
SAN JUAN – ICANN Board Meeting
Thursday, March 15, 2018 – 17:00 to 18:00 AST
ICANN61 | San Juan, Puerto Rico

CHERINE CHALABY: Can we start? Thank you. Welcome, everyone. This is the ICANN regular meeting, regular board meeting, held here in San Juan, Puerto Rico, on 15 March 2018 at 16-and-9 minutes.

I want to start by taking a roll call, then I'm going to ask our secretary, board secretary, to give us confirmation that we have a quorum. Then we will talk about the consent agenda and then the main agenda. So first with the roll call. May I start with Manal?

MANAL ISMAIL: Manal Ismail.

LOUISEWIES VAN DER LAAN: Louisewies van der Laan.

LITO IBARRA: Lito Ibarra.

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BECKY BURR: Becky Burr.

KAVEH RANJBAR: Kaveh Ranjbar.

KHALED KOUBAA: Khaled Koubaa.

SARAH DEUTSCHE: Sarah Deutsche.

CHERINE CHALABY: Cherine Chalaby.

CHRIS DISSPAIN: Chris Disspain.

MAARTEN BOTTERMAN: Maarten Botterman.

RAM MOHAN: Ram Mohan.

RON da SILVA: Ron da Silva.

LEON SANCHEZ: Leon Sanchez.

GEORGE SADOWSKY: George Sadowsky.

MATTHEW SHEARS: Matthew Shears.

AVRI DORIA: Avri Doria.

JONNE SOININEN: Jonne Soininen.

MIKE SILBER: Mike Silber.

GORAN MARBY: Goran Marby.

CHERINE CHALABY: And is Akinori online?

AKINORI MAEMURA: Yes, Akinori Maemura is on the line. Thank you.

CHERINE CHALABY: Thank you very much. Mr. Secretary, do we have a quorum?

JOHN JEFFREY: Yes, we do, Mr. Chairman.

CHERINE CHALABY: Thank you very much. So we will start with the consent agenda. I will read the items on the consent agenda, and when it comes to the thank you notes, thank you parts, I'm going to ask various members of the board to read those. So the consent agenda has 1a, board meeting minutes from 4th of February, 2018. Point 1b, outsource service provider Zensar contract approval. 1c, new GNSO voting thresholds to address post-transition roles and responsibilities of the GNSO as a decisional participant in the empowered community, proposed changes to ICANN bylaws. 1d, initiating the second review of the Country Code Name Supporting Organization, ccNSO. 1e, transfer of the .TD Chad top-level domain to the l'Agence de Developpement des Technologies de l'Information et de la Communication, ADETIC.

Now I'm going to call upon Lito Ibarra to read the first thank you to our local host, item 1f.

LITO IBARRA: Thank you. I will read it in Spanish. Saying to the local host of ICANN61 meeting, the board wishes to extend its thanks to the Honorable Ricardo Rosello Nevares, Governor of Puerto Rico; Oscar Moreno de Ayala, President of the top-level domain of Puerto Rico; Pablo Rodriguez, Vice President of -- Vice President of the top-level domain of Puerto Rico; Carla Vidal, director of Puerto Rico tourism company and the local host and organizer, top-level domain of Puerto Rico. NIC.PR. Cherine, gracias.

CHERINE CHALABY: ... San Juan meeting.

MIKE SILBER: Thanks, Cherine. The board wishes to thank the following sponsors, VeriSign, Claro, Liberty, Canadian Internet Registration Authority, CIRA, Afilias plc and Public Interest Registry and Uniregistry.

CHERINE CHALABY: Thank you, Mike. And I now ask Leon Sanchez to read item 1H, thank you to the interpreters, ICANN org, event and hotel teams of ICANN61.

LEON SANCHEZ: Thank you very much, Cherine. The board expresses its deepest appreciation to the scribes, interpreters, audio visual team, technical teams, and the entire ICANN org team for their efforts in facilitating the smooth operation of this meeting. The board would also like to thank the management and the staff of the Puerto Rico Convention Center for providing a wonderful facility to hold this event. Special thanks are extended to Margaret Colon, sales and marketing director; to Vivian Santana, events director; Gianni Agostini Santiago, senior catering sales manager; Carlos Rosas, IT manager; and Wilson Alers from Media Stage. Thank you very much.

CHERINE CHALABY: That concludes all the items on the consent agenda. I would now like to ask one of the board members to propose a motion to approve all of the eight items on the consent agenda.

