2010-12-10 NoticeBDMtg

Directors and Liaisons,

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

10 December 2010 - Special Meeting of the ICANN Board of Directors --
at 15:30 UTC – This Board meeting is estimated to last 3.5 hours.

Some other time zones:
10 December 2010 – 7:30 AM PST Los Angeles
10 December 2010 – 4:30 PM CEST Brussels
10 December 2010 – 10:30 AM EST Washington, D.C.
11 December 2010 04:30 AM Wellington

http://www.timeanddate.com/worldclock/fixedtime.html?month=12&day=10&year=2010&hour=15&min=30&sec=0&p1=0

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

MATERIALS -- All Materials are available on 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.

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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+1.310.301.5834 direct

Personal Information Redacted

Directors and Liaisons,

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

10 December 2010 - Special Meeting of the ICANN Board of Directors --
at 19:00 UTC – This Board meeting is estimated to last 1.0 hours.

Some other time zones:
10 December 2010 – 11:00 AM PST Los Angeles
10 December 2010 – 8:00 PM CEST Brussels
10 December 2010 – 2:00 PM EST Washington, D.C.
11 December 2010 – 08:00 AM Wellington

http://www.timeanddate.com/worldclock/fixedtime.html?month=12&day=10&year=2010&hour=15&min=30&sec=0&p1=0

The only materials for this meeting will be the resolutions, whichi will be distributed before the meeting.

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

If call information is required, it will be distributed separately

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

John Jeffrey
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2010-12-10 Agenda-Resolutions for Board Meeting - Cartagena

Agenda for Board Meeting – 10 December – Cartagena

Consent Agenda:

1. Approval of Minutes from 28 October 2010 ICANN Special Board Meeting

   RESOLVED *(2010.12.10.XX) the Board hereby approves the minutes of the 28 October ICANN Special Board Meeting.*

2. Approval of Minutes from 5 November 2010 ICANN Board Meeting

   RESOLVED *(2010.12.10.XX) the Board hereby approves the minutes of the 28 October ICANN Special Board Meeting.*

3. Thank You's (Draft Resolutions will be provided before Wed. workshop)
4. From the Board Governance Committee (all tentative depending on committee meeting):
   a. Approval of Bylaw Amendments on Board Member Term Transitions
   b. Response to Reconsideration Requests 10-2 and 10-3
5. From the Structural Improvements Committee (all tentative depending on committee meeting):
   a. Approval of Posting of New Constituency Charter
   b. Approval of NomCom Review Implementation
   c. Approval of RSSAC Review High-Level Implementation Plan
6. From the Board Finance Committee (tentative depending on committee meeting):
   a. ICANN Investment Policy
7. Approval of Location of the Asia June 2011 Meeting (tentative depending on Finance & PPC committee meetings) (Board Submission 2010-12-10-01)

Resolution Text Superseded

Resolution Text Superseded

8. Acknowledgment of Receipt of FY 11 Update to the ICANN Plan for Enhancing Internet Security, Stability & Resiliency (Board Submission 2010-12-10-02)

   Whereas, the FY 11 Update to ICANN's Plan for Enhancing Internet Security, Stability & Resiliency (SSR) was posted for public comment from 13 September to 5 November 2010.

   Whereas, a final version of the FY 11 SSR Plan incorporating public comment has been prepared and is available at [link].

   ***RESOLVED** (2010.12.10.XX), the Board acknowledges receipt of the FY 11 SSR Plan.*

9. Approval of MoU with the New Partnership for Africa's Development Planning and Coordinating Agency (NEPAD/NPCA) (Board Submission 2010-12-10-03)

   Whereas, ICANN has developed a collaborative program with private and intergovernmental parties to conduct outreach to governments and local Internet communities;

   Whereas, Memorandums of Understanding help promote joint activities in compliance with ICANN by-laws and assist ICANN staff to engage with respective organizations both globally and locally;

   Whereas, the NEPAD/NPCA, an inter-governmental not-for-profit organization, expressed an interest to enter into a non-binding MOU with ICANN to collaborate on the creation of joint projects in support of a common mission to improve Internet Governance;

   Whereas, ICANN staff and the NEPAD/NPCA successfully concluded negotiations over the text of a nonbinding MoU and entry into such an agreement would promote the mission and interests of ICANN in the region;

   *It is hereby **RESOLVED** (2010.12.10.XX), the ICANN Board of Directors direct the President and CEO to enter into the MoU agreement with the NEPAD/NPCA.*

10. Status Report on AOC Reviews (Board Submission 2010-12-10-04)
11. UDRP Status Update (Board Submission 2010-12-10-05)

Main Agenda:

1. From the Structural Improvements Committee (all tentative depending on committee meeting):

Item removed from Agenda

2. Strategic Plan – For Discussion (Board Submission 2010-12-10-07)

3. New gTLDs:

    a. Guidebook Consideration (Board Submission 2010-12-10-08)

Resolution Text Superceded

Resolution Text Superceded

Resolution Text Superceded

b. Morality & Public Order – For Discussion (Board Submission 2010-12-10-09)

c. Geographic Names – For Discussion (Board Submission 2010-12-10-10)

4. SSAC Report on Invalid Top Level Domain Queries at the Root Level of the Domain Name System (Board Submission 2010-12-10-11)

Resolution Text Superceded

5. ICM Registry Sponsored Top-Level Domains – .XXX (Board Submission 2010-12-10-12)
6. Items Arising from the Cartagena Meeting
7. Any Other Business (Thanks to Departing Board Members)

Agenda for Organizational Meeting – 10 December 2010 – Cartagena

1. Election of Board Chairman
2. Election of Board Vice-Chairman
3. Appointment of Membership of Board Committees
4. Confirmation of Officers of ICANN
5. Other Business

2010-10-28-DRAFT-Board-Minutes

Draft Minutes of Board Meeting

28 October 2010

A Special Meeting of the ICANN Board of Directors was held via teleconference on 5 August 2010 at 20:00 UTC.

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), Dennis Jennings (Vice Chairman), Harald Tveit Alvestrand, Steve Crocker, Gonzalo Navarro, Rita Rodin Johnston, Raymond A. Plzak, Rajasekhar Ramaraj, George Sadowsky, Mike Silber, Jean-Jacques Subrenat, Bruce Tonkin, Katim Touray, and Kuo-Wei Wu.

The following Board Liaisons participated in all or part of the meeting: Heather Dryden, GAC Liaison; Thomas Narten, IETF Liaison; Jonne Soininen, TLG Liaison; and Vanda Scartezini, ALAC Liaison.

Ram Mohan, SSAC Liaison, sent apologies.

Also, the following ICANN Management and staff participated in all or part of the meeting: Akram Atallah, Chief Operating Officer; Barbara Clay, Vice President, Communications and Marketing; Jamie Hedlund, Vice President, Government Affairs - Americas; John Jeffrey, General Counsel and Secretary; David Olive, Vice President, Policy Support; Kurt Pritz, Senior Vice President, Services; Elise Gerich, Vice President, IANA; Diane Schroeder, Director of Board Support.

1. **Executive Session**

The Board conducted an executive session, without staff present, in confidence.

Peter Dengate Thrush moved and Bruce Tonkin seconded the following resolution:

***RESOLVED**, (2010.10.28.01) the Board approves the CEO Objectives Matrix.*

All Board members present unanimously approved this resolution, 12-0. Rod Beckstrom, Steve Crocker and Katim Touray were not available to vote on this resolution.

2. **Consent Agenda**

The Board discussed the content of the Consent Agenda and noted some corrections to be made to the Minutes of the 5 August 2010 Board meeting prior to approval.

The following resolutions were approved unanimously 15-0. The Resolutions were moved together by the Chair, and Dennis Jennings seconded the motion.

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

a. Approval of Minutes of 5 August 2010 ICANN Special Board Meeting

RESOLVED *(2010.10.28.02) the Board hereby approves the minutes of the 5 August 2010 ICANN Special Board Meeting.*

b. Approval of Minutes of 25 September 2010 ICANN Special Board Meeting

RESOLVED *(2010.10.28.03) the Board hereby approves the minutes of the 25 September 2010 ICANN Special Board Meeting.*

c. From the SSAC – Changes to SSAC Membership:

i. Approval of Appointment of Merike Kaeo to the SSAC

Whereas, the SSAC does review its membership and make adjustments from time-to-time.

RESOLVED *(2010.10.28.04) the Board appoints Merike Kaeo to the Security and Stability Advisory Committee (SSAC).*

ii. Thanks to Departing SSAC Member Dan Simon

Whereas, Dan Simon was appointed to the ICANN Security and Stability Advisory Committee on 26 June 2009. Whereas, ICANN wishes to acknowledge and thank Dan Simon for his service to the community by his membership on the Security and Stability Advisory Committee.

RESOLVED *(2010.10.28.05), Dan Simon has earned the deep appreciation of the Board for his service to ICANN by his membership on the Security and Stability Advisory Committee, and that the Board wishes Dan Simon well in all future endeavours.*

d. From the Board Governance Committee – Approval of revised Board Audit Committee Charter and Board Executive Committee Charter

Whereas, each Committee of the Board of Directors should have a Charter to define the Committee's work and operations.

Whereas, the Board Audit Committee has reviewed its Charter approved in 2000 and approved revisions to reflect the scope of the

Committee's work, and to align with language common to all charters as approved by the Board Governance Committee.

Whereas, the Board Executive Committee approved a Charter incorporating language common to all charters.

Whereas, the Board Governance Committee recommended the proposed Charter to the Board Executive Committee, and recommends that the Board approve the Board Audit Committee revised Charter.

***RESOLVED** (2010.10.28.06) the Board approves the revised Board Audit Committee Charter and the Charter for the Board Executive Committee.*

e. From the Board Governance Committee – Approval of Chair and Vice-Chair Position Descriptions

Whereas, the Board Governance Committee spent several months reviewing and revising, and has recommended that the Board approve a formal position description for the Chair and the Vice Chair of ICANN's Board of Directors.

***RESOLVED** (2010.10.28.07) the Board approves the position descriptions for the Chair and the Vice Chair of ICANN's Board of Directors, which are posted at http://www.icann.org/en/board/chair-and-vice-chair-position-descriptions-29oct10-en.htm.*

f. From the Board Governance Committee – Approval for Posting of Bylaw Changes relating to transition of Board terms

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

Whereas, six months after the prior year's AGM typically occurs in-between ICANN's International Public Meetings, and if the Bylaws are amended to allow for a voting Board member to be selected by the At-Large Community, the transition of the new Seat 15 is anticipated to occur between ICANN's International Public Meetings;

Whereas, the Board Review Working Group recommended that the seating of Board members not appointed by NomCom occur at a

mid-year International Public Meeting of ICANN to facilitate the transitioning of the Board;

Whereas, the Board Governance Committee ("BGC") has considered this issue and recognized that a mid-year meeting may not occur on an annual basis, and recommended modifications to allow for seating of incoming directors without delay;

Whereas, the proposed Bylaws amendments reflect the anticipated addition of a voting member selected by the At-Large Community, incorporating amendments already posted for public comment, at http://www.icann.org/en/public-comment/#al-director;

Whereas, the BGC recommends that the Board approve the posting for public comment of the proposed Bylaws amendments.

***RESOLVED** (2010.10.28.08), that the proposed Bylaws amendments be posted for public comment for a period of not less than 30 days.*

***RESOLVED** (2010.10.28.09), once the public comment period is concluded and the public comments have been evaluated and summarized, the Board will consider the proposed Bylaws amendments for approval.*

g. From the Board Structural Improvements Committee – Approval of Bylaws Necessary to Seat Director from At-Large Community

Whereas, on 27 August 2009, the Board approved in principle the recommendation of the Board review Working Group (BRWG) to add one voting director from the At-Large Community to the ICANN Board of Directors and removing the present ALAC Liaison to the Board. http://www.icann.org/en/minutes/minutes-27aug09-en.htm.

Whereas, the BRWG issued its Final Report containing the recommendation with the expectation that "the selection process will be designed, approved and implemented in time for the new Director to be seated at the 2010 Annual General Meeting."

Whereas, on 12 March 2010 the Board directed the Structural Improvements Committee (SIC) to present a set of suggested actions to address the recommendations formulated in the BRWG final report. http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#1.6.

