011.04.21.xx), *the Board approves the Revised Code of Conduct and directs staff to post the Revised Code of Conduct on the ICANN website.*

**PROPOSED RATIONALE:**

The Board's adherence to a Code of Conduct is an essential part of maintaining accountability and transparency in ICANN's decision-making process. The Code of Conduct approved in 2008 was a result of community input, and the changes approved today do not substantively alter the community-vetted provisions. The Revised Code of Conduct will assist the Board in maintaining adherence with the Code of Conduct, through the incorporation of Guidelines that more clearly identify processes for handling potential breaches of the Code. There is no anticipated fiscal impact from this decision, and there will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

**5. From the BGC – Input on Academia Representation on NomCom (2011-04-21-03)**

Whereas, Article VII, Section 2.8.c of the ICANN Bylaws requires the NomCom to include a voting member selected by “an entity designated by the Board to represent academic and similar organizations” (Selecting Entity).

Whereas, despite attempts to identify a Selecting Entity, the Board has not succeeded, and instead has made direct recommendations of delegates to represent academia on the NomCom. In addition to the Board-selected delegate, there have consistently been multiple delegates on each NomCom from academia.

Whereas, in 2010, the Board directed the BGC to create a process for identifying a Selecting Entity, and the BGC has raised concerns relating to the identification and evaluation of the Selecting Entity. Whereas, the BGC has determined that the community may provide guidance on an appropriate Selecting Entity or metrics to help in identification or evaluation of the Selecting Entity.

Whereas, in the event that that the community comment does not inform the identification or approval of an appropriate Selecting Entity, the BGC is prepared to recommend that Article VII, Section

2.8.c be removed from the Bylaws. If, in the future the academic sector becomes under-represented on the NomCom, the creation of a mechanism should be considered to assure that academia has a voice in the selection of ICANN leadership.

**RESOLVED** (2011.04.21.xx), *the Board approves the initiation of a 30-day period of public comment to obtain community input to inform the BGC's future work on the identification of an entity to make appointments to the NomCom as called for in Article VII, Section 2.8.c of the Bylaws. The public comment will also address the potential proposed Bylaws amendments regarding the removal of this Bylaws provision in the event that the community comment process does not result in the identification of an appropriate entity.*

#### **PROPOSED RATIONALE:**

Since the 2002 introduction of the current form of the ICANN Bylaws, there has been a provision for the NomCom to include a voting delegate appointed by “an entity designated by the Board to represent academic and similar organizations” (Selecting Entity). The Board has not been successful in identifying such a Selecting Entity; despite a 2003 identification of a Selecting Entity, by 2005, no designees had been identified and the Board Governance Committee (BGC) has been making a direct recommendation of a voting NomCom delegate after soliciting nominees. In 2007, the Chair noted that the BGC had not been successful in identifying a Selecting Entity, and in 2010, the Board directed that a process for choosing the Selecting Entity be created through the BGC and proposed to the Board.

Despite the limitations faced by the Board in identifying the Selecting Entity, there has been consistent representation of the academic sector on each NomCom, in addition to those persons directly recommended by the BGC. Historically, in addition to the designated academia delegate, each recent NomCom has had at least two members affiliated with academic institutions.

The NomCom – and the method of selection of delegates serving on the NomCom – are important components to ICANN's leadership and governance, and providing any entity with the responsibility of selecting a voting NomCom delegate will have lasting effects on the organization. When the BGC undertook work to create a process to identify a Selecting Entity, the BGC discussed the difficulty of identifying criteria to choose an entity, particularly how to evaluate and select the successful entity if more than one is suggested or nominated. The BGC also identified a more fundamental question: because of the history of academic voices being present on the

NomCom, does it remain necessary to identify that a specific delegate remain a part of the NomCom composition?

The BGC therefore recommends that the community have a voice in reviewing this decision point. The BGC seeks community guidance on: What entities could or should serve as the entity to designate a member of an academic or similar organization to the NomCom? What metrics could be used to evaluate competing entities? What would an appropriate selection and evaluation process be? Would the community be better served by removing the Bylaws provision calling for such an entity to select a delegate?

It should be noted that the Board directed that the BGC *not* to identify a delegate for the current (2010-2011) NomCom to fill this role. To date, ICANN is not aware of any complaints that the absence of the specific academia representative delegate has impeded the work of the NomCom.

In the event that the community consultation cannot identify an appropriate selection or evaluation process, or an appropriate entity, the BGC will recommend the removal of this provision from the Bylaws. If the provision is removed, the future composition of the NomCom will have to be reviewed to confirm that the academic sector remains represented. If the academic sector is under-represented in the future, a review of how best to assure academic representation on the NomCom will be initiated.

Seeking community input on this item will assist the Board in evaluating the impact of any changes to the NomCom composition. There will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

**6. From the BGC – Approval of Members of Board Technical Relations Working Group (2011-04-21-04)**

Whereas, on 18 March 2011 the Board established 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.”

Whereas, the Board directed the Board Governance Committee to recommend five members for the Board Technical Relations Working Group, for consideration by the Board at this meeting.

Whereas, at its 12 April 2011 meeting, the BGC reviewed the potential composition of the Board Technical Relations Working Group and formed a recommendation to the Board, identifying the following proposed members of the group: To be inserted.

- (i) Gonzalo Navarro, Chair;
- (ii) Thomas Narten;
- (iii) Thomas Roessler;
- (iv) Reinhard Scholl; and
- (v) Jonne Soininen.

**RESOLVED** (2011.04.21.xx), *the Board approves the recommended membership of the Board Technical Relations Working Group and requests the members to complete the tasks as set forth in the Board's 18 March 2011 resolution, as reflected in the Working Group's charter.*

**PROPOSED RATIONALE:**

The Board Governance Committee's recommendation is in fulfillment of the Board's 18 March 2011 resolution. The TLG review work to date has been the subject of community comment, and the Working Group is expected to perform its work in a consultative process with the ICANN community. A small fiscal impact is anticipated due to the composition of the Working Group, including staffing resources and potential costs incurred to facilitate the work of the Working Group. There will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

**7. From the SIC – Approval of Charter for Board Technical Relations Working Group (2011-04-21-05)**

Resolution Text Superseded

**PROPOSED RATIONALE:**

The proposed action is in direct response to a request from the Board and serves to advance the handling of the TLG review outcome in line with the direction set forth by the Board. While community input was not sought nor necessary for the drafting of this Charter, the WG is expected to consult with the community as it reaches its recommendations. The functioning of the BTR WG will require some support from existing staff and certain limited expenditures. There is no reason to delay this action as it would have very marginal budgetary consequences. This action will not have any input on the security or stability of the DNS.

**8. From the SIC – Approval of ccNSO Review Implementation Actions (2011-04-21-06)**

Whereas, on 18 March 2011, the Board resolved to receive the Final Report of the ccNSO review Working Group, and directed the Structural Improvements Committee (SIC) 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”, at <http://icann.org/en/minutes/resolutions-05aug10-en.htm#2.f>.

Whereas, ICANN staff members supporting the organizational reviews and the ccNSO identified a set of measures in a document "ccNSO review WG final report: implementation steps", dated April 2011, to address the recommendations and conclusions from the Working Group and provided those to the SIC.

Whereas, the SIC finds the measures included in this document adequate and proposes to have staff in coordination with SIC finalize an implementation plan, including estimated costs, based upon this document, and to provide this final plan to the Board for receipt and consideration.

***RESOLVED (2011.04.21.xx), the Board approves the document put forward by the SIC and instructs the SIC, in coordination with staff, to provide the Board with a final implementation plan, including estimated costs, to conform with the measures recommended by the SIC to address the conclusions and recommendations in the final report of the ccNSO review Working Group.***

**PROPOSED RATIONALE:**

The proposed action is in direct response to a request from the Board and serves to advance the implementation of the ccNSO review outcomes. The task to develop a detailed implementation plan is essential to prepare the implementation in a timely manner. There is no reason to delay this action as it, per se, would have no budgetary consequences. The detailed implementation planning should cover scoping and resource estimates, to be considered and decided by the Board once the detailed planning task has been accomplished and a detailed plan put forward.

9. **From the BFC - Formalization of Planning Committee for existing employee retirement savings accounts (401K) (2011-04-21-07)**

Whereas, the ICANN Retirement Savings Plan (Plan) was introduced in 2000 for United States based staff.

Whereas, in light of the increasing number of participants and resulting assets of the Plan, best practices suggest that a plan committee be formed to manage plan administration, choosing plan vendors, identifying investment options from which employees can select, and other fiduciary responsibilities.

Whereas, the BFC has recommended that the Board approve the formalization of the 401(k) Plan Committee and authorize the CEO to staff and oversee the Plan Committee activities.

**RESOLVED** (2011.04.21.xx), *the Board approves the formalization of the 401(k) Plan Committee and authorizes the CEO to staff and oversee the Plan Committee activities.*

**PROPOSED RATIONALE:**

Employees in the United States participate in the ICANN Retirement Savings Plan (also known as the 401(k) Plan) (the “Plan”) in which the Company makes contributions to the Plan on behalf of employees, and employees may make contributions, on a tax deferred basis, to the Plan on their own behalf. Until recently, the Plan has been relatively small and did not call for a formal Plan Committee. Recently, however, the Plan has grown to over 100 active participants and to an asset level for which best practices indicate that a plan committee be formed to oversee various aspects of the Plan.

**10. From the BFC - Approval of Increase Of The Registrar Accreditation Application Fee (2011-04-21-08)**

**Potential Conflicts of Interest (as identified by the General Counsel):**

*Bruce Tonkin* – for details, see posted Summary of Statements of Interest - <http://www.icann.org/en/board/summary-soi-16mar11-en.htm>.

Whereas, in resolution 01.65 the Board approved the charging of an accreditation application fee of USD 2500, without regard to the number of top-level domains for which accreditation is sought, for applications submitted on or after 1 July 2001;

Whereas, since July 2001 no change has been made in that application fee amount;

Whereas, on 22 November 2010 ICANN posted on its website a proposal to complete additional due diligence checks and to increase the accreditation application fee, with a description of the proposed due diligence checks and the reason for increasing the application fee;

Whereas, an online public comment period for the community to submit comments on the proposal, was held;

Whereas, the public comment received was supportive of the proposed enhancements;

*It is hereby **RESOLVED** (2011.04.21.xx) that the application fee to be accredited by ICANN as a registrar shall be USD 3,500 for applications submitted on or after 1 July 2011.*

*It is further **RESOLVED** (2011.04.21.xx) that the Board directs staff to conduct a review of the costs associated with the registrar accreditation application process to determine whether current fees cover those costs.*

**11. Approval of Redlegation of .KP (Korea, Democratic People's Republic) (2011-04-21-09)**

Whereas, KP is the ISO 3166-1 two-letter country-code designated for the Democratic People's Republic of Korea.

Whereas, ICANN has received a request for redlegation of .KP to Star

Joint Venture Company;

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.

*It is hereby **RESOLVED** (2011.04.21.xx), that the proposed redelegation of the .KP domain to Star Joint Venture Company is approved.*

## **PROPOSED RATIONALE**

### **Why the Board is addressing the issue now?**

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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 have 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.

**12. Approval of Tracking of Global Policy for Post Exhaustion IPv4 Allocation Mechanisms by IANA (2011-04-21-10)**

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 for Post Exhaustion IPv4 Allocation Mechanisms by IANA" 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*** (2011.04.21.xx), *the Board requests that the development of the policy proposal entitled "Global Policy for Post Exhaustion IPv4 Allocation Mechanisms by IANA" 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.*

## PROPOSED RATIONALE:

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 is 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 of a future request from the ASO for ratification of the Proposal.

## Main Agenda:

13. President & CEO's Report (15 mins)
14. Update on new gTLD Timelines – for discussion (15 mins) **(2011-04-21-12)**

### Potential Conflicts of Interest (as identified by the General Counsel):

*Ram Mohan*  
*Thomas*  
*Bruce Tonkin*  
*Suzanne Woolf*

For details, see posted Summary of Statements of Interest - <http://www.icann.org/en/board/summary-soi-16mar11-en.htm>.

15. Review of Vertical Integration for Existing gTLD Registry Operators – for approval (15 mins) **(2011-04-21-13)**

Whereas, the Board Resolved on 5 November 2010 that ICANN will not restrict cross-ownership between registries and registrars for new gTLDs, and that “ICANN will permit existing registry operators to transition to the new form of registry agreement, except that additional conditions may be necessary and appropriate to address particular circumstances of established registries.”

Whereas, current gTLD Registry Agreements include cross-ownership restrictions.

Whereas, ICANN has received inquiries from several Operators about the process to remove the cross-ownership restrictions from their Registry Agreement and/or their ability to apply to become and ICANN-accredited Registrar.

Whereas, the removal of the cross-ownership restrictions for Operators is predicated on first, the Board's approval of the new gTLD Program, and second, the Board's approval of a process for Operators to transition to the new form of Registry Agreement or to request an amendment to their existing registry agreements.

Whereas, the Board anticipates that it will consider the new gTLD Program and the launch of new gTLDs at its meeting in Singapore in June 2011;

***RESOLVED** (2011.04.21.xx), the Board directs the CEO to develop a process for existing gTLD registry operators to transition to the new form of Registry Agreement or to request amendments to their registry agreements to remove the cross-ownership restrictions. This process would be available to existing operators upon Board approval of the new gTLD Program.*

**PROPOSED RATIONALE:**

Why the Board is addressing the issue now?

The Board is addressing this now since they are scheduled to consider the new gTLD Applicant Guidebook on 20 June 2011. On 4 November 2010, ICANN Board Resolved that there should be a means for existing gTLD Registry Operators ("Operators") to transition to the new form of registry agreement, including the removal of restrictions on ownership of registries by registrars and vice-versa. The Operators argue that they need their current restrictions on cross-ownership to be removed on a timely basis in order to be able to compete on a level playing field with registrars that are planning to apply to operate new gTLDs. Approving a process for the existing Operators to pursue removal of their cross-ownership restrictions on a timely basis in conjunction with the Board's approval of the new gTLD Program would cause ICANN to appear to be responsive to the Operators' requests.

What concerns or issues were raised by community?

The Operators argue that they need their current restrictions on cross-ownership to be removed on a timely basis in order to be able to compete with registrars that are planning to apply to operate new gTLDs. There are no current restrictions that prevent registrars from applying to operate new gTLD Registry Operators.

Are there Positive or Negative Community Impacts?

There are positive community impacts as existing gTLD Registry Operators would be in a position to have their cross-ownership restrictions removed and that would put them on a level playing field with new gTLD Registry Operators.

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 associated with approval of this Resolution on the Strategic Plan, the Operating Plan and/or the Budget. There is no information available at this time of the fiscal impacts/ramifications on the community or the public.

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

There are no known issues relating to the security, stability or resiliency of the DNS at this time.

## 16. ATRT

### a. **Board Management of ATRT Recommendations – for approval (20 mins) (2011-04-21-14)**

Resolution Text Superseded

**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 and posted for public comment. Public comments were supportive of the ATRT report and staff's due diligence resulted in advice that ICANN move forward with implementation of the ATRT's recommendations. Staff provided initial, proposed plans that demonstrated ICANN's ability to implement the recommendations and provided estimated resource costs. The Board 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.

Implementation of the 27 ATRT recommendations will require significant Board work, and extensive coordination with key community groups (including the Governmental Advisory Committee) and staff. To help ensure implementation moves forward expeditiously, the Board is delegating recommendation implementation work to relevant Board Committees, and creating a temporary Board-GAC joint working group to address GAC-related recommendations.

- b. Estimated Budget Implications of ATRT Recommendations for FY2012 Budget – for discussion (20 mins) **(2011-04-21-15)**

### **PROPOSED RATIONALE**

The Board noted previously that all 27 of the ATRT recommendations have the potential to advance ICANN's transparency and accountability objectives and may be implemented by ICANN following careful and transparent consideration, and with the necessary support and resources. The Board recently asked staff to work with affected organizations and develop final implementation plans for Board approval, and noted that ICANN has already made progress on implementation of several operational changes called for by the ATRT. The Board is doing due diligence on the implementation of the recommendations and wants to ensure that the fiscal year 2012 budget, which is being finalized, includes appropriate funds for these activities.

The Board has approved inclusion of additional funding in the FY2012 budget for implementation of the ATRT recommendations, and reiterates its commitment to advancing ICANN's accountability and transparency.

17. Update on .NET Agreement - Status, timeline, public comments – for discussion (15 mins)
18. Report from IANA Committee on discussions re Clarification of Terminology and Requirements for Country-code Top-Level Domain Delegations and Redelegations - for discussion (20 mins) (no recommendation from the IANA Committee)

19. Review and possible approval of: (10 mins)

a. **Delegation of الجزائر ("Al Jazair") representing Algeria in Arabic (2011-04-21-16)**

Whereas, Algeria is currently listed in the ISO 3166-1 standard; Whereas, الجزائر ("al-Jazair"), encoded as "xn--lgbbat1ad8j", is a string that has been deemed to appropriately represent Algeria through the IDN Fast Track process;

Whereas, ICANN has received a request for delegation of . الجزائر to Centre de Recherche sur l'Information Scientifique et Technique (CERIST);

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.

*It is hereby **RESOLVED** (2011.04.21.xx), that the proposed delegation of the . الجزائر top-level domain to CERIST is approved.*

**PROPOSED RATIONALE**

**Why the Board is addressing the issue now?**

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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.

**b. Delegation of المغرب ("al-Maghrib") representing Morocco in Arabic (2011-04-21-17)**

Whereas, المغرب ("al-Maghrib"), encoded as "xn--mgbc0a9azcg" is a string that has been deemed to appropriately represent Morocco through the IDN Fast Track process.

Whereas, ICANN has received a request for delegation of المغرب to the Agence Nationale de Réglementation des Télécommunications.

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.

*It is hereby **RESOLVED** (2011.04.21.xx), that the proposed delegation of the المغرب domain to the Agence Nationale.*

## **PROPOSED RATIONALE**

### **Why the Board is addressing the issue now?**

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are satisfied the applicant has provided *de Réglementation des Télécommunications* is approved.

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 IANA 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.

**c. Delegation of the .cpб (“srb”) domain representing Serbia in Cyrillic (2011-04-21-18)**

Whereas, Serbia is currently listed in the ISO 3166-1 standard; Whereas, cpб (“srb”), encoded as “xn--90a3ac”, is a string that has been deemed to appropriately represent Serbia through the IDN Fast Track process;

Whereas, ICANN has received a request for delegation of .cpб to Serbian National Register of Internet Domain Names (RNIDS);

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.

It is hereby **RESOLVED** (2011.04.21.xx), that the proposed delegation of the .cpб top-level domain to Serbian National Register of Internet Domain Names is approved.

**PROPOSED RATIONALE**

**Why the Board is addressing the issue now?**

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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.

20. Update on NOI – for discussion (15 mins)

21. AOB (15 mins)

# ATRT Recommendation List



<b>ATRT Recommendation (* indicates ATRT “high priority”)</b>	<b>Proposed Committee</b>
<b>1. Board should establish formal mechanisms for identifying collective skill-set required by Board.</b>	<b>BGC</b>
<b>1.a. Benchmarking Board skill-sets against similar corporate &amp; other governance structures.</b>	<b>BGC</b>
<b>1.b Tailoring required skills to suit ICANN’s unique structure &amp; mission through open consultation process, including with SOs &amp; ACs.</b>	<b>BGC</b>
<b>1.c. Reviewing these requirements annually, &amp; provide as formal starting point for each NomCom.</b>	<b>BGC</b>
<b>1.d. Publishing outcomes &amp; requirements as part of NomCom’s call-for-nominations.</b>	<b>BGC</b>
<b>2. Board should regularly reinforce &amp; review training &amp; skills building programs.</b>	<b>BGC</b>
<b>3. Board &amp; NomCom should increase transparency of NomCom’s deliberations &amp; decision-making process; e.g. explain timeline, skill-set criteria before process starts, &amp; explain choices made at the end</b>	<b>BGC</b>
<b>4. Board should continue to enhance Board performance &amp; work practices.</b>	<b>BGC</b>
<b>5. Board should implement compensation scheme for voting Board Directors</b>	<b>BGC</b>
<b>6. Board should clarify the distinction between issues that are subject to ICANN’s policy development processes &amp; those matters that are within the executive functions performed by staff &amp; Board, and develop complementary mechanisms for consultation in appropriate circumstances with the relevant SOs &amp; ACs on administrative &amp; executive issues that will be addressed at Board level.</b>	<b>BGC</b>
<b>7.* Board should: 7. 1* Promptly publish all appropriate materials related to decision-making processes – including preliminary announcements, briefing materials provided by staff &amp; others, detailed Minutes, &amp; individual Directors’ statements relating to significant decisions</b>	<b>BGC</b>
<b>7.2* Publish a “thorough &amp; reasoned explanation of decisions taken, the rationale thereof, &amp; the sources of data &amp; information on which ICANN relied” &amp; “ICANN should also articulate that rationale for accepting or rejecting input received from public comments &amp; the ICANN community, including [SOs &amp; ACs].”</b>	<b>BGC</b>
<b>8. Board should have a document produced &amp; published that clearly defines the limited set of circumstances where materials may be redacted &amp; that articulates the risks (if any) associated with</b>	<b>BGC</b>

<b>publication of materials. These rules should be referred to by the Board &amp; staff when assessing whether material should be redacted &amp; cited when such a decision is taken.</b>	
<b>9.* Board, acting through the GAC-Board joint working group (JWG), should clarify what constitutes GAC public policy “advice” under the Bylaws</b>	<b>Board/ GAC ATRT group</b>
<b>10.* Board, acting through the JWG, should establish a more formal, documented process by which it notifies the GAC in writing of matters that affect public policy concerns to request GAC advice ICANN should develop an on-line record of each request to, &amp; advice received from, the GAC along with the Board’s consideration of &amp; response to each advice.</b>	<b>Board/ GAC ATRT group</b>
<b>11.* Board &amp; GAC should work together to have the GAC advice provided &amp; considered on a more timely basis; Board, acting through the JWG, should establish a formal, documented process by which the Board responds to GAC advice. This process should set forth how &amp; when the Board will inform the GAC, on a timely basis, whether it agrees or disagrees with the advice &amp; will specify what details the Board will provide to the GAC if it disagrees with the advice; process should also set forth procedures by which GAC &amp; Board will then “try in good faith &amp; in a timely efficient manner, to find a mutually acceptable solution.” Consider establishing other mechanisms by which Board &amp; GAC can satisfy the Bylaw provisions relating to GAC advice.</b>	<b>Board/ GAC ATRT group</b>
<b>12. Board, acting through the JWG, should develop &amp; implement a process to engage the GAC earlier in the policy development process.</b>	<b>Board/ GAC ATRT group</b>
<b>13. Board &amp; GAC should jointly develop &amp; implement actions to ensure that GAC is fully informed of ICANN policy agenda &amp; policy staff is aware of/sensitive to GAC concerns; may wish to consider changes to role of ICANN staff support relating to communication with &amp; support to GAC, &amp; whether Board &amp; GAC would benefit from more frequent joint meetings.</b>	<b>Board/ GAC ATRT group</b>
<b>14. Board should endeavor to increase the level of support &amp; commitment of governments to the GAC process; encourage member countries &amp; organizations to participation in GAC &amp; place particular focus on engaging nations in developing world &amp; need for multilingual access to ICANN records; Board also should work with GAC to establish a process to determine when &amp; how ICANN engages senior govt. officials on public policy issues on a regular &amp; collective basis to complement existing GAC process.</b>	<b>BGRC in coordina- tion w/ Board/ GAC ATRT group</b>
<b>15.* Board should direct the adoption of, &amp; specify a timeline for</b>	<b>PPC</b>

<b>the implementation of, public Notice &amp; Comment processes that are stratified (e.g. Notice of Inquiry, Notice of Policy Making) &amp; prioritized; prioritization &amp; stratification should be established based on coordinated community input &amp; consultation with Staff.</b>	
<b>16.* Public notice &amp; comment processes should provide for both distinct “Comment” cycle &amp; a “Reply Comment” comment cycle that allows community respondents to address &amp; rebut arguments raised in opposing parties’ comments.</b>	<b>PPC</b>
<b>17.* Timelines for public Notice &amp; Comment should be reviewed &amp; adjusted to provide adequate opportunity for meaningful &amp; timely comment; Comment &amp; Reply Comment periods should be of a fixed duration.</b>	<b>PPC</b>
<b>18. Board should ensure access to, documentation within, policy development processes &amp; multi-lingual access to maximum extent feasible.</b>	<b>PPC</b>
<b>19. Board should publish its translations (including rationale) within 21 days of take a decision (in languages called for in ICANN Translation Policy).</b>	<b>BGC</b>
<b>20. Board should ensure that all necessary inputs that have been received in policy making processes are accounted for &amp; included for consideration by the Board; to assist this the Board should adopt &amp; post a mechanism (e.g. checklist or decision template) that certifies what inputs have been received &amp; are included for Board consideration.</b>	<b>BGC</b>
<b>21. Board should request staff to work on process for developing annual work plan that forecasts matters that will require public input.</b>	<b>PPC</b>
<b>22. Board should ensure that senior staffing arrangements are appropriately multi-lingual, delivering optimal levels of transparency &amp; accountability to community.</b>	<b>EXEC</b>
<b>23.* Board should implement IIC Rec. 2.7 that calls on ICANN to seek input from a committee of independent experts on the restructuring of its three review mechanisms; see ATRT guidance for review, including direction to look at mechanisms in IIC Rec. 2.8 &amp; 2.9; upon receipt of experts’ final report, Board should take actions on the recommendations .</b>	<b>BGC</b>
<b>24. Assess Ombudsman operations &amp; relationship between Board &amp; Ombudsman, &amp; if needed, bring into compliance with internationally recognized standards for Ombudsman function &amp; Board supporting the function</b>	<b>BGC</b>
<b>25. Clarify standard for Reconsideration requests with respect to how it is applied &amp; whether the standard covers all appropriate grounds for using the Reconsideration mechanism.</b>	<b>BGC</b>
<b>26. Board should adopt a standard timeline &amp; format for Reconsideration Requests &amp; Board reconsideration outcomes that clearly identifies the status of deliberations &amp; then, once decisions</b>	<b>BGC</b>

are made, articulates the rationale used to form those decisions.	
<b>27. Board should regularly evaluate progress against these recommendations &amp; the accountability &amp; transparency commitments in the AoC, &amp; in general analyze the accountability &amp; transparency performance of the whole organization to annually report to the community on progress made &amp; to prepare for the next ATRT review; all evaluation should be overseen by Board.</b>	<b>EXEC</b>
<ul style="list-style-type: none"> <li>• <b>Reporting - ATRT asks the Board to provide a status report on all recommendations at the March 2011 ICANN meeting and a more formal report at the June 2011 ICANN meeting detailing:</b> <ul style="list-style-type: none"> <li>• <b>- Which recommendations have been fully implemented;</b></li> <li>• <b>- The status and schedule for implementing the remaining recommendations; and</b></li> <li>• <b>- The recommendations which the Board has concluded it cannot implement including a detailed explanation as to why the recommendations cannot be implemented.</b></li> </ul> </li> </ul>	<b>EXEC</b>

## 2011-03-18-Board-Minutes



**Minutes**  
Board of Directors Meeting  
18 March 2011  
Silicon Valley/San Francisco

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A transcript of the meeting is posted at <http://svsf40.icann.org/meetings/siliconvalley2011/transcript-board-meeting-18mar11-en.txt>.

