

## Board Briefing Materials - 21 January 2024 Regular Board Meeting

The originally published version of this document contained information that was withheld from publication in accordance with the [ICANN Publication Practices](#). The updated information can be found in the document at page 58. To view a redacted or previously withheld version, please see <https://www.icann.org/en/board-activities-and-meetings/board-materials-redaction-archive-register>.

### ICANN BOARD PAPER NO. 2024.01.21.1a

**TITLE: RZERC002: Recommendations Regarding Signing Root Zone Name Server Data**

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

#### **EXECUTIVE SUMMARY:**

The Board is being asked to take action on Recommendation 2 from the [Root Zone Evolution Review Committee](#) (RZERC) published in [RZERC002: Recommendations Regarding Signing Root Zone Name Server Data](#).

RZERC published [RZERC002](#) on 25 January 2021. RZERC002 Recommendation 2 recommends that ICANN org further explore the cost / benefit tradeoffs and risks of signed root zone name server data, and study if the risks of redirected query traffic outweigh the risks of increased operational complexity. RZERC002 Recommendation 1 is not addressed in this resolution, as ICANN org and RZERC have agreed the requirements of Recommendation 1 are already met.

Advice to the Board is processed via the [Action Request Register](#) (ARR) process to manage community requests to the Board and ICANN org in a consistent, efficient, and transparent manner. As part of the ARR process, ICANN org has confirmed its understanding of the recommendation with RZERC, considered if the work called for is in alignment with ICANN's strategic goals and mission to ensure the stable and secure operation of the Internet's unique identifier systems, and evaluated the feasibility of implementation. ICANN org has briefed the Board Technical Committee on the findings of its assessment.

ICANN org considers the implementation of RZERC002 Recommendation 2 to be feasible, and in alignment with ICANN's strategic goals and mission to ensure the stable and secure operation of the Internet's unique identifier systems. Implementation would particularly support ICANN's

strategic goal to increase the robustness of the DNS root zone key signing and distribution services.

Implementation is anticipated to cost less than \$50,000 and require a minimal amount of ICANN org time. Implementation would include hiring and overseeing the work of a contractor to conduct a study that would fulfill RZERC002 Recommendation 2.

**THE BOARD TECHNICAL COMMITTEE’S (BTC) RECOMMENDATION:**

The BTC recommends that the Board accept RZERC002 Recommendation 2 and direct ICANN org to identify a person or group to develop a report to provide insight into the impact of signed root server address records on the priming practices of validating recursive resolvers, and answer the question posed in RZERC002 Recommendation 2. The BTC considers implementation of the recommendation to be feasible and in alignment with ICANN’s strategic goals and mission to ensure the stable and secure operation of the Internet’s unique identifier systems.

**PROPOSED RESOLUTION:**

Whereas, on 25 January 2021, the Root Zone Evolution Review Committee (RZERC) published [RZERC002: Recommendations Regarding Signing Root Zone Name Server Data](#).

Whereas, RZERC002 Recommendation 2 recommends that ICANN org further explore the cost / benefit tradeoffs and risks of signed root zone name server data, and study if the risks of redirected query traffic outweigh the risks of increased operational complexity.

Whereas, RZERC002 Recommendation 2 depended on the implementation study report for RSSAC028, which was delivered to the Board in September 2023.

Whereas, ICANN org has evaluated the feasibility of the RZERC’s advice in RZERC002 and developed implementation recommendations for Recommendation 2.

Whereas, the Board Technical Committee (BTC) has considered RZERC002 and ICANN org's feasibility assessment of implementation of Recommendation 2 and found that implementing the

recommendation would be in alignment with ICANN's strategic goals and mission to ensure the stable and secure operation of the Internet's unique identifier systems.

Resolved (2024.01.21.xx), the Board accepts RZERC002 Recommendation 2 calling for ICANN org to further explore the cost / benefit tradeoffs and risks of signed root zone name server data, and study if the risks of redirected query traffic outweigh the risks of increased operational complexity, and directs the ICANN Interim President and CEO, or their designee(s) to implement this recommendation.

## **PROPOSED RATIONALE:**

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

The Board is taking this action in response to the advice of the RZERC. The Board's consideration of this advice forms a part of the [Action Request Register](#) (ARR) process designed to manage community requests to the Board and ICANN org in a consistent, efficient, and transparent manner.

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

The root zone has been signed with the Domain Name System Security Extensions (DNSSEC) since 2010. DNSSEC does not authenticate sources and destinations of queries and responses, only whether or not it matches what was published by the zone operator. Although the root zone is signed with DNSSEC, the root-servers.net zone is not. Signed root zone name server data may be of benefit to validating recursive name servers (sometimes called "validators"), the clear advantage being the ability to ensure that root zone queries go only to real root name server addresses. However, signing the root zone name server data also introduces some potential problems.

The purpose of the work associated with RZERC002 Recommendation 2 is to further explore the cost / benefit tradeoffs and risks of signed root zone name server data, in order to understand if the risks of redirected query traffic outweigh the risks of increased operational complexity.

**Which stakeholders or others were consulted?**

RZERC002 was created and edited by the [RZERC](#), which has representatives from many of the stakeholders in the root server system. RZERC coordinates with the committee's respective organizations and communities, and as appropriate, external experts, to ensure that relevant bodies and impacted parties are involved in relevant discussions and recommendation development.

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

No concerns or issues raised.

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

The Board reviewed RZERC002, ICANN org's understanding of the recommendation as confirmed by the RZERC, and ICANN org's feasibility assessment of implementation.

**What factors did the Board find to be significant?**

The Board is acting based on its acceptance of ICANN org's implementation proposal for how to implement RZERC002 Recommendation 2.

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

Implementation of RZERC002 Recommendation 2 could lead to better security of the DNS if it leads to different choices for naming the root server system nameservers after an analysis of the benefits and risks of different proposals.

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

Implementation is anticipated to cost less than \$50,000 and require a minimal amount of ICANN org time. Implementation would include hiring and overseeing the work of a contractor to conduct a study that would fulfill RZERC002 Recommendation 2.

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

Implementation will inform future decision making with regard to naming the root server system nameservers. As such, while there are no security, stability, or resiliency issues directly associated with implementation, the output could inform decision making that will enhance security, stability, and resiliency of the DNS.

**Is this action within ICANN's Mission? How does it relate to the global public interest?**

Implementation is in alignment with ICANN's strategic goals and mission to ensure the stable and secure operation of the Internet's unique identifier systems. Implementation would particularly support ICANN's strategic goal to increase the robustness of the DNS root zone key signing and distribution services.

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

This action does not require Public Comment.

**Signature Block:**

Submitted by: John Crain

Position: SVP and Chief Technology Officer

Date Noted: 27 November 2023

Email: [john.crain@icann.org](mailto:john.crain@icann.org)

## ICANN BOARD SUBMISSION NO. 2024.01.21.1b

**TITLE:** Expansion of Remit of Board Governance Committee's Subcommittee on Conflicts re the New gTLD Program: Next Round

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

### EXECUTIVE SUMMARY:

The Board recently approved the establishment of the Board Governance Committee's (BGC) Subcommittee on Conflicts re the New gTLD Program: Next Round (Subcommittee). Since then, the BGC has considered the need to expand the remit of the Subcommittee to include other areas of conflicts for other programs that may benefit from more consideration from a subcommittee on conflicts of interest, such as the ICANN Grant Program. Accordingly, in its role of administering and monitoring compliance with the Conflicts of Interest Policy, the BGC has recommended that the Subcommittee's remit be expanded to include other areas of conflicts of interest not directly related to the New gTLD Program: Next Round and the Board is being asked to approve that recommendation.

### BOARD GOVERNANCE COMMITTEE (BGC) RECOMMENDATION:

The BGC recommends that the Board expand the remit of the Board Governance Committee's Subcommittee on Conflicts re the New gTLD Program: Next Round to include other areas of conflicts of interests not directly related to the New gTLD Program: Next Round.

### PROPOSED RESOLUTIONS:

Whereas, on [10 September 2023](#), the Board approved the establishment of the Board Governance Committee Subcommittee on Conflicts re the New gTLD Program: Next Round (Subcommittee) .

Whereas, the Board Governance Committee has since recommended that the Subcommittee's remit be expanded to include other areas of conflicts of interests not directly related to the New gTLD Program: Next Round, and the Board agrees.

Resolved (2024.01.21.XX), the Board approves the expansion of the Subcommittee's remit to include other areas of conflicts of interests not directly related to the New gTLD Program: Next Round and revises the Subcommittee's full title to be "The Board Governance

Committee Subcommittee on Conflicts of Interests.” The Subcommittee shall still be comprised of the following Board members: Catherine Adeya, Chris Chapman, Sajid Rahman, and León Sánchez (Chair).

#### **PROPOSED RATIONALE:**

ICANN is committed to attaining a high ethical standard to ensure the legitimacy and sustainability of the multistakeholder model. The Board’s action today ensures efficiencies in managing conflicts of interests for Board members for areas in addition to the New gTLD Program: Next Round. This action will help ensure that the Board members are operating at the highest ethical standards and that decisions and deliberations are made with full awareness of individual conflicts of interest, which will further assist the Board in complying with its duties in accordance with its Conflicts of Interest Policy (<https://www.icann.org/resources/pages/governance/coi-en>).

This decision is within the public interest and consistent with ICANN's mission as it is expected to positively impact the ICANN community by ensuring that ICANN continues to operate to the highest ethical standards.

The action is not expected to have a fiscal impact on ICANN organization.

This is an Organizational Administrative Function that does not require Public Comment.

Submitted By:	Amy A. Stathos, Deputy General Counsel
Date:	10 January 2024
Email:	amy.stathos@icann.org

## ICANN BOARD PAPER NO. 2024.01.21.2a

**TITLE:** Transfer of the .LB (Lebanon) top-level domain to the Internet Society Lebanon  
**PROPOSED ACTION:** For Board Consideration and Approval  
**IANA REFERENCE:** 1276459

### EXECUTIVE SUMMARY:

As part of our responsibilities under the IANA Naming Function contract with ICANN, we have prepared a recommendation to authorize the transfer of the country-code top-level domain .LB (Lebanon) to the Internet Society Lebanon (ISOC-LB).

