

## ICANN BOARD PAPER NO. 2017.05.18.1b

**TITLE:** **Initiating the Second Review of the Security and Stability Advisory Committee (SSAC)**

**PROPOSED ACTION:** **For Board Consideration and Approval**

### **EXECUTIVE SUMMARY:**

The ICANN Bylaws mandate organizational reviews of its Supporting Organizations and Advisory Committees, with the Organizational Effectiveness Committee of the Board (OEC) having oversight responsibility. To provide a clear and consistent indication of compliance with bylaws mandate to conduct reviews, the OEC proposes that the Board adopt a practice of formally taking action to initiate each review. Therefore, the OEC recommends that the Board initiate the second Review of the Security and Stability Advisory Committee (SSAC) in June 2017, as per Article 4, Section 4.4 of the [ICANN Bylaws](#).

### **ORGANIZATIONAL EFFECTIVENESS COMMITTEE**

#### **RECOMMENDATION:**

The practice of initiating a review with a Board resolution for clear and consistent illustration of ICANN's compliance with the Bylaws is proposed to take place for each subsequent review. The OEC recommends that the Board initiate the second Review of the SSAC in June 2017, per the guidelines and provisions contained in Article 4, Section 4.4 of the ICANN Bylaws. The OEC further recommends that the Board direct ICANN organization to initiate a Request for Proposals from candidates interested to serve as an independent examiner, in accordance with ICANN's procurement policies and practices. To support an efficient and effective review, the leadership of the SSAC is encouraged to assemble a review working party to serve as a liaison between the independent examiner, the OEC and the SSAC. This recommendation is based on useful past practices and lessons learned from previous reviews.

**BACKGROUND:**

The ICANN Bylaws, in Article 4, Section 4.4, stipulate that: ‘the Board shall cause a periodic review of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee (as defined in Section 8.1) by an entity or entities independent of the organization under review.’ The Bylaws also state that ‘[t]hese periodic reviews shall be conducted no less frequently than every five years, based on feasibility as determined by the Board.’

The [timeline](#) of the first SSAC Review shows that the independent examiner submitted their [Final Report](#) on 15 May 2009. Subsequently, the SSAC Review Working Group, appointed by the ICANN Board, submitted its [Final Report](#) on 29 January 2010.

In accordance with the Bylaws, each SO/AC is to undergo an organizational review every five years ‘computed from the moment of the reception by the Board of the final report of the relevant review Working Group’. Consequently, on 28 July 2015, the ICANN Board [resolved](#) to defer the second SSAC Review in response to community concerns about volunteer bandwidth.

In March 2017, the Chair of the ICANN Board’s Organizational Effectiveness Committee (OEC), enquired with all of ICANN’s Supporting Organizations and Advisory Committees that were scheduled for organizational reviews in 2017, whether they would like to defer their review by twelve months, due to the considerable number of other, ongoing community work efforts. The SSAC leadership declined that offer and affirmed their preference to proceed with the second SSAC Review.

**PROPOSED RESOLUTION:**

Whereas, the ICANN Bylaws state that the ICANN Board ‘shall cause a periodic review of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the

Governmental Advisory Committee), and the Nominating Committee (as defined in Section 8.1) by an entity or entities independent of the organization under review’;

Whereas, as part of the first Security and Stability Advisory Committee (SSAC) Review, the SSAC Review Working Group submitted its Final Report to the ICANN Board on 29 January 2010;

Whereas, on 28 July 2015 the Board resolved to defer the second SSAC Review until 2017.

Resolved (2017.05.18.xx), that the Board initiates the second SSAC Review in June 2017 and directs ICANN organization to post a Request for Proposal to procure an independent examiner to begin the review as soon as practically feasible.

Resolved (2017.05.18.xx), that the Board encourages the SSAC to prepare for the second SSAC Review by organizing a Review Working Party to serve as a liaison during the review and to conduct a self-assessment of effectiveness of implementation of recommendations from the first review.

#### **PROPOSED RATIONALE:**

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

This action is taken to provide a clear and consistent approach towards complying with ICANN Bylaws’ mandate to conduct reviews. Moreover, the Board is addressing this issue because the Bylaws stipulate organizational reviews take place every five years. The ICANN Board had deferred the SSAC Review in 2015 to commence in 2017. After the SSAC declined the offer to defer the review by another 12 months, the Board is now initiating the second Review of the Security and Stability Advisory Committee (SSAC).

##### Which stakeholders or others were consulted?

The OEC reached out to the SSAC leadership to confirm their support to initiate the second SSAC Review in 2017.

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

Timely conduct of organizational reviews is consistent with ICANN's strategic and operating plans. The budget for the second SSAC Review has been approved as part of ICANN's annual budget cycle and the funds allocated to the SSAC Review are managed by the ICANN organization team responsible for these reviews. No additional budgetary requirements are foreseen at this time and separate consideration will be given to the budget impact of the implementation of recommendations that may result from the review.

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

There are no security, stability or resiliency issues relating to the DNS as the result of this action.

**Signature Block:**

Submitted by: Larisa Gurnick

Position: Senior Director, Multistakeholder  
Strategy and Strategic Initiatives

Date Noted: 13 April, 2017

Email: Larisa.gurnick@icann.org

TITLE: Proposed Fundamental Bylaws Change to  
**Move Board Governance Committee's**  
Reconsideration Responsibilities to  
Another Board Committee

PROPOSED ACTION: For Board Consideration and Approval

### EXECUTIVE SUMMARY

Following the annual review of its Charter, the Board Governance Committee (BGC) concluded that in order to devote sufficient time to its governance duties, it might be more appropriate if a different Board committee handled the Reconsideration responsibilities while the BGC retains its core governance duties. As re-designating the BGC's Reconsideration responsibilities involves a Fundamental Bylaws change, the BGC recommended, and the Board agreed, that the BGC's Reconsideration responsibilities should be transferred to a new Board committee dedicated to oversight of ICANN's accountability mechanisms as deemed appropriate by the Board.

On 3 February 2017, the Board approved the initiation of the Fundamental Bylaws amendment process. (See Resolutions 2017.02.03.17 – 2017.02.03.19.)

From 31 March through 10 May 2017, ICANN published the proposed amendments to Article 4, Section 4.2 of the ICANN Bylaws for public comment. Five comments were received. As reflected in the Report of Public Comments attached as Attachment B to the Reference Materials for this Board paper, the comments do not require a change to the proposed revised Fundamental Bylaws.

The Board is now being asked to approve the proposed Fundamental Bylaws amendment as reflected in Attachment A to the Reference Materials for this Board paper, and to direct ICANN Organization to proceed with the next steps of the Fundamental Bylaws Amendment approval process as identified in the Pathway and Timeline section below.

### DISCUSSION

#### I. Public Comment Summary and Analysis

Five organizations submitted comments; no individual comments were received. In general, three of the five commenters were supportive of the proposed Fundamental Bylaws changes. One commenter did not express any opinion for or against the proposed Bylaws changes, and one commenter was not in support of making the Fundamental Bylaws changes at this time.

As reflected in the Report of Public Comments, attached as Attachment B to the Reference Materials for this Board Paper, the At-Large Advisory Committee (ALAC) and Afnic noted the Board's responsibility to organize its work to suit the needs of the Board. Afnic praised the effort to better organize the workload within the Board. The Business Constituency (BC) and Non-Commercial Stakeholder Groups (NCSG) noted general support for the Fundamental Bylaws changes as proposed. ALAC, while not questioning the Fundamental Bylaws changes as proposed, requested a "deeper knowledge" on the scope of the Board Accountability Mechanisms Committee (BAMC).

