

## Adopted Resolutions from ICANN Board Meeting

30 March 2007

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### Approval of Minutes

Resolved (07.17), the minutes of the Board Meeting of 13 March 2007 are approved.

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### Proposed sTLD Agreement with ICM Registry

Whereas, on 15 December 2003, ICANN solicited proposals from potential sponsors to create new sponsored top-level domain (sTLD) registries, seeking applications that would "address the needs and interests of a clearly defined community (the Sponsored TLD Community), which can benefit from the establishment of a TLD operating in a policy formulation environment in which the community would participate."

Whereas, on 19 March 2004, ICM Registry, LLC (ICM) submitted an application for the delegation of a .XXX sponsored TLD ("sTLD") (the "ICM Application") which was evaluated according to ICANN's designated sTLD processes.

Whereas, on 1 June 2005, the ICANN Board voted 6-3 with two abstentions to authorize the President and General Counsel to enter into negotiations with ICM relating to proposed commercial and technical terms for the .XXX sTLD.

Whereas, on 9 August 2005, ICANN posted a draft proposed .XXX sTLD registry agreement on the ICANN website.

Whereas, on 15 September 2005, the Board voted 11-0 with 3 abstentions expressing concerns regarding issues relating to compliance with the proposed .XXX sponsored TLD registry agreement (including possible proposals for codes of conduct and ongoing obligations regarding potential changes in ownership) and, noting that the Board had received extensive public comments, directed the ICANN President and General Counsel to discuss possible additional contractual provisions or modifications for inclusion in the .XXX registry agreement so as to ensure that there were effective provisions requiring development and implementation of policies consistent with the principles in the ICM application.

Whereas, on 18 April 2006, a revised draft proposed .XXX sTLD registry agreement was posted by ICANN on its site, and ICANN requested and received extensive public comment on this agreement.

Whereas, on 10 May 2006, at the specific request of the applicant the Board reviewed the revised draft proposed .XXX sTLD registry agreement and the motion to adopt the proposed agreement failed by a vote of 9 to 5.

Whereas, on 19 May 2006, the applicant submitted a request for reconsideration <<http://www.icann.org/committees/reconsideration/icm-06-4/petition-20may06.pdf>>. On 29 October 2006, ICM withdrew its reconsideration request and resumed negotiations in an attempt to agree to a new version of the proposed agreement for Board consideration.

Whereas, on 5 January 2007, ICM negotiated a further revised draft .XXX sTLD registry agreement (“Revised Agreement”), which was posted by ICANN and received extensive public comment on the Revised Agreement.

Whereas, the Board has received and analyzed unprecedented public comment, as well as advice from the GAC via communiqués issued in Wellington and in Lisbon, relating to ICM’s Application and the Revised Agreement.

Therefore, the Board has determined that:

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

Accordingly, it is resolved (07.\_\_\_) that the Proposed Agreement with ICM concerning the .XXX sTLD is rejected and the application request for a delegation of the .XXX sTLD is hereby denied.

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## **Discussion of Registrar Accreditation Agreement Review**

(Discussion only)

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## **Authorization to pay Legal Bills**

Whereas, ICANN has had significant needs for legal services during the months of October, November, December 2006 and January and February 2007.

Whereas, Jones Day has provided extensive legal services to meet these needs, and ICANN has received invoices from Jones Day in connection with these services totaling US\$108,135.45 for October 2006, US\$79,902.98 for November 2006, US\$26,642.87 for December 2006, US\$27,427.22 for January 2007, and US\$46,506.57 for February 2007.

Whereas, the General Counsel and the acting Chief Financial Officer have reviewed the invoices and determined that they are proper and should be paid.

Resolved (07.\_\_\_), the President is authorized to make payments to Jones Day in the amount of US\$288,615.09 for legal services provided to ICANN during October, November and December 2006, and January and February 2007.

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## **Action on President’s Strategy Committee Final Report**

Whereas, ICANN’s mission is to coordinate, at the overall level, the global Internet’s systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet’s unique identifier systems.