A Regular Meeting of the ICANN Board of Directors was held on 18 March 2011 in San Francisco, California (USA) at 10:30 am local time.

Chairman Peter Dengate Thrush 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; Reinhard Scholl, TLG Liaison; and Suzanne Woolf, RSSAC Liaison.

## **1. Consent Agenda**

The Chair of the Board introduced the design of the agenda, including the use of the consent agenda. The Chair noted that many of the items on the consent agenda came through the Board committee processes, and have all been discussed. Any Board member may request the removal of items from the Consent Agenda.

Sébastien Bachollet then moved and Rod Beckstrom seconded the motion, and the Board took the following action:

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

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

Resolved (2011.03.18.01), the Board hereby approves the minutes of the 25 January 2011 ICANN Special Board Meeting.

**1.2. Approval of Changes to SSAC Membership**

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.

Resolved (2011.03.18.02), that the Board appoints David Conrad to the SSAC.

*Rationale for Resolution 2011.03.18.02*

*The SSAC is a diverse group of individuals whose expertise in specific subject matters enables the SSAC to fulfill 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 fulfill its responsibilities.*

**1.3. ccNSO Review – Receipt of Board WG Final Report and Dissolution of the WG**

Whereas, the ccNSO review Working Group has delivered to the Structural Improvements Committee (SIC) 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 SIC on its proposal to thank the Chair and Members of the Working Group for their commitment and ability to fulfill the tasks assigned to them; and

Whereas, the SIC 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 (2011.03.18.03), the Board receives the final report of the ccNSO review Working Group.

Resolved (2011.03.18.04), 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 (2011.03.18.05), 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.

*Rationale for Resolution 2011.03.18.03-2011.03.18.05*

*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 through efforts of existing ICANN staff and are not anticipated to 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.*

**1.4. Approval of Revision of Bylaws re: Implementation of SSAC Review Working Group Report**

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>>, 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 (2011.03.18.06), the Board approves the Bylaws revisions as posted for public comment in furtherance of the recommendations arising out of the SSAC review Working Group.

#### B. Task to develop a security framework

Whereas, in its final report published 29 January 2010 <http://www.icann.org/en/reviews/ssac/ssac-review-wg-final-report-29jan10-en.pdf>, 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 18 March 2011, the Board approved the amendment to the Bylaws reflecting the removal of task area one from the SSAC Charter, which read "To develop a security framework for Internet naming and address allocation services that defines the key focus areas, and identifies where the responsibilities for each area lie. The committee shall focus on the operational considerations of critical naming infrastructure."

Whereas, the ICANN Board desires that the work foreseen within task area should be performed by ICANN.

Resolved (2011.03.18.07), the Board directs the Board Governance Committee to recommend to the Board a working group to oversee the development of a risk management framework and system for the DNS as it pertains to ICANN's role as defined in the ICANN Bylaws. The Board recommends that the BGC consider in its recommendation the inclusion of a member of the working group to come from the SSAC. The Board requests that the BGC submit its recommendation consideration at the Board meeting in Singapore in June 2011.

*Rationale for Resolutions 2011.03.18.06 and 2011.03.18.07*

*The proposed actions are in line with the adopted implementation plan following the SSAC Review and serve to fulfil the commitments agreed by the Board to that end. The Bylaws changes have been posted for public comments. No comments were received indicating any foreseen negative effects and there is no reason to delay the adoption of the amendment. 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. The outcomes of the scoping work should explicitly address resource estimates, to be considered and decided by the Board once the scoping task has been accomplished and a proposal put forward. The approval of initiating the scoping work will assist ICANN in continuing to work to maintain security, stability and resiliency of the DNS.*

**1.5. Approval of Membership of IDN Variants Working Group**

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 (2011.03.18.08), 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.

**1.6. Approval of Location of ICANN Public Meeting in North America – October 2012**

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 reviewed and approved the budget for the ICANN 2012 North America Meeting, with a budget not to exceed US\$2.01M.

Resolved (2011.03.18.09), the Board designates the ICANN meetings to be held in Toronto, Canada from 14-19 October 2012 as the 2012 Annual Meeting, and approves a budget for the meeting not to exceed US\$2.01 million.

*Rationale for Resolution 2011.03.18.09*

*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.*

### **1.7. ICANN Meeting in Singapore – June 2011**

Whereas, ICANN intends to hold its second Meeting for 2011 in the Asia-Pacific region as per its policy.

Whereas, the Board previously designated Amman, Jordan as the location for the June 2011 Asia-Pacific meeting.

Whereas, due to unforeseen circumstances, the ICANN Board Executive Committee determined to change the meeting location to Singapore.

Resolved (2011.03.18.10), the Board ratifies the Executive Committee's approval of Singapore as the location for the June 2011 ICANN public meeting.

#### *Rationale for Resolution 2011.03.18.10*

*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 41, scheduled for 18-24 June 2011, is to occur in the Asia-Pacific Geographic Region. While the Board previously designated Amman, Jordan as the location for the June 2011 Asia-Pacific meeting, unforeseen circumstances, lead the Executive Committee to change the meeting location to Singapore.*

*The Committee reviewed the recommendation for hosting the meeting in Singapore, and the determined 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.*

*All public meetings advance ICANN's transparency and accountability objectives. 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.*

#### **1.8. Approval of ICANN Public Meeting Dates for 2014-2016**

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 a recommended schedule of dates for ICANN meetings as follows:

##### 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

8 - 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)

Resolved (2011.03.18.11), the Board accepts the dates of meetings to be held in 2014, 2015 and 2016.

*Rationale for Resolution 2011.03.18.11*

*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. Though commenters noted that conflicts remained for two of the June meeting dates, there are no sufficient alternative dates available for those meetings.*

*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.*

**1.9. *Thanks to Departing ccNSO Council Volunteers***

Whereas, ICANN wishes to acknowledge the considerable energy and skills that members of the stakeholder community bring to the ICANN process.

Whereas, in recognition of these contributions, ICANN wishes to acknowledge and thank members of the community when their terms of service on Sponsoring Organizations and Advisory Committees end.

Whereas, four ccNSO Councilors are leaving their positions at the end of the Silicon Valley San Francisco meeting:

Ondrej Filip (March 2005 – March 2011)

Mohamed El Bashir (March 2005 – March 2011)

Patrick Hosein (March 2008 – March 2011)

Chris Disspain (June 2004 – March 2011)

Resolved (2011.03.18.12), Ondrej Filip, Mohamed El Bashir, Patrick Hosein and Chris Disspain have earned the deep appreciation of the Board for their terms of service, and the Board wishes them well in their future endeavors.

Whereas, Chris Disspain was selected as the first chair of the ccNSO in December 2004.

Whereas, Chris has been elected to a seat on the ICANN Board of Directors with a term beginning in June 2011.

Whereas, Chris will be stepping down at the end of the Silicon Valley San Francisco meeting as Chair of the ccNSO Council to assume the ICANN Board seat.

Resolved (2011.03.18.12a), Chris Disspain has earned the deep appreciation of the Board for his service as the first chair of the ccNSO.



**1.10.     *Thanks to Sponsors***

The Board wishes to thank the following sponsors:

VeriSign, Neustar, .ORG, The Public Interest Registry, Iron Mountain, Afilias Limited, GMO Registry, Inc., AusRegistry International, China Internet Network Information Center (CNNIC), Community.Asia, united-domains AG, Internet Systems Consortium, InterNetX, NTT Communications – Global IP Network, RegistryPro, ironDNS, NameMedia, and JSU RU-CENTER.

**1.11.     *Thanks to Scribes, Interpreters, Staff, Event and Hotel Teams***

The Board expresses its appreciation to the scribes, the interpreters, technical teams, and to the entire ICANN staff for their efforts in facilitating the smooth operation of the meeting.

The Board would also like to thank the management and staff of The Westin St. Francis San Francisco for the use of this wonderful facility to hold this event.

**1.12.     *Thanks to Speakers***

The Board wishes to extend its thanks to the Welcome Ceremony speakers, Ira Magaziner, Vint Cerf, Andrew McLaughlin, and Larry Strickling, for their support and participation during the meeting. The Board also extends particular gratitude to former President Bill Clinton for his inspiring remarks to the ICANN community.

**1.13.     *Thanks to Meeting Participants***

Whereas, the success of ICANN depends on the contributions of participants at the meetings.

Whereas, the participants engaged in fruitful and productive dialog at this meeting.

Resolved, the Board thanks the participants for their contributions.

**Resolutions 2011.03.18.01, 2011.03.18.02, 2011.03.18.03, 2011.03.18.04, 2011.03.18.05, 2011.03.18.06, 2011.03.18.07, 2011.03.18.08, 2011.03.18.09, 2011.03.18.10, 2011.03.18.11, 2011.03.18.12, and 2011.03.18.12a, were approved in a single vote approving the consent agenda items. All Board members present unanimously approved these resolutions.**

## **Main Agenda**

### **2. Approval of the 2011-2014 Strategic Plan**

Erika Mann moved the resolution and read it into the record. Ray Plzak seconded the resolution.

The Chair noted the extraordinary contributions of the community to this planning cycle and thanked the community for their participation in consultations. The Chair also noted that the plan show progress in forming achievable and understandable metrics.

The Board then took the following action:

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.

Resolved (2011.03.18.13), 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, and final changes will be subject to the Chairman's final approval.

**All Board members present unanimously approved of Resolution 2011.03.18.13.**

*Rationale for Resolution 2011.03.18.13*

*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 were 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.*

*Based on consultations with the Board Working Group, the language in the first sections of each of the focus areas was revised to amplify and clarify 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 provide measureable metrics to gauge ICANN's progress toward the strategic goals. Relevant comments were incorporated that added clarity to the Strategic Plan's various objectives. For example, one of the pillar labels was changed from "Consumer Choice, Competition and Innovation," to "Competition, Consumer Trust and Consumer Choice" to specifically align language with the Affirmation of Commitments; 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 their feedback was taken into account and thus the multi-stakeholder bottom-up decision-making model is being implemented. Secondly, the Strategic Plan is refined to incorporate strategic performance metrics in alignment with Community feedback and expectation.*

*This plan also includes 36 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 to provide 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 Silicon Valley meeting in San Francisco (March 2011).*

*Anticipating that future planning processes will result in similarly intensive engagements, the Strategic Planning cycle will be started earlier next year. That planning cycle will be published shortly.*

*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 process), and finally development of the next fiscal year Budget (planned for approval in June). A framework of the proposed 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.*

### **3. Process for Completion of the Applicant Guidebook for New gTLDs**

The Chair introduced this item noting that the Board is looking to close this process as soon as possible.

Bruce Tonkin introduced the timeline and provided a short overview, noting that all advisory committees and constituencies were welcome to submit final written comments based upon the discussions over the week. The staff will then consolidate that input to produce a final version for the scorecard. There will also be extracts of the Applicant Guidebook to present text changes to implement the various commitments made in the scorecard. The public comment period that will be opened up is for the receipt of very specific comments regarding whether the changes made to the guidebook accurately reflect the intent indicated on the scorecard. This will not be a general comment period, and it will be limited to 30 days.

The Board is also offering the opportunity for the GAC to meet with the Board by teleconference on or around the 20th of May, to allow for final dialogue or answer any questions the GAC may have as a result of the documents published on 15 April.

After the discussion with the GAC, the final guidebook will be posted on 30 May, in sufficient time to allow the community and the Board to review the document prior to the ICANN meeting in Singapore. The Board would then consider the final guidebook in a special meeting on 20 June 2011 in Singapore.

Bruce then moved the resolution and read it into the record. Rita Rodin Johnston seconded the resolution.

Cherine Chalaby noted that it is important to take into account the events of the week when considering this resolution. The community wants clarity on the process, certainty on realistic time lines, and a relationship that is mature and responsible between the various parties, with engagement. This resolution allows a responsible launch with the right safeguards.

Bertrand de La Chapelle endorsed Cherine's statement. Bertrand noted the intense interactions between the GAC, the Board and the community over the week. He noted his appreciation for the focused work, echoing a community comment that the scorecard provided structure for the interaction on these topics.

Bertrand commented that with the timeline being put in place, the work towards establishing the program and finalizing the Applicant Guidebook in Singapore, requiring joint effort, and there is a common desire among the community to achieve this. Approving the Applicant Guidebook will not be the end of a process, but a beginning of something that will go longer. This is not like launching a cannonball and not doing anything after its been launched. Rather, this is the establishment of a process to drive new gTLDs forward in a stable manner.

Sébastien Bachollet endorsed the comments of Bertrand and Cherine. Sébastien commented that the Board is aware that the schedule changes during the meeting were difficult on the community. However, it was important to focus on this one topic and bring the discussion to a close. Sébastien apologized for the restructuring of the meeting, noting his hope that the community will be happy with the result.

Rita Rodin Johnston noted her support of the fellow Board member comments. Rita noted that the dynamic observed this week showed that conversations could continue forever. There has been a lot of debate, with creation of excellent detail.

Rita commented that notwithstanding the timeline, there will be further refinements and collaboration and improvements, but we owe it to the community and those that have been making arrangements regarding the roll out of the program, to close the first process and to move forward.

Heather Dryden commented that the GAC is pleased to continue working in this spirit with the Board and the community, to ensure that we find a way to arrive at true community consensus.

The Chair thanked Heather for the willingness to continue working in the great spirit that's been building since Cartagena. The Chair recalled the work that was completed at this meeting – two days of consultations with the GAC and three opportunities for public comment. The Chair restated Sébastien's acknowledgment of the Board's appreciation for the community's tolerance for changes to allow these meetings to occur.

The Chair highlighted features of the timetable, including further opportunity for community input, two further iterations of guidebook text, an opportunity for an intersessional exchange with the GAC, with a resolution to finish early in the week. The Chair noted the special meeting in Singapore – at the beginning of the week – to allow for a celebration of the closure of the process. Having a meeting regarding the Applicant Guidebook on Monday would allow for constituency day to proceed without interference.

The Board then took the following action:

Whereas, the Board and Governmental Advisory Committee held a successful intersessional meeting in Brussels with the intention to identify areas of difference between the proposed implementation and the GAC's advice, and, where possible, reach agreement on those issues.

Whereas, the Board and GAC have conducted in-depth discussions during the San Francisco meeting to continue the good-faith effort to reach mutually acceptable solutions on the issues identified by the GAC in its Scorecard.

Whereas, the Board has reviewed and considered the comments made by constituency groups, stakeholder groups, and individuals in the broader community during the San Francisco meeting.

Whereas, ICANN Bylaws Article XI, Section 2.1j provides that "The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the ICANN Board determines to take an action that is not consistent with the Governmental Advisory Committee advice, it shall so inform the Committee and state the reasons why it decided not to follow that advice. The Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution."

Whereas, in its efforts to implement the Bylaws-mandated process, ICANN (i) developed preliminary briefing papers on each of the GAC topics identified in the GAC Communiqué from Cartagena; (ii) conducted informal



calls between ICANN and GAC subject matter experts; (iii) participated in a nearly-three day meeting in Brussels with the GAC; (iv) reviewed the GAC scorecard and provided comprehensive Board notes on the scorecard.

Whereas, these inputs have been duly considered by the Board.

Resolved (2011.03.18.14), the Board thanks the GAC for the many hours of intense work preparing for and conducting the recent Board-GAC exchanges, and thanks for the community for its continuing support and cooperation.

Resolved (2011.03.18.15), the Board adopts a working timeline for completion of the Applicant Guidebook and launch of the New gTLD process as posted at <http://www.icann.org/en/minutes/draft-timeline-new-gtlds-18mar11-en.pdf>.

Resolved (2011.03.18.16), as set forth in the timetable, ICANN will target 15 April 2011 as the date for publication of a final response to the GAC Scorecard, along with Applicant Guidebook extracts showing changes.

Resolved (2011.03.18.17), the Board intends to complete the process set forth in the timeline in time for final approval of the New gTLD implementation program at an extraordinary meeting of the ICANN Board to be held on Monday, 20 June 2011, at the ICANN meetings in Singapore. (Note: the Board also intends to hold its usual meeting on Friday morning, 24 June 2011, to conclude the mid-year meeting.)

**All Board members present unanimously approved of Resolutions 2011.03.18.13, 2011.03.18.14, 2011.03.18.15, 2011.03.18.16 and 2011.03.18.17.**

*Rationale for Resolutions 2011.03.18.14 – 2011.03.18.17*

*This resolution builds from the productive consultations held with the Governmental Advisory Committee in February and March. The consultations focused on the set of 12 issues identified in the GAC indicative scorecard on new gTLD outstanding issues listed in the GAC*

*Cartagena Communiqué. Agreement was found in a number of areas within the Scorecard, and clarity was achieved on the remaining areas of difference – which enables the Board to outline a path for completion of the Applicant Guidebook. This set of 12 issues was also considered in community discussions at the Silicon Valley / San Francisco meeting. These discussions included whether the proposed revisions to the program implementation being discussed were contrary to the GNSO policy recommendations. In constructing the timeline, the Board was careful to propose revisions that met GAC objectives and were not contrary to those recommendations.*

*The resolution provides a timeline for additional consultation with the GAC, and publication of new program materials for comment, including incorporation of the agreed revisions to the Applicant Guidebook.*

***What Stakeholders or others were consulted?***

*The development of the New gTLD Program has included several rounds of public comment, both in the policy development process and the implementation work. This has resulted in comments from a wide range of stakeholder groups and individuals within the community.*

***Are there Positive or Negative Community Impacts?***

*The resolution is expected to have a positive community impact as it provides a means to incorporate the solutions arrived at in the Board-GAC consultations, as well as providing transparency into the expected path forward.*

***Why the Board is addressing the issue now?***

*Significant progress has been made due to the engagement between the Board and GAC prior to and during the San Francisco meeting. There has been agreement reached in some areas, and clarity*

*achieved on areas of disagreement. It is important that the Board direct staff on the next steps in carrying forward the work of the program, and give the community visibility into the expected completion of the program's implementation.*

***What are the proposals being considered?***

*The proposals under discussion are listed in the Board response to the GAC Scorecard, see <http://www.icann.org/en/topics/new-gtlds/board-notes-gac-scorecard-04mar11-en.pdf>.*

***What concerns or issues were raised by the community?***

*A number of concerns and issues have been raised throughout the discussions on the program. These have been considered and addressed at length in the summary and analysis of comment received in each comment period. The specific issues raised by and discussed with the GAC are:*

- 1. The objection procedures including the requirements for governments to pay fees;*
- 2. Procedures for the review of sensitive strings;*
- 3. Root Zone Scaling;*
- 4. Market and Economic Impacts;*
- 5. Registry – Registrar Separation;*
- 6. Protection of Rights Owners and consumer protection issues;*
- 7. Post-delegation disputes with governments;*
- 8. Use and protection of geographical names;*
- 9. Legal recourse for applicants;*
- 10. Providing opportunities for all stakeholders including those from developing countries;*
- 11. Law enforcement due diligence recommendations to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué; and*

*12. The need for an early warning to applicants whether a proposed string would be considered controversial or to raise sensitivities (including geographical names).*

*Each of these issues were discussed in meetings with the GAC and in documents exchanged and published between the ICANN Board and GAC. The timeline was based on the results of those discussions.*

***What significant materials did Board review?***

*The Board's review and discussion of issues at this meeting has been informed by the GAC Scorecard (see <http://icann.org/en/topics/new-gtlds/gac-scorecard-23feb11-en.pdf>) and supplemental information provided by the GAC, statements provided by stakeholder groups (see <http://www.icann.org/en/topics/new-gtlds/related-en.htm>), and the transcripts of sessions held with the GAC and other parts of the community.*

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

*Root zone scaling was identified as an issue in the GAC Scorecard. Through discussion, this emerged as an area of agreement between GAC advice and the proposed program implementation. ICANN has made commitments to work with root zone operators to identify reporting processes and metrics so that information on the DNS is easily accessible by the community. Furthermore, a process will be implemented that enables the delegation of TLDs to be slowed or stopped in the event that there is a strain to the root zone system. ICANN has also committed to reviewing 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.*

#### **4. AOC Reviews, Including ATRT Recommendations**

Due to administrative errors, the Chair requested to consider this item prior to the posted agenda item regarding ICM Registry.

Sébastien Bachollet moved the resolution and read it into the record. Ray Plzak seconded the resolution.

Rita Rodin Johnston noted that over the week in San Francisco, the community expressed its encouragement for the Board to take on the ATRT Recommendations, and that the Board is excited to do that. Rita noted that it is important to respect the processes, and encourages community participation in the further dialogue.

Bertrand de La Chapelle commented that the innovation of the ATRT is a large part of ICANN's commitment in the Affirmation of Commitments to move to accountability to the global community, and the implementation of the ATRT's recommendations is important. Bertrand highlighted the special import on the way policy development occurs within ICANN and the interaction among ICANN stakeholder groups, and asked for community input into how to manage policy development and comment cycles.

Cherine Chalaby echoed the points raised by his colleagues. Cherine commented on the need to view the ATRT report as a holistic item, and to not pick and choose among the recommendations.

Bruce Tonkin emphasized that the Board has basically agreed that the 27 recommendations can provide improvements for ICANN. In terms of expectations, some of the recommendations require careful planning and will have significant budget impacts, falling into the budget cycle for the next fiscal year. Bruce noted there is a lot of implementation work necessary for some of the items, such as Board member compensation. Bruce explained that there are legal requirements for how a Board could pass a motion to decide to compensate Board members, aside from the budget implications of the recommendation. The legal steps that need to be followed to make sure this item is correctly considered will take some time. In addition, the budget work for all recommendations is also

important, to make sure the budget implications are taken into account and included in planning.

