Annex 24

Governmental Advisory Committee

Durban, 17 July 2013

GAC Communiqué – Durban, South Africa[1]

I.	Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Durban, South Africa during the week of 13 July 2013. 59 GAC Members and 4 Observers attended the meetings. The GAC expresses warm thanks to the local host, .zadna, for their support.

II.	Inter-constituency Activities

1. Briefing from the Geo TLD Registry Group

The GAC met with the Geo TLD Registry Group and received information on the organization's origins, values, missions and current concerns.

2. Meeting with the Accountability and Transparency Review Team 2 (ATRT 2)

The GAC met with the ATRT 2 and discussed the expectations and priorities. The GAC encouraged the ATRT2 to give advice on improving the accountability and transparency in ICANN's financial operations reporting. The ATRT2 was invited to advise on how to improve outreach and active participation, especially from developing countries. Broad participation of stakeholders from all regions is vital for the legitimacy of ICANN and the multi-stakeholder model. The GAC also invited the ATRT2 to give advice on how to improve the GAC and the transparency of GAC meetings, and to better explain and provide rationales for the advice of the GAC. The ATRT2 invited individual GAC members to provide further written inputs to the Review Team.

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[1] To access previous GAC advice, whether on the same or other topics, past GAC communiqués are available at: https://gacweb.icann.org/display/gacweb/GAC+Recent+Meetings and older GAC communiqués are available at: https://gacweb.icann.org/display/gacweb/GAC+Meetings+Archive.

3. **Meeting with the Generic Names Supporting Organization (GNSO)**

The GAC met with the GNSO and exchanged views on key policy development work in the GNSO, including an ongoing Policy Development Process (PDP) regarding protection of IGO and INGO names and acronyms. An exchange focused on the opportunities for the GAC to engage early in GNSO Policy Development Processes.

4. **Meeting with the Security and Stability Advisory Committee (SSAC)**

The GAC met with the SSAC and received an update on recent SSAC work regarding namespace collisions, internal name certificates and dotless domains, and exchanged views on ensuing concerns.

5. **Meeting with the Country Code Names Supporting Organization (ccNSO)**

The GAC met with the ccNSO and received information about the recently concluded policy development regarding IDN ccTLDs, the modification of the IDN Fast Track process with creation of a second panel and the Framework of Interpretation work. The GAC and the ccNSO also discussed how to further improve the future dialogue between the GAC and the ccNSO.

6. **Meeting with the At-Large Advisory Committee (ALAC)**

The GAC met with the ALAC and received an introduction to ALAC's organization, bottom-up processes and output, including formal ALAC objections to certain new gTLD applications. The ALAC voiced concerns regarding issues on dot-less domains and domain name collisions and expressed support for recent SSAC statements. The ALAC also expressed concerns over the high threshold in the dispute resolution procedure for Public Interest Commitments (PIC) in particular in relation to the measurable harm standard required to file a complaint and the enforcement of these.

7. **Briefing from the Domain Name Association (DNA)**

The GAC met with the Domain Name Association and received information on its structure and objectives.

8. **Meeting with the Expert Working Group on gTLD Directory Services (EWG)**

The GAC met with the EWG and exchanged views on the model proposed by the EWG for the next generation directory service as a successor to the WHOIS service.

The GAC referenced its WHOIS principles from 2007 and its Beijing advice regarding the WHOIS Review Team recommendations, which both have served as input for the work of the EWG. The GAC expressed its concerns about the risks associated with centralized storage of data in one repository in one jurisdiction, and raised a series of issues relating to the proposed data repository structure and access including security, data accuracy, consistency with national law, accreditation of database users, and privacy governance. The GAC looks forward to further discussion of these issues as the working group progresses.

9. **Briefing from Architelos**

The GAC received a briefing on the TLD market and its development from Architelos, a consultancy focused on the domain name industry.

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The GAC warmly thanks the GNSO, the SSAC, the ccNSO and the ALAC, as well as all those among the ICANN community who have contributed to the dialogue with the GAC in Durban.

III. Internal Matters

1. The GAC held its second capacity building session for new and existing members on 13 July, which included an update to the GAC on internationalization and the ICANN's strategy for engagement in the Africa region.

2. The GAC welcomed Madagascar, Namibia, São Tomé and Príncipe, Swaziland, and Zambia to the GAC as members.

3. The chair and vice chairs provided an update in Durban on progress with regard to ACIG providing secretariat support to the GAC.

IV. GAC Advice to the Board[2]

1. **New gTLDs**

    1. **GAC Objections to Specific Applications (ref. Beijing Communiqué 1.c)**

        a. **The GAC Advises the ICANN Board that:**

            i. The GAC has reached consensus on GAC Objection Advice according to Module 3.1 part I of the Applicant Guidebook on the following applications:[3]

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[2] To track the history and progress of GAC Advice to the Board, please visit the GAC Advice Online Register available at: https://gacweb.icann.org/display/GACADV/GAC+Register+of+Advice

[3] Module 3.1: "The GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.

1. The application for .amazon (application number 1-1315-58086) and related IDNs in Japanese (application number 1-1318-83995) and Chinese (application number 1-1318-5591)
2. The application for .thai (application number 1-2112-4478)

   b. guangzhou (IDN in Chinese), shenzhen (IDN in Chinese), .spa and .yun

   i. The GAC agrees to leave the applications below for further consideration and **advises the ICANN Board**:

   i. Not to proceed beyond initial evaluation until the agreements between the relevant parties are reached.

      1. The applications for .spa (application number 1-1309-12524 and 1-1619-92115)

      2. The application for .yun (application number 1-1318-12524

      3. The application for guangzhou (IDN in Chinese - application number 1-1121-22691)

      4. The application for shenzhen (IDN in Chinese - application number 1-1121-82863)

2. .wine and .vin (ref. Beijing Communiqué 1.c)

   a. **The GAC advises the ICANN Board that:**

   i. The GAC considered the two strings .vin and .wine and due to the complexity of the matter was unable to conclude at this meeting. As a result the GAC agreed to take thirty days additional time with a view to conclude on the matter.

3. .date and .persiangulf

   a. **The GAC has finalised its consideration of the following strings, and does not object to them proceeding:**

   i. Date (application number 1-1247-30301)

   ii. Persiangulf (application number 1-2128-55439)

4. .indians and .ram

   a. **The GAC Advises the ICANN Board**
   i. The GAC has noted the concerns expressed by the Government of India not to proceed with the applications for .indians and .ram.

5. Protection of IGO Acronyms

   a. The GAC reaffirms its previous advice from the Toronto and Beijing

Meetings that IGOs are in an objectively different category to other rights holders thus warranting special protection by ICANN. IGOs perform important global public missions with public funds and as such, their identifiers (both their names and their acronyms) need preventative protection in an expanded DNS.

b. The GAC understands that the ICANN Board, further to its previous assurances, is prepared to fully implement GAC advice; an outstanding matter to be finalized is the practical and effective implementation of the permanent preventative protection of IGO acronyms at the second level.

c. **The GAC advises the ICANN Board that:**

    i. The GAC is interested to work with the IGOs and the NGPC on a complementary cost-neutral mechanism that would:

        a. provide notification to an IGO if a potential registrant seeks to register a domain name matching the acronym of an IGO at the second level, giving the IGO a reasonable opportunity to express concerns, if any; and

        b. allow for an independent third party to review any such registration request, in the event of a disagreement between an IGO and potential registrant.

    ii. The initial protections for IGO acronyms confirmed by the NGPC at its meeting of 2 July 2013 should remain in place until the dialogue between the GAC, NGPC, and IGO representatives ensuring the implementation of preventative protection for IGO acronyms at the second level is completed.

5. Protection of Red Cross/Red Crescent Acronyms

    a. The GAC advises the ICANN Board that

        i. the same complementary cost neutral mechanisms to be worked out (as above in 4.c.i) for the protection of acronyms of IGOs be used to also protect the acronyms of the International Committee of the Red Cross (ICRC/CICR) and the International Federation of Red Cross and Red Crescent Societies (IFRC/FICR).

6. Category 1 Safeguard Advice

    i. The GAC has met with the NGPC to discuss the Committee's response to GAC advice contained in the Beijing Communique on safeguards that should apply to Category 1 new gTLDs. **The GAC Advises the ICANN Board that:**

        1. The GAC will continue the dialogue with the NGPC on this issue.

7. Geographic Names and Community Applications

    a. Geographic Names

        i. The GAC recommends that ICANN collaborate with the GAC in refining, for future rounds, the Applicant Guidebook with regard to the protection of terms with national, cultural, geographic and religious significance, in accordance with the 2007 GAC Principles on New gTLDs.

    b. Community Applications

        i. The GAC reiterates its advice from the Beijing Communiqué regarding preferential treatment for all applications which have demonstrable community support, while noting community concerns over the high costs for pursuing a Community Objection process as well as over the high threshold for passing Community Priority Evaluation.

        ii. Therefore the GAC advises the ICANN Board to:

            a. Consider to take better account of community views, and improve outcomes for communities, within the existing framework, independent of whether those communities have utilized ICANN's formal community processes to date.

8. DNS Security and Stability

    a. The GAC shares the security and stability concerns expressed by the SSAC regarding Internal Name Certificates and Dotless Domains. **The GAC requests the ICANN Board to provide a written briefing:**

        i. about how ICANN considers this SSAC advice with a view to implementation as soon as possible. The GAC believes that all such stability and security analysis should be made publicly available prior to the delegation of new gTLDS.

        ii. The GAC Advises the ICANN Board to:

            a. As a matter of urgency consider the recommendations contained in the SSAC Report on Dotless Domains (SAC053) and Internal Name Certificates (SAC057).

9. **Registry and Registrar Agreements and Conflicts with Law**

   a. It was noted that there are provisions in the Registry Agreement and Registrar Accreditation Agreement that may conflict with applicable law in certain countries, in particular privacy and data retention, collection and processing law. The importance of having adequate procedures to avoid these conflicts was highlighted.

V. Next Meeting

The GAC will meet during the 48th ICANN meeting in Buenos Aires, Argentina.

Annex 25

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:17 AM
To: Contact Information Redacted

Dear Mr. Sébastien Bachollet,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

I am most appreciative of the NGPC and the GAC's efforts to exercise the fullest possible due diligence on our TLD applicants and would be more than happy to help in this process.

As such, I am making myself available to provide you with a more in-depth understanding of our applications and answer any questions you may have as directly and fully as I can.

This is done in the spirit of cooperation and the desire to abide by ICANN's rules for the new gTLD program that Asia Green IT System has exercised since we first decided to participate in that program as an applicant.

If you are in Durban, please do not hesitate to contact me so that we can determine a suitable time to hold these discussions. However, I will be more appreciate if we could meet on any of the first days of the summit meeting (Sunday or Monday evening).

Best Regards

Mehdi Abbasnia | Managing Director

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted
To: Contact Information Redacted

Thu, Jul 11, 2013 at 6:25 AM

Dear Mr. Mark CARVELL,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:22 AM
To: Cherine.Chalaby@icann.org

Dear Mr. Cherine Chalaby,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

http://www.agitsys.com

Request For Meeting in Durban

Mehdi Abbasnia <Contact Information Redacted   Thu, Jul 11, 2013 at 6:14 AM
To: Contact Information Redacted

Dear Mr. Bertrand de La Chapelle,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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If you are in Durban, please do not hesitate to contact me so that we can determine a suitable time to hold these discussions. However, I will be more appreciate if we could meet on any of the first days of the summit meeting (Sunday or Monday evening).

Best Regards

Mehdi Abbasnia | Managing Director

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:16 AM
To: Contact Information Redacted

Dear Chris Disspain,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

http://www.agitsys.com

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:30 AM
To: Contact Information Redacted

Dear Mr. Laurent Ferrali,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:19 AM
To: Contact Information Redacted

Dear Ms. Erika Mann,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:31 AM
To: Contact Information Redacted

Dear Mr. Frank March,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

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Best Regards

Mehdi Abbasnia | Managing Director

http://www.agitsys.com

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted   Thu, Jul 11, 2013 at 6:24 AM
To: Contact Information Redacted

Dear Ms. Suzanne Radell,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

Request For Meeting in Durban

Mehdi Abbasnia Contact Information Redacted
Thu, Jul 11, 2013 at 6:28 AM
To: Contact Information Redacted

Dear Mr. Thomas Schneider,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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Best Regards

Mehdi Abbasnia | Managing Director

http://www.agitsys.com

Subject: AW: Request For Meeting in Durban

Date: Monday, July 22, 2013 at 10:37:00 AM Iran Daylight Time

From: Contact Information Redacted

To: Contact Information Redacted

CC: Contact Information Redacted

Dear Mr Abbasnia

Thank you for your message.

First i would like to apologzie that i only respond to your message now that i am on my way back to Switzerland after the Durban ICANN meeting – there were so many things going for which my attendance and/or involvement was needed that had simply not been possible in the past days to look at all my emails and react to them.

I guess that now – with the deliberations and decisions of the NGPC and the GAC of last week – things have been clarified.

As GAC representative of Switzerland and as Vice Chair of the GAC i am happy that the GAC stopped its objection against .persiangulf and that this application can go forward now.

Best regards from Switzerland

Thomas Schneider

Von: Mehdi Abbasnia [mailto:Contact Information Redacted]
Gesendet: Donnerstag, 11. Juli 2013 15:28
An: Schneider Thomas BAKOM
Betreff: Request For Meeting in Durban

Dear Mr. Thomas Schneider,

As CEO of Asia Green IT System and applicant for Dot ISLAM, Dot HALAL and Dot PERSIANGULF, I would welcome an opportunity to meet with you during the upcoming ICANN meeting in Durban.

As you know, our applications were named in the Communiqué the GAC released at the close of the Beijing meeting in April. As a response, the Board New gTLD Program Committee has called for further discussion/examination of these specific cases in order to better understand the sensitivities around them.

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If you are in Durban, please do not hesitate to contact me so that we can determine a suitable time to hold these discussions. However, I will be more appreciate if we could meet on any of the first days of the summit meeting (Sunday or Monday evening).

Best Regards
Mehdi Abbasnia | Managing Director

http://www.agitsys.com

Annex 26

From:	Wajdi Alquliti ┊ Redacted - Contact Information ┊
Sent:	Wednesday, November 13, 2013 7:24 AM
To:	Baher Esmat
Subject:	Re: OIC GAC membership

Inshallah , see you there

Sent from my iPhone

On Nov 13, 2013, at 6:22 PM, "Baher Esmat" <baher.esmat@icann.org> wrote:

> Great.
>
> So let's catch up when you get in.
>
> Best
> Baher
>
> **From:** Wajdi Alquliti ┊ Redacted - Contact Information ┊
> **Date:** Wednesday, November 13, 2013 5:08 PM
> **To:** Baher Esmat <baher.esmat@icann.org>
> **Subject:** Re: OIC GAC membership
>
> Dear Easmt ,
>
> Yes I will arrive on 15th inshallah .
> Thanks for your advice I got the VISA within 10 mints from Argentina Embassy .
>
> Regards
>
> Sent from my iPhone
>
> On Nov 13, 2013, at 5:53 PM, "Baher Esmat" <baher.esmat@icann.org> wrote:
>
> > Dear Wajdi,
> >
> > Will you be in Buenos Aires next week?
> >
> > Baher
> >
> > **From:** Wajdi Alquliti ┊ Redacted - Contact Information ┊
> > **Date:** Tuesday, October 29, 2013 11:25 AM
> > **To:** Baher Esmat <baher.esmat@icann.org>
> > **Subject:** RE: OIC GAC membership
> >
> > Yes I"m gonna call you now

From: Baher Esmat [Redacted - Contact Information]
Sent: Tuesday, October 29, 2013 12:19 PM
To: Wajdi Alquliti
Subject: Re: OIC GAC membership

Are we talking now?

Do you want me to call you?

Best
Baher

From: Wajdi Alquliti [Redacted - Contact Information]
Date: Monday, October 28, 2013 9:24 PM
To: Baher Esmat <baher.esmat@icann.org>
Subject: Re: OIC GAC membership

Thank you for your kind prompt email .

I will call you tomorrow inshallah around 11 am .

Thanks again and warm regards

Sent from my iPhone

On Oct 28, 2013, at 10:22 PM, "Baher Esmat" <baher.esmat@icann.org> wrote:

> Dear Mr Wajdi,
>
> I'm pretty much available in the morning and can be reached at [Redacted - Contact Information]
> [Redacted - Contact Information]
>
> Best
> Baher
>
> **From:** Wajdi Alquliti [Redacted - Contact Information]
> **Date:** Monday, October 28, 2013 8:30 PM
> **To:** Baher Esmat <baher.esmat@icann.org>
> **Subject:** Re: OIC GAC membership
>
> Dear Mr Baher ,
>
> Thank you so much for your kind confirmation for the membership letter.
>
> I would like to touch with you over the phone tomorrow regarding this subject on the below link if don't mind and your time is possible .
>
> http://www.thedomains.com/2013/10/25/community-objections-to-islam-and-halal-denied-by-icc/

Please let me know what the time suite you to discuss this matter and get your advice.

Best regards ,

Wajdi H. Al-Quliti
Organization of Islamic Cooperation
Director of IT Department , CIO, CKO

www.oic-oci.org

Sent from my iPhone

On Oct 28, 2013, at 9:16 PM, "Baher Esmat" <baher.esmat@icann.org> wrote:

> Dear Mr. Wajdi,
>
> Please see the attached letter from the GAC Chair regarding OIC's
> membership to the GAC.
>
> If you have any questions, or need any information, please let me know.
>
> We look forward to seeing you in Buenos Aires next month.
>
> Best regards,
> Baher Esmat
> VP, Stakeholder Engagement, Middle East
> ICANN

Annex 27

From: Jamie Hedlund <jamie.hedlund@icann.org>
Date: Friday, June 28, 2013 at 9:42 AM
To: ICANN Board of Directors <icann-board@icann.org>
Cc: Akram Atallah <akram.atallah@icann.org>, Sally Costerton <sally.costerton@icann.org>,
Tarek Kamel <tarek.kamel@icann.org>, David Olive <david.olive@icann.org>
Subject: Interaction with governnments in Durban

All,

As at any ICANN Public Meeting, there will be many government officials in attendance. Most, but not all, will be GAC representatives, and most, but not all, will be there to participate in the deliberations of the GAC. Board members and senior staff may be approached by government officials to discuss items of interest to them. For example, Redacted - Non-responsive Third-party Confidential Information

Redacted - Non-responsive Third-party Confidential Information Others who are not GAC representatives may wish to discuss other issues. For example Redacted - Non-responsive Third-party Confidential Information

Redacted - Non-responsive Third-party Confidential Information Should any of these instances arise, kindly ask the official(s) to bring their concerns through the GAC. This is very important for the integrity of the New gTLD program as well as ICANN's multistakeholder model.

If you have any questions, please let us know. Thanks.

Best,
Jamie

==========

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

==========

Annex 28

Redacted - Non-Responsive Information

From: Tarek Kamel <tarek.kamel@icann.org>
Date: Thursday, April 3, 2014 12:18 PM
To: Baher Esmat <baher.esmat@icann.org>
Cc: Nigel Hickson <nigel.hickson@icann.org>, Mandy Carver <Mandy.Carver@icann.org>, Yu-Chuang Kuek <yuchuang.kuek@icann.org>, Jia-Rong Low <jiarong.low@icann.org>, gse-rvp <gse-rvps@icann.org>
Subject: Re: WTDC - Day 4

Thanks Baher.

In addition to that, we met wajdi from OIC who sits in the GAC as an observer. Cyrus had recommended that they sit with the applicant and try to come to a solution.

Wajdi claimed that these negotiations did not work, and he asked the funny question whether the two strings could be delegated to OIC. We told him never outside the process. OIC is now calm, the applicant does not seem to be making noise after his own government Iran did not back him up in the foreign ministers OIC resolution last December. So it seems that things will be stuck like that. But at least we do not have a burning political issue in the Middle East anymore as a year ago.

Best

Tarek Kamel

Senior Advisor to the President for Government Engagement, ICANN

Telephone : █████████

On Apr 3, 2014, at 9:51, "Baher Esmat" <baher.esmat@icann.org> wrote:

> Hi Nigel,
>
> Regarding .islam and .halal, NGPC's decision was not to proceed with the applications until concerns raised by community are addressed. Last February, A letter with the NGPC's recommendation was sent by Steve Crocker to the Applicant. The Applicant (Iranian private company registered in Turkey) submitted a reconsideration request which was denied by BGC.
>
> Key in this process was a resolution adopted by the Organization of Islamic Cooperation last December objecting unanimously (57 countries including Iran) the delegation of the two strings to a private company. OIC has been participating in ICANN GAC since Beijing particularly for this issue.
>
> More details can be found here http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-22mar14-en.htm#1.e.
>
> If any questions, let me know.
>
> Best
> Baher
>
> **From:** Nigel Hickson <nigel.hickson@icann.org> .
> **Date:** Thursday, April 3, 2014 8:50 AM
> **To:** Tarek Kamel <tarek.kamel@icann.org>
> **Cc:** Mandy Carver <Mandy.Carver@icann.org>, Baher Esmat <baher.esmat@icann.org>, Yu-Chuang Kuek <yuchuang.kuek@icann.org>, Jia-Rong Low <jiarong.low@icann.org>,

gse-rvp <gse-rvps@icann.org>
Subject: Re: WTDC - Day 4

Tarek

Good morning and thanks for the below.

On the ICANN lunch; it is an opportunity to talk to WTDC participants (we expect around 100-150) on gTLDs and what it means to different countries / regions. Am requesting an up to date deck from GDD; with the excellent visual they have re delegations. There is only me here but have help from I* colleagues to share load.

Am up to date on .Amazon but would be good to know about .islam and .halal

I note that Board Committee (NGPC) is meeting today; so guess there might be developments there – the Europeans – here in force and very critical of ICANN after the .vin issue – are assuming decision will be annulled following the GAC advice.

Best

Nigel

From: Tarek Kamel <tarek.kamel@icann.org>
Date: Thursday, April 3, 2014 3:13 AM
To: Nigel Hickson <nigel.hickson@icann.org>
Cc: Mandy Carver <Mandy.Carver@icann.org>, Baher Esmat <baher.esmat@icann.org>, Kuek <yuchuang.kuek@icann.org>, Jia-Rong Low <jiarong.low@icann.org>, gse-rvp <gse-rvps@icann.org>
Subject: Re: WTDC - Day 4

Thanks Nigel for the overview.

Is there anything specific that is planned for ICANNs lunch on gTLD.?

Who will speak or present?

I would get ready and take some input about the current situation of .islam and .halal from Baher or Fahd, who attended in Singapore our last meeting with OIC. Since the WTDC event is in Dubai and UAE was concerned about these two gTLDs, just get the latest update. Also .amazon might come up in the discussions, if there is a strong Latin American attendance.

Good luck

Tarek Kamel

Senior Advisor to the President for Government Engagement, ICANN

Telephone : ████████

From:	Fahd Batayneh
Sent:	Monday, March 24, 2014 10:13 PM
To:	Baher Esmat; Tarek Kamel
Cc:	Mandy Carver
Subject:	RE: OIC

Thank you Baher.

One thing I forgot to mention in the minutes is that I did offer to assist him with engagement; mainly in our region. I will shortly point him to the ICANN Handouts available so that he can have a look at them, and maybe we can ship some to him for usage on his engagement travels.

Fahd

From: Baher Esmat
Sent: Tuesday, March 25, 2014 3:13 AM
To: Fahd Batayneh; Tarek Kamel
Cc: Mandy Carver
Subject: Re: OIC

Thanks Fahd.

I will follow up with Wajdi after Singapore.

Best
Baher

From: Fahd Batayneh <fahd.batayneh@icann.org>
Date: Monday, March 24, 2014 5:10 AM
To: Tarek Kamel <tarek.kamel@icann.org>
Cc: Baher Esmat <baher.esmat@icann.org>, Mandy Carver <Mandy.Carver@icann.org>
Subject: RE: OIC

Good Morning Tarek,

Here are the notes I took during out meeting with the OIC:

<><><> **START** <><><>

- The meeting took place on Sunday March 23, 2014 between 2-3 PM in Singapore. The meeting covered updates on the .islam and .halal New gTLD applications, and then the OIC briefed the audience on the initiatives that they have undertaken ever since they joined the ICANN process in Beijing in April 2013 such as outreach to OIC countries on the applications and ICANN, and the awareness they have been doing with member states.
- Wajdi mentioned that the OIC have a high-level ministerial meeting in Jeddah, KSA starting June 5. He invited Fadi and Tarek to attend, and will send a formal invitation to them. Nevertheless, this meeting will not focus much on ICANN and the .halal and .islam applications since Conakry had this discussion as the star of the event.
- While 35 of the 57 OIC members are GAC members, Wajdi promised to reach out to the external ministries of the remaining 22 countries and encourage them to join the GAC. He also promised to reach-out to the KSA

government; mainly the ICT minister and Mr. *Abdallah Al-Darrab* at a personal level. Tarek did ask him to at least initially try to convince them to reduce their sharp tone towards the MSM and ICANN.

- During the OIC meeting in Conakry in late December 2013, the 57 member countries unanimously adopted a resolution against the current .islam and .halal applications. Even Iran was in favor of this resolution, thus confirming OIC's concern that both applications were not even supported by Iran, leave alone the entire Islamic community.

- Tarek explained how .africa are working on a governance model for their TLD, and suggested to Wajdi to use a similar approach with both applications. Wajdi mentioned that this approach was not well received by AGIT.

- Wajdi asked about the next round of New gTLDs, and the answer was that this is unknown. While the community have been circulating "after 5 years", this is not nailed down. Tarek did emphasize that ICANN cannot open the current round for the OIC to apply .islam and .halal, and so both applications are frozen now until the matter is resolved between OIC and AGIT, or wait until the next round of New gTLDs.

<><><> **END** <><><>

If I have missed anything, please feel free to add it.

Thank you,

Fahd

-----Original Message-----
From: Tarek Kamel
Sent: Monday, March 24, 2014 10:43 AM
To: Fahd Batayneh
Cc: Baher Esmat; Mandy Carver
Subject: OIC

Hi Fahd

When you write the minutes of the OIC meeting please send it to this group only

Thanks Tarek

Sent from my iPhone
Senior advisor to the President of ICANN for Governmental Engagement

Annex 29

INDPENDENT REVIEW PROCESS

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

ICDR Case No. 01 – 14 - 0001 – 5004

In the matter of an Independent Review

Concerning ICANN Board Action re

Determination of the Board Governance Committee

Reconsideration Requests 14-30, 14-32, 14-33 (24 July 2014)

DOT REGISTRY, LLC, for itself and on behalf of The NATIONAL ASSOCIATION OF SECRETARIES OF STATE

Claimant

And

INTERNET COPRORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN),

Respondent

DECLARATION OF THE INDEPENDENT REVIEW PANEL

29 July 2016

The Honorable Charles N. Brower

Mark Kantor

M. Scott Donahey, Chair

TABLE OF CONTENTS

I.   INTRODUCTION

A. <u>Internet Corporation for Assigned Names and Numbers (ICANN)</u>

1.ICANN is a nonprofit public-benefit corporation organized under the laws of the State of California. ICANN was incorporated on September 30, 1998. Jon Postel, a computer scientist at that time at the University of Southern California, and Esther Dyson, an entrepreneur and philanthropist, were the two most prominent organizers and founders. Postel had been involved in the creation of the Advanced Research Projects Agency Network ("ARPANET"), which morphed into the Internet. The ARPANET was a project of the United States Department of Defense and was initially intended to provide a secure means of communication for the chain of command during emergency situations when normal means of communication were unavailable or deemed insecure.

2. Prior to ICANN's creation, there existed seven generic Top Level Domains (gTLDs), which were intended for specific uses on the Internet: *.com*, which has become the gTLD with the largest number of domain name registrations, was intended for commercial use; *.org*, intended for the use of non-commercial organizations; *.net*, intended for the use of network related entities; *.edu*, intended for United States higher education institutions; *.int*, established for international organizations; *.gov*, intended for domain name registrations for arms of the United States federal

government and for state governmental entities; and, finally, *.mil*, designed for the use of the United States military.

3. ICANN's "mission," as set out in its bylaws, is "to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems." Bylaws, Art. 1, § 1. ICANN has fulfilled this function under a contract with the United States Department of Commerce.

4. The original ICANN Board of Directors was self-selected by those active in the formation and functioning of the fledgling Internet. ICANN's bylaws provide that its Board of Directors shall have 16 voting members and four non-voting liaisons. Bylaws, Art. VI, § 1. ICANN has no shareholders. Subsequent Boards of Directors have been selected by a Nominating Committee, as provided in Art. VII of the Bylaws.

5. ICANN gradually began to introduce a select number of new gTLDs, such as *.biz* and *.blog*. In 2005, the ICANN Board of Directors began considering the invitation to the general public to operate new gTLDs of its own creation. In 2008, the Board of Directors adopted 19 specific Generic Name Supporting Organization (GNSO) recommendations for the implementation of a new gTLD programs. In 2011 the Board approved the Applicant Guidebook and the launch of a new gTLD program. The application window opened on January 12, 2012, and ICANN immediately began receiving applications.

B. Board Governance Committee (BGC)

6. The Board Governance Committee was created by Charter, approved by the ICANN Board of Directors on October 13, 2012. Among its responsibilities is to consider and respond to reconsideration requests submitted to the Board pursuant to ICANN's Bylaws and to work closely with the Chair and Vice Chair of the Board and with ICANN's CEO. Charter, Sections 1.6 and 2.6, and 2.1.3. At the hearing of this matter, and consistent with the position taken by ICANN before other Independent Review Panels, counsel for ICANN confirmed that the conduct of the BGC was the conduct of the Board for purposes of these proceedings.

7. The BGC is composed of at least three, but not more than 6 voting Board Directors and not more than 2 Liaison Directors, as determined and appointed annually by the Board. Only the voting Board of Directors members shall be voting members of the BGC. Charter, Section 3.

8. A preliminary report with respect to actions taken at each BGC meeting, whether telephonic or in-person, shall be recorded and distributed to BGC members within two working days, and meeting minutes are to be posted promptly following their approval by the BGC. Charter, Section 6. No such preliminary report was produced to the Panel in these proceedings.

C. Dot Registry LLC (Dot Registry)

9. Dot Registry is a limited liability company registered under the laws of the State of Kansas. Dot Registry was formed in 2011 in order to apply to ICANN for the rights to operate five new gTLD strings: *.corp, .inc,. llc, .llp,* and *.ltd.* Dot Registry applied to be the only community applicant for the new gTLD strings *.inc, llc,* and *.llp.* Dot Registry submitted each of its three applications for listed strings on 13 June 2012. Dot Registry submitted these applications for itself and on behalf of the National Association of Secretaries of State (NASS). Dot Registry is an affiliate of the NASS, which is "an organization which acts as a medium for the exchange of information between states and fosters cooperation in the development of public policy, and is working to develop individual relationships with each Secretary of State's office in order to ensure our continued commitment to honor and respect the authorities of each state." New gTLD Application Submitted to ICANN by: Dot Registry LLC, String: INC, Originally Posted: 13 June 2012, Application ID: 1-880-35979, Exhibit C-007, Para. 20(b), p. 14 0f 66. For ease of reading, this Declaration shall refer to "Dot Registry" as the disputing party, but the Panel recognizes that Dot Registry and the NASS jointly made the Reconsideration Requests at issue in these proceedings.

10. The mission/purpose stated in its respective applications for the three strings was "to build confidence, trust, reliance and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically

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serve the respective communities of "registered corporations," "registered limited liability companies," and/or "registered limited liability partnerships." Under Dot Registry's proposal, a registrant would have to demonstrate that it has registered to do business with the Secretary of State of one of the United States in the form corresponding to the gTLD (corporation for *.inc*, limited liability company for *.llc*, and limited liability partnership for *.llp*.)

11.With each of its community applications, Dot Registry deposited an additional $22,000, so as to be given the opportunity to participate in a Community Priority Evaluation ("CPE"). A community application that passes a CPE is given priority for the gTLD string that has successfully passed, and that gTLD string is removed from the string contention set into which all applications that are identical or confusingly similar for that string are placed. The successful community CPE applicant is awarded that string, unless there are more than one successful community applicant for the same string, in which case the successful applicants would be placed into a contention set.

D. The Economist Intelligence Unit (EIU)

12. The EIU describes itself as "the business information arm of the Economist Group, publisher of the Economist." "The EIU continuously assesses political, economic, and business conditions in more than 200 countries. As the world's leading provider of country intelligence, the EIU

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helps executives, governments and institutions by providing timely, reliable and impartial analysis." Community Priority Evaluation Panel and Its Processes, at 1.

13. The EIU responded to a request for proposals received from ICANN to undertake to act as a Community Priority Panel. The task of a Community Priority Panel is to review and score community based applications which have elected the community priority evaluation based on information provided in the application plus other relevant information available (such as public information regarding the community represented)." Applicant Guidebook ("AGB"), § 4.2.3. The AGB sets out specific Criteria and Guidelines which a Community Priority Panel is to follow in performing its evaluation. *Id.*

14. Upon its selection by ICANN, the EIU negotiated a services contract with ICANN whereby the EIU undertook to perform Community Priority Evaluations (CPEs) for new gTLD applicants. Declaration of^{EIU Contact Information Redacted}

<div align="center">EIU Contact Information Redacted   of the EIU</div>

(hereinafter " ^{EIU Contact Information Redacted} Declaration"), ¶¶ 1 and 4, at 1 and 2.

15. ^{EIU Contact Information Redacted} declared that EIU was "not a gTLD decision-maker but simply a consultant to ICANN." "The parties agreed that EIU, while performing its contracted functions, would operate largely in the background, and that ICANN would be solely responsible for all legal matters pertaining to the application process." ^{EIU Contact Information Redacted} Declaration, ¶3,

<div align="center">7</div>

at 2. Further, ICANN confirmed at the hearing that ICANN "accepts" the

CPE recommendations from the EIU, a statement reiterated in the Minutes

for the BGC meeting considering the subject Reconsideration Requests:

"Staff briefed the BGC regarding Dot Registry, LLC's ('Requestor's')

request seeking reconsideration of the Community Priority Evaluation

('CPE') Panel's Reports, and ICANN's acceptance of those Reports."

(Emphasis added.)

16. Under its contract with ICANN, the EIU agreed to a Statement of

Work. Statement of Work No:[2], ICANN New gTLD Program, Application

Evaluation Services – Community Priority Evaluation and Geographic

Names, March 12th 2012 ("EIU SoW"). Under Section 10, Terms and

Conditions, supplemental terms were added to the Master Agreement

between the parties. Among those terms are the following:

> "(ii) ICANN will be free in its complete discretion to decide whether
> to follow [EIU's] determination and to issue a decision on that basis
> or not;
>
> (iii) ICANN will be solely responsible to applicants and other
> interested parties for the decisions it decides to issue and the [EIU]
> shall have no responsibility nor liability to ICANN for any decision
> issued by ICANN except to the extent the [EIU's] evaluation and
> recommendation of a relevant application constitutes willful
> misconduct or is fraudulent, negligent or in breach of any of {EIU's}
> obligations under this SoW;
>
> (iv) each decision and all associated materials must be issued by
> ICANN in its own name only, without any reference to the [EIU]
> unless agreed in writing in advance." EIU SoW, at 14.

17. In order to qualify to provide dedicated services to a defined community, an applicant must undergo an evaluation of its qualifications to serve such community, the criteria for which are set out in the Community Priority Evaluation Guidelines ("CPE Guidelines"). The CPE Guidelines were developed by the Economist Intelligence Unit ("EIU") under contract with ICANN. According to the EIU, "[t]he CPE Guidelines are intended to increase transparency, fairness and predictability around the assessment process." CPE Guidelines Prepared by the EIU, Version 2.0 ("CPE Guidelines"), at 2. In the CPE Guidelines, the EIU states that "the evaluation process will respect the principles of fairness, transparency, avoiding potential conflicts of interest, and non-discrimination. Consistency of approach in scoring Applications will be of particular importance." CPE Guidelines, at 22.

18. This message was reiterated in the EIU Community Priority Evaluation Panel and its Processes, where it states that the CPE process "respects the principles of fairness, transparency avoidance of potential conflicts of interest, and non-discrimination. Consistency in approach in scoring applications is of particular importance." Community Priority Evaluation Panel and its Processes, at 1.

II.   PROCEDURAL HISTORY

A. Community Priority Evaluation and Reconsideration

19. On June 11, 2014, the EIU issued three Community Priority Evaluation Reports, one for each of the three new gTLDs that are the subject of this

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proceeding. In order to prevail on each of its applications, Dot Registry would have to have been awarded 14 out of a possible 16 points per application. In the evaluation of each of its three applications, Dot Registry was awarded a total per application of 5 points. Thus, each of the applications submitted did not prevail.

20. The practical result of this failure to prevail is that Dot Registry would be placed in a contention set for each of the proposed gTLDs with other applicants who had applied for one or more of the proposed gTLDs.

21. On April 11, 2013, Dot Registry submitted three Requests for Reconsideration to the BGC, requesting that the BGC reconsider the denial of Dot Registry's applications for Community Priority.

22. The bases for Dot Registry's requests for reconsideration were the following:

   a. The CPE Panel failed to validate all letters of support of and in opposition to its application for Community Priority status;

   b. The CPE Panel failed to disclose the sources, the substance, the methods, or the scope of its independent research;

   c. The CPE Panel engaged in "double counting," which practice is contrary to the criteria established in the AGB;

   d. The Panel failed to evaluate each of Dot Registry's applications independently;

   e. The Panel failed to properly apply the CPE criteria set out in the guidebook for community establishment, community organization, pre-existence, size, and longevity;

   f. The Panel used the incorrect standard in its evaluation of the nexus criterion;

g. The failure in determining Nexus, led to a failure in determining "uniqueness:"

h. The Panel erroneously found that Dot Registry had failed to provide for an appropriate appeals process in its applications;

i. The Panel applied an erroneous standard to determine community support, a standard not contained in the CPE;

j. The Panel misstated that the European Commission and the Secretary of State of Delaware opposed Dot Registry's applications and failed to note that the Secretary of State of Delaware had clarified the comment submitted and that the European Commission had withdrawn its comment.

23. In response to Dot Registry's Requests for Reconsideration of its applications, on July 24, 2014, The Board Governance Committee ("BGC") issued its Determination that "[Dot Registry] has not stated grounds for reconsideration." The BGC's Determination was based on the failure of Dot Registry to show "that either the Panels or ICANN violated any ICANN policy or procedure with respect to the Reports, or ICANN acceptance of those Reports." Determination of the Board Governance Committee (BGC) Reconsideration Requests 14-30, 14-32, 14-33, 24 July 2014.

B. History of Independent Review Process

24. As all of the party's substantive submissions and the IRP Panel's procedural orders are posted on the ICANN web site covering IRP Proceedings (https://www.icann.org/resources/pages/dot-registry-v-icann-2014-09-25-en), this section will serve only to highlight those that contain significant procedural or substantive rulings.

25. On September 22, 2014, Dot Registry requested Independent Review of the denial of reconsideration of each of its three applications. On October 27, 2014, ICANN filed its Response to Dot Registry's request for Independent Review.

26. On November 19, 2014, Dot Registry requested the appointment of an Emergency Panelist and for interim measures of protection. On November 26, 2014, the emergency panelist, having been appointed, issued Procedural Order No. 1, setting out a schedule for the hearing and resolution of the request for interim measures of protection.

27. On December 8, 2014, ICANN filed a Response to Dot Registry's request for emergency relief.

28. On December 23, 2014, the Emergency Independent Review Panelist issued the Emergency Independent Review Panelist's Order on Request for Emergency Measures of Protection. The Order made the following rulings:

1. The Emergency Independent Review Panelist finds that emergency measures of protection are necessary to preserve the pending Independent Review Process as an effective remedy should the Independent Review Panel determine that the award of relief is appropriate.

2. It is therefore ORDERED that ICANN refrain from scheduling an auction for the new gTLDs .INC, .LLP, and .LLC until the conclusion of the pending Independent Review Process.

3. The administrative fees of the ICDR shall be borne as incurred. The compensation of the Independent Review Panelist shall be borne equally by both parties. Each party shall bear all other costs, including its attorneys' fees and expenses, as incurred.

> 4. This Order renders a final decision on [Dot Registry's] Request for emergency Independent Review Panel and Interim Measures of Protection. All other requests for relief not expressly granted herein are hereby denied

29. The Independent Review Process Panel (the "IRP Panel"), having been duly constituted, issued a total of thirteen procedural orders, in addition to that issued by the Emergency Independent Review Panelist.

All of the orders were issued by the unanimous IRP Panel. The following are descriptions of portions of those orders particularly germane to the present Declaration.

30. On March 26, 2015, the Independent Review Process Panel [the "IRP Panel"] having been duly constituted, the IRP Panel issued an Amended Procedural Order No. 2. Among other matters covered therein, pursuant to its powers under ICDR Rules of Arbitration, Art. 20, 4 ("At any time during the proceedings, the [panel] may order the parties to produce documents, exhibits or other evidence it deems necessary or appropriate") the IRP Panel ordered ICANN to produce to the Panel certain documents and gave each party the opportunity to request of the other additional documents.

31. The order which required production of certain documents to the Panel read as follows:

> Pursuant to the Articles of Incorporation and Bylaws of the Internet Corporation for Assigned Names and Numbers ("ICANN") and the International Arbitration Rules and Supplementary Procedures for Internet Corporation for Assigned Names and Numbers (ICANN) Independent Review Process of the International Centre for Dispute

Resolution ("ICDR"), the Panel hereby requires ICANN to produce to the Panel and Dot Registry, LLC ("Dot Registry") no later than April 3, 2015, all non-privileged communications and other documents within its possession, custody or control referring to or describing (a) the engagement by ICANN of the Economist Intelligence Unit ("EIU") to perform Community Priority Evaluations, including without limitation any Board and staff records, contracts and agreements between ICANN and EIU evidencing that engagement and/or describing the scope of EIU's responsibilities thereunder, and (b) the work done and to be done by the EIU with respect to the Determination of the ICANN Board of Governance Committee on Dot Registry's Reconsideration Requests Nos. 14-30 (.LLC), 14-32 (.INC) and 14-33 (.LLP), dated July 24, 2014, including work done by the EIU at the request, directly or indirectly, of the Board of Governance Committee on or after the date Dot Registry filed its Reconsideration Requests, and (c) consideration by ICANN of, and acts done and decisions taken by ICANN with respect to the work performed by the EIU in connection with Dot Registry's applications for .INC, .LLC, and/or .LLP, including at the request, directly or indirectly, of the Board of Governance Committee.

