

ICANN Address Supporting Organization (ASO) MoU

1. Organization

Under this agreement between ICANN and the Number Resource Organization (NRO), the NRO shall fulfill the role, responsibilities and functions of the ASO as defined within the ICANN Bylaws as referenced at [ICANN-BYLAWS].

2. Purpose

This MoU is established for the purposes of:

- defining roles and processes supporting global policy development, including the relationship between the Internet addressing community (represented by the NRO) and ICANN within the operation of this process;
- defining mechanisms for the provision of recommendations to the Board of ICANN concerning the recognition of new RIRs; and
- defining accessible, open, transparent and documented procedures for the selection of individuals to serve on other ICANN bodies, including selection of Directors of ICANN and selection of members of various standing committees and ad hoc ICANN bodies.

3. Address Council

a. Composition.

The ASO Address Council shall consist of the members of the NRO Number Council.

b. Responsibilities.

The ASO Address Council is responsible for the organizational roles of:

1. undertaking a role in the global policy development process as described in attachment A of this document.
2. providing recommendations to the Board of ICANN concerning the recognition of new RIRs, according to agreed requirements and policies as currently described in document [ICP-2].
3. defining procedures for selection of individuals to serve on other ICANN bodies, and implementing any roles assigned to the Address Council in such procedures.
4. providing advice to the Board of ICANN on number resource allocation policy, in conjunction with the RIRs.

5. developing procedures for conducting business in support of their responsibilities and submitting these procedures to the Executive Council of the NRO for approval.

c. Liaisons.

The ASO Address Council shall admit liaisons from emerging Regional Internet Registries and liaisons from other ICANN entities.

All liaison positions shall be determined by liaison agreements as shall be made in writing with the NRO, based on the recognition of mutual benefit.

d. Removal of Address Council Members

An ASO Address Council member may resign at any time by giving written notice to the ASO Address Council, the NRO Secretariat, and the ICANN Secretary. An ASO Address Council member originating from a particular RIR region may be removed by that region according to its published procedures. A vacancy on the ASO Address Council shall be deemed to exist in the case of the death, resignation, or removal of any member. Vacancies shall be filled for the unexpired term by the RIR region from which the vacancy occurred, and shall fill the unexpired term by giving the NRO Secretariat and the ICANN Secretary written notice of the selected replacement.

4. Secretariat

The NRO will provide all Secretariat services to support functions described by this agreement.

5. Global Policy Development Process

Global policies are defined as policies that have the consensus of all RIRs and ICANN, and require specific actions or outcomes on the part of IANA or any other external ICANN-related body in order to be implemented.

Global policies will be developed in the context of this agreement, according to the processes defined by attachment A to this MoU.

Under this agreement the ICANN Board will ratify proposed global policies, using review procedures as determined by ICANN.

6. Service Regions

The regions serviced by each RIR shall be defined by the RIRs in a manner of their choosing. The RIRs shall ensure that all possible service areas are encompassed.

7. Arbitration

In the event that the NRO is in dispute with ICANN relating to activities described in this MoU, the NRO shall arrange arbitration via ICC rules in the jurisdiction of Bermuda or such other location as is agreed between the NRO and ICANN. The

location of the arbitration shall not decide the laws to be applied in evaluating this agreement or such dispute.

8. Periodic Review of the ASO

With reference to the provisions of Article IV, Section 4 of the ICANN ByLaws [ICANN-BYLAWS], the NRO shall provide its own review mechanisms.

9. Periodic Review of the MoU

The MOU signatories will periodically review the results and consequences of their cooperation under the MOU. When appropriate, the signatories will consider the need for improvements in the MOU and make suitable proposals for modifying and updating the arrangements and scope of the MOU. This MOU may only be amended or supplemented in writing, signed by the parties.

10. Other provisions

From the date of signature this agreement supercedes and replaces the MoU signed between ICANN, APNIC, ARIN and RIPE NCC in October 1999 with the subsequent inclusion of LACNIC in October 2002.

11. General

Nothing in this MOU shall be construed to create between or among any of the parties a partnership, joint venture, or impose any trust or partnership or similar duty on any party, including as an agent, principal or franchisee of any other party.

Other than as provided for in this MOU, the parties shall not be bound by or be liable for, any statement, representation, promise, agreement or other binding commitment of any kind on behalf of any other party, without that parties prior written consent.

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right to preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

No party may transfer or assign any or all of its interest, rights or obligation arising under this MOU without the prior written consent of each other party to this MOU.

12. Referenced Documents

[ICP-2]

ICP-2: Criteria for Establishment of New Regional Internet Registries Published by ICANN 7 July 2001.

<http://www.icann.org/icp/icp-2.htm>

[ICANN-BYLAWS]

Attachment A

Global Policy Development Process

Definitions:

"Global policy" is described in Section 5 of the ASO MoU.

"ASO Address Council" is described in Section 3 of the ASO MoU.