The CEO and President thanked the staff for their work on the recommendations. After the publishing of the ATRT recommendations on 31 December 2010, and the 45-day public comment period, within four weeks staff synthesized the comments and recommendations and provided draft implementation plans. This swift work is one demonstration of ICANN's commitment to this process, and suggestions that staff is not taking this work seriously is not supported by the facts. The CEO commended staff for the quick turnaround and noted the staff work will be posted online for public comment. The CEO thanked the community for all feedback provided to date.

The Board then took the following action:

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.

Whereas, Staff has provided 27 proposed initial implementation proposals, along with proposed budgets and timelines for Board review.

Whereas, the Board finds that all 27 of the recommendations have the potential to advance ICANN's transparency and accountability objectives and may be implemented by ICANN following careful and transparent consideration, and with the necessary support and resources.

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 (2011.03.18.18), the Board received the initial implementation plans, and directs staff to publish them as soon as feasible.

Resolved (2011.03.18.19), the Board requests that ICANN Staff provide the Board with final proposed plans for the implementation of the ATRT recommendations in time for Board consideration as soon as possible.

Resolved (2011.03.18.20), the Board requests input on the cost of the implementation of all of the ATRT recommendations, and advice for consideration at the April 2011 Board meeting concerning the estimated budget implications for the FY2012 budget.

Resolved (2011.03.18.21), the Board requests that the Governmental Advisory Committee and the Nominating Committee work with the Board on implementation of recommendations involving their organizations.

Resolved (2011.03.18.22), 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.

**Fifteen members of the Board voted in favor of Resolutions 2011.03.18.18, 2011.03.18.19, 2011.03.18.20, 2011.03.18.21 and 2011.03.18.22. Kuo-Wei Wu abstained from voting on the Resolutions. The Resolutions carried.**

The Chair noted that all Board members have the opportunity to provide a comment or a written statement to indicate positions on voting.

*Rationale for Resolutions 2011.03.18.18 - 2011.03.18.22*

*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 work on the ATRT's 27 recommendations.*

*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; may 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.*

*Finally, 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.*

## **5. Approval of ICM Registry Application for .XXX**

The Chair returned to consideration of this agenda item and moved the resolution. The Chair then read the re resolution into the record. Rajasekhar Ramaraj seconded the resolution.

Bruce Tonkin, noted that he is employed by a registrar, and in the event the registry agreement is approved, some of his customers may choose to register in the .XXX extension. While Bruce noted this may not be a material financial interest, out of a conservative view he will abstain on this motion.



Ram Mohan reminded the Board of his long-declared conflict of interest on this matter and clarified that he has recused himself from all discussions on this matter, including not being present while the Board deliberated on this topic.

Sébastien Bachollet declared that he will not participate in the discussion, as ICM invited him to sit on the board of IFFOR, the sponsoring organization, and he accepted because of his belief in the value of having end-user perspective on that board. While the IFFOR board is not comprised yet, Sébastien will abstain on this motion.

The Chair then invited the Board members to make voting statements regarding their anticipated voting positions.

The transcript of Director's Individual Voting Statements is available [\[here\]](#).

The Board then took the following action:

Whereas, on 25 June 2010, the ICANN Board, after substantial public comment was received on the process options available to ICANN to consider the Independent Review Panel's Declaration of 19 February 2010, the Board accepted (in part) the findings of the Panel. The Board then directed staff "to conduct expedited due diligence to ensure that: (1) the ICM Application is still current; and (2) there have been no changes in ICM's qualifications."

Whereas, ICANN staff performed the required due diligence, that showed that the ICM Application remains current and that there have been no negative changes in ICM's qualifications.

Whereas, ICM provided ICANN with a new proposed registry agreement that included additional provisions, requirements and safeguards to address the issues that the GAC and other community members had raised with respect to the previously proposed agreement.

Whereas, the proposed registry agreement and due diligence materials were posted for public comment. Over 700 comments were received, though few of the comments addressed the terms of the registry

agreement. No changes to the registry agreement are recommended in response to the comments.

Whereas, on 10 December 2010, the Board agreed with an assessment that entering into the proposed registry agreement would conflict with only three items of GAC advice and directed the staff to communicate this information to the GAC.

Whereas, on 10 December 2010, the Board further determined that it intends to enter into a registry agreement with ICM Registry for the .XXX sTLD, subject to GAC consultation and advice, and thereby invoked the consultation as provided for in ICANN Bylaws section Article XI, Section 2, Paragraph 1(j). See <<http://www.icann.org/en/minutes/resolutions-10dec10-en.htm-4>>.

Whereas, to facilitate the Bylaws consultation with the GAC, on 25 January 2011, the Board directed staff to forward a letter from the Board to the GAC clearly setting forth the Board's position on how the ICM proposed registry agreement meets items of GAC advice, and setting forth the items of GAC advice remaining for consultation. The letter was forwarded on 11 February 2011 and is available at <<http://www.icann.org/en/correspondence/jeffrey-to-to-dryden-10feb11-en.pdf>>.

Whereas, on 16 March 2011, the GAC forwarded a letter of the Board clarifying GAC advice on the ICM matter.

Whereas, the Board has carefully considered comments from the community and the GAC in making this decision, in furtherance of ICANN's mission.

Whereas, on 17 March 2011, the Board and the GAC completed a formal Bylaws consultation on those items for which entering the registry agreement might not be consistent with GAC advice.

Resolved (2011.03.18.23), the Board authorizes either the CEO or the General Counsel to execute the proposed registry agreement for the .XXX

sTLD, in substantially the same form posted for public comment in August 2010.

Resolved (2011.03.18.24), the Board adopts and fully incorporates herein its Rationale for Approving Registry Agreement with ICM for .XXX sTLD, <http://www.icann.org/en/minutes/draft-icm-rationale-18mar11-en.pdf>, to support the entering into the proposed registry agreement.

Resolved (2011.03.18.25), the Board and the GAC have completed a good faith consultation under the ICANN Bylaws, Article XI, Section 2.j. As the Board and the GAC were not able to reach a mutually acceptable solution, pursuant to ICANN Bylaws, Article XI, Section 2.k, the Board incorporates and adopts as set forth in the Rationale the reasons why the GAC advice was not followed. The Board's statement is without prejudice to the rights or obligations of GAC members with regard to public policy issues falling within their responsibilities.

**Bertrand de la Chapelle, Steve Crocker, Peter Dengate Thrush, Rita Rodin Johnston, Erika Mann, Ray Plzak, Gonzalo Navarro, Rajasekhar Ramaraj and Mike Silber voted in favor of Resolutions 2011.03.18.23, 2011.03.18.24 and 2011.03.18.25. Katim Touray, Kuo-Wei Wu, and George Sadowksy voted in opposition to the Resolutions. Sébastien Bachollet, Rod Beckstrom, Cherine Chalaby and Bruce Tonkin abstained from voting on the Resolutions. The Resolutions carried.**

Sébastien Bachollet noted that he would have supported the motion if he were able to vote, and noted that the Bylaws required him to abstain while present at the meeting.

The Chair confirmed that the Bylaws have the consequence of affecting the vote based on the number of Board members present.

*Rationale for Resolutions 2011.03.18.23 – 2011.03.18.25*

The Rationale is available at: [\[link\]](#)

## **6. Approval of Expenses Related to Board-Directed Activities**

Rajasekhar Ramaraj moved the resolution and read it into the record. Cherine Chalaby seconded the resolution.

The Board took the following action:

Whereas, on 29 June 2010, the ICANN Board passed the FY11 Operating Plan and Budget.

Whereas, during FY11, the Board has undertaken several activities that were not addressed in the budget.

Whereas, the budget for these items were presented on 13 March 2011 to the Board Finance Committee (BFC).

Whereas, the Board Finance Committee recommends that the Board confirm the proposed budgets for these activities, directing the CEO to stay within the total overall FY11 approved budget, if feasible, by funding these items from the contingency line item of USD\$1.5M.

Resolved (2011.03.18.26), the Board confirms that the CEO has been directed to undertake the activities for which the additional budget numbers have been recommended by the Board Finance Committee.

Resolved (2011.03.18.27), the Board approves the proposed budgets for the following additional activities in FY11 in an amount not to exceed \$1,640,000.00: (i) AOC Reviews; (ii) third Board Retreat; (iii) GAC Meeting; (iv) IDN Variant Panel; and (v) ATRT Recommendations. The Board further directs the CEO to use the USD\$1.5M contingency line item to stay, if feasible, within the total amount of the FY11 approved budget when implementing these activities.

**All Board members present approved of Resolutions 2011.03.18.26 and 2011.03.18.27.**

*Rationale for Resolutions 2011.03.18.26 – 2011.03.18.27*

*The Board had previously approved the important activities that are addressed in this resolution. At the time the Board approved the activities, the budgets for the additional items were not available. Thus, the BFC has now approved the budget for these additional activities and the Board has confirmed its approval of the activities in light of the budget for them.*

*The approval of these additional line items should have a positive public effect in that it increases transparency of the amount spent on such important activities undertaken by ICANN in this fiscal year. There financial impact on ICANN is evident from the budget and the direction for the CEO to remain within the original FY11 budget, if feasible. It does not appear that there will be any financial impact on the ICANN Community. Approval of these budget lines items does not present any impact on the systemic security, stability and resiliency of the DNS.*

## **7. TLG Review – Actions Based on Independent Reviewer’s Final Report**

Ray Plzak moved the resolution and read it into the record. Steve Crocker seconded the resolution.

Steve commented that liasons from the TLG have played a very special role in the ICANN’s operational history. The Board values the technical advise, and Steve noted that he thinks it is essential that the Board continues to have high quality advice available during Board delieberations, as well throughout ICANN’s operations. However, the strucure of the TLG liaison to the Board has been problematic. The TLG liaison role has been filled by a strong set of representatives from all three organizations, the ITU, ETSI and W3C. The Board action has nothing to do personally or professionally with those who have filled the liaison role. The yearly rotation, however, has been a source of problems from a business process issu.

Steve urged that the Board needs to find a way to harmonize the need for technical interaction and working cooperatively with other key organizations in a way that is effective. Steve expressed respect and admiration for the colleagues,

including Reinhard Scholl, who have been working through this process with ICANN.

Reinhard Scholl spoke as the TLG representative from the ITU-T (the standardization sector of the ITU.) Reinhard quoted from the ICANN Bylaws: “the quality of ICANN's work depends on access to complete and authoritative information concerning the technical standards that underlie ICANN's activities. ICANN's relationship to the organization that produced these standards is, therefore, particularly important.” Reinhard noted that all members of the TLG provided comments on the report and emphasize the importance of giving technical input to ICANN, and reiterated that the ITU-T is more than happy to collaborate with ICANN on standards matters. Reinhard stated that though the best mechanism to give technical input remains to be determined, the current way is not the best form, and offered to participate on the working group that will be formed to address this issue.

The Chair echoed Steve comments and noted the value of the link with the ITU. The Board wants the relationships with all of the technical community to be enhanced, and the historical limitation to three entities here should be reviewed, to determine all of the appropriate entities that ICANN should have this sort of relationship with. It is important that liaisons from these groups function, and there has been suggestion that a term longer than one year may be appropriate to allow liaisons to be effective. The Chair noted that there are a number of aspects that are preventing ICANN from having the best possible relationships and getting that information into the system

The Board then took the following action:

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 (SIC) on its proposal to thank the independent reviewers and the others involved in commenting and advancing the activities of the review for their commitment and contributions; and

Whereas, the Board agrees with the SIC 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 (2011.03.18.28), 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 (2011.03.18.29), 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 (2011.03.18.30), the Board requests the BGC to nominate five members of this working group, one of whom to serve as Chair for consideration at the Board meeting of 21 April 2011.

Resolved (2011.03.18.31), 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.

**All Board members present approved of Resolutions 2011.03.18.28.  
2011.03.18.29, 2011.03.18.30 and 2011.03.18.31.**

*Rationale for Resolutions 2011.03.18.28 - 2011.03.18.31*

*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 entail any budgetary consequences in and of themselves, nor any 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.*

**8. IDN ccTLD Fast Track Review**

Mike Silber moved the resolution and read it into the record. The Chair seconded the resolution.

The Board took the following action:

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 (2011.03.18.32), 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 (2011.03.18.33), 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.

**All Board members present approved of Resolutions 2011.03.18.32 and 2011.03.18.33.**

*Rationale for Resolutions 2011.03.18.32 and 2011.03.18.33*

*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 October 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 2010 to 31 January 2011 and an open consultation session was hosted 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 members of the DNS technical community and ccTLD community, as well as individual Internet users.*

*What concerns or issues were raised by the community?*

*As detailed in the Annex, there were general concerns about the limited nature of the IDN ccTLD Fast Track process. Specific issues included the lack of an appeal 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-trackreview-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 reporting that 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?*

*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. Additional staff and/or consultant resources will be required to provide expertise in order to support work on IDN tables or variants. Had substantial changes to*

*the current IDN ccTLD Fast Track Process been considered, those would likely have required funding for additional resources*

*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.*

**9. Approval of VeriSign RSEP Request for Release of Numeric-Only Strings for .NAME**

Cherine Chalaby moved the resolution and read it into the record. Ray Plzak seconded the resolution.

George Sadowsky commented that, as he understands it, the argument for this amendment is that it's necessary to have the possibility of names, numerals and hyphens to represent names. For .NAME, a restricted TLD, he finds it "silly" to argue that you have to be able to have the option to use such strange characters to represent names.

Bertrand de la Chapelle noted that he will abstain from voting in favor of the resolution because this is a situation where the process for the redefinition of the contents of the limitations on second-level registration policies need to be improved. The RSEP process within ICANN should be improved to provide more detail. While Bertrand does not object to the decision, he wanted to highlight this issue.

The Board then took the following action:

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.

Resolved (2011.03.18.34), 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.

**Thirteen members of the Board approved of Resolution 2011.03.18.34. One member of the Board was opposed to the Resolution. Sébastien Bachollet and Bertrand de La Chapelle abstained from voting on the Resolution. The Resolution carried.**

*Rationale for Resolution 2011.03.18.34*

- *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.*

- *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 was to make available domains for personal use,” further adding that “[s]ince 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 28 February 2011 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>>

## 10. Appointment of Interim Ombudsman

Steve Crocker moved the resolution and read it into the record. Rajasekhar Ramaraj seconded the motion.

The Board then took the following action:

Whereas, Frank Fowlie, the former Ombudsman for ICANN, departed ICANN on 31 January 2011, see <<http://www.icann.org/en/announcements/announcement-28oct10-en.htm>>, and a search has commenced to identify a successor Ombudsman to fulfill the role set out at Article V of the ICANN Bylaws.

Whereas, Herb Waye has served as the Adjunct Ombudsman for ICANN.

Whereas, the Board Compensation Committee recommends that Herb Waye be appointed as the interim Ombudsman while the search for candidates to fill the Ombudsman role continues.

Resolved (2011.03.18.35), Herb Waye is appointed as the interim Ombudsman for ICANN pursuant to Article V, Section 1.2 of the Bylaws, with a term effective 1 February 2011 and terminating on the date the Board appoints a new Ombudsman to the role.

### **All Board members present approved of Resolution 2011.03.18.35.**

#### *Rationale for Resolution 2011.03.18.35*

*As the Ombudsman role is an important part of ICANN's accountability mechanisms, there will be a negative public impact if the role is left vacant and no Ombudsman is available. Because Herb Waye has already served within the Office of the Ombudsman, the appointment as the interim Ombudsman will have the least impact to the public as the search continues to identify a successor.*

*There is a fiscal impact to ICANN in making this interim appointment in recognition of the salary and benefits to be provided to the interim Ombudsman. The impact is minimal as these items have already been included in the ICANN operating budget.*

## **11. Engagement of Independent Auditor**

Rita Rodin Johnston moved the resolution and read it into the record. Ray Plzak seconded the resolution.

The Board then took the following action:

Whereas, the ICANN Bylaws in Article XVI <<http://www.icann.org/general/bylaws.htm>>, requires that after the end of the fiscal year, the books of ICANN must be audited by certified public accountants. The Bylaws also state that the appointment of the fiscal auditors shall be the responsibility of the Board.

Whereas, the Board Audit Committee has discussed the engagement of the independent auditor for the fiscal year ending 30 June 2011, and has recommended that the Board engage Moss Adams LLP.

Whereas, the Board Audit Committee has recommended that the Board direct staff to execute a professional services agreement with Moss Adams, subject to review by the Chair of the Audit Committee.

Resolved (2011.03.18.36), the Board authorizes the Chief Executive Officer to engage Moss Adams LLP as the auditors for the financial statements for the fiscal year ending 30 June 2011.

**All Board members present approved of Resolution 2011.03.18.36.**

## **12. ALAC-Related Bylaws Amendments: Posting for Public Comment**

Bertrand de La Chapelle moved the resolution and read it into the record. Sébastien Bachollet seconded the resolution.

The Board then took the following action:

Whereas, on 9 June 2009, the Final Report of the ALAC Review Working Group on ALAC Improvements (Final Report; 9 June 2009) was published, including a recommendation to amend the ICANN Bylaws to reflect the continuing purpose of the At-Large Advisory Committee (ALAC) within ICANN.

Whereas, on 26 June 2009, the Board resolved that all recommendations (except for the allocation of two voting Directors to At-Large) presented in the Final Report could be implemented, as recommended by the Structural Improvements Committee (SIC).

Whereas, on 5 August 2010, the Board approved the ALAC/At-Large Improvements Implementation Project Plan (7 June 2010), identifying the specific ICANN Bylaws paragraphs regarding the ALAC expected to require revision, given the Final Report.

Whereas, ICANN staff, working with the ALAC, identified and recommended specific changes to the ICANN Bylaws section regarding the ALAC necessary to reflect the continuing purpose of the ALAC as described in the Final Report.

Whereas, the SIC has considered the proposed Bylaws amendments and recommends that the Board direct the ICANN CEO to post for public comment the proposed Bylaws amendments.

RESOLVED (2011.03.18.37), the Board directs the ICANN CEO to post for public comment the draft Bylaws amendments necessary to reflect the continuing purpose of the ALAC within ICANN as described in the Final Report.

**All Board members present approved of Resolution 2011.03.18.37.**

*Rationale for Resolution 2011.03.18.37*

*These ICANN Bylaws amendments will clarify the continuing purpose of the At-Large Advisory Committee (ALAC). They were recommended*

*by the Final Report of the ALAC Review WG on ALAC Improvements (9 June 2009), approved by the Board on 26 June 2009. And the affected Bylaws paragraphs were identified in the ALAC/At-Large Improvements Implementation Project Plan (7 June 2010), approved by the Board on 5 August 2010. With the Project Plan set for completion at the end of March 2011, the time is ripe for this clarification of the ALAC's purpose.*

*Staff consulted with the ALAC regarding the proposed amendments. The posting of the proposed amendments for public comment will have no fiscal impact, nor will it impact the security, stability, or resiliency of the Domain Name System (DNS).*

### **13. Non-Commercial Stakeholders Group Charter: Posting for Public Comment**

Gonzalo Navarro moved the resolution and read it into the record. Ray Plzak seconded the resolution.

The Board then took the following action:

Whereas, on July 30, 2009 the Board approved a Transitional Charter for the GNSO's Non Commercial Stakeholder Group (NCSG).

Whereas, Section 8.1 of the NCSG Transitional Charter provided that a final NCSG charter be established by no later than the Board Meeting during the 2011 ICANN Annual General Meeting.

Whereas, members of the NCSG have developed a permanent charter for the NCSG and consulted with the Board's Structural Improvements Committee and the ICANN staff regarding the proposed permanent Charter, and the SIC recommends that after final editing, the proposed Charter should be posted for public comment.

RESOLVED (2011.03.18.38), the Board directs the CEO to post the proposed NCSG Charter for a 30-day public comment forum. Upon close of the forum,

a summary and analysis of the comments received should be provided to the Board for further Board review and action.

**All Board members present approved of Resolution 2011.03.18.38.**

*Rationale for Resolution 2011.03.18.38*

*The posting of this proposed charter for public comment will help meet the Board's 2009 directive to have a permanent charter in place for the NCSG. The initiation of this public consultation will give the community an opportunity to review and comment on a fundamental organizational structure in the GNSO. There are no budget implications for initiating a public consultation and staff management time of this effort will be within normal operating parameters. The posting does not have any impact on the security, stability or resiliency of the DNS.*

**14. Proposed Process for Recognition of New Constituencies in GNSO:  
Extension of Public Comment**

Katim Touray moved the resolution and read it into the record. Bruce Tonkin seconded the resolution.

The Board then took the following action:

Whereas, in June 2008, the ICANN Board of Directors endorsed a series of recommendations concerning how to improve the GNSO's structures and operations and those improvements included recommendations endorsed by the Board to clarify and promote the option to self-form new GNSO Constituencies.

Whereas, the Board directed ICANN Staff to develop and administer procedures that a prospective organizer could follow in submitting a petition to become approved as a new GNSO Constituency, and initial procedures were implemented.

Whereas, after some experience with those procedures, the Structural Improvements Committee identified opportunities for improvement to

those procedures., and developed a proposed replacement "Process for Recognition of New GNSO Constituencies."

Whereas, the SIC's proposed new process significantly modifies the original procedures and is designed to accomplish the following goals:

1. Optimize the time and effort required to form, organize, and propose a new GNSO Constituency through prescribing a streamlined sequence of steps and associated evaluation objective, fair, and transparent criteria, and preserving opportunity for community input.
2. Delegate more authority to each GNSO Stakeholder Group in evaluating new Constituency proposals while maintaining the Board's oversight role.
3. Manage the entire process to a flexible, but specific and limited timeframe; and
4. Provide a partial set of criteria for use during the periodic review of the GNSO.

Whereas, the SIC authorized staff to open a Public Consultation Forum (PCF) on the Process for Recognition of New GNSO Constituencies to allow for community feedback. The PCF was opened on 2 February 2011 for an initial period of 30 days, within which two comments were received.

Whereas, the SIC recommends that the community would benefit from additional time to review, discuss and comment on the proposed new process, and that the PCF should be extended.

RESOLVED (2011.03.18.39), the Board directs the CEO to extend the PCF on the Proposed Process for Recognition of New GNSO Constituencies (<http://www.icann.org/en/public-comment/#newco-process-recognition>) for two additional weeks after conclusion of the ICANN Silicon Valley Public Meeting, closing 3 April 2011.

**All Board members present approved of Resolution 2011.03.18.39.**

*Rationale for Resolution 2011.03.18.39*

*The promotion of new GNSO Constituencies was one of the fundamental recommendations of the GNSO Review effort and an important strategy to expand participation in GNSO policy development efforts. The extension of this public consultation forum (PCF) will give community members more opportunity to submit comments on a proposal designed to improve existing processes. No budget resources will be impacted by this extension of the consultation period and further management of the PCF is within normal operational parameters. The extension of the PCF does not have any impact on the security, stability or resiliency of the DNS.*

## **15. Any Other Business**

Katim Touray noted the import of the role of the Ombudsman, a position described in the ICANN Bylaws, and stated his hopes that the appointment of the interim Ombudsman does not slow efforts to recruit a permanent Ombudsman. Katim requested the Compensation Committee to consider providing the community with some sense of where the Board is in filling this position.

The Chair noted that here were some interesting comments made reflecting community perceptions of staffing matters at ICANN, and confirmed that the Board takes the existence of that perception very seriously and monitors staff attrition and retention metrics and benchmarks on a regular basis.

The Compensation Committee reported this morning that it has recently requested an independent consulting firm to perform an industry benchmark analysis and to make sure ICANN targets compensation to be between the 50th and 75th percentile of the competitive market based on data provided by that independent consulting firm.

The Board also instructed the CEO to determine the general needs of the employees and initiate organizational improvement programs, and this initiative, managed by the staff themselves, is progressing on three vectors, one of which is focusing on employee development and career advancement.

The Chair made clear that ICANN values its employees and is committed to a balanced work/life environment where each staff member's contribution is



recognized, appreciated, and rewarded. This is a matter that the board is paying attention to.

The Chair also commented on the attention that's been directed to the appearance by former President Bill Clinton at ICANN on Wednesday. Even in a week marked by some extraordinary events, the session with the President stands out as a highlight. Some questioned why we would invite a U.S. President to speak, when ICANN has a global accountability to the world.

The reason for the invitation was made obvious by the President. First of all, it was that President and the administration of that President that played a fundamental role in creating this very organization, with the intent that we would grow into a truly independent body.

The Chair noted that he found, the President's message truly inspiring. The President spoke of testing new ideas and judging them against whether they enhance or detract from positive global interdependence, which is one of the very proper inquiries that ICANN makes – as seen in relation to the .XXX decision, for example.