Whereas, on 25 June 2010, the Board approved a recommendation from the SIC and directed the ICANN CEO to post for public comment proposed Bylaws amendments necessary to allow for the seating of a Board Director selected by the At-Large Community and to remove the present ALAC Liaison. http://www.icann.org/en/minutes/resolutions-25jun10-en.htm#1.7.

Whereas, the proposed Bylaws amendments were posted for public comment for 45 days, ending on 15 August 2010, and staff prepared a full Summary and Analysis of comments determining that no substantive edits were necessary to the proposed amendments. Staff prepared minor revisions to the Bylaws amendments based upon items arising in public comment and identified in the Summary and Analysis.

Whereas, the SIC, at its 14 October 2010 meeting, considered the further proposed amendments and recommended that the Board approve the Bylaws amendments as modified by Staff.

Whereas, to address concerns arising in the public comment period, the Board recommends that the At-Large Community consider the possibility that the At-Large Community's selection process to identify a Director to fill the six-month vacancy in Seat 15 at the conclusion of ICANN's Annual General Meeting in 2010 could also be declared to select the Director to serve in the first regular term of Seat 15, as defined within the amended Bylaws, without the re-initiation of a Board seat selection process.

***RESOLVED** (2010.10.28.10), the Board approves the Bylaws revisions as revised by Staff in response to public comment. The Bylaws as amended will allow for the seating of the Board Director selected by the At-Large Community at the conclusion of the ICANN's Annual General Meeting in 2010.*

h. From the Board Structural Improvements Committee – Approval of Posting for Comment of SSAC Related Changes to ICANN Bylaws

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

Whereas, in its final report published 29 January 2010 http://www.icann.org/en/reviews/ssac/ssac-review-wg-final-report-29jan10-en.pdf [PDF, 282 KB], the Security and Stability Advisory Committee (SSAC) recommended that task area one of the SSAC Charter (Section 2(2)(a)(1)

http://www.icann.org/en/general/bylaws.htm#XI) should be removed because it is out of scope of the activities of the SSAC.

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

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

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

***RESOLVED** (2010.28.10.11), the Board directs that the proposed Bylaws amendment should be posted for public comment for a period of no less than 30 days.*

i. From the Board Structural Improvements Committee – Approval of Posting for Comment of Nominating Committee Chair-Elect Changes to ICANN Bylaws

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

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

Whereas, on 12 March 2010, the Board received the NomCom Review final report and directed the Structural Improvements Committee (SIC) to identify actions necessary to address the recommendations within the report, at

http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#1.6.

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

***RESOLVED** (2010.10.28.12), the Board directs that the proposed Bylaws amendment should be posted for public comment for a period of no less than 30 days.*

j. Approval of Funding Source for New gTLD Deployment Budget

Whereas, the Board approved the new gTLD Deployment Budget at its meeting on 25 September 2010 (see Resolution 2010.09.25.01 at: http://icann.org/en/minutes/resolutions-25sep10-en.htm).

Whereas, the Board Finance Committee (BFC) discussed the amount of the new gTLD Deployment Budget and unanimously agreed to recommend that it not exceed $4.0 million.

Whereas, the BFC discussed the new gTLD Deployment Budget and unanimously agreed that it shall be funded now from the reserve fund and not from the adopted operating expense budget.

***RESOLVED** (2010.10.28.13), the funds for the new gTLD Deployment budget shall be available and shall not exceed $4 million.*

***RESOLVED** (2010.10.28.14), the new gTLD Deployment Budget shall be funded now from the ICANN reserve fund and not from the annual adopted operating expense budget.*

Resolutions 2010.10.28.01, 2010.10.28.02, 2010.10.28.03, 2010.10.28.04, 2010.10.28.05, 2010.10.28.06, 2010.10.28.07, 2010.10.28.08, 2010.10.28.09, 2010.10.28.10, 2010.10.28.11, 2010.10.28.12, 2010.10.28.13 and 2010.10.28.14 were approved in a single vote approving the consent agenda items. All Board Members present unanimously approved these resolutions.

Main Agenda

3. Ratification of MOU with Global Cyber Security Center

The Chair noted that the discussion of this item would be moved to upcoming the Board retreat at the beginning of November 2010.

4. President & CEO's Report

The Chair commended the CEO on the breadth of activities underway within ICANN and on the continuing low turnover in staff. The Chair also noted his congratulations to the new At-Large Structures and the continued growth of representation in the At-Large Community. Finally, the Chair inquired about the status of registrar voting on fees.

The CEO reported that the registrars had reached the threshold required for approval of fees and congratulated Kurt Pritz and the Registrar Liaison team on their work.

Dennis Jennings inquired about the financial commitments made by operators of IDN ccTLDs.

The CEO noted that work is ongoing to request contributions and commit to future voluntary contributions based upon registration volume.

Kurt Pritz clarified that the process doesn't include commitments to annual fees, though conversations are underway.

Dennis recommended that conversations regarding contributions happen as early as possible in the process.

The CEO noted that this may be a topic to be address by the new Board Global Relationships Committee, to address the scope of conversations will remaining attentive to ICANN's impartiality in the fast-track and delegation process, regardless of contribution status.

Dennis agreed with that suggestion, and noted the import of the issue of the financial liability of the IDN ccTLD process.

The CEO shared a report on the first trimesterly global staff meeting, with over 90% participation worldwide, and the positive remarks arising out of the meeting, particularly in terms of communications from management. The meetings will continue to align with the internal operations planning cycles.

Vanda Scartezini thanked the CEO for the recognition of the work of the At-Large Advisory Committee in the CEO Report.

5. IDN ccTLDs (for information)

    a. Update on IDN ccTLDs

The Chair noted that due to the discussion of IDN ccTLDs within the CEO Report section, no further update was needed. With no objections, the Board proceeded to the next item.

b. Issues Report on Variant Management – No resolution

The Chair inquired of the members of the Board Working Group addressing variants on the issues report presented by staff.

Harald Alvestrand commented that the report provides more of a plan than was expected, and satisfies the need for such a plan as a requested.

The Chair asked about next steps to implement the detailed plan.

Dennis Jennings noted that the plan is comprehensive, and inquired as to resources to execute on the plan.

The CEO noted that Kurt Pritz and Akram Atallah will both be involved in the initiative, and asked Kurt to provide input into staffing plans.

Kurt noted that the plan provides for five months to complete the staffing plan, which may pose challenges to find and enlist expertise. Some work has already begun on a dialogue of provision of DNS expertise and attempting to find in house expertise. Five months could be an ambitious timeline due to staffing challenges. There may be a need to ask the Board to approve a budget for this work, but the resources needed for staffing have to be better understood prior to seeking approval.

The Chair suggested the following next steps: (1) the Working Group addressing variants needs to approve the contents of the plan and check that the problem is properly identified; and (2) after the Working Group signs off, the Finance Committee should work with staff regarding funding.

The CEO agreed to follow that process.

Dennis, as chair of the Working Group, agreed to take the suggested process on Board.

6. Delegation of قطر. ("Qatar")

Elise Gerich provided an introduction to the two resolutions before the Board, one for the delegation of the IDN ccTLD as processed through the Fast Track process, and the other for the redelegation of the ASCII ccTLD to the same sponsoring organization, the Supreme Council of Information and Communication Technology.

Dennis Jennings questioned the sufficiency of documentation regarding community support outside of the representations made by the government, and suggested that the Board seek additional documentation of community consultations.

Jean-Jacques Subrenat supported Dennis' suggestions.

Heather Dryden restated her concerns raised at the prior meeting, that when a government makes representations in response to staff questions, there really is no further appropriate means for following up or taking action. It's imperative to ask questions and assure the responses are provided. Heather noted her disagreement with Dennis and Jean-Jacques.

Harald Alvestrand discussed the ongoing work in the Board IANA Committee on this topic. While work is ongoing, Harald noted that ICANN should first flag that it is reconfirming existing policies prior to changing its practices. The ongoing work with the IANA Committee will be turned into a staff proposal that will be presented to the Board.

The Chair inquired as to where a consultation with the ccNSO is envisioned under this work; this may be a policy development process issue for the ccNSO. In addition, there is a consistency problem if the Board were to vote against these pending requests, as this issue has arisen in the past and ongoing work has been initiated, and Qatar may not be aware of this work.

Dennis confirmed that rejecting the requests at this time without notice would be inappropriate, and there will be a recommendation forthcoming on the appropriate way forward for the future. To respond to Heather's concern, Dennis notes that there may not be contention between ICANN and governments in making sure that the wishes of the local internet community are taken into consideration. Dennis noted that he will vote no on these resolutions, though he does not wish to block the Board's consideration of this item.

a. Approval of Delegation

The Chair then moved and George Sadowsky seconded the following resolution:

> *Whereas, Qatar is a country currently listed in the ISO 3166-1 standard;*
>
> *Whereas,* قطر *("Qatar"), encoded as "xn--wgbl6a", is a string that has been deemed to appropriately represent Qatar through the IDN Fast Track process;*
>
> *Whereas, ICANN has received a request for delegation of* قطر. *to the Supreme Council of Information and Communication Technology;*

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

***RESOLVED** (2010.10.28.15), the proposed delegation of the .قطر top-level domain to the Supreme Council of Information and Communication Technology is approved.*

Eleven Board members voted in favor of the resolution. Dennis Jennings and Ray Plzak opposed the resolution. Mike Silber and Jean-Jacques Subrenat abstained from voting on the resolution. The resolution carried.

7. Redelegation of .QA (QATAR) top-level

Peter Dengate Thrush moved and Harald Alvestrand seconded the following resolution:

Whereas, QA is the ISO 3166-1 two-letter country-code designated for Qatar;

Whereas, ICANN has received a request for redelegation of .QA to the Supreme Council of Information and Communication Technology.

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

***RESOLVED** (2010.10.28.16), the proposed redelegation of the .QA top to* the*-level domain Supreme Council of Information and Communication Technology is approved.*

Eleven Board members voted in favor of the resolution. Dennis Jennings and Ray Plzak opposed the resolution. Mike Silber and Jean-Jacques Subrenat abstained from voting on the resolution. The resolution carried.

Ray Plzak noted that his vote in opposition to Resolutions 2010.10.28.15 and 2010.10.28.16 were made on the same grounds as set forth by Dennis.

Jean-Jacques Subrenat noted that his abstentions were based upon the same reasoning as set forth by Dennis.

Mike Silber provided the following rationale for his abstentions: there appear to be significant concerns regarding community participation in each of these applications. As such, I cannot approve the delegation. At the same time, previous delegations which have been approved also suffered similar deficiencies. Accordingly I feel unable to reject the delegation either. As such, I am forced to

abstain.

8. New gTLD Program

    a. Update on Timeline

Kurt Pritz made a presentation to the Board on proposed timelines to publish a final version of the Applicant Guidebook and not preclude additional comment, recommending the adoption of a model like ICANN's budget model. Kurt noted that with the outstanding remaining issues, there is still the ability to publish a proposed final Guidebook, including the anticipated publication of the economic study, as the Board has the option to require further consideration of issues at its meeting in Cartagena.

The Chair noted the applicability of the budget process to this situation, and noted that whatever timetable that is set up is likely to slip if there is unexpected opposition or the need for unexpected changers. Therefore, it seems better to adopt a tight but achievable time line, though there's the possibility that it may take longer than planned.

Kurt noted his agreement with signaling that approval in Cartagena is the best case scenario on a timeline, though there could be slippage. Kurt confirmed that there's time to form a position on all remaining issues prior to posting the Guidebook, and the Board still has the flexibility to require more time for comment or input.

George noted his concern about forming a position on vertical integration prior to the consideration of the conclusions of the economic study.

Kurt responded that the economic study is about the benefits and costs associated with the introduction of the New gTLD program, and is not expected to address whether vertical integration will result in increased transaction costs or increased or decreased benefits.

Harald questioned the likelihood that the community response to the economic study will cause a change to the Applicant Guidebook.

Kurt noted that the economic study might requests changes to trademark protections or suggest that there be consideration of how to lower transaction costs through increased trademark protections. Otherwise, the response to the economic study will be to support conclusions that ICANN should or should not launch New gTLDs.

