

Response to Documentary Information Disclosure Policy Request

To: Mike Rodenbaugh on behalf of Asia Green IT System Ltd.

Date: 1 January 2016

Re: Request No. 20151202-1

Thank you for your Request for Information dated 1 December 2015 (Request), which was submitted through the Internet Corporation for Assigned Names and Numbers' (ICANN's) Documentary Information Disclosure Policy (DIDP), on behalf of Asia Green IT System Ltd. (AGIT), and which was received by ICANN on 2 December 2015. We note that because your Request was not submitted through DIDP@icann.org as a standalone DIDP Request, the Request will not be published separately. Rather, your Request is set forth verbatim below and this Response will be published as a Request and Response to DIDP Request No. 20151202-1.

Items Requested

Your Request seeks disclosure of the following documents relating to AGIT's application for the .PERSIANGULF gTLD and the independent review process (IRP) filed by the Gulf Cooperation Council relating to the .PERSIANGULF string. In particular, your Request seeks the following documents:

1. All correspondence between ICANN, GCC, ICDR and/or anyone else, and all other documents, concerning the subject IRP and/or the .PersianGulf TLD.
2. All correspondence, meeting notes, memoranda or other documents concerning the June 2014 meeting between ICANN executives and the GCC, referenced in the 'emergency' declaration from February, 2015 decision.

Response

Your Request seeks documents related to AGIT's application for .PERSIANGULF (the Application). In its Beijing Communiqué, the Governmental Advisory Committee (GAC) advised the ICANN Board "that GAC has identified certain gTLD strings where further GAC consideration may be warranted, including at the GAC meetings to be held in Durban.

- i. Consequently, the GAC advises the ICANN Board to: not proceed beyond Initial Evaluation with the following strings : .shenzhen (IDN in Chinese), .persiangulf,....

(Beijing Communiqué, § IV.1.c.i,

<https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>.)

AGIT provided a response to the Beijing Communiqué.

(<http://newgtlds.icann.org/sites/default/files/applicants/23may13/gac-advice-response-1->

2128-55439-en.pdf.) Prior to the issuance of the Beijing Communiqué, AGIT's Application received GAC Early Warning notices from four GAC members: the United Arab Emirates ("UAE"), Bahrain, Oman, and Qatar. (<https://gacweb.icann.org/display/gacweb/GAC+Early+Warnings?preview=/27131927/27197754/Persiangulf-AE-55439.pdf>.) The GAC members expressed concerns that: (1) the applied for new gTLD is problematic and refers to a geographical place with disputed name and (2) the lack of community involvement and support for AGIT's Application. (*See id.*)

On 13 March 2013, the Gulf Cooperation Council (GCC) filed a Community Objection against AGIT's Application for .PERSIANGULF. The Expert Panel found in favor of AGIT. (*See* <http://newgtlds.icann.org/sites/default/files/drsp/12nov13/determination-1-1-2128-55439-en.pdf>.)

On 4 June 2013, the NGPC adopted the NGPC Scorecard ("4 June 2013 Resolution") setting forth the NGPC's response to the GAC Advice found in the Beijing Communiqué ("NGPC Beijing Communiqué Scorecard"). (<http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-04jun13-en.htm-1.a>.; <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-1-04jun13-en.pdf>.) With respect to the .PERSIANGULF string, the NGPC Beijing Communiqué Scorecard stated in pertinent part:

The NGPC accepts this advice. The AGB provides that "GAC advice will not toll the processing of any application (i.e., an application will not be suspended but will continue through the stages of the application process)" (AGB § 3.1). At this time, ICANN will not proceed beyond initial evaluation of these identified strings. In other words, ICANN will allow evaluation and dispute resolution processes to go forward, but will not enter into registry agreements with applicants for the identified strings for now.

(NGPC Beijing Communiqué Scorecard, Pg. 4.)

In its Durban Communiqué, the GAC advised the ICANN Board that the GAC has finalized its consideration of the .PERSIANGULF string, and does not object to it proceeding. (*See* Durban Communiqué, § IV.1.3.a.ii., https://gacweb.icann.org/download/attachments/32637241/Final_GAC_Communique_Durban_20130717.pdf?version=1&modificationDate=1376091575000&api=v2.)

On 10 September 2013, the NGPC adopted the NGPC Scorecard ("10 September 2013 Resolution") setting forth the NGPC's response to the GAC Advice found in the Durban Communiqué ("NGPC Durban Communiqué Scorecard"). (<https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-10sep13-en.pdf>.) With respect to the .PERSIANGULF string, the NGPC Durban Communiqué Scorecard stated: "ICANN will continue to process the application in accordance with the established procedures in the AGB." (*Id.* at pg. 4.)

On 5 December 2014, the Gulf Cooperation Council filed an independent review process regarding AGIT's Application for .PERSIANGULF (*GCC v. ICANN IRP*). (See <https://www.icann.org/resources/pages/gcc-v-icann-2014-12-06-en>.)