Key points of the investigation on the transfer request are:

- The string under consideration represents Lebanon in the ISO 3166-1 standard and is eligible for transfer.
- The proposed manager is the Internet Society Lebanon, an association headquartered in Beirut, Lebanon.
- The proposed administrative contact is a resident of Lebanon.
- Informed consent for the transfer was provided by the Chief Innovation and Transformation Officer at the American University of Beirut (AUB), the previous Manager of the .LB top-level domain.
- The Prime Minister of Lebanon has granted exceptional approval for the transfer.
- Additional statements of support were provided by five significantly interested parties in Lebanon.

### PROPOSED RESOLUTION:

Resolved (2024.01.21.xx), as part of the exercise of its responsibilities under the IANA Naming Function Contract with ICANN, PTI has reviewed and evaluated the request to transfer the .LB top-level domain to the Internet Society Lebanon. The documentation demonstrates that the proper procedures were followed in evaluating the request.

### PROPOSED RATIONALE:



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

In accordance with the IANA Naming Function Contract, we have evaluated a request for ccTLD transfer and are presenting its report to the Board for review. This review by the Board is intended to ensure that the proper procedures were followed.

**What is the proposal being considered?**

The proposal is to approve a request to transfer the .LB top-level domain and assign the role of manager to the Internet Society Lebanon.

**Which stakeholders or others were consulted?**

In the course of evaluating this transfer application, we consulted with the applicant and other significantly interested parties. As part of the application process, the applicant needs to describe consultations that were performed within the country concerning the ccTLD, and their applicability to their local Internet community.

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

We are not aware of any significant issues or concerns raised by the community in relation to this request.

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

The Board reviewed the following evaluations:

- The domain is eligible for transfer, as the string under consideration represents Lebanon in the ISO 3166-1 standard;
- The relevant government has been consulted and does not object;
- The proposed manager and its contacts agree to their responsibilities for managing this domain;
- The proposal has demonstrated appropriate significantly interested parties' consultation and support;
- The proposal does not contravene any known laws or regulations;
- The proposal ensures the domain is managed locally in the country, and are bound under local law;

- The proposed manager has confirmed they will manage the domain in a fair and equitable manner;
- The proposed manager has demonstrated appropriate operational and technical skills and plans to operate the domain;
- The proposed technical configuration meets the technical conformance requirements;
- No specific risks or concerns relating to Internet stability have been identified; and
- Staff have provided a recommendation that this request be implemented based on the factors considered.

These evaluations are responsive to the appropriate criteria and policy frameworks, such as "Domain Name System Structure and Delegation" (RFC 1591), "GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains" and the ccNSO "Framework of Interpretation of current policies and guidelines pertaining to the delegation and redelegation of country-code Top Level Domain Names."

As part of the process, Delegation and Transfer reports are posted at <http://www.iana.org/reports>.

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

The Board did not identify any specific factors of concern with this request.

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

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

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

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the financial impact of the internal operations of country-code top-level domains within a country.

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

ICANN does not believe this request poses any notable risks to security, stability or resiliency. This is an Organizational Administrative Function not requiring public comment.

**SIGNATURE BLOCK:**

Submitted by:	Amy Creamer
Position:	Director, IANA Operations
Date Noted:	21 December 2023
Email:	amy.creamer@iana.org



# **Report on the Transfer of the .LB (Lebanon) top-level domain to the Internet Society Lebanon**

5 December 2023

This report is a summary of the materials reviewed as part of the process for the transfer of the .LB (Lebanon) top-level domain. It includes details regarding the proposed transfer, evaluation of the documentation pertinent to the request, and actions undertaken in connection with processing the transfer.

## **FACTUAL INFORMATION**

### **Country**

The “LB” ISO 3166-1 code from which the application’s eligibility derives, is designated for use to represent Lebanon.

### **Chronology of events**

In 1993, the .LB top-level domain was delegated by IANA to Nabil Bukhalid at the American University of Beirut (AUB). For nearly thirty years, the domain’s management was led by Mr. Bukhalid, who reported to us that he was supported by volunteers from AUB and the technical contact, Randy Bush.

On 3 February 2008, the Lebanese Council of Ministers issued Decree No. 103/86 and approved a request from the Ministry of Telecom to transfer .LB from AUB to Ogero, a state-owned telecommunications operator. However, Ogero never sought a transfer from IANA and AUB remained the designated manager of the .LB top-level domain.

On 20 December 2011, the Internet Society Lebanon (also known as “ISOC-LB” or “مجتمع الانترنت في لبنان” in Arabic), was established as an association by Notice Statement No. 2073, published in the Lebanese Official Gazette.

In 2012, the E-Transaction draft law was issued under Decree No. 9341, giving the Ministry of Economy and Trade (MoET) the role of sponsoring the .LB domain registry. As a result, MoET and Mr. Bukhalid reportedly established a formal relationship and updated the .LB top-level domain’s registration policies. They also began discussions around developing a more sustainable structure for the .LB registry with multistakeholder governance.

In August 2012, Mr. Bukhalid left AUB and informed MoET that AUB would continue hosting the .LB database while he would manage its operations.

In February 2013, Fadi Chehadé, ICANN's then CEO, met with several members of the Lebanese government and other Internet stakeholders in Lebanon. Among the topics discussed were the benefits of moving to a bottom-up, multistakeholder model of administration for the .LB top-level domain.

After a year of comprehensive discussions, the Lebanese Internet community ratified general bylaws and internal bylaws for a not-for-profit association to manage the .LB top-level domain. On 2 June 2014, the Lebanese Internet Center (LINC) was established as an association for this purpose at the Ministry of Interior.

On 13 June 2014, LINC's first board was elected and it appointed Mr. Bukhalid as its CEO. LINC intended to submit a transfer request to IANA and apply for an Arabic-script ccTLD. However, it informed IANA it was ultimately unable to operate in Lebanon due to recognition issues within the country under government regulations.

On 16 June 2017, AUB notified Mr. Bukhalid that it did not want to continue hosting .LB's servers and associated infrastructure. Subsequently, AUB provided IANA with a letter of consent for the transfer of the .LB top-level domain from AUB to either LINC or ISOC-LB.

In October 2018, Law No. 81/2018 Relating to Electronic Transactions and Personal Data was ratified and published in the official gazette. Articles 79 and 80 of Part IV of the Law address the management of the .LB top-level domain:

*"Under the present Law, a body shall be established under the name of the 'Lebanese Domain Name Registry' (LBDR). LBDR's mandate is to manage and register the names of websites, including websites featuring the Lebanese domains (.lb) and (لبنان) in their names...LBDR shall be comprised of representatives from the Ministry of Telecommunications, the Ministry of Economy and Trade, the Ministry of Finance, the Ministry of Justice, the Minister of State for Administrative Development, the Telecommunications Regulatory Authority, the Federation of Chambers of Commerce, Industry and Agriculture, the Bar Association and representatives of three to five associations operating in this sector...LBDR shall define the administrative and technical terms and conditions for granting and managing the Lebanese domain names and accredited registrars subject to the rules set out by the international domain name registration bodies."*

On 7 June 2020, AUB announced that it would stop hosting .LB's infrastructure. Mr. Bukhalid consulted with LINC's Board and the Prime Minister's Office and was directed to work with the Office of the Minister of Administrative Reform (OMSAR) on a plan to transfer the .LB top-level domain to LINC.

On 30 June 2020, AUB, ISOC-LB, and Mr. Bukhalid informed OMSAR of the urgent need to transfer the .LB top-level domain to a multistakeholder entity and relocate

.LB's infrastructure away from AUB. Given challenging political events at that time in Lebanon, they concluded that the best option would be to again try to establish LINC. OMSAR worked with MoET, the Ministry of Telecommunication, and the Ministry of Interior on this project. At the same time, Mr. Bukhalid was tasked with developing a roadmap to transfer .LB's infrastructure to a cloud-hosted registry system and anycast DNS services, and preparing the transfer application for the .LB top-level domain to LINC.

In July 2020, AUB reportedly terminated the contracts of its two employees who had volunteered part of their time to help manage the .LB top-level domain and notified Mr. Bukhalid that they considered him the responsible party for the management of the .LB top-level domain.

In early September 2020, Mr. Bukhalid reportedly was informed by OMSAR that they could not proceed with establishing LINC and that Mr. Bukhalid would continue to be responsible for the administration of the .LB top-level domain.

On 23 September 2020, AUB notified Mr. Bukhalid and OMSAR that it would be decommissioning the services hosted on AUB infrastructure no later than 30 September 2020. Mr. Bukhalid stated he negotiated an extension with AUB to retain some infrastructure until 30 May 2021 and began migrating .LB's services to a third-party registry service provider, COCCA.

On 12 October 2020, the President of the Republic of Lebanon and the Prime Minister gave Mr. Bukhalid exceptional approval for "securing the management and hosting of the Government domain name data with entities that he enters into contractual agreement with on his responsibility, similar to the other (.lb) domain zones."

In December 2020, the migration of .LB's infrastructure to COCCA was completed. AUB retained some infrastructure that was supporting .LB at this time.

In 2021, Mr. Bukhalid incorporated LBDR LLC in the United States as a limited liability company.

In 2021, AUB asked IANA to remove its contact information from .LB's delegation record in the IANA database, given their lack of involvement in its current operation. It also asked IANA to work with Mr. Bukhalid to transfer .LB to LBDR LLC.

On 3 January 2023, Mr. Bukhalid passed away unexpectedly and the request to transfer .LB to LBDR LLC was withdrawn. Known associates of Mr. Bukhalid notified IANA that they would continue operating the domain. As circumstances clarified, ISOC-LB was identified as a potential place to rehome these operations on a permanent basis.

In March 2023, the last remaining infrastructure that had been hosted by AUB was moved to Beirut-IX.

On 7 March 2023, the Minister of State for Administrative Development sent a request to the attention of the General Secretariat of the Council of Ministers regarding the continuity of managing and hosting the data of Lebanese domain names. The request noted that Mr. Bukhalid, a Vice President of ISOC-LB, had managed .LB from its inception until he passed away. It also noted that the circumstances in Lebanon have prevented the establishment of a committee to manage .LB according to the e-transaction law. Given these circumstances, she suggested the extraordinary approval of transferring the duties of managing .LB to Mr. Jacques George Bakaev, the Secretary of ISOC-LB. On 4 May 2023, the Prime Minister of Lebanon approved this request.

AUB wrote to IANA again and asked to be removed from the .LB delegation record. In response, IANA explored with ICANN and key community stakeholders how such a request could be implemented in compliance with policies. ICANN approved IANA's proposal in May subject to some additional engagement with stakeholders.