Thomas Narten suggested that any comment period be structured as in the IETF – flag that ICANN is interested in new comments only, and that comments on closed issues will be dismissed absent a compelling argument. However, ICANN has to be careful to not close off comments completely.

The Chair noted the validity of Thomas' point, however, there are new people always entering the debate at ICANN. The Chair suggested that Kurt work with the Marketing and Communications department on how to present the request for comments in a way to focus away from resolved issues.

Bruce Tonkin suggested that the proposed final Guidebook be posted with the briefing note that substantial new issues raised by the community may result in changes and possibly delaying a decision on the Guidebook from Cartagena to the next meeting. It's important to communicate on this point, that we want to close the process, but still take into account new issues and not ignore community feedback. On the form of receiving comments, staff should confirm that we can answer the questions that come up – even questions that arise with every round of publishing the Guidebook – and point to where the response was given in the past.

Dennis Jennings commented that any comment period should be increased so that it does not substantially overlap with the December holiday season.

Steve Crocker raised the issue of abuse of consumer information, and requested that there be strong and clear statements of how registrants are protected from misuse of query and registration information.

The Chair inquired as to whether this statement would be a result of the Working Group on this issue.

Steve responded that it's a general issue and the protections need to be put in place.

Ray Plzak noted his concurrence with Dennis' statement. Ray also noted that he would modify Bruce's proposal and have a note that states "this is the last call for comments" to indicate that the Board will act on the proposed final Guidebook but is still open for hearing the community.

Rita Rodin Johnston noted her agreement with Ray, that ICANN shouldn't attempt to pre-define limitations on the types of comments it will consider on the proposed final Guidebook. Rita noted that she has heard from many and is learning towards trying to get this approved in Cartagena. Rita recommended that the Board hold a separate workshop dedicated to the proposed Guidebook at the meeting in Cartagena to hear comments and get the sense of the community prior to taking decision. If it looks like there has been some tremendous change in peoples' minds, the Board can get a sense of that and assess the ability to move forward.

The Chair noted that he will see if there can be some time on the Cartagena schedule to accommodate Rita's suggestion. The Chair then inquired about the need to wait until approval of the final Guidebook for the launch of the communications plan, and encouraged staff to provide advance communications that this is coming.

Jonne Soininen noted his agreement with the Chair.

Kurt Pritz clarified that ICANN has been communicating on New gTLDs all along, attending outreach events and communicating through press releases and other means to inform people of the progress. To meet the policy recommendation, however, the countdown to accepting applications will be four months after announcing a date certain.

The Chair inquired as to whether anything else could be done so as to ramp up communications and not take people by surprise.

Barbara Clay confirmed that launching the four-month communication plan after the approval of the Guidebook is the preferred way to go, though there will be a gradual ramp-up to the launch of the communication plan. The plan allows the resources of the organization to be used in the most effective way.

The Chair thanked Kurt and Barbara for their explanations. The Chair then moved to consideration of a formal timetable to guide the remainder of the work on the New gTLD program, noting that recording a resolution on this topic will assist in getting the community prepared. The Chair requested that the launch scenario discussed be posted with the Resolutions from the meeting.

The Chair then moved and Bruce Tonkin suggested the following resolution:

> ***RESOLVED*** *(2010.10.28.17), the Board directs staff to adopt as a working plan the Launch Scenario with launch date of Q2 2011, as contained in the graphic attached here.*

All Board members present unanimously approved of this resolution.

b. Vertical Integration

In the interests of time, the Chair passed on this item of discussion.

c. GNSO New gTLD Recommendation 6 Objection Process

Kurt Pritz provided an introduction to the Board on the report issued by the cross Supporting Organization/Advisory Committee working group convened on Recommendation Six and the work to simplify the report and make specific staff recommendations. Staff simplified the 14 recommendations arising from the group's work into five categories. Kurt provided a short overview of staff's recommendations, including the areas where staff recommends adoption. Kurt noted that staff disagrees with the Working Group recommendations on the Board role in the objection and dispute resolution process; the Board should not be ultimate arbiter of disputes. That responsibility should rest with an independent dispute resolution provider, as part of the risk mitigation of the New gTLD process. Staff would not fully adopt the recommendations of the Working Group regarding the role of the independent objector, as ICANN needs to include a process for the ability to objection to a clearly objectionable string. Staff also doesn't support the

Working Group's recommendation for the relaxing of a standing requirement for objections by the ALAC and the GAC, nor to affording ALAC and the GAC reduced fees or a different set of standards for carrying an objection. Staff does not recommend treating the ALAC or the GAC differently from other objectors. Kurt reported that staff commits to having a working session in Cartagena to resolve differences with the working group and to get to agreement on as many issues as possible.

The Chair inquired about the ability to reach out to the Working Group prior to Cartagena, and to keep working on this issue as necessary. The Chair requested that there be staff time with the Working Group to explain the staff positions, even if by phone call.

Heather Dryden noted that the Working Group would likely be open to that suggestion, and that the GAC may comment separately on the issues in the report, as the report is not GAC advice.

Kurt confirmed that staff could coordinate calls with the working group and that he would work with David Olive to convene a session.

Heather noted that there was some discussion regarding the meaning of the Board's resolution in Trondheim, and that it would be useful for the calls to provide some clarity on those.

Bruce Tonkin requested that a briefing paper be provided to the Working Group in advance of a call, as that would go a long way to settling some fo the concerns raised by Heather regarding the sense that the Working Group's work was ignored.

The Chair agreed with Bruce's suggestion and confirmed that is the proper way forward.

d. GAC Issues Letter including Geographic Names

Kurt Pritz provided a short introduction to the Board regarding consideration of whether an additional consultation with the GAC is required due to some specific areas of difference between GAC advice and what is in the Guidebook. Kurt noted that there have been multiple conversations and consultations over the years.

The Chair inquired about the path forward. The Bylaws require consultation when the Board is ready to take an action that is inconsistent with the GAC advice, and asked if staff was suggested a sort of pre-consultation, or if this was to be the Bylaws consultation.

Bruce Tonkin stated his concern of the logistics of how the Board would consult with the GAC; would it be the full Board meeting with the full GAC? That would not be a the most functional forum for this discussion. Bruce also questioned where the GNSO would fit into any conversation on this. Bruce suggested that prior to a full

Board/full GAC meeting, a smaller group get together in Cartagena, including representatives from the Board, the GAC and the GNSO to talk the issues through and see if there are any further areas of compromise. Bruce suggests the presence of the GNSO because of the work done in developing the policy recommendations, so as not to lock the GNSO out of discussions regarding the recommendations arrived at through the GNSO.

The CEO noted that he has provided suggestions to Kurt on what a consultation process could look like, and staff recommendation would be forthcoming.

Heather Dryden noted that she would return to the GAC for further guidance on ideas of how to proceed, and stated that any consultation would likely be expected to be between the full Board and open to the full GAC if the members wish to participate.

Bruce clarified that he proposed a smaller working group for the purpose of preparing for the full Board/GAC discussion.

Heather noted that the need for a full meeting would likely not preclude the ability to have a smaller working group convene earlier.

Rita Rodin Johnston questioned whether the Bylaws require the full Board to meet with the full GAC to engage in a good faith consultation. Rita noted her concern of the productivity of such large meetings. Rita suggested that the GAC, using staff's work, review to determine if there are issues to be discussed, so that the issues can be limited in some way prior to working toward compromise.

John Jeffrey noted that while an outside reading of the Bylaws may lead to a full Board/GAC meeting, the General Counsel does not interpret the Bylaws to say that is what is required. However, some agreement about what a consultation would look like is required. John noted that a preconsultation between the Chairs, as suggested here, is a good model to get to deciding on a process and reaching a clarification on where there's GAC advice and what may be in conflict with that advice.

Jean-Jacques Subrenat inquired as to whether any current committee of the Board may be useful in the preparatory phase.

The Chair noted that there is no current committee that would be the natural home for working through this process, though maybe a group of Directors familiar with or interested in the geographic names issues could populate a working group.

The CEO suggested that the Chair have a call with the Chair of the GAC to determine if there are any issues that could be taken off the table, and staff support could be provided for that call.

The Chair noted that he is happy to do so, though the starting point is to get a paper on geographic names presented to the GAC, and have Heather, as Chair of the GAC,

check that there really is disagreement, and on what issues. Following that, the Chairs can discuss the process for resolution.

John noted that staff is starting to create reference numbers for GAC advice and charting with relevant information, which may be used in the future to refine discussions with the GAC.

The Chair confirmed that he, along with Heather and staff, will move this issue forward prior to Cartagena.

e. Affirmation of Commitment Considerations

Kurt introduced a paper describing how ICANN thinks its met the conditions set our in the Affirmation of Commitments in launching New gTLDs in a way that fosters competition, enables security, stability, and resiliency, protects consumers, addresses sovereignty concerns, and provides for rights protection. Kurt inquired as to how the paper can be sharpened for publication and to whom it should be published.

The Chair noted that this would likely be published to the ICANN website with a courtesy copy to U.S. Department of Commerce as the partner in the Affirmations document. The Chair inquired to as to how a ranking can be done on how the work was performed.

Kurt responded that processes for transparent, fact-based decisions are important to demonstrate.

Dennis Jennings stated that there has to be some effort into identifying objective standards against which to measure performance.

Bruce Tonking stated that he supports posting a document such as this on the New gTLD site, and it's worth trying to document how we feel we measure against the Affirmation of Commitments. Bruce agreed with Dennis' statement and noted that metrics have to be defined so that ICANN can measure success from the New gTLD program.

The Chair requested for Kurt to consider what known performance indicators for the New gTLD program may be, what the adequacy scale is for measuring, and try to set that out for future conversation.

9. ICM Registry Sponsored Top-Level Domains – Next Steps

John Jeffrey provided a brief overview of the history of GAC advice on the .XXX sTLD application, and staff's recommendation of a process of consultation between the GAC Chair and the ICANN Board Chair to determine whether there is clarity around the GAC advice that's been offered or whether a deeper consultation is needed. John stressed that the goal is to get to a timely and effective resolution of this matter.

The Chair raised a similar question as earlier, regarding whether the Board is about to take an action that would need to be discussed with the GAC, or if this is a preliminary consultation. If this is a preliminary consultation, the Chair stated that he's not sure why this is needed, as the issues are well known. If the Board were to proceed in approving the Registry Agreement, the requirement to consult with the GAC would arise then. Alternatively, the Board could try to speak with the GAC now, if the consultation will have to happen in any event.

Jean-Jacques Subrenat requested Heather Dryden's view as Chair of the GAC.

Heather Dryden noted that if the ICANN Board Chair could send a letter outlining the issues that have been identified, that letter could be taken to the GAC to see if additional advice will be provided.

Jean-Jacques noted that the GAC seems keen to not give further advice where it had previously been perceived that they wanted to be consulted on this matter. As a result, Jean-Jacques joined the Chair in questioning the usefulness of the consultation at this stage.

The Chair questioned why the staff recommendation is for consultation prior to the Board determining that it will take advice. Here, the GAC advice in front of the Board is not sufficient to prevent the Board from moving forward if it chooses to, and then going an explaining the action to the GAC and seeking to resolve conflict. For example, the Wellington Communiqué asked for information – that's information that can be given to the GAC. The statement that some members are opposed, are not, in the Chair's view, advice from the GAC; it's information. None of these items keep the Board from moving forward. Regarding supervision of content, based on the information from the applicant and from staff, the role in technical oversight is no different from the kind of oversight exercised over other TLDs. Finally, the suggestion that the letter from 4 August 2010 could retroactively apply to ICM's application is not coherent; the Independent Review Process focused on issues of trying to impose new conditions on the applicant at a later state, and an attempt to impose new conditions by the GAC cannot be intended or acceptable. The Chair asked for help in determining how to move forward.

Jean-Jacques asked the General Counsel for further information on the need for the resolution.

John Jeffrey noted that the model proposed seeks to de-escalate potential conflict between the Board and the GAC, and not have a later decision brought to a stop because of a need to consult to consult with the GAC. The suggested path is a means to determine whether GAC communications are GAC advice and if there is any conflict necessary to consult about that as early as possible. In addition, the Board could obtain more information regarding the GAC advice to make its applicability to the Board's action clearer.

