

# 1 Overview of Oversight & Decisions

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## 2 Open issues

### 3 What is the purpose of oversight and what does it mean

4 From Wikipedia etc.

5 In **business, oversight** of a system or process is the responsibility for making sure that it works efficiently  
6 and correctly.

7 LAW, GOVERNMENT, MANAGEMENT systems or actions to control an activity and make sure that it is  
8 done correctly and legally

9 Assumption is that (Board) oversight processes have been developed parallel to delegation and transfer  
10 process. Basic assumption is that the ICANN Board of Directors is an oversight entity.

### 11 What needs to be done?

12

### 13 What is discretionary room for decisions by IFO, if any?

## 14 Type and Sequence of decision

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### 16 Which decisions are implied in the proposed process?

17 Is enumeration of decisions in line 18-31 complete?

- 18 1. Decision to send out notice of retirement (ISO 3166 country code is removed form list and there  
19 is a functional manager)
- 20 2. Declaration/decre to retire after max 5 years (no retirement plan in place in time).
- 21 3. Decision/note that Retirement plan meets requirements (is related to # 3 , but could be  
22 different and by different entities)
- 23 4. Decision on Administrative Transfer
- 24 5. Decision on Duration of extension
- 25 6. Decision to agree to Retirement plan
- 26 7. Declaration/decre that execution of retirement plan has been completed/not completed (
- 27 determination, marking the end of the retirement plan period
- 28 8. Declaration/decre that 5 years have passed since notice of retirement, concluding retirement
- 29 process, with no retirement plan. Marking the end of the retirement process (is the same relates
- 30 to decision # 2 above)

31 9. Declaration/decree that 10 years have passed since notice of retirement with retirement plan

32 **Who takes a decision?**

33 **How does oversight, if any, look like with respect to these decisions?**

34 **Related, which decisions should be subject to a review mechanism?**

Item #	Decision	Who takes decision?	Oversight by?	Subject to Review ?
1	Decision to send out notice of retirement			
2	Declaration/decree no retirement plan in place			
3	Decision/note that Retirement Plan meets requirements			
4	Decision on Duration of extension			
5	Decision on Administrative Transfer			
6	Decision to agree to Retirement plan			
7	Declaration/decree that execution of retirement plan has been completed/not completed			
8	Declaration/decree that 5 years have passed since notice of retirement			
9	Declaration/decree that 10 years have passed since notice of retirement with retirement plan			
	Other?			

35

36 **Already identified by the Group:**

37 **Board as an oversight entity**

38 Assumption is that oversight process would develop parallel to delegation and transfer process  
39 decisions. If Board acts as an oversight entity i.e ensuring that all steps/ the procedure has been  
40 followed, another entity should have taken a decision re specific steps in retirement process.

41 Observation 1: The more the ICANN Board is involved in the operations, the lesser it is available  
42 for oversight.

43 Observation 2: Disadvantages of having ICANN Board involved: responsibility of IFO. Board  
44 decisions can be harder un-done than PTI decisions.

45 The Board providing oversight is also in line with the notion that, the role of ICANN Board of  
46 Directors is limited to ensuring proper procedures were followed only.

47 Observation 3: In case the Board oversteps this boundary, basis for review?

## 48 **ICANN Board as Backstop**

### 49 **ICANN Board**

50 Transfer to caretaker ( see historic cases retirement of .yu and .an)

51 Approval of retirement plan ( see historical cases)

52 **IFO** ( executive or Board):

53 Start of process by sending out the notice of retirement?

54 Observation/for future discussion:

55 The WG considered the removal process out of scope of the policy. However, should the decision that  
56 the ccTLD is ready to be removed (examples it is established that the retirement plan has been fully  
57 executed, or as stress case: although retirement process has not been fully executed, the 10 years have  
58 passed, which is reasonable period) part of the retirement process as defined by the retirement policy  
59 or part of the operational removal process, which is not consider part of the retirement policy.