On 13 July 2023, ISOC-LB formally submitted its transfer request to IANA.

On 14 July 2023, IANA finalized removing AUB from the .LB delegation record and placed the domain in "Caretaker Operations". In external communications around this topic, IANA confirmed that this was a temporary measure until such time as a transfer could be successfully completed.

### **Proposed Manager and Contacts**

The proposed manager is the Internet Society Lebanon.

The proposed administrative contact is Jacques Bakaev, Secretary of ISOC-LB.

Randy Bush will continue in his role as the technical contact.

### **EVALUATION OF THE REQUEST**

#### **String Eligibility**

The top-level domain is eligible for transfer as the string for Lebanon is presently listed in the ISO 3166-1 standard.

#### **Incumbent Consent**

The previous manager is the American University of Beirut. Informed consent for the transfer of the .LB top-level domain to ISOC-LB was provided by Yousif Asfour, the Chief Innovation and Transformation Officer at AUB.



## **Public Interest**

Najib Mikati, the Prime Minister of Lebanon, has granted exceptional approval for the transfer to ISOC-LB.

Statements of support were also provided by the following:

- Camille Moukarzel, President of the Professional Computer Association of Lebanon (PCA). PCA is a Lebanese association made up of companies representing the ICT industry in Lebanon.
- Roula Mikhael, the Founder and Executive Director of the Maharat Foundation, a Beirut based non-governmental organization working on advancing freedom of expression, media freedom, and promoting information integrity offline and online.
- Mohamad Najem, President of Social Media Exchange, a regional digital rights organization based in Beirut.
- Maroun N. Chammas, President and CEO of Berytech, a business incubation and innovation center that provides a conducive environment and technical assistance to more than 50 startups over three campuses in Beirut.
- Fadi Khoneisser, Administrator of the Beirut Internet eXchange Point (Beirut-IX). Beirut-IX is an IXP whose objectives are to remain a neutral, open Internet exchange where service providers and content providers can connect and peer with each other, stimulating economic growth, prosperity, and stability for Lebanon.

The proposed manager undertakes the responsibility to operate the domain in a fair and equitable manner.

## **Based in country**

The proposed manager is constituted in Beirut, Lebanon.

The proposed administrative contact is a resident of Lebanon.

## **Stability**

The .LB top-level domain is currently operated by former associates of Bukhalid who will continue to do so under ISOC-LB. Given AUB has already disavowed its participation in operating .LB, a comprehensive transfer plan was not necessary. The registry's physical infrastructure is based on cloud infrastructure, hosted by COCCA.

The application is not known to be contested in a manner that would require significantly interested parties to reach agreement amongst themselves prior to proceeding.

## **Competency**

The application has provided information on the technical and operational infrastructures and expertise that will be used to operate the domain.

Proposed policies for management of the domain have also been tendered.

## **EVALUATION PROCEDURE**

PTI is tasked with coordinating the Domain Name System root zone as part of a set of functions governed by a contract with ICANN. This includes accepting and evaluating requests for delegation and transfer of top-level domains.

A subset of top-level domains are designated for the significantly interested parties in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains (ccTLDs), and are assigned to responsible managers that meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the manager has from its local Internet community, its capacity to ensure stable operation of the domain, and its applicability under any relevant local laws.

Through the IANA functions performed by PTI, requests are received for delegating new ccTLDs, and transferring or revoking existing ccTLDs. An investigation is performed on the circumstances pertinent to those requests, and the requests are implemented where they are found to meet the criteria.

## **Purpose of evaluations**

The evaluation of eligibility for ccTLDs, and of evaluating responsible managers charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet's unique identifier systems.

In considering requests to delegate or transfer ccTLDs, input is sought regarding the proposed new manager, as well as from persons and organizations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focused on the capacity for the proposed manager to meet the following criteria:

- The domain should be operated within the country, including having its manager and administrative contact based in the country.
- The domain should be operated in a way that is fair and equitable to all groups

in the local Internet community.

- Significantly interested parties in the domain should agree that the prospective manager is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.
- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.
- Risks to the stability of the Internet addressing system must be adequately considered and addressed, particularly with regard to how existing identifiers will continue to function.

### **Method of evaluation**

To assess these criteria, information is requested from the applicant regarding the proposed manager and method of operation. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local internet community on the application; the competencies and skills of the manager to operate the domain; the legal authenticity, status and character of the proposed manager; and the nature of government support for the proposal.

After receiving this documentation and input, it is analyzed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed manager should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed manager's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries correctly. Should any anomalies be detected, PTI will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed manager and its suitability to operate the relevant top-level domain.

## ICANN BOARD PAPER NO. 2024-01-21-2b

**TITLE:** Transfer of the .CM (Cameroon) top-level domain to Agence Nationale des Technologies de l'Information et de la Communication

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

**IANA REFERENCE:** 1281714

### EXECUTIVE SUMMARY:

As part of our responsibilities under the IANA Naming Function contract with ICANN, PTI has prepared a recommendation to authorize the transfer of the country-code top-level domain .CM (Cameroon) to Agence Nationale des Technologies de l'Information et de la Communication (ANTIC).

Key points of the investigation on the transfer request are:

- The string under consideration represents Cameroon in the ISO 3166-1 standard and is eligible for transfer.
- The proposed manager is Agence Nationale des Technologies de l'Information et de la Communication, a Public Administrative Establishment with legal personality and financial autonomy under the technical supervision of the Ministry of Posts and Telecommunications and the financial supervision of the Ministry of Finance. It is headquartered in Yaoundé, Cameroon.
- The proposed administrative contact is a resident of Cameroon.
- Informed consent from the incumbent manager was provided by the CEO and General Director of CAMTEL.
- Government support for the application has been provided by the Minister of Posts and Telecommunications.
- Additional statements of support were provided by nine significantly interested parties in Cameroon.

### PROPOSED RESOLUTION:

Resolved (2024.01.21.xx), as part of the exercise of its responsibilities under the IANA Naming Function Contract with ICANN, PTI has reviewed and evaluated the request to

transfer the .CM top-level domain to Agence Nationale des Technologies de l'Information et de la Communication. The documentation demonstrates that the proper procedures were followed in evaluating the request.

## **PROPOSED RATIONALE:**

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

In accordance with the IANA Naming Function Contract, we have evaluated a request for ccTLD transfer and are presenting its report to the Board for review. This review by the Board is intended to ensure that the proper procedures were followed.

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

The proposal is to approve a request to transfer the .CM top-level domain and assign the role of manager to Agence Nationale des Technologies de l'Information et de la Communication.

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

In the course of evaluating this transfer application, we consulted with the applicant and other significantly interested parties. As part of the application process, the applicant needs to describe consultations that were performed within the country concerning the ccTLD, and their applicability to their local Internet community.

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

We are not aware of any significant issues or concerns raised by the community in relation to this request.

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

The Board reviewed the following evaluations:

- The domain is eligible for transfer, as the string under consideration represents Cameroon in the ISO 3166-1 standard;
- The relevant government has been consulted and does not object;

- The proposed manager and its contacts agree to their responsibilities for managing this domain;
- The proposal has demonstrated appropriate significantly interested parties' consultation and support;
- The proposal does not contravene any known laws or regulations;
- The proposal ensures the domain is managed locally in the country, and are bound under local law;
- The proposed manager has confirmed they will manage the domain in a fair and equitable manner;
- The proposed manager has demonstrated appropriate operational and technical skills and plans to operate the domain;
- The proposed technical configuration meets the technical conformance requirements;
- No specific risks or concerns relating to Internet stability have been identified; and
- Staff have provided a recommendation that this request be implemented based on the factors considered.

These evaluations are responsive to the appropriate criteria and policy frameworks, such as "Domain Name System Structure and Delegation" (RFC 1591), "GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains" and the ccNSO "Framework of Interpretation of current policies and guidelines pertaining to the delegation and redelegation of country-code Top Level Domain Names."

As part of the process, Delegation and Transfer reports are posted at <http://www.iana.org/reports>.

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

The Board did not identify any specific factors of concern with this request.

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

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

#### **Are there financial impacts or ramifications on ICANN (strategic plan, operating plan,**

**budget); the community; and/or the public?**

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the financial impact of the internal operations of country-code top-level domains within a country.

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

ICANN does not believe this request poses any notable risks to security, stability or resiliency. This is an Organizational Administrative Function not requiring public comment.

**SIGNATURE BLOCK:**

Submitted by:	Amy Creamer
Position:	Director, IANA Operations
Date Noted:	21 January 2024
Email:	amy.creamer@iana.org





# **Report on the Transfer of the .CM (Cameroon) top-level domain to Agence Nationale des Technologies de l'Information et de la Communication**

21 January 2024

This report is a summary of the materials reviewed as part of the process for the transfer of the .CM (Cameroon) top-level domain. It includes details regarding the proposed transfer, evaluation of the documentation pertinent to the request, and actions undertaken in connection with processing the transfer.

## **FACTUAL INFORMATION**

### **Country**

The “CM” ISO 3166-1 code from which the application’s eligibility derives, is designated for use to represent Cameroon.

### **Chronology of events**

The .CM top-level domain was initially delegated in the mid-1990’s to INTELCAM.

Cameroon Telecommunications (CAMTEL) succeeded INTELCAM as the .CM Manager due to a governmental restructuring under Law No. 98/014 of 14 July 1998.

On 8 April 2002, Agence Nationale des Technologies de l'Information et de la Communication (ANTIC) was created by Decree No. 2002/092 to “promote and monitor government action in the field of information and communication technologies.”

On 26 January 2006, Ebot Ebot Enaw was appointed the Director General of ANTIC by Decree No. 2006/026. He is the proposed administrative contact for .CM.

In 2009, CAMTEL and ANTIC reportedly reached an agreement to transfer the technical, administrative, and financial management of the .CM top-level domain, and ANTIC took over its operations. Between then and 2016, ANTIC submitted several transfer requests to IANA. Those requests were either withdrawn or administratively closed due to technical issues and pending the submission of supporting documents. ANTIC submitted a fully documented application in 2023.