Whereas, the ICANN Board noted in 2005 that the ICANN community could benefit from the advice of a group responsible for making observations and recommendations concerning strategic issues facing ICANN, and resolved in 2005 to direct the President to appoint the President's Strategy Committee;

Whereas, the President's Strategy Committee conducted its work and consulted with the community on input to its proposed Recommendations;

Whereas, the President's Strategy Committee Recommendations addressing ICANN's status and continued improved responsiveness to an evolving global environment; contributing to capacity development; and participation and role of stakeholders have been presented to the ICANN Board and community;

Resolved (07.\_\_), to recognize the President's Strategy Committee Recommendations and request that the Committee provide further detail on aspects arising from the recommendations and conduct in consultation with the community an evaluation and analysis of their implementation and related implications.

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## **Cooperative Agreements with International and Regional Organizations**

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

Whereas, ICANN staff has engaged with respective organizations both globally and regionally;

Whereas, organizations have expressed an interest to enter into non-binding cooperative agreement MoUs with ICANN to highlight cooperation and partnerships;

Whereas, these cooperative agreement MoUs seek to enable cooperation and partnership on areas consistent with ICANN's bylaws, strategic and operating plan;

Resolved (07.\_\_), that these cooperative agreement MoUs are a positive step in enhancing cooperation and working in partnership with respective organizations, and the President is authorized to enter into agreements such as the cooperative agreement MoUs with the African Telecommunications Union (ATU), Pacific Islands Telecommunications Association (PITA), and the UN Economic and Social Commission for Western Asia (UN-ESCWA).

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## **Regional At-Large Organization MOUs**

Whereas, the ICANN Bylaws, Article XI, Section 2, Part 4, provide a process that allows individual Internet users to participate meaningfully in the work of ICANN, as the community known as 'At-Large', and;

Whereas, groups representing individual internet users throughout the world have made outstanding progress in their work together, resulting in three regions concluding their negotiations on creating Memoranda of Understanding with ICANN to create their Regional At-Large Organisations ("RALOs"), and;

Whereas, the three regions are the Asia/Australia/Pacific, the African, and the European regions, an achievement which represents a considerable milestone in the development of the multi-stakeholder process which is so fundamental to the work of ICANN, and;

Whereas, the ICANN Board wishes to recognise and applaud the At-Large community worldwide, and especially in the African, Asia/Australia/Pacific, and European Regions, for the achievement of this milestone in their development, and;

Whereas, the Board is pleased to highlight the fact that with the creation of these three RALOs, the At-Large Advisory Committee is now composed of 8 elected members and 5 Nominating Committee members, with only two remaining Board-appointed members, and;

Whereas, the General Counsel's office have reviewed the draft MoUs and determined that they meet the requirements the ICANN Bylaws establish for the formation of a RALO, and advised that a 21-day public comment period should be observed, and;

Whereas, the African and European user groups have met as a part of the ICANN Lisbon Meeting, and elected their representatives to the At-Large Advisory Committee as a part of their work, allowing for the diverse communities engaged in ICANN to be present to recognise this achievement, and;

Whereas, the Asia/Australia/Pacific Region are in the process of formally providing written confirmation of their consent to be bound by the terms of their MoU with ICANN, and shall formally sign the MoU in a public ceremony at the October 2007

ICANN International Meeting to be held in the Asia/Australia/Pacific Region, and;

Whereas, the Parties to the African and European MoUs, composed of ICANN and representatives of the At-Large Structures in the African and European regions, signed it at a public ceremony on Thursday 29th March 2007 at the Lisbon ICANN meeting, the execution of the agreement on ICANN's part contingent upon final approval by the ICANN Board following completion of the public comment period, and;

Whereas, the public comment periods for the African and Asia/Australia/Pacific concluded on the 28th March 2007, and the public comment period on the Latin America and the Caribbean region concluded on 4th January 2007.

Resolved (07.\_\_), the Board ratifies the Memorandum of Understanding with the European At-Large Structures, on the same basis under which it was signed, and;

Resolved (07.\_\_), the Board gives its final approval to the Memorandum of Understanding between the At-Large Latin America and the Caribbean Region and ICANN, and;

Resolved (07.\_\_), the Board gives its final approval to the Memorandum of Understanding between the At-Large African Region and ICANN, and;

Resolved (07.\_\_), the Board gives its final approval to the Memorandum of Understanding between the At-Large Asia/Australia/Pacific Region and ICANN.

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### **RSSAC and SSAC Report to IANA on Adding AAAA Records to the Root**

Whereas, on 23 March 2007, ICANN's Root Server System Advisory Committee (RSSAC) and Security and Stability Advisory Committee (SSAC) jointly published a report on Accommodating IP Version 6 Address Resource Records for the Root of the Domain Name System.