One commenter, DotMusic Limited, expressed concerns regarding the impact of the proposed changes on its currently pending Reconsideration Request.

Three commenters provided inputs on the scope of the draft BGC and BAMC charters that were provided for informational purposes to illustrate how the Fundamental Bylaws changes could be implemented.

ALAC and NCSG also noted their support for the new processes to achieve Fundamental Bylaws revisions. NCSG noted that having a non-controversial item about the Board's organization of its work is a good "test case" for the accountability reforms and the new Empowered Community process.

As discussed in further detail in the Rationale section below, the comments do not require a revision to the proposed revised Fundamental Bylaws.

## II. Pathway and Timeline

### A. Re-designating the **BGC's** Reconsideration Responsibilities

The following sets forth the pathway and timeline of the next steps in the Fundamental Bylaws amendment process pursuant to Article 25, Section 25.2 of the Bylaws:

1. The Board approves the proposed Fundamental Bylaws amendment.
2. Notice to Empowered Community (EC) to initiate Fundamental Bylaws approval process within 7 days of the Board's approval of the amendment.
3. Community Forum (must occur within 30 days after the action, unless community requests it to happen at next ICANN public meeting. If that were the case, then community forum would have to conclude by end of public meeting).

4. 21 days for EC to act after close of Community Forum.
  5. Upon approval of Bylaws, the process is complete.
- B. Establishment of the BAMC
1. Upon completion of the Fundamental Bylaws change, the Board constitutes the BAMC.
  2. Prior to constitution of the BAMC, the BGC to develop a draft Charter for the BAMC for Board consideration.
  3. The BGC also to revise the BGC Charter to remove the Reconsideration duties from its scope of responsibilities.
  4. The Board to approve the revised BGC Charter and the BAMC Charter, and establish the BAMC, taking into account membership recommendations from the BGC.

#### PROPOSED RESOLUTION

Whereas, in 2008, the Board delegated to the Board Governance Committee (BGC) the responsibility for considering Reconsideration Requests, a responsibility that was previously delegated to a stand-alone committee of the Board.

Whereas, the volume of Reconsideration Requests has increased exponentially in recent years with the introduction of the New gTLD Program in 2012.

Whereas, as a result of the increased volume of Reconsideration Requests, the BGC has focused more of its time on its Reconsideration duties and less on its other governance duties.

Whereas, because the new Bylaws in effect on 1 October 2016 expanded the scope of the Reconsideration process, as well as ICANN's other accountability mechanisms and therefore, it is anticipated that the volume and complexity of accountability mechanisms filed, including Reconsideration Requests, might increase.

Whereas, the BGC recommended, and the Board agreed, that the Board's performance would be enhanced through the development of a Board committee specifically charged with oversight of ICANN accountability mechanisms, as the Board deems appropriate, with the BGC focusing on core governance activities.

Whereas, the re-designation of the BGC's Reconsideration responsibilities set forth under Article 4, Section 4.2(e) requires an amendment to the Fundamental Bylaws in accordance with Article 25, Section 25.2 of the ICANN Bylaws.

Whereas, on 3 February 2017, the Board directed the initiation of the Fundamental Bylaws amendment process to allow for the ICANN community to consider these proposed changes alongside the Board.

Whereas, from 31 March to 10 May 2017, ICANN published the proposed amendments to Article 4, Section 4.2 of the ICANN Bylaws for public comment.

Whereas, following consideration of the five public comments received, the Board has concluded that no revisions are required to the proposed Fundamental Bylaws revisions.

Resolved (2017.05.18.xx), the Board approves the attached proposed Fundamental Bylaws changes to Article 4, Section 4.2 of the ICANN Bylaws [insert pdf].

Resolved (2017.05.18.xx), the Board directs the President and CEO, or his designee(s), to take all steps necessary to carry out the Fundamental Bylaws amendment approval process as set forth in Article 25, Section 25.2 and Annex D, Article 1, Sections 1.1 through 1.4 of the Bylaws.

Resolved (2017.05.18.xx), the Board requests that the BGC continue planning for the potential that the Empowered Community will approve the Fundamental Bylaws changes by evaluating potential additional charter revisions for the BGC, and by developing the inaugural charter of the Board Accountability Mechanisms Committee (BAMC) while, where appropriate, taking into account the charter concerns raised in the public comment.

Resolved (2017.05.18.xx), the Board requests that in the event the Fundamental Bylaws are approved, the BGC coordinate with the BAMC to minimize any impact on requesters in the event that any Reconsideration Requests are pending at the time the revised Bylaws go into effect.

#### PROPOSED RATIONALE:

Over the past several years, the BGC's work relating to Reconsideration Requests, which was delegated to the BGC by the Board, has increased exponentially, particularly with the New gTLD Program. As a result of the increased volume of Reconsideration Requests, the BGC was required to focus more of its time on Reconsideration Requests and less on its other governance duties. Given that the new Bylaws in effect on 1 October 2016 expanded the scope of the Reconsideration process, as well as ICANN's other accountability mechanisms, it is anticipated that the volume and complexity of accountability



mechanisms filed, including Reconsideration Requests, might increase and that the BGC's workload on Reconsideration Requests will not likely lessen.

As part of its responsibilities, the BGC is tasked with "periodically review[ing] the charters of the Board Committees, including its own charter and work with the members of the Board Committees to develop recommendations to the Board for any charter adjustments deemed advisable." (BGC Charter, I.A, at <https://www.icann.org/resources/pages/charter-06-2012-02-25-en>) In this role, the BGC recommended, and the Board agreed, that to enhance its own performance and focus on core governance activities, the Reconsideration responsibilities should be moved to a new committee dedicated to oversight of ICANN's accountability mechanisms as deemed appropriate by the Board.

On 3 February 2017, the ICANN Board directed the initiation of the Fundamental Bylaws amendment process to allow for the ICANN community to consider these changes alongside the Board. Under the Bylaws, Article 4, Section 4.2 is part of the "Fundamental Bylaws," the group of Bylaws that can only be amended if the ICANN Board and ICANN's Empowered Community approve. Posting the proposed revisions for public comment is a key part of the Fundamental Bylaws approval process. (See [Resolutions 2017.02.03.17 – 2017.02.03.19.](#))

From 31 March through 10 May 2017, ICANN published the proposed amendments to Article 4, Section 4.2 of the ICANN Bylaws for public comment. Five comments were submitted during the public comment period, which the Board has considered. In general, three of the five commenters were supportive of the proposed Fundamental Bylaws changes. One commenter did not express any opinion for or against the proposed Bylaws changes, and one commenter was not in support of making the Fundamental Bylaws change at this time.

As discussed in the Report of Public Comments [\[insert link once posted\]](#), the At-Large Advisory Committee (ALAC) and Afnic noted the Board's responsibility to organize its work to suit the needs of the Board. Afnic praised the effort to better organize the workload within the Board. The Business Constituency (BC) and Non-Commercial Stakeholder Groups (NCSG) noted general support for the Fundamental Bylaws changes as proposed. ALAC, while not questioning the Fundamental Bylaws changes as proposed, requested a "deeper knowledge" on the scope of the BAMC.