The President endorsed the multistakeholder process in ringing terms, and approved specifically the idea of governments and the private sector working together on a respectful equal footing.

Although there were some people querying the invitation, the Chair noted that since the address, he's heard from many people that they found Clinton's presence and the speech entirely appropriate and, in fact, very exciting because his message helped many of them to renew their determination to fulfill the original mission. Having President Clinton at the meeting was an unqualified success.

The Chair stated that those who come from outside the U.S. may not appreciate what an exercise it is to have anything to do with a former President. Just dealing with the security requirements is a great deal of work. The Chair thanked the CEO and the staff involved for executing the session flawlessly.

The CEO thanked Barbara Clay, the Vice President of Communications, for coming up with the idea, and her team.

Finally, the Chair noted his thanks to Chris Disspain for service and contribution as the founding Chair of the ccNSO. The Chair stated: "On behalf of the Board, thank you for the extraordinary service and being the founding chairman of the ccNSO. We recognize what a contribution you've made at considerable personal cost. Others have paid tribute to the wide range of activities that have been achieved in your term, from creating the ccNSO, and building it to approximately 106 members from those days when we were struggling to get 25. The membership's grown enormously and you've managed to retain the support, I think, of all of them through that process. My personal congratulations."

The Chair then called the meeting to a close.

## 2011-03-18-ICM-Rationale

## **18 March 2011 Rationale for Approving Registry Agreement with ICM's for .XXX sTLD**

### **I. EXECUTIVE SUMMARY**

The .XXX sTLD issue has been debated within ICANN for years. Since shortly after the 2004 introduction of the request for proposals for sTLDs, the ICANN Board has been faced with several contentious debates and decisions on ICM Registry's application. The ICANN community has engaged in extensive debate as well, with this single issue generating higher volumes of community comment than nearly any other issue ever faced within ICANN. Consideration of the .XXX sTLD has tested the resiliency of ICANN, its commitment to adhere to its accountability mechanisms, and has brought to the forefront issues of how the Board considers and addresses advice from the Governmental Advisory Committee (GAC).

The Board thanks all who have contributed comments and input into its consideration of ICM's Application. The Board particularly thanks the GAC for its time, commitment and dedication to forming and participating in a consultation process to address GAC advice spanning over six years. The Board's decision differs from some of the GAC advice received. This decision is a result of careful consideration, and the Board approached the matter of differing with GAC advice with care and concern, working hard to understand the advice and to what the application of advice in this instance would lead.

This decision represents a difficult, careful balance, weighing the extensive community advice both for and against the registry agreement, as well as maintaining adherence to proper and documented process. ICM's inaugural implementation of the Independent Review Process (IRP), and careful review of how to consider the outcome of that IRP, has challenged ICANN in many ways, however the result is decision grounded in extensive review and deliberation.

The Board has determined to approve the ICM Application and enter a Registry Agreement with ICM for the .XXX sTLD in substantially the same form as the one posted for public comment in August 2010. ICM has met the Business/Technical Criteria in accordance with 2004 criteria. Further, the IRP Panel found that the Board had also determined that ICM had fundamentally satisfied the 2004 sponsorship criteria. Consideration of the GAC advice does not change this position, and ICANN sets forth fully below either how this decision is consistent with GAC advice, or the reasons that it differed from that advice. The Board also sets forth its consideration of other comments, and other explanation in support of the approval of the registry agreement.

### **II. ICM'S .XXX sTLD APPLICATION AND EVALUATION OF THAT APPLICATION**

#### **A. sTLD Application and Evaluation**

A sponsored TLD (or "sTLD" as opposed to an unsponsored gTLD) application process was launched in December 2003, as part of ICANN's mission to foster choice, consumer trust and competition in the domain name system (DNS) marketplace.

On 14 March 2004, ICM submitted a proposal for .XXX as an sTLD. Because an sTLD must have a sponsoring organization to oversee policy development for the sTLD,

ICM stated that the International Foundation for Online Responsibility, or the IFFOR, would serve in that role. The Sponsored Community was defined as “the responsible online adult-entertainment community.” The “online adult-entertainment community” is further defined as those individuals, businesses, and entities that provide sexually-oriented information, services, or products intended for consenting adults or for the community itself.”

Applications in the 2004 sTLD round were reviewed by three separate Evaluation Panels to evaluate how the applications measured against the sTLD Selection Criteria specified in the request for proposals. See <http://www.icann.org/en/tlds/stld-apps-19mar04/PostAppA.pdf>. The three Independent Evaluation Panels were: (i) Technical; (ii) Business/Financial; and (iii) and Sponsorship and Other Issues (“Sponsorship”). The Sponsorship Panel reviewed both sponsorship information and community value. The Sponsorship Information review included the definition of the Sponsored TLD Community, evidence of support from the Sponsoring Organization, the Appropriateness of the Sponsoring Organization and the policy formulation environment, and the level of support from the community.

ICANN’s Independent Evaluation Panels reviewed the ICM application throughout 2004. Both the Business/Financial and Technical Panels found that ICM satisfied all requirements in those categories. The Sponsorship Panel, however, notified ICANN that ICM’s application failed to satisfy the baseline sponsorship criteria of the sTLD process. Notably, of the ten applications for sTLDs, the Sponsorship Panel determined that only two of those ten met all of the sponsorship criteria. See <http://www.icann.org/en/tlds/stld-apps-19mar04/PostAppD.pdf>.

Specifically with respect to ICM’s application, the Sponsorship Panel: (1) “did not believe that the .XXX application represented a clearly defined community”; (2) found that the lack of cohesion in the community, and the planned involvement of child advocates and free expression interest groups, would preclude the effective formulation of policy for the community; (3) was not convinced that there was sufficient evidence of community support outside of North America or from child safety, law enforcement, or freedom of expression organizations; and (4) “did not agree that the application added new value to the Internet name space.”

The ICANN Board decided to give ICM, as well as other sTLD applicants, an opportunity to provide clarifying information and to answer further questions “relating to any potential deficiencies in the application that were highlighted in the independent evaluation.” ICM provided additional materials specifically focusing on sponsorship related issues. This included additional briefings, as well as a 3 April 2005 presentation on the proposed .XXX sTLD to the ICANN Board. The Board continued having discussions on ICM’s meeting of the baseline criteria for a “sponsored community.” The supplemental materials provided by ICM are available at <http://www.icann.org/en/tlds/stld-apps-19mar04/AppE-30nov05.pdf>.

On 1 June 2005, the ICANN Board authorized the ICANN President and General Counsel to enter into negotiations with ICM relating to the proposed commercial and technical terms of a registry agreement for the .XXX sTLD, to be presented to the Board for approval. The resolutions state:

Resolved [05.32] the Board authorizes the President and General Counsel to enter into negotiations relating to proposed commercial and technical terms for the .XXX sponsored top-level domain (sTLD) with the applicant.

Resolved [05.33] if after entering into negotiations with the .XXX sTLD applicant the President and General Counsel are able to negotiate a set of proposed commercial and technical terms for a contractual arrangement, the President shall present such proposed terms to this board, for approval and authorization to enter into an agreement relating to the delegation of the sTLD.

### **III. CONTRACT NEGOTIATIONS**

#### **A. Negotiations and Community Discussion**

Though the Board had unresolved concerns and open questions about ICM's ability to satisfy the baseline sponsorship criteria, it allowed ICM to proceed to contract negotiations hoping the concerns could be alleviated through those negotiations and resulting contractual terms.

After the 2005 decision, substantial community debate continued regarding ICM's application and proposed agreement. There were multiple public comment forums on versions of a proposed ICM registry agreement. The forums resulted in thousands of comments, as well as individual letters to the ICANN Board from governmental representatives, adult entertainment providers, and others. The GAC also provided its thoughts. On 28 March 2006, the GAC issued its Wellington Communiqué, noting that insufficient detail was provided by ICANN to support the Independent Evaluator Panel's concerns regarding ICM's failure to meet the sponsorship criteria. The GAC also noted its opposition to the introduction of the .XXX sTLD. *See* <http://gac.icann.org/web/communiques/gac24com.pdf>. After the issuance of the Wellington Communiqué, the Board continued to consider the proposed registry agreement, and directed staff to take the GAC's concerns into consideration in recommending amendments to the proposed sTLD registry agreement. *See* <http://www.icann.org/minutes/minutes-31mar06.htm>. As the GAC was providing inputs into the process, both the Board and staff were trying to address the GAC's concerns, including further negotiation of the registry agreement with the GAC advice in mind.

In March 2006, the Board voted against the approval of the revised registry agreement, but not the Application. ICM later submitted another iteration of an agreement, which was posted for public comment in 2007, and subsequently revised again to address GAC, community and Board comments and discussions. In March 2007, the GAC produced the Lisbon Communiqué, noting that it did not believe the Board had answered the GAC's concerns as to whether the ICM application met the sponsorship criteria. *See* <http://gac.icann.org/web/communiques/gac27com.pdf>.

B. The Board's Decision

On 30 March 2007, the ICANN Board voted to reject the revised proposed sTLD registry agreement and deny ICM's application for the .XXX sTLD. The Board determined:

- ICM's Application and the Revised Agreement fail to meet, among other things, the Sponsored Community criteria of the RFP specification.
- Based on the extensive public comment and from the GAC's communiqués that this agreement raises public policy issues.
- Approval of the ICM Application and Revised Agreement is not appropriate as they do not resolve the issues raised in the GAC Communiqués, and ICM's response does not address the GAC's concern for offensive content, and similarly avoids the GAC's concern for the protection of vulnerable members of the community. The Board does not believe these public policy concerns can be credibly resolved with the mechanisms proposed by the applicant.
- The ICM Application raises significant law enforcement compliance issues because of countries' varying laws relating to content and practices that define the nature of the application, therefore obligating ICANN to acquire a responsibility related to content and conduct.
- The Board agrees with the reference in the GAC communiqué from Lisbon, that under the Revised Agreement, there are credible scenarios that lead to circumstances in which ICANN would be forced to assume an ongoing management and oversight role regarding Internet content, which is inconsistent with its technical mandate.

See <http://www.icann.org/minutes/resolutions-30mar07.htm>.

IV. **INDEPENDENT REVIEW PROCEEDINGS**

A. The Proceedings and Declaration

After the Board's rejection of ICM's application, ICM filed a request for independent review of the Board's action, initiating the IRP pursuant to ICANN Bylaws, Article IV, section 3 (see <http://www.icann.org/en/general/bylaws.htm>). The papers filed by ICM and ICANN are located at <http://www.icann.org/en/irp/icm-v-icann.htm>. The Request and subsequent Memorial on the merits alleged that ICANN, in violation of the Articles of Incorporation and Bylaws:

1. Failed to follow its established process in its rejection of ICM's Application. Specifically, ICM alleged that it satisfied the first phase of the evaluation process and proceeded to the second phase of contract negotiations, but ICANN improperly re-opened the first

phase decision by determining that ICM did not satisfy the “Sponsored Community”;

2. Improperly established new criteria in its assessment of ICM’s Application. Specifically, ICM alleged that ICANN applied a “new definition of sponsorship criteria” suddenly prohibiting a self-selecting community that did not have the universal support of all members of the community;
3. Failed to engage in good faith negotiations with ICM for a registry agreement. Specifically, ICM alleged that ICANN repeatedly delayed the negotiations on the proposed .XXX sTLD Application; and
4. Exceeded its mission during the evaluation and the rejection of ICM’s Application. Specifically, ICM alleged that ICANN improperly considered “public policy” issues and such consideration goes beyond the technical function of ICANN.

ICANN responded to ICM’s claims, challenging the factual premises of the claim as well as ICM’s characterization of the Independent Review Process. Specifically,

1. ICANN’s evaluation of ICM’s proposal, as well as ICANN’s negotiations with ICM, were at all times open, transparent, and in good faith.
2. ICM knew that its proposal would be controversial, and that the Board would need substantial time to evaluate the proposed TLD. ICM even requested periodically that the Board defer votes on the proposal so that ICM could provide additional information to the Board and respond to concerns that had been expressed. The Board welcomed and evaluated ICM’s additional submissions.
3. ICANN retained at all times the discretion to reject ICM’s proposal. At no time did ICANN commit – contractually or otherwise – to approve ICM’s proposal, a fact that ICM knew quite clearly throughout the process.
4. ICANN’s Bylaws require the Board to consider the opinion of the GAC on public policy concerns.
5. ICANN’s Bylaws support that a deferential standard of review be applied to the Independent Review Process, particularly with respect to the nature of ICM’s claims. As long as the Board’s discussions are open and transparent, its decisions are made in good faith, and the relevant parties have been given an opportunity to be heard, there is a strong presumption that the Board’s decisions are appropriate.



In addition to the ICM and ICANN briefing papers, both provided written testimony to a three-member IRP Panel, which held a five-day hearing in September 2009.

The Panel issued its Declaration on 19 February 2010. The Declaration is available at <http://www.icann.org/en/irp/icm-v-icann/irp-panel-declaration-19feb10-en.pdf>. In the Panel's 2-1 advisory Declaration, the Panel declared in relevant part, as follows:

1. The holdings of the Independent Review Panel are advisory in nature; they do not constitute a binding arbitral award.
2. The Board of ICANN in adopting its resolutions of June 1, 2005, found that the application of ICM Registry for the .XXX sTLD met the required sponsorship criteria.
3. The Board's reconsideration of that finding was not consistent with the application of neutral, objective and fair documented policy

One panelist issued a Minority/Dissenting opinion, concluding that ICM never satisfied the sponsorship requirements and the criteria for an sTLD, and that the Board denied ICM's applications on the merits and in an open and transparent forum. The Dissenting opinion concurred with the majority finding relating to the non-binding nature of the Declaration.

#### B. Board Consideration of IRP Panel Declaration

In accordance with the Bylaws, the Board considered the IRP Panel's Declaration at the Board's meeting on 12 March 2010. The Board noted, "in the absence of the process for approving an sTLD six years following the receipt of the original application, the Board wishes to create a transparent set of process options which can be published for public comment." See <http://www.icann.org/en/minutes/resolutions-12mar10-en.htm>.

On 26 March 2010, a draft report and explanatory diagrams describing ICANN's Options following the IRP Declaration on ICM's .XXX Application were posted for a 45-day public comment period, at <http://www.icann.org/en/public-comment/#icm-options-report>. ICANN received over 13,000 comments into the forum – the highest number of comments ever received on a single topic, though many of the comments did not address the substance of the process options document. The Board was provided with a summary and analysis of those comments for consideration of further action on the Panel's Declaration. The Summary and Analysis of Comments is available at <http://forum.icann.org/lists/icm-options-report/msg13297.html>.

At its 25 June 2010 meeting in Brussels, the Board determined the process it would follow in considering the IRP Panel's Declaration. Further, the Board resolved to "act in accordance with the following findings of the Independent Review Process Majority: (i) 'the Board of ICANN in adopting its resolutions of June 1, 2005, found that the application of ICM Registry for the .XXX sTLD met the required sponsorship criteria;' and (ii) 'the Board's reconsideration of that finding was not consistent with the

application of neutral, objective and fair documented policy.” See <http://www.icann.org/en/minutes/resolutions-25jun10-en.htm#5>.

Thus, the Board formally accepted the Panel’s finding that the June 2005 vote constitutes the Board’s determination that ICM met all of the required criteria of the sTLD RFP, including Technical, Business/Financial and Sponsorship requirements.

#### **IV. FOLLOWING THE IRP**

##### **A. What stakeholders or others were consulted?**

1. The applicant, ICM Registry, LLC
2. The Governmental Advisory Committee
3. Legal Counsel/Staff
4. All other Stakeholders and Community members through public comment forum and other methods of participation.

##### **B. Due Diligence, Contract Negotiation, Public Comment**

In June 2010, after decided to act in accordance with relevant portions of the IRP Declaration, the Board directed “staff to conduct expedited due diligence to ensure that: (1) the ICM Application is still current; and (2) there have been no changes in ICM’s qualifications.” See <http://www.icann.org/en/minutes/minutes-25jun10-en.htm>.

ICANN staff conducted the expedited due diligence, including requesting and receiving numerous documents from ICM, as well as participating in telephonic conferences, a face-to-face meeting and a video conference with ICM representatives. The expedited due diligence showed that the ICM Application remains current and that there have been no negative changes in ICM’s qualifications.

ICM also provided ICANN with a new proposed registry agreement that included additional provisions, requirements and safeguards to address the issues that the GAC and other community members had raised with respect to the previously proposed agreement. ICM further provided information during the due diligence phase responding to questions raised regarding how the proposed Sponsoring Organization, the International Foundation for Online Responsibility (IFFOR), would work and who would likely be participating in it. Further discussion of how the due diligence documentation and the proposed registry agreement address the GAC concerns is provided below.

In August 2010, the ICANN Board authorized staff to post for public comment ICM’s supporting due diligence materials and proposed registry agreement for the .XXX sTLD. The Board also directed staff, upon completion of the public comment period, to provide the Board with a summary and analysis of comments and recommend whether the proposed registry agreement is consistent with GAC advice on the proposed .XXX sTLD. See <http://www.icann.org/en/minutes/minutes-05aug10-en.htm>. The ICM

materials were posted at <http://www.icann.org/en/public-comment/#xxx-revised-icm-agreement>, and over 700 comments were received.

As discussed in the public comment summary and analysis, available at <http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00723.html>, over 50% of the submissions were in favor of proceeding with the .XXX agreement, however, most commenters did not address the substance of the registry agreement. The most frequent theme of comments in opposition involved the sponsored community defined in the registry agreement. Many commenters questioned the propriety of the definition, the veracity of the support of the sponsored community, and whether ICM was relying upon pre-registration information to demonstrate that support. Another major theme of comments related to the transparency of information available, including calls for release of the IFFOR Board members' names as well as an identification of who would serve on the IFFOR Policy Council. Similarly, commenters noted the lack of definition of IFFOR Policies.

### C. GAC Advice

In addition to public comment, ICANN had to address the prior GAC advice on ICM's proposed registry agreement for .XXX. Accordingly, for the Board's 28 October 2010 meeting, ICANN staff provided the Board with its recommendation as to whether the proposed registry agreement is consistent with GAC advice. Three areas where the approval of a registry agreement may be in conflict with GAC advice were identified, though the registry agreement otherwise appears to contain sufficient protections to address earlier stated concerns by the GAC. A chart of the identified areas of potential conflict is available at <http://www.icann.org/en/tlds/agreements/xxx/icm-gac-advice-chart-28oct10-en.pdf>. On 10 December 2010, the Board noted its agreement with staff's assessments of potential conflicts with GAC advice, and directed staff to communicate those recommendations to the GAC. In addition to the chart reflecting the identified conflicts with GAC advice, a document was presented clearly setting out the Board's position on GAC advice for further GAC consultation. That position paper is available at <http://www.icann.org/en/correspondence/jeffrey-to-to-dryden-10feb11-en.pdf>.

In that position paper, the Board set forth the reasons for determining that the proposed registry agreement met many of the concerns the GAC had raised regarding earlier iterations of the agreement.

On 16 March 2011, in advance of a face-to-face Bylaws consultation with the GAC, the GAC provided the ICANN Board with a letter providing further advice on the ICM application. The GAC advised:

- There is no active support of the GAC for the introduction of a .xxx TLD.
- While there are members, which neither endorse nor oppose the introduction of a .xxx TLD, others are emphatically opposed from a public policy perspective to the introduction of a .xxx TLD.

The GAC also stated "the GAC would like to inform the ICANN Board that an introduction of a .xxx TLD into the root might lead to steps taken by some governments to prohibit access to this TLD. The GAC therefore calls the Board's attention to concerns expressed

by experts that such steps bear a potential risk/threat to the universal resolvability and stability of the DNS.”

The GAC closed its letter, stating:

- The GAC does not consider the information provided by the Board to have answered the GAC concerns as to whether the ICM application meets the sponsorship criteria.
- The GAC further shares concerns expressed by others 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 could be inconsistent with its technical mandate.

## **V. APPROVING .XXX sTLD APPLICATION AND AGREEMENT**

### **A. ICM’s Application Meets All sTLD Criteria**

ICANN has determined to approve ICM Application and entering into a registry agreement for the .XXX sTLD is because the criteria have been, or are deemed to have been, met. As identified by the Independent Evaluation Panels, in 2004 ICM satisfied the Technical and Business/Financial Criteria; this determination has never been challenged. Further, as set forth above, the IRP Panel declared that the Board has also determined that ICM had satisfied the sponsorship criteria. In June 2010, the Board resolved to act in accordance with the IRP Panel Declaration. Further, through the expedited due diligence performed by staff in July and August 2010, staff confirmed that ICM’s Application remains current and that there have been no negative changes in ICM’s qualifications based on any of these criteria.

Following the process set forth for the 2004 sTLD round is key to ensuring the accountability of ICANN and its process. Indeed, the Board’s initial denial of ICM’s Application and resulting registry agreement was challenged using one of ICANN’s own accountability mechanisms. The result of that challenge is a finding that ICANN had previously determined that ICM had satisfied all requisite criteria needed to prevail in its Application for the .XXX sTLD. ICANN is committed to being accountable to the community and is thus committed to following the results of the mechanism that challenge that accountability; doing so is in the public interest. ICANN is committed to following any such determination if it is not detrimental to ICANN’s mission.

The ICANN Board is vested with broad discretion in implementing its responsibility such as is mentioned in the "business judgment rule." The business judgment rule is the standard the California courts apply in deciding whether a director, acting without a financial interest in the decision, satisfied the requirements of careful conduct imposed by the California Corporations Code. See *Gaillard v. Natomas Co.*, (1989) 208 CA3d 1250, 1264. As codified in Section 309 of the California Corporations Code, the business judgment rule provides that a director must act “in good faith, in a manner such director believes to be in the best interests of the corporation and its shareholders and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.” Cal. Corp. Code § 309(a); see also *Lee v. Interinsurance Exch.*, (1996) 50 CA4th 694, 714.

B. The Proposed Registry Agreement is Consistent with GAC Advice.

Based on the current status of the Application, it was appropriate for staff to proceed to contract negotiations with ICM. Working from a 2007 version of the proposed registry agreement, ICM produced a proposal that included terms to address both GAC and community concerns raised in regards to prior iterations of the registry agreement.

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. Notably, many of the GAC concerns are consistent with broader community concerns regarding a .XXX sTLD, therefore aligning the terms of the registry agreement to be consistent with GAC advice serves to address broader community comment. For example, ICM's providing terms to address restriction to access to illegal content, protection of vulnerable members of the community, and enhanced intellectual property and trademark protection mechanisms respond not only to GAC concerns but also to community concerns.

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.

In the GAC's 16 March 2011 letter to the Board and in the 17 March 2011 Board/GAC consultation, the GAC did not raise any opposition to this confirmation that the registry agreement addresses each of these items of GAC advice.

**1. 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 that this issue has been satisfied 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.”

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.

## **2. 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 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>.

**3. 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.

**4. 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 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.

#### C. Board Completed Bylaws Consultation With GAC on Remaining Items

The Board identified three specific items about which the Board could benefit from consultation with the GAC prior to taking action. On 16 March 2011, the GAC identified further items that the Board and the GAC addressed in its 17 March 2011 consultation mandated under Article XI, Section 2.j of the ICANN Bylaws, at <http://www.icann.org/en/general/bylaws.htm#XI-2>. Set forth below are the items on which the Board and GAC consulted for which the Board and the GAC could not reach a mutually acceptable conclusion. To the extent the Board’s approval of the registry agreement is not consistent with these items of GAC advice, the Board’s reasons for not following this advice are set forth below. The Board considers that ICANN’s position as a public benefit non-profit corporation make it essential that community input, including the advice provided by the GAC, is carefully considered in making this decision.

#### **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. This statement was reiterated in the 16 March 2011 letter from the GAC, stating “[t]here is no active support of the GAC for the introduction of a .xxx TLD” and “[w]hile there are members, which neither endorse nor oppose the introduction of a .xxx TLD, others are emphatically opposed from a public policy perspective to the introduction of a .xxx TLD.”

#### **Reasons for not following GAC Advice:**

There is no contradiction with GAC advice on this item. Active support of the GAC is not a required criteria in the 2004 sTLD round. Further, this is not advice from the GAC

either to delegate .XXX or to not delegate .XXX, and therefore the decision to delegate .XXX is not inconsistent with this advice.

#### **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.” This concern was reiterated in the 16 March 2011 letter from the GAC.