Katim Touray noted that it would be preferable to manage the process of communicating decisions to the GAC as opposed to taking action without a consultative process. Therefore, it would be helpful to have some preliminary communications regarding the Board's intended actions, as that will strengthen the relationship between the Board and the GAC on this and other issues. The focus should be on consultation, and not simply consultation as required in the Bylaws.

Bruce Tonkin asked about the content regulation issues. Another sTLD, .CAT, has a registration rule that it applies, and ICANN's concern is that the registry treats people fairly and abides by the terms of the Registry Agreement. How would the .XXX sTLD be different? There will be a sponsoring organization and compliance monitoring activity, and it appears that ICANN would be in a position of monitoring that the compliance process is appropriate – and not about ICANN checking the content.

John Jeffrey noted that that this issue could apply to other existing registry agreements as well as to future agreements under the New gTLD program for community TLDs, therefore it's important to clarify this advice point. There's a benefit to having this discussion regarding content issues.

The Chair noted that here's consensus for a pre-decision consultation with the GAC, with the GAC Chair forwarding a paper from staff regarding the GAC advice identified on the ICM application, and the GAC Chair and the ICANN Board Chair will then discuss a mechanism for the pre-decision consultation.

John Jeffrey confirmed that staff would provide the requested chart to the GAC Chair on this and the Geo Names issue, as well as post the chart with the Approved Resolutions arising out of the meeting.

Ray Plzak questioned whether a Board resolution was necessary on this item, as the liaison process should be sufficient in starting the consultative process; the resolution should come after the liaison work has completed.

John noted that proceeding with the liaison process as well as a formal resolution is advisable, because it allows the Board to be very clear about the steps it is taking and remain open and transparent in its processes.

The Chair agreed with the suggestion to proceed with the liaison process and a formal resolution to engage in a process of consultation. The Chair suggested amendment to the resolutions to specify that the consultation is on GAC advice about ICM's application, and that consultation should conclude prior to the end of the ICANN Public Meeting in Cartagena.

George Sadowsky then moved and Dennis Jennings seconded Resolution 2010.10.28.18 below.

Whereas, the Governmental Advisory Committee communicated to the ICANN Board regarding the application for the .XXX sTLD through: (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; and (4) a 4 August 2010 Letter from the Chair of the GAC to the Chair of the ICANN Board;

Whereas, ICM provided a proposed Registry Agreement to ICANN that was posted for public comment for 30 days;

Whereas staff recommends that, though the proposed Registry Agreement provides sufficient measures to address many GAC concerns, entering into the proposed Registry Agreement may not be consistent with some of the broader-reaching communications from the GAC, and the GAC and the Board could benefit from consultation on those items.

***RESOLVED** (2010.10.28.18) the Board Chair shall engage the GAC Chair on developing a process for consultation with the GAC on its advice about the ICM application.*

All Board members present unanimously approved of this Resolution.

Dennis Jennings then moved and Jean-Jacques Subrenat seconded Resolution 2010.10.28.19.

Ray Plzak inquired of Heather Dryden if the consultation could be concluded in the timeframe suggested.

Heather agreed that the timeframe as proposed is reasonable.

The Board then took the following action:

***RESOLVED** (2010.10.28.19) the Board Chair will suggest to the GAC Chair that any consultation process conclude prior to the ICANN Public Meeting in Cartagena, Colombia.*

All Board members present unanimously approved of this Resolution.

10. Status Report on AOC Reviews

    a. Update on Meeting the Commitments

The CEO provided a short introduction regarding the work of all staff across the organization to identify how the Affirmation of Commitments affected the

operations in their groups. The CEO then introduced Denise Michel to further discuss the ongoing work.

Denise Michel noted that staff is periodically updated their analysis and brainstorming on meeting the Affirmation of Commitments, and that regular briefings and introductions for new staff members are continuing periodically. The work on the Affirmation of Commitments will be moved to a public Wiki to allow community access to information.

Jean-Jacques Subrenat inquired about the additional work that the Affirmation of Commitments is putting on staff.

The CEO noted that support of the review teams requires the equivalent of nearly two to three full time employees, and the other work around the organization probably requires the equivalent of an additional one or two. In addition, meeting the Affirmation of Commitments could require financial studies and economic studies that could cost millions of dollars per year. On documentation of Board decisions, staff is producing great Board books with documentation. However, if you compare to the FCC standard as discussed during the Accountability and Transparency review process, the FCC spends approximately $3 million per policy paper, and ICANN has approximately 30 policy tracks ongoing at this time. Therefore, to live up to the FCC standard, ICANN would have to spend millions of dollars – resources that ICANN does not have.

Dennis Jennings noted that it would be useful to set some level of expectation as to what is reasonable to achieve. There has to be some objective standard, or ICANN will be judged to an arbitrary and possibly impossible standard.

The Chair noted that the setting of those standards must be done in public by the community and noted that Dennis' suggestion is a good practice to follow.

Katim Touray noted that a wonderful job was done in preparing the metrics of work done to meeting the Affirmation of Commitments. Katim would like to see where the activities relate to ICANN's strategic plan, as that measure has to be kept in mind as well. Katim also noted that ICANN should get other countries to sign up for hate Affirmation of Commitments so we can give these commitments to other countries as well.

The Chair noted his disagreement with Katim, clarifying that the Affirmation of Commitments are commitments that ICANN has given to the world, promised through an agreement with the US Government.

Katim asked for a communication plan to note to other countries what we're doing to meet the Affirmation of Commitments.

The Chair returned to the item raised by the CEO regarding the commitment that ICANN's decisions are in the public interest: "To ensure that its decisions are in the

public interest, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS." The Chair raised a concern that ICANN may not be fully meeting this commitment, and it will require a considerable amount of resources to meet; this has to be dealt with in the next iteration of the strategic and operational plan, so that there's an indication of future work to be done on this.

b. Review Teams – Update on Logistics & Budget Issues

The CEO reported that the Whois Review Team had its first meeting, and the DNS Security, Stability and Resilience Review was having its first meeting in the coming days.

Akram Atallah then discussed the proposed budgets for the work of these two new review teams, anticipating face-to-face meetings and administrative and teleconference cost. The two review teams have budgets that total to approximately $440,000 for the year when added together.

The CEO noted that the Whois team is already having some discussion about hiring external consultants, which would require additional funding. There also may be some suggestion that the budget for each team be closer to the nearly $1 million spent on the ATRT. The Whois team has invited the chair of the ATRT, Brian Cute, to provide some lessons learned within the review process.

The Chair commented that a Board working group has been comprised to address some of these budget issues without impinging on the independence of the review teams. Given the scope of each review, there could be justification on why varying budgets are appropriate. The Chair then provided an update on the work of the ATRT and the three-day meeting with the outside consultants, the Berkman Institute, and the consolidation of that work with the work of the four working teams on the ATRT. The Chair noted that due to obvious conflicts, he has not worked on the individual working teams, but has acted as a liaison to the ATRT. The report is now with ICANN staff ro translation. The result is a useful set of recommendations, as well as useful and positive discussion.

Dennis Jennings noted a financial concern regarding the need to tap into ICANN's reserve fund to support the Review Teams, and recommended that the Finance Committee take a look at this issue. There is a particular concern because the reserve fund has already been used to prepare for the New gTLD program.

Rajasekhar Ramaraj clarified that the expenditures to the New gTLD program are an advance, with the expectation that the funds will be returned to the Reserve Fund after the launch of the process. The review team expenses are a different concern, as they represent expenses over the operating plan.

Jean-Jacques Subrenat requested that the ICANN Board Chair and the GAC Chair jointly provide an overview on the work of the Affirmation of Commitments and where ICANN is headed to next, including the anticipated resources to continue meeting the commitments, as the resources are quite burdensome at this time.

The Chair requested that Jean-Jacques raise this question again when discussing the strategic plan, as the future funding of commitments can be discussed there. The Chair agreed that this is an essential item to discuss.

11. Oversight of Board Committees

The Chair introduced a new mechanism for the Board to be aware of the work of the committees of the Board. The committees are doing extensive amounts of work, as noted by the work on the Agenda. The Chair noted in particular work done by the SIC for all the recommendations arising out of it, including the recommendation in relation to seating the Board member selected by the At-Large. The Chair explained that over the course of the year, each committee will now provide a report to Board on its work, beginning with the Finance and Audit Committees.

Rajasekhar Ramaraj introduced the members of the Board Finance Committee, George Sadowsky and Gonzalo Navarro, with observers Bruce Tonkin, Katim Touray and Dennis Jennings. Ramaraj reported that the focus has been on budgeting, including better interactions in preparing budgets and helping to frame what that process should look like, receiving community inputs earlier and in a better fashion. The Finance Committee has also overseen a review of the investment policy, where indications are that it's more or less fine, and the investment policy has been performing satisfactorily, with the Reserve Fund recovering the losses incurred in 2008 and 2009. The Finance Committee also has been addressing how to address the budget overages from the Affirmations review.

The Chair asked if there are any issues that the Board can help the Finance Committee address.

Ramaraj responded that there is a flattening of revenue in the current business lines, therefore there has to be focus on where future revenues could come from beyond the new gTLD program. Input is also needed on the capping of the reserve fund, as well as disciplining expenses. Any help with those items would be useful. The Finance Committee is having a three-year projection of income and expense streams produced to assist the Board in this discussion.

The Chair inquired as to the continued need of the Finance Committee, particularly in light of the Boston Consulting Group recommendation that the Board may not need a Finance Committee.

Ramaraj replied that the Board needs the Finance Committed, particularly in light of the current circumstances of the organization. The Finance Committee has tried to reduce the number meetings to reduce the burden on members, and have been

more cognizant of moving toward oversight instead of getting involved in the staff tasks. Ramaraj noted the great work that Kevin Wilson has performed as CFO in helping the Finance Committee.

The Chair then informed the Board of the very good report received from the external auditors, and turned the floor to Rita Rodin Johnston, Chair of the Audit Committee.

Rita described that the Audit Committee has been trying to enhance the oversight role with respect to the external audit, and move from just receiving the audited financials to taking a more proactive role in trying to build the practices of the Audit Committee and the internal and financial controls of the organization. The Audit Committee surveyed best practices in terms of Audit Committee activities, and adopted a Best Practices document to incorporate into standard operating procedures. The Audit Committee has overseen the institution of an internal audit function at a level that is practical for an organization of ICANN's size, to assist in reviewing items noted as "other matters" in the auditor's report. The Audit Committee is expecting the first draft in a matter of weeks. The Audit Committee also worked in conjunction with the Finance Committee on the development of Cost Accounting Guidelines and Procurement Guidelines. In addition, the Audit Committee has been overseeing a comprehensive accounting guideline manual to show the cost revoery mechanism in connection with the New gTLD program. Finally, the Audit Committee has instituted executive sessions with senior staff, to identify possibilities for fraud or identify issues of concern. The Audit Committee is also working to identify independent outside financial expertise to remain available to the Audit Committee in the event that the membership was light on financial expertise. Staff produced an RFP for volunteer applicants, and the Audit Committee will review those applications in Cartagena. Rita also noted her thanks to Kevin and the Finance Department for their work.

The Chair asked if the Board could provide any assistance to make the Audit Committee's work more effective.

Rita replied that this is a somewhat formal oversight committee as operated to date. However, the work of the internal audit function may reveal some items for follow-up by the Board. Rita noted that she will let the Board know if assistance is needed. Rita also recommended that the Board may wish to consider that other external auditors may be of value after the launch of the New gTLD program and assist in soliciting interest. Currently, after an RFP, ICANN retained the same audit firm for the fifth year, though following best practices, rotated the partner responsible for the audit to bring a new perspective to the audit.

The Chair thanked Rita for her report and noted that under California law, ICANN is required to maintain an Audit Committee, therefore the question of the need for continuation of the Audit Committee does not need to be addressed.