On 21 December 2010, the government of Cameroon passed Law No. 2010/013, which governs electronic communications in Cameroon. Article 96 of this law lists ANTIC’s mission, which includes “the registration of ‘.cm’ domain names” and

“drafting the policy and procedure for the registration of ‘.cm’ domain names, hosting and administration of root servers, and granting of Registrar approval for ‘.cm’.” This was renewed in 2012 by Article 5 of Decree No. 2012/180 and in 2019 by Article 4 of Decree No. 2019/150.

In July and August 2023, ANTIC reportedly held several consultations with members of the local Internet community regarding the transfer of the .CM top-level domain.

On 14 September 2023, ANTIC submitted a transfer request to IANA.

### **Proposed Manager and Contacts**

The proposed manager is Agence Nationale des Technologies de l'Information et de la Communication, a Public Administrative Establishment with legal personality and financial autonomy under the technical supervision of the Ministry of Posts and Telecommunications and the financial supervision of the Ministry of Finance.

The proposed administrative contact is Ebot Ebot Enaw, Director General of ANTIC.

### **EVALUATION OF THE REQUEST**

#### **String Eligibility**

The top-level domain is eligible for transfer as the string for Cameroon is presently listed in the ISO 3166-1 standard.

#### **Incumbent Consent**

The incumbent manager is CAMTEL. Informed consent for the transfer of the .CM top-level domain to ANTIC was provided by Judith Yah Sunday épouse Achidi, the CEO and General Director of CAMTEL.

#### **Public Interest**

Support for the application has been provided by Libom Li Likeng née Mendomo Minette, the Republic of Cameroon’s Minister of Posts and Telecommunications.

Statements of support were also provided by the following significantly interested parties:

- Olivier Leloustre, President of Cameron Internet Exchange Point (CAMIX), an association under Cameroonian law, responsible for the management of two Internet exchange points in Cameroon. CAMIX has 12 members representing the largest Internet service and access providers in Cameroon.
- Michel Tchonang Linze, General Coordinator of CAPDA, an association in Cameroon that is working toward the development of an inclusive Internet.
- Balbine Manga, President of @JURIS.TIC, a civil society organization that

- works to promote digital rights.
- Saya Kaigama Moustapha, CEO of Netcom, a Cameroonian company specializing in website creation, hosting, and domain name registration.
  - Durand Nana, Deputy General Director, Matrix Telecoms, an Internet Service Provider in Cameroon and a registrar of .CM domain names.
  - Njimi Ndamzo Achille Frankie, CEO of CAMOO SARL, a Cameroonian company specializing in creating and hosting websites and registering domain names.
  - Charlie Martial Ngounou, President of AfroLeadership, a civil society organization headquartered in Cameroon that empowers citizens and communities to commit and engage actively in the development of Africa.
  - Olivier Nana Nzepa, Regional Coordinator of ANAIS\_AC, an association under Cameroonian Law, dedicated to advocating and improving ICT policies and usage in the sub Central Africa region.
  - Clovis Tchokonte, President of the Collective of National Operators in the Telecommunications Sector, an association committed to researching and jointly implementing more efficient telecommunications systems, as well as negotiating operating conditions in the telecommunications sector.

The application is consistent with known applicable laws in Cameroon. The proposed manager undertakes the responsibility to operate the domain in a fair and equitable manner.

### **Based in country**

The proposed manager is constituted in Yaoundé, Cameroon.

The proposed administrative contact is a resident of Cameroon.

### **Stability**

The application is not known to be contested.

We have not identified any stability issues with this request.

### **Competency**

The application has provided information on the technical and operational infrastructures and expertise that will be used to operate the domain.

Proposed policies for management of the domain have also been tendered.

## **EVALUATION PROCEDURE**

PTI is tasked with coordinating the Domain Name System root zone as part of a set of functions governed by a contract with ICANN. This includes accepting and

evaluating requests for delegation and transfer of top-level domains.

A subset of top-level domains are designated for the significantly interested parties in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains (ccTLDs), and are assigned to responsible managers that meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the manager has from its local Internet community, its capacity to ensure stable operation of the domain, and its applicability under any relevant local laws.

Through the IANA functions performed by PTI, requests are received for delegating new ccTLDs, and transferring or revoking existing ccTLDs. An investigation is performed on the circumstances pertinent to those requests, and the requests are implemented where they are found to meet the criteria.

### **Purpose of evaluations**

The evaluation of eligibility for ccTLDs, and of evaluating responsible managers charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet's unique identifier systems.

In considering requests to delegate or transfer ccTLDs, input is sought regarding the proposed new manager, as well as from persons and organizations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focused on the capacity for the proposed manager to meet the following criteria:

- The domain should be operated within the country, including having its manager and administrative contact based in the country.
- The domain should be operated in a way that is fair and equitable to all groups in the local Internet community.
- Significantly interested parties in the domain should agree that the prospective manager is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.
- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.
- Risks to the stability of the Internet addressing system must be adequately

considered and addressed, particularly with regard to how existing identifiers will continue to function.

### **Method of evaluation**

To assess these criteria, information is requested from the applicant regarding the proposed manager and method of operation. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local internet community on the application; the competencies and skills of the manager to operate the domain; the legal authenticity, status and character of the proposed manager; and the nature of government support for the proposal.

After receiving this documentation and input, it is analyzed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed manager should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed manager's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries correctly. Should any anomalies be detected, PTI will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed manager and its suitability to operate the relevant top-level domain.

## **ICANN BOARD PAPER NO. 2024.01.21.2c**

**TITLE:** **Proposed Global Amendments to the 2013 Registrar Accreditation Agreement and Base gTLD Registry Agreement to Add Contractual Obligations for Domain Name System (DNS) Abuse**

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

### **EXECUTIVE SUMMARY:**

ICANN org and members of the gTLD Registries Stakeholder Group (RySG) and the Registrar Stakeholder Group (RrSG), collectively the Contracted Party House Negotiating Team (CPH NT), worked together to craft proposed Global Amendments to the 2013 Registrar Accreditation Agreement (RAA) and base generic top-level domain (gTLD) Registry Agreement (Base RA) to enhance obligations by requiring registrars and registry operators to promptly take reasonable and appropriate action to stop or otherwise disrupt Domain Name System (DNS) Abuse. The Global Amendments will enable ICANN Contractual Compliance to take enforcement actions against those registrars or registry operators who fail to take prompt and appropriate action reasonably necessary to stop or otherwise disrupt well-evidenced DNS Abuse.

The proposed amendments are narrowly targeted to address DNS Abuse in a tangible way. For the purposes of the proposed amendments, DNS Abuse means malware, botnets, phishing, pharming, and spam (when spam serves as a delivery mechanism for the other forms of DNS Abuse). Registrars and registry operators are required to take prompt action to mitigate DNS Abuse; however, contracted parties (CPs) have reasonable discretion in selecting and implementing the mitigation actions that are appropriate considering the specific circumstances of each instance of DNS Abuse.

These proposed amendments are an important building block to mitigating DNS Abuse and position the community well for further policy discussions on what additional steps can be taken to combat DNS Abuse.

The resulting proposed amendments negotiated between ICANN org and the CPH NT incorporate:

- Requirements to ensure abuse contacts are readily accessible on the contracted party's (CP's) webpage and to provide the reporter with confirmation upon receipt of abuse reports
- The ability for registrars and registry operators to use webforms instead of email as an abuse reporting mechanism
- A definition of DNS Abuse for purposes of the RAA and Base RA
- A specific requirement to promptly take appropriate mitigation actions against domains for which the contracted party has actionable evidence demonstrating that the domains are being used for DNS Abuse
- Recognition that CPs should exercise reasonable discretion in selecting and implementing appropriate mitigation actions depending on the circumstances of each case
- Recognition of the different roles of registrars and registry operators
- A target outcome of stopping or otherwise disrupting the use of gTLD domain names for DNS Abuse

In addition, the proposed amendment to the Base RA amends Specification 11, Section 3(b) to replace the term "security threats" with "DNS Abuse," which clarifies that registry operators must periodically conduct a technical analysis to assess whether domains in the top-level domain (TLD) are being used to perpetrate DNS Abuse and must maintain statistical reports on identified DNS Abuse instances.

ICANN org conducted a Public Comment proceeding on the proposed Global Amendments from 29 May through 20 July 2023. ICANN org received thirty-six (36) comments on the proposed amendments to the RAA and Base RA from groups, organizations, and individuals. Comments noted in the [Public Comment Summary Report](#) provided general support for the proposed amendments with some offering feedback for ICANN org to consider including in the draft ICANN Advisory (the “draft Advisory”) and/or the proposed amendments. Following robust consideration of the public comments, ICANN org and the CPH NT confirmed that the proposed amendments met the stated objective of enhancing obligations by requiring registrars

and registry operators to promptly take reasonable and appropriate action to stop or otherwise disrupt DNS Abuse. As a result, no modifications were made to the proposed amendments or draft Advisory. However, ICANN org may include in the draft Advisory a link to the suspension and termination provisions in the relevant agreements, as well as to ICANN Contractual Compliance's established process for added clarity.

On 9 October 2023, ICANN org initiated a 60-day voting period among applicable registrars and applicable registry operators via a third party online voting platform operated by Votenet. For the Global Amendments to be approved by the contracted parties, certain thresholds had to be achieved for ICANN-accredited registrars and gTLD registries. At the conclusion of the voting period, 8 December 2023, all of the required voting thresholds were met.

#### **ICANN ORG RECOMMENDATION:**

ICANN org recommends that the ICANN Board approve the proposed Global Amendments. This action is in alignment with stakeholders' comments as summarized in the Public Comment Summary Report and the results of the vote among applicable registrars and applicable registry operators.

If approved by the Board, the changes will become effective in each agreement upon sixty (60) days notice to each CP by ICANN.