Item No. 1

Item No. 1 seeks “all correspondence between ICANN, GCC, ICDR and/or anyone else, and all other documents, concerning the subject IRP and/or the .PersianGulf TLD.” This request is extremely overbroad as it asks for all documents concerning the .PERSIANGULF TLD, which includes any and all documents during the application and evaluation processes of AGIT's Application for .PERSIANGULF.

With respect to documents relating to the *GCC v. ICANN IRP*, all responsive documents that are appropriate for public disclosure have been published on the *GCC v. ICANN IRP* page at <https://www.icann.org/resources/pages/gcc-v-icann-2014-12-06-en>. As part of its commitments to transparency and accountability, ICANN evaluates each posting on the IRP page to determine if the document contains any confidential information that warrants withholding from public disclosure. Where such conditions exist, the reason for withholding is noted in the redacted portion. To the extent that there are any other responsive documents regarding the *GCC v. ICANN IRP*, including correspondence between ICANN and the ICDR, or counsel for GCC, those documents are subject to the following Defined DIDP Conditions for Nondisclosure and are not appropriate for disclosure:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.
- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.
- Information subject to the attorney– client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Notwithstanding the applicable Defined Conditions of Nondisclosure, ICANN also evaluated the documents to determine if the public interest in disclosing them outweighs the harm that may be caused by such disclosure.

With respect to documents concerning the .PERSIANGULF TLD, the documents cited above are responsive to this Request. Additionally, the following documents are also responsive to Item No. 1:

- AGIT’s Application for .PERSIANGULF, <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/15?t:ac=15> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/15>.
- Public Interest Commitment, <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/15?t:ac=15>.
- Initial Evaluation Report, <http://newgtlds.icann.org/en/program-status/application-results/ie-1-2128-55439-en.pdf>.
- Community Objection Expert Determination, <http://newgtlds.icann.org/sites/default/files/drsp/12nov13/determination-1-1-2128-55439-en.pdf>.
- Application update history, <https://gtldresult.icann.org/application-result/applicationstatus/applicationchangehistory/15>.
- Letter from Akram Atallah to Mohammed Al Ghanim, dated 2 February 2015, <http://www.icann.org/en/system/files/correspondence/atallah-to-ghanim-02feb15-en.pdf>.
- Letter from Mohammed Al Ghanim to Fadi Chehadé, dated 9 July 2015, <https://www.icann.org/en/system/files/correspondence/ghanim-to-chehade-09jul14-en.pdf>.
- Letter from Mohammed At-Twajiri to Steve Crocker and Heather Dryden, dated 13 March 2013, <https://www.icann.org/en/system/files/correspondence/at-twajiri-to-crocker-dryden-13mar13-en.pdf>.

Further, in response to this Request, attached is a copy of a notification that was sent to AGIT through the Case Portal on 23 January 2015 regarding AGIT’s Application status as a result of a pending accountability mechanism. To the extent that there are any other responsive documents responsive to this Item, they are subject to the following Defined DIDP Conditions for Nondisclosure and are not appropriate for disclosure:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.
- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.
- Confidential business information and/or internal policies and procedures.
- Information subject to the attorney– client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Notwithstanding the applicable Defined Conditions of Nondisclosure, ICANN also evaluated the documents to determine if the public interest in disclosing them outweighs the harm that may be caused by such disclosure.

Item No. 2

This item seeks the disclosure of “[a]ll correspondence, meeting notes, memoranda or other documents concerning the June 2014 meeting between ICANN executives and the GCC, referenced in the ‘emergency’ declaration from February, 2015 decision in the *GCC v. ICANN IRP*.” (See Interim Declaration on Emergency Request for Interim Measures of Protection, <https://www.icann.org/en/system/files/files/interim-declaration-emergency-protection-redacted-12feb15-en.pdf>.) The following documents responsive to this item have been published on the Correspondence page:

- Letter from Akram Atallah to Mohammed Al Ghanim, dated 2 February 2015, <http://www.icann.org/en/system/files/correspondence/atallah-to-ghanim-02feb15-en.pdf>.
- Letter from Mohammed Al Ghanim to Fadi Chehadé, dated 9 July 2015, <https://www.icann.org/en/system/files/correspondence/ghanim-to-chehade-09jul14-en.pdf>.

To the extent that there are any other responsive documents responsive to this Item, they are subject to the following Defined DIDP Conditions for Nondisclosure and are not appropriate for disclosure:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
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- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.
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- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Notwithstanding the applicable Defined Conditions of Nondisclosure, ICANN also evaluated the documents to determine if the public interest in disclosing them outweighs the harm that may be caused by such disclosure.

About DIDP

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see <http://www.icann.org/en/about/transparency/didp>. ICANN makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at MyICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN's website that are of interest because, as we continue to enhance our reporting mechanisms, reports will be posted for public access.

We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.