12. New gTLD Applicant Support

Katim Touray introduced a resolution to address the efforts put forward by the joint working group formed in response to the Board's resolution in Nairobi regarding New gTLD Applicant Support. The Board's resolution in Trondheim did not do justice to the efforts of the working group, including a lack of formally acknowledging receipt of the proposal. Katim suggests a formal response to the working group's report, which included concrete examples and steps to sort out issues such as defining who is needy. Katim therefore is proposing a resolution to thank the group, to encourage the work to continue to ensure a sustainable program, and that the Board is looking forward to working with them on further discussions of next steps.

George Sadowsky noted his belief that ICANN has an obligation to make its products and services available to the global community, and provided a suggestion edit to Katim's resolution.

Katim Touray moved and Peter Dengate Thrush seconded the resolutions below.

Katim Touray then noted his agreement with George's edits.

Ray Plzak supported George's statements, and inquired of the status of the working group and whether they are able to continue work.

The Chair noted that the resolution specifically calls for the working group to continue, and concern regarding a formal extension to a charter, if needed, could be addressed separately.

Bruce Tonkin clarified that a sustainable funding model might exist outside of ICANN, and ICANN itself may not have to create a fund. Bruce suggested edits to the resolution to note this possibility.

Dennis Jennings stressed that the word "sustainable" could be confused between a sustainable support program and a sustainable TLD, and ICANN should be careful not to confuse the concepts.

The Board then took the following action:

> *Whereas, the Board at its March 2010 meeting in Nairobi, Kenya, passed resolutions recognizing the importance of an inclusive New gTLD Program, and requesting stakeholders to form a Working Group to develop sustainable support needy applicants for new gTLDs;*
>
> *Whereas ALAC and the GNSO Council, in response to the Nairobi Board resolutions, formed a Joint Supporting Organization/Advisory Committee (SO/AC)* Working Group *on New gTLD Applicant Support (the JAS WG);*

Whereas the JAS WG worked with various stakeholders and presented a report on their findings and recommendations to the Board, and the Board also received a statement on the matter from the African community;

Whereas the Board, at its September, 2010 meeting in Trondheim, Norway, made some statements on providing needy applicants with support such as outreach and education, and matching them with sources of support;

Whereas the Board, along the lines of its Nairobi meeting resolutions, is still committed to working with the community to ensure an inclusive new gTLD program;

***RESOLVED** (2010.10.28.20), the Board thanks the JAS WG and those members of the community who have devoted their time and energy on finding sustainable ways to support needy applicants for new gTLDs.*

***RESOLVED** (2010.10.28.21), the Board encourages the JAS WG and other stakeholders to continue their work on the matter, and in particular, provide specific guidelines on the implementation of their recommendations such as determining the criteria for eligibility for support.*

***RESOLVED** (2010.10.28.22), the Board further stresses that any needy applicant support program must have a sustainable funding model that may be independent of ICANN and can be implemented transparently, and effectively to the benefit of the global Internet community.*

All Board Members present unanimously approved of these resolutions.

The meeting was adjourned.

2010-11-05-DRAFT-Board-Minutes

Minutes of Board Meeting

5 November 2010

A Special Meeting of the ICANN Board of Directors was held on 5 November 2010 in Silicon Valley, California.

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), Dennis Jennings (Vice Chairman), Harald Tveit Alvestrand, Steve Crocker, Gonzalo Navarro, Rita Rodin Johnston, Raymond A. Plzak, Rajasekhar Ramaraj, George Sadowsky, Mike Silber, Jean-Jacques Subrenat, 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; Jonne Soininen, TLG Liaison; and Vanda Scartezini, ALAC Liaison.

Suzanne Woolf, RSSAC Liaison, sent apologies.

John Jeffrey, ICANN General Counsel and Secretary, was also in attendance.

1. **Waiver of Meeting Notice**

The Chair called for a waiver of formal notice of the meeting prior to calling the meeting to order.

The Chair moved, and Mike Silber seconded the following Resolution:

RESOLVED, (2010.11.05.01) the Board hereby confirms that it waives the notice for the meeting.

Resolution 2010.11.05.01 was approved unanimously, 15-0.

2. **New gTLDs – Cross-Ownership Issues for Registries and Registrars**

Prior to conversation on this item, in comformity with practices relating to conflicts of interest, Harald Alvestrand, Ram Mohan, Thomas Narten, Jonne Soininen and Bruce Tonkin stepped out of the room and were not present for discussion, deliberation or voting.

The Board reviewed text of a resolution drafted to address Board comments, following on from its Board Workshop discussions.

The Chair then invited Board members to provide comments relating to the wording of the Resolution. The Board identified specific line edits incorporated into the Resolution posted below.

After the text of the Resolution was finalized, the Chair noted that there will be members of the community that will not like the recitals of the Resolution as drafted,

and the community will be expecting a full discussion of how the Board reached this action. The Chair noted his expectation that the Applicant Guidebook will be accompanied by explanatory appendices addressing this and other decisions of the Board.

Rajasekhar Ramaraj then moved and Rita Rodin Johnston seconded the following Resolution:

Whereas, at the ICANN meeting in Nairobi in March 2010, the Board passed a resolution indicating that as a default position that no co-ownership would be allowed in new gTLDs, but that if the GNSO were to develop a policy on the subject prior to the launch of new TLDs that the Board would consider using the new policy for the new gTLD program <http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#5>.

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

Whereas, the GNSO's Vertical Integration Working Group is divided on whether registrars should be allowed to operate registries (and consequentially whether registries should be allowed to operate registrars). The VI-WG's "Revised Initial Report on Vertical Integration Between Registrars and Registries" is posted at <http://gnso.icann.org/issues/vertical-integration/revised-vi-initial-report-18aug10-en.pdf> [PDF, 2.42 MB].

Whereas, the GNSO VI working group's report includes a number of proposals to address vertical integration for the new gTLD program, but the VI-WG has not reached consensus as to which one to recommend <http://gnso.icann.org/mailing-lists/archives/council/msg09754.html>.

Whereas, on 23 September 2010, ICANN's Governmental Advisory Committee submitted its comments on v4 of the Applicant Guidebook, including comments on the issue of registry-registrar separation <http://www.icann.org/en/correspondence/dryden-to-dengate-thrush-23sep10-en.pdf> [PDF, 44 KB].

Whereas, the Board has had over six months since Nairobi to consider the issue, including consideration of the GNSO VI working group's deliberations, and community comment including at the ICANN meeting in Brussels in June 2010.

Whereas, the current set of agreements are not balanced in that while recent contracts prohibit registries from acquiring registrars, ICANN has never had a rule prohibiting registrars from applying for or operating TLDs.

Whereas, while ICANN has individually negotiated contracts that recently have included restrictions on registry ownership of registrars, cross-ownership provisions have varied over time and no formal “policy” on this topic has ever been

recommended by the GNSO or adopted by ICANN.

Whereas, historical contract prohibitions on registries acquiring registrars do not provide a compelling basis for principled decision-making.

Whereas, the Board is committed to making fact-based decisions, and has carefully considered available economic analysis, legal advice and advice from the community.

Resolved, (2010.11.05.02), the Board directs the CEO to include the following principles relating to registry-registrar cross-ownership in the forthcoming version of the Applicant Guidebook.

1. 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.

2. Registry agreements will include requirements and restrictions on any inappropriate or abusive conduct arising out of registry-registrar cross ownership, including without limitations provisions protecting against:

    a. misuse of data; or

    b. violations of a registry code of conduct;

3. These provisions may be enhanced by additional enforcement mechanisms such as the use of self-auditing requirements, and the use of graduated sanctions up to and including contractual termination and punitive damages.

4. 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.

5. ICANN will have the ability to refer issues to relevant competition authorities.

6. ICANN will have the ability to address possible abuses that may arise out of registry-registrar cross-ownership through the consensus policy process.

Eleven Board members (Rod Beckstrom, Steve Crocker, Peter Dengate Thrush, Dennis Jennings, Rita Rodin Johnston, Gonzalo Navarro, Ray Plzak, Rajasekhar Ramaraj, Jean-Jacques Subranat, Katim Touray, and Kuo-Wei Wu) voted in favor of the Resolution. George Sadowsky and Mike Silber were opposed to the Resolution. Harald Alvestrand and Bruce Tonkin did not participate in the discussion or the vote on the Resolution due to conflicts of interest. The Resolution carried.

George Sadowsky noted the reason for his opposition was that he thinks this is the wrong way to go and he believes there will be very unpleasant, unintended consequences. However, George noted that he participated in the discussion and drafting of the Resolution to make the Resolution as good as it could be.

Mike Silber noted that his opposition was on similar grounds to George's. Though Mike stated his opinion that this was the wrong route to go on, he noted his congratulations to the Board on the ability to reach a decision on this issue.

3. Confidential Issue

Pursuant to Article V, Section 5.4 of the ICANN Bylaws, the Board of Directors, by unanimous vote, determimed that, to protect the interests of ICANN, the matter under discussion should not be included in the minutes until such time as the Board designated the item should be published.

2010-12-10-01 Board Submission 2011 Asia Meeting

ICANN BOARD SUBMISSION No. 2010-12-10-01

TITLE: **Location of June 2011 ICANN Meeting**

PROPOSED ACTION: **For Board Approval**

EXECUTIVE SUMMARY:

The location of the ICANN International Public Meeting ("Meeting") to be held from 19–24 June 2011 needs to be confirmed. In the regular rotation, this Meeting is to be held in Asia. This paper will summarize the steps taken to locate a site for the Asia 2011 Meeting.

STAFF RECOMMENDATION:

Recommendation Revised Prior to Meeting

BOARD FINANCE COMMITTEE RECOMMENDATION:

The Board Finance Committee will review and is expected to approve the budget for Asia 2011 on 5 December.

PROPOSED RESOLUTION:

Resolution Text Superseded

Submitted by:	Nick Tomasso
Position:	Senior Director, Meetings & Language Services
Date Noted:	18 November 2010
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2010-12-10-02 Board Submission SSR-Dec2010

ICANN BOARD SUBMISSION

BRIEFING COVER SHEET

SUBMISSION NUMBER: 2010-12-10-02

TITLE: FY 11 Security, Stability & Resiliency Plan

DEADLINE: For Board Meeting scheduled 10 December 2010

PROPOSED ACTION: For Board Information & Acknowledgement

EXECUTIVE SUMMARY

ICANN has completed the public comment process on the FY 11 Update to the Plan for Enhancing Internet Security, Stability & Resiliency (referred to as the FY 11 SSR Plan). The plan is the baseline document for outlining ICANN's SSR activities, and is an update on the initial version published in 2009.

Staff is requesting that the Board acknowledge receipt of the FY 11 SSR Plan, based on the following:

1. ICANN conducted a 53-day public comment period on the document (from 13 September to 5 November 2010), along with several briefing sessions with the community during the comment period. A summary and analysis of comments was published on 10 November 2010 (http://forum.icann.org/lists/ssr-plan-fy11/msg00008.html).

2. Seven public comments were received, as well as individual comments from SSAC members in a pre-publication briefing on 9 September 2010. Staff has prepared a redline and clean version of the FY 11 SSR showing the incorporation of public comment and the rationale for these edits is also described in the summary and analysis of comments (attached with the annex).

3. The ICANN Board previously accepted the initial SSR Plan for 2009 (FY 10) at the ICANN meeting in Sydney, Australia on 26 June 2009,

http://www.icann.org/en/minutes/resolutions-26jun09.htm#1.7. Staff has updated the document for FY 11 to reflect key initiatives and programs described in the 2010-13 ICANN Strategic Plan, FY 11 Operating Plan and Budget.

PROPOSED RESOLUTION:

Whereas, the FY 11 Update to ICANN's Plan for Enhancing Internet Security, Stability & Resiliency (SSR) was posted for public comment from 13 September to 5 November 2010.

Whereas, a final version of the FY 11 SSR Plan incorporating public comment has been prepared and is available at [link].

Resolved (2010.__), the Board acknowledges receipt of the FY 11 SSR Plan.