One commenter, DotMusic Limited (DML), expressed concerns regarding the impact of the proposed changes on its currently pending Reconsideration Request. DML stated its opinion that the Fundamental Bylaws changes should not be considered until the Reconsideration Requests that are currently pending have been resolved by the BGC.

Three of the commenters provided inputs on the scope of the draft BGC and BAMC charters that were provided for informational purposes to illustrate how the Fundamental Bylaws changes could be implemented.

ALAC and NCSG also noted their support for the respect of the new processes to achieve Fundamental Bylaws revisions. The NCSG noted that having a non-controversial item about the Board's organization of its work is a good "test case" for the accountability reforms and the new Empowered Community process.

As always, the Board thanks and appreciates the commenters for their submissions. The Board has considered all the comments and finds that no further changes to the proposed Fundamental Bylaws amendments are necessary.

With respect to the concerns expressed about the potential delay on pending Reconsideration Requests because of the proposed Fundamental Bylaws changes, the Reconsideration process has in place time requirements as well as evidentiary consideration requirements that address the commenter's concerns. The Board has also requested that any implementation of the new Bylaws be done in a way that minimizes any potential impacts on pending Reconsideration requestors.

With respect to the concerns regarding the scope of the BAMC and the BGC once the Fundamental Bylaws changes have been implemented, Article 14 of the Bylaws specifies that the Board has the power to organize and establish Board Committees and to delegate to the Committees all legal authority of the Board except as set forth in Article 4, Section 14.2 of the Bylaws. The Board previously directed that "if the proposed amendment to the Fundamental Bylaws is approved in accordance with Article 25.2 of the Bylaws, the Board will constitute the Board Accountability Mechanisms Committee (BAMC)." (See Resolutions 2017.02.03.18-2017.02.03.19.) Accordingly, once the proposed amendments are approved, the Board will constitute the BAMC with oversight of ICANN's Accountability Mechanisms as the Board deems appropriate, approve the charter, and establish the BAMC and the BGC membership. The Board will also approve a revision of the BGC charter to delete the Reconsideration process responsibilities from the BGC, and move other responsibilities as appropriate from the BGC to the BAMC. In addition, the BAMC may be vested with new responsibilities related to more general oversight of ICANN's accountability mechanisms outside of the Reconsideration process. Comments received on the potential charter revisions (which were provided for information purposes during the comment period) should be taken into account, as appropriate, by the BGC as it is developing the new BGC and BAMC charters for Board consideration.

Finally, the Board thanks the Empowered Community for the work in becoming ready for this first exercise of a power.

This action will have no financial impact on the organization and no direct impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative Action for which public comment was received.

Submitted By: John O. Jeffrey  
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## ICANN BOARD PAPER NO. 2017.05.18.2a

**TITLE:** **Approval of the Global Amendment to the Base New gTLD Registry Agreement**

**PROPOSED ACTION:** **For Board Consideration and Approval**

### **EXECUTIVE SUMMARY:**

The Board is being asked to approve the proposed amendment (“Global Amendment”) to the base New gTLD Registry Agreement (“Registry Agreement”) that was voted on and approved by eligible registry operators (“Applicable Registry Operators” as defined in the Registry Agreement) as of 10 April 2017, the conclusion of the requisite voting period. As outlined in Section 7.7(c) of the Registry Agreement, both the ICANN Board and Applicable Registry Operators must approve the Global Amendment in order for it to be deemed an approved amendment pursuant to the terms of the Registry Agreement.

The process to amend the [Registry Agreement](#) began in July 2014 when the Registries Stakeholder Group (RySG) notified ICANN organization that it wished to initiate negotiations for contract amendments. Section 7.7(a) of the Registry Agreement provides a mechanism enabling ICANN organization or the Registries Stakeholder Group (RySG) to periodically initiate negotiations to discuss revisions to the Registry Agreement.

ICANN organization and a working group designated by the RySG (“Working Group”) engaged in bilateral negotiations on the proposed contract amendments. After submitting the proposed contract amendments for [public comment](#) from 31 May 2016 to 20 July 2016, ICANN organization and the Working Group reviewed comments and published an [initial summary report](#). On 22 December 2016, after discussions with the Working Group, ICANN organization published a [supplemental public comment report](#) with additional analysis as well as an updated [Global Amendment](#) revised to reflect the comments received. The resulting revisions in the Global Amendment primarily focus on technical corrections and clarifications as well as a few substantive changes as outlined in the [summary of changes table](#).

## **ICANN ORGANIZATION RECOMMENDATION:**

ICANN organization recommends the Board approve the Global Amendment as voted on and approved by Applicable Registry Operators. With the Board's approval, the Global Amendment would be effective and deemed an amendment to the Registry Agreement following a 60-day notice from ICANN organization to registry operators. ICANN organization has engaged an independent third-party to conduct a review of the vote to be concluded 28 April 2017. ICANN organization will review that report prior to notifying registry operators to ensure no further issues need to be addressed.

## **PROPOSED RESOLUTION:**

Whereas, the Registries Stakeholder Group (RySG) informed ICANN organization that it wished to initiate negotiations to proposed changes to the [Registry Agreement](#) on 16 July 2014 and ICANN organization engaged in bilateral negotiations with the RySG Working Group on proposed contract amendments.

Whereas, ICANN organization commenced a [public comment period](#) from 31 May 2016 to 20 July 2016 on the proposed contract amendments and received twenty-two comments by individuals, organizations, and groups.

Whereas, ICANN organization and the Working Group reviewed the public comments and ICANN organization published an [initial summary report](#) on 17 August 2016 followed by a [supplemental public comment report](#) on 22 December 2016 with additional analysis and an updated [Global Amendment](#) revised to reflect the comments received.

Whereas, ICANN organization and the Working Group agreed to voting procedures and ICANN organization engaged a third-party voting administrator to hold a vote of Applicable Registry Operators.

Whereas, the Registry Agreement defines the approval of Applicable Registry Operators as (1) the affirmative approval of the Applicable Registry Operators whose payments to ICANN accounted for two-thirds of the total amount of fees paid by all the Applicable Registry Operators in the immediately previous calendar year and (2) the affirmative approval of a majority of the Applicable Registry Operators.

Whereas, the voting period concluded on 10 April 2017 with the requisite thresholds achieved by Applicable Registry Operators.

Whereas Section 7.7(c) of the Registry Agreement states that both the ICANN Board and Applicable Registry Operators must approve the Global Amendment in order for it to be deemed an approved amendment pursuant to the terms of the Registry Agreement.

Resolved (2017.05.18.xx), the [Global Amendment](#) and the [Registry Agreement as revised](#) are approved and the President and CEO, or his designee(s), is authorized to take such actions as appropriate to finalize and execute the Global Amendment.

## **PROPOSED RATIONALE:**

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

The process to amend the Registry Agreement began in July 2014 when the Registries Stakeholder Group (RySG) notified ICANN organization that it wished to initiate negotiations for contract amendments. Following a discussion period between the Working Group and ICANN organization, the proposed contract amendments were submitted for public comment in the form of the Global Amendment. ICANN organization and the Working Group reviewed the public comments and revised the Global Amendment based on comments received.

As outlined in Section 7.7(c) of the Registry Agreement, both the ICANN Board and Applicable Registry Operators must approve the Global Amendment in order for it to be deemed an approved amendment pursuant to the terms of the Registry Agreement. Applicable Registry Operators approved the Global Amendment upon the conclusion of the voting period on 10 April 2017. The Registry Agreement defines the approval of Applicable Registry Operators as both: (1) the affirmative approval of the Applicable Registry Operators whose payments to ICANN accounted for two-thirds of the total amount of fees paid, pursuant to the Registry Agreement, the immediately previous calendar year; and (2) the affirmative approval of a majority of the Applicable Registry Operators at the time such approval is obtained.

