

## Multiple Layers of Jurisdiction

### 1. Jurisdiction of incorporation.

- a. This refers to the jurisdiction in which an entity is legally incorporated.
- b. ICANN is legally incorporated under the laws of California, as a public benefit corporation (a type of non-profit corporation). This is reflected in ICANN's Articles of Incorporation.
- c. PTI is also incorporated in California, and the Empowered Community will be incorporated in California as well. These are required by the current Bylaws (adopted 1 October): see Section 6.1 on the EC; Section 16.1 on PTI.

### 2. Jurisdiction of Headquarters Location.

- a. This refers to the jurisdiction in which an entity's headquarters is physically located.
- b. ICANN's headquarters is in Los Angeles County, California. This is required by Section 24.1 of the ICANN Bylaws, which states "The principal office for the transaction of the business of ICANN shall be in the County of Los Angeles, State of California, United States of America."
- c. The new bylaws adopted 1 October are very explicit on this matter - see 6.1 on the EC; 16.1 on PTI and 24.1 on ICANN. If there comes a time that the jurisdiction should/needs to be changed there is now a mechanism for doing so in 25.2 (fundamental bylaw). These were agreed in WS1, in the proposal and adopted as such.

### 3. Jurisdiction of other places of physical presence.

- a. This refers to other places where an entity maintains an ongoing physical presence sufficient to subject the entity to the laws of that jurisdiction. Under US law, this would generally be referred to as maintaining a "permanent establishment for the conduct of business."
- b. ICANN has permanent establishments in Singapore and Istanbul (described as "hub offices"); Beijing, Brussels, Geneva, Montevideo, Seoul, Nairobi and Washington, D.C. (described as "engagement offices").

### 4. Jurisdiction for Interpretation of Contracts, etc. (Choice of Law), including contracts with contracted parties, contracts with other third parties, and actions of the Empowered Community.

- a. This refers to the jurisdiction whose laws will be used to interpret the rights and responsibilities of parties to a litigation, arbitration or other dispute resolution mechanism.

- b. Choice of law may be specified in an agreement. If no governing law is specified, the governing law will be determined in the dispute by the judge, panel or other decision-maker.
- c. ICANN's base Registry Agreement for New gTLDs does not specify a governing law.

#### **5. Jurisdiction for litigation of disputes (Venue).**

- a.
  - i. Contractual disputes with contracted parties.
  - ii. Contract disputes with other third parties.
  - iii. Enforcement of actions of the Empowered Community.
- b. This refers to the type of proceeding (e.g., litigation, arbitration, IRP, etc.), the provider of that proceeding, and the physical location in which the proceeding will take place.
  - i.
- c. ICANN's base Registry Agreement for new gTLDs specifies arbitration using the International Chamber of Commerce in Los Angeles California (or, if the registry is an IGO, Geneva, Switzerland).

#### **6. Relationships with national jurisdictions for particular domestic issues.**

Meeting NTIA requirements.