UNKNOWN SPEAKER: (Off microphone).

BECKY BURR: So moved.

CHERINE CHALABY: Okay. George will move. Who will second. Becky? Yes, Becky Burr has second. All of those for say aye.

[Chorus of ayes]

Any abstention? Any objection? All right. Thank you. Motion passed.

We're now going to move to the main agenda item. There are five -- there are four items on the main agenda. Each one has a shepherd. I will ask the shepherd to introduce the topic, then pass back to me to call for the vote. But before calling for the vote, each time I'm going to ask if there are any conflicts of interest, if any board members feels conflicted to raise their hand and make themselves known. Thank you very much. So the first item is 2a, and the shepherd is Chris Disspain and the topic next steps in Community Priority Evaluation process review. Chris.

CHRIS DISSPAIN: Thank you, Cherine. So I'm -- I'm going to take the trouble, there -- there's -- this resolution is followed by two others. I'm going to take the trouble to read the whereases because I think that sets out clearly what the resolutions are about, it's worth doing that, and then we'll call for conflicts and then I'll pass back to

you to take the vote. So this one is 2a, next steps in Community Priority Evaluation process review.

Whereas, the board directed the president and CEO, or his designees, to undertake a review of the process by which ICANN organization interacted with the Community Priority Evaluation provider, both generally and specifically, with respect to the CPE reports issued by the CPE provider.

Whereas, the Board Governance Committee determined that the review should also include an evaluation of whether the CPE criteria were applied consistently throughout each CPE report and two, a complication of the research relied upon by the CPE provider to the extent that such research exists for the evaluations that are the subject to pending reconsideration requests relating to the CPE process, collectively the CPE process, and then there's a reference to a link.

Whereas, the BGC determined that the following pending reconsideration requests would be on hold until the CPE process review is completed, and then there are the numbers of the reconsideration requests.

Whereas, the CPE process review was conducted by FTI Consulting Inc.'s global risk and investigations practice and technology practice.

Whereas, on 13 December 2017 ICANN organization published the three reports on the CPE process review.

Whereas, the board accountability mechanisms committee has considered the CPE process review reports, the conclusions to which are set forth in the rationale to this resolution, and has provided recommendations to the board of the next steps in the CPE process review.

Whereas, the board has considered the three CPE process review reports and agrees with the BAMC's recommendations.

Resolved, the board acknowledges and accepts the findings set forth in the three CPE process review reports. The board concludes that as a result of the findings of the CPE process review reports no overhaul or change to the CPE process for this current round of the new gTLD program is necessary.

Resolved, the board declares that the CPE process review has been completed.

And resolved, the board directs the board accountability mechanisms committee to move forward with the consideration of the remaining reconsideration requests relating to the CPE process that were placed on hold pending completion of the CPE process review in accordance with the transition process of

reconsideration responsibilities from the BGC to the BAMC document.

So I hope that makes it pretty clear what we're doing, and Cherine, I -- I'm going to hand it back to you, if you want to call for conflicts.

CHERINE CHALABY: Right. So two things. First of all, I'd like to call for conflicts. Any board member conflicted with regard to this resolution. Becky?

BECKY BURR: Yes. Neustar is the back-end registry service provider for some of the applicants who are relevant in this review and/or for applicants who may be in contention sets with those applicants.

CHERINE CHALABY: Thank you. Ram Mohan.

RAM MOHAN: Thank you. My employer Afiliis is in a similar situation as Becky's employer.

CHERINE CHALABY: Anybody else? George?

GEORGE SADOWSKY: Yes. Same reason as Becky.

CHERINE CHALABY: Thank you. Now I'm going to ask for someone to propose, someone to second, then I'm going to open it up for discussion, if anybody wishes to discuss. And then if anybody wishes to abstain on this resolution, please, if you wish to make a comment, please do so. So first of all, who would like to propose? Chris Disspain. Who would like to second? Khaled Koubaa. Any further discussion on this resolution?

AVRI DORIA: This is Avri. I will be making an abstention statement.

CHERINE CHALABY: Okay. Thank you. So I'll take the vote. Once we finish the call. I'll take a vote and then I'll ask you afterwards to make the abstention statement. Any further discussion on this resolution? No. Okay. So all of those for, say aye.

[Chorus of ayes]

Anyone against? Someone said aye in the background.

UNKNOWN SPEAKER: It's Akinori.

CHERINE CHALABY: Oh. Did he say aye or aye? Again. Anyone against? Any abstention? Avri.