Submitted by:	Patrick Jones
Position:	Sr. Mgr., Continuity & Risk Management
Date Noted:	22 November 2010
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2010-12-10-03 Board Submission NEPAD-MOU

ICANN BOARD SUBMISSION NO. 2010-12-10-03

TITLE: MOU with the New Partnership for Africa's Development Planning and Coordinating Agency **(NEPAD/NPCA)**

PROPOSED ACTION: For Consent Agenda

EXECUTIVE SUMMARY:

ICANN staff has identified an opportunity to further ICANN's interest in promoting the overall level of knowledge, skills and capabilities regarding Internet Governance matters in the African region through a strategic relationship with the NEPAD/NPCA. The Global Partnerships team with the participation of ICANN's Legal Department negotiated a Memorandum of Understanding (MoU), specifying potential areas for joint collaboration with NEPAD/NPCA. These include policies and rules being developed in the region or outside it that have an impact on Internet development in Africa; fostering a network of regional or continental stakeholders and decision-makers that would contribute to the development of information and communication technologies in Africa; developing regional and continental capacity and processes to address the issue of Internet Governance in Africa; and sensitizing stakeholders and decision-makers on emerging issues related to Internet development in Africa.

The MoU does not bind either party to any specific actions or to the contribution of financial resources, but indicates that as concrete projects are identified, the parties will create specific project-level agreements to govern that work. This is not an exclusive arrangement. The MoU specifically contemplates that ICANN may partner with additional organizations for similar work.

Recognizing the Board's interest in strategic oversight of key relationships, a copy of the MoU is attached as an Annex for the Board's review.

STAFF RECOMMENDATION:

Staff recommends that the Board direct ICANN to enter into the MoU with NEPAD/NPCA, as an important element in obtaining international partners for

promotion of outreach, development and education on Internet and governance issues on an international scale.

PROPOSED RESOLUTION:

Whereas, ICANN has developed a collaborative program with private and intergovernmental parties to conduct outreach to governments and local Internet communities;

Whereas, Memorandums of Understanding help promote joint activities in compliance with ICANN by-laws and assist ICANN staff to engage with respective organizations both globally and locally;

Whereas, the NEPAD/NPCA, an inter-governmental not-for-profit organization, expressed an interest to enter into a non-binding MOU with ICANN to collaborate on the creation of joint projects in support of a common mission to improve Internet Governance;

Whereas, ICANN staff and the NEPAD/NPCA successfully concluded negotiations over the text of a nonbinding MoU and entry into such an agreement would promote the mission and interests of ICANN in the region;

It is hereby **RESOLVED** (2010.xx.xx.xx), the ICANN Board of Directors direct the President and CEO to enter into the MoU agreement with the NEPAD/NPCA.

Submitted by:	Mandy Carver
Position:	Deputy General Manager, Global Partnerships
Date Noted:	14 November 2010
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2010-12-10-04 Board Submission Affirmation of Commitments Update

ICANN BOARD SUBMISSION NO. 2010-12-10-04

TITLE: **Update on fulfilling ICANN's obligations under the Affirmation of Commitments**

PROPOSED ACTION: **For Board Review and Discussion**

EXECUTIVE SUMMARY: ICANN Staff continues to:

1) Implement the Affirmation of Commitments' (Affirmation's) objectives identified in the strategic and operational plans and engage in significant activities throughout the organization that support ICANN's obligations under the Affirmation;

2) Build a comprehensive, wiki database to provide the public with status and implementation information on every resolution approved by ICANN's Board dating back to ICANN's founding in 1998, and publicly post key documents relating to the Affirmation and our transparency and accountability efforts; and

3) Support the community review teams called for in the Affirmation, including the Accountability and Transparency Review Team, which is winding-up its work, and the Security, Stability and Resiliency of the DNS Review Team and the WHOIS Policy Review Team, both of which recently began work.

As stated by Rod Beckstrom, ICANN's goal is to set a new standard for accountability and transparency and meet or exceed all of the Affirmation's commitments. Background information is included below.

BACKGROUND:

1. Objectives and activities related to the Affirmation.

ICANN's commitments under the Affirmation served as a foundation for the current strategic plan, and this focus was carried through to ICANN's current budget and operating plan.

The "Affirmation Tracking & Brainstorming" document previously provided to the Board gives a brief overview of activities undertaken

throughout ICANN that relate to the Affirmation. This document reflects the discussions, held within each ICANN department after the Affirmation was signed, on how staff was meeting the Affirmation's commitments and what ideas they had for building on these activities. This document was shared with the Accountability & Transparency Review Team and an updated list of ICANN activities that track with the Affirmation's obligations was publicly posted. The CEO and executive leadership periodically review and update it. This document, along with periodic staff briefings and orientations on the Affirmation (and efforts outlined below), help keep staff focused on ICANN's commitments and ongoing cycle of improvement.

In addition, a senior staff member, Denise Michel, Advisor to the President & CEO, is dedicated to helping staff meet or exceed the Affirmation's commitments and set a new standard for accountability and transparency.

2. Public wiki database of ICANN Board resolutions, etc.

ICANN is creating a comprehensive and searchable online database of all ICANN Board resolutions going back to ICANN's founding in 1998. Doing this in a public wiki allows transparent reporting on the implementation of resolutions and encourages comments on whether the community's expectations were met. Public comments were solicited on the wiki's design and user interface in June of this year when all 2009 Board resolutions were publicly posted. Informal, positive feedback was received and work continues to provide 900 + Board resolutions for public use by ICANN's Cartagena meeting.

Other key documents also will be posted on the public wiki for review and comment, including the (former) ICANN President's Strategy Committee Report – "Draft Implementation Plan for Improving Institutional Confidence" and additional ICANN activities that track with the Affirmation's obligations.

3. Community review teams.

<u>Accountability & Transparency Review Team</u>

See Board Submission entitled "Accountability & Transparency Review Team (ATRT) Draft Report."

Security, Stability and Resiliency of the DNS Review Team, and Whois Policy Review Team

On 30 September 2010, ICANN's CEO and the GAC Chair appointed the members of the Security, Stability and Resiliency of the DNS (SSR) Review Team, and the Whois Policy (Whois) Review Team, as requried by the Affirmation. The SSR Review Team's mandate is set forth in paragraph 9.2 of the Affirmation[i] and it will focus on ICANN's execution of its plan to enhance the operational stability, reliability, resiliency, security and global interoperability of the DNS. The Whois Review Team's mandate is set forth in paragraph 9.3.1 of the Affirmation[ii] and it will assess ICANN's enforcement of its existing policy on Whois, subject to applicable laws. Both teams are holding periodic conference calls, and the SSR Review Team is expected to hold a planning meeting in Cartagena.

Review of promoting competition, consumer trust, and consumer choice

The Affirmation's fourth review—promoting competition, consumer trust, and consumer choice—will start one year after new gTLDs are in operation and available to registry businesses. This review's mandate is set forth in paragraph 9.3 of the Affirmation[iii] and it will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of the application and evaluation process, and safeguards.

All of these reviews are to be repeated every three years, as specified in the Affirmation. ICANN staff is providing administrative, operational, and substantive support, as requested by the review teams.

Submitted by:	Denise Michel	Date Noted:	19 November 2010
Position:	Advisor to the President & CEO	Email and Phone Number	denise.michel@icann.org +1-310- 301-8632

[i] Affirmation of Commitments 9.2 Preserving security, stability and resiliency: ICANN has developed a plan to enhance the operational stability, reliability, resiliency, security, and global interoperability of the DNS, which will be regularly updated by ICANN to reflect emerging threats to the DNS. ICANN will organize a

review of its execution of the above commitments no less frequently than every three years. The first such review shall commence one year from the effective date of this Affirmation. Particular attention will be paid to: (a) security, stability and resiliency matters, both physical and network, relating to the secure and stable coordination of the Internet DNS; (b) ensuring appropriate contingency planning; and (c) maintaining clear processes. Each of the reviews conducted under this section will assess the extent to which ICANN has successfully implemented the security plan, the effectiveness of the plan to deal with actual and potential challenges and threats, and the extent to which the security plan is sufficiently robust to meet future challenges and threats to the security, stability and resiliency of the Internet DNS, consistent with ICANN's limited technical mission. The review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, and independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

[ii] Affirmation of Commitments 9.3.1 ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws. Such existing policy requires that ICANN implement measures to maintain timely, unrestricted and public access to accurate and complete WHOIS information, including registrant, technical, billing, and administrative contact information. One year from the effective date of this document and then no less frequently than every three years thereafter, ICANN will organize a review of WHOIS policy and its implementation to assess the extent to which WHOIS policy is effective and its implementation meets the legitimate needs of law enforcement and promotes consumer trust. The review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, as well as experts, and representatives of the global law enforcement community, and global privacy experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

[iii] Affirmation of Committments 9.3 Promoting competition, consumer trust, and consumer choice: ICANN will ensure that as it contemplates expanding the top-level domain space, the various issues that are involved (including competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection) will be adequately addressed prior to implementation. If and when new gTLDs (whether in ASCII or other language character sets) have been in operation for one year, ICANN will organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in

the introduction or expansion. ICANN will organize a further review of its execution of the above commitments two years after the first review, and then no less frequently than every four years. The reviews will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, and independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

2010-12-10-05 Board Submission UDRP

ICANN BOARD SUBMISSION NO. 2010-12-10-05

TITLE: **UDRP Status Briefing [Update]**

PROPOSED ACTION: **For Board Information**

EXECUTIVE SUMMARY:

At the 5 August 2010 meeting, the Board received an update on the status of the UDRP, including a history of the UDRP, a discussion of Supplemental Rules, and the UDRP Provider Approval Process. This is an update on the ongoing work.

Since 5 August 2010, work has proceeded on many fronts. First, staff has been in consultation with members of the community that have expressed concerns regarding the uniformity of proceedings under Provider Supplemental Rules, with the anticipation of identifying a structure for the approval of amendments to Supplemental Rules. That work is ongoing, and is expected to yield community contributions identifying areas where Supplemental Rules risk material deviation from the structure of the UDRP, and where variation is more non-material, such as provider requirements for page limits and fee structures – items that are reserved for provider definition. The higher the risk of material deviation from the structure of the UDRP, the more detailed an approval process that would need to take place within ICANN. Once community concerns are further identified and some concrete proposals regarding materiality of deviation are identified, staff will then proceed to consultation with the UDRP providers to have the broader conversations regarding the creation of compliance mechanisms to maintain the uniformity of UDRP proceedings.

Second, staff posted the proposal from the Arab Center for Domain Name Dispute Resolution (ACDR) to serve as a new UDRP provider. The proposal was posted for 30 days public comment, and received seven comments. While some commenters addressed specific items within ACDR's proposal, the main theme of the comments noted that it is not appropriate for ICANN to move forward with certification of any new providers under the UDRP until the larger issue of assuring the uniformity of Supplemental Rules is addressed.

Because of the comments addressing the substance of the proposal, the proposal is not yet ready for Board consideration. Therefore, the Staff summary and analysis of

comments is being sent to the applicant to provide an opportunity to modify the proposal in light of the specific comments received. Upon receipt of a modified proposal, if any, staff will evaluate the proposal to determine if further public comment is recommended, or in the alternate, presentation to the Board for consideration. During this time, the work with the community regarding the uniformity of Supplemental Rules will continue.

Confidential Applicant Material Redacted

Staff will continue to provide regular reports to the Board on the status of this UDRP-related work.

Submitted by:	John O. Jeffrey
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2010-12-10-07 Board Submission-Strategic Planning

ICANN BOARD SUBMISSION NO. 2010-12-10-07

TITLE: **Strategic Planning**

PROPOSED ACTION: **For Information**

EXECUTIVE SUMMARY:

A revision to the strategic planning process has been described to the community in recent ICNN meetings where an intensive, detailed planning effort will occur every three years and the other two years would be more of an "environmental scan" and adjustment to the plan. This model has generally won community support with the caveat that there still be substantive and substantial community input.

With that model in mind, a new version of the plan has been developed, first through staff work, then a series of consultations with stakeholder groups.

The staff work included: a review of the environment (recent accomplishments, identification of new objectives), mapping the requirements set out in ICANN's core documents to the four strategic plan "pillars," and a brief SWOT analysis – resulting in suggested changes to the plan for public discussion.

Consultations were held with: GNSO leadership, ccNSO leadership, the ccNSO Strategic and Operational Plan Committee, ALAC, SSAC leadership, EURALO and LACRALO. The consultations indicated that consultations on previous versions of the plan were inadequate in depth and that recommendations were not included. As a result, it was decided to complete a set of individual stakeholder group consultation prior to plan publication.