With the Board’s approval, the Global Amendment would achieve both required approvals and would, therefore, be effective and deemed an amendment to the Registry Agreement following a 60-day notice from ICANN organization to registry operators.

### **What is the proposal being considered?**

The [Global Amendment](#) is the result of bilateral negotiations between ICANN organization and the RySG Working Group as well as a subsequent [public comment proceeding](#). Section 7.7(a) of the Registry Agreement provides a mechanism enabling ICANN organization or the Registries Stakeholder Group (RySG) to periodically initiate negotiations to discuss revisions to the Registry Agreement.

The proposed revisions in the Global Amendment largely focus on technical corrections and clarifications with a few substantive changes as outlined below:

- Revisions to Section 2.9 (Registrars) and 2.10 (Pricing for Registry Services), which enable registry operators to change the pricing terms of the Registry-Registrar Agreement without seeking ICANN organization’s approval since the Registry Agreement does not specify a specific price for domain names registration; however, such notice must still be given to registrars that have executed a Registry-Registrar Agreement for the TLD. Registry operators remain subject to the substantive requirements of the provision whether or not ICANN organization is informed of price increases by the registry operator.
- Revisions to Section 6.7 (Fee Reduction Waiver), which permit ICANN organization to exercise its discretion to determine to reduce the fees payable by a registry operator under the Registry Agreement. Under the provision, ICANN organization would retain discretion to determine whether a reduction in fees is appropriate and the terms of any such reduction.
- Revisions to Section 7.5 (Change of Control; Assignment and Subcontracting), which create a new defined term, “Affiliated Assignee,” and have the effect of facilitating reorganizations by a registry operator without triggering a consent right of ICANN.

- Revisions to Specification 13; Section 11 (.BRAND TLD Provisions), which were made in response to requests by .BRAND TLD operators and specify that global amendments (i.e. amendments approved pursuant to Section 7.6 or 7.7 of the Registry Agreement) amend the provisions of Specification 13, such that amendments that impact .BRAND TLD registry operators must be approved by .BRAND TLD registry operators.

Full details of the changes within the Global Amendment, including technical corrections and clarifications, are available in the published [summary of changes table](#) and in the published [cumulative redlines to the Registry Agreement](#).

### **Which stakeholders or others were consulted?**

ICANN organization and the Working Group collaborated frequently throughout the development of the Global Amendment to negotiate and discuss proposed revisions, to consider comments received from the public comment proceeding, and to agree to the process of a vote for Applicable Registry Operators.

The Global Amendment was submitted for [public comment](#) from 31 May 2016 to 20 July 2016. After the close of the public comment period, ICANN organization received twenty-two comments by individuals, organizations, and groups and published an [initial summary report](#) on 17 August 2016.

ICANN organization and the Working Group collectively considered comments received and incorporated certain revisions into the Global Amendment. On 22 December 2016, ICANN organization published a [supplemental public comment report](#) with additional analysis as well as an updated [Global Amendment](#) revised to reflect the comments received.

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

After the proposed Global Amendment was posted for [public comment](#), ICANN organization and the Working Group collectively reviewed concerns and issues raised during the public comment period. Commenters expressed their views in five key areas:



1. Overall support: comments generally supportive of the proposed amendments to the Registry Agreement, highlighting that the proposed amendments clarify ambiguous language and fix grammatical and typographical errors.
2. Request for additional edits or clarity: suggestions for further changes or additional clarity to the amendments proposed within the Global Amendment.
  - a. With respect to the request for added clarity in comments received, ICANN organization and the Working Group collectively agreed to additional modifications that further clarified Section 4.3(e) and provisions within Specification 5, 6, and 13.

Rationale Text Superseded

3. Overall concerns: concerns over aspects of the proposed amendments, including:
  - a. The removal of the requirement that a registry operator notifies ICANN organization of increases in the price charged by the registry operator to register a domain name in the TLD in Section 2.9 and 2.10.
  - b. Transparency of the proposed fee waiver provision in Section 6.7 in which ICANN organization can determine to reduce the fees payable by a registry operator under the Registry Agreement.
4. Registry Agreement text and other topics out of scope: comments on the existing provisions in the Registry Agreement where no amendment was proposed. These comments include thoughts on topics such as dotless domains and sections of the Registry Agreement where no amendment was proposed as well as general comments about the Registry Agreement.
5. Process concerns: thoughts on the negotiation and review process of the Registry Agreement. Various commenters expressed concern regarding the fact that negotiations

took place between ICANN organization and only a small portion of the Registries Stakeholder Group.

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

As part of its deliberations, the Board reviewed various materials, including, but not limited to, the following:

1. Global Amendment as published 22 December 2016, <<https://www.icann.org/en/system/files/files/proposed-registry-agreement-global-amendment-22dec16-en.pdf>>;
2. Cumulative redlines to the Registry Agreement of all modifications resulting from the Global Amendment (includes redlines from before and after the public comment period), December 2016, <<https://www.icann.org/en/system/files/files/draft-registry-agreement-amended-redline-22dec16-en.pdf>>;
3. Summary of changes table (includes cumulative redlines of all modifications to the Registry Agreement resulting from the Global Amendment as well as rationale), 3 February 2017, <<https://www.icann.org/en/system/files/files/draft-registry-agreement-global-amendment-redline-03feb17-en.pdf>>;
4. Clean version of the Registry Agreement amended by the Global Amendment (amended version of the Registry Agreement should the Global Amendment achieve Applicable Registry Operators and ICANN Board approval), December 2016, <<https://www.icann.org/en/system/files/files/draft-registry-agreement-amended-22dec16-en.pdf>>;
5. Reissued Staff Report of public comment proceeding (reissued to include analysis from the Working Group and ICANN organization of the comments received), 22 December 2016, <<https://www.icann.org/en/system/files/files/reissued-report-comments-proposed-amend-new-gtld-agreement-22dec16-en.pdf>>;

6. Initial Staff Report of public comment proceeding (to summarize the comments received), 17 August 2016, <<https://www.icann.org/en/system/files/files/report-comments-proposed-amend-new-gtld-agreement-17aug16-en.pdf>>;
7. Public Comment on the Proposed Amendments to Base New gTLD Registry Agreement, 31 May 2016, <<https://www.icann.org/public-comments/proposed-amend-new-gtld-agreement-2016-05-31-en>>;
8. Current Registry Agreement (current version of the New gTLD Registry Agreement), 9 January 2014, <<https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf>>;
9. Global Amendment Voting Process Frequently Asked Questions, 17 February 2017, <<https://www.icann.org/en/system/files/files/global-amendment-registry-agreement-voting-process-faqs-17feb17-en.pdf>>;
10. Global Amendment Webinar Slide Deck, 7 February 2017, <<https://www.icann.org/en/system/files/files/global-amendment-base-registry-agreement-07feb17-en.pdf>>;
11. Global Amendment Webinar Recording, 7 February 2017, <<https://participate.icann.org/p2mn69k02an/?proto=true>>; and
12. Global Amendment Webpage on ICANN.org, <<https://www.icann.org/resources/pages/global-amendment-base-new-gtld-registry-agreement-2017-01-23-en>>.