60 Related, is this decision subject to a review mechanism to be defined by the ccNSO PDP (in case it is  
61 considered part of the retirement process)?

62 **Decisions subject to review?**

63 **IFO denied time extension, or lesser extension than requested**

64 **Any request by ccTLD manager could be subject to review**

65 **Discretionary decisions by IFO**

66 **Transparency**

67 **Material should not, but decisions should be made public**

68 Any piece of communication between ccTLD and IFO: should not be public record. But the  
69 decisions should be.

70 **Background material**

71 As noted (by Kim Davies) in the discussion, this exchange clarified the scope of the ICANN Board's role  
72 under the NTIA contract to be limited to ensuring proper procedures were followed only, and we have  
73 operated on that basis since.

74

75 1. ICANN's response to the solicitation from the US Department of Commerce, National  
76 Telecommunications and Information Administration to perform the IANA Functions dated 31 May  
77 2012:

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79

80 a. ICANN's response detailed the process used to perform a transfer or a delegation of a  
81 country-code top-level domain. Specifically, on page 137, the submission describes a  
82 step in which a ccTLD delegation or transfer request is reviewed by the ICANN  
83 Board: "SUB-PROCESS 3 ICANN BOARD REVIEW Description Upon completion of the  
84 Delegation or Redelegation Report, it is transmitted to ICANN's Board of Directors for  
85 review and consideration. The Board may request additional information before making a  
86 determination."

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88

89 b. Reference: <https://www.ntia.doc.gov/other-publication/2012/icann-proposal>

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91 2. ICANN's Response to the Contracting Officer's additional questions dated 23 June 2012:

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94 a. The role of the ICANN Board was further explained in ICANN's response to the  
95 Contracting Officer's additional request for information under question number 10 which  
96 asked ICANN to elaborate on the role of the ICANN board in reviewing delegation and  
97 transfer requests and the policies that govern this review. ICANN's response was:

98

99 "The ICANN Board's review of delegation and redelegation recommendations of a  
100 country code Top Level Domain (ccTLD) provides confirmation to the multi-stakeholder  
101 community that the ICANN staff has implemented the defined policies for making such  
102 delegation or redelegation recommendations. ICANN staff submits to the ICANN Board a  
103 report summarizing how the specific delegation or redelegation application complies with  
104 and meets the defined criteria of the policy. The Board reviews and confirms that the  
105 appropriate application of the policy has occurred. If the Board deems that additional  
106 work to satisfy the policy requirements may be needed, the report is sent back to ICANN  
107 staff to take additional steps. If the Board is satisfied that all criteria of the policy were  
108 addressed and applied properly, it issues a resolution to that effect.

109

110 ICP-1 is the result of the multi-stakeholder discussions to clarify the current practices of  
111 ccTLD administration and delegation and documents the outcome of those discussions.  
112 The document was adopted by the ICANN Board in a meeting on February 12, 2002. The  
113 resolution was adopted with a vote of 16-1-0 and the posting on the ICANN website  
114 states : "Resolved [02.10] that the Board adopts the designation of ICP-1, ICP-2, and

115 ICP-3 as members of the ICP series of documents." ICANN utilizes this document  
116 because it is the output of the multi-stakeholder process.

117

118 The current procedures associated with delegation and redelegation of ccTLDs is the  
119 result of the evolution of the process over the past 30 years. While there has been no  
120 definitive policy document published that represents all factors that must be considered, a  
121 number of notable documents are considered references that influence how the process  
122 is conducted:

123

124 • RFC 1591, an articulation written by staff performing the IANA Functions of what the  
125 procedures and policy considerations were as of 1994

126 • ccTLD Memo #1, an articulation that governments had a role to play in determining how  
127 ccTLDs are operated, written by staff performing the IANA Function in 1997

128 • The Principles and Guidelines for Delegation and Administration of ccTLDs, a  
129 framework developed by governments for the relationship between governments, ccTLD  
130 managers and ICANN.