Whereas, the report includes a roadmap the community can follow to assure that the inclusion of AAAA records in the root hints file and DNS priming responses from root name servers has minimum impact and maximum benefit.

Resolved (07.\_\_), the Board hereby accepts the report, and thanks the members of SSAC and the RSSAC and all other contributors for their efforts in the creation of the report.

Resolved (07.\_\_), the Board forwards the report to IANA staff to consider and implement the report's recommendations as appropriate.

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### **DNSSEC Implementation Progress**

Resolved (07.\_\_), the board recognizes the importance of the steps the Swedish registry (SE) and the Bulgarian registry (BG) have taken to sign their zones and thereby lead the way in adding security to the domain name system. The board expresses its appreciation to the representatives of those registries and their colleagues for taking the time to come to Lisbon and share their experiences with the community.

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### **.MUSEUM Sponsorship Agreement Extension and Renewal Process**

Whereas, ICANN has been engaged in negotiations with sTLD registry sponsor MuseDoma regarding renewal terms for their registry contract.

Whereas, these negotiations are intended to result in a revised new registry agreement for this sTLD, including revised terms to come into line with other recently approved sTLD registry agreements.

Whereas, it may be beneficial for all parties involved to allow for an extension of the deadline of the existing agreement so that ICANN and the registry sponsor will have adequate time to address public comments raised by the proposed renewal agreement and the subsequent discussion in the 27 March 2007 registrar constituency meeting that led to the proposed path of extension of the current agreement.

Resolved (07.\_\_), the President and the General Counsel are authorized to continue negotiations with MuseDoma in accordance with existing contractual terms, and are authorized to extend the relevant renewal process deadline as necessary and appropriate for up to six full months, while discussion continue.

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## **Board Governance Committee Recommendations on Independent Reviews**

Whereas Article IV, Section 4 of ICANN's Bylaws calls for the Board to cause periodic reviews of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee by an entity or entities independent of the organization under review.

Whereas on 8 December 2006, the Board approved a comprehensive schedule for independent reviews that included an independent review of the Board, and directed staff to execute the reviews as scheduled.

Whereas the Board has considered the proposed Terms of Reference for the At-Large Advisory Committee that have been recommended by the Board Governance Committee (BGC) to be posted for public comment.

Whereas the BGC has recommended the creation of two working groups comprised of current and former Board members that would report to the Committee and would provide focused attention and guidance to the GNSO and NomCom review efforts – a “BGC GNSO Review Working Group” and a “BGC NomCom Review Working Group.”

Whereas the Board has considered the individuals to be appointed as working group members, and the charters for these working groups, that have been recommended by the BGC.

Resolved (07.\_\_\_\_), the ICANN Board directs staff to post the proposed Terms of Reference for the At-Large Advisory Committee review for public comment and further consideration.

Resolved (07.\_\_\_\_), the ICANN Board approves the Board Governance Committee's proposal to create a “BGC GNSO Review Working Group” and a “BGC NomCom Review Working Group,” and appoints the following individuals, while noting that additional individuals may be appointed:

For the “BGC GNSO Review Working Group” -- Roberto Gaetano, Rita Rodin, Vanda Scartezini, Tricia Drakes, Raimundo Beca, Susan Crawford, and Vittorio Bertola; and

For the “BGC NomCom Review Working Group” -- Alejandro Pisanty; Peter Dengate-Thrush, Njeri Rionge, Mouhamet Diop, Jonathan Cohen, and Steve Goldstein.

Resolved (07.\_\_\_\_), the ICANN Board approves the recommended charters for these two working groups that include the objectives, tasks and processes to be undertaken by these groups, and directs staff to support the creation and work of these groups.

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## **Protections for gTLD Registrants**

Resolved (07.\_\_\_\_), the Board requests that the President provide a report on the status of escrow compliance relating to ICANN's current agreements, at or before ICANN's Meeting in San Juan. The report should also propose a process for a public discussion on creation of a policy for appropriate protections for generic TLD registries, registrars and registrants.

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## **Engagement of Auditors**

Whereas, the ICANN Bylaws in Article XVI, Section 3, requires that at the end of the fiscal year, the books of ICANN shall be closed and audited by certified public accountants. The by-laws also state that the appointment of the fiscal auditors shall be the responsibility of the Board.