#### **PROPOSED RESOLUTION:**

Whereas, ICANN org and members of the gTLD Registries Stakeholder Group (RySG) and the Registrar Stakeholder Group (RrSG), collectively the Contracted Party House Negotiating Team (CPH NT), worked together to draft proposed Global Amendments to the 2013 Registrar Accreditation Agreement (RAA) and base generic top-level domain (gTLD) Registry Agreement (Base RA) to enhance obligations by requiring registrars and registry operators to promptly take reasonable and appropriate action to stop or otherwise disrupt Domain Name System (DNS) Abuse;

Whereas, pursuing contractual negotiations between ICANN org and contracted parties to make improvements to the existing obligations in the RAA and Base RA to further



mitigate DNS Abuse aligns with the [recommendations](#) made by the GNSO Small Team on DNS Abuse;

Whereas, for the purposes of the proposed Global Amendments , “DNS Abuse” means malware, botnets, phishing, pharming, and spam (when spam serves as a delivery mechanism for the other forms of DNS Abuse listed) as those terms are defined in Section 2.1 of the [Security and Stability Advisory Committee Report on an Interoperable Approach to Addressing Abuse Handling in the DNS](#) (SAC115);

Whereas, the proposed Global Amendments were posted for the contracted parties’ approval and received Registrar Approval and Registry Operator Approval, as defined in the RAA and Base RA;

Whereas, the Board determined that no further revisions to the proposed Global Amendments are necessary after taking the public comments and voting results into account;

Whereas, the Board has determined these proposed Global Amendments to the RAA and Base RA are consistent with and in support of [Goal #7 for ICANN’s President and CEO for FY24](#), to enhance ICANN’s ability to combat DNS Abuse;

Resolved (2024.01.21.xx), the Board approves the proposed Global Amendments to the 2013 Registrar Accreditation Agreement and Base gTLD Registry Agreement.

Resolved (2024.01.21.xx), the Board directs the ICANN Interim President and CEO, or her designee(s), to take the actions necessary to finalize and effect the Global Amendments.

## **PROPOSED RATIONALE:**

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

Over the past several years a variety of constituents, including governments and review teams, have been calling on ICANN org and the community to do more to combat DNS Abuse. In November 2022, the RrSG and RySG [proposed](#) to ICANN org the idea of collaborating to enhance the existing contracts by creating clear contractual obligations to stop or otherwise disrupt DNS Abuse. In their proposal, they suggested, and [ICANN agreed](#), to certain guideposts for the amendments:

- The focus of the new provisions will be on DNS Abuse, as defined in the amendments;
- The amendments will neither include matters pertaining to website content abuses nor access to registration data;
- Any new provisions should appropriately reflect the roles and responsibilities of registrars and registries in each agreement, and will not seek to impose pass-through requirements on either group.

In January 2023, ICANN org responded to letters from the [RrSG](#) and [RySG](#) to formally initiate the process to amend the RAA and Base RA to strengthen the existing abuse mitigation obligations. The goal was to work expeditiously and produce narrowly targeted amendments to both the RAA and Base RA before ICANN77 held in June 2023, which the CPH NT and ICANN org were able to achieve by May 2023.

ICANN org also developed a [draft ICANN Advisory](#) that will be issued if the proposed amendments are approved. The draft Advisory was developed in consultation with the CPH NT. The draft Advisory further explains the new requirements, provides guidance, and sets out expectations for action by CPs to establish compliance. The draft Advisory also elaborates upon terms like "mitigation actions," "appropriate," "stop" (contributing to stop), and "disrupt" (contributing to disrupt). Additionally, the draft Advisory contains examples of DNS Abuse, actionable evidence, and corresponding appropriate and prompt mitigation actions, considering the circumstances of each case.

The proposed amendments were posted for [public comment](#) from 29 May through 20 July 2023. The Public Comment proceeding was extended by one week in response to requests for additional time to submit input. As set out in the [Public Comment Summary Report](#), ICANN org and the CPH NT confirmed that the proposed amendments met the stated objective of enhancing obligations by requiring registrars and registry operators to promptly take reasonable and appropriate action to stop or otherwise disrupt DNS Abuse.

On 25 September 2023, ICANN org notified applicable registrars and applicable registries of their eligibility to vote on the proposed Global Amendments to the RAA and Base RA. The 60-day voting period opened at 17:00 UTC on Monday, 9 October

2023 and closed at 23:59 UTC on Friday, 8 December 2023. Table 1 below provides an overview of the required thresholds to be considered approved by Applicable Registrars and Applicable Registry Operators, respectively. All calculations of the vote were conducted pursuant to Section 1.20.1 of the RAA and Section 7.6(j)(ii) of the Base RA.

Each year, ICANN's President and CEO works with the Executive team and the ICANN Board of Directors to develop a list of goals to address the most pressing issues before ICANN. These proposed Global Amendments to the RAA and Base RA are consistent with and in support of [Goal #7 for ICANN's President and CEO for FY24](#), to enhance ICANN's ability to combat DNS Abuse. Furthermore, ICANN org and the contracted parties engaging in contractual negotiations to take firm practical steps to address DNS Abuse aligns with the [recommendations](#) made by the GNSO Small Team on DNS Abuse.

*Table 1: Global Amendment Vote Thresholds and Tabulations*

	<b>Required Threshold</b>	<b>Final Vote Tabulations</b>
Applicable Registry Operator - Fee Threshold	\$25,267,202.47	\$30,537,932.41
Applicable Registry Operator - Majority Threshold	567	864
Applicable Registrar Approval - Threshold	90%	94.01%

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

The contractual amendments negotiated between ICANN org and the CPH NT include:

- Requirements to ensure abuse contacts are readily accessible on the CP's webpage and to provide the reporter with confirmation upon receipt of abuse reports
- The ability for registrars and registry operators to use webforms instead of email as an abuse reporting mechanism
- A definition of DNS Abuse for purposes of the RAA and Base RA

- A specific requirement to promptly take appropriate mitigation actions against domains for which the contracted party has actionable evidence demonstrating that the domains are being used for DNS Abuse
- Recognition that CPs should exercise reasonable discretion in selecting and implementing appropriate mitigation actions depending on the circumstances of each case
- Recognition of the different roles of registrars and registry operators
- A target outcome of stopping or otherwise disrupting the use of gTLD domain names for DNS Abuse

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

ICANN org conducted a Public Comment proceeding on the proposed Global Amendments from 29 May through 20 July 2023. The Global Amendments received Registrar Approval and Registry Operator Approval in accordance with Section 1.20.1 of the RAA and Section 7.6(j)(ii) of the Base RA.

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

ICANN org received thirty-six (36) comments on the proposed amendments to the RAA and Base RA from groups, organizations, and individuals. Comments noted in the [Public Comment Summary Report](#) provided general support for the proposed amendments with some offering feedback for ICANN org to consider including in the draft ICANN Advisory and/or the proposed amendments.

In general, the proposed amendments and the contractual obligations for DNS Abuse received strong support across the industry and ICANN community. Support was also received for the addition of an obligation to provide confirmation of receipt of an abuse report. Many comments encourage the CPs to approve and implement the proposed amendments which they stated would be a significant achievement of the multistakeholder model. NameCheap Inc., i2Coalition, and the RrSG, strongly support the proposed amendments to the RAA and Base RA, the draft ICANN Advisory, and encourage that they be adopted in their current form.

Regarding comments that the proposed amendments are insufficient to address the challenge of DNS Abuse, ICANN org acknowledged the comments and reminded the community that the ICANN community will have the opportunity to discuss these obligations and determine if further obligations are required. This is an important building block in a longer journey that could include policy discussions open to the full ICANN community, and potentially future negotiations between the CPH and ICANN org. Further policy development could also be pursued in the Generic Names Supporting Organization (GNSO) to broaden the examination of what additional obligations should exist and define in more detail what is expected of registrars and registry operators in a community-wide process. ICANN org and the CPH NT supported the comments from the Governmental Advisory Committee (GAC) which stated that after the proposed amendments are adopted work should include Policy Development Processes (PDPs) to further inform the updated RAA and Base RA.

ICANN org reviewed the feedback and consulted with the CPH NT. Following robust consideration of the public comments, ICANN org and the CPH NT confirmed that the proposed amendments met their stated objective of enhancing obligations by requiring registrars and registry operators to promptly take reasonable and appropriate action to stop or otherwise disrupt DNS Abuse. As a result, no modifications were made to the proposed amendments or draft Advisory.

Additionally, during the 60 day voting period, ICANN org performed outreach to some of the contracted parties which voted against the amendments. Many smaller contracted parties expressed that they voted against the proposed amendments to maintain the status quo because keeping things as-is is easier for them operationally and financially.

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

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

- 2013 Registrar Accreditation Agreement (RAA)
  - [Proposed REDLINE of the 2013 Registrar Accreditation Agreement](#)
  - [Proposed CLEAN 2013 Registrar Accreditation Agreement](#)

- [Proposed Global Amendment to the 2013 Registrar Accreditation Agreement](#)
- Base Generic Top-Level Domain (gTLD) Registry Agreement (Base RA)
  - [Proposed REDLINE of the Base gTLD Registry Agreement](#)
  - [Proposed CLEAN Base gTLD Registry Agreement](#)
  - [Proposed Global Amendment to the Base gTLD Registry Agreement](#)
- [Draft ICANN Advisory](#)
- [Public Comment Summary Report](#)

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

The Board carefully considered the public comments received for the proposed Global Amendments, along with the summary and analysis of those comments. The Board also considered the provisions agreed upon by the CPH NT as part of the negotiations with ICANN org. The Board appreciates the general support from the ICANN community for the new contractual obligations for DNS Abuse negotiated between ICANN org and the CPH NT and for the significant steps taken to produce amendments that are narrowly targeted to address DNS Abuse in a tangible way.

The Board further recognizes the amendments are intended to result in prompt and reasonable mitigation actions that minimize the scope and intensity of the harm and victimization caused by DNS Abuse while limiting collateral damage caused by CPs' actions in response to the DNS Abuse. The proposed amendments contemplate that the best-equipped persons or entities conduct a thorough review of the matter, and take the appropriate, proportionate mitigation actions depending on the circumstances. The proposed amendments do not specify the mitigation actions or their timing, as such approach may not guarantee the desired outcome in all instances. ICANN org and the CPH NT discussed a prescriptive approach, but, ultimately, decided such an approach may unintentionally result in undesirable, disproportionate outcomes where DNS Abuse involves compromised domain names or delayed responses in situations where swift action is required. The appropriateness and promptness of the actions will depend on the specific circumstances of each case.

The Board also acknowledges the concerns expressed by some community members and contracted parties during the Public Comment proceeding, but believes that many of the concerns raised were either aimed at expanding the definition of DNS Abuse to issues such as content, which exceeds ICANN's remit, or things that can be discussed as part of the policy development processes related to DNS Abuse.

The Board is encouraged by the fact that on 7 November 2023, just 29 days into the 60 day voting period, the necessary registrar and registry operator thresholds were met for approval. This is a significant achievement made possible by the tremendous and collaborative collective efforts of ICANN org and the CPH NT, to raise awareness and engage with CPs and the broader ICANN community. The Board believes the proposed amendments are a significant step toward ensuring a safer Internet for all users.