#### **Reasons for not following GAC Advice:**

ICM’s proposed compliance system will mitigate much of the concern that ICANN will be asked to oversee content. ICANN’s compliance role is not about content *per se*, but about registry compliance with and enforcement of its policies regarding the use of second-level registrations. As with any other TLD, registrants and others will likely turn to ICANN for assistance with content-related issues, regardless of the merit of such requests. Therefore, entering into the proposed registry agreement for the .XXX sTLD, while it may increase the overall numbers of requests to ICANN for content-related assistance, does not represent ICANN’s movement towards a content management or oversight role.

#### **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 that 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.”

#### **Reasons for not following GAC Advice:**

The IRP panel declaration makes clear that ICM’s application has to be evaluated under the processes and criteria set forth in the 2004 sTLD Criteria, and should not be subject to additional processes. The GAC has recognized the importance of adherence to the criteria set forth in the application process. In the GAC Principles Regarding New gTLDs, at Section 2.5, the GAC stated: “All applicants for a new gTLD registry should [] be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.” See [http://gac.icann.org/system/files/gTLD\\_principles\\_0.pdf](http://gac.icann.org/system/files/gTLD_principles_0.pdf).

#### **From the 16 March 2011 Letter**

“The GAC would like to inform the ICANN Board that an introduction of a .xxx TLD into the root might lead to steps taken by some governments to prohibit access to

this TLD. The GAC therefore calls the Board's attention to concerns expressed by experts that such steps bear a potential risk/threat to the universal resolvability and stability of the DNS."

### **Reasons for not following GAC Advice**

The issue of governments (or any other entity) blocking or filtering access to a specific TLD is not unique to the issue of the .XXX sTLD. Such blocking and filtering exists today. While we agree that blocking of TLDs is generally undesirable, if some blocking of the .XXX sTLD does occur there's no evidence the result will be different from the blocking that already occurs.

### **From the 16 March 2011 Letter**

"The GAC does not consider the information provided by the Board to have answered the GAC concerns as to whether the ICM application meets the sponsorship criteria."

### **Reasons for not following GAC Advice**

The Board has provided all requisite information to the Board regarding the GAC's concerns as to whether the ICM application meets the sponsorship criteria. At the time of the 2005 Board decision, the Board had not reached a decision about the sponsorship criteria being met. However, the Board has now accepted the IRP Panel's finding that the June 2005 Board decision decided that the sponsorship criteria was met, and the Board will not revisit that decision. The sTLD process does not afford the Board an opportunity to revisit the 2005 decision, and a rejection today of ICM's proposed registry agreement on sponsorship grounds would revive the same procedural issues that led to ICM's initiation of the IRP. If the GAC wishes to review additional information that supported the IRP Panel's Declaration that the sponsorship criteria was met in 2005, the GAC can review the Declaration and the papers submitted to the IRP. Those materials are available at <http://www.icann.org/en/irp/icm-v-icann.htm>.

#### **D. The Board has Considered Public Comment**

The 2010 public comment forum on the proposed registry agreement demonstrates that the community remains divided on whether the Board should approve *any* .XXX sTLD registry agreement – not just the specific registry agreement posted for public comment on 24 August 2010. Given ICANN's continued focus on accountability to its processes, and the Board's acceptance of the IRP Declaration findings, the Board is not in a position to simply disregard its earlier decisions and determine now that it disagrees with the concept of the introduction of the .XXX sTLD.

Many of the commenters disagree with the assessment that ICM has met the required sponsorship criteria, arguing that ICM misrepresented of scope of the sponsored community and there is a lack of actual support within the adult entertainment community, as well as other related arguments. Because the Board accepted the Panel's finding that the June 2005 Board decision decided that the sponsorship criteria was met, the Board will not revisit that decision at this time. The sTLD process does not afford the Board an opportunity to revisit the 2005 decision, and

a rejection today of ICM's proposed registry agreement on sponsorship grounds would revive the same procedural issues that led to ICM's initiation of the IRP. Further, the sTLD RFP process did not require that a sponsored community be comprised of all possible Internet content providers within a broad community; the community referred to in the sTLD RFP is the community that the sponsorship organization wishes to serve. Those who do not wish to be part of an sTLD sponsored community can remove themselves from the self-selecting definition.

Some commenters oppose the proposed registry agreement because of price-related issues, identifying that the registration fee is too high, or that price caps should be instituted into the registry. No changes to the proposed registry agreement are required to address these comments. The pricing of registry services is generally left to the discretion of the registry. While ICANN has included price caps in some historical registry agreements, those caps were included as a result of specific negotiation between ICANN, VeriSign and the Department of Commerce, or at the request of the registry. To the extent commenters are addressing issues regarding the costs and obligations of defensive registrations in the .XXX sTLD, as discussed above, ICM has taken steps to mitigate these costs and offer rights protection mechanisms.

Commenters oppose the proposed registry agreement because of a lack of definition of "adult content," which could lead to governmental filtering of content on vague standards. The registry agreement cannot be modified to address these comments. If terms regarding the definition of adult content were inserted into the .XXX sTLD registry agreement, ICANN would move impermissibly into the realm of content enforcement through its contractual compliance efforts. The better definition of content can be defined through the refinement of policies with the sponsoring organization, which is not a matter for ICANN to oversee.

Many commenters argued that the policies of the IFFOR are not yet well defined, and expressed concerns regarding the introduction of the .XXX sTLD and the ability to fully comment on the proposed registry agreement without full disclosure of those policies. These comments do not require any change to the proposed registry agreement. Appendix S to the proposed registry agreement, at <http://www.icann.org/en/tlds/agreements/xxx/proposed-xxx-agmt-appendix-s-clean-23aug10-en.pdf>, delegates policy making authority to ICM and IFFOR. The IFFOR policies are therefore not included in the proposed registry agreement, and further definition of specific policies are not required in order for the Board to proceed to approval of the registry agreement. This delegation of policy making authority is part of all sTLD registry agreements, such as .ASIA (<http://www.icann.org/en/tlds/agreements/asia/appendix-s-06dec06.htm#2>) and .CAT (<http://www.icann.org/en/tlds/agreements/cat/cat-appendixS-22mar06.htm>). ICM has made certain representations to ICANN regarding what the baseline policies for the .XXX sTLD will be, as defined in the IFFOR Baseline Policy document, and it is in reliance on ICM's adherence to those baseline policies that the Board is moving forward with the approval of the proposed registry agreement.

Commenters also provided specific suggestions regarding further enhancement of intellectual property and trademark protections within the proposed registry agreement. As identified above, the Board considers that ICM proposes intellectual

property and trademark protections that are sufficient to meet the concerns raised by the GAC and that also exceed the protections currently in place in many other registries. While the Board encourages further innovations in registry protections, it is not necessary to require modification to the proposed registry agreement in response to these comments. If ICM wishes to take any of the suggested proposals comments under consideration prior to executing the registry agreement, ICM may return to ICANN with a revised proposed registry agreement.

The approval of the .XXX sTLD registry agreement is supported by many in the community, and the Board acknowledges those comments as well. The introduction of the .XXX sTLD will serve ICANN's mission to introduce competition in the registration of domain names. The approval of the .XXX sTLD registry agreement will further ICANN's commitment to accountability and transparency, and is in line with ICANN's commitment to its accountability processes, as it is consistent with the Panel's Declaration arising out of the very first use of ICANN's Independent Review Process. Many commenters are eager for the timely introduction of the .XXX sTLD for a variety of reasons, and the approval of the registry agreement is responsive to these concerns.

## **V. IMPACT**

### **A. Positive or Negative Community Impacts From the Approval of the Registry Agreement**

Given the contention in the community regarding the introduction of the .XXX sTLD, any decision on the registry agreement will result in both a positive and negative community impact. On the whole, the Board concludes that ICANN's adherence to its accountability mechanisms, and completion of the processing of ICM's 2004 sTLD application, will provide a positive community impact. This decision affirms and gives the ICANN community renewed confidence in ICANN's commitment to accountability and to adhering to its processes.

The negative community impact will most likely be on those that do not support the idea of the introduction of the .XXX sTLD. However, refusing to approve registry agreements with strings that do not have unanimous community support is not an acceptable option as ICANN continues to move toward the introduction of even more new gTLDs.

### **B. Fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public**

Upon launch of the .XXX sTLD registry, ICANN will be entitled to registry fees and per-name registration fees for registrations in the .XXX sTLDs as specified in the registry agreement. These fees will support ICANN's operations, including registry-related activities and compliance activities. ICANN may also face fiscal impacts in the event that threats are carried out to initiate legal action if the Board approves the registry agreement. Further, as the level of contractual compliance complaints are presently unknown, so too is the fiscal impact on that aspect of the organization.

Those members of the community and public that are members of the sponsored community may choose to register names in the .XXX sTLD and incur the specified

registration fees. In addition, there may be fiscal impact to other members of the community based on the business choices made regarding intellectual property and trademark protection purposes, among other things.

C. Security, Stability or Resiliency issues relating to the DNS

ICM has satisfied the initial technical criteria of the sTLD RFP and has engaged Afilias, an established registry operator, to perform its back-end operations. Therefore, there is facially no basis for a technical concern of security, stability or resiliency issues relating to the DNS based upon the introduction of this single new top-level domain. The Board is aware of the concern that the existence .XXX sTLD may facilitate the ability to use the string to block access to .XXX websites. However, the Board notes that if some blocking of XXX does occur there's no evidence the result will be different from the blocking that already occurs, and the Board does not identify this as a risk to the overall security, stability or resiliency of the DNS.

VI. **SIGNIFICANT MATERIALS REVIEWED BY THE BOARD**

- A. The Request for Proposal ("RFP"). *See* <http://www.icann.org/en/tlds/new-stld-rfp/new-stld-application-part-15dec03.htm>.
- B. The Sponsorship and Community Independent Evaluation Panel's report. *See* <http://www.icann.org/en/tlds/stld-apps-19mar04/PostAppD.pdf>.
- C. ICM Supplemental Evaluation Materials. *See* <http://www.icann.org/en/tlds/stld-apps-19mar04/AppE-30nov05.pdf>.
- D. Declaration of the Independent Review Panel (19 February 2010). *See* <http://www.icann.org/en/irp/icm-v-icann/irp-panel-declaration-19feb10-en.pdf>.
- E. Board Position Paper on Consistency with GAC Advice (11 February 2011), at <http://www.icann.org/en/correspondence/jeffrey-to-to-dryden-10feb11-en.pdf>.
- F. August 2010 ICM Proposed Registry Agreement and Due Diligence Materials, at <http://www.icann.org/en/public-comment/public-comment-201009-en.htm#xxx-revised-icm-agreement>.
- G. Public Comments received on the proposed registry agreement, available at <http://forum.icann.org/lists/xxx-revised-icm-agreement/>, including the Summary and Analysis of Public Comment, at <http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00723.html>
- H. GAC communications, including: 1) the Wellington Communiqué; (2) a 2 February 2007 Letter from the Chair and Chair-Elect of the GAC to the Chair of the ICANN Board; (3) the Lisbon Communiqué; (4) a 4 August 2010 Letter from the Chair of the GAC to the Chair of the ICANN Board; (5)

the Cartagena Communiqué; and (6) a 16 March 2011 Letter from the GAC to the Chair of the Board.

# **2011-04-21-01-Board-Submission-Organizational Meeting**



**ICANN BOARD SUBMISSION NO. 2011-04-21-01**

**TITLE: Board Governance Committee's Recommendation on Establishing Organizational Meeting to Fill Vacancies in Board Leadership Positions at end of Singapore Meeting**

**PROPOSED ACTION: For Consent Agenda**

**EXECUTIVE SUMMARY:**

At the conclusion of ICANN's June 2011 Mid-year Meeting in Singapore, the ICANN Board will have at least one vacancy in a leadership position, due to the expiration of the Board term for the current Chair of the Board, who occupies Seat 11. The BGC recommends that the Secretary notice an Organizational Meeting of the Board of Directors to commence immediately after the conclusion of the June 2011 Mid-year Meeting. At that Organizational Meeting, the Board will complete the election of a Chair (and Vice Chair, if necessary), as well as appoint any other Committee membership or leadership positions necessitated by the transition in Board membership.

**BOARD GOVERNANCE COMMITTEE RECOMMENDATION:**

The Board Governance Committee recommends that the Board direct the Secretary to provide notice as required to allow for the Organizational Meeting to occur for the purpose of election of Board leadership.

**PROPOSED RESOLUTION:**

Whereas, upon the conclusion of the June 2011 Mid-year Meeting in Singapore, there will be a vacancy in the position of the Chair of the Board due to the transition in Seat 11 on the ICANN Board of Directors.

Whereas, the Board Governance Committee has identified that it is preferable for the Board to immediately fill a vacancy in the ICANN Board Chair position, as well as immediately address any necessary changes in composition of Board Committees and leadership due to the transition of Board members, and is prepared make recommendations to the Board on these items.

Whereas, an Organizational Meeting of the Board is required as soon as possible after the conclusion of the June 2011 Mid-year Meeting for the Board to take action to elect a Chair (and Vice-Chair, if necessary), as well as appointing Board committee members as needed.

RESOLVED (2011.04.21.xx), the Secretary is directed to notice an Organizational Meeting of the Board of Directors to occur immediately after the conclusion of the June 2011 Mid-year Meeting.

**PROPOSED RATIONALE:**

This administrative resolution assures that the Board will continue with a full composition of leadership upon transition of Board membership. There is no anticipated fiscal impact from this decision, as the Organizational Meeting will occur in the same location as the 2011 Mid-year Meeting. There will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

Submitted by:	John Jeffrey
Position:	General Counsel and Secretary
Date Noted:	12 April 2011
Email and Phone Number	john.jeffrey@icann.org; Contact

# **2011-04-21-02-Board-Submission-Revised-Code-of- Conduct**

**ICANN BOARD SUBMISSION NO. 2011-04-21-02**

**TITLE:** **Revised Code of Conduct**

**PROPOSED ACTION:** **For Consent Agenda**

**EXECUTIVE SUMMARY:**

In 2008, the Board approved a Code of Conduct <http://www.icann.org/en/committees/board-governance/bod-code-of-conduct-01oct08-en.pdf> setting out guidance for Board members in meeting their ethical duties to the organization. The Board Governance Committee, charged with oversight of compliance with the Code of Conduct, determined that the Code of Conduct requires revision to refer to Guidelines drafted to assist the Board and its members in adherence to the Code of Conduct and handling potential breaches of the Code. The revisions to the Code of Conduct are minor, providing a reference to the Guidelines, as well as providing minor (non substantive) revision to the text. A redline of the Revised Code of Conduct is attached as Attachment A to the Annex.

The Code of Conduct Guidelines are provided for Board member information. The Guidelines are a “living” document within the Board Governance Committee, subject to revision as necessary to meet the needs of the Board. The Guidelines are provided as Attachment B to the Annex.

**BOARD GOVERNANCE COMMITTEE RECOMMENDATION:**

The Board Governance Committee recommends that the Board adopt the Revised Code of Conduct as provided in the Annex to this submission.

**PROPOSED RESOLUTION:**

Whereas, the Board Governance Committee (BGC) is charged with oversight of the Board’s compliance with the organization’s Code of Conduct, approved in 2008.

Whereas, the BGC has identified that Code of Conduct Guidelines would provide guidance and assistance in maintaining compliance with the Code of Conduct.

Whereas, non-substantive revisions to the Code of Conduct are necessary to incorporate references to the Code of Conduct Guidelines, and the BGC has approved those proposed revisions.

RESOLVED (2011.04.21.xx), the Board approves the Revised Code of Conduct and directs staff to post the Revised Code of Conduct on the ICANN website.

**PROPOSED RATIONALE:**

The Board’s adherence to a Code of Conduct is an essential part of maintaining accountability and transparency in ICANN’s decision-making process. The Code of Conduct approved in 2008 was a result of community input, and the changes approved today do not substantively alter the community-vetted provisions. The Revised Code of Conduct will assist the Board in maintaining adherence with the Code of Conduct, through the incorporation of Guidelines that more clearly identify processes for handling potential breaches of the Code. There is no anticipated fiscal impact from this decision, and there will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

Submitted by:	John Jeffrey
Position:	General Counsel and Secretary
Date Noted:	12 April 2011
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# **2011-04-21-03-Board-Submission-NomCom-Academia- Bylaws**

**ICANN BOARD SUBMISSION NO. 2011-04-21-03**

**TITLE:** **Input on Academia Representation on NomCom**

**PROPOSED ACTION:** **For Consent Agenda**

**EXECUTIVE SUMMARY:**

The Bylaws provision requiring the ICANN Board to designate an entity "to represent academic and similar organizations" that would be responsible for annually selecting a member of the Nominating Committee (NomCom) (Selecting Entity), has proved to not be feasible. In practice, the Board Governance Committee (BGC) has been recommending a member of academia to fill this role on the NomCom, because no Selecting Entity has been identified. In 2010, the Board directed that a process to identify a Selecting Entity be created through the BGC and proposed to the Board. In reviewing the creation of this process, the BGC noted that multiple representatives of academic and similar organizations are appointed to the NomCom each year – and the intent of providing academia with a voice in the selection of ICANN leadership is already met.

At this time, the BGC recommends that ICANN seek community input on the types of organizations that may be appropriate to serve as this Selecting Entity. If no appropriate organizations (or metrics to identify or evaluate these entities) can be identified through the community's input, the BGC is prepared to recommend that the Bylaws be amended to remove this particular seat on the NomCom. Such a decision will be reconsidered in the future if academia becomes an under-represented sector in the NomCom. The Bylaws revisions that would be recommended are attached to this submission in redline form.

**BOARD GOVERNANCE COMMITTEE RECOMMENDATION:**

The BGC recommends that the Board approve the initiation of a 30-day public comment period seeking community input and advice on entities (or metrics to help select and evaluate entities) to "represent academic and similar organizations" that would be responsible for appointing a voting delegate to the NomCom. The BGC also recommends that the Bylaws amendments that are anticipated in the event an

appropriate entity cannot be identified be posted for public comment to allow for community input on the potential outcome of this work.

**PROPOSED RESOLUTION:**

Whereas, Article VII, Section 2.8.c of the ICANN Bylaws requires the NomCom to include a voting member selected by “an entity designated by the Board to represent academic and similar organizations” (Selecting Entity).

Whereas, despite attempts to identify a Selecting Entity, the Board has not succeeded, and instead has made direct recommendations of delegates to represent academia on the NomCom. In addition to the Board-selected delegate, there have consistently been multiple delegates on each NomCom from academia.

Whereas, in 2010, the Board directed the BGC to create a process for identifying a Selecting Entity, and the BGC has raised concerns relating to the identification and evaluation of the Selecting Entity.

Whereas, the BGC has determined that the community may provide guidance on an appropriate Selecting Entity or metrics to help in identification or evaluation of the Selecting Entity.

Whereas, in the event that that the community comment does not inform the identification or approval of an appropriate Selecting Entity, the BGC is prepared to recommend that Article VII, Section 2.8.c be removed from the Bylaws. If, in the future the academic sector becomes under-represented on the NomCom, the creation of a mechanism should be considered to assure that academia has a voice in the selection of ICANN leadership.

RESOLVED (2011.04.21.xx), the Board approves the initiation of a 30-day period of public comment to obtain community input to inform the BGC’s future work on the identification of an entity to make appointments to the NomCom as called for in Article VII, Section 2.8.c of the Bylaws. The public comment will also address the potential proposed Bylaws amendments regarding the removal of this Bylaws provision in the event that the community comment process does not result in the identification of an appropriate entity.



## **PROPOSED RATIONALE:**

Since the 2002 introduction of the current form of the ICANN Bylaws, there has been a provision for the NomCom to include a voting delegate appointed by “an entity designated by the Board to represent academic and similar organizations” (Selecting Entity). The Board has not been successful in identifying such a Selecting Entity; despite a 2003 identification of a Selecting Entity, by 2005, no designees had been identified and the Board Governance Committee (BGC) has been making a direct recommendation of a voting NomCom delegate after soliciting nominees. In 2007, the Chair noted that the BGC had not been successful in identifying a Selecting Entity, and in 2010, the Board directed that a process for choosing the Selecting Entity be created through the BGC and proposed to the Board.

Despite the limitations faced by the Board in identifying the Selecting Entity, there has been consistent representation of the academic sector on each NomCom, in addition to those persons directly recommended by the BGC. Historically, in addition to the designated academia delegate, each recent NomCom has had at least two members affiliated with academic institutions.

The NomCom – and the method of selection of delegates serving on the NomCom – are important components to ICANN’s leadership and governance, and providing any entity with the responsibility of selecting a voting NomCom delegate will have lasting effects on the organization. When the BGC undertook work to create a process to identify a Selecting Entity, the BGC discussed the difficulty of identifying criteria to choose an entity, particularly how to evaluate and select the successful entity if more than one is suggested or nominated. The BGC also identified a more fundamental question: because of the history of academic voices being present on the NomCom, does it remain necessary to identify that a specific delegate remain a part of the NomCom composition?

The BGC therefore recommends that the community have a voice in reviewing this decision point. The BGC seeks community guidance on: What entities could or should serve as the entity to designate a member of an academic or similar organization to the NomCom? What metrics could be used to evaluate competing entities? What would an

appropriate selection and evaluation process be? Would the community be better served by removing the Bylaws provision calling for such an entity to select a delegate?

It should be noted that the Board directed that the BGC *not* to identify a delegate for the current (2010-2011) NomCom to fill this role. To date, ICANN is not aware of any complaints that the absence of the specific academia representative delegate has impeded the work of the NomCom.

In the event that the community consultation cannot identify an appropriate selection or evaluation process, or an appropriate entity, the BGC will recommend the removal of this provision from the Bylaws. If the provision is removed, the future composition of the NomCom will have to be reviewed to confirm that the academic sector remains represented. If the academic sector is under-represented in the future, a review of how best to assure academic representation on the NomCom will be initiated.

Seeking community input on this item will assist the Board in evaluating the impact of any changes to the NomCom composition. There will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

Submitted by:	John Jeffrey
Position:	General Counsel and Secretary
Date Noted:	14 April 2011
Email and Phone Number	jj@icann.org; Contact

# **2011-04-21-04-Board-Submission-Board Technical Relations Working Group**

**ICANN BOARD SUBMISSION NO. 2011-04-21-04**

**TITLE:** **Board Governance Committee  
Recommendation on:  
  
The Composition of Board Technical  
Relationships Working Group**

**PROPOSED ACTION:** **For Consent Agenda**

**EXECUTIVE SUMMARY:**

At the 18 March 2011 meeting, the Board established a Board Technical Relations Working Group to “consider measures to enhance the coordination and cooperation between ICANN and the other members of the Internet technical community,” as one of the items necessary to facilitate the recommendations of the independent review of the TLG. The Board directed the BGC to recommend the composition of the Board Technical Relations Working Group for consideration at this meeting. The BGC presents the recommended membership, which includes the three most recent TLG liaisons to the Board.

**BOARD GOVERNANCE COMMITTEE RECOMMENDATION:**

The Board Governance Committee recommends that the Board approve the composition of the Board Technical Relations Working Group as set forth in the proposed Resolution.

**PROPOSED RESOLUTION:**

Whereas, on 18 March 2011 the Board established 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.”

Whereas, the Board directed the Board Governance Committee to recommend five members for the Board Technical Relations Working Group, for consideration by the Board at this meeting.

Whereas, at its 12 April 2011 meeting, the BGC reviewed the potential composition of the Board Technical Relations Working Group and formed a recommendation to the Board, identifying the following proposed members of the group:

(i) Gonzalo Navarro, Chair;

(ii) Thomas Narten;

(iii) Thomas Roessler;

(iv) Reinhard Scholl; and

(v) Jonne Soininen.

RESOLVED (2011.04.21.xx), the Board approves the recommended membership of the Board Technical Relations Working Group and requests the members to complete the tasks as set forth in the Board's 18 March 2011 resolution, as reflected in the Working Group's charter.

**PROPOSED RATIONALE:**

The Board Governance Committee's recommendation is in fulfilment of the Board's 18 March 2011 resolution. The TLG review work to date has been the subject of community comment, and the Working Group is expected to perform its work in a consultative process with the ICANN community. A small fiscal impact is anticipated due to the composition of the Working Group, including staffing resources and potential costs incurred to facilitate the work of the Working Group. There will be no impact on the security, stability and resiliency of the domain name system as a result of this action.