131

132 ICANN will continue to implement the procedures based on these key documents, and  
133 the significant amount of precedent that has been developed through the execution of  
134 many ccTLD delegations and redelegations. Furthermore, ICANN will continue to support  
135 efforts — such as the work being conducted by the Framework of Interpretation Working  
136 Group — to clarify the interpretation of these frameworks by the community to better  
137 inform the work of the IANA Functions.

138

139 Utilizing change control processes is a best operational practice. The reason for  
140 describing them as “appropriate” is to reflect that the type of change control process used  
141 will be specific to the type of change being implemented and the affected and interest  
142 parties that are impacted.”

143

144 b. Reference: [https://www.ntia.doc.gov/files/ntia/publications/june\\_23\\_redacted.pdf](https://www.ntia.doc.gov/files/ntia/publications/june_23_redacted.pdf)  
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146 3. ICANN’s understanding of the role of the ICANN Board was also stated in an email dated 26 June  
147 2012

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150 a. ICANN repeated its understanding of the review completed by the ICANN board for  
151 ccTLD Delegation or Transfer requests through an email to the Contracting Officer where  
152 it stated that “ICANN agrees with this term. 3. With regard to SOW C.2.9.2.c, “review and  
153 approval” of a delegation or redelegation request by the Board of Directors is not required  
154 or permitted under the contract, except to the extent that the **review is limited to**

155 **ensuring that ICANN staff has followed proper procedures**[emphasis added].”

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157

158 b. Reference: [https://www.ntia.doc.gov/files/ntia/publications/june\\_26\\_redacted.pdf](https://www.ntia.doc.gov/files/ntia/publications/june_26_redacted.pdf)

159

160 To date, in the historical cases (see below) the following decisions can be identified

161 - Decision on starting the “decommissioning” process

162 - Approval decision of plan for decommissioning

163 - Extension of Timelines

164 - Decision Execution Decommissioning plan is completed

165 - Decision for Removal from Root zone database

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#### 167 **Role of the ICANN Board of Directors: Board Decision 2012**

168 Redelegation of the .MO domain representing Macao to the Bureau of Telecommunications Regulation  
169 (DSRT):

170 <https://www.icann.org/resources/board-material/resolutions-2012-09-13-en#2.b>

#### 171 **Delegation of the .ME ( Montenegro) Domain Delegation of the .RS ( Serbia) Domain Redelegation 172 of the .YU (former Yugoslavia) Domain**

173 Kim Davies advised that the delegation of .ME ( Montenegro) and .RS ( Serbia) and the redelegation of  
174 .YU ( Yugoslavia) were interrelated. At the time that Serbia and Montenegro became new countries, the  
175 ISO 3166-1list was altered to give the two countries individual codes .RS and .ME respectively. To date,  
176 the countries covered have been using the .YU domain. The YU code is no longer in the ISO 3166-1 list  
177 and has been replaced with .ME and .RS and as such should be decommissioned in a responsible way.  
178 The transition plan from .YU to .RS and .ME involves an MOU between the two entities and would see  
179 that .YU is assigned to the proposed .RS sponsoring organization, which is effectively the same operator  
180 as today. They would act as caretaker for .YU for two years to allow for a stable transition. ICANN’s  
181 proposed resolution language is consistent with this plan however a three-year transition period is  
182 proposed to allow for contingencies. The proposed resolutions support the two new delegations and  
183 acknowledge the two parties involved in de-commissioning of the .YU domain, and state it is to be  
184 retired in three years time.

185 In addition to explaining the ICANN evaluation of the delegation applications, the board was also  
186 advised of last-minute correspondence IANA had received in relation to the delegation of the .ME  
187 domain.

188 Steve Goldstein asked if there is any provision in the agreement to restrict new registrations in .YU. Kim  
189 Davies advised that he would have to check to be certain, but as soon as new registrations are allowed  
190 in .RS and .ME it was his understanding that it would not be possible to register new domains in .YU.