The consultations reviewed the suggested changes to the plan and requested substantive discussion for an update to the plan based on: accomplishment of objectives, or identification of new objectives.

The changes resulting from the consultations are indicated here in two areas:

- Annex 1: The Draft Strategic Plan. Additions or material changes to the plan are indicated in underline.
- Annex 2: There is a PowerPoint slide for each pillar of the one-page version of the plan. The green colored bullets in each slide indicate the changes made in the community consultation. These slides include a graphic depiction of the overall planning process and conclude with the new one-page version of the plan.

Additional consultations are scheduled. A meeting with the Board working group is being set up prior to the Cartagena Board workshop.

Recommendations

The Strategic Plan is posted for comment through and after the after the ICANN meeting in Cartagena.

Staff will incorporate changes and the Board can direct changes as a result of community comment and the work of the Board working group formed on this topic.

The Board should then consider the Stragtegic Plan for approval at its January meeting.

Results of Staff Work and Community Consultation:

The most significant amendments to the plan after staff work and community consultation:

Stability, Security, Resiliency

1. Having signed the root zone, focus on DNSSEC adoption by TLDs and registrants.
2. Switching focus from a specific DNS CERT solution to support of broad community discussion on DNS security. The staff view is that DNS CERT should be pursued now as a value-added piece of a total security plan and that it should be specifically included in the "community work." This vieis deferred in light of community feedback.

Promoting Competition and User Choice

1. Having delegated IDNs, focus on implementation of IDNA protocol, developing variant management solutions and other improvements to user experience.
2. Protection of registrants through: a rights charter, RAA amendments, and Whois accuracy improvements.
3. Increasing ICANN's regional footprint to communicate user opportunities.

IANA and other core ICANN Operations

1. Focus on continual improvement initiatives such as IANA Excellence and the Organizational Effectiveness Initiative.
2. IANA automation implementation.

Healthy Internet Eco-system

1. Improvements to policy process resulting from reviews and a specific GNSO initiative.
2. In order to achieve its goals, ICANN will: participate in constructive IGF fora, collaborate with international organizations such as the EC and OECD on standards and best practices, engage in offline discussions, write papers, and otherwise engage with industry participants.
3. Improve communications and accessibility through, among other things, web page improvements.

Timing

Individual stakeholder consultations essentially concluded the week of 22 November. The plan is being published for public comment the same week.

The comment period will run through the Cartagena meeting in mid-January, at which time, it can be considered by the Board for approval.

Submitted by:	Kurt Pritz; Carole Cornell
Position:	SVP, Services; Sr.Dir., Project Management
Date Noted:	25 November 2010
Email and Phone Number	pritz@icann.org; carole.cornell@icann.org

2010-12-10-08 Board Submission-new gTLD launch resolution

ICANN BOARD SUBMISSION NO. 2010-12-10-08

TITLE: **New gTLDs: Consideration of the Proposed Final Applicant Guidebook**

PROPOSED ACTION: **For Board consideration**

EXECUTIVE SUMMARY:

The proposed final version of the Applicant Guidebook is open for public comment up to and during the public meeting in Cartagena. The guidebook is the implementation of the GNSO's consensus policy advice, and has gone through continual revision during a two-year consultative process. Given the extensive consultation process already conducted, no new issues are expected to surface during the week. However, there is ongoing work in three areas: by the "Recommendation 6", the HS-TLD, and the Applicant Support Working Groups. Of these, the Recommendation 6 Working Group issues (considering the ICANN policy prohibition on delegating strings that violate generally accepted legal norms relating to morality and public order that are recognized under international principles of law) are the most contentious. This subject is addressed in a companion paper.

[STAFF or COMMITTEE] RECOMMENDATION:

The Board should listen carefully to the discussions during this meeting. In the absence of significant new concerns, staff recommends that the Board approve the proposed final version of the Applicant Guidebook, with certain specific updates to be made before the final version is posted, in accordance with the draft resolution below.

Much of the explanation for the recommended approval is incorporated into the resolution so there is no need to repeat it outside the resolution itself.

PROPOSED RESOLUTION:

Resolution Text Superceded

Resolution Text Superceded

Resolution Text Superceded

Resolution Text Superceded

Submitted by:	Kurt Pritz
Position:	SVP, Services
Date Noted:	25 November 2010
Email and Phone Number	pritz@icann.org

2010-12-10-09 Board submission-M&PO-2

ICANN BOARD SUBMISSION NO. 2010-12-10-09

TITLE:	**New gTLDs: Morality and Public Order (companion to: Consideration of the Proposed Final Applicant Guidebook)**
PROPOSED ACTION:	**For Information**

EXECUTIVE SUMMARY:

Current Environment

The GNSO's Board approved consensus policy states that new gTLD strings "must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law," And provides Implementation Guideline H, "external dispute providers will give decisions on objections." (Approved by the GNSO September 2007, and by the Board June 2008.)

This recommendation was implemented in the form of an objection-based, independent dispute resolution process in Guidebook version 2 published February 2009.

Recent Developments

A cross-constituency working group consisting of ALAC, GAC, and GNSO members formed after the in September 2010 to "provide guidance to the ICANN new gTLD Implementation Team and the ICANN Board with regard to the implementation of recommendation 6 regarding procedures for addressing culturally objectionable and/or sensitive strings, while protecting internationally recognized freedom of expression rights." The Working Group stated it was not chartered to develop policy or revisit the aim of the existing policy recommendation.

The Working Group released a report with several recommendations on 22 September 2010.[1] The Board resolved at the Trondheim meeting on 25 September 2010 to "accept

[1] http://icann.org/en/announcements/announcement-2-22sep10-en.htm

the Rec6 CWG recommendations that are not inconsistent with the *existing process*[2], as this can be achieved before the opening of the first gTLD application round, and will work to resolve any inconsistencies. Staff will consult with the Board for further guidance as required." [Emphasis added.]

Complete staff recommendations were made in the 28 October Board briefing materials. The Board provided a sense that it agreed with the conclusions in the Board paper and encouraged additional consultations with the Working Group prior to the Cartagena meeting.

Some recommendations (as described in the Oct 28 Board paper) were incorporated into the Guidebook. A teleconference was held among Working Group and ICANN staff members to reach agreement on other aspects of their recommendations.

During the call:

- It became clear that Working Group members did not possess an agreed upon understanding of the meaning and extent of agreement of some of the recommendations.

- ICANN staff members agreed to send a list of clarifying questions to provide a basis for the next discussion. (They are attached as an annex.)

- Although an additional consultation is scheduled for Cartagena, it is clear that there will be continued, ongoing disagreement between some Working Group members andstaff recommendations, particularly regarding the role of the Board.

Board Decision

The Board should expect a vocal debate on these topics at the Cartagena meeting. While another consultation session in scheduled in Cartagena, it is unlikely that there will be consensus on this issue.

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[2] The Board also passed a resolution in Trondheim describing its role in the approval of applications. http://icann.org/en/minutes/resolutions-25sep10-en.htm#2.7. This role is the "*existing process*" mentioned in the "Rec6"resolution above.

The Board will essentially be asked to decide whether to:

- approve the Applicant Guidebook in accordance with the existing implementation, which is based on existing consensus policy advice, or
- toll the adoption of the guidebook until additional policy discussion can take place.

Staff recommendation: There are several materials available for review: the Working Group report, the 28 October Board paper, the recording of the conference call, staff clarifying questions, and a possible response of the Working Group.

It is recommended the Board adopt the treatment of the Morality & Public Order recommendation currently in the proposed final version of the Applicant Guidebook, launching the process based on the GNSO's consensus policy recommendations. It is also recommended that the Board make provision for updates based on additional areas of agreement resulting from consultations with the Working Group during and after the Cartagena meeting.

Basis for Recommendation

1. Some amendments have been incorporated into the Applicant Guidebook, in accordance with the working group's suggestions, including:
    - A provision encouraging applicants to pre-identify possible sensitivities with their intended strings.
    - A provision for governments to send notifications regarding national laws to applicants directly or via the public comment forum (noting that this does not constitute a formal objection).
    - Incorporating references to additional treaties suggested by the working group.
    - Changing all references to "principles of international law."
    - Clarification that the panel decision is regarding the string itself, while the panel could, if needed, use as additional context the intended purpose of the TLD as stated in the application, in making a determination.
    - The name of objection ("Morality and Public Order objection") is provisionally changed to "Limited Public Interest objection."

ICANN staff members appreciate and take very seriously the Working Group efforts. Significant, serious efforts are being undertaken to consider, analyze and accommodate the recommendations ot the Working Group.

2. It was clear from the discussion in the first consultation that the Working Group encompasses a range of views despite the apparent unanimity described in their recommendations, indicating a range of views and interpretations rather than a common endorsement of all recommendations in the report. For example, there is "full consensus" that the definition of discrimination in the standard be expanded (increasing the number of successful objections), while others in the group think the definitions overall should be tightened. In another case, one member believes the objection to a TLD by a single GAC member would result in a "GAC objection" while others believe it would take multiple countries to object in order for the GAC to object. In addition, others still assert there should not be restrictions on the type of strings that could be approved. ICANN offered to send and has sent a set of clarifying questions as a tool for the Working Group to rest its recommendations.

3. The current Guidebook dispute resolution approach is based on adopted consensus policy. The Working Group is not a policy-making body and its recommendations are limited to providing implementation guidance or advice to the GNSO on a new policy development. Amending the existing policy-based approach would require additional (and most likely lengthy) policy discussions with consensus that the previous policy advice should be changed. If such a process were to be undertaken, it is not clear that consensus on such a change would be reached.

   This policy development can be undertaken at any time. New policy development should not be on the critical path to implementing the existing Policy for new gTLDs.

4. The Working Group seems to require a role for the Board in morality and public order determinations, either replacing the Dispute Resolution Provider with a Board determination, or requiring a 2/3 Board vote to confirm applications rejected by a panel. Moving away from an independent dispute resolution approach in favour of Board determinations on these issues is a fundamental change to the process, materially impacting the goals of the new gTLD process, potential costs, and

potential applicants.

The dispute resolution process uses expert panellists accustomed to hearing international disputes involving governments. Experts recognized as eminent jurists of international reputation would hear disputes. Board members are not suited or trained for this role for reasons described in previous papers.

5. GAC and ALAC should not be given special accommodations, as they are extremely difficult to implement fairly. Lowering the standards so that more objections would be upheld might: give individual governments defacto veto, be a candidate for abuses, and create uncertainty for applicants. Eliminating the objection fee for GAC and ALAC means that (the highly uncertain) costs would have to be allocated across all applicants in some way and result in unfettered objections. (In any case, fees for successful GAC and ALAC objections would be refunded.)

   The result of these accommodations would increase the number of objections in contravention to the goals of some of the Working Group members.

6. The GAC has continued to express concerns about the current approach, but has not to date proposed an alternative.

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2010-12-10-10 Board-Submission-New-gTLDs-Geo-Names-GAC-Consultation

ICANN BOARD SUBMISSION NO. 2010-12-10-10

TITLE: **New gTLDs – Geographic Names – GAC Consultation**

PROPOSED ACTION: **For Board Information**

EXECUTIVE SUMMARY:

At its 28 October 2010 meeting, the Board discussed the scope, timing and logistics of a consultation needed with the GAC regarding remaining Geographic Names issues in the new gTLD program. The Board agreed that staff should "provide a paper on geographic names to the GAC, the Chair of the GAC would check on the scope of issues still requiring discussion, and then the Chairs of the GAC and the Board would discuss the process for resolution to move this issue forward prior to Cartagena." *See http://www.icann.org/en/minutes/prelim-report-28oct10-en.htm.*

To facilitate a discussion between the Board Chair and the GAC Chair, the General Counsel and Secretary sent the attached chart of those GAC statements for which ICANN notes that consultation between the GAC and the Board may be warranted. In addition, the General Counsel and Secretary asked to schedule a call between the Board Chair and GAC Chair prior to their travels to Cartagena to discuss a process for a consultation, should there be a determination that GAC advice is present and one is necessary.