**What factors has the Board found to be significant?**

The Board carefully considered the proposed [Global Amendment](#) agreed to by the Working Group and ICANN organization as part of the bilateral negotiations. The Board also considered the public comments received for the Global Amendment along with the [summary and analysis](#) of those comments.

The Board acknowledges that the Global Amendment was voted on and approved by Applicable Registry Operators as of 10 April 2017, the conclusion of the requisite voting period. As outlined in Section 7.7(c) of the Registry Agreement, both the ICANN Board and Applicable Registry Operators must approve the Global Amendment in order for it to be deemed an approved amendment pursuant to the terms of the Registry Agreement.

The Board acknowledges the requests for additional edits or clarity and concerns raised during the public comment period to revisions within the Global Amendment. ICANN organization and the Working Group collaborated to address these requests for edits and concerns in the [supplemental public comment report](#) and in the updated [Global Amendment](#) revised to reflect comments received.

The Board acknowledges the concerns expressed by some community members regarding suggested improvements on the negotiation, review process, and transparency of the Registry Agreement amendment negotiation process. The Registry Agreement provides for negotiations to be between ICANN organization and the Working Group designated by the RySG. While ICANN organization and the Working Group conducted the negotiation process for the proposed Global Amendment according to the terms outlined in the Registry Agreement, ICANN organization intends to further collaborate with the Working Group to develop a process that keeps the ICANN community more informed if contract negotiations are triggered in the future. These efforts may include improved communications to the ICANN community that the negotiation process has been initiated and periodic updates to the ICANN community concerning overall status of discussions with the Working Group.

Finally, the Board acknowledges and appreciates comments on the existing provisions in the Registry Agreement where no amendment was proposed. While ICANN organization and the Working Group reviewed these comments, comments relating to sections where no amendment was proposed were not considered as part of this negotiation round. ICANN organization and the Working Group may consider these comments if negotiations under Section 7.7 are triggered in the future.

**Are there positive or negative community impacts?**

The Board's approval of the Global Amendment offers positive technical and operational benefits to registry operators. The proposed Global Amendment includes revisions intended to bring the Registry Agreement up to date with operational and technical expectations between registry operators and ICANN organization. Some of the positive technical impacts to registry operators include modifying the reporting requirements to take into account the timing of a TLD's delegation and clarifying technical specifications within the contract to accurately reflect current practices. Overall, the revisions clarify certain provisions to limit misinterpretations of the requirements within the Registry Agreement.

Additionally, this negotiation and amendment process provides a mechanism for ICANN organization and registry operators to collaborate to maintain and update the Registry Agreement as needed, enabling a periodic review of the terms that guide both parties.

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

There are no significant fiscal impacts expected if the ICANN Board approves the Global Amendment.

**Are there any security, stability or resiliency issues relating to the Domain Name System?**

There are no expected security, stability, or resiliency issues related to the Domain Name System if the Board approves the Global Amendment. The proposed Global Amendment in fact includes terms intended to bring the Registry Agreement up to date with operational and technical expectations between Registry Operators and ICANN organization. As part of ICANN organization's administrative function, ICANN posted the draft Global Amendment for public comment on 31 May 2016.

**Signature Block:**

Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 21 April 2017

Email: [cyrus.namazi@icann.org](mailto:cyrus.namazi@icann.org)

## ICANN BOARD PAPER NO. 2017.05.18.2b

**TITLE:** **Responding to Registry Operator Requests and GAC Advice Regarding the Release of Second-Level Country and Territory Names in New gTLDs**

**PROPOSED ACTION:** **For Board Consideration and Approval**

### **EXECUTIVE SUMMARY:**

The Board is being asked to address registry operator requests for the release of country and territory names at the second-level currently required to be reserved under the [New gTLD Registry Agreement](#) (e.g. germany.volkswagen). Additionally, the Board is being asked to take action to address an open item of advice from the GAC regarding country and territory names at the second-level.

The New gTLD Registry Agreement (“Registry Agreement”) provides two options for the release of the reserved second-level country and territory names. Under the first option, the reserved names may be released to the extent a registry operator reaches agreement with the applicable government(s). The GAC has created a [database](#) to show if a government or GAC member has authorized release of a specific country or territory second-level domain name or requires notification. Registry operators also can approach a government or GAC member individually to request approval for the release of a specific country or territory second-level domain name.

Under the second option, specifically addressed by this Board paper, the registry operator may release the reserved names subject to review by the GAC and approval by ICANN. Since August 2014, registry operators representing over 60 TLDs have submitted requests pursuant to the Registry Services Evaluation Policy requesting the release of country and territory names identified in Specification 5, Section 4 of the Registry Agreement. Following the evaluation of the proposals to release these names, ICANN organization determined that no significant risk has been identified for the stability and security, or competition of the DNS related to the release of reserved country and territory names. ICANN organization prepared amendments to the applicable Registry Agreements to implement the requests. The

amendments have been the subject of public comment and were submitted to the GAC for review and remain open to this date.

#### **ICANN ORGANIZATION RECOMMENDATION:**

ICANN organization recommends that the ICANN Board direct ICANN organization to grant ICANN approvals for the release of country and territory names only to the extent the relevant government has indicated its approval in the GAC's [database](#). This action would permit registry operators to release country and territory names from the reserved list to the extent the database indicates that the "country or organization concerned waives its right to authorize the release of the country or territory name," thus authorizing the release of a specific country or territory name. The remaining country and territory names would continue to be reserved pending the registry operator reaching agreement with the government or the government updating the GAC's database with its approval.

ICANN organization will continue to engage with the GAC to (1) collaborate on possible enhancements to the GAC database to document approvals for the release of country and territory names at the second-level, (2) periodically remind GAC members to update or offer their determination within the GAC's database, and (3) report back to the Board if there is support for a different approach to generally release the second-level country and territory names.

#### **PROPOSED RESOLUTION:**

Whereas, Specification 5, Section 4 of the New gTLD Registry Agreement requires that certain country and territory names on internationally recognized lists be reserved by registry operators within the TLD. The reserved country and territory names may be released to the extent a registry operator reaches agreement with the applicable government(s) or the registry operator may propose the release of the names subject to review by the GAC and approval by ICANN.

Whereas, since 21 August 2014, registry operators representing over 60 new gTLDs have submitted Registry Services Evaluation Policy requests for ICANN approval of the implementation of a new registry service requesting the release of country and territory name labels required to be reserved by Specification 5.



Whereas, in the GAC's [Singapore Communiqué](#) (11 February 2015) the GAC advised the Board that “ICANN should work with the GAC to develop a public database to streamline the process for the release of country and territory names at the second level, as outlined in Specification 5. The database will inform whether individual GAC Members intend to agree to all requests, review them case by case, or not agree to any. The absence of input from a government will not be considered as agreement.”

Whereas, the GAC created a [database](#) to facilitate notification of registry operator requests for the release of country and territory names. The database provides a “country or organization” the option to authorize the release of the country or territory name, authorize the release of the country or territory names specific to brand TLDs, require notification for all release requests, or not indicate a position on this matter.

Resolved (2017.05.18.xx), the President and CEO, or his designee(s), is directed to take all steps necessary to grant ICANN approvals for the release of country and territory names at the second-level to the extent the relevant government has indicated its approval in the GAC’s database.

Resolved (2017.05.18.xx), the President and CEO, or his designee(s), is directed to continue to engage with the GAC to (1) collaborate on possible enhancements to the GAC database to document approvals for the release of country and territory names at the second-level, (2) to periodically remind GAC members to update or offer their determination within the GAC’s database, and (3) report back to the Board if there is support for a different approach to generally release the second-level country and territory names.