Submitted by:	John Jeffrey
Position:	General Counsel and Secretary
Date Noted:	12 April 2011

Email and Phone Number

[john.jeffrey@icann.org](mailto:john.jeffrey@icann.org); **Contact**

# 2011-04-21-05-Board-Submission-BTR WG Charter

**ICANN BOARD SUBMISSION NO. 2011-04-21-05**

**TITLE: BTR WG Charter**

**PROPOSED ACTION: For Consent Agenda**

**EXECUTIVE SUMMARY:**

Following the conclusion of the Review of ICANN's Technical Liaison Group, TLG, with receipt of a Final Report from the Independent Reviewer, JAC Communications LLC, the ICANN Board resolved on 18 March 2011, at <http://icann.org/en/minutes/resolutions-18mar11-en.htm#7>, to establish a Board Technical Relations WG (BTR WG) and to direct SIC to develop a Charter for this WG "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". Such a charter has now been developed by the SIC, see Annex, and this Charter is hereby presented for the Board's consideration and approval.

**COMMITTEE RECOMMENDATION:**

The SIC, at its meeting 11 April 2011, reviewed a draft Charter from one of the members and edited it to its final form as per the Annex and recommends this Charter for Board adoption.

**PROPOSED RESOLUTION:**

Whereas, on 18 March 2011, the Board resolved to receive the Final Report of the TLG Review and to establish a Board Technical Relations WG, while directing the Structural Improvements Committee (SIC) to develop a Charter for this WG "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", at <http://icann.org/en/minutes/resolutions-18mar11-en.htm#7>.

Whereas, the SIC has developed a proposed Charter for the BTR WG.

Whereas, the SIC, at its meeting 11 April 2011, unanimously agreed to recommending the proposed BTR WG Charter for adoption by the Board.



**PROPOSED RATIONALE:**

The proposed action is in direct response to a request from the Board and serves to advance the handling of the TLG review outcome in line with the direction set forth by the Board. While community input was not sought nor necessary for the drafting of this Charter, the WG is expected to consult with the community as it reaches its recommendations. The functioning of the BTR WG will require some support from existing staff and certain limited expenditures. There is no reason to delay this action as it would have very marginal budgetary consequences. This action will not have any input on the security or stability of the DNS.

Submitted by:	Olof Nordling
Position:	Director, Services Relations
Date Noted:	14 April 2011
Email and Phone Number	<a href="mailto:olof.nordling@icann.org">olof.nordling@icann.org</a> Contact

# **2011-04-21-06-Board-Submission-ccNSO Review Implementation Actions**

**ICANN BOARD SUBMISSION NO. 2011-04-21-06**

**TITLE:** **ccNSO Review Implementation Actions**

**PROPOSED ACTION:** **For Consent Agenda**

**EXECUTIVE SUMMARY:**

Following the conclusion of the Review of ICANN's Country Code Names Supporting Organization with receipt of a Final Report from the ccNSO Review Board Working Group, the ICANN Board resolved on 18 March 2011, at <http://icann.org/en/minutes/resolutions-18mar11-en.htm#1.3> , to direct SIC to present a set of suggested actions to address the conclusions and recommendations formulated in the Final Report of this Working Group. The SIC has acknowledged receipt of a document presenting such a set of actions, "ccNSO review WG final report: implementation steps", dated April 2011.

**COMMITTEE RECOMMENDATION:**

The SIC, at its meeting 11 April 2011, found this document to be a good basis for the implementation work. The SIC recommends that the Board approves the proposed document and instructs the SIC and staff to develop a detailed implementation plan.

**PROPOSED RESOLUTION:**

Whereas, on 18 March 2011, the Board resolved to receive the Final Report of the ccNSO review Working Group, and directed the Structural Improvements Committee (SIC) 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", at <http://icann.org/en/minutes/resolutions-05aug10-en.htm#2.f> .

Whereas, ICANN staff members supporting the organizational reviews and the ccNSO identified a set of measures in a document "ccNSO review WG final report: implementation steps", dated April 2011, to address the recommendations and conclusions from the Working Group and provided those to the SIC.

Whereas, the SIC finds the measures included in this document adequate and proposes to have staff in coordination with SIC finalize an implementation plan, including estimated costs, based upon this document, and to provide this final plan to the Board for receipt and consideration.

Resolved (2011.04.21.xx), the Board approves the document put forward by the SIC and instructs the SIC, in coordination with staff, to provide the Board with a final implementation plan, including estimated costs, to conform with the measures recommended by the SIC to address the conclusions and recommendations in the final report of the ccNSO review Working Group.

**PROPOSED RATIONALE:**

The proposed action is in direct response to a request from the Board and serves to advance the implementation of the ccNSO review outcomes. The task to develop a detailed implementation plan is essential to prepare the implementation in a timely manner. There is no reason to delay this action as it, per se, would have no budgetary consequences. The detailed implementation planning should cover scoping and resource estimates, to be considered and decided by the Board once the detailed planning task has been accomplished and a detailed plan put forward.

Submitted by:	Olof Nordling
Position:	Director, Services Relations
Date Noted:	7 April 2011
Email and Phone Number	olof.nordling@icann.org <b>Contact</b>

**2011-04-21-07-Board-Submission-Formalization-of-  
401(k)-Plan-Committee[2]**

**ICANN BOARD SUBMISSION NO. 2011-04-21-07**

**TITLE:** **Formalization of 401(k) Plan Committee**

**PROPOSED ACTION:** **For Board Action**

**EXECUTIVE SUMMARY:**

Employees in the United States participate in the ICANN Retirement Savings Plan (also known as the 401(k) Plan) (the “Plan”) in which the Company makes contributions to the Plan on behalf of employees, and employees may make contributions, on a tax deferred basis, to the Plan on their own behalf.

Until recently, the Plan has been relatively small and did not call for a formal Plan Committee. Recently, however, the Plan has grown to over 100 active participants and to an asset level for which best practices indicate that a plan committee be formed to oversee various aspects of the Plan. The committee’s responsibilities would include, but not be limited to, plan administration, choosing plan vendors, identifying investment options from which employees can select, and other fiduciary responsibilities.

A temporary 401(k) Plan Committee has been meeting to discuss the nature of a Charter it will adopt, and its duties and responsibilities. With assistance from outside counsel, a draft Charter has been developed and was recently reviewed by the Board Finance Committee (BFC). With a few edits suggested by the BFC, the draft Charter is provided to the Board for information (*see* Exhibit A to Annex). The Charter includes a requirement for the Plan Committee to report to the Board as needed or requested.

The Board is being asked to approve the formalization of the 401(k) Plan Committee and authorize the CEO to identify staff members to serve on the Committee and oversee the Committee activities. The BFC also discussed whether a Board Committee should have some oversight of the 401(k) Plan Committee activities, but agreed that the identification of a Board Committee, if appropriate, to oversee those activities need not be completed in order for the Board to approve the formalization the Committee.

**BFC and Staff RECOMMENDATION:**

The BFC and Staff recommend that the Board approve the formalization of the 401(k) Plan Committee and authorize the CEO to staff and oversee the Plan Committee activities.

**PROPOSED RESOLUTION:**

Whereas, the ICANN Retirement Savings Plan (Plan) was introduced in 2000 for United States based staff.

Whereas, in light of the increasing number of participants and resulting assets of the Plan, best practices suggest that a plan committee be formed to manage plan administration, choosing plan vendors, identifying investment options from which employees can select, and other fiduciary responsibilities.

Whereas, the BFC has recommended that the Board approve the formalization of the 401(k) Plan Committee and authorize the CEO to staff and oversee the Plan Committee activities.

Resolved (2011.04.21.xx), the Board approves the formalization of the 401(k) Plan Committee and authorizes the CEO to staff and oversee the Plan Committee activities.

**PROPOSED RATIONALE:**

Employees in the United States participate in the ICANN Retirement Savings Plan (also known as the 401(k) Plan) (the “Plan”) in which the Company makes contributions to the Plan on behalf of employees, and employees may make contributions, on a tax deferred basis, to the Plan on their own behalf. Until recently, the Plan has been relatively small and did not call for a formal Plan Committee. Recently, however, the Plan has grown to over 100 active participants and to an asset level for which best practices indicate that a plan committee be formed to oversee various aspects of the Plan.

The committee's responsibilities would include, but not be limited to, plan administration, choosing plan vendors, identifying investment options from which employees can select, and other fiduciary responsibilities.

It is in the best interest of the organization and its employees to ensure that best practices are employed in overseeing the 401(k) Plan. Accordingly, the Board thinks that formalizing a Plan Committee will have a positive impact on the organization. No fiscal impact is anticipated, except that additional oversight may lead to additional fee savings for the organization. There will be no impact on the security, stability and resiliency of the domain name system.

Submitted by:	Akram Atallah Amy A. Stathos	
Position:	Chief Operating Officer Deputy General Counsel	
Date Noted:	12 April 2011	Contact
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**2011-04-21-08-Board-Submission-Registrar  
Accreditation Application Fee Increase**

**ICANN BOARD SUBMISSION NO. 2011-04-21-08**

**TITLE:** **Increase Of The Registrar Accreditation  
Application Fee**

**PROPOSED ACTION:** **Increasing The Registrar Accreditation  
Application Fee From Currently USD 2,500 to  
USD 3,500**

**EXECUTIVE SUMMARY:**

Members of the community, including representatives of law enforcement agencies, have recommended a number of areas where ICANN should conduct further due diligence checks of applicants during the registrar accreditation application process, including criminal records, credit records, financial history and solvency, and company structure and ownership. Completing these inquiries would require ICANN to use external resources that would increase the cost of processing accreditation applications.

The above-mentioned due diligence checks and proposed increase of the application fee on a cost recovery basis from USD 2,500 to USD 3,500 have been the subject of a public comment period (<http://www.icann.org/en/public-comment/#registrar-accredit-eval>). Further details are provided in the Annex.

**STAFF RECOMMENDATION:**

ICANN Staff recommends increasing the current registrar accreditation application fee from USD 2,500 to USD 3,500 in order to cover the additional costs that will be incurred by the proposed due diligence checks.

**PROPOSED RESOLUTION:**

Whereas, in resolution 01.65 the Board approved the charging of an accreditation application fee of USD 2500, without regard to the number of top-level domains for which accreditation is sought, for applications submitted on or after 1 July 2001;

Whereas, since July 2001 no change has been made in that application fee amount;

Whereas, on 22 November 2010 ICANN posted on its website a proposal to complete additional due diligence checks and to increase the accreditation application fee, with a

description of the proposed due diligence checks and the reason for increasing the application fee;

Whereas, an online public comment period for the community to submit comments on the proposal, was held;

Whereas, the public comment received was supportive of the proposed enhancements;

Whereas, the Board Finance Committee met on 6 April 2011 and reviewed the proposed increase,

Whereas, the Board Finance Committee approved a recommendation to the Board that the increase be approved,

It is hereby RESOLVED (20xx.xx.xx)\_that the application fee to be accredited by ICANN as a registrar shall be USD 3,500 for applications submitted on or after 1 July 2011.

It is further RESOLVED (20xx.xx.xx) that the Board directs staff to conduct a review of the costs associated with the registrar accreditation application process to determine whether current fees cover those costs.

#### **PROPOSED RATIONALE:**

- *Why is the Board addressing the issue now?*

This has been a topic of discussion in the community as a means to improve security without the need for full policy development or contract amendments. It has been reviewed by the Finance Committee, and is ripe for decision prior to commencing the next fiscal year.

- *What are the proposals being considered?*

The Board is considering whether or not to approve increase in Registrar Accreditation Application Fee from USD 2,500 to USD 3,500; the first fee increase in 10 years. The Board is also directing staff to do a full review of the costs associated with processing accreditation applications to assure fees and costs are aligned.

- *What Stakeholders or others were consulted?*

The proposed enhancements to the registrar application process and increase in fees were subject to public comment from 22 November 2010 through 21 January 2011; four comments were received, one of them did not fully understand the proposal and the other three expressed full support. The proposed changes to the accreditation process and application fees were presented to the Registrar Stakeholder Group during the ICANN meeting in Cartagena without negative feedback.

- *What concerns or issues were raised by community?*

The only negative concern raised about the fee increase came from a registrar that incorrectly understood it to mean that this would be an increase in the annual fees paid by registrars. No other concerns about the application fee were raised.

- *What significant materials did Board review?*

A Board paper detailing the proposal and an Annex that spelled out the rationale for the amount of the fee increase relative to the costs of pursuing background checks through a third party provider.

- *What factors did the Board Find to be Significant?*

The community recommendations that enhanced due diligence be undertaken in the registrar application review process. The Board Finance Committee reviewed and approved of the financial rationale for the increase and that it was revenue neutral. The BFC further recommended the additional resolution that a study be conducted about the overall application processing costs so that we can determine how costs align with fees. Finally, there was no stated opposition during the public comment forum.

- *Are there Positive or Negative Community Impacts?*

The enhanced due diligent reviews made possible by this fee increase will enhance the review process, especially at a time where it is expected that there will be an increase in interest in registrar accreditations with the introduction of new gTLDs.

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

The fee increase is designed to be revenue neutral while additional background checks will be added to the application review process.

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

The proposed due diligence checks have been introduced as a response to security concerns raised by the ICANN community and a desire that the process followed to accredit new registrars be enhanced with such due diligence checks in a revenue neutral fashion.

Submitted by: Tim Cole

Position: Chief Registrar  
Liaison

Date Noted: 12 April 2011

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# **2011-04-21-09-Board-Submission-Redelegaton of .KP**

## ICANN BOARD SUBMISSION NO. 2011-04-21-09

**TITLE:** Redlegation of the .KP domain representing the Democratic People's Republic of Korea to Star Joint Venture Company

**PROPOSED ACTION:** For Board Review and Approval on Consent Agenda

**IANA REFERENCE:** 404233

### EXECUTIVE SUMMARY

The ICANN Board is asked to consider and vote on the request to redelegate the domain .KP, comprised of the ISO 3166-1 code representing the Democratic People's Republic of Korea.

Sensitive Delegation Materials

### PROPOSED RESOLUTION

Whereas, KP is the ISO 3166-1 two-letter country-code designated for the Democratic People's Republic of Korea.

Whereas, ICANN has received a request for re delegation of .KP to Star Joint Venture Company;

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

It is hereby resolved (\_\_\_), that the proposed re delegation of the .KP domain to Star Joint Venture Company is approved.

### PROPOSED RATIONALE

#### **Why the Board is addressing the issue now?**

Staff present delegation and re delegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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 have 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.

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Submitted by:	Kim Davies
Position:	Manager, Root Zone Services
Date Noted:	1 April 2011
Email and Phone Number	kim.davies@icann.org; Contact Information

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# **2011-04-21-10-Board-Submission-Post Exhaustion IPv4 III Tracking of Proposal[3]**

**ICANN BOARD SUBMISSION NO. 2011-04-21-10**

**TITLE:** IPv4 Post-Exhaustion III, Tracking of Proposal

**PROPOSED ACTION:** For Consent Agenda

**EXECUTIVE SUMMARY:**

A policy proposal entitled “Global Policy for Post Exhaustion IPv4 Allocation Mechanisms by IANA” (the Proposal) has been introduced in the addressing community, authored by proposers resident in APNIC’s service region. As required by Board’s review procedures, ICANN staff is providing notice of this work to the Board and requesting that the Board resolve that staff “track” this policy development work.

It should be noted that the Proposal is the third proposal addressing the theme of handling recovered IPv4 address space post-exhaustion and that the previous two proposals encountered problems in garnering global consensus, as reported in separate background reports. The Proposal is for ICANN to provide an address redistribution mechanism mediated through the IANA Department. The background and status of the Proposal is provided in a draft background report, as Annex, with links to the full text of the Proposal and including a brief comparison with previous proposals.

On 3 February 2011, the ASO AC recognized the Proposal as fulfilling the formal requirements as a candidate for a Global Policy.

**STAFF RECOMMENDATION:**

Staff recommends that the Board request that the Proposal be tracked by ICANN staff immediately. Alternatively, the Board could await further developments before requesting ICANN staff to follow the Proposal.

**PROPOSED RESOLUTION:**

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 for Post Exhaustion IPv4 Allocation Mechanisms by IANA” 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 (2011.04.21.XX), the Board requests that the development of the policy proposal entitled “Global Policy for Post Exhaustion IPv4 Allocation Mechanisms by IANA” 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.

**PROPOSED RATIONALE:**

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 is 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 of a future request from the ASO for ratification of the Proposal.

Submitted by:	Olof Nordling
Position:	Director, Services Relations
Date Noted:	11 April 2011
Email and Phone Number	olof.nordling@icann.org Contact Information Redacted

Compensation Information

Compensation Information

## Compensation Information



# President and CEO's Report-2011-04-14

## **President and CEO's Report**

**14 April 2011**

This President and CEO's Report was prepared for the ICANN Board of Directors to facilitate discussion during 21 April 2011 Board Meeting.

ICANN completed 86% of our Trimester 2 Business Initiatives across the management of the organization. This is consistent with the high percentage achieved during the last trimester and is demonstrative of our efforts to manage to what we are committing to do. I am once again very impressed with the collective dedication and productivity of this organization. This has been another very productive period since the last report during the Silicon Valley/ San Francisco Meeting.

We continue to make significant progress executing on many fronts and the team has pulled together some high-level updates of the efforts that have been completed during and following on from the Silicon Valley / San Francisco Meeting. We have also attached the 15 March 2011 CEO Monthly One-Page Metrics Report within this Board Book, as well.

As always it is worth noting that this is not a complete picture of the considerable amount of work that is being undertaken at any one point in time by staff at ICANN, and the focus of this report is more on the top-line highlights.

### **Meetings**

Meetings and Languages teams pulled off a very successful meeting in San Francisco. It broke previous ICANN meeting attendance records, at well over 1700 attendees. The team successfully managed the complicated logistics surrounding the presence of President Clinton, whose appearance was an unqualified success.

The new sponsorship program that the Meetings group unveiled the previous trimester resulted in unprecedented support for ICANN40, significantly helping defray the cost of the meeting. Most notably, the VeriSign sponsorship allowed us to bring in Clinton. The Neustar sponsorship enabled us to at last produce our own mobile version of the meeting site, which attendees could access via ICANN's first use of QR (Quick Reference) codes.

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**14 April 2011**

### Translation Services

During the last quarter, through Language Services, ICANN produced the translation of 96 documents, most of them translated into the 5 UN Languages (Arabic, Chinese Simplified, French, Russian and Spanish), totaling 4,935 pages. That was more than 1.5 million words.

### Affirmation of Commitments (AoC)

The Affirmation objectives are a foundation of our current strategic and operational plans, and we are undertaking activities throughout the organization that support ICANN's obligations under the AoC. As directed by the Board, staff is working with affected organizations to finalize implementation plans for the 27 Accountability & Transparency Review Team (ATRT) recommendations and has provided FY2012 ATRT-related resource estimates for Board approval. Staff has already made progress on implementation of several operational changes called for by the ATRT, especially in the area of "Board Governance, Performance & Composition." A wealth of Board meeting information is now regularly posted: agendas, Board briefing materials, expanded Board minutes, rationale statements for Board resolutions, and resolutions. A significant amount of this material also is now posted in five U.N. languages. To support these postings, the template used to create Board papers has been revised, and a document was finalized and posted that sets forth conditions for redaction of Board briefing materials that are posted, along with explanation of timing of the postings. To support ATRT recommendations for improving "Public Input & Public Policy Processes" staff has finalized translations of the ICANN Bylaws, and ICANN Language Services Policy (translation guidelines), both of which will be posted shortly. A significant amount of additional work is underway on ATRT implementation and details can be found in the Board book and on ICANN's website.

In addition, staff is fully supporting the next two community review teams called for in the AoC—the Whois Policy Review Team and the Security, Stability & Resiliency of the DNS Review Team. Both Teams had productive sessions at ICANN's Silicon Valley meeting last month, as well as solicitations of public views through the online comment forum. Staff is assisting the Teams with their work plans, as requested.

## IANA

Completed transition of zone data and zone configuration data for in-addr-arpa to ICANN from ARIN - management of in-addr.arpa is now consistent with RFC 5855

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Completed agreement of 2011's amendment to the IETF MOU.

### gTLD Registrars

- \* Registrars have begun to beta test the new Registrar Training Program (online)
- \* Registration has begun for the Europe Regional Registry/Registrar Meeting in Munich next month (31 registered to date)
- \* Registrars published a statement offering support to victims of Japan's emergencies, including special services and emergency renewals
- \* RrSG posted position papers on Registration Abuse Policies Initial Report and the Process for gTLD Agreement Amendment

### gTLD Registry

- Proposed .NET Renewal Registry Agreement was posted for public comment on 11 April 2011
- .XXX Registry Agreement was signed on 31 March 2011 and the IANA delegation report was submitted to NTIA on 8 April 2011
- ICANN commenced work on the Centralized Zone Data Access Pilot Program. This work is the result of the recommendation from the community-led Zone File Access Advisory Group that a centralized process for access to zone file data is a meaningful measure to mitigate malicious conduct in new gTLDs.

### Security

Team had a productive week at the Silicon Valley/San Francisco meeting. Prior to the start of the meeting, Geoff Bickers, John Crain and myself met with the Global Partnerships team in Marina del Rey to catch up on issues within their regions, provide briefing on satellite phones and dial-up connection tools in emergency situations, and provide a demonstration of the RIPE ATLAS project on DNS monitoring. During the ICANN meeting we supported the first meeting of DNS-OARC

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at an ICANN meeting, supported meeting security and coordination with President Clinton's security detail, supported the first root operations meeting at an ICANN meeting, conducted the law enforcement/security operations workshop, and supported the Affirmation Review Team on SSR meetings.

Team members also covered the DNS-OARC/ccNSO tech day, ccNSO sessions on the IDN ccTLD Fast Track, IDN variants, DNS Abuse Forum, SSAC, and new gTLDs.

Since returning from San Francisco, John Crain and Dave Piscitello attended the Securing Address and Trusting Internet Names (SATIN 2011) Conference at the National Physics Lab in UK. John attended the IETF meeting in Prague as well. Yurie covered the APCERT meeting in the Republic of Korea, and was elected Chair of APCERT for the coming term. Patrick attended the Georgetown University/Atlantic Council International Engagement on Cyber Conference in Washington DC, and also provided briefings at the IT Sector Coordinating Council (IT-SCC) International Committee.

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### Communications

The drive to improve our flagship site, ICANN.ORG, continued. Twenty-five web development vendors responded to our RFP asking for a redesign. A cross-departmental team winnowed the proposals down to three outstanding finalists with deep expertise in handling big, multi-lingual sites. Akram is currently negotiating with the three to pick the best vendor at the best price. We expect a final decision on 22 April. All three vendors proposed schedules that would see a new ICANN.ORG go live in 2011.

The refresh of GNSO.ICANN.ORG is also proceeding. The code developed by Andalucia Web Solutions has been handed over to ICANN, and verified as fulfilling the contract. The Communications Team is now working to populate the site with content. This refresh includes a significant amount of new content to assist newcomers in understanding the GNSO; and to assist the GNSO in using their new site. The Comms Team is coordinating with the Policy Team to ensure the new content will be suitable to the GNSO Council. The teams are hoping to unveil the new site for Singapore, but given the short number of weeks until then, may have to complete the task slightly afterwards.

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In other web site enhancements, Communications is well along on creating a new interface for the Affirmation of Commitments and ATRT pages. The new interface lets a visitor see all of the ongoing initiatives to fulfill ATRT recommendations. Or, alternatively, an interactive version of the AoC itself allows you to click on any clause in the AoC and learn how it is being implemented. In addition, the portion of the website dedicated to new gTLDs is getting refreshed to tie it more directly to applicant activities and to lead into the TLD Application System, or TAS.

### Organizational Reviews and NomCom

AoC Reviews: SSR RT and WHOIS RT both conducted face-to-face meetings as well as interaction sessions with stakeholder groups and the broader community in SFO. They have divided up their work in sub-teams and proceed with regular conference calls. The public comment periods for their first sets of questions to the community are both closing this week.

Org Reviews: The review phase of the TLG Review concluded in SFO with Board adoption of the final report and a resolution to launch a Board Technical Relations WG to explore suitable ways to replace the TLG. The review phase of the ccNSO Review also concluded in SFO with Board adoption of the final report and a request to SIC and staff to develop an overall implementation plan, which has been done and is ready for Board consideration.

NomCom: The NomCom held planning sessions in SFO as well as multiple outreach sessions with stakeholder groups and the broader community to satisfy transparency requirements. The application period recently closed, with a total of 86 applicants, whereof 22 female, and the NomCom is now evaluating the applicants, assisted by a professional assessment consultancy.

ASO: The ASO held a face-to-face meeting in SFO as well as a public session on current policy initiatives. Background reports on policy proposals for recovered IPv4 address space have been posted and more are in pipeline.