Whereas, the Audit Committee of the ICANN Board of Directors charter recommends to the ICANN Board of Director the selection of ICANN's external auditors and the annual fees to be paid for services rendered by the external auditors, and reviews each proposed audit plan developed by management and the external auditors, performance of the external auditors, and recommend to the Board any proposed retention or discharge of the external auditors.

Whereas, the Audit Committee of the ICANN Board of Directors and management interviewed and short-listed Moss Adams LLP, the Audit committee requested that the President and Chief Operating Officer enter into negotiations with Moss Adams LLP to provide the outside audit for the fiscal year 2006-2007.

Whereas, the President and Chief Operating Officer have received an engagement letter and professional services agreement dated 9 March 2007 from Moss Adams LLP to provide the audit for the fiscal year 2006-2007.

Whereas, the Audit Committee of the ICANN Board of Directors has reviewed the engagement letter and professional services agreement and recommends to the Board that the President be authorized to enter into this engagement.

Resolved (07.\_\_\_\_), the President and Chief Operating Officer are authorized and directed to enter into the engagement letter and professional services agreement of 9 March 2007 with Moss Adams LLP to provide the outside audit for fiscal year 2006-2007.

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## Thanks to Mohamed Sharil Tarmizi

Whereas Mohamed Sharil Tarmizi:

- Joined the GAC in Yokohama, Japan in July 2000 as the representative for Malaysia;
- Led GAC's internal IDN working group as early as in June 2001;
- Became one of the three inaugural Vice Chairs of the GAC in September 2001 in Uruguay to end of 2002 in Shanghai;
- Was appointed to ICANN's first IDN Committee led by Masanobu Kato in September 2001 at Montevideo;
- Was unanimously elected as the second Chairman of the GAC succeeding Dr Paul Twomey in January 2003 and chaired his first GAC meeting in Rio de Janeiro in March 2003;
- Became the first GAC Liaison to the ICANN Board when the position was first established;
- Chaired the organizing committee of the ICANN meeting in Kuala Lumpur in June 2004;
- Returned unopposed for a second and final term in Mar del Plata in March 2005;
- Finally stepped down in Lisbon, Portugal in March 2007;

Whereas Sharil Tarmizi has served the GAC, Board, ICANN and Internet community with energy, distinction, panache and a unique and self-deprecating sense of humor;

Whereas he has contributed in countless ways to the successes of ICANN with his unique blend of technical, diplomatic and collaborative skills;

Now therefore it is resolved that the ICANN Board offers its sincere and heartfelt gratitude for his long and diligent service and conveys its best wishes for success in his new investment advisory business, more time with his family, and opportunity for global contact with the world through his ham radio hobby.

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## Thanks to Sponsors, Staff, Scribes, and Event Teams

The Board extends its thanks to all sponsors of the meeting, including Arsys, Portugal Telecom, VeriSign, Afiliás, PIR, Microsoft, DENIC, Amen World, Anacom, dotMobi, puntCat, InterNetX, EURid, LogicBoxes, Skenzo, and ICANNWiki. The Board would also like to thank Câmara Municipal de Lisboa, Turismo de Lisboa and Anubis Networks for their support.

The Board expresses its appreciation to the scribes Laura Brewer, Teri Darrenougue, Jennifer Schuck and Charles Motter, to ICANN staff present here in Lisbon, and to the rest of the ICANN staff for their efforts in facilitating the smooth operation of the meeting.

The Board also wishes to express its appreciation to all the FCCN staff for the overall event management including IPv4 and IPv6 networking, iWayTrade for technical support of all the remaining technical infrastructure, Abreu for all turistic and event management services, Hospital da Cruz Vermelha and Bombeiros Lisbonenses for Medical Services and Empatia for the stage and booth design. Additional thanks are given to Hotel Corinthia for this fine facility and to their event facilities and support.

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**Thanks to Local Hosts** The Board wishes to extend its thanks to "Fundação para a Computação Científica Nacional - FCCN" and the following members of the Local Organizing Committee: Pedro Veiga, Marta Moreira Dias, Luísa Gueifão and João Moreira and all the volunteers for hosting the ICANN meeting. The Board would also like to thank José Mariano Gago, Minister of Science Technology and Higher Education, for supporting the March 2007 Lisboa meeting.

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