32. In Procedural Order No. 3, issued May 24, 2015, the Panel's order to

ICANN to produce documents was clarified as follows:

The Panel notes that the Panel sought *inter alia* all non-privileged communications and other documents within ICANN's possession, custody or control referring or describing:

(a) The engagement by ICANN of the EIU to perform Community Priority Evaluations. That request covers internal ICANN documents and communications, not just communications with the EIU, referring to or describing the subject of the Panel's request (the engagement to perform Community Priority Evaluations).

(b) The work done and to be done by the EIU with respect to the Determination of the ICANN board of governance Committee on Dot Registry's Reconsideration Request. That request again covers internal ICANN documents and communications, not solely communications with EIU, referring to or describing the subject of the Panel's request (the work done and to be done by the EIU with

respect to the Determination). As well as the work-product itself in its various draft and final iterations.

(c) Consideration by ICANN of the work performed by the EIU in connection with Dot Registry's applications. That request again covers internal ICANN documents and communications, not solely communications with the EIU referring to or describing the subject of the Panel's request (consideration by ICANN of the work performed by the EIU).

(d) Acts done and decisions taken by ICANN with respect to the work performed by the EIU in connection with Dot Registry's applications. That request again covers internal ICANN documents and communications, not solely communications with the EIU, referring to or describing the subject of the Panel's request (both acts done and decisions taken by ICANN with respect to the EIU work).

The Panel notes that in Section 2 of its amended Procedural Order No. 2, material provided by ICANN to the Panel, but not yet to Dot Registry, appears not to include, among other matters, internal ICANN documents and communications referring to or describing the above subject matters that the Panel would have expected to be created in the ordinary course of ICANN in connection with these matters. It may be that the Panel was less than clear in its requests. The Panel requests that ICANN consider again whether the production was fully responsive to the foregoing requests.

The production shall include names of EIU personnel involved in the work contemplated and the work performed by the EIU in connection with Dot Registry's applications for .INC, .LLC, and/or .LLP with respect to Dot Registry's Reconsideration Requests Nos. 14-30 (.LLC). 14-32 (.INC), and 14-33 (.LLP), dated July 24, 2024, in that such information may be relevant to the requirements of Sections 2.4.2. 2.4.3, 2.4.3.1, and 2.4.3.2 of Module 2 of the Applicant Guidebook. The Panel expects strict compliance by Dot Registry and its counsel with Paragraph 8 of this Order and the Confidentiality and Non-Disclosure Undertaking procedure set forth therein and in Annex 1 attached hereto.

Procedural Order No. 3 included, among other provisions, a

confidentiality provision, which provided in pertinent part:

"Documents exchanged by the parties or produced to the Panel at the Panel's directive which contain confidential information:

i.   May not be used for any purpose other than participating in ICDR Case No. 01-14-0001-5004, and;

ii.   May not be referenced in any, and any information contained therein must be redacted from any, written submissions prior to posting.

33. In Procedural Order No. 6, issued June 12, 2015, the Panel reiterated its document production order, made express that the BGC was covered by the reference to the "Board," and required that documents withheld on the basis of privilege be identified in a privilege log. On June 19, 2015. Counsel for ICANN submitted a confirming attestation, the required privilege log, and an additional responsive email. *See. also,* Procedural Order No. 8, issued August 26, 2015, paragraph 3, first sentence.

34. On July 6, 2015, the IRP Panel issued Procedural Order No. 7. That order memorialized the parties' stipulations that the term "local law" as used in Article 4 of ICANN's Articles of Incorporation was a reference to California law and that under California law, in the event of a conflict between a corporation's Bylaws and Articles, the Articles of Incorporation would prevail.

35. In Procedural Order No. 8, "[t]he Panel designate[d] the place of these proceedings as New York, New York."

36. In Procedural Order No. 12, issued February 26, 2016, the Panel ordered that the hearing would be by video conference and would be limited to seven hours. No live percipient or expert witness testimony would be permitted, and only the witness statements and documents

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previously submitted by the parties and accepted by the panel would be admitted. (ICANN had previously submitted one witness declaration, that of EIU Contact Information Redacted of the EIU. Dot Registry had previously submitted four witness declarations and one expert witness declaration.) The hearing would consist of arguments by counsel and questions from the Panel. A stenographic transcript of the proceedings would be prepared.

37. On March 29, 2016, a one-day hearing by video conference was held with party representatives and counsel and the Panel present in either Washington, D.C. or Los Angeles, California. Each party presented arguments in support of its case, and the Panel had the opportunity to ask questions of counsel. A stenographic transcript of the proceedings was made. During the hearing, Dot Registry attempted to introduce live testimony from a fact witness. The Panel declined to hear testimony from the proffered witness. Hearing Tr., at p. 42, ll. 11-15. At the conclusion of the hearing, the Panel requested that the parties address specific questions in a post-hearing memorial.

38. On April 8, 2016, the parties filed post-hearing memorials addressing the questions posed by the Panel.

39. On May 5, 2016, the parties stipulated to the correction of limited inaccuracies in the stenographic transcript, which changes were duly noted by the Panel.

III.   SUBMISSIONS OF THE PARTIES

A. Dot Registry

40. Dot Registry states that the applicable law(s) to be applied in this proceeding are ICANN's Articles of Incorporation ("Articles") and Bylaws, relevant principles of international law (such as good faith) and the doctrine of legitimate expectations, applicable international conventions, the laws of the State of California ("California law"), the Applicant Guidebook ("AGB"), the International Arbitration Rules of the International Centre for Dispute Resolution ("ICDR Rules"), and the Supplementary Procedures for the Independent Review Process (the "Supplemental Rules").   Prior declarations of IRP panels have "precedential value." Additional Submission of Dot Registry, LLC ("DR Additional Submissions"), ¶3, at 2-3, and notes 11, 12, and 15. Request of Dot Registry LLC for Independent Review Process ("DR IRP Request"), ¶ 55, at 20. The Standard of Review should be de novo. DR Additional Submission, ¶¶ 4-7, at 3-5.

41. Dot Registry effectively argues that actions of the ICANN staff and the EIU constitute actions of the ICANN board, because, under California law and ICANN's Bylaws, ICANN's board of directors is "ultimately responsible" for the conduct of the new gTLD program. Since ICANN is a California nonprofit public-benefit corporation, all of its activities must be undertaken by or under the direction of its Board of Directors. DR

Additional Submission, ¶¶ 12-14, at 7-8 and notes 37-40; IRP Request, ¶ 62.

42. Dot Registry asserts that ICANN's staff and the EIU are "ICANN affiliated parties," and as such ICANN is responsible for their actions. AGB, Module 6.5.

43. In any event, Dot Registry takes the position that ICANN is responsible for the acts of EIU and the ICANN staff, since EIU can only recommend to ICANN for ICANN's ultimate approval, and ICANN has complete discretion as to whether to follow EIU's recommendations. DR Additional Submission, ¶18, at 11 (citing EIU SoW, §10(b)(ii) – (iv), (vii), at 6.

44. Dot Registry asserts that the EIU also has the understanding that ICANN bears the responsibility for the actions of the EIU in its role as ICANN's evaluator. DR Additional Submission, ¶19, at 11, citing Declaration of   EIU Contact Information Redacted

of the EIU, § 3, at 2. In addition, the CPEs were issued on ICANN letterhead, not EIU letterhead. Indeed, on the final page of the CPEs generated by the EIU, there is a disclaimer, which states in pertinent part that 'these Community Priority Evaluation results do not necessarily determine the final result of the application." *See, e.g.*, CPE Report 1-990-35979, Report Date: 11 June 2014.

45. Dot Registry contends that under California law the business judgment rule protects the individual corporate directors from complaints by shareholders and other specifically defined persons who are analogous to

shareholders, but does not protect a corporation or a corporate board from actions by third parties. DR Post-Hearing Brief, at 4 – 7.

46. Even assuming *arguendo* that the business judgment rule applies to the present proceeding, Dot Registry argues that it would not protect ICANN, since the ICANN Board and BGC failed to comply with the Articles, Bylaws, and the AGB, performed the acts at issue without making a reasonable inquiry, and failed to exercise proper care, skill and diligence. DR Post Hearing Brief, at 7 – 8.

47. Dot Registry alleges that EIU altered the AGB requirements only as to Dot Registry's applications in the following respects, and thus engaged in unjustified discrimination (disparate treatment) and non-transparent conduct:

   a) Added a requirement in its evaluation that the community must "act" as a community, and that a community must "associate as a community;"

   b) Added the requirement that the organization must have no other function but to represent the community;

   c) Utilized the increased requirement for "association" to abstain from evaluating the requirements of "size" or "longevity;"

   d) Misread Dot Registry's applications in order to find that Dot Registry's registration policies failed to provide "an appropriate appeals mechanism;"

e) Altered the AGB criteria that the majority of community institutions support the application to require that every institution express "consistent" support;

f) Altered the requirement that an application must have no relevant opposition to require that an application have no opposition.

See, e.g., Dot Registry Reconsideration Request re *.llc*, Version of 11 April 2013, at 4 -17 (Exhibit C-017).

48. Dot Registry asserts that the EIU applied different standards to other CPE applications, applying those standards inconsistently across all applicants.

49. While EIU required Dot Registry to demonstrate that its communities "act" and "associated" as communities, it did not require that other communities do so.

50. EIU also required that *.llc*, and *.llp* community members be participants in a clearly defined-industry and that the "members" have an awareness and recognition of their inclusion in the industry community.

51. While noting that "research' supported its conclusions, the EIU failed to identify the research conducted, what the results of the research were, or how such results supported its conclusions.

52. Dot Registry also argued that the Board of Governance Committee ("BGC") breached its obligations to ensure fair and equitable, reasonable and non-discriminatory treatment.

53. In response to a request for reconsideration, the BGC has the authority to:

   a) conduct a factual investigation (Bylaws, Art. 11, § 3, d);

   b) request additional written submissions from the affected party or other parties (Bylaws, Art. IV, § 3, e);

   c) ask ICANN staff for its views on the matter (Bylaws, Art. IV, § 11);

   d) request additional information or clarification from the requestor (Bylaws, Art. IV, §12);

   e) conduct a meeting with requestor by telephone, email, or in person (*Id.*);

   f) request information relevant to the request from third parties (Bylaws, Art. IV, § 13.

   The BCG did none of these.

54. Dot Registry requested that the IRP Panel make a final and binding declaration:

   a) that the Board breached its Articles, its Bylaws and the AGB including by failing to determine that ICANN staff and the EIU improperly and discriminatorily applied the AGB criteria for community priority status in evaluating Dot Registry's applications;

   b) that ICANN and the EIU breached the articles, Bylaws and the AGB, including by erring in scoring Dot Registry's CPE applications for *.inc, .llc,* and *.llp* and by treating Dot Registry's applications discriminatorily;

c) that Dot Registry's CPE applications for the *.inc*, *.llc*, and *.llp* strings satisfy the CPE criteria set forth in the AGB and that Dot Registry's applications are entitled to community priority status;

d) recommending that the Board issue a resolution confirming the foregoing;

e) awarding Dot Registry its costs in this proceeding, including, without limitation, all legal fees and expenses; and

f) awarding such other relief as the Panel may find appropriate in the circumstances.

Claimant's Post-Hearing Brief, April 8, 2016 ("DR Post-Hearing Brief"), at 9.

55. Finally, Dot Registry stated that it "does not believe that a declaration recommending that the Board should send Dot Registry's CPE applications to a new evaluation by the EIU would be proper." DR Post-Hearing Brief, at 9.

B. ICANN

56. ICANN asserts that ICANN's Articles and Bylaws and the Supplementary Procedures apply to an IRP proceeding. ICANN's Response to Claimant Dot Registry LLC's Request for Independent Review Process, October 27, 2014 ("ICANN Response"), ¶21, at 8, and ¶

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29, at 9. ICANN's Response to Claimant Dot Registry LLC's Additional Submission ("Response to Additional Submission"), ¶2, at 1; ¶ 8, at 3.

57. ICANN argues that "there is only one Board action at issue in this IRP, the BGC's review of the reconsideration requests Dot Registry filed challenging the CPE Reports." Response to Additional Submission, ¶ 8, at 3.

58. ICANN contends that this standard only applies as to the BGC's actions (or inactions) in its reconsideration of the EIU or ICANN staff actions. Response to Additional Submission, ¶ 10, at 4; ¶13, at 5

59. ICANN argues that the Bylaws make clear that the IRP review does not extend to actions of ICANN staff or of third parties acting on behalf of ICANN staff, such as the EIU.

60. ICANN contends that, when the BGC responds to a Reconsideration Request, the standard applicable to the BGC's review looks to whether or not the CPE Panel violated "any established policy or procedure." ICANN Response, ¶45, at 20, ¶¶ 46 and 47, at 21. Response to Additional Submission, ¶ 7, at 2; ¶14, at 6 and note 10; ¶ 19, at 8.

61. ICANN argues that Dot Registry failed to show that the EIU violated any established policies and procedures, on one occasion referring to "rules and procedures," in another to "established ICANN policy(ies)," and in another to "appropriate policies and procedures." Response to Additional Submission, ¶ 7, at 2; ¶14, at 6 and note 10, and ¶19, at 8

62. ICANN contends that Dot Registry failed to show that the BGC actions in its reconsideration were not in accordance with ICANN's Articles and Bylaws. Response to Additional Submission, ¶ 21, at 9, and ¶ 23 at 10. However, ICASNN has never argued in these proceedings that Dot Registry failed timely or properly to raise claims of *inter alia* disparate treatment/unjustified discrimination, lack of transparency or other alleged breaches of Articles, Bylaws, or AGB by the BGC, only that Dot Registry failed to prove its case on those matters.

63. ICANN agrees that "the 'rules' at issue when assessing the Board's conduct with respect to the New gTLD Program include relevant provisions of the Guidebook." Letter of Jeffrey A. LeVee, Jones Day LLP, to the Panel, dated October 12, 2015, at 6.

64. In response to a question from the Panel, ICANN asserts that, in its Call for Expressions of Interest for a New gTLD Comparative Evaluation Panel (R-12), ICANN did not require the ICANN staff and EIU to adhere to ICANN's Bylaws. ICANN denied that the reference therein that "the evaluation process for selection of new gTLDs will respect the principles of fairness, transparency, avoiding potential conflicts of interest, and non-discrimination" and its request "that candidates include a 'statement of the candidate's plan for ensuring fairness, nondiscrimination and transparency" obligated the EIU and the ICANN staff to adhere to any of ICANN's Articles or Bylaws. ICANN's Post-Hearing Brief, ¶¶ 6, 7, and 8, at 4.

65. In response to the Panel's question as to whether the Call for Expressions of Interest called for EIU to comply with other ICANN policies and procedures, ICANN stated that the Call for Expressions of Interest required applicants to "respect the principles of fairness, transparency and . . . non-discrimination." ICANN's Post-Hearing Submission, dated April 8, 2016, at ¶ 5.

66. ICANN asserts that California's business judgment rule applies to ICANN and "requires deference to actions of a corporate board of directors so long as the board acted 'upon reasonable investigation, in good faith and with regard for the best interests of' the corporation, and 'exercised discretion clearly within the scope of its authority.'" Post—Hearing Brief, ¶ 1, at 1, and *Lamden v. La Jolla Shores Clubdominium Homeowners Ass'n*, 21 Cal. 4th 249, 265 (1999).

IV. DECLARATION OF PANEL

A. Applicable Principles of Law

67. The Panel declares that the principles of law applicable to the present proceeding are ICANN's Articles of Incorporation, its Bylaws, the laws of the State of California, the Supplemental Rules, and the ICDR Rules of Arbitration. The Panel does not find that there are "relevant principles of international law and applicable international conventions" that would assist it in the task now before it.

68. The review undertaken by the Panel is based on an objective and independent standard, neither deferring to the views of the Board (or the

BGC), nor substituting its judgment for that of the Board. As the IRP in the

Vistaprint v. ICANN Final Declaration stated (ICDR Case No. 01-14-0000-

6505, 9 October 2015:

> 123. The Bylaws state the IRP Panel is 'charged' with 'comparing' contested actions of the board to the Articles and Bylaws and 'declaring' whether the Board has acted consistently with them. The Panel is to focus, in particular, on whether the Board acted without conflict of interest, exercised due diligence and care in having a reasonable amount of facts in front of it, and exercised independent judgement in taking a decision believed to be in the best interests of ICANN. In the IRP Panel's view this more detailed listing of a defined standard cannot be read to remove from the Panel's remit the fundamental task of comparing actions or inactions of the Board with the articles and Bylaws and declaring whether the Board has acted consistently or not. Instead, the defined standard provides a list of questions that can be asked, but not to the exclusion of other potential questions that might arise in a particular case as the Panel goes about its comparative work. For example, the particular circumstance may raise questions whether the Board acted in a transparent or non-discriminatory manner. In this regard the ICANN Board's discretion is limited by the Articles and Bylaws, and it is against the provisions of these instruments that the Board's conduct must be measured.

> 124. The Panel agrees with ICANN's statement that the Panel is neither asked to, nor allowed to, substitute its judgment for that of the Board. However, this does not fundamentally alter the lens through which the Panel must view its comparative task. As Vistaprint has urged, the IRP is the only accountability mechanism by which ICANN holds itself accountable through independent third party review of its actions or inactions. Nothing in the Bylaws specifies that the IRP Panel's review must be founded on a deferential standard, as ICANN has asserted. Such a standard would undermine the Panel's primary goal of ensuring accountability on the part of ICANN and its Board, and would be incompatible with ICANN's commitment to maintain and improve robust mechanisms for accountability, as required by ICANN's Affirmation of Commitments, Bylaws and core values.

> 125. The IRP Panel is aware that three other IRP Panels have considered this issue of standard of review and degree of deference to be accorded, if any, when assessing the conduct of ICANN's Board. All of the have reached the same conclusion: the

board's conduct is to be reviewed and appraised by the IRP Panel using an objective and independent standard without any presumption of correctness. (Footnote omitted).

69. In this regard, the Panel concludes that neither the California business judgment rule nor any other applicable provision of law or charter documents compels the Panel to defer to the BGC's decisions. The Bylaws expressly charge the Panel with the task of testing whether the Board has complied with the Articles and Bylaws (and, as agreed by ICANN, with the AGB). Bylaws, Article IV, Section 3.11, c provides that an "IRP Panel shall have the authority to declare whether an action or inaction of the Board was inconsistent with the Articles of Incorporation or Bylaws." Additionally, the business judgment rule does not in any event extend under California law to breaches of obligation as contrasted with its application to the exercise of discretionary board judgment within the scope of such an obligation.

70. An IRP Panel is tasked with declaring whether the ICANN Board has, by its action or inaction, acted inconsistently with the Articles and Bylaws. It is not asked to declare whether the applicant who sought reconsideration should have prevailed. Thus, the Dissent's focus on whether Dot Registry should have succeeded in its application for community priority is entirely misplaced. As counsel for ICANN explained:

> Mr. LeVee: ***
>
> . . . the singular purpose of an independent review proceeding, as confirmed time and again by other independent review panels, is to test whether the conduct of the board of ICANN and only of the

board of ICANN was consistent with ICANN's articles and with ICANN's bylaws.

Hearing Tr., p. 75, l. 24 – p. 76, l. 5.

B. Nature of Declaration

71. The question has arisen in some prior Declarations of IRP Panels whether Panel declarations are "binding" or "non-binding." While this question is an interesting one, it is clear beyond cavil that this or any Panel's decision on that question is not binding on any court of law that might be called upon to decide this issue.

72. In order of precedence from Bylaws to Applicant Guidebook, there have been statements in the documents which the Panel, or a reviewing court, might consider in its determination as to the finality of an IRP Panel Declaration.

73. As noted, above, Bylaws, Article IV, Section 3.11, c specifies that an "IRP Panel shall have the authority to declare whether an action or inaction of the Board was inconsistent with the Articles of Incorporation or Bylaws. Bylaws, Article IV, Section 3.11, d provides that the IRP Panel may "recommend that the Board stay any action or decision . . . until such time as the Board reviews and acts upon the opinion of the IRP. Article IV, Section 3.21 provides that "[t]he declarations of the IRP Panel . . . are final and have precedential value."

74. The ICDR Rules contains a provision that "[a]wards . . .shall be final and binding on the parties."   ICDR Rules, Art. 27(1).

75. The Applicant Guidebook requires that any applicant "AGREE NOT TO CHALLENGE, IN COURT OR IN ANY OTHER JUDICIAL FORA, ANY FINAL DECISION MADE BY ICANN AND IRREVOCABLY WAIVES ANY RIGHT TO SUE OR PROCEED IN COURT OR ANY OTHER JUDICIAL FORA ON THE BASIS OF ANY OTHER LEGAL CLAIM AGAINST ICANN AND ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION." AGB, Module 6, Section 6 (all caps as in original). Assuming *arguendo* this waiver would be found to be effective, it would not appear to reach the question of finality of a Panel Declaration.

76. One Panel has declared that its declaration is non-binding (*ICM Registry, LLC v. ICANN*, ICDR Case No. 50 117 T 00224 08, at ¶134), while another has declared that its declaration is binding. *DCA Trust v. ICANN*, ICDR Case No. 50-2013-001083, Declaration on IRP Procedures, August 14, 2014, at ¶¶ 98, 100-107, 110-111, and 115.

77. Other panels have either expressed no opinion on this issue, or have found some portion of the declaration binding, and another portion non-binding. Further, the Panel understands that this issue may have arisen before one or more courts of law, but that no final decisions have yet been rendered.

78. Since any declaration we might make on this issue would not be binding on any reviewing court, the Panel does not purport to determine whether its declaration is binding or non-binding.

C. The Merits

1) The EIU, ICANN Staff, and the BGC Were Obligated to Follow ICANN's Articles and Bylaws in Performing Their Work in this Matter

79. Whether the BGC is evaluating a Reconsideration Request or the IRP Panel is reviewing a Reconsideration Determination, the standard to be applied is the same: Is the action taken consistent with the Articles, the Bylaws, and the AGB?

80. The BGC's determination that the standard for its evaluation is that a requestor must demonstrate that the ICANN staff and/or the EIU acted in contravention of established policy or procedure is without basis.

81. In response to the three reconsideration requests at issue, the BGC states that "ICANN has previously determined that the reconsideration process can be properly invoked for challenges to determinations rendered by third party service providers, such as EIU, where it can be stated that a Panel failed to follow the established policies or procedures in reaching its determination, or that staff failed to follow its policies or procedures in accepting that determination." Reconsideration Determination of Reconsideration Requests 14-30, 14-32, 14-33, 24 July 2014, Section IV, at 7-8.

82. For this proposition, the BGC cites its own decision in the *Booking.com B.V. v. ICANN* Reconsideration Request Determination 13-5,

1 August 2013. In that case the BGC references a previous section of the Bylaws, that contains language currently in Section IV, 2, a, which states in pertinent part, that a requestor may show it has been "adversely affected by one or more staff actions or inactions that contradict ICANN policy(ies)."

83. Curiously, the BGC ignores Article IV, Section 1, entitled 'PURPOSE," which sets out the purpose of the Accountability and Review provisions. Article IV, Section 1 applies to both reconsiderations by the BGC, as well as to the IRP process. It states: "In carrying out its mission as set out in these bylaws, ICANN should be accountable to the community for operating in a manner that is consistent with these Bylaws and with due regard for the core values set forth in Article 1 of these Bylaws. The provisions of this Article, creating processes for reconsideration and independent review of ICANN actions . . . are intended to reinforce the various accountability mechanisms otherwise set forth in these Bylaws, including the transparency provisions of Article III. . . ." (Emphasis added).

84. Indeed, in its Call for Expressions of Interest for a New gTLD Comparative Evaluation Panel, including from the EIU, ICANN insisted that the evaluation process employed by prospective community priority panels "respect the principles of fairness, transparency, avoiding potential conflicts of interest, and non-discrimination." As discussed, *infra*, at ¶¶ 101 – 106, all of these principles are embodied in ICANN's Bylaws, and

are applicable to conduct of the BGC, ICANN staff and the authority exercised by the EIU pursuant to contractual delegation from ICANN.

85. ICANN further required all applicants for evaluative panels, including the EIU, to include in their applications a statement of the applicants' plan for ensuring that the above delineated principles are applied. ICANN Call for Expressions of Interest (Exhibit R-12), Section 5.5 at 6.

86. Subsequent to its engagement by ICANN, the EIU prepared the Community Priority Evaluation Guidelines, Version 2.0 (27 September 2013 (Exhibit R-1), under supervision from ICANN, incorporating the same principles. At page 22 of the Guidelines, it states: "The evaluation process will respect the principles of fairness, transparency, avoiding potential conflicts of interest and non-discrimination. Consistency of approach in scoring Applications will be of particular importance." (Emphasis added). These CPE Guidelines "are an accompanying document to the AGB, and are meant to provide additional clarity around the process and scoring principles outlined in the AGB."

87. Even if one were to accept the BGC's contention that it only need look to whether ICANN staff or the EIU violated "established policies and procedures," nowhere has ICANN argued that fairness, transparency, avoiding potential conflicts of interest, and non-discrimination are **not** established policies and procedures of ICANN. Indeed, given that all of these criteria are called out in provisions of ICANN's Articles and Bylaws

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as quoted elsewhere in this declaration, it would be shocking if ICANN were to make such an argument.

88. Accordingly, the Panel majority declares that in performing its duties of Reconsideration, the BGC must determine whether the CPE (in this case the EIU) and ICANN staff respected the principles of fairness, transparency, avoiding conflicts of interest, and non-discrimination as set out in the ICANN Articles, Bylaws and AGB. These matters were clearly raised in Dot Registry's submissions. The Panel majority declares that the BGC failed to make the proper determinations as to compliance by ICANN staff and the EIU with the Articles, Bylaws, and AGB, let alone to undertake the requisite due diligence or to conduct itself with the transparency mandated by the Articles and Bylaws in the conduct of the reconsideration process.

89. The Panel majority further declares that the contractual use of the EIU as the agent of ICANN does not vitiate the requirement to comply with ICANN's Articles and Bylaws, or the Board's duty to determine whether ICANN staff and the EIU complied with these obligations. ICANN cannot avoid its responsibilities by contracting with a third party to perform ICANN's obligations. It is the responsibility of the BGC in its reconsideration to insure such compliance. Indeed, the CPEs themselves were issued on the letterhead of ICANN, not that of the EIU, and Module 5 of the Applicant Guidebook states that "ICANN's Board of Directors has

ultimate responsibility for the New gTLD Program." AGB, Module 5, at 5-4.

90. Moreover, ICANN tacitly acknowledged as much by submitting the Declaration of   EIU Contact Information Redacted

                    of the Economist Intelligence Unit, the person who negotiated the services agreement with ICANN.   EIU Contact Information Redacted also served as Project Director for EIU's work on behalf of ICANN.

91. In his declaration,   EIU Contact Information Redacted states that the EIU is "not a gTLD decision-maker, but simply a consultant to ICANN." "The parties agreed that EIU, while performing its contracted functions, would operate largely in the background, and that ICANN would be solely responsible of all legal matters pertaining to the application process."

92. Further, as noted above in paragraph 8 of EIU Contact Information Redacted Declaration, Section 10 of the EIU SoW provides that "ICANN will be free in its complete discretion to decide whether or not to follow [EIU's] determination," that "ICANN will be solely responsible to applicants . . . for the decisions it decides to issue," and that "each decision must be issued by ICANN in its own name only."

93. Moreover, EIU did not act on its own in performing the CPEs that are the subject of this proceeding. ICANN staff was intimately involved in the process. The ICANN staff supplied continuing and important input on the CPE reports, *See*, documents produced to the Panel in response to the Panel's Document Production Order, ICANN _DR-00461-466. DR00182-

194, DR 00261—267, DR00228-234, DR00349-355, DR-00547-553, DR00467- 473 and DR00116-122.

94. One example is particularly instructive. In its Request for Reconsideration for .inc, Dot Registry complained that "the Panel repeatedly relies on its 'research.' For example, the Panel states that its decision not to award any points to the **.INC** Community Application for 1-A Delineation is based on '[r]esearch [that] showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an .inc' and also that '[b]ased on the Panel's research there is no evidence of incs from different sectors acting as a community as defined by the Applicant Guidebook.'" "Thus, the Panel's 'research' was a key factor in its decision not to award at least four (but possibly more) points to the .inc Community Application. However, despite the significance of this 'research,' the Panel never cites any sources or gives any information about its substance or the methods or scope of the 'research.'" Dot Registry Request for Reconsideration re .inc, § 8, B at 5-6.

95. The BGC made short shrift of this argument. "The Requestor argues that the Panels improperly conducted and relied upon independent research while failing to 'cit[e] any sources or give[] any information about [] the substance or the methods or scope of the 'research.'" (Citations omitted.) "As the Requestor acknowledges, Section 4.2.3 of the Guidebook expressly authorizes CPE Panels to 'perform independent

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research, if deemed necessary to reach informed scoring decisions.'"
(Citations omitted). "The Requestor cites no established policy or
procedure (because there is none) requiring a CPE Panel to disclose
details regarding the sources, scope or methods of its independent
research." Reconsideration Response, § V.B at 11.

96. A review of the documents produced and the ongoing exchange
between the EIU and the ICANN staff reveal the origin of the "research"
language found in the final version of the CPEs.

97. The original draft CPEs prepared by the EIU, dated 19 May 2014 at
page 2, paragraph beginning "However . . ." contain no reference to any
"research." See DR00229, 00262, and 00548.

98. The first references to the use of "research" comes from ICANN staff.
"Can we add a bit more to express the research and reasoning that went
into this statement? . . .Possibly something like, 'based on the Panel's
research we could not find any widespread evidence of LLCs from
different sectors acting as a community.'" DR00468. "While I agree, I'd
like to see some substantiation, something like . . . 'based on our research
we could not find any widespread evidence of LLCs from different sectors
acting as a community.'" DR00548.

99. The CPEs as issued read in pertinent part at page 2, in paragraph
beginning "However . . . ," "Research showed that firms are typically
organized around specific industries, locales, and other criteria not related
to the entities structure as an LLC. Based on the Panel's research, there

is no evidence of LLCs from different sectors acting as a community as defined in the Applicant Guidebook."

100. Counsel for ICANN at the hearing acknowledged that ICANN staff is bound to conduct itself in accordance with ICANN's Articles and Bylaws.

> Panelist Donahey: So when you hear the word "ICANN" or see the word "ICANN in the bylaws or articles you believe that that is a , is a reference to ICANN's board and its constituent bodies?
>
> Mr. LeVee: Including its staff, yes
>
> Panelist Kantor: My chair anticipated a question I was going to ask, but he combined it with a question about constituent bodies. I believe I heard, Mr. LeVee, that you said that while the CPE panel is not bound by the provisions I identified, ICANN staff is. Is that correct?
>
> [Mr. LeVee:] Yes. ICANN views its staff as being obligated to conform to the various article and bylaw provisions that you cite.

Hearing Tr., p. 197, l. 20 – p. 198, l.1; p. 199, l. 17 - p. 200, l. 2 (emphasis added).

101. The facts that ICANN staff was intimately involved in the production of the CPE and that ICANN staff was obligated to follow the Articles and Bylaws, further support the Panel majority's finding that ICANN staff and the EIU were obligated to comply with ICANN's Articles and Bylaws. Moreover, when the issues were posed in the Reconsideration Requests, in the course of determining whether or not ICANN staff and the EIU had acted in compliance with the Articles, Bylaws, and the AGB, the BGC was obligated under the Bylaws to exercise due diligence and care in having a reasonable amount of facts in front of them and exercise independent

judgment in taking the decision believed to be in the best interests of

ICANN.

2) <u>The Relevant Provisions of the Articles and Bylaws and Their</u>

<u>Application</u>

> The Corporation shall operate for the benefit of the Internet
> community as a whole, carrying out its activities in conformity with
> relevant principles of international law and applicable international
> conventions and local law and, to the extent appropriate and
> consistent with these Articles and its Bylaws, through open and
> transparent processes that enable competition and open entry in
> Internet related markets. To this effect, the Corporation shall
> cooperate as appropriate with relevant international organizations.
> Articles of Incorporation, Art. 4

> In performing its mission, the following core values should guide the
> decisions and actions of ICANN:
>
> ****

>> 7. Employing open and transparent policy development
>> mechanisms that (i) promote well-informed decisions based
>> on expert advice, and (ii) ensure that those entities most
>> affected can assist in the policy development process.
>>
>> 8. Making decisions by applying documented policies
>> neutrally and objectively, with integrity and fairness.
>>
>> 9. Acting with a speed that is responsive to the needs of the
>> Internet while, as part of the decision-making process,
>> obtaining informed input from those entities most affected.
>>
>> 10. Remaining accountable to the Internet community
>> through mechanisms that enhance ICANN's effectiveness.

11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values. Bylaws, Art. I, § 2. CORE VALUES.

ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition. Bylaws, Art. II, § 3. Non-Discriminatory Treatment.

The Board shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness. Bylaws, Art. III, §1.

In carrying out its mission as set out in these bylaws, ICANN should be accountable to the community for operating in a manner that is consistent with these Bylaws and with due regard for the core values set forth in Article I of these bylaws. Art. IV, § 1.

103. In addition, the BGC failed several transparency obligations. As well as failing to enforce the transparency obligations in the Articles, Bylaws, and AGB with respect to the research purportedly undertaken by the EIU, the BGC is also subject to certain requirements that it make public the staff work on which it relies. Bylaws, Art. IV.2.11 provides that "The Board Governance Committee may ask the ICANN staff for its views on the

matter, which comments shall be made publicly available on the Website."

Bylaws, Art. IV.2.14 provides that "The Board Governance Committee shall act on a Reconsideration Request on the basis of the public written record, including information submitted by the party seeking reconsideration or review, by the ICANN staff, and by any third party."

104. The Panel is tasked with determining whether the ICANN Board acted consistently with the provisions of the Articles and Bylaws. Bylaws Article IV, Section 3.11, c states that "[t]he IRP Panel shall have the authority to declare whether an action of inaction of the Board was inconsistent with the Articles of Incorporation or Bylaws." As accepted by ICANN, the Panel is also tasked with determining whether the ICANN Board acted consistently with the AGB. Moreover, the Bylaws provide:

> Requests for [] independent review shall be referred to an Independent Review Process Panel ("IRP Panel"), which shall be charged with comparing contested actions of the Board to the Articles of Incorporation and Bylaws and with declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws. The IRP Panel must apply a defined standard of review to the IRP request, focusing on:
>
> > a. did the Board act without conflict of interest in taking its decision?
> >
> > b. did the Board exercise due diligence and care in having a reasonable amount of facts in front of them?; and
> >
> > c. did the Board members exercise independent judgment in taking the decision believed to be in the best interests of the company?

Bylaws. Art. IV, §3.4.

ICANN's counsel stated at the hearing that the concept of inaction or the

omission to act is embraced within "actions of the Board."

> Panelist Kantor: At an earlier stage in these proceedings, the panel
> asked some questions, and we were advised that action here
> includes both actions and omissions. Does that apply to conduct of
> ICANN staff or only to conduct of the ICANN Board?

> Mr. LeVee: Only to Board.

Hearing Tr., p. 192, l. 25 – p. 193, l. 6.

105. Thus, ICANN confirmed that omissions by the Board to comply with

its duties under the Articles and Bylaws constituted breaches of the

Articles and Bylaws for purposes of an IRP. *See, also,* ICANN's response

to Dot Registry's Submission, ¶ 10 (10 August 2015) ("the only way in

which conduct of ICANN staff or third parties is reviewable is to the extent

that the board allegedly breached ICANN's Articles or Bylaws in acting (or

failing to act) with respect to that conduct.") and Letter of Jeffrey A. LeVee,

Jones, Day LLP, to the Panel, October 12, 2015, at 6 ("ICANN agrees with

the statements in Paragraph 53 of the Booking.com IRP Panel's

Declaration that . . . the term "action" as used in Article IV, Section 3 of

ICANN's Bylaws encompasses inactions by the ICANN Board . . . ."

106. As discussed, *supra,* at ¶¶ 47-52, Dot Registry contended that the

CPE lacked transparency, such as the subject of the research performed,

the sources referenced in the performance of the research, the manner in

which the research was performed, the results of the research, whether

the researchers encountered sources that took issue with the results of

the research, etc. Thus, Dot Registry adequately alleged a breach by ICANN staff and the EIU of the transparency obligations found in the Articles, Bylaws, and AGB.

107. Dot Registry further asserted that it was treated unfairly in that the scoring involved double counting, and that the approach to scoring other applications was inconsistent with that used in scoring its applications. *Id.*

108. Dot Registry alleged that it was subject to different standards than were used to evaluate other Community Applications which underwent CPE, and that the standards applied to it were discriminatory. *Id.*

109. Yet, the BGC failed to address any of these assertions, other than to recite that Dot Registry had failed to identify any "established policy or procedure" which had been violated.

110. Article IV, Section 3.4 of the Bylaws calls upon this Panel to determine whether the BGC, in making its Reconsideration Decision "exercise[d] due diligence and care in having a reasonable amount of facts in front of them" and "exercise[d] independent judgment in taking the decision believed to be in the best interests of the company." Consequently, the Panel must consider whether, in the face of Dot Registry's Reconsideration Requests, the BGC employed the requisite due diligence and independent judgment in determining whether or not ICANN staff and the EIU complied with Article, Bylaw, and AGB obligations such as transparency and non-discrimination.

111. Indeed, the BGC admittedly did not examine whether the EIU or ICANN staff engaged in unjustified discrimination or failed to fulfill transparency obligations. It failed to make any reasonable investigation or to make certain that it had acted with due diligence and care to be sure that it had a reasonable amount of facts before it.

112. An exchange between Panelist Kantor and counsel for ICANN underscores the cavalier treatment which the BGC accorded to the Dot Registry Requests for Reconsideration.

> Panelist Kantor: Mr. LeVee, in those minutes or in the determinations on the reconsideration requests, is there evidence that the Board considered whether or not the CPE panel report or any conduct of the staff complied with the various provisions of the bylaws to which I referred, core values, inequitability, nondiscriminatory treatment, or to the maximum extent open and transparent.
>
> Mr. LeVee: I doubt it. Not that I'm aware of. As I said, the Board Governance Committee has not taken the position that the EIU or any other outside vendor is obligated to conform to the bylaws in this respect. So I doubt they would have looked at that subject.

Hearing Tr., p. 221, l. 17 – p. 222, l. 8.

113. Notably, the Panel question above inquired as to whether the Board considered *either* the conduct of the CPE panel (*i.e.*, the EIU) or the conduct of ICANN staff. Counsel's response that he doubted whether consideration was given relied solely upon the BGC's position that *the EIU* was not obligated to comply with the Bylaws. Regardless of whether that position is correct, ICANN acknowledges that the conduct of *ICANN staff* (as described *supra*, at ¶¶89-101) is bound by the Articles, Bylaws, and AGB. ICANN's argument fails to recognize that in any event the conduct

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of ICANN staff is properly the subject of review by the BGC when raised in a Request for Reconsideration, yet no such review of the allegedly discriminatory and non-transparent conduct of ICANN staff was undertaken by the BGC.

114. One of the questions on which an IRP Panel is asked to "focus" is whether the BGC "exercise[d] due diligence and care in having a reasonable amount of facts" in front of it. In making this determination, the Panel must look to the allegations in order to determine what facts would have assisted the BGC in making its determination.

115. As discussed, *supra*, at ¶¶ 51 and 94 - 95, the requestor argued that the EIU repeatedly referred to "research" it had performed in making its assessment, without disclosing the nature of the research, the source(s) to which it referred, the methods used, or the information obtained. This is effectively an allegation of lack of transparency.

116. Transparency was yet another of the principles which an applicant for the position of Community Priority Evaluator, such as EIU, was required to respect. Indeed, an applicant for the position was required to submit a plan to ensure that transparency would be respected in the evaluation process. *See, generally, supra,* ¶¶ 17 – 18.

117. Transparency is one of the essential principles in ICANN's creation documents, and its name reverberates through its Articles and Bylaws.

118. In ICANN's Articles of Incorporation, Article 4 refers to "open and transparent processes." Among the Core Values listed in its Bylaws intended to "guide the decisions and actions of ICANN" is the "employ[ment of] open and transparent policy development mechanisms." Bylaws, Art. I, § 2.7.

119. Indeed, ICANN devotes an entire article in its bylaws to the subject. Article III of the Bylaws is entitled, "TRANSPARENCY." It states that "ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness." Bylaws, Art. III, § 1.

120. Moreover, in the very article that establishes the Reconsideration process and the Independent Review Process, it states in Section 1, entitled "PURPOSE:"

> In carrying out its mission as set out in these Bylaws, ICANN should be accountable to the community for operating in a manner that is consistent with these Bylaws, and with due regard for the core values set forth in Article I of these Bylaws. The provisions of this Article, creating processes for reconsideration and independent review of ICANN actions and periodic review of ICANN's structure and procedures, are intended to reinforce the various accountability mechanisms otherwise set forth in these Bylaws, including the transparency provisions of Article III. Emphasis added.

121. By their very terms, these obligations govern conduct not only by the Board, but by "ICANN," which necessarily includes its staff.

122. It seems fair to say that transparency is one of the most important of ICANN's core values binding on both the ICANN Board and the ICANN

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staff, and one that its contractor, EIU, had pledged to follow in its work for ICANN. The BGC had an obligation to determine whether ICANN staff and the EIU complied with these obligations. An IRP Panel is charged with determining whether the Board, which includes the BGC, complied with its obligations under the Articles and the Bylaws. The failure by the BGC to undertake an examination of whether ICANN staff or the EIU in fact complied with those obligations is itself a failure by the Board to comply with its obligations under the Articles and Bylaws.

123. Has the BGC been given the tools necessary to gather this information as Part of the Reconsideration process? The section on reconsideration (Bylaws, Art. IV, Section 2) provides it with those tools. It gives the BGC the power to "conduct whatever factual investigation is deemed appropriate" and to "request additional written submissions from the affected party, or from other parties." Bylaws, Art. IV, § 2.3, d and e. The BGC is entitled to "ask the ICANN staff for its views on the matter, which comments shall be made publicly available on the website." Bylaws, Art. IV, §2.11. The BGC is also empowered to "request information relevant to the request from third parties, and any information collected from third parties shall be provided to the requestor [for reconsideration]." Bylaws, Art. IV, § 2.13.

124. The requestor for reconsideration in this case also complained that the standards applied by the ICANN staff and the EIU to its applications were different from those that the ICANN staff and EIU had applied to

other successful applicants. If this were true, the EIU would not only have failed to respect the principles of fairness and non-discrimination it had assured ICANN that it would respect, it would not have lived up to its own assurance to all applicants for CPEs in its CPE Guidelines (Exhibit R-1) that "consistency of approach in scoring applications will be of particular importance." *See, supra*, ¶ ¶ 18 and 83.