### Policy

Policy Staff supported:

- 32 meetings, workshops and other GNSO-related sessions including 9 sessions on Saturday and a meeting with the new SSAC Chair Patrik Fältström.
- 9 working groups and the ccNSO Council meeting and workshop. Over 50 different ccTLD registries and more than 150 representatives attended the ccNSO meetings.

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- 19 At-Large meetings and 4 Policy and process-related issues discussions during the ALAC meetings.
- Informal CEO and SO/AC Chairs Roundtable

-- GNSO Accomplishments

- The GNSO approved a resolution adopting new guidelines for GNSO working groups. This was a significant goal of the GNSO Improvements effort.

--- Other issues discussed included:

- DNS Abuse
- UDRP Issue
- RAA
- Policy Update for
- WHOIS studies for vote in April
- IRTF Part B Proposed Final Report
- PEDNR Proposed Final Report
- new GNSO Policy Development Process
- Whois Service Requirements Report
- Technical Evolution of Whois discussion

-- ccNSO Accomplishments

Tech Day Meeting - The ccNSO Tech Working Group in close cooperation with DNS-OARC organized a two-day event (13 and 14 March) with over 25 presentations on operational and technical topics relevant for the ccTLD community.

Delegation & Re-delegation WG Report During the ccNSO meeting, the Final Report of the Delegation, Re-delegation and Retirement Working Group was discussed. The ccNSO will on next steps on a ccPDP process.

Fast Track review / IDN ccPDP session The ccNSO council requested IDN ccPDP WG1 to develop guidelines (within the framework of the existing rules for the Fast Track).

ccNSO Leadership - New Chair/ Vice chairs The ccNSO Council selected Lesley Cowley (Nominet, .UK) as its chair for the term of one year. Byron Holland (CIRA, .CA) and Hiro Hotta (JPRS,.JP) were selected as Vice-Chairs.

-- At Large Accomplishments

A total of 19 At-Large meetings were held, including

- A NARALAO Showcase – Over 200 people participated in the NARALAO Showcase highlighted the diverse North American Regional At-Large Organization. Dr. Vint Cerf presented the keynote speech on “Amplifying the Voices of Civil Society” and nine At-Large Structures gave overviews of their activities and achievements.

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Policy and process-related issues discussed during the ALAC meetings were:

- At-Large Improvements project nears completion
- ALAC and GAC agree to develop closer relations to strengthen outreach activities
- At-Large Standing Working Group established to identify emerging challenges to At-Large and how to address
  - Statement of the ICANN African Community on ICANN Geographic Regions

-- Informal CEO and SO/AC Chairs Roundtable

On March 11, there was a 2-hour informal discussion between the CEO and the SO/AC Chairs. The topics covered were:

- DOC's NOI on the IANA function and associated contract
- technical issues around the root
- current workload and prioritization within ICANN
- meeting considered useful and should be continued at the next ICANN meeting

### Government Affairs

Submitted comments on NTIA IANA NOI. About 80 comments received, more than 80% were supportive of ICANN and more than 80% believed ICANN should continue to perform all functions together.

### Human Resources

We have added two new staff members to our compliance team (Maguy Serad – Senior Director, Contractual Compliance and Carlos Alvarez – Contractual Compliance Manager/Auditor), as announced on the ICANN website during the SV/SF Meeting, and we have hired a Customer Service Manager to build out the customer service program for the New gTLD process (Trang Nguyen).

### Employment Information

Matt Ashtiani, who has been coordinating Constituent/Stakeholder Travel, is being promoted in to the Policy Team supporting the At-Large community. Matt has an advanced degree from Trinity College, Dublin, Ireland in International Affairs and is fluent in English and Farsi.

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## Legal

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### Board Support

In addition to board support enhancement project, has successfully supported, At the Silicon Valley/San Francisco Meeting – 9 Board Committee meetings, one working group meeting, three workshops and consultations with the GAC over three days. Since the SV/SF meeting – 1 chairman's agenda setting call, one coordination call and four committee meetings.

### Contractual Compliance

Key performance strides were made concerning Contractual Compliance, including the following:

A new Senior Director, Maguy Sared, was hired to lead the Contractual Compliance team. Maguy, an experienced technology and business manager, joined ICANN on 4 April 2011. Maguy has more than two decades of experience in compliance, technology, program management and global business operations. She recently served in senior management positions in the Information Systems Department and Value UP and Synergy Departments of Nissan North America, Inc. Maguy is fluent in English, French and Arabic and holds a Bachelor of Science in Computer Science from Clemson University, Clemson, South Carolina. She was born in Liberia and is a citizen of Lebanon.

The Contractual Compliance team conducted a Whois access (Port 43) audit between September 2010 and February 2011 to assess whether registrars are providing Port 43 access to Whois information as required by the Registrar Accreditation Agreement (RAA). The audit revealed that most registrars provide access to Whois data in a manner that is reasonably compliant with Section 3.3 of

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the RAA; representing a 99% compliance rate. However, ICANN issued two notices of breach in November 2010 based on Whois access non-compliance and issued a termination notice in February 2011 to one registrar that failed to correct the Whois access violation cited in its breach notice. A report regarding this audit was published in March 2011 on the Contractual Compliance website <http://www.icann.org/en/compliance/>. This audit work is ongoing and the Compliance team will issue reports periodically regarding audit findings.

Structural and operational improvements intended to increase the effectiveness and efficiency of the Contractual Compliance Program were recommended by the Contractual Compliance team. Those recommendations are under review by senior management.

Three registrars' RAAs were non-renewed in March 2011 due to contract violations (failure to provide Whois access (Port 43), failure to post deletion and auto-renewal policies and failure to pay fees).

### Global Partnerships

- Targeted outreach in the regions to encourage stakeholders to submit comments to the NTIA NOI on the IANA renewal/retention
- Work with community stakeholders on the CSTD WG on Improvements to the Internet Governance Forum
- Work with community stakeholders on liaison submissions to the ITU IPv6 wg
- Work with community stakeholders on liaison submissions to the ITU IDN wg

# CEOMonthlyOnepageMetrics-15Mar2011



# CEO Monthly One - Page Metrics Report (Board)

15-Mar-11

Actual Financial Data*4 (as of February 2011)	YTD (millions)	Budget Variance
Operating Revenues	\$ 44.2	1.10%
Operating Expenses	\$ 36.6	-1.45%
Contribution from Operations	\$ 6.2	-2.11%
Assets	\$ 94.8	n/a
Liabilities	\$ 17.9	n/a
Cash	\$ 22.8	n/a
Reserve Fund	\$ 51.0	n/a

IDN Fast Track Billing Activity*5	YTD
Requests processed	15
IDN fees billed	\$548k
IDN fees collected	\$106K

Staffing *6 (as of 28 February)	Now
# of Staff	122
Open Positions	14
Retained Searches	4

Hires/Terminations*6	Month	YTD
New Hires	1	10
Involuntary	0	2
Voluntary	0	9
Total Terminations	0	11

Participation ICANN Meetings	Cartagena - 39th ICANN Meeting	% of Attendees
Participants	1,026	100%
Staff (w/Contractors and Vendors)	82	8.00%
Supported Travelers	115	11.20%

Support Services at Meetings	Cartagena - 39th ICANN Meeting	% of Sessions
Sessions Conducted	141	100.0%
Live Audio Streaming	99	70.2%
Telephone Conferencing	84	59.6%
Interpretation	34	24.1%
Live Scribing	23	16.3%
Audio Transcription	69	48.9%
Web Chat Rooms	79	56.0%

**\* Footnotes:**

- 1) Data is FY 11 Trimester 1 - ending 13 December 2010
- 2) Includes community working groups, work teams, committees, task forces only
- 3) Includes At-Large advisories and statements to Board and SOs only
- 4) ASO global policy proposals "in progress" are those being tracked by ICANN staff
- 2) Based on ICANN confidentiality restrictions, there is a 90 day lag of data available
- 3) Data as of 23 March 2011; Identifies the Number of unique IDN Fast Track Applications received to date.
- 4) FY11 Data through 28 February, 2011
- 5) Inception to date data; beginning January 2010. There was no IDN Fast Track Billing or Collection Activity in January 2011.
- 6) Data as of 28 February 2011; Key Hires – Carlos Alvarez (Contractual Compliance Manager/Auditor; Key Departures –none; Key Searches – VP Europe, Chief Security Officer, Ombudsman, Chief of Staff
- 7) Data as of 28 February 2011: identifies the number of IANA Services requests during a given month

Documents Translated	Trimester 1	YTD Translations	Avg Languages per document
Published Documents	39		
Translation Requests	125	5.829 M word	4

Policy Development *1	T1 - Initiated	In Progress	Completed
ASO global policy proposals *4	0	0	2
ccNSO work groups *2	1	10	2
GNSO work groups *2	1	14	5
SSAC projects	0	0	2
At-Large statements *3	14	1	10

Deployment IPv4	IANA /8 Blocks Available	IANA Percentage Available
IPv4 space remaining	0	0.00%

Deployment IPv6	Percentage of Total
IPv6 traffic to ICANN Sites	1.60%

IANA Services*7	Month Open	Month New	Month Closed	Month Outstanding
Root Zone Requests	34	31	42	23
IETF Requests	114	346	374	86
RIR Requests	0	0	0	0

Domain name registrations in gTLD's *2 (as of October)	New Registrations YTD	Total Registrations
gTLD Total	9,684,749	126,134,412

IDN FastTrack Requests *3	Month	YTD
Total Requests	0	34
IDN ccTLD's in the Root Zone	0	27

ccTLD commitments	Trimester 1	Signed Total	% of Signed Total
New ccTLD Accountability Frameworks	0	62	30%

Registrar Data Escrow	Now	% of gTLD Registrations Protected
No. registrars enrolled	870	99.50%

Involuntary Terminated or Non-Renewed Registrars	YTD	% of Total Registrars
Terminated	13	1.35%

"L" Root Service	Month	YTD
Uptime	100%	100%
Requests Served	25 Billion	233 Billion
Average Requests per second		10,000

# **2011-04-21-12-Board-Submission-New gTLDs(Apr'11)**

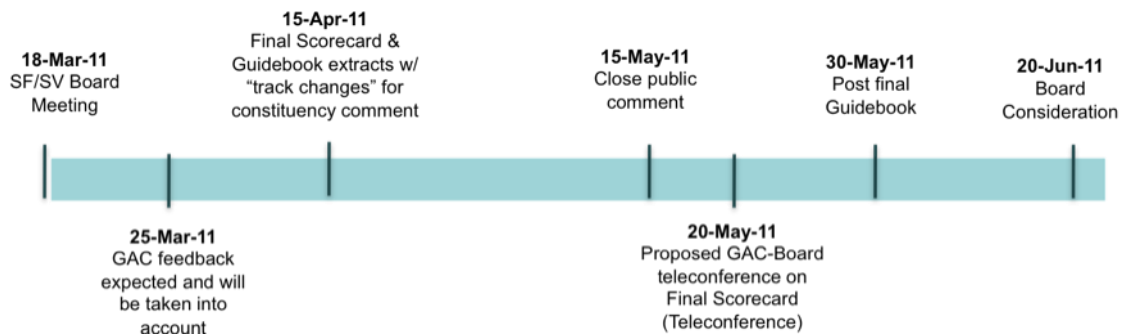
## ICANN BOARD SUBMISSION NO. 2011-04-21-12

**TITLE:** New gTLD Preparation for Singapore Meeting

**PROPOSED ACTION:** For information

### EXECUTIVE SUMMARY:

Draft timeline published in San Francisco



As of this writing, ICANN is planning to post a “tracked changes” version of the Proposed Final Applicant Guidebook on 15 April. That Guidebook will be accompanied by Explanatory memoranda (also posted to Board Vantage) on key Scorecard issues and reaction to the latest version of the GAC Scorecard.

Two observations and a recommendation:

- The Board-GAC group is singularly unable to celebrate its victories but there have been several. The GAC dropped its requirement for economic studies that would, a priori, quantify the program’s net benefits; the Board agreed to become involved in consideration of individual applications through the “GAC advice” process. In this and other areas, both sides have made many accommodations and also created the gravamen for an effective government role in the ICANN model going forward.
- In any negotiation of 80 separate points, such as we have here, the final score is not going to be 80 to zero. At the end of the day the Board is going to have to say, “we are going against GAC advice,” but the Board has made serious and effective changes in response to the first GAC scorecard – as has the GAC. It is important to

recognize that although there are “2’s” remaining, some of the solutions generated were intended to address the set of GAC concerns, even if they do not specifically address each point.

### Recommendation

The recent receipt of the GAC Scorecard response and some public comment indicate that continued discussion would be beneficial – especially leading up to the planned GAC consultation on 20 May 2011. We will publish the Guidebook and materials as planned but continue discussions to promote understanding of the current Board position and how that position addresses GAC concerns.

The goal of those ongoing discussions is that the GAC and other key stakeholders are not surprised by the content of the Final Guidebook, scheduled for publication on 30 May 2011.

### **Publication Materials**

Changes to the Applicant Guidebook have been considered based upon the: GAC Indicative Scorecard; subsequent consultations with the GAC, two public comment fora (one on the Proposed Final version of the gTLD Applicant Guidebook and one on the GAC consultations); and discussions with the Board in the Brussels and San Francisco meetings. Changes in some detail are described below.

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- Trademark Protection (Sunrise/Trademark Claims and Use) – addressing issues of who “gets in” the Clearinghouse, whether IP Claims and/or Sunrise processes are mandatory, and when trademark holders must prove “use” of the mark in order to take advantage of protections.
- GAC Early Warning & GAC Advice Procedures – fleshing out procedures agreed to by the Board where GAC can provide: Early Warnings to Applicants of potential

government sensitivities, and GAC consensus-based advice that certain applications should not be approved.

- Government Exemptions from Objection Fees – describing a model to provide limited financial support to governments that do not wish to pay dispute resolution fees, balancing providing some support to all governments and limited ICANN resources.
- Root Zone Scaling plan – outlining a plan for monitoring root zone performance, communicating with root server operators, and ensuring the next round is not launched until all effects of the first round are measured and stability is ensured.
- Post-Launch Economic Study plan – additional application questions recommended by independent economists that will serve to inform the post-launch economic study recommended by the GAC.
- Registry-registrar separation – providing additional rationale describing why the Board apparently “reversed” its earlier resolution, deciding to relax cross-ownership restrictions.

**Key features of the latest Guidebook (resulting from GAC comments) are:**

- GAC Early Warning and GAC Advice procedures so that the GAC can provide public policy advice directly to the Board. These procedures address a number of GAC issues as described in the paper.
- Limited financial support for government dispute resolution fees.
- Clarification and improvement of trademark protections. Among other things, making provision of Trademark Claims services mandatory for all registries and expanding the types of marks admitted to the Clearinghouse.
- Root zone scaling: conducting the Second gTLD round is contingent on confirmed root zone stability.
- Clarification that appropriate level of government support for a geographic name can vary by country and is up to that government. Gives deference to governments in defining how to resolve disputes between entities vying for the same geographic name. Clarifies that if there are post-delegation disputes, that ICANN *will* follow



orders of courts of competent jurisdiction. Adds to the list of protected country names those for which the government formally states that the string is considered a commonly known name for the country (provided there is evidence that the country is recognized by that name by an intergovernmental or treaty organization).

- Revised the community objection standard in accordance with GAC (and others') request.
- Questions were added in the application form. The answers to these questions will serve to inform an economic study conducted one year after the first round is launched. Among other components, the study will test the effectiveness of cost mitigation measures and the original tenet that, in aggregate, pro-competitive benefits of the program will outweigh the costs.
- New registry agreement language requires registries to assist law enforcement wherever practicable.
- Background checks: cybercrime was added to the lists of crimes that would disqualify potential applicants.

### **Remaining Areas of Difference with the GAC**

The set of amendments designed in response to the original GAC Scorecard were not meant to address all individual GAC comments but, wherever possible, broad solutions were intended to address an entire area of concern. Examples of these are the GAC Early Warning and GAC Advice procedures. These procedures are targeted specifically at the GAC requests to provide advice directly to the Board and to have a method for providing a notice, or Early Warning. These processes also address GAC comments to expand the definitions of community and geographic TLDs and also reduce the cost of objections to governments.

In this way, ICANN sought to address many of the GAC concerns. A scan of the most recent GAC report indicates areas of difference remain:

- Procedures for the Review of Sensitive Strings: We continue to move toward agreement here. The GAC wants 60 days, rather than 45, to provide an early warning. ICANN calls for “consensus” advice in order to raise a presumption in the Board that the application should be denied, while non-consensus advice will not raise such a presumption that the Board should follow GAC advice. In their response, the GAC states it will provide consensus and non-consensus advice and left it unclear whether they were comfortable with the proposed approach.

The GAC wishes to allow applicants to amend their applications in light of GAC advice. Except in limited circumstances, the Guidebook does not allow amendment after submission (to prevent abuses and gaming). Our position is that where the application cannot be amended, and the Board accepts the GAC advice, the application will be deferred to the next round.

The GAC noted that ICANN did not expand the definitions of community and geographic TLDs. ICANN did, however, address that request by allowing the GAC to provide Advice (i.e., object) on any issue raising sensitivity, so the GAC can apply their own definitions of these. This may not be clearly understood.

Finally, the GAC continues to request the ability for governments to object without paying fees. The GAC Advice procedures are free to the GAC. Also, ICANN developed a program within its means to provide some objections to every government, but that is limited. There will continue to be some disagreement here.

- Registry-registrar separation: “The Board response is considered insufficient by the colleagues of some GAC members who are responsible for Competition and anti-Trust issues. They have requested that ICANN provide a more reasoned argument as to why they have rejected the GAC's proposal and why the Board feels that ex-ante measures are less preferable to ex-post measures for minimising problems associated with anti-competitive behavior.”

ICANN has drafted a response:

ICANN considered several options with respect to the vertical separation issue, including a blanket prohibition against cross-ownership by registries with market power. The problem with such an ex ante prohibition is that it is overly restrictive; that is, a prohibition of vertical integration based purely on market power is likely to deprive consumers of the competitive benefits of cross-ownership. From a consumer welfare perspective, a better approach is to allow generally pro-competitive vertical integration while referring any potentially suspect arrangements to expert competition enforcement authorities, who can then take action when their ex post expert evaluation determines it is appropriate.

This is particularly important because it is difficult to accurately measure market power. Market definition and the evaluation of market power are contentious issues in most antitrust cases and often require complex economic and econometric analysis. Market share can be used as a proxy, but antitrust authorities around the world recognize that it is an imperfect proxy. Moreover, there are various ways to measure market share. Delegating this expert analysis and post ante determination to competition authorities avoids the problem of mistakenly ex ante deterring competitively beneficial vertical integration while also ensuring that consumers are protected when economic conditions merit competition policy intervention.

- Consumer Protection and Law Enforcement Proposals. There are many changes suggested here by the GAC: increasing the number of crimes that would disqualify an applicant, publication of background check information, publication of services ICANN will use. This is an area where ICANN will make several changes but will not meet the GAC request “on all fours.” The GAC response seems to recognize the seriousness with which the Board considers this issue. It is an area where work will continue to be done, in cooperation with law enforcement, even after the Guidebook is approved.
- Trademark protections – the GAC response is still pending as of this writing. The GAC scorecard contained a list of specific changes. Some were agreed to and others not during the San Francisco meeting. Since then, additional changes have been

made to address other GAC recommendations. This will be an area of mixed agreement and disagreement.

- Geographic Names – the GAC continues to request that the list of names be broadened but will enter into a discussion of how the community objection process and standards might be made more effective instead. The GAC remains firmly in support of the position that governments should never pay dispute resolution fees, whereas ICANN has proposed a limited support model described in the explanatory memo on the subject.

### **Changes to the Guidebook made in response to public comment**

In addition to Guidebook amendments made in response to the GAC consultations, many have also been made in response to the public comments received on the Proposed Final Guidebook and other community discussions.

Very briefly, they are:

- The applicant submission period is fixed at 60 days
- ICANN will now publish the names of directors/officers/shareholders in application
- Background checks: clarifications made to to cybersquatting component
- Provisions are included on issues regarding invalid TLD queries (in accordance with SAC 045)
- Made revisions to community objection standard in line with GAC and IP comment
- Provided clarification and detail on how public comment is used in various stages of the evaluation
- Provided clarification to Continued Operations Instrument: providing guidance on how applicants can estimate continuing operations costs
- Revision/reorganization made to application questions to more clearly distinguish scores of 1 or 2 (passing versus exceeding requirements)

- Revisions to questions on Rights Protection, Abuse Prevention, Security to provide incentives in these areas for applicants to provide more protections
- Changes made to discrimination clause of Limited Public Interest objection standard per Rec6 WG
- Small clarifications in some of the Trademark Protection mechanisms on issues that were not otherwise addressed in response to GAC advice
- Some changes to the Registry Restrictions Dispute Resolution Procedure to make it somewhat more consistent with the Trademark Post Delegation Dispute Resolution Process, where appropriate.
- Several small clarifications on, e.g., Registry Services review fees in cases of consolidation, community priority evaluation criteria on support/opposition, clarification to Terms & Conditions that applicant may use accountability mechanisms, clarification on requirements for letters of community endorsement

Submitted by: Kurt Pritz  
Position: SVP, Stakeholder Relations  
Date Noted: 13 April 2011  
Email and Phone Number: pritz@icann.org / Contact

# **2011-04-21-13-Board-Submission-Vertical Integration for Existing gTLD Registry Operators**

## ICANN BOARD SUBMISSION NO. 2011-04-21-13

**TITLE:** Review of Vertical Integration for Existing Registry Operators

**PROPOSED ACTION:** For Board Action

### **EXECUTIVE SUMMARY:**

On 4 November 2010, the ICANN Board Resolved (2010-11-05-02) for new gTLDs that, “ICANN will not restrict cross-ownership between registries and registrars. Registry operators are defined as the registry operator and all other relevant parties relating to the registry services.” The Board also resolved that there should be a means for existing gTLD Registry Operators ("Operators") to transition to the new form of registry agreement, including the removal of restrictions on ownership of registries by registrars and vice-versa. To this end the Board resolution noted that “ICANN will permit existing registry operators to transition to the new form of registry agreement, except that additional conditions may be necessary and appropriate to address particular circumstances of established registries.”

Since this Board Resolution was adopted, several Operators including Neustar, Inc. (.BIZ), Telnic Ltd. (.TEL), and Fundacio puntCAT (.CAT) have inquired with ICANN about the process for the removal of the cross-ownership restrictions from their Registry Agreement, and/or their ability to apply to become an ICANN-accredited Registrar. Annex A to this paper provides information about these inquiries and ICANN’s communications with these Operators. The Operators argue that they need their current restrictions on cross-ownership to be removed on a timely basis in order to be able to compete on a level playing field with registrars that are planning to apply to operate new gTLDs. Approving a process for the existing Operators to pursue removal of their cross-ownership restrictions on a timely basis in conjunction with the Board’s approval of the new gTLD Program would cause ICANN to appear to be responsive to the Operators’ requests. As such, the timing for approval of a process for Operators to transition to the new form of Registry Agreement or to request an amendment to their Registry Agreement to remove the cross-ownership restrictions could coincide with the Board’s planned consideration on 20 June 2011 of the new gTLD Program.

The Board has indicated that the process might include conditions for granting a release from cross-ownership restrictions such as agreeing to certain terms in the proposed new Registry Agreement, e.g., the proposed Registry Operator Code of Conduct, and how possible market power might be addressed.

**STAFF RECOMMENDATION:**

The Board should direct ICANN Staff to develop a process for Operators to transition to the new form of Registry Agreement or to request an amendment to their Registry Agreement to remove the cross-ownership restrictions. The process should be completed and presented to the Board for consideration at the meeting in Singapore in June 2011.

**PROPOSED RESOLUTION:**

Whereas, the Board Resolved on 5 November 2010 that ICANN will not restrict cross-ownership between registries and registrars for new gTLDs, and that “ICANN will permit existing registry operators to transition to the new form of registry agreement, except that additional conditions may be necessary and appropriate to address particular circumstances of established registries.”

Whereas, current gTLD Registry Agreements include cross-ownership restrictions.

Whereas, ICANN has received inquiries from several Operators about the process to remove the cross-ownership restrictions from their Registry Agreement and/or their ability to apply to become an ICANN-accredited Registrar.

Whereas, the removal of the cross-ownership restrictions for Operators is predicated on first, the Board’s approval of the new gTLD Program, and second, the Board’s approval of a process for Operators to transition to the new form of Registry Agreement or to request an amendment to their existing registry agreements.