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

Section 4 of Specification 5 (Schedule of Reserved Names) of the Registry Agreement addresses reservations of country and territory names as follows:

*The country and territory names (including their IDN variants, where applicable) contained in the following internationally recognized lists shall be withheld from registration or allocated to Registry Operator at All Levels:*

4.1. *the short form (in English) of all country and territory names contained on the ISO 3166-1 list, as updated from time to time, including the European Union, which is exceptionally reserved on the ISO 3166-1 list, and its scope extended in August 1999 to any application needing to represent the name European Union*

*<[http://www.iso.org/iso/support/country\\_codes/iso\\_3166\\_code\\_lists/iso-3166-1\\_decoding\\_table.htm](http://www.iso.org/iso/support/country_codes/iso_3166_code_lists/iso-3166-1_decoding_table.htm)>;*

4.2. *the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and*

4.3. *the list of United Nations member states in 6 official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names;*

*provided, that the reservation of specific country and territory names (including their IDN variants according to the registry operator IDN registration policy, where applicable) may be released to the extent that Registry Operator reaches agreement with the applicable government(s). Registry Operator must not activate such names in the DNS; provided, that Registry Operator may propose the release of these reservations, subject to review by ICANN's Governmental Advisory Committee and approval by ICANN. Upon conclusion of Registry Operator's designation as operator of the registry for the TLD, all such names that remain withheld from registration or allocated to Registry Operator shall be transferred as specified by ICANN. Registry Operator may self-allocate and renew such names without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.*

In August 2014, new gTLD registry operators began submitting requests to ICANN organization through the Registry Services Evaluation Policy process proposing to implement a new registry service to release country and territory names required to be reserved by Specification 5, Section 4 of the Registry Agreement. Following the evaluation of the proposals to release these names, ICANN organization determined that no significant risk has been identified for the stability and security, or competition of the DNS related to the release

of reserved country and territory names. ICANN organization prepared amendments to Exhibit A of the applicable Registry Agreements to implement the requests. The amendments have been the subject of public comment and were submitted to the GAC for review. In total, ICANN organization has posted Registry Services Evaluation Policy proposals and amendments concerning more than 60 new gTLDs. Registry Agreement amendments resulting from the registry operator requests for the release of country and territory names have remained open and ICANN organization continues to receive additional Registry Services Evaluation Policy requests for the same registry service.

To note, certain legacy registry agreements differ on whether second-level country and territory names need to be reserved. For example, .ASIA and .COOP are required to reserve the names, but .COM and .BIZ do not have such a requirement.

Pursuant to Section 2.4.D of the Registry Services Evaluation Policy and the accompanying Implementation Notes, if the implementation of a proposed registry service requires a material change to the Registry Agreement, the preliminary determination will be referred to the ICANN Board for consideration as appropriate.

Additionally, the GAC had issued advice to the Board in the 11 February 2015 [Singapore Communiqué](#) concerning the release of reserved country and territory names. The GAC advised the Board that “ICANN should work with the GAC to develop a public database to streamline the process for the release of country and territory names at the second level, as outlined in Specification 5. The database will inform whether individual GAC Members intend to agree to all requests, review them case by case, or not agree to any. The absence of input from a government will not be considered as agreement.” On 30 July 2015, the GAC published a [database](#) to facilitate the notification preference of each government involved in the GAC. The database provides notification requirements for various governments and indicates which countries have waived the right to authorize the release of the country or territory name.

In addition to addressing the Registry Services Evaluation Policy requests of registry operators, the Board’s action today addresses the item of advice from the GAC concerning the release of reserved country and territory names. This action is part of the ICANN Board’s role to address advice put to the Board by the GAC. Article 12, Section 12.2(a) of the ICANN Bylaws permits the GAC to “put issues to the Board directly, either by way of comment or

prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.” The ICANN Bylaws require the Board to take into account the GAC’s advice on public policy matters in the formulation and adoption of the policies. If the Board decides to take an action that is not consistent with the GAC advice, it must inform the GAC and state the reasons why it decided not to follow the advice. The Board and the GAC will then try in good faith to find a mutually acceptable solution. If no solution can be found, the Board will state in its final decision why the GAC advice was not followed.

### **What is the proposal being considered?**

To address the requests from registry operators for ICANN approval to release reserved second-level country and territory names along with the advice from the GAC on the same topic, the Board is taking action to direct ICANN organization to take all steps necessary to grant ICANN approvals for the release of country and territory names at the second-level only to the extent the relevant government has indicated its approval in the GAC’s database. By taking this action, ICANN would permit registry operators to release country and territory names from the reserved list where the database indicates that a registry operator does not need prior authorization to release the specific country or territory name. The remaining country and territory names would continue to be reserved pending a registry operator reaching agreement with the government on the release of specific names or the government updating its position in the GAC’s database.

ICANN organization will continue to periodically engage with the GAC to collaborate on possible enhancements to the GAC database to document approvals for the release of country and territory names at the second-level, remind GAC members to update or offer their determination within the GAC’s database, and to gauge whether there is support for a different approach to generally release the second-level country and territory names. ICANN organization will also provide notice of this determination to registry operators who have requested the release of country and territory names to resolve outstanding Registry Agreement amendments to implement Registry Services Evaluation Policy requests.

### **Which stakeholders or others were consulted?**

Since 24 September 2014, ICANN organization initiated fourteen (14) public comment forums to obtain feedback from the community on the amendments to implement the proposed new registry service:

1. Release of Country and Territory Names within the .NEUSTAR TLD, 19 September 2014, <<https://www.icann.org/public-comments/ctn-release-neustar-2014-09-19-en>>;
2. Release of Country and Territory Names within the .BMW and .MINI TLDs, 11 December 2014, <<https://www.icann.org/public-comments/bmw-mini-amendment-2014-12-11-en>>;
3. Release of Country and Territory Names within the .DVAG, .TUI, .SPIEGEL, .ALLFINANZ and .FLSMIDTH TLDs, 6 January 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-01-06-en>>;
4. Release of Country and Territory Names within the .EMERCK, .HAMBURG and .BERLIN TLDs, 2 March 2015, <<https://www.icann.org/public-comments/emerk-hamburg-berlin-amendment-2015-03-02-en>>;
5. Release of Country and Territory Names within the .HONDA, .AXA, .EPSON, .HSBC, .XYZ and .COLLEGE TLDs, 31 March 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-03-31-en>>;
6. Release of Country and Territory Names within the .SONY, .ARCHI, .BIO and .SAARLAND TLDs, 13 May 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-05-13-en>>;
7. Release of Country and Territory Names within the .KOMATSU AND RICOH TLDs, 26 May 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-05-26-en>>;
8. Release of Country and Territory Names within the .GLOBAL, .BNPPARIBAS, .BRIDGESTONE and .FIRESTONE TLDs, 21 June 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-06-21-en>>;
9. Release of Country and Territory Names within the .BROTHER, .GEA, .ACO, .SECURITY, .PROTECTION, .THEATRE and .RENT TLDs, 1 September 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-09-01-en>>;
10. Release of Country and Territory Names within the .STUDY, .COURSES, .LAMBORGHINI, XN--3OQ18VL8PN36A, .VOLKSWAGEN, .BUGATTI, .AUDI and .DELTA TLDs, 15 December 2015, <<https://www.icann.org/public-comments/ctn-release-tlds-2015-12-15-en>>;
11. Release of Country and Territory Names within the .TORAY and .PICTET TLDs, 28 March 2016, <<https://www.icann.org/public-comments/ctn-release-tlds-2016-03-28-en>>;
12. Release of Country and Territory Names within the .HYUNDAI, .KIA and

.GODADDY TLDs, 27 April 2016, <<https://www.icann.org/public-comments/ctn-release-tlds-2016-04-27-en>>;

13. Release of Country and Territory Names within the .SOFTBANK, .ART and .CARAVAN TLDs, 19 July 2016, <<https://www.icann.org/public-comments/ctn-release-tlds-2016-07-19-en>>; and

14. Release of Country and Territory Names within the .IKANO, .SAXO, .SCOR, .SANDVIK, .WALTER, .SANDVIKCOROMANT, .VISTA, .VISTAPRINT, .BARCLAYS, .BARCLAYCARD and .HERMES TLDs, 12 January 2017, <<https://www.icann.org/public-comments/ctn-release-tlds-2017-01-12-en>>.