191 Steve Goldstein asked why the preference for a three-year transition rather than two. Kim Davies  
192 advised they didn't want to propose something that was too aggressive. The applicants had proposed a  
193 two-year transition period, but the Board could consider a different length.

194 The Chair proposed that the language in the resolution could be changed to be up to and no more than  
195 three years.

196 Steve Crocker acknowledged that some transitions have taken a long time. An additional suggestion  
197 would be to ask for regular reports with metrics measuring progress towards the outcome.

198 Kim Davies noted that the resolution proposed does suggest that the .YU registry report every 6 months  
199 to ICANN Staff on progress. The proposed resolution also makes it clear the domain must be removed  
200 no later than 2010, which was considered a responsible timeframe that was neither too aggressive, nor  
201 unnecessarily prolonged. If the community felt it could transition quicker there is nothing to stop that  
202 from happening.

203 Paul Twomey suggested that the wording be slightly amended asking that they report progress against  
204 appropriate metrics.

205 There were no objections to the suggested amendments.

206 Dave Wodelet asked if it mattered if they take till 2008, 2009 or even 2010 and the Chair responded that  
207 we do want a certain end date.

208 Kim Davies advised that there is no strong precedent for how long transition will take from one to the  
209 other. There have only been a small number of transitions of country codes in the history of ccTLDs. In  
210 trying to determine what they considered a reasonable timeframe for transition the closest comparable  
211 situation that IANA was aware of is when telephone-numbering systems change. These transitions  
212 generally take place in one-to-two years.

213 The Chair noted that the language proposed by Paul Twomey seems acceptable, an alternative to an  
214 extra year would be to stick with two years to 2009 and if the party needs more time they could come  
215 back and explain why, which may be the best option. Putting in a two-year timeframe provides them  
216 with leverage to help their community to promptly perform the transition. The Chair recommended the  
217 alternative on the basis it was made clear to them that if they have a problem with two years they can  
218 come back with an explanation to ICANN as to why they need more time.

219 Susan Crawford noted that she understands the direction and appreciates the conservative approach,  
220 but asked what mechanism should be used if the transition moves too slowly.

221 The Chair reflected that if they come back and have a reasonable explanation, then this should be okay.  
222 He believed you would help them with a shorter deadline as they can point to that as a mandate to  
223 move ahead and transition to other the domain.

224 Janis Karklins noted that human nature suggests they will take as much time as they are given for  
225 transitioning. He suggested that the resolution should include a point that ICANN Staff should keep the  
226 Board informed of the progress of the transition.



227 In summation, the Chair suggested that the Board approves all three requests, and that ICANN Staff is  
228 expected to keep the Board informed on the retirement of .YU domain. Paul Twomey added that they  
229 communicate according to appropriate metrics.

230 Steve Goldstein moved and Vanda Scartezini seconded the following resolution:

231 Delegation of .ME

232 Whereas, the .ME top-level domain is the designated country-code for

233 Montenegro ,

234 Whereas, ICANN has received a request for delegation of .ME to the Government of Montenegro,

235 Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be  
236 in the best interest of the local and global Internet communities,

237 Resolved (07.75), that the proposed delegation of the .ME domain to the Government of Montenegro is  
238 approved.

239 Delegation of .RS

240 Whereas, the .RS top-level domain is the designated country-code for Serbia,

241 Whereas, ICANN has received a request for delegation of .RS to the Serbian National Register of Internet  
242 Domain Names,

243 Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be  
244 in the best interest of the local and global Internet communities,

245 Resolved (07.76), that the proposed delegation of the .RS domain to the Serbian National Register of  
246 Internet Domain Names is approved.