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

The proposed amendments will enable ICANN Contractual Compliance to take enforcement actions against those registrars or registry operators who fail to take prompt and appropriate action reasonably necessary to stop or otherwise disrupt well-evidenced DNS Abuse.

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

There is no significant fiscal impact expected from the approved amendments to the RAA or Base RA.

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

The approved amendments to the RAA and Base RA are not expected to create any security, stability, or resiliency issues related to the DNS.

**Signature Block:**

Submitted by: Theresa Swinehart

Position: Senior Vice President, Global Domains Division

Date Noted:

Email: [Theresa.Swinehart@icann.org](mailto:Theresa.Swinehart@icann.org)



## ICANN BOARD PAPER NO. 2023.01.21.2d

**TITLE:**        **Initiation of Fundamental Bylaws Amendment on Accountability Mechanisms**

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

### **EXECUTIVE SUMMARY:**

At the Board's [26 October 2023 meeting](#), the Board stated that it would consider an amendment to ICANN's Bylaws to identify the specific circumstances through which the ICANN community could limit access to ICANN's Reconsideration process and Independent Review Process (IRP) that are set out at Article 4, Sections 4.2 and 4.3 of the Bylaws, respectively.

This action is related to the Board's [action](#) on the ICANN Grant Program where it directed ICANN org to implement through terms and conditions the community's recommendation to limit access to ICANN accountability mechanisms in the ICANN Grant Program.. The proposed language, provided as an attachment, is for inclusion at Section 4.1 of the Bylaws. And, while section 4.1 is not technically a Fundamental Bylaws provision, it is recommended that it be treated as such because it sets out the process for modifying access to the Reconsideration process and IRP, which are set out in Fundamental Bylaws provisions. The Board is now being asked to initiate the Fundamental Bylaws amendment process per the recommendation below.

### **BOARD ACCOUNTABILITY MECHANISMS COMMITTEE**

#### **RECOMMENDATION:**

The Board Accountability Mechanisms Committee (BAMC) recommends that the Board initiate the Fundamental Bylaws amendment process as set out at Article 25, Section 25.2 of the Bylaws and direct the Interim President and CEO (or her designee) to open a public comment on the proposed amendment to Article 4, Section 4.1 of the ICANN Bylaws. The Board is recommended to use the Fundamental Bylaws amendment process due to the fact that the revision is about how to limit access to the Reconsideration and Independent Review Processes, which are each set forth within Fundamental Bylaws sections.

## **BOARD CAUCUS GROUP ON GRANT PROGRAM [PROPOSED] RECOMMENDATION**

The Board Caucus Group on the Grant Program further recommends that the Board, when approving the initiation of the Fundamental Bylaws Change as recommended by the BAMC, take the following further actions:

- (1) acknowledging that the Cross-Community Working Group on Auction Proceeds (“CCWG”) Recommendation 7, regarding limiting access to ICANN’s Reconsideration process and IRP, was supported by all chartering organizations to the CCWG, which is the same broad community support as proposed within the proposed Fundamental Bylaws amendment;
- (2) acknowledging that, if approved by the Board and Empowered Community, the Fundamental Bylaws amendment would support the full implementation of CCWG’s Recommendation 7, including support for restricting third party access to the Reconsideration process and IRP to challenge decisions on individual applications within the Grant Program;
- (3) affirming that if the Fundamental Bylaws amendment is ultimately approved, the Board intends to direct full implementation of the CCWG’s Recommendation 7 as part of that approval; and
- (4) directing ICANN’s Interim President and CEO to provide clear notice and messaging within the public comment on the proposed Fundamental Bylaws amendment for clear communication that if approved, the CCWG Recommendation 7 will be implemented in full, including restricting non-applicants from using the Reconsideration process and IRP as contemplated therein.

### **PROPOSED RESOLUTION:**

Whereas, the ICANN community, through the Cross Community Working Group (CCWG) on Auction Proceeds, made a recommendation that utilization of certain ICANN accountability mechanisms should be limited in certain circumstances (“Recommendation 7”). Though a Fundamental Bylaws change had previously been

identified as the path for implementing a limitation on use of ICANN’s accountability mechanisms as suggested by the ICANN community, the ICANN Board determined that it was preferable to insert language in the Bylaws as to how such a limitation could be effectuated.

Whereas, on 26 October 2023, the ICANN Board, at Resolutions 2023.10.26.11 and 2023.10.26.12, stated that it would “simultaneously pursue a fundamental Bylaws change that will provide as follows: Where (1) the Final Report of a CCWG, approved by all chartering organizations, recommends that one or more Bylaws-defined accountability mechanisms should not be available to resolve disputes in specified circumstances; and (2) the Board agrees that the community recommendation is in the global interest, the Board shall then be authorized to direct ICANN Org to implement the CCWG recommendation that limits access to the Bylaws-defined accountability mechanism(s).”

Whereas, the Board Accountability Mechanisms Committee (BAMC) has recommended a proposed draft amendment to Article 4, Section 4.1 of the Bylaws in the form attached.

Whereas, although the proposed change is to Article 4, Section 4.1, which is not included among the Fundamental Bylaws provisions identified at Article 25, Section 25.2 of the ICANN Bylaws, use of the Fundamental Bylaws amendment process is still recommended as the proposal discusses how the ICANN community can limit access to ICANN’s Reconsideration process (set out at Article 4, Section 4.2 of the Bylaws) and the Independent Review Process (IRP) (set out at Article 4, Section 4.3 of the Bylaws), each of which are enumerated as Fundamental Bylaws.

Whereas, the CCWG reached its Recommendation 7 was supported by all chartering organizations to the CCWG, which is the same broad community support as proposed within the proposed addition to Article 4, Section 4.1. As a result, if the Board and the Empowered Community ultimately approve the Fundamental Bylaws Amendment as contemplated (or in substantially similar form), such an action would support the full implementation of the CCWG’s Recommendation 7.

Resolved (2024.01.21.xx), the ICANN Board directs the ICANN Interim President and CEO, or her designee(s), to initiate a Fundamental Bylaws Amendment Process under Article 25, Section 25.2 of the ICANN Bylaws, through the posting of the proposed amendment to Article 4, Section 4.1 of the Bylaws for public comment. The ICANN Board is relying on the Fundamental Bylaws Amendment Process because the proposed amendment is to define how access to ICANN's accountability mechanisms at Article 4, Sections 4.2 and 4.3, each enumerated as Fundamental Bylaws, may be limited.

Resolved (2024.01.21.xx), the ICANN Board affirms that if the Fundamental Bylaws Amendment to Article 4, Section 4.1 of the Bylaws is ultimately approved as posted (or in substantially similar form), the ICANN Board intends to direct the full implementation of the CCWG's Recommendation 7 in reliance on that approval, including the contemplated restrictions on non-applicant access to ICANN's Reconsideration process and IRP. The ICANN Board therefore directs ICANN's Interim President and CEO (or her designee(s)) to provide clear notice and messaging of this intended implementation within the Public Comment that will be opened as a result of the Board's initiation of the Fundamental Bylaws Amendment Process.

**PROPOSED RATIONALE:**

Today's action is in furtherance of the Board's 26 October 2023 action, wherein the Board, when taking Resolutions 2023.10.26.11 and .12, identified that it would

[P]ursue a fundamental Bylaws change that will provide as follows: Where (1) the Final Report of a [Cross-Community Working Group] CCWG, approved by all chartering organizations, recommends that one or more Bylaws-defined accountability mechanisms should not be available to resolve disputes in specified circumstances; and (2) the Board agrees that the community recommendation is in the global interest, the Board shall then be authorized to direct ICANN Org to implement the CCWG recommendation that limits access to the Bylaws-defined accountability mechanism(s).

The Board's 26 October 2023 resolutions were addressing the Cross-Community Working Group on Auction Proceeds (CCWG-AP) recommendation ("Recommendation 7") to limit access to ICANN's Independent Review Processes and Reconsideration Processes (collectively, ICANN's Accountability Mechanisms) through the use of application terms and conditions as opposed to seeking an

amendment to Bylaws setting forth ICANN's Accountability Mechanisms. In its rationale to the resolutions, the Board acknowledged the ICANN community concern with the Board's reference of this issue to a contract, stating:

The direction to ICANN org to use terms and conditions as a means to restrict applicant usage of ICANN's accountability mechanisms does not signal a broader intention by the Board or the org to limit access to ICANN's accountability mechanism through contracts. This is a specific situation where the community clearly recommended, with the support of each Chartering Organization, that the ICANN's accountability mechanisms should not be available for application-specific decisions. The Board agreed with this recommendation in June 2022 and continues to agree that community position remains in the public interest. The Board would not be taking today's action absent the community's clear recommendation.

The Board's direction to use terms and conditions now also does not foreclose future exploration of an appropriately tailored Bylaws change. First, the Board is interested in discussing with the community how the Bylaws might be changed to support future community recommendations by clarifying within the Bylaws the potential for the community to recommend limitations of access to ICANN's accountability mechanisms and for the Board to accept and direct implementation of those recommendations. Therefore, the Board will simultaneously pursue a fundamental Bylaws change . . . .

The ICANN Board is now able to initiate that Fundamental Bylaws amendment process and start of that conversation with the community, through the posting of proposed amendments for public comment. The proposed amendment is to Article 4, Section 4.1 of the ICANN Bylaws, which introduces the ICANN Accountability Mechanisms that are specified at Bylaws Article 4, Sections 4.2 and 4.3. From a Bylaws clarity and drafting perspective, it is preferable to have a singular description of how the ICANN community may limit access to the ICANN Accountability Mechanisms, as opposed to restating such process within each impacted Bylaws section. The placement of this proposed update outside of the portions of the Bylaws enumerated as "Fundamental" under Section 25.2, however, does not negate that the proposal is describing how the ICANN community may limit access to those Fundamental ICANN Accountability Mechanisms. As a result, the Board is relying upon the Fundamental Bylaws Amendment Process set out Section 25.2 of the ICANN Bylaws for the consideration of

this proposal, inclusive of the Empowered Community's right of approval over these changes.

The ICANN Board looks forward to the community discussion over these proposed changes.