125. The BGC need only have compared what the ICANN staff and EIU did with respect to the CPEs at issue to what they did with respect to the successful CPEs to determine whether the ICANN staff and the EIU treated the requestor in a fair and non-discriminatory manner. The facts needed were more than reasonably at hand. Yet the BGC chose not to test Dot Registry's allegations by reviewing those facts. It cannot be said that the BGC exercised due diligence and care in having a reasonable amount of facts in front of it.

126. The Panel is called upon by Bylaws Art. IV.3.4 to focus on whether the Board, in denying Dot Registry's Reconsideration Requests, exercised due diligence and care in having a reasonable amount of facts in front of it and exercised independent judgment in taking decisions believed to be in the best interest of ICANN. The Panel has considered above whether the BGC complied with its "due diligence" duty. Here the Panel considers whether the BGC complied with its "independent judgment" duty.

127. The Panel has no doubt that the BGC believes its denials of the Dot Registry Reconsideration Requests were in the best interests of ICANN.

However, the record makes it exceedingly difficult to conclude that the BGC exercised independent judgment in taking those decisions. The only documentary evidence in the record in that regard is the text of the Reconsideration Decisions themselves and the minutes of the BGC meeting at which those decisions were taken. No witness statements or testimony with respect to those decisions were presented by ICANN, the only party to the proceeding who could conceivably be in possession of such evidence.

128. The silence in the evidentiary record, and the apparent use by ICANN of the attorney-client privilege and the litigation work-product privilege to shield staff work from disclosure to the Panel, raise serious questions in the minds of the majority of the Panel members about the BGC's compliance with mandatory obligations in the Bylaws to make public the ICANN staff work on which it relies in reaching decisions about Reconsideration Requests.

129. Bylaws Art. IV.2.11 provides that "The Board Governance Committee may ask the ICANN staff for its views on the matter, which comments shall be made publicly available on the Website."

130. Bylaws Art. IV.2.14 provides that "The Board Governance Committee shall act on a Reconsideration Request on the basis of the public written record, including information submitted by the party seeking reconsideration or review, by the ICANN staff, and by any third party."

131. Elsewhere in the Bylaws and the Articles of Incorporation, as discussed above, ICANN undertakes general duties of transparency and accountability that are also implicated by ICANN's decision to shield relevant staff work from public disclosure by structuring the staff work to benefit from legal privilege.

132. The documents disclosed by ICANN to the Panel pursuant to the Panel's document orders do not include any documents sent from BGC members to ICANN staff or sent from any Board members to any other Board members. The privilege log submitted by ICANN in these proceedings does not list any documents either sent from Board members to any ICANN staff or sent from any Board member to any other Board member, only a small number of documents sent from ICANN staff to the BGC. The only documents of the BGC that were disclosed to the Panel are the denials of the relevant Reconsideration Request themselves, the agendas for the relevant BGC meetings found on the ICANN website, and the Minutes of those meetings also found on the ICANN website.

133. No documents from ICANN staff to the BGC have been disclosed to the Panel. The privilege log lists one document, dated July 18, 2014, which appears to be the ICANN in-house legal counsel submission to the BGC of the "board package" for the July 24, 2014 BGC meeting at which Dot Registry's Reconsideration Requests were considered. The Panel infers that package included an agenda for the meeting, the CPEs themselves and draft denials prepared by ICANN staff, consistent with a

statement to that effect by ICANN counsel at the hearing. As explained by ICANN counsel at the hearing, that package also apparently included ICANN staff recommendations regarding the CPEs and the Reconsideration Requests, prepared by ICANN legal counsel. The Panel presumes the "package" also included Dot Registry's Reconsideration Requests, setting out Dot Registry's views arguing for reconsideration.

134. There is nothing in either the document production record or the privilege log to indicate that the denials drafted by ICANN staff were modified in any manner after presentation by staff to the BGC. Rather, from that record it would appear that the denials were approved by the BGC without change. It is of course possible that changes were in fact made to the draft denials involving ICANN legal counsel, but not produced to the Panel. However, nothing in the privilege log indicates that to be the case.

135. The privilege log submitted by ICANN in this proceeding also lists one other document dated August 15, 2014, which appears to be the "board package" for the August 22, 2014 BGC meeting at which the BGC *inter alia* approved the Minutes for the July 24 BGC meeting. Since the agenda and the Minutes for that August 22 meeting, as available on the ICANN website, do not show any reference to the gTLDs at issue in this IRP, it would appear that the material in the August 15 privileged document related to this dispute is only the draft of the Minutes for the July 24 BGC meeting, which Minutes were duly approved at the August 22 BGC

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meeting according to the Minutes for that latter meeting. Thus, the August 15 privileged document adds little to assist the Panel in deciding whether the Board exercised the requisite diligence, due care and independent judgment.

136. Every other document listed on the privilege log is an internal ICANN staff document, not a BGC document.

137. From this disclosure and from statements by ICANN counsel at the hearing, the Panel considers that no documents were submitted to the BGC for the July 24, 2014 BGC meeting other than the agenda for the meeting, the CPEs and Dot Registry's Reconsideration Requests themselves, ICANN staff's draft denials of those Reconsideration Requests, and explanatory recommendations to the BGC from ICANN staff in support of the denials. Moreover, it appears the BGC itself and its members generated no documents except the denials themselves and the related BGC Minutes. ICANN asserted privilege for all materials sent by ICANN staff to the BGC for the BGC meeting on the Reconsideration Requests.

138. The production by ICANN of BGC documents was an issue raised expressly by the unanimous Panel in Paragraph 2 of Procedural Order No. 4, issued May 27, 2015:

Among the documents produced by ICANN in response to the Panel's document production request, the Panel expected to find documents that indicated that the ICANN Board had considered the recommendations made by the EIU concerning Claimant's Community Priority requests, that the ICANN board discussed those recommendations in a meeting of the Board or in a meeting of one or more of its committees or subcommittees

or by its staff under the ICANN Board's direction, the details of such discussions, including notes of the participants thereto, and/or that the ICANN Board itself acted on the EIU recommendation by formal vote or otherwise; or if none of the above, documents indicating that the ICANN board is of the belief that the recommendations of the EIU are binding. If no such documents exist, the Panel requests that ICANN's counsel furnish an attestation to that effect.

139. By letter dated May 29, 2015, counsel for ICANN made the requested confirmation, referring to the Reconsideration Decisions and appending the BGC meeting minutes for the non-privileged record.

140. It is of course entirely possible that oral conversations between staff and members of the BGC, and among members of the BGC, occurred in connection with the July 24 BGC meeting where the BGC determined to deny the reconsideration requests. No ICANN staff or Board members presented a witness statement in this proceeding, however. Also, there is no documentary evidence of such a hypothetical discussion, privileged or unprivileged. Thus apart from *pro forma* corporate minutes of the BGC meeting, no evidence at all exists to support a conclusion that the BGC did more than just accept without critical review the recommendations and draft decisions of ICANN staff.

141. Counsel for ICANN conceded at the hearing that ICANN legal counsel supplied the BGC with recommendations, but asserted the BGC does not rely on those recommendations.

> 2 *** I
> 3 will tell you that the Board Governance
> 4 Committee is aided by the Office of General
> 5 Counsel, which also consults with Board
> 6 staff.

7 The Office of General Counsel does
8 submit recommendations to the Board
9 Governance Committee, and of course, those
10 documents are privileged. For that reason,
11 we did not turn them over. We don't rely on
12 them in issuing the Board Governance
13 Committee reports, we don't cite them, and we
14 don't produce them because they are prepared
15 by counsel.

Hearing Tr., p. 94, l. 2 – 15.

For several reasons, the assertion that the BGC does not rely on ICANN

staff recommendations, and thus is not obligated to make those staff

views public pursuant to Bylaws Arts. I.2.7 and I.2.10, is simply not

credible.

142. First, according to Bylaws Art. IV.2.14, the BGC is to act on

Reconsideration Requests "on the basis of the public written record,

including information submitted by the party seeking reconsideration or

review, by the ICANN staff, and by any third party." Thus, the Bylaws

themselves expect the BGC to look to the public written record, including

staff views, in making its decisions.

143. Moreover, according to the documents produced by ICANN in this

proceeding and the ICANN privilege log, the BGC apparently had no

substantive information before it other than the CPEs, the

recommendations of ICANN staff regarding the CPEs, including the

recommendations of the Office of General Counsel, and the contrary

arguments of Dot Registry contained in the Reconsideration Requests.

The Minutes for the July 24 BGC meeting state succinctly that "Staff

briefed the BGC regarding Dot Registry, LLC's ("Requester's") request

seeking reconsideration of the Community Priority Evaluation ("CPE")

Panels' Reports, and ICANN's acceptance of those Reports."

144. Counsel for ICANN made similar points at the hearing.

12 MR. LEVEE: I can.
13 So the Board Governance Committee
14 had the EIU, the three EIU reports, and it
15 had the lengthy challenge submitted by Dot
16 Registry regarding those reports. As I've
17 said before, the Board Governance Committee
18 does not go out and obtain separate
19 substantive advice, because the nature of its
20 review is not a substantive review.
21 So I don't know what else it would
22 need, but my understanding is that apart from
23 privileged communication, what it had before
24 it was the materials that I've just
25 referenced, EIU's reports and Dot Registry's
1 reconsideration requests, which had attached
2 to it a number of exhibits.
3 MR. KANTOR: So in evaluating that
4 request and the CPE panel report, would it be
5 correct to say that the diligence and care
6 the Board Governance Committee took in having
7 a reasonable amount of facts in front of it,
8 were those two submissions an [sic] inquiry of
9 staff which is privileged?
10 MR. LEVEE: Yes.
11 MR. KANTOR: Subclause C: How did
12 the Board Governance Committee go about
13 exercising its independent judgment in taking
14 the decisions it took on the reconsideration
15 requests? Again, with as much specificity as
16 you can reasonably undertake.
17 MR. LEVEE: The primary thing I
18 obviously have to refer you to is the report,
19 the 23-page report of the Board Governance
20 Committee. I, I don't have other materials
21 that I have tendered to the panel to say that
22 the Board members exercised their independent
23 judgment, beyond the fact that they wrote a

24 document which goes pretty much point by
25 point through the complaints that Dot
1 Registry asserted, evaluated each of those
2 points independently, and reached the
3 conclusions that they reached.
4 MR. DONAHEY: Were there drafts of
5 that 23-page report?
6 MR. LEVEE: Yes.
7 MR. DONAHEY: And were those
8 produced?
9 MR. LEVEE: They were not.
10 MR. DONAHEY: And was that because
11 they were privileged?
12 MR. LEVEE: Yes.
13 MR. KANTOR: Mr. LeVee, what exists
14 in the record before this panel to show that
15 the Board Governance Committee exercised its
16 judgment independent from that of ICANN's
17 staff, including office [of] general counsel?
18 MR. LEVEE: The record is simply
19 that the six voting members of the Board
20 Governance Committee authorized this
21 particular report after discussing the
22 report. I cannot give you a length of time
23 that it was discussed. I don't have a record
24 of that, but I can tell you, as reflected in
25 many other situations where similar questions
1 have been asked, that the voting members of
2 the Board take these decisions seriously.
3 They are then reflected in minutes of the
4 Board Governance Committee which are
5 published on ICANN's website.
6 Candidly, I'm not sure what else I
7 could provide.

Hearing Tr., at pp. 217-219.

145. The BGC thus had before it substantively only the views of the EIU

accepted by ICANN staff (the CPEs), the "reports" (i.e., the

reconsideration decisions drafted by staff), the staff's own briefing, and the

contrary views of Dot Registry. As the Reconsideration Decisions

themselves evidence, the BGC certainly did not rely on Dot Registry's

arguments. The BGC therefore simply could not have reached its decision to deny the Reconsideration Requests without relying on work of ICANN staff.

146. The Minutes of the July 24, 2014 BGC meeting state that "After discussion and consideration of the Request[s]," the BGC denied the Reconsideration Requests. Similarly, counsel for ICANN argued at the hearing that "the six voting members of the Board Governance Committee authorized this particular report after discussing the report. *** I can tell you, as reflected in many other situations where similar questions have been asked, that the voting members of the Board take these decisions seriously."

147. Arguments by counsel are not, however, evidence. ICANN has not submitted any *evidence* to allow the Panel to objectively and independently determine whether references in the Minutes to discussion by the BGC of the Requests are anything more than corporate counsel's routine boilerplate drafting for the Minutes. The Panel is well aware that such a *pro forma* statement is regularly included in virtually all corporate minutes recording decisions by board of director committees, regardless of whether or not the discussion was more than rubber-stamping of management decisions.

148. If there is any evidence regarding the extent to which the BGC did in fact exercise independent judgment in denying these Reconsideration Request, rather than relying exclusively on the recommendations of

ICANN staff without exercising diligence, due care and independent judgment, that evidence is shielded by ICANN's invocation of privileges in this matter and ICANN's determination under the Bylaws to avoid witness testimony in IRPs.

149. ICANN is, of course, free to assert attorney-client and litigation work-product privileges in this proceeding, just as it is free to waive those privileges. The ICANN Board is not free, however, to disregard mandatory obligations under the Bylaws. As noted above, Bylaws Art. IV.2.11 provides that "The Board Governance Committee may ask the ICANN staff for its views on the matter, which comments shall be made publicly available on the Website." (emphasis added). Bylaws, Art. IV.2.14 provides that "The Board Governance Committee shall act on a Reconsideration Request on the basis of the public written record, including information submitted by the party seeking reconsideration or review, by the ICANN staff, and by any third party" (emphasis added). The transparency commitments included in the Core Values found in Bylaws, Art. I, §2 are part of a balancing process. However, the obligations in the Bylaws to make that staff work public are compulsory, not optional, and do not provide for any balancing process.

150. None of the ICANN staff work supporting denial of Dot Registry's Reconsideration Requests was made public, even though it is beyond doubt that the BGC obtained and relied upon information and views submitted by ICANN staff (passed through ICANN legal counsel and thus

subject to the shield of privilege) in reaching its conclusions. By exercising its litigation privileges, though, the BGC has put itself in a position to breach the obligatory requirements of Bylaws Art. IV.2.11 and Art. IV.2.14 to make that staff work public. ICANN has presented no real evidence to this Panel that the BGC exercised independent judgment in reaching its decisions to deny the Reconsideration Requests, rather than relying entirely on recommendations of ICANN staff. Thus, the Panel is left highly uncertain as to whether the BGC "exercise[d] due diligence and care in having a reasonable amount of facts in front of them" and "exercise[d] independent judgment in taking the decision." And, by shielding from public disclosure all real evidence of an independent deliberative process at the BGC (other than the *pro forma* meeting minutes), the BGC has put itself in contravention of Bylaws IV.2.11 and IV.2.14 requiring that ICANN staff work on which it relies be made public.\

D. Conclusion

151. In summary, the Panel majority declares that ICANN failed to apply the proper standards in the reconsiderations at issue, and that the actions and inactions of the Board were inconsistent with ICANN's Articles of Incorporation and Bylaws.

152. The Panel majority emphasizes that, in reaching these conclusions, the Panel is not assessing whether ICANN staff or the EIU failed themselves to comply with obligations under the Articles, the Bylaws, or the AGB. There has been no implicit foundation or hint one way or another regarding the substance of the decisions of ICANN staff or the EIU in the Panel majority's approach. Rather the Panel majority has concluded that, in making its reconsideration decisions, the Board (acting through the BGC) failed to exercise due diligence and care in having a reasonable amount of facts in front of them and failed to fulfill its transparency obligations (including both the failure to make available the research on which the EIU and ICANN staff purportedly relied and the failure to make publically available the ICANN staff work on which the BGC relied). The Panel majority further concludes that the evidence before it does not support a determination that the Board (acting through the BGC) exercised independent judgment in reaching the reconsideration decisions.

153. The Panel majority declines to substitute its judgment for the judgment of the CPE as to whether Dot Registry is entitled to Community priority. The IRP Panel is tasked specifically "with comparing contested actions of the Board to the Articles of Incorporation and Bylaws, and with declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws." Bylaws, Art. IV, §3.4. This is what the Panel has done.

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154. Pursuant to the ICANN Bylaws, Art. IV, Section 3.18, the Panel declares that Dot Registry is the prevailing party. The administrative fees and expenses of the International Centre for Dispute Resolution ("ICDR") totaling $4,600.00 and the compensation and expenses for the Panelists totaling $461,388.70 shall be borne entirely by ICANN. Therefore, ICANN shall pay to Dot Registry, LLC $235,294.37 representing said fees, expenses and compensation previously incurred by Dot Registry, LLC upon demonstration that these incurred costs have been paid in full.

155. The Panel retains jurisdiction for fifteen days from the issuance of this Declaration solely for the purpose of considering any party's request to keep certain information confidential, pursuant to Bylaws, Article IV, Section 3.20. If any such request is made and has not been acted upon prior to the expiration of the fifteen-day period set out above, the request will be deemed to have been denied, and the Panel's jurisdiction will terminate.
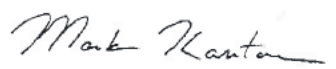
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156. This Declaration may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute the Declaration of this Panel.

Dated: July 29, 2016

For the Panel Majority

_____

Mark Kantor

_____

M. Scott Donahey, Chair

156. This Declaration may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute the Declaration of this Panel.

Dated: July 29, 2016

For the Panel Majority

_____

Mark Kantor

M. Scott Donahey, Chair

DISSENTING OPINION OF JUDGE CHARLES N. BROWER

1. With the greatest of regard for my two eminent colleagues, I respectfully dissent from their Declaration ("the Declaration"). In my view, Dot Registry LLC's ("Dot Registry") Community Priority Evaluation ("CPE") Applications to operate three generic top level domains ("gTLDs") (.INC, .LLC, and .LLP) were properly denied, as were Dot Registry's Reconsideration Requests to the Board Governance Committee ("BGC") of the Internet Corporation for Assigned Names and Numbers ("ICANN"). Dot Registry's requests for relief before this Independent Review Proceeding ("IRP") Panel should have been rejected in their entirety.

2. I offer four preliminary observations:

3. *First*, the Declaration commits a fundamental error by disregarding the weakness of Dot Registry's underlying CPE Applications. The applications never had a chance of succeeding. The "communities" proposed by Dot Registry for three types of business entities (INCs, LLCs, and LLPs) do not demonstrate the characteristics of "communities" under any definition. They certainly do not satisfy the standards set forth in ICANN's Applicant Guidebook ("AGB"), which require applicants to prove "awareness and recognition of [being] a community," in other words "more . . . cohesion than a mere commonality of interest,"[1] because the businesses in question function in unrelated industries and share nothing in common whatsoever other than their corporate form. As ICANN stated:

> *[A] plumbing business that operated as an LLC would not necessarily feel itself to be part of a "community" with a bookstore, law firm, or children's daycare center simply based on the fact that all four entities happened to organize themselves as LLCs (as opposed to corporations, partnerships, and so forth). Although each entity elected to form as an LLC, the entities literally share nothing else in common.*[2]

4. That foundational flaw in Dot Registry's underlying CPE Applications alone precluded Dot Registry from succeeding at the CPE stage because failure to prove Criterion #1, "Community Establishment," deprives an applicant of four points, automatically disqualifying the applicant from reaching the minimum passing score of 14 out of a possible 16 points. Therefore while I do not agree that any violation of ICANN's Articles of Incorporation ("Articles") or ICANN's Bylaws ("Bylaws") occurred in this case, even if it had, this Panel should have concluded that those violations amounted to nothing more than

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[1] AGB § 4.2.3 ("'Community' - Usage of the expression 'community' has evolved considerably from its Latin origin – *'communitas'* meaning 'fellowship' – while still implying more of cohesion than a mere commonality of interest. Notably, as 'community' is used throughout the application, there should be: (a) an awareness and recognition of a community among its members; (b) some understanding of the community's existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.").

[2] ICANN's Response to Claimant Dot Registry LLC's Additional Submission dated 10 Aug. 2016, ¶ 6.

harmless error.[3]

5. Moreover, the BGC in entertaining a Reconsideration Request is entitled to take its views of the underlying CPE into account in deciding whether or not to exercise its discretion under the Bylaws Article IV.3.d to "conduct whatever factual investigation is deemed appropriate," Article IV.3.e to "request additional written submissions . . . from other parties," Article IV.8.11 or to "ask the ICANN staff for its views on the matter." As ICANN stated in the hearing of this case:

> *The fact that you may have your own personal views as to whether the EIU got it right or got it wrong may or may not inform you, your thinking in terms of whether the Board Governance Committee, in assessing the EIU's reports from a procedural standpoint, did so correctly, in essence.*[4]

Hence the BGC's approach to a Reconsideration Request is in no way necessarily divorced from such views as it may have regarding the underlying subject of the Request.

6. ***Second***, the Declaration purports to limit its analysis to action or inaction of the ICANN Board, but in fact it also examines the application of ICANN's Articles and Bylaws to ICANN staff and to third-party vendor, the Economic Intelligence Unit ("EIU"). ICANN has conceded that its staff members are subject to its Articles and Bylaws,[5] but ICANN clarified that staff conduct is not reviewable in an IRP,[6] and ICANN has explained that the EIU is neither bound by the Articles or Bylaws, nor may EIU conduct be reviewed in an IRP.[7] The Declaration suggests that it "is *not* assessing whether ICANN staff or the EIU failed themselves to comply with obligations under the Articles, the Bylaws, or the AGB."[8] The Declaration, however, repeatedly concludes that ICANN staff and the EIU are bound by the Articles and Bylaws.[9] Despite the Declaration's statement to the contrary,[10] I cannot

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[3] I have no quarrel with the Declaration insofar as it recognizes that this Panel should not "substitute our judgment for the judgment of the [CPE Panels] as to whether Dot Registry is entitled to Community priority." Declaration ¶ 153. However, I disagree with the Declaration's statement that "the Dissent's focus on whether Dot Registry should have succeeded in its action is entirely misplaced." Declaration ¶ 70. ICANN stated that it expects the IRP Panel might consider the merits of Dot Registry's underlying CPE Applications when resolving this dispute, *See* Hearing Transcript dated 29 Mar. 2016, at 254:14–20, and Dot Registry expressly asked the Panel to rule on its CPE Applications. *See* Claimant's Post-Hearing Brief dated 8 Apr. 2016, ¶ 21 ("As Dot Registry considers it is the Panel's role to independently resolve this dispute, it affirmatively requests that the Panel not recommend a new EIU evaluation. Instead, Dot Registry requests that the Panel conclusively decide—based on the evidence presented in the final version of the Flynn expert report, including the annexes detailing extensive independent research—that Dot Registry's CPE applications are entitled to community priority status and recommend that the Board grant the applications that status.").

[4] Hearing Transcript dated 29 Mar. 2016, at 254:14–20.

[5] *See* Hearing Transcript dated 29 Mar. 2016, at 196–97, 199–200, 209.

[6] *See* Hearing Transcript dated 29 Mar. 2016, at 187–88, 200.

[7] *See* ICANN's Post-Hearing Submission dated 8 Apr. 2016, ¶¶ 5–8; ICANN's Response to Claimant Dot Registry's Additional Submission dated 10 Aug. 2015, ¶ 9.

[8] Declaration ¶ 152. (Emphasis added.)

[9] *See* Declaration, Heading IV.C(1) and paragraphs 84–89, 100–01, 106, 110, 122, 124.

[10] *See* Declaration ¶ 152 ("There has been no implicit foundation or hint one way or another regarding the substance of the decisions of ICANN staff or the EIU in the Panel majority's approach.").

help but think that the implicit foundation for the Declaration's entire analysis is that ICANN staff and the EIU committed violations of the Articles and Bylaws which, in turn, should have triggered a more vigorous review process by the ICANN Board in response to Dot Registry's Reconsideration Request.

7. In my view, my co-Panelists have disregarded the express scope of their review as circumscribed by Article IV.3.4 of ICANN's Bylaws, which focuses solely on the ICANN Board and not on ICANN staff or the EIU:

> *Requests for such independent review shall be referred to an Independent Review Process Panel ("IRP Panel"), which shall be charged with comparing contested actions of the Board to the Articles of Incorporation and Bylaws, and with declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws. The IRP Panel must apply a defined standard of review to the IRP request, focusing on:*
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> a. *did the Board act without conflict of interest in taking its decision?*
> b. *did the Board exercise due diligence and care in having a reasonable amount of facts in front of them?; and*
> c. *did the Board members exercise independent judgment in taking the decision, believed to be in the best interests of the company?*

(Emphasis added.)

8. ***Third***, in concluding that "the actions and inactions of the Board were inconsistent with ICANN's Articles of Incorporation and Bylaws,"[11] the Declaration has effectively rewritten ICANN's governing documents and unreasonably elevated the organization's obligations to act transparently and to exercise due diligence and care above any other competing principle or policy. Tensions exist among ICANN's "Core Values." Article I.2 of ICANN's Bylaws states: "Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values."

9. The Declaration recognizes that the "transparency commitments included in the Core Values found in Bylaws, Art. I, § 2 are part of a balancing process," but it goes on to state, in the context of discussing communications over which ICANN claimed legal privilege, that "the obligations in the Bylaws to make [] staff work public are compulsory, not optional, and do not provide for any balancing process."[12] This analysis is misguided. To begin with, Bylaws Article I.2 ("Core Values") concludes thus:

> *These core values are deliberately expressed in very general terms, so that*

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[11] Declaration ¶ 151.

[12] *See* Declaration ¶¶ 149–50.

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they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, **situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible.** *Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values.* (Emphasis added.)

Moreover, the cited provisions are in no way "compulsory." Article IV.2.11 states that "the [BCG] *may* ask the ICANN staff for its views on the matter, which comments shall be made available on the Website [of ICANN]," and Article IV.2.14 provides that "The [BGC] shall act on a Reconsideration Request on the basis of the public written record, including information submitted by . . . the ICANN staff . . . ." (Emphasis added.) Thus if the BGC chooses not to "ask the ICANN staff for its views on the matter," no such views become part of the "public written record." The BGC is not mandated to inquire of the ICANN staff, and there is no indication in the record of the proceedings before the BGC, or in the present proceeding, that the BGC exercised its discretion in that regard. All four of the items listed on ICANN's privilege log addressed to the BGC that the Declaration cites were originated by attorneys. Furthermore, the Declaration itself in paragraph 150 records that "it is beyond doubt that the BGC obtained and relied upon information and views *submitted* by ICANN staff," not solicited by the BGC. (Emphasis added.)

10. The Declaration otherwise disregards any "balance among competing values" and focuses myopically on transparency and due diligence while ignoring the fact that ICANN may have been promoting competing values when its Board denied Dot Registry's Reconsideration Requests. For example:

- ICANN was "[p]reserving and enhancing [its] operational stability [and] reliability" by denying meritless Reconsideration Requests. **(Core Value 1)**

- ICANN was "delegating coordination functions" to relevant third-party contractors (the EIU) and also to ICANN staff in assisting with the Determination on the Reconsideration Requests. **(Core Value 3)**

- ICANN was "[i]ntroducing and promoting competition in the registration of domain names" because there are collectively 21 other competing applications for the three gTLDs in question. **(Core Value 6)**

- ICANN was "[a]cting with a speed that is responsive to the needs of the Internet" because it dealt with meritless Reconsideration Requests in an expedient manner. **(Core Value 9)**

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11. **_Fourth_**, Dot Registry has gone to great lengths to frame this IRP as an "all or nothing" endeavor, repeatedly reminding the Panel that no appeal shall follow the IRP.[13] Under the guise of protecting its rights, Dot Registry has attempted to expand the scope of the IRP, and, in my view, has abused the process at each step of the way. For example:

- Dot Registry submitted four fact witness statements[14] and a 96-page expert report to reargue the merits of its CPE Applications,[15] none of which were submitted with Dot Registry's Reconsideration Requests to the BGC, even though Article IV.2.7 of ICANN's Bylaws permitted Dot Registry to "submit [with its Reconsideration Requests already] all documentary evidence necessary to demonstrate why the action or inaction should be reconsidered, without limitation."

- Dot Registry insisted that it be allowed to file a 75-page written submission despite the requirement set forth in Article 5 of ICANN's Supplementary Procedures that "initial written submissions of the parties [in an IRP] shall not exceed 25 pages each in argument, double-spaced and in 12-point font."[16]

- Dot Registry filed a 70-page written submission in response to limited procedural questions posed by the Panel, using the opportunity to reargue at great length the merits of the proceeding despite the Panel's warning that "submissions be focused, succinct, and not repeat matters already addressed."[17]

- Dot Registry requested that the Panel hold an in-person, five-day hearing even though Article IV.3.12 of ICANN's Bylaws directs IRP Panels to "conduct [their] proceedings by email and otherwise via the Internet to the maximum extent feasible" and Article 4 of ICANN's Supplementary Procedures refers to in-person hearings as "extraordinary."[18]

- Dot Registry introduced a fact witness to testify at the hearing[19] in plain violation of Article IV.3.12 of ICANN's Bylaws ("the hearing shall be limited to argument only"), paragraph 2 of the Panel's Procedural Order No. 11 ("There will be no live percipient or expert witness testimony of any kind permitted at the hearing. Nor may a party attempt to produce new or additional evidence."), and paragraph 2 of the Panel's Procedural Order No. 12 (same).

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[13] _See, e.g._, Dot Registry's Additional Submission dated 13 July 2015, ¶ 4.

[14] _See_ Witness Statement of Elaine F. Marshall dated 17 Apr. 2015; Witness Statement of Jeffrey W. Bullock dated 24 Apr. 2015; Witness Statement of Shaul Jolles dated 13 July 2015; and Witness Statement of Tess Pattison-Wade dated 13 July 2015.

[15] _See_ Expert Report of Michael A. Flynn dated 13 July 2015.

[16] _See_ Letter from Dot Registry to the Panel dated 17 Feb. 2015, at 4.

[17] _See_ Submission of Dot Registry, LLC on the Law Applicable to ICANN and the Structure of the IRP Proceedings dated 12 Oct. 2015 (see especially paragraphs 29–54); Procedural Order No. 6 dated 26 Aug. 2015, ¶ 2.

[18] _See_ Letter from Dot Registry to the Panel dated 17 Feb. 2015, at 6.

[19] _See_ Hearing Transcript dated 29 Mar. 2016, at 37–42.

12. The Panel has been extremely generous in accommodating Dot Registry's procedural requests, most of which, in my view, fall outside the purview of an IRP. The Declaration loses sight of this context, and ironically the core principle underlying the Declaration's analysis is that Dot Registry has been *deprived of due process and procedural safeguards*. I vigorously disagree. Dot Registry has been afforded every fair opportunity to "skip to the front of the line" of competing applicants and obtain the special privilege of operating three community-based gTLDs. Its claims should be denied. The denial would not take Dot Registry out of contention for the gTLDs, but, as the Declaration correctly acknowledges, would merely place Dot Registry "in a contention set for each of the proposed gTLDs with [all of the other 21 competing] applicants who had applied for one or more of the proposed gTLDs."[20] In this respect, I find the Declaration disturbing insofar as it encourages future disappointed applicants to abuse the IRP system.

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13. Turning to the merits of the dispute, the Declaration determines that ICANN failed to apply the proper standards in ruling on Dot Registry's Reconsideration Requests, and it concludes that the actions and inactions of the ICANN Board violated ICANN's Articles and Bylaws in four respects. I would note that Dot Registry did not specifically ask this Panel to assess whether or not the BGC applied the proper standard of review when evaluating Dot Registry's Reconsideration Requests.[21] Therefore, I believe that the Declaration should not have addressed the BGC's standard of review. As to the four violations, I have grouped them by subject matter ("Discrimination," "Research," "Independent Judgment," and "Privilege") and address each in turn.

Discrimination

14. The Declaration finds that the ICANN Board breached its obligation of due diligence and care, as set forth in Article IV.3.4(b) of the Bylaws, in not having a reasonable amount of facts in front of it concerning whether the EIU or ICANN staff treated Dot Registry's CPE Applications in a discriminatory manner. That is, the ICANN Board should have investigated further into whether the CPE Panels applied an inconsistent scoring approach between Dot Registry's applications and those submitted by other applicants.[22] A critical mistake of the Declaration is its view that Dot Registry, when filing its Reconsideration Requests, actually "complained that the standards applied by the ICANN staff and the EIU to its applications were different from those that the ICANN staff and EIU had applied to other successful applicants."[23] A review of Dot Registry's three Reconsideration Requests

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[20] Declaration ¶ 20.

[21] *See* Dot Registry's Request for Independent Review Process dated 22 Sept. 2014, ¶ 65; Dot Registry's Additional Written Submission dated 13 July 2015, ¶ 42; Claimant's Post-Hearing Submission dated 8 Apr. 2016, ¶¶ 20–21.

[22] *See* Declaration ¶¶ 98–100, 103–04, 122.

[23] Declaration ¶¶ 47–48, 124.

filed with the BGC reveals otherwise. In response to issue number 8 on each of the three "Reconsideration Request Forms," entitled "Detail of Board or Staff Action — Required Information," Dot Registry listed the alleged bases for reconsideration:

> *The inconsistencies with established policies and procedures include: (1) the Panel's failure to properly validate all letters of support and opposition; (2) the Panel's repeated reliance on "research" without disclosure of the source or substance of such research; (3) the Panel's "double counting"; (4) the Panel's apparent evaluation of the [.INC/.LLC/.LLP] Community Application in connection with several other applications submitted by Dot Registry; and (5) the Panel's failure to properly apply the CPE criteria in the AGB in making the Panel Determination.[24]*

15. As can be discerned from Dot Registry's own submissions, it raised NO allegations concerning discrimination. Paragraph 22 of the Declaration paraphrases the bases for Dot Registry's Reconsideration Requests — again, notably NOT including any allegations concerning discrimination — but then the Declaration inexplicably states in paragraph 47 that Dot Registry had alleged "unjustified discrimination (disparate treatment)."

16. My colleagues are mistaken. Dot Registry never asked the BGC for relief on any grounds relating to discrimination. As if Dot Registry's formal request for relief in its Reconsideration Requests, quoted above, were not clear enough, the remainder of the documents confirms that nowhere did Dot Registry mention or even allude to discrimination. Its Reconsideration Requests do not even use the words "discrimination," "discriminate," "discriminatory," "disparate," or "unequal." To the extent that my colleagues take the position that Dot Registry's discrimination argument was somehow "embedded" within the Reconsideration Requests, I respectfully disagree. At most, Dot Registry referred in passing to an appeals mechanism used in another application (.edu),[25] and it noted, again in passing, that the BGC had ruled a certain way with regard to .MED,[26] but Dot Registry never articulated any proper argument about discrimination. It is undisputed that Dot Registry has alleged discrimination in this IRP[27] — but of course it only raised those arguments after the BGC issued its Determination on Dot Registry's Reconsideration Requests. By holding the BGC accountable for failing to act in response to a complaint that Dot Registry never even advanced below, the Declaration commits an obvious error.

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[24] *See* Reconsideration Request for Application 14-30 at 4; Reconsideration Request for Application 14-32 at 3; Reconsideration Request for Application 14-33 at 3.

[25] *See* Reconsideration Request for Application 14-30 at 16 & n.39; Reconsideration Request for Application 14-32 at 14 & n.39; Reconsideration Request for Application 14-33 at 14 & n.35.

[26] *See* Reconsideration Request for Application 14-30 at 6–7; Reconsideration Request for Application 14-32 at 4–5; Reconsideration Request for Application 14-33 at 4–5.

[27] *See* Dot Registry's Additional Written Submission dated 17 July 2015, at 15–17; Dot Registry's Submission dated 12 Oct. 2015, at 27–30.

Research

17. The Declaration finds that the ICANN Board also breached the same obligation of due diligence and care in having a reasonable amount of facts in front of it concerning transparency. More specifically, it concludes that the BGC did not take sufficient steps to see if ICANN staff and the EIU acted transparently when undertaking "research" that went into the CPE Reports.[28] The only references to "research" in the CPE Reports are the same two sentences that are repeated three times verbatim in each of the CPE Reports:

> *Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an [INC, LLC, LLP]. Based on the Panel's research, there is no evidence of [INCs, LLCs, LLPs] from different sectors acting as a community as defined by the Applicant Guidebook.*[29] (Emphasis added.)

18. The Declaration traces the origins of this language back to correspondence between ICANN staff and the EIU in which the former suggested that the latter refer to "research" in a draft of what would eventually become the final CPE Reports in order to further "substantiate" the conclusion that INCs/LLCs/LLPs do not constitute "communities."[30] The Declaration observes that Dot Registry had asserted in its Reconsideration Requests that the CPE Reports "repeatedly relie[d]" upon research as a "key factor" without "cit[ing] any sources or giv[ing] any information about [] the substance or the methods or scope of the 'research.'"[31] My colleagues are troubled by what they view as ICANN's Board making "short shrift" of Dot Registry's position concerning the "research."[32] The BGC disposed of Dot Registry's argument as follows:

> *The Requestor argues that the Panels improperly conducted and relied upon independent research while failing to "cit[e] any sources or give[] any information about [] the substance or the methods or scope of the 'research.'" As the Requestor acknowledges, Section 4.2.3 of the Guidebook expressly authorizes CPE Panels to "perform independent research, if deemed necessary to reach informed scoring decisions.["] The Requestor cites to no established policy or procedure (because there is none) requiring a CPE Panel to disclose details regarding the sources, scope, or methods of its independent research. As such, the Requestor's argument does not support reconsideration.*[33]

19. The Declaration views this analysis by the BGC as insufficient. It concludes that the

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[28] Declaration ¶¶ 94–99, 106, 111, 115–22.

[29] Community Priority Evaluation Report for "INC" dated 11 June 2014, at 2, 3, 4; Community Priority Evaluation Report for "LLC" dated 11 June 2014, at 2, 3, 4; Community Priority Evaluation Report for "LLP" dated 11 June 2014, at 2, 3, 4.

[30] Declaration ¶¶ 96–99.

[31] Declaration ¶ 94 (quoting Dot Registry's Reconsideration Requests).

[32] Declaration ¶ 95.

[33] Determination of the Board Governance Committee Reconsideration Request 14-30, 14-32, 14-33 dated 24 July 2014, at 11 (internal citations omitted).

"failure by the BGC to undertake an examination of whether ICANN staff or the EIU in fact complied with those [transparency] obligations is itself a failure by the Board to comply with its [transparency] obligations under the Articles and Bylaws."[34]

20. The Declaration suffers from several fatal flaws. To begin with, it consists of a thinly veiled rebuke of actions taken by the EIU and ICANN staff. Although the Declaration does not explicitly so state, it hints at a strong disapproval of the cooperation between the EIU and ICANN staff in drafting the CPE Reports, and it all but says that the EIU and ICANN staff violated ICANN's transparency policies by citing "research" in the CPE Reports but failing to detail the nature of that "research." As noted above, however, this Panel's jurisdiction is expressly limited to reviewing the action or inaction of the ICANN Board and no other individual or entity. ICANN itself has recognized that "the only way in which the conduct of ICANN staff or third parties is reviewable [by an IRP Panel] is to the extent that the Board allegedly breached ICANN's Articles or Bylaws in acting (or failing to act) with respect to that conduct."[35] In my opinion, my co-Panelists' conclusion that ICANN's Board breached its Articles and Bylaws is driven by their firm belief that ICANN staff and the EIU should have disclosed their research. This reasoning places the "cart before the horse" and fails on that basis alone.

21. Nor has the Declaration given proper consideration to the BGC's analysis (quoted in paragraph 18 above) or to ICANN's position as articulated in one of its written submissions to this Panel:

> *[T]he CPE Panels were not required to perform any particular research, much less the precise research preferred by an applicant. Rather, the Guidebook leaves the issue of what research, if any, to perform to the discretion of the CPE panel: "The panel may also perform independent research, <u>if deemed necessary</u> to reach informed scoring decisions."*
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> *[T]he research performed by the EIU is not transmitted to ICANN, and would not have been produced in this IRP because it is not in ICANN's custody, possession, or control. The BGC would not need this research in order to determine if the EIU had complied with the relevant policies and procedures (the only issue for the BGC to assess with respect to Dot Registry's Reconsideration Requests).*[36]

Moreover, as noted in paragraph 5 above, it was reasonable for the BGC not to exercise its discretion to inquire into the details of the EIU's research, given the rather obvious absence of merit in Dot Registry's CPE submissions for .INC, .LLC, and .LLP.

22. Had my co-Panelists fully considered the BGC's Determination on the Reconsideration Requests and ICANN's analysis, they would have found that both withstand scrutiny. Section 4.2.3 of the AGB establishes a CPE Panel's right — but not obligation — to perform

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[34] Declaration ¶ 122.

[35] ICANN's Response to Claimant Dot Registry LLC's Additional Submission dated 10 Aug. 2015, ¶ 10.

[36] *See* ICANN's Response to Claimant Dot Registry LLC's Additional Submission dated 10 Aug. 2015, ¶ 44 (citing AGB § 4.2.3) (emphasis in original).

research, which it "deem[s] necessary to reach [an] informed scoring decision." The Declaration effectively transforms that discretionary right into an affirmative obligation to produce any research performed by any ICANN personnel or even by third parties such as the EIU. The Declaration cites for support general provisions concerning transparency that, it says, "reverberate[] through [ICANN's] Articles and Bylaws,"[37] but it notably fails to cite any clause specifically requiring the disclosure of "research." There is no such clause. ICANN, its staff, and its third-party vendors should not be penalized for having exercised the right to perform research when they were never required to do so in the first place. I disagree with the Declaration which forces the BGC to "police" any voluntary research performed by ICANN staff or the EIU and spell out the details of that research for all unsuccessful CPE applicants during the reconsideration process.

23. In any event, any reader of the underlying CPE Reports rejecting Dot Registry's applications would be hard pressed to find that the reasoning and conclusions expressed in those reports would no longer hold up if the two sentences referring to "research" had never appeared in those reports. My colleagues are fooling themselves if they think that extracting those ancillary references to "research" from the CPE Reports would have meant that the CPE Panels would have awarded Dot Registry with four points for "Community Establishment." Any error relating to the disclosure of that research was harmless at best.

Independent Judgment

24. The Declaration cites Article IV.3.4(c) of ICANN's Bylaws, which instructs IRP Panels to focus on, *inter alia*, whether "the Board members exercise[d] independent judgment in taking the decision, believed to be in the best interests of the company."[38] It finds that "the record makes it exceedingly difficult to conclude that the BGC exercised independent judgment."[39] Besides the text of the BGC's Determination on the Reconsideration Requests and the minutes of the BGC meeting held concerning that determination, which my co-Panelists dismiss as "*pro forma*" and "routine boilerplate," the Declaration finds nothing to support the conclusion that the BGC did anything more than "rubber stamp" work supplied by ICANN staff.[40] The Declaration chastises ICANN for submitting "no witness statements or testimony" or documents to prove that its Board acted independently.[41] In response to an assertion from ICANN's counsel that the Board did not rely on staff recommendations, the Declaration retorts, "[That] is simply not credible."[42] Ultimately, it holds ICANN in violation of Article IV.3.4(c) on the basis that ICANN presented "no real evidence" that the BGC exercised independent judgment.[43]

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[37] *See* Declaration ¶¶ 117–21.