247 **Redelegation of .YU**

248 Whereas, the .YU top-level domain is currently used by the citizens of both Serbia and Montenegro,

249 Whereas, ICANN has delegated the .RS domain for use in Serbia, and the .ME domain for use in  
250 Montenegro,

251 Whereas, the ISO 3166-1 standard has removed the “YU” code, and the ISO 3166 Maintenance Agency  
252 recommends its use be discontinued,

253 Whereas, ICANN is not responsible for deciding what is or is not a country, and adheres to the ISO 3166-  
254 1 standard for guidance on when to add, modify and remove country-code top-level domains,

255 Whereas, there is a transition plan to move registrations in .YU to the new domains .RS and .ME, with  
256 the operator of .RS acting as the temporary caretaker of .YU until the transition is complete,

257 Resolved (07.77), that the .YU domain be redelegated to the Serbian National Registry of Internet  
258 Domain Names in a temporary caretaker capacity.

259 Resolved (07.78), that the Serbian National Registry of Internet Domain Names be instructed to report  
260 their progress on decommissioning the .YU domain every six months to ICANN against a relevant set of  
261 metrics.

262 Resolved (07.79), that the Serbian National Registry of Internet Domain Names, and the Government of  
263 Montenegro, work to complete the transition from the .YU domain to the .RS and .ME domains, so that  
264 it may be removed from the DNS root zone no later than 30 September 2009.

265 A voice vote was taken of all Board Members present and all three motions were approved by a vote of  
266 all members present 13-0, with one abstention from Peter Dengate Thrush.

267 Peter Dengate Thrush explained that his reservation was associated with his belief that such policy  
268 decisions concerning delegation should rest with the ccNSO as specifically provided under the bylaws.  
269 He noted that he has raised this issue on a number of occasions suggesting that this matter should be  
270 referred to the ccNSO but to no avail.

271 The Chair noted that these practices have been in existence prior to the formation of the ccNSO, and  
272 that if policy is required in this area that the ccNSO work on a policy proposal, that might be properly  
273 considered.

274

275 See: <https://www.icann.org/resources/board-material/minutes-2007-09-11-en>

276 **Update .YU case:**

277 ICANN received a short status update from RNIDS in early 2008, however nothing  
278 further was reported according to the reporting protocol regarding the transition, or any  
279 difficulties that had been encountered.

280 See: <https://www.iana.org/reports/2010/you-report-01apr2010.html>

281

282 **Removal Decision .YU**

283 Board confirms and takes decision on 30 September 2009, to allow IANA to remove YU from  
284 rootzone database on 1April 2010

285 See: <https://www.iana.org/reports/2010/you-report-01apr2010.html>

286

287 **Role of IANA**

288 IANA has assessed the transfer plan that has been developed for the transition of usage from the .YU to  
289 .RS and .ME and has found it to be appropriate and responsible.

290

291 See: <https://www.iana.org/reports/2007/rs-yu-report-11sep2007.html>

292 The discussion centered around reporting on the issues concerning timely  
293 implementation of retirement of .YU such that any concerns that may result in delaying  
294 the decommissioning date could be adequately shared and considered well in advance.

295

296 .AN case: **Resolved** (2011.10.11.04), that the University of Netherlands Antilles be instructed to report  
297 their progress on decommissioning the .AN domain every six months to ICANN against a relevant set of  
298 metrics,

299 (See: <https://www.icann.org/resources/board-material/resolutions-2011-10-11-en#1.3.rationale>)

300

301 **ZR case.**

302 <https://www.iana.org/reports/2001/zr-report-20jun01.html>

303 **Progress reporting by ccTLD manager**

304 **.YU case**

305 IANA was informed on 30 March that RNIDS informed the community that it had effectively switched off the .YU  
306 domain, independent of the removal of the .YU delegation from the DNS root zone.

307 <https://www.iana.org/reports/2010/yu-report-01apr2010.html>

308 **.AN case**

309 The .AN domain operator and the Netherlands' Ministry of Economic Affairs have sought a nine month  
310 extension of the deadline in order to provide additional opportunity for the remaining registrants to conclude  
311 their transition away from the .AN domain.

312 See: <https://www.icann.org/resources/board-material/resolutions-2014-10-16-en#1.d>