Various members of the community submitted comments, including the Brand Registry Group, International Trademark Association's Internet Committee, the ICANN Business Constituency, various government entities, the ICANN Intellectual Property Constituency, the Registries Stakeholder Group, and a registrar.

In addition, ICANN organization notified the GAC when each request from a registry operator was posted for public comment. Though the GAC has not submitted comments under the Public Comment Periods for Registry Services Evaluation Policy requests for the release of country and territory names, the GAC has issued GAC Advice as well as formal correspondence to ICANN organization leadership regarding the release of reserved second-level country and territory names.

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

Public comments received from the broader community are in favor of the introduction of country and territory domain names in the new gTLD namespace.

The arguments made in favor to the release of the country and territory domain names were as follows:

- There is demand from end users for these names, which stand to improve user experience as well as the value delivered to them through the maintenance of strict quality controls.
- Country and territory names are already in use in certain legacy gTLDs and many ccTLDs.
- If the registry operator has a robust framework in place to address the concerns of the

government, certain government entities would be open to considering the release of their country and territory names.

Some community members also raised concerns over the use of the Registry Services Evaluation Policy as a measure to handle registry operator requests for the release of country and territory names and suggested ICANN organization end this process and instead focus on resolving the matter of country and territory names at the second-level.

The arguments made in favor to the release of the country and territory domain names for .BRAND TLDs were as follows:

- These name would allow development and promotion by brand owners of localized and targeted content.
- The use of these names would enhance security and trust and reduce phishing and fraud.
- The use of these names would provide the benefit of “protecting and honoring intellectual property”.
- The use of these names would not result in user confusion since consumers will recognize that the country or territory name is used in the “private” context of the brand.
- These names will facilitate online commerce in developing nations by encouraging registries to create customized and localized content (in non-English languages) for consumers in such regions.

The arguments made in favor to the release of the country and territory domain names for Geographic (Geo) TLDs were as follows:

- Geographic TLDs by definition have the support of the official governments of their respective municipalities and represent spaces “where the likelihood of abuse or misconduct in the use of country and territory name is low”.
- The use of these names would allow enhanced community-building for Internet users in those geographic areas and enable businesses to provide targeted service to those communities.

The arguments made against the release of the country and territory domain names for Geographic (Geo) TLDs were as follows:

- Certain country and territory names with a nexus to the geographic area reflected in the TLD could potentially cause confusion.

The arguments made against the release of country and territory domain names from certain government entities were as follows:

- Countries are the ones to decide the use and application of their name and that of towns and communities located within their territory and that country and territory names should not be released without the authorization of the related country.

In the [Singapore Communiqué](#), the GAC noted that it was in the process of developing a database that will “inform whether individual GAC Members intend to agree to all requests, review them case by case, or not agree to any. The absence of input from a government will not be considered as agreement.” On [23 April 2015](#), the GAC “cautioned ICANN not to consider the absence of input from a government as agreement, due to the fact that a sensitive issue such as this calls for consultation with the relevant government.”

On 30 July 2015, the GAC published a [webpage](#) containing a table that “provides the respective country’s requirements for notification of such requests regarding the relevant country and territory name versions. [...] The table currently lists GAC Members’ requirements, although some have yet to state their requirements.” That same day, the Chair of the GAC issued a [letter](#) to the President of the Global Domains Division notifying him of the publication of the list that shows which countries wish to be removed from future notifications regarding this issue. In order to facilitate communication between the GAC’s webpage and registry operators, ICANN organization published an informational Country and Territory Names [webpage](#) referencing the GAC’s database.

### **What significant materials did the Board review? What factors did the Board find to be significant?**

The Board reviewed several materials and considered several significant factors during its deliberations about whether to approve the request. The significant materials and factors that the Board considered as part of its deliberations included, but were not limited to, the following:

- Specification 5, Section 4 of the [New gTLD Registry Agreement](#);



- GAC Singapore Communiqué, 11 Feb 2015, <<https://www.icann.org/en/system/files/correspondence/gac-to-board-11feb15-en.pdf>>
- Correspondence from GAC Chair to Chair of ICANN Board, 23 April 2015, <<https://www.icann.org/en/system/files/correspondence/schneider-to-crocker-23apr15-en.pdf>>;
- Country and Territory Names as second-level domains in new gTLDs requirements for notification list, <<https://gacweb.icann.org/display/gacweb/Country+and+Territory+Names+as+second-level+domains+in+new+gTLDs+requirements+for+notification+list>>;
- Correspondence from GAC Chair to President of Global Domains Division, 30 July 2015, <<https://www.icann.org/en/system/files/correspondence/schneider-to-atallah-30jul15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .NEUSTAR TLD, 22 December 2014, <<https://www.icann.org/en/system/files/files/report-comments-neustar-country-territory-22dec14-en.pdf>>
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .BMW and .MINI TLDs, 29 January 2015, <<https://www.icann.org/en/system/files/files/report-comments-bmw-mini-amendment-29jan15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .DVAG, .TUI, .SPIEGEL, .ALLFINANZ and .FLSMIDTH TLDs, 6 March 2015, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-06mar15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .EMERCK, .HAMBURG and .BERLIN TLDs, 30 April 2015, <<https://www.icann.org/en/system/files/files/report-comments-country-territory-30apr15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .HONDA, .AXA, .EPSON, .HSBC, .XYZ and .COLLEGE TLDs, 29 May 2015, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-29may15-en.pdf>>;

- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .SONY, .ARCHI, .BIO and .SAARLAND TLD, 7 July 2015, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-07jul15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .KOMATSU and .RICOH TLDs, 3 August 2015, <<https://www.icann.org/en/system/files/files/report-comments-komatsu-ricoh-ctn-03aug15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .GLOBAL, .BNPPARIBAS, .BRIDGESTONE and .FIRESTONE TLDs, 11 August 2015, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-11aug15-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .STUDY, .COURSES, .LAMBORGHINI, XN--3QO18VL8PN36A, .VOLKSWAGEN, .BUGATTI, .AUDI and .DELTA TLDs, 10 February 2016, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-10feb16-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .TORAY and .PICTET TLDs – 16 May 2016, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-16may16-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .HYUNDAI, .KIA and .GODADDY TLDs, 17 June 2016, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-17jun16-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .SOFTBANK, .ART and .CARAVAN TLDs, 14 September 2016, <<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-14sep16-en.pdf>>;
- Summary and Analysis Report of Public Comments: Release of Country and Territory Names within the .IKANO, .SAXO, .SCOR, .SANDVIK, .WALTER, .SANDVIKCOROMANT, .VISTA, .VISTAPRINT, .BARCLAYS, .BARCLAYCARD and .HERMES TLDs, 24 March 2017,

<https://www.icann.org/en/system/files/files/report-comments-ctn-release-tlds-24mar17-en.pdf>.