[38] Declaration ¶ 126.

[39] Declaration ¶¶ 127, 147.

[40] Declaration ¶¶ 126, 140, 147.

[41] Declaration ¶¶ 127, 147.

[42] Declaration ¶ 141.

[43] Declaration ¶¶ 126, 147, 150.

25. The Declaration[44] relies heavily on Articles IV.2.11 and IV.2.14 of ICANN's Bylaws which state:

> *The Board Governance Committee may ask the ICANN staff for its views on the matter, which comments shall be made publicly available on the Website.*
>
> . . .
>
> *The Board Governance Committee shall act on a Reconsideration Request on the basis of the public written record, including information submitted by the party seeking reconsideration or review, by the ICANN staff, and by any third party.*

26. The Declaration interprets these Articles by finding that the "obligations in the Bylaws to make . . . staff work public are compulsory, not optional."[45]

27. Once again, the Declaration elevates the mantra of transparency above all else. It is worth recalling, as is set forth in paragraph 9 above, that Article IV.2.11 vests in the BGC the right — but not the obligation — to seek staff views. ICANN has explained that there are no records of "staff . . . views" or "information submitted . . . by the ICANN staff," as contemplated by Articles IV.2.11 and IV.2.14. It should be noted that the privilege log submitted by ICANN does show that there were 14 e-mail exchanges between ICANN officials and their counsel relating to Dot Registry, which controverts the "rubber-stamping" conclusion of the Declaration.[46] ICANN's Senior Counsel has even gone so far as to submit a signed, notarized attestation (albeit after being compelled to do so by the Panel)[47] that ICANN had produced all non-privileged documents in its possession responding to the Panel's inquiries concerning ICANN's internal communications.[48] The Panel, nonetheless, deems ICANN's position "simply not credible."[49] Credibility determinations have no place in this IRP, especially in relation to counsel.[50] The Declaration has effectively gutted the meaning of Articles IV.2.11 and IV.2.14 as discretionary tools available to ICANN and converted them into affirmative obligations that ICANN produce enough evidence in an IRP to prove that its Board acted independently.

28. Curiously, the Declaration refers not even once to "burden of proof." It was wise not to do so, notwithstanding that both Dot Registry and ICANN contended that the other Party bore a burden of proof, given that nowhere in the Bylaws relating to the BGC or to this IRP is there

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[44] *See* Declaration ¶¶ 128, 142, 149–50.

[45] Declaration ¶ 149.

[46] *See* Privilege Log (attached to Letter from ICANN to the Panel dated 19 June 2015).

[47] *See* Procedural Order No. 6 dated 12 June 2015, ¶ 4.

[48] *See* Attestation of Elizabeth Le dated 17 June 2015.

[49] Declaration ¶ 151.

[50] Note that the Declaration also repeatedly refers to the "Declaration" submitted by ᴱᴵᵁ ᶜᵒⁿᵗᵃᶜᵗ ᴵⁿᶠᵒʳᵐᵃᵗⁱᵒⁿ ᴿᵉᵈᵃᶜᵗᵉᵈ on behalf of ICANN as evidence showing that ICANN staff worked closely with the EIU. *See* Declaration ¶¶ 14, 15, 36, 43, 90–92. ᴱᴵᵁ ᶜᵒⁿᵗᵃᶜᵗ ᴵⁿᶠᵒʳᵐᵃᵗⁱᵒⁿ ᴿᵉᵈᵃᶜᵗᵉᵈ did not submit a traditional "witness statement." He is the **EIU Contact Information Redacted** of the EIU. He wrote one five-page declaration dated 13 April 2015 that was submitted by ICANN to Dot Registry as part of the document-production process in this dispute.

any provision for a burden of proof. To the contrary, the present IRP is governed by Bylaws Article IV.3.4, which prescribes that this Panel "shall be charged with comparing contested actions of the Board [BGC] to the Articles of Incorporation and Bylaws, and with declaring whether the Board has acted consistently with the provisions of [them]." Nevertheless, it is self-evident that the Declaration not only placed the burden on ICANN to prove that its Board acted independently, but the Declaration's repeated references to the "silence in the evidentiary record"[51] make it clear that the Declaration viewed ICANN's failure to submit evidence as *the single decisive factor* behind its holding. None of the previous IRP panels has placed the burden on ICANN to disprove a claimant's case.[52] Why would they? Guided by the mandate of Bylaws Article IV.3.4, the Panel should simply have taken the record before it, compared it to the requirements of the Articles of Incorporation and the Bylaws, weighed the record and the Parties' arguments, and then, without imposing any burden of proof on either Party, have proceeded to its decision.

29. Applying that approach to this particular dispute should have led the Panel to the two most obvious pieces of evidence on point: the 23-page Determination on the Reconsideration Requests and the minutes of the Board meeting during which its members voted on that Determination. In my view, the 23-page Determination on the Reconsideration Requests is thorough and sufficient in and of itself to show that the ICANN Board fully and independently considered Dot Registry's claims. Each argument advanced by Dot Registry was carefully recorded, analyzed, dissected, and rejected. What more could be necessary? Another IRP Panel, deciding the dispute in *Vistaprint Limited v. ICANN*, apparently agreed. It stated:

> *In contrast to Vistaprint's claim that the BGC failed to perform its task properly and "turned a blind eye to the appointed Panel's lack of independence and impartiality", the IRP Panel finds that the BGC provided in its 19-page decision a detailed analysis of (i) the allegations concerning whether the ICDR violated its processes or procedures governing the SCO proceedings and the appointment of, and challenges to, the experts, and (ii) the questions regarding whether the Third Expert properly applied the burden of proof and the substantive standard for evaluating a String Confusion Objection. On these points, the IRP Panel finds that the BGC's analysis shows serious consideration of the issues raised by Vistaprint and, to an important degree, reflects the IRP Panel's own analysis.*[53]

30. The minutes of the ICANN Board meeting held on 24 July 2014 also show that "[a]fter discussion and consideration of the Request, the BGC concluded that the Requester has failed to demonstrate that the CPE Panels acted in contravention of established policy or procedure in rendering their Reports."[54] The Declaration summarily dismisses those

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[51] Declaration ¶ 128.

[52] *See* Hearing Transcript dated 29 Mar. 2016, at 91:8–18, 174:14–19.

[53] *Vistaprint Limited v. ICANN*, ICDR Case No. 01-14-0000-6505, Final Declaration of the Independent Review Panel, ¶ 159.

[54] *See* https://www.icann.org/resources/board-material/minutes-bgc-2014-07-24-en.

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minutes as "boilerplate" and *"pro forma."*[55] Here, too, the Declaration is mistaken. It is to be appreciated that the minutes only go into minimal detail, but the Declaration fails to accord any meaning or weight whatsoever to the words "discussion and consideration." The words must mean what they say: ICANN's Board "discussed" and "considered" Dot Registry's Reconsideration Requests and decided to deny them for all of the reasons set forth in the Determination on the Reconsideration Requests.

31. To accept the analysis set forth in the Declaration, one must start from the premise that ICANN's Board Members had to "wrestle" with difficult issues raised by Dot Registry's Reconsideration Requests and therefore a long paper trail must exist reflecting inquiries, discussions, drafts, and so forth. A sober review of the record, however, suggests that the Board never needed to engage in any prolonged deliberations, because it was never a "close call." Dot Registry's CPE applications only received 5 out of 16 points (far short of the 14 points necessary to prevail), and its Reconsideration Requests largely reargued the merits of its underlying CPE Applications. The ICANN Board assessed and denied Dot Registry's weak applications with efficiency. It should have no obligation to detail its work beyond that which it has done.

32. Instead of doing as it should have done, however, and in addition to converting discretionary powers of the BGC under the Bylaws into unperformed mandatory investigations, the Panel engaged in repeated speculation in paragraph after paragraph: it "infer[red]," para. 133; "presume[d]," para. 133; stated that "it would appear," para. 134; "consider[ed]," para. 137; found that since "[n]o ICANN staff or Board members presented a witness statement in this proceeding," and there is "no documentary evidence of such a hypothetical discussion," i.e., "oral conversations between staff and members of the BGC, and among members of the BGC, . . . in connection with the July 24 session BGC meeting where the BGC determined to deny the reconsideration requests," . . . "no evidence at all exists ['apart from *pro forma* corporate minutes of the BGC meeting'] to support a conclusion that the BGC did more than just accept without critical review the recommendations and draft decisions of ICANN staff," para. 140; found that "[t]he BGC . . . simply could not have reached its decision to deny the Reconsideration Requests without relying on work of ICANN staff," para. 145; and concluded that "ICANN has not submitted any *evidence* to allow the Panel to objectively and independently determine whether references in the Minutes to discussion by the BGC of the Requests are anything more than corporate counsel's routine boilerplate drafting for the Minutes . . . regardless of whether or not the discussion was more than rubber-stamping of management decisions," para. 147. (Emphasis in original.)

Privilege

33. Related to the last issue and relying once more on its mistaken interpretation of Articles IV.2.11 and IV.2.14 of ICANN's Bylaws when viewed in combination as mandating public posting of unsolicited comments from ICANN staff, the Declaration finds that the ICANN

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[55] Declaration ¶ 147.

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Board breached its obligation to make ICANN staff work publicly available by claiming legal privilege over communications involving ICANN's Office of General Counsel.[56] It is undisputed that ICANN submitted a three-page privilege log, listing 14 documents, and ICANN's counsel did not hide the fact that ICANN had withheld from its productions those communications concerning Dot Registry that involved ICANN's Office of General Counsel.[57]

34. The question for the Panel is whether ICANN's transparency obligations, particularly those found in the provisions quoted at paragraph 25 above, even as wrongly interpreted by the majority Declaration, prohibited ICANN from claiming legal privilege over communications otherwise reflecting ICANN staff views on Dot Registry's Reconsideration Requests. ICANN's Bylaws could have included limiting language recognizing that ICANN's obligations under Articles IV.2.11 and IV.2.14 to make staff work available to the public would be subject to legal privilege, but the Bylaws do not do so. On the other hand, neither do the Bylaws expressly state that ICANN's transparency obligations trump ICANN's right to communicate confidentially with its counsel, as any other California corporation is entitled to do.[58] Article III of ICANN's Bylaws, entitled "Transparency," does not specifically answer the question before the Panel. My colleagues rely heavily on the first provision of the Article, which states that "ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner." My colleagues do not cite the only provision found within Article III that does address "legal matters," albeit in the context of Board resolutions and meeting minutes, which suggests that ICANN's general transparency obligations do NOT trump its right to withhold legally privileged communications.[59] As such, I would not have found ICANN in violation of its Bylaws but I would have favored a Declaration adopting an approach similar to that taken recently by another IRP Panel, *Despegar v. ICANN*, in which the Panel rejected all of the claims brought by the claimants but suggested that ICANN's Board address an issue outside of the IRP context.[60] This Panel just as easily could have urged ICANN to clarify how legal privilege fits within its transparency obligations without granting Dot Registry's applications in this IRP.

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[56] Declaration ¶¶ 133, 135–37, 143, 148–50.

[57] Declaration ¶ 141. The Declaration suggests that ICANN has raised both attorney-client privilege and work-product privilege, *see* Declaration ¶¶ 128 and 149, although the last column in ICANN's privilege log lists "attorney-client privilege" as the only applicable privilege to each document listed.

[58] *See* Hearing Transcript dated 29 Mar. 2016, at 211:17–24.

[59] *See* ICANN Bylaws, Article III.5.2 ("[A]ny resolutions passed by the Board of Directors at [a] meeting shall be made publicly available on the Website; provided, however, that any actions relating to . . . legal matters (to the extent the Board determines it is necessary or appropriate to protect the interests of ICANN) . . . are not appropriate for public distribution, [and] shall not be included in the preliminary report made publicly available."); ICANN Bylaws, Article III.5.4 (same regarding meeting minutes).

[60] *Despegar SRL Online v. ICANN*, ICDR Case No. 01-15-0002-8061, Final Declaration ¶¶ 144, 157–58 ("[A] number of the more general issues raised by the Claimants and, indeed, some of the statements made by ICANN at the hearing, give the Panel cause for concern, which it wishes to record here and to which it trusts the ICANN Board will give due consideration.").

Conclusion

35. In my view Dot Registry, apparently with the collaboration of the National Association of Secretaries of State ("NASS"), has quite boldly gamed the system, seeking CPEs which all of the other 21 applicants for the three gTLDs in issue thought were obviously unattainable, since they ventured no such applications, in hopes of outflanking, hence defeating, all of them by bulldozing ICANN in the present proceeding. As noted above, the majority Declaration entirely overlooks the fact that the BGC was empowered, but not required, by the rules governing its proceeding to make certain inquiries, and takes no account of how the exercise of the BGC's discretion in this regard can legitimately be affected by the patent lack of any kind of "community" among all INCs, LLCs, or LLPs. At the hearing I questioned whether the willingness of the NASS to support Dot Registry in its gamble might not be due to its members' independent interest in the possibility that their enforcement function would be facilitated if Dot Registry's applications were to be successful:

> *JUDGE BROWER: ... Suppose I'm the secretary of state of Delaware or the head of the NASS, and your client comes to me with his proposition of the applications that have been put before us. And the secretary of state says, oh, wow, this is a great enforcement possibility for us. If you get these domain names approved by ICANN and a provision of being able to use it is that one is registered with the secretary of state of one of the states, that's for me, wow, what a great sort of enforcement surveillance mechanism, because I don't have to pay anything for it. It's better than anything we've been able to do, because I will know anyone using the LLC or LLP or INC as a domain name actually has legitimate -- should have a legitimate legal status. So that's my motive, okay? I'll do anything I can to get that done, and he says, sure, I'll sign anything. I'll say they got it all wrong. Does that make -- would that make any difference?*

> *MR. ALI: I mean I wouldn't want to speak for the Delaware secretary of state or any other secretary of state. I think that's precisely the sort of question that you could have put to them if they were in front of you. I mean what their motivations were or what their motivations are, I think it would be highly inappropriate for me to try and get. I would not want to offer you any sort of speculation, but I would say that the obverse of not having that I would say surveillance power, they have that anyway if you want to call it surveillance, because the registration, "surveillance" sounds somewhat sinister, particularly in today's environment of being someone who has some background. So I would simply say that the -- by not having this particular institution as we proposed by Dot Registry, the prospects of consumer fraud and abuse are absolutely massive, because if somebody were to gain the rights to these TLDs, or maybe it's not just one company or one applicant, but three different applicants, not a single one of which is based in the United States, just think of the prospect of a company registered who knows where, representing to the world that it's an INC. That would be highly problematic. That would be -- that would create the potential for significant consumer fraud. I mean consumer fraud on the internet is multibillion dollar*

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liability. This stands, if it's not done properly, to create absolute havoc. And so the secretary of state, in his or her execution of his or her mission, might well be motivated by wanting to prevent further consumer fraud, but that's an entirely legitimate purpose. That's really my own speculation.

JUDGE BROWER: No, I don't argue with the legitimate purpose. The question is whether it is a basis of community.[61]

I believe that this exchange speaks for itself.

36. The majority Declaration unilaterally reforms the entire BGC procedure for addressing Reconsideration Requests and also what heretofore has been expected of an IRP Panel. The majority would have done better to stick to the rules itself, and, as the IRP Panel did in *Despegar v. ICANN*, suggest that the ICANN Board "give due consideration" to general issues of concern raised by the Claimant.[62] The present Declaration, in finding the BGC guilty of violating the ICANN Articles and By-Laws, has itself violated them.

37. The majority Declaration intentionally avoids any recommendations to the Board as to how it should respond to this Declaration. This IRP Panel is, of course, empowered to make recommendations to the Board.[63] Since the Declaration, if it is to be given effect, has simply concluded that the BCG violated transparency, did not have before it all of the facts necessary to make a decision, and failed to act independently — all procedural defects having nothing to do with the merits of Dot Registry's three applications for CPEs — it appears to me that the only remedy that would do justice to Dot Registry, as the majority Declaration sees it, and also to all of the other 21 applicants for the same three gTLDs, hence to ICANN itself, would be for the Board to "consider the IRP Panel declaration at the Board's next meeting," as it is required to do under Article IV.3.21 of the Bylaws, and for the BGC to take whatever "subsequent action on th[e] declaration[]"it deems necessary in light of the findings of the Declaration.[64] In other words, I would recommend that the Board, at most, request the BGC to rehear the original Reconsideration Requests of Dot Registry, making the inquiries and requiring the production of the evidence the majority Declaration has found wanting. Considering the limits of the Declaration, which has not touched on the merits of Dot Registry's three CPE applications, it would, in my view, be wholly inappropriate for the Board to grant Dot Registry's request that its three applications now be approved without further ado.

38. For all of the above-mentioned reasons, I would have rejected each of Dot Registry's claims and named ICANN as the prevailing party. I respectfully dissent.

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[61] Hearing Transcript dated 29 Mar. 2016, at 65:6-67:23.

[62] *Despegar SRL Online v. ICANN*, ICDR Case No. 01-15-0002-8061, Final Declaration ¶¶ 144, 157–58.

[63] ICANN Bylaws, Article IV.3.11(d) ("The IRP Panel shall have the authority to: … recommend that the Board stay any action or decision, or that the Board take any interim action, until such time as the Board reviews and acts upon the opinion of the IRP."); ICANN Bylaws, Article IV.3.21 ("Where feasible, the Board shall consider the IRP Panel declaration at the Board's next meeting. The declarations of the IRP Panel, and the Board's subsequent action on those declarations, are final and have precedential value.").

[64] ICANN Bylaws, Article IV.3.21.

29 July 2016

Charles N. Brower

Charles N. Brower

Annex 30

Dated: November 14, 2013

Ref. No.: AGIT/TLD/13-110

To:

Mr. Wajdi H. Al-Quliti
Organization of Islamic Cooperation
Director of IT Department, CIO, CKO
P.O Box. 178 Jeddah, 21411
Kingdom of Saudi Arabia

Subject: Invitation to join Dot ISLAM and Dot HALAL Policy Advisory Council.

Dear Mr Al-Quliti,

As Chairman of Asia Green IT System Limited (AGIT), I would like to congratulate the Organization of Islamic Cooperation (OIC) on becoming an Observer to ICANN's Governmental Advisory Committee (GAC).

As you know, AGIT is a participant in ICANN's new gTLD program as an applicant for several TLDs, including .Halal and .Islam, of relevance to the world's Muslim communities. Our approach for these TLDs is to serve all Muslim communities and to be inclusive of all of these communities. We understand that no single organisation can speak for all these communities and as such, we have been reaching out to them for many months now in anticipation of the aforementioned TLDs being launched.

Our primary mission with these TLDs is to act in accordance with the interests of the world's many various Muslim communities. The pertinence of this approach has just been confirmed by an expert arbitrator working as part of ICANN's community objection process. Allegations that our applications were not truly representative of the interests of the Muslim communities were overturned, as AGIT prevailed as respondent in the objection hearings for both .Halal and .Islam.

Through all of its TLDs, AGIT humbly aims to be a technical facilitator and coordination vehicle to strengthen the world's Muslim communities' presence online through their own

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Levent, Istanbul, Turkey

dedicated TLDs. This is why, from the outset, our TLD operations plan included multi-stakeholder governance mechanisms designed to allow all Muslim community stakeholders to become active participants in the governance of .Halal and .Islam.
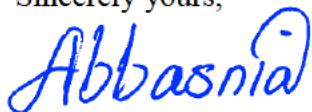
This was clearly stated in our initial applications to ICANN. Although these were made public by ICANN on June 13, 2012, as mentioned in the text of the applications themselves, we at AGIT had been working toward dedicated Muslim domain names for more than 8 years. Quoting from our application for .Halal for example, I would highlight that the ".*HALAL gTLD is designed to accommodate a global community,*" The same application references an accountability mechanism, which is also described in our application for .Islam as "*populated by members of the Islamic community,*" and which AGIT intended from the start to "*be representative of the entire broad spectrum of the Muslim community.*"

At the core of this mechanism is the Policy Advisory Council (PAC). PACs will be deployed for both .Halal and .Islam. They will serve as non-profit governing boards made up of leaders from many of the world's various Muslim communities. The PACs will oversee policy development for the TLDs, to ensure they are coherent and consistent with Muslim interests. As one of the largest political organisations in the Muslim world, I wish to officially invite your organisation to join the Policy Advisory Councils for .Halal and .Islam.

I would be happy to go into further details on the PACs and would welcome your suggestions on how to build the best governance system for .Halal and .Islam. I will be attending next week's ICANN meeting in Buenos Aires and would be delighted to have the opportunity to discuss this with you there. Alternatively, I am available at any time for further discussions on this matter.

I sincerely hope OIC will take up our invitation to become .Halal and .Islam PAC members and, in this way, to contribute to unlocking the Internet's full potential for Muslims worldwide.

Sincerely yours,

Mehdi Abbasnia
Chairman and Managing Director
Asia Green IT System Ltd.

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Annex 31

Organisation of Islamic Cooperation

From Wikipedia, the free encyclopedia

Organisation of Islamic Cooperation (**OIC**; Arabic: ي... منظمة التعاون ا‎; French: *Organisation de la Coopération Islamique*), is an international organization founded in 1969 consisting of 57 member states, with a collective population of over 1.6 billion as of 2008. The organisation states that it is "the collective voice of the Muslim world" and works to "safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony".[3]

The OIC has permanent delegations to the United Nations and the European Union. The official languages of the OIC are Arabic, English, and French.

Organisation of Islamic Cooperation
Organisation de la Coopération Islamique (French)
منظمة التعاون الإ ⬚ . ـي (Arabic)

Flag	Coat of arms

☐ Member states
☐ Observer states
☐ Suspended states

Administrative centre	🟩 Jeddah, Saudi Arabia
Official languages	Arabic · English · French
Type	Religious
Membership	57 member states
Leaders	
• Secretary-General	Youssef bin al-Ottaimeen
Establishment	
• Charter signed	25 September 1969

Contents

Population	
• 2011 estimate	1.6 billion
GDP (PPP)	estimate
• Total	18.6 trillion[1]
• Per capita	$10,825[2]
Website	
www.oic-oci.org (http://www.oic-oci.org/)	

History

Islamic Summit Minar in Lahore, Pakistan.

Al-Aqsa

Since the 19th century, some Muslims had aspired to *ummah* to serve their common political, economic, and social interests. The collapse of the Ottoman Empire and the Caliphate after World War I left a vacuum for a pan-Islamic institution. Losing the Six-Day War in 1967 provided the incentive needed. The al-Aqsa fire is regarded as one of the catalysts for the formation of the Organisation of the Islamic Conference (OIC, now the Organisation of Islamic Cooperation) in 1972.[4] Leaders of Muslim nations met in Rabat to establish the OIC on 25 September 1969.[3]

Goals

According to its charter, the OIC aims to preserve Islamic social and economic values; promote solidarity amongst member states; increase cooperation in social, economic, cultural, scientific, and political areas; uphold international peace and security; and advance education, particularly in the fields of science and technology.[3]

The emblem of the OIC (shown above) contains three main elements that reflect its vision and mission as incorporated in its new Charter. These elements are: the Kaaba, the Globe, and the Crescent.

On 5 August 1990, 45 foreign ministers of the OIC adopted the Cairo Declaration on Human Rights in Islam to serve as a guidance for the member states in the matters of human rights in as much as they are compatible with the Sharia, or Quranic Law.[5]

In June 2008, the OIC conducted a formal revision of its charter. The revised charter set out to promote human rights, fundamental freedoms, and good governance in all member states. The revisions also removed any mention of the Cairo Declaration on Human Rights in Islam. Within the revised charter, the OIC has chosen to support the Universal Declaration of Human Rights and international law.[6]

Refugees

According to the UNHCR, OIC countries hosted 18 million refugees by the end of 2010. Since then OIC members have absorbed refugees from other conflicts, including the uprising in Syria. In May 2012, the OIC addressed these concerns at the "Refugees in the Muslim World" conference in Ashgabat, Turkmenistan.[7]

New name and emblem

On 28 June 2011 during the 38th Council of Foreign Ministers meeting (CFM) in Astana, Kazakhstan the organisation changed its name from **Organisation of the Islamic Conference** (Arabic: منظمة ا لتمر الإسلام; French: *Organisation de la Conférence Islamique*) to its current name.[8] The OIC also changed its logo at this time.

Member states

The Organisation of Islamic Cooperation has 57 members, 56 of which are also member states of the United Nations. Some, especially in West Africa, are – though with large Muslim populations – not necessarily Muslim majority countries. A few countries with significant Muslim populations, such as Russia and Thailand, sit as Observer States, while others, such as India and Ethiopia, are not members.

The collective population of OIC member states is over 1.6 billion as of 2008.

Africa

- Algeria
- Benin
- Burkina Faso
- Cameroon
- Comoros
- Chad
- Djibouti
- Egypt
- Gabon

- Gambia
- Guinea-Bissau
- Guinea
- Ivory Coast
- Libya
- Mali
- Mauritania
- Morocco
- Mozambique
- Niger

- Nigeria
- Senegal
- Sierra Leone
- Somalia
- Sudan
- Togo
- Tunisia
- Uganda

Asia

- Afghanistan
- Bahrain
- Bangladesh
- Brunei
- Indonesia
- Iran
- Iraq
- Jordan
- Kazakhstan
- Kuwait
- Kyrgyzstan
- Lebanon
- Malaysia
- Maldives
- Oman
- Pakistan
- Palestine
- Qatar
- Saudi Arabia
- Syria
- Tajikistan
- Turkmenistan
- United Arab Emirates
- Uzbekistan
- Yemen

Europe

- Albania
- Azerbaijan
- Turkey

South America

- Guyana
- Suriname

A clickable Euler diagram showing the relationships between various multinational organisations within the **Organisation of Islamic Cooperation** (note that Syria is currently suspended from all organizations included in this diagram due to human rights abuses in the ongoing Syrian Civil War).

v · d · e (http://en.wikipedia.org/w/index.php?title=Template:Supranational_Islamic_Bodies&action=edit)

Positions

The Parliamentary Union of the OIC Member States (PUOICM) was established in Iran in 1999, and its head office is situated in Tehran. Only OIC members are entitled to membership in the union.[9]

On 27 June 2007, then-United States President George W. Bush announced that the United States would establish an envoy to the OIC. Bush said of the envoy, "Our special envoy will listen to and learn from representatives from Muslim states, and will share with them America's views and values."[10] As of June 2015, Arsalan Suleman is acting special envoy. He was appointed on 13 February 2015.[11] In an investigation of the accuracy of a series of chain emails, Snopes.com reported that during the October 2003 – April 2004 session of the General Assembly, 17 individual members of the OIC voted against the United States 88% of the time.[12]

The OIC, on 28 March 2008, joined the criticism of the film *Fitna* by Dutch lawmaker Geert Wilders, which features disturbing images of violent acts juxtaposed with verses from the Quran.[13]

In March 2015, the OIC announced its support for the Saudi Arabian-led intervention in Yemen against the Shia Houthis.[14]

Israeli-Palestinian conflict

The OIC supports a two-state solution to the Israeli-Palestinian conflict.

The OIC has called for a boycott of Israeli products in effort to pressure Israel into ending the occupation of the Palestinian territories.[15][16]

There was a meeting in Conakry in 2013. Secretary-General Ekmeleddin Ihsanoglu said that foreign ministers would discuss the possibility of cutting ties with any state that recognised Jerusalem as the capital of Israel or that moves its embassy to its environs.[17]

Cartoons of Muhammad

Cartoons of Muhammad, published in a Danish newspaper in September 2005, were found offensive to a number of Muslims. Third Extraordinary Session of the Islamic Summit Conference in December 2005 condemned publication of the cartoons, resulting in broader coverage of the issue by news media in Muslim countries. Subsequently, violent demonstrations throughout the Islamic world resulted in several deaths.[18]

Human rights

OIC created the Cairo Declaration of Human Rights in Islam.[5] While proponents claim it is not an alternative to the UDHR, but rather complementary to it, Article 24 states that "all the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah" and Article 25 follows with "the Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration." Attempts to have it adopted by the United Nations Human Rights Council have met increasing criticism, because of its contradiction of the UDHR, including from liberal Muslim groups.[19] Critics of the CDHR state bluntly that it is "manipulation and hypocrisy," "designed to dilute, if not altogether eliminate, civil and political rights protected by international law" and attempts to "circumvent these principles [of freedom and equality]."[20][21][22]

Human Rights Watch says that OIC has "fought doggedly" and successfully within the United Nations Human Rights Council to shield states from criticism, except when it comes to criticism of Israel. For example, when independent experts reported violations of human rights in the 2006 Lebanon War, "state after state from the OIC took the floor to denounce the experts for daring to look beyond Israeli violations to discuss Hezbollah's as well." OIC demands that the council "should work cooperatively with abusive governments rather than condemn them." HRW responds that this works with those who are willing to cooperate; others exploit the passivity.[23][24]

The OIC has been criticised for failing to discuss the treatment of ethnic minorities within member countries, such as the oppression of the Kurds in Syria, the Ahwaz in Iran, the Hazaras in Afghanistan, the 'Al-Akhdam' in Yemen, or the Berbers in Algeria.[25]

Along with the revisions of the OIC's charter in 2008, the member states created the Independent Permanent Human Rights Commission (IPHRC). The IPHRC is an advisory body, independent from the OIC, composed of eighteen individuals from a variety of educational and professional backgrounds. The IPHRC has the power to monitor human rights within the member states and facilitates the integration of human rights into all OIC mandates. The IPHRC also aids in the promotion of political, civil, and economic rights in all member states.[26]

LGBT rights

In March 2012, the United Nations Human Rights Council held its first discussion of discrimination based on sexual orientation and gender identity, following the 2011 passage of a resolution supporting LGBT rights proposed by the Republic of South Africa.[27] Pakistan's representative addressed the session on behalf of the OIC, denouncing the discussion and questioning the concept of sexual orientation, which he said was being used to promote "licentious behaviour ... against the fundamental teachings of various religions, including Islam". He stated that the council should not discuss the topic again. Most Arab countries and some African ones later walked out of the session.[28][29][30]

Nonetheless, OIC members Albania, Gabon, Guinea-Bissau, and Sierra Leone have signed a UN Declaration supporting LGBT rights in the General Assembly.[31][32]

In May 2016, 57 countries including Egypt, Iran, Saudi Arabia and the United Arab Emirates from the Organization of Islamic Cooperation requested the removal of LGBT associations from 2016 High Level Meeting on Ending AIDS sparked protests by the United States, Canada, the European Union and LGBT communities.[33][34]

Non-state terrorism

In 1999, OIC adopted the OIC Convention on Combatting International Terrorism.[35] Human Rights Watch has noted that the definition of terrorism in article 1 describes "any act or threat of violence carried out with the aim of, among other things, imperiling people's honour, occupying or seizing public or private property, or threatening the stability, territorial integrity, political unity or sovereignty of a state." HRW views this as vague, ill-defined and including much that is outside the generally accepted understandings of the concept of terrorism. In HRW's view, it labels, or could easily be used to label, as terrorist actions, acts of peaceful expression, association, and assembly.[36]

Legal scholar Ben Saul of University of Sydney argues that the definition is subjective and ambiguous and concludes that there is "serious danger of the abusive use of terrorist prosecutions against political opponents" and others.[37]

Furthermore, HRW is concerned by OIC's apparent unwillingness to recognise as terrorism acts that serve causes endorsed by their member states. Article 2 reads: "Peoples' struggle including armed struggle against foreign occupation, aggression, colonialism, and hegemony, aimed at liberation and self-determination." HRW has suggested to OIC that they embrace "longstanding and universally recognised international human rights standards",[36] a request that has as yet not led to any results.

Contradictions between OIC's and other UN members' understanding of terrorism has stymied efforts at the UN to produce a comprehensive convention on international terrorism.[38]

During a meeting in Malaysia in April 2002, delegates discussed terrorism but failed to reach a definition of it. They rejected, however, any description of the Palestinian fight with Israel as terrorism. Their declaration was explicit: "We reject any attempt to link terrorism to the struggle of the Palestinian people in the exercise of their inalienable right to establish their independent state with Al-Quds Al-Shrif (Jerusalem) as its capital." In fact, at the outset of the meeting, the OIC countries signed a statement praising the Palestinians and their "blessed intifada." The word terrorism was restricted to describe Israel, whom they condemned for "state terrorism" in their war with the Palestinian people.[39]

At the 34th Islamic Conference of Foreign Ministers (ICFM), an OIC section, in May 2007, the foreign ministers termed Islamophobia "the worst form of terrorism".[40]

Dispute with Thailand

Thailand has responded to OIC criticism of human rights abuses in the Muslim majority provinces of Pattani, Yala, and Narathiwat in the south of the country. In a statement issued on 18 October 2005, secretary-general Ihsanoglu vocalised concern over the continuing conflict in the south that "claimed the lives of innocent people and forced the migration of local people out of their places".[41] He also stressed that the Thai government's security approach to the crisis would aggravate the situation and lead to continued violence.

On 18–19 April 2009, the exiled Patani leader Abu Yasir Fikri (see Patani United Liberation Organisation) was invited to the OIC to speak about the conflict and present a solution to end the violence between the Thai government and the ethnically Malay Muslims living in the socioeconomically neglected south, that has been struggling against Thai assimilation policy and for self governance since it became annexed by Thailand in 1902. Fikri presented a six-point solution at the conference in Jiddah that included obtaining the same basic rights as other groups when it came to right of language, religion, and culture. He also suggested that Thailand give up its discriminatory policies against the Patani people and allow Patani to at least be allowed the same self-governing rights as other regions in Thailand already have, citing that this does not go against the Thai constitution since it has been done in other parts of Thailand and that it is a matter of political will.[42] He also criticised the Thai government's escalation of violence by arming and creating Buddhist militia groups and questioned their intentions. He added Thai policies of not investigating corruption, murder, and human rights violations perpetrated by Bangkok-led administration and military personnel against the Malay Muslim population was an obstacle for achieving peace and healing the deep wounds of being treated as third-class citizens.[42][43]

Thailand responded to this criticism over its policies. The Thai foreign minister, Kantathi Suphamongkhon, said: "We have made it clear to the OIC several times that the violence in the deep South is not caused by religious conflict and the government grants protection to all of our citizens no matter what religion they embrace." The Foreign Ministry issued a statement dismissing the OIC's criticism and accusing it of disseminating misperceptions and misinformation about the situation in the southern provinces. "If the OIC secretariat really wants to promote the cause of peace and harmony in the three southern provinces of Thailand, the responsibility falls on the OIC secretariat to strongly condemn the militants, who are perpetrating these acts of violence against both Thai Muslims and Thai Buddhists."[41][44][45] HRW[46] and Amnesty International[43] have echoed the same concerns as OIC, rebuffing Thailand's attempts to dismiss the issue.

Dispute with India

India has pushed against the OIC for referring to disputed areas of Kashmir as "occupied by India".[47] Although 13.4% of India's population is Muslim, it has pushed for the OIC to make an exception to accept India as a member, arguing that about 11% (roughly 172 million) of the Muslims live in India. Pakistan opposes India's entry into the OIC.[47][48][49]

The notion for Pakistan's refusal for India to enter the Organization of Islamic Cooperation is due to the human rights issues and problems faced by the Kashmiri people in Indian-held Kashmir (IHK).[50] The Muslim world has always supported Pakistan rather than India, however the role of the OIC concerning the Kashmir issue is that India has the largest Muslim minority and those people have shown desire to join the OIC. While the First Islamic Summit did not have the issue of the Kashmir people, granting the 60 million Muslims living in India membership in the OIC was discussed. While General Yayha Kahn of Pakistan did agree, he showed his extreme displeasure at the fact that at induction of Muslim representative Fakhruddin Ali Ahmad, he took a seat, which caused major controversy. Meanwhile, there were Muslims killed in anti-Muslim riots in Ahmedabad. Pakistan rejected this development and demanded the expulsion of India from the summit.[51]

Notable meetings

A number of OIC meetings have attracted global attention.

Ninth meeting of PUOICM

The ninth meeting of Parliamentary Union of the OIC member states (PUOICM) was held on 15 and 16 February 2007 in Kuala Lumpur, Malaysia.[52] The speaker of Malaysia's House of Representatives, Ramli bin Ngah Talib, delivered a speech at the beginning of the inaugural ceremony. OIC secretary-general Ekmeleddin Ihsanoglu said prior to the meeting that one main agenda item was stopping Israel from continuing its excavation at the Western Wall near the Al-Aqsa Mosque, Islam's third holiest site.[53] The OIC also discussed how it might send peacekeeping troops to Muslim states, as well as the possibility of a change in the name of the body and its charter.[53] Additionally, return of the sovereignty right to the Iraqi people along with withdrawal of foreign troops from Iraq was another one of the main issues on the agenda.[54]

Pakistani Foreign Minister Khurshid Mahmud Kasuri told reporters on 14 February 2007 that the secretary general of OIC and foreign ministers of seven "like-minded Muslim countries" would meet in Islamabad on 25 February 2007 following meetings of President Musharraf with heads of key Muslim countries to discuss "a new initiative" for the resolution of the Israeli-Palestinian conflict. Kasuri said this would be a meeting of foreign ministers of key Muslim countries to discuss and prepare for a summit in Makkah Al Mukarramah to seek the resolution of the Arab-Israeli conflict.[55]

IPHRC Trip to Washington DC

In December 2012, the IPHRC met in Washington, DC for the first time. The IPHRC held meetings at the National Press Club, Capitol Hill and Freedom House discussing the issues of human rights defense in the OIC member states. During their roundtable discussion with Freedom House the IPHRC emphasised the adoption of the Universal Declaration of Human Rights and the rejection of the Cairo Declaration by the OIC.[56]

Observer Status dispute

The September 2014's high-level Summit of the OIC, in New York, ended without adopting any resolutions or conclusions, for the first time in several years in the modern history of the organization, due to a dispute regarding the status of one of its Observer states. Egypt, Iran and the United Arab Emirates have demanded that the OIC remove the term 'Turkish Cypriot State' in reference to the unrecognized Turkish Republic of Northern Cyprus (TRNC), which has observer status within the organization. Egypt's president Abdel Fattah el-Sisi insisted that any reference to the "Turkish Republic of Northern Cyprus or Turkish Cypriot State" was unacceptable and was ultimately the reason for the OIC not adopting any resolutions or conclusions in the 2014 summit.[57][58][59]

Structure and organisation

The OIC system consists of:

Islamic Summit

The largest meeting, attended by the kings and the heads of state and government of the member states, convenes every three years.The Islamic Summit takes policy decisions and provide guidance on all issues pertaining to the realisation of the objectives as provided for in the Charter and consider other issues of concern to the Member States and the Ummah.[60]

Islamic Conference of Foreign Ministers

Islamic Conference of Foreign Ministers meets once a year to examine a progress report on the implementation of its decisions taken within the framework of the policy defined by the Islamic Summit.

Secretary General

The Secretary General is elected by the Council of Foreign Ministers for a period of five years, renewable once. The Secretary-General is elected from among nationals of the Member States in accordance with the principles of equitable geographical distribution, rotation and equal opportunity for all Member States with due consideration to competence, integrity and experience.[61]

Permanent Secretariat

The Permanent Secretariat is the executive organ of the Organisation, entrusted with the implementation of the decisions of the two preceding bodies, and is located in Jeddah, Saudi Arabia. The Secretary General of this international organisation is Iyad Bin Amin Madani from Mecca, Saudi Arabia, since 31 January 2014.