Whereas, the Board anticipates that it will consider the new gTLD Program and the launch of new gTLDs at its meeting in Singapore in June 2011;

Resolved (2011.04.21.\_\_), the Board directs the CEO to develop a process for existing gTLD registry operators to transition to the new form of Registry Agreement or to



request amendments to their registry agreements to remove the cross-ownership restrictions. This process would be available to existing operators upon Board approval of the new gTLD Program.

**PROPOSED RATIONALE:**

- Why the Board is addressing the issue now?

The Board is addressing this now since they are scheduled to consider the new gTLD Applicant Guidebook on 20 June 2011. On 4 November 2010, ICANN Board Resolved that there should be a means for existing gTLD Registry Operators ("Operators") to transition to the new form of registry agreement, including the removal of restrictions on ownership of registries by registrars and vice-versa. The Operators argue that they need their current restrictions on cross-ownership to be removed on a timely basis in order to be able to compete on a level playing field with registrars that are planning to apply to operate new gTLDs. Approving a process for the existing Operators to pursue removal of their cross-ownership restrictions on a timely basis in conjunction with the Board's approval of the new gTLD Program would cause ICANN to appear to be responsive to the Operators' requests.

- What concerns or issues were raised by community?

The Operators argue that they need their current restrictions on cross-ownership to be removed on a timely basis in order to be able to compete with registrars that are planning to apply to operate new gTLDs. There are no current restrictions that prevent registrars from applying to operate new gTLD Registry Operators.

- Are there Positive or Negative Community Impacts?

There are positive community impacts as existing gTLD Registry Operators would be in a position to have their cross-ownership restrictions removed and that would put them on a level playing field with new gTLD Registry Operators.

- 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 associated with approval of this Resolution on the Strategic Plan, the Operating Plan and/or the Budget. There is no information available at this time of the fiscal impacts/ramifications on the community or the public.

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

There are no known issues relating to the security, stability or resiliency of the DNS at this time.

Submitted by:	Craig Schwartz
Position:	Chief gTLD Registry Liaison
Date Noted:	4 April 2011
Email and Phone Number	Craig.Schwartz@icann.org; Contact

**2011-04-21-14-Board-Submission-ATRT  
Recommendation Implementation Work April 2011**

**ICANN BOARD SUBMISSION NO. 2011-04-21-14**

**TITLE: Board Accountability & Transparency Review Team (ATRT)  
recommendation implementation work**

**PROPOSED ACTION: For Board Consideration**

**EXECUTIVE SUMMARY:**

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. As directed by the Board, staff is finalizing proposed plans and budgets for the implementation of the 27 ATRT recommendations (see Exhibit A, ATRT Recommendation Projects List, and Exhibit B, Proposed, Initial Implementation Plans, for more details).

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 will the Board 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, it is unclear when the JWG will submit its final report. 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 as soon as possible.

**STAFF RECOMMENDATION:**

Staff recommends that the Board divide ATRT recommendation implementation among current, relevant Board Committees. Staff also recommends that, given the broad focus, long-term schedule and ongoing workload of the JWG, the Board consider forming a temporary GAC/Board ATRT group to address the specific Board-GAC ATRT recommendations in a timely fashion. This group could include all GAC

members on the mailing list with a subset of GAC members involved in the work (similar to the successful approach taken with the IDN ccTLD working group).

Specific staff suggestions on how implementation might be delegated are as follows:

<b>ATRT Recommendation (* indicates ATRT “high priority”)</b>	<b>Proposed Committee</b>
<b>1. Board should establish formal mechanisms for identifying collective skill-set required by Board.</b>	<b>BGC</b>
<b>1.a. Benchmarking Board skill-sets against similar corporate &amp; other governance structures.</b>	<b>BGC</b>
<b>1.b Tailoring required skills to suit ICANN’s unique structure &amp; mission through open consultation process, including with SOs &amp; ACs.</b>	<b>BGC</b>
<b>1.c. Reviewing these requirements annually, &amp; provide as formal starting point for each NomCom.</b>	<b>BGC</b>
<b>1.d. Publishing outcomes &amp; requirements as part of NomCom’s call-for-nominations.</b>	<b>BGC</b>
<b>2. Board should regularly reinforce &amp; review training &amp; skills building programs.</b>	<b>BGC</b>
<b>3. Board &amp; NomCom should increase transparency of NomCom’s deliberations &amp; decision-making process; e.g. explain timeline, skill-set criteria before process starts, &amp; explain choices made at the end</b>	<b>BGC</b>
<b>4. Board should continue to enhance Board performance &amp; work practices.</b>	<b>BGC</b>
<b>5. Board should implement compensation scheme for voting Board Directors</b>	<b>BGC</b>
<b>6. Board should clarify the distinction between issues that are subject to ICANN’s policy development processes &amp; those matters that are within the executive functions performed by staff &amp; Board, and develop complementary mechanisms for consultation in appropriate circumstances with the relevant SOs &amp; ACs on administrative &amp; executive issues that will be addressed at Board level.</b>	<b>BGC</b>
<b>7.* Board should: 7. 1* Promptly publish all appropriate materials related to decision-making processes – including preliminary announcements, briefing materials provided by staff &amp; others, detailed Minutes, &amp; individual Directors’ statements relating to significant decisions</b>	<b>BGC</b>
<b>7.2* Publish a “thorough &amp; reasoned explanation of decisions taken, the rationale thereof, &amp; the sources of data &amp; information on which ICANN relied” &amp; “ICANN should also articulate that rationale for accepting or rejecting input received from public comments &amp; the ICANN community, including [SOs &amp; ACs].”</b>	<b>BGC</b>

<p><b>8. Board should have a document produced &amp; published that clearly defines the limited set of circumstances where materials may be redacted &amp; that articulates the risks (if any) associated with publication of materials. These rules should be referred to by the Board &amp; staff when assessing whether material should be redacted &amp; cited when such a decision is taken.</b></p>	<p><b>BGC</b></p>
<p><b>9. * Board, acting through the GAC-Board joint working group (JWG), should clarify what constitutes GAC public policy “advice” under the Bylaws</b></p>	<p><b>Board/ GAC ATRT group</b></p>
<p><b>10.* Board, acting through the JWG, should establish a more formal, documented process by which it notifies the GAC in writing of matters that affect public policy concerns to request GAC advice ICANN should develop an on-line record of each request to, &amp; advice received from, the GAC along with the Board’s consideration of &amp; response to each advice.</b></p>	<p><b>Board/ GAC ATRT group</b></p>
<p><b>11.* Board &amp; GAC should work together to have the GAC advice provided &amp; considered on a more timely basis; Board, acting through the JWG, should establish a formal, documented process by which the Board responds to GAC advice. This process should set forth how &amp; when the Board will inform the GAC, on a timely basis, whether it agrees or disagrees with the advice &amp; will specify what details the Board will provide to the GAC if it disagrees with the advice; process should also set forth procedures by which GAC &amp; Board will then “try in good faith &amp; in a timely efficient manner, to find a mutually acceptable solution.” Consider establishing other mechanisms by which Board &amp; GAC can satisfy the Bylaw provisions relating to GAC advice.</b></p>	<p><b>Board/ GAC ATRT group</b></p>
<p><b>12. Board, acting through the JWG, should develop &amp; implement a process to engage the GAC earlier in the policy development process.</b></p>	<p><b>Board/ GAC ATRT group</b></p>
<p><b>13. Board &amp; GAC should jointly develop &amp; implement actions to ensure that GAC is fully informed of ICANN policy agenda &amp; policy staff is aware of/sensitive to GAC concerns; may wish to consider changes to role of ICANN staff support relating to communication with &amp; support to GAC, &amp; whether Board &amp; GAC would benefit from more frequent joint meetings.</b></p>	<p><b>Board/ GAC ATRT group</b></p>
<p><b>14. Board should endeavor to increase the level of support &amp; commitment of governments to the GAC process; encourage member countries &amp; organizations to participation in GAC &amp; place particular focus on engaging nations in developing world &amp; need for multilingual access to ICANN records; Board also should work with GAC to establish a process to determine when &amp; how ICANN engages senior govt. officials on public policy issues on a regular &amp; collective basis to complement existing GAC process.</b></p>	<p><b>BGRC in coordina- tion w/ Board/ GAC ATRT group</b></p>
<p><b>15.* Board should direct the adoption of, &amp; specify a timeline for the implementation of, public Notice &amp; Comment processes that are</b></p>	<p><b>PPC</b></p>

<b>stratified (e.g. Notice of Inquiry, Notice of Policy Making) &amp; prioritized; prioritization &amp; stratification should be established based on coordinated community input &amp; consultation with Staff.</b>	
<b>16.* Public notice &amp; comment processes should provide for both distinct “Comment” cycle &amp; a “Reply Comment” comment cycle that allows community respondents to address &amp; rebut arguments raised in opposing parties’ comments.</b>	<b>PPC</b>
<b>17.* Timelines for public Notice &amp; Comment should be reviewed &amp; adjusted to provide adequate opportunity for meaningful &amp; timely comment; Comment &amp; Reply Comment periods should be of a fixed duration.</b>	<b>PPC</b>
<b>18. Board should ensure access to, documentation within, policy development processes &amp; multi-lingual access to maximum extent feasible.</b>	<b>PPC</b>
<b>19. Board should publish its translations (including rationale) within 21 days of take a decision (in languages called for in ICANN Translation Policy).</b>	<b>BGC</b>
<b>20. Board should ensure that all necessary inputs that have been received in policy making processes are accounted for &amp; included for consideration by the Board; to assist this the Board should adopt &amp; post a mechanism (e.g. checklist or decision template) that certifies what inputs have been received &amp; are included for Board consideration.</b>	<b>BGC</b>
<b>21. Board should request staff to work on process for developing annual work plan that forecasts matters that will require public input.</b>	<b>PPC</b>
<b>22. Board should ensure that senior staffing arrangements are appropriately multi-lingual, delivering optimal levels of transparency &amp; accountability to community.</b>	<b>EXEC</b>
<b>23.* Board should implement IIC Rec. 2.7 that calls on ICANN to seek input from a committee of independent experts on the restructuring of its three review mechanisms; see ATRT guidance for review, including direction to look at mechanisms in IIC Rec. 2.8 &amp; 2.9; upon receipt of experts’ final report, Board should take actions on the recommendations .</b>	<b>BGC</b>
<b>24. Assess Ombudsman operations &amp; relationship between Board &amp; Ombudsman, &amp; if needed, bring into compliance with internationally recognized standards for Ombudsman function &amp; Board supporting the function</b>	<b>BGC</b>
<b>25. Clarify standard for Reconsideration requests with respect to how it is applied &amp; whether the standard covers all appropriate grounds for using the Reconsideration mechanism.</b>	<b>BGC</b>
<b>26. Board should adopt a standard timeline &amp; format for Reconsideration Requests &amp; Board reconsideration outcomes that clearly identifies the status of deliberations &amp; then, once decisions are made, articulates the rationale used to form those decisions.</b>	<b>BGC</b>
<b>27. Board should regularly evaluate progress against these recommendations &amp; the accountability &amp; transparency commitments in the AoC, &amp; in general analyze the accountability &amp;</b>	<b>EXEC</b>

<p><b>transparency performance of the whole organization to annually report to the community on progress made &amp; to prepare for the next ATRT review; all evaluation should be overseen by Board.</b></p>	
<p><b>Reporting - ATRT asks the Board to provide a status report on all recommendations at the March 2011 ICANN meeting and a more formal report at the June 2011 ICANN meeting detailing:</b></p> <ul style="list-style-type: none"> <li><b>- Which recommendations have been fully implemented;</b></li> <li><b>- The status and schedule for implementing the remaining recommendations; and</b></li> <li><b>- The recommendations which the Board has concluded it cannot implement including a detailed explanation as to why the recommendations cannot be implemented.</b></li> </ul>	<p><b>EXEC</b></p>

**PROPOSED RESOLUTION:**

Resolution Text Superseded



**PROPOSED RATIONALE:**

Rationale Text Superceded

Attachments:

Exhibit A – ATRT Recommendation Projects List – See Annex to Board Paper 2011-04-21-15.

Exhibit B – Proposed, Initial Implementation Plans – See Annex to Board Paper 2011-04-21-15.

Submitted by:	Denise Michel	Date Noted:	11 April 2011
Position:	Advisor to the President & CEO	Email and Phone Number	denise.michel@icann.org Contact

**2011-04-21-15-Board-Submission-ATRT Budget  
Recommendations April 2011**

**ICANN BOARD SUBMISSION NO. 2011-04-21-15**

**TITLE:** **Estimated Budget Implications of Accountability & Transparency Review Team (ATRT) Recommendations for the FY2012 Budget**

**PROPOSED ACTION:** **For Board Consideration**

**EXECUTIVE SUMMARY:**

This paper responds to the request made by the Board at its March 2011 meeting for staff input on the cost of implementing all of the ATRT recommendations and advice for consideration at the April 2011 Board meeting concerning FY2012 budget implications. In the same resolution, the Board also asked for: the Governmental Advisory Committee and the Nominating Committee to work with the Board on implementation of recommendations involving their organizations; staff to provide final proposed implementation plans for the ATRT recommendations as soon as possible; and staff to develop proposed metrics and benchmarks relating to ATRT activities and transparency and accountability.

It is staff's view that the ATRT provided a constructive report that can help advance ICANN's transparency and accountability objectives, and can be implemented (with appropriate resources and community engagement). Staff previously recommended that the Board move forward with ATRT implementation plans (as detailed in the Board paper 2011-03-18-12 and summarized in Exhibit C), and determine how the Board will manage ATRT implementation work (in addition to recommending the actions noted above).

Although implementation of a significant number of ATRT recommendations can be accommodated with incremental funding increases and staff resources contained in the initial, proposed FY2012 budget, significant additional resources will be required for full implementation of the ATRT Report. To complete ATRT implementation activities in FY2012, a total of US\$2,600,000 in additional funds will be needed. This covers:

- Four additional full time personnel;
- Funds for professional services to address implementation of numerous ATRT recommendations; and
- Funds for translation, travel and meetings, which include resource requests recently received from the GAC and estimated funds for implementation of GAC-related ATRT recommendations.

In addition, staff recommends that US\$1,000,000 be added to the contingency fund to ensure staff work and Board consideration of ATRT Recommendation #5 – a compensation scheme for voting Board Directors – is appropriately supported.

**STAFF RECOMMENDATION:**

Staff recommends that the Board approve FY2012 ATRT implementation funding as detailed in this paper, and ask staff to incorporate this funding in the FY2012 budget.

**PROPOSED RESOLUTION:**

Resolution Text Superseded

**PROPOSED RATIONALE**

The Board noted previously that all 27 of the ATRT recommendations have the potential to advance ICANN's transparency and accountability objectives and may be

implemented by ICANN following careful and transparent consideration, and with the necessary support and resources. The Board recently asked staff to work with affected organizations and develop final implementation plans for Board approval, and noted that ICANN has already made progress on implementation of several operational changes called for by the ATRT. The Board is doing due diligence on the implementation of the recommendations and wants to ensure that the fiscal year 2012 budget, which is being finalized, includes appropriate funds for these activities.

The Board has approved inclusion of additional funding in the FY2012 budget for implementation of the ATRT recommendations, and reiterates its commitment to advancing ICANN’s accountability and transparency.

Attachments:

Exhibit A - ATRT budget spread sheet (included below)

Included in the Annex for Board Paper 2011-04-15:

Exhibit B – Status of ATRT recommendations implementation

Exhibit C - ATRT recommendations projects list

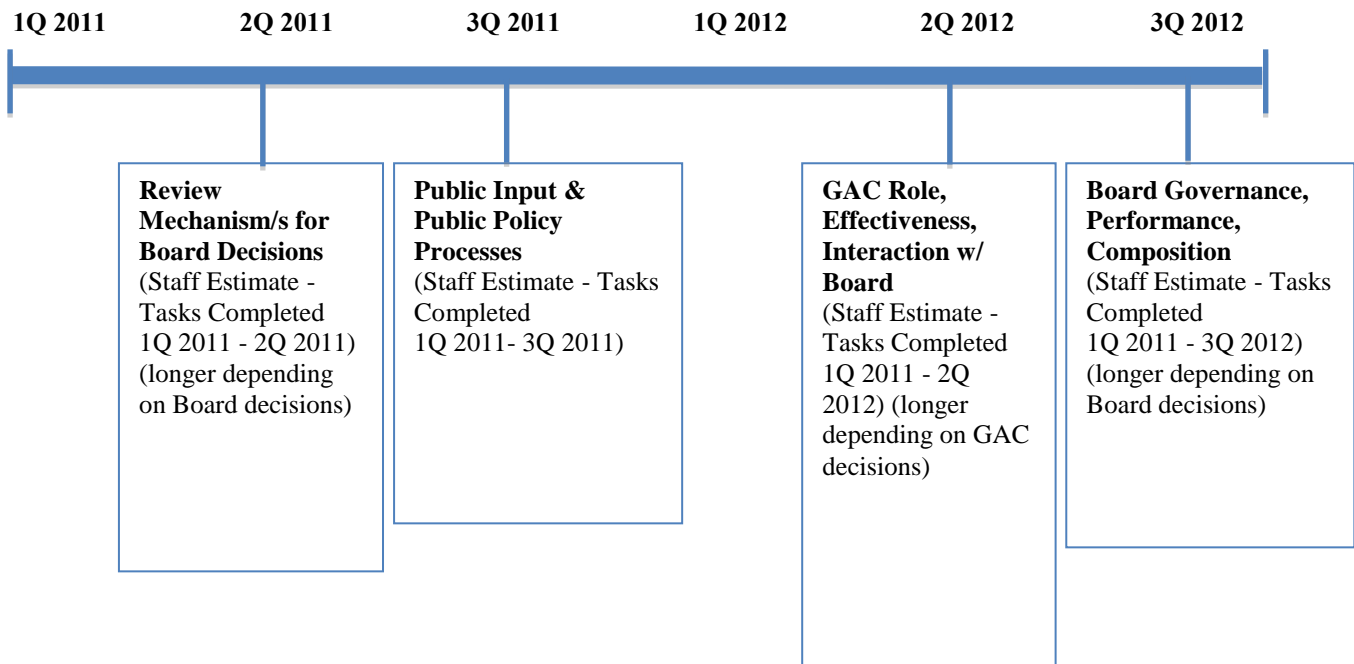
Submitted by:	Akram Atallah & Denise Michel	Date Noted:	11 April 2011
Position:	COO & Advisory to the President and CEO	Email and Phone Number	+1 310 823 9358 akram.atallah@icann.org denise.michel@icann.org

**Exhibit A - ATRT budget spread sheet**

Estimates Redacted

## Exhibit B – Status of ATRT recommendations implementation

### ATRT Implementation Estimated Timeline for Completion (Calendar Year)



Significant progress has been made on implementation of the ATRT “Board Governance, Performance & Composition” recommendations in the first quarter of 2011. A wealth of Board meeting information is now regularly posted: agendas, Board briefing materials, expanded Board minutes, rationale statements for Board resolutions, and resolutions. A significant amount of Board meeting information also is now posted in five U.N. languages, including resolutions, rationale, minutes and other key material relevant to Board resolutions. To support these postings, the template used to create Board papers has been revised, and a document was finalized and posted that sets forth conditions for redaction of Board briefing materials that are posted, along with explanation of timing of the postings. To address Board composition, the Nominating Committee has already taken voluntary steps to comply with some ATRT recommendations, including consulting with SOs and ACs, and holding public consultations on skill set requirements and process improvements. For a detailed list of work underway to implement the Board Governance, Performance & Composition recommendations, please see Exhibit C – the ATRT Recommendation Projects List.

Implementation work for ATRT recommendations relating to “Governmental Advisory Committee’s Role, Effectiveness and Interaction with Board” is in the early

stages. Staff has notified the GAC and the Board-GAC Joint Working Group (JWG) of these recommendations and is awaiting guidance on implementation. Staff has proposed activities (and funding) to support GAC engagement. These are noted in Exhibit C.

Work is underway on implementation of the ATRT “Public Input & Public Policy Processes” recommendations. Two important items in this category that are nearing completion and will be posted shortly are translations of the ICANN Bylaws, and an ICANN Language Services Policy (translation guidelines). Additional implementation activities for recommendations in this category are listed in Exhibit C.

Staff also is working on implementation of the ATRT recommendations on “Review Mechanism(s) for Board Decisions.” Initial improvements to the Reconsideration Request web page will be done in the near future, including the addition of status indicators for all Requests, and information on Board action arising out of the committee recommendations. More implementation details for recommendations in this category are included in Exhibit C.

Finally, in terms of overarching recommendations contained in the ATRT Report, the Board has acknowledged and taken initial action on the Report, and implementation information has been posted. In addition, staff is developing proposed metrics for each ATRT recommendation and additional benchmarks and metrics related to transparency and accountability. Exhibit C provides more information on this, and related work.



# **2011-04-21-16-Board-Submission-Delegation of Algeria**

## ICANN BOARD SUBMISSION NO. 2011-04-21-16

**TITLE:** Delegation of the الجزائر ("al-Jazair") domain representing Algeria in Arabic

**PROPOSED ACTION:** For Board Review and Approval on Consent Agenda

**IANA REFERENCE:** 413025

### EXECUTIVE SUMMARY

The ICANN Board is asked to consider and vote on the request to delegate the domain . الجزائر, comprised of the eligible IDN ccTLD Fast Track approved string representing Algeria.

Contact Information Redacted

### PROPOSED RESOLUTION

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

Whereas, الجزائر ("al-Jazair"), encoded as "xn--lgbbat1ad8j", is a string that has been deemed to appropriately represent Algeria through the IDN Fast Track process;

Whereas, ICANN has received a request for delegation of الجزائر to Centre de Recherche sur l'Information Scientifique et Technique (CERIST);

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.

It is hereby resolved (\_\_\_), that the proposed delegation of the الجزائر top-level domain to CERIST is approved.

### PROPOSED RATIONALE

#### Why the Board is addressing the issue now?

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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 have 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.

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Submitted by:	Kim Davies
Position:	Manager, Root Zone Services
Date Noted:	1 April 2011
Email and Phone Number	kim.davies@icann.org; Contact Information

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# **2011-04-21-17-Board-Submission-Delegation of Morocco**

## ICANN BOARD SUBMISSION NO. 2011-04-21-17

**TITLE:** Delegation of the .المغرب (“al-Maghrib”) domain representing Morocco

**PROPOSED ACTION:** For Board Review and Approval on Consent Agenda

**IANA REFERENCE:** 417869

### EXECUTIVE SUMMARY

The ICANN Board is asked to consider and vote on the request to delegate the domain .المغرب, comprised of the eligible IDN ccTLD Fast Track approved string representing Morocco.

Sensitive Delegation Materials

### PROPOSED RESOLUTION

Whereas, .المغرب (“al-Maghrib”), encoded as “xn--mgbc0a9azcg” is a string that has been deemed to appropriately represent Morocco through the IDN Fast Track process.

Whereas, ICANN has received a request for delegation of .المغرب to the Agence Nationale de Réglementation des Télécommunications.

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.

It is hereby resolved (\_\_\_), that the proposed delegation of the .المغرب domain to the Agence Nationale de Réglementation des Télécommunications is approved.

### PROPOSED RATIONALE

**Why the Board is addressing the issue now?**

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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.

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Submitted by:	Kim Davies
Position:	Manager, Root Zone Services
Date Noted:	11 April 2011
Email and Phone Number	kim.davies@icann.org; Contact Information

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# **2011-04-21-18-Board-Submission-Delegation of Serbia**

## ICANN BOARD SUBMISSION NO. 2011-04-21-18

**TITLE:** Delegation of the .cpб (“srb”) domain representing Serbia in Cyrillic

**PROPOSED ACTION:** For Board Review and Approval on Consent Agenda

**IANA REFERENCE:** 426828

### EXECUTIVE SUMMARY

The ICANN Board is asked to consider and vote on the request to delegate the domain .cpб, comprised of the eligible IDN ccTLD Fast Track approved string representing Serbia.

Sensitive Delegation Materials

### PROPOSED RESOLUTION

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

Whereas, cpб (“srb”), encoded as “xn--90a3ac”, is a string that has been deemed to appropriately represent Serbia through the IDN Fast Track process;

Whereas, ICANN has received a request for delegation of .cpб to Serbian National Register of Internet Domain Names (RNIDS);

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.

It is hereby resolved (\_\_\_), that the proposed delegation of the .cpб top-level domain to Serbian National Register of Internet Domain Names is approved.

### PROPOSED RATIONALE

#### Why the Board is addressing the issue now?

Staff present delegation and redelegation requests for country-code domains to the Board for decision, once staff are 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 IANA 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 have 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.

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