**Are there positive or negative community impacts? Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public? Are there any security, stability or resiliency issues relating to the Domain Name System?**

Country and territory names are not reserved in certain legacy TLDs, which have not caused apparent security, stability or resiliency issues in relation to the Domain Name System. It is expected that the release of names in new gTLDs that are approved in the GAC database will not cause security, stability or resiliency issues. There is no foreseeable fiscal impact to ICANN and this resolution would resolve the handling of requests for the release of country and territory names at the second-level through the Registry Services Evaluation Policy as well as outstanding contract amendments as a result of these requests.

**Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?**

The Registry Services Evaluation Policy is an ICANN consensus policy, effective as of 15 August 2006. Consistent with the policy, ICANN organization posted the Registry Agreement amendments for public comment as the implementation of the proposed service required what was considered a material change to the Registry Agreement.

**Signature Block:**

Submitted by: Cyrus Namazi  
Position: VP, Domain Name Services & Industry Engagement  
Date Noted: 21 April 2017  
Email: cyrus.namazi@icann.org

**ICANN BOARD SUBMISSION NO. 2017.05.18.C3a**

**TO:** ICANN Board  
**TITLE:** Extension of Ombudsman Contract  
**PROPOSED ACTION:** For Board Consideration and Approval  
**EXECUTIVE SUMMARY:**

Confidential Employment Matter

**BOARD GOVERNANCE COMMITTEE (BGC) RECOMMENDATION:**

Confidential Employment Matter

**PROPOSED RESOLUTION:**

Whereas, the current Ombudsman’s contract concludes on 27 July 2017.

Whereas, the scope and breadth of the Ombudsman’s office is still being reviewed by the Community through its Work Stream 2 work.

Whereas, in order to ensure that the Office of the Ombudsman remains operational, the BGC has recommended that the Board extend the Ombudsman’s contract for another year following the conclusion of his current contract, which expires on 27 July 2017; the extension will cover the period from 28 July 2017 through 27 July 2018, or until the Board selects ICANN’s next Ombudsman, whichever is sooner.

Resolved (2017.05.18.xx), the Board approves the extension of Herb Waye’s contract to serve as ICANN’s Ombudsman for an additional year, covering the time period from 28 July 2017 through 27 July 2018, or until the Board selects ICANN’s next Ombudsman, whichever is sooner.

Resolved (2017.05.18.xx), the Board asks the Compensation Committee to evaluate the Ombudsman’s compensation package to determine if any revisions might be appropriate before the contract extension is effectuated.

Resolved (2017.05.18.xx), the Board directs the President and CEO, or his designee(s), to take all steps necessary to effectuate the Ombudsman’s contract extension.

Resolved (2017.05.18.xx), the Board directs the President and CEO, or his designee(s), to continue monitoring the community work relating to the Ombudsman, and ensure that, following the community work, the search for the next Ombudsman begins as soon as feasible and practicable.

Resolved (2017.05.18.xx), specific items within this resolution shall remain confidential pursuant to Article III, section 5.2 of the ICANN Bylaws until the President and CEO determines that the confidential information may be released.

**PROPOSED RATIONALE:**

ICANN's Bylaws require ICANN to maintain an Office of the Ombudsman. (*See Article V of the Bylaws at <http://www.icann.org/en/general/bylaws.htm#V>.*) Having an ICANN Ombudsman positively affects the transparency and accountability of ICANN as the Ombudsman is one of the three main accountability mechanisms within ICANN.

Currently, the Community is involved in discussing ICANN's accountability mechanisms, including the scope and breadth of the Ombudsman's office. Once the Community work is completed, there will be changes to the role and responsibilities of ICANN's Ombudsman, which could significantly impact the position description for the role.

The current Ombudsman, Herb Waye, was appointed as ICANN's Ombudsman in July 2016, and his current contract expires on 27 July 2017. A new Ombudsman has not yet been selected since searching for ICANN's next Ombudsman before the Work Stream 2 work relating to the scope of the Ombudsman's office is completed may prove inefficient and premature. However, ICANN must ensure that the Ombudsman's office remains operational during this time period. Mr. Waye, has been serving as the Ombudsman for approximately nine months, and served as the Adjunct Ombudsman for 10 years prior to that. He is extremely familiar with and well versed in the complex issues facing ICANN, including the New gTLD Program and other initiatives currently under way. By all accounts, Mr. Waye has been serving ICANN well as the Ombudsman since his term began in July 2016.

The Board also notes that there are discussions to possibly add a new Adjunct Ombudsman, a role that the current Ombudsman served for 10 years. This is in specific response to concerns raised during the Board's discussion about the need to evaluate the workload of the Ombudsman Office to make sure the Office can deal with complaints that may be submitted pursuant to this new Community Anti-Harassment Policy. If the Ombudsman's Office were to be expanded with an Adjunct Ombudsman, this could be an opportunity to consider gender diversity, as well as deal with any short-term issues in terms of workload of the Office.

As there has been a budget for an ICANN Ombudsman since 2004 when the first Ombudsman was appointed, this decision does not have a financial impact on ICANN, the community, or the public that was not already anticipated or included in the budget, outside of the anticipated

potential costs of the search for the new Ombudsman. This decision will not have any impact on the security, stability or resiliency of the domain name system.

This decision is an Organizational Administrative Function that does not require public comment.

Submitted By: John/Jeffrey – General Counsel and Secretary;  
Amy Stathos – Deputy General Counsel  
Date Noted: 11 April 2017  
Email: [john.jeffrey@icann.org](mailto:john.jeffrey@icann.org); amy.stathos@icann.org

**Directors and Liaisons,**

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

**18 May 2017 – Special Meeting of the ICANN Board of Directors - at 14:00 UTC. This Board meeting is estimated to last approximately 90 minutes.**

**<https://www.timeanddate.com/worldclock/fixetime.html?iso=20170518T1400>**

**Some other time zones:**

**18 May 2017 – 7:00am PDT Los Angeles**

**18 May 2017 – 10:00am EDT Washington, D.C.**

**18 May 2017 – 4:00pm CEST Brussels**

## **SPECIAL MEETING OF THE ICANN BOARD**

### Consent Agenda

- Approval of Board Meeting Minutes from 16 March and 19 April 2017
- Initiating the Second Review of the Security and Stability Advisory Committee (SSAC)
- Proposed Fundamental Bylaws Change to Move Board Governance Committee's Reconsideration Responsibilities to Another Board Committee

### Main Agenda

- Approval of the Global Amendment to the Base New gTLD Registry Agreement
- Release of Second-Level Country and Territory Names in New gTLDs
- AOB

Executive Session – Confidential



- Extension of Ombudsman Contract
- AOB

**MATERIALS – You can access the Board Meeting materials in Google Drive here:**

Contact Information Redacted

**If you have trouble with access, please let us know and we will work with you to assure that you get access to the documents.**

**If call information is required, it will be distributed separately.**

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

**John Jeffrey**

**General Counsel & Secretary, ICANN**

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