Subsidiary organisations

- The Statistical, Economic and Social Research and Training Centre for Islamic Countries, in Ankara, Turkey.
- The Research Centre for Islamic History, Art and Culture (IRCICA), located in Istanbul, Turkey.
- The Islamic University of Technology, located in Dhaka, Bangladesh.
- The Islamic Centre for the Development of Trade, located in Casablanca, Morocco.
- The Islamic Fiqh Academy, located in Jeddah, Saudi Arabia.
- The Islamsate Islamic network, located at Riyadh, Saudi Arabia and Pakistan.
- The Executive Bureau of the Islamic Solidarity Fund and its Waqf, located in Jeddah, Saudi Arabia.
- The Islamic University in Niger, located in Say, Niger.
- The Islamic University in Uganda, located in Mbale, Uganda.
- The Tabriz Islamic Arts University, located in Tabriz, Iran.
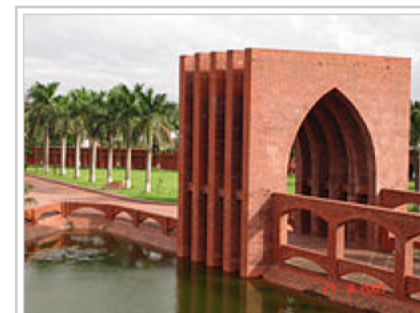
The Islamic University of Technology was set up by the OIC in Bangladesh

Specialised institutions

- The Islamic Educational, Scientific and Cultural Organisation (ISESCO), located in Rabat, Morocco.
- The Islamic States Broadcasting Organisation (ISBO) and the International Islamic News Agency (IINA), located in Jeddah, Saudi Arabia

Affiliated institutions

- Islamic Chamber of Commerce and Industry (ICCI), located in Karachi, Pakistan.
- World Islamic Economic Forum (WIEF), located in Kuala Lumpur, Malaysia.
- Organisation of Islamic Capitals and Cities (OICC), located in Jeddah, Saudi Arabia.
- Sports Federation of Islamic Solidarity Games, located in Riyadh, Saudi Arabia.
- Islamic Committee of the International Crescent (ICIC), located in Benghazi, Libya.
- Islamic Shipowners Association (ISA), located in Jeddah, Saudi Arabia.
- World Federation of International Arab-Islamic Schools, located in Jeddah, Saudi Arabia.
- International Association of Islamic Banks (IAIB), located in Jeddah, Saudi Arabia.
- Islamic Conference Youth Forum for Dialogue and Cooperation (ICYF-DC), located in Istanbul, Turkey.
- General Council for Islamic Banks and Financial Institutions (CIBAFI), located in Manama, Bahrain.
- Standards and Metrology Institute for Islamic Countries (SMIIC), located in Istanbul, Turkey.[62]

Secretaries-General

Secretaries-General of the Organisation of the Islamic Cooperation[63]

No.	Name	Country of origin	Took office	Left office
1	Tunku Abdul Rahman	Malaysia	1970	1974
2	Hassan Al-Touhami	Egypt	1974	1975
3	Amadou Karim Gaye	Senegal	1975	1979
4	Habib Chatty	Tunisia	1979	1984
5	Syed Sharifuddin Pirzada	Pakistan	1984	1988
6	Hamid Algabid	Niger	1988	1996
7	Azeddine Laraki	Morocco	1996	2000
8	Abdelouahed Belkeziz	Morocco	2000	2004
9	Ekmeleddin İhsanoğlu	Turkey	2004	2014
10	Iyad bin Amin Madani	Saudi Arabia	2014	*2016*
11	Youssef bin al-Ottaimeen	Saudi Arabia	2016	*Incumbent*

Islamic Summits

Number	Date	Country	Place
1st	22–25 September 1969	Morocco	Rabat
2nd[64]	22–24 February 1974	Pakistan	Lahore
3rd[65]	25–29 January 1981	Saudi Arabia	Mecca and Ta'if
4th	16–19 January 1984	Morocco	Casablanca
5th[66]	26–29 January 1987	Kuwait	Kuwait City
6th[67]	9–11 December 1991	Senegal	Dakar
7th	13–15 December 1994	Morocco	Casablanca
1st Extraordinary	23–24 March 1997	Pakistan	Islamabad
8th	9–11 December 1997	Iran	Tehran
9th	12–13 November 2000	Qatar	Doha
2nd Extraordinary[68]	4–5 March 2003	Qatar	Doha

10th	16–17 October 2003	Malaysia	Putrajaya
3rd Extraordinary	7–8 December 2005	Saudi Arabia	Mecca
11th[69]	13–14 March 2008	Senegal	Dakar
4th Extraordinary[70]	14–15 August 2012	Saudi Arabia	Mecca
12th[71]	6–7 February 2013	Egypt	Cairo
5th Extraordinary[72]	6–7 March 2016	Indonesia	Jakarta
13th[73]	14–15 April 2016	Turkey	Istanbul

See also

- Cairo Declaration on Human Rights in Islam
- List of largest cities in Organisation of Islamic Cooperation member countries
- List of Organisation of Islamic Cooperation member states by population
- Developing 8 Countries
- Pakistan-OIC relations
- Islamic University of Technology
- Flag of the Organisation of Islamic Cooperation
- Islamic Reporting Initiative

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Islam

From Wikipedia, the free encyclopedia

Islam (/ˈɪslɑːm/;[note 1] Arabic: الإسلام‎, *al-ʾIslām* IPA: [alʔisˈlaːm];[note 2]) is a religion articulated by the Quran, a text considered by its adherents to be the verbatim word of God (*Allāh*), and, for the vast majority of adherents, the teachings and normative example (called the *sunnah*, composed of accounts called *hadith*) of Muhammad (c. 570–8 June 632 CE). It is the world's second-largest religion[1] and the fastest-growing major religion in the world,[2][3][4] with over 1.7 billion followers[5] or 23% of the global population,[1] known as Muslims.[6] Islam is an Abrahamic monotheistic religion that upholds that God is one and incomparable[7] and that the purpose of existence is to worship God.[8] Muslims consider Muhammad to be the last prophet of God.[9][10][11][12][13]

Muslims also believe that Islam is the original, complete and universal version of a primordial faith that was revealed many times before through prophets including Adam, Noah, Abraham, Moses, and Jesus.[14][15][16] As for the Quran, Muslims consider it to be the unaltered and final revelation of God.[17] Religious concepts and practices include the five pillars of Islam, which are obligatory acts of worship, and following Islamic law, which touches on virtually every aspect of life and society, from banking and welfare to women and the environment.[18][19]

The Kaaba in Mecca is the direction of prayer and destination of pilgrimage for Muslims all over the world.

Islam began in the early 7th century. Originating in Mecca,[20] it quickly spread in the Arabian Peninsula and by the 8th century the Islamic empire was extended from Iberia in the west to the Indus River in the east. The Islamic Golden Age refers to the period traditionally dated from the 8th century to the 13th century when much of the historically Islamic world was experiencing a scientific, economic and cultural flourishing.[21][22][23] The expansion of the Muslim world involved various caliphates and empires, traders and conversion to Islam by missionary activities.[24]

Most Muslims are of one of two denominations:[25][26] Sunni (75–90%)[27] or Shia (10–20%).[28] About 13% of Muslims live in Indonesia,[29] the largest Muslim-majority country, 32% in South Asia,[30] 20% in the Middle East,[31] and 15% in Sub-Saharan Africa.[32] Sizable Muslim communities are also found in Europe, China, Russia, and the Americas. Converts and immigrant communities are found in almost every part of the world.

Contents

Etymology and meaning

Islam is a verbal noun originating from the triliteral root s-l-m which forms a large class of words mostly relating to concepts of wholeness, submission, safeness and peace.[33] In a religious context it means "voluntary submission to God".[34][35] *Islām* is the verbal noun of Form IV of the root, and means "submission" or "surrender". *Muslim*, the word for an adherent of Islam, is the active participle of the same verb form, and means "one who submits" or "one who surrenders". Believers demonstrate submission to God by serving God, following his commands, and rejecting polytheism. The word sometimes has distinct connotations in its various occurrences in the Quran. In some verses, there is stress on the quality of Islam as an internal conviction: "Whomsoever God desires to guide, He opens his heart to Islam."[36] Islam, by its own inner logic, embraces every possible facet of existence, for God has named Himself al-Muḥīṭ, the All-Embracing.[37]

Other verses connect *Islām* and *dīn* (usually translated as "religion"): "Today, I have perfected your religion (*dīn*) for you; I have completed My blessing upon you; I have approved Islam for your religion."[38] Still others describe Islam as an action of returning to God—more than just a verbal affirmation of faith.[39] In the Hadith of Gabriel, *islām* is presented as one part of a triad that includes *imān* (faith), and *ihsān* (excellence), where *islām* is defined theologically as Tawhid, historically by asserting that Muhammad is messenger of God, and doctrinally by mandating five basic and fundamental pillars of practice.[40][41]

Islam was historically called **Muhammadanism** in Anglophone societies. This term has fallen out of use and is sometimes said to be offensive because it suggests that a human being rather than God is central to Muslims' religion, parallel to Jesus Christ in *Christianity*. Some authors, however, continue to use the term *Muhammadanism* as a technical term for the religious system as opposed to the theological concept of Islam that exists within that system.[42]

The dome of the Carol I Mosque in Constanța, Romania, topped by the Islamic crescent

Articles of faith

Faith (Iman) in the Islamic creed (Aqidah) is often represented as the six articles of faith, notably spelled out in the Hadith of Gabriel.

Concept of God

Medallion showing the word "Allah" (God) in Hagia Sophia, Istanbul, Turkey.

Islam is often seen as having the simplest doctrines of the major religions.[3] Its most fundamental concept is a rigorous monotheism, called tawḥīd (Arabic: توحيد). God is described in chapter 112 of the Quran as: "Say, He is God, the One and Only; God, the Eternal, Absolute; He begetteth not, nor is He begotten; And there is none like unto Him" (112:1-4) (http://www.usc.edu/org/cmje/religious-texts/quran/verses/112-qmt.php#112.1-4)).[43] Muslims repudiate polytheism and idolatry, called Shirk, and reject the Christian doctrine of the Trinity and divinity of Jesus. In Islam, God is beyond all comprehension and Muslims are not expected to visualize God.[44][45][46][47] God is described and referred to by certain names or attributes, the most common being *Al-Rahmān*, meaning "The Compassionate" and *Al-Rahīm*, meaning "The Merciful" (See Names of God in Islam).[48]

Muslims believe that the creation of everything in the universe was brought into being by God's sheer command, "'Be' and so it is,"[49] and that the purpose of existence is to worship God.[50] He is viewed as a personal god who responds whenever a person in need or distress calls him.[51] There are no intermediaries, such as clergy, to contact God who states, "I am nearer to him than (his) jugular vein."[52]

Allāh is the term with no plural or gender used by Muslims and Arabic-speaking Christians and Jews to reference God, while *ʾilāh* (Arabic: إله) is the term used for a deity or a god in general.[53] Other non-Arab Muslims might use different names as much as Allah, for instance "Tanrı" in Turkish, "Khodā" in Persian or *K͟hudā* in Urdu.

Angels

Belief in angels is fundamental to the faith of Islam. The Arabic word for angel (Arabic: ملك *malak*) means "messenger", like its counterparts in Hebrew (*malʾākh*) and Greek (*angelos*). According to the Quran, angels do not possess free will, and therefore worship and obey God in total obedience. Angels' duties include communicating revelations from God, glorifying God, recording every person's actions, and taking a person's soul at the time of death. Muslims believe that angels are made of light. They are described as "messengers with wings—two, or three, or four (pairs): He [God] adds to Creation as He pleases..."[54] Some scholars have emphasized a metaphorical reinterpretation of the concept of angels.[55] Pictorial depictions of angels are generally avoided in Islamic Art, as the idea of giving form to anything immaterial is not accepted.[56] Muslims therefore do not generally share the perceptions of angelic pictorial depictions, such as those found in Western Art.

Angels

Additionally, another kind of being that is sapient in Islam is called Jinn, who are believed to be invisible to humans and include Satan.

Revelations

The Islamic holy books are the records which most Muslims believe were dictated by God to various prophets. Muslims believe that parts of the previously revealed scriptures, the *Tawrat* (Torah) and the *Injil* (Gospels), had become distorted—either in interpretation, in text, or both.[57] The Quran (literally, "Reading" or "Recitation") is viewed by Muslims as the final revelation and literal word of God and is widely regarded as the finest literary work in the Arabic language.[58][59]

Muslims believe that the verses of the Quran were revealed to Muhammad by God through the archangel Gabriel (*Jibrīl*) on many occasions between 610 CE until his death on June 8, 632.[60] While Muhammad was alive, all of these revelations were written down by his companions (*sahabah*), although the prime method of transmission was orally through memorization.[61]

An angel presenting Muhammad and his companions with a miniature city. In the Topkapi Palace Library, Istanbul.

Islamic calligraphy of the Archangel Israfil (reflects upon how angels are most commonly represented in Islam).

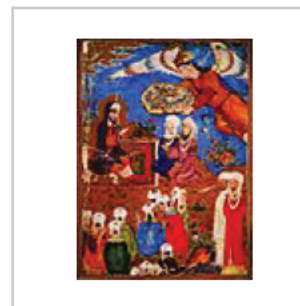11th-century Quranic manuscript with vocalization marks.

The Quran is divided into 114 suras, or chapters, which combined, contain 6,236 *āyāt*, or verses. The chronologically earlier suras, revealed at Mecca, are primarily concerned with ethical and spiritual topics. The later Medinan suras mostly discuss social and moral issues relevant to the Muslim community.[62]

The Quran is more concerned with moral guidance than legal instruction, and is considered the "sourcebook of Islamic principles and values".[63] Muslim jurists consult the *hadith* ("reports"), or the written record of Prophet Muhammad's life, to both supplement the Quran and assist with its interpretation. The science of Quranic commentary and exegesis is known as *tafsir*.[64] The set of rules governing proper pronunciation is called *tajwid*.

Muslims usually view "the Quran" as the original scripture as revealed in Arabic and that any translations are necessarily deficient, which are regarded only as commentaries on the Quran.[65]

Prophets and sunnah

Muslims identify the prophets of Islam (Arabic: أَنْبِيَاء *anbiyāʾ*) as those humans chosen by God to be his messengers. According to the Quran, the prophets were instructed by God to bring the "will of God" to the peoples of the nations. Muslims believe that prophets are human and not divine, though some are able to perform miracles to prove their claim. Islamic theology says that all of God's messengers preached the message of Islam—submission

to the will of God. The Quran mentions the names of numerous figures considered prophets in Islam, including Adam, Noah, Abraham, Moses and Jesus, among others.[66]

Muslims believe that God finally sent Muhammad as the last law bearing prophet (*Seal of the Prophets*) to convey the divine message to the whole world (to sum up and to finalize the word of God). In Islam, the "normative" example of Muhammad's life is called the Sunnah (literally "trodden path"). Muslims are encouraged to emulate Muhammad's actions in their daily lives and the Sunnah is seen as crucial to guiding interpretation of the Quran.[67] This example is preserved in traditions known as hadith, which recount his words, his actions, and his personal characteristics. Hadith Qudsi is a sub-category of hadith, regarded as verbatim words of God quoted by Muhammad but is not part of the Quran.

A hadith involves two elements- a chain of narrators, called sanad, and the actual wording, called matn. Hadiths can be classified, by studying the narration, as "authentic" or "correct", called *Sahih* (Arabic: صَحِيْح), "good", called *Ḥasan* (Arabic: حَسَن) or "weak", called *Ḍaʿīf* (Arabic: ضَعِيْف) among others. Muhammad al-Bukhari[68] collected over 300,000 hadith, but only included 2,602 distinct hadith that passed the tests that codified them as authentic into his book Sahih al-Bukhari,[68] which is considered by many to be the most authentic source after the Quran.[69][70]

The Arabic word for prophets preceded by the honorific "peace be upon them".

Resurrection and judgment

Belief in the "Day of Resurrection", *Yawm al-Qiyāmah* (Arabic: يوم القيامة) is also crucial for Muslims. They believe the time of *Qiyāmah* is preordained by God but unknown to man. The trials and tribulations preceding and during the *Qiyāmah* are described in the Quran and the hadith, and also in the commentaries of scholars. The Quran emphasizes bodily resurrection, a break from the pre-Islamic Arabian understanding of death.[71]

On Yawm al-Qiyāmah, Muslims believe all mankind will be judged on their good and bad deeds and consigned to *Jannah* (paradise) or *Jahannam* (hell). The Qur'an in Surat al-Zalzalah describes this as, "So whoever does an atom's weight of good will see it (99:7) and whoever does an atom's weight of evil will see it (99:8)." The Qur'an lists several sins that can condemn a person to hell, such as disbelief in God (Arabic: كفر *kufr*), and dishonesty; however, the Qur'an makes it clear God will forgive the sins of those who repent if he so wills. Good deeds, such as charity, prayer and compassion towards animals,[72][73] will be rewarded with entry to heaven. Muslims view heaven as a place of joy and bliss, with Qur'anic references describing its features and the physical pleasures to come. Mystical traditions in Islam place these heavenly delights in the context of an ecstatic awareness of God.[74]

Yawm al-Qiyāmah is also identified in the Quran as *Yawm ad-Dīn* (Arabic: يوم الدين), "Day of Religion";[75] *as-sāʿah* (Arabic: الساعة), "the Last Hour";[76] and *al-Qāriʿah* (Arabic: القارعة), "The Clatterer".[77]

Divine will

The concept of divine will is referred to as *al-qadā wa'l-qadar* (Arabic: قدر), which literally derives from a root that means *to measure*. Everything, good and bad, is believed to have been decreed.[78]

Acts of worship

There are five basic religious acts in Islam, collectively known as 'The Pillars of Islam' (*arkan al-Islam*; also *arkan ad-din*, "pillars of religion"), which are considered obligatory for all believers. The Quran presents them as a framework for worship and a sign of commitment to the faith. They are (1) the creed (shahadah), (2) daily prayers (salat), (3) almsgiving (zakah), (4) fasting during Ramadan, and (5) the pilgrimage to Mecca (hajj) at least once in a lifetime.[79] Both Shia and Sunni sects agree on the essential details for the performance of these acts.[80] Apart from these, Muslims also perform other religious acts. Notable among them are charity (Sadaqah) and recitation of the Quran.

Testimony

The Shahadah,[81] which is the basic creed of Islam that must be recited under oath with the specific statement: "*ašhadu 'al-lā ilāha illā-llāhu wa 'ašhadu 'anna muḥammadan rasūlu-llāh*", or "I testify that there is no god but God, Muhammad is the messenger of God."[82] This testament is a foundation for all other beliefs and practices in Islam. Muslims must repeat the *shahadah* in prayer, and non-Muslims wishing to convert to Islam are required to recite the creed.[83]

Silver coin of the Mughal Emperor Akbar with inscriptions of the Islamic declaration of faith

Prayer

Ritual prayers, called Ṣalāh or Ṣalāt (Arabic: صلاة), must be performed five times a day. Salat is intended to focus the mind on God, and is seen as a personal communication with him that expresses gratitude and worship. Salat is compulsory but flexibility in the specifics is allowed depending on circumstances. The prayers are recited in the Arabic language, and consist of verses from the Quran.[84] The prayers are done with the chest in direction of the kaaba though in the early days of Islam, they were done in direction of Jerusalem.

A mosque is a place of worship for Muslims, who often refer to it by its Arabic name *masjid*. The word *mosque* in English refers to all types of buildings dedicated to Islamic worship, although there is a distinction in Arabic between the smaller, privately owned mosque and the larger, "collective" mosque (*masjid jāmi'*).[85] Although the primary purpose of the mosque is to serve as a place of prayer, it is also important to the Muslim community as a place to meet and study. In Medina, Al-Masjid al-Nabawi, or the Prophet's Mosque, was also a place of refuge for the poor.[86] Modern mosques have evolved greatly from the early designs of the 7th century, and contain a variety of architectural elements such as minarets.[87]

Muslim men prostrating during prayer in the Umayyad Mosque, Damascus.

Charity

"Zakāt" (Arabic: زكاة‎ *zakāh* "alms") is giving a fixed portion of accumulated wealth by those who can afford it to help the poor or needy and for those employed to collect Zakat; also, for bringing hearts together, freeing captives, for those in debt (or bonded labour) and for the (stranded) traveller.[88][89] It is considered a religious obligation (as opposed to voluntary charity) that the well-off owe to the needy because their wealth is seen as a "trust from God's bounty". Conservative estimates of annual zakat is estimated to be 15 times global humanitarian aid contributions.[90] The amount of zakat to be paid on capital assets (e.g. money) is 2.5% (1/40) per year,[91] for people who are not poor.

Sadaqah means optional charity which is practiced as religious duty and out of generosity.[92] Both the Quran and the hadith have put much emphasis on spending money for the welfare of needy people,[93] and have urged the Muslims to give more as an act of optional charity.[94] The Quran says: Spend something (in charity) out of the substance which We have bestowed on you, before Death should come to any of you (63:10 (http://www.usc.edu/org/c mje/religious-texts/quran/verses/063-qmt.php#063.010)). One of the early teachings of Muhammad was that God expects men to be generous with their wealth and not to be miserly (Quran 107 :1–7 (http://www.usc.edu/org/cmje/religious-texts/quran/verses/107-qmt.php#107.001)).[95] Accumulating wealth without spending them to address the needs of the poor is generally prohibited and admonished.[96] Another kind of charity in Islam is waqf which means perpetual religious endowment.

Fasting

Fasting (Arabic: صوم‎ *ṣawm*) from food and drink, among other things, must be performed from dawn to dusk during the month of Ramadan. The fast is to encourage a feeling of nearness to God, and during it Muslims should express their gratitude for and dependence on him, atone for their past sins, and think of the needy. *Sawm* is not obligatory for several groups for whom it would constitute an undue burden. For others, flexibility is allowed depending on circumstances, but missed fasts usually must be made up quickly.[97]

Pilgrimage

The obligatory Islamic pilgrimage, called the *ḥajj* (Arabic: حج‎), has to be performed during the Islamic month of *Dhu al-Hijjah* in the city of Mecca. Every able-bodied Muslim who can afford it must make the pilgrimage to Mecca at least once in his or her lifetime. Rituals of the Hajj include: spending a day and a night in the tents in the desert plain of Mina, then a day in the desert plain of Arafat praying and worshiping God, following the foot steps of Abraham; then spending a night out in the open, sleeping on the desert sand in the desert plain of Muzdalifah; then moving to Jamarat, symbolically stoning the Devil recounting Abraham's actions;[98][99][100] then going to Mecca and walking seven times around the Kaaba which Muslims believe was built as a place of worship by Abraham; then walking seven times between Mount Safa and Mount Marwah recounting the steps of Abraham's wife, while she was looking for water for her son Ismael in the desert before Mecca developed into a settlement.[101] Another form of pilgrimage, Umrah, can be undertaken at any time of the year.

Recitation and memorization of the Quran

Muslims recite and memorize the whole or the part of the Quran as acts of virtue. Reciting the Quran in the correct manner has been described as an excellent act of worship.[102] Pious Muslims recite the whole Quran at the month of Ramadan.[103] In Islamic societies, any social program generally begins with the recitation of the Quran.[103] Those who memorize the whole Quran is called *hafiz* who, it is said, will be able to intercede for ten people on the Last Judgment Day.[102] Apart from this, almost every Muslim memorizes some portion of the Quran because they need to recite it during regular prayer.

Pilgrims at the Masjid al-Haram on *Hajj*

Society

Family life

For Muslim communities, family is the basic component of society, and is responsible for the wellbeing of its members. In a Muslim family, the birth of a child is attended with some religious ceremonies. Immediately after the birth, the words of Adhan is pronounced in the right ear of the child. In the seventh day, the aquiqa ceremony is performed in which an animal is sacrificed and its meat is distributed among the poor.[104] The head of the child is also shaved, and an amount of money equaling the weight of the child's hair is donated to the poor.[104] Apart from fulfilling the basic needs of food, shelter, and education, the parents or the elderly members of family also undertake the task of teaching moral qualities, religious knowledge, and religious practices to the children.[105] Marriage, which serves as the foundation of a Muslim family, is a civil contract which consists of an offer and acceptance between two qualified parties in the presence of two witnesses. The groom is required to pay a bridal gift (*mahr*) to the bride, as stipulated in the contract.[106] Most families in the Islamic world are monogamous.[107][108] Polyandry, a form of polygamy, where a woman takes on two or more husbands is prohibited in Islam.[109] With Muslims coming from diverse backgrounds including 49 Muslim-majority countries, plus a strong presence as large minorities throughout the world there are many variations on Muslim Weddings. Generally in a Muslim family, a woman's sphere of operation is the home and a man's corresponding sphere is the outside world. However, in practice, this separation is not as rigid as it appears.[110]

Certain religious rites are performed during and after the death of a Muslim. Those near a dying man encourage him to pronounce the Shahada as Muslims want their last word to be their profession of faith. After the death, the body is bathed properly by the members of the same gender and then enshrouded in a threefold white garment called *kafan*.[111] Placing the body on a bier, it is first taken to a mosque where funeral prayer is offered for the dead person, and then to the graveyard for burial.

Etiquette and diet

Many practices fall in the category of *adab*, or Islamic etiquette. This includes greeting others with "*as-salamu `alaykum*" ("peace be unto you"), saying *bismillah* ("in the name of God") before meals, and using only the right hand for eating and drinking. Islamic hygienic practices mainly fall into the category of personal cleanliness and health. Circumcision of male offspring is also practiced in Islam. Islamic burial rituals include saying the *Salat al-*

Janazah ("funeral prayer") over the bathed and enshrouded dead body, and burying it in a grave. Muslims are restricted in their diet. Prohibited foods include pork products, blood, carrion, and alcohol. All meat must come from a herbivorous animal slaughtered in the name of God by a Muslim, Jew, or Christian, with the exception of game that one has hunted or fished for oneself. Food permissible for Muslims is known as halal food.[112]

Social responsibilities

In a Muslim society, various social service activities are performed by the members of the community. As these activities are instructed by Islamic canonical texts, a Muslim's religious life is seen incomplete if not attended by service to humanity.[113] In fact, In Islamic tradition, the idea of social welfare has been presented as one of its principal values.[113] The 2:177 (http://www.usc.edu/org/cmje/religious-texts/quran/verses/002-qmt.php#002.177) verse of the Quran is often cited to encapsulate the Islamic idea of social welfare.[114] Similarly, duties to parents, neighbors, relatives, sick people, the old, and the minority have been defined in Islam. Respecting and obeying one's parents, and taking care of them especially in their old age have been made a religious obligation.[105][115] A two-fold approach is generally prescribed with regard to the duties to the relatives: keeping rood relation with them, and offering financial help if necessary.[116] Severing ties with them has been admonished. Regardless of a neighbor's religious identity, Islam tells the Muslims to treat their neighboring people in the best possible manners and not to cause any difficulty to them.[117][118] About the orphaned children, the Quran forbids harsh and oppressive treatment to them while urging kindness and justice towards them. It also rebukes those who do not honor and feed the orphaned children (Quran 89:17-18 (http://www.usc.edu/org/cmje/religious-texts/quran/verses/089-qmt.php#089.17-18)).

Moral behavior

The Quran and the sunnah of Muhammad prescribe a comprehensive body of moral guidelines for Muslims to be followed in their personal, social, political, and religious life. Proper moral conduct, good deeds, righteousness, and good character come within the sphere of the moral guidelines.[119] In Islam, the observance of moral virtues is always associated with religious significance because it elevates the religious status of a believer[120] and is often seen as a supererogatory act of worshipping.[121] One typical Islamic teaching on morality is that imposing a penalty on an offender in proportion to their offense is permissible and just; but forgiving the offender is better. To go one step further by offering a favor to the offender is regarded the highest excellence.[120] The Quran says: 'Repel (evil) with what is best' (41:34 (http://www.usc.edu/org/cmje/religious-texts/quran/verses/041-qmt.php#041.034)). Thus, a Muslim is expected to act only in good manners as bad manners and deeds earn vices.[122] The fundamental moral qualities in Islam are justice, forgiveness, righteousness, kindness, honesty, and piety.[119] Other mostly insisted moral virtues include but not limited to charitable activities, tolerance, fulfillment of promise, modesty and humility, decency in speech, trustworthiness, patience, truthfulness, anger management, and sincerity of intention.

As a religion, Islam emphasizes the idea of having a good character as Muhammad said: 'The best among you are those who have the best manners and character' (Sahih al-Bukhari, 8:73:56 (http://www.usc.edu/org/cmje/religious-texts/hadith/bukhari/073-sbt.php#008.073.056)). In Islam, justice is not only a moral virtue but also an obligation to be fulfilled under all circumstances.[123] The Quran and the hadith describe God as being kind and merciful

to His creatures, and tell people to be kind likewise. As a virtue, forgiveness is much celebrated in Islam, and is regarded as an important Muslim practice.[124] About modesty, Muhammad is reported as saying: ' Every religion has its characteristic, and the characteristic of Islam is modesty'.[125]

Economics

To reduce the gap between the rich and the poor, Islamic economic jurisprudence encourages trade,[126] discourages the hoarding of wealth and outlaws interest-bearing loans (usury; the term is *riba* in Arabic).[127][128] Therefore, wealth is taxed through Zakat, but trade is not taxed. Usury, which allows the rich to get richer without sharing in the risk, is forbidden in Islam. Profit sharing and venture capital where the lender is also exposed to risk is acceptable.[129] Hoarding of food for speculation is also discouraged.[130]

Grabbing other people's land is also prohibited. The prohibition of usury has resulted in the development of Islamic banking. During the time of Muhammad, any money that went to the state, was immediately used to help the poor. Then in 634, Umar formally established the welfare state Bayt al-mal. The Bayt al-mal or the welfare state was for the Muslim and Non-Muslim poor, needy, elderly, orphans, widows, and the disabled. The Bayt al-mal ran for hundreds of years under the Rashidun Caliphate in the 7th century and continued through the Umayyad period and well into the Abbasid era. Umar also introduced Child Benefit and Pensions for the children and the elderly.[131][132][133][134]

Government

Mainstream Islamic law does not distinguish between "matters of church" and "matters of state"; the scholars function as both jurists and theologians. Currently no government conforms to Islamic economic jurisprudence, but steps have been taken to implement some of its tenets.[135][136][137]

Law and jurisprudence

The *Shari'ah* (literally "the path leading to the watering place") is Islamic law and constitutes a system of duties that are incumbent upon a Muslim by virtue of his or her religious belief.[138] The study of Islamic law is called *Fiqh*, or "Islamic jurisprudence". The methods of jurisprudence used are known as *usul al-fiqh* ("legal theory", or "principles of jurisprudence"). Much of it has evolved with the objective to prevent innovation or alteration in the original religion, known as bid'ah. Four fundamental evidence, codified by ash-Shafi'i, used are, in order of precedence: the Quran, the Hadith (the practice of Muhammad), the consensus of the Muslim jurists (*ijma*), and analogical reasoning (*qiyas*). Rulings over actions can be categorized as those that are obligatory (*fardh*) recommendanded (*mustahabb*), permissible (*mubah*), not recommended (*makrooh*) and prohibited (*haraam*).

Men reading the Quran in Mosque

The Quran set the rights, the responsibilities and the rules for people and for societies to adhere to. Muhammad provided an example, which is recorded in the hadith books, showing how he practically implemented those rules in a society.

Many of the Sharia laws that differ are devised through Ijtihad where there is no such ruling in the Quran or the Hadiths of Islamic prophet Muhammad regarding a similar case.[139][140] As Muhammad's companions went to new areas,[141] they were pragmatic and in some cases continued to use the same ruling as was given in that area during pre-Islamic times. If the population felt comfortable with it, it was just and they used Ijtihad to deduce that it did not conflict with the Quran or the Hadith. This made it easier for the different communities to integrate into the Islamic State and that assisted in the quick expansion of the Islamic State.

Islamic law covers all aspects of life, from matters of state, like governance and foreign relations, to issues of daily living. The Quran defines *hudud* as the punishments for five specific crimes: unlawful intercourse, false accusation of unlawful intercourse, consumption of alcohol, theft, and highway robbery. The Quran and Sunnah also contain laws of inheritance, marriage, and restitution for injuries and murder, as well as rules for fasting, charity, and prayer. For example, the division of inheritance is specified in the Quran, which states that most of it is to pass to the immediate family, while a portion is set aside for the payment of debts and the making of bequests. The woman's share of inheritance is generally half of that of a man with the same rights of succession.[142]

Scholars

Islam, like Judaism, has no clergy in the sacerdotal sense, such as priests who mediate between God and people. However, there are many terms in Islam to refer to religiously sanctioned positions of Islam. In the broadest sense, the term *ulema* (Arabic: علماء) is used to describe the body of Muslim scholars who have completed several years of training and study of Islamic sciences. A jurist who interprets Islamic law is called a mufti (Arabic: مفتي) and often issues judicial opinions, called fatwas. A scholar of jurisprudence is called a faqih (Arabic: فقيه). Someone who studies the science of hadith is called a muhaddith. A qadi is a judge in an Islamic court. Honorific titles given to scholars include shiekh, mullah and maulvi. Imam (Arabic: إمام) is a leadership position, often used in the context of conducting Islamic worship services.

Imam teaches the Quran in Crimea, (1850s, lithograph by Carlo Bossoli)

Schools of jurisprudence

A school of jurisprudence is referred to as a *madhab* (Arabic: مذهب). The four major Sunni schools are the Hanafi, Maliki, Shafi'i, Hanbali and sometimes Ẓāhirī while the two major Shia schools are Ja'fari and Zaidi. Each differ in their methodology, called Usul al-fiqh. The following of decisions by a religious expert without necessarily examining the decision's reasoning is called taqlid. The term *ghair muqallid* literally refers to those who do not use taqlid and by extension do not have a madhab.[143] The practice of an individual interpretating law with independent reasoning is called ijtihad.[144]

Jihad

Jihad means "to strive or struggle" (in the way of God). Jihad, in its broadest sense, is "exerting one's utmost power, efforts, endeavors, or ability in contending with an object of disapprobation". Depending on the object being a visible enemy, the Devil, and aspects of one's own self (such as sinful desires), different categories of jihad are defined.[145] Jihad, when used without any qualifier, is understood in its military aspect.[146][147] Jihad also

refers to one's striving to attain religious and moral perfection.[148] Some Muslim authorities, especially among the Shi'a and Sufis, distinguish between the "greater jihad", which pertains to spiritual self-perfection, and the "lesser jihad", defined as warfare.[149]

Within Islamic jurisprudence, jihad is usually taken to mean military exertion against non-believer/non-Muslim/Muslim combatants. The ultimate purpose of military jihad is debated, both within the Islamic community and without. Jihad is the only form of warfare permissible in Islamic law and may be declared against illegal works, terrorists, criminal groups, rebels, apostates, and leaders or states who oppress Muslims.[150][151] Most Muslims today interpret Jihad as only a defensive form of warfare.[152] Jihad only becomes an individual duty for those vested with authority. For the rest of the populace, this happens only in the case of a general mobilization.[151] For most Twelver Shias, offensive jihad can only be declared by a divinely appointed leader of the Muslim community, and as such is suspended since Muhammad al-Mahdi's[153] occultation in 868 AD.[154]

The main Islamic madh'habs (schools of law) of Muslim countries or distributions
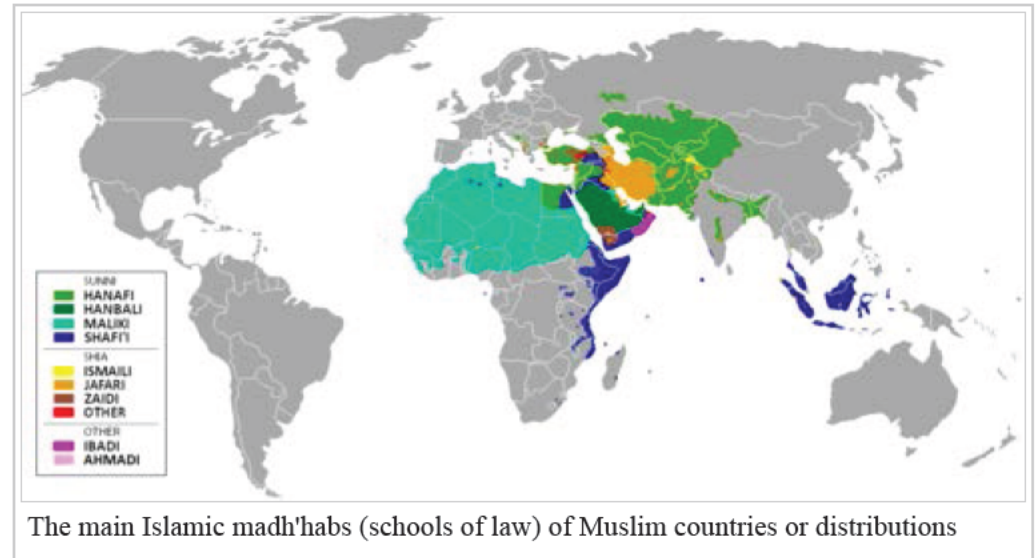
History

A panoramic view of Al-Masjid al-Nabawi (the Mosque of the Prophet) in Medina, Hejaz region, today's Saudi Arabia, the second most sacred Mosque in Islam

Muhammad (610–632)

Muslim tradition views Muhammad (c. 570 – June 8, 632) as the seal of the prophets.[155] During the last 22 years of his life, beginning at age 40 in 610 CE, according to the earliest surviving biographies, Muhammad reported revelations that he believed to be from God, conveyed to him through the archangel Gabriel (*Jibril*). Muhammad's companions memorized and recorded the content of these revelations, known as the Quran.[156]

During this time, Muhammad in Mecca preached to the people, imploring them to abandon polytheism and to worship one God. Although some converted to Islam, the leading Meccan authorities persecuted Muhammad and his followers. This resulted in the Migration to Abyssinia of some Muslims (to the Aksumite Empire). Many early converts to Islam were the poor and former slaves like Bilal ibn Rabah al-Habashi. The Meccan élite felt that Muhammad was destabilising their social order by preaching about one God and about racial equality, and that in the process he gave ideas to the poor and to their slaves.[157][158][159][160]

After 12 years of the persecution of Muslims by the Meccans and the Meccan boycott of the Hashemites, Muhammad's relatives, Muhammad and the Muslims performed the *Hijra* ("emigration") to the city of Medina (formerly known as *Yathrib*) in 622. There, with the Medinan converts (*Ansar*) and the Meccan migrants (*Muhajirun*), Muhammad in Medina established his political and religious authority. A state was established in accordance with Islamic economic jurisprudence. The Constitution of Medina was formulated, instituting a number of rights and responsibilities for the Muslim, Jewish, Christian and pagan communities of Medina, bringing them within the fold of one community—the Ummah.[161][162]

The Constitution established:

- the security of the community
- religious freedoms
- the role of Medina as a sacred place (barring all violence and weapons)
- the security of women
- stable tribal relations within Medina
- a tax system for supporting the community in time of conflict
- parameters for exogenous political alliances
- a system for granting protection of individuals
- a judicial system for resolving disputes where non-Muslims could also use their own laws and have their own judges.[163][164][165]

All the tribes signed the agreement to defend Medina from all external threats and to live in harmony amongst themselves. Within a few years, two battles took place against the Meccan forces: first, the Battle of Badr in 624 - a Muslim victory, and then a year later, when the Meccans returned to Medina, the Battle of Uhud, which ended inconclusively.

The Arab tribes in the rest of Arabia then formed a confederation and during the Battle of the Trench (March–April 627) besieged Medina, intent on finishing off Islam. In 628, the Treaty of Hudaybiyyah was signed between Mecca and the Muslims and was broken by Mecca two years later. After the signing of the Treaty of Hudaybiyyah many more people converted to Islam. At the same time, Meccan trade routes were cut off as Muhammad brought surrounding desert tribes under his control.[166] By 629 Muhammad was victorious in the nearly bloodless conquest of Mecca, and by the time of his death in 632 (at the age of 62) he had united the tribes of Arabia into a single religious polity.[167]

The earliest three generations of Muslims are known as the Salaf, with the companions of Muhammad being known as the Sahaba. Many of them, such as the largest narrator of hadith Abu Hureyrah, recorded and compiled what would constitute the sunnah.

Caliphate and civil strife (632–750)

With Muhammad's death in 632, disagreement broke out over who would succeed him as leader of the Muslim community. Abu Bakr, a companion and close friend of Muhammad, was made the first caliph. Under Abu Bakr the Muslims expanded into Syria after putting down a rebellion by Arab tribes in an episode known as the Ridda wars, or "Wars of Apostasy".[168] The Quran was compiled into a single volume at this time.

Dome of the Rock built by Abd al-Malik ibn Marwan; completed at the end of the Second Fitna.

Abu Bakr's death in 634 resulted in the succession of Umar ibn al-Khattab as the caliph, followed by Uthman ibn al-Affan, Ali ibn Abi Talib and Hasan ibn Ali. The first four caliphs are known in Sunni Islam as *al-khulafā' ar-rāshidūn* ("Rightly Guided Caliphs").[169] Under them, the territory under Muslim rule expanded deeply into the parts of the Persian and Byzantine territories.[170]

When Umar was assassinated by Persians in 644, the election of Uthman as successor was met with increasing opposition. The standard copies of the Quran were also distributed throughout the Islamic State. In 656, Uthman was also killed, and Ali assumed the position of caliph. After the first civil war (the "First Fitna"), Ali was assassinated by Kharijites in 661. To avoid further fighting, the new caliph Hasan ibn Ali signed a peace treaty, abdicating to Mu'awiyah, beginning the Umayyad dynasty, in return that he not name his own successor.[171] These disputes over religious and political leadership would give rise to schism in the Muslim community. The majority accepted the legitimacy of the three rulers prior to Ali, and became known as Sunnis. A minority disagreed, and believed that only Ali and some of his descendants should rule; they became known as the Shia.[172] Mu'awiyah appointed his son, Yazid I, as successor and after Mu'awiyah's death in 680, the "Second Fitna" broke out, where Husayn ibn Ali was killed at the Battle of Karbala, a significant event in Shia Islam.

The Umayyad dynasty conquered the Maghreb, the Iberian Peninsula, Narbonnese Gaul and Sindh.[173] Local populations of Jews and indigenous Christians, persecuted as religious minorities and taxed heavily to finance the Byzantine–Sassanid Wars, often aided Muslims to take over their lands from the Byzantines and Persians, resulting in exceptionally speedy conquests.[174][175]

The generation after the death of Muhammad but contemporaries of his companions are known as the Tabi'un, followed by the Tabi' al-Tabi'in. The Caliph Umar ibn Abd al-Aziz set up the influential committee, "The Seven Fuqaha of Medina",[176][177] headed by Qasim ibn Muhammad ibn Abu Bakr.[178] Malik ibn Anas wrote one of the earliest books on Islamic jurisprudence, the Muwatta,[179] as a consensus of the opinion of those jurists.[180][181][182]

The descendants of Muhammad's uncle Abbas ibn Abd al-Muttalib rallied discontented non-Arab converts (*mawali*), poor Arabs, and some Shi'a against the Umayyads and overthrew them, inaugurating the Abbasid dynasty in 750.[183]

Classical era (750–1258)

During this time, the Delhi Sultanate took over northern parts of Indian subcontinent. Religious missions converted Volga Bulgaria to Islam. Many Muslims also went to China to trade, virtually dominating the import and export industry of the Song Dynasty.[184]

This era is sometimes called the "Islamic Golden Age".[185] Public hospitals established during this time (called Bimaristan hospitals), are considered "the first hospitals" in the modern sense of the word,[186][187] and issued the first medical diplomas to license doctors.[188][189] The Guinness World Records recognizes the University of Al Karaouine, founded in 859, as the world's oldest degree-granting university.[190] The doctorate is argued to date back to the licenses to teach in Muslim law schools.[191] Standards of experimental and quantification techniques, as well as the tradition of citation,[192] were introduced. An important pioneer in this, Ibn al-Haytham is regarded as the father of the modern scientific method and often referred to as the "world's first true scientist".[193][194][195][196] The government paid scientists the equivalent salary of professional athletes today.[192] It is argued that the data used by Copernicus for his heliocentric conclusions was gathered and that Al-Jahiz proposed a theory of natural selection.[197][198] Rumi wrote some of the finest Persian poetry and is still one of the best selling poets in America.[199][200] Legal institutions introduced include the trust and charitable trust (Waqf).[201][202]

The eye, according to Hunain ibn Ishaq from a manuscript dated circa 1200.

Al-Shafi'i also codified a method to determine the reliability of hadith.[203] During the early Abbasid era, the major Sunni hadith collections were compiled by scholars such as Bukhari and Muslim while major Shia hadith collections by scholars such as Al-Kulayni and Ibn Babawayh were also compiled. The Ja'fari jurisprudence was formed from the teachings of Ja'far al-Sadiq while the four Sunni Madh'habs, the Hanafi, Hanbali, Maliki and Shafi'i, were established around the teachings of Abū Ḥanīfa, Ahmad bin Hanbal, Malik ibn Anas and al-Shafi'i respectively. In the 9th century, al-Shafi'i provided a theoretical basis for Islamic law by codifying the principles of jurisprudence in his book *ar-Risālah*.[204] Al-Tabari and Ibn Kathir completed the most commonly cited commentaries on the Quran, the Tafsir al-Tabari in the 9th century and the Tafsir ibn Kathir in the 14th century, respectively. Philosophers Al-Farabi and Avicenna sought to incorporate Greek principles into Islamic theology, while others like Al-Ghazali argued against them and ultimately prevailed.[205]

Caliphs such as Mamun al Rashid and Al-Mu'tasim made the mutazilite philosophy an official creed and imposed it upon Muslims to follow. Mu'tazila was a Greek influenced school of speculative theology called kalam, which refers to dialectic.[206] Many orthodox Muslims rejected mutazilite doctrines and condemned their idea of the creation of the Quran. In inquisitions, Imam Hanbal refused to conform and was tortured and sent to an unlit Baghdad prison cell for nearly thirty months.[207] The other branch of kalam was the Ash'ari school founded by Al-Ash'ari.