1. A proposed global policy can be submitted either to one of the RIR policy fora (via mail lists or public policy meeting) or to the ASO Address Council directly. If it is presented to one of the RIR policy fora a member of the ASO Address Council from that region will notify the Chair of the ASO Address Council within ten days of the introduction of the proposal. If it is presented to the ASO Address Council the members of the Address Council will notify their respective RIRs within ten days of the introduction of the policy proposal to the Address Council.

The Chair of the Address Council will place the global policy proposal on agenda of the next Address Council meeting as an information item.

2. The proposer has the duty to assist relevant communities within each regional policy forum to make them aware of the deliberations of their peers in the other regional policy forums.

The members of the Address Council will request that the global policy proposal be placed on the agenda for next open policy meeting in each region, in accordance with the applicable policy process.

In those cases where the advocate of the proposed policy cannot travel to a particular RIR public policy meeting, then the RIR shall appoint a person to present the proposal at the meeting.

3. It is recognized that the outcomes of consideration of a proposed global policy may differ in terms of specific language and detail from region to region. The staff of the RIRs will work with each other, and with the policy proposer to document the common elements of such outcomes.
4. This common text will be ratified by the Boards of the RIRs as a consensus position of the RIRs.
5. This ratified common text is the proposed global policy proposal that is forwarded to the ASO Address Council.

6. The ASO Address Council shall review the process followed by the RIRs in terms of reaching a consensus position and a common text to describe the proposed global policy, and undertake measures in accordance with an adopted procedure to assure itself that the significant viewpoints of interested parties were adequately considered.
 - a. Within sixty days after the NRO Executive Council has advised the Address Council that global policy proposal has been adopted by all of the regions the Address Council shall either:
 1. pass it to ICANN for ratification as a global policy, or
 2. advise the NRO Executive Council that the Address Council has concerns as an outcome of its review and that the proposal requires further review within the public policy development process, or
 3. request the NRO Executive Council for an extension of time to complete the review of the proposal.
7. The ASO Address Council shall forward the proposed policy to the ICANN Board
8. The ICANN Board may review the policy proposal and may ask questions and otherwise consult with the ASO Address Council and/or the RIRs acting collectively through the NRO. The ICANN Board may also consult with other parties as the Board considers appropriate.
9. Within 60 days of receipt of the proposed policy, including such consultation as may occur in Step (8), the ICANN Board may either:
 - a. accept the proposal by a simple majority vote; or
 - b. reject the proposed policy by a supermajority (2/3) vote; or
 - c. by a simple majority vote request changes to the proposed policy; or take no action.
10. If the ICANN Board takes no action (that is, fails to take actions (a), (b) or (c)) within the 60-day window, the proposed policy is deemed to be accepted by the ICANN Board and it becomes global policy. In case (c), should at least one of the RIRs agree that changes need to be made, the status of the proposed policy reverts to Step 1. If none of the RIRs accept the case for changes, then the proposed policy continues to Step 10.
11. If the ICANN Board rejects the proposed policy following Step 9(b), it must deliver to the ASO Address Council a statement of its concerns with the proposed policy, including in particular an explanation of the significant viewpoints that were not adequately considered during the regular RIR process, within 60 days of the Board action.
12. The ASO Address Council, in conjunction with the RIRs and working through agreed procedures, shall consider the concerns raised by the ICANN Board, and engage in a dialogue as appropriate with the ICANN Board.

13. If the NRO Executive Council indicates that there is RIR consensus, the ASO Address Council may forward a new proposed policy (either reaffirming the previous proposal or a modified proposal) to the ICANN Board. Alternatively, the NRO Executive Council may indicate that the policy proposal shall be reconsidered by the RIRs, and the proposed policy reverts to Step 1.
14. The resubmitted proposed policy then becomes a global address policy unless, by a supermajority (2/3) vote, the ICANN Board rejects this resubmitted proposal within 60 days of receipt of the new proposed policy, in which case it does not become a global addressing policy.
15. If the resubmitted proposed policy is rejected for a second time by ICANN, then the RIRs or ICANN shall refer the matter to mediation using an agreed procedure to resolve the matter.

Considerations:

16. Through the provisions of an agreement to be executed between the RIRs and ICANN, it is recognized that the ICANN Board has the ability to request that the ASO Address Council initiate a policy development process through the RIRs, using the policy development procedure described above. Any such request must include an explanation of the significant viewpoints that call for policy development. This provision, and the similar provision in Step 10. of the policy development procedure described above, are intended to ensure that the ICANN Board acts in these circumstances only with substantial, credible, and defensible support from the community.
17. In bringing a policy proposal to the regional policy forums it is expected that the ICANN Board will nominate a presenter of the ICANN proposal.
18. All global policies in full force and effect on the day this agreement is executed shall continue in full force and effect until specifically superceded by global policy outcomes from the process described here.
19. All global policies adopted will be published in the NRO and the ICANN web sites.
20. Global policies adopted previous to this MOU will also be published in these sites, with a clear indication that they were adopted prior to the current policy procedure.