For additional information see the Annex to this Board Submission, which consists of the 28 October 2010 Board Submission entitled ICANN Board Submission No. 2010-10-28-18 - New gTLDs—GAC Issues letter including geographic names and the Annex to that 28 October 2010 Board Submission.

ICANN BOARD CHAIR RECOMMENDATION RE CONSULTATION:

The Board Chair recommended to the GAC Chair that their discussion involve the following areas:

1. Scope of the differences.
2. Understanding the basis of each party's position.
3. Exploring the flexibility of each party's position.
4. Exploring bridging options to maximize merits.

5. Establishing negotiation procedures.

With respect to negotiations, the Board Chair suggested that the Board and the GAC each establish a small team and use them to try to work up a position for discussion separately with each larger group, then possibly cover those positions in the regularly scheduled joint session between the Board and the GAC.

Submitted by:	John O. Jeffrey
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2010-11-GAC-BD-geo names

Geographic Names – Chart of GAC Advice*

The GAC and the ICANN Board and staff have exchanged views by way of correspondence or face-to-face meetings on the treatment of geographic names since the Board approved the GNSO policy recommendations on the introduction of new gTLDs in June 2008. It has been assumed that the GAC's remaining concerns are those contained in their most recent correspondence to the ICANN Board on 23 September 2010, providing comments on version 4 of the Applicant Guidebook http://www.icann.org/en/correspondence/dryden-to-dengate-thrush-23sep10-en.pdf

Reference	Topic	GAC Advice	Discussion Notes
GAC-BD-Geographic-2010-09-23-1	Country and Territory names	Guidebook still does not take fully into consideration the GAC's concerns about extending protection of geographic names. Definition of geographical strings continues to be insufficient and inconsistent with GAC gTLD principles and earlier advice. In particular, names by which countries are commonly known as and which do not appear in ISO should be given same protection as country names that do appear	The Board sought to remove the ambiguity of the term 'meaningful representation' from the definition of country and territory names to provide greater clarity for applicants and appropriate safeguards for governments and the broad community. The definition of country and territory names provided in *Section 2.2.1.4.1. Treatment of Country or Territory Names* the Proposed Final Version of the Applicant Guidebook should stand. This definition is based on the ISO 3166-1 standard and includes: Alpha-3 codes; long-form name; short-from name; and translations in any language. The Board responded to the GAC on this issue, providing a detailed explanation of the reasons for removing the 'meaningful representation' terminology in correspondence to the GAC on 22 September 2009, http://www.icann.org/en/correspondence/dengate-thrush-to-karklins-22sep09-en.pdf and 5 August 2010 http://www.icann.org/en/correspondence/dengate-thrush-to-dryden-05aug10-en.pdf.
GAC-BD-Geographic-2010-09-23-2	Country and territory names	Welcomes the exclusion of country and territory names from the first round of the new gTLD process. However, as stated in Nairobi communiqué, the GAC underlines that this exclusion should be prolonged until the completion of the ccPDP.	In correspondence to the GAC on 5 August 2010, Peter Dengate-Thrush advised that country and territory names would not be available to delegation in the first round of the new gTLD application process. This can be reviewed prior to the launch of the second round taking into consideration the work undertaken by the ccNSO. The issue of the use of country and territory names in general is considered to be out of scope of the IDN ccPDP, and therefore the Board cannot commit to prolonging the exclusion of country and territory names from further new gTLD rounds until it understands the process that will be undertaken to deal with this issue. While it is not certain that the board would change the country name

GAC Advice* means statements that may constitute advice under Article XL, Section 2.1.j of the ICANN Bylaws based on inclusion in formal communiqués or correspondence to the Board. 1

			reservation after the first round, it has reserved that possibility. The ccNSO is considering the options available, and will advise the Board in due course. The Board may, at that time, reconsider whether to extend the prohibition on country and territory names.
GAC-BD-Geographic-2010-09-23-3	Community objection procedure	Asks ICANN to ensure that the criteria for community objections are implemented in a way that appropriately enables governments to use this instrument to protect their legitimate interests.	The criteria for community objections were created with the possible objections to place names in mind and as such the objection process "appropriately enables governments to use this." The *New gTLD Dispute Resolution Procedure* is outlined in an Attachment to Module 3, pp P-1 to P-11 and was also developed so that it is equally accessible to those who wish to utilize the process. This is the first time the GAC has raised this issue in correspondence to the Board.
GAC-BD-Geographic-2010-09-23-4	Waiver of objection fee	Reiterates position that governments should not be required to pay a fee for raising objections to new gTLD applications.	The Community-based objection process has been accurately described as a methodology for objecting to applications for geographical names where that name might be misappropriated by the applicant. The Board discussed the GAC's position that governments should not be required to pay a fee for raising objections to new gTLD applications, during it's meeting in Trondheim. It is the Board's view that governments that file objections should be required to cover costs of the objection process just like any other objector. http://www.icann.org/en/minutes/resolutions-25sep10-en.htm The objection process will be run on a cost-recovery basis and there is no source of funds to cover government objection expenses. It can be raised with the GAC that dispute resolution services are funded on a loser-pays basis (so the costs of the objection processes in which governments prevail will be borne by applicants). The Board noted some ambiguity in the GAC proposal for free government objections as it is not specific as to particular objection grounds or particular government objections (for example whether both national and local government objectors would be covered). In any case, resolving the ambiguity would probably not resolve this difference.
GAC-BD-Geographic-2010-09-23-5	City names	The GAC considers that the provisions in version 4 of the AG in relation to city names carry the danger that an applicant could seek to avoid the safeguards of government support or non-objection, if the application	It is acknowledged in the Guidebook (and in correspondence and discussions with the GAC) that city names present challenges because city names may also be generic terms or brand names and, in many cases, no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Protection was

		simply states that the intended use of the name is for non-community purposes. The GAC asks ICANN to review the proposed in order to ensure that this potential loophole does not arise.	provided to "capital city" names of the countries and territories listed on the ISO 3166-1 list. Rather, an application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name, will require support or non-objection from the relevant government or public authority. Applicants are required to provide a description/purpose of what the TLD will be used for, and to adhere to the terms and conditions of submitting an application including confirming that all statements and representations contained in the application are true and accurate. The Registry Agreement has the same clause. Applicants are expected to live up to the promises made in their application. The former ICANN CEO, Paul Twomey, first discussed the challenges with city names with the GAC on 8 September 2008, and followed up with correspondence on 2 October 2008 http://www.icann.org/en/correspondence/twomey-to-karklins-02oct08.pdf

2010-12-10-11 Board Submission SAC045 Invalid TLD Queries Board Submission 18 Nov 2010

ICANN BOARD SUBMISSION NO. 2010-10-12-11

TITLE: **SSAC Report on Invalid Top Level Domain Queries at the Root Level of the Domain Name System**

PROPOSED ACTION: **For Board Consideration**

EXECUTIVE SUMMARY:

On 18 November the Security and Stability Advisory Committee (SSAC) published a report: "SAC045: Invalid TLD Queries at the Root Level of the Domain Name System" <http://www.icann.org/en/committees/security/sac045.pdf>. In this Report, the SSAC calls attention to the potential problems that may arise should a new TLD applicant use a string that has been seen frequently in a query for resolution by the root system and the root system has previously generated a response. The Report finds that any new TLD registry operator may experience unanticipated queries and that some TLDs may experience a non-trivial load of unanticipated queries if the label it chooses corresponds to TLDs that have historically seen queries.

PROPOSED RECOMMENDATION:

The SSAC recommends specific actions that ICANN should take in its Draft Final Applicant Guidebook for new gTLDs and its new gTLD program, as referenced in the SSAC's Report.

PROPOSED RESOLUTION:

Resolution Text Superceded

Resolution Text Superceded

Submitted by:	Ram Mohan
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Date Noted:	18 November 2010
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2010-12-10-12 Board-Submission-ICM-Application

ICANN BOARD SUBMISSION NO. 2010-12-10-12

TITLE: **ICM Application for .XXX sTLD – GAC Consultation**

PROPOSED ACTION: **For Board Information**

EXECUTIVE SUMMARY:

At its 28 October 2010 meeting, the Board resolved that "the Board Chair shall engage the GAC Chair on developing a process for consultation with the GAC on its communications and advice." *See* http://www.icann.org/en/minutes/resolutions-28oct10-en.htm

To facilitate the engagement between the Board Chair and the GAC Chair, the General Counsel and Secretary sent the attached chart of those GAC statements for which ICANN notes that consultation between the GAC and the Board may be warranted. In addition, the General Counsel and Secretary asked to schedule a call between the Board Chair and GAC Chair prior to their travels to Cartagena to discuss a process for a consultation, should there be a determination that GAC advice is present and one is necessary.

For additional information see the Annex to this Board Submission, which consists of the 28 October 2010 Board Submission entitled *Review of Proposed ICM Registry Agreement for Potential Inconsistencies with GAC Advice* and the Annex to that 28 October 2010 Board Submission.

ICANN BOARD CHAIR RECOMMENDATION RE CONSULTATION:

The Board Chair recommended to the GAC Chair that their discussion involve the following areas:

1. Scope of the differences.
2. Understanding the basis of each party's position.
3. Exploring the flexibility of each party's position.
4. Exploring bridging options to maximize merits.
5. Establishing negotiation procedures.

With respect to negotiations, the Board Chair suggested that the Board and the GAC

each establish a small team and use them to try to work up a position for discussion separately with each larger group, then possibly cover those positions in the regularly scheduled joint session between the Board and the GAC.

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2010-11-ICM-GAC-Advice-chart-ICM

Reference	Source	GAC Advice*	Additional Discussion
GAC-BD-XXX-2010-10-28-c1	Wellington Communiqué and 2 February 2007 letter	The Wellington Communiqué noted that several GAC members were emphatically opposed from a public policy perspective to the introduction of an .XXX sTLD, and not contingent on the specifities of the proposed agreement. The GAC member opposition was reiterated in the 2 February 2007 letter.	The question remains whether a position taken by "several members of the GAC" can be equated with GAC advice on public policy matters. If it is not GAC advice, then the concern of inconsistency diminishes.
GAC-BD-XXX-2010-10-28-c2	Lisbon Communiqué	The Lisbon Communiqué stated that ICANN could be moving towards assuming an ongoing management and oversight role regarding Internet content, which is inconsistent with its technical mandate.	The concern of ICANN being required to oversee content, while mitigated through the creation of the ICM Compliance Reporting System, may not be fully eliminated through the proposed Registry Agreement. There is the possibility that ICANN may be required to take compliance action against ICM for content-related matters that also result in violations of the Registry Agreement. Further, regardless of the merit of such requests, if the .XXX sTLD Registry is delegated, registrants and others will likely turn to ICANN for assistance with content-related issues. ICANN cannot stop such requests for content oversight to occur. The ICANN Board and the GAC may benefit from further discussion of this potential issue.

* The term "GAC Advice" means GAC statements that may constitute advice under Article XI, Section 2.1.j of the ICANN Bylaws based on inclusion in formal Communiqués or correspondence to the Board.

Reference	Source	GAC Advice*	Additional Discussion
GAC-BD-XXX-2010-010-28-c3	4 August 2010 letter	The 4 August 2010 GAC letter called for a cross-community discussion to assist in the development of an objection procedure "that both recognizes the relevance of national laws and effectively addresses strings that raise national, cultural, geographic, religious and/or linguistic sensitivities or objections that could result in intractable disputes. These objection procedures should apply to all pending and future TLDs."	There are no objection procedures in place or contemplated to address the possibility that the .XXX string may raise national, cultural, geographic, religious and/or linguistic sensitivities or objections. ICANN has been dealing with this issue within the New gTLD program, however that work remains separate from the consideration of the .XXX sTLD, which is not subject to the timing or the requirements of the New gTLD program. Further, outside of the public comment periods, there was no formalized string objection process within the 2004 sTLD RFP process when ICM applied for the .XXX sTLD. If the "pending" TLD refers to .XXX, the approval of the .XXX sTLD Registry Agreement without allowing for these types of objections would be inconsistent with GAC advice.

* The term "GAC Advice" means GAC statements that may constitute advice under Article XI, Section 2.1.j of the ICANN Bylaws based on inclusion in formal Communiqués or correspondence to the Board.