Some Muslims began to question the piety of indulgence in a worldly life and emphasized poverty, humility and avoidance of sin based on renunciation of bodily desires. Ascetics such as Hasan al-Basri would inspire a movement that would evolve into Tasawwuf (Sufism).[208] Beginning in the 13th century, Sufism underwent a transformation, largely because of efforts to legitimize and reorganize the movement by Al-Ghazali, who developed the model of the Sufi order—a community of spiritual teachers and students.[209]

The first Muslims states independent of a unified Muslim state emerged from the Berber Revolt (739/740-743). In 930, the Ismaili group known as the Qarmatians unsuccessfully rebelled against the Abbassids, sacked Mecca and stole the Black Stone, which was eventually retrieved.[210] The Mongol Empire put an end to the Abbassid dynasty in 1258.[211]

Pre-Modern era (1258–20th century)

Islam spread with Muslim trade networks and Sufi orders activity that extended into Sub-Saharan Africa, Central Asia and the Malay archipelago.[212][213] Under the Ottoman Empire, Islam spread to Southeast Europe.[214] The Muslims in China who were descended from earlier immigration began to assimilate by adopting Chinese names and culture while Nanjing became an important center of Islamic study.[215][216]

The Muslim world was generally in political decline starting the 1800s, especially relative to the non-Muslim European powers. This decline was evident culturally; while Taqi al-Din founded an observatory in Istanbul and the Jai Singh Observatory was built in the 18th century, there was not a single Muslim country with a major observatory by the twentieth century.[217] The Reconquista, launched against Muslim principalities in Iberia, succeeded in 1492. By the 19th century the British Empire had formally ended the Mughal dynasty in India.[218] The Ottoman Empire disintegrated after World War I and the Caliphate was abolished in 1924.[219][220]

The majority and oldest group among Shia at that time, the Zaydis, named after the great grandson of Ali, the scholar Zayd ibn Ali, used the Hanafi jurisprudence, as did most Sunnis.[221][222][223] The Shia Safavid dynasty rose to power in 1501 and later conquered all of Iran.[224] The ensuing mandatory conversion of Iran to Twelver Shia Islam for the largely Sunni population also ensured the final dominance of the Twelver sect within Shiism over the Zaidi and Ismaili sects.[225] Nader Shah, who overthrew the Safavids, attempted to improve relations with Sunnis by propagating the integration of Shiism by calling it the Jaafari Madh'hab.[226]

Abdülmecid II was the last Caliph of Islam from the Ottoman dynasty.

A revival movement during this period was an 18th-century Salafi movement led by Ibn Abd al-Wahhab in today's Saudi Arabia. Referred to as Wahhabi, their self designation is Muwahiddun (unitarians). Building upon earlier efforts such as those by Ibn Taymiyyah and Ibn al-Qayyim, the movement allegedly seeks to uphold monotheism and purify Islam of what they see as later innovations. Their zeal against idolatrous shrines led to the desecration of shrines around the world, including that of Muhammad and his companions in Mecca and Medina.[227][228] In the 19th century, the Deobandi and Barelwi movements were initiated.

Modern times (20th century–present)

Contact with industrialized nations brought Muslim populations to new areas through economic migration. Many Muslims migrated as indentured servants, from mostly India and Indonesia, to the Caribbean, forming the largest Muslim populations by percentage in the Americas.[229] The resulting urbanization and increase in trade in sub-Saharan Africa brought Muslims to settle in new areas and spread their faith, likely doubling its Muslim population between 1869 and 1914.[230] Muslim immigrants began arriving, many as guest workers and largely from former colonies, in several Western European nations since the 1960s.

There are more and more new Muslim intellectuals who increasingly separate perennial Islamic beliefs from archaic cultural traditions.[231] Liberal Islam is a movement that attempts to reconcile religious tradition with modern norms of secular governance and human rights. Its supporters say that there are multiple ways to read Islam's sacred texts, and they stress the need to leave room for "independent thought on religious matters".[232] Women's issues receive significant weight in the modern discourse on Islam.[233]

The flag of the Organisation of Islamic Cooperation.

Secular powers such as the Chinese Red Guards closed many mosques and destroyed Qurans,[234] and Communist Albania became the first country to ban the practice of every religion.[235] About half a million Muslims were killed in Cambodia by communists who, it is argued, viewed them as their primary enemy and wished to exterminate them since they stood out and worshipped their own god.[236] In Turkey, the military carried out coups to oust Islamist governments, and headscarves were banned in official buildings, as also happened in Tunisia.[237][238]

Jamal-al-Din al-Afghani, along with his acolyte Muhammad Abduh, have been credited as forerunners of the Islamic revival.[239] Abul A'la Maududi helped influence modern political Islam.[240] Islamist groups such as the Muslim Brotherhood advocate Islam as a comprehensive political solution, often in spite of being banned.[241] In Iran, revolution replaced a secular regime with an Islamic state. In Turkey, the Islamist AK Party has democratically been in power for about a decade, while Islamist parties did well in elections following the Arab Spring.[242] The Organisation of Islamic Cooperation (OIC), consisting of Muslim countries, was established in 1969 after the burning of the Al-Aqsa Mosque in Jerusalem.[243]

Piety appears to be deepening worldwide.[244][245][246] In many places, the prevalence of the hijab is growing increasingly common[247] and the percentage of Muslims favoring Sharia laws has increased.[248] With religious guidance increasingly available electronically, Muslims are able to access views that are strict enough for them rather than rely on state clerics who are often seen as stooges.[245]

It is estimated that, by 2050, the number of Muslims will nearly equal the number of Christians around the world, "driven primarily by differences in fertility rates and the size of youth populations among the world's major religions, as well as by people switching faiths."[249] Perhaps as a sign of these changes, most experts agree that Islam is growing faster than any other faith in East and West Africa.[250][251]

Denominations

An overview of the major schools and branches of Islam.
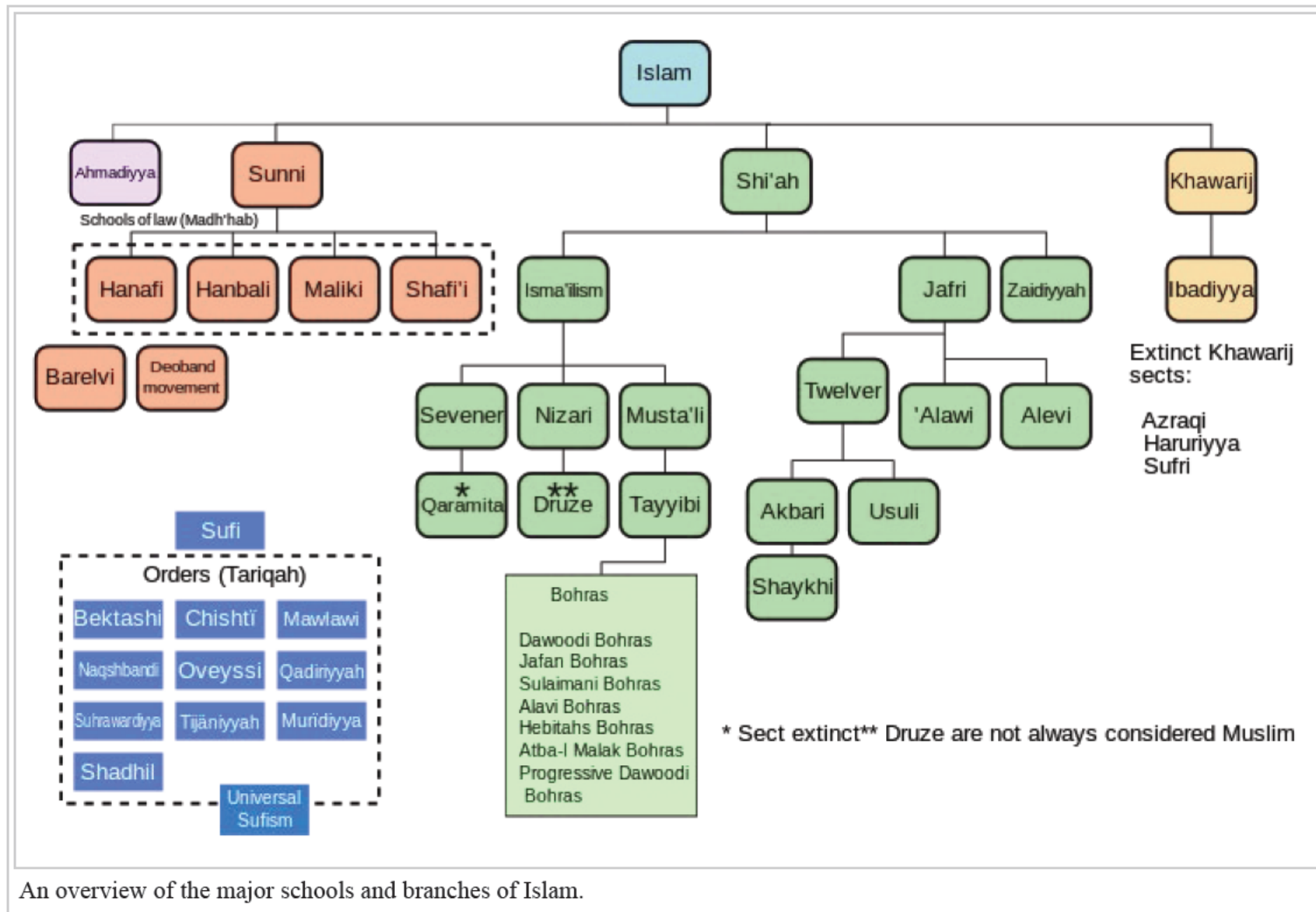
Sunni

The largest denomination in Islam is Sunni Islam, which makes up 75%–90% of all Muslims[27] and is arguably the world's largest religious denomination.[252] Sunni Muslims also go by the name *Ahl as-Sunnah* which means "people of the tradition [of Muhammad]".[3][253][254][255][256] These hadiths, recounting Muhammad's words, actions, and personal characteristics, are preserved in traditions known as Al-Kutub Al-Sittah (six major books).

Sunnis believe that the first four caliphs were the rightful successors to Muhammad; since God did not specify any particular leaders to succeed him and those leaders were elected. Sunnis believe that anyone who is righteous and just could be a caliph but they have to act according to the Quran and the Hadith, the example of Muhammad and give the people their rights.

The Sunnis follow the Quran, then the Hadith. Then for legal matters not found in the Quran or the Hadith, they follow four madh'habs (schools of thought): Hanafi, Hanbali, Maliki and Shafi'i, established around the teachings of Abū Ḥanīfa, Ahmad bin Hanbal, Malik ibn Anas and al-Shafi'i respectively. All four accept the validity of the others and a Muslim may choose any one that he or she finds agreeable.[257] Ahl al-Hadith is a movement that deemphasized sources of jurisprudence outside the quran and sunnah, such as informed opinion (ra'y).

The Salafi movement claim to take the first three generations of Muslims, known as the salaf, as exemplary models.[258] In the 18th century, Muhammad ibn Abd al-Wahhab led a salafi movement, referred by outsiders as Wahhabism, in modern-day Saudi Arabia.

Sahih Al-Bukhari, one of the six Sunni hadith books.

The Barelvi movement, a revivalist movement of Sunni Islam with over 200 million followers,[259] emerged as part of debate of how to redeem India from the British. The movement emphasizes primacy of Islamic law in all matters with adherence to Sufi practices and personal devotion to Muhammad and has addressed leading issues for Muslims since partition.[260][261] The Deobandi movement is an Indo-Pakistani reformist movement that is much influenced by the Wahhabi movement.[262] The Barelvi and Deobandi movements of Sunni Islam accept the validity of all four Sunni madh'habs.[263]

Shia

The Shia constitute 10–20% of Islam and are its second-largest branch.[28]

While the Sunnis believe that a Caliph should be elected by the community, Shia's believe that Muhammad appointed his son-in-law, Ali ibn Abi Talib, as his successor and only certain descendants of Ali could be Imams. As a result, they believe that Ali ibn Abi Talib was the first *Imam* (leader), rejecting the legitimacy of the previous Muslim caliphs Abu Bakr, Uthman ibn al-Affan and Umar ibn al-Khattab. Another point of contention is the cursing of figures revered by Sunnis. However, Jafar al-Sadiq himself disapproved of people who disapproved of his great grand father Abu Bakr and Zayd ibn Ali revered Abu Bakr and Umar.[264][265] More recently, Grand Ayatollah Ali al-Sistani condemned the practice.[266]

The Imam Hussein Shrine in Karbala, Iraq is a holy site for Shia Muslims.

Shia Islam has several branches, the most prominent being the Twelvers (the largest branch), Zaidis and Ismailis. Different branches accept different descendants of Ali as Imams. After the death of Imam Jafar al-Sadiq who is considered the sixth Imam by the Twelvers and the Ismaili's, the Ismailis recognized his son Isma'il ibn Jafar as his successor whereas the Twelver Shia's (Ithna Asheri) followed his other son Musa al-Kadhim as the seventh Imam. The Zaydis consider Zayd ibn Ali, the uncle of Imam Jafar al-Sadiq, as their fifth Imam, and follow a different line of succession after him.

Other smaller groups include the Bohra as well as the Alawites and Alevi.[267] Some Shia branches label other Shia branches that do not agree with their doctrine as Ghulat.

Sufism

Sufism, or tasawwuf (Arabic: تصوف), is a mystical-ascetic approach to Islam that seeks to find a direct personal experience of God. It is not a sect of Islam and its adherents belong to the various Muslim denominations. Classical Sufi scholars have focused on the reparation of the heart and turning it away from all else but God by making use of "intuitive and emotional faculties" that one must be trained to use.[268][269][270] Hasan al-Basri was inspired by the ideas of piety and condemnation of worldliness preached by Muhammad and these ideas were later further developed by Al-Ghazali. Traditional Sufis, such as Bayazid Bastami, Jalaluddin Rumi, Haji Bektash Veli, Junaid Baghdadi, and Al-Ghazali, argued for Sufism being based upon the tenets of Islam and the teachings of Muhammad.[271][272][273][274]

Sufism enjoyed a strong revival in central Asia and South Asia. Central Asia is considered to be a center of Sufism. Sufism has played a significant role in fighting against Tsars of Russia and Soviet colonization. Here, Sufis and their different orders are the main religious sources.[275][276] Sufism is also strong in African countries such as Tunisia, Algeria, Morocco, Senegal, Chad and Niger.[277][278]

Mawlānā Rumi's tomb, Konya, Turkey

Sufi practices such as veneration of saints have faced stiff opposition from followers of Salafism and Wahhabism, who have sometimes physically attacked Sufi places of worship, leading to deterioration in Sufi–Salafi relations.

Other denominations

- Ahmadiyya is an Islamic reform movement (with Sunni roots) founded by Mirza Ghulam Ahmad[279] that began in India in 1889 and is practiced by 10 to 20 million[280] Muslims around the world. Ahmad claimed to have fulfilled the prophecies concerning the arrival of the 'Imam Mahdi' and the 'Promised Messiah'.
- The Ibadi is a sect that dates back to the early days of Islam and is a branch of Kharijite and is practiced by 1.45 million Muslims around the world.[281] Unlike most Kharijite groups, Ibadism does not regard sinful Muslims as unbelievers.
- Mahdavia is an Islamic sect that believes in a 15th-century Mahdi, Muhammad Jaunpuri
- The Quranists are Muslims who generally reject the Hadith.
- Yazdânism is seen as a blend of local Kurdish beliefs and Islamic Sufi doctrine introduced to Kurdistan by Sheikh Adi ibn Musafir in the 12th century.
- There are also black Muslim movements such as the Nation of Islam (NOI), Five-Percent Nation and Moorish scientists.

Non-denominational Muslims

Non-denominational Muslims is an umbrella term that has been used for and by Muslims who do not belong to or do not self-identify with a specific Islamic denomination.[282][283][284][285] Prominent figures who refused to identify with a particular Islamic denomination have included Jamal ad-Din al-Afghani,[286] Muhammad Iqbal[287] and Muhammad Ali Jinnah.[288] Recent surveys report that large proportions of Muslims in some parts of the world self-identify as "just Muslim", although there is little published analysis available regarding the motivations underlying this response.[277][289][290][291] The Pew Research Center reports that respondents self-identifying as "just Muslim" make up a majority of Muslims in seven countries (and a plurality in three others), with the highest proportion in Kazakhstan at 74%. At least one in five Muslims in at least 22 countries self-identify in this way.[277]

Demographics

A comprehensive 2009 demographic study of 232 countries and territories reported that 23% of the global population, or 1.57 billion people, are Muslims. Of those, it is estimated that over 75–90% are Sunni and 10–20% are Shia[32][253][292] with a small minority belonging to other sects. Approximately 57 countries are Muslim-majority,[293] and Arabs account for around 20% of all Muslims worldwide.[294] The number of Muslims worldwide increased from 200 million in 1900 to 551 million in 1970,[295] and tripled to 1.6 billion by 2010.[249]

The majority of Muslims live in Asia and Africa.[296] Approximately 62% of the world's Muslims live in Asia, with over 683 million adherents in Indonesia, Pakistan, India, and Bangladesh.[297][298] In the Middle East, non-Arab countries such as Turkey and Iran are the largest Muslim-majority countries; in Africa, Egypt and Nigeria have the most populous Muslim communities.[299]

World Muslim population by percentage (Pew Research Center, 2014).

Most estimates indicate that the People's Republic of China has approximately 20 to 30 million Muslims (1.5% to 2% of the population).[300][301][302][303] However, data provided by the San Diego State University's International Population Center to *U.S. News & World Report* suggests that China has 65.3 million Muslims.[304] Islam is the second largest religion after Christianity in many European countries,[305] and is slowly catching up to that status in the Americas, with between 2,454,000, according to Pew Forum, and approximately 7 million Muslims, according to the Council on American-Islamic Relations (CAIR), in the United States.[32][306]

According to the Pew Research Center, Islam is set to equal Christianity in number of adherents by the year 2050. Islam is set to grow faster than any other major world religion, reaching a total number of 2.76 billion (an increase of 73%). High fertility rates play a factor, with Islam having a rate of 3.1 compared to the world average of 2.5, and the minimum replacement level for a population at 2.1. Age also plays a role in these numbers due to the fact that Islam has the highest number of adherents under the age of 15 (34% of the total religion) of any major religion (Christianity's is 27%). Sixty percent of Muslims are between the ages of 16 and 59, while only 7% are aged 60+ (the smallest percentage of any major religion). Countries such as Nigeria
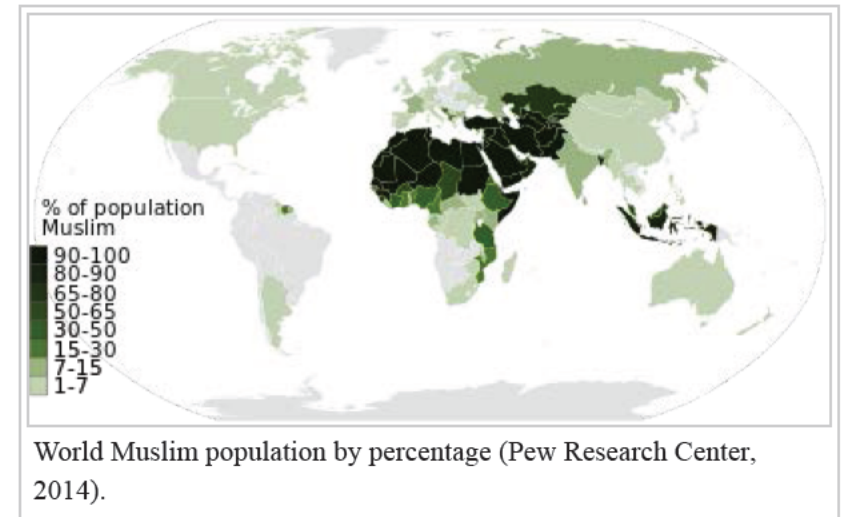
and the Republic of Macedonia are expected to have Muslim majorities by 2050. In India, the Muslim population will be larger than any other country. Europe's domestic population is set to shrink as opposed to their Islamic population which is set to grow to 10% of Europe's total.[249] According to BBC News, the rates of growth of Islam in Europe reveal that the growing number of Muslims is due primarily to immigration and higher birth rates.[307]

Culture

The term "Islamic culture" could be used to mean aspects of culture that pertain to the religion, such as festivals and dress code. It is also controversially used to denote the cultural aspects of traditionally Muslim people.[308] Finally, "Islamic civilization" may also refer to the aspects of the synthesized culture of the early Caliphates, including that of non-Muslims,[309] sometimes referred to as "Islamicate".

Geometric arabesque tiling on the underside of the dome of Hafiz Shirazi's tomb in Shiraz.

Architecture

Perhaps the most important expression of Islamic architecture is that of the mosque.[310] Varying cultures have an effect on mosque architecture. For example, North African and Spanish Islamic architecture such as the Great Mosque of Kairouan contain marble and porphyry columns from Roman and Byzantine buildings,[311] while mosques in Indonesia often have multi-tiered roofs from local Javan styles.

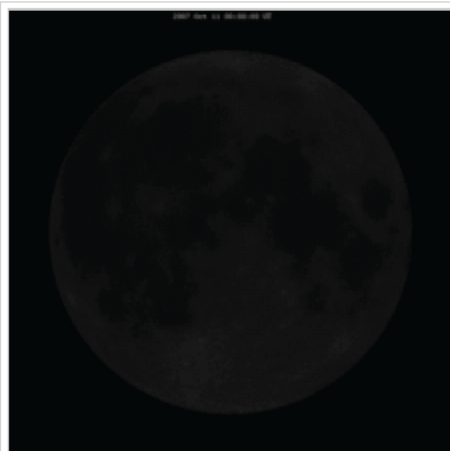Great Mosque of Djenné, in the west African country of Mali.

Art

Islamic art encompasses the visual arts produced from the 7th century onwards by people (not necessarily Muslim) who lived within the territory that was inhabited by Muslim populations.[312] It includes fields as varied as architecture, calligraphy, painting, and ceramics, among others.

While not condemned in the Quran, making images of human beings and animals is frowned on in many Islamic cultures and connected with laws against idolatry common to all Abrahamic religions, as 'Abdullaah ibn Mas'ood reported that Muhammad said, "Those who will be most severely punished by Allah on the Day of Resurrection will be the image-makers" (reported by al-Bukhaari, see al-Fath, 10/382). However this rule has been interpreted in different ways by different scholars and in different historical periods, and there are examples of paintings of both animals and humans in Mughal, Persian and Turkish art. The existence of this aversion to creating images of animate beings has been used to explain the prevalence of calligraphy, tessellation and pattern as key aspects of Islamic artistic culture.[313]

Calendar

The formal beginning of the Muslim era was chosen, reportedly by Caliph Umar, to be the Hijra in 622 CE, which was an important turning point in Muhammad's fortunes. It is a lunar calendar with days lasting from sunset to sunset.[314] Islamic holy days fall on fixed dates of the lunar calendar, which means that they occur in different seasons in different years in the Gregorian calendar. The most important Islamic festivals are *Eid al-Fitr* (Arabic: عيد الفطر) on the 1st of *Shawwal*, marking the end of the fasting month *Ramadan*, and *Eid al-Adha* (عيد الأضحى) on the 10th of *Dhu al-Hijjah*, coinciding with the end of the Hajj pilgrimage.[315]

The phases of the moon form the basis for the Islamic calendar.

Criticism

Criticism of Islam has existed since Islam's formative stages. Early criticism came from Christians authors, many of whom viewed Islam as a Christian heresy or a form of idolatry and often explained it in apocalyptic terms.[316] Later there appeared criticism from the Muslim world itself, and also from Jewish writers and from ecclesiastical Christians.[317][318][319]

The phrase Bismillah in 18th-century Ottoman calligraphy in the Thuluth style.

Objects of criticism include the morality of the life of Muhammad, the last law bearing prophet of Islam, both in his public and personal life,[319][320] as seen in medieval Christian views on Muhammad. Issues relating to the authenticity and morality of the Quran, the Islamic holy book, are also discussed by critics.[321][322] Other criticisms focus on the question of human rights in modern Islamic nations, and the treatment of women in Islamic law and practice.[323][324] In wake of the recent multiculturalism trend, Islam's influence on the ability of Muslim immigrants in the West to assimilate has been criticized.[325] In classical Islamic law, the penalty for apostasy (leaving a religion) in Islam is death.[326] However the Quran does not stipulate that the penalty for apostasy should be death.[326]

See also

- Criticism of Islam
- Challenge of the Quran
- Glossary of Islam
- History of Islam
- Islam and violence
- Islam and other religions
- Islam by country
- Islamic economics

- Islamic ethics
- Islam and humanity
- Morality in Islam
- Islamic literature
- Islamic mythology
- Islamic schools and branches
- Islamic studies
- List of Muslim empires and dynasties

- List of notable converts to Islam
- Lists of Muslims
- Major religious groups
- Muslim world
- Religious conversion#Islam
- Scientific foreknowledge in sacred texts
- Timeline of Muslim history

References

Notes

1. There are ten pronunciations of *Islam* in English, differing in whether the first or second syllable has the stress, whether the *s* is /z/ or /s/, and whether the *a* is pronounced /ɑː/, /æ/ or (when the stress is on the first syllable) /ə/ (Merriam Webster). The most common are /ˈɪzləm, ˈɪsləm, ɪzˈlɑːm, ɪsˈlɑːm/ (Oxford English Dictionary, Random House) and /ˈɪzlɑːm, ˈɪslɑːm/ (American Heritage Dictionary).
2. /ʔiˈslaːm/: Arabic pronunciation varies regionally. Thhttp://pu.edu.pk/images/journal/uoc/PDF-FILES/(2)%20The%20Significant%20Role%20of%20Sufism%20in%20Central%20Asia%20(Dr.%20Farh.pdfe first vowel ranges from [i]~[ɪ]~[e]. The second vowel ranges from [æ]~[a]~[ɑ]~[ɛ]. In Northwestern Africa, they do not have stress or lengthened vowels.

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8.
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External links

Academic resources

- Patheos Library – Islam (http://www.patheos.com/Library/Islam.html)
- University of Southern California Compendium of Muslim Texts (http://www.usc.edu/org/cmje/religious-texts/home/)
- Divisions in Islam (http://philtar.ucsm.ac.uk/encyclopedia/islam)

Online resources

- Islam (http://www.britannica.com/eb/article-9105852/Islam), article at *Encyclopædia Britannica*
- Islam (https://www.dmoz.org/Society/Religion_and_Spirituality/Islam/) at DMOZ

Directories

- Islam (Bookshelf) (http://www.gutenberg.org/wiki/Islam_%28Bookshelf%29) at Project Gutenberg
- Islam (http://ucblibraries.colorado.edu/govpubs/us/islamus.htm) from *UCB Libraries GovPubs*

Annex 32

gTLD String:.SHIA
Applicant Entity Name: Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti.
Application ID#: 1-2129-23641

SPECIFICATION 11
PUBLIC INTEREST COMMITMENTS

1.   Registry Operator will use only ICANN accredited registrars that are party to the Registrar Accreditation Agreement approved by the ICANN Board of Directors on [date to be determined at time of contracting], 2013(or any subsequent form of Registrar Accreditation Agreement approved by the ICANN Board of Directors) in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN's website.

2.   Registry Operator will operate the registry for the TLD in compliance with all commitments; statements of intent and business plans stated in the following sections of Registry Operator's application to ICANN for the TLD, which commitments, statements of intent and business plans are hereby incorporated by reference into this Agreement. Registry Operator's obligations pursuant to this paragraph shall be enforceable by ICANN and through the Public Interest Commitment Dispute Resolution Process established by ICANN ((posted at [url to be inserted when final procedure is adopted]), as it may be amended by ICANN from time to time, the "PICDRP"). Registry Operator shall comply with the PICDRP. Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Registry Agreement) following a determination by any PICDRP panel and to be bound by any such determination.

- Section 28.4 .SHIA Acceptable Use Policy

3.   Registry Operator agrees to perform following specific public interest commitments, which commitments shall be enforceable by ICANN and through the PICDRP. Registry Operator shall comply with the PICDRP. Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Registry Agreement) following a determination by any PICDRP panel and to be bound by any such determination.

a.   Registry Operator does its outmost to ensure that WHOIS data is verified, authentic and publicly accessible.

b.   Registry Operator does its most to limit second-level domain registrations to those of Muslim faith, or those with a clear interest in serving the Muslim community and faith beneficially.

c.   Registry Operator will not tolerate any illegitimate and non-legal activity such as terrorism, online counterfeiting and piracy, radical content, content that criticizes Islam and the Muslim faith. Immediate and severe action will be taken against registrants promulgating either, and a black list will be created in an attempt to pre-empt any such attempts. Registry operator will fully cooperate with any authorities that have jurisdiction over it in this regards.

d.   While the Registry Operator cannot guaranty to prevent all illegitimate and non-legal activities, but will do all possible or utmost to prevent these activities by implementing protection measures for registrations to ensure an abuse free environment whilst maintaining choice.

Annex 33

ICANN
(/)

Approved Board Resolutions | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is available in:
English | العربية (http://www.icann.org/resources/board-material/resolutions-2016-03-10-ar) |
Español (http://www.icann.org/resources/board-material/resolutions-2016-03-10-es) |
Français (http://www.icann.org/resources/board-material/resolutions-2016-03-10-fr) |
Русский (http://www.icann.org/resources/board-material/resolutions-2016-03-10-ru) |
中文 (http://www.icann.org/resources/board-material/resolutions-2016-03-10-zh)

10 Mar 2016

1. **Consent Agenda:**

a. **Approval of Board Meeting Minutes**

b. **Appointment of F-Root Server Operator Representative to the RSSAC (Root Server System Advisory Committee)**
   Rationale for Resolution 2016.03.10.02

c. **Appointment of Independent Auditors**
   Rationale for Resolution 2016.03.10.03

d. **Investment Policy Update**
   Rationale for Resolution 2016.03.10.04

e. **Next Steps for the Internationalized Registration Data (WHOIS (WHOIS (pronounced "who is"; not an acronym))) Final Report**
   Rationale for Resolutions 2016.03.10.05 – 2016.03.10.07

f. **Board Member Mentorship Program**
   Rationale for Resolution 2016.03.10.08

g. **USG IANA (Internet Assigned Numbers Authority) Stewardship Transition – Additional FY16 Expenses and Funding**
   Rationale for Resolution 2016.03.10.09

h. **Thank You to Local Host of ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting**

i. **Thank You to Sponsors of ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting**

j. **Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting**

2. **Main Agenda:**

   a. **Consideration of .ECO and .HOTEL IRP Declaration**

      Rationale for Resolutions 2016.03.10.10 – 2016.03.10.11

   b. **IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal from ICG (IANA Stewardship Transition Coordination Group)**

      Rationale for Resolution 2016.03.10.12 – 2016.03.10.15

   c. **Proposal from CCWG on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability**

      Rationale for Resolution 2016.03.10.16 – 2016.03.10.19

   d. **Thank You to Staff**

1. Consent Agenda:

   a. Approval of Board Meeting Minutes

      Resolved (2016.03.10.01), the Board approves the minutes of the 3 February 2016 Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board.

   b. Appointment of F-Root Server Operator Representative to the RSSAC (Root Server System Advisory Committee)

      Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the establishment of a Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)) with the role to advise

the ICANN (Internet Corporation for Assigned Names and Numbers) community and Board on matters relating to the operation, administration, security, and integrity of the Root Server System of the Internet.

Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for appointment by the Board of Directors of RSSAC (Root Server System Advisory Committee) members based on recommendations from the RSSAC (Root Server System Advisory Committee) Co Chairs.

Whereas, the RSSAC (Root Server System Advisory Committee) Co Chairs recommended for consideration by the Board of Directors the appointment of a representative from the F root server operator to the RSSAC (Root Server System Advisory Committee).

Resolved (2016.03.10.02), the Board of Directors appoints to the RSSAC (Root Server System Advisory Committee) the representative from F root server F root server operator, Brian Reid, through 31 December 2018.

Rationale for Resolution 2016.03.10.02

In May 2013, the root server operators (RSO) agreed to an initial membership of RSO representatives for RSSAC (Root Server System Advisory Committee), and each RSO nominated an individual. The Board of Directors approved the initial membership of RSSAC (Root Server System Advisory Committee) in July 2013 with staggered terms.

Jim Martin, the F root server operator representative, served an initial two year term, which expired on 31 December 2015. On 2 December 2015, the Board of Directors re appointed him to a full, three year term expiring on 31 December 2018.

The F root server operator, Internet Systems Consortium, has requested to change its representative from Jim Martin to Brian Reid for the remainder of the term.

The appointment of this RSSAC (Root Server System Advisory Committee) member is not anticipated to have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), though there are budgeted resources necessary for ongoing support of the RSSAC (Root Server System Advisory Committee).

This resolution is an organizational administrative function for which no public comment is required. The appointment of RSSAC (Root Server System Advisory Committee) members contributes to the commitment of ICANN (Internet Corporation for Assigned Names and Numbers) to strengthening the security, stability, and resiliency of the DNS (Domain Name System).

c. Appointment of Independent Auditors

Whereas, Article XVI of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws (http://www.icann.org/general/bylaws.htm (/general/bylaws.htm)) requires that after the end of the fiscal year, the books of ICANN (Internet Corporation for Assigned Names and Numbers) must be audited by certified public accountants, which shall be appointed by the Board.

Whereas, the Board Audit Committee has discussed the engagement of the independent auditor for the fiscal year ending 30 June 2016, and has recommended that the Board authorize the President and CEO, or his designee(s), to take all steps necessary to engage BDO LLP and BDO member firms.

Resolved (2016.03.10.03), the Board authorizes the President and CEO, or his designee(s), to take all steps necessary to engage BDO LLP and BDO member firms as the auditors for the financial statements for the fiscal year ending 30 June 2016.

Rationale for Resolution 2016.03.10.03

The audit firm BDO LLP and BDO member firms were engaged for the annual independent audits of the fiscal year ending 30 June 2014 and the fiscal year ending 30 June 2015. Based on the report from staff and the Audit Committee's evaluation of the work performed, the committee has unanimously recommended that the Board authorize the President and CEO, or his designee(s), to take all steps necessary to engage BDO LLP and BDO member firms as ICANN (Internet Corporation for Assigned Names and Numbers)'s annual independent auditor for the fiscal year ended 30 June 2016 for any annual independent audit requirements in any jurisdiction.

The engagement of an independent auditor is in fulfillment of ICANN (Internet Corporation for Assigned Names and Numbers)'s obligations to undertake an audit of ICANN (Internet Corporation for Assigned Names and Numbers)'s financial statements. This furthers ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability to its Bylaws and processes, and the results of the independent auditors work will be publicly available. There is a fiscal impact to the engagement that has already been budgeted. There is no impact on the security or the stability of the DNS (Domain Name System) as a result of this appointment.

This is an Organizational Administrative Function not requiring public comment.

d. Investment Policy Update

Whereas, the Board Finance Committee requested that an outside expert review the Investment Policy to ensure it is appropriate for ICANN (Internet Corporation for Assigned Names and Numbers).

Whereas, the outside expert completed a review of the ICANN (Internet Corporation for Assigned Names and Numbers) Investment Policy and concluded that overall the

Investment Policy continues to support well the conservative philosophy of ICANN (Internet Corporation for Assigned Names and Numbers)'s investment strategy.

Whereas, the outside expert recommends that a few modifications be made to the Investment Policy to enhance and clarify some provisions, but do not change the overall investment strategy.

Resolved (2016.03.10.04), the Board endorses and adopts the ICANN (Internet Corporation for Assigned Names and Numbers) Investment Policy as revised.

Rationale for Resolution 2016.03.10.04

In furtherance of its due diligence in regards to ICANN (Internet Corporation for Assigned Names and Numbers)'s Investment Policy ("Policy"), the Board Finance Committee (BFC) requested staff to engage an investment consulting firm to review the Policy. For this purpose, ICANN (Internet Corporation for Assigned Names and Numbers) used the services of Bridgebay Investment Consultant Services ("Bridgebay"), which had also performed the previous review of the Policy in 2011 and 2014. As a result of its review process, Bridgebay recommended a few modifications to the Policy, intended to: (i) clarify the description of the Policy's risk profile; (ii) add low risk allowable assets (money market funds); and (iii) clarify the flexible approach, for rebalancing the assets in accordance with the strategic allocation, and extended the range of allowable investment to enable the manager to increase fixed income for defensive purposes. Bridgebay also made additional suggested revisions to language, including items such as: clarification of required securities grades and update of the accounting standard name for fair value measurements. Bridgebay presented comments, analysis and the suggested changes to the Policy to the BFC during its meeting of 2 February 2016. These limited Policy modifications will enable the investment manager to optimize its asset allocation strategy for ICANN (Internet

Corporation for Assigned Names and Numbers)'s Reserve Fund in a conservative, risk controlled manner.

Adopting the suggested modifications is expected to be in the best interest of ICANN (Internet Corporation for Assigned Names and Numbers) and the ICANN (Internet Corporation for Assigned Names and Numbers) community in that it is meant to enhance and clarify certain aspects of ICANN (Internet Corporation for Assigned Names and Numbers)'s investment strategy. This action is not expected to have any fiscal impact, or any impact on the security, stability and resiliency of the domain name system.

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

e. Next Steps for the Internationalized Registration Data (WHOIS (WHOIS (pronounced "who is"; not an acronym))) Final Report

Whereas, in 2012, the Board adopted (/en/groups/board/documents/resolutions-08nov12-en.htm#1.a) an Action Plan (/en/groups/board/documents/briefing-materials-1-08nov12-en.pdf) [PDF, 265 KB] to address the recommendations of the first WHOIS (WHOIS (pronounced "who is"; not an acronym)) Review Team, calling for ICANN (Internet Corporation for Assigned Names and Numbers) to (i) continue to fully enforce existing consensus policy and contractual conditions relating to WHOIS (WHOIS (pronounced "who is"; not an acronym)), and (ii) create an expert working group to determine the fundamental purpose and objectives of collecting, maintaining and providing access to gTLD (generic Top Level Domain) registration data, to serve as a foundation for a Board initiated GNSO (Generic Names Supporting Organization) policy development process (PDP (Policy Development Process)).

Whereas, the WHOIS (WHOIS (pronounced "who is"; not an acronym)) Policy Review Team, in the WHOIS (WHOIS (pronounced "who is"; not an acronym)) RT Final Report

(/en/system/files/files/final-report-11may12-en.pdf), [PDF, 1.44 MB] highlighted the need to define requirements and develop data models with the following recommendations:

> "ICANN (Internet Corporation for Assigned Names and Numbers) should task a working group   , to determine appropriate internationalized domain name registration data requirements and evaluate available solutions; at a minimum, the data requirements should apply to all new gTLDs, and the working group should consider ways to encourage consistency of approach across the gTLD (generic Top Level Domain) and (on a voluntary basis) ccTLD (Country Code Top Level Domain) space   "

And

> "The final data model, including (any) requirements for the translation or transliteration of the registration data, should be incorporated in the relevant Registrar and Registry agreements   "

Whereas, to address these WHOIS (WHOIS (pronounced "who is"; not an acronym)) Review Team recommendations, the Action Plan (/en/groups/board/documents/briefing-materials-1-08nov12-en.pdf) [PDF, 265 KB] called for a series of activities aimed at developing policies and a technical data model and framework for internationalizing WHOIS (WHOIS (pronounced "who is"; not an acronym)), including,

  i. Convening of an expert working group (known as the IRD Working Group) to determine the requirements for the submission and display of internationalized registration data.

  ii. A GNSO (Generic Names Supporting Organization) Policy Development Process (PDP (Policy Development Process)) to determine whether translation or

transliteration of contact information is needed.

Whereas, in September 2015, the Board approved (/resources/board-material/resolutions-2015-09-28-en#1.b) a new consensus policy developed by the GNSO (Generic Names Supporting Organization) related to the translation and transliteration of WHOIS (WHOIS (pronounced "who is"; not an acronym)) contact data, for which the implementation planning is currently underway.

Whereas the IRD Working Group produced the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf), [PDF, 268 KB] that includes the Data Model requested by the Board, and principles and requirements for internationalizing registration data (such as WHOIS (WHOIS (pronounced "who is"; not an acronym))).

Resolved (2016.03.10.05), the Board hereby receives the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf) [PDF, 268 KB] and thanks the IRD Working Group for the significant effort and work exerted that produced the proposed data model for internationalizing registration data as reflected in the IRD Final Report.

Resolved (2016.03.10.06), the Board requests that the GNSO (Generic Names Supporting Organization) Council review the broader policy implications of the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf) [PDF, 268 KB] as they relate to other GNSO (Generic Names Supporting Organization) policy development work on WHOIS (WHOIS (pronounced "who is"; not an acronym)) issues, and, at a minimum, forward the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf) [PDF, 268 KB] as an input to the GNSO (Generic Names Supporting Organization) PDP (Policy Development Process) on the Next Generation Registration Directory Services to

Replace WHOIS (WHOIS (pronounced "who is"; not an acronym)) that is currently underway.

Resolved (2016.03.10.07), the President and CEO, or his designee(s), is directed to work with the implementation review team for the new consensus policy on translation and transliteration to consider the IRD Working Group's data model and requirements and incorporate them, where appropriate, to the extent that the IRD's recommendations are consistent with, and facilitate the implementation of the new consensus policy on translation and transliteration.

Rationale for Resolutions 2016.03.10.05 – 2016.03.10.07

Why is the Board addressing the issue?

This resolution continues the Board's attention to the implementation of the Action Plan (/en/groups/board/documents/briefing-materials-1-08nov12-en.pdf) [PDF, 265 KB] adopted by the Board in response to the WHOIS (WHOIS (pronounced "who is"; not an acronym)) Review Team's recommendations (/en/system/files/files/final-report-11may12-en.pdf). [PDF, 1.44 MB]This resolution arises out of a series of efforts identified in the Action Plan commenced at the Board's request with the aim of internationalizing WHOIS (WHOIS (pronounced "who is"; not an acronym)) contact data. It also facilitates the implementation of the recently adopted and related consensus policy on translation and transliteration of WHOIS (WHOIS (pronounced "who is"; not an acronym)) data approved (/resources/board-material/resolutions-2015-09-28-en#1.b) by the Board on 28 September 2015.

What is the proposal being considered?