Today's action also supports the closing of an implementation issue regarding the full implementation of the CCWG-AP's Recommendation 7, which states:

Existing ICANN accountability mechanisms such as IRP or other appeal mechanisms cannot be used to challenge a decision from the Independent Project Applications Evaluation Panel to approve or not approve an application. Applicants not selected should receive further details about where information can be found about the next round of applications as well as any educational materials that may be available to assist applicants. The CCWG recognizes that there will need to be an amendment to the Fundamental Bylaws to eliminate the opportunity to use the Request for Reconsideration and Independent Review Panel to challenge grant decisions. For the sake of clarity, the recommended Bylaws amendment is not intended to affect the existing powers of the Empowered Community specified under the ICANN Bylaws, including rejection powers on the five-year strategic plan, the five-year operating plan, the annual operating plan, and the annual budget.

Though the Board's 26 October 2023 resolution effectuated a limitation on applicant access to ICANN's Accountability Mechanisms, if the ICANN Board and the Empowered Community approve a Fundamental Bylaws Amendment substantially similar to the language approved for posting for public comment today, the ICANN Board will be in a position to use that approval to direct the full implementation of Recommendation 7. As the CCWG-AP recommended that third parties/non-applicants are also subject to restricted access to the ICANN Accountability Mechanisms, and the CCWG-AP Recommendation 7 was supported by all chartering organizations to the CCWG, which is the same broad community support as proposed within the proposed Fundamental Bylaws amendment, the ICANN Board affirms that it will apply this threshold to the CCWG-AP Recommendation 7 and authorize full implementation. The

ICANN Board therefore expects this intention to be clearly communicated as part of the public comment on the Fundamental Bylaws Amendment proposal.

Today's action is directly related to how the ICANN Community may hold ICANN accountable to its mission and work. It is in the public interest, and is aligned with ICANN's Bylaws, to seek public comment on changes to ICANN's Bylaws and the ICANN Accountability Mechanisms defined therein.

Initiating the Fundamental Bylaws Amendment process is not anticipated to result in any impact to the security, stability or resiliency of the Internet's DNS. Nor is this action anticipated to result in any budgetary or financial implications.

This is an Organizational Administrative Function decision requiring public comment.

**Signature Block:**

Submitted by: Samantha Eisner

Position: Deputy General Counsel

Date Noted: 27 November 2023;  
updated 9 January 2023

Email: [Samantha.eisner@icann.org](mailto:Samantha.eisner@icann.org)

















## ICANN BOARD SUBMISSION NO. 2024.01.21.2f

**TITLE:** Board Accountability Mechanisms  
Committee's Recommendation re  
Independent Review Process Standing  
Panel Composition

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

### **EXECUTIVE SUMMARY**

The Board is being asked to consider and approve the Board Accountability Mechanisms Committee's (BAMC) recommendation on the slate of candidates to comprise the inaugural ICANN Independent Review Process (IRP) Standing Panel.

The Bylaws require that an omnibus Standing Panel be established to handle IRP matters. ([Bylaws, Art. 4, Sec. 4.3\(j\)\(i\)](#)). The Bylaws specify that a Standing Panel shall be established by ICANN in consultation with the Supporting Organizations (SOs) and Advisory Committees (ACs). Under the Bylaws, the culmination of the panel selection process is for the SOs and ACs to nominate a slate of proposed Standing Panel members for confirmation by the Board, and confirmation "shall not be unreasonably withheld." (See *id.* at [Sec. 4.3\(j\)\(ii\)\(D\)](#).) The SOs and ACs are empowered under the Bylaws to select from panelists that ICANN confirms as "well qualified". (See *id.* at [Sec. 4.3\(j\)\(ii\)\(C\)](#).)

The Board is being asked to approve a slate of 12 panelists to serve as the inaugural IRP Standing Panel as vetted through the SO/AC process. As discussed in further detail below, the SOs and ACs selected a group of seven community members, referred to as the IRP Community Representatives Group (CRG), to conduct their work on establishing the IRP Standing Panel. The CRG, after substantial dedication of time and effort, identified a list of 13 candidates for Board confirmation. However, as one of those candidates was previously assessed by ICANN org as ineligible for service pursuant to the Bylaws, the recommendation before the Board is to proceed with the remainder of the composition as recommended by the CRG.

The 12 members recommended for Board confirmation as the inaugural Standing Panel represent a range of experience and geography, including proposed panelists from nearly all of the ICANN Geographic Regions. Some have familiarity with ICANN processes and topics; others are newer to the ICANN process but bring deep experience that the CRG and the members of the ICANN org team working closely with the CRG agree will benefit the ICANN community. The Board confirmation will represent the culmination of a long process to achieve this milestone.

## **DISCUSSION**

### **I. Background on the IRP Standing Panel Establishment Process**

The Bylaws specify that an IRP Standing Panel shall consist of at least seven members, “each of whom shall possess significant relevant legal expertise in one or more of the following areas: international law, corporate governance, judicial systems, alternative dispute resolution and/or arbitration. Each member of the Standing Panel shall also have knowledge, developed over time, regarding the [Domain Name System] DNS and ICANN's Mission, work, policies, practices, and procedures.” ([ICANN Bylaws, Art. 4, Section 4.3\(j\)\(i\).](#))

The Standing Panel composition process is defined by the Bylaws. Section 4.3(j)(ii) of Bylaws states:

(A) ICANN, in consultation with the Supporting Organizations and Advisory Committees, shall initiate a tender process for an organization to provide administrative support for the IRP Provider..., beginning by consulting the "IRP Implementation Oversight Team"...on a draft tender document.<sup>1</sup>

(B) ICANN shall issue a call for expressions of interest from potential panelists, and work with the Supporting Organizations and Advisory Committees and the Board to identify and solicit applications from well-qualified candidates, and to conduct an initial review and vetting of applications.

(C) The Supporting Organizations and Advisory Committees shall nominate a slate of proposed panel members from the well-qualified candidates identified per the process set forth in [Section 4.3\(j\)\(ii\)\(B\)](#).

(D) Final selection shall be subject to Board confirmation, which shall not be unreasonably withheld.

(*Id.* at [Art. 4, Section 4.3\(j\)\(ii\).](#))

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<sup>1</sup> Through consultation with the IRP Implementation Oversight Team (IRP-IOT), it was determined that the first step in the four-step process, is not applicable, as it involves a tender process for an organization to provide administrative support to the IRP Provider. However, the IRP Provider currently in place already has its own administrative support. (See IRP-IOT Meeting, [27 July 2017](#))



After significant planning with the ICANN community, in early 2021 the community formed the CRG, comprised of seven persons nominated by the SOs and ACs. This group was charged with coordination with both ICANN org and an external expert, Odgers Berndtson, in order to make a recommendation of a proposed slate of panelists to serve on ICANN's first IRP Standing Panel.

ICANN received 98 expressions of interest from candidates with diverse breadth of experience and geography, including those who have served on prior IRP panels, as well those new to ICANN that could bring different perspectives. Throughout the Standing Panel selection process, ICANN and the CRG worked to uphold the requirements of Bylaws section 4.3(j). ICANN org, in exercise of its responsibility to assure that the CRG selected a slate from only well-qualified candidates, continually assessed the qualification of candidates at every stage where new information was learned.

The CRG, after substantial dedication of time and effort, identified a list of 13 candidates for Board confirmation. One of those candidates was previously assessed by ICANN org as ineligible for service pursuant to the Bylaws.<sup>2</sup> The CRG noted that the Board retains the authority to approve the CRG nominated slate while excluding the particular candidate. The Bylaws are silent as to whether the Board must approve the nominated slate as a whole or if the Board may approve some but not all nominated panelists. Accordingly, the BAMC recommends that the Board confirm the CRG nominated slate, modified to exclude the ineligible candidate. This action would result in the Board confirming 12 panelists to comprise the inaugural ICANN IRP Standing Panel.

#### **BOARD ACCOUNTABILITY MECHANISMS COMMITTEE RECOMMENDATION:**

The BAMC recommends that the Board confirm the CRG nominated slate, modified to exclude the ineligible candidate. This action would result in the Board confirming 12 panelists to comprise the inaugural ICANN IRP Standing Panel.

#### **PROPOSED RESOLUTION**

Whereas, the ICANN Independent Review Process (IRP) is an accountability mechanism set forth under [Article 4, Section 4.3 of the ICANN Bylaws](#) for third-

Privileged and Confidential

party review of ICANN Board or Staff actions (or inactions) alleged by a claimant to be inconsistent with ICANN's Articles of Incorporation or Bylaws.

Whereas, the ICANN Bylaws provide that an omnibus Standing Panel be established to handle IRP matters. The Bylaws specify that an IRP Standing Panel shall consist of at least seven members. (See [ICANN Bylaws, Art. 4, Section 4.3\(j\)\(i\).](#))

Whereas, the Standing Panel composition process is defined under Article 4, Section 4.3(j)(ii) of Bylaws. This process includes, among other things, that ICANN organization “work with the Supporting Organizations (SOs) and Advisory Committees (ACs) to identify and solicit applications from well-qualified candidates, conduct an initial review and vetting of applicants”; that the SOs and ACs “nominate a slate of proposed panel members from the well-qualified candidates”; and that the Board confirm the final section of the Standing Panel “which shall not be unreasonably withheld.” ([ICANN Bylaws, Art. 4, Section 4.3\(j\)\(ii\).](#))

Whereas, ICANN org has been working with the community, through a representative group selected by the SOs and ACs known as the IRP Community Representatives Group (CRG), to implement the IRP Standing Panel composition process and uphold the requirements of Section 4.3(j) of the Bylaws.

Whereas, the CRG has nominated a slate of 13 candidates to comprise the inaugural ICANN IRP Standing Panel for Board confirmation, including one candidate previously assessed by ICANN as ineligible for service pursuant to the Bylaws. The CRG has maintained that the Board retains the authority to approve the CRG nominated slate while excluding the ineligible candidate.

Whereas, the Board Accountability Mechanisms Committee (BAMC), in its oversight role of accountability mechanisms, has recommended that the Board confirm the CRG nominated slate, modified to exclude the ineligible candidate.

Whereas, the Board agrees with the BAMC's recommendation that the 12 members recommended for Board confirmation as the inaugural Standing Panel represent a diverse breadth of experience and geography that meet the requirements prescribed under Section 4.3(j) of the Bylaws.

Resolved (2024.01.21.XX), the Board confirms the following 12 members nominated by the CRG to comprise the inaugural ICANN Independent Review Process Standing Panel: Guiditta Cordero-Moss, Utku Cosar, Christopher Gibson, Nicholas Gould, Ben Juratowitch, Madeline Kimei, Ann Lafrance, Stephen Larson, John Lowe, Mark Morril, Christoph Siefarth, and Reynaldo Uriaga.

Resolved (2024.01.21.XX), the Board directs the ICANN Interim President and CEO, or her designee(s), to undertake all implementation work in furtherance of

empaneling the inaugural ICANN IRP Standing Panel. As part of this implementation work, the Board confirms that the ICANN Interim President and CEO, or designee(s), is empowered to arrange contractual terms with the initial IRP Standing Panelists sufficient to protect against all inaugural members concluding their terms at the same time.

Resolved (2024.01.21.XX), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article 3, section 3.5(b) of the ICANN Bylaws until the Interim President and CEO, or her designee(s), determines that the confidential information may be released.

Resolved (2024.01.21.XX.) the Board extends its great appreciation to the community, especially the members of the CRG, for the considerable effort and time dedicated to developing the process for and completing the first selection of an ICANN IRP Standing Panel.

### **PROPOSED RATIONALE:**

The Board's action today is significant step in supporting ICANN's accountability mechanisms. The ICANN Bylaws provide that an omnibus Standing Panel shall be established from which a three-member Independent Review Process (IRP) panel shall be selected to preside over specific IRP disputes. According to the Bylaws, the IRP Standing Panel shall consist of at least seven members, "each of whom shall possess significant relevant legal expertise in one or more of the following areas: international law, corporate governance, judicial systems, alternative dispute resolution and/or arbitration. Each member of the Standing Panel shall also have knowledge, developed over time, regarding the [Domain Name System] DNS and ICANN's Mission, work, policies, practices, and procedures." ([ICANN Bylaws, Art. 4, Section 4.3\(j\)\(i\).](#))

The Bylaws, as revised on 1 October 2016, include a four-step process for establishing the IRP Standing Panel. This process includes, among other things, that ICANN organization "work with the Supporting Organizations (SOs) and Advisory Committees (ACs) to identify and solicit applications from well-qualified candidates, conduct an initial review and vetting of applicants"; that the SOs and ACs "nominate a slate of proposed panel members from the well-qualified candidates"; and that the Board confirm the final selection of the Standing Panel "which shall not be unreasonably withheld." ([ICANN Bylaws, Art. 4, Section 4.3\(j\)\(ii\).](#))

Beginning in 2017, ICANN org began working with the community to implement the four-step process. After significant planning with the community, in early 2021 the community formed the IRP Community Representatives Group (CRG), comprised of seven persons nominated by the SOs and ACs. This group was charged with coordination with both ICANN org and an external expert in order to make a recommendation of a proposed slate of panelists to serve on ICANN's

first IRP Standing Panel. The CRG worked closely with ICANN org to further its work, meeting at a regular cadence. Throughout the entirety of the Standing Panel selection process, ICANN org and the CRG membership enjoyed a constructive and collaborative relationship. Both worked together to uphold the requirements of Bylaws section 4.3(j). ICANN org, in exercise of its responsibility to assure that the CRG selected a slate from only well-qualified candidates, continually assessed the qualification of candidates at every stage where new information was learned.

The CRG relied upon the expertise of an external consultant, Odgers Berndtson, to help evaluate and narrow the initial group of 98 applicants down to 22 applicants for interviews, and eventually nominated 13 candidates to comprise the IRP Standing Panel. One of those candidates was previously assessed by ICANN org as ineligible for service pursuant to the Bylaws. The CRG noted that the Board retains the authority to approve the nominated slate while excluding the particular candidate.

Accordingly, the BAMC recommended, and the Board agrees, that the 12 remaining CRG nominated panelists represent a diverse breadth of experience and geography, that meet the requirements prescribed under Section 4.3(j) of the Bylaws to serve as the inaugural IRP Standing Panel. The Board therefore confirms the 12 candidates as the inaugural composition of the IRP Standing Panel.

The Board's action today represents the culmination of a long process to achieve this milestone. The Board's action is aligned with the Bylaws and the expectations of the community through the CRG.

The Board understands that membership confirmed by the Board today is still subject to contracting, and that ICANN org will be in a position to announce the full membership of the inaugural IRP Standing Panel upon completion of that contracting and other necessary administrative coordination. The Board acknowledges that the contracting will need to take into account for future continuity of the IRP Standing Panel, such that all terms should not conclude at the same time. ICANN org therefore should consider how the inaugural terms of the IRP Standing Panelist should be contracted, so long as no individual contract exceeds the five-year term requirement set forth within the Bylaws.

The Board extends its appreciation to the candidates that participated in the Standing Panel selection process. The Board further thanks to the community, especially the members of the CRG, for the considerable effort and time dedicated to developing the process and implementing Article 4, Section 4.3(j) of the Bylaws.

This action is consistent with ICANN's Mission and is in the public interest to as the IRP is an essential mechanism for holding the ICANN Board and the

organization accountable, and the seating of the Standing Panel to hear these claims is an important component of achieving a consistent, binding outcome.

There will be some fiscal impact to the organization, but that impact has been anticipated within the FY24 budget. This resolution will not have any direct impact on the security, stability or resiliency of the domain name system.

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

Submitted By: Samantha Eisner, Deputy General  
Counsel; Amy Stathos, Deputy General  
Counsel  
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## ICANN BOARD PAPER NO. 2024.01.21.2g

**TITLE:** GAC Advice: Hamburg Communiqué (October 2023)

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

### **EXECUTIVE SUMMARY:**

The Governmental Advisory Committee (GAC) delivered advice to the ICANN Board in its [ICANN78 Hamburg Communiqué](#) issued 30 October 2023. The advice concerns Closed Generic gTLDs. The GAC also provided a follow-up to previous advice regarding Enabling Inclusive, Informed and Meaningful Participation in ICANN, and Future gTLDs Policies and Procedures.

The Hamburg Communiqué was the subject of an exchange between the Board and the GAC on 05 December 2023. The purpose of the exchange was to ensure common understanding of the GAC advice provided in the communiqué.

The Board is being asked to approve the Board Scorecard to address the GAC’s advice in the Hamburg Communiqué. The draft Scorecard is attached to this briefing paper. The draft Scorecard includes: the text of the GAC advice; the Board’s understanding of the GAC advice following the 05 December 2023 dialogue with the GAC; the GNSO Council’s review of the advice in the Hamburg Communiqué as presented in a 01 December 2023 [letter](#) to the Board (included for Board review only and will not be part of the final scorecard); and the Board’s proposed response to the GAC advice.

### **ICANN ORG RECOMMENDATION:**

The ICANN org recommends that the Board adopt the attached scorecard to address the GAC’s advice in the October 2023 Hamburg Communiqué.

### **PROPOSED RESOLUTION:**

Whereas, the Governmental Advisory Committee (GAC) met during the ICANN78 meeting in Hamburg, Germany and issued advice to the ICANN Board in a [communiqué](#) on 30 October 2023 (“Hamburg Communiqué”).

Whereas, the Hamburg Communiqué was the subject of an exchange between the Board and the GAC on 05 December 2023.

Whereas, in a 01 December 2023 [letter](#), the GNSO Council provided its feedback to the Board concerning advice in the Hamburg Communiqué relevant to Closed Generic gTLDs and Future gTLDs Policies and Procedures.

Whereas, the Board developed a scorecard to respond to the GAC’s advice in the Hamburg Communiqué, taking into account the dialogue between the Board and the GAC and the information provided by the GNSO Council.

Resolved (2024.01.21.xx), the Board adopts the scorecard titled “GAC Advice – Hamburg Communiqué: Actions and Updates (21 January 2024)” **[INSERT LINK TO FINAL GAC ADVICE SCORECARD ADOPTED BY BOARD]** in response to items of GAC advice in the Hamburg Communiqué.

#### **PROPOSED RATIONALE:**

Article 12, Section 12.2(a)(ix) of the ICANN Bylaws permits the GAC to “put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.” In its Hamburg Communiqué (30 October 2023), the GAC issued advice to the Board regarding Closed Generic gTLDs. The GAC also provided follow-up to previous advice regarding Enabling Inclusive, Informed and Meaningful Participation in ICANN, and Future gTLDs Policies and Procedures. The ICANN Bylaws require the Board to take into account the GAC’s advice on public policy matters in the formulation and adoption of the policies. If the Board decides to take an action that is not consistent with the GAC advice, it must inform the GAC and state the reasons why it decided not to follow the advice. Any GAC advice approved by a full consensus of the GAC (as defined in the Bylaws) may only be rejected by a vote of no less than 60% of the Board, and the GAC and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

The Board is taking action today on the GAC Consensus Advice to the ICANN Board in the Hamburg Communiqué, including the items related to Closed Generic gTLDs, Enabling Inclusive, Informed and Meaningful Participation in ICANN, and Future gTLDs Policies and Procedures. This decision is in the public interest and within ICANN's mission, as it is fully consistent with ICANN's bylaws for considering and acting on advice issued by the GAC.

The Board's actions are described in the scorecard dated 21 January 2024 **[INSERT LINK TO FINAL GAC ADVICE SCORECARD ADOPTED BY THE BOARD]**.

In adopting its response to the GAC advice in the Hamburg Communiqué, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- Hamburg Communiqué (30 October 2023): <https://gac.icann.org/file-asset/icann78-hamburg-communique-fr.pdf>.
- The GNSO Council's review of the advice in the Hamburg Communiqué as presented in the 01 December 2023 letter to the Board:  
<https://www.icann.org/en/system/files/correspondence/dibiase-to-sinha-01dec23-en.pdf>.

The adoption of the GAC scorecard will have a positive impact on the community because it will assist with resolving the advice from the GAC concerning gTLDs and other matters. There are no foreseen fiscal impacts associated with the adoption of this resolution. Approval of the resolution will not impact security, stability or resiliency issues relating to the DNS. This is an Organizational Administrative function that does not require public comment.

**Signature Block:**

Submitted by: David Olive
Position: Senior Vice President, Policy Development Support
Date Noted:



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Draft Scorecard Superceded - see <https://www.icann.org/en/system/files/files/scorecard-gac-advice-hamburg-communique-board-action-21jan24-en.pdf>

Draft Scorecard Superceded - see <https://www.icann.org/en/system/files/files/scorecard-gac-advice-hamburg-communique-board-action-21jan24-en.pdf>