AVRI DORIA: Thank you. Yes. I am abstaining from the vote on the acceptance of the report from FTI Consulting due to the fact that while I accept the path forward as defined in the motion, I cannot accept the report itself.

From my study of the documentation provided by FTI Consulting, I am concerned about the rigor of the study and some of its conclusions. In scope 2, the analysis of the application of criteria, while they described a rigorous methodology, the documentation describes their inability to fully apply that methodology. The report indicates that they were not able to obtain all of the required documentation from the CPE provider necessary for the full application of the process they had defined. Any scientific method, when the method cannot be rigorously applied, the results be viewed as, at best, tentative and should be treated with caution. Though FTI Consulting reports that there is no evidence of differential application of criteria, they cannot claim with certainty that

there was no differential application in the absence of full and rigorous application of their chosen methodology.

It also appears in the report that only a portion of the evaluators were interviewed. In fact, the report states that FTI consulting only interviewed two of the evaluators from a larger set of evaluators. This appears to me to be another flaw in the application of their methodology.

Any definitive determination that there was no conclusive differential application of criteria would require a further in-depth study of all CPE applications and would require not only the missing documentation but also require interviewing all of the evaluators and not just the two remaining employees of the evaluation teams.

At this point, it does not seem possible for a more in-depth study to be done, yet it is important that the process of resolving the contention set moves forward.

I, therefore, abstain from this motion.

Thank you.

CHERINE CHALABY: Thank you very much, Avri.

Mr. Secretary, we have one abstention, two voting members who have recused themselves, and one Board liaison who has recused himself.

Do we have a majority to pass this resolution?

JOHN JEFFREY: Yes, we do, Mr. Chairman.

CHERINE CHALABY: Thank you. The resolution is, therefore, passed.

I will now move on to the second resolution, item 2b. Chris Disspain is again the shepherd. Chris, take us through the resolution, please.

CHRIS DISSPAIN: Thank you, Cherine this resolution is in regard to .PERSIANGULF, and once again I'm going to read the whereas because I think it sets out clearly what it's about.

Whereas, ICANN org received the final declaration in the Gulf Cooperation Council v. ICANN Independent Review Process and the final declaration as to costs in the IRP.

Whereas, among other things, the IRP panel declared that the GCC is the prevailing party, and ICANN shall reimburse the GCC

the sum of \$107,924.16 upon the demonstration by the GCC that these incurred costs have been paid.

Whereas, the panel recommended that the Board take no further action on the .PERSIANGULF gTLD application, and in specific not to sign the Registry Agreement with Asia Green or any other entity in relation to the .PERSIANGULF gTLD. Whereas, in accordance with Article IV, Section 3.21 of the applicable version of the bylaws the Board considered the final declaration and the costs declaration at its meeting on the 16th of March 2017 and determined that further consideration and analysis was needed.

Whereas, the Board Accountability Mechanisms Committee conducted the requested further consideration analysis and has recommended that, 1, the Board treat the statement in the Governmental Advisory Committee Durban communique regarding .PERSIANGULF as if it were nonconsensus advice pursuant to the second advice option in module 3.1 subparagraph 2 of the Applicant Guidebook.

Or is that 11? It may be 11 of the Applicant Guidebook.

And, 2, the Board directs the BAMC to review and consider the materials related to the .PERSIANGULF matter, including the materials identified by the panel in the final declaration, and to

provide a recommendation to the Board as to whether or not the application for .PERSIANGULF should proceed.

Resolved, the Board accepts that the panel declared the following: The GCC is the prevailing party in the Gulf Cooperation Council versus ICANN IRP, and, 2, ICANN shall reimburse the GCC the sum of \$107,924.16 upon demonstration by the GCC that these incurred costs have been paid.

Resolved, the Board directs the president and CEO or his designee to take all steps necessary to reimburse the GCC in the same amount in furtherance of the IRP panel's costs declaration upon demonstration by the GCC that these incurred costs have been paid.

And finally, resolved, the Board directs the BAMC, 1, to follow the steps required as if the GAC provided nonconsensus advice to the Board pursuant to module 3.1, subparagraph 11, of the Applicant Guidebook regarding .PERSIANGULF; 2, to review and consider the relevant materials related to the .PERSIANGULF matter, and, 3, to provide a recommendation to the Board as to whether or not the application for .PERSIANGULF should proceed.

CHERINE CHALABY: Thank you, Chris. Before I call for someone to propose and someone to second, I would like to call for conflicts of interest. Any conflicts of interests?

No? Okay. Who would like to propose this resolution? Mike? Who would like to second? Leon. Sorry, Sarah; he beat you to it.

Okay. Any further discussion on this resolution.

No? Okay. We're now we're going to call for the vote. All of those for, say aye.

MULTIPLE VOICES: Aye.

CHERINE CHALABY: Anyone against?

Any abstention?

Thank you. Resolution passed.

We now move to item 2.c, Chris Disspain again.

Chris.

CHRIS DISSPAIN: Thank you, Cherine.

This one is in respect to .HALAL and.ISLAM. Whereas, the final declaration of the Asia Green I.T. Systems Bilgisayar San. ve Tic. Ltd. -- I'm not going to keep saying that. AGIT I'm going to say. The ICANN Independent Review Process was issued on the 30th of November 2017. Whereas, among other things, the IRP panel declared that AGIT is the prevailing party and ICANN shall reimburse AGIT the sum of \$93,918.83. Whereas, in the final declaration, the panel recommended that in order to be consistent with the Core Value 8, the Board needs to promptly make a decision on the applications one way or another with integrity and fairness and noted that nothing as to the substance of the decision should be inferred by the parties from the panel's opinion in this regard. The decision whether yes-or-no is for the ICANN Board. Whereas, the Board Accountability Mechanisms Committee has recommended that the Board direct the BAMC to re-review the Governmental Advisory Committee nonconsensus advice as defined in Section 3.1 subparagraph 11 of the Applicant Guidebook, as well as the subsequent communications from or with objecting and supporting parties in light of the final declaration and provide a recommendation to the Board as to whether or not the applications for .HALAL and.ISLAM should proceed. And whereas, in accordance with Article IV, Section 3.21 of the applicable version of the bylaws, the Board has considered the final declaration.

Resolved, the Board accepts that the panel declared the following: AGIT is the prevailing party in the matter; 2,

ICANN shall reimburse AGIT the sum of \$93,918.83.

Resolved, the Board directs the president and CEO or his designee to take all steps necessary to reimburse AGIT in that amount in furtherance of the panel's final declaration. And resolved, the Board directs the BAMC to re-review the GAC nonconsensus advice as defined in the guidebook as well as the subsequent communications from or with objecting and supporting parties in light of the final declaration and provide a recommendation to the Board as to whether or not the applications for .HALAL and .ISLAM should proceed.

CHERINE CHALABY: Thank you, Chris. Any conflict of interest?

No?

Okay.

Two board members have already said they want to propose and second before anybody else raised their hands.

Khaled Koubaa will propose, and Sarah will second.

Any further discussion?

No? I'll call for the vote.

All of those for, say aye.

MULTIPLE VOICES: Aye.

CHERINE CHALABY: Anyone against?

Any abstention?

Resolution passed.

And now I'm going to move on to the fourth and final resolution.
Lousewies.

LOUSEWIES VAN DER LAAN: Thank you very much, and I do realize I'm standing between people and their drinks. So being -- but I do think it's a very important point because we have to appoint the independent auditor for the fiscal year ending 30th of June 2018. And this is, of course, an annual exercise and an extremely important one because it is the independent auditor that gives both the Board but also the community the assurance that money, most of it which I would consider public money, your money, is being well spent and that there is no instances of fraud or losses.

The Audit Committee, which consists of Mike Silber, Sarah Deutsch, Akinori Maemura and myself, had the option of either reappointing the existent auditors, BDO, or changing the partner in that firm or appointing a new firm. We are recommending to the Board that we will continue with the current firm, BDO, at this point. They have -- will be doing it for the fifth time. There is no legal obligation to change, even though there is a suggestion of best practice that after five to eight years, one should consider changing either the partner or the audit firm.

So we are recommending to the Board that we will use the same audit firm for fiscal year '18, and that's -- I'm not going to read the resolution out because that's exactly what it says and that we're going to make sure we mandate the CEO and his designees to start the procedure with BDO.

Thank you.

CHERINE CHALABY:

Thank you, Lousewies.

Again, I am going to call for any conflicts with the firm of auditors we intend to appoint. Anyone conflicted by making this decision?

No?

Okay.

Who would like to propose? Lito was very quick.

Who would like to second? Mike. Ah, ooh. Three hands at the same time. I'll take Mike. Somebody should.

Thank you. Any further discussion?

Okay. I'm going to call for the vote. All of those for, say aye?

MULTIPLE VOICES: Aye.

CHERINE CHALABY: Aye.

Anyone against?

Any abstention?

Okay. Resolution passed.

Thank you all very much.

Now the last item on the agenda, any other business.

May I start from Goran.

GORAN MARBY: I would like to add a thanks to the any other business.

CHERINE CHALABY: Please do.

GORAN MARBY: First of all, I would like to thank Duncan, our communication senior V.P. This is his last meeting. He's going to go for another job. And I would like to recognize his efforts and his hard work and his friendship during the four years he's been here. I wish him the best of luck in his new jobs.

[Applause]

I have one more.

AVRI DORIA: Can I have a comment to that?

GORAN MARBY: I can't stop you, Avri.

AVRI DORIA: The chair could stop me. I wanted to add a comment that I had a brief conversation with Duncan during the break, and there is a

realization that just because someone leaves the staff doesn't mean they can't become a participant.

GORAN MARBY: Thank you.

CHERINE CHALABY: Duncan, did you hear this? When are you coming back?

GORAN MARBY: Despite this is the formal board meeting, I want to be personal for a second.

We have a person who is leaving us who is really the embodiment of the multistakeholder model. She's been with us for 18 years. She's in the org and the community, one of the most important people.

Since I had the pleasure to join ICANN, she every day has told me how to behave.

She is, in many ways, a spiritual advisor for me and a very good friend. Diane, I would like to give you very big applause and thank you for your hard work as this is your last ICANN meeting.

[Applause]

CHERINE CHALABY: Thank you, Goran. And so that you know, when I joined in in 2010, I was a newbie and totally lost. Diane Schroeder adopted me and she looked after me for a number of years until I was really able to feel comfortable with ICANN. So, Diane, we will miss you, and you've made a great, great contribution to ICANN. Thank you so much.

Thank you.

CHRIS DISSPAIN: May I say something?

CHERINE CHALABY: Yes, Chris wants to say something.

CHRIS DISSPAIN: Diane, may I have my printer back, please?

[Laughter]

I have to explain for those that don't know. Diane and I first met in Melbourne in 2001 at an ICANN meeting, and ICANN was a slightly smaller organization than it is now. And we were -- I was asked if I could lend ICANN a printer, because they didn't have one. So I did. And it was the only printer I had as well, so my printer disappeared into the ICANN meeting and on the last day when everyone was wrapping up I wandered into an office and

said -- found my printer and started to unplug it and there was a woman sitting there who stood up and said, excuse me, what do you think you're doing? And I said I'm taking my printer away. And we've been very close friends ever since.

So thank you, Diane.

[Laughter]

CHERINE CHALABY: I see Manal wants to say something. Manal.

MANAL ISMAIL: Yes, just to also thank Diane. I really consider her the institutional memory. She's been here for so long time, and I do recommend you make some backup before she leaves.

[Laughter]

Yeah, I really -- We've been -- We know each other a long time ago, and I really consider her the institutional memory of ICANN.

Thank you.

CHERINE CHALABY: Thank you, Manal. We hope you become the institutional memory now.

[Laughter]

Okay. Any other business?

CHRIS DISSPAIN: Where are we with the drinks?

CHERINE CHALABY: No. So -- oh, Lousewies.

LOUSEWIES VAN DER LAAN: Thank you. Before we came to Puerto Rico we had a discussion in the Board as to whether we should do anything for the reconstruction efforts, and we decided it's not our mandate, it's not our mission to do something besides come here and spend lots of money on hotels, which is extremely helpful as well, but I have been incredibly impressed and touched by how many parts of the community have done things. I only know of a couple, but I know at various parties, T-shirts were sold, money was raised, and I know a lot of people have done personal things. Wendy's husband is an electrician. He brought his stuff to go fix the electricity. There's so many wonderful initiatives, and I find it really heart warming to see that and to be part of that.

Thank you.

CHERINE CHALABY: Thank you. Before closing, I want to say thank you to the entire community, to staff, and to my Board colleagues for all the effort for making ICANN61 very successful. I now declare the board meeting closed. I declare ICANN61 closed.

See you in Panama, but before that, please go to the wrap-up cocktail at 6:00. So thank you very much.

CHRIS DISSPAIN: It's now 5:00, not 6:00, because it was far too long to wait until 6:00 so the cocktails are now starting at 5:00. Thank you.

CHERINE CHALABY: Thank you! What fantastic news.

[Applause]

All right. Thank you, everybody, and see you later!

[END OF TRANSCRIPTION]