Under the Affirmation of Commitments (AoC), ICANN (Internet Corporation for Assigned Names and Numbers) is committed to enforcing its existing policy relating to WHOIS

(WHOIS (pronounced "who is"; not an acronym)) (subject to applicable laws), which "requires that ICANN (Internet Corporation for Assigned Names and Numbers) implement measures to maintain timely, unrestricted and public access to accurate and complete WHOIS (WHOIS (pronounced "who is"; not an acronym)) information   ." The AoC obligates ICANN (Internet Corporation for Assigned Names and Numbers) to organize no less frequently than every three years a community review of WHOIS (WHOIS (pronounced "who is"; not an acronym)) policy and its implementation to assess the extent to which WHOIS (WHOIS (pronounced "who is"; not an acronym)) policy is effective and its implementation meets the legitimate needs of law enforcement and promotes consumer trust. Under this timeline, the second WHOIS (WHOIS (pronounced "who is"; not an acronym)) Review Team is to be convened in late 2016.

In 2012, the first WHOIS (WHOIS (pronounced "who is"; not an acronym)) Review Team recommended in its Final Report (/en/system/files/files/final-report-11may12-en.pdf) [PDF, 1.44 MB] that the Board take measures to improve WHOIS (WHOIS (pronounced "who is"; not an acronym)). Its findings state: "work needs to proceed with priority in coordination with other relevant work beyond ICANN (Internet Corporation for Assigned Names and Numbers)'s ambit, to make internationalized domain name registration data accessible." In response, the Board adopted a two prong approach that simultaneously directed ICANN (Internet Corporation for Assigned Names and Numbers) to (1) implement improvements to the current WHOIS (WHOIS (pronounced "who is"; not an acronym)) system based on the Action Plan (/en/groups/board/documents/briefing-materials-1-08nov12-en.pdf) [PDF, 265 KB] that was based on the recommendations of the WHOIS (WHOIS (pronounced "who is"; not an acronym)) Review Team, and (2) launch a new effort, achieved through the creation of the Expert Working Group, to focus on the purpose and provision of gTLD (generic Top Level Domain) directory services, to serve as PDP (Policy Development Process) on the Next Generation Registration Directory Services to Replace WHOIS (WHOIS (pronounced "who is"; not an acronym)) commenced in January 2016 with a call for volunteers (/news/announcement-2016-01-04-en).

The effect of the Board's action today, i.e. forwarding the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf) [PDF, 268 KB] to the GNSO (Generic Names Supporting Organization) for appropriate follow up policy work, is aimed at internationalizing WHOIS (WHOIS (pronounced "who is"; not an acronym)) contact data, as part of the Action Plan (/en/groups/board/documents/briefing-materials-1-08nov12-en.pdf), [PDF, 265 KB] in order to improve WHOIS (WHOIS (pronounced "who is"; not an acronym)) and enable non US ASCII script to be included in WHOIS (WHOIS (pronounced "who is"; not an acronym)) records. At a minimum, the PDP (Policy Development Process) on the Next Generation Registration Directory Services to Replace WHOIS (WHOIS (pronounced "who is"; not an acronym)) should take into account the IRD Final Report recommendations.

Today's action also instructs the President and CEO to consider the IRD's technical data model & non policy related requirements, as appropriate, as part of the implementation of the new consensus policy on translation and transliteration of registration data, to the extent that its findings are consistent with the new consensus policy, and facilitate its implementation.

What factors did the Board find to be significant?

Internationalization of the Internet's identifiers is a key ICANN (Internet Corporation for Assigned Names and Numbers) priority. Much of the currently accessible domain name registration data (DNRD) (previously referred to as WHOIS (WHOIS (pronounced "who is"; not an acronym)) data) is encoded in free form US ASCII script. This legacy condition is convenient for WHOIS (WHOIS (pronounced "who is"; not an acronym)) service users who are sufficiently familiar with languages that can be submitted and displayed in US ASCII to be able to use US ASCII script to submit registration data, make and receive queries using that script. However, this data is less useful to the WHOIS (WHOIS (pronounced "who is"; not an acronym)) service users who are only

familiar with languages that require script support other than US ASCII for correct submission or display.

The data model recommended by in the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf) [PDF, 268 KB] creates a standard framework for submitting and displaying internalized registration data and facilitates the implementation of the new consensus policy on translation and transliteration of contact data.

What significant materials did the Board review?

The Board reviewed the IRD Final Report (https://whois.icann.org/sites/default/files/files/ird-expert-wg-final-23sep15-en.pdf) [PDF, 268 KB] and other briefing materials submitted by staff.

Are there fiscal impacts or ramifications on ICANN (Internet Corporation for Assigned Names and Numbers) (strategic plan, operating plan, or budget)?

The work to improve and internationalize WHOIS (WHOIS (pronounced "who is"; not an acronym)) is not expected to require additional resources beyond those included in the Board approved FY16 Operating Plan and Budget, and the FY17 Operating Plan and Budget, when adopted.

Are there any security, stability or resiliency issues relating to the DNS (Domain Name System)?

This action is not expected to have an immediate impact on the security, stability or resiliency of the DNS (Domain Name System), though the outcomes of this work may result in positive impacts, since improvements in the accessibility of WHOIS (WHOIS (pronounced "who is"; not an acronym)) in multiple scripts and dialogues may enable

the resolution of technical issues affecting the security, stability or resiliency of the DNS (Domain Name System).

Is public comment required prior to Board action?

As this is a continuation of prior Board actions, this is an Organizational Administrative Action, for which public comment is not necessary prior to adoption.

f. Board Member Mentorship Program

Whereas, on 3 February 2016, the ICANN (Internet Corporation for Assigned Names and Numbers) Board approved the initial set of key performance indicators (KPIs) to measure the Board Performance and Improvement efforts as per the recommendations of the Final Report of the Second Accountability and Transparency Review Team (ATRT2) published on 31 December 2013.

Whereas, the initial set of KPIs encompasses, among other things, the measurement of the effectiveness and success of a New Board Mentorship Program.

Whereas, the Board is engaged in an ongoing process to develop comprehensive and holistic practices to enhance its performance and measure its effectiveness and improvement efforts over time.

Whereas, the Board recognizes the importance of establishing programs aiming at guiding and supporting the Board members' on boarding and development processes to improve the Board members' individual skills set and the Board's collegial performance.

Whereas the Board Mentorship Program will ease new Board members into the culture of ICANN (Internet Corporation for Assigned Names and Numbers), as well as into the

specifics of their roles.

Whereas the Board Governance Committee (BGC) has recommended that the Board adopt the New Board Mentorship Program as a voluntary basis program.

Resolved (2016.03.10.08), the Board adopts the New Board Mentorship Program set forth in Attachment A to the Reference Materials to this Board Paper, and agrees with the BGC that the Board Mentorship Program should be assessed, evaluated and reviewed to adapt to the need of the Board to consistently improve its performance over time.

Rationale for Resolution 2016.03.10.08

The implementation of recommendations (/en/about/aoc-review/atrt/final-recommendations-31dec13-en.pdf) [PDF, 3.46 MB] from the Second Accountability and Transparency Review Team (ATRT2) began in June 2014, shortly after the Board accepted the recommendations.

Since then, the Board Governance Committee, as per Section I.A of the its charter (see https://www.icann.org/resources/pages/charter-06-2012-02-25-en (/resources/pages/charter-06-2012-02-25-en)) has been tasked to review comprehensively the Board's performance and to develop relevant and substantive programs and practices to support the individual and the collegial improvement efforts and to measure their effectiveness over time.

Mentoring programs are globally recognized as useful practices to enhance productivity and performance and to facilitate the settlement of new recruits into the Organization. Additionally, the mentorship enables experienced, highly competent people to pass their expertise on to others who need to acquire specified skills, in

particular, mentoring encourages the development of leadership competencies that are highly desirable at Board level.

Adopting this new Board Mentorship Program will have no direct fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers) or the community, and will not have an impact of the security, stability and resiliency of the domain name system.

This is an Organization Administrative Function that does not require public comment.

g. ## USG IANA (Internet Assigned Numbers Authority) Stewardship Transition – Additional FY16 Expenses and Funding

Whereas, the Board has approved an expense budget envelopes to support the IANA (Internet Assigned Numbers Authority) Stewardship Transition Project ("Project") during FY15 and FY16, and all approved budget envelopes will have been used after the ICANN (Internet Corporation for Assigned Names and Numbers) Meeting 55 in Marrakech.

Whereas, a Project Cost Support Team is being implemented to produce Project expense estimates for the remainder of FY16 and for FY17 for the Project.

Whereas, it is projected that further Project expenses of up to approximately US$1.5 million will be incurred while the Project Cost Support Team is producing cost estimates.

Whereas, the Board Finance Committee met on 3 March 2016 and has approved to recommend to the Board to approve an additional Project expense budget envelope of up US1.5 million to cover Project expenses while the Project Cost Support Team is working to produce estimates.

Resolved (2016.03.10.09), the Board approves a budget envelope of up to US$1.5 million, as an interim measure, to cover the costs of the Project to be incurred until the first estimate is produced, to be funded through a fund release from the Reserve Fund.

Rationale for Resolution 2016.03.10.09

The IANA (Internet Assigned Numbers Authority) Stewardship Transition is a major initiative to which the ICANN (Internet Corporation for Assigned Names and Numbers) Community as a whole is dedicating a significant amount of time and resources. ICANN (Internet Corporation for Assigned Names and Numbers)'s support for the community's work towards a successful completion of the Project (including both the USG IANA (Internet Assigned Numbers Authority) Stewardship transition proposal development and the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability's work) is critical for ICANN (Internet Corporation for Assigned Names and Numbers).

Considering its exceptional nature and the significant amount of costs anticipated to be incurred, the funding of this Project could not be provided through the Operating Fund. Accordingly, when the Board approved the FY15 and FY16 Operating Plans and Budgets, it included the anticipated funding of the transition initiative costs through a corresponding withdrawal from the Reserve Fund.

The Board previously approved the FY16 Operating Plan and Budget, which included an estimated budget envelope of US$7 million for the USG IANA (Internet Assigned Numbers Authority) Stewardship Transition ("The Project") to be funded by the Reserve Fund. As the Project used this entire budget envelope by the end of November 2015, the Board approved additional funding of US$4.5 million on 2 February 2016 to allow the project to be funded through the ICANN (Internet Corporation for Assigned Names and Numbers) Meeting 55 in Marrakech.

The Board reiterates its 25 June 2015 statement that the Board is "committed to supporting the community in obtaining the advice it needs in developing recommendations in support of the transition process, and also notes the importance of making sure that the funds entrusted to ICANN (Internet Corporation for Assigned Names and Numbers) by the community are used in responsible and efficient ways. Assuring the continuation of cost control measures over the future work of the independent counsel is encouraged." (See https://www.icann.org/resources/board-material/resolutions-2015-06-25-en#2.c (/resources/board-material/resolutions-2015-06-25-en#2.c).).

As the community work relative to the accountability track of the Project is expected to continue, further expenses are expected through the remainder of FY16 and during FY17. The implementation planning for other parts of the Project will also continue. Separately, in order to improve visibility on and control of the expenses for this type of project in partnership with the community, a Project Costs Support Team is being formed to produce costs estimates for future work.

The Board Finance Committee has determined that an additional budget envelope of approximately US$1.5 million needs to be approved by Board to allow ICANN (Internet Corporation for Assigned Names and Numbers) to incur further Project expenses for a short period of time after the end of the ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting. This will give the necessary time to the project cost support team to produce estimates. These estimates will then be used by the Board to consider and approve a budget envelope for a longer period of time forward.

As this initiative's expenses and funding are approved by the Board, the ICANN (Internet Corporation for Assigned Names and Numbers) Board is now approving as an additional interim measure a budget envelope of up to US$1.5 million to be funded through a release from the Reserve Fund to cover the estimated costs to be incurred after the end of the ICANN (Internet Corporation for Assigned Names and Numbers) 55

meeting until such time a cost estimate will be ready. The Board will be asked to approve an additional expense budget envelope for the remainder of FY16, on the basis of the estimated future expenses produced by the Project Cost Support Team.

This action will not have a direct impact on the security, stability and resiliency of the domain name system.

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

h. Thank You to Local Host of ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting

The Board wishes to extend its thanks to the local host organizer, ANRT, for its support.

i. Thank You to Sponsors of ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting

The Board wishes to thank the following sponsors: Verisign, Inc., Nominet UK, NCC Group, PDR Solutions FZC, China Internet Network Information Center (CNNIC), Public Interest Registry, CentralNic, Afilias plc, Radix FZC, Rightside, dotistanbul, fmai, .MA and Office National Des Aeroports.

j. Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN (Internet Corporation for Assigned Names and Numbers) 55 Meeting

The Board expresses its deepest appreciation to the scribes, interpreters, audiovisual team, technical teams, and the entire ICANN (Internet Corporation for Assigned Names and Numbers) staff for their efforts in facilitating the smooth operation of the meeting.

The Board would also like to thank the management and staff of the Palmeraie Conference Center and Hotels for providing a wonderful facility to hold this event. Special thanks are extended to Patrick Lebufno, Director General Delegue, Palmeraie Conference Center and Hotels; Boubker Bernoussi, Director of Convention Services for Palmeraie Conference Center and Hotels; Loubna El Mekkaoui, Sales Manager for Palmeraie Conference Center and Hotels; Mohamed Aziz, Director, Food and Beverage; Hassan Agouzoul, Executive Chef; Hafsa Aitouhan, Event Manager; and Jamal Drifi, Banquet Director.

2. **Main Agenda:**

a. ## Consideration of .ECO and .HOTEL IRP Declaration

Whereas, on 12 February 2016, an Independent Review Process (IRP) Panel (Panel) issued its Final Declaration in the IRPs relating to .HOTEL and .ECO.

Whereas, the Panel declared ICANN (Internet Corporation for Assigned Names and Numbers) to be the prevailing party in both IRPs, and, among other things, declared that the Board's actions or inactions did not in any way violate ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation or Bylaws. (See Final Declaration, ¶¶ 151 156, https://www.icann.org/en/system/files/files/irp-despegar-online-et-al-final-declaration-12feb16-en.pdf (/en/system/files/files/irp-despegar-online-et-al-final-declaration-12feb16-en.pdf).) [PDF, 2.16 MB]

Whereas, while the Panel declared ICANN (Internet Corporation for Assigned Names and Numbers) to be the prevailing party in both the .HOTEL and .ECO IRPs, the Panel also suggested that: (1) the Board consider additional measures be added in the future to increase the consistency and predictability of the CPE process and third party provider evaluations; (2) the Board encourage ICANN (Internet Corporation for Assigned Names and Numbers) staff to be as specific and detailed as possible in

responding to requests made pursuant to ICANN (Internet Corporation for Assigned Names and Numbers)'s Documentary Information Disclosure Policy (DIDP); (3) the Board affirm, when appropriate, that ICANN (Internet Corporation for Assigned Names and Numbers)'s activities are conducted through open and transparent processes in conformance with Article IV of ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation; and (4) the Board respond to a letter from the .HOTEL Claimants regarding the portal configuration issue as soon as feasible.

Whereas, in accordance with Article IV, section 3.21 of ICANN (Internet Corporation for Assigned Names and Numbers)'s Bylaws, the Board has considered the Panel's Final Declaration.

Resolved (2016.03.10.10), the Board accepts the following findings of the Panel's Final Declaration: (1) ICANN (Internet Corporation for Assigned Names and Numbers) is the prevailing party in the Despegar Online SRL, Donuts Inc., Famous Four Media Limited, Fegistry LLC, and Radix FZC v. ICANN (Internet Corporation for Assigned Names and Numbers) IRP; (2) ICANN (Internet Corporation for Assigned Names and Numbers) is the prevailing party in the Little Birch, LLC and Minds   Machines Group Limited v. ICANN (Internet Corporation for Assigned Names and Numbers) IRP; (3) the IRP Panel's analysis is limited to declaring whether the Board has acted consistently with the provisions of ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation and Bylaws; (4) the Board (including the Board Governance Committee) acted consistently with the Articles of Incorporation and Bylaws; (5) the parties shall each bear their own expenses including legal fees; and (6) the IRP costs shall be divided between the parties in a 50% (claimants) / 50% (ICANN (Internet Corporation for Assigned Names and Numbers)) proportion.

Resolved (2016.03.10.11), the Board notes the Panel's suggestions, and: (1) directs the President and CEO, or his designee(s), to ensure that the New gTLD (generic Top Level Domain) Program Reviews take into consideration the issues raised by the Panel as

they relate to the consistency and predictability of the CPE process and third party provider evaluations; (2) encourages ICANN (Internet Corporation for Assigned Names and Numbers) staff to be as specific and detailed as possible in responding to DIDP requests, particularly when not disclosing requested documents; (3) affirms that, as appropriate, ICANN (Internet Corporation for Assigned Names and Numbers) will continue to ensure that its activities are conducted through open and transparent processes in conformance with Article IV of ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation; and (4) directs the President and CEO, or his designee(s), to complete the investigation of the issues alleged by the .HOTEL Claimants regarding the portal configuration as soon as feasible and to provide a report to the Board for consideration following the completion of that investigation.

Rationale for Resolutions 2016.03.10.10 – 2016.03.10.11

Despegar Online SRL, Donuts Inc., Famous Four Media Limited, Fegistry LLC, and Radix FZC (collectively, ".HOTEL Claimants") filed a request for an Independent Review Process (IRP) challenging the Community Priority Evaluation (CPE) Panel Report finding that the one community application for .HOTEL prevailed in CPE (the ".HOTEL IRP"). Specifically, the .HOTEL Claimants filed Reconsideration Request 14 34 seeking reconsideration of the CPE Panel Report, and Reconsideration Request 14 39 seeking reconsideration of ICANN (Internet Corporation for Assigned Names and Numbers) staff's determination, pursuant to the Documentary Information Disclosure Policy (DIDP), that certain documents related to the CPE Panel Report were not appropriate for disclosure under the DIDP Defined Conditions for Nondisclosure. The Board Governance Committee (BGC) denied Reconsideration Requests 14 34 and 14 39, finding that the .HOTEL Claimants had not stated proper grounds for reconsideration. The .HOTEL IRP challenged the denial of Reconsideration Requests 14 34 and 14 39, and argued that the Board should have take further action with respect to the CPE Panel Report.

Little Birch LLC and Minds Machines Group Limited (collectively, ".ECO Claimants") filed an IRP Request challenging the CPE Panel Report finding that the one community application for .ECO prevailed in CPE (the ".ECO IRP"). Specifically, the .ECO Claimants filed Reconsideration Request 14 46, seeking reconsideration of the CPE Panel Report. The BGC denied Reconsideration Request 14 46, finding that the .ECO Claimants had not stated proper grounds for reconsideration. The .ECO IRP challenged the denial of Reconsideration Request 14 46, and alleged that ICANN (Internet Corporation for Assigned Names and Numbers) "has failed to act with due diligence and failed to exercise independent judgment" in "adopting" the CPE Panel Report, and requested that ICANN (Internet Corporation for Assigned Names and Numbers) be "required to overturn the CPE in relation to .eco and allow the .ECO Claimants' applications to proceed on their own merits."

On 12 May 2015, the .HOTEL and the .ECO IRPs were consolidated under a single IRP Panel (Panel). The Panel held a telephonic hearing on 7 December 2015. On 12 February 2016, the three member Panel issued its Final Declaration. After consideration and discussion, pursuant to Article IV, Section 3.21 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, the Board adopts the findings of the Panel, which are summarized below, and can be found in full at https://www.icann.org/en/system/files/files/irp-despegar-online-et-al-final-declaration-12feb16-en.pdf (/en/system/files/files/irp-despegar-online-et-al-final-declaration-12feb16-en.pdf). [PDF, 2.16 MB]

The Panel found that the "analysis, which the Panel is charged with carrying out in this IRP, is one of comparing the actions of the Board with the Articles of Incorporation and Bylaws, and declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws." (Final Declaration at ¶ 58.)

Using the applicable standard of review, the Panel found that: (1) ICANN (Internet Corporation for Assigned Names and Numbers) is the prevailing party in the *Despegar*

Online SRL, Donuts Inc., Famous Four Media Limited, Fegistry LLC, and Radix FZC v. ICANN (Internet Corporation for Assigned Names and Numbers) IRP; (2) ICANN (Internet Corporation for Assigned Names and Numbers) is the prevailing party in the *Little Birch, LLC and Minds + Machines Group Limited v. ICANN (Internet Corporation for Assigned Names and Numbers)* IRP; (3) the Board (including the Board Governance Committee) acted consistently with the Articles of Incorporation and Bylaws; (4) the parties shall each bear their own expenses including legal fees; and (5) the IRP costs shall be divided between the parties in a 50% (claimants) / 50% (ICANN (Internet Corporation for Assigned Names and Numbers)) proportion. (*See* Final Declaration at ¶¶ 151, 154 156, 160.)

More specifically, the Panel found that the .HOTEL IRP "was always going to fail given the clear and thorough reasoning adopted by the BGC in its denial" of Reconsideration Requests 14 34 and 14 39. (Final Declaration at ¶ 155.) And, "[a]s for the .eco IRP, it is clear that the Reconsideration Request [14 46] was misconceived and was little more than an attempt to appeal the CPE decision. Again, therefore, the .eco IRP was always going to fail." (Final Declaration at ¶ 156.)

It should be noted that, while ruling in ICANN (Internet Corporation for Assigned Names and Numbers)'s favor and denying both IRPs, the Panel did make some observations and suggestions for the Board's consideration. In particular, while recognizing that the New gTLD (generic Top Level Domain) Program is near its end "and there is little or nothing that ICANN (Internet Corporation for Assigned Names and Numbers) can do now," the Panel suggested that a system be put in place to ensure that CPE evaluations are conducted "on a consistent and predictable basis by different individual evaluators," and to ensure that ICANN (Internet Corporation for Assigned Names and Numbers)'s core values "flow through   to entities such as the EIU." (*Id.* at ¶¶ 147, 150.) The Panel also noted that ICANN (Internet Corporation for Assigned Names and Numbers) staff could have better explained its determination that certain requested documents were subject to the Defined Conditions for Nondisclosure in the Documentary Information

Disclosure Policy (DIDP). (*Id.* at ¶ 110.) The Panel also suggested that "to the extent possible, and compatible with the circumstances and the objects to be achieved by ICANN (Internet Corporation for Assigned Names and Numbers)" in taking a particular decision (*Id.* at ¶ 145), the Board affirm that ICANN (Internet Corporation for Assigned Names and Numbers) carries out its activities "through open and transparent processes" pursuant to Article IV of ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation. In addition, the Panel encouraged ICANN (Internet Corporation for Assigned Names and Numbers) to respond to a letter from the .HOTEL Claimants regarding the portal configuration issue as soon as feasible. (*Id.* at ¶ 134.)

The Board acknowledges the foregoing suggestions by the Panel. The Board has considered the suggestions and notes that it will ensure that the New gTLD (generic Top Level Domain) Program Reviews take into consideration the issues raised by the Panel as they relate to the consistency and predictability of the CPE process and third party provider evaluations. The Board also affirms that ICANN (Internet Corporation for Assigned Names and Numbers), as appropriate, will continue to ensure that its activities are conducted through open and transparent processes in conformance with Article IV of ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation. The Board also encourages ICANN (Internet Corporation for Assigned Names and Numbers) staff to be as specific and detailed as possible in responding to DIDP requests, particularly when determining that requested documents will not be disclosed. In this regard, the Board notes that the Cross Community Working Group (CCWG) on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability has identified that reviewing and enhancing the DIDP is one of the topics that it will address in Workstream 2. This work, which will be further framed starting at the ICANN55 meeting in Marrakech, is likely to include review of the scope of the DIDP Defined Conditions for Nondisclosure.

Finally, with respect to the Panel's recommendation that ICANN (Internet Corporation for Assigned Names and Numbers) respond to a letter from the .HOTEL Claimants regarding the portal configuration issue as soon as feasible, the Board notes that staff has informed the Board that it is nearing the end of its investigation of this matter. The Board is recently in receipt of two letters from Claimants regarding the portal configuration issue, dated 1 March 2016 and 8 March 2016, respectively. Staff has provided the Board with an update of its investigation into the issues set forth in the letters. The Board has directed the President and CEO, or his designee(s) to complete its investigation into this matter as soon as feasible. The Board notes that out of a matter of equity and fairness, the investigation should include the opportunity for all relevant parties to be heard. The Board expects the staff will prepare a report for the Board following the completion of its investigation, at which time the Board will consider the .HOTEL Claimants request for cancellation of HOTEL Top Level Domain S.a.r.l.'s application for .HOTEL.

As required, the Board has considered the Final Declaration. As this Board has previously indicated, the Board takes very seriously the results of one of ICANN (Internet Corporation for Assigned Names and Numbers)'s long standing accountability mechanisms. Accordingly, and for the reasons set forth in this Resolution and Rationale, the Board has accepted the Panel's Final Declaration as indicated above. Adopting the Panel's Final Declaration will have no direct financial impact on the organization and no direct impact on the security, stability or resiliency of the domain name system.

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

b. IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal from ICG (IANA Stewardship Transition Coordination Group)

Whereas, on 14 March 2014, the National Telecommunications and Information Administration (NTIA (US National Telecommunications and Information Agency)) of the United States Department of Commerce announced its intention to transition the stewardship of the IANA (Internet Assigned Numbers Authority) Functions to the global multistakeholder community.

Whereas, NTIA (US National Telecommunications and Information Agency) asked ICANN (Internet Corporation for Assigned Names and Numbers) to convene global stakeholders to develop a proposal to transition the current role played by NTIA (US National Telecommunications and Information Agency) in the coordination of the Internet's domain name system (DNS (Domain Name System)). NTIA (US National Telecommunications and Information Agency) required that the proposal for transition must have broad community support and uphold the following principles:

- Support and enhance the multistakeholder model;

- Maintain the security, stability, and resiliency of the Internet DNS (Domain Name System);

- Meet the needs and expectation of the global customers and partners of the IANA (Internet Assigned Numbers Authority) services; and,

- Maintain the openness of the Internet.

NTIA (US National Telecommunications and Information Agency) also stated it would not accept a proposal that replaces the NTIA (US National Telecommunications and Information Agency) role with a government led or an inter governmental organization solution.

Whereas, after public input into the design of the process, the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group (ICG (IANA Stewardship

Transition Coordination Group)) was formed, with 30 members representing 13 communities of both direct and indirect stakeholders each selected by their respective communities. The communities represented were the At Large Advisory Committee (Advisory Committee), Address Supporting Organization (Supporting Organization), Country Code Names Supporting Organization (Supporting Organization), Governmental Advisory Committee (Advisory Committee), Generic Names Supporting Organization (Supporting Organization), Generic Top Level Domain Registries, International Chamber of Commerce/Business Action to Support the Information Society, Internet Architecture Board, Internet Engineering Task Force, Internet Society, Number Resource Organization, Root Server System Advisory Committee (Advisory Committee), and the Security (Security   Security, Stability and Resiliency (SSR))and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee). A liaison from the ICANN (Internet Corporation for Assigned Names and Numbers) Board, as well as an IANA (Internet Assigned Numbers Authority) Staff Liaison Expert were also named. The ICG (IANA Stewardship Transition Coordination Group) is supported by an independent Secretariat.

Whereas, in response to its request, each of those operating communities in turn developed their own team to coordinate the development of a plan to submit to the ICG (IANA Stewardship Transition Coordination Group). The ICG (IANA Stewardship Transition Coordination Group) received plans from the Domain Names communities (developed in the Cross Community Working Group to Develop an IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal, or the CWG Stewardship) in June 2015, the Number Resources community (developed by the Consolidated RIR (Regional Internet Registry) IANA (Internet Assigned Numbers Authority) Stewardship Proposal Team, or CRISP) in January 2015, and the Protocol (Protocol) Parameters community (developed in the IANAPLAN team) in January 2015. The CWG Stewardship, CRISP and IANAPLAN teams each developed their plans through open consultation processes. The ICG (IANA Stewardship Transition Coordination Group) took these three community developed plans and assessed them

individually and collectively in order to determine whether: (1) the community processes were open and inclusive and if consensus was achieved for the plans; (2) the proposals are complete and clear; (3) the three proposals together are compatible and interoperable, provide appropriate accountability mechanisms, and are workable; and (4) the proposals together meet the NTIA (US National Telecommunications and Information Agency) criteria.

Whereas, the ICG (IANA Stewardship Transition Coordination Group) found that each of its assessment criteria were met, and coordinated the three plans into a single unified Proposal. The Proposal went out for public comment from August September 2015, and received 157 comments on the combined proposal from a wide variety of stakeholders, including individuals, operational communities, supporting organizations and advisory committees within the ICANN (Internet Corporation for Assigned Names and Numbers) community, businesses and trade associations, civil society groups, governments, and others from all regions of the world.

Whereas, upon deliberation and consideration of public comments, the ICG (IANA Stewardship Transition Coordination Group) achieved unanimous support among its members for the Proposal. The ICG (IANA Stewardship Transition Coordination Group) completed its work on 29 October 2015 and finalized its proposal, with the exception of one item. The CWG Stewardship plan identified contingencies on the work of the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG Accountability), and the ICG (IANA Stewardship Transition Coordination Group) received confirmation from the CWG Stewardship on 29 Feburary 2016 that the contingencies had been met.

Whereas, the CCWG Accountability finalized its report on 10 March 2016, and thus provided the final confirmation to the ICG (IANA Stewardship Transition Coordination Group) on the meeting of the interdependencies with the CWG Stewardship's portion of the Proposal.

Whereas, on 10 March 2016, the ICG (IANA Stewardship Transition Coordination Group) formally transmitted its report to the ICANN (Internet Corporation for Assigned Names and Numbers) Board for consideration.

Whereas, during the Proposal development process, the Board engaged in each part of the process. The Board monitored the development of all parts of the proposals and provided public comment as appropriate, including commenting on both the first and second versions of the CWG plan, and on 8 September 2015 providing a comment on the ICG (IANA Stewardship Transition Coordination Group) Proposal noting some specific concerns that should be addressed during the implementation phase. The Board's input to the ICG (IANA Stewardship Transition Coordination Group) is at https://comments.ianacg.org/pdf/submission/submission121.pdf (https://comments.ianacg.org/pdf/submission/submission121.pdf). [PDF, 133 KB] A comprehensive list of all the ICANN (Internet Corporation for Assigned Names and Numbers) Board's input into the processes are detailed at https://www.icann.org/resources/pages/board-input-stewardship-accountability-2015-07-10-en (/resources/pages/board-input-stewardship-accountability-2015-07-10-en).

Whereas, on 19 February 2016, the Board held an information call wherein it refreshed its review of the ICG (IANA Stewardship Transition Coordination Group) Proposal in anticipation that the Proposal would soon be delivered.

Resolved (2016.03.10.12), the ICANN (Internet Corporation for Assigned Names and Numbers) Board accepts the ICG (IANA Stewardship Transition Coordination Group)'s IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal.

Resolved (2016.03.10.13), the Board approves of the transmittal of the Proposal to the National Telecommunications & Information Administration of the United States Department of Commerce in response to NTIA (US National Telecommunications and Information Agency)'s 14 March 2014 announcement.

Resolved (2016.03.10.14), the President and CEO, or his designee, is directed to plan for the implementation of the Proposal so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to implement in the event NTIA (US National Telecommunications and Information Agency) approves of the Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Resolved (2016.03.10.15), the Board expresses its deep appreciation for the tireless efforts of the ICG (IANA Stewardship Transition Coordination Group) chairs and members in developing the Proposal, as well as the chairs, members and participants in the CWG Stewardship, CRISP and IANAPLAN teams. The development of the coordinated Proposal across these four volunteer teams is a true demonstration of the strength and triumph of the multistakeholder model.

Rationale for Resolution 2016.03.10.12 – 2016.03.10.15

The acceptance and transmittal of the ICG (IANA Stewardship Transition Coordination Group)'s IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal to NTIA (US National Telecommunications and Information Agency) is the culmination of a nearly two year process. NTIA (US National Telecommunications and Information Agency)'s call for ICANN (Internet Corporation for Assigned Names and Numbers) to convene global stakeholders to develop a proposal to transition the current role played by NTIA (US National Telecommunications and Information Agency) in the coordination of the Internet's unique identifiers has been met. This is the end of the first phase in the path towards the privatization of DNS (Domain Name System) management, a goal since ICANN (Internet Corporation for Assigned Names and Numbers)'s formation.

The global multistakeholder community embraced NTIA (US National Telecommunications and Information Agency)'s call to action, first developing the plan for how the proposal will be developed, at https://www.icann.org/resources/pages/process-next-steps-2014-06-06-en

(/resources/pages/process-next-steps-2014-06-06-en) after a call for public input, available at https://www.icann.org/resources/pages/draft-proposal-2014-04-08-en (/resources/pages/draft-proposal-2014-04-08-en). The IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Team, or ICG (IANA Stewardship Transition Coordination Group), was formed out of that effort, comprised of individuals selected by each represented community. These 30 individuals represent 13 communities of both direct and indirect stakeholders who together delivered a proposal to recommending a transition plan of NTIA (US National Telecommunications and Information Agency)'s stewardship of IANA (Internet Assigned Numbers Authority) functions to the Internet community, consistent with the key principles outlined in the NTIA (US National Telecommunications and Information Agency) March 14 announcement. The ICG (IANA Stewardship Transition Coordination Group) membership is identified at https://www.icann.org/resources/pages/icg-members-2014-07-29-en (/resources/pages/icg-members-2014-07-29-en). The ICG (IANA Stewardship Transition Coordination Group) documented its work at https://www.ianacg.org/ (https://www.ianacg.org/).

The ICG (IANA Stewardship Transition Coordination Group) called upon the operational communities to develop comprehensive plans for transition of NTIA (US National Telecommunications and Information Agency)'s role as it relates to each of the three functions served under the IANA (Internet Assigned Numbers Authority) Functions Contract. The Request for Transition Proposals, at https://www.icann.org/news/announcement-2014-09-09-en (/news/announcement-2014-09-09-en), specified a comprehensive list of requirements, including: descriptions of how the community uses the IANA (Internet Assigned Numbers Authority) functions and existing arrangements; proposed oversight and accountability arrangements post transition; transition implications; identification of the how the NTIA (US National Telecommunications and Information Agency) criteria are met; and description of community process and consensus assessment.

The operating communities each responded through separate teams. The Domain Names communities formed the Cross Community Working Group to Develop an IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal (CWG Stewardship), https://community.icann.org/x/37fhAg (https://community.icann.org/x/37fhAg). The Domain Name (Domain Name) Community's report was the result of over 100 calls or meetings, 2 public consultations and more than 4,000 email messages. The final proposal received the consensus support of the CWG with no objections or minority statements recorded for Chartering Organization consideration.

The Number Resources community formed the Consolidated RIR (Regional Internet Registry) IANA (Internet Assigned Numbers Authority) Stewardship Proposal Team (CRISP), tracked at https://www.nro.net/nro-and-internet-governance/iana-oversight/consolidated-rir-iana-stewardship-proposal-team-crisp-team (https://www.nro.net/nro-and-internet-governance/iana-oversight/consolidated-rir-iana-stewardship-proposal-team-crisp-team). Within the Number Resources community, each of the five RIRs also performed work to support the CRISP work, and details on those proceedings can be accessed from https://www.icann.org/en/stewardship/community (/en/stewardship/community). Each region contributed to the community consensus via regionally defined processes suitable to their particular local needs and culture.

The Protocol (Protocol) Parameters community established the IANAPLAN working group to elaborate a response, with a mailing list at http://www.ietf.org/iana-transition.html (http://www.ietf.org/iana-transition.html). Anyone was welcome to join the conversation and participate in the development. A publicly archived and open mailing list was created to this end and yielded 2,252 emails.

Upon receipt of all three reports, the ICG (IANA Stewardship Transition Coordination Group) reviewed each report to consider if: (1) the community processes were open and inclusive and if consensus was achieved for the plans; (2) the proposals are

complete and clear; (3) the three proposals together are compatible and interoperable, provide appropriate accountability mechanisms, and are workable; and (4) the proposals together meet the NTIA (US National Telecommunications and Information Agency) criteria. The ICG (IANA Stewardship Transition Coordination Group) Proposal details the findings on each of these elements and the Board agrees with these findings.

The ICG (IANA Stewardship Transition Coordination Group) received 157 comments on its draft combined proposal from a wide variety of stakeholders, including individuals, operational communities, supporting organizations and advisory committees within the ICANN (Internet Corporation for Assigned Names and Numbers) community, businesses and trade associations, civil society groups, governments, and others from all regions of the world. In support of the proposal, the ICG (IANA Stewardship Transition Coordination Group) produced a comprehensive summary of public comments (**https://www.ianacg.org/icg-files/documents/Public-Comment-Summary-final.pdf (https://www.ianacg.org/icg-files/documents/Public-Comment-Summary-final.pdf)**) [PDF, 253 KB] to identify the comments received and how they were addressed in the Proposal. The comments, on the whole, also support the ICG (IANA Stewardship Transition Coordination Group)'s findings.

The ICG (IANA Stewardship Transition Coordination Group)'s deliberations were extensive. Seven face to face meetings, 26 conference calls and the exchange of 5,627 emails were the tools needed to build the report. To maintain and safeguard the inclusiveness of the process, interpretation services were provided for meetings. Translations of working documents were delivered, and inputs received in languages other than English were also translated. Seven engagement sessions were organized to foster awareness and receive feedback. The ICG (IANA Stewardship Transition Coordination Group) called for input to its work at different phases, including a call for comments to validate community support for how ICG (IANA Stewardship Transition Coordination Group) was performing its work. ICANN (Internet Corporation for Assigned

Names and Numbers) in its facilitation of the process provided all resources and support requested by the community to develop a consensus proposal.

The two most important considerations for the Board are on the compatibility and interoperability of the three plans, and whether the proposals meet NTIA (US National Telecommunications and Information Agency)'s criteria.

Compatibility and interoperability

The Board has reviewed all three components of the plan. As the Board stated in its 8 September 2015 comments to the ICG (IANA Stewardship Transition Coordination Group), https://comments.ianacg.org/pdf/submission/submission121.pdf (https://comments.ianacg.org/pdf/submission/submission121.pdf), [PDF, 133 KB] "While the ICG (IANA Stewardship Transition Coordination Group) has asserted that there are no incompatibilities between the three operational communities' proposals received (also known as the CRISP, CWG Stewardship, and IANAPLAN responses), there are some implementation details and foreseen complexities that will need further coordination with the communities for clarity. As implementation occurs, ways to address the elements of the proposal may evolve, and in our comments below, we have endeavored to highlight some of these and provide the ICG (IANA Stewardship Transition Coordination Group) with implementation suggestions.

We do not believe that any of these issues poses a threat to the viability of the final ICG (IANA Stewardship Transition Coordination Group) Proposal. We hope that these implementation issues and details can be resolved in the implementation phase, but we urge the community and where needed the ICG (IANA Stewardship Transition Coordination Group) to consider these issues and begin to clarify as soon as practicable in the interests of a smooth IANA (Internet Assigned Numbers Authority) Stewardship Transition."

The areas identified by the Board on potential areas of overlap that require further coordination in the implementation phase include: (1) new service levels and operational changes; (2) jointly managed functions; (3) the relationship between the "Post Transition IANA (Internet Assigned Numbers Authority)" identified perform the naming related functions and the other operating communties; and (4) transfer to successor operator requirements. ICANN (Internet Corporation for Assigned Names and Numbers) stands ready to work with the communities to address these issues within the implementation planning phase.

NTIA (US National Telecommunications and Information Agency) Criteria Appear To Be Met

The Board agrees with the ICG (IANA Stewardship Transition Coordination Group)'s determination that the NTIA (US National Telecommunications and Information Agency) criteria have been met through the consensus supported ICG (IANA Stewardship Transition Coordination Group) Proposal.

1. *Support and enhance the multistakeholder model.*

   The ICG (IANA Stewardship Transition Coordination Group) noted, and the Board agrees, that each of the operating communities modeled their post transition proposal on the existing arrangements and structures. The arrangements between ICANN (Internet Corporation for Assigned Names and Numbers) and the Protocol (Protocol) Parameters and Numbers Resource communities remain largely unchanged, and the multistakeholder nature of oversight in the naming community will likely be enhanced through the development of community based standing committees and review processes. The existing IANA (Internet Assigned Numbers Authority) Functions Contract served as the basis for many of the proposed post transition plans, with

enhanced responsibility placed on the multistakeholder community in overseeing the work.

2. *Maintain the security, stability, and resiliency of the Internet DNS (Domain Name System).*

   The Board agrees with the ICG (IANA Stewardship Transition Coordination Group) that the security, stability and resiliency of the Internet DNS (Domain Name System) are maintained through the combined Proposal. There is no change suggested by the Numbers Resource or Protocol (Protocol) Parameters communities that could impact the security, stability or resiliency of the DNS (Domain Name System). These proposals are built upon the existing structure.

   Though the Names community is calling for the creation of a subsidiary of ICANN (Internet Corporation for Assigned Names and Numbers) to perform the naming function, ICANN (Internet Corporation for Assigned Names and Numbers) agrees with the ICG (IANA Stewardship Transition Coordination Group) that this portion of the proposal also maintains the security, stability and resiliency of the Internet DNS (Domain Name System). There is minimal change contemplated for the technical delivery of the naming related functions, and the role remains unchanged.

   ICANN (Internet Corporation for Assigned Names and Numbers) agrees that it is essential to have a contract in place between ICANN (Internet Corporation for Assigned Names and Numbers) and the Root Zone (Root Zone) Maintainer prior to any expiration of the IANA (Internet Assigned Numbers Authority) Functions Contract, and this is key to security and stability concerns.

3. *Meet the needs and expectation of the global customers and partners of the IANA (Internet Assigned Numbers Authority) services.*

The Board agrees with the ICG (IANA Stewardship Transition Coordination Group) that this condition has been met. The ICG (IANA Stewardship Transition Coordination Group) stated "All three communities determined that the global customers and partners of the IANA (Internet Assigned Numbers Authority) services and their communities of stakeholders are presently satisfied with the performance of the IANA (Internet Assigned Numbers Authority) functions by the IANA (Internet Assigned Numbers Authority) department of ICANN (Internet Corporation for Assigned Names and Numbers). The combined proposal is not expected to impact that."

4. *Maintain the openness of the Internet.*

The ICG (IANA Stewardship Transition Coordination Group) determined "The combined proposal requires that the IANA (Internet Assigned Numbers Authority) services, associated policy development processes, and IANA (Internet Assigned Numbers Authority) registries remain fully open and accessible just as they are today." The Board agrees that the ICG (IANA Stewardship Transition Coordination Group) Proposal, though it identifies some organizational changes through which the IANA (Internet Assigned Numbers Authority) Functions will be delivered, otherwise has no impact on the variety of open policy development processes or on the databases and IANA (Internet Assigned Numbers Authority) registries that are available today.

5. *No replacement of the NTIA (US National Telecommunications and Information Agency) role with a government led or an inter governmental organization solution.*

NTIA (US National Telecommunications and Information Agency) also specified that its role could not be replaced by a government led or an inter governmental organization solution. This condition is met. None of the operating communities

define a role for a government led or inter governmental organization solution, relying instead on the operating communities and other indirect customers of the IANA (Internet Assigned Numbers Authority) functions to perform the different oversight and accountability roles. The Proposal affirms the role of the multistakeholder community.

Resource Implication

Accepting the Proposal and transmitting the Proposal to NTIA (US National Telecommunications and Information Agency) do not, specifically impose any resource requirements on ICANN (Internet Corporation for Assigned Names and Numbers). However, the planning for implementation that is necessary to be at a place that ICANN (Internet Corporation for Assigned Names and Numbers) is ready to implement these changes if the IANA (Internet Assigned Numbers Authority) Functions Contract expires. That effort requires significant resources, such as systems and reporting updates, funding the development of an affiliate not for profit entity, development of changes to ICANN (Internet Corporation for Assigned Names and Numbers)'s Bylaws as well as governing documents for the new entity, completing contracts necessary for the performance of the IANA (Internet Assigned Numbers Authority) functions, and constituting the new community based groups involved in oversight in the future. Both the community and ICANN (Internet Corporation for Assigned Names and Numbers) will be called upon to devote time to this effort. Fiscally, the implementation planning must proceed with considerations of fiscal responsibility, and the Board looks forward to working with the community to develop cost management tools that will result in better estimation of costs. The Board will use these estimates to guide future budgeting decisions on the IANA (Internet Assigned Numbers Authority) Stewardship Transition work.

During the development of proposal, ICANN (Internet Corporation for Assigned Names and Numbers) provided funding and staff resources for various aspects of the work,

including initiating the work of the ICG (IANA Stewardship Transition Coordination Group), travel costs for face to face meetings, funding an independent Secretariat to support the ICG (IANA Stewardship Transition Coordination Group), staff support to the CWG Stewardship, and funding external counsel to advise the CWG in the development of its proposal. The funds expended to date on the collective ICG (IANA Stewardship Transition Coordination Group) effort helped provide the multistakeholder community with the opportunity to develop the proposals with the levels of independence it said were important. Further, the availability of external advice supported the CWG's debate and dialogue that led to its final recommendations. Providing these resources was an important facet of assuring multistakeholder participation in this work.

DNS (Domain Name System) Impact

The acceptance and transmittal of this Proposal are not expected to have any impact on the security, stability and resiliency of the Internet DNS (Domain Name System). Planning for implementation of the Proposal helps assure that ICANN (Internet Corporation for Assigned Names and Numbers) can continue the performance of the required functions, even in a post transition environment, with no environment, with no impact on security, stability or resiliency.

Conclusion

Taking this action today is an important affirmation of the multistakeholder model. The global multistakeholder community came together and developed a plan for the transition of the IANA (Internet Assigned Numbers Authority) Functions Stewardship. Issues were debated in multiple fora. Public comments were received, analyzed and incorporated. The resulting Proposal has the consensus of the operating communities impacted by the respective portions, as well. The Proposal also received unanimous

consensus from across the 13 communities represented in the ICG (IANA Stewardship Transition Coordination Group).

The Board thanks NTIA (US National Telecommunications and Information Agency) for giving the multistakeholder community the opportunity to develop this Proposal. Accepting this report and transmitting it to NTIA (US National Telecommunications and Information Agency) for consideration is an important step in maintaining accountability to the multistakeholder community, and the Board serves the public interest in taking this decision.

This is an Organizational Administrative Function that has been subject to multiple levels of public comment.

c. Proposal from CCWG on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability

Whereas, on 14 March 2014, the National Telecommunications and Information Administration of the United States Department of Commerce announced its intention to transition the stewardship of the IANA (Internet Assigned Numbers Authority) Functions to the global multistakeholder community.

Whereas, NTIA (US National Telecommunications and Information Agency) asked ICANN (Internet Corporation for Assigned Names and Numbers) to convene global stakeholders to develop a proposal to transition the current role performed by NTIA (US National Telecommunications and Information Agency) in the coordination of the Internet's domain name system (DNS (Domain Name System)). NTIA (US National Telecommunications and Information Agency) required that the proposal for transition must have broad community support and uphold the following principles:

- Support and enhance the multistakeholder model;

- Maintain the security, stability, and resiliency of the Internet DNS (Domain Name System);

- Meet the needs and expectation of the global customers and partners of the IANA (Internet Assigned Numbers Authority) services; and,

- Maintain the openness of the Internet.

NTIA (US National Telecommunications and Information Agency) also stated it would not accept a proposal that replaces the NTIA (US National Telecommunications and Information Agency) role with a government led or an inter governmental organization solution.

Whereas, during initial discussions on how to proceed with the transition process, the ICANN (Internet Corporation for Assigned Names and Numbers) multistakeholder community, raised concerns on the impact of the transition on ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability, with the removal of the perceived backstop of NTIA (US National Telecommunications and Information Agency)'s historical role.

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) supported the community in the development of the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG Accountability), chartered by the Address Supporting Organization (Supporting Organization), the At Large Advisory Committee (Advisory Committee), the Country Code Names Supporting Organization (Supporting Organization), the Generic Names Supporting Organization (Supporting Organization), the Governmental Advisory Committee (Advisory Committee) and the Security (Security Security, Stability and Resiliency (SSR))and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee). The CCWG Accountability has 28 members

from across the Chartering Organizations, with an additional 175 registered participants.

Whereas, the CCWG Accountability's work was determined to be interrelated with the work to develop a proposal being developed by the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group (ICG (IANA Stewardship Transition Coordination Group)), the proposal called for by NTIA (US National Telecommunications and Information Agency) in its announcement. ICANN (Internet Corporation for Assigned Names and Numbers) agreed that after the Board considered the CCWG Accountability proposal, it would be transmitted to NTIA (US National Telecommunications and Information Agency) to support its evaluation of the ICG (IANA Stewardship Transition Coordination Group)'s proposal.

Whereas, the CCWG Accountability's work is divided into two phases:

- **Work Stream 1**: focused on mechanisms enhancing ICANN (Internet Corporation for Assigned Names and Numbers) accountability that must be in place or committed to within the time frame of the IANA (Internet Assigned Numbers Authority) Stewardship Transition; and

- **Work Stream 2**: focused on addressing accountability topics for which a timeline for developing solutions and full implementation may extend beyond the IANA (Internet Assigned Numbers Authority) Stewardship Transition.

Whereas, the CCWG Accountability's deliberations to date have focused on preparing a set of recommendations to fulfill its Work Stream 1 objectives, and defining the topics that will be considered for Work Stream 2. The CCWG Accountability developed its report in multiple phases and iterations that included participation beyond the CCWG Accountability, and beyond ICANN (Internet Corporation for Assigned Names and Numbers) as a whole.

Whereas, the CCWG Accountability requested that counsel external to ICANN (Internet Corporation for Assigned Names and Numbers) be made available to provide advice on the governance issues that the CCWG Accountability identified as necessary as part of its work. In coordination with ICANN (Internet Corporation for Assigned Names and Numbers), two sets of legal counsel were engaged and have provided advice and counsel directly to the CCWG Accountability. ICANN (Internet Corporation for Assigned Names and Numbers) funds the work of these two firms.

Whereas, in October 2014, the Board committed to a process through which it would consider the consensus based recommendations of the CCWG Accountability in Resolution 2014.10.16.16 at https://www.icann.org/resources/board-material/resolutions-2014-10-16-en#2.d (/resources/board-material/resolutions-2014-10-16-en#2.d).

Whereas, the Board has been closely following the work of the CCWG Accountability, including identifying a liaison to the group, and active participation from across the Board in CCWG Accountability meetings. The Board has participated in the public comment processes on the iterations of the CCWG Accountability reports, and has provided interim inputs into the deliberations on an ongoing basis. A comprehensive list of all the ICANN (Internet Corporation for Assigned Names and Numbers) Board's input into the process is detailed at https://www.icann.org/resources/pages/board-input-stewardship-accountability-2015-07-10-en (/resources/pages/board-input-stewardship-accountability-2015-07-10-en).

Whereas, on 10 March 2016, the CCWG Accountability Co Chairs transmitted its Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG Accountability) Work Stream 1 Report ("Report") to the ICANN (Internet Corporation for Assigned Names and Numbers) Board, confirming that the recommendations achieved consensus in the CCWG Accountability. The Report was approved by five of the Chartering Organizations, with the sixth, the GAC (Governmental Advisory Committee), submitting a statement of non

objection to transmitting the Report to the Board. The CCWG Accountability also confirmed the support of the Cross Community Working Group to Develop an IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal (CWG Stewardship), the group responsible for developing the Domain Names Community's input into the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group's proposal. The CWG Stewardship had identified certain contingencies on the CCWG Accountability's recommendations, which were confirmed as met.

Resolved (2016.03.10.16), the ICANN (Internet Corporation for Assigned Names and Numbers) Board accepts the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG Accountability) Work Stream 1 Report ("Report").

Resolved (2016.03.10.17), the Board approves of the transmittal of the Report the National Telecommunications & Information Administration of the United States Department of Commerce to accompany the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal developed by the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group.

Resolved (2016.03.10.18), the President and CEO, or his designee, is directed to plan for the implementation of the Report so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to implement in the event NTIA (US National Telecommunications and Information Agency) approves of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires. The Board is committed to working with the community to identify the portions of the CCWG Accountability recommendations that can be implemented in the event that it is determined that ICANN (Internet Corporation for Assigned Names and Numbers)'s obligations to

perform the IANA (Internet Assigned Numbers Authority) Functions will remain under contract with NTIA (US National Telecommunications and Information Agency).

Resolved (2016.03.10.19), the Board expresses its deep appreciation for the tireless efforts of the CCWG Accountability chairs, rapporteurs, members and participants, as well as the global community that came together in developing the Report. The intensity and level of engagement from across the community, as well as the spirit of cooperation and compromise that led to this Report is a true demonstration of the strength and triumph of the multistakeholder model.

Rationale for Resolution 2016.03.10.16 – 2016.03.10.19

The acceptance of the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG Accountability) Work Stream 1 Report ("Report") represents a milestone in the evolution of the multistakeholder model. The CCWG Accountability was created out of a call from across the ICANN (Internet Corporation for Assigned Names and Numbers) community on a review of the impacts on ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability with the removal of the perceived backstop from the historical contract with NTIA (US National Telecommunications and Information Agency) in the event the stewardship of the IANA (Internet Assigned Numbers Authority) Functions is transitioned to the multistakeholder community. This Work Stream 1 Report was developed by the 28 members of the CCWG Accountability, representing six Chartering Organizations, and 175 participants. The development of this Report required over 220 meetings (face to face or telephonic), three public comment periods, and more than 13,900 email messages. The dedication of the CCWG Accountability, including intense debate and resulting compromise from all participants, is an example of what the multistakeholder model can achieve. The CCWG Accountability work is only part of the coordinated effort to achieve the delivery of a proposal to NTIA (US National

Telecommunications and Information Agency) on the IANA (Internet Assigned Numbers Authority) Stewardship Transition.

The CCWG Accountability Work Stream 1 recommendations have a few main areas of focus:

- A revised Mission Statement for the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws that clarifies what ICANN (Internet Corporation for Assigned Names and Numbers) does, while not changing ICANN (Internet Corporation for Assigned Names and Numbers)'s historic mission.

- An enhanced Independent Review Process with a broader scope, reaffirming the IRP's power to ensure ICANN (Internet Corporation for Assigned Names and Numbers) stays within its Mission. The IRP will become binding upon ICANN (Internet Corporation for Assigned Names and Numbers).

- Enhancements to the Reconsideration Request process.

- New specific powers for the ICANN (Internet Corporation for Assigned Names and Numbers) community that can be enforced when the usual methods of discussion and dialogue have not effectively built consensus, including the powers to:
    - Reject ICANN (Internet Corporation for Assigned Names and Numbers) Budgets, IANA (Internet Assigned Numbers Authority) Budgets or Strategic/Operating Plans.

    - Reject changes to ICANN (Internet Corporation for Assigned Names and Numbers)'s Standard Bylaws.

    - Approve changes to new Fundamental Bylaws, Articles of Incorporation and ICANN (Internet Corporation for Assigned Names and Numbers)'s sale or

other disposition of all or substantially all of ICANN (Internet Corporation for Assigned Names and Numbers)'s assets.

- Remove an individual ICANN (Internet Corporation for Assigned Names and Numbers) Board Director.

- Recall the entire ICANN (Internet Corporation for Assigned Names and Numbers) Board.

- Initiate a binding Independent Review Process on behalf of the Community.

- Reject ICANN (Internet Corporation for Assigned Names and Numbers) Board decisions relating to reviews of the IANA (Internet Assigned Numbers Authority) functions, including the triggering of Post Transition IANA (Internet Assigned Numbers Authority) separation.

- Inspect ICANN (Internet Corporation for Assigned Names and Numbers)'s books and records, and initiate investigatory audits.

The CCWG Accountability recommendations also describe how the community will come together to excercise their new powers, including paths of escalation and community dialogue. The community will ultimately have the power and standing, through the development of a "designator" structure under California law, to enforce these powers in court, though the escalation paths are designed to reduce the need to ever resort to court for resolution. The Board is supportive of the CCWG Accountability's focus on internal resolution and the Independent Review Process, as opposed to encouraging the ICANN (Internet Corporation for Assigned Names and Numbers) community to rely upon the judicial system as a regular tool in holding ICANN (Internet Corporation for Assigned Names and Numbers) accountable.

Other areas of the CCWG Accountability recommendations include the insertion of a commitment to recognition of human rights, incorporating the reviews called for under

the Affirmation of Commitments into the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, modifying the structural reviews to include considerations of SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Accountability, and affirming the GAC (Governmental Advisory Committee)'s current advisory role and the deference given by the Board, while refining the threshold needed for the Board to not act consistently with GAC (Governmental Advisory Committee) consensus advice. The CCWG Accountability also specified some elements of accountability that relate to the CWG Stewardship's portion of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal.

Finally, the CCWG Accountability recommendations scope the topics that will be considered within its Work Stream 2, and identify that the Board will consider those continuous improvement recommendations with the same process the Board identified for the Work Stream 1 recommendations.

The CCWG Accountability produced three drafts of recommendations to reach this final Report. The first draft was out for public comment from 4 May 2015 through 12 June 2015 and received 31 comment submissions. The second draft was out for public comment from 3 August 2015 through 12 September 2015 and received 93 comment submissions. The third draft was out for public comment from 30 November 2015 through 21 December 2015 and received 89 comment submissions. For each of these public comment periods and document releases, the CCWG Accountability held multiple webinars to describe the mechanisms in the proposal and answer any questions. The CCWG Accountability also held engagement sessions at each of the ICANN (Internet Corporation for Assigned Names and Numbers) meetings and individual members conducted their own outreach around the globe at regional and national events and conferences.

The CCWG Accountability relied upon advice provided by two external law firms, Sidley Austin LLP and Adler & Colvin, which were retained after the need for external inputs was determined by the CCWG Accountability to be essential to its review of ICANN (Internet Corporation for Assigned Names and Numbers)'s governance structure, and to test the legal inputs provided by ICANN (Internet Corporation for Assigned Names and Numbers). ICANN (Internet Corporation for Assigned Names and Numbers) facilitated the engagement process in collaboration with the CCWG Accountability, and pays the legal fees. When addressing such important and broad issues, the availability of these legal inputs provided the CCWG Accountability with the tools to perform their work and have full deliberations. ICANN (Internet Corporation for Assigned Names and Numbers) in its faciliation of the process provided all resources and support requested by the community to develop a consensus report.

Meeting the NTIA (US National Telecommunications and Information Agency) Criteria

The Board agrees that it is important for the CCWG Accountability recommendations that modify ICANN (Internet Corporation for Assigned Names and Numbers)'s governance structure to uphold the same criteria that NTIA (US National Telecommunications and Information Agency) defined for the transition of the stewardship of the technical IANA (Internet Assigned Numbers Authority) functions. ICANN (Internet Corporation for Assigned Names and Numbers), as the organization that will remain responsible for the performance of the IANA (Internet Assigned Numbers Authority) functions, must have the same safeguards. The Board agrees with the CCWG's assessment that NTIA (US National Telecommunications and Information Agency)'s criteria are met.

1. *Support and Enhance the Multistakeholder Model*

   At Annex 14 of its Report, the CCWG Accountability identifies the ways in which its recommendations support and enhance the multistakeholder model. The

Board agrees that the specific items enumerated in the Report support this criterion. More fundamentally, however, the recommendations as a whole demonstrate more reliance upon the multistakeholder community coming together to influence not just policy, but also ICANN (Internet Corporation for Assigned Names and Numbers)'s governing documents and some of ICANN (Internet Corporation for Assigned Names and Numbers)'s key operational decisions as well, such as planning for budgets and operating plans. The multistakeholder community is given more individual and collective access to paths of redress, and assurances of the binding nature of those tools. The spirit of this Report is for a community that has more determination over ICANN (Internet Corporation for Assigned Names and Numbers). It will be important that those taking on greater responsibilities continue to consider how to evolve their own accountability efforts, as will be considered in Work Stream 2.

2. *Maintain the Security, Stability (Security, Stability and Resiliency) and Resiliency (Security Stability & Resiliency (SSR))of the Internet DNS (Domain Name System)*

Along with the items identified by the CCWG Accountability in Annex 14 of its Report, the Board notes that the security, stability and resiliency of the Internet DNS (Domain Name System) are maintained through the CCWG Accountability recommendations first and foremost through the affirmation that ICANN (Internet Corporation for Assigned Names and Numbers)'s mission, while clarified, remains unchanged, and any future attempt to change that mission will require both Board and community consent. The CCWG Accountability has identified that there are core components of ICANN (Internet Corporation for Assigned Names and Numbers)'s budget that will remain operational even if there is a dispute between the community and ICANN (Internet Corporation for Assigned Names and Numbers) on the budget, and those core components include operations that relate to the security and stability of the Internet DNS (Domain Name System).

3. *Meet the needs and expectations of the partners of the IANA (Internet Assigned Numbers Authority) Functions*

   Along with the items identified by the CCWG Accountability in Annex 14 of its report, the Board notes that this criterion is met by the consideration of the needs of the customers of the IANA (Internet Assigned Numbers Authority) Functions and the coordination of recommendations that complement the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal. The needs identified by the CWG Stewardship have been incorporated into the recommendations, and the CWG Stewardship has affirmed that its contingencies were met. The CCWG Accountability also coordinated with the other operating communities to confirm that their concerns on clarification on mission and applicability of independent review processes were addressed.

4. *Maintain the Openness of the Internet*

   In addition to the items identified by the CCWG Accountability in Annex 14 of its Report, the Board agrees that this criterion is met through the development of open processes where community members might wish to engage. Maintaining open processes where community members have not only a voice, but also an opportunity to impact, is expected to enhance ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability and the multistakeholder model itself. Strengthening ICANN (Internet Corporation for Assigned Names and Numbers) through the strengthening of the multistakeholder model is the key way to maintain the openness of the Internet and continued participation in ICANN (Internet Corporation for Assigned Names and Numbers)'s processes. The recognition of the roles of all stakeholders at ICANN (Internet Corporation for Assigned Names and Numbers) is another important aspect of meeting this criterion.

The Board also agrees that the future work scheduled for Work Stream 2, focusing on issues such as enhancing transparency, diversity, community accountability, and defining how staff can be more accountable to the community also are geared towards continued enhancement of engagement in ICANN (Internet Corporation for Assigned Names and Numbers) and maintaining the model.

5. *No replacement of the NTIA (US National Telecommunications and Information Agency) role with a government led or an inter governmental organization solution*

In addition to the CCWG Accountability's discussion of how this criteria is met, the Board agrees that this criteria is met, again, through a strong grounding in the multistakeholder community. The recommendations reafirm the role of each of the structures within ICANN (Internet Corporation for Assigned Names and Numbers), and do not create inequalities in how each of the groups participate, even as the ICANN (Internet Corporation for Assigned Names and Numbers) community moves beyond policy development work and into new operational activities. The role of governments in ICANN (Internet Corporation for Assigned Names and Numbers) is affirmed, as well as the Governmental Advisory Committee (Advisory Committee)'s autonomy over its own operating procedures, while at the same time creating more predictability in the Board providing special consideration only to GAC (Governmental Advisory Committee) advice that is within ICANN (Internet Corporation for Assigned Names and Numbers)'s mission and provided with defined consensus.

Minority and Voting Statements

The Board notes that there were five minority statements provided to the CCWG Accountability on its final Report. Appendix A of the report details both the process that

the CCWG Accountability followed to reach consensus. The Appendix also includes the minority statements in full.

In the 10 March 2016 letter transmitting the Report to the Board, the Board has been informed by the CCWG Accountability co chairs that consensus was reached on the recommendations. Further, the Chartering Organizations have each approved (with one non objection) to the forwarding of the final Report to the Board for consideration, though the minority statements were provided by those associated with various Chartering Organizations. There were also voting statements provided within the GNSO (Generic Names Supporting Organization) on parts of the recommendations, at times mirroring the issues previously raised in the minority statements. The GAC (Governmental Advisory Committee), in providing its non objection, noted the support for a large majority of the recommendations and lack of consensus over others.

Given the full process for the development of the Report,the numerous concessions made by all in reaching the consensus recommendations, and the approval (or non objection) of all of the Chartering Organizations, the Board considers that the existence of these voting and minority statements does not create a barrier to the acceptance of the Report. The Board encourages the CCWG Accountability to consider if any of the concerns raised in the minority or voting statements can appropriately be addressed within the topics defined for Work Stream 2 or used as guidance in implementation.

Resource Implication

Accepting the Report and transmitting it to NTIA (US National Telecommunications and Information Agency) does not specifically impose any resource requirements on ICANN (Internet Corporation for Assigned Names and Numbers). However, the planning for implementation that is necessary to be in place for ICANN (Internet Corporation for Assigned Names and Numbers) is ready to implement these changes when appropriate. That effort requires significant resources, including amending ICANN

(Internet Corporation for Assigned Names and Numbers)'s Bylaws, supporting the revisions to the Independent Review Process, confirming that processes are in place for the community escalation processes, and other planning as required. The implementation planning for the entirety of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Process is a coordinated effort, with the interrelated operational and accountability requirements within the ICG (IANA Stewardship Transition Coordination Group)'s Proposal and the CCWG Accountability's Report considered together. Given that there is the possibility that NTIA (US National Telecommunications and Information Agency) may not be able to approve ICG (IANA Stewardship Transition Coordination Group)'s Proposal, if that determination is made, the Board is committed to work with the community to implement those parts of the CCWG Accountability Report that do not interfere with the obligations ICANN (Internet Corporation for Assigned Names and Numbers) would maintain under an IANA (Internet Assigned Numbers Authority) Functions Contract with NTIA (US National Telecommunications and Information Agency).

Both the community and ICANN (Internet Corporation for Assigned Names and Numbers) will be called upon to devote time to this effort. The implementation planning must proceed with considerations of fiscal responsibility, and the Board looks forward to working with the community to develop cost management tools that will result in better estimation of costs. The Board will use these estimates to guide future budgeting decisions on the CCWG Accountability work, including implemenation and Work Stream 2. As Work Stream 2 proceeds, the Board urges close consideration of the types of legal support needed now that the broad governance changes developed in Work Stream 1 are accepted and on path for implementation, and the issues reserved for Work Stream 2 may not be as legal in nature.

During the development of the Report, ICANN (Internet Corporation for Assigned Names and Numbers) provided funding and staff resources for all aspects of the work, including things such as travel support and coordination of face to face meetings,

secretariat support, external counsel, report drafting and graphics, and translations. The funds expended to date on the CCWG Accountability helped provide the multistakeholder community with the opportunity to develop the Report with the levels of independence it said were important. Further, the availability of external advice supported the CCWG Accountability's debate and dialogue that led to its final recommendations. Providing these resources was an important facet of assuring multistakeholder participation in this work.

DNS (Domain Name System) Impact

The acceptance and transmittal of this Report are not expected to have any impact on the security, stability and resiliency of the Internet DNS (Domain Name System).

Conclusion

Taking this action today is an important affirmation of the multistakeholder model. The global multistakeholder community came together and developed a plan to enhance the accountability of ICANN (Internet Corporation for Assigned Names and Numbers) to help support the transition of the IANA (Internet Assigned Numbers Authority) Functions Stewardship. Issues were debated in multiple fora. Public comments were received, analyzed and incorporated. Many difficult issues were resolved, with compromises across the community. In the end, the multistakeholder community developed recommendations that reserve to it unprecedented power in ICANN (Internet Corporation for Assigned Names and Numbers), with meaningful and binding escalation paths to enforce these new rights. The CCWG Accountability also has considered how to make sure the key commitments from the existing Affirmation of Commitments remain in place through incorporation into the Bylaws, and other enhancements to enhance accountability and transparency in ICANN (Internet Corporation for Assigned Names and Numbers)'s operations. The Report is supported by a consensus of the CCWG Accountability, and approved by all but one Chartering

Organization, which has noted its non objection to submitting the Report to ICANN (Internet Corporation for Assigned Names and Numbers). Accepting this Report is an important step in maintaining accountability to the multistakeholder community, and the Board serves the public interest in taking this decision.

This is an Organizational Administrative Function that has been subject to multiple levels of public comment.

d. Thank You to Staff

Resolved (2016.03.10.20), the Board thanks the ICANN (Internet Corporation for Assigned Names and Numbers) staff who worked on all aspects of the development of the transition and accountability proposals. This effort has been supported by staff from across the entire organization. The Board also thanks all the staff who supported ICANN (Internet Corporation for Assigned Names and Numbers) during this period of intense activity.

Published on 10 March 2016

You Tube (http://www.youtube.com/icannnews)

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Facebook (http://www.facebook.com/icannorg)

RSS Feeds (/en/news/rss)

Community Wiki (https://community.icann.org)

ICANN Blog (/news/blog)

Who We Are

Get Started (/get-started)

Learning (/en/about/learning)

Participate (/en/about/participate)

Groups (https://www.icann.org/resources/pages/groups-2012-02-06-en)

Board (/resources/pages/board-of-directors-2014-03-19-en)

President's Corner (/presidents-corner)

Staff (/en/about/staff)

Careers (https://chj.tbe.taleo.net/chj06/ats/careers/v2/searchResults?org=ICANN&cws=37)

Newsletter (/en/news/newsletter)

Development and Public Responsibility (https://www.icann.org/development-and-public-responsibility)

Contact Us

Offices (https://forms.icann.org/en/contact)

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Security Team (/about/staff/security)

PGP Keys (/en/contact/pgp-keys)

Certificate Authority (/contact/certificate-authority)

Registry Liaison (/resources/pages/contact-f2-2012-02-25-en)

Specific Reviews (https://forms.icann.org/en/about/aoc-review/contact)

Organizational Reviews (http://forms.icann.org/en/groups/reviews/contact)

Request a Speaker (http://forms.icann.org/en/contact/speakers)

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Accountability & Transparency

Accountability Mechanisms (/en/news/in-focus/accountability/mechanisms)

Independent Review Process (/resources/pages/irp-2012-02-25-en)

Request for Reconsideration (/groups/board/governance/reconsideration)

Ombudsman (/help/ombudsman)

Governance

Documents (/en/about/governance)

Agreements (/en/about/agreements)

Specific Reviews (/resources/reviews/aoc)

Annual Report (/about/annual-report)

Financials (/about/financials)

Document Disclosure (/en/about/transparency)

Planning (/en/about/planning)

KPI Dashboard (/progress)

RFPs (/en/news/rfps)

Litigation (/en/news/litigation)

Correspondence (/en/news/correspondence)

Help

Dispute Resolution (/en/help/dispute-resolution)

Domain Name Dispute Resolution (/en/help/dndr)

Name Collision (/en/help/name-collision)

Registrar Problems (/en/news/announcements/announcement-06mar07-en.htm)

WHOIS (http://whois.icann.org/)

Privacy Policy (/en/help/privacy)   Terms of Service (/en/help/tos)

Cookie Policy (/en/help/privacy-cookie-policy)

Annex 34

Redacted - Non-Responsive Information

Thanks Baher.

In addition to that, we met wajdi from OIC who sits in the GAC as an observer. Cyrus had recommended that they sit with the applicant and try to come to a solution.

From: Tarek Kamel <tarek.kamel@icann.org>
Date: Thursday, April 3, 2014 12:18 PM
To: Baher Esmat <baher.esmat@icann.org>
Cc: Nigel Hickson <nigel.hickson@icann.org>, Mandy Carver <Mandy.Carver@icann.org>, Yu-Chuang Kuek <yuchuang.kuek@icann.org>, Jia-Rong Low <jiarong.low@icann.org>, gse-rvp <gse-rvps@icann.org>
Subject: Re: WTDC - Day 4

Thanks Baher.

In addition to that, we met wajdi from OIC who sits in the GAC as an observer. Cyrus had recommended that they sit with the applicant and try to come to a solution.

Wajdi claimed that these negotiations did not work, and he asked the funny question whether the two strings could be delegated to OIC. We told him never outside the process. [Redacted - Non-Responsive Information]

Redacted - Non-Responsive Information

Best

Tarek Kamel

Senior Advisor to the President for Government Engagement, ICANN

Telephone : [Redacted - Contact Information]

Redacted - Non-Responsive Information

Wajdi claimed that these negotiations did not work, and he asked the funny question whether the two strings could be delegated to OIC. We told him never outside the process. OIC is now calm, the applicant does not seem to be making noise after his own government Iran did not back him up in the foreign ministers OIC resolution last December. So it seems that things will be stuck like that. But at least we do not have a burning political issue in the Middle East anymore as a year ago.

Best

Tarek Kamel

Senior Advisor to the President for Government Engagement, ICANN

Telephone : ▬

On Apr 3, 2014, at 9:51, "Baher Esmat" <baher.esmat@icann.org> wrote:

Hi Nigel,

Regarding .islam and .halal, NGPC's decision was not to proceed with the applications until concerns raised by community are addressed. Last February, A letter with the NGPC's recommendation was sent by Steve Crocker to the Applicant. The Applicant (Iranian private company registered in Turkey) submitted a reconsideration request which was denied by BGC.

Key in this process was a resolution adopted by the Organization of Islamic Cooperation last December objecting unanimously (57 countries including Iran) the delegation of the two strings to a private company. OIC has been participating in ICANN GAC since Beijing particularly for this issue.

More details can be found here http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-22mar14-en.htm#1.e.

If any questions, let me know.

Best

Baher

From: Nigel Hickson <nigel.hickson@icann.org> .
Date: Thursday, April 3, 2014 8:50 AM
To: Tarek Kamel <tarek.kamel@icann.org>
Cc: Mandy Carver <Mandy.Carver@icann.org>, Baher Esmat <baher.esmat@icann.org>, Yu-Chuang Kuek <yuchuang.kuek@icann.org>, Jia-Rong Low <jiarong.low@icann.org>,

From:	Fahd Batayneh
Sent:	Monday, March 24, 2014 10:13 PM
To:	Baher Esmat; Tarek Kamel
Cc:	Mandy Carver
Subject:	RE: OIC

Thank you Baher.

One thing I forgot to mention in the minutes is that I did offer to assist him with engagement; mainly in our region. I will shortly point him to the ICANN Handouts available so that he can have a look at them, and maybe we can ship some to him for usage on his engagement travels.

Fahd

From: Baher Esmat
Sent: Tuesday, March 25, 2014 3:13 AM
To: Fahd Batayneh; Tarek Kamel
Cc: Mandy Carver
Subject: Re: OIC

Thanks Fahd.

I will follow up with Wajdi after Singapore.

Best
Baher

From: Fahd Batayneh <fahd.batayneh@icann.org>
Date: Monday, March 24, 2014 5:10 AM
To: Tarek Kamel <tarek.kamel@icann.org>
Cc: Baher Esmat <baher.esmat@icann.org>, Mandy Carver <Mandy.Carver@icann.org>
Subject: RE: OIC

Good Morning Tarek,

Here are the notes I took during out meeting with the OIC:

<><><> **START** <><><>

- The meeting took place on Sunday March 23, 2014 between 2-3 PM in Singapore. The meeting covered updates on the .islam and .halal New gTLD applications, and then the OIC briefed the audience on the initiatives that they have undertaken ever since they joined the ICANN process in Beijing in April 2013 such as outreach to OIC countries on the applications and ICANN, and the awareness they have been doing with member states.
- Wajdi mentioned that the OIC have a high-level ministerial meeting in Jeddah, KSA starting June 5. He invited Fadi and Tarek to attend, and will send a formal invitation to them. Nevertheless, this meeting will not focus much on ICANN and the .halal and .islam applications since Conakry had this discussion as the star of the event.
- While 35 of the 57 OIC members are GAC members, Wajdi promised to reach out to the external ministries of the remaining 22 countries and encourage them to join the GAC. He also promised to reach-out to the KSA

government; mainly the ICT minister and Mr. *Abdallah Al-Darrab* at a personal level. Tarek did ask him to at least initially try to convince them to reduce their sharp tone towards the MSM and ICANN.

- During the OIC meeting in Conakry in late December 2013, the 57 member countries unanimously adopted a resolution against the current .islam and .halal applications. Even Iran was in favor of this resolution, thus confirming OIC's concern that both applications were not even supported by Iran, leave alone the entire Islamic community.
- Tarek explained how .africa are working on a governance model for their TLD, and suggested to Wajdi to use a similar approach with both applications. Wajdi mentioned that this approach was not well received by AGIT.
- Wajdi asked about the next round of New gTLDs, and the answer was that this is unknown. While the community have been circulating "after 5 years", this is not nailed down. Tarek did emphasize that ICANN cannot open the current round for the OIC to apply .islam and .halal, and so both applications are frozen now until the matter is resolved between OIC and AGIT, or wait until the next round of New gTLDs.

<><><> **END** <><><>

If I have missed anything, please feel free to add it.

Thank you,

Fahd

-----Original Message-----
From: Tarek Kamel
Sent: Monday, March 24, 2014 10:43 AM
To: Fahd Batayneh
Cc: Baher Esmat; Mandy Carver
Subject: OIC

Hi Fahd

When you write the minutes of the OIC meeting please send it to this group only

Thanks Tarek

Sent from my iPhone
Senior advisor to the President of ICANN for Governmental Engagement

From:	Christine Willett </O=OICANN/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CHRISTINE.WILLETT_ICANNDEX>
Sent:	Tuesday, December 24, 2013 8:34 AM
To:	Cherine Chalaby
Cc:	Akram Atallah; Chris Disspain; Jamie Hedlund; Megan Bishop; Michelle Bright; Karine Perset
Subject:	Re: Indonesia's Position on new gTLD application .islam and .halal

Redacted - Non-Responsive Information

>
> On 24/12/2013 08:27, "Aulia Astagina Ramadhani"
>   **Redacted - Contact Information**   wrote:
>
>> Dear Mr. Chalaby,
>>
>> Please find enclosed (in the attachment) our letter to you regarding
>> Indonesia's position concerning the proposal on new gTLD applications
>> .islam and .halal.
>>
>> Thank you for for your kind attention and cooperation.
>>
>> Sincerely,
>>
>> Ms. Aulia A. Ramadhani
>> Staff of Multilateral Cooperation
>> Center of International Affairs
>> Ministry of Communication and Information Technology Republic of
>> Indonesia
>
> <M_Indonesia's Position Regarding New gTLD Aplications for Islam and
> Halal 175.pdf>

Redacted - Non-Responsive Information

From: Imad Hoballah - Yahoo   Redacted - Contact Information
Date: Friday, 13 September 2013 08:15
To: Secretary <secretary@icann.org>
Cc: Redacted - Contact Information   Cherine Mohsen Chalaby
<cherine.chalaby@icann.org>, Nicolas Sehnaoui Redacted - Contact Information Fadi Chehade
<fadi.chehade@icann.org>
Subject: Lebanon's Position on .HALAL and .ISLAM

Dear ICANN Secretary,

Attached please find the letter to the members of the New gTLD Program Committee and to the ICANN
Board members regarding the position of Lebanon on the applications for new gTLD for .HALAL and
.ISLAM.

Could you please circulate the attached letter to the members of the New gTLD Program Committee and
to the members of the ICANN board!

Could you also confirm receipt of the letter via return email!

Regards,
Dr. Imad Y. Hoballah
Lebanon Representative to the ICANN-GAC
Chairman and CEO
Telecommunications Regulatory Authority
Republic of Lebanon
http://www.tra.gov.lb/

From: Tarek Kamel </O=OICANN/OU=EXCHANGE ADMINISTRATIVE GROUP
              (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=TAREK.KAMEL_ICANNDEX>
Sent: Monday, January 27, 2014 11:59 AM
To: Baher Esmat
Subject: Fwd: [BGARG] Draft letter on islam/halal
Attachments: Letter re .ISLAM, .HALAL.docx; ATT00001.htm; smime.p7s; ATT00002.htm

FYI

Tarek Kamel
Senior Advisor to the President for Government Engagement, ICANN

Redacted - Contact Information

Redacted - Non-Responsive Information

Redacted - Draft Version of Letter from Steve Crocker to Mehdi Abbasnia - Final Version available at: https://www.icann.org/en/system/files/correspondence/crocker-to-abbasnia-07feb14-en.pdf

Redacted - Draft Version of Letter from Steve Crocker to Mehdi Abbasnia - Final Version available at: https://www.icann.org/en/system/files/correspondence/crocker-to-abbasnia-07feb14-en.pdf

From:	Jamie Hedlund
Sent:	Monday, January 27, 2014 12:00 PM
To:	Tarek Kamel
Cc:	Baher Esmat
Subject:	Re: [BGARG] Draft letter on islam/halal
Attachments:	Letter re .ISLAM, .HALAL.docx

Tarek,

Thank you. I will confirm the spelling.

Baher, the letter is attached.

Best,
Jamie

From: Tarek Kamel <tarek.kamel@icann.org>
Date: Monday, January 27, 2014 2:59 PM
To: Jamie Hedlund <jamie.hedlund@icann.org>
Cc: Baher Esmat <baher.esmat@icann.org>
Subject: Re: [BGARG] Draft letter on islam/halal

Hi Jamie,

I cc Baher as you seem to have forgotten him.
I am ok with the letter. The last paragraph includes a spelling mistake, it is AIGT as far as I think.

Otherwise I am ok.

Best

Tarek Kamel
Senior Advisor to the President for Government Engagement, ICANN

On Jan 27, 2014, at 20:00, "Jamie Hedlund" <jamie.hedlund@icann.org> wrote:

> Tarek and Baher,
>
> I would be grateful for any comments you might have on the draft letter to the applicants. Thanks.
>
> Best,
> Jamie

Redacted - Privileged

From:	Jamie Hedlund
Sent:	Monday, January 27, 2014 12:00 PM
To:	Tarek Kamel
Cc:	Baher Esmat
Subject:	Re: [BGARG] Draft letter on islam/halal
Attachments:	Letter re .ISLAM, .HALAL.docx

Tarek,

Thank you. I will confirm the spelling.

Baher, the letter is attached.

Best,
Jamie

From: Tarek Kamel <tarek.kamel@icann.org>
Date: Monday, January 27, 2014 2:59 PM
To: Jamie Hedlund <jamie.hedlund@icann.org>
Cc: Baher Esmat <baher.esmat@icann.org>
Subject: Re: [BGARG] Draft letter on islam/halal

Hi Jamie,

I cc Baher as you seem to have forgotten him.
I am ok with the letter. The last paragraph includes a spelling mistake, it is AIGT as far as I think.

Otherwise I am ok.

Best

Tarek Kamel
Senior Advisor to the President for Government Engagement, ICANN

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Redacted - Non-Responsive Information

Dear Ms. Heather ,

Please find attached important letter from H.E Secretary General for your kind attention .

We will go in details in Buenos Aries in that regards.

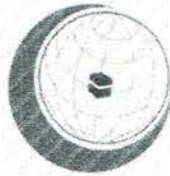Thank you in advance for your kind efforts .

Best Regards,

Wajdi H. Al-Quliti
Organization of Islamic Cooperation
Director of IT Department , CIO, CKO

Redacted - Contact Information

www.oic-oci.org

سطة التعاون الإسلامي
الأمين العام

OIC/SG-01/2013   005954

Jeddah

0 4 NOV 2013

Dear Ms. Dryden,

I thank you for your kind letter dated 2ⁿᵈ October 2013 that confirms the Organization of Islamic Cooperation (OIC) becoming an Observer to the Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN).

You are kindly aware that the OIC is the second largest intergovernmental organization with 57 Member States spread across four continents. It also has five observer members including the Russian Federation and the USA, the UK, France, Italy, Canada and Australia maintains official relations with the Organization through appointing Special Envoys. Besides, it is the sole official representative of the Muslim World representing 1.6 billion Muslim peoples around the World.

As such, I take this as my responsibility to bring to your kind attention our firm and clear position with regard to the use of Islamic terms such as; .Islam and .Halal gTLDs. The OIC took note of the "GAC Advice to the ICANN Board" incorporated in the GAC Communiqué dated 11 April, 2013 adopted at Beijing, People Republic of China. Specifically, the advice contained in Article 1/a/i/ii with regard, to Module 3.1 part II of the applicant Guidebook, quote *"the GAC recognizes that Religious terms are sensitive issues. Some GAC members have raised sensitivities on the applications that relate to Islamic terms, specifically .Islam and .Halal. The GAC members concerned have noted that the applications for .Islam and .Halal lack community involvement and support. It is the view of these GAC members that these applications should not proceed"* unquote.

To this end, the OIC feels that the observation of the GAC members about the lack of community involvement and support was based on absence of proper information. The involvement and support of the OIC as the sole official representative of 1.6 billion Muslims are tantamount to the involvement and support of the World Muslim populations. Moreover, to give this claim on .Islam and .Halal gTLDs more legal footing, the Foreign Ministers of 57 Muslim Member States of the OIC is going to adopt a resolution to the effect of protecting and having a united stand towards the use of the new gTLDs with Islamic identity. This Resolution will be adopted at the forthcoming OIC Council of Foreign Ministers Meeting (CFM) scheduled to be held in Conakry, Guinea on 9 -11 December 2013.

In view of the above, the OIC would be happy to engage and fully cooperate with the GAC of ICANN to find an appropriate solution to this crucial issue. In the meantime, I would request you to kindly consider this letter as an official opposition of the Member States of the OIC towards probable authorization by the GAC allowing use of these new gTLDs .Islam and .Halal by any entity not representing the collective voice of the Muslim people.

I look forward to having your positive consideration on the issue as well as to engaging in further institutional cooperation between the OIC and ICANN.

Sincerely,

Ekmeleddin Ihsanoglu

Ms. Heather Dryden
Chair, Governmental Advisory Committee
ICANN
CC: Mr. Fadi Chehade (President and